

Universal Justice

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"Justice is not limited, it is a universal quality"¹

Introduction

The identification of the nature and attributes of justice in the human social setting has been an ongoing issue that has occupied many minds, both spiritual and secular, for millennia. In a contemporary world torn by poverty, corruption, division and conflict on a global scale, this has never been a more important issue than it now is. The world cries out for justice. The accurate identification of that which is just, and that which is not, is clearly critical to the achievement and maintenance of social harmony and peace in this era of globalisation. This is one of the most critical issues of this time. Rawls wrote that "*Justice is the first virtue of social institutions*"². Understanding and applying justice in the world as a whole is no longer some idle or magisterial challenge, to be pursued by intellectuals, judges and other elites³. It is of major concern to most of the world's population.

This notwithstanding, some of the best minds have struggled in their search for an acceptable definition or definitions of justice. It is said that major progress has occurred in the theory of justice over the last three or four decades, to a great extent initiated by Rawls' work⁴. But much of this work has been directed at the situation within nation-state borders, premised as that is on the idea of national sovereignty⁵. Only in very recent times has

¹ Abdu'l-Baha, Paris Talks, (Baha'i Publishing Trust, 1979), 158.

² John Rawls, A Theory of Justice, (OUP, 1972), 3, 586. Baha'u'llah, the Founder/Prophet of the Baha'i Faith, stated that "*Justice is to be loved above all*", per Abdu'l-Baha, Abdu'l-Baha in London, (Baha'i Publishing Trust, London, 1982), 20.

³ This is not intended as an attack on the value of intellectual activity. Intellectual contributions to human knowledge and understanding are much undervalued, and often lie behind the endeavours of practical people, a point made by Keynes and others - see Keynes, The General Theory of Employment, Interest and Money, (MacMillan, 1936). The Founders of the great religions are examples where intellectual knowledge is combined with spiritual wisdom and understanding to produce something of lasting value to humanity.

⁴ Amartya Sen, "*Justice Across Borders*", in Global Justice: Transnational Politics, (P de Grieff and C Cronin, Eds.) (MIT Press, 2002), 37. For a recent critique of Rawls' work and his notion of justice, see Newey, After Politics, (Palgrave, 2001).

⁵ William Twining, "*The Province of Jurisprudence Re-examined*", in Jurisprudence for an Interconnected Globe, (Catherine Dauvergne, Ed.) (Ashgate, 2003), 30, commenting on the work of Rawls. But Twining adds that the main Western ethical traditions in jurisprudence, such as natural law, utilitarianism, Kantianism, and human rights theories have also been universalistic in tendency. In the face of challenges from multiculturalism and pluralism, he says that leading liberal thinkers have beaten a partial retreat into an odd kind of particularism, and that many contemporary jurists and philosophers are concerned to try to

more attention been given to the theory of justice in the global context, in what might be called a universal sense, taking humanity as an organic whole. And the work that has occurred has been largely secular in orientation. In a pluralistic world, dominated by secular intellectual debate, this is not surprising.

But the question posed in this paper is whether it is now time to move forward even further - to look at the concept of justice from a universal, spiritual point of view. The thesis being advanced is that new and valuable insights into the nature of justice can be obtained by adopting this approach, viewing justice as a universal spiritual virtue or attribute. It is not the purpose of this paper to attempt a comprehensive definition of the term "justice". Rather, the paper looks at the two aspects mentioned and identified as being essential to true justice, namely, universalism (as expounded in the Baha'i writings⁶), and spirituality. It is argued that the adoption of this approach is most appropriate to the contemporary situation of humanity, with the scope to offer a new understanding of justice of a truly beneficial nature to all peoples. Such an understanding is timely, as those peoples and their nation-states are forced to come to terms with an increasingly interdependent world and the many challenges that this poses.

Universalism

An immediate difficulty might be seen to be posed by the concept that justice is universal, an absolute concept or principle of general application if you like, rather than being of a situational or of a relativist nature, or even of not having any separate existence at all. It has been asserted that all human understanding is interpretation, which, in turn, is perspectival and indeterminate⁷. Such understanding is said not to be passively neutral, but

find a middle way between "*dogmatic extremes*" of universalism and cultural relativism. See also Patrick Hayden, John Rawls: Towards a Just World Order, (2002, Uni of Wales Press), for an attempt to extend Rawls' theories internationally.

⁶ The Baha'i Faith is an appropriate starting point for such an approach, given the significant emphasis on justice in its writings. That Faith is arguably the latest of the revealed religions, having begun in the middle of the nineteenth century. It is not a sect or denomination of any other major religion. Its writings place major emphasis on justice.

⁷ Hans-Georg Gadamer, "*The Problem of Historical Consciousness*", in P Rabinow and W Sullivan (eds), Interpretive Social Science: A Reader, (Uni of California Press, 1979), 350. The relevance of an individual's internal perspective or attitude towards what might be seen as either lawful or unlawful conduct was perhaps first raised by Hart, but has been taken much further by more recent realist and post realist schools of jurisprudence and in the critical legal studies school. Typically these schools reject any moral and metaphysical aspect in law. No pre-determined principles are seen to exist upon which to anchor the law. This perspectival approach in jurisprudence has had an effect on 20th century ideas as to

that it actively structures what it encounters. As a result, it is not capable of generating propositions which are absolutely or objectively true⁸. Another writer has said that there are no overarching principles of justice, only particular contexts or "spheres" in which various sorts of concerns come into play. Thus there is justice in the courts, justice in the marketplace, justice in the working of the bureaucracy, etc⁹. These are views that sit comfortably with much thought in contemporary, pluralistic concepts of ethics or values. If this is correct, then, it is argued, there cannot be any such concept or principle of justice as a universal quality or virtue.

It needs to be said that this latter argument is in itself of a secular nature. It assumes that all that can be understood is that which arises by virtue of human empirical knowledge, experience and human reason. It is not necessarily a recent view, but finds its roots in some of the writers of the Renaissance¹⁰, and perhaps to some extent before that in ancient Greek philosophy. Concepts and values, on this view, can have no independent existence apart from that which is created by humans in response to their material circumstances in a particular time and place. Human reason or rationality has a place in the definition of justice, but is human reason coloured by individual perspective and context. Justice claims are said to be always contextual and presuppose a local set of conditions and considerations. In addition, it is said that in the current materialistic age, the dominant concept of justice is almost single-mindedly concerned with the distribution of wealth in society - justice has not only become secular but also largely economic in focus¹¹. There is therefore said to be no single, coherent ideal of justice¹².

In view of such comments, how then is it possible to assert the existence of a "universal" quality or virtue, such as is being argued in this paper in the case of justice? This clearly depends in part upon the meaning of "universal". It needs to be stated from the outset that this term does not in this paper imply a frozen principle, incapable of responding to diverse or changing cultures or

the concept of justice and its meaning. The writer does not claim to have an adequate or comprehensive knowledge of these schools of jurisprudence.

⁸ Wilfred L David, The Humanitarian Development Paradigm, (Uni Press of America, 2004), 76.

⁹ Michael Walzer, Spheres of Justice, (Basic Books, 1983).

¹⁰ David Hume, writing in the 18th century, thought that justice was artificial and a human invention, although derived from the fundamental laws of nature - see Jonathan Harrison, Hume's Theory of Justice, (Clarendon Press, 1981); John Rees, Equality, (Macmillan, 1971), 23-24.

¹¹ Robert C Solomon, A Passion for Justice, (Addison-Wesley Publishing Co., 1990), 11.

¹² Ibid, 18. Serge-Christophe Kolm says that simplistic and universal claims as to justice are unwarranted and impossible dogmatism - Modern Theories of Justice, (MIT Press, 1996), 9-10.

other circumstances. Something can have a "universal" meaning and yet its application in practice can differentiate, evolve and change according to the circumstances in which it operates.¹³ Too often justice has been seen as something that has no meaning until it is applied in practice, a hollow shell that draws its meaning from particular applications and the views of those concerned in relation to those particular applications. But it is asserted in this paper that justice claims are much more than a matter of mere rhetoric, and that there are certain objective criteria of a universal spiritual nature that give meaning and validity to the term in itself, as distinct from its application in response to particular circumstances.

On the other hand, the term "universal" does imply that the quality or virtue carrying that description is one that applies throughout the world of material existence as a single principle, capable of operating in an even-handed and unbiased manner across the planet. It is argued that it is one single quality or virtue, applicable to humanity as a whole. To gain an understanding of this approach it is essential to refer to the primary emphasis given in the Baha'i Writings to the concept of the "oneness of humanity", that humanity is one organic whole, and that a consciousness of this fact is necessary for humanity to move into its next stage of evolution. This is a oneness that takes into account the diversity that characterises the peoples making up humanity, but at the same time it recognises humanity as a single race, occupying one small, fragile planet, and that the destiny of the various individuals, associations and nations now comprising humanity is to gradually merge into a form of organic unity. It is the principle of unity in diversity, where that diversity adds colour and beauty to the whole but does not otherwise detract from its overall unity.

And underlying this principle of "oneness" is the struggle that faces all of humanity, as an exercise of will, to recognise, establish and consolidate their mutual interdependence, this being a necessary precursor to the establishment of harmony and justice in the world. This is a struggle that seeks to reflect the harmony and unity of the creation as a whole. It is a struggle that is increasingly being recognised by all the sciences. Hatcher has written:

"Yet equally clear is the undeniable dependence that of each of us has on the larger expressions of ourselves, whether in the family, in the

¹³ Pieter van Dijk, "The Universality of Human Rights, Tolerance and Freedom of Religion", in Law and International Order: Proceedings of the First European Baha'i Conference on Law and International Order, the Netherlands 8-11 July 1995, (Baha'i Publishing Trust, London, 1996), 187 at 194.

*immediate community, or in the extended sense of ourselves as world citizens struggling to fashion on one very small island in space a community whose harmony and justice reflects the same sort of integrity with which the Creator has fashioned the natural environment. And if we have through our modern sciences come to understand much about the spiritual theme that the natural world of correspondences has to teach us, it is an unrelenting saga about the mutuality of our existence."*¹⁴

Thus necessarily underlying the universality of justice is this concept of human oneness. This form of human unity shapes and gives meaning to justice - in other words, justice, as applied to humanity, can only have meaning and validity if humanity is conceived of as a single unit, albeit infinitely diversified in its individual members and groups. Justice can still be applied in practice to the situation of particular members of the human race, but the nature of justice to be so applied must still be based in human oneness. As soon as an attempt is made to apply justice by reference, express or implied, to a background of lesser allegiances, such as those of race, ethnicity, other particular communities¹⁵, colour, class, gender, nationality, political affiliation, religion, etc., or even individualistic rights¹⁶, and not against human oneness, then on the premise I am putting forward, true justice will not be the result. One cannot achieve universal justice by seeking to apply it against the background (only) of these lesser allegiances¹⁷.

The above principle of human oneness, once accepted and acted upon, provides the basis for a sense of justice that carries with it the notion of respect for, or of the inherent worth of, all other people that Rawls was looking for but which he discarded as being ineffective¹⁸. When such a

¹⁴ John S Hatcher, The Arc of Ascent, (George Ronald, 1994), 338.

¹⁵ As to what is called the communitarian approach to justice - see Harold J Berman, Faith and Order: The Reconciliation of Law and Religion, (Scholars Press, Emory University, 1993), Chapter 11, "*Individualistic and Communitarian Theories of Justice: An Historical Approach*".

¹⁶ Much of contemporary jurisprudential thought on the meaning of justice gives emphasis to individual rights.

¹⁷ Abdu'l-Baha said_

"All the divine Manifestations have proclaimed the oneness of God and the unity of mankind.....now if this conception of religion be true, its essential principle is the oneness of humanity. The fundamental truth of the Manifestations is peace. This underlies all religion, all justice."

See The Promulgation of Universal Peace, (Baha'i Publishing Trust, 2nd edition, 1982), 32.

¹⁸ A Theory of Justice, op. cit., 585-6. Rawls still accepts that the principles of justice will only be effective if people have a sense of justice and therefore do respect one another. In his later work, The Law

consciousness is combined with the necessary spiritual element of justice, discussed below, it provides the transformative power and motivating factor required to give real effect to the universal concept of justice. This cannot be done within the confines of a self-interested approach or by reference to any of the lesser allegiances mentioned above.

International Human Rights and Justice

These lesser allegiances mentioned above read very much like the kind of forms of discrimination expressly prohibited in various international human rights instruments. This is because those instruments themselves are in essence framed against the background of a concept similar to that of human oneness, although not necessarily in any deep spiritual sense¹⁹. This is indicated in the Preambles to the United Nations Charter, even though that Charter is an institutional arrangement between nation-states and not between the peoples of the world²⁰. It is even more evident in the Universal Declaration of Human Rights of 1948²¹. It is also evident in the International Covenant on Economic, Social and Cultural Rights and in the International Covenant on Civil and Political Rights²² and in many other international human rights instruments. Universality is a fundamental aspect of these instruments, arguments as to cultural relativism notwithstanding²³.

of Peoples (Harvard UP, 1999), Rawls, in response to his critics, seeks to extend his theory of justice to the international sphere. But as Hayden points out in his work on Rawls, this attempt is still premised on the realist view of the nature of international politics, which posits that the individual sovereign state, in the form chosen by its citizens, lies at the foundation of international society and law, which is in turn based on the struggle for power and self interest between competing sovereign states. Hayden argues that international justice must be based on moral principles, and not upon such a self-interested national approach. Hayden sees this moral factor as being provided by a universalist conception of international human rights, including a right of all peoples to a just peace – see Hayden, op. cit., Part II.

¹⁹ Coustas Douzinas argues that human rights came about due to the collapse of the static nature of the medieval universe, underwritten by a theological view of the world, and the subsequent fragmentation of thought that occurred. See "*Justice and Human Rights in Postmodernity*", in Understanding Human Rights, (Conor Gearty and Adam Tomkins, Eds., Pinter, 1999 reprint), 117-118.

²⁰ Although the Charter begins by the words "*We the Peoples of the United Nations*".

²¹ See First Preamble to that Charter-

"Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world".

See also the Fifth Preamble. Article 1 of the Charter provides-

"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

Article 2 provides in part -

"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

²² The First Preambles to both of these Covenants are expressed in similar terms to the First Preamble to the Universal Declaration of Human Rights, and both Covenants have non-discrimination clauses.

²³ See Vienna Declaration and Programme of Action, June 1993, Preambles and Article 1, and see the speech of UN Secretary-General Boutros Boutros-Ghali to the Vienna Conference on Human Rights of 14

Thus a necessary connection is made through universality between both international human rights as expressed in writing and the concept of justice.

It is clear that some leading contemporary writers in this area of jurisprudence are moving towards a concept of justice based on similar principles of universality, in the sense that they argue that any theory of justice must be capable of extension to the emerging global order, with the concept of distributive fairness extending to all people equally without regard to national borders. Such theorizing takes its protagonists not as citizens of a nation-state with their own national society and national laws, but as citizens of the world. O'Neill wrote that justice is owed to all (people) regardless of location or origin, race or gender, class or citizenship²⁴. This is sometimes called the cosmopolitan theory of justice²⁵. Phillip Allott has come to somewhat similar conclusions from a different direction, proclaiming that we are all members of one international society, which includes state-societies and intergovernmental organisations as constituent organs of international society. That international society embodies the social purposes of humanity. He would reject a view of justice as something segmented into that applicable only to and within separate nation-states²⁶. This approach is also reminiscent of that of C Wilfred Jenks some time earlier when he wrote of the common law of mankind and the need for human rights and social justice on the world scale²⁷. It is the kind of thinking that motivated many of the more idealistic supporters in the establishment and early years of the United Nations Organisation after World War II²⁸.

June 1993, where he stressed "*the imperative of universality*". Many commentators think the Vienna Declaration was a compromise between universalism and cultural relativism. Thus some contemporary jurists and philosophers are said to be concerned to try to find a middle ground between the so-called dogmatic extremes of universalism and cultural relativism - see William Twining, op. cit. In the writer's view, this debate fails to fully grasp the difference between universal principles and their local application, the latter of which should always be sensitive to legitimate local cultural differences under the further principle of "unity in diversity".

²⁴ O'Neill, "*Bounded and Cosmopolitan Justice*", (2000) 26 (5) *Review of International Studies*, 45.

²⁵ Particular writers in this category include Charles Beitz and Thomas Pogge - see Leif Wenar, "*The Legitimacy of Peoples*", in Global Justice: Transnational Politics, op.cit., Chapter 2; The Humanitarian Development Paradigm, op. cit., 240-247; Patrick Hayden, Cosmopolitan Global Politics, (Ashgate, 2005).

²⁶ The Health of Nations: Society and Law beyond the State, (Cambridge, 2002). See also by the same author, Eunomia, (OUP, 1990).

²⁷ Social Justice in the Law of Nations: The ILO Impact After 50 Years, (OUP, 1970)

²⁸ Although this idealism was not so much reflected in the main political players representing the victorious Allied nations in the formation of the UN, the motivations of whom were much more aligned to their national political interests. Traces of the earlier idealistic approach still remain, however, such as in the work of World Federalists in the quest for global justice. But much of the earlier idealism has faded in the face of international realpolitik.

The strongest contemporary expression of universality in the global society is, as already mentioned, the international human rights system. It presents as a series of fundamental universal minimum standards of human rights for all peoples. Of necessity these standards are expressed in terms of very broad principles, leaving much to be filled in by way of detailed application at all levels of human society, consistent with those broad principles. But past defects in the human conception of justice can be said to have robbed these international human rights of much of their effectiveness. This is in part due to the continuing adherence, both politically and legally, to the concept of national sovereignty, which in turn is reflected in the traditional nature of international relations between so-called sovereign nation-states. It is also often reflected in the dualist approach to the relationship between international and domestic national law. Justice, in the interpretation and application of these human rights, is in turn generally perceived as something to be defined and applied within the constraints of national borders, in accordance with the operative political and legal restraints for each nation-state. As Allott says,

*"the idea of human rights quickly became perverted by the self-misconceiving of international society. Human rights were quickly appropriated by governments, embodied in treaties, made part of the stuff of primitive international relations, swept into the maw of an international bureaucracy. The reality of the idea of human rights has been degraded.....Human rights.....became a plaything of governments and lawyers."*²⁹

These human rights were as a result incorporated into and form part of traditional international relations, thus minimising the universal aspect expressed in the relevant instruments. But Allott is still positive. He says that the idea of international rights, having come into being, cannot now be "unthought"³⁰. And there are now many in the world who have moved beyond a state-centered notion of human rights.

So are we left with a debate about the "is" and the "ought" of justice, similar to that found in jurisprudential debate about the nature of law? ³¹ That is, is

²⁹ Eunomia, op. cit., 287-288.

³⁰ Ibid, 288.ought

³¹ Leonard C Feldstein answers this question by saying that justice is an ideal, and hence in the "ought" category, but that once its is achieved it is an actuality - see "*Toward Integrity and Wisdom: Justice as Grounding Personal Harmony*", in The Value of Justice: Essays on the Theory and Practice of Social Justice, (Charles A Kelbley, Ed. Fordham Uni Press, 1979), 62. Julius Stone puts it another way. He says

the universal aspect of justice merely a future goal, a pious hope, or does it, as I have argued, already exist in any sense? Notwithstanding the advances of globalisation, the increasing degrees of cooperation across many sectors of international society, and the increasing awareness within many people that the human race is a single, indivisible concept, clearly that society is still replete with divisions and conflicts. Tolerance and respect for the diversity of humankind is quite often in short supply. The world is not a united global society in any pragmatic sense. It is not yet capable of genuinely applying international human rights law in a universally just way, let alone any other field of law. Justice continues by and large to be distorted and applied in a way that denies its universality. Realist schools of jurisprudential thought continue to warn against taking too literally the moral and legal rhetoric of State leaders and officials in international affairs, noting that they are usually a disguise for motives of factional power and interest³². Human logic would suggest that actual universality is merely a future goal, and that in a pluralistic world, the achievement of universal justice in practice may be a long way off, if it is ever reached³³.

Spirituality

But is this "realist" approach outlined in the previous paragraph necessarily accurate? It is argued in this paper that it is necessary to look much deeper, and to examine the essential content or criteria of the concept of justice from

that even if justice is seen as an absolute and eternal value, where it differs from secular law it is not an act of legal annulment or cassation, but a demand on the law-maker, and an appeal to all members of society, to do whatever is necessary to bring about a repeal or other withdrawal of the impugned law - see Human Law and Human Justice, (Maitland Publications, 1968), 292. Hayden, in his work on Rawls, makes a more categorical statement that "...an ideal theory of international justice should be concerned not so much with what is but with what ought to be, not so much with adopting familiar rules of political realism but with articulating principles with which to evaluate those existing rules and suggest goals for transforming them. An ideal theory of international justice must be, in the end, about how the world ought to be organized." – op. cit., 92.

³² Jack L Goldsmith and Eric A Posner, The Limits of International Law, (Oxford U P, 2005), Part 3. In the writer's view, while this "realist" approach may accurately describe the nature of much of the State discourse in the present divided world order, it is a serious mistake to extrapolate from this that justice therefore cannot be a universal principle or have an essential moral and spiritual base. The nature of the rhetoric currently in use is a product of the present divisions in world affairs. It indicates that States, to the extent that they are concerned about the justice of any matter, are still adopting a very restrictive, secular notion of justice in the conduct of their affairs. But this division is not necessarily a permanent feature of world organisation, and such a perspective cannot and does not lead to a denial of the need for universality in the search for the meaning of justice. On the writer's view, the essential universal content of justice still remains, it is the perspective of universality that is often lacking in discourse at present.

³³ For this reason, many writers deny the validity of the universalist approach. See, for example, Victor Segesvary, World State, Nation States, or Non-Centralized Institutions?, (Uni Press of America, 2003). But this view denies, or overlooks, the application of the spiritual element to human affairs. In fact, the Baha'i Writings state that without the application of the spiritual forces released by revealed religion, world unity is an impossibility; see below.

the point of view of the other essential aspect of justice suggested above, namely, that it has the necessary spiritual element. Only by taking the concept of justice as something that must have both necessary aspects, the universal and the spiritual, is it possible on this view to adequately respond to the question posed in the previous paragraph. On this view, justice can only be said to truly capable of being recognised and applied if it is perceived with a genuine spiritual vision. To put it another way, once it is accepted that this spiritual element is an aspect or emanation of the one supreme being, then all aspects of perfection, including the standard of perfect justice, must also be something that is an aspect or emanation of that one supreme being³⁴. It is therefore spiritual or divine justice³⁵. Justice under secular law is, on this basis, not true justice unless that law fully corresponds with divine law³⁶. Anything short of this divine standard is on this view a deficient form of justice, not appropriate to a kind of human society that reflects the divine will.

Such a view carries with it the connotation that justice is a virtue or attribute of the divine, one of the qualities of perfection given by the one supreme, transcendental being (however that being may be called or described in any of the great religious dispensations of the past) to humanity. And because of the Baha'i belief that there is only one supreme being for all of humanity, and that humanity is one, that virtue or attribute must apply to all humanity and must be universal in its application. All Baha'is in particular, wherever they live in the world, are called upon to observe such justness and fairness throughout their lives in their dealings with all peoples, whatever their race, nationality, etc.³⁷. It is an error on this view to perceive divine justice as being something only administered by the deity, some form of judgment by

³⁴ It should be noted in this regard that the Baha'i Faith rejects the preponderant view that the great religions of antiquity are divided into those that are "monotheistic" and those that are not. Rather, the Baha'i Faith teaches that all the great religions were originally derived from the one supreme deity, although in many cases these beginnings have been later lost in various man-made interpretations, creeds, dogmas and forms of idolatry. The Baha'i Faith itself is clearly monotheistic.

³⁵ The concept of divine justice under divine law is of ancient lineage and is inherent in the teachings of all the great religions. In the case of Christianity, the idea of divine law and justice expressed by writers such as St Augustine and Aquinas were deeply affected by Greek ideas of natural law, but still within the confines of a deistic view of the world.

³⁶ Aquinas wrote:

"Human law is law only by virtue of its accordance with right reason, and by this means it is clear that it flows from Eternal law. In so far as it deviates from right reason it is called an Unjust law; and in such a case, it is no law at all, but rather an assertion of violence."

³⁷ Baha'u'llah wrote :

"Once again we exhort all believers to observe justice and fairness and to show forth love and contentment." - Tablets of Baha'u'llah (Baha'i World Centre, Haifa, 1978), 134.

God that is wreaked upon human beings for their sins³⁸. On the contrary, Baha'i teaching is that justice is a divine virtue given to humans for their observance in their day-to-day affairs.

This view of justice is fundamental to the nature of religion and its purpose. Thus Abdu'l-Baha, the eldest son of the founder of the Baha'i Faith and his appointed successor, wrote:

*"...the purpose of the divine messengers and the revelation of the heavenly books and the establishment of the religion of God has been none other than to create amity and justice between the children of the races."*³⁹

But as with all the divine virtues, they are of no real use unless there is the necessary human volition and action to carry them out and manifest them in human society. Hatcher has written:

*"So it is that merely envisioning a just society cannot by itself bring it into existence."*⁴⁰

And with this element of human choice, volition and action comes the element of spiritual responsibility and accountability. Such a view accepts that human beings are moral beings, with a degree of free will in the choices and actions they make and take.

It needs to be said that this spiritual view derives little support from most contemporary commentators writing on the subject⁴¹. And this no doubt largely reflects wider community attitudes in modern society. Thus Rawls makes the point that the public conception of justice is political, not

³⁸ This particular form of divine justice raises particular issues, such as the relationship between divine justice, mercy and forgiveness. These issues are not discussed in this paper.

³⁹ Divine Philosophy, 160. See also Old Testament, Book of Isaiah, Chapter 9 verse 7, Chapter 42 verse 1 and Chapter 56 verse 1.. The new translation of the second of these references from Isaiah reads: "*He shall bring justice to the nations.*". See also Leonard C Feldstein, op. cit., at 62-63, where he refers to the Latin derivation of *ius*, meaning "*right in the sense of joining*"(or fitting), and before that from the Sanskrit, meaning "*to join*". Thus he concludes that justice means to unite in a way that leads to personal harmony.

⁴⁰ The Arc of Ascent, op. cit., 338.

⁴¹ Thus F A Hayek wrote that : "...there can be no justification for representing the rules of just conduct as natural in the sense that they are part of an external and eternal order of things, or permanently implanted in an unalterable nature of man" – Law Legislation and Liberty, Vol 2, (Routledge Kegan Paul, 1976), 56, criticised by Douglas W Kmiec, "*Liberty Misconceived: Hayek's Incomplete Theory of the Relationship Between Natural and Customary Law*", in Chapter 7 of Ratnapala and Moens (Eds), Jurisprudence of Liberty, (Butterworths, 1996), 145. However some writers such as Micklem have sought to reintegrate theology, moral philosophy and jurisprudence - see Stone, Human Law and Human Justice, op. cit., 210.

metaphysical⁴². However there is some support outside of the Baha'i Writings and the writings of the great religions of antiquity for the view that true justice must have a spiritual base. For example, Toynbee wrote that:

*"The only effective cures are spiritual. Each social organisation or institution is based on a philosophy or religion, and the organisation is only as good or bad as the spiritual basis on which it is founded."*⁴³

Club of Rome member Ervin Laszlo wrote:

"Truly universal values do exist. They lie at the core of all the major religions and our most noble cultural traditions. The values of universal brotherhood, love for one's neighbour, and the golden rule of treating others as we ourselves would wish to be treated are just some of the ideals that are common to all cultures. They have fostered social union and amity between people for countless generations, inspired great works of art and continue to underscore our highest aspirations. Today's world would indeed benefit from a profound affirmation of these essential spiritual truths.... Consideration of these values in the twentieth century leads us to recognize the oneness of the entire human species, an ideal that extends former loyalties and does not abrogate them.

*The adoption of such values on a global scale will guarantee the right of all humanity to strive to fulfil its basic needs for life, progress and justice."*⁴⁴

The Founder-Prophet of the Baha'i Faith, Baha'u'llah⁴⁵, in addressing humanity, says that "*Justice is My gift to thee and a sign of My loving-kindness*"⁴⁶. Justice in this sense is not something man-made - it is a divine

⁴² "Justice as fairness: Political not Metaphysical", in Justice, (Thomas Morawetz, Ed., Dartmouth, 1991),1. But Rawls accepts that citizens have "...a capacity for a sense of justice enabling them to formulate and implement principles of justice" – Political Liberalism, (Columbia U P, 1993), 103-104.

⁴³ Arnold Toynbee, Choose Life, (A Toynbee and Daisaku, OUP, 1976), 129, cited in Chandra Muzaffar, Rights, Religion and Reform, (Routledge Curzon, 2002), 103.

⁴⁴ Ervin Laszlo, The Inner Limits of Mankind, (One World, 1989), 104-105.

⁴⁵ Baha'u'llah means literally the "Glory of God". He was born in Persia (Iran) in 1819, the son of a nobleman and Minister of the Shah, was tortured and imprisoned for His beliefs and teachings and passed away in exile in Palestine in 1892 after spending much of His life with the status of a prisoner. He is believed by Baha'is to be the Manifestation of God for this age.

⁴⁶ Hidden Words, (from the Arabic) (Baha'i Publishing Trust, London, 1975), No 2.

"O SON OF SPIRIT!

The best beloved of all things in My sight is Justice; turn not away therefrom if thou desirest Me, and neglect it not that I may confide in thee. By its aid thou shalt see with thine own eyes and not through the eyes of others, and thou shalt know of thine own knowledge and not through the

gift. And as a divine gift, it is sacred. All people are inherently endowed with the capacity, once they have been exposed to and educated in the divine virtues, to recognise and then apply this standard of divine justice. This is a capacity that is something innate in the human condition⁴⁷, just as are the other divine qualities or attributes⁴⁸, such as love⁴⁹. With the appropriate spiritual education, all people can recognise this standard of justice in their own life as distinct from some more limited concept. Whether they choose to act in accordance with this standard is left as a matter of free choice.

In this sense, the standard of divine and universal justice can be said to already exist, it is an absolute, objective standard, coming from the supreme being. It is not and cannot be something that is in any sense determined by a situational or relativist human perspective. The fact that humanity as a general rule has not adopted this standard does not mean that the standard does not already exist - merely that people generally have so far adopted many lesser and deficient forms of justice, whether that be of secular or pseudo-religious origins. This failure in part stems from the nature of human society, with all its divisions and prejudices militating against the adoption of a universalist, spiritual approach, and in part from humanity's refusal to accept, or its ignorance of, the divine teachings. Much the same approach was contained in the original teachings of the founders of the great religions of antiquity, but tailored to the conditions of the times in which those founders lived and taught. Those were times when humanity was not yet in a position to comprehend its own oneness and the need for world unity. But in this modern age of globalisation and interdependence, a

knowledge of thy neighbour. Ponder this in thy heart; how it behoveth thee to be. Verily justice is My gift to thee and the sign of My loving-kindness. Set it before thine eyes." .

⁴⁷ Ibid.

⁴⁸ This view of innateness does not accord with much current thinking to the effect that "*appeals to the eternal essence of the human person are no longer possible in today's intellectual climate*" - J Porter, *Natural Law and Divine Law*, (Grand Rapids, William B Eerdmans, 1999), 33, citing thinkers as disparate as Charles Curran and Germain Grisez. But the current intellectual climate usually rejects divine revelation as one of the legitimate sources of human knowledge. All the great religions teach variants of the view that humans are made in the (spiritual) image of the divine, with the innate spiritual capacity to change in response to the divine message in order to reflect divine virtues and attributes. This is at the heart of religious morality.

⁴⁹ The relationship between selfless or divine love and justice has not been examined in this paper, but they are clearly connected. Thus St Augustine said that love was the highest moral principle, capable of resolving any tension between the divine will and reason - see Stone, *Human Law and Human Reason*, op. cit, 45. It is said that love is the *principium primus* around which revolve other principles of existence, such as justice - Houshang Khazrai, "*The Concept of Justice in the Baha'i Faith*", in *The Kitab-i-Aqdas*, (1998) 2 Association of Baha'i Studies, 59. William S Hatcher makes a direct connection between love and justice in order to achieve unity - *Love, Power and Justice: The Dynamics of Authentic Morality*, (Baha'i Publishing Trust, 1998), 64-81.

comprehension of this is no longer beyond the capacity of ordinary human beings⁵⁰. Indeed, there is a growing consciousness of the fact that we are all members of one human race occupying one small, fragile planet, and that we need to cooperate and work positively together to establish a just global civilization if there is to be a meaningful future for all.

This approach removes any crisis of legitimacy sometimes referred to by natural law theorists in seeking a fundamental basis for a universal morality underlying the concepts of international human rights and of justice. This crisis became acute with the combination of the gross abuses of World War II and others since, as well as the rise of secular pluralism, challenging such theorists to find a new basis for a universal morality. It has often been sought in human reason, but in itself this is an unreliable and fallible basis. Saladin, a Christian- Swiss jurist, wrote of this concern:

"...it has to be realised that the philosophical bases traditionally underlying the idea of human rights - the philosophical systems of the Enlightenment, of liberalism, of utilitarianism - are now crumbling and are no longer credible. After two world wars and numberless demonstrations of inhumanity we can no longer cling to the anthropological optimism on which these systems rest without sacrificing our intellectual and moral honesty. But the whole idea of human rights is then left in the air; and the flagrant lack of basis is bound to result in a loss of credibility if a new basis cannot be laid down. There are plenty of signs of a "legitimacy crisis"... So it is especially incumbent on Christians and the Christian churches to seek urgently for this new foundation..."

From the legal point of view it must be insisted that some foundation is indispensable. Legal norms are usually respected not because they are backed by power and people fear the sanctions of power against transgressors; their validity rests primarily on belief in their legitimacy.....The question then inevitably arises of the source of this legitimacy. legitimacy is necessarily meta-legal and meta-materialistic: as a rule and generally speaking it does not derive from

⁵⁰ An understanding of this idea of human oneness and connectedness is not entirely new. Thus John Donne wrote in 1623_

"No man is an Island intire of it self; every man is a peece of the Continent, a part of the maine....Any Man's death diminishes me because I am involved in Mankinde, and therefore never send to know for whom the bell tolls; it tolls for thee."

*such norms as self-evidence or from any inherent or "historical" necessity.*⁵¹

Transformation for Justice

Miller-Munro has expressed the view that in order to accept and implement divine justice it is necessary to engage in a two-pronged process. On the one hand this involves societal transformation - a transformation on a global basis of institutions and laws. The second part is the transformation of hearts, our spirits, our beliefs, our values and our behaviours⁵². The transformation she is talking about is the creation of a spiritual society, both through individuals up to the global collective. One cannot establish divine justice in a secular, divided society. World unity, based on spiritual principles, and in particular that of the oneness of humanity, is seen as indispensable elements of a global society that conforms to true justice. Anything short of this will mean that in the main, justice will be denied⁵³. In individual cases it may still be possible to apply a form of justice that many may find acceptable, but when viewed as against the divine standard in a universal way it will still be deficient. The interests of the whole cannot be legitimately segmented from the interests of any part⁵⁴, at least not from the point of view of defining and applying justice.

But is such a dramatic transformation even possible? Many would argue that it is not. Again this is likely to be a secular view, based on a

⁵¹ Peter Saladin, "*Christianity and Human Rights: A Jurist's Reflection*", in E Lorenz (Ed.), How Christian are Human Rights? An Interconfessional Study on the Theological Bases of Human Rights", (Lutheran World Federation, 1981), 29f.

⁵² Layli Miller-Munro, "*Justice and Equality - a basis for change in our troubled world*", (2004), <<http://bahai-library.com/?file=miller-muro justice equality.html>>, 4. See also Holly Hanson, *The Process of Creating Social Justice*, in Towards the Most Great Justice, (Charles O Lerche, Ed., Baha'i Publishing Trust, London, 1996), 29.

⁵³ This is not to suggest some utopian model where human weaknesses and limitations are all overcome. The standard of divine justice is the goal, it already exists, and the challenge for human beings, individually and collectively, is to endeavour to conform to that standard. To the extent that they are successful, the more just and unified the global society will become. For a contrary and pessimistic view, Thomas Talbott, "*Punishment, Forgiveness and Divine Justice*", (1993) 29 *Religious Studies*, 151.

⁵⁴ To illustrate this view simplistically, it could be asked whether it is justice that one person in one part of the world should achieve what he or she considered to be a fair result in all the circumstances, for example in a court case, when, after allowing for cultural differences, many others would not receive a similar fair result in similar circumstances in certain other parts of the world. On the view being advanced in this paper, there can be no justice unless it is universally applied across the planet. Objections that this comparative or collective approach is not truly justice as it is not tailored to the particular circumstances of each case are rebuttable once it is accepted that true justice is universal in principle (in the sense above discussed) and divine in origin, but that the results still depend upon its actual application in each case according to the facts.

contemporary human perspective of the state of the world, with an emphasis on the many divisions and conflicts still subsisting and on the capacity (or lack of it) of humankind to invent and deploy effective, materialistic solutions. It is also a statist view of the inherently and permanently flawed nature of the human condition, perhaps derived in part from such theological notions as that of original sin, perhaps also derived in part from the Hume view of the defects and deficiencies in human nature, requiring rectification by justice⁵⁵.

But the Baha'i view is a much more positive view. It sees justice as a positive virtue, within the comprehension of ordinary human beings, and capable of being implemented in their daily lives with the right education and motivation. It is not just something for institutions to administer⁵⁶. And it does not proceed from the point of view that human beings are incapable of self-improvement. Writing on this theme, the Universal House of Justice, the current ruling body of the Baha'i Faith, said in a message to the peoples of the world in 1985:

"...a paralyzing contradiction has developed in human affairs. On the one hand, people of all nations proclaim not only their readiness but their longing for peace and harmony, for an end to the harrowing apprehensions tormenting their daily lives. On the other, uncritical assent is given to the proposition that human beings are incorrigibly selfish and aggressive and thus incapable of erecting a social system at once progressive and peaceful, dynamic and harmonious, a system giving free play to individual creativity and initiative but based on cooperation and reciprocity.

As the need for peace becomes more urgent, this fundamental contradiction, which hinders its realization, demands a reassessment of the assumptions upon which the commonly held view of mankind's historical predicament is based. Dispassionately examined, the evidence reveals that such conduct, far from expressing man's true self, represents a distortion of the human spirit."⁵⁷

⁵⁵ Charles A Kelbley, "Justice and Goodness", in The Value of Justice, op. cit., 151.

⁵⁶ This is not to deny that the relevant institutions of society have a critical role in the administration of justice, particularly through the courts. But too often concepts of justice have focused largely around the role and processes of judicial institutions and their officers. Justice has not usually been seen as a virtue having widespread application in the day-to-day situations of people regardless of whether those judicial institutions and officers, or any aspect of government, are involved.

⁵⁷ Promise of World Peace, (Baha'i Publications Australia, reprint 2001), 6-7.

Many other thinkers now agree that we are in an age of rapid transition throughout the world, one in which remarkable changes of many kinds are possible⁵⁸. Thus we have to our surprise witnessed the dramatic demise of state communism and of apartheid in South Africa, and we are now witnessing the development of a united Europe, with its state membership steadily growing. At the same time, there has been a gradual development of international law and international institutions. It is said that there is a crisis of legal tradition, that we are at the end of one era and at the beginning of another; that is, we are at the end of an era in which world history was centered in Western history and at the beginning of an era in which Western history is centered in world history. At the same time, a new global legal tradition is said to be emerging⁵⁹.

Other writers go beyond the purely legal to contemplate the emergence of a global civil society in our time. Some of these writers have already been mentioned in this paper in connection with the idea of cosmopolitan justice. There is a great mass of contemporary literature on the topic of a global civil society⁶⁰. The idea has invaded the halls of the United Nations, and is reflected in its proceedings such as the Millennium Summit and Project. It is an idea that has been taken up by various NGOs⁶¹. It is said that it is now the "*big idea*" on everyone's lips - government officials, journalists, funding agencies, writers and academics, etc.⁶², although it has to coexist alongside much disillusionment with the disordered state of the world and negative views of humanity's future. It also has to deal with continuing forceful opposition from those who continue to assert the primacy of the sovereign nation-state. While it may be accepted by many of those having this civil society approach that the transition to a global civil society is fraught with dangers and will continue to be very turbulent, the process of achieving such a society is seen as being both desirable and as having a degree of inevitability about it. As it is generally expressed, it is a secular idea.

⁵⁸ For example, reports such as the Report of the Commission on Global Governance, Our Global Neighbourhood, (OUP, 1995), and writers such as Richard Falk, On Humane Governance: Towards a New Global Politics, (Polity Press, 1995).

⁵⁹ Harold J Berman, *op. cit.*, 309. Allott says we are witnessing the emergence of a universal legal system - The Health of Nations, *op. cit.*, 59. Contemporary jurisprudential thought is still struggling to come to terms with this rapidly advancing change in the nature of human global organisation.

⁶⁰ Some examples include John Keane, Civil Society: Old Images, New Visions, (Stanford Uni Press, 1998) and Michael Edwards, Civil Society, (Polity, 2004).

⁶¹ Non-governmental organisations.

⁶² Civil Society, *op. cit.*, 2.

But the view of the great religions is different. Most of them teach the promised advent of a global age of peace and justice, only to be achieved by spiritual means⁶³. It is not something that can be achieved by secular efforts, no matter how determined and persistent they may be⁶⁴. This view is repeated in the writings of the Baha'i Faith. The Universal House of Justice, wrote-

*"No serious attempt to set human affairs aright, to achieve world peace, can ignore religion.....Writing of religion as a social force, Baha'u'llah said: "Religion is the greatest of all means for the establishment of order in the world and for the peaceful contentment of all that dwell therein." Referring to the eclipse or corruption of religion, he wrote: "Should the lamp of religion be obscured, chaos and confusion will ensue, and the lights of fairness, of justice, of tranquility and peace cease to shine." "*⁶⁵

And it is said in the Baha'i Writings that it is the founders of the great religions that release the necessary spiritual forces needed to educate humanity in the divine virtues, including that of justice. These founders are the great spiritual educators. The forces they release gradually gain ascendancy as they are accepted, in a cyclical pattern. As they later decline through human error and indifference they require a new release of the same forces appropriate to the new time. In so far as religious differences have contributed in the past to injustices, the Baha'i Writings make it clear that this is due to the growth of different man-made interpretations of the teachings of the original founders of the great religions, and the resultant division of those religions into many contending sects and denominations. All the great religions are designed in their original form to bring harmony and peace, but over time this emphasis is lost and replaced by different, more divisive approaches. It is not religion at fault here, but the abuse of religion as part of this cyclical pattern.

Conclusion

The twin aspects of justice mentioned above, the universalist aspect and the spiritual aspect, act together to give a broad framework for divine justice to

⁶³ For example, See Book of Isaiah, Old Testament, Chapters 2, 11, 35, 42, 43, 65.

⁶⁴ Abdu'l-Baha said-

"...the promotion of the oneness of the kingdom of humanity, which is the essence of the teachings of all the Manifestations of God, is impossible except through the divine power and breaths of the Holy Spirit. Other powers are too weak and are incapable of accomplishing this." -

See The Promulgation of Universal Peace, op. cit., 12.

⁶⁵ The Promise of World Peace, op. cit., 8.

be identified and to operate, as an aid to global reciprocity, cooperation and unity. Thus Baha'u'llah says that:

*"The purpose of justice is the appearance of unity among men."*⁶⁶

Thus true justice must lead in the direction of human unity, "unity" being defined against the background of the principle of the "oneness of humanity" as discussed above. This will result in at least as much emphasis on the common good and the maintenance of social cohesion as on the rights of the individual. It will also result in more emphasis on consultation, conciliation, mediation and reconciliation, rather than adversarial confrontation and litigation, at least in civil cases. The individual is to be regarded as having spiritual and legal responsibility for the justness of his or her own actions, depending upon his or her individual capacity, with the institutions of society providing the necessary elements of reward and punishment in support⁶⁷. The person who is imbued with this principle of oneness and is deeply spiritual in outlook will be greatly motivated to identify and apply this standard of justice in his or her daily life.

Many other factors are also identified in the Baha'i Writings as being relevant to this standard of justice besides that of universality and spirituality. These include principles like that of moderation, courtesy and respect for others, avoidance of prejudice, the condemnation of all forms of tyranny, the application of the golden rule⁶⁸, the observance of truthfulness and honesty, a diligent individual search for the truth, equity and impartiality, obedience to the law, etc. There are also the issues of reconciling different divine principles of relevance and determining matters of precedence, as referred to by Rawls⁶⁹. But within the Baha'i teachings there are the necessary spiritual aids for reconciling and resolving these issues. It is beyond the scope of this paper to fully examine all these other

⁶⁶ Tablets of Baha'u'llah, op. cit., 67.

⁶⁷ To a Baha'i, these include the institutions of the Baha'i Administrative Order, the establishment of which was prescribed by Baha'u'llah, and the elected institutions of which are given a primary role in the dispensing of justice in accordance with the Baha'i teachings. At the highest level this comprises the Universal House of Justice. At lower levels it comprises the National Spiritual Assemblies and the Local Spiritual Assemblies, which in due course will also assume the appellation "Houses of Justice" as they evolve and mature.

⁶⁸ The "Golden Rule" is found in the teachings of all the great religions. Thus in Hinduism it is written:

"Do not to others what ye do not wish done to yourself, and wish for others too what ye desire and long for yourself."

In the Baha'i Faith, Baha'u'llah wrote:

"And if thine eyes be turned towards justice, choose thou for thy neighbour that which thou choosest for thyself."

⁶⁹ A Theory of Justice, op. cit., 554.

aspects, as they are nearly as broad as the teachings of the Baha'i Faith themselves.

Baha'u'llah said that "*The light of men is justice*". Referring to the trials and tribulations faced by humanity, he added "*Know thou of a truth, these great oppressions are preparing it for the advent of the Most Great Justice*".⁷⁰ Further, "*So powerful is the light of unity that it can illuminate the whole earth*". Together, these and many other principles that he enunciated provide the means for and the assurance of the implementation of the divine will that justice and peace should ultimately prevail throughout the earth⁷¹, thus fulfilling the prophecies of old.

⁷⁰ Universal House of Justice, Century of Light, (Baha'i Publishing Trust, New Delhi, 2001), 95.

⁷¹ Compare the Kantian notion that justice is to prevail even through the world should perish - *Fiat iustitia, pereat mundus* - Perpetual Peace, first published 1795. The Baha'i teaching is that divine justice is to prevail in the world so that the world will not perish but that peace may prevail.