

Salve Regina University

Digital Commons @ Salve Regina

Pell Scholars and Senior Theses

Salve's Dissertations and Theses

Spring 2009

The Injustice Of Justice: The Pursuit of a Harmonious, Just, and Merciful World

Robert W. Boyle

Salve Regina University, robert.boyle@salve.edu

Follow this and additional works at: https://digitalcommons.salve.edu/pell_theses



Part of the [Business Law, Public Responsibility, and Ethics Commons](#), [International Business Commons](#), [Legal Studies Commons](#), and the [Public Affairs, Public Policy and Public Administration Commons](#)

Boyle, Robert W., "The Injustice Of Justice: The Pursuit of a Harmonious, Just, and Merciful World" (2009). *Pell Scholars and Senior Theses*. 38.

https://digitalcommons.salve.edu/pell_theses/38

This Article is brought to you for free and open access by the Salve's Dissertations and Theses at Digital Commons @ Salve Regina. It has been accepted for inclusion in Pell Scholars and Senior Theses by an authorized administrator of Digital Commons @ Salve Regina. For more information, please contact digitalcommons@salve.edu.

SALVE REGINA UNIVERSITY

The Injustice Of Justice

The Pursuit of a Harmonious, Just, and Merciful World

Robert W. Boyle

4/24/2009

This Pell Senior Thesis is submitted in accordance with the graduation requirements of the Pell Honors Program.

“Is it not an absurd and terrible thing that what is true in one village is false in another?”

What kind of barbarism is it that citizens must live under different laws?”

- Voltaire

“There are truths which are not for all men, nor for all times.”

- Voltaire

Introduction

The question of “what is justice?” has been debated for centuries and will continue to be debated for many years to come. Since its inception, this question has been answered in almost infinitely different, and in some cases, contradictory ways. Across the boundaries that divide the civilizations of the world, responses to this question have not succeeded in finding the ultimate and absolute truth. For we will never know the true answer to our inquiry – not until the end of days, when we stand before our creator on judgment day will we know the ultimate answer. The best we can do is to work together as a human family towards a common goal of peace and harmony through understanding and embracing our differences.

The world we inhabit is, and will forever be, an ever-changing place abundant in differences and diversity. Differences between cultures, religions, legal and political systems, as well as individual beliefs all contribute to our pluralistic society, leaving the prospect of a universal understanding of virtually anything, highly impossible. Every aspect of the human experience, from our environment, to our cultures, to our understanding of morality, all evolve over time. Evolution is an essential part of our existence. As such, we must adapt to changes in our environment, and our environment must parallel the changes in us. This paper examines how one key fundamental piece of society – justice – is not an absolute truth and how it must remain a universal, yet malleable entity, in order to function properly in our society and allow us to work towards a world that is more harmonious, just, and merciful. .

The key to a peaceful global community is uniformity and unity, where there is no deviation in the meaning of right and wrong. Fundamentally, the analysis of right and wrong falls under ethics and morality. Their understanding falls under what we define as justice. Essentially, the key to a harmonious, just, and merciful world is universal justice. However, due

to the structure of our world, the feat of reaching a completely universal standard of right and wrong is impossible for three main reasons: the great divisions between our civilizations; the natural liberty for such divisions to exist through the respect for individual thoughts and beliefs; and finally, the human inability to concretely prove an absolute truth.

If a “Universal Justice” is the key to the peaceful existence of the civilizations of the world, we may consider this to be perfection. The ideal goal for the global community is to be unified in the understanding of right and wrong, where conflict would cease to exist since an unarguable, absolute truth would provide the correct definition to morality. The problem we face with the concept of perfection is that such a thing is not real and can only exist in a theoretical framework. The idea of a “perfect justice,” in this case, a universal understanding of justice, is beyond human capability, just as any form of perfection is. Analytically, in order to obtain this “Perfect Justice,” we must first take the following steps: first, we must recognize the boundaries between us, and then break them down enough to enter into the chaos (in respect to our own perspective) of another civilization, where we must attempt to understand the reasons behind the underlying beliefs of another group. Second, we then must embrace such differences and perspectives in determining an overlapping consensus of what I shall refer to as “man’s absolute truth”. This analytical view provides the path to the universal justice needed to unlock the harmonious global community we should strive to achieve.

However, in a realistic and practical view, there is one step that prefaces the recognition and breaking down of the boundaries between our civilizations. . There must be a universal desire to work towards the goal of universal justice. Similar to the reformation of a criminal, where the offender must desire to change themselves in order for any efforts of change to be effective, the world and all of its divided civilizations will only succeed in working towards this

goal of harmony if they truly desire to attain it. Without a universal desire to work towards a harmonious, just, and merciful world, any effort put forth will prove to be cyclical, leading us right back to where we started. Unless we truly desire to progress towards this goal, we will only regress over time, falling deeper into our divisions and further from obtaining pieces of our ultimate goal.

Through the examination of this “perfect justice,” we ultimately find that the ideal justice for our world has the ability to adapt to change and match the needs of our civilizations. As Voltaire stated in one of his letters in 1761, “there are truths which are not for all men, nor for all times.”¹ For our world to have a single definition of right and wrong, we would not be able to progress in our understanding of justice. It is necessary for our understanding of justice and morality to be flexible, where it can be relative to our ever-changing perspectives over time.

¹ Voltaire. See <<http://randomquotes.org/quote/18578-there-are-truths-which-are-not-for-all-men-nor-fo.html>>

What Is Justice?

Since at least 600 B.C.,² the meaning of justice has been the most puzzling enigma to plague the minds of the simple man and great thinkers alike, where its discussion has, and will always, lead to argument and conflict in an endless cycle of violence and confusion. There is, however, an “overlapping consensus,” as described by Rawls, where a divided society can have baseline universal principles in which the standard guidelines for what justice should accomplish are outlined. As Martha Nussbaum stated, there is a need for such an overlapping consensus through cross-cultural objectives if our global community is to reside in harmony. “It is possible to produce an account of these necessary elements of truly human functioning that commands a broad cross-cultural consensus.”³ The universal meaning of justice, i.e. our overlapping consensus, has its roots in religious and philosophical principles, as well as the ability to adapt to changes in the interpretation of such fundamental values. The two fundamental principles of justice that could be considered universal are that each individual is rendered their due, and that such due must be rendered through fair means. In virtually every legal system, although the interpretation of these principles may differ, such as what exactly is considered a wrong action, what constitutes the correct punishment, and how a fair process is defined, the *purpose* of the justice process aims for the same result. There are multiple correct routes to arrive at the same destination of justice. All legal systems aim for the notion of this idea of justice; what differs is what defines the specifics of justice. From a philosophical standpoint, it can be determined that “in all states there [exists] the same principle of justice”⁴ to a certain extent, however the specific qualities are tailored to the needs and ideals of the individual “state.” For reasons that will be discussed further in this paper, we see that such fluidity and adaptability of justice is essential for

² Anderson, 1.

³ Nussbaum, 13.

⁴ Plato, 298.

the harmonious existence of the divided civilizations of the world. In order to reach a sense of universal justice and create this harmonious world, we must first understand the fundamental roots of justice before such a concept could be understood universally.

The first fundamental principle of justice, where one is rendered their due, originates in the ancient philosophical discussion of Plato's *Republic*. In this dialogue, the meaning of justice is discussed among a group, where each member has a slightly different yet equally valid interpretation of the meaning of justice in which each opinion builds on the previous theories. This ancient dialogue of the meaning of justice provides the precise answer for how we must reach the overlapping consensus necessary for a harmonious world in our present society. This group of thinkers gathered together and broke down the boundaries between them where each member had an equal opportunity to express their beliefs to the group. As the group listened, they were able to question the reasoning of each man's beliefs in an effort to understand the different perspectives of their fellow man. Once the men understood each other, they were able to make an educated evaluation of all the proposed answers and achieve an overlapping consensus to the meaning of justice. The interpretation of what precisely is due and how it is due varies across perspectives, but the same destination of this "justice" is ultimately reached regardless of which path is taken on the journey. This philosophical dialogue teaches future generations, namely our own, that justice is supposed to be able to have slightly different interpretations – different, yet just means to reaching the same end.

This principle of "giving one's due" varies greatly throughout this philosophical conversation. At one point, it is argued that "justice is doing good to your friends and harm to your enemies,"⁵ where friends would be considered those who obey and enemies those who deviate from the common principles of the established morality. Justice is also interpreted,

⁵ Plato, 295.

specifically by Thrasymachus, as being “nothing else than the interest of the stronger”⁶ where right and wrong are defined by the authoritative force; whether it be the majority, as seen in a democratic state; the republic; or an oppressive regime, such as Iraq under the rule of the late dictator, Saddam Hussein. This perspective is correct in part, where the rule must have an authority behind it, most beneficially from a democratic foundation in which the majority of the society contributes to and agrees with a semi-standard definition. Simultaneously, this authority must remain in a healthy balance, where the interest of the stronger means for the greater good and does not shift to the personal interestⁱ of the powerful dictator.ⁱⁱ

The ultimate philosophical definition of justice is “doing as one ought according to their position in society be it class, occupation, or for our purposes, division among society.”⁷ The basic principle of justice that is obtained from the *Republic* is that individuals are to be rendered their due based upon a fair system where their actions are deemed just or unjust by the standards of the obedience of the individual in respect to what they ought and ought not to do as defined by the recognized authority of the individual civilization.

In the simplest terms, justice, with respect to the Platonic definition, follows the principle of quid pro quo meaning “something for something;” informally known as “eye for an eye.”⁸ This idea is most notably recognized in the Code of Hammurabi under the rule of *lex talionis*, where the punishment or repayment is proportional to the crime. This proportion is considered a guideline of fairness when defining the debt of a wrongdoer, where the exact interpretation of what is due is dependent on the individual culture’s interpretation of this “fair” principle. With roots in various cultures across all of history, such as the Hebrew Torah and Islamic Koran,⁹ⁱⁱⁱ the

⁶ Plato, 298.

⁷ Plato, 413-453.

⁸ See in Bible, Exodus 21:23–27; Deuteronomy 19:17-21.

⁹ See in Koran, 5:45.

concept of justice has been founded on the idea of retribution in the form of punishment in proportion to the crime as well as rehabilitation of the offender.¹⁰

The second universal principle of justice in the discussion of this paper is the principle of fairness, as described by John Rawls. This principle of fairness serves the purpose of a system of checks and balances for the first principle where what is due must operate according to an equal standard, while still respecting the interpretations of individual civilizations. With respect to the first principle, the only just way to give one his due is through equal and fair principles. One important aspect of fairness is that each individual “has an equal claim to fully adequate scheme of basic liberties.”¹¹ Nussbaum discusses such basic liberties in respect to functioning and capability, where fairness means that all individuals must have the minimal capability to access the minimum standards. Not having something because of choice is different from not having something because of inability to access it.

Again, the *principle* of fairness may be universal, but the *interpretation* of what is fair may differ across the borders of civilizations. The principle of fairness “consists in treating equals equally and unequals unequally in proportion to their inequality.”¹² For the sake of this argument, fairness shall be deemed synonymous with the Fourteenth Amendment principles of equal protection and due process of the law, in comparison to what fairness should accomplish in the setting of a social contract. For example, the American interpretation of fairness focuses on equality through legal principles, encompassing a trial where the rights of the accused are protected and the burden of proof is placed on the government. Additionally, no person may be punished without a valid and lawful reason and it must be done through the fair and standardized procedures of the legal system. The individual is valued in the eyes of the law as equal to both

¹⁰ Donnelly, Terrance. Lecture.

¹¹ Hersh, 171.

¹² Adler, 188.

their peers and the state; the reason why lady justice is blind. In a religious system, for extremist purposes, we shall examine Shari'ah, fairness exists as it is inscribed in the Koran. Although unfair by American standards, the principle of women being one-third of the value of a man is fair by Islamic standards¹³ because it is purportedly the word of Allah. Fairness is dependent on its cultural meaning, but the fundamental meaning of the principle itself is that all persons are treated according to the same standard as prescribed by the social contract of the culture of a particular civilization.

The philosophical understanding of justice as rendering what is due through fair principles is the most universal understanding of what fundamentally defines justice, while still reasonably respecting the cultural, religious, and political divisions of our global community. This philosophical view of justice provides all civilizations a baseline set of fundamental goals and minimum standards of what the concept of justice should accomplish, allowing for each division to tailor what separates right from wrong, and the respective consequences to specific values of their culture. Once we, as a global community, understand what the proper purpose and outcome of justice is in its fundamental sense, we can then progress to the next step of breaking down the boundaries that divide us. With the fundamental understanding of what justice should be, we are better equipped and educated when it comes to understanding why certain civilizations take certain routes of action in order to attain justice. In order to understand something, in this case the reasoning behind our differences, we must first understand the fundamental concepts behind them, i.e. justice.

¹³ Dambruch, Stephen. Lecture.

The Perfect World is the Harmonious World

To imagine a world without differences and conflict would be to imagine a perfect world – a global community where the human family was not divided in its beliefs of right and wrong and where all members could live in harmony. In theory, this harmonious and peaceful world would be the ideal, and thus, serve as the ultimate goal that we should work towards achieving. However, in reality, this idea of a “Perfect World” proves to be an imperfect solution. While the theory of a harmonious global society seems to provide the perfect world, in reality, it cannot, and should not, exist.

Indeed, the prospect of having an entire world living in harmony and without reason for conflict does provide the answer to the question of what defines the ideal world, so such a thought should not be completely discarded, despite the reality of never obtaining such a harmonious state of nirvana. To reach this state of perfection, certain events would have to take place: first, we must disregard our differences and find one absolute truth; second, this absolute truth would not be able to be argued against; and third, all forms of individual thought and belief would have to disappear, leaving the absolute truth to be the only thought permissible.

With this idealistic view of an absolute truth to right and wrong, we are faced with the challenge of 1) finding it, 2) proving it to be correct, and 3) enforcing it upon every civilization among our divided world. From the theoretical viewpoint, the absolute truth – a final, unarguable answer to the question that has plagued the mind and soul of mankind for ages – would end all conflict which currently divides us. To finally have the answer to right and wrong would provide guidance to citizens of all civilizations for living the “good”¹⁴ and proper life, and would provide

¹⁴ Aristotle, See *Nicomachean Ethics in Gibson, K. Business Ethics*, pp 87-91.

the “perfect justice” in dealing with those who do not comply. In a world where there could be no argument over right and wrong, the only option would be to live in a state of harmony.

The realistic view of such a perfect world, with a perfect justice, reveals that such perfection is, at least in its entirety, unattainable. For every society across the globe to agree upon one absolute truth would be impossible. However, the ultimate goal of a perfect world based upon universal principles would be the ideal answer to the problems our divided society faces today. In acknowledging the facts that a harmonious world would be a world of perfection, and recognizing that the key to such a world is through some kind of universal principle, namely Universal Justice, we can determine that such a world would be a worthwhile goal – even if we may only obtain certain pieces of the overall perfection rather than the whole.

If Perfection is Unattainable, Is It a Worthwhile Goal?

By definition, the term “perfection” reflects a state where no further improvement, either practical or theoretical,¹⁵ may occur. If any alteration were to occur in a state of perfection, it would only create imperfection. In respect to the perfect world being a global community that would exist in peace and harmony, we can see that such a feat would be impossible for several reasons other than the human inability to obtain a state of absolute flawlessness; such a state is reserved for those of divine nature.^{iv}

Aside from the human incapacity for perfection, we also see another hurdle to reaching this goal of harmony. The fundamental pieces we must obtain as a global community in order to obtain this harmonious state are to 1) have a universal understanding of right and wrong where there would be no room for argument over the correct answer, and 2) for our civilizations to be unified rather than divided. The reality of our situation proves that such a “perfect world” is beyond our reach due to our inability to accomplish the aforementioned tasks in totality, in addition to being an impractical solution in respect to the unique structure of our world. To break down the boundaries that divide us is a fairly realistic goal. However, to break them down completely and have a unified agreement of beliefs across them is absolutely impossible due to the three reasons I describe in this paper: the Clash of Civilizations, the natural liberty to individual conscience, and most notably, time.

So how do we deem this unattainable perfection as being a worthwhile goal? What purpose does it serve to work towards something that we can never actually reach? Examining the situation under an optimistic view, we see that the “perfect” is the ideal – the state that we

¹⁵ See <<http://dictionary.reference.com/browse/perfection?qsrc=2888>>

should want to reach. It serves as a guide to living the “good life.” Simply because we are not able to reach absolute perfection does not mean that we cannot at least work towards improving ourselves – namely our global community – in hopes of obtaining bits and pieces of the perfection.

For example, I shall explain the analogy of the perfect life: the perfect job, perfect family, perfect house, car, etc. Realistically, to obtain all of these, or even any, in an absolute sense, is impossible. In analyzing this, we see that the perfect life is not guaranteed because we are mortal and beyond control of certain events. The perfect job is not guaranteed because employees may be laid off or fired. The perfect family cannot exist because family members age and die, as well as quarrel. Perfection in material objects is not guaranteed due to their availability and the test of time. From the pessimistic view, one would perceive that since none of these goals are attainable, there would be no purpose in working towards them. In a realistic and slightly more optimistic view, it can be seen that such things are attainable, at least in part. With an education, hard work, and responsibility, one may work towards anything we view as perfect. To reach the perfect anything may be impossible, yet we retain the ability to get closer to it. The “perfect life” may consist of a certain number of children, waterfront property, and a high-end vehicle to some people, none of which will happen overnight. This example shows that the ultimate goal, whether it be universal justice or a BMW, must be a process of incremental movement in the proper direction. The man who envisions the perfect house may begin in a rented apartment; that does not mean he will never own his dream home, it just means that the ultimate is something that requires an effort towards attaining it. Simply because the “perfect” house may be unattainable, the man may still progress to a nicer home each time, inching ever so closer to the ideal home.

Another example of worthwhile and unattainable perfection that we see is exemplified in the Christian faith. Followers of Jesus Christ believe that He, the son of God, is the perfect being.¹⁶ They also believe that such perfection is a divine quality which they will never be able to possess as a human being. However, despite the fact that followers know that they will never be as good as Jesus, or be the perfect being, His perfection serves as a goal for followers, where they can imitate pieces of His perfect qualities in an effort to come as close to perfection as possible. In a sense, the perfect example serves as a motivational tool; it tells us what we should work for and gives us hope knowing that there is in each one of us always the capacity to improve.

This route to perfection is similar to the mathematical equation of $\lim_{x \rightarrow \infty} y=1/x^2$ is 0. In the graphical representation^v, using the y-axis as the level of imperfection and the x-axis as time, we see that we become closer to as time progresses, but we never actually make it to the ultimate perfection. Similarly, in reality, our goal is to reach the ultimately perfect world; however, due to the aforementioned qualities of our world, we can only come infinitesimally close to “perfect”. We can also use mathematics to prove that even the smallest effort to reach perfection, in comparison to no effort at all, provides for infinitely greater possibility^{vi} of reaching the ultimate goal.

As we see through the examples of the perfect life, through both the Christian and secular worldviews, the state of perfection serves as a guide and motivational tool for what we should work towards rather than discouraging us completely. This unattainable state of perfection allows us to always be able to improve – to evolve – to a state of higher understanding and a position closer to the perfect than before. Although such perfection of justice may be beyond our

¹⁶ See Bible, Matthew 5:48, "Therefore you are to be perfect, as your heavenly Father is perfect."

reach, for the sake of humanity and the harmony it requires, even the smallest piece of this perfection would serve to benefit our world.

How Do We Obtain the Perfect Justice?

Having determined that the key to unlocking the harmonious, just, and merciful world is through a universal understanding of right and wrong, which for the purposes of this paper we shall call Universal Justice, the next question is how do we reach this “perfect justice”? Realistically, as I have discussed, we cannot. The idea of a “perfect justice” is beyond human capability, just as any form of perfection is. However, while this means that a *perfect* justice is unattainable – it does not mean that obtaining bits and pieces of “perfect justice” is unattainable. If we as a society use the image of the “perfect justice” as a guide, we can work towards the goal of perfection, improving and evolving along the way. We define perfection as the condition of being “excellent or complete beyond practical or theoretical improvement,”¹⁷ a state where alteration would only create flaw. So how do we obtain a form of justice that is anywhere near perfect?

In order to reach a near-perfect form of justice, we must first examine further as to why such perfection cannot exist. First, we rule out the realistic possibility of an absolute truth. Such a thing may not exist in our infinitely divided world for three main reasons: first, the beliefs and values of our divided civilizations exist on infinite levels of irreconcilable differences which we shall term the “Clash of Civilizations”¹⁸; second, the natural liberty for these divisions to be entitled to their individual thoughts and beliefs¹⁹; and third, if we were to ever find the absolute truth to right and wrong, we would have no means to effectively prove it correct. For these three reasons, our world will never obtain a universal accepted meaning of right and wrong.

¹⁷ See <<http://dictionary.reference.com/search?q=perfect&db=luna>>

¹⁸ Huntington, Samuel P.

¹⁹ Nussbaum, Martha.

This impossibility however does not defeat the purpose of trying to imitate and work towards the ideal. In order to imitate the perfect justice and unlock pieces of the perfect world, we must first examine what prevents us from reaching our goal before we can effectively work towards it. We must find and understand the source of the problem and why it has certain negative effects on us before we can solve anything. In fact, understanding is the elemental key to finding any answer, whether it be something as small as why two individuals have different beliefs and what their reasoning is, to something as grandiose as how an infinitely divided society can compromise and cooperate towards the common goal of harmony through Universal Justice. As John Rawls asks, “how is it possible for there to exist over time a just and stable society of free and equal citizens who still remain profoundly divided by reasonable religious, philosophical, and moral doctrines?”²⁰ Mortimer J. Adler places a perspective on the importance of the human understanding of right and wrong in terms of justice, where he asks “how does our understanding of what is good and bad carry us not only to an understanding of what is right and wrong, but also to a better understanding of justice, and how does that affect our understanding of liberty and equality as well?”²¹ Voltaire, the French philosopher also poses similar questions in asking “Is it not a terrible thing that what is true in one village is false in another? What kind of barbarism is it that citizens must live under different laws?”²² These questions force us to recognize and react to the boundaries that divide our society and spark the discussion of the Clash of Civilizations. However, before we can understand our clashing views of justice, we must first understand in its most basic, fundamental sense, this concept we call “justice.”

²⁰ Hersh, 1.

²¹ Adler, 5.

²² Schmitthoff, 116.

The Clash of Civilizations

The idea of this clash of civilizations is defended and explained by Samuel Huntington, where he states that “the fault lines between civilizations will be the battle lines of the future,”²³ meaning that the divisions among the global community and the inconsistency of moral values will be the source of conflict. He states in a way that summarizes the entire argument of why our global community could never be completely unified:

“Civilizations are differentiated from each other by history, language, culture, tradition, and most importantly, religion. The people of different civilizations have different views on the relations between God and man, citizen and state ... as well as differing views of the relative importance of rights and responsibilities, liberty and authority, and equality and hierarchy. These differences are the product of centuries. They will not soon disappear.”²⁴

The primary division of our global community occurs at the level of culture, religion, and politics; the major differences between individual entities are the greatest along these classes of separation. Among these main divisions exist smaller-scale separations where certain principles of the primary division, as defined by “common objective elements, such as language, history, religion, customs, institutions,” is further divided by the “subjective self-identification of people”²⁵ within that primary division. The key to a harmonious world is to break these boundaries down in an effort to unify the meaning of justice. In order to accomplish this, we must first understand why the boundaries between civilizations exist, and to examine the reasoning behind them. The key lies in understanding what underlying principles may be the source of our differences. Surprisingly, we may even find some commonalities that we previously did not know existed.

²³ Huntington, 22.

²⁴ Huntington, 25.

²⁵ Huntington, 24.

The first and most influential boundary we recognize is the cultural and religious divide. The contrasting and conflicting views and beliefs are embedded deeply into the religious traditions, where a cross-cultural compromise is impossible. Religious values and beliefs influence the values of cultures. In turn, these cultural values influence the social values that create political divisions in our society. Religion is also unique in the sense that the principles set forth are not the word of man, but are purportedly divine. Nothing else in history can compare to the influence of religion in conflict. Religion is often times the source of major conflict, considering the strong beliefs of its followers since it has caused people to become so violent in defending their beliefs of what is right and wrong, as exemplified by The Crusades, the Reconquista, and the Muslim Conquests. All major conflict has some basis in religion, where opponents are fighting to prove that their beliefs are the correct ones. This leads us to ask the question, why does such violence stem from differences in beliefs? Looking beyond the passion attached to faith, we find that this passion is driven by the love for one's god and how God is all-knowing and the keeper of absolute truth. The primary fight is based on "my god is right and your god is wrong," rather than the real issue of what is the absolute truth each religion holds. If we were to break down the dividing lines of religion and examine the actual beliefs of the different faiths, we may actually find more commonalities that we might expect. Conflict arises from one group believing A and another believing B. The real conflict is based upon the fact that there are different beliefs and not so much on why one group believes A and the other believes B. If a Christian and a Buddhist were to argue about death and the afterlife, conflict could cease, or at least, have real reason, to exist once an understanding of each side has been met. Upon further examination of why Christians believe in heaven and hell and why Buddhist believe in reincarnation, the common ground of living god's word and doing good in life reveals that the

purpose of life is to work towards the ultimate goal of perfection, i.e. heaven or a state of nirvana. Conflict has no right to exist when our differences are being fought about at face value. Not until beliefs and their reasoning have been evaluated may we make any judgment – just as the legal system requires a full evaluation of a defendant’s case, for one civilization to force their beliefs upon another without evaluating their beliefs by a fair standard and an attempt to understand why, would be unjust. Justice requires an understanding of the facts, where judgment may only be made based upon the legitimate factual findings of the case. Universal justice requires a cross-understanding between cultures in order for them to take the next step of forming an overlapping consensus.

The principle stated by Huntington, where such traditions are “products of centuries” and will not change, makes religious and cultural traditions nearly concrete. The problem that arises from this is how there will forever exist a division among our global community since there is no possibility for complete compromise. This can be seen through the principles of Islam where man-made law cannot supersede the word of Allah as inscribed in the Koran. Despite the fact that the majority of the global community has decided, for example, that all persons are of equal value especially in the eyes of the law,²⁶ yet Islam continues to discriminate against women as being a fraction of a man²⁷ as well as holding slaves to a different standard in the legal system.²⁸

Yet before we as an outside civilization may make judgment, we must first examine the reasoning behind the Islamic principle of fairness and equality, asking the question of why such a nonsensical practice to us makes such perfect sense to them. Although according to the universal principles of equality that have been agreed upon by the majority of the global community, Islam sees its practices as fair because such a principle was delivered directly from Allah and thus

²⁶ United Nations. Declaration of Human Rights – Article. 7.

²⁷ Dambruch, Stephen. Lecture.

²⁸ Dammer, 238-239.

cannot be overruled. This “universal standard” of equality does not apply to Muslims because sacred law outweighs man’s law. Reasons such as this provide for the impossibility of a universal understanding of justice across the globe. When we take the differences between cultures at face value, as seen in this example of the value of a person, we only see that the “different” practice of another culture qualifies, at least by our own standards, as unfair and unjust. When we break down the boundaries between the two civilizations, we can see that there exists very sensible reasoning behind such practices. As discussed before, Allah is the holder of absolute truth where his word is the supreme law of his people. Looking past the unequal values of men and women in a Muslim society and attempting to understand the reasoning behind it is simple: the inequalities exist because the holder of absolute truth has deemed it so. Without the effort to understand our differences, we only strengthen the boundaries between us when we unconditionally accept them. The statement of “I believe this and you believe that” only strengthens the distinction between the two rather than finding commonality. Such commonality is the key to creating the overlapping consensus and working towards a quasi-universal justice.

In examining the division of society through religious differences, we must look deeper than the surface in order to determine what else within a civilization religion will affect, namely the political and legal system. The most powerful influence religion can have on the legal system of a civilization is by *being* the legal system, as seen in many Middle Eastern nations where Shari’ah law is not only the source of law, but the practice of law. Other nations, such as the United States, have religious influences in the source of law, but there is a clear separation between church and state. As stated by Chief Justice John Roberts, his “faith and ... religious beliefs do not play a role in judging.”²⁹

²⁹ Babington, Charles.

In order to work towards a more unified global understanding of what justice is, we must look to understand the reasoning behind it. In this case of religion influencing government, we must look past the answer of “because that is what they believe” and examine why such a belief exists and functions well for a particular civilization. An Islamic state where religion is the law, a concept so foreign and inconceivable from the American perspective, must be examined in depth in order to fully understand why such a belief exists. Considering that the Muslim faith sees Allah as the almighty and powerful God, the perfect being who holds the absolute truth, His holy word is full of wisdom and righteousness. The Koran is the word of God, in which such divine dictum may not be challenged by man. Since the Koran contains the word of God, He who holds the absolute truth, it is essentially the law book for a perfect society, provided that it presides over a civilization who believes that Allah is the keeper of the absolute truth. From the American perspective, God is seen as whom we should trust in, yet his book is not a law book. The Bible may guide us in making laws, but the book holds no legal value. We may believe that God and his words are divine, yet we also believe that we do not have the ability to properly interpret them, thus we create our own laws based upon the principles of our society which are ultimately grounded in the Ten Commandments. When we examine both sides and reveal why the Islamic culture uses God’s word as their law, we see that fundamentally, there exists a common ground between us: the divinity of God and God as the keeper of absolute truth. Knowing this, we can now have a better understanding of why our cultures are different and we can use this knowledge to improve the relationship with another civilization. In order to criticize Islamic nations for their “different and immoral” practices, we must first understand what we are criticizing. Corporal punishment is used as a deterrent. It may be inhumane by our standards, yet there does exist decent reasoning behind it, in respect to their beliefs. We do the same with our death penalty,

where other nations find in cruel and unusual, but it serves a specific purpose that a majority of our society has deemed a legitimate and worthwhile goal.

Different methods and goals of justice can be seen through religious influence. Religious principles such as mercy, compassion, retribution and restoration can all be seen in the legal systems of our global society. For example, the American view of justice focuses more on retribution, punishment, and rehabilitation, whereas the Islamic view focuses more on compassion and restoration but also utilizes more severe methods of deterrence.³⁰

Religious principles set certain minimal understandings of fundamental human rights and provide a fairly universal sense of what is right and wrong. The two fundamental principles that are basically universal are the prohibition against murder and stealing,³¹ with certain exceptions. The principle of wrongfully taking the life or property of another may be a universal principle; however, again, it is the interpretation of this principle that varies across the divisions of the human family. Certain cultures, such as American culture, provide for exceptions to the rule of murder for self-defense or state-sponsored punishment. Other cultures, such as those under the inquisitorial system of the Islamic rule, provide for severe punishment when these principles are violated since it is not only a crime against society, but more importantly, a crime against God. Religion influences the specifics of what is to be deemed wrongful action and what punitive or corrective method is to be applied in response to that action. As a global community, this clash will separate us through our conflict, yet it will enhance our respect for each other's values, thus bringing some reasonable overlapping consensus of justice where we can progress towards a harmonious and unified human family.

³⁰ Dammer, 236-239.

³¹ See *10 Commandments*.

The Issue of Time and Evolution

When I discuss the element of time as being one obstacle to a complete universal truth of justice, it is found that this element is ironically a combination of both absolute truth and constant change. The significance of time in discussing justice is that time in itself, is constantly changing, where it progresses in a positive direction, never going backwards. Ironically, since time changes and is never the same, we see that an absolute truth cannot exist with this element, except for one: the only absolute truth in respect to time is the fact that time is not absolute. Although contradictory, this statement provides proof that the element of time is a constantly changing, evolving if you will, in respect to the positive movement of time where the only truth to it is that it will inevitably change.

With this constant progression of time, we again must look deeper than the surface of the issue in order to fully comprehend why 1) time prohibits us from having an absolute truth to life and 2), why such evolution is essential for the healthy development of our global society.

First, we examine the question of why the change of time prohibits us from having a universal truth to justice. The most significant boundary that crosses all the divisions of political, cultural, and religious differences is the generational boundary. This is the most significant boundary because it parallels the evolution and progression of our society. The clash of civilizations occurs not only between cultures, but more often within them. The clash between them is inevitable where certain principles are permanently embedded in a culture. The clash within cultures arises from two areas – subdivisions due to the liberty of individual conscience and change in the meaning of justice over time. As times change and society evolves towards a higher understanding of justice, a generational boundary will always exist. Since we will forever be reaching for but never actually attaining the “perfect justice,” this boundary will not disappear.

The entire process of time encompasses a never-ending cycle of trial and error where the path of the future is determined through understanding the errors of the past.

The generational boundary is one division that separates different interpretations of justice within a culture. Examples of this can be seen throughout history. To cite one of the most notable examples of how the generational boundary prevents a sense of absolute universal justice, we examine the inconsistency of Supreme Court decisions and the reevaluation and/or reversal of certain cases. Keeping in mind that the purpose of such action is to keep our principles in check with evolution, we see that we are constantly looking back on our decisions to see where, based upon our present principles, we can improve. The Supreme Court, in theory, rules on cases where their interpretation is supposed to be the ultimate decision which is not able to be challenged. It can be seen through the complete reversal of certain cases that this does not hold entirely true. The decisions of the Supreme Court may be challenged on issues that have already been decided, for the purposes of being reevaluated and examined under the different perspective of a reformed and evolved society. The standards of right and wrong according to the majority of society will inevitably change; when this change happens, prior legal decisions and precedent may violate the adjusted principles of morality of the present society, thus requiring justice to adapt to the revised standards.

The most convincing example in of the shifting interpretation of right and wrong is the change in the meaning of “equality” as it is outlined in the Constitution and interpreted by the Supreme Court. In examining the cases of Plessey v. Ferguson and Brown v. Board of Education, it can be seen that the meaning of equality changes across generations. The Court, although delivering a fair ruling both times, that ruling was based on the principles of justice relative to the time period of the decision. Under the Plessey decision, the Court had ruled based

upon the relative value of a person based upon their racial classification. Under Brown, the Court had changed direction upon reexamining the issue through the perspective of an evolved society, where all men were seen as true equals. The Court had shifted its interpretation of equality to a higher understanding than before.

First, the 1896 decision in Plessey deemed that equality according to the Fourteenth Amendment was strictly equal value of an individual. Segregation and separation of equal persons was constitutional since all parties had equal value. In Plessey, the court deemed that the goal of Fourteenth Amendment was to “enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social ... equality.”³² Justice Harlan’s dissent against the majority of seven justices, where he said that “the law regards man as man,” and how “our Constitution is color-blind, and neither knows nor tolerates classes among citizens,”³³ would not become the majority interpretation of the court until Brown, in which case was a unanimous reversal of the previous “fundamental law of the land.”³⁴ The precedent of Plessey held true until 1954 when the court realized that separation, although of equal persons, inherently creates inequality among individuals because they are separated. If individuals were truly equal, there would be no factors that would separate and divide them. Equality, in terms of the Fourteenth Amendment, has not changed in definition, only in its interpretation over time. The wording of the Fourteenth Amendment is the exact same as it was the day it was ratified, however, it is the case law that reflects how the same definition of equality is interpreted across generational boundaries.

An example of how the law evolves through a process of trial and error is the prohibition of alcohol and its subsequent reversal, following the principle of “what was right yesterday, is

³² Kmiec, 699.

³³ Kmiec, 705.

³⁴ Kmiec, 705.

wrong today, but may be right tomorrow.” The Eighteenth Amendment prohibited the use, manufacture, and sale of alcohol in the United States. When the Amendment was deemed a failure, it was repealed by the Twenty-first Amendment. This shows how the interpretation of right and wrong is dependent on the generational values of the time, and the importance of the public approval of laws to form an overlapping consensus of what works best for an individual civilization.

The doctrine of precedent, *Stare Decisis*, is often violated in order to amend the meaning of justice to reflect changing societal norms. “The doctrine ... is essential to the respect according to judgments and the stability of the law. It is not, however, an inexorable command.”³⁵ Precedent, similar to the “overlapping consensus” of justice, serves as a guide to maintaining the integrity of the justice system; it must be able to adapt to the changing views of society, just as an overlapping consensus must adapt to changes in the world and the evolution of its civilizations. Although the generational boundary may prevent universal justice in a sense that the interpretation of the meaning of justice constantly changes as the human race evolves in its understanding of right and wrong, this inconsistency leads to the forward progression that is essential for the development of a harmonious, just, and merciful global community. The interpretation of justice must parallel the evolution of morality as time passes, where as society changes its views of right and wrong, the justice process, within reason, must compensate for and reflect the revised values of society and its interpretation of the law.

Secondly, we must examine why this natural phenomenon of time-based evolution is essential to our healthy global development. Considering that time is a constantly changing dimension which is moving only in the positive direction of the future, we see that time, by this definition, naturally evolves. If time only progresses, our universe is naturally evolving and

³⁵ Kmiec, 1047. Also see *Lawrence v. Texas*, 123 S.Ct. 2472.

moving forward – our task in order to maintain a balance of universal principles of justice is to keep up with the natural evolution around us. We cannot be stuck in time. As we see with the example of race and equality in the cases of Plessey and Brown, as time progressed so did the understanding of human equality, and thus why Plessey was later overruled in Brown – its reversal was a part of evolution. In the reexamination of this case, we see that judges of a future, more evolved generation could not simply rule based upon the fact that yesterday’s rule violates today’s morality, but rather they had to look deeper into the reasoning of why such inequality was previously ruled legal. We see that through the understanding of why past generations ruled the way they did, and examining the facts in Brown, paralleled with the goal of equality and liberty and justice for all, the mistakes of the past have been found and corrected at their root rather than ruling on a principle of mere acceptance of the new thought and rejection of the old thought.

Time, as an ever forward-moving aspect of our universe, is meant to evolve. We cannot stop, slow, or reverse time. Although we may not be able to change time, time may change us. As time evolves, we too must evolve and parallel its progression. Resistance to evolution only regresses us in respect to the present position of time.

The answer is fluid, not absolute

In our quest to find universal justice through the understanding of different perspectives and the reasoning for the beliefs of other civilizations, we see that although, *in theory*, the finding of the absolute truth to justice would provide the world with the answer to its toughest question. Surprisingly, through the process of understanding other cultures in order to reach an overlapping consensus of what constitutes this perfect and universal justice, we see that, at least in a realistic and practical sense for our world, the answer is that justice cannot be absolute. The realization by the human family of the fact that we lack the capacity to know and prove the absolute truth provides us that the most practical answer to a universal justice is actually not absolute at all. Certain concepts, such as getting one's due through fair principles and the natural liberty of conscience, may constitute the fundamental principles of justice, but they remain open to interpretation based upon the individual characteristics and needs of individual civilizations.

We see through certain irreconcilable differences between our civilizations that we will never be able to reach the absolute truth on our own. The only way to reach such a thing would be to have it handed down to us from the Creator, that is, if we are to universally believe that one exists. However, we do realize that we can work towards achieving what we perceive to be the ultimate good, or the absolute truth to justice through a cooperative understanding of justice between the divided civilizations of the world. In understanding our differences, we come to respect them, where we realize that "our world is rich in part because we don't all agree on a

single set of practices and norms” and that the individual differing sets of beliefs “have their own distinct beauty.”³⁶

To have an ultimate absolute truth to justice, we lose two things: first, we lose the diversity that makes our world a more interesting and enlightening place; and secondly, we lose the ability to adapt to change. As we see in the argument of time and the inevitability of evolution, without the ability to change (which would be the case if we were to reach the ultimate truth), we do not evolve in harmony with our environment.

The ultimate justice is if anything, most similar to the properties of water. Water is a substance essential to life. Similarly, justice is essential to the harmonious life of our global community. Also, a fluid substance, such as water, has the ability to take the shape of its container. If I pour water into a glass, it conforms to the shape and temperature of its environment, filling the entire space (unlike a solid object where it may fit into the glass but it will not conform to the specifications of the glass.) If I were to change the shape of the glass, the glass would still contain the same substance, but yet again, fit to the specifications of the environment. If I were to freeze the water into a solid substance or boil it into steam, we can see that the water has changed to adapt to the different environment, i.e. civilization, yet fundamentally, it is still chemically H₂O.

This principle of fluidity is an essential quality for the ultimate justice. Since our world has certain divisions within it that will forever exist, the only practical answer is to have a sense of justice that has a universal chemical formula so to speak (getting one’s due via fair principles)

³⁶ Nussbaum, 13.

yet the ability to adapt to the conditions of its environment such as different cultures, time periods, etc. and fill in all the gaps just as a liquid can.

Ideally, an absolute truth would provide the answer to the question that has provoked the most conflict in our world and ultimately bring us peace. In theory, this works. However, since we as humans lack the capacity to know and prove such truth, we must take a more realistic approach to reaching this ideal harmony. For justice to be a single, solitary definition, such as a rubber stamp, the fundamental principle of fairness may be violated. If justice were a rubber stamp, all persons who commit the *act* of murder would be equally punished – no questions asked and no exceptions. When justice is like a fluid, it takes the shape of the individual situation, whether it is on the grand scale of a civilization or the minute scale of an individual case. In law, every case is different. The people, the actions, the timing, the applicable laws of the time and culture, and most importantly, the reasoning behind the action, are all different, thus meaning that no two cases are exactly alike. According to the principle of fairness, each case must be treated differently according to its individual characteristics and in proportion to its inequality to the rest (all cases are equal in the eyes of the law and unique in the eyes of the world). For Example: If Person A kills someone intentionally with malice aforethought, they, by the fundamental and biblical principles prohibiting murder, should be punished. If person B kills someone intentionally out of self defense, should both person A and person B be treated equally? Yes and no. Legally, the standards of proof should be the same. However, since the reason may be different, the *cases* are not equal and must be treated accordingly in proportion to their inequality. If justice were a rubber stamp, person A and person B would be punished the same, regardless of the reason behind the action. That is obviously not fair when the circumstances and reasoning behind the act were completely different, one being irrational and the other being

reasonable. Through this example, we see how it is essential for justice to take the shape of the individual case. How does justice do this? – through understanding. Only through understanding will the inequalities of cases be of value and allow for justice to act like a fluid. In order to fairly administer what is due, we must understand the underlying reasons behind the practices and beliefs of the accused. Without such understanding, a fair review of the circumstances does not exist, thus creating an injustice in itself.

Conclusion

The question of “what is justice?” has been debated for centuries and will continue to be debated for many more. Since its proposal, this question has been answered in almost infinitely different, in some cases contradicting ways. Across the boundaries that divide the civilizations of the world, whether they are cultural, religious, political, or generational, the answers to this question have not succeeded in finding the ultimate answer and absolute truth. The best we can do is work together towards a common goal of peace and harmony through understanding and embracing our differences.

We as a world, in order to effectively work towards our ultimate goal, are to overcome the obstacle of wanting to change. Similar to an alcoholic, a criminal, or any other addict, all the help in the world will not change us unless we permit it to change us. Without the desire to reach a peaceful and harmonious state in our global community, all efforts towards it are cyclical. The first step, before we can break down the boundaries between our civilizations, understand our fellow man, and cooperate with the rest of our human family, is to truly desire to want to work towards a more unified global society. The act of mercy involves entering into the chaos of another world in order to understand and resolve conflict.

As stated in one case, the “obligation [of the court] is to define liberty of all, not to mandate our own moral code.”³⁷ Here, we see the distinct dividing line between the ideal goal of justice (the ultimate moral code) and the realistic goal of justice (balance of liberty and justice for all). The perfect justice, in a realistic sense, is to have a balance between an the individual values of our divide civilizations and the overlapping cross-cultural consensus of how we define

³⁷ Kmiec, 1045; M. Ethan Katsh, 346; Also see *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 850 (1992).

justice in a practical sense, where such justice can retain its fundamental values while still being able to adapt to our ever-existing differences and our evolution as a global society. Our ultimate goal is to create a world where all the divided civilizations may exist in harmony under the principles of justice and mercy. An absolute truth, although in theory it may provide the ideal world, only hurts us in a practical sense. It is our individuality that makes our world the unique place it is, and it is the understanding of our differences across cultures that allows us to progress and grow, forever evolving to a higher level of unification, harmony, and community.

Justice is not, nor will it ever be, something perfect. Ironically, in our pursuit of a universal justice, we find that we actually progress towards the “perfect” through a series of injustices that occur across the boundaries of time and culture. It is the imperfection of justice, the differences in social beliefs of morality that differ across time and place that allows justice to adapt. These imperfections of justice, ironically, lead us to the perfect justice – a justice that is not absolute, but rather relative to the individual characteristics of the environment. Our pursuit of the perfect justice is achieved through a learning process of past mistakes and an understanding of different perspectives, where our global community can grow together and work towards a common goal of universal justice through understanding and harmony.

This paper examines various themes of the Pell Honors Program. Social Justice is represented through a cooperative effort to balance the needs and interests of all individuals and work together towards a common understanding of justice. The rights of the individual are also exemplified in this paper through the natural liberty for each individual to contribute toward and be entitled to a common notion of justice. Ultimately, this paper explores Global Citizenship, as it describes how our global community must work together towards the common goal of universal justice.

Works Cited

- Adler, Mortimer J. Six Great Ideas. New York: Touchstone, 1997.
- Anderson, Albert A. Universal Justice. Minneapolis: Rodopi Bv Editions, 1997.
- Babington, Charles and Peter Baker. "Roberts Confirmed as 17th Chief Justice." Washington Post, 30 Sep. 2005. <<http://www.washingtonpost.com/wp-dyn/content/article/2005/09/29/AR2005092900859.html>>
- Brown v. Board of Education*, 347 U.S. 483 (1954).
- Dammer, Harry R. and Erika Fairchild. Comparative Criminal Justice Systems. Belmont: Thomson-Wadsworth. 2006.
- Dambruch, Stephen. Lecture. ADJ-575. Salve Regina University, Newport, RI. Fall 2008.
- Dictionary.com. <<http://dictionary.reference.com/>>
- Donnelly, Terrance. Lecture. ADJ-575. Salve Regina University, Newport, RI. Fall 2008.
- Douglas, Kmiec. Individual Rights and the Constitution. Newark: Matthew Bender & Co. 2004.
- Hersh, James. Poeticized Culture: The Role of Irony in Rawls's Liberalism. New York: University Press of America, 2005.
- Huntington, Samuel P. "The Clash of Civilizations?" Foreign Affairs 72 (1993): 22-49.
- Katsh, M. Ethan. Taking Sides: Clashing Views on Legal Issues. New York: McGraw-Hill. 2008.
- Lawrence v. Texas*, 123 S.Ct. 2472 (2003).
- Nussbaum, Martha. "Women and Work - the Capabilities Approach."
<<http://www.littlemag.com/2000/martha.htm>>
- Plato. Portable Plato Protagoras, Symposium, Phaedo, and the Republic : complete, in the English translation of Benjamin Jowett. New York: Penguin Books, 1979.

Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833, 850 (1992).

Plessey v. Ferguson, 163 U.S. 537 (1896).

Random Quotes.org. "Voltaire Quotes." <<http://randomquotes.org/quote/18578-there-are-truths-which-are-not-for-all-men-nor-fo.html>>

Schmitthoff, Clive M. Clive M. Schmitthoff's select essays on international trade law. Dordrecht: M. Nijhoff, Graham & Trotman, 1988.

United Nations. Universal Declaration of Human Rights. 1948.

End Notes and Further Explanation

ⁱ This can be seen in the historical Star Chamber Courts of England where judges would use the law to reach their personal ends and vendettas. (Dammer, 183).

ⁱⁱ In Dambruch's lecture, he described how the law of Iraq had not been written unjustly, but rather how it had been interpreted by the present ruler, Saddam Hussein. Dictators like Hussein may read the law differently and make the law fit their prerogative rather than make their prerogative fit the law.

ⁱⁱⁱ The ideal of retribution is compensation. This verse of the Koran softens the law so lesser compensation than what the offense was should be acceptable, following Rawls' principle of treating people in proportion to their inequality, in this case those who are unable to endure the full punishment.

^{iv} In the Christian faith, Jesus is seen as both human and divine. He was the one and only form of human perfection. According to the faith, He may not be duplicated, where man shall remain man, and He shall be divine, thus perfection is not a human quality. He preaches, however, that man should strive to be just like Him, where man will be rewarded in the afterlife of heaven.

^v As time progresses, we move closer and closer to zero conflict. However, since this is impossible, we will continue to get closer yet never actually reach it. Similar to the calculus example of going half the distance across the room with each step: the denominator of the fraction grows exponentially, but even $\frac{1}{\text{infinity}}$, although negligible, remains a numerical value.

^{vi} Take the mathematical example of $.0001/0$. Since zero has no value, there cannot be something per nothing. The smallest possible numerator over a fraction with zero would go into the value of nothing an infinite amount of times. This provides the mathematical proof that even the most insignificant effort towards universal justice is infinitely greater than no effort at all.