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*Jože Krašovec***Dimensions of Justice and Directions of its Reception**

Abstract: The article aims at elucidating complementary and contrasting relationships between dimensions of justice ranging from the cosmic through the social to the personal domain. Investigation into the various dimensions of justice is inspired by the recognition that some principles of justice are the same in all or most cultures, even though representation of justice is strongly dependent upon local mythology, religion and shared history. We can consider justice as one of the following: a cosmic system, a virtue of social institutions or practices, an agreement among parties about a common interest, or integral righteousness of a person, which can be discerned by intuition. These distinctions are fundamental and far-reaching. Any discussion regarding justice should consider its multiple dimensions, such as moral sense, inherent rights and moral rightness, cardinal virtues, regulative symbols or principles, all kinds of social contracts and the ordering principle of the universe. The personal dimension of justice comprises an attribute of God in His relationship to humans and the necessary virtues of humans in their relationship to God, as well as the reciprocal interaction between the two. An individual can display qualities such as integrity, charity and loyalty. The rationale for the investigation is the recognition of the unity of being and the necessary unity of the moral and legal order.

Key words: dimensions of justice, natural law, cosmic justice, social justice, personal justice, moral and legal order, moral sense

Povzetek: **Razsežnosti pravičnosti in smeri njenega sprejemanja**

Namen članka je, razkriti dopolnilna in nasprotujoča si razmerja med razsežnostmi pravičnosti v razponu med kozmično, družbeno in osebno domeno. Raziskovanje razsežnosti pravičnosti navdihuje ugotavljanje tistih načel pravičnosti, ki so enaka v vseh ali večini kultur, čeprav je reprezentacija pravičnosti močno odvisna od lokalne mitologije, religije in skupne zgodovine. Pravičnost lahko obravnavamo kot kozmični sistem, kot vrlino družbenih ustanov ali praks, kot soglasje med strankami glede istega interesa ali kot integralno pravičnost oseb, ki jo dojemamo po intuiciji. To razlikovanje je temeljno in daljnosežno. Vsaka razprava o vprašanju pravičnosti odpira obzorja mnogovrstnih razsežnosti pravičnosti, kakor so moralni čut, prirojene pravice in moralna pravšnjost, glavne vrline, urejevalni simboli ali načela, vse vrste družbenih nasprotij in ure-

jevalno načelo vesoljstva. Osebna razsežnost pravičnosti pomeni božji atribut v njegovem razmerju do ljudi in potrebno vrlino ljudi v razmerju do Boga, pa tudi njihovo vzajemno delovanje. Posameznik lahko manifestira kakovosti, kakor so integriteta, ljubezen in lojalnost. V ozadju članka je spoznanje o edinosti bitja in o nujni edinosti moralnega in pravnega reda.

Ključne besede: razsežnosti pravičnosti, naravni zakon, kozmična pravičnost, družbena pravičnost, osebna pravičnost, moralni in pravni red, moralni čut

This investigation starts with a critical evaluation of regular definitions of justice from the viewpoint of the concepts and symbols of cosmic, social, judicial and personal justice, paying special attention to their interaction in the real world. The fundamental methodological problem is raised in those fields of the humanities and social sciences which explain the concept of justice in abstract categories. No abstract approach corresponds to the nature of justice. Therefore, the main methodological challenge of scrutiny is, on the one hand, a search for ways of deducing the meaning of the term from literary representations, historical documents and judicial provisions. On the other hand, we aim to indicate the modes of expression and transmission of the meaning of words, concepts and symbols in contexts such as everyday life, the translation of texts, education and historical discourse. A holistic understanding and an appropriate transmission of the meaning of concepts and symbols in translations, interpretations and lived experience helps develop a capacity for assessing the application of justice. This may be applied both to new situations in personal and social life, and to the investigation of history in both a regional and a global context.

In this framework, the greatest possible contribution to the development of science may be defined as a methodological persistence in considering the unity of being and the necessary unity of the moral and the legal order. This awareness requires close reading of extant documents in relation to the total reality of the human being. Faith is not irrational and theology does not nullify philosophy, for the supernatural law presupposes, includes, and perfects the »natural« order of the world and of every society. This research is based on the recognition that all genuine law, secular or ecclesiastical, is part of the wider realm of the moral order, perceived on the level of natural reason and intuition. In cases of discrepancy between legality and morality, the limitations of every legal order become evident. The authoritative interpretation of moral truth includes the interpretation of Natural Law. Both as a cognitive principle, and as a normative rule and measure, Natural Law refers to the author of the objective order of things and of the living force animated by the rational nature of humans.

1. Definitions of Justice

According to the general rational view, justice is the ordering principle of the world in accordance with the cosmic plan, determination of fate or a design of Divine

Providence, a universal and absolute concept of natural law and a symbol of the social organization of life (Schmid 1968). Existential experiences confirm, however, the awareness that the most important dimension of justice is manifested in the personal feelings, beliefs and acts of humans. The inner condition of the human sense of justice and truth implies that justice is not contrasted but interlinked with compassion in relation to suffering people, responsibility for the future, benevolence, charity, prudence, mercy, or generosity and peace. Sociological orientations of dealing with the concept of justice are strongly associated with the social contract tradition based on fairness in rational agreement to cooperate with others to their own and mutual interest (Rawls 1973; Sen 2010). There are institutions, conventions and systems of law that determine what is due or appropriate to whom and provide a framework reflecting a commitment to equal treatment of equal consideration for everybody.

The history of Western civilization reflects interaction between a predominantly cosmic and collectivist understanding of justice in terms of natural and procedural principles of »distributive« and »retributive« justice and an essentially substantive or ontological view of justice as the supreme virtue of a purely personal morality. An ultimate value commitment of personal morality depends on inner consciousness and the imperative of justice. On this level justice is concerned with the recognition of the interrelationship between individual and collective responsibility operating in interaction between a personal morality and solidarity in all human relations and social institutions. Contrasting physical, spiritual, psychological and social conditions of human life and the belief in God as the ultimate authority of the natural and the positive law maintains the tension between the totality of reality and the eternal ideal (Cohen 2008, 512–518) and opens the critical problem of theodicy. The predominantly cosmic and collectivistic understanding of justice is characteristic of ancient Greek, along with some other ancient and more modern cultures. The predominantly personalist understanding of justice is, on the other hand, the unique great contribution of the Jewish-Christian religion and culture.

The relationship between visible and invisible reality generates spontaneously the representation of reality and truth in symbols. Visual and conceptual representation serves as a means of expression of that which is unseen and invisible. A symbol points beyond its sign or image to the reality behind mere phenomena and invites participation in that greatness, power and sublimity. Symbols summarize and interpret human experience in general and in relation to divine claims, demands and ultimate concerns, hopes and expectations. The complex character of the concept of justice may give rise to a narrower (exclusive) and broader (inclusive) understanding and treatment of the figurative, interpretative and cryptic sense of justice in literature, history philosophy, theology, psychology, law, sociology and politics. The crucial tension between a narrower and a broader approach is demonstrated by the complex interrelation between the concept of justice and other related linguistic symbols, such as loyalty, fairness, love, etc. Mother and father images and literal and metaphorical concepts of love and marriage invite

us to consider the broadest and most profound understanding of the concept of justice. This expectation applies both to individual attitudes and to structured systems of thought, as well as to cultural, political, social and economic institutions and conventions.

An overview of both directions of interpretation shows that the issue at stake is not only the concept in its diachronic and synchronic perspectives but also the ways of presenting it in various types of representation and rational scrutiny, such as literary sources in prose and poetry, philosophical reflection, juridical provision, the role of tradition, religious creeds, etc. Conceptual methods covering attitudes and procedures met the dilemma of how to define and describe systematically the complex meaning of justice, as reflected in the way of life and custom, and in the stories, tensions and conflicts articulated in oral tradition and in literature.

The fundamental innovation of religious literature based on Jewish-Christian foundations of perceiving the world and human nature is the organic unity in the totality of the artistic world of individual writers and works. A thorough comparative approach means that the point of departure of any interpretation of individual texts is the meaning of the literal text itself. The literal text must be interpreted within the entire text, in relation to its existential or spiritual orientation, in relation to other texts, in relation to experience, and in relation to the socio-cultural background. Unique thought arises from the unique place of the communicative form in the reality of our life.

A comparative approach promises other contributions to the development of science. Careful scrutiny of similarities and differences between ancient Mesopotamian, Egyptian, Greek and Hebrew conceptions of the dimensions of justice confirms the unique contribution of Jewish-Christian sources to human civilizations, because they give absolute priority to personal virtues as the natural foundation for decisions in relation to formal law and tradition. This recognition presents the greatest challenge for our investigation of the dimensions of justice. The recognition of the limits of judicial and other formal aspects of justice forces us spontaneously to resort to common sense, to natural feelings and to ideals lying beyond formal justice. Cases of »tragic heroism« in breaking unjust laws in the name of freedom and the defense of human dignity and rights reach beyond jurisdiction, beyond the scope of poetic justice, beyond ethics, and even beyond the aesthetic. The highest motivation is the sense of some higher good, such as solidarity beyond price and peace through reconciliation.

2. The Role of Tradition and Inner Experience of Justice

Tradition plays a very important role in all civilizations and religions. The foundation of culture and a spiritual bond between the present and the past, tradition is behind every type of literature – behind myths, legends, historical narratives, all sorts of popular stories, customs, morals, geographical and cosmological con-

ceptions, and law, lies a wealth of oral tradition reflecting local conditions, outer and inner circumstances of human life and real events. Traditions concern both the way of personal behavior and manifestation of practical, social and ideological interests of the society. The same literary types of representation of reality often exist in many different variants. Organization of social and political life, the epic and poetic rules of the human mind and the general orientation to the future accelerate unification and fixity of traditions, both in terms of content and form. Eric A. Havelock pointed convincingly to the striking dissociation of legal, social and personal dimensions of justice in ancient Greek culture. The functions of the stories in Greek epics »are not primarily psychological but legal, social, and political« (1979, 131). »Justice, as the name of a social principle of universal dimensions, or of a moral sense fundamental to our human nature, may be wholly absent.« (184)

Havelock ranks among the very rare scholars who are able to disclose by close reading of literary and philosophical texts the ways of representing the concept of justice and the far-reaching consequences of the transition from oral to written transmission of experiences and memories. He explains the intention of his study as follows: »It is a fair inference that Plato saw the cultivation of justice as lying at the heart of any educational system. This brings up the question: What of justice in the context of an instruction purely oral and poetic?« (Havelock 1979, 1) Seeking to perceive justice begins with the fact that the delineation of character, the use of thematic motifs or imagery, are used as means for the aesthetic interests of Homer and other poets. The way of life, as presented in myths, is best summed up in the words *nomos* and *ethos*. In their original usage these words do not signify principles of beliefs, but a pragmatic common sense localizing certain kinds of human beings, socially cohesive human activities, custom-laws, and the habits of a people. Good conduct is that which is appropriate in the circumstances or reflects conformity to custom and a norm implicitly accepted by the whole group to maintain an overall stability. The oral prototype and the regulative principle of Homeric »justice« were expressed in the word *dike* and its derivatives. The most important derivative of this master symbol is the word *dikaíosúne*, which gradually replaced the word *dike* through the process of a gradually more personalist understanding of the notion of justice. In the Septuagint and in early Christianity this word gets a strong connotation of faithfulness, solidarity and compassion (Krašovec 1988, 264–291).

The symbolic words *dike* and *dikaíosúne* are, however, not the only vehicle of expressing the idea of justice. The centrality of this conception is expressed also with other literary means, as Havelock states: »Crosscomparison can also establish that where the word does not appear, its presence can still be felt implicitly.« (1979, 184–5) Havelock recognizes that epics by Homer »are very far from identifying 'justice' as a principle with a priori foundations, whether conceived as the necessary 'rule of law' or as a moral sense in man« (1979, 180). Homer's *Iliad* is an epic with psychological overtones, but the conclusion of Book 19 discloses only the state of action:

»The action is so described as to be explicitly governed by the passions and decisions of two men of power: the controlling symbols are those of feud and hatred, pride and blind anger, honor and arrogance, rash decision and rueful regret, pleas and reproaches, defiance and confession, as these distribute themselves on both sides of the argument. Even though the Homeric idiom can sometimes objectify these facts of psychology as forces external to man, we feel their operation within men as they speak and act.« (Havelock 1979, 127)

In this connection mention may be made of the antithesis between *dike*, which designates an immanent power, and *hybris*, which designates »unjust« works of aggressive arrogance. The most profound dimension of the Greek understanding of the conception of justice was the awareness that eternally fixed bounds should not be overstepped. Plato knew that poetry is always imitation (*mimesis*) of outward actions. Therefore he rejected previous poetry as a suitable vehicle for the definition and description of justice as a condition of the *psyche*. At this point, *dike* as a metaphor for describing cosmic situations and as a symbol of tradition reflecting mainly customs and social codes, accepted order, propriety and regularity, became an object of definition of the meaning of supreme virtues by themselves. Rules regulating actions performed by persons are promoted as rules of behavior in their social interrelations. Moreover, supreme virtues are conceived as something personal rather than interpersonal. The awareness of personal morality, the justice of the human personality, strengthens the awareness of the justice of community, a social morality. Metaphors from the traditional language of narrative reflect traditional rules of propriety and assume the role of metaphors for a purely personal morality of the inner consciousness, for integral identity, for mental processes, for abstract arguments and relationships, and for acts of vision.

The transition from oral transmission of experiences and memories to written transmission of accepted traditions happened more or less at the same period in ancient Greece and Israel. Within the Greek culture this transition from the traditional metaphors of memory of narrated actions and imitation (*mimesis*), social and personal conventions, to the description of active performance and personification and vision happened with the views and writings of Plato. Irena Avsenik Nabergoj is right to point to Plato's tendency to acknowledge preference of inner dimension of justice over interpretations on the basis of public opinion or formal laws. She comments Plato's praise for »the essential good and evil which justice and injustice work in the possessors or them« in Book II of the *Republic* (367c-367d):

»Plato then finds fault with poets, actors and prophets who depict justice according to the whims of public opinion and present as just that which is only apparently or seemingly just. Plato, in the persona of Socrates, responds to this error by transferring the weight of the investigation of justice and the explanation of the meaning of life from external criteria into human innerness.« (Avsenik Nabergoj 2013, 200)

Within the Hebrew religious and cultural space this transition happened most strikingly with testimony of the inner experience of encountering God and the visions of the prophets. So the conception of justice and righteousness became one of the most important attributes of God and a symbol of a condition of the human soul, of a uniform reference and of characters who allow scrutiny of right and wrong as manifested in concrete historical situations and in inner conditions of persons. Instead of following Greek narrative tradition of using justice as a symbol for dramatic purposes Plato saw in this concept the symbol of a virtue of the soul. Havelock defines Plato's contribution to understanding justice in his great work the *Republic*. He concludes: »It is fair to say that in the *Republic* the idea of morality as a principle or set of principles which have an existence independent of their application has been brought to birth.« (1979, 319)

3. The Interrelation of Personal or Natural, Social and Cosmic Justice

We note the important transition from the interaction and contrast between the ways of representing regulative principles in narrated actions from the past which are pragmatic and empirical procedures. sometimes even contradictory to the individuation of the concept of justice and righteousness as a moral sense as an integral identity and as a social principle of universal dimensions, opens infinite dimensions of justice and righteousness in their interrelation of personal, social and cosmic conditions. The multiple dimensions of the conception of justice show both similarities and great differences between the ancient Greek and the Jewish-Christian civilizations. The writings of Plato and Platonism played, for instance, an important role in Judaism and Christianity during the centuries of Hellenism. The early Jewish and Christian sacred texts contributed, however, to awakening an inner moral sense of justice and righteousness much more universally than Greek Gnosticism and Mysticism did. In the background of biblical understanding of the concept of justice and righteousness is the concept of God's revelation through creation, historical events, inner visions and personal verbal communication. The dialogue between God and humans operates through manifestation of the created world and historical events, as well as through the words of God in confrontations and demands, visions and the inner experience of peace in love. Irena Avsenik Nabergoj points to inner unity of all basic designations of God and humans as personal being. Semantics of basic theological vocabulary of the Bible »covers the content core of human and divine qualities which designate interpersonal relations, and these relationships are in complementary sense designated by several words: reality, truth, reliability, faithfulness, firmness, justice, goodness, compassion, mercy« (Avsenik Nabergoj 2014, 38).¹

¹ More in detail she presents the complementary interaction of all qualities of human and divine persons in her monograph study *Justice and Redemption: Anthropological Realities and Literary Visions by Ivan Cankar* (Frankfurt am Main: Peter Lang, 2014).

For a deeper understanding of representation of justice in life situations and of »poetic justice« in literature the recognition of a natural foundation of justice is vital. In all ancient civilizations the people agreed that justice is the foundation of law, because the sense of justice was implanted in human nature by God. Cicero is one of the most important authors to express this view, namely, in the first book of his work *On Laws (De Legibus)*. Here he repeatedly emphasizes the idea that justice is inherent in human nature:

»Law is the highest reason, implanted in Nature, which commands what ought to be done and forbids the opposite.² ... In determining what Justice is, let us begin with that supreme Law which had its origin ages before any written law existed or any State had been established.³ ... And if Nature is not to be considered the foundation of Justice, that will mean the destruction [of the virtues on which human society depends]. For where then will there be a place for generosity, or love of country, or loyalty, or the inclination to be of service to others or to show gratitude for favours received? For these virtues originate in our natural inclination to love our fellow-men, and this is the foundation of Justice.⁴ ... Whatever good thing is praiseworthy must have within itself something which deserves praise, for goodness itself is good by reason not of opinion but of Nature.⁵ ... And indeed all good men love fairness in itself and Justice in itself, and it is unnatural for a good man to make such a mistake as to love what does not deserve love for itself alone. Therefore Justice must be sought and cultivated for her own sake; and if this is true of Justice, it is also true of equity; and if this is the case with equity, then all the other virtues are also to be cherished for their own sake.«⁶

Eric H. Havelock discloses the development of the Greek concept of justice by using the word symbol for the Greek designations *dike* and *dikaiousúne*. The designations of justice and righteousness are expressions that extend into the area of the symbolic and have a certain tendency towards rational transparency and logical coherence. The function of the symbol and of a coherent complex of metaphors is, in effect, to represent a reality or a truth in their denotative or representative meaning. This is possible because the symbol has an existential as well

² See 1.6.18: »Lex est ratio summa insita in natura, quae iubet ea, quae facienda sunt, prohibetque contraria.«

³ See 1.7.19: »Constituendi vero iuris ab illa summa lege capiamus exordium, quae saeculis omnibus ante nata est quam scripta lex ulla aut quam omnino civitas constituta.«

⁴ See 1.15.43: »Atque si natura confirmatura ius non erit, tollantur ...; ubi enim liberalitas, ubi patriae caritas, ubi pietas, ubi voluntas poterit existere? Nam haec nascuntur ex eo, quia natura propensi sumus ad diligendos homines, quod fundamentum iuris est.«

⁵ See 1.17.46: »Quod laudabile bonum est, in se habeat quod laudetur necesse est; ipsum enim bonum non est opinionibus, sed natura.«

⁶ See 1.18.48: »Etenim omnes viri boni ipsam aequitatem et ius ipsum amant, nec est viri boni errare et diligere, quod per se non sit diligendum; per se igitur ius est expetendum et colendum; quodsi ius, etiam iustitia; sin ea, reliquae quoque virtutes per se colendae sunt.«

as an analogous cognitive relationship to the meaning it signifies. The concept of justice and righteousness was constructed in a process of emotional experience, intuitive sense perception, imagination and rational reflection. The symbolic word »justice« and/or »righteousness« in its correlation between experience, sense perception, imagination and the work of the intellect is most effectively expressed in specific genres of narration and literature, such as myths, pictures, anthropomorphic ideas of God in the terms of space and time, parables, fairy tales, fables, legends and in pictorial poetic expressions. In the all-inclusive symbolic and generally metaphorical use of this concept, the interdependence and the continual reciprocal influence of religion and culture may be observed.

How crucial the span between a narrower and a broader approach to the concept of justice is entails the complex interrelation between the concept of justice/righteousness and other close linguistic symbols, like loyalty and love. The image of a mother and a father, of love and marriage in the literal and the metaphorical senses invites extension to the broadest and most profound possible understanding of the concept. This expectation applies both to individual attitudes and to structured systems of thought, as well as to cultural, political, social and economic institutions and conventions. The many kinds of abusing power are one of the reasons for defense in the name of human rights declarations. The ideals of integrity, unity, the experience of the power of the spirit and interdisciplinary investigation into all domains of sciences and humanities are the most important fruits of practicing justice/righteousness and other cognate concepts.

4. Conclusion

The dialectical tension between rational and poetic-personalist ways of grasping reality has greatly influenced the perception of justice throughout history. Contrasting and contradictory views on these themes seem to resist any one rational solution, and a comparative study of the views of the Hebrew Bible and of the European rationalists therefore seems all the more promising. Any assessment of the possibilities for rationally explaining the concept and symbol of justice must consider the following issues: How far are Hebrew beliefs and practices compatible with the European tradition of jurisprudence, philosophy and theology? Which aspects of the beliefs and values of ancient Israel can be considered universal? How far do they correspond to humankind's natural feelings and to the natural tendencies of the human mind? What is the relationship between a particular world-view and the expression of cosmic and personal-spiritual realities?

The intent to investigate the concept of justice/righteousness in all dimensions implies cross-comparison of the concept on diachronic and synchronic levels in relation to various religions and cultures. A comparative study includes those features which are identical or common on the one hand, and those which are similar but unrelated and always distant on the other. Yet whatever the resemblance between the motifs, vocabulary, imagery and literary structures representing

justice in polytheistic, pantheistic and monotheistic cultures, there is an essential difference on ontological grounds. Within the Jewish-Christian religion and culture, we refer not primarily to a formal cosmic and social order but with pressing insistence to the moral sense as manifested in human characters and in interpersonal relations. The complex notion of justice indicates that there are two interdependent dimensions of justice: the justice of the soul within the human personality and the justice of the community as the symbol of a relationship within society.

References

- Avsenik Nabergoj, Irena.** 2013. Pre-Modern Philosophical Views on Reality and Truth in Literature. *Synthesis Philosophica* 28, no. 1–2:195–2010.
- — —. 2014. Semantika resničnosti in resnice v Svetem pismu [Semantics of Reality and Truth in the Bible]. *Bogoslovni vestnik* 74, no. 1:29–39.
- Cicero, Marcus Tullius.** 1994. *De Legibus*, 287–519. Trans. Clinton Walker Keyes. Loeb Classical Library 213. Cambridge, Mass.: Harvard University Press.
- Cohen, Hermann.** 2008. *Religion der Vernunft aus den Quellen des Judentums: Eine jüdische Religionsphilosophie; Mit einer Einführung von Ulrich Oelschläger*. Wiesbaden: Marixverlag.
- Havelock, Eric A.** 1978. *The Greek Concept of Justice: From Its Shadow in Homer to Its Substance in Plato*. Cambridge, Mass.: Harvard University Press.
- Krašovec, Jože.** 1988. *La justice (šdq) de Dieu dans la Bible Hébraïque et l'interprétation juive et chrétienne*. OBO 76. Freiburg, Schweiz: Universitätsverlag.
- Rawls, John.** 191973. *A Theory of Justice*. Oxford: Oxford University Press.
- Schmid, Hans H.** 1968. *Gerechtigkeit als Weltordnung: Hintergrund und Geschichte des alttestamentlichen Gerechtigkeitsbegriffs*. BHT 40; Tübingen: Mohr (Siebeck).
- Sen, Amartya.** 2010. *The Idea of Justice*. London: Penguin Books.