

JUSTICE IS NOT RELATIVE IN THE GLOBAL COMMUNITY

What does really justice mean? Is there a justice for all? The etymology associates the word justice to righteousness, equity and just behaviour. Over the centuries, justice has been always considered as a central virtue to both the moral and political dimensions of societies. Despite the many – and sometimes opposite – interpretations, justice should be aimed at establishing balance among powers and societal order. Justice is the litmus test for the well being of the community as well as for the conduct of its governors.

Modern philosophers rejected the idea of justice as a natural moral and political absolute value. Justice was thus interpreted as a social contract, something of a public construct or artefact which in the “state of nature” would not exist because we are motivated by antagonism and selfishness that result in non-cooperative behaviours. Other lines of thought were centered around the causal determinism and substantial egoism driven by survival instinct and self-interest. In this sense, justice was also seen as a tool to guarantee a balance between personal liberty and public order.

Actually, defining justice has always been about framing the values of human beings, their needs, their aspirations and their interactions with the other members of their community.

All over the centuries, the most advanced societies were those striving to develop justice systems reflecting values and virtues, political and moral obligations. These were the societies where equal rights, peace and cohesion were central. By contrast, history has casted an ignominious shadow on those who built empires funded on violence and inequity. For those, justice was nothing but an instrumental architecture of rules to justify repression and wars.

Too many dictators used law to trample human rights, maintain the status quo and impose a regime of terror.

Nullum crimen, nulla poena sine lege. A crime does not exist and is not punishable if there is not a law that defines it. This guarantees that a person cannot be arbitrarily condemned for a crime that is not regulated by a law. On the other hand, this is where the very dilemma of justice lies. If a country does not regulate certain offenses, the offenders are not punishable. The crime does not exist. The crime becomes a construct of a specific culture.



The question then arises: are we, as a global community, sharing the same values and principles? Are we adopting the same concepts that help shaping appropriate justice systems aiming at addressing any type of violation against human beings and triggering a process of cohesion and development?

One can argue that justice as well as human rights are artificial values defined by different contexts and cultures. This relativity that feeds violence and impunity has to be strongly condemned. No regime, no offender, should feel that justice is merely an option, a dress that can accommodate different needs time by time.

There is no such relativity in the preamble of the UN Charter signed in 1945: We people of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom.

There is no such relativity in the provisions of the Universal Declaration of Human Rights. 70 years ago the General Assembly proclaimed the Declaration and the words of its preamble do not leave space for relativity: Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against

tyranny and oppression, that human rights should be protected by the rule of law. The articles of the Declaration tell us about a humanity that is progressing towards a new model founded on universal principles to be protected by a new model of universal justice.

Kant's vision projects a model of global law shared by all peoples of the earth, which prevails everywhere to the point that a violation committed in one place of the world is perceived as such in all the other places. This ideal of universal justice was echoed two centuries later in UN Secretary-General Dag Hammarskjöld's belief that the pain caused by a wound in the world is heard at the same time in the body of humanity. Kant's revolutionary theory of justice is the first approaching the idea of justice as an absolute moral value governing international relations and the world. Justice is not relative to whatever ends and objectives but is an independent, objective, non-arbitrary variable. The categorical imperative as the principle of duty applicable to all persons as moral agents is the pillar of this vision: it is our duty to be just simply because this is the right thing to do. Justice is the only innate human right we have as equal rational agents, and is the right of freely follow our own will so as long as it is compatible with the freedom of everyone else in accordance with a universal law.

Today, the images of death and devastation on the numerous war fronts are open wounds in our collective conscience. We see people disappearing, jailed without a fair trial, abused, silenced and forgotten. Much progress is needed to foster international justice and peace. Today weapons of mass destructions and new technologies are threatening the survival of the human species. Today we face risks without frontiers from climate change to terrorism, but we are not able to share common solutions. We cannot afford and get stuck in this paralysis anymore. When we see the rising of nationalism and the retreat from transnationalism, we should remind ourselves the mistakes of the past.

As global community, we have developed tools such as conventions, courts, and mechanisms for coordination and mutual legal assistance. But still, in too many places old paradigms and regressive conceptions of society are impeding a real progress towards universal values.

We live in a world that is exponentially subject to the effects of a techno-financial revolution as well as to the de-territorialisation of citizenship. We are all interconnected and we share common challenges. We should acknowledge that we are just a global community. Our cooperation models in terms of justice and human rights should operate at the same scale. Much more should be done for the universal equality of human beings as cosmopolitan citizens to be achieved.

The Charter of the United Nations, the UN Declaration of Human Rights as well as the International Tribunals are among the most important achievements of the 20th century. We need international justice to reinvigorate and protect them. Despite the progresses and the achievements of the present, the atrocities committed in many countries in the name of rules and principles that blatantly violate human rights require international justice to be strengthened. Justice cannot be reduced to pragmatic utility, and the global community together with its member states must recognize the need to develop a common cultural model to sustain the universal idea of justice.