

JUSTICE: POLITICAL, SOCIAL,  
JURIDICAL



# JUSTICE: POLITICAL, SOCIAL, JURIDICAL

Edited by  
RAJEEV BHARGAVA  
MICHAEL DUSCHE  
HELMUT REIFELD

 **SAGE** Los Angeles • London • New Delhi • Singapore  
[www.sagepublications.com](http://www.sagepublications.com)

*Copyright © Konrad Adaneur Foundation, 2008*

All rights reserved. No part of this book may be reproduced or utilized in any form or by any means, electronic or mechanical, including photocopying, recording or by any information storage or retrieval system, without permission in writing from the publisher.

*First published in 2008 by*



**SAGE Publications India Pvt Ltd**

B 1/I 1, Mohan Cooperative Industrial Area  
Mathura Road, New Delhi 110044  
[www.sagepub.in](http://www.sagepub.in)

**SAGE Publications Ltd**

2455 Teller Road  
Thousand Oaks, California 91320

**SAGE Publications Inc**

1 Oliver's Yard  
55 City Road  
London EC1Y 1SP

**SAGE Publications Asia-Pacific Pte Ltd**

33 Pekin Street  
#02-01 Far East Square  
Singapore 048763

Published by Vivek Mehra for SAGE Publications India Pvt Ltd, typeset in 12/14 pt Aldine401 BT by Star Compugraphics Private Limited, Delhi and printed at Chaman Enterprises, New Delhi.

**Library of Congress Cataloging-in-Publication Data**

**ISBN:** 10: 0-7619-3647-5 (HB)

13: 978-0-7619-3647-3 (HB)

---

**The SAGE Team:** Sugata Ghosh, Vikas Jain

# Contents

<i>Preface</i>	7
Helmut Reifeld	
<i>Introduction</i>	11
Michael Dusche	

## **PART I. REFLECTIONS OF JUSTICE IN RELIGIOUS TRADITIONS AND BEYOND**

1. Natural Inequality—Conceptualising Justice in Brahmanical Discourses	47
<i>Kunal Chakrabarti</i>	
2. Justice and Political Authority in Medieval Indian Islam	75
<i>Najaf Haider</i>	
3. Traditional Conceptions of Justice in Christianity	94
<i>Gerhard Kruip</i>	
4. World Society and Global Justice— A Cosmopolitan Perspective	116
<i>Michael Dusche</i>	

## **PART II. REFLECTIONS OF JUSTICE IN LITERARY TRADITIONS**

5. Poetic and Social Justice—Some Reflections on the Premchand–Dalit Controversy	151
<i>Alok Rai</i>	

**6** Justice: Political, Social, Juridical

6. Representation and Testimony—  
Anand's Novels and the Problem of Justice 167  
*Udaya Kumar*

**PART III. DEMANDING JUSTICE**

7. Slum Development as a Justice Forum 201  
*Roma Chatterjee*
8. Environment and Justice—  
The Public 'Purpose' of Water 219  
*Satyajit Singh*
9. Class, Democracy and Conceptions of  
Justice in India 254  
*Vidhu Verma*
10. Tribe and Justice 287  
*Virginus Xaxa*
- Index* 000  
*About the Editors and Contributors* 000

## Preface

Justice is a core value not only in the fields of theology, law and political philosophy, but also in politics, social life and economics. It is a value that generates other values. For many different religions and cultures, it was and is a guiding principle in the realm of philosophical thinking as well as in many areas of public life. At all times, issues, points of controversy and innovative ideas were debated according to the respective understanding of justice. What is it that makes these different perceptions of justice comparable? Is there an interest to learn about the perception of others? And what can it help us to learn?

The stage of globalisation we have reached today insists in addition on the demand for finding new answers to these old questions. Inter-cultural dialogue, especially in the field of values, has become an imperative. This is true in particular for a 'cardinal virtue' like justice which is, no doubt, not only respected and appreciated among Christians in Western Europe but among human beings everywhere regardless of religion, race, gender, nationality or other identities. The inter-cultural relevance of this dialogue is not limited to particular aspects or depending on certain solutions. It is an ongoing dispute for which in a globalised world, there is no alternative. The aim here is not to level down differences but to understand plurality.

The essays in this book emanate from a conference under the same title, held in Jaisalmer, India, in November 2003. This conference was initiated and organised by the *Konrad Adenauer Stiftung (Foundation)*, Germany, as part of

a worldwide series of conferences, workshops or seminars embedded in a programme called: 'Dialogue on values'. Although there is already, on the side of the *Konrad Adenauer Stiftung*, a long tradition of dialogue programmes in general, the topic and different concepts of justice as a core value for all fields of public life in South Asia as well as in Europe have, from our side, not been addressed before. The intention was neither to enter deeply into theological or even dogmatic disputes nor to use this kind of discussions about cultural differences as an explanation for political problems. The present book not only provides some respective information mainly about South Asia, but rather hopes to contribute to the promotion of a worldwide process of dialogue. The articles were written with the idea to promote and carry forward this spirit of dialogue.

It should be mentioned that all opinions and judgements expressed in the following articles are those of the individual authors. Inputs, however, have come from several sides in the process of preparation, implementation as well as of publication. In the first place, the *Konrad Adenauer Stiftung* is grateful to Rajeev Bhargava who encouraged and supported the original idea of this conference from the first discussion to the day of publication. Without his excellent contacts this outstanding group of scholars could not have been formed. He constantly kept in contact with all of them, made numerous suggestions for revision and never lost confidence in the importance of this project. Equally, we are grateful to Michael Dusche who, in the course of all these years, kept a vigilant eye on each and every revision and finally wrote a comprehensive and enlightening introduction. Without the help, enthusiasm and friendship of both of them, this book would never have seen the light of the day. Sincere words of thanks also have to be given to all the contributors, who not only presented a paper and participated in the discussion,



but who made the effort to revise their paper in the light of these discussions.

Further on, our gratitude goes to SAGE, particularly to (?) and the editorial team who brought out this book with an imperturbable commitment despite the long time of preparation. Like in many similar projects before, neither the implementation of the conference nor the final publication would have been realised without the constant vigilance and manifold efforts of Manu and Mohita.

Berlin  
February 2007

**Helmut Reifeld**



# Introduction

MICHAEL DUSCHE

**I**n the present volume, we look at conceptions of justice from various religious and cultural traditions (Hinduism, Islam, Christianity, Cosmopolitanism, Tribal cultures), and different methodological perspectives (history, theology, philosophy, political theory, sociology, literary criticism and so on). A unifying point in the diverse contributions assembled here is their reflection of universalism and their reference to the basic values of the Indian constitution. The title itself is a variation of the preamble where it is stated, 'We, the people of India, having solemnly resolved to constitute India into a sovereign socialist secular democratic republic and to secure to all its citizens: justice, social, economic, and political...'

One or another form of universalism lies at the bottom of almost every philosophical attempt to define justice. Often, however, the generalisation is carried to a level of abstraction where no path seems able to lead us back to a meaningful application of the theory in a concrete context. Thus, it may be universally true of justice that it amounts to treating all equal things equal and all unequal things unequal (Aristotle). Or, may be at the basis of all conceptions of justice, no matter which culture or religion has inspired them, lies the golden rule that you should treat others as you would want everybody to treat everybody else, including yourself (Kant). However, what that means in practice is far from obvious.

The more such universalistic conceptions of justice are concretised and the more attempts are made to make them suitable for particular purposes (elevation of the least advantaged, empowerment of the poor and excluded), the higher the risk of subconsciously generalising on the basis of a limited perspective. When Locke conceived of individual liberties, the individuals he had in mind were independently rich males. Similarly, Kant thought of economically self-sufficient males as the only possible citizens of a liberal democratic state (except for government servants, which includes university professors, of course). The bias of their perspective is all too obvious to us today. At their time it was not, and it is very likely that we fall prey to similar biases when we conceptualise justice for our present requirements and on the basis of today's 'universally' cherished basic convictions. The protection against the hazard of unintentionally excluding certain kinds of people(s) from considerations on justice is their inclusion in the dialogue process on justice. This is what this volume attempts to do for some sections of the Indian population whose voice was not always very prominent in theoretical debates on justice and its practical implications—Muslims, Christians, dalits, slum-dwellers, new social movements and tribal people. Their perspectives on justice are contrasted with mainstream conceptions of justice, whose problematic representativeness for India today is thereby expounded.

While naïve universalism holds the danger of abstract generalisation and hence partiality, its opposite—relativism—would deprive us of our 'tertium comparationis', that is of the common point of reference with respect to which we are only in a position to assess the adequacy and relevance of a given conception of justice for our specific needs and for the needs of others. Neither naïve universalism nor normative relativism<sup>1</sup> is sustainable, as we can see from

the contributions assembled in this volume and from the following reflections. A concept of ‘internal universalism’ may be offered as an alternative to naïve universalism. In conjunction with various forms and stages of ‘reflective equilibrium’ as conceived by John Rawls, this framework provides us with the necessary reference points to assess the adequacy and relevance of historically or culturally specific conceptions of justice as they are proposed in this book, and to engage in a comprehensive dialogue on questions of justice.

### **META-ETHICAL CONSIDERATIONS**

Today, few philosophers still believe in metaphysics in general and in a metaphysical foundation of ethics in particular.<sup>2</sup> Instead, many have come to accept a certain ‘indeterminacy of reason’, which means, that the possibility of several reasonable accounts of justice being equally adequate can never be excluded. Ultimately therefore, a choice in the selection of a preferred conception of justice, that is ultimately not founded philosophically, cannot be avoided.<sup>3</sup> If this choice is to be relevant in the context of a certain society, the moral beliefs that people in that society already have are to be taken into consideration. Every society is governed by an implicit and often sub-conscious background consensus on moral norms that moral theory can explicate and critically assess but cannot ignore.

Implicit in the background consensus of any society, are normative assumptions that would carry universalistic claims if they were to be made explicit. In ancient religions, such normative assumptions often carry cosmological premises. In the Abrahamic tradition (Judaism, Christianity, Islam), the idea operating in the background is that of an original expulsion from paradise and thus the desire or need

to return to this primordial state of bliss by means of just acts and/or piety in the present life. In Indic religions, the background notion is that of a never-ending circle of births and rebirths. Only just behaviour and/or piety can assure betterment in the next life or even the ultimate goal—the exit from the circle of rebirths. The universalistic claim in both cases is inherent in the belief that certain fundamental facts such as the expulsion from paradise or the existence of, and possible release from, a cycle of rebirths hold true for every human being (or even non-human beings, as in the case of the Indic religions) and not only for the followers of that religion. In post-traditional liberal democratic theories of justice, the background assumption is that all humans have equal value and should therefore be treated as equals, as well as by equal laws. The universal assumption is that equally positioned humans are the authors of moral and legal norms. It is such background assumptions that can be called ‘internally universalistic’. Each of these background assumptions has normative implications that are spelled out by theologians, pundits or philosophers in different ways at different times and according to circumstances. Nevertheless, the broadest of these claims purport to hold true for all humans while the background assumption is only valid for a part of humanity. They may be acceptable only to one society but their claim to validity transcends that society.

To understand, explicate, justify or critique the normative background assumptions of a given society, individuals in society may be perceived as engaged in a project of ‘collective hermeneutics’ (Dusche 2000: 3). This view has been inspired by a footnote taken from a 1995 debate between John Rawls and Jürgen Habermas in *The Journal of Philosophy* (Rawls 1995).<sup>4</sup> In his ‘Reply to Habermas’, Rawls elaborates his method of ‘reflective equilibrium’ and includes a discursive element. However, first the methodology

of reflective equilibrium and its application to moral theory needs explanation before collective hermeneutics can be explained as an extension of this conception.

### THE METHOD OF REFLECTIVE EQUILIBRIUM

The method of reflective equilibrium was first described by Nelson Goodman in 'Fact, Fiction, and Forecast' (1955) where, the logician gives a pragmatist account of the methods of *induction* and *deduction*. The method of reflective equilibrium resembles the method of hermeneutics in its avowed circularity. In both cases, a preliminary understanding (of a text in the case of hermeneutics; of reasoning in logics) gives rise to a hypothesis of interpretation (regarding a text or a rule of logical consequence), which in turn helps to further understand the initial text/practice. The application to moral theory is straightforward due to the analogy of norms governing logical consequence, and norms governing human actions and institutions. In devising a normative theory of human action, a preliminary understanding of what is commonly understood by a 'morally right action' or a 'just institution' is used as a point of departure. Based on this preliminary understanding, a comprehensive ethics or theory of justice is devised, making consistent the various intuitive tenets of the preliminary understanding. At various points, difficulties will arise resulting from the fact that not all intuitively valid moral propositions will fit harmoniously into a comprehensive theory of justice. Now, there are two options—either the preliminary ethics/theory of justice is discarded as invalid since it does not prove fit to accommodate all valid intuitions about moral behaviour and justice, or a conflicting intuition is dismissed as irrelevant by the ethics/theory of justice in question.

A famous example of the method of reflective equilibrium as applied to moral theory in general and theory of justice in particular is John Rawls' conception of 'justice as fairness'. In devising his construct of an 'original position', which later helps him to motivate his 'justice as fairness', Rawls resorts to pre-theoretical moral intuitions by calling upon 'considered convictions of justice'.<sup>5</sup> He takes it for granted that all, on thorough reflection and in a mood of sincerity, would subscribe to a certain set of moral propositions. Subsequently, he uses these moral propositions to define his 'original position.' The 'original position' is defined by what the 'veil of ignorance' prevents us from seeing—it makes us blind with respect to race, class, and gender; for example, with the underlying 'considered conviction of justice' being that a just society should offer the same opportunities to every human being regardless of race, class or gender.

In his 'Theory of Justice', Rawls has proposed a model of just institutions for democratic societies.<sup>6</sup> Herein he draws on certain pre-theoretical elementary moral beliefs ('considered judgements'), which he assumes most members of democratic societies would accept.

[J]ustice as fairness [...] tries to draw solely upon basic intuitive ideas that are embedded in the political institutions of a constitutional democratic regime and the public traditions of their interpretations. Justice as fairness is a political conception in part because it starts from within a certain political tradition.

—Rawls (1999a: 390)

Based on this preliminary understanding of just institutions in a democratic society, Rawls aims at a set of universalistic rules with the help of which the justice of present formal and informal institutions can be assessed. The ensuing conception of justice is called 'justice as fairness'.



Rawls does not subscribe to a strict separation between descriptive and normative ethics. The considered judgements on a descriptive level are not only justified by the ensuing conception of justice but already possess a *prima facie* acceptability. Therefore, not only does the ensuing conception of justice sanction our considered judgements but the considered judgements also help justify the ensuing theory of justice—just as the method of reflective equilibrium would lead one to expect. Rawls (*ibid.*: 21) writes:

A conception of justice cannot be deduced from self-evident premises or conditions on principles; instead, its justification is a matter of the mutual support of many considerations, of everything fitting together into one coherent view.

Now, what if moral intuitions conflict with the basic tenets of justice as fairness? One of the consequences of Rawls' theory of justice is gender equality. Suppose a person who believes in different male and female natures, has 'intuitions' about the role of the sexes in society that are radically at odds with the theory of justice in question. If this person were to elaborate an alternative theory of justice with the help of Rawls' framework, s/he would have two options. S/he could either say that Rawls' conception of justice is after all so convincing that s/he is willing to grant that Rawls has proved his/her own intuitions about gender inequality wrong. Alternatively, s/he could reject Rawls' theory of justice and devise one suiting his/her own 'considered judgements' by lifting the 'veil of ignorance' in one case, in the case of gender, and by staffing the original position only with males. The parties in the original position would then deliberate about the basic norms governing their future society, knowing that they would occupy the position of males in that society. They would naturally come up with a set of norms that would privilege males

over females in the future society. In both cases, reflective equilibrium between pre-theoretical moral intuitions and moral theory would eventually emerge. The point at which this equilibrium emerged, however, would be radically different from what Rawls had intended.

The important detail to note about moral theory is that there seems to be no position outside this process of finding an equilibrium between the pre-theoretical moral intuitions and the ensuing theory that would allow to judge whether Rawls or the stipulated gender in-equalist is right. In taking up a position with regard to the two alternatives, all that can be done is devise a third theory of justice from which to evaluate both Rawls and the gender in-equalist. This third option, however, would be in no privileged position with respect to the two others. There is no escaping the theory-relativity<sup>7</sup> of any conception of justice and there is no way to avoid the indeterminacy of any such theoretical enterprise (Dusche 2002: 21–30).

### **COLLECTIVE HERMENEUTICS**

In later years, Rawls has further elaborated the idea of reflective equilibrium. He now differentiates between four different kinds, that is, 'narrow', 'wide', 'general' and 'full' reflective equilibrium. The narrow reflective equilibrium is the one in which one takes note only of one's own judgements. In a wide reflective equilibrium, everyone has carefully considered all alternative conceptions of justice and has reached a state where general convictions, first principles and particular judgements are all in line. Both, 'narrow' and 'wide' reflective equilibrium are reached individually for each member of society. For the two other concepts, 'general' and 'full' reflective equilibrium, Rawls, probably

inspired by discussions with Jürgen Habermas (Rawls 1995: 132–80), introduces a change in perspective. Now, it is no longer the individual citizen or moral philosopher who carries out the task of bringing into line his/her considered convictions and those of others in a comprehensive theory of justice. Instead, it is a community of citizens engaged in a virtual process of communicative action, who, upon reaching a consensus on a particular conception of justice (or a set thereof), feel they have reached a reflective equilibrium. If some of these citizens have reached a wide and some only a narrow reflective equilibrium, then the ensuing collective equilibrium is called general. If all citizens have reached a wide reflective equilibrium, the ensuing collective equilibrium is called a full reflective equilibrium. Rawls writes:

Wide reflective equilibrium (in the case of one citizen) is the reflective equilibrium reached when that citizen has carefully considered alternative conceptions of justice and the force of various arguments for them. More specifically, the citizen has considered the leading conceptions of political justice found in our philosophical tradition (including views critical of the concept of justice itself) and has weighed the force of the different philosophical and other reasons for them. We suppose this citizen's general convictions, first principles, and particular judgements are at least in line. The reflective equilibrium is wide, given the wide-ranging reflection and possibly any changes of view that have preceded it. Wide and not narrow reflective equilibrium (in which we take note of only our own judgements), is plainly the important philosophical concept. Recall that a well-ordered society is a society effectively regulated by a public-political conception of justice. Think of each citizen in such a society as having achieved wide reflective equilibrium. Since citizens' recognise that they affirm the same public conception of political justice, reflective equilibrium is also general: the same conception is affirmed

in everyone's considered judgments. Thus, citizens have achieved general and wide, or what we may refer to as full, reflective equilibrium. In such a society, not only is there a public point of view from which all citizens can adjudicate their claims of political justice, but also this point of view is mutually recognised as affirmed by them all in full reflective equilibrium. This equilibrium is fully inter-subjective, that is, each citizen has taken into account the reasoning and arguments of every other citizen.

—Rawls (1995: 141, Fn 16)

The essential innovation that Rawls brings into moral theory by introducing the concept of full reflective equilibrium is the link of the theoretical enterprise of devising a theory of a justifiable moral practice for a democratic society with such a society's practical enterprise of engaging in a process of self-understanding and self-determination regarding its own normative foundations. Here, theory and practice are understood as mutually dependent. Theory becomes a part of practice in the sense that theory is not conceived as so independent of a lived practice that it can assume a privileged standpoint without the process of democratic self-understanding, whence it can pronounce strictly universal and atemporal truths. The practices of democratic self-understanding and self-determination, on the other hand, require a common reference point that only theory can provide.

This common reference point,<sup>8</sup> however controversial it may be, is indispensable as a regulative idea if anything like a democratic collective should come about. For a democratic society, it is indispensable that not only different egoistic interests find expression—only to be miraculously and quasi-automatically bundled into a unified thrust for a common good by just democratic institutions—but the normative

foundations of these institutions need to be constantly contested, re-formulated and made aware of by a critical public, lest they are allowed to erode under the impact of vested interests. Already the idea of a public point of view from which a balance of various interests can be judged as fair or unfair obliges every party to formulate its interests in such a way that it can claim to be, in principle, acceptable from the standpoint of 'public reason' (Rawls 1999b: 129–80).

From the point of view of research and theory, Rawls' conception of reflective equilibrium resembles the notion that Goodman introduced as a way of justifying logical deduction and induction. In the context of the collective practice of a democratic society embarking on a quest for normative self-understanding, the concept of reflective equilibrium resembles the circular process of hermeneutics. The process of moving towards full reflective equilibrium has therefore been dubbed a process of 'Collective Hermeneutics', that is, a hermeneutics that proceeds not by way of philosophical monologue but collectively and discursively (Dusche 2000: 9). Such a process would have to be understood as a process of communication within a political community regarding its own normative foundations, whereby, however, self-understanding is not the only aim but self-determination also. That way, collective hermeneutics turns into an instrument for the critical public of a democratic society.

Ethicists (philosophical or theological) play no privileged role in this process (Dusche 2002: 21–30). Their judgement does not rest on any Archimedean point outside the societal process of self-understanding and self-determination. Instead, its plausibility depends on the same societal practice upon which it attempts to bring its bearing. Here it becomes obvious that justification in ethics is something qualitatively different from justification in epistemology. Whereas in epistemology, truth is the aim and a theory is justified if it

proves to be true, in ethics, consensus is the ultimate criterion and a conception of justice is legitimate only if it is accepted by all that it concerns.<sup>9</sup>

### **CAN CONDITIONS OF ADEQUACY BE UNIVERSALISED?**

These considerations lead us back to our initial question about the common point of reference for the comparison of theories of justice stemming from various historical, social and cultural contexts and for the assessment of their relevance for our present circumstances. With a process of collective hermeneutics at its core, it seems, a (collectively-shared) conception of justice cannot automatically claim universal validity. Its degree of universality depends on the extent of participation of those concerned by the moral or legal norms under discussion. Thus, a strict difference is to be drawn between ‘universalisability’ on the one hand and actual universal validity on the other. The former warrants only the possibility of universal acceptance. The latter is ensured by the acceptance of all those concerned. With the former, the only possibility is to engage in more or less grounded speculation about the likelihood of universal acceptance; the latter amounts to its actual validity.

Keeping in mind that moral theory cannot afford to become completely abstract from lived human practice, but that it should also accomplish more than only making explicit the social and moral rules implicitly governing that practice, its relevance and adequacy to a given context depends on the ability of those concerned to take into account the prevailing circumstances of justice, both objective and subjective, that is, the material circumstances as well as the conditions for the theory’s acceptability to those concerned. This is what this book attempts to do, by looking at conceptions of justice as they are reflected in different religious traditions, with

respect to mythology, poetics and literary criticism, from a cosmopolitan perspective, and in application to relevant contexts such as poverty, environment, class and tribe.

All the contributions in this volume take for granted modern Indian constitutional values, which are in harmony with globally accepted standards of justice and law, and relate them to various traditional conceptions of justice. Where this leads to conflicts, a reflective equilibrium is sought between modern constitutional values and traditional precepts. As a consequence, both modern and traditional conceptions of justice experience revisions and new fine-tuning to make them more acceptable to people identifying with that tradition.

In his paper on *Natural Inequality*, Kunal Chakrabarti takes a critical look at Brahminical discourses of justice. Of these discourses, concepts of purity, caste, karma and transmigration of the soul are constitutive. Through these concepts, we are led to understand why Brahminical conceptions of justice discriminate between people of different castes. Birth to a certain caste is not arbitrary. People are, therefore, not discriminated against or punished for something for which they bear no responsibility. On the contrary, the fact that someone is born to a lower caste is seen as a just consequence of his/her deeds in a previous life. Low birth, in this conception, thus appears as a cosmic punishment for sins committed in previous lives. Human conceptions of justice that would dare to interfere with this cosmic justice would themselves be considered sinful. Therefore, in this scheme of things, earthly justice has to mirror the cosmic plan in treating people commensurate with their caste.

Although this justification through a cosmology of karma—and an anthropology that presumes humans are subject to birth, rebirth and the results of action—is specific

to the Indian context, differentiating human beings according to birth, gender and station in life is not. There is hardly any traditional society that does not, in one way or another, do so and does not justify such differentiation. Chakrabarti, therefore, does not contrast Brahminical society with traditional Christian or Islamic society but with modern precepts such as equality before the law, uniformity of legal codes, fundamental rights, access to basic opportunities and non-discrimination for members of different societal groups. According to these precepts, human beings are born free and equal in dignity and rights. Interestingly, as Chakrabarti notes, even Brahmanism created a platform, if only a mythological one, on which all differences of birth, caste, or gender could be levelled—the attainment of ‘moksha’. Although moksha was first conceived as being available only to the higher castes, in the later development of Brahmanism, it was promised even to women and people of the lowest caste, provided they followed the norms governing the roles Dharma had ascribed to them. One can see in this an indirect recognition of the modern view, that in the face of justice all men and women are equal.

Today, the conceptions of textual Hinduism are not necessarily believed by practising Hindus, as anthropologists have found out in recent times. Especially people who belong to the lowest castes reject the doctrine of karma and its justification by reference to sins in previous lives. Chakrabarti points to the many alternative mythologies that can replace Brahminical myths. The mythical past of the lower castes is full of references to injustices done to their predecessors which explain their downtrodden state of being. It seems obvious that mythology serves the upper and lower castes alike to rationalise their status by denying responsibility for the less fortunate on one side and by easing the pain of injustice on the other side. In folk tales,



Chakrabarti notes, it is rarely the morality of one's actions in past lives that determine a person's destiny. He is sceptical, however, regarding the power of such alternative visions to subvert the engrained system of caste that continues to persist in India.

In his paper on *Justice and Political Authority in Medieval Indian Islam*, Najaf Haider is concerned with an apparently unique work of medieval Indo-Islamic literature that deals with the concept of justice in a way that goes beyond the expression of an ideal of righteousness or practical determinations of disputes within the department of justice and the imperial court of grievances at the Delhi Sultanate. This is the *Fatawa-i-Jahandari* by Ziyauddin Barani, a theologian and historian in the first half of the fourteenth century at the court of Sultan Muhammad Tughlaq.

The main schools of classical Islam held the view that justice was one of the few divine attributes Allah was willing to share with his creatures so that they could strive for it in their personal lives and in the creation of a just social order. In the classical conception, therefore, Allah is the source of all justice on earth. According to this received view, Allah communicated his views on justice through his revelations to Muhammad, which were recorded in the Qur'an. Later, Qur'anic exegesis was combined with three other sources to form the four principles of Islamic jurisprudence, that is, the record of the prophet's sayings and doings (*hadith*), the methods of analogical reasoning (*qiyas*), and the consensus of the theologians (*ijma*). These four sources combined to form Islamic law (*shari'a*), the bulk of which had been codified by the end of the ninth century. Since that time, Islamic theologians and jurists have treated justice as an objective and universal moral truth ingrained in the human soul as a permanent source of guidance, independent of particular spiritual beliefs and actions. Since this universal human

propensity for justice is offset by human weakness, Allah has from time to time helped humans with prophets and scriptures. Humans, due to their free will, can always reject this help, but they can never completely deny their innate sense of justice, Haider points out.

Only limited guidance is provided by the Qur'an regarding questions of just political organisation except for a general exhortation to obey 'one who is authority amongst you'. First, the community of believers (*umma*) was ruled by religious leaders (*caliphs*) with hardly any institutionalised framework, but as early as the late seventh and early eighth centuries, political power came to rest in the institution of monarchy, which was no longer based on religion alone but also on ideas of worldly political power. Haider describes this appearance of secular political authority as reaching its peak in the 10th and 11th century with the emergence of the institution of sultanates in the eastern half of the Islamic world. The sultanates, according to Haider, were fully differentiated political bodies without intrinsic religious character, but loyal to Islam and committed to its defence. This process is not only reflected in the writings of Islamic scholars but also in a new type of literature on political authority and justice, which typically takes on the genre of 'mirrors of princes', an old branch of Persian literature influenced by ancient Iranian manuals of court etiquette. Haider refers to Ghazali's *Nasihah ul Muluk* (Counsel for Kings) as an influential example for synthesising both strands of literature. In this, and other similar works, justice appears not only as an equally important category beside religion, but even gains priority over religion in that a series of dependency is established between religion, kingship, the army, material prosperity and ultimately, justice. According to Haider, this shows how Islamic political thought was once beginning to come to terms with the separation of religion and politics.

Barani's *Fatawa-i-Jahandari* belongs to the same genre of princely advisory literature. Haider begins with a discussion of Barani's justification for kingship. Barani makes it clear that kingship is essentially un-Islamic but necessary under the prevailing circumstances. It is un-Islamic because it fosters the vices of pride, dignity, eminence and grandeur in the king—all of which are obstacles to devotion and submission to Allah. The king is thus constantly in danger of misusing his power for his own comfort and the satisfaction of his greed and carnal desires unless he restrains himself. Justice, in Haider's depiction of Barani, is essentially a means to this end. By devoting himself to the welfare of his subjects, the king saves himself from the pitfalls inherent in his own spiritually precarious position.

The innate sense of justice, according to Barani, is a hereditary disposition that human beings possess in different quantities. This innate sense of justice pertains to the king as the shadow of Allah on earth and to his representatives. The king and his representatives have to ensure equity and equality among the male Muslim subjects of the realm regardless of their respective strength, wealth or social position. Barani places great emphasis on the all-pervasiveness of justice. Thus, he writes, unless justice prevails everywhere without exception, it exists nowhere. Haider points out that Barani is the only writer in India, and probably in the entire medieval Islamic world, to place substantive justice so squarely at the heart of political authority and to treat it at such length. By making justice the primary legitimating criterion for kingship he places a strong constraint on despotism.

In the introductory part of his paper on *Traditional Conceptions of Justice in Christianity*, Gerhard Kruij guards himself against several possible misunderstandings. Firstly, he is aware of the fact that cultures and religions are not

self-contained entities but the result of communicative and often self-conflicting historical processes. Thus, Christianity has undergone great changes in the encounter with various cultures and civilisations such as the Roman, Byzantine, Germanic and Slavic worlds, and later in diverse colonial encounters. However, even across the many evolving Christianities, even across Christian and non-Christian cultures, Kruip stipulates universal human commonalities that arise from the fact that human conditions are, on a fundamental level, similar in otherwise dissimilar parts of the world. Kruip mentions the principles of reciprocity, the impartiality of judges, the non-arbitrariness of punishment, and a general sense of injustice, which humans share across a wide range of cultures.

Kruip points out that Christianity has developed not only one congruent conception of justice but many and it is hard to make out which are to be taken as 'typical'. Kruip admits the unavoidability, for a Catholic, of a certain bias in his way of telling the story about Christian conceptions of justice. Furthermore, he points to the fact that some parts of the story may not be considered part of tradition but are nevertheless very important from a philosophical perspective. Tradition only points to historical importance and not necessarily to systematic significance. Furthermore, from a systematic point of view, as Kruip reminds us, justice is not the same in all the spheres of application. We have to distinguish between the concepts of commutative, distributive and legal justice, for example. Overemphasising one of these concepts at the expense of others may lead to a distortion of the picture and to a corruption of overall justice.

All this said, Kruip ventures into a theological discussion of the concept of justice as it originated from Judaism and later evolved into a Christian variant. With the evolution of monotheism in West Asia, justice, formerly represented as

a goddess, became a central attribute of god himself. Jewish law, the Torah, insists on a relation of mutual fidelity and compassion between god and his chosen people, which is expressed, for example, in the Jewish *deuteronomium* festival. God is the warrantor of justice on earth. He rewards the obedient and punishes the disobedient with a bad life. To begin with, according to Kruip, this was conceived of as occurring within a lifetime. Later, the notion of reward and punishment in the afterlife became the dominant one. The early Christians, notably apostle Paul, disagreed with the Jewish insistence on obedience to the law as a means to salvation by pointing to the inherent limitations of the human being. Instead, Paul centred on good faith in spite of bad action and the grace of God by way of the death and resurrection of Christ, as the only ways to deliverance. Salvation through faith as opposed to good deeds was re-emphasized by Luther and other protestants and led to the breaking up of Latin Christendom during the Reformation. Today, Lutherans and Catholics agree on the joint importance of grace *and* good works for salvation.

From an Old Testament prophetic tradition of criticising vain rituals and inconsequential prayers and demanding the practical implementation of divine justice in human affairs, Christianity has retained its sympathy with the oppressed, its openness to people of all categories and its emphasis on faith being expressed through practice. A contemporary development of this tendency can be seen in the various social theologies in Europe, Latin America and India that, according to Kruip, converge in the idea that not only individual good deeds are required for salvation but collective action is necessary to counter structural injustices inherent in the institutional framework of society. In the Indian context, which is seen by Kruip as a world yet to be converted by Christian mission (*sic!*), this means that missionaries have

to focus on relief from the social consequences of injustice. This mission, according to Kruip, should not look at the number of converts first but place its emphasis on relief for the deprived and marginalised.

In another part of his paper, Kruip raises the question of universalism versus particularism in the context of mutual understanding between cultures and religions. Kruip rejects the idea that such an understanding would emerge by coincidence due to accidental commonalities between different conceptions of justice. Instead, he believes that an understanding can only be reached by also taking into account the reflective and argumentative dimensions of ethical and religious self-understanding, whose forms again vary from culture to culture.

Modern Catholic social doctrine tries to be compatible with the predicaments of today's democratic liberalism and engages in intense discussions of liberal theories such as Rawls' theory of justice or Habermas' discourse ethics. In particular, the liberal distinction between moral theory and virtue ethics is mirrored in the Catholic distinction between universal and supererogatory norms. More fundamentally, modern Catholicism accepts that we have to make a distinction between religion and justice, the latter being reflected in many religions but also being conceived of independently of all religion in a purely secular way.

*A Cosmopolitan Perspective on Justice* is offered by Michael Dusche as an alternative to traditional approaches to justice. It is argued that a cosmopolitan perspective on justice is neither universalist in a naïve way nor relativist in a bad way, but is global in the right way. Naïve universalism for one is rejected because it causes subjective problems of justice instead of resolving them. By universalising conceptions of justice from one legacy, naïve universalism is not sensitive to other legacies. It thereby fails to meet the

subjective conditions of justice. Instead a concept of internal universalism is introduced, analogous to Hilary Putnam's internal realism. Besides being internally universalist, the cosmopolitan perspective on justice is globally adequate in that it meets the challenges of objective conditions of justice before an emerging world polity. Its chances of global acceptability increase to the extent that it is purged of theoretical accessories (anthropological, cosmological, metaphysical) irrelevant to the task. In thus being thin and non-intrusive, it parallels John Rawls' conception of freestandingness, if only on a global level. Furthermore, it is argued that a cosmopolitan perspective of justice is not Eurocentric, for not the circumstances of its genesis are relevant here but those of its application. While the former point to a European connection, the latter prevail worldwide. Like the cosmopolitan polities of Antiquity, the age of globalisation is marked by urbanisation, migration, multiculturalism and a loss of agency in democratic set-ups such as the nation state. The topicality of a cosmopolitan perspective of justice is argued for by dissociation from essentialising discourses on identity, culture, religion, nationalism and ethnicity. Maximal in its reach but minimal in its assumptions, cosmopolitanism proves at the same time broad enough in its scope to meet the challenges of a globalising world and unassuming enough to be acceptable to humans simply on the basis of their humanity.

In the preliminaries of his paper on *Poetic and Social Justice*, Alok Rai defines the concept of poetic justice as the duty of the poet to create his/her fictitious world in accordance with moral principles. The concept of poetic justice, in spite of its problematic equation of the unjust with the un-aesthetic, can be found across times and traditions. In response to the expectations of their readers, authors have to strike a balance between a necessary amount of

realism for fiction to be relevant to the reader and a certain amount of idealism for the reader to feel compensated for the injustices experienced in the real world. Subsequently, Rai introduces the concept of social justice and defines it for the Indian context as pertaining specifically to caste injustices. He distinguishes social justice from poetic justice by contrasting their goals—justice in the real world versus that in the imaginary realm. In the context of the Dalit controversy, however, otherwise independent concepts intersect as demands for the representation of Dalits, which are sought in limited social spaces more as a symbol than as a remedy. Recognition and dignity are part of social justice but at the same time, highly symbolic. Rai reminds us of the contingency of the aesthetic experience and of its dependence on the historic moment and the dominant social group therein. He observes that, while we have an account of how social groups rise and decline in history, we know very little about the modalities of change in the parallel sphere of aesthetics. Rai points to often unarticulated views and beliefs regarding plausibility, viability and likelihood on which our aesthetic judgements rest. That aesthetic change is a function of the transformation in these beliefs, is Rai's central thesis, which he attempts to validate through a discussion of the Premchand–Dalit controversy in the main part of his paper.

When modern literature emerged at the turn of the 19th/20th century, aesthetic expectations were such that a depiction of the life-experience of lower caste Hindus or ordinary Muslims would have been unacceptable to the dominant urban elite, whether Hindu or Muslim, Rai remarks, although he concedes that the nascent Hindi literature was more likely to absorb new trends than the long-established Urdu literature. He attributes Premchand's turning from Urdu to Hindi to this fact. In the Hindi camp,



however, Premchand encountered the opposition of Hindu *savarna* classes who at that time would not even accept Kabir and the Bhakti tradition into the canon of Hindi literature.

Premchand, according to Rai, was concerned with the inhumanities and injustices of the Brahminical caste system. In his journalistic work in particular, he followed opinions that were not necessarily original nor, according to Rai, very current in Premchand's social environment. His originality, as Rai points out, lies more in the long term effects on the moral economy of his time to which Premchand contributed, among other progressive writers. Rai credits Premchand with the achievement of helping in disturbing the apparent harmony between injustice suffered and destiny deserved. He helps introduce a moment of sympathy for hitherto marginalised groups even among those readers who would typically belong to the castes and classes benefiting from these injustices. Premchand, according to Rai, has first to create the 'guilty reader' for his 'literature of conscience', which then helps to disturb the moral economy of his day by attaching a stigma of 'wrong' to behaviour that seemed up till then unobjectionable. In this process, as Rai describes it, the guilty reader accumulates moral debt while those on the other side of this newly felt imbalance build up moral capital that they can later claim by way of socially corrective affirmative action programmes and the like.

Rai describes the way Premchand deals with his reader as a negotiation process in which the conscience of the 'guilty reader' can be stressed, but not to the point that the bond between reader and writer breaks. In this process, Premchand's story 'Kafan' represents a bold step towards doing away with limitations of poetic justice that correspond to common expectations in his readers. A conventional reader of a literature of conscience that gained currency in

Premchand's times would still have expected the victim of social and caste injustices to be physically and mentally intact in spite of the hardship suffered, and deserving of the compassion and remorse of the reader. Premchand broke a taboo by depicting the heroes of his 'Kafan' as damaged and brutalised, as well as themselves brutal, with no prospect of improvement, whether materially or morally, as incapable even of rebellion because trapped in the hegemonic discourse of caste and destiny, not themselves understanding the wrongness of the social order that victimises them.

'Kafan', Rai informs us, was the immediate cause of an aesthetic crisis among progressive writers and their readership. The crisis involved a controversy over the problem of representation of those who were not capable of representing themselves, not only because they were materially not capable of doing so but also because they were caught in the narratives of those who oppressed them. In this regard, the claim of the Dalit essentialist that only Dalits could legitimately write about and represent Dalits offered only a very problematic solution, as Rai points out. In effect, this suggestion would only help perpetuate the traditional logic of oppression that takes caste for destiny. As a possible way out, Rai urges that the notion of universality not be completely rejected—not the self-satisfied universalism of the dominant narrative, to be sure, but a 'negotiated universalism', as he calls it, where the other is engaged with, and not only accused and told off.

In *Representation and Testimony*, Udaya Kumar looks at the problem of justice in the novels of Anand, one of the most significant contemporary novelists in Malayalam. According to Anand, the original impulse of culture in general, and of literary writing in particular, is the yearning for justice. Kumar, therefore, is interested in the relationship between literature and justice. Kumar looks at the novel *Alkkuttam*

(‘The Crowd’) as an example for Anand’s preoccupation with the impoverished crowd as a theme for justice. The central theme of discussions in *Alkkuttam* is the Indian national politics in the early 1960s, when the young Indian state is at war with China. Anand’s intellectual protagonists lament the decline of political morality and the widespread corruption, and perceive themselves to be rational citizens who can negotiate their discursive claims in the space of modern public sphere. This is undercut by the murmur of the crowd: the less educated and the deprived.

In Kumar’s own words, the

affective anchoring of the subject of justice in regions and languages is dismantled in his work to present a plane of subjectivation which is more directly political, more directly caught up in the juridical idiom of a secular modernity. Labour prison complexes run by the army, the crowded compounds of judicial courts, refugee camps, urban slums and the state’s institutions of rehabilitation—these new localities cannot find a place in maps built on geographical feeling. The nation-space is turned into non-places of a catachrestic modernity, where strands of sovereign power and governmental technologies crisscross with each other. The critical subjects and anonymous crowds in Anand’s novels merge in these sites, and the testimonial voice in his writing emerges from there.

From conceptions of justice as reflected in different religious, philosophical and literary traditions, we now turn towards different engagements with justice in the life-worlds of present-day India. In her paper on *Slum Development as a Justice Form*, Roma Chatterji explores the Dharavi slum in Mumbai as a forum in which justice is articulated. Her focus is on civil society organisations that help slum dwellers in forming communities, express their demands as citizens

and experiment with institutional forms of democracy. In her conceptualisation of local forms of self-governance in Dharavi, Chatterji relies on Juergen Habermas' discourse theory of law and democracy. Justice, in Chatterji's view, serves as an aporia through which the ambiguities of everyday existence lived out at the margins of the state can be understood. Slum-dwellers consider the state less as a protector of their rights but as a cause of great insecurity when it comes to evictions and the demolition of their homes. They are less interested in a discourse on the adequacies of positive law as it applies to slum populations which are faced with the unchallenged power and corruption of the lower echelons of government bureaucracy. In such contexts, self-help and self-organisation prove to be more promising than mobilising public opinion at large and calling the state to account through a discourse of rights. Thus, Chatterji looks at slum development programmes and makes out how these can stimulate the processes of collective identity formation around political conceptions of common good rather than mobilising local or ascriptive identities for particularistic interests.

In particular, Chatterji deals with the discourse of community based organisations. Their action programmes are not only supposed to serve immediate pragmatic interests but are also to foster long term goals of democratic accountability and secularism. The way community organisations function, they emulate models of parliamentary democracy in the form of representative bodies and regular elections. Thereby, they generate a generalised and abstract form of social solidarity based on principles of communicative rationality. They represent associations based on common interest with contractual relations freely entered into in a common public sphere rather than communities based on ascribed cultural or religious identities, which are often not

collectively authored or striving for a common good but mobilised to instrumentalise people for sectarian interests. Community organisations are conducive to the promotion of self-determination and participatory citizenship. Chatterji agrees with Habermas that an ethical view of democracy would restrict its sphere of communication to collective and generalisable interests, that is, interests which emerge from the life world but which can be made universal. As this depends on an effective public sphere which is positioned outside the system of authority and independent of market forces, she raises a sceptical eyebrow at the introduction of private developers in more recent schemes of urban development that involve the market as a new player in the field.

In his paper *Environment and Justice*, Satyajit Singh explores the 'public purpose' of water by evaluating a number of approaches to environmental justice such as anthropocentric vs. eco-centric, deep vs. shallow ecology, inter- vs. intra-generational conceptions, economical vs. sustainable development approaches, environmental economics vs. bio-economics and finally, environmental Marxism vs. eco-socialism. Singh finally decides on an eco-socialist approach keeping in mind that 'socialism' is one of the declared purposes of the Indian polity as by its constitution. He discards eco-centric approaches on grounds that they may be appropriately handled in the realm of philosophy but not in politics which is concerned with real world concerns of environmental justice. Singh pleads for a broader and more practical understanding of environmental justice by linking it to pressing social concerns of access and rights to water.

In view of a situation where in most states of the Indian federation, land reforms have been postponed indefinitely, hydraulic property rights and the sustainable use of water resources can enhance the empowerment of people by increasing the productivity of labour and raising the

utilisation of land. Although in the long term, this should not lead to a substitution for the redistribution of land, in the mid-term the empowerment of the poor through better and more equitable access to water, accompanied by devolutionary and democratic decentralisation, would serve as a counter-balance to the common pampering of the agrarian elite through large-scale irrigation works that are financed from public money but benefit only the few who, through the linkage of water rights and land ownership, gain privileged access.

To substantiate his thesis, Singh considers alternative irrigation methods and institutions that are being developed by environmental and people's movements in India today. In a number of cases, experiments with alternative distribution schemes such as entitlement to water being dependent on the adult members of families, simple households or members of land-holding households have produced positive results. In cases where landless labourers were entitled to water, these could either sell their share or acquire land and start farming and thereby improve their situation. In other examples, the intensity of irrigation was called into question. A more equitable distribution of water would help to restrain the cultivation of water-intensive and labour-extensive industrial crops like sugar cane in favour of more sustainable crops such as millet and thereby increase the amount of employment in the countryside as a welcome side-effect.

In *Class, Democracy, and Conceptions of Justice in India*, Vidhu Verma questions the timeliness of a class-based analysis of problems of justice in the name of new political subjects—women, national, ethnic and sexual minorities, anti-nuclear and anti-development movements. He argues

apart from conceptual problems in a class-based theory of justice we must recognise that the context for the debate on

distributive justice has undergone major changes in India. The first thing to note is that there have been rapid shifts in the political involvement of people from social-economic struggles to caste- and religion-based movements inspired by identity and recognition.

Alongside class-based analyses and identity politics, Verma offers a third way, which takes citizenship as a central notion as it constitutes a 'real political identity' instead of displacing political controversies to the symbolic realm of traditionally-ascribed identities such as caste, culture or religion.

Virginius Xaxa in *Tribes and Justice* gives a detailed account of how the values and conceptions of justice inscribed in the Indian constitution affect and concern tribal individuals and communities. Tribal society, for the most part, is more egalitarian than classical Hindu society in that it does not divide people into different castes. It also emphasises solidarity. Thus at first sight, Indian constitutional values, which are based on equality, liberty and solidarity between individuals are more in congruence with the values prevalent in tribal societies than with those dominating the Indian mainstream. It is all the more disturbing, Xaxa points out, that Indian tribals have benefited so little from the safeguards of the Indian constitution.

For a long catalogue of fundamental rights, Xaxa demonstrates how tribals have been deprived of the fair value of their rights. While the right to justice, for example, is formally not denied to them, they can often not make effective use of it for lack of material and legal assistance. Great numbers of tribals have suffered the loss of their livelihoods as victims of land alienation to non-tribal communities and the Indian state. Through non-respect for their traditional idea of collective ownership, forests have been declared the property of the state and tribals have been denied their

customary usufruct rights. Non-tribes have acquired tribal lands through fraudulent transfers of ownership, forcible eviction, mortgages, leases and encroachments. The fact that customary tribal law is passed on orally and does not know of written land registries makes it hard for them to take any legal action against such transgressions. As a consequence, 40 per cent of all forcefully displaced people in India are tribals. The percentage of tribal cultivators has steadily decreased and tribals have an almost 20 per cent higher incidence of poverty than the average Indian.

Although there is evidence showing that tribals are discriminated against by people from the majority communities on the basis of para-institutional norms still prevailing in workplaces and in the education system, Xaxa does not go so far as to demand a different legal status for tribals altogether. Instead, he embraces the values of the Indian constitution and applies them to customary law within tribal communities. He points out that in most tribal communities, although discrimination based on caste or class is low, there is a strong case for discrimination on the basis of gender and sometimes lineage. Women are often denied their rights to marry the partner of their choice, move freely outside their home and work, share equitably with their male siblings the inheritance of movable and immovable property, hold public office or to learn how to read and write. On the other hand, Xaxa finds strong arguments in favour of reservation quotas for tribal men and women, and he appeals to the civic morality of the majority community to refrain from subverting the intention of affirmative action programmes out of anti-tribal prejudice and even hostility.

All the papers assembled in this volume show a commitment to India's way of adapting liberal constitutionalism to its own circumstances, always with a view to post-traditional



cosmopolitan values. Thus they reject the tradition where it is implicated:

- by hierarchical notions of society (Chakrabarti) and the discrimination of tribals (Xaxa), Dalits (Rai) or the destitute (Chatterji),
- by the differential treatment of women (Chatterji, Xaxa),
- by lack of solidarity with the less and least advantaged of society (Chatterji),
- by a disengagement with the regulative ideal of universalism, acquiescence with relativism or the indulgence in self-satisfied universalism (Rai),
- by the perpetuation of ascriptive identities or the manipulation of people on the basis of essentialised identities (Chatterji),
- by privileging big land-owners at the expense of small farmers and the landless (Singh).

Many contributors point to the connectivity of tradition and Indian modernity by identifying historical precursors of modern constitutional values such as secularism (Haider) or sympathy with the oppressed (Kruip). Several point to the need of a discursive, reflective, argumentative engagement with justice and tradition (Kruip), negotiated universalism (Rai) and an effective anchoring of justice in regions and languages (Kumar). They examine the way by which moral sensibilities are influenced and sometimes changed through an engagement with literature (Rai). Thus, literature becomes an important medium for the ‘moral economy’ of its time—another word for the procedure which was called ‘collective hermeneutics’ at the outset of this introduction.

Not only literature, but art in general (film, theatre and so on) proves a powerful tool in this process since it can help

induce empathy for the hitherto marginalised categories of people. Empathy, by putting us in the shoes of others, serves as a starting point for a reflection on the ‘universalisability’ of our own conceptions of justice. By disturbing the hegemonic normative discourse, it can help subvert it and influence it in the direction of a more comprehensive inclusion of people, who were formerly not considered eligible co-authors in a collective attempt at re-formulating the social contract.

## NOTES

1. For a discussion on various sorts of relativism, including ‘normative relativism’, Brandt (1967).
2. Cf. my argument against Kuhlmann (1986) in Dusche (2000: 2).
3. Cf. (Ibid.: 95). and Dusche (2002), available at *TRANS—Internet Journal for Culture Studies*, 0(July 2002) <http://www.inst.at/trans/0Nr/dusche0.htm>.
4. In German, ‘Erwiderung auf Habermas’, in Hinsch (1997: 196–262).
5. Rawls (1971: 19). see also ‘considered judgements’ (ibid.: 47).
6. In fact, the theory is about the ‘basic structure’ of a democratic society (ibid.: 7–11).
7. ...which is something radically different from normative relativity ... cf. Brandt (1967) and further below.
8. Rawls (1993) has named it the standpoint of *public reason*. Also see Rawls (1999a: paper 26).
9. Correspondingly, Rawls speaks of justification as a societal objective as opposed to an epistemic problem; Rawls (1999a: 388, Fn. 2).

## REFERENCES

- Brandt, Richard B. 1967. ‘Ethical Relativism’, in Paul Edwards (ed.), *The Encyclopedia of Philosophy*, Vol III, pp. 75–78. New York: Macmillan.
- Kuhlmann, Wolfgang. 1986. *Reflexive Letztbegründung*. Freiburg: Alber.
- Dusche, Michael. 2000. *Der Philosoph als Mediator. Anwendungsbedingungen globaler Gerechtigkeit*. Vienna: Passagen Verlag.
- . 2002. ‘Experts or Mediators? Philosophers in the Public Sphere’, *Ethical Perspectives*, 9(1): 21–30.

- Hinsch, Wilfried (ed.). 1997. *Zur Idee des Politischen Liberalismus. John Rawls in der Diskussion*. Frankfurt am Main: Suhrkamp.
- Nelson Goodman. 1955. *Fact, Fiction, and Forecast*. Cambridge, Massachusetts: Harvard University Press. [In German: (1975), *Tatsache, Fiktion, Voraussage*. Frankfurt am Main: Suhrkamp].
- Rawls, John. 1995. 'Reply to Jürgen Habermas', *The Journal of Philosophy*, 92(3): 132–80, Fn. 16.
- . 1971. *A Theory of Justice*. Oxford: Oxford University Press.
- . 1993. *Political Liberalism*. New York: Columbia University Press.
- . 1999a. *Collected Papers*. Cambridge, Massachusetts: Harvard University Press.
- . 1999b. 'The Idea of Public Reason Revisited', in *The Law of Peoples*. Cambridge, Massachusetts: Harvard University Press.

