CONCLUSION

I have argued out in the course of the dissertation that justice at the core, is not a legal or juristic concept. It is, in other words, a moral concept. Law is a social institution. Like all other social institutions, it stands in need of justification. I have maintained throughout the dissertation that morality provides the ultimate justification of all deliberate human actions and social institutions. Further, laws can be just or unjust. I wish to maintain that the justness and unjustness of a law lie in its conformity or non-conformity to the moral standard. H.L.A. Hart, on the other hand, maintains that the justness of a law does not lie in its conformity to morality but in conforming to certain accepted legal procedures. To quote Hart:

"To say that the law against murder is justly applied is to say that it is impartially applied to all those and only those who are alike in having done what the law forbids; as prejudice or interest has deflected the administrator from treating them 'equally'. Consistently with this, the procedural standards such as 'aud alteram partem', 'let no one be a judge in his own cause' are thought of as requirements of justice, and in England and America are often referred to as principles of Natural Justice. This is so because they are guarantees of impartiality or objectivity, designed to secure that the law is applied to all those and only to those who are alike on the relevant respect marked out by the law itself."
The passage suggests that according to Hart, just and unjust are not moral concepts, but legal ones. In other words, they refer to the mode of application of law to particular cases. A law is justly applied if appropriate legal procedures are followed and is said to be unjustly applied if such rules or procedures are violated. It may not be out of context to further quote Hart:

"A man guilty of gross cruelty to his child would often be judged to have done something morally wrong, bad, and even wicked or to have disregarded his moral obligation or duty to his child. But it would be strange to criticize his conduct as unjust. This is not because the word 'unjust' is too weak in condemnatory force, but because the point of moral criticism in terms of justice or injustice is usually different from, and more specific than, the other types of general moral criticism which are appropriate in this particular case, and are expressed by words like 'wrong', 'bad', or 'wicked'. 'Unjust' would become appropriate if the man had arbitrarily selected one of his children for severer punishment than those given to others guilty of the same fault or if he had punished the child for some offence without taking steps to see that he really was the wrong doer."

This is to reiterate that Hart does not treat just and unjust as moral concepts at the core, though they might have some links with morality. He maintains:
"That just and unjust are more specific forms of moral criticism than good and bad or right and wrong, is plain from the fact that we might intelligibly claim that a law was good because it was just, or that it was bad because it was unjust, but not that it was just because good, or unjust because bad."3

Hart even goes to the extent of treating justice as,

"the most public and the most legal of the virtues."4

Reflections on ordinary language does not support Hart's views. 'Just' and 'Unjust' are used in two different senses. Sometimes, 'just' and 'unjust' are used to refer to particular applications of law. Suppose in a country there is a law that persons earning more than twelve thousand rupees per annum have to pay income tax. Mr. X's annual income is more than twenty thousand; he does not pay income tax; is sued in the court of law, but ultimately is acquitted on the ground of his being a member of a particular religious order. We may call it as an unjust application of law. A just application of law, on the contrary, would mean compliance with an appropriate legal procedure. In this sense, the meanings of just and unjust, justice and injustice, are determined in reference
to particular cases of application. As a matter of fact, 'just' and 'unjust', 'justice' and 'injustice' refer to the mode of application of a particular law. But the common parlance also suggests another sense of 'just' and 'unjust', 'justice' and 'injustice'. In this sense, 'justice' and 'injustice' do not apply to certain modes of the application of a particular law, but to the basis or justification of the laws. A particular law might be enshrined in the legal code of a country, yet it may be characterised as unjust. Let us take the following hypothetical example: suppose in a country, apartheid is sanctioned by law, that is to say that coloured people are discriminated. Maybe, it cannot be challenged in the court of law, yet one can say that it is unjust. What for apartheid is unjust? What are the reasons? Why shall it be treated as unjust? The answer to these questions is that the law can be subjected to moral evaluation. Not only laws, but all social institutions can be subjected to moral evaluation. In other words, morality provides ultimate justification to all deliberate human actions and social institutions. The basis of laws, including other social institutions, are bound to be moral in nature. Morality provides ultimate justification to all such actions.
Justice is the supreme value of society. It is integral to society. All other values cluster round this supreme value. Justice, in this sense, is different from legality. While legality relates to positive laws, justice is identified with supreme virtue, righteousness and morality.

The juridical sense of justice differs from the moral sense of it. The former is determined by the external laws and the latter by reason itself. Juridical justice regulates the external activities, whereas, moral or ethical justice regulates both the external and internal exercise of the will of the individual. The moral sense of justice is the infallible reason itself. It guides man's activities in all spheres. It is befitting here to quote Kant:

"The agreement of an action with Juridical Laws, is its Legality; the agreement of an action with Ethical Laws, is its Morality. The Freedom to which the former laws refer, can only be Freedom in external practice; but the Freedom to which the latter laws refer, is Freedom in the internal as well as the external exercise of the activity of the Will in so far as it is determined by Laws of Reasons."

I wish to suggest in this connection that these moral values are bound to be absolute and universal in
nature. The ultimate values and morals cannot be relative for the simple reason that this will lead us ad infinitum. Justification requires justificatory reasons and these justificatory reasons in the end are bound to be ultimate and universal in order to escape the fallacy of infinite regress.

Man is a value concept; so also is the society. What does it mean? What does it mean to say that man is a value concept? One may say that man is nothing but a conglomerate of flesh and blood, bones and sinews and etc. He is an object among all other objects of nature. In other words, man is a natural object. My reaction to this sort of argument is as follows: It is true that man's body is a natural object. In this sense, man can be said to be an object of nature. But this is not all. How do we understand man? Is it simply to understand him in terms of digestive system, blood circulation and etc? The answer to this question is an emphatic no. Man cannot be understood exhaustively and adequately in terms of flesh, blood and sinews. The scientific understanding of man is very much necessary. But it is not the only kind of understanding. To understand man is to understand his aspirations, ideas, ideologies and above all, his values. And to understand all these, is to understand in reference to
morals or values. Therefore, man cannot be completely understood without reference to values.

What is a society? Is it just an aggregate of discrete and different individual atoms? My answer to this question is in the negative. A society is not just a combination of human atoms. It is a congregation or cluster of values, norms, ideals, attitudes and beliefs.

A value is distinct from a fact or a natural object. A natural object belongs to the spatio-temporal world. A value, on the other hand, is non-spatial and non-temporal. What does it mean to say that values are non-spatial and non-temporal? A value stands for a norm, a principle and it is logically odd to say that norms are at par with natural object or things. If values are facts, they are a different sort of facts altogether. I have already pointed out that justice is central to understanding society. Why is it so? Why is justice central to understanding of human society? In answer to these questions, I wish to suggest the following: There is a sense in which a society can be defined as a concatenation of various social relations. It is a network of relations. Human persons enter into relations with each other. This is how a society comes into being. A human individual is
not one among other natural objects. He is an autonomous individual. A human individual can be characterised as an embodiment of end-values. How to treat other individuals? What should be our attitude towards each other in matters of social, political, and economic transactions? Our answer to these questions is the following: Human individuals are persons and persons are to be respected. Persons, in other words, are ends in themselves—to borrow a phrase from Kant's.

The concept of natural right provides justification for treating the individuals as end in themselves. Natural right is distinct from a political right in that the former stands for a moral principle and the latter for actually sanctioned rights. In this sense, the concept of natural right provides justificatory reasons to treat individual human beings as ends.

Justice, in its moral sense, is conceptually connected with natural rights. Natural rights are the rights which human beings possess by virtue of their humanity. Morality being the upshot of reason in man, requires that human beings should not be deprived of their moral rights. Natural rights and moral rights are synonymous. They uphold the reason of man to be infallible and human personality to be uncompromising.
Man, by virtue of possessing an unfettered reason, which demands that he should be free of all determinations and limitations, stands above as an ideal entity and as a value. Reason and morality require that man should be treated as an end in himself. He is an end because, he is a value, not a fact to be determined and regulated to certain end other than itself. Man's importance lies within him. His importance lies within because he has his own worth, by the mere reason that morality required that man should, in no case, be deprived of his inviolable natural rights. The concept of natural right is a conception of pure reason, which is nothing but morality and justice.

Human personality, with its moral essentials like the natural rights, constitutes the moral personality. A moral personality is free from determinations of any sort. Kant says:

"Moral personality is, therefore, nothing but the Freedom of a rational being under Moral Laws; ... Hence it follows that a person is properly subject to no other laws than those he lays down for himself, either alone or in conjunction with others."6

H.L.A. Hart contends that if at all men have any natural right, then it is their natural right to freedom.7 Hart further says:
"Rights are typically conceived of as possessed or owned by or belonging to individuals, and these expressions reflect the conception of moral rules as not only prescribing conduct but as forming a kind of moral property of individuals to which they are as individuals entitled; only when rules are conceived in this way can we speak of rights and wrongs as well as right and wrong actions."8

Hart, too, pays much importance to the innate morality of human personality.

Natural rights are basic to man. He has the birth right to rights like, right to freedom, life, liberty, property, equality and many others. These are the inborn rights which are not sanctioned by any authority. They are not limited to the will and emotion of the law maker. Civil rights are of this nature. They always presuppose a sanctioning authority. In this sense, natural rights do not presuppose any sanctioning authority, because they come into being with the birth of man and constitute the justifying ground of all sanctioned rights. Natural rights need no prescriptive approval, save moral approval. They are the conceptions of morality and reason, which stand above any earthly determination and approval. They are self-justifying and need no external approval. Man's importance lies in possession of these valuable and sacred natural rights.
The judiciary should look into the protection of the fundamental natural rights of man. Protection of natural rights should be given priority in all considerations. In no case, they can be sacrificed, however noble the end may be. These rights are to be treated as ends in themselves, never as a means to anything else other than themselves. Justice lies in upholding such sacred rights of man. A social system, not honouring these noble basic rights, falls short of justice and morality. All social systems should keep in view this ideal end — the end of the protection of the inborn natural rights. All legislations and social systems should be regulated and controlled to fulfill this end of humanity.

Man is an end in himself. He should be respected for the simple reason that he is the bearer of the sacred and noble natural rights and the upholder of reason and morality. All social systems should regulate their basic structures, in such a way that, instead of erecting obstacles in the way of the natural growth of human talents, it provides congenial conditions for their free manifestation. Kant's view is that man should never be treated as a means, but should be treated as an end in himself. Instead of channelling human talents to the furtherance of the social end, the social structure should be regulated
to uphold humanity as an end. It is appropriate to quote J.S. Mill, when he says:

"Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing." 9

The innate right to freedom makes man free from all subjections and creates checks on the inhibiting principles. It is this natural right, the moral right to be free that leaves man unfettered and unchained by any social custom. It is this natural right that puts everything under the obligation to act to the end of humanity.

"Justice, being the first virtue of society, is uncompromising. It is uncompromising because it is based on the natural rights of human beings which are inalienable. Justice, in this sense of moral natural rights, can never be bartered for any other end. To barter justice is to view it on par with something else. There is nothing as important as justice which can be exchanged with it. As Kant has said:

"Justice would cease to be Justice, if it were bartered away for any consideration whatever." 10
It is not expediency, but morality that demands that a government should honour the natural rights of man. Everything of the state and governmental acts should be determined by these rights. Government should provide favourable conditions to honour and uphold the human values, like right to liberty, equality, freedom and property. These human values are vital in the sense that they should be the moral ends of everybody. A government, which throttles the rights of man, encages his liberties, views equals unequally and unequals equally, creating obstacles for free display of the unfettered reason. Justice is integral to humanity and to society. It is integral in the sense that it is based on the inborn natural rights. To do away with these, is as good as robbing humanity of its worth. As Kant says,

"For if Justice and Righteousness perish, human life would no longer have any value in the world."11

But I wish to point out that human persons are basic and fundamental to social institutions. They are to be treated as end-values, not means-values. They possess certain natural rights by their nature, irrespective of social, legal and political institutions. Reason demonstrates the fact that human persons and natural rights
are inseparable, and can be treated as synonymous. Natural rights are intrinsic to human nature. Man is born with natural rights as he is born with reason. Natural rights move with human personality and are unbounded and unfettered by any social, legal or political institution. They admit no limitation except the consent of the possessor; nay, the possessor also fails to go against what his nature demands. Neither can natural rights be limited by itself nor can there prevail a higher claim against them. Being deducible from the very nature of man, natural rights are valid universally.

Such objective precedence of natural rights has been criticized by the positivists. They are of the opinion that equality, in respect with natural rights, makes social process impossible. They contend that if the principles equally ultimate, absolute and reasonable, conflict with each other, there is no higher principle to solve it, because the conflicting principles are supposed to be ultimates. They are of the opinion that natural rights are vague on this score.

Some others who are against the notion of natural rights, are of the opinion that rights can only be deduced from some rules based on expediency. Rights can
only be established when conformed by rules. There can be no right without a rule. To abstract human person from social contexts is to abstract him from the social rules, and therefore to make discussion of natural rights irrelevant. This group of thinkers further say that every right must be justified in terms of some social end and could not be achieved without the social recognition of it. Natural rights, in the sense of having supra mundane status, are said to be non-social.

I wish to point out that the anti-natural right theorists do not fare well on their stand. They see natural rights only in a social context. Their folly lies in giving precedence to society and its rules over natural rights. But as a matter of fact, natural rights precede the former. Conceptually, man is prior to society and therefore, society is inconceivable without man. A society without human beings cannot be thought of. Further, this group of thinkers treat society as primary.

Those who criticise natural rights as myths and non-rights miss the point. To say that human beings have certain natural rights is not to say that the rights have been granted to them by some authority at a particular period of time, but to draw attention to the value dimension
of the concept of man. So the concept of natural right gives us a guideline to treat man not as an object, but as a value. The positive-law theorists seem to have not taken note of this aspect of natural right. The concept of natural right is meant to provide justification and basis to all legal codes and practices. How to justify a legal code in case of competing claims? How to choose one type of law in lieu of another? In other words, what is the basis of a legal choice? How to choose one legal code over another? To say that a particular legal code is accepted, because it is the embodiment of law, is to move in a circle. The so called legal codes cannot be justified in reference to laws. In other words, a legal code has to be justified on extra legal grounds; that is to say, a legal code has to be justified in terms of non-legal. Natural right theorists seek to provide such a basis for legal codes including legal practices. This is to show that legality ultimately stands in need of morality for justification. The concept of natural right, in this sense, has the positive function of providing justification to legal codes.

Natural justice is closely connected with the concept of natural right. There is a sense in which it can be
said that both natural right and natural justice are two sides of the same coin. If natural right tells us to treat human persons as ends, natural justice tells us the same thing in the cases of adjudications. What should be the attitude of the judge towards a person tried in the court of law? How the legal proceedings are to be carried on? What punishment is to be inflicted on the guilty? All these questions crop up in connection with adjudication of cases in the court of law. It is true that while adjudicating a case, the judge takes into account the legal code and the sanctions contained therein. But at the same time, the fact remains that the judge may be harsh, emotional, partial and so on towards a particular person or group of persons in certain cases. The concept of natural justice is meant to provide guidelines to the judges so as not to forget the fact that human persons are ends. Therefore, it can be said in this connection that the concept of natural right is relevant to the formulation of laws and the concept of natural justice is relevant to adjudication of cases. Natural justice is justice which is natural. That is to say, it is a kind of justice given to man, not by any particular court of law, but by nature. What does it mean to say that justice is endowed on man by nature? What does nature stand for? 'Nature' and
'natural justice' do not stand for aggregate of natural objects. Nature, in this sense, refers to the value aspect universally present in man. To say that somebody is denied natural justice may be interpreted in two different ways: (1) To say that somebody is denied natural justice is to say that one is not allowed to take resort to the sanctioned legal means available in the country within its legal code. (2) It may mean that the legal code of a country does not treat individuals as respectable persons. In this sense, natural justice comes closer to individual dignity and autonomy of human persons.

Man as an individual has to be treated equally without discrimination. His nature demands that he should be treated as a respectable person keeping aside differences in race, colour, caste, creed and sex. He has to be treated with honour irrespective of differences in social, legal and political frameworks. The cry for natural justice becomes prominent in cases where man is treated otherwise. Unjust treatment sometimes leads man to revolt. The most vehement opposition of this kind and the demand for natural justice become vociferous usually in racist regimes. Apartheid is viewed with abhorrence and treated as an unjust institution. I wish to point out that human
persons can be said to constitute only one society; —
the world society; the society which precludes discrimi-
nation of any sort between man and man. Natural contingen-
cies and accidents should not be treated as fundamental
to human society. (John Rawls does not treat man justly
when he accepts such discriminations as naturally esta-
blished facts.)

Natural justice is an upshot of the nature of man
and is guided by the immanent principles in him. It needs
no external legislation or any adjudicator. The nature of
man justifies it. Natural justice is self-regulative. It
demands that man should always be treated as a man and
juridical sense of justice should always uphold such an
ideal.

Natural justice is sometimes identified with pro-
vidential justice. In the case of excess of sin and guilt,
when something detrimental happens, we attribute it to
providence. It is said that Providence keeps society from
degeneration. It maintains balance and harmony in the
order of the universe. It maintains that sin and guilt
are punished by the cosmic principle. The Providential
justice is sometimes identified with poetic justice. The
positivists will reject this concept of justice outright
with the plea that it is not amenable to observation. But the concept of Providential/poetic justice, like natural justice embodies a regulative principle. I have already suggested that enters into understanding of human society. Human society differs very much from natural objects. Therefore, the methods of studying human society is bound to be different from those of natural objects. Description (sometimes prediction) sets the limits to study of nature. It is within these parameters that the study of nature has to be conducted. But the society cannot be exhaustively made with the concepts and methods used by the natural sciences. The concept of justice (along with natural right and natural justice) provides such a parameter to study of human society. It is only in this sense that justice is a regulative concept. It is meant to guide social action. Its action guiding-nature endows it with supremacy among all other concepts used in study of human society.
REFERENCES

2. Ibid., pp. 153, 154.
3. Ibid., p. 154.
4. Ibid., p. 163.
6. Ibid., pp. 31, 32.
8. Ibid., 179.
11. Ibid., p. 196.