

# INTERNATIONALISM AND DIVINE LAW:

## A BAHÁ'Í PERSPECTIVE

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### ABSTRACT

*This article introduces the internationalism motif in Bahá'í political and legal thought and Bahá'í arguments concerning the place of divine legal claims in contemporary debates about models of world order. In contrast to theories such as the clash of civilizations thesis of world politics—which view divine legal and political claims as a likely source of conflict and violence—the relative and progressive concept of revelation in the Bahá'í Faith argues for religion as a potentially unifying and foundational force in the evolution of a universal civilization. Bahá'í perspectives on internationalism also illustrate a distinct concept of divine law articulated within the Persianate and Muslim traditions of nineteenth century political and legal thought.*

Nineteenth-century Iran was a hotbed of reform sentiment. While the prescriptions for change that were offered varied greatly, the drive and expectation for both religious and political change were fervent. Among the more unique movements arguing for reform was the Bahá'í Faith. Founded by Mirzá Husayn 'Alí (1817-1892)—known as Bahá'u'lláh (“Glory of God”)—the Bahá'í Faith arose out of the upheavals precipitated by the Bábí religion. Turning its back on the militancy and radicalism of the Bábís, Bahá'u'lláh articulated a theology of oneness that was reflected in pacifist and progressive social practices. Central to his teachings was the idea that all the founders of the world's great religions—including Moses, Buddha, Christ, and Muhammad—were “manifestations” of God, charged with revealing a message from God relevant to that period in humanity's collective history. As such, all religions are ultimately united—from the same source, sharing core precepts, and engaged in the same process of articulating God's relationship with his creation. However, this unity is expressed in

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historical, contextual and contingent terms, thus resulting in different texts, patterns of worship, doctrine, laws, and modes of community life in the world's great religions.

Internationalism—implying the establishment of universal peace and global unity—was a core theme of Bahá'u'lláh's teachings. Humanity was reaching a time of maturation, when the unity of humanity would be fully realized and manifested. Many aspects of his religious system reflect this idea of maturation: his criticism of religious hierarchies and the prohibition of any Bahá'í clergy; his emphasis on inter-religious dialogue and unity; and his call for the establishment of an international auxiliary language. Bahá'u'lláh argued that it was both possible and necessary that individual identities be affiliated with the entire globe. In a well-known statement—which Cambridge Orientalist E.G. Browne saw as lacking pragmatism and utopian—Bahá'u'lláh stated, “[i]t is not for him to pride himself who loveth his own country, but rather for him who loveth the whole world.”<sup>1</sup>

This paper examines the relationship between Bahá'u'lláh's motif of internationalism and the legal teachings and practices within his religious system. After a brief introduction to Bahá'í law, two axes for analyzing tensions between internationalism and divine law are examined. First, the struggle of human beings to translate divine law into social forms is explored with a focus on the Bahá'í fidelity to a relative and dynamic vision of how the divine will may gain positive legal form. Second, the challenge to articulate positive laws in contexts of diversity is analyzed in light of the Bahá'í privileging of an ontology of unity.

In the contemporary world there exist basic and obvious tensions between commitments to global order and international law and religious commitments to a divine law. Is a claim to a divine law inevitably in conflict with the forces of globalization and visions of world order? From a Bahá'í perspective, internationalism and divine law do not have to be in tension, but rather are expressions of shared dynamic and historical processes. It is within the Bahá'í vision of a progressive and socially responsive divine law—with similarly dynamic mechanisms for the reflection of God's will in legal institutions and practices—that the Bahá'í commitment to internationalism can be understood.

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1. Bahá'u'lláh, *Gleanings from the Writings of Bahá'u'lláh* 250 (Shoghi Effendi trans., Bahá'í Publ. Trust 1982).

## A BRIEF INTRODUCTION TO BAHÁ'Í LAW

Before examining Bahá'í arguments concerning internationalism and divine law, it is necessary to briefly introduce some of the basic texts and principles of Bahá'í law. Udo Schaefer's recent article, *An Introduction to Bahá'í Law: Doctrinal Foundations, Principles, and Structures*,<sup>2</sup> provides a comprehensive background to the rules and legal categories found in Bahá'í texts. This introduction focuses more on contextual and thematic issues.

Legal themes are addressed throughout Bahá'u'lláh's writings, as well as those of the authorized interpreters of his writings, his son 'Abdu'l-Bahá (1844-1921) and great-grandson Shoghi Effendi (1897-1957). Using Islamic categories, one finds in Bahá'u'lláh's writings laws of worship (*'ibádat*) as well as those that relate to societal relations (*mu'ámalát*) and politics (*siyása*).

Bahá'u'lláh's *Kitáb-i-Aqdas* (the "Most Holy Book") is the core legal text. Written in 1873 and comprising 190 verses, almost all of which are no longer than a few sentences, the *Kitáb-i-Aqdas* is by no means Bahá'u'lláh's longest work, nor in many respects is it his most complex. Indeed, to the student of law, the *Kitáb-i-Aqdas* is in some respects quite familiar. This familiarity is found in its straightforward enunciation of legal rules, supported by a set of principles of textual (or legislative or statutory) interpretation. While the rules stated are not many, numbering less than one hundred, their scope is broad—touching on a range of civil and criminal law issues. As the following examples illustrate, regardless of which category of law one is discussing, the mode of delivery is the same—brief and clear:

It hath been ordained that obligatory prayer is to be performed by each of you individually. Save in the Prayer for the Dead, the practice of congregational prayer hath been annulled.<sup>3</sup>

We have divided inheritance into seven categories: to the children, We have allotted nine parts comprising five hundred and forty shares; to the wife, eight parts comprising four hundred and eighty shares; to the father, seven parts comprising four hundred and twenty shares; to the mother, six parts comprising three hundred and sixty shares; to the brothers, five parts or three hundred shares; to the sisters, four parts or two hundred and forty shares; and to the

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2. 18 *J. L. & Relig.* 307 (2002-2003).

3. Bahá'u'lláh, *The Kitáb-i-Aqdas: The Most Holy Book* 25 (Bahá'í Publ. Trust 1993) [hereinafter Bahá'u'lláh].

teachers, three parts or one hundred and eighty shares.<sup>4</sup>

Gambling and the use of opium have been forbidden unto you.<sup>5</sup>

Should anyone unintentionally take another's life, it is incumbent upon him to render to the family of the deceased an indemnity of one hundred mithqáls of gold.<sup>6</sup>

These statements of rules are also interspersed with principles to guide interpretation. The foundational principle is the interpretive authority of 'Abdu'l-Bahá and his position of successorship. This interpretive authority is typically labeled as a feature of the covenant established by Bahá'u'lláh. Bahá'u'lláh re-iterates the relationship between God's law and God's covenant at the beginning of the Kitáb-i-Aqdas:

They whom God hath endued with insight will readily recognize that the precepts laid down by God constitute the highest means for the maintenance of order in the world and the security of its peoples. He that turneth away from them is accounted among the abject and foolish. We, verily, have commanded you to refuse the dictates of your evil passions and corrupt desires, and not to transgress the bounds which the Pen of the Most High hath fixed. For these are the breath of life unto all created things. The seas of divine wisdom and divine utterance have risen under the breath of the breeze of the All-Merciful. Hasten to drink your fill, O men of understanding! They that have violated the Covenant of God by breaking His commandments, and have turned back on their heels, these have erred grievously in the sight of God, the All-Possessing, the Most High.<sup>7</sup>

The issue of the successorship of 'Abdu'l-Bahá and his interpretive authority is also made explicit.<sup>8</sup> The successorship and authority of Shoghi Effendi became explicit in 'Abdu'l-Bahá's own writings.<sup>9</sup>

In addition to the foundational principle of covenant, Bahá'u'lláh provides a number of other guides to reading the Kitáb-i-Aqdas. In some instances a clear injunction to look for the plain meaning of the text is made:

Whoso layeth claim to a Revelation direct from God, ere the expiration of a full thousand years, such a man is assuredly a lying

4. *Id.* at 28.

5. *Id.* at 75.

6. *Id.* at 87.

7. *Id.* at 21-22.

8. *Id.* at 82, 244.

9. 'Abdu'l-Bahá, *Will and Testament of 'Abdu'l-Bahá* (Bahá'i Publ. Trust 1944).

impostor. We pray God that He may graciously assist him to retract and repudiate such claim. Should he repent, God will, no doubt, forgive him. If, however, he persisteth in his error, God will, assuredly, send down one who will deal mercilessly with him. Terrible, indeed, is God in punishing! *Whosoever interpreteth this verse otherwise than its obvious meaning is deprived of the Spirit of God and of His mercy which encompasseth all created things. Fear God, and follow not your idle fancies.*<sup>10</sup>

More generally, invoking the premise that the Kitáb-i-Aqdas represents the revealed word of God, Bahá'u'lláh repeatedly makes the claim that if the book is to be understood the principles of interpretation must be self-referential, or discovered within the text itself:

Weigh not the Book of God with such standards and sciences as are current amongst you, for the Book itself is the unerring Balance established amongst men. In this most perfect Balance whatsoever the peoples and kindreds of the earth possess must be weighed, while the measure of its weight should be tested according to its own standard, did ye but know it.<sup>11</sup>

The Kitáb-i-Aqdas will also appear familiar to the student of religious law. While the statement of rules and commandments is a prominent aspect of the text, these rules are embedded within a discussion of themes of divine sovereignty, the duties owed to God by human beings, and exhortations to obedience. There exists a clear enunciation of the divine command underlying the laws of Bahá'u'lláh—"These are the ordinances of God that have been set down in the Books and Tablets by His Most Exalted Pen."<sup>12</sup> This call of the divine demands a human response, which Bahá'u'lláh makes explicit in the opening verse of the Kitáb-i-Aqdas:

The first duty prescribed by God for His servants is the recognition of Him Who is the Dayspring of His Revelation and the Fountain of His laws, Who representeth the Godhead in both the Kingdom of His Cause and the world of creation. Whoso achieveth this duty hath attained unto all good; and whoso is deprived thereof hath gone astray, though he be the author of every righteous deed. It behooveth everyone who reacheth this most sublime station, this summit of transcendent glory, to observe every ordinance of Him Who is the Desire of the world. These twin duties are inseparable. Neither is acceptable without the other. Thus hath it been decreed

10. Bahá'u'lláh, *supra* n. 3, at 33-34 (emphasis added).

11. *Id.* at 56-57.

12. *Id.* at 27.

by Him Who is the Source of Divine inspiration.<sup>13</sup>

As is common in a number of scriptures, one also finds evocations supportive of both legalistic and mystical orientations. Bahá'u'lláh writes that "the precepts laid down by God constitute the highest means for the maintenance of order in the world and the security of its peoples,"<sup>14</sup> and "[t]hese, verily, are the Laws of God; transgress them not at the prompting of your base and selfish desires. Observe ye the injunctions laid upon you by Him Who is the Dawning-place of Utterance."<sup>15</sup> However, Bahá'u'lláh also writes that one should "[o]bserve My commandments, for the love of My Beauty."<sup>16</sup> Further, the reader is cautioned to:

Think not that We have revealed unto you a mere code of laws. Nay, rather, We have unsealed the choice Wine with the fingers of might and power. To this beareth witness that which the Pen of Revelation hath revealed. Meditate upon this, O men of insight!<sup>17</sup>

There are also extensive ethical teachings within the Kitáb-i-Aqdas that reflect the Bahá'í belief in the physical world as an arena for the acquisition of spiritual tools to facilitate the eternal journey of the human soul. Within the Kitáb-i-Aqdas, Bahá'u'lláh exhorts individuals to fulfill their duties to obey and recognize God, show love and fellowship to the entire human race, and avoid any acts that might cause sadness to the hearts and souls of others. He also discusses the implications for human action of principles of liberty and unity.

Yet, for all that is familiar in the construction and content of the Kitáb-i-Aqdas, it has many aspects that set it apart from traditions of both legal writing and scripture. It must always be remembered that the canon of Bahá'í scripture does not constitute a "Book" but rather an extensive collection of works. The Kitáb-i-Aqdas is the "mother book" of this body of scripture, implying that within it one finds an encapsulation of the entirety of Bahá'u'lláh's revelation.<sup>18</sup> A text primarily pre-occupied with legal themes is an integration of theology, philosophy, social and political thought, and the dynamics of the individual's relationship with the divine. The Kitáb-i-Aqdas and its succinct statement of rules thus becomes a vehicle through which the

13. *Id.* at 21.

14. *Id.* at 21-22.

15. *Id.* at 30.

16. *Id.* at 22.

17. *Id.* at 23.

18. Saiedi discusses some of the implications of the term "mother book" in Nader Saiedi, *Logos and Civilization: Spirit, History, and Order in the Writings of Baha'u'llah* 235 (U. Press Md. 2000).

totality of Bahá'u'lláh's religious teachings is integrated. In this construction of legal text as the epicenter of a large and complex body of religious literature, a holistic and comprehensive vision of religious law is expounded—one which is indivisible from other areas of knowledge and religious teaching.

For example, the foundations of Bahá'í theology stress the relative and progressive nature of God's revelation to humanity, thus resulting in the incorporation of significant intertextual reflection in Bahá'u'lláh's laws. The Kitáb-i-Aqdas does not only reveal the law of the Bahá'í Faith, but it also explicitly reacts to the revealed laws of earlier religions—through abrogation, explanation, and reformation. While such intertextuality between scriptures is not unique, the nature of Bahá'í theology renders the inter-religious dialogue underlying the laws of the Kitáb-i-Aqdas a significant representation of the Bahá'í viewpoint on the progressive nature of religion. As Bahá'í authorities stated at the time of the publication of the Kitáb-i-Aqdas:

Its provisions rest squarely on the foundation established by past religions, for, in the words of Bahá'u'lláh, "*This is the changeless Faith of God, eternal in the past, eternal in the future.*" In this Revelation the concepts of the past are brought to a new level of understanding, and the social laws, changed to suit the age now dawning, are designed to carry humanity forward into a world civilization the splendors of which can as yet be scarcely imagined.

In its affirmation of the validity of the great religions of the past, the Kitáb-i-Aqdas reiterates those eternal truths enunciated by all the Divine Messengers: the unity of God, love of one's neighbor, and the moral purpose of earthly life. At the same time it removes those elements of past religious codes that now constitute obstacles to the emerging unification of the world and the reconstruction of human society.<sup>19</sup>

More explicitly:

The Law of God for this Dispensation addresses the needs of the entire human family. There are laws in the Kitáb-i-Aqdas which are directed primarily to the members of a specific section of humanity and can be immediately understood by them but which, at first reading, may be obscure to people of a different culture. Such, for example, is the law prohibiting the confession of sins to a fellow human being which, though understandable by those of Christian background, may puzzle others. Many laws relate to

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19. Bahá'u'lláh. *supra* n. 3, at 2.

those of past Dispensations, especially the two most recent ones, those of Muhammad and the Báb embodied in the Qur'án and the Bayán. Nevertheless, although certain ordinances of the Aqdas have such a focused reference, they also have universal implications. Through His Law, Bahá'u'lláh gradually unveils the significance of the new levels of knowledge and behavior to which the peoples of the world are being called. He embeds His precepts in a setting of spiritual commentary, keeping ever before the mind of the reader the principle that these laws, no matter the subject with which they deal, serve the manifold purposes of bringing tranquility to human society, raising the standard of human behavior, increasing the range of human understanding, and spiritualizing the life of each and all. Throughout, it is the relationship of the individual soul to God and the fulfillment of its spiritual destiny that is the ultimate aim of the laws of religion.<sup>20</sup>

The Bahá'í concept of unity which underlies the theology of progressive revelation and its impact on law is also made explicit in the Kitáb-i-Aqdas. For example, it is articulated as a social ethic:

We shed upon the whole of creation the splendors of Our most excellent Names and Our most exalted Attributes. This, verily, is a token of My loving providence, which hath encompassed all the worlds. Consort ye then with the followers of all religions, and proclaim ye the Cause of your Lord, the Most Compassionate; this is the very crown of deeds, if ye be of them who understand.<sup>21</sup>

Similarly, the all-encompassing nature of Bahá'u'lláh's discussion of law is evidenced in how the Kitáb-i-Aqdas becomes a vehicle for Bahá'u'lláh to address various kings and rulers including William I, Emperor Francis Joseph, the "Rulers of America and the Presidents of the Republics therein," and Sultan 'Abdu'l-'Aziz. While stating "it is not Our wish to lay hands on your kingdoms,"<sup>22</sup> Bahá'u'lláh nonetheless is asserting Divine sovereignty through discussion of the nature of Divine power and temporal power. Bahá'u'lláh's law becomes the "Most Great Law,"<sup>23</sup> himself the "King of Kings."<sup>24</sup> Fidelity to Bahá'u'lláh is demanded as kings and rulers are to "arise to aid My Cause in My kingdom."<sup>25</sup> In these statements and others, the political dimensions of Bahá'u'lláh's teachings are being integrated with

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20. *Id.* at 2-3.

21. *Id.* at 48.

22. *Id.* at 50.

23. *Id.* at 49.

24. *Id.* at 50.

25. *Id.*

discussion concerning the nature of divine law and its place in ordering the temporal world.

A distinctive aspect of the Kitáb-i-Aqdas that also merits attention is its explicit discussion of succession and legislative power. The authority of 'Abdu'l-Bahá has already been noted, but also explicit is Bahá'u'lláh's structuring of legislative power and a system of order. He states a "House of Justice"<sup>26</sup> needs be established in "every city."<sup>27</sup> In a subsequent letter that he states is "part of the Most Holy Book," he establishes the legislative authority of the House of Justice.<sup>28</sup> Distinct from many other religious traditions in which questions of succession and authority become a source of schism and dissent, Bahá'u'lláh engages questions of constitutional and public law directly and explicitly enough that significant schism has been avoided in Bahá'í history.

While the Kitáb-i-Aqdas establishes the foundations of Bahá'í law, it is not an explicit source of the internationalism motif, nor does it explicitly explore the relationship between Bahá'u'lláh's law and his vision of world order. Internationalism was more systematically developed in the authoritative interpretations of 'Abdu'l-Bahá and Shoghi Effendi. In particular, in his 1875 political treatise *The Secret of Divine Civilization*,<sup>29</sup> 'Abdul-Bahá addressed the reform of Iranian society by linking reform to both a need to be guided by divine law and a need to organize and act at an international level. Similarly, Shoghi Effendi wrote extensively about Bahá'í ideas of "world order," most notably in the letter "Goal of a New World Order."<sup>30</sup> As will be discussed later in this paper, it is in the writings of 'Abdu'l-Bahá and Shoghi Effendi that the structure of legal institutions within the Bahá'í Faith as well as the institutions of a future world order are more systematically articulated.

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26. At the core of the Bahá'í administrative system are local, national, and international elected bodies. The local and national bodies are currently called "spiritual assemblies," though it is expected they will evolve into "houses of justice." Spiritual assemblies are currently made up of nine individuals elected to one-year terms. The international body is called the "Universal House of Justice," and its nine members are elected to five-year terms. It was first elected in 1963 and it is housed on Mt. Carmel, Haifa. The Universal House of Justice is the supreme institution in the Bahá'í system, and has the authority to pass laws on matters not explicitly addressed by Bahá'u'lláh. Organized along these lines, the contemporary Bahá'í community is established in 190 countries, and its members represent over 2,000 indigenous tribes, races, and ethnic groups.

27. Bahá'u'lláh, *supra* n. 3, at 30.

28. *Id.* at 91.

29. 'Abdul-Bahá, *The Secret of Divine Civilization* (Bahá'í Publ. Trust 1990).

30. Shoghi Effendi, *The World Order of Bahá'u'lláh: Selected Letters* 26-47 (Bahá'í Publ. Trust 1991).

## DIVINE LAW AND HUMAN LAW-MAKING

When a claim has been made that God has spoken, and law forms part of this speech, the central challenge is identifying its relationship with what already exists legally—both from God and from human beings—and with future law-making. Claims of a divine law always connote a sense of being absolute and universally valid. This triumphal intuition is often deeply ingrained in the popular religion, whose followers perceive a sense of inevitability to the ascendancy of their divine law. But typically in both theory and practice there is a careful modulation of divine legal claims as they confront existing systems of human law-making.

In the Bahá'í Faith there exists a somewhat unique relationship between divine law and human law-making. Eschewing any overly ambitious drive to order human societies according to divine precepts, the Bahá'í approach has emphasized themes of delay and social context. As will be argued, such an approach distinguishes the Bahá'í Faith from certain predominant tendencies in Muslim legal history, even while scholars remain pre-occupied with viewing Bahá'í law through the experience of Muslim history and societies.

It could be said that claims of divine law tend to remain primarily theological until certain contextual factors prompt development. Discussions of divine law are often initially focused on themes of absoluteness and universality, but when and if pushed to become practical, divine law claims tend to modulate their absolute character and struggle with the contextualized values inherent in human law-making.

In early Christianity, for example, the relationship between what Christians considered to be the new revelation, divine law, and human law-making played itself out at multiple levels, largely as a result of the fact that the new revelation was born into two legalistic cultures—Jewish and Roman. One pressing issue was the relationship between the law of the Old Testament as observed by Jews and the teachings of Christ, especially for gentile Christians, as opposed to those converted from Judaism. At the same time, there was a struggle to classify the relationship between Christian law and Roman law, and the status of Roman law within the Christian belief system.<sup>31</sup>

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31. The early outgrowth of these debates was an emerging distinction between *kanon* and *nomos* which partially contributed to a delay in the substantive development of legal methodologies and theories rooted in Christianity for 1100 years. when such development was prompted by the need to reform the Church and achieve a degree of autonomy from the temporal

Issues of the relationship between a claim to divine law and existing patterns of human law also tend to become especially charged and go through a period of development when the temporal power adopts a particular religion. An excellent example of this is in the Buyid dynasty (c. 945–1060) when Shí'í overlords, for the first time, oversaw the power of the Sunni Caliph. This occurrence resulted in a growth of scholarly exploration of how to reconcile the traditional view of the Imámate as the legal authority within Shí'ism with the fact that Shí'ites were holding a position of temporal power. The gradual outcome of this new reality was development of Shí'í law and legal thought.<sup>32</sup>

The early history of Bahá'í law reflects this pattern of engagement with issues of the relationship between divine law and human law-making. Bahá'í law remains largely discussed and debated in theological terms, and conceived of in the popular religion as an absolute and universally valid law that will eventually reign supreme.<sup>33</sup> This is demonstrated in the largely apologetic character of almost all secondary literature on the topic. However, the early legal history of the Bahá'í Faith shows a unique pattern to the relationship between divine law and human law-making.

The legal content of Bahá'u'lláh's revelation appeared almost precisely at the mid-point during the forty years in which he claimed to be the direct recipient of divine guidance. From 1853 until the early 1870s, Bahá'u'lláh provided very little explicit commentary or guidance on legal matters. It is only in 1873 with the appearance of the Kitáb-i-Aqdas that legal themes became significant in his writings.

While explicit laws were absent from Bahá'u'lláh's writings for the first twenty years, there are significant legal implications of the claims Bahá'u'lláh makes in this period. First, the character of Bahá'u'lláh's divine sovereignty as a lawgiver is implied by his claims in relation to Siyyid 'Alí-Muhammad (1819-1850)—known as the Báb. The messianic movement the Báb led in nineteenth century Iran, in which Bahá'u'lláh was a participant and leader, was intertwined with the expectation of the appearance of *Man yuzhiruhu'lláh* (or "He whom God shall make manifest"), a prophetic figure who would bring a message from God after the Báb. Siyyid 'Ali-Muhammad (1819-1850)—the Báb

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ruler. For a discussion of these issues see Charles Donahue, Jr., *A Crisis of Law? Reflections on the Church and the Law over the Centuries*, *The Jurist* (forthcoming).

32. Unlike Sunni Islam, there are very few works exploring the evolution of Shí'í legal thought. For one of the best discussions see Hossein Modarressi Tabataba'i, *An Introduction to Shí'í Law: A Bibliographical Study* (Ithaca Press 1984).

33. A good example of such literature is Adib Taherzadeh, *The Revelation of Bahá'u'lláh: Akká, The Early Years 1868-77* vol. 3. 275-399 (George Ronald 1983).

clarified that, while he claimed to end the period of Qur'anic legal authority, his own divine authority would be superceded by *Man yuzhiruhu 'lláh*.

Implicit within this was a theme Bahá'u'lláh developed extensively in his own writings, the contextual and periodic nature of divine law. Divine legal sovereignty is absolute but it is expressed to human beings in a relative form. Successive revelations, which are seen in Bahá'í theology as emanations from the same divine source, are expressed relative to the specific collective context of humanity at the time of revelation. Thus, Judaism, Christianity, and Islam, for example, are all expressions of the will of the same God, and each revelation is expressed relative to the context and conditions of the time in which it was revealed. There is an aspect of evolution in this succession that sees later revelations as expanding upon and supplementing older ones with a new relevance and vitality. Thus, just as the Báb expected *Man yuzhiruhu 'lláh* to supersede his law, Bahá'u'lláh saw a similar evolution in divine legal sovereignty throughout humanity's religious history.<sup>34</sup>

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34. Udo Schaefer explains the Bahá'í idea of progressive revelation, and its legal implications, in the following terms:

Every religion has at some point been faced with the question of its relationship to preceding religions. They are all set in the continuum of a particular tradition, whether this be of the Abrahamic or Middle Eastern religions or of the religions of Asia. The relationship of a religion to the tradition in which it stands, and to the religions outside of that tradition, is deduced from the concept of revelation as defined by the faith in question.

The doctrine of progressive, cyclically recurring divine revelation and the mystical unity of the religions is the theological keystone of the Bahá'í Faith, the new theological paradigm. The historical revealed religions, the chain of Prophets from Adam to Bahá'u'lláh, constitute "the one and indivisible religion of God," the "changeless Faith of God, eternal in the past, eternal in the future." The revelation of Bahá'u'lláh is, as 'Abdu'l-Bahá expressed it, "not a new path to salvation," but the "ancient Path," cleared of the historical baggage inevitably accumulated by the religions in the course of history. It is the new "Book of God," the "unerring Balance" on which "whatsoever the peoples and kindreds of the earth possess must be weighed," and through which "truth may be distinguished from error" . . . . This viewpoint provides the criteria for assessing the role of the historical religions. Their claim to truth is recognized and accepted. They are of divine origin and are manifestations of the divine Word . . . . Neither have these religions been "done away with" as a result of the new revelation, nor has a time limit been set on their claim to truth. The testimony of the Torah, the Gospel and the Qur'án remains the truth. These books of God are an integral part of scripture in the broadest sense of the word; all religious truths contained in them are "facets" of an ultimate truth whose immense depths always remain unfathomable to humankind. Only to the extent that time alters the social condition of humankind does the "old law" lose its validity—i.e. revelation takes account of the changing conditions of human society so that each new religion is appropriately fashioned by its founder to foster laws that best advance society. In other words, revealed religious law has a type of historical apparel whereby instead of destroying the "old law," it fulfils it. Whereas the "horizontal" dimension of revelation (that sphere which is concerned with the development of a constantly

Second, in addition to these notions of supremacy and evolution in divine law, in the first twenty years of Bahá'u'lláh's revelation, while no real law appears, Bahá'u'lláh does provide explicit commentary and reflection on why there is no law. With the first glimmerings of a distinct Bahá'í community beginning in 1863 with Bahá'u'lláh's public declaration that he was *Man yuzhiruhu'lláh* bearing a message from God, Bahá'u'lláh began to receive petitions from followers for the laws of the new religion. These requests were not surprising, given the overwhelming emphasis on law in Islam as well as the Báb's focus on political and legal change. While Bahá'u'lláh was in Edirne,<sup>35</sup> a first set of petitions was sent requesting the enunciation of laws. Reportedly, Bahá'u'lláh revealed a letter in Persian laying out a set of laws, but ultimately held it back.<sup>36</sup> In describing this episode, as well as other requests for petitions prior to the revelation of the Kitáb-i-Aqdas, Bahá'u'lláh writes, "for a number of years petitions reached the Most Holy Presence [Bahá'u'lláh] from various lands begging for the laws of God, but We held back the Pen ere the appointed time had come."<sup>37</sup> In 1873 another set of petitions were sent to Bahá'u'lláh in 'Akká. In the Kitáb-i-Aqdas Bahá'u'lláh comments:

Various petitions have come before Our throne from the believers, concerning laws from God, the Lord of the seen and the Unseen, the Lord of all worlds. We have, in consequence, revealed this Holy Tablet and arrayed it with the mantle of His Law that haply the people may keep the commandments of their Lord. Similar requests had been made of Us over several previous years but We had, in Our wisdom, withheld Our Pen until, in recent days, letters arrived from a number of the friends, and We have therefore responded, through the power of truth, with that which shall

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changing world and with forms of worship—law and ritual) is, so to speak, the variable, the "vertical" dimension, the eternal nucleus of the religion of God that "does not change nor alter" is the constant.

Udo Schaefer, Nicola Towfigh, & Ulrich Gollmer, *Making the Crooked Straight: A Contribution to Bahá'í Apologetics* 279-282 (Dr. Geraldine Schuckelt trans., George Ronald 2000).

35. Bahá'u'lláh was in Edirne from 1863-1868.

36. Saiedi describes the steps leading to the revelation of the Kitáb-i-Aqdas as the following: If we look at the different tablets of Bahá'u'lláh referring to the revelation of the Kitáb-i-Aqdas, we can clearly distinguish three stages leading to that event. The first stage is the arrival, during the Edirne period, of many petitions from His followers requesting laws. In response to this first set of petitions, at the end of His stay in Edirne, Bahá'u'lláh revealed a short tablet in Persian concerning laws, but He never released the Tablet. The second stage was the arrival of further petitions, as Bahá'u'lláh says in His tablet, in "recent days." The third stage is the revelation of the Kitáb-i-Aqdas in Arabic in response to the second set of petitions.

Saiedi, *supra* n. 18, at 232.

37. Bahá'u'lláh, *supra* n. 3, at 219.

quicken the hearts of men.<sup>38</sup>

The making of laws is often delayed for a variety of reasons such as inefficiency or lack of political will. In relation to a divine law and its universal claims, however, delay is particularly interesting. Above all else, it mediates claims of the absolute and universal character of Bahá'í law by stressing its social and contextual dimension. According to the Bahá'í concept of manifestationhood, the bearers of divine revelation are not solely channels or mouthpieces of God, nor are they simply incarnations of the divine. Rather, these prophetic figures are emanations of the divine who embody and perfectly mirror the attributes of God. In Bahá'í theology, manifestations are thought to exist on a plane of existence distinct from human beings and the divine.<sup>39</sup> One implication of this is that the manifestations are conceived of as having control over the social expression of revelation, of choosing when they will speak, on what matters, and how they will reveal God's will. Thus, the element of response to the collective state of humanity that was seen in the Bahá'í notion of revelation as a progressive and relative reality is mirrored in the internal specifics of each revelation. Bahá'u'lláh

38. *Id.* at 56.

39. Juan Cole summarizes the concept of the manifestation in the following terms:

The Bahá'í concept of the intermediary between God and humankind expresses itself most paradigmatically in the term "manifestation of God" or "theophany" (*mazhar-i iláhi, zuhúr*). This idea emphasizes simultaneously the humanity of that intermediary and the way in which he shows forth the names and attributes of God. According to the Bahá'í writings, the manifestation of God is not an incarnation of God, as the transcendent Godhead can never incarnate itself in a mere mortal frame. But neither is the manifestation of God an ordinary, sinful mortal. He acts as a pure mirror to reflect the attributes of the Deity into this temporal plane. The term "manifestation of God" is not the only name the Bahá'í scriptures apply to this figure. They refer to him as prophet, messenger, prophet endowed with constancy, Primal Will, Word of God, Universal Intellect, and Primal Point. It should be clear that the concept of the manifestation of God in Bahá'í thought involves many elements. In some ways, the Bahá'í writings affirm the validity of terms and ideal which appear in past scriptures, theologies and philosophical systems. Much terminology, for instance, derives from the Qur'án (which Bahá'ís regard as authentic revealed scripture) and ultimately reflects the Judaic religious heritage. For example, in the Bahá'í writings the Jewish insistence on the oneness and transcendence of God are consistently present. One also finds terminology similar to that of John's Gospel, especially to those passages where John explicates the Logos concept. But in the Bahá'í writings, these past terms are integrated into a new vision, and sometimes endowed with new significances. Although perhaps none of the terms and concepts which Bahá'í scripture employs to describe God's envoy to humankind appear there for the first time, including that of the manifestation of God (an epithet used by Shi'a thinkers), the Bahá'í scripture's use of these terms and concepts creates a new theology. It differs from the conventional Imámi Shi'a prophetology in some respects, and often has more in common with the prophetology of the Muslim philosophers.

Juan R.I. Cole. *The Concept of the Manifestation in the Bahá'í Writings*. 9 Bahá'í Studies 1. 2 (Assn. Bahá'í Stud. 1982).

revealed his revelation in a manner that was responsive to the specific conditions, requests, and needs he found in the world.

This emphasis on the social dimension of the making of divine law surrounds the Kitáb-i-Aqdas. As was recounted above, the immediate context of the revelation of the Kitáb-i-Aqdas included petitions and requests for the law from the community. Nonetheless, after writing the Kitáb-i-Aqdas, Bahá'u'lláh delayed its distribution for a period of time. It is worth noting Bahá'u'lláh's response to one follower, who was especially anxious for the dissemination and implementation of the laws:

Indeed, the laws of God are like unto the ocean and the children of men as fish, did they but know it. However, in observing them one must exercise tact and wisdom . . . . Since most people are feeble and far-removed from the purpose of God, therefore one must observe tact and prudence under all conditions, so that nothing might happen that could cause disturbance and dissension or raise clamor among the heedless. Verily, His bounty hath surpassed the whole universe and His bestowals encompassed all that dwell on earth. One must guide mankind to the ocean of true understanding in a spirit of love and tolerance. The Kitáb-i-Aqdas itself beareth eloquent testimony to the loving providence of God.<sup>40</sup>

In this response Bahá'u'lláh draws a line between an act of legislation (i.e. the Kitáb-i-Aqdas) and the implementation of that legislation, preferring to delay the latter based on general policy considerations of the need for "tact and prudence," the abhorrence of "disturbance and dissension," and the spirit of "love and tolerance." The formalist nature of divine law is thus modulated by the insistence that divine law is operational only in certain requisite conditions, where it is likely to have certain societal effects (at a minimum not causing "disturbance and dissension"). God's sovereignty alone does not legitimize the application of divine law. The application of divine law requires God's law plus something else—a particular context, intention, and environment.

This pattern of the early legal history of the Bahá'í Faith also illustrates crucial differences between Islamic and Bahá'í notions of divine law. These differences have not been well explored in the secondary literature. As Bernard Weiss has commented, there is often a tendency within monotheistic traditions for God to completely dominate the polity, encapsulated in the image and allusion to prophets, such as

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40. Bahá'u'lláh. *supra* n. 3, at 6.

Muhammad, as rulers as well.<sup>41</sup> Given these ambitions, it is not surprising that textual exegesis may become a core science and the primary legal methodology may become, as Weiss calls it, textualist and intentionalist.<sup>42</sup> Textualism refers to absolute reliance on a closed set of canonical texts. Within the texts it is assumed that a specific divine intent exists. Thus, valid law is identified by an act of extrapolation or exegesis from the text. Within this matrix, there is little room for looking at the Qur'an and *hadith*, or the Torah and the Oral Law, in time and in social context, or viewing it in dynamic terms. As Weiss writes, "[t]he widely accepted contemporary notion that a text has a life of its own apart from its author, that its meaning may continually evolve and change" was foreign to classical Islamic jurists.<sup>43</sup>

The Islamic *sharí'ah* is adjunct to a belief system in which God dominates public and private life in all of its aspects. The five categories of *sharí'ah* extend to cover all potential human behaviors, including everything that lies in between what is legally forbidden (*harám*) and what is obligatory (*wájib*). Actions which are recommended (*mandub*), neutral (*mubáh*), and disapproved (*makrúh*) are all encompassed by the *sharí'ah*.

One of the effects of this concept of divine law is that it makes it very difficult (but not impossible) to ground arguments for so-called progressive legal change within the classical theory of divine law. Within Muslim societies arguments in favor of changing the status of women or minorities, or altering the treatment of criminals, to cite just a few examples, typically suffer from an appearance of less legitimacy. This is because this classical concept of divine law and methodology is innately biased against the new. The argument that a legitimate new approach, or way down the path, has been identified inevitably sounds suspect when one's method is to speak of clearly delineated divine intentions.<sup>44</sup>

Secondary literature on Bahá'í law does not reflect much engagement with these issues in the Bahá'í context. Bahá'í notions of progressive revelation appear to be in tension with many aspects of the textualist and intentionalist methodology of Islamic law. However, despite this, many scholars appear to have adopted aspects of Orientalist

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41. Bernard G. Weiss, *The Spirit of Islamic Law* 1-4 (U. Ga. Press 1998).

42. *Id* at 53.

43. *Id*.

44. The practice of *ijtihad* is, of course, dynamic and allows for a degree of diversity and change. However, recent attempts to utilize classical Islamic legal theory to reach more liberal or progressive results have not been widely successful in practice.

interpretations of the Qur'án and Islamic law, and inserted them into analysis of Bahá'í law—and with them concerns that Bahá'í law might import some of the perceived rigidities of classical Islamic law. Some examples of this islamicization of Bahá'í law and its effects include the following.

First, there is a tendency to stress the Qur'anic character of the Kitáb-i-Aqdas. John Walbridge describes the Kitáb-i-Aqdas in the following terms:

In style and content the Aqdas is to be compared to the Qur'an, a work in which legislation is often alluded to rather than expounded and in which disparate topics are placed together without obvious logic. In the case of the Qur'an, this might be because it is pieced together from many distinct relations, some very short. The Aqdas follows the stylistic conventions of the Qur'an, and thus is not bound to a rigid outline, but it may also have been shaped by similar factors . . . . It seems possible that the text grew gradually from a nucleus of the initial section . . . . According to this theory, Baha'u'llah would gradually have added material, probably often in answer to specific questions asked by believers.<sup>45</sup>

Robert Stockman similarly writes:

The style of the Aqdas has also been described as Qur'anic; it, too, contains numerous seemingly unconnected bits of information. An interesting and unanswerable question is whether the style of the Aqdas resembles the Qur'án because such a style underscores the claim that the Aqdas is the new book of laws or whether the styles of the books resemble each other because each represents concatenated flashes of revelation.<sup>46</sup>

These descriptions are oddly similar to descriptions of the Qur'án by influential scholars of Islamic law. For example, Neil Coulson describes the Qur'án as having “many problems” in its character “as a legislative document” containing “ad hoc solutions for particular problems rather than attempts to deal with any general topic comprehensively.”<sup>47</sup> He goes on to explain that:

This piecemeal nature of the legislation follows naturally perhaps from the circumstances in which the Qur'án was revealed; for the official compilation of the Qur'an, which did not appear until

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45. John Walbridge, *Kitab-i Aqdas, the Most Holy Book* 1-2 (unpublished manuscript on file with author and available at <[http://bahai-library.com/?file=walbridge\\_encyclopedia\\_kitab\\_aqdas.html](http://bahai-library.com/?file=walbridge_encyclopedia_kitab_aqdas.html)> (accessed May 24, 2004).

46. Robert H. Stockman, *Revelation, Interpretation, and Elucidation in the Bahá'í Writings, in Scripture and Revelation* 53, 67 n. 5 (Moojan Momen ed., George Ronald 1997).

47. Neal Coulson, *A History of Islamic Law* 11-13, 17 (Edinburgh U. Press 1964).

some years after the death of the Prophet, represents an arbitrary arrangement of short passages which had been uttered by the Prophet at various times and in various places throughout his lifetime—or at least, as far as the legal verses are concerned, during the ten years of his residence at Medina.<sup>48</sup>

Conclusions that have been applied to Bahá'í law mirror those of Coulson even as he makes clear one of the fundamental differences of Qur'anic as opposed to Bahá'í revelation, the post-Prophet compilation of the Qur'án.

Second, use of the Qur'anic template has led discussion of Bahá'í law to be framed by typical Orientalist debates. For example, similar to Orientalists who had trouble identifying the legal character of the Qur'án, attempts have been made to minimize the legal nature of the Kitáb-i-Aqdas. Anthony Lee supports a reading of the text as the divine intent to reveal a set of ethical precepts and moral guideposts, but not necessarily law. As Lee states:

[I]t is my contention that Bahá'u'lláh intended by the revelation of the [Kitáb-i-]Aqdas to offer the “choice wine” of upright and ethical conduct embodied in general principles and examples of beneficial law. That Bahá'u'lláh himself regarded these laws as flexible can be demonstrated.<sup>49</sup>

This conclusion, however, appears untenable given the explicit language of legal command and observance one finds in the Kitáb-i-Aqdas.<sup>50</sup> But the rationale for such arguments echoes assumptions about the Islamic nature of Bahá'í law. A fear that Bahá'u'lláh intended a highly textualist method of interpretation, and that rigid schools of interpretation will emerge through this textualism, motivates attempts to minimize the legal nature and content of the Kitáb-i-Aqdas.

These few examples of islamicization illustrate that the distinctive theology of the Bahá'í Faith—with its emphasis on the relative character of revelation itself—has not been adequately analyzed in the context of Bahá'í law. Analyzing ideals and practices of human law-making in Bahá'u'lláh's vision will require exploring this contextually bound notion of divine will from more perspectives than those which narrowly

48. *Id.* at 13.

49. Anthony Lee. Presentation at Fifth Annual Colloquium on Scriptural Studies. *Choice Wine: The Kitáb-i-Aqdas and the Development of Bahá'í Law* (Wilmette, Ill.) (transcript on file with author and available at [http://bahai-library.com/?file=lee\\_choice\\_wine.html](http://bahai-library.com/?file=lee_choice_wine.html)) (accessed May 24, 2004).

50. For example, Bahá'u'lláh uses the terms *hudiid* (laws), *ahkám* (code of laws) and *avámir* (commandments) in the Kitáb-i-Aqdas, referring to his laws in that book and elsewhere, implying their status as rules that are to be followed, as opposed to flexible ethical precepts.

focus on the Qur'anic and Islamic analogs for Bahá'í law.

#### UNITY AND POSITIVE LAW

The role of social context within the Bahá'í concept of divine law becomes even more pronounced when one looks at the issue of succession. Unlike Islam where the death of the Prophet resulted in two discrete positions concerning proper legal authority—the Sunnī position that stressed the role of scholars and *ijtihád* and the Shī'ī position that stressed the need for an Imám, a continuing authoritative legal voice—Bahá'u'lláh explicitly mandated where legal authority was to rest after his passing. Bahá'u'lláh contemplated in the Kitáb-i-Aqdas a system of "Houses of Justice"<sup>51</sup> operating as the legal authorities within society. These houses of justice were to exist at multiple levels—called local, national, and universal houses of justice—and were to be elected institutions. Within the institutions, positions of individual authority were to be subsumed to the authority of the institution as a whole, the houses of justice being able to act only on decisions agreed to by a majority of its members. This system has now been extensively established. There are over eleven thousand Bahá'í local houses of justice and one hundred eighty Bahá'í national houses of justices, all elected annually with nine members. The Universal House of Justice was established in 1963 and is elected every five years.

The turn to democratic institutions alone implies a different approach to the basis of legitimacy and role of these institutions, as opposed to the roles of the *'ulamá* and Caliphate in certain Islamic traditions or the clergy in certain Christian ones. This becomes especially clear in the rationale Bahá'u'lláh offers for this system. "Inasmuch as for each day there is a new problem and for every problem an expedient solution," He writes, "such affairs should be referred to the House of Justice that the members thereof may act according to the needs and requirements of the time."<sup>52</sup> 'Abdu'l-Bahá clarifies:

Those matters of major importance which constitute the foundation of the Law of God are explicitly recorded in the Text, but subsidiary laws are left to the House of Justice. The wisdom of this is that the times never remain the same, for change is a necessary quality and an essential attribute of this world and of time and place. Therefore the House of Justice will take action

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51. Bahá'u'lláh. *supra* n. 3. at 30-31.

52. *Id.* at 91.

accordingly.<sup>53</sup>

This vision of a dynamic/organic legal institution is complicated by the clear limitation of the powers of the House of Justice in relation to the texts of the revelation of Bahá'u'lláh. The Universal House of Justice has no authority to interpret the texts, and its interpretations can never be accepted as authoritative. This matter is typically discussed through a distinction between "interpretation" and "elucidation." Interpretive authority rested solely with 'Abdu'l-Bahá and his eldest grandson Shoghi Effendi. With the death of Shoghi Effendi, the possibility of authoritative interpretation ended. As the Universal House of Justice explains, "the Guardian [Shoghi Effendi] reveals what the scripture means; his interpretation is a statement of truth which cannot be varied."<sup>54</sup> There is an "absolute prohibition against anyone propounding 'authoritative' or 'inspired' interpretations," which includes the House of Justice.<sup>55</sup> However, within the sphere of its legislative powers on matters not "expressly revealed in the Bahá'i writings,"<sup>56</sup> the Universal House of Justice is understood to have the authority to turn towards scripture. This process of using scripture within the context of legislating involves making deductions based on the revealed texts and the authorized interpretations of 'Abdu'l-Bahá and Shoghi Effendi.

This scheme raises vexing questions. What is the relationship between the religious texts and the legislative acts of the Universal House of Justice? Is the law of the Universal House of Justice divine? If the Universal House of Justice is not engaged in interpretation, what is the status and import of their decisions? There are two points that help resolve these issues.

First, Bahá'u'lláh's writings are not positioned as an explicit source of law to which the Universal House of Justice looks when they are addressing a novel legal question. Unlike the Qur'án, Bahá'u'lláh's writings are not conceived of as all-encompassing legal texts. They do not contain all of the law that is needed for society, either literally or implicitly. The act of law-making by the Universal House of Justice thus engages with scripture for only two reasons, both indirect and mediated. The Universal House of Justice will look to the holy text to see if there is an explicit legal injunction on the matter. Its determination of whether this is so is based upon the interpretations of

53. *Id.* at 5.

54. *The Universal House of Justice, Messages from the Universal House of Justice, 1963-1986*, at 56 (Geoffrey Marks comp., Bahá'i Publg. Trust 1996).

55. *Id.*

56. *Id.*

Bahá'u'lláh's writings provided by 'Abdu'l-Bahá and Shoghi Effendi. Assuming there are no direct injunctions on the issue, the Universal House of Justice will look to the holy text for general principles which should guide its law-making on a particular question. Again, this search for guiding principles is mediated by the interpretations of 'Abdu'l-Bahá and Shoghi Effendi.

Within this inquiry, the principles that come to the fore, and are typically reinforced by the Universal House of Justice when it comments on legal matters, are those of dynamism and unity. Following from the conviction that all things are in a constant state of change, Bahá'u'lláh repeatedly applies developmental metaphors to the collective life of humanity. The lens for analyzing the current conditions of political and social life is through the category of social maturation. In a typical restatement of this idea by the Universal House of Justice,

[t]he human race, as a distinct, organic unit, has passed through evolutionary stages analogous to the stages of infancy and childhood in the lives of its individual members, and is now in the culminating period of its turbulent adolescence approaching its long-awaited coming of age.<sup>57</sup>

This vision of social maturation rests upon the idea of unity, which is one of the axes of Bahá'í ontology. "[R]eality" one Bahá'í scholar has argued, "is an integrated whole but . . . this wholeness is a unity in diversity, not a uniformity."<sup>58</sup> Within this integrated whole, there exist four distinct levels of being—God, the manifestations of God, the human soul, and material reality. Everything in creation—including individual human beings and humanity collectively—is seen as constructed according to patterns of unity in diversity. As 'Abdu'l-Bahá describes:

As difference in degree of capacity exists among human souls, as difference in capability is found, therefore, individualities will differ one from another. But in reality this is a reason for unity and not for discord and enmity. If the flowers of a garden were all of one color, the effect would be monotonous to the eye; but if the colors are variegated, it is most pleasing and wonderful. The difference in adornment of color and capacity of reflection among the flowers gives the garden its beauty and charm. Therefore,

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57. Universal House of Justice. Letter to the Peoples of the World, *The Promise of World Peace* (Oct., 1985) (on file with author and available at <<http://bahai-library.com/published/uhj/world.peace.html>>) (accessed May 24, 2004). This letter is known in the Bahá'í community as the "The Peace Message."

58. William S. Hatcher. *The Kitáb-i-Aqdas: The Causality Principle in the World of Being. in The Law of Love Enshrined* 114 (William S. Hatcher & John Hatcher eds., George Ronald 1996).

although we are of different individualities, . . . let us strive like flowers of the same divine garden to live together in harmony. Even though each soul has its own individual perfume and color. all are reflecting the same light, all contributing fragrance to the same breeze which blows through the garden, all continuing to grow in complete harmony and accord.<sup>59</sup>

Unity and diversity are thus the organizing principles of human life and existence.

This ontology suggests that society needs to evolve to reflect more fully the reality of unity in diversity so as to maximize its potential for social order and organization. The social life of humanity has become more complex and integrated, and thus humanity must develop its ability to organize in patterns of unity in diversity. Society, however, is not static, and it is a human construct. It is the product of human imagination, devotion, and will. While this means that human society can and should change, it does not mean that the form society should take is completely open and anarchic. Social forms, including legal and political institutions, will endure and are most suited to meet the needs of human beings when they are constructed and operate according to the principle of unity in diversity. In fact, the Bahá'í writings argue that a general pattern in the history of the organization of human society illustrates an awareness of the need to construct enlarging patterns of unity:

Unification of the whole of mankind is the hallmark of the stage which human society is now approaching. Unity of family, of tribe, of city-state, and nation have been successively attempted and fully established. World unity is the goal towards which a harassed humanity is striving.<sup>60</sup>

When the Universal House of Justice sets out to legislate, therefore, it turns to the writings of Bahá'u'lláh to re-affirm the ideas of evolution and unity that must guide its decisions. It is not a turn to the texts to derive a law or glean the divine intention.

Beyond these uses of the holy text, the Universal House of Justice turns to the sort of information that is typically used in legislative decision-making in liberal democratic societies—the indices of utility and efficiency, studies of impact and effect, and the concerns and opinions of those who might be affected by a particular decision. All of

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59. 'Abdu'l-Bahá, *The Promulgation of Universal Peace: Talks Delivered by 'Abdu'l-Bahá during His Visit to the United States and Canada in 1912*, at 24 (Howard MacNutt comp., Bahá'í Publ. Trust 1982).

60. Shoghi Effendi, *supra* n.30. at 202.

this secondary information, of course, is framed by the higher order principles of evolution and unity.

Second, in addition to the manner in which texts are used and the controlling vision of unity, the legislative act as conceived by Bahá'u'lláh revolves around the political role of changing social meanings and norms. In Sunni Islam, it should be remembered, the discovery of law using the textualist and intentionalist methodology of *ijtihad* is intended to be apolitical in the first instance. Turning to the texts in an attitude of sincerity and striving to glean divine will is perceived of as a nearly sanctified act, and the laws discovered are perceived as pristine expressions of divine intent. To the degree that such law-making is political, it is through what the practitioner of *ijtihad* brings to the process, their human motivations, leanings, and purposes. Bahá'u'lláh's vision for the Universal House of Justice, however, is political in the first instance. By engaging in a legislative act the Universal House is engaged in politics—specifically it is aiming to change or engender certain social meanings and norms within the recipient audience. Legislation is to occur only when it will reinforce certain social meanings while rejecting others. Often these political considerations will pre-empt the act of legislating altogether. The existing architecture of social meanings surrounding a particular issue might delay legislation—even indefinitely—because passing a law on the matter would result in reinforcing undesired behaviors and meanings.<sup>61</sup>

In this preliminary examination, therefore, the early legal history of the Bahá'í Faith illustrates a preoccupation with the relationship between the universal and the relative, and the eternal and the temporal. Divine law is an expression of the eternal and universally valid will of God, but it is also expressed in a contextual, temporal, and relative manner. Issues and meanings of unity are paramount considerations in determining the appropriateness and timeliness of law resting upon divine claims.

#### FRAGMENTATION, INTEGRATION AND WORLD ORDER

The discussion so far has focused on themes of universalism, contextualized values, unity and diversity within the narrow confines of the internal history and operation of Bahá'í law. The next step is to

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61. Stated another way, when asked for guidance on Bahá'í law concerning a particular subject-matter, the Universal House of Justice often leaves it up to individual conscience until such time as the Universal House of Justice may decide to legislate on the matter.

analyze how the Bahá'í writings project these themes onto analysis of global political, legal and social affairs generally. Within such an analysis we see an overlap with the units of analysis and categories of Huntington's clash of civilizations thesis and other current approaches in international relations, but they are applied in a different and unique way.

The Bahá'í writings identify two processes underlying the political state of affairs of the world: disintegration and integration. Together these processes explain and reflect the dynamics of collective maturation that Bahá'u'lláh argues is at the epicenter of social and political development.

(a) *Disintegration*

The Bahá'í vision of internationalism should not be understood as an ideal and utopian vision rooted in the harmonious coming together of the peoples of the world. Underlying Bahá'u'lláh's argument that the world needs to and is moving towards a global order is an understanding that such an order can only emerge through a preliminary process of fragmentation, decay and division.

The rationale for this is, at least in its first instance, quite simple and revolves around the relationship between unity and diversity in Bahá'í thought. Unity, if it is to exist, must be a conscious choice. This is true in individual relationships and it is true at the level of international relations. A state in which apparent unity exists on the surface but is supported by elements of coercion or force, or is the result of ignorance or willful blindness, cannot be deemed a state of unity. In situations where such a facade of unity exists, a change in the conditions that exist—a re-structuring of power arrangements or birth of new knowledge—will quickly lead to collapse.

In addition to the fact that unity is a conscious state, it is also one grounded in a mindset of liberty and equality. Unity presupposes a political culture that primarily affirms individual liberties, social justice and equality. This includes economic justice, which Bahá'u'lláh discusses both in terms of world politics, and in reference to disparities within particular nations and societies.<sup>62</sup> In the absence of such conditions, the conscious choices made to enter into arrangements of unity may be tainted by the dictates of power. Only where liberty and

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62. For an overview of Bahá'u'lláh's economic thought, see Bryan Graham, *The Bahá'í Faith and Economics: A Review and Synthesis*, 7 Bahá'í Stud. Rev. (1997) <[http://bahai-library.com/?file=graham\\_bahai\\_economics.htm](http://bahai-library.com/?file=graham_bahai_economics.htm)> (accessed May 26, 2004).

equality co-exist can unity, in Bahá'u'lláh's definition, appear.

For such an understanding of unity to become a social and political reality, even in the most rudimentary form, an initial shift must occur at the level of ideas, mental constructs, and associations. While generally this refers to changing the matrix of social meanings, specifically it refers to a shift in the worldview of individual human beings and social institutions. Building unity is, as such, in the first instance an educative process about shifting the hegemonic idea within social ordering towards unity and away from other, less universal and more particular ideas. Both Bahá'u'lláh and 'Abdu'l-Bahá, for example, speak of destructive social arrangements and the process of changing them in terms of a battle over ideas, meanings, and human processes of learning. For example, 'Abdu'l-Bahá speaks of social prejudices in the following terms:

And the breeding-ground of all these tragedies is prejudice: prejudice of race and action, of religion, of political opinion; and the root cause of prejudice is blind imitation of the past—imitation in religion, in racial attitudes, in national bias, in politics. So long as this aping of the past persisteth, just so long will the foundations of the social order be blown to the four winds, just so long will humanity be continually exposed to direst peril.<sup>63</sup>

This understanding of unity is the foundation for Bahá'u'lláh's explanation of the political and social fragmentation he observed in his lifetime and the basis for his expectation that the world's global affairs would, in essence, become anarchic and destructive in the future. Existing practices, institutions and theories that are rooted in a mindset and reflect ideas antithetical to a unity-based worldview must decay and deconstruct. This process cannot help but be socially disruptive and threatening to political stability. Moreover, the Bahá'í writings stress that the root causes of these disruptions lie in the realm of ideas. As the transformation of human consciousness requires education, these causes have an important cultural dimension. A clash of civilizations rooted in cultural biases and prejudices and reflecting an inability to comprehend diversity except through the construction of "others" is a microcosm of one aspect of the vision of the future Bahá'u'lláh offered.

Shoghi Effendi systematically developed this theme of fragmentation. He described a process that "tends to tear down, with increasing violence, the antiquated barriers that seek to block humanity's

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63. 'Abdu'l-Bahá, *Selections from the Writings of 'Abdu'l-Bahá* 247 (Bahá'í World Centre & Marzieh Gail trans., Bahá'í World Centre 1978).

progress towards its destined goal [i.e. unification]."<sup>64</sup> The specific forms of disintegration and fragmentation which Shoghi Effendi identifies are both attitudinal and structural. He attacks the rise of political ideology generally—with a particular disgust for communism and fascism—but specifically focuses his call to change on ideologies of superiority, in particular racism and sexism.<sup>65</sup>

It might also be argued that a substantial component of this process of disintegration is the deconstruction of hegemonic theories, histories, and social structures, and indeed of the notion of hegemony itself. Movements that take the form of an intensification of tribalization reflect a growing refusal to accept ideas, practices, or institutions that are perceived to be borrowed, imposed, or foreign. The rise of identity politics within the United States; academic theories such as postmodernism and methods such as revisionism; the intensity of anti-globalization protest movements; and the movement away from multi-ethnic and multi-religious states in many parts of the world; all reflect a loss of faith in what is established and a movement towards narrower, more local, traditional, and intimate sets of relationships and explanations of the world. Claimed universalities—ranging from the inevitability of secularization to the conceits of modernization and westernization—are all dissembled and dismissed as being partial, local and particular.

This process of fragmentation as developed in the Bahá'í writings overlaps considerably with the clash of civilizations thesis. The clash of civilizations thesis argues that in the post-Cold War world, the "most important distinctions among peoples are not ideological, political, or economic. They are cultural."<sup>66</sup> Civilizations<sup>67</sup> are considered the largest cultural entities. Each civilization is an integrated, comprehensive, enduring, and evolving cultural monolith resting on the sands of time,<sup>68</sup> defined primarily through shared languages,

64. Shoghi Effendi, *supra* n. 30, at 170.

65. In relation to America, Shoghi Effendi focuses particularly on the virulent effects of racism. See Shoghi Effendi, *The Advent of Divine Justice* 16-43 (Bahá'í Publ. Trust 1990).

66. Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* 21 (Touchstone 1997).

67. "Civilization" has been defined in many different ways by international relations theorists. The somewhat static implications of the clash of civilizations thesis are contradicted by other definitions. A good example, which echoes the definition of Toynbee, is Robert Cox who argues that civilization is "a product of collective human action, an amalgam of social forces and ideas that has achieved a certain coherence, but is continually changing and developing in response to challenges both from within and without." See Robert W. Cox & Michael G. Schechter, *The Political Economy of a Plural World: Critical Reflections on Power, Morals and Civilization* 143 (Routledge 2002).

68. Huntington, *supra* n. 66, at 41-44.

intersubjective understandings, and religions. For the first time in history, the world has become “multipolar” and “multicivilizational” rendering traditional theories of world politics, such as realism, insufficient.<sup>69</sup> The cultural dimension of politics that resides within civilizations needs to be understood in order to deal with the complexities of the contemporary world.

Samuel Huntington, for example, argues that the relationship between Western civilization and non-Western civilizations is the defining one of the future,<sup>70</sup> and specifically that the relationships between the West and Islamic and Sinic civilizations are the fault lines that could lead to sustained conflict. In the contemporary world, Islamic civilization is seen as a particular source of discontent and destabilization. Huntington writes “while at the macro or global level of world politics the primary clash of civilizations is between the West and the rest, at the micro or local level it is between Islam and the others.” Thus, the terrorist attacks of September 11, 2001 may be seen as part of an “intercivilizational quasi war” that has been fought between Islam and the West since the Iranian revolution of 1979.<sup>71</sup> “The underlying problem for the West is not Islamic fundamentalism,” Huntington writes, “[i]t is Islam, a different civilization whose people are convinced of the superiority of their culture and are obsessed with the inferiority of their power.”<sup>72</sup>

The mindset of the world offered by the clash of civilizations thesis is tribalism, and in this vision the prospect of a universal civilization is bleak and even undesirable. Assumptions that Western civilization is becoming a universal civilization are seen as false, immoral and dangerous.<sup>73</sup> Given the strength and endurance of competing civilizations, the universalization of Western civilization could be the product of a tremendous imposition and exertion of Western power in which “universalism legitimates imperialism.”<sup>74</sup> Beyond assumptions of Western universality, however, references to a “universal civilization” are seen as substantively empty, false, and immoral.<sup>75</sup> Huntington argues that in the current world of civilizations, clashes and war are the

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69. *Id.* at 21.

70. *Id.* at 29.

71. *Id.* at 216.

72. *Id.* at 217.

73. *Id.* at 310.

74. *Id.* at 318. Exertion of such power could either be direct and force-based, or by more hidden means, such as the pervasive influence of globalization aided by computer and other technologies and backed by the knowledge that military might is always there to under gird it.

75. *Id.* at 56-59.

most likely outcome. There is a “thin” veneer of commonalities that exist within all cultures, and in the “multicivilizational world, the constructive course is to renounce universalism, accept diversity, and seek commonalities.”<sup>76</sup> Stressing commonalities may limit the clash of civilizations and contribute to inter-civilizational understanding.

Like Shoghi Effendi, Huntington acknowledges simultaneous processes of fragmentation within nations that parallel global cultural divisions. Countries that are multi-cultural run the risk of becoming cleft countries in which different populations see themselves associated with different civilizations. In relation to the United States, Huntington highlights the internal danger of the erosion of what he calls the American creed, which is summed up with the principles of “liberty, democracy, individualism, equality before the law, constitutionalism, [and] private property.”<sup>77</sup> Huntington writes that this creed has come under attack by a small number of “intellectuals and publicists” who have “attacked the identification of the United States with Western civilization, denied the existence of a common American culture, and promoted racial, ethnic, and other subnational identities and grouping.”<sup>78</sup> He condemns contemporary politicians and thinkers who promote diversity without promoting American unity and writes that “[a] multicivilizational United States will not be the United States; it will be the United Nations.”<sup>79</sup>

Or will it? In Huntington’s vision that highlights a process of fragmentation and disintegration, his conclusions about the centrality of civilizations to global conflict and politics appear compelling. In Bahá’í terms, however, identifying the process of disintegration is only one process amongst two.

### *(b) Integration*

The Bahá’í writings never address the process of fragmentation absent an analysis of a related process of integration. Bahá’u’lláh spoke of the maturation of humanity as a synthesizing process of collective life. It is also a process of the mind. It appears as a shift in the worldviews of individuals and institutions, a re-calibration of the meanings associated with phenomena, and the basic norms that inform and underlie patterns of behavior. Shoghi Effendi gives a precise

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76. *Id.* at 318.

77. *Id.* at 305.

78. *Id.*

79. *Id.* at 306.

description of this process in the following terms:

As we view the world around us, we are compelled to observe the manifold evidences of that universal fermentation which, in every continent of the globe and in every department of human life, be it religious, social, economic or political, is purging and reshaping humanity in anticipation of the Day when the wholeness of the human race will have been recognized and its unity established . . . . [The process of integration] unfolds a System which may well serve as a pattern for that world polity towards which a strangely-disordered world is continually advancing.<sup>80</sup>

The institutions of world order in this vision of integration are seen as evolving gradually through various stages. At the first stage is the construction of the institutions necessary for the implementation of a vision of collective security. Bahá'u'lláh wrote in the *Lawh-i-Maqsúd* of the establishment of a permanent accord that would have the effect of establishing a transparent and active system of global security:

The time must come when the imperative necessity for the holding of a vast, an all-embracing assemblage of men will be universally realized. The rulers and kings of the earth must needs attend it, and, participating in its deliberations, must consider such ways and means as will lay the foundations of the world's Great Peace amongst men. Such a peace demandeth that the Great Powers should resolve, for the sake of the tranquility of the peoples of the earth, to be fully reconciled among themselves. Should any king take up arms against another, all should unitedly arise and prevent him. If this be done, the nations of the world will no longer require any armaments, except for the purpose of preserving the security of their realms and of maintaining internal order within their territories . . . . This will ensure the peace and composure of every people, government and nation. We fain would hope that the kings and rulers of the earth, the mirrors of the gracious and almighty name of God, may attain unto this station, and shield mankind from the onslaught of tyranny.<sup>81</sup>

This vision implies areas of agreement that remain sources of debate in the contemporary system of world order: including questions of disarmament; international institutions having autonomous military capacity; and mechanisms for the resolution of border disputes. At the same time, however, many of the institutional forms necessary to implement this first stage of the Bahá'í vision of world order appear to

80. Shoghi Effendi, *supra* n. 30, at 170.

81. Bahá'u'lláh, *Tablets of Bahá'u'lláh* 165 (Bahá'í Publ. Trust 1988).

be emerging or already exist.

The second stage, and one which Bahá'u'lláh appears to view as reaching fruition in the distant future, is the emergence of a federal system of global governance. The emergence of this federated system relies upon substantive integration occurring in many spheres of human life, including the formation of individual identity and changes in social meanings and norms related to unity. This process will be slow and gradual, and according to Shoghi Effendi, it is likely to involve severe crises and bloodshed. Using the American Civil War as an analogy, Shoghi Effendi observes the following about the emergence of a federated system:

To take but one instance. How confident were the assertions made in the days preceding the unification of the states of the North American continent regarding the insuperable barriers that stood in the way of their ultimate federation! Was it not widely and emphatically declared that the conflicting interests, the mutual distrust, the differences of government and habit that divided the states were such as no force, whether spiritual or temporal, could ever hope to harmonize or control? And yet how different were the conditions prevailing a hundred and fifty years ago from those that characterize present-day society! It would indeed be no exaggeration to say that the absence of those facilities which modern scientific progress has placed at the service of humanity in our time made of the problem of welding the American states into a single federation, similar though they were in certain traditions, a task infinitely more complex than that which confronts a divided humanity in its efforts to achieve the unification of all mankind.

Who knows that for so exalted a conception to take shape a suffering more intense than any it has yet experienced will have to be inflicted upon humanity? Could anything less than the fire of a civil war with all its violence and vicissitudes—a war that nearly rent the great American Republic—have welded the states, not only into a Union of independent units, but into a Nation, in spite of all the ethnic differences that characterized its component parts? That so fundamental a revolution, involving such far-reaching changes in the structure of society, can be achieved through the ordinary processes of diplomacy and education seems highly improbable. We have but to turn our gaze to humanity's blood-stained history to realize that nothing short of intense mental as well as physical agony has been able to precipitate those epoch-making changes that constitute the greatest landmarks in the

history of human civilization.<sup>82</sup>

Various institutions of such a federal system are explicitly mentioned in the Bahá'í writings, but not always in a consistent manner. For example, within Shoghi Effendi's own writings one sees reference to a system involving a "world parliament," "international executive" and "supreme tribunal" as well as a system which includes a "world legislature," "world executive," "world tribunal," and "international force."<sup>83</sup> One also finds reference to an "international tribunal" and a "universal court of arbitration."<sup>84</sup> The general implication appears to be the formation of a world commonwealth in which there is a super-state structure with substantive law-making, judicial, and administrative functions.

Some of the aspects of the relationship between this process of integration and the Bahá'í world order model are more clearly seen when looked at in light of theories of world politics that compete with the clash of civilizations thesis. In a challenge to neo-realism, Robert Cox<sup>85</sup> has analyzed the world using a critical historicist epistemology. Focusing in on the question of how world order has been transformed Cox identifies three main forces which alter historical structures—ideas, institutions, and material capabilities. Cox sees the history of world order as the history of movement from one hegemonic pattern to others as new patterns emerge. A particular matrix of ideas, institutions, and material capabilities may lend hegemony to a particular unit—a state, set of states, or even a civilization for a period of time or at a particular juncture.

Coxian theory sees the world as dynamic and changing, and speaks of world order in historical terms. It also highlights the importance of ideas and culture in the evolution of world order, as the transformation from one hegemon to another is viewed as having its genesis at the level of a normative shift, which then encourages the development of particular institutions and attracts material capabilities. This theory raises many questions. Is there any pattern to this transformation? Is it just random? Is it cyclical? The answers to these questions are not always clear. Cox's theory speaks in terms of social forces and means

82. Shoghi Effendi, *supra* n. 30, at 45.

83. For an overview of the uses of this various terminology see John Hatcher. *The Arc of Ascent* 262-269 (George Ronald 1994).

84. *Id.*

85. For a statement of Robert Cox's approach to world order see Robert Cox, *Social Forces, States and World Orders: Beyond International Relations Theory* (1981), in *Approaches to World Order* 85 (Robert Cox & Timothy Sinclair eds., Cambridge U. Press 1996).

of production, but the strategy/tactics of transformation is not fully worked out in his work,<sup>86</sup> so that overall logic of transformation remains somewhat vague. Some theorists, Cox included, have spoken of a “posthegemonic” world order, which at least implies that the dynamic evolution of world order may plausibly result in a world constructed around points of unity and commonality. As Cox writes:

The prospect of a posthegemonic order implies doubt as to the likelihood that a new hegemony can be constructed to replace a declining hegemony. It suggests doubt as to the existence of an Archimedean point around which a new order could be constructed. Previous hegemonic orders have derived their universals from the dominant society, itself the product of a dominant civilization. A posthegemonic order would have to derive its normative content in a search for common ground among constituent traditions of civilization.<sup>87</sup>

The idea of a posthegemonic world order resonates strongly with Bahá’í thought and the process of integration. As well, Cox’s historical method resonates with Bahá’í notions of collective maturation. A Bahá’í reading of history through Coxian theory would suggest that the generative importance of ideas in the appearance of new historical structures places revelation at the epicenter of the emergence of new hegemons. This focus on revelation would not necessarily be inconsistent with the theories of either Cox or Huntington. Consistent with the Bahá’í notion of revelation, however, religion would not be tied to a hegemonic power only when a state or set of states dominating world order is closely aligned with a religious worldview—the Islamic empire perhaps being a clear example of this.

Rather, each revelation would set the epistemic framework for hegemonic transformation for a long period of time (*longue durée*), within which there would occur a wide variety of shifts within world order. The progressive and relative nature of revelation from God thus acts at a macro level. Revelation sets a general framework and guidelines within which the superficially chaotic shift from one hegemon to another occurs. There are, thus, macro and micro patterns underlying the history of world order. At the macro level each revelation alters the set of ideas and mindset for social and political life.

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86. Similar observations have been made by other commentators. See W. Andy Knight, *Coexisting Civilizations in a Plural World*, 5 *Intl. Stud. Rev.* 403-405 (2003).

87. Robert Cox, *Towards a Posthegemonic Conceptualization of World Order: Reflections on the Relevancy of Ibn Khaldun (1992)*, in *Approaches to World Order*, *supra* n. 85, at 144, 151-152.

The micro pattern involves the specific adjustments of hegemony that occur, perhaps driven by the social forces, institutional configurations, and patterns of material relations Cox identifies. But the micro shifts are contained and contextualized by the revelatory cycle in which they exist and the specific guidance and focus of that revelation.

The resonance of the post-hegemonic idea with Bahá'í ideas is that it fits well with what Bahá'u'lláh conceived of as the central idea of the current revelatory cycle—the consciousness and appearance of patterns of unity and diversity on a global scale. Encapsulated in the idea of integration is the implication that power arrangements within world politics will increasingly be debated and resolved on terrain where it will become less plausible to speak in terms of hegemonic powers and states, and more plausible and coherent to speak the language of unity, universal structures, and international institutions, while preserving diversity.

One may already see the vivid outlines of this process of integration in the erosion of dichotomous perceptions of international relations, the heightened complexity of world politics, and the reflexive relationship between international political structures and domestic ones. For all of their limitations, weaknesses, and failures, formal international institutions—such as the United Nations—and numerous less formal international arenas of dialogue and action exist, and are a sign of a vibrant and deepening process of integration. Within this world no nation or civilization can maintain an extremely divisive and dichotomous rhetoric and attitude without being constantly challenged, mediated, and changed by the demands and presence of international arenas.

#### CONCLUSION

Bahá'í commitments to both a vision of divine law and internationalism represent a distinct attempt at reconciliation of tense universalisms. The desire for God to be the ultimate legislator, and for God's legislation to shape a global and all-encompassing order, are not unique religious claims. However, God's legislation, in Bahá'í teachings, is dynamic, changing, and socially responsive. Divine law is not only to be responded to by humanity, but is also responsive to humanity. This is seen in the Bahá'í focus on themes such as unity and integration and changing the social meanings and associations that are applied to social phenomena. The legal institutions within the Bahá'í Faith as well as the pattern of the unfolding of a system of world order similarly emphasize the organic, dynamic and diffuse ways of

manifesting divine precepts in social order that the Bahá'í Faith advocates.