

Restorative Justice is Fundamental Justice

Justice is balance. It is balancing oneself in relation to others. It is also the balancing of others in relation to themselves. Justice is something every man and woman deals with on a daily basis—in deciding how much to give, how much to take, how much to receive, or how much to share, be it with work, with family, with friends or with or for others. Everyone knows what is “just” compensation or reward or thanks given the circumstances that he or she thinks have bearing. If the reader has any doubt of the truth of that statement, I strongly urge him or her to watch the TED talk video on Youtube, “Moral Behavior in Animals,” by Frans de Waal in which two chimpanzees are paid unequally for doing the same amount of work.¹ And we are more than chimpanzees.

Justice is balance because the goal of balancing is balance. When balance is achieved, there is peace. Where there is peace, there is justice. Before there was imbalance, conflict, or a lack of peace, there was balance. Man is created in the image of balance, therefore, in the image of justice. Man is created physically in the image of balance with two eyes, two arms, two legs, and more. Man walks in balance and tries to remain in balance. So, too, he is created to be spiritually in balance. He thinks in terms of balance, and tries to remain in balance amid all the sound and fury and power and glory that accompany his life. So, too, he thinks in terms of justice and tries to remain in justice by being just. It is at the basis of all our arguments. Justice is the polestar of our existence—we leave it only to yearn to return to it.

While there are no stirrings of pleasure, anger, sorrow, or joy, the mind may be said to be in the state of Equilibrium. When those feelings have been stirred, and they act in their due degree, there ensues what may be called the state of Harmony. This Equilibrium is the great root from which grow all the human acting in the world, and this Harmony is the universal path which they all should pursue.²

[Justice] is complete virtue in its fullest sense, because it is the actual exercise of complete virtue. It is complete because he who possesses it can exercise his virtue not only in himself but towards his neighbour also; for many men can exercise virtue in their own affairs, but not in their relations to their neighbour.³

¹ https://www.ted.com/talks/frans_de_waal_do_animals_have_morals

² Confucius. *The Doctrine of the Mean*. Complete Works of Confucius (Kindle Locations 2157-2160). Minerva Classics. Kindle Edition.

³ Aristotle. *Nicomachean Ethics* (Kindle Locations 1432-1435). . Kindle Edition. Book V, Chap. 1

This, then, is what the just is—the proportional; the unjust is what violates the proportion.⁴

[J]ustice is that virtue which gives every one his due.⁵

Since justice is man's birthright, as a being created in its image, in the symmetry of his physical form, it is also his duty and calling.

Be just and fair to all.⁶

He has told you, O man, what is good;
and what does the LORD require of you
but to do justice, and to love kindness,
and to walk humbly with your God?⁷

The felicity of a man does not consist either in body or in riches, but in upright conduct and justice.⁸

[T]he best man is not he who exercises his virtue towards himself but he who exercises it towards another; for this is a difficult task. Justice in this sense, then, is not part of virtue but virtue entire, nor is the contrary injustice a part of vice but vice entire.⁹

Is it not disgraceful, and a great sign of want of good-breeding, that a man should have to go abroad for his law and physis because he has none of his own at home, and must therefore surrender himself into the hands of other men whom he makes lords and judges over him?¹⁰

Since it is man's birthright and calling, because his integrity and dignity can not be severed from his just acts and justice deliberations, whenever possible the state, the government in which a man abides, should not, need not, and, at best, must not abrogate to itself what a man is fit to handle on his own. As the state is an enterprise of men and women uniting with one another and who, by means of the

⁴ Aristotle. *Nicomachean Ethics* (Kindle Locations 1500-1501). . Kindle Edition. Book V, Chap. 3

⁵ Augustine. *The City of God*, Book XIX, Chap. 21.

⁶ Isaiah. 56:1. Holy Bible, New Living Translation.

⁷ Micah. 6:8. Holy Bible, English Standard Version.

⁸ Democrates. *The Golden Verses of Pythagoras: And Other Pythagorean Fragments*. "The Golden Sentences of Democrates," No. 6.

⁹ Aristotle. *Nicomachean Ethics* (Kindle Locations 1438-1440). Kindle Edition. Book V, Chap. 1.

¹⁰ Plato. *Plato: The Complete Works* (31 Books) (Kindle Locations 16143-16145). Titan Read Classics. Kindle Edition. *The Republic*, Book II.

attractiveness of their union, hold sway over other men and women within the domain of their state, the state itself depends upon the existence of just men and women within it.

Justice being taken away, then, what are kingdoms but great [gangs of robbers]?¹¹

[W]ithout justice a republic can neither be governed, nor even continue to exist.¹²

[J]ustice is known in one way in the unchangeable truth, in another in the spirit of a just man.¹³

Abraham stood yet before the LORD. And Abraham drew near, and said, Wilt thou also destroy the righteous with the wicked? Peradventure there be fifty righteous within the city: wilt thou also destroy and not spare the place for the fifty righteous that *are* therein? That be far from thee to do after this manner, to slay the righteous with the wicked: and that the righteous should be as the wicked, that be far from thee: Shall not the Judge of all the earth do right? And the LORD said, If I find in Sodom fifty righteous within the city, then I will spare all the place for their sakes . . . And [the LORD] said, I will not destroy *it* for ten's sake. And the LORD went his way, as soon as he had left communing with Abraham: and Abraham returned unto his place.

Restorative justice allows the men and women, the victims, offenders, and their respective family, friends, and concerned community members to come together to explore how everyone has been affected by an offense, a harm done to oneself or by oneself, to another or to others, and, when possible, to decide how to repair the harm and to meet the needs of those involved.¹⁴ Those involved in a restorative process are those most intimately aware of the circumstances of the harm and its effects *in a way no state-appointed officials could ever be*. The harm and therefore the restoration, the balancing of harms and needs and the resulting restorative acts, belongs to those involved in the restorative process. It is their calling to restore themselves to a balance in their lives to the extent that they need no longer be concerned about the harm. It is their calling to “[d]o justice.”¹⁵

¹¹ Augustine. *The City of God*. Book IV, Chap. 4. Note: “great robberies,” meaning gangs of thieves.

¹² Augustine. *The City of God*. Book II, Chap. 21.

¹³ Augustine. *The City of God*. Book XI, Chap. 29.

¹⁴ Wachtel, Ted. *Defining Restorative*. Available at International Institute of Restorative Practices. Bethlehem, PA.

¹⁵ Micah. 6:8. Holy Bible, English Standard Version.

Restorative justice is fundamental justice. State justice, with its abstract laws and hypothetical processes to be followed and administered and to be reasoned and argued over objectively and often heartlessly, is a shadow of restorative justice. State officials need to recognize and defer to the reality that each man and woman is called to “do justice” in the circumstances of their personal lives, and that their dignity and well-being and, thus, the state’s dignity and well-being is dependent on their doing so. But whatever justice officials do, it is the inevitable truth that as men and women they will be bound by their own karma—as are all men and women.

Do not be deceived: God is not mocked, for whatever one sows, that will he also reap.¹⁶

Vermont’s law, therefore, its criminal justice policy, placing restorative justice principles as the bedrock and at the forefront of its treatment of those who have acted at odds with its laws, is a beacon to the rest of the world. It is a light shining in the darkness of pretend and confuse—of legal pretension and confusion—that allows for the light of true justice to shine in the hearts and minds of its citizens and, thereby, to draw all citizens within all governments throughout the world to true justice—to peace and well-being.

It is the policy of this State that principles of restorative justice be included in shaping how the criminal justice system responds to persons charged with or convicted of criminal offenses, and how the State responds to persons who are in contempt of child support orders. The policy goal is a community response to a person's wrongdoing at its earliest onset, and a type and intensity of sanction tailored to each instance of wrongdoing.

Jan Peter Dembinski

¹⁶ Paul, Letter to the Galatians, 6:7.