

Justice: What is it according to the Constitution?

Written by Calvin Fox

Thursday, 01 March 2012 05:27 - Last Updated Saturday, 03 March 2012 06:05

"Justice" Definition from Dictionaries

mid-12c., "the exercise of authority in vindication of right by assigning reward or punishment," from O.Fr. justise, from L. justitia "righteousness, equity," from justus "upright, just" (see just (adj.)). The O.Fr. word had widespread senses, including "uprightness, equity, vindication of right, court of justice, judge."

judgment involved in the determination of rights and the assignment of rewards and punishments

The principle of moral rightness; equity; Conformity to moral rightness in action or attitude; righteousness; The upholding of what is just, especially fair treatment and due reward in accordance with standards or law.

Justice in 18th Century

The word 'justice', meaning 'the exercise of authority in vindication of right by assigning reward or punishment' is over 860 years old (c. 1140 AD). 'Justice' was once 'justitia' an Old French word that descended from Latin to mean 'righteousness and equity'. A similar word from the same Latin root was 'justus' meaning 'upright, and just'. When 'justitia' was adopted into Old English it was extremely simplified. From the original Old French meanings that included, 'uprightness, equity, vindication of right, court of justice, and judge',

By late Old English, 'justice' was used to describe the judicial administration of law or equity (first attested in 1303). 'Justice' was also used to describe the people administering the law- 'justice of the peace' was first used in 1320, and 'justice' was used to describe the people working in the judicial assembly and court of justice, especially a judge presiding over or belonging to one of the superior courts. By late Middle English 'justice' included the assignment of deserved reward or punishment,

It was not till the Middle English period that the word 'justice' began to extend its meaning like its original Old French predecessor. The meaning of the word 'justice' began to be defined as the quality or principle of just dealing and conduct- this included integrity, impartiality, and fairness,

By the middle of the 16th century 'justice' was adopted by theology to mean, 'the state of being righteous'.

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---<http://www.whitesmoke.com/etymology-justice>

A Liberal's view of a Conservative's view of Justice

[[I] got a good look at Scalia's dangerous constitutional jurisprudence, something he calls "originalism." In Scalia's America, we don't have a "living Constitution," we have a Constitution that is fixed by the words as the Founders understood them back in the late 1700s, when the Constitution was written and ratified.

Scalia also claimed that "the Constitution is not mean to facilitate change. The Constitution is meant to impede change, to make it difficult to change." In fact, the Constitution is not about change at all. In large measure, the Constitution is an articulation of fundamental principles, a declaration of rights, and a set of restrictions on governmental power.

Scalia's view of our founding document as an impediment to progress is pretty scary. The genius of our Constitution is that it is not fixed in time, but that its general principles have proven equally applicable to an America in the age of the horse and buggy and to a country that has seen humans stand on the moon.

(Opinions of Kathryn Kolbert, president of People For the American Way.
http://www.huffingtonpost.com/kathryn-kolbert/justice-scalia-mired-in-t_b_99248.html

Contemporary Evangelical Advocates of Justice

Sunday, August 7, **Mark Hatfield** went to be with the Lord at age 89. Like John Stott who died last week at 90, Hatfield was a strong Christian with a life time of service to the Lord. He was the longtime Republican Governor and Senator from Oregon. He became famous when he

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shocked many conservative Republicans when he strongly opposed the Viet Nam War. Although a Religious Conservative, he was a Social Liberal and often voted with Democrats in the Senate. That is what got my attention back in the 60's and 70's. It was a new and strange mix to me back then. I have not heard anything of him in more recent years.

Another Christian from those days, who reminds me of Hatfield, is **Stephen Monsma**. He served as a State Congressman in Michigan for 8 years, but his life career has been as a Professor of Political Science, mostly at Calvin College. He has been and still is a scholar activist trying to work out his genuine Christian faith in the public square. Author of many books and papers, I pulled his "Pursuing Justice in a Sinful World" off a shelf in my library today.

He wrote, "God has established government as His means to work in society for justice and righteousness and against oppression and evil" (p.21). He acknowledged grateful that individual Christians and churches have done much good work improving the world and making it a better, more just Society, But there is a systemic, institutional dimension to Evil and to combat and change that, we need Government. "God has given us government with which to fight pervasive, tenacious, structural evils that hold many in the bondage of oppression and injustice. Government possesses authority and sanctions that are society-wide in their reach. Government is able to make binding binding decisions for all other institutions, groups and structures in society. It can back up its decisions with force... . Thus government alone... has the potential to make mandatory rulings that overturn evil structures and replace their evil with righteousness and justice." "This is precisely the role God intends government to play... " (p.12) And this, Monsma says, is why Christians should support Government and become active in it.

But far from being a Tea Party Activist, Monsma is a pragmatic pluralist, advocating the art of compromise and working with those who disagree in order to make progress on those matters of Justice. He is optimistic, but realistic about what Government can do. Many contemporary non-Conservative Christians would find him compatible and his books helpful.. That would be true of Hatfield, even as it is with John Stott. The latter, by the way, laid the Biblical ground work for today's social activism among missional, contemporary evangelicals. I agree with much that Monsma says. However, I have a serious caveat, a warning to give about all this.

Many sincere, good-hearted, well-meaning people, both Christian and non-Christian endorse all that Monsma believes and like-minded Ideals, basing their view of the role of Government largely on the Preamble of the United States Constitution; also on the Bill of Rights (and even the Gettysburg Address)

"We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

[Note: the Preamble itself is not considered to be Law as the Constitution is. It claims and exercises no power and demands no conditions. It is simply the introduction to the Constitution, explaining its purposes.]

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We the People want to form a Union and establish Justice, et al. In order to do that we establish this Constitution. So the Constitution is an instrument to secure Justice in the United States. Plain enough until we ask, "What does Justice mean?"

"Article VI, Clause 2 of the United States Constitution [the Supremacy Clause]

This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding. [emphasis added]

Through the last 224 years the Constitution with its 27 Amendments has been interpreted and used or misused in many, sometimes contradictory, ways, including the word and concept of "Justice". Justice has been cited in support of "States' Rights", Abolition, *Laissez faire*, Suffrage, The New Deal and "Civil Rights" (including Abortion and "Gay Marriage") What was the original 1787 definition of "Justice" in the Preamble?

No matter what the definition, is the Constitution to be used to achieve it? Monsma interprets Justice as social activism, especially in pursuit of "Rights" as understood by today's liberals and progressives. He says emphatically, Yes! My fellow conservatives and I say 'Yes' only with regard to the Founders original intent for the word and no more.

What was the original intent of "Justice"?