

Justice Theory  
and  
The Ten Amendments



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Justice Theory  
and  
The Ten Amendments

Thomas Easaw

The cat has been after  
the rat for centuries now.

Not once has the rat  
been able to ward off  
or effectively defend itself.

Look around you  
and this is what  
you will find in nature.  
Then,  
where is justice?

Actually,  
there is no justice  
in this world.

Since man was inherently incapacitated by his inability to sleep with his eyes open, he was forced to come to terms with his own brother, so that his freedom, rights and responsibilities peacefully co-existed with his brother's. Thus the concept of justice was born.

Justice is a man made concept.

Even though desire  
precipitates in many forms,  
man desires justice the most  
or more categorically,

"What man needs is justice  
and nothing else",  
is the Justice Theory.

He does not need Capitalism,  
Communism or Communalism  
and when justice is in place,  
everything else will fall in place.

Justice for only the rich  
is Capitalism  
and justice for only the poor  
is Communism.

Justice for everybody,  
irrespective of money,  
colour, caste, creed or  
brains is the Justice Theory.

From time immemorial,  
man has been in the  
pursuit of food, clothing,  
shelter, security, love,  
faith, comfort, knowledge,  
recognition, fame, wealth,  
supremacy, equality and  
freedom - when what he  
actually should have pursued  
was justice.

Justice and not freedom,  
as popularly believed,  
should have been  
a man's birthright  
– for my freedom ends  
where your freedom begins.

“Justice”, as I define it,  
"is my freedom, rights and  
responsibilities peacefully  
co-existing with yours."

For centuries, we have remained divided on the basis of creed, greed and freedom. For once let us all unite for the sake of justice and for peace ever after.

Justice is nobody's birthright,  
but it has to be declared so,  
for the 'Justice Era' to begin  
– so that everyman  
could demand it,  
rather than beg and plead for it  
as he is forced to do today.

If the 'Justice Era' is to begin,  
a few amendments in the  
present day Law are required  
and so I propose

## The Ten Amendments

## First Amendment

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Every other profession in the world, excepting the legal profession, has a certain amount of accountability attached to it. This official immunity given to the legal profession has not aided the interest of justice for the human kind and this can prima facie be understood from sheer logic itself without citing any examples or instances.

This unaccountability of the legal system is the root cause of all manmade evil and of the delay and cost synonymous with justice today.

It is sad to note that law makers the world over, while making laws have been formulating provisions for their own safety and privileges first, than protecting the interest of justice for humanity. The 'action taken in good faith' clause allows the judiciary to evade accountability.

Unless and until the  
judiciary is kind and  
generous enough to forego  
some of the privileges that  
it enjoys today, absolute  
justice will remain  
a distant reality.

Let us take the situation of a death sentence being proved wrong by an appropriate authority and let us also suppose this death sentence is that of a poor man who in the ordinary course, based on his meagre resources, would not have had any other option than to forego his life.

But if fortunately he takes the courage because of his actual innocence, borrows the resources entirely on somebody else's mercy, goes for an appeal and wins his life back – is it wrong for at least the victim to believe that some sort of accountability has to be affixed on the judge?

Judges should be made accountable for the judgments that they pass and a death sentence if proved wrong, if not properly explainable by the judge, should amount to attempt to murder or to at least some lesser degree of responsibility, than the absolute unaccountability of today.

The judiciary should be made accountable and an accountable judiciary should be held supreme.

For those who feel that this is an intimidating situation for the judge, a proper explanation as to why he judged so, based on the available evidence, would suffice. And for the rest of those who believe that this is a Damocles' sword - indeed it is.

But is it not better to have  
it on the head of a few  
people who are Capable,  
qualified, trained and paid  
for it, than to have it over  
every other human being on  
this planet, for the fear of  
a callous judgment?

The prime duty of the judiciary is to deliver justice, than to dilute regulations in order to accommodate mediocrity. For those who feel that they cannot take the pressures of a judge can always look for another job, whereas a citizen has nowhere else to go for justice than to the judiciary.

This accountability would ensure that the lower court judgments are just and fair, making the judiciary prompt and cost effective and forcing all other government departments to fall in line. When this accountability percolates down to every government department, corruption can be plugged absolutely.

When the  
'action taken in good faith'  
Clause protects an officer  
to the extent that he is  
not accountable at all,  
appealing to a higher  
authority may bring  
temporary justice to the  
complainant, but does not  
stop the corrupt officer  
from officially continuing  
with his corrupt decisions.

It is not only enough to  
book an officer when  
he accepts bribe,  
but also necessary to do so  
when he decides unjustly  
for Vengeance or for sheer  
arrogance.

An accountable lower court  
will also eradicate the  
unspoken public fear that  
there is a nexus between  
various forces to prolong  
the judicial process, in order  
to extract more.

Just because corruption is everywhere, does not mean that everyone is corrupt. The very fact, that the earth still spins on its axis without fail or falter, is reason enough to believe that the good forces are still in command.

But I believe that the propriety of the judiciary should not depend on the goodness of the judge, but on the goodness of the system, so that justice can be expected of it as a right.

## Second Amendment

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Judges should not be recruited through political appeasement or by popular vote, nor should practicing lawyers be made judges. Their recruitment, training and maintenance should be a class separately above, so that only the best in capability and integrity would opt for it.

It is therefore the need of the age to have a special recruitment system with the highest standards and remuneration for judges.

## Third Amendment

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Lawyers should also be held accountable for their acts and deeds like everyone else. When somebody helps a criminal, is not the helper a part of the crime? Like we do not let the robber free, saying his profession is robbery; lawyers should also not be set free but be punished, along with the convicted, in the proportion of their role in the malpractices committed, if any.

It is high time that the civilized society took objection to the undue relaxation given to such professions, which has only resulted in the abetment of crime.

This does not mean that anybody giving a glass of water or appearing for the accused should be punished. But the lawyer should be punished at least when it is proved that he has helped the defendant / plaintiff to destroy evidence, manipulate witnesses or commit similar crimes, which are punishable under the Law.

And this unaccountability  
for lawyers is the cause of  
the undue delay and cost  
synonymous with justice  
today.

Such accountability would greatly reduce the number of false cases which is what causes this undue delay of justice. The hefty court fee and attendant expenses, expected to prevent nuisance litigation, have only left the poor in the lurch.

Such an amendment would bring a sense of honour and pride to the righteous lawyer, for he is the one who has led us over the years, by his relentless struggle and sacrifice, to this platform from where I am trying to reach out to you now.

It will also prevent the two  
other great injustices, viz.  
delay of justice and cost, for  
justice will stand truly  
delivered, only when  
delivered promptly, and that  
too, free of any cost.

## Fourth Amendment

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If there is a provision for punishing lawyers, then the number of false cases would be greatly reduced, facilitating an atmosphere for the abolition of court fee. The collection of court fee has been one of the greatest human rights violations in the history of mankind.

In my country, India, where more than 50% of the people are below poverty line and more than 30% just manage to exist hand to mouth, it is very clear that about 80% of the population cannot afford to pay court fee.

This directly implies that only 20% of the population in my country has access to the judiciary and the remaining 80% are prevented from approaching the court by predefined conditions such as hefty court fee.

This is the greatest human rights violation.

It is only a citizen's basic right to be able to seek justice without any cost and without the humiliation of being declared a pauper and so collection of court fee should be abolished.

## Fifth Amendment

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Discretionary power is what causes corruption and if removed from all facets of the Law, will plug corruption absolutely.

The provision to punish arbitrarily, vested as discretionary power on the judge, would only make justice to precariously perch on lawyers' skills, if not already overtaken by influence, power, prejudice or corruption, in order to get the judgment proclaimed at its discretionary minimum or maximum.

Power does not corrupt,  
only discretionary power does;  
and power with accountability  
turns out to be mere duty.

## Sixth Amendment

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Fine in lieu of imprisonment is one of life's greatest injustices against the poor. This is an exclusive escape route for the rich and wealthy. For the poor both imprisonment and fine are great pains, whereas for the rich only one of them is.

The Law around the world has been an evolution of the law of the kings and feudal lords, which always had a provision of an unjust favoritism to help the rich and the powerful. It will only be when, punishment in the form of fine is scrapped, (except in the case of very trivial offences where only repetition calls for imprisonment) will justice prevail in any land.

## Seventh Amendment

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The present practice of the judiciary relying heavily on prior higher court judgments should be totally done away with, because the exact context, the related evidence, whether the case was properly represented and contested & whether the concerned parties were genuine, cannot be ascertained.

As of now, any two  
conniving lawyers can  
sabotage any law of the  
land, if one of them is  
willing to lose for the sake  
of gain.

This back-door provision  
for creating laws and rules  
should be stopped at any  
cost, for a civilized society  
cannot let an  
unaccountable judiciary  
to set precedents.

Law making should be left to the representative council of the people of the land and any important decision should be legislated at the earliest opportunity, than to leave it in the secret folds of certain decisions accessible only to the knowledgeable lawyer and not to the common citizen, and thus setting the legal system free of its secretive and uncertain nature.

But this law making should not be without the intervention of the judiciary, for in a democracy you cannot rule out the possibility of the wrong people winning the elections or dictatorial interests overtaking humanitarian ones.

In which case,  
who else can come to the  
rescue but an accountable  
judiciary ?

## **Eighth Amendment**

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**The evasive tendency of adding law after law, without affixing accountability for judges and lawyers, has made the entire system bulky and cumbersome.**

This has led to a predicament where a judge cannot entertain an argument without the exact section/subsection numerically specified, or where a lawyer cannot specialize in more than one stream of the Law, even after a lifetime's effort.

At the same time, it is expected of even the commonest of men to know the Law, for ignorance of the Law is not considered an excuse.

How unjust can injustice be?

This is a clear case of dividing the world on the basis of knowledge, where the well informed intimidates the very existence of the less informed. The Law definitely needs to be simplified so that the common citizen can comprehend it, obey it and live by it.

## Ninth Amendment

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When there are so many loop holes and unaccountability in our present day legal system, it would be absolutely unjust to implement capital punishment for two reasons-

The essential reason for saying that one should not take life is because one cannot give it back. If it is a crime when a citizen kills, how can it not be a crime when the government or the court implements capital punishment?

Secondly when it is blatantly clear that our justice delivery system is not foolproof, it would be greatly unjust to force somebody to end his life under judicial supervision.

## Tenth Amendment

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Justice should be  
declared a man's  
birthright, so that every  
man could demand it,  
rather than  
beg and plead for it as he  
is forced to do today.

Dedicated to the millions,  
both great and small,  
who have over the centuries  
given their minds and lives  
to this great Cause  
- so as to enable me to paint  
this humble final stroke.

This book is a work of art where every sentence is a quotable quote and each of them packs a volume. In two short sentences the book overrules the millions of pages written about capitalism and communism and in another two, why only the Justice Theory will prevail.

This little black book of justice is out here to divide the world and unite it.

#### About the author

Thomas Easaw has been unnoticingly around, since 1965. During these years in the oblivion, he was perfecting and crystallizing his thoughts and this is the first stone in the string - The Justice Theory and The Ten Amendments.

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