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RJ4ALL

RESTORATIVE JUSTICE FOR ALL
INTERNATIONAL INSTITUTE

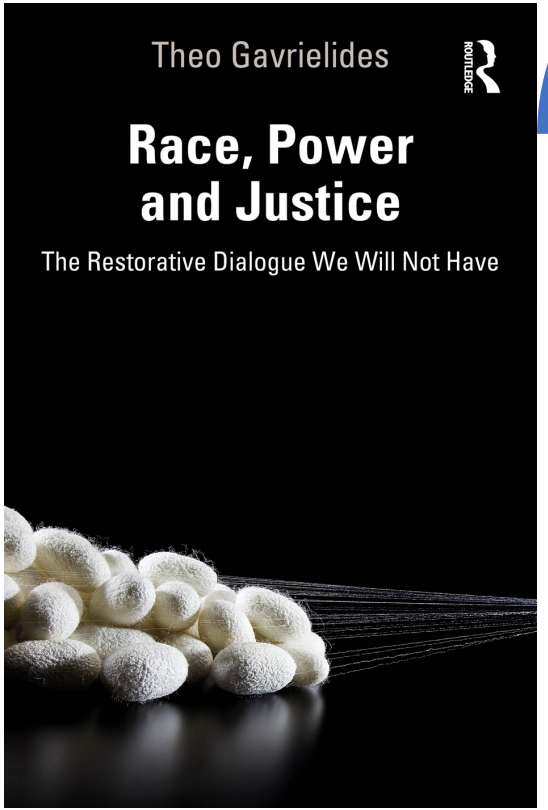
ADDRESSING POWER ABUSE
THROUGH RESTORATIVE JUSTICE

University of East London

Power, Race & Justice: The restorative dialogue we won't have

"Every time I see a butterfly, I remember how frail and yet how powerful natural beauty is. Compared only with the work of an artist, their fragile wings are more than just for admiration. They allow the insect to fly, an act that even us humans cannot perform. But what is more profound about the existence of butterflies is the life path they have to take before they become beautiful flying creatures of admiration. Starting from a cocoon, they are first caterpillars, crawling for their survival.

Our true existence follows the same life journey. Our first awakening is the cocoon that will lead to our first becoming. I hope that this book pulls all of us cocoons towards our true existence".



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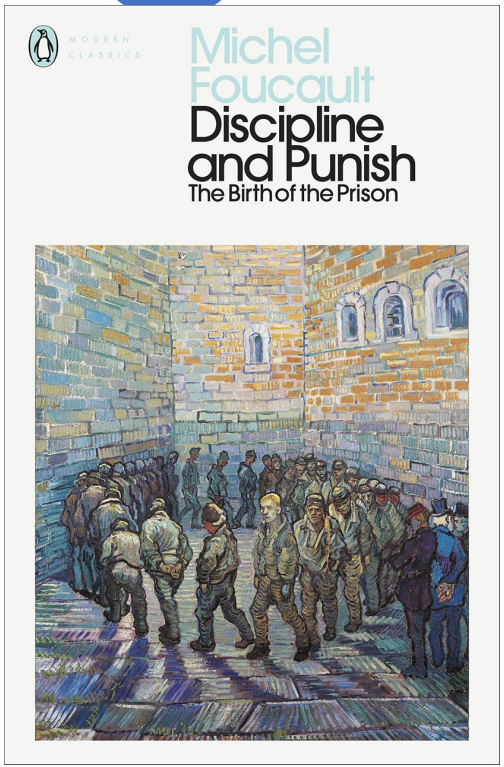
A journey of personal self-transformation & *intellectual* awakening

"I have always felt that there was something lingering in the background of all my projects, work and writings. A bigger picture that I could not see. The issue that I would not address. The dialogue that I would not have. This feeling gradually became stronger as I learned to observe myself, my actions (or inactions), fears and insecurities"

The table & justice test!

“Power & Control” (Foucault 1991)



“I have come to believe that this subconscious behaviour is no coincidence. It is part of the hidden picture, which I could not see for years … **By controlling our sense of justice, our expectations can be directed and subsequently the reality can be manipulated. Without this manipulation, there can be change, and change is a thread to the status quo that leads to power abuse and inequality”.**

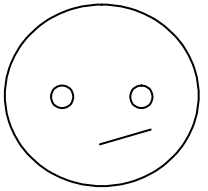
“I believe that if you give people a thorough understanding of what confronts them and the basic causes that produce it, they’ll create their own programme, and when the people create a programme, you get action” (Malcom X)

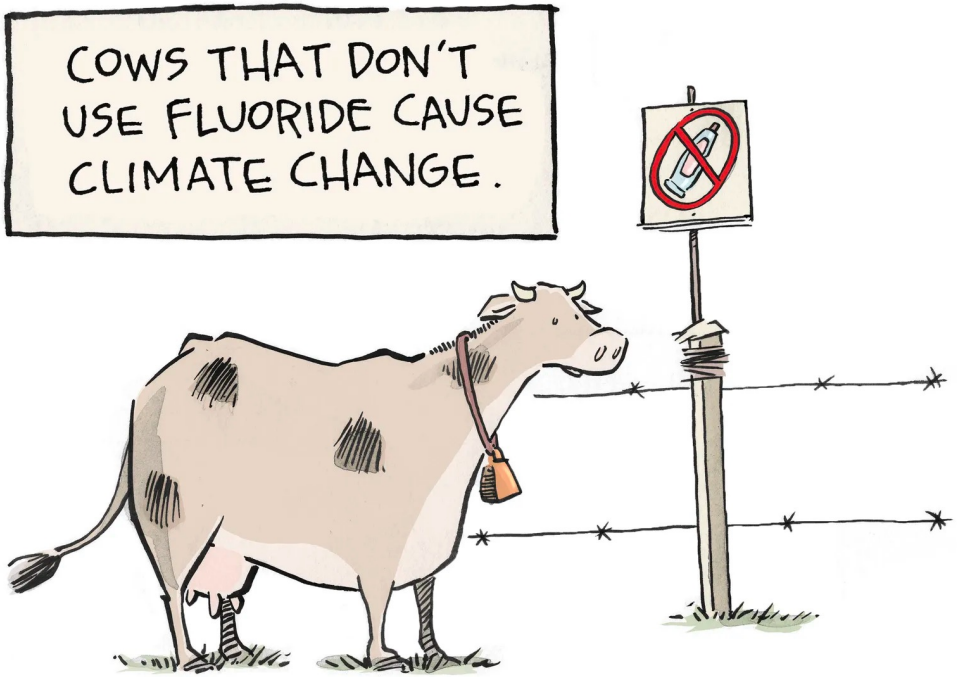
“Racism is so universal in this country, so widespread, and deep-seated, that it is invisible because it is so normal” (Chisholm)

“The post COVID19 power era”

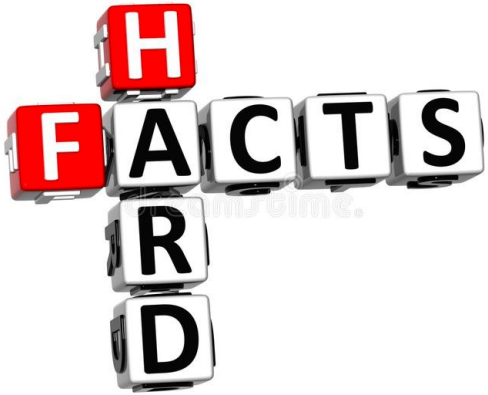
“The world is experiencing unprecedented health and socio-economic impacts, which can only be compared to those that followed World War II. We are afraid that we will lose our life, health and independence, income and homes, family and friends. The scale of this unprecedented fear is increased with continuous threats that are brought to our homes, dinner parties, private moments and bed time. These may relate to terrorist attacks, financial and refugee ‘crises’, unemployment, migration and viruses. **These fears create dependencies. Dependencies allow control. And control serves *status quo”*.**

Conspiracy theories?





An evidence-based book: 20 years in the making



"I have never believed in conspiracy theories; in fact, my research and legal background made me a rather dull chat friend, as I always ask for evidence. And it is this evidence that I want to present through this book, which aims to paint the aforementioned hidden picture by starting the dialogue that we won't have….

We cannot deny what is; we can only learn to observe it, and as we start to awaken, we then seek for tools that will help us regain the power that we have silently lost through gradual and consensual new forms of slavery."

What is this book all about?

“Challenge current thinking and the subconscious feelings of despair and defeatism that are produced in us for the purpose of control.

The power of individual actions is found in the belief that no matter how small these actions are, they are still significant stands against inaction and the forces that lead to silent slavery and persistent inequalities.

The book is structured around four concepts: **power, race, justice and restorative justice.** These concepts are brought under one roof in order to meet two key aims.

First, I want to create a contemporary normative and practical framework, which can be used to counteract power abuse, and the way in which power more generally is exercised today. Second, I want to elevate justice, and restorative justice, as I claim responsibility for not challenging them enough during times that communities needed them the most.

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What is this book all about?

As I am awakening, I challenge restorative justice as a potential bio-power that can restore persistent inequalities and the misuse of power by top-down structures.

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Awakening Roadmap: 6 steps

Step 1: Challenging power

- If you were given a choice between power, money or knowledge, what would you choose?
- It is part of human nature and basic needs to seek power.

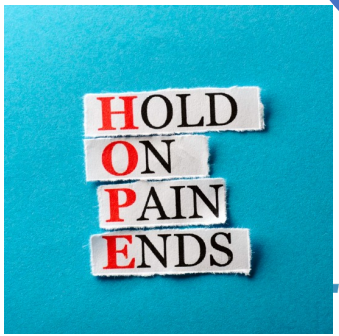
"Power is everywhere, diffused and embodied in discourse, knowledge and regimes of truth"
(Foucault, 1991: 75).

"Power is everywhere and comes from everywhere, it is neither an agency, nor a structure"
(Foucault 1998: 63).

- The way we see and use power depends very much on where we sit – on our own positions and identities, age and psychological development, context and emotional states. And this position is not fixed. It is personal and very much alive.
- Power is an everyday, socialised and embodied phenomenon, which is personal to you. It is exercised consciously, or subconsciously. To challenge the way it is manifested, it is not required that we find the absolute truth.

Three levers of power & control

So, if power is everywhere, then who is subject to the consequences of power abuse, and what has been done to rebalance the distortions of power that lead to inequality and poverty?



In this absolute despair, fear is created and, through this fear, control. The fear and despair that will be present in the post COVID19 era will only be exacerbated as the powerful seek to weaponize the financial, security and nationalism narratives.

Step 2: Challenging race

- “If we all experienced the world in the same way, and if we were given the same choices and opportunities, then no group could claim that they are more oppressed than others, and **racial differences** would be seen for what they are – **human divisive constructs”.**
- I use “race” in its analytical, sociological context to refer to the process of **power abuse that ‘racialises’ groups and identities.**
- I am not interested in its biological or other interpretations, but in **the power structures** that the term is infused with as well as the interactionist meaning it gains through the existence of ‘the other’.

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Three realisations & slavery revisited

“Despite some progress in naming racial discrimination, violence and slavery in our laws and policies, our institutional arrangements are still guided by the social conditions of the past. The power that informs and influences the human construct of the law guides current implementation and the well-intended efforts to bring about social and political change”.

3 realisations → 3 doors to awakening → restoring justice

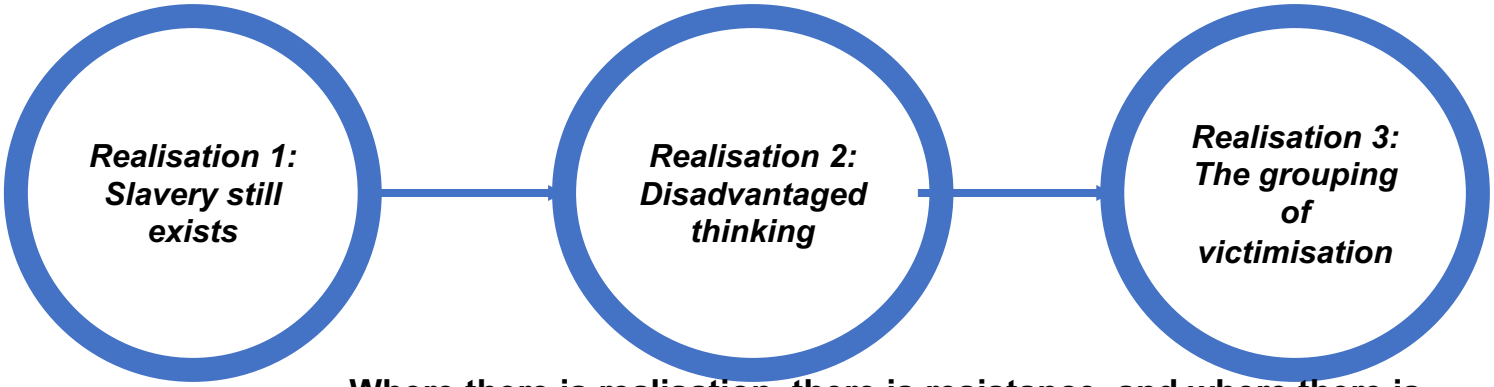


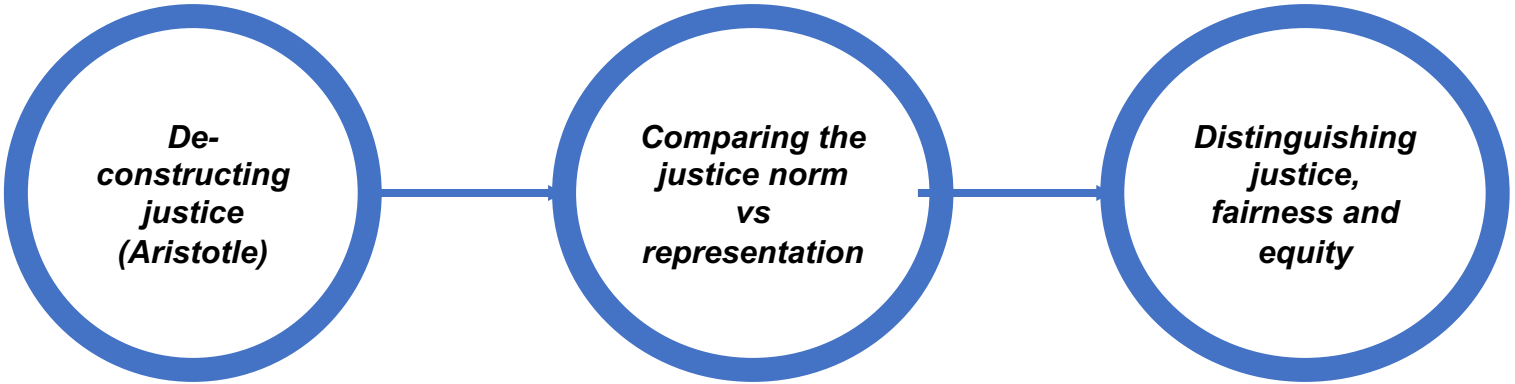
TABLE 2.1 Old and new forms of slavery (taken from Bales, 1999, p. 15)

Old slavery	*New slavery*
Legal ownership asserted	Legal ownership avoided
High purchase cost	Very low purchase cost
Low profits	Very high profits
Shortage of potential slaves	Surplus of potential slaves
Long-term relationship	Short-term relationship
Slaves maintained	Slaves disposable
Ethnic differences important	Ethnic differences unimportant

Where there is realisation, there is resistance, and where there is resistance, there is radicalisation, and ultimately change. The very word “radicalisation” has taken a new meaning that is often attached to violence and illegitimate action. We are too quick to forget that the liberation of most colonies was due to radical actions often by young people or idealists who believed in the power from within.

Step 3: Challenging justice (δικαιοσύνη)

If we were to test objectively the image of justice as this is portrayed in modern society, how satisfactory would the outcome be? And if we are not satisfied, is this a result of our awakening? How long have we been sleeping and was this sleep sweet and subconsciously wanted?



There are two types of δικαιοσύνη (Aristotle). One that is attached to the concept of the law, we will call it ***justice***, and one that defines what is fair and equal – we will call it ***fairness*****.** Although both should be valued-based and free from power abuse, the former is more easily exposed to arbitrariness and human fault. The latter is closer to the ideal, but is abstract. This is an important distinction in our pursuit of methods that address power abuse.

Hope in equity

I want to reveal truths that are well hidden, while exposing the sources and methods that create illusions and silent compliance with *status quo*. **But it is not only about intellectual awakening**. It is also about hope, and about identifying both a normative and practical path that can lead us to a better sense and experience of justice. This path can also challenge *status quo* and in an awaken state of mind put us in a position to also counteract the existing forces of control and indeed reclaim some power.

This hope can be found in what Aristotle saw as the highest personal value of all: “equity”. It is present and objective. Real and alive. We only need to learn what it looks like and therefore seek to find it. Equity is materialist and behavioural rather than abstractive. It is a form of social justice implemented in everyday social and economic life. It allows equality in exchange and fairness in the distribution of good. Not distribution in favour of the powerful. **Distribution that is aligned with the inherent value of our true selves.** Equity is the correction of the law according to the principles of universal fairness in situations for which the law is either too abstract, generalised or manipulated by the forces of power and control. Equity is aligned with restorative justice and social justice. Equity is attainable. We only need to be awakened as we can now identify it.

Step 4: Challenging restorative justice

…. as a potential bio-power that can counter-balance existing inequalities and the misuse of power by top-down structures.

- Restorative justice is a powerful and **painful tool** that is morally problematic.
- Most restorative practices are informal, but this does not make them enjoyable or easy. We are confronted with the suffering and harm we cause, apologising in front of others.
- Restorative interventions might include implicit or explicit coerciveness.
- Restorative outcomes constitute legal agreements that need to be respected. Despite the fact that restorative justice is premised on consensual decision-making, requiring all key parties to agree on the appropriate outcome, the State is still present. It is there to supervise the process making sure that all standards and outcomes are respected.
- Without a clear normative narrative, restorative justice is open to co-option by power and powerful institutions (including governmental bodies).

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Need for a philosophical justification.

Restorative justice: Alternative punishment, alternative to punishment or …?

- Many scholars have claimed that restorative justice is an **alternative to punishment**, as it moves away from state-inflicted retributive responses and the exclusion of affected parties in the decision-making process of justice.
- Others believe that restorative justice is **alternative punishment** due to its coercive nature.
- Both positions suggest that restorative justice functions above or outside power structures that define punishment according to the needs and preferences of the sovereign.

I claim that the restorative justice experience offers something new. This is restorative pain. This pain has a dual impact. First, it causes restorative justice to be morally and ethically problematic. Second, it provides the foundations of its philosophical justification as a theory of ethics and a painful practice. More importantly, this restorative pain is where restorative justice draws its own power for restoring peace.

Catharsis

sharing your story
is like pouring water
on a wound
it might hurt at first,
but after a moment
the pressure is welcome
you quickly realize that
the sooner you clean it out
and let the light bathe it
the quicker it heals
until one day you look back
and you feel peace

Restorative pain through catharsis

- Our power comes from restorative pain.
- Restorative pain serves as the trigger for *restorative catharsis*, a natural by-product of successful restorative processes (Gavrielides, 2012).
- This catharsis, however, should not be seen as a must. It is a gift that is painful, retributive and dangerous, but rehabilitative and constructive.

So, how is this painful gift of restorative pain through catharsis justified? Three steps to justification:

Catharsis derived from the Greek word κάθαρσις meaning “to cleanse”. Restorative pain is the trigger of catharsis. Nietzshe (1872) finds at the heart of the tragic paradox of our restorative pain a great sense of hope, “the joyous hope that the spell of individuation may be broken in augury of a restored oneness” (pp. 74).

We are almost there … stay with me!

Step 5: The fallacy of one justice

- I take a bold, but firm, step by stating that the struggles of the past of restorative justice are due to the limited vision of its proponents.
- Restorative justice is more than a series of practices, or a set of values and theories.
- Notwithstanding its practical limitations and normative challenges, **I take restorative justice to be a comprehensive set of justifications of structures, or lack of structures, for the pursuit of justice and equality.**
- I reject the idea of one justice, or restorative justice.
- It is in the individual circumstances of each individual that each injustice gains its meaning.
- It is in the understanding of the specific events that led to an injustice, and the specific needs of those experiencing it, where we find balance, restoration and equity.
- Without power sharing and user involvement in the design and delivery of justice and restorative justice, there can be no equity.
- And equity is individual in nature, and personal to the events, identities, negotiations, processes and outcomes that it involves.

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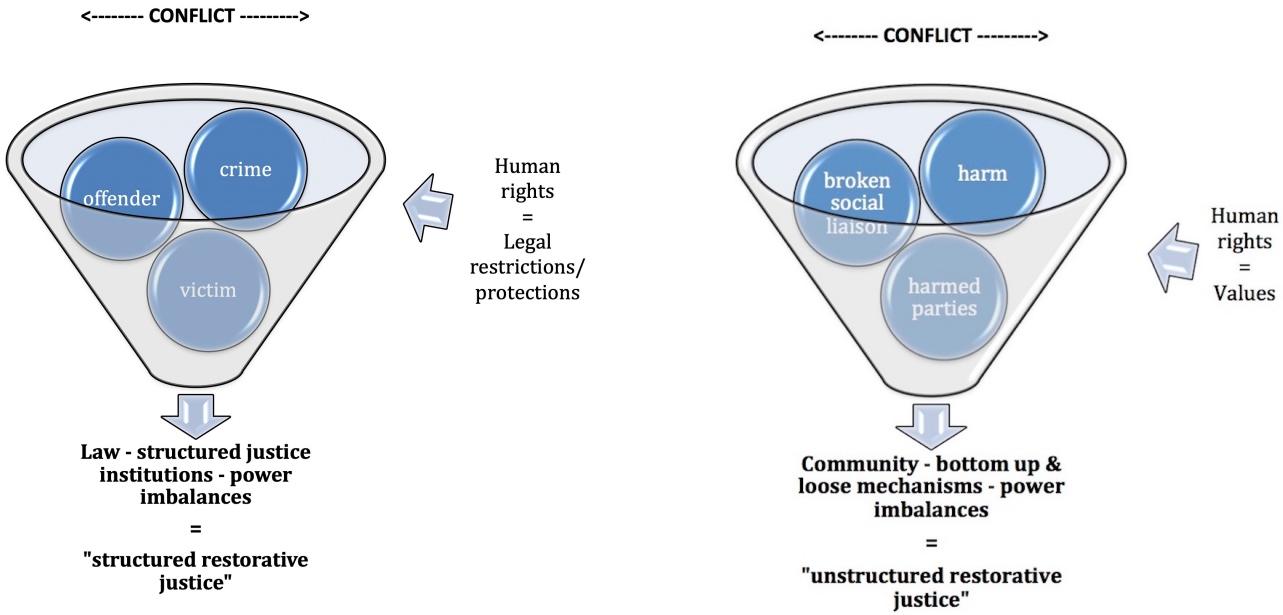
Learning to live with two forms of justice and restorative justice



Summing up the steps of the dialogue we are finally having!

Power is an everyday, socialised and embodied phenomenon, which is personal to you.

In a society where there is no hope, civil rights are seen as luxuries. Survival comes first and in the serving of our basic instincts the vulnerable come last.

It is naïve to believe that the law alone can bring social justice and address inequality issues caused by power abuse.

By putting the term "race" in its analytical and sociological context, we allow it to progress and indeed be used to address power abuse.

Despite denouncing and incriminating slavery, slaves still exist in new forms. Along with the groupings of victimisation, they create divisions.

Race equality, like all other equality strands, is manipulated by the same forces of power and control, and thus solutions must move beyond silo thinking, and towards consensus through power sharing.

Justice is the *lawful* and the *fair*.

Fairness/ equity can act as the biopower that can face the power structures that blind us all.

The starting point for delivering equity is the individual. This takes away the power from the powerful and returns it to you.

Restorative justice is empowering but can be morally wrong. Thus its practices can only be legitimised within a philosophical framework that has clear and attainable objectives.

Restorative justice entails pain, but of a different kind.

The concept of catharsis is an essential precondition of restoration.

“The terrible fire raged and burned. All of the animals were afraid and fled from their homes. The elephant and the tiger, the beaver and the bear all ran, and above them the birds flew in a panic.
They huddled at the edge of the forest and watched. All of the creatures gathered, except one.
Only Dukdukdiya, the little hummingbird, would not abandon the forest. Dukdukdiya flew quickly to the stream. She picked up a single drop of water in her beak.
Dukdukdiya flew back and dropped the water on the fire.
Again she flew to the stream and brought back another drop, and so she continued—back and forth, back and forth.
The other animals watched Dukdukdiya’s tiny body fly against the enormous fire, and they were frightened. They called out to the little hummingbird, warning her of the dangers of the smoke and the heat.
“What can I do?” sobbed the rabbit. “This fire is much too hot.”
“There is too much smoke!” howled the wolf. “My wings will burn!
My beak is too small!” cried the owl.

But the little hummingbird persisted. She flew to and fro, picking up more water and dropping it, bead by bead, onto the burning forest.

Finally, the big bear said, “Little Dukdukdiya, what are you doing?”
Without stopping, Dukdukdiya looked down at all of the animals.

She said, “I am doing what I can.”
(Yahgulanaas, 2008)

The parable of the hummingbird

Thank YOU

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