

Chapter One: Why be Fair?

1. *You are fair and you are concerned that others do well*

You are, we'll assume, a kind, honest, decent and fair person. No doubt you are not as kind as a person could be but you certainly don't go out of your way to be cruel (kind). You might lie occasionally just to smooth things over but you don't lie about important matters even when you expect to pay a penalty for telling the truth (honest). You might have hoarded some toilet paper during the early days of the Covid-19 pandemic but usually you limit yourself when taking more would mean that others will go without (decent). You've probably cheated in a game once or twice in the past year but maybe something big was at stake when you did and, anyway, you feel bad about it (fair).

You are a kind, honest, decent and fair person overall or in general—though you might fall short of being an absolute paragon of these qualities.

As well, likely you take an active interest in the wellbeing of people (and other animals) around you, including people you don't know and will never meet. You participate in litter cleanups or drives to raise funds for charities. You might be thinking about what good for society you could do in your career after you graduate. In fact, you might let the social value of the different paths that attract you affect your decision about a career. (You want to be a physician, and you're considering infectious disease medicine rather than podiatry because you think you would help more people if that were your specialty, wonderful as you know it would be to practice podiatry.)

No doubt you do not evaluate *everything* you do by asking whether doing it will improve the lives of other people (and animals). You probably never ask whether what you are doing is the very best thing you could do for the world. ("Would the time, energy and other resources I'm devoting to combatting police violence actually be better spent, overall, on global warming?") Of course, much you do is simply for your family, your friends, your classmates, your coworkers or yourself, not for people you don't know or for the world generally. Nonetheless, the wellbeing of strangers and society surely matters to you enough that you would not knowingly act to reduce the overall wellbeing of people (if you can imagine ever being in such a situation), except that something else really significant depends on it.

Let's say you are for the most part a fair person, concerned not to wrong others, and that you are a person who takes at least a little effort to make things better even for people you don't know. You have, then, a commitment to fairness and to the general wellbeing. Certainly you have other commitments as well. Sometimes, as you recognize, honouring those other commitments requires setting fairness or the general wellbeing aside for a moment.

Psychologists are interested in motivation (anthropologists, sociologists, and political scientists are as well). A psychologist might ask and investigate why you are fair (to the extent you are) and why you are concerned about the wellbeing of people beyond your circle of friends (to the extent that you are). Psychologists interested in motivation will want to know what factors lead people to be fair and to be unfair, to act for the greater good or not to act for the greater good. They will want to develop explanatory theories of what genetically, environmentally, culturally, and so on

brings people to value fairness to the degree they do and what brings people to be indifferent or hostile toward fairness.

Philosophers are interested in motivation just as psychologists (and the others) are. As philosophers, though, we have an additional interest. Philosophers think about whether they or other people *should* be concerned about fairness or the wellbeing of people generally. That's what we're now going to do.

2. People committed to fairness have tied a hand behind their back

The remainder of this chapter is devoted to an argument meant to show that it is foolish to have any level at all of commitment to kindness, honesty, decency or fairness and that it is foolish to care about the general wellbeing of one's community. In subsequent chapters we will criticize and evaluate this argument.

The argument that commitment to kindness and the rest is fairly complex. It moves from sub-argument to sub-argument before it gets to its conclusion and it employs concepts that aren't always that easy to grasp. We'll go slowly.

Let's begin, though, before getting into details, with the overall idea of the argument. Why should you be committed to treating people fairly? In order, you might answer, so that they treat me fairly in turn or so that my community might prosper as an effect of fair dealing. But think: if you can get away with unfairness, you could really serve yourself well and benefit the people and projects that matter to you. And, so long as you don't encourage others to be unfair, for their unfairness could come to affect you negatively, your community will continue to prosper and you might (even if unfairly) acquire more resources.

To be committed to fairness in your dealings with bosses and competitors and shopkeepers and test graders and the police and so many others is, in the end, to tie a hand behind your back. Better to make a show of fairness, hide your unfairness but use it, and reap the profits.

Unless, of course, you aren't particularly smart or resourceful. If you lack the intelligence or tools to pull it off, you'd be wise not to try. But any reasonably smart and disciplined person would be a fool to pass up opportunities to get what he or she wants.

The same reasoning works with kindness, honesty, decency and concern for the general welfare. (As an exercise, state the argument above in your own words making it about a commitment to honesty, decency or kindness instead of fairness.)

3. What makes a life go well?

If it's foolish to be committed to fairness, it is foolish from a specific perspective. This perspective would have to be one that matters to you, though, such that if something is foolish from that perspective, it stands a good chance of being foolish overall. The perspective from which a commitment to fairness is foolish, according to the argument we have begun to explore, is that of living a life you like living, living a life that you are satisfied, happy or pleased to live, living a life that in your own eyes is a life you want to live.

What makes a life go well? One answer that would seem to apply to everyone in all material circumstances, whatever their temperaments or prospects, is this: having and enjoying to the greatest extent possible those things that one values most.

The things one values most can be, across all people, almost infinite in variety. Some of us like lots of excitement, some of us like plenty of calm. Some of us like being in crowds, some of us prefer to be just with a small number of close friends, and some of us would spend most of our time alone, if only we could. Some of us want our friends to succeed, some of us don't have friends and don't want any. Some of us like hockey, some of us can't stand it, some of us like cooking, some of us like playing bluegrass music in a band. Some of us value the science of medicine and do what we can to speed its progress. Some of us like to study but only in groups.

Your life is going well for you, according to this answer to our question, to the extent that you are engaged with the things you like and engaged with them in the ways you most like to engage with them. The things you simply like to engage with are the things you like for their own sakes. The ones most important to you are the things you love. You love worshipping with your congregation, you love your boyfriend and being with him, you love listening to Henryk Górecki's *Symphony No 3 (the Symphony of Sorrowful Songs)*, you love playing basketball, you love having red wine with cheese, bread and conversation.

One thing that gets in the way of our living well are all the things we need to do in order to make it possible to do the things we value doing for their own sakes. Shopping, riding the bus, sweeping up, going to the dentist, standing in line, visiting with people who bore or upset us, scooping the cat litter, working at a job we don't like, taking guff. The more of that and the less of doing what we like, the less our lives are going well for us.

Another thing that gets in the way of our living well is suffering. We positively don't like being in physical or emotional pain, or most of us don't. We don't want to suffer. Pain hurts and it's often debilitating. The more we suffer, the less our lives are going well for us.

A prudent or practical or wise person, then, is concerned with at least two things. She is concerned to avoid pain, both physical and emotional, and she is concerned to minimize the time and effort she spends in drudgery.

A third thing that concerns a prudent person is finding a working harmony among the many things she likes and loves for their own sake, so that she doesn't cut herself off from one of her loves when pursuing another.

We've been developing an answer to the question what makes a life go well. What is it, most generally, that would bring one to be satisfied or content with one's life, to like living, to like living the life one is living? The answer we've been developing is that one likes living one's life to the extent that one is enjoying in that life those things, whatever they are, that one values for their own sakes, that one loves.

One would be foolish, then, to do anything that lessens the time one is involved with what one loves or increases the effort it takes to gather the resources needed to be involved with what one

loves. One is foolish to be committed to anything that might lead to one doing something that gets in the way of one's enjoying the things one loves.

4. *The point of being fair*

To be a fair person is to be concerned that people are treated fairly. It's to be concerned that they are treated fairly by governments and institutions of government, such as the police and the justice system. It is to be concerned that people are paid fairly for their work and credited fairly. It's to be concerned that terms of competition don't favour any people unfairly and that people aren't cheated or manipulated or defamed by businesses or the media or their neighbours.

Fair people express their commitment to fairness in the reasons they have for how they vote, in the causes they support, in the criticisms they level against government and other institutions when they find unfairness, and, of course, in their own treatment of others. They want that others treat others fairly and they want that they themselves treat others fairly.

Now different people might have different conceptions of fairness. That is, people might disagree about what the fair course of action is in a particular situation. We see this sometimes in the debate whether to pursue equality of opportunity in social arrangements or equality of outcome. Some think that so long as everyone has the opportunity to compete for a position or resource and the adjudicators follow impersonal rules, all is fair. Others think that fairness requires assisting certain of the competitors or having the adjudicators aim to grant that position or resource to competitors belonging to certain ethnic groups or other types.

We'll set aside, for now, the question which conception of fairness is the true conception, the question what fairness really is. (There might not be a *true* conception at all.) It's enough at present for each of us to think of fairness as we happen to think of it and not worry whether we've got it right (if there is anything to get right). The argument that it is foolish to be committed to fairness works (or fails to work) whatever conception of fairness we prize.

Fair people promote fairness generally in their communities, nations, or the world as a whole, and they strive to be fair in their particular dealings with the particular individuals and groups they meet in their lives. And they are also concerned that they themselves be treated fairly.

Now it's easy enough to demand fairness where unfairness puts at risk something you like or something that belongs to you. It's easy to demand fairness when fairness requires that you be paid more. A fair person, though, one strongly committed to fairness, will demand fairness even when the fair outcome means less for him or her. If it's unfair that a co-worker be paid as little as she is, and the fair solution would involve you being paid less, then, if you are committed to fairness, you will endorse the fair solution and accept (without grumbling) a cut in pay. If it's fair (again, according to your own conception of fairness), that you pay more taxes or assume a larger share of some burden, then pay more taxes or assume a larger burden you will. A person committed to fairness will vote for a candidate whose policies would make him or her worse off materially if that's what would be fair in the situation.

Being fair is often easy to do. Being fair might typically not make one worse off given the things in life one wants, particularly given the things one loves for themselves. But there are situations

in which acting fairly *can* make one worse off (and there are situations in which acting unfairly can make one better off). A fair person doesn't pick and choose situations in which to act fairly or to promote fairness, though. A fair person isn't fair just when it is to his or her clear or short-term advantage to be fair and then unfair when fairness is risky. To have a commitment to fairness is to be prepared to act fairly or to accept the fair outcome whatever the consequences to oneself might be, at least so long as those consequences aren't devastating to one.

So what reason could one have to be committed to fairness? What do people get from acting fairly even when by acting fairly they lose something?

One proposal is that fairness keeps costs down and, thereby, promotes prosperity in a community or society. Since we all benefit from living in a prosperous community or society, the fair person will reap a benefit. Of course, the fair person might have lost something in dealing fairly with others or in allowing him or herself to be dealt fairly with by others, but it's a sound expectation that overall he or she comes out ahead.

Fairness keeps costs down because a community doesn't need to invest more and more resources in policing when the people in that community tend to treat each other fairly. When, for instance, ticket scoffing on the local transit system is rare, we don't need to hire very many ticket takers or inspectors. We can use what we used to spend on fare-checking elsewhere (more buses and trains, for instance, or lower ticket prices).

Another proposal is that since unfairness breeds unpleasantness, and unpleasantness both causes pain and is debilitating, we all have a reason to commit ourselves to fairness. When people are treated unfairly, they become bitter and resentful. They treat others poorly and their productivity slides. Working alongside them is no fun. Being among bitter and resentful people, people willing to sabotage one's projects, will cause one's own productivity to decline. Better, then, to be fair to people, even at a cost, for the eventual cost of being unfair to others will almost surely be greater than the cost of unfailingly being fair.

Indeed, too much bitterness and resentment, and society itself can shatter. When I am unfair, I put the social contract at risk, the implicit contract that you will do your job well so long as I do my job well. Should the social contract fall apart, life would be solitary, poor, nasty, brutish and, even, short.

Let us end this list of reasons with a third proposal why we should be fair, though no doubt there are many more. If I treat you fairly, you will take me to be a fair person. Taking me to be a fair person, you will favour me with your business or not ask me for much by way of collateral on the loans I seek, and you will praise me to others who likewise will favour me with preferential treatment. Perhaps my fairness will bring me honours in my community.

My receiving fair treatment at the hands of others can, we have seen, be to my immediate disadvantage. Fairness might require me to surrender a resource I have acquired. But if I resist receiving fair treatment out of concern to keep that resource, I will look selfish and greedy. No one will want to do business with me, and not only because I don't have their trust. No one will do business with me also because they intend thereby to punish me for my ways. Better, then, not

to resist receiving only my fair share. Better, even, to accept warmly my momentary loss. That way I look very much to be a fair person. And I can then look forward to enjoying the rewards of being known in my community as fair.

To summarize: Being committed to fairness so that I am fair whether it is to my present advantage or not has at least three things going for it. First, my fairness helps to promote prosperity in my community; second, my fairness keeps things pleasant and helps to maintain the social contract whereby we all play by the rules; third, my fairness causes others to reward me with appreciation and favours. The general point is that my fairness will bring me advantages overall despite the occasional losses I might suffer in particular situations along the way.

5. Being committed to fairness and having a reputation for fairness

A prosperous society in which to live, a pleasant environment (rather than a stress-filled one), and good will from those who can help one are wonderful things and not to be put at risk for the sake of small or passing advantages—all that is true. But notice that it is not necessary that I myself actually be fair, that is, that I be committed to fairness by principle or habit, in order for me to obtain these wonderful things. In fact, it is not at all my being fair that is responsible for good things coming my way. It is, rather, simply my *reputation* for fairness that is doing the work. Whether I am committed to fairness or not, what matters to my advantage is only that people *think* that I am fair.

Costs will stay down so long as no one *perceives* that I have acted unfairly. If I enrich myself through an unfair act and that act is not detected, my unfairness will have no significant effect on the costs of policing people's behaviour. As long as my unfairness remains undetected, my unfair act will have benefitted me without indirectly costing me much or anything.

My unfair act will have little or no effect on the mood or activities of those around me so long as it goes undetected, or so it seems. What turns people sour is the belief that someone got away with something at their expense. But they will think that I am using and abusing them only if they are aware of my having acted unfairly. If my defection goes unnoticed, both the good attitudes of people in my community and the social contract will remain intact. It's not necessary that I be a fair person, then, but only that I appear to be one or, at least, that I don't appear to be unfair.

But even if something about my unfair act is detected, the increase in costs that might follow could well be too low to affect me, especially if I increased my resources substantially through my unfair act.

Finally, it is not enough that I act fairly towards others that I come to be liked and trusted by others and rewarded with their favours. Again, it is only their perception that matters. They will not reward me if they don't believe me to be a fair person, true, but, whether I am fair or not, they will reward me if they *believe* that I am fair. It is my reputation for fairness that does the good work for me.

Indeed, if I am a fair person, committed to fairness out of principle or through habit, but they do not see me as such, they will persecute me. Because they have heard slanderous false rumours about me or because they themselves fail to perceive the fairness of my actions, they do not think

me fair. Maybe they hate me, thinking, as they do, that I am an unfair person, a manipulator and a cheat. Perfectly fair though I have been in all my dealings, I gain none of the advantages of being fair so long as I have no reputation for fairness.

The lesson is that whatever we might think helps us in our journey through life, in reality, being fair is neither necessary nor sufficient for obtaining those helps. Whatever it is we think helps us, it is not being—but rather the *reputation* for being fair. With that reputation, whether we are actually fair or not, we will gain the help we want. On the other hand, without a reputation for fairness, even if we are fair, we will be denied that help. A fair person lacking a reputation for fairness might even find herself persecuted.

6. *Not being fair beats being fair*

From the argument to this point, we may conclude that having a commitment to fairness is foolish from the point of view of leading a life in which one enjoys the things ones loves as often and deeply as one can.

A prudent person does not form a commitment to fairness, for having such a commitment can well prevent him or her from exploiting opportunities to obtain resources or to get ahead. Bearing false witness against a competitor or padding one's resume can move one forward in one's career but neither is fair. Initiating a scurrilous rumour against a rival can clear the way to success. Of course, one has to be careful. If one is caught, things could be catastrophic for one. A prudent person lacking a commitment to fairness will pass up as too risky most opportunities to advance through unfairness. He or she will be strongly concerned to preserve his or her reputation for fairness. Nonetheless, he or she will stand ready to act unfairly should he or she judge the likelihood of great reward to outweigh the possibility of capture and penalties.

Let us imagine a particular person, real or fictional. (You might do well to imagine yourself.) Assign this person a personality, a set of tastes and talents, goals in life, and resources he or she can draw on. Now double this person so that you have two of them. It's the same person, but in only one version is that person committed to fairness. In the other version, the person is not committed to fairness but is willing to manipulate people and to cheat whenever he or she judges it best overall, from the point of view of living well, to do so. That's the only difference between the two. Otherwise, they're the same. (They both like Westerns and eggplant casserole, they both want eventually to have three children, they both want to work as chemical engineers in the aeronautics industry. They are highly and equally intelligent, patient, personable and hard-working.)

Imagine these two people living their lives through a decade or two in the same material circumstances. Which one will eventually be living better than the other? There is reason to think that the unfair one will be living better, for that one was prepared to take opportunities he or she thought would advance his or her interests while the fair one wasn't. The fair one forwent opportunities that the one who isn't fair exploited. (It didn't even register on the fair one that there were these opportunities.)

It is possible, of course, that the one who isn't fair never acted unfairly over the twenty or thirty years we're imagining; it is possible, that is, that he or she never judged a situation to be one in

which the expected rewards that could come by acting unfairly exceeded the risk of getting caught. But in that case, the unfair one is no worse off than the fair one. The fair one will not be better off than the unfair one.

7. Two objections

It's also possible that the unfair one got caught and that because he or she was caught, she is now worse off than the fair one.

We humans, the psychologists tell us, are prone to all sorts of mistakes in perceiving and reasoning. We often overestimate the rewards of succeeding in our endeavours. That is, we get what we want but we find that having it is not all that we expected it would be. We often overestimate the odds we will succeed. That is, we think we have a good chance of getting what we want but actually we don't, even if we do everything right. We tend to underestimate the costs of launching and completing an endeavour. That is, we find pursuing our goal to take more time, energy and emotion than we had budgeted when we first set out.

We're especially bad during hot moments at determining how valuable to us an end would be, how likely we are to attain that end, and how much our pursuit of that end will cost. Hot moments are moments when we don't have time to consider things carefully but have to react on instinct or feel or guesses. If we think we're capable of acting well on instinct, feel or guesses, we should recall that the psychologists say that people are prone to overestimate their ability to get things right through instinct, feel or guessing.

Finally, we humans are often terrible at recognizing beforehand just how awful the consequences of failure in our endeavours will be. That is, we think we'll be able to handle failure emotionally and to climb out of it and start again, but then when we fail we're crushed and we've depleted our resources. Recovering is often long and painful, longer and more painful than we thought it would be.

This is all to say that if we're prepared to act unfairly in pursuing our goals, then when the opportunity to get ahead through unfairness presents itself, we'll think that opportunity is less risky than it actually is. And we won't appreciate just how dangerously we've been acting until we are caught, as we likely will be.

An objection to the claim that to get the most out of life, one should be prepared to act unfairly, then, is that we can't know in any particular case whether acting unfairly is a good bet. We cannot trust our judgement that we will succeed and we shouldn't trust our sense that failure won't be so bad. Being prepared to act unfairly is to ask for trouble. Better, then, to commit oneself to fairness so that one isn't even tempted to grab opportunities to succeed unfairly.

The response to this objection is that of course those not much good at reasoning things out shouldn't plan on being rocket scientists. But if you *are* good (enough) at reasoning things out... First thing, certainly, is to study what the psychologists say about common cognitive and affective weak spots and blindspots, so that you lower the chance that you will get in trouble through faulty thinking. Second thing is to scheme to acquire a reputation for fairness that you can exploit and

that will protect you later if you run into trouble. The last thing a reasonably intelligent and resourceful person like you should do is to let fear of failure run your life.

Another objection to the advice to lose any commitment to fairness you might have begins from the same observation on which that advice itself is based. That is the observation that it's not being fair that brings one rewards but one's reputation (true or false) for being fair. Advancement, we've learned, comes through people's *thinking* one is fair, whether one is or isn't, not through simply being fair.

But what is the best way to come to have a reputation for fairness? (What is the best way to trick someone into thinking you're a window washer?) Obviously, it's to act fairly when they are watching you. (It's to wash some windows when they are watching you.) And what's the best way to increase the chance that people will see you acting fairly? To act fairly unhesitatingly and often. And so the best way to obtain an reputation for fairness is to commit oneself out of principle or habit to treat people fairly and to accept only fair treatment from others (even when they are prepared to treat you preferentially).

The second objection turns the advice not to be committed to fairness on its head. That advice is based on the idea that it's a reputation for fairness that brings the rewards of fairness, not being fair itself. The objection agrees with this but notes that the best way to gain a reputation for fairness is to be committed to fairness.

The response to this second objection is that while being fair is a good way to gain a reputation for fairness, it isn't the only good way. First, it does have a downside. Fair treatment doesn't always appear to be fair treatment. In the contemporary world, your commitment to fairness could bring you down in the world, for others could misinterpret your actions or have a radically different conception of fairness from yours. Better, then, to be concerned with how others will perceive your actions than to be concerned to be fair by your own lights.

Second, it is not really all that hard to be aware whether someone is looking at you or not; and, if someone is looking at you, it is not hard to be aware who it is and what they would be happy to see you do. Third, adopting and maintaining a commitment to fairness is itself costly work, at least a little costly, and difficult.

"It's dangerous to be prepared to act unfairly." Yes, but I'm smart and disciplined enough to minimize the danger. "Being fair always is an effective way to acquire and maintain a reputation for justice." Sometimes yes, sometimes no. Being seen to be fair won't gain for you a reputation for fairness when others have a false conception of fairness and despise actual fairness. In cases in which it will, being fair will have significant costs and burdens. Just as effective as actually being fair, and not much more difficult, is staying alert to the proximity and values of others and exploiting the situation to your advantage.

8. *Conscience*

Another objection to the thesis that an intelligent, resourceful person will live better (by their own lights) without a commitment to fairness than with one is that acting unfairly, and even being

prepared to act unfairly, will disturb a person's conscience. Having an uneasy conscience is painful in itself. It can also prevent one from going about one's business effectively.

Since having an uneasy conscience will bring one pain and can be debilitating, and pain and debilitation make a life go poorly, we have excellent reason to strive to have an easy conscience. If acting unfairly or being prepared to act unfairly will result in an uneasy conscience, we have excellent reason to commit ourselves to fairness.

The response to this objection is that one should seek to get rid of one's conscience. Having a conscience doesn't seem to be doing one any good and it threatens to come between one and one's aspirations.

"Every reason I have points to the excellence of gaining X, but to gain X I would have to act unfairly and acting unfairly would bother my conscience. For that reason, I will forgo gaining X and the excellence that would thereby be mine." Some would judge this line of thought ignoble, unfit for an intellectually and morally autonomous being such as yourself.