

## Free Will and Justice as Fairness

### Introduction

I will argue that justice as fairness will never universally exist with the presence of free will, but free will is necessary for humans to come as close to justice as fairness as possible. It will never exist because every person and society has different opinions of fairness, and will never be able to agree on morals. For the sake of the argument, we will assume that there are objective morals, or morals that apply to everyone whether or not they are accepted. Justice, as according to my thesis, is defined as fairness—fairness universally, for everyone. This definition was created by John Rawls in his piece, “Justice as Fairness.” The reason for free will in humans was discussed by Richard Swinburne in “Why God Allows Evil,” which I will explain, and is why I want to make the assumption that God allows us to have free will, so that this is not the focus of the argument. The importance of society in shaping the morals of its people was discussed by Thomas Hobbes in “Leviathan.”

### Exposition

In Rawls’ paper, he begins by discussing how decisions made in a society where justice as fairness is the system implemented will be made to benefit everyone in a society in some way (574). It would be as if the people creating the system of justice as fairness believed that reincarnation was real, and they had no idea what class or ethnicity they would be or skills they would have, so the only way to ensure happiness would be to make sure the laws benefitted and were fair to everyone and provided equal opportunity (574). Rawls describes this as the “veil of ignorance” so the lawmakers would be completely unbiased and could not fix laws to give their future selves advantages (574). He then states that there are two Principles of Justice when defining justice as fairness:

1. Equal right to the most extensive liberty possible and
2. Inequalities should be arranged so as to
  - a. be to everyone’s advantage (including those with very little) and
  - b. be attached to positions of offices open to all (578).

These principles provide equal opportunity for everyone, so that, no matter what class, no one is excluded from living as well as possible. Rawls explains that injustice, with this view of justice, would be any inequalities that do not benefit all (579). Rawls admits that some fundamental liberties—objective liberties that are intrinsically beneficial, such as wealth and income—would be given up (or more evenly distributed) with this social contract, but the gain in overall success of the society would make up for anything that was lost.

“Why God Allows Evil” by Swinburne discusses two different kinds of evil—moral and natural—and explains that free will is the cause of moral evil through human actions (106). Natural evil is evil that is not an outcome of human action or inaction, such as natural disasters and diseases, and moral evil is all evil created from human action or neglect (106). He stresses the importance of free will when it comes to human actions and responsibility; how we must have free will so that we can learn how to be responsible through mistakes and consequences from our actions (107). By giving us free will, God gives us the opportunity to either hurt or help others, but this is a consequence of allowing us to choose (107). The only way for God to keep us from hurting each other would be for Him to limit our choices and our free will—thus limiting our chances for opportunity and for a “greater good” (110). Swinburne does state that both moral and natural evil can lead to one deliberately aiding others, though only natural evil can lead to character growth (111). So, God allows these evils to exist so that we have the chance to obtain a greater good (113).

Hobbes, like Rawls, discusses the social contract, but talks about why it was created and what it brings to a society. Hobbes begins the writing by explaining the State of Nature for humans, which is competition, diffidence, and glory—competition so that we can get more, diffidence so that we can have safety, and glory so that we can build any reputation that we desire (102). Since these are the natural state of man, Hobbes continues that, without common laws and enforcement of those laws, every man would continually be at war, and there would be not time to create inventions or enjoy life (103). Hobbes explains that, in order for the laws to be enforced properly, there needs to be a leviathan figure who is chosen by the people to have the authority to enforce the terms of the contract (106). When the people trust their leviathan to protect them, they willingly hand over some of their rights and follow the laws to live without constant fear of their safety, and they are willing to be punished for disobeying the laws agreed to (106).

## **Argument**

Before I am able to argue for my thesis, the distinction between what is moral and what is right, and how both of these affect how justice is determined, must be made. In order to make this distinction, it must first be determined if one’s morality leads to their perception of rightness, or if what one sees as right determines what their moral beliefs are. Examining each individually, I can begin by noting that morality is seen as more of an intrinsic good and less as an instrumental good. Intrinsic goods are things that are good because of themselves and not as a means to an end, such as happiness, love, and sight. Instrumental goods are those that are used as a means to an end, like eyes are instrumentally good so that we can see. Morals may be gained by actions, but they can also be gained in thought, and both add to one’s true moral status. Performing a moral action, such as giving a homeless person a blanket, would have more intrinsic value to a person if his or her intentions for giving the homeless person a blanket were completely selfless. If that person’s intention is to improve his or her reputation so that others see him or her in a better light, then, while the action itself was completely moral, the reason for it is questionable and may not contribute to his or her morality. But, looking at these examples from

the standpoint of rightness, the only thing that is considered is the action. Since it was right—or at least it wasn't *wrong*—for the person to give the homeless a blanket, what he or she did was right.

Justice as fairness encompasses both intrinsic and instrumental goods—implying that morality is a necessity to reach justice as fairness as a social contract. Fairness in humanity is important not only because of what is gained outwardly, but what is gained intrinsically, as well. Having the reassurance of equal opportunity for everyone would definitely limit stress over money and fear of failing. It would also be intrinsically good for a person. The justice social contract that we (at least in the United States) hold currently focuses more on the rightness of actions than the morality of them. Intentions are not important factors, but this is understandable when one's intentions cannot be truly appreciated. By choosing the social contract of justice as fairness, good intentions are encouraged and intrinsic happiness may be easier for more people to gain.

Now that this has been explained, I can address how free will affects justice as fairness through actions and morals. Assuming there is a God, and He gave us free will, in doing so, He eliminated the possibility for universal justice as fairness because we all have different opinions. Above, I mentioned that the U.S. justice system is currently focusing on right and wrong instead of morals, and this is true for most other countries as well. Some may be more morally inclined than others, which is good, but that is the problem. They are all different because none of them can agree on their opinions of right and wrong. If leaders—and even citizens—cannot agree on just the *actions*, then the intrinsic importance of these actions is definitely going to have some variation. And with the *basis* for the current justice system varying by society, each society is going to have a different justice system, and they are all going to believe that theirs is the right system; that their morals are the right morals. It cannot actually be confirmed what morals are truly correct, but the belief is still going to be present and, because of the various cultures, environmental factors, and laws existing in today's world—not to mention the differing minds of people in every society—there will never be absolute agreement on right actions or intrinsic goods. So there will never be acceptance of an absolute morality or universal justice as fairness.

Even with all of this disagreement and the impossibility of justice as fairness coexisting with free will, I still believe that, without free will, humanity would not be able to come as close to justice as fairness as we *could with* it. (I'm not necessarily saying we can get close to it, especially with the constant arguing between countries and also between leaders and their citizens). This point is a bit more complicated to explain, but the reason for this was touched upon in earlier paragraphs when discussing the significance of morality compared to rightness, and how fairness relates to each. To first examine fairness in the presence of each, I will provide an example of an act of fairness. There is a father who has two sons, and he gives them both five dollars to buy themselves something at the store because he does not want them to think he was being unfair in giving one more money than the other. The boys both go to the same store and get themselves the same candy, and they are both happy—intrinsically through the pleasure of eating the candy, and because they do not feel they were wronged in any way. But, say the father gave each of the boys five dollars as before, but he knew the boys were not going to the same

store—one son was going to Family Dollar and the other was going to Meijer, and Meijer is more expensive than Family Dollar. But the father gives them both five dollars because that seems fair to them, and they go to the two different stores, not knowing the difference until they both return and boy that went to Family Dollar brings with him more candy than the boy that went to Meijer (assume that they both went to buy the same candy once again, and they did not know one store was more expensive than the other). Now, the father's intentions seemed pure—to be fair to the boys by not giving one more than the other—but one of the two boys is not intrinsically satisfied. The different circumstances did not benefit him as they would have had the father given him enough money to buy the same snacks as his brother. But the father cannot be the one to blame, either; he was only trying to be fair to both sons, because if one received more money than the other, it would not be fair to the boys.

This scenario points out the dilemma with justice as fairness used in the presence of free will and in the absence of free will. For God to eliminate our free will, knowing that without it, our options are more limited, he would be eliminating an important part of fairness—intrinsic satisfaction. Being forced to be fair does not give humans the fulfilling, intrinsic feeling that comes with choosing to give the best we can to everyone. There is no appreciation for us agreeing and choosing to do right because it is good for everyone when God is giving us no other option. Knowing that we have all of the information we need to make a decision and choosing to be fair is how the true potential of fairness is encompassed. When the father gave both his sons the same amount of money without informing them that Meijer was more expensive than Family Dollar, he was taking away the chance for at least one of the boys to reach the highest level of intrinsic happiness he could from the situation. By taking away the free will component of fairness, the same would be true to humanity as was true to the son who went to Meijer and came back with less.

## **Objection**

It is only natural for the objection to immediately state that free will is not necessary to have true fairness, thus justice *as* fairness, in the world. Actually, it would state that, if we want universal justice as fairness, we will *have* to live without free will. Free will allows us the chance to choose to be unfair when making decisions—as Swinburne said, it is the cause of moral evil; actions that hurt others instead of helping them (106). God taking from us our free will and enforcing justice as fairness would eliminate any unfairness, any moral evil, in the world. Just the absence of these would be intrinsically good for us. We would not have to worry about making harmful choices and being treated wrongly, and our overall happiness would be maximized. Having God as our leviathan to force us to do something that is right is not a bad thing—it would be like another social contract, made so that we could be assured of living happy, fair lives. And, in this situation, human nature would develop to fit the social contract of justice as fairness, so being fair to everyone was more of a habit than an order. All of this could happen without free will, and universal justice as fairness would be obtained.

## Reply

My response to the opposition is that justice as fairness would not be as intrinsically good to us if it was not intentionally chosen out of our true morality. Unlike Swinburne, I believe that natural goodness is not the only way to show true character growth (111). Moral evil in the world, evil that is created by human action or inaction, not only does harm, but also presents us with a chance to prove our true morality. If someone was stabbed, the criminal's morality would be lessened, but this person's lower morality would also allow for someone else to gain morality by helping the victim. Without giving humanity the chance to better themselves and the world around them by fighting against the moral evil that came with their own choices, God is not allowing them to reach or maximum happiness, potential, or morality, and especially not the highest level of intrinsic goods. If anything, God would be acting unfairly towards humanity, which would be hypocritical to what he would be imposing on us. The only way for us to gain as much justice as fairness as possible is for us to, in a world of free will and opportunity, better ourselves and choose to change our policies.

## Conclusion

Justice as fairness without free will cannot exist, but with it, will never exist either. It is a sad thing to understand, but attempting to do as much as possible to reach justice as fairness still provides hope for this kind of social contract in the world one day. There are many other possible objections that can be made to this statement. During the making of this essay, I had trouble coming up with the basis of my argument because I was struggling with the question of whether something is moral because it is right or right because it is moral. This train of thought led me to thinking about J.C. Smart's example in "Extreme and Restricted Utilitarianism" about Hitler drowning in a river, and then I began thinking about whether letting someone die was the same as killing them (Smart 79). All of these philosophical topics came up while beginning my argument, and helped me to understand all of the different topics that could be brought up with my argument. These are definitely subjects that I would research and write about to further this essay and to help secure my position on justice as fairness and intrinsic goodness.

## References

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