

PHIL 408Q/PHPE 308D

Fairness

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John Broome (1990). *Fairness*. Proceedings of the Aristotelian Society, Vol. 91, pp. 87-101.

Example: Dangerous Mission

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1. One should send the most talented person.
2. Fairness requires a lottery to be held amongst all the candidates.

These two views are not incompatible. It may be that fairness requires a lottery, so that it would be unfair not to hold one, but that in this case fairness is outweighed by expediency, so that on balance it is right to send the talented candidate without a lottery.

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But how, exactly, do the reasons combine together to determine what ought to be done? There are various views about this...

Teleology: the good ought to be distributed in whatever way maximizes overall benefit. So the only sort of reasons it recognizes for a particular candidate to get the good is a benefit that would result. Reasons are *weighed up* and the good is given to the candidate that maximizes the overall benefit.

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Other views disagree with teleology: Some reasons are *side constraints*. A side constraint determines directly what ought to be done; it is not subject to being weighed against other reasons. *Rights* are often thought to be side constraints.

E.g., Suppose that we are considering a candidate's income, which she has earned. Then side-constraint theory says simply that she should have it; no question of weighing arises.

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- ▶ One candidate is more talented than the others. This is a reason for allotting to the others the good of staying behind.
- ▶ But the other candidates' lack of talent gives them no claim to this good. It may be right to leave them behind, but it is not owed them to do so.
- ▶ Whatever claim they have to this good, the talented candidate has it also.

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Nevertheless, I believe the subclass of fairness-claims picked out this way is an important one. It may even include all claims. And for brevity I shall continue to use the term 'claim' for fairness-claims only.

Claims

In this paper, I am not going to engage in controversy over which reasons are claims and which are not. I shall take it for granted that some are: that some reasons why a person should have a good are duties owed to the person. And I shall concentrate on asking how these reasons, whichever they are, work.

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One approach: The right thing to do, and the right way to distribute a good, is determined by the balance of reasons, whether claims or not. Claims are thrown together with other reasons on to the same scales, in the same maximizing calculation.

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But the fact that conflicting claims are duties owed to different people gives rise to an alternative intuition. Simply weighing claims against each other may not seem enough. Weighing up is the treatment we would naturally give to conflicting duties owed to a single person. Applying it between different people may not seem to be giving proper recognition to the people's separateness. In particular, weighing up claims does not seem to give proper attention to *fairness*.

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Weighing up seems to override claims, rather than respect them.

Broome's Account of Fairness

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It requires that *claims should be satisfied in proportion to their strength*: equal claims require equal satisfaction, stronger claims require more satisfaction than weaker ones, and also—very importantly—weaker claims require some satisfaction. Weaker claims must not simply be overridden by stronger ones.

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To be sure, all is not well if they get none at all. For each claimant there is at least one reason why she should have some of the good: the reason that constitutes her claim. Claims should be satisfied. But it is not unfair if they are not, provided everyone is treated proportionally.

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But it would totally fail to meet the satisfaction requirement, and normally the demands of fairness will not be enough to outweigh this requirement completely. It will be better to use as much of the good as is available.

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Each person can be given a sort of surrogate satisfaction. By holding a lottery, each can be given an equal *chance* of getting the good. This is not a perfect fairness, but it meets the requirement of fairness to some extent.

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- ▶ She has as strong a claim to staying behind as anybody else.
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- ▶ Her claim was weighed against other reasons.
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But if she was sent because a lottery is held and she lost, she could make no such complaint.

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In the life-saving example (when all the claims are roughly equal), a lottery provides at least a surrogate satisfaction: a chance. But the rule of picking the youngest gives no sort of satisfaction at all. It simply overrides the claims of older people. So it is less fair.

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Debts

Suppose that a Debtor, D , owes money to two Creditors, C_1 and C_2 .

He has no other obligations but, come the time to repay these debts, he does not have enough to repay C_1 and C_2 fully.

Suppose that he owes d_1 to C_1 and d_2 to C_2 , but he has only m , where

$$m < d_1 + d_2.$$

How should he divide m between C_1 and C_2 ?

Broome: As a matter of fairness, claims should be satisfied proportionally.

C_1 has a claim to d_1 and C_2 has a claim to d_2 . Proportionality implies that, if these claims are of equal strength,

- ▶ C_1 will receive $m \frac{d_1}{d_1 + d_2}$ and
- ▶ C_2 will receive $m \frac{d_2}{d_1 + d_2}$.

The Problem of Aggregation

Case 1: Two debtors D and D^* owe money to C_1 and C_2 :

- ▶ D owes d_1 to C_1 and d_2 to C_2 but has only m (where $m < d_1 + d_2$).
- ▶ D^* owes d_1^* to C_1 and d_2^* to C_2 but has only m^* (where $m^* < d_1^* + d_2^*$).

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Case 2: A single debtor D owes money to C_1 and C_2

- ▶ D owes $d_1 + d_1^*$ to C_1 and $d_2 + d_2^*$ to C_2 but has only $m + m^*$ (where $m + m^* < d_1 + d_1^* + d_2 + d_2^*$).

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- ▶ D owes $d_1 + d_1^*$ to C_1 and $d_2 + d_2^*$ to C_2 but has only $m + m^*$ (where $m + m^* < d_1 + d_1^* + d_2 + d_2^*$).

Intuitively, C_1 and C_2 should be paid the same amount in both cases.

Case 1: Two debtors D and D^* owe money to C_1 and C_2 :

- ▶ D owes 80 to C_1 and 40 to C_2 but has only 60 (where $60 < 80 + 40$).
- ▶ D^* owes 40 to C_1 and 80 to C_2 but has only 90 (where $90 < 40 + 80$).

Case 1: Two debtors D and D^* owe money to C_1 and C_2 :

- ▶ D owes 80 to C_1 and 40 to C_2 but has only 60 (where $60 < 80 + 40$).

According to fairness, D pays:

$$60 \frac{80}{80+40} = 40 \text{ to } C_1 \text{ and}$$

$$60 \frac{40}{80+40} = 20 \text{ to } C_2$$

- ▶ D^* owes 40 to C_1 and 80 to C_2 but has only 90 (where $90 < 40 + 80$).

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In aggregate: C_1 was owed $40 + 80 = 120$ and C_2 was owed $80 + 40 = 120$, but C_1 was paid $40 + 30 = 70$ and C_2 was paid $20 + 60 = 80$ *even though both are owed the same amount and had equal claims.*

This inequality between C_1 and C_2 seems unfair. Consider the case where $D = D^*$:

Case 2: A single debtor D owes money to C_1 and C_2 :

- ▶ D owes 120 to C_1 and 120 to C_2 but has only 150 (where $150 < 120 + 120$).

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- ▶ D owes 120 to C_1 and 120 to C_2 but has only 150 (where $150 < 120 + 120$).

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$$150 \frac{120}{120+120} = 75 \text{ to } C_1 \text{ and}$$

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In other words, Broome's theory is non-aggregative. It focuses on the distribution of particular goods on particular occasions, what we might call a 'narrow' view, but—as our example shows—the outcome of several fair transactions may be unfair, and vice versa, when we take a wider, overall view.

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The problem of non-aggregativity: Two transactions, each of which is fair in isolation, may produce an aggregate result which would be judged as unfair had it resulted from a single distribution.

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