

Chapter 4

Justice and beneficence

In his 1759 *Theory of Moral Sentiments*, Adam Smith divides moral virtue into two broad categories: “justice” and “beneficence.” Smith describes “justice” as a “negative” virtue, meaning that to fulfill it we must merely refrain from injuring others. By contrast, “beneficence” is a “positive” virtue, meaning that to fulfill it we must engage in positive action to improve others’ situations. Beneficence includes for Smith things like charity, generosity, and friendship, things that inspire gratitude in the beneficiaries of our actions. Justice, on the other hand, requires that we do not harm or injure others; if we breach justice, then we inspire resentment in those we hurt.

It turns out, Smith argues, that there are only three rules of justice: (1) the rule to “guard the life and person of our neighbor”; (2) the rule to “guard [our neighbor’s] property and possessions”; and (3) the rule to “guard what are called [our neighbor’s] personal rights, or what is due to him from the promises of others” (TMS: 84). We can remember the rules of justice as the “3 Ps”: *person*, *property*, and *promise*. Smith’s argument is that if we do not kill, enslave, or molest others; if we do not steal from, trespass on, or damage another’s property; and if we do not renege on voluntary contracts or promises we have made: then we will have acted with justice toward others. The just person, then, is the one who, whatever else he does, causes no harm or injury to others in their “3 Ps.” As Smith strikingly puts it: “We may often fulfil all the rules of justice by sitting still and doing nothing” (TMS: 82).

Beneficence, however, is another matter. To fulfill our beneficent obligations—and we do indeed have duties of beneficence, according to Smith—we must take positive action to improve others’ situations. Parents have duties of beneficence to their children, for example; friends have duties to one another; and so on. To count as beneficence, however, and not mere benevolence (the latter means “wishing another well,” but the former means

“benefitting another”), an action must not only actually improve another’s situation but also must come at some cost to us—it must cost us something in money, time, or other resources. But Smith issues some qualifications regarding beneficence. First, he says that “Beneficence is always free, it cannot be extorted by force” (TMS: 78). Why? For several reasons. One, “the mere want of beneficence tends to do no real positive evil” (TMS: 78). If I do not do a good turn for you, even if you hoped or expected I would, I do not make you worse off: I simply leave you as you were. Smith argues that force may be used only to prevent or correct actual injury. By contrast, if I act unjustly toward you, I do in fact make you worse off. And two, real beneficence is actually surprisingly difficult. It is often very hard to know what would constitute genuine help for another person. Think of someone begging on the street. What would constitute genuine help for such a person? Money? Food? Advice? Friendship? Nothing at all? Any of these might be required, and different circumstances will require different actions. This goes not only for the recipient of help but also for the giver of help: What is the best use of the giver’s time, talent, or treasure? What other obligations does the giver have? This is not merely an attempt to rationalize a desire not to give. Without detailed knowledge of the specific situations of both the recipient and the giver, we cannot know what beneficence requires in any particular case. For this reason Smith argues that beneficence should properly be left not to government but rather to individuals on the basis of their localized knowledge and individual judgment. Only they can know whether they should give or not, and, if so, what they should give. That is why Smith argues that beneficence should not be required by force from afar.

But there is another reason why Smith thinks beneficence “cannot be extorted by force”: we get no moral credit for helping another if we are forced to do so. For something to count as a moral action, it must be freely chosen. “What friendship, what generosity, what charity, would prompt us to do with universal approbation, is still more free, and can still less be extorted by force than the duties of gratitude” (TMS: 79). Whatever else is the case, for an action to count as moral—and hence to qualify as either virtuous or vicious—one must have had the opportunity to choose otherwise. It is only when one freely decides to incur the cost to oneself of affecting another’s situation does one get moral credit (or blame, as the case may be) for that choice. A dog that bites a little girl is not morally blamed for its action, even though it caused harm,

and a tree gets no moral credit for providing even much-needed shade. In the same way, a person who is forced to give to a charity—through, for example, mandatory government transfer—gets no moral praise for it.

Smith calls the rules of justice “sacred,” which may seem an oddly strong word for an account claiming that moral virtues arise on the basis of experience and interactions among individuals. Why would he call justice “sacred”? The answer is that Smith believes that the rules of justice turn out to be necessary for any society to exist. He calls them “the foundation which supports the building” that is society, whereas he calls beneficence “the ornament which embellishes” society (TMS: 86). A society filled with people who fulfill the rules of justice perfectly—who, that is, never harm others in their persons, property, or promises—but who do not engage in beneficent action toward one another may not be the most inviting society in which to live. But it can survive. On the other hand, a society in which people routinely injure one another but are polite while doing so—or perhaps give some of their pilfered loot to charity—is, despite whatever other charms it might have, not long for this world. Smith goes so far as to say that even in a “society among robbers and murders, they must at least, according to the trite observation, abstain from robbing and murdering one another” (TMS: 86). He concludes from this “trite” observation: “Beneficence, therefore, is less essential to the existence of society than justice. Society may subsist, though not in the most comfortable state, without beneficence; but the prevalence of injustice must utterly destroy it” (TMS: 86). For Smith, then, justice is both necessary and sufficient for society to survive, which is why he calls the rules of justice “sacred.” Beneficence, by contrast, is neither necessary nor sufficient for the survival of society, and hence gets no similarly blessed honorific.

Because justice is necessary for any society to survive, Smith believes that all successful societies will have had to hit upon the rules of justice—and exactly these rules of justice. By trial and error, human societies over time and across cultures have come to see, with varying degrees of success, that following the rules of justice (as he understands them) are required for the continuing functioning of their societies. Now, this is not an all-or-nothing affair. While perhaps no society has ever perfectly enforced these rules, some societies follow and enforce them to a greater extent than do others. A prediction entailed by Smith’s account is that the relative happiness and prosperity of people in a given society will track the relative degree to which its citizens

follow and its institutions enforce justice. That Smith's account entails predictions like this, which can be empirically verified or falsified, is part of what makes it count as a science, as opposed to a pseudoscience. We will have occasion in later chapters to look at some empirical evidence that seems to confirm Smith's prediction, though for the moment we can leave to the reader to evaluate whether Smith got this right or not. The important point here is that the criterion of the ultimate success or failure of society, and its dependence on these particular rules of justice, explain why Smith calls them "sacred" and why he thinks they are of critical importance even if they had no transcendent sanction from, say, God or natural law.

An objection

Smith's stark distinction between justice and beneficence will have important implications when he comes to discuss the proper role of government in human life. We will discuss these implications in later chapters, but before ending our discussion of Smith's distinction, let us address an objection one might raise to Smith's account. The term "social justice" can mean different things to different people, but one aspect of most accounts of social justice is that it should incorporate at least some duties of beneficence into justice. The objection to Smith that social justice raises is that his account of justice is too thin because it does not sufficiently incorporate our obligations to others who need our help.

The philosopher Peter Singer (2009), for example, gives us the following thought experiment. Imagine you are on your way to an important job interview. You pass by a man-made fountain and see a small child drowning in it. It is not your child, and you did not put the child in the water; but you realize that if you do not wade in to save the child, the child will drown. Suppose that if you do save the child, you ruin your shoes, miss your interview, and do not get your job. Singer's question: should you save the child? The obvious answer is yes, you should save the child. That's the easy part. The hard part is: What should we say about a person who decided *not* to save the child? How should we characterize his immoral inaction? On Smith's distinction between justice and beneficence, all we could say is that such a person was *insufficiently beneficent*. But, Singer argues, that seems too weak. Should we not also be able to say that the person failed in justice—in other words, acted unjustly? The reason to call for the stronger condemnation of "injustice" is that

it might also license punishment. Remember, on Smith's account, we cannot coerce beneficence. We can enforce the rules of justice, coercively if necessary, and we can punish injustice—again, coercively if necessary. But Smith believes that beneficence must be “free,” which entails not only that beneficent action cannot be coerced but also that failure to act beneficently may not be (coercively) punished. So Smith would not allow us to punish the person who fails to rescue the drowning child. Similarly, Smith would apparently also not allow us to punish people for not helping others in other situations when they could and when those others desire or even need their help. For that reason, Singer, as well as many other thinkers, criticize Smith's account for being insufficient, for debarring important mechanisms for society to provide aid to people when private, voluntary actions are insufficient.

So who is right—Smith or Singer? Based on the account Smith gives, we can guess that, were he alive to respond, he would suggest that the charge of “insufficient beneficence” is not as weak as Singer might suppose. What recourse could we take, on Smith's account, for the person who fails to rescue the child, or for a person who fails to help anyone else who needs or wants his help? We could publicly condemn the person. We could decide not to be friends with or associate with the person. We could write an editorial in the newspaper decrying the person's actions. All of these, and many other, actions we could take; Smith's argument would preclude only initiating coercive punishment against the person—no fines, no jail time. Are the actions that Smith allows us enough? Smith seems to believe that in most cases it is. Public condemnation, and the consciousness of being judged negatively by others, are, Smith believes, powerful motivating factors for human behavior. “Nature,” Smith writes, “has endowed [humankind], not only with a desire of being approved of, but with a desire of being what ought to be approved of; or of being what he himself approves of in other men” (TMS: 117). For the person who has become cognizant that his actions have not only received blame but are actually blameworthy, the guilt can be debilitating: “These natural pangs of an affrighted conscience are the daemons, the avenging furies, which, in this life, haunt the guilty, which allow them neither quiet nor repose, which often drive them to despair and distraction” (TMS: 118). So strong is our desire for mutual sympathy of sentiments that we become, Smith says, “mortified” when we realize others do not approve of our conduct (TMS: 14, 60, 116).

Still, is this mortification sufficiently reliable for us to count on in ensuring proper beneficent conduct? Or should we have public institutions that will enforce beneficence, coercively if necessary, in addition to enforcing justice? Smith has a few more reasons to offer in support of his “thin” account of justice, to which we will return in later chapters when we take up the discussion of what Smith believes is the proper role of government. But for now we will have to leave the evaluation of Smith’s position to the reader’s judgment. What is important now is that we understand Smith’s position, which is that government may be tasked with enforcing justice, but that acting with and enforcing proper beneficence must be left to individuals and private parties.