Chapter Two: Why be Fair (2)?

1. *Valuing something instrumentally and valuing it for its own sake*

Any intelligent and resourceful person will do better in life without a commitment to fairness (kindness, honesty, decency, the general welfare) than with one. That is the thesis under investigation.

In the previous chapter we developed an argument in support of that thesis and considered a few objections to it and to the argument for it. One key idea in the argument in support of the thesis is that the things one wants from being fair come to one not directly from being fair but from people's beliefs that one is fair. What one wants to gain from being fair is what one gains if and only if people *think* one is fair—if and only if, that is, one has a reputation for fairness. Being fair might be a good way of gaining and maintaining a reputation for fairness, but it is not a sure way, and, moreover, there are other, perhaps better, ways of gaining and maintaining that reputation.

Another key idea is that a person committed to fairness has tied a hand behind his or her back. Being committed to fairness rules out taking certain means to one's ends, even when those means (which involve cheating or manipulating) are the most efficient means available and taking them won't get one into trouble.

The argument begins with the idea that what would make one pleased or satisfied with one's life, overall or through any significant stretch of it, is that one is often doing what one likes to do. To the extent that one is doing or suffering what one doesn't like, one's life is not going well, and to the extent that one is frequently doing what is useful or necessary in order to get into position to do what one likes, one's life is not going well, either, at least not particularly well. If one minimizes the time spent in pain or in doing what one doesn't like, and minimizes the time spent acquiring resources to do what one likes in itself to do (while nonetheless obtaining those resources), then one will spend more time doing what one likes to do. One's life will go well for one, in one's own eyes, or at least as well as it might go given whatever the facts are about one's tastes, talents and prospects within one's situation.

The argument against committing oneself to fairness, then, begins by drawing a distinction between what one values for its own sake or in itself or intrinsically and what one values as a tool or an instrument useful to one. It seems there are two, and only two, ways in which we value things. For anything we value, either we value it for its own sake or we value it for the sake of something else. (Some things we value both for their own sake and for the sake of something else.)

To value something is to have a positive attitude toward it, to like it, for instance, or to love it, or to find it useful. ("It" might be a person.) People value all sorts of things: soccer, ice-cream, cool summer evenings, teaching, Miles Davis's second great quintet, their children, efficient transportation, their dishwasher, getting tipsy, feeling sexy, the academic discipline of history, their friends, their colleagues, the postal system in their country, their sister's success in her career, their sister's failure in her career, living close to cafes and restaurants, living far away from cafes and restaurants. And on and on. (Some of us value things that disgust or upset or outrage others of us. Dog fighting is an example.) The phrase "to value" covers all the many different positive

attitudes we can take, which makes the term useful when we want to talk generally about things that, in whatever particular way, are central to our attitudes and lives.

To value something is to have a positive attitude toward it, to be disposed toward it. One way in which to value something is to value it instrumentally, as an instrument or tool. Valuing something instrumentally is to value it because it is necessary or useful to something else one values. Money is something most people value only instrumentally. They value having it because it enables them to enjoy other things (or it prevents them suffering other things). Another thing valued only instrumentally is public transit. No one I know ever says, "Wow! What a great day this is going to be, for today I get to take the bus crosstown!" People value having an efficient system of public transportation but not because of the joy of using it. We value public transit because we see in it a means to attain other things we want, like getting to the hockey rink. (And we value getting to the hockey rink because we value playing hockey.) Valuing something instrumentally is valuing it as a means to something else.

Of course, a person could value money for its own sake. Some people do. And someone could value riding the bus for its own sake. It's not clear that there is anything impossible for anyone to value for its own sake.

Different from valuing something instrumentally or as tool is to value something for its own sake. Valuing something for its own sake is to value it as an end, not as a means to an end. People who enjoy serious discussions over wine and cheese might enjoy serious discussions over wine and cheese for their own sakes. A person who loves another person might not love that person for the sake of anything beyond that person and loving him.

Of course, anything typically valued for its own sake could be valued only instrumentally. For example, typically, athletes love playing their game for its own sake. But an athlete might in fact hate her game but value participating in it for the fame, power or wealth it brings her. She values it only instrumentally, as a means to an end apart from it. Actors typically value acting for its own sake. Marlon Brandon, though, was said to have despised acting. He acted for money and notoriety acting helped to bring him, the latter of which he might well have valued for its own sake.

Much of what a person values for its own sake that person also values instrumentally. Athletes love playing their game for its own sake but those athletes who derive fame and fortune from playing it might well also value playing their game as a means of attaining fame and fortune. People who enjoy a good laugh for the sake of laughing might also enjoy having a reputation for enjoying a good laugh; they love laughing for its own sake and because laughing brings them a certain reputation they favour. Gardeners love gardening for its own sake, but they also often garden as a means of exercising, getting fresh air and supplying their tables (and their friends' tables) with good things to eat. They value gardening both as an end in itself and as an instrument by which to attain other ends.

Some people value going to school only for its own sake, some people value going to school only for the sake of acquiring the skills and knowledge they think will do them well in their careers, and some people value going to school both for its own sake and for the sake of their careers.

A thesis some philosophers endorse is that really, in the end, there is one and only one thing people do or can value for its own sake, and that is their own pleasure in the moment. Sally might think she values her warm relationship with Martin for its own sake, but in fact what she values for its own sake is her pleasure in the moment and her warm relationship with Martin brings her pleasure. According to this view, Sally values her warm relationship with Martin instrumentally, as a means to attain her own pleasure. Betty, for her part, seems to enjoy melted gorgonzola cheese on toast. According to the view under discussion, though, Betty doesn't actually value melted gorgonzola cheese or even the taste of melted gorgonzola cheese; what she values is pleasure in the moment and she consumes melted gorgonzola cheese on toast as a means to that pleasure.

We will set this thesis aside without comment. If it is true, we will have to distinguish between the ultimate end, one's own pleasure in the moment, and that which one thinks brings one pleasure in the moment immediately. The taste of melted gorgonzola cheese in Betty's mouth is the nearest step before Betty's pleasure while the presence of the cheese itself is two or more steps away. Even if, then, it is not entirely accurate to say that the taste of cheese is what Betty values for its own sake, we will say that it is anyway, for it is the most proximate cause of that pleasure and we need some term to cover all the proximate causes of Betty's pleasure so that we may distinguish them from more distal causes, which we can then say are things Betty values instrumentally, as ways to get to the proximate cause of her pleasure.

2. *Fairness as an instrumental value*

You might have noticed that the argument of Chapter 1, the argument that one will live better should one have no commitment to fairness, treats fairness only as something people value instrumentally. The argument has assumed that people commitment themselves to fairness, when they do, only because they expect that acting fairly (and accepting fair treatment, even when unfair treatment is to one's advantage) will serve them well as a means to their ends (whatever those ends, the things they value for their own sakes, are).

This is an important point. In Chapter 1, we did not consider valuing fairness for its own sake, as an end in itself. We considered only valuing it as a tool supposedly useful in bringing about something else.

The argument we developed against committing oneself to fairness says that fairness is not the most efficient instrument to use in one's pursuit of what one likes, at least if one is intelligent and resourceful. The argument says that a better instrument is a reputation for fairness. It says, as well, that sometimes unfair actions will serve your ends better than will fair actions. The objections to that argument that we considered were almost all in service to the thought that valuing fairness instrumentally was in fact something wise to do. They were objections that sought to establish the high instrumental value of a commitment to fairness.

"Fairness can be valued for its own sake and fairness can be valued as an efficient means to other ends, eventually to ends valued for their own sakes. But fairness in fact isn't an efficient means to other ends or, at least, signaling fairness while being prepared to act unfairly in favourable circumstances is a more efficient means. So fairness shouldn't be valued as a means to an end.

Therefore, fairness shouldn't be valued." That is not a good argument, but it is the only argument laid out in the first chapter.

It's not a good argument for it states that there are two routes that might be travelled and then concludes we shouldn't travel at all because one of the routes is poor. Well, what about the other route?

Fairness can be valued for its own sake and fairness can be valued as an instrument. Now, according to the argument we've developed, it is foolish to value it as an instrument. The argument says nothing about valuing fairness for its own sake. But if one does value fairness for its own sake, then a commitment to fairness counts among those things that make one's life go well from one's own perspective. Recall that we've been supposing that a person lives well to the extent that he or she lives enjoying the things that he or she values for their own sakes, the things that matter to him or her intrinsically. If fairness is something a person values for its own sake, then being fair is part of what constitutes that person's life going well for him or her.

Maybe, though, it's foolish to value fairness for its own sake. If it is foolish to value fairness instrumentally and foolish to value it for its own sake, then it is foolish to value it at all. Yet, if we are going to be persuaded that living without a commitment to fairness is better, from the perspective of enjoying what we love for its own sake, than living with a commitment to fairness, we need to have a cogent argument against loving fairness for its own sake as well as one against valuing it instrumentally.

3. *No one values fairness for its own sake*

We allowed in the first chapter that as far as we know, there's no limit to what a person can value for its own sake. People have been known to like or love intrinsically all sorts of things, including, even, their own pain and humiliation, not to mention dog fighting. Why couldn't they value fairness intrinsically?

If no one could value fairness for its own sake, no one would in fact value fairness for its own sake. Of course, that no one values fairness for its own sake, even if true, does not imply that no one could or that no one would be wise to. But one possible explanation why no one values fairness for its own sake is that no one could value fairness for its own sake. For that reason, showing that no one in fact does value fairness for its own sake would at least be provocative.

Here, then, is an argument that just as a matter of fact, no one values fairness for its own sake.

Imagine two people, Albert and Simona. Albert is known to us to have cheated and manipulated people in the past and we have every reason to think he'd cheat or manipulate us right now if he thought it would be to his advantage to do so. Albert has done very well for himself over the years, accumulated much wealth and power, often through unfair means. Simona, on the other hand, is not known to us to have ever cheated or manipulated anyone. (In fact, we can stipulate, she hasn't ever cheated or manipulated another.) Simona is in a position of authority and power and could have got away with an act of unfairness or two along the way, bettering her condition by doing so, but she hasn't even thought to try. Simona has been an entirely upstanding person, never abusing the trust or power she has acquired.

Albert is not a fair person and Simona is. Or, at least, Simona has never acted unfairly. Now, perhaps Simona has never acted unfairly because Simona is impressed by just how useful it is to her to be committed to fairness in this world. For Simona, on this possibility, her commitment to fairness is, she believes, instrumentally useful, extremely useful. Another possibility, though, is that Simona has never acted unfairly because she loves fairness for its own sake. For Simona, on this second possibility, her commitment to fairness is an expression of her love of fairness. (Or it might be an expression of her hatred of unfairness.)

To repeat: There are two possible explanations of the fact that Simona has never acted unfairly. One explanation is that Simona strongly values fairness because she thinks it an efficient means to some of her ends (and she doesn't love fairness for its own sake). The other is that Simona loves fairness for its own sake (and maybe also values it instrumentally). How might we determine which explanation of the fact that Simona has never acted unfairly is the true one?

Let us give Simona something that makes it impossible for people to catch her should she act unfairly. With this something (a ring she can turn on her finger to become invisible, say), people will not even suspect she's acted unfairly, no matter how unfairly she acts. And let us stipulate that Simona knows that she possesses the power to act unfairly without being caught or tarnishing her reputation for fairness in the slightest. If Albert had this device, we know what he would do. He would use it to cover his unfairness whenever he judged acting unfairly would bring him whatever it is that he values for its own sake. What about Simona?

A first response is that it depends. It could be that Simona wants little and currently has the resources she needs to satisfy her wants, and to satisfy them for years to come. She enjoys her work and wouldn't want to quit to do anything else, even to lounge around on a tropical beach. The money she makes working the job she enjoys is more than enough (she makes more than she spends). If this is how she is, Simona has no reason to change her ways. Changing her ways will bring her nothing she wants. She will continue to treat people fairly.

But what if that is not how Simona is? Comfortable and happy though she is with her life and prospects, she's always wanted something else and something more but never had the means or opportunity to purse anything else or anything more. She likes her job well enough but travelling the world has always had great appeal to her. She's saved for her children's education but even so they will have to take out loans themselves and there's no way she can afford to send them to the expensive schools that they qualify for academically and that they would like to attend. She'd love to have on her walls paintings by her favourite artists. A glass of red wine in the evening is her special treat but it's always disappointing not to be able to afford a really good one.

Now what will Simona do? Perhaps we can agree that it's a rare Simona who wouldn't use her device to help herself to increase her share of the good life. Would any Simona, though, bury the device in her backyard or throw it into the volcano? Superman was able to get away with unfairness but he only rarely considered acting unfairly and always went straight in the end. Maybe one or another Simona is like Superman.

Simona is committed to fairness. Is she committed to fairness out of an appreciation of the usefulness to her of fairness? Or does her commitment express her love of fairness for its own sake? There are things in the world that Simona would really like but that her commitment to fairness prevents her from attaining. Fair as she has always been, should Simona come into possession of a means to reap the rewards of unfairness without assuming any of the risks or paying any of the penalties, though, Simona would pursue her ends unfairly if she couldn't attain them fairly, or so at least the argument above strongly suggests. But that implies that Simona does not love fairness for its own sake. Simona's unwavering fairness has all along been grounded in her belief or assumption that fairness is an effective means by which to navigate toward those things one really wants.

There's nothing special about Simona. All of us who are not Alberts to one degree or another are Simonas. (Simonas, I'd wager, comprise only a small minority of humans.) All non-Alberts, then, like Simona, would Albert around if only they were dead sure they wouldn't be detected. None of us, then, loves fairness for its own sake.

4. *An implicit premise*

A person committed to fairness will likely do worse overall in enjoying the things she loves for their own sakes than would that same person were she prepared to act unfairly when she judges that an unfair act would bring her advantage. No matter what level of commitment you have to fairness, then, were you to be less committed (or were you to have no commitment at all), you would increase the chance of your life going well in your own eyes.

There are two and only two sources of commitment to fairness. Either a person committed to fairness is committed to fairness out of love of fairness or that person is committed to fairness out of an appreciation of the uses of fairness (maybe both). But to be committed to fairness out of an appreciation of the uses of fairness is foolish, for whatever that commitment gets you, you put yourself in a position to get it more easily or to get more of it if you stand prepared to act unfairly in case a promising opportunity presents itself.

And so a person's commitment to fairness will be part of a well lived life only if that commitment expresses a love of fairness for its own sake. But nobody in fact loves fairness for its own sake. Any person who appears to be fair, no matter how strong their commitment to fairness seems, will act unfairly if by acting unfairly they can obtain something that really matters to them and they believe they won't get caught.

Therefore, it's foolish to be committed to fairness. (If, of course, one is at least moderately intelligent and resourceful.)

We suspect that as a matter of fact no one loves fairness for its own sake because we cannot imagine anyone sticking with fairness should the cost they would pay or the loss they would take be great. This argument that no one loves fairness for its own sake isn't an argument that no one *could* love fairness for its own sake. It is simply an argument that no one, as a matter of fact, does love fairness for its own sake.

Let's put the argument that no one loves fairness for its own sake in as simple a form as we can. It goes like this: Anyone absolutely sure they could get away with an effective bit of unfairness in pursue of what they love (when they lack any other effective means of pursuit) would go for that effective bit of unfairness. Thus, no one loves fairness for its own sake.

This argument as stated above is, I believe, enthymematic. That is, it has an implicit premise. A key idea needed to support the conclusion isn't stated explicitly. That idea has been left unsaid.

Here's another enthymeme: Everyone who studied hard will pass the test. Thus, Sally will pass the test.

What's missing in that argument? That Sally studied hard. The premise that Sally studied hard is part of the argument but it was left implicit. It went unsaid. The argument with everything in it spelt out is this: Everyone who studied hard will pass the test. Sally studied hard. Thus, Sally will pass the test.

How were we able to formulate that premise and add it explicitly to the written presentation of the argument? Note first that the first premise is about two things, studying hard and passing the test. The conclusion is about two things as well, Sally and passing the test. Passing the test appears in both the premise and the conclusion. But studying hard doesn't appear in the conclusion and Sally doesn't appear in the premise. To get to that conclusion from our one stated premise, then, we need a second premise that brings together the ideas missing from the premise and the conclusion. We need a premise that links those two ideas.

That Sally studied hard brings together the idea from the premise that doesn't appear in the conclusion (studying hard) and the idea from the conclusion that doesn't appear in the premise (Sally). That Sally studied hard links the first premise to the conclusion.

Return to our original argument. "Anyone who could get away with an effective bit of unfairness in pursue of what they love would go for that effective bit of unfairness. Thus, no one loves fairness for its own sake." Notice that the conclusion says nothing about going for an effective bit of unfairness while the premise says nothing about loving fairness for its own sake. What statement would bring those two ideas (going for an effective bit of unfairness and loving fairness for its own sake) together in such a way as to make a bridge between the explicit premise and the conclusion?

I think the answer is this: No one who loves fairness for its own sake would ever go for a bit of unfairness, no matter how effective.

Here's the argument, spelt out: Anyone who believes they can get away with a bit of unfairness they judge advantageous will go for that bit of unfairness. No one who loves fairness for its own sake would ever go for a bit of unfairness. Thus, no one loves fairness for its own sake.

5. *Is the implicit premise true?*
Shakespeare, for one, thinks the second premise of this argument is true. "Love is not love which alters when it alteration finds" (Sonnet 116). If you love something or somebody, you will

continue to love it or them even as circumstances around you and it or them change. If you drop a commitment as circumstances change, then that commitment was not an expression of love. That is because love is "an ever fixed mark that looks on tempests and is never shaken."

Surely it is true that a commitment is not an expression of love should that commitment dissipate or disappear as the result of a few or minor changes in circumstances. Your commitment to a friend was not based on fondness for him or admiration if you give him up totally once he's no longer able to go with you on golf holidays. Your commitment to education was not based on a love of learning should you never open another book once you settle into your career. Your fight for efficient and inexpensive public transit was not sustained by a principled concern for the environment or the wellbeing of your neighbours if you abandon the fight as soon as you can afford a car.

It's important to be clear that it's only change in circumstance and its effects that is at issue here. There are three entities within any commitment you have: you, the object of your commitment, and the circumstances or conditions in which you and the object of your commitment exist. The claim that love is not love which alters when it alteration finds does not rule out love, actual love, fading as either you or the object of your commitment changes. If you change, as a result of whatever events or forces, then you might find that you no longer love something or someone you used to love, for your tastes are no longer as they were. That loss of love can be a loss of actual love, even if what Shakespeare said is true. If a person you love changes in some particular way (he acquires a streak of cruelty, for instance, or becomes quiet and withdrawn), you might find yourself falling out of love with him, for he is no longer to your (constant) taste. Again, your falling out of love with him as he changes does not indicate that you never were in love with him. It is only when you remain the same (same tastes and talents) and the object of your commitment remains the same that your loss of commitment indicates that it rested on an instrumental base only. Your commitment faded because changing circumstances revealed or produced a better instrument.

We can grant that often or usually alterations in commitment following changes in circumstances are evidence of the instrumental nature of that commitment. But is it *always* the case that true love remains unaffected by changing circumstances?

To begin to answer this question, note that each of us loves many things for their own sakes, not just one or two. Many of our loves generate commitments. We express and enjoy our loves by following those commitments. But the place we assign our loves in a hierarchy of concern or passion and our ability to serve a love well depend on our circumstances. We love live music, say, but we won't be able to go to bars or concerts if we live far from venues or can't afford the tickets or are locked down because of a pandemic. Deprived of opportunities for live music, we have more time to pursue other loves. We devote ourselves to the short stories we've been occasionally writing. Our love of live music might in these changing circumstances dissipate.

We love chemistry and enjoy our work as a chemist. We're assigned as a chemist to a team exploring pond ecology. We acquire a love of ecology. Chemistry next to ecology begins to seem to us pale and thin. We really did love chemistry but with a change in our circumstances we discover something we love more and our love of chemistry fades.

I've tried to sketch examples in which the person and the object of commitment remain pretty much the same throughout a significant change in circumstance. The person retains her personality (her tastes and talents, centrally) over the change in circumstance and the object of commitment retains its characteristics over the change as well. The change of circumstance impels a redirection of time or energy, which thereby reduces some possibilities and increases others, or it introduces new objects of affection. When a change of circumstance alters one's ability to serve one's love as one had served it before, the quality of one's love can change, and can change so drastically that one falls out of love. That one is no longer committed to one's spouse, then, might *not* show that one was never really in love with them at all, even as one and one's spouse have remained much the same.

Sally loves fairness for its own sake. Her love of fairness supports a commitment to treat others fairly, to seek to create and maintain fair practices within her community and beyond, and to accept nothing more (and, of course, nothing less) than fair treatment herself. But Sally would also love to travel the world, if only she had the wherewithal to do so. An opportunity to gain for herself the resources needed to travel the world presents itself to Sally but that opportunity can be exploited only by cheating or manipulating another. Sally betrays one love for another. Now that she is a world traveller, caught up in the excitement, mystery and romance of far-away lands and peoples, the thought of honouring fairness in her actions no longer occurs to her. She hasn't become a cheat or a manipulator, for she hasn't acquired a taste for unfairness and she seldom sees in an unfair course of action an efficient means to her end. But Sally no longer loves fairness and her present reduced commitment to it is purely instrumental.

6. *Where we are now*

A person's commitment to fairness (kindness, honesty, decency, the general welfare) has one or the other of two sources. It could be an expression of that person's love of fairness for its own sake or it could rest on that person's appreciation of the usefulness of being committed to fairness.

We've looked at an argument that the usefulness of being fair comes not from being fair but rather from having the reputation for fairness. A person can acquire the reputation for fairness without being fair. Moreover, unless a person is prepared on occasion to act unfairly, that person might well fail to exploit opportunities for significant advancement. One and the same person, then, will do better in life by being prepared to act unfairly than by committing himself to act fairly, given that doing well in life consists in enjoying those things that one loves for themselves.

The conclusion of the argument of the paragraph above is that it is foolish (for an intelligent, resourceful person like you) to be committed to fairness as an instrument.

Even if it is foolish to be committed to fairness as an instrument, though, it needn't be foolish to be committed to fairness, for maybe one is committed to fairness not as an instrument but as an expression of one's love of fairness for itself.

We then looked at an argument meant to show that as a matter of fact, no one is committed to fairness as an expression of love of fairness for its own sake. No one loves fairness for its own sake.

That argument sought to show that no one's commitment to fairness would survive their ability to act unfairly with impunity; so long as there is something they yearn for that unfair means could effectively or best bring them, they would take those unfair means if they were sure they could get away with it. That people will abandon their commitment to fairness if doing so serves what they love, shows that it can't be the case that their commitment to fairness expresses a love.

The trouble with this argument, we found, is that it presupposes that if someone loves something for its own sake, that love will remain unaltered through any changing circumstances. But that presupposition might well be false. Because we love many things, changing circumstances can make it harder or easier to serve certain of our loves. That one of our loves becomes harder or easier to serve can then affect the valences within our hierarchies of affection, affect them even so far as to cause a love to dissipate.

If our criticism of the thesis that love is not love which alters when it alteration finds is cogent, then it is likely that indeed there are people who love fairness for its own sake and, thereby, whose commitment to fairness to express their love of it.

That is where we are now. Be careful to note that rescuing the possibility of loving fairness (kindness, honesty, decency, respect, the general wellbeing) is not tantamount to asserting that it is sometimes or could ever be wise to love fairness for its own sake. The wisdom or foolishness of loving fairness for its own sake is a difficult topic we will return to a few chapters down the road.