

PHILLIPS CHRISTOPHER SIX QUESTIONS OF SOCRATES
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~~a poor combination. Justice must remain at rest. Otherwise, the scales sway, and no judgment is possible."~~

~~His ideal of justice appears to be one in which judgments rendered based on standards that never can be altered or budged. But that is precisely what justice is not. Justice's very viability depends on a certain amount of movement, of flexibility, of experimentation. What may remain relatively unchanged are its ends—namely, to see to it that certain human rights are sacrosanct and inviolable, never to be infringed upon by the whims of the corrupt or powerful. The most excellent type of justice is one in which its scales are never at rest—a type that forever strives to realize its function of serving everyone equably, and ensuring that everyone has the opportunity to live equitably.~~

~~As Joseph K. continued to look at the painting of the goddess, the light fell on it differently, and it came to look "just like the goddess of the hunt." I think that this marked not a change in the light on the goddess, but a change within Joseph K. He began to "see the light"—to see that the type of "justice" with which he was confronted was anything but, with its bizarre and convoluted proceedings and arbitrary applications. He began to see that he was doomed to a tragic fate, and he gave up all hope of being dealt with justly. Joseph K. no longer protested his unjust circumstances, and eventually a knife was put through his resigned heart.~~

RIGHTING WRONGS

Several months have passed since the terrorist attack on the World Trade Center, and I'm holding a Socrates Café in Manhattan, at a café a few subway stops from "ground zero." I'd made arrangements for the gathering a month before September 11, but several who'd said they'd come, particularly those from outer boroughs, had written me to say

that now they rarely ventured from their homes at night, and so probably wouldn't attend. To my surprise, every one of them showed up.

There are fifteen of us in all, including several high-school students.

The question we agree to delve into is "What is justice?"

There's a protracted silence. The question lies there. It seems overwhelming. I think we all are thinking about the World Trade Center, and none of us knows quite where to begin.

Finally Jason, an architect who saw the second plane hit the World Trade Center south tower, says, "I think justice is 'righting wrongs.'"

"What do you mean, exactly?" I ask.

"I think justice is what we seek when we feel we've been wronged. And we feel that justice has been 'served' when the wrong has been at least somewhat righted—atoned, or compensated for, or avenged."

"Can you give an example?"

"Well, one obvious example is that we've sent our troops to Afghanistan to avenge what Osama Bin Laden and his Al-Qaeda terrorist network, with the support of the Taliban, did to us. We've almost completely crushed the Taliban, and it looks like Al-Qaeda is just a shell of what it was, thanks to our military action. So that's an example of justice as 'righting wrongs.' We've avenged ourselves somewhat for the wrong they did to us."

Then he says, "I know some people disagree with the way we've tried to right this wrong. A lot of innocent Afghans have also been killed by our bombs, and furthermore, we were responsible for propelling up the Taliban regime back when they were fighting for independence against the former Soviet Union. But I don't think anyone can disagree that the purpose of our military action has been to bring the guilty parties to justice, and right their wrong."

Sheryl, a high-school student from the Bronx, who also works as a volunteer for a homeless shelter, now says, "I agree with Jason's defini-

tion of justice. But I don't think anyone will be surprised that I partly disagree with the way our country's chosen to right this wrong. The best way would have been if we'd acted in a way that this wrong never happened in the first place. I guess that would have been 'preemptive justice.'

Again I ask, "What do you mean?"

"Well, after I began to get over the shock of their horrible attack on us, I began to think, some of those people who flew the planes into the World Trade Center and the Pentagon were easy fodder for fanaticism, because they were uneducated and oppressed. I got to thinking, if they'd had even some of the opportunities in life most of us here have, what happened probably wouldn't have happened."

"But Bin Laden is fabulously wealthy," says Miriam, an investment banker. "He has more than most people here have."

"Often fanatical leaders are from backgrounds of privilege," Sheryl replies evenly. "But I think he would have had a lot more trouble finding people to serve his sadistic ends, while he hides in caves, if the people in that region had even halfway decent clothing, food and shelter, health care, a chance to express themselves and to vote for their own leaders. I'm not saying that would stop all fanaticism or terrorism. I'm just saying it would reduce the pool of people who could be recruited and duped by monsters like Bin Laden. So, at least in addition to bringing Bin Laden 'to justice'—getting revenge against him so he gets the payback he deserves—we should attack the source, attack the daily injustices the ordinary people there live with."

"How is reducing the inequities in the world the same thing as acting justly?" I ask.

Sheryl thinks about this for a bit. Then she says, "If you think, as I do, that poor people not only *need* a certain standard of living in order to thrive, but also *deserve* it, then, by giving them a hand up, you're acting justly?"

"I'm not sure I completely follow," I say. "Even if I agree that everyone needs a certain standard of living, among other things, to have a decent life, how can you say for certain that everyone deserves this? Does every person in bad straits, no matter how badly they've conducted themselves, deserve a decent life?"

"Well, I guess I can't say for certain," she says momentarily. "But I still think we should feel sympathy for those who've hit rock bottom, even if sometimes they're partly to blame. We should think, 'There but for the grace of God go I!'"

She goes on, "Like the homeless people at the shelter I volunteer at. Some maybe are down and out by their own doing, but most never had a break from the day they were born. Most were terribly abused and neglected as children, and now suffer from mental illness. Some of them were born to parents who were drug addicts, and they became addicts themselves. So they were wronged from the very beginning, and suffer from scars that are no fault of their own. But at least they know that some people who are better off than they are care about them, and want to see that they get what they need and deserve to improve their situation—they want to right a wrong and 'do justice' to them."

Eventually Bill, a retired city employee, says, "People are donating incredible sums of money—hundreds of millions of dollars—to the survivors of those killed at the World Trade Center. They're trying to right a wrong, by compensating the victims."

Taunya, a classmate of Sheryl's, then says, "I read an article about how they're divvying up the money to the survivors of those who died or were injured. It said that they're calculating who gets how much based on how much their future earnings would have been. That means the family of a man or woman who died, and who'd been making a lot of money, is going to get a lot more from the funds than families of poor people who were victims. I think it should be just the opposite—the poorest of survivors of the victims should get the

most. That would be more like justice in action, because they're the most in need."

As the *Washington Post* reported, a "special master" of the September 11 federal victims' compensation fund has been appointed "to put a dollar value on the lives of the deceased, with the size of the awards based largely on lost earning power." Under the plan devised by this special master, "families would receive awards ranging from several hundred dollars up to \$4 million, and in some very rare cases, more." The *New Yorker* reports that the formula devised by the special master defies "most notions of equity," since "the more needs a family is likely to have, the less well it fares." And yet, it says, it's the "high-end" families—those who stand to get the most from the fund—who are particularly "infuriated" by the formula, because it limits how much they can get from the fund.

Jason says now, "I think every family of the nine-eleven victims should get the exact same amount of money. This idea of calculating how much each should get based on future needs and future earnings of the victims is nuts. Every single person who died was equally valuable. They each mattered and counted and had loved ones. So in this case, justice would be served—the wrong would be most righted—by giving each family an equal amount. Otherwise, the families who get screwed are going to feel more wronged than ever."

This prompts Cary, an administrative assistant at a philanthropic foundation, to say, "Now I'm wondering: If the survivors of the September eleventh victims are being compensated, shouldn't the victims of the Oklahoma bombing be compensated too, and the victims of the first World Trade Center attack in 1993? Because those were acts of terrorism, too."¹

1. On February 26, 1993, a massive explosion in the parking garage of the World Trade Center killed 6 and injured over 1,000. Six Islamic extremists were sentenced to 240 years each in prison. On April 19, 1995, a bomb detonated outside the Alfred P. Murrah Federal

"If they're not compensated," she continues, "that doesn't seem fair."
"What is the difference between just and fair?" I ask.

"I think, for something to be just, those who are victims of wrongs like the September eleventh and Oklahoma City tragedies would each have to get what they deserve in terms of compensation. For this to happen, there would have to be a fair protocol in place—in this case, some sort of formula to see to it that all victims of terrorist acts on U.S. soil are treated the same and are all compensated equally. So, fair has to do with the protocol you put in place, and just has to do with the outcome or results."

"But what if the fair protocol doesn't bring about a just outcome?" I ask. "Let's take a simple example. I have an apple pie. There're eight people here with me. I want to devise a fair procedure that ensures a just outcome. How do I do that?"

"That's a no-brainer. You give everyone the same amount," says Miriam.

"But what if one person here, who's always craved apple pie, is very poor, because he takes care of his invalid parents, and so he's never been able to have any in his life?" I ask. "And what if another here is so rich, and such an apple pie junkie, that he eats it ten times a day, at minimum—in fact, has already eaten two pies? And further, what if one person here hates pie? And another is allergic to apples. And another has just committed armed robbery, stealing a poor couple's monthly pension check and their fresh-baked pie. And another plans to trade his slice of pie for drugs. And still another gave all his millions to the poor, and another has made his millions off the poor who worked in his sweatshops. Should they each still get an equal slice?"

Building in Oklahoma City killed 168 people, including 19 children. Timothy McVeigh, a twenty-six-year-old Army veteran, eventually was convicted of murder and federal conspiracy charges for the bombing, and put to death. His accomplice and former Army friend, Terry Nichols, was convicted of manslaughter.

"That's a stickler," replies Jason after a while. "If you didn't know any of these things about these people, then yes, you should give each an equal slice. Or if you'd promised each an equal slice before you found out all these other extenuating circumstances, then you should keep your promise. But if you *did* know some of these things, then you'd have to come up with a different formula of distribution, since it seems that part of our working definition of justice is that it consists of allocating to each person what she deserves." He thinks a bit more before adding, "The bottom line is, all you can do is do your best to put a fair mechanism in place to distribute the pie. There's no such thing as a perfectly just outcome—you can only try to be more just, rather than less."

"I think the difference between just and fair is that fair has nothing to do with morals," says Miriam. "In the first example you gave, before we knew anything about the people who were getting a slice of pie, it would've been fair to give each an equal slice. But after we know more about them, and see how unjust the distribution is, because of the way some live or have behaved, then morals enter into the equation. So fair only has to do with a situation where there're no ethical conundrums.

"So now I'm thinking, unfair as it may be," she continues, "that I don't think any of the donations for the nine-eleven victims should go toward anyone or anything else, no matter how worthy. Because we're not talking about morals; we're only talking about giving them money that's pledged to them by the people who made the donations. When the Red Cross tried to divert some of the donations they received for September eleven to use for other disaster victims, the people who'd made the donations cried foul. The Red Cross finally gave in and earmarked all the money for the September eleven victims, but only after its reputation was badly tarnished."

"You're right, this money was specifically promised for reparations to the September eleventh victims' families," says Bill. "But it is a moral issue, and so an issue of justice, because there're people decid-

ing exactly how much each family gets, based on what they say each deserves. As soon as desert enters the picture, so does justice."

Amanda, a teacher at a magnet school for underprivileged children, says, "If I were a victim of the Oklahoma City attack, I'd think this was very unjust. The government should step in to make sure they receive similar compensation if the public doesn't voluntarily step in to do so. Because they deserve compensation just as much as anyone else."

Then she says, "This idea of compensation, or reparations, for horrific acts like this—for crimes against humanity—is widely accepted now as justice at work. For instance, many Jewish victims of the Holocaust have been suing German companies for decades, along with the German government itself, for reparations over what happened in Nazi Germany. And well they should.

"Now, descendants of black slaves are asking for reparations from the U.S. government and U.S. corporations that existed back then and condoned slavery—and again, well they should. I know a lot of people say this is far-fetched, but I don't think so. Those who condoned these atrocities, or looked the other way while they knew they were going on, should be accountable."

"But in this instance," I say, "it would be the government and certain corporations that are being asked, or coerced, to pay the victims. In the case of the nine-eleven tragedy, people from all over the world, even from extremely poor countries, are voluntarily donating money for the victims' families. There's no hue and cry that governments such as Saudi Arabia that may have supported, or at least condoned, what happened on September eleventh should be made to ante up. Isn't there a big difference in how justice is being served in these cases?"²

"Maybe those who are voluntarily donating *do* feel obligated to,"

2. The Associated Press reported that among the contributions to the 9-11 victims was a "\$5 check from . . . Malawi, where the average annual income is \$180."

says Nick, a high-school student from an outer borough with whom I have been in regular correspondence since he read my first book and then started a Socrates Café with some fellow students. "Maybe they feel it's not fair that they go on living their lives in a vacuum, while the survivors of the victims suffer. Maybe they feel that the least they should have to do is give generously."

Yusuf, a hotel manager whose family immigrated from Ethiopia when he was six year old, says now, "My cousin's youngest son died of malnutrition when he was three. Tens of thousands died in Ethiopia during that awful time of starvation, while the rest of the world looked the other way. I think that was unjust. It *should* be the law that people who live in great wealth in the rest of the world have to share their bounty—especially if their wealth is earned off the blood and sweat of the world's poor. I think it should be a crime against humanity that half the human race is living without sufficient food, much less education and health care and shelter, while the other half has many times more than it needs."

In his slender book, *Utilitarianism*, the British philosopher and economist John Stuart Mill (1806–73), who was a reform activist on behalf of the underprivileged and underrepresented, writes that those who are "just" in any given society resent "a hurt" to others, when that hurt is one in which "society has a common interest." But Mill didn't address how, or whether, members of one society should feel about hurts inflicted on members of another: Should, for instance, citizens of developed nations feel a "common interest" in alleviating the "hurt" of the poor in the Third World? If so, to what lengths should they go in order to alleviate or eradicate this global hurt?

Mai, a computer programmer who arrived midway through the dialogue, tells us, "The most difficult thing to come to grips with, I think, is something that is almost unacceptable: that life is terribly unfair *and* unjust. Many good and decent people never get what they deserve,

even though they play by the rules, and many suffer terrible misfortune, through no fault of their own, while many bad people get away with bloody murder and even thrive on the misfortunes of others."

Yusuf seems on the verge of responding, but before he does, Mai says softly, "I'm from Cambodia. My mother and I, and two of my brothers, escaped from the Khmer Rouge. My father and older brother were killed in the reeducation camps. After several years being bounced around from one refugee camp to another, we were relocated here. American citizens who were complete strangers to us sponsored my family. They helped us get settled and start our lives here. Thanks to them, we were able to build a new life, and I was able to go to college. They were very compassionate about our plight, and in many ways I think of them as a second family."

She then says, "I think all help of this nature should be voluntary. I know that because of the compassion I was shown, I feel an obligation—a voluntary one—to do what I can to help others in need, particularly people who've been victims of great injustice."

"I'm not comfortable with this idea that the best way to atone or compensate victims of terrible wrongdoing is by giving them money," says Liliana, after a lull. A musician, Liliana had to abandon her apartment near the World Trade Center after the attack, because of its potentially unsound condition, and is staying with friends. "Too many people give money as 'compensation' for staying at arm's length from the victims. What we need is for people to reach out to victims—corny as this may sound, to hug them and let them know they 'feel their pain.' That would be the best way, not to right a wrong, but to *heal* a wrong. I don't think a wrong can ever be righted, only healed to some degree."

After some reflection, Sheryl asks, "Shouldn't we *have* to help make the lives of victims of tragic circumstances less unfair?"

"We should feel *inspired* to help others a lot more than we do," says

Taunya. "We should want to give till it hurts—and as Lilitiana said, not just give money; but give of ourselves—because we should be hurting for all those in bad straits. That would be a just response. But I don't think making it a law is the answer."

"We can't help everybody," says Miriam. "You have to pick and choose whom you help, turn a blind eye to some worthy causes, no matter how unfair it is. Because we have limited resources, limited energies."

To which Yusuf's spirited reply is, "But too many people turn a blind eye to *all* the hurt in the rest of the world. I think the answer is to open people's eyes to how connected we all are, in the sense that everyone hurts sometimes, everyone has suffered hardship of some sort. When something extremely horrible like nine-eleven happens, it really bursts your bubble, and brings home this connection. It makes you realize that we're all in this together."

"I think all the donations that have poured in show what generosity people all over the world are capable of," says Mai. "I disagree that most who donate do so to compensate for being aloof. I think it shows that they *do* hurt for others, and that they're willing to give till it hurts, once their nobler sentiments are aroused."

Nick nods in agreement and says, "I think we just have to keep the momentum going now; harness all this goodwill and steer it into other areas, so we can, as Taunya said, make the lives of all the less fortunate a little less unjust. I'm going next summer to Afghanistan with a group of volunteers around the world who are going to help rebuild and repair their communities. I don't have any money to give, but I'm a good carpenter, so I can give them my labor."

Then he says, "I think all giving of this sort is justice in action—a form of restoring some peace and harmony in the lives of people who've been wronged in the worst way. We can never completely right

a wrong, never undo an injustice. But we can contribute to the healing process. I think this is a big part of how we reduce the chances that these worst kinds of injustices will ever happen again."

JUSTICE AND FAIRNESS

In *A Theory of Justice*, which many consider a landmark work, Harvard philosophy professor John Rawls asserts that if each of us were behind a "veil of ignorance"—if each of us had "no information" about anyone else, knew nothing about their beliefs, their actions in the world, their race, their socioeconomic status, their sex, their singular needs—then we would all strive to distribute goods in such a way that each of us would conclude we were treated as fairly as possible. Rawls posits that if we act from this "original position"—namely, in a vacuum—then in a situation such as the pie-distribution dilemma discussed at this Socrates Café, the only just and rational solution would be for each person to receive an equal slice.

One insurmountable problem with Rawls's self-described "justice as fairness" approach is that such decisions are not made in a vacuum—and should not be. Contrary to what Rawls asserts, even in the most simplistic of distributive conundrums, you can only attain the end that he has in mind—of "securing" the most cooperative society possible—if you know as much as possible about each individual. Consequently, it is necessary to examine distributive dilemmas in a range of contexts. Among other things, you must assess carefully each individual's needs (something you can do only if you know a great deal about the individual's social history); you must look to see if there are other competing claims among those involved; you must determine whether each individual has been treated equitably in the