

# Rawls' Principle of Fairness and Permissible Free Riding

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## Abstract

Is it morally permissible to reap the benefits of a good produced by the sacrifice of others without participating yourself? In this article I defend the actions of 'free-riders' who reap these benefits. Contrary to Rawls' principle of fairness, which is generally upheld as a sound principle of co-operation, I suggest that free riding is permissible and unobjectionable. I argue that producing a good does not generate rights to coerce another individual into sacrifice. In some instances there may actually exist a moral obligation to provide goods to the free-rider.

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The principle of fairness can be understood as follows. If one enjoys a benefit available to all and this benefit exists only because of the sacrifice of others, then one is obliged to share in the sacrifice necessary to provide this benefit to all. I find this principle in its current form unsound. I feel a benefit produced through the co-operate sacrifice of others generates no obligation for another to make a sacrifice. I intend in this essay to defend the 'free rider' who benefits without making any sacrifice. I suggest enjoying benefits that one has not participated in producing is morally permissible if and only if one's non-participation does not diminish the good for others or increase their burden in

producing it. The principle of fairness in my view only applies to a vital good that would not exist without the sacrifice of another individual. Only then is there a moral obligation to share in the sacrifice necessary to produce it.

My view rests on two central arguments. The first is the unnecessary sacrifice argument. If a good is created by co-operative efforts with or without the equal sacrifice of an additional individual, it is not clear why that individual is morally obligated to participate in an unnecessary sacrifice. Imposing additional sacrifice serves no purpose and only increases burdens. If a group decides to make sacrifices and produce a good, this does not give them the right to demand or impose restrictions on another's liberty if such restrictions are unnecessary. Following this, an individual is only obligated to participate in the sacrifice if and only if that good is vital and would not be provided without that individual's participation. If one's free riding prevents a good from existing which would be vital to all, then one is depriving that good from (and therefore harming) others.

My second argument sets the conditions of permissible free riding. Free riding, that is enjoying the benefits of others' sacrifice without making an equal sacrifice, is permissible if and only if the following conditions are met. Firstly, the benefits the free rider receives do not increase the burdens and sacrifice of those providing it. Secondly, the benefits the free rider receives do not diminish the goods for others. If these conditions are met, it would seem no harm comes from free riding, no individual is made to carry extra burden or has their share diminished. In my view it has not been convincingly shown why free riding thus described would be problematic.

It is useful at this point to distinguish between different types of good that are produced through co-operative efforts. These different cases are used to judge whether the principle of fairness is sound. The four cases are 1) Passively Received Luxury Goods. 2) Actively Received Luxury Goods. 3) Passively Received Vital Goods. 4) Actively Received Vital Goods. I will focus on the latter three cases as it has been convincingly shown elsewhere how passively received luxury goods generate no obligation to participate in

the collective sacrifice.<sup>1</sup> The last three cases are held up as being examples of where the principle of fairness applies. I argue that in each case there is no such obligation to participate in the sacrifice. Controversially in case 4, I instead argue that the moral obligation lies with those who produced the good to provide it to the free rider.

Let us turn now then to Actively Received Luxury Goods. A luxury (non-essential) good is created by a group of co-operating individuals. Another individual actively takes advantage of this good without participating in the sacrifice required. For Rawls, one is required to do their part if 'one has voluntarily accepted the benefits of the arrangement or taken advantage of the opportunities to further ones interests'.<sup>2</sup> It would seem then that actively received luxury goods generate an obligation to do one's fair share. To illustrate why I think otherwise consider the following example. A group of settlers decide to farm tobacco. They make considerable sacrifices and work hard to produce this good. You as an individual decide not to participate in the efforts, yet unbeknownst to the group, you secretly help yourself to the fruits of their labour.

This is held to be a paradigm example of where the principle of fairness applies.<sup>3</sup> However the idea of a free rider here appears to me entirely unproblematic. Your helping yourself leaves enough and as good left in common for others, it does not increase the sacrifice on the part of others, furthermore the group are unaware of your skulduggery. Firstly, this action satisfies the conditions of a permissible free rider I outlined earlier: it does not deprive the group of the good or increase their burden. Secondly, why should this situation generate an obligation to participate when one's sacrifice is wholly unnecessary? It actually appears objectionable that the group, through having decided to create a good, have a right to demand sacrifice from another for no additional gain. If the good exists with or without the help of another, it is

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<sup>1</sup> Nozick *Anarchy, State, and Utopia* 90-5.

<sup>2</sup> Rawls *A Theory of Justice* §18.

<sup>3</sup> George Klosko terms these examples 'Excludable co-operative schemes', Klosko 'Presumptive Benefit, Fairness, and Political Obligation' 243.

not clear why imposing sacrifice on all is acceptable.

It may be objected here that it is simply not fair. All individuals have an interest in not doing the necessary work and benefitting from the result. It is not fair that some are able to realise this interest while others have to make sacrifices. This is compelling. It recognises that not doing the work yet reaping the benefits is a valuable interest. My argument is simply why disallow this interest completely when it is not necessary to do so? A situation where 10 people all make a considerable sacrifice to produce a good is worse than a situation where 9 people produce the same good with no increased burden or sacrifice and one individual realises this valuable interest. If the interest is valuable, then it ought to be enabled not prohibited.

It may be objected that whilst it is valuable for the free rider, it is not fair for the nine in this situation. This may be true, but it is hard to see why this is a significant harm. The group decided to produce this good which they then enjoy. Their situation remains constant whether the additional individual participates or not. As the free rider takes advantage in secret, the group remain unaware. Levelling down the free rider serves no purpose.

Even if it was supposed that the group was fully aware that a free rider took advantage, the group's situation still remains constant, they suffer no additional burdens nor have their goods diminished. It seems the only difference here is a feeling of resentment<sup>4</sup> towards the individual who benefits from their labour. This emotive reaction to me is insufficient grounds to then demand restrictions on that individual's liberty or generate a moral obligation to make an additional sacrifice.

A stronger ground to establish an obligation would be if the good would not exist without the additional sacrifice. If everyone did not engage in the sacrifice to produce a good then no benefits would result. I grant that this is true, as I stated earlier a moral obligation to participate does exist if and only if that good would not exist without that participation. If one's non-participation deprives others of a good then there may exist an obligation

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<sup>4</sup> This idea of resentment as providing inadequate grounds to base morality is borrowed from Friedrich Nietzsche. See Nietzsche *On the Genealogy of Morals*.

to participate. However this seems less compelling when discussing luxury goods. It is hard to see that a luxury good would be so valuable to a group of people as to generate rights over another individual. In sum, the fact that a significantly valuable good would not exist without an additional sacrifice may generate a moral obligation to participate however a mere feeling of resentment is insufficient.

Let us now turn to Passively Received Vital Goods. These are goods that are essential to well being and are provided for everyone. One cannot avoid receiving the good. George Klosko has argued that the principle of fairness generates an obligation to contribute to non-excludable [passively received] schemes if the goods are 1) worth the recipients effort in providing them and 2) presumptively beneficial (indispensable goods which everyman is presumed to want and are necessary for an acceptable life).<sup>5</sup> Klosko thus suggests the principle of fairness strongly applies to cases of passively received vital goods.

Consider the following case. A community lives on island. Rising sea levels will soon flood the entire island, including your own property. A group decides to build a flood defence surrounding the island which will ensure safety for everyone. You passively receive this vital good. You cannot avoid it or choose not to have it and it is essential for your wellbeing. Your participation is not necessary in order to complete the task.

Unlike Klosko, in this case I feel there is no obligation to share in the task. Your participation will neither increase efficiency or effectiveness of the defence, but will only incur unnecessary sacrifice on all. Non-participation will not increase the burden or diminish the goods. How would I like it you may ask, if I spent all day enduring backbreaking work building this defence whilst a free rider relaxes with a gin and tonic? Indeed I would not like it at all. I'd feel envious of his situation. However does this give me the right to impose equal sacrifice on the free rider when it would make zero difference to my workload? I think not, it appears a vindictive response and certainly insufficient grounds to coerce someone into sacrifice.

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<sup>5</sup> Klosko 'Presumptive Benefit, Fairness, and Political Obligation' 246.

Klosko uses a similar case describing the national defence of a territory under constant military threat.<sup>6</sup> In my view it is permissible to be a free rider on a scheme of national defence providing it does not increase the burden on others or diminish the good. Again it may be said that if everyone was a free rider then the good would not exist. I accept this, however then there must be a threshold of sufficient sacrifice at which point additional sacrifice is unnecessary to provide the good. Once this threshold is reached, the free rider becomes unproblematic. Furthermore if a lottery was used so each has equal chance of enjoying the benefit without doing their share, then this to me seems fairer than forcing everyone to make an unnecessary sacrifice. The only grounds on which a moral obligation to participate or a right to coerce another exists, is if the vital good would not exist without the additional sacrifice. In this sense non-participation deprives this vital good to others. This for me is the only scenario when there is a strong obligation to participate and the principle of fairness applies.

Finally, let us turn to cases of Actively Received Vital Goods. A vital good is created by the co-operative sacrifice of a group. An individual actively receives this good without participating in the sacrifice necessary to produce it. Consider the following example. A recent outbreak of a lethal disease threatens a community. A group of people co-operate to develop a cure. You had the opportunity to participate in this effort but declined, your participation was unnecessary. You then contract the lethal disease and need the cure. In this example I suggest that the individual does not have a moral obligation to participate for precisely the reasons outlined when we discussed actively received luxury goods (unnecessary sacrifice, conditions of free riding). I instead suggest that the moral obligation lies with the group that created it to provide it to the free rider. On my view it is impermissible to deny this vital good to someone or demand a sacrifice on the grounds that they did not participate in creating it. If the good is of a vital nature to the wellbeing of others, there is a moral obligation to make it available.

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<sup>6</sup> *Ibid* 249.

## **Conclusion**

I hope to have at least placed some doubt on the principle of fairness in its current form. I have suggested that the fact that one enjoys a benefit produced by the sacrifice of others does not automatically generate an obligation to make an equal sacrifice. If those who find my arguments against unnecessary sacrifice and for permissible conditions of free riding at all compelling, I suggest a reformulation of the principle of fairness. If one enjoys a benefit available to all and this benefit exists only because of the sacrifice of others, then one is not obliged to share in the sacrifice necessary to provide this benefit. This is unless one's non-participation or enjoyment diminishes the benefit or increases the sacrifice for others, or the benefit is vital and requires your participation to be produced.

## References

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- [3] Nozick, R. *Anarchy, State, and Utopia*. Vol. 5038. New York: Basic Books, 1974.
- [4] Rawls, J. *A Theory of Justice*. Cambridge: Harvard University Press, 2009.

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