

The Mirror of Justice: Anselm's Solution to (His Own) Paradoxes of Justice and Mercy

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*Saint Anselm has three theories of justice and two of the relationship between justice and mercy, each one better than the last. The first theory of justice (in *Monologion* chapters 70-74) is mostly about divine justice with respect to creatures, and it makes no mention of mercy. In the *Proslogion*, he assumes that mercy must be an attribute of God, and then tries to advance a view of justice and mercy as contraries, where justice is giving people their due and mercy is not punishing them when justice would require it. Recognizing the insuperable problems with that conceptual scheme, Anselm found he was forced to reject retributive theories of punishment, eudaimonistic theories of ethics, and theories that define justice as giving to each his due, in order to give a theoretically acceptable account of mercy.*

Saint Anselm has three theories of justice and two of the relationship between justice and mercy, each one better than the last.

Theory 1: Justice is giving what each person deserves.

The first theory of justice is mostly about divine justice with respect to creatures, and it makes no mention of mercy. It can be found in chapters 70-74 of the *Monologion*, in which Anselm argues that creatures ought to love God, and that God in justice must respond to their love with the gift of what they seek—namely the gift of Himself (70).¹ Divine justice is to give to each person what he deserves, so that good people are rewarded with eternal life and bad people punished with eternal punishment. He argues that “God unjustly deprives nothing of the good for which it is made, and everyone must exert himself to attain this good by love and desire, with all their heart, all their soul, all their mind.”²

However, there's an obvious problem with the two parts of the last sentence: One can imagine Prior Anselm returning to his classroom after having published the *Monologion*, only to

¹ In what follows, the treatises of Saint Anselm are abbreviated as (M)-*Monologion*; (P)-*Proslogion*; (DV)-*On Truth*; (DLA)-*On Free Choice of the Will*; (DCD)-*On the Fall of the Devil*; and (CDH)-*Cur Deus Homo*.

² Anselm, *Monologion* ch. 70-71: “Therefore, any soul which once begins to enjoy Supreme Beatitude will be eternally happy. . . . Assuredly, from these [conclusions] we can consistently infer that the soul which despises loving the Supreme Good will incur eternal unhappiness. . . . So, then, nothing can be seen [to follow] more consistently, and nothing ought to be believed more assuredly, than that man's soul was made in such way that if it despises loving the Supreme Being it will suffer eternal unhappiness. Consequently, just as the loving [soul] will rejoice in an eternal reward, so the despising [soul] will grieve in eternal punishment. And as the former will experience immutable sufficiency, so the latter will experience inconsolable need.” Ch. 74: “We must most certainly maintain that the supremely just and supremely good Creator of things does not unjustly deprive any [soul] of that good for which it was made; moreover, every man is supposed to strive for this same good by loving and desiring it with all his heart, all his soul, and all his mind.” All translations are from Jasper Hopkins and Herbert Richardson, *Complete Philosophical and Theological Treatises of Anselm of Canterbury* (Minneapolis: Arthur J. Banning Press, 2000).

find his monastic students wondering what would happen to those who *don't* always strive with all their hearts to love God? What happens to sinners if that's what justice is? If God does not deprive us of salvation except in justice, then doesn't his justice demand that those who love him with less than all their heart be denied salvation? Are all sinners to be condemned? Am I condemned, who am so conscious of my sinfulness?

Theory 2: Justice and mercy are contrary divine attributes.

I would not be surprised if it this sort of worry played a role in Anselm's change from the literary style of the *Monologion*, which was modeled after Augustine's *De Trinitate*, to the *Proslogion's* style modeled after the *Confessions*. In the *Proslogion*, God is no longer an object of thought and contemplation, but a person to be addressed directly—and pleadingly. Anselm's tone isn't at all calm; he is insistent that God help him, even though it is not something he deserves. Everything about the *Proslogion* assumes that God is merciful.

Anselm has a problem, though, in asserting that mercy is a divine attribute—namely that his whole method of talking about God's attributes precludes mercy from being one of them. Mercy always involves a reaction to some sort of evil: whether it be an evil action one commits or an evil circumstance in one's life, when you have to beg for mercy, you're having a bad day. Since evil isn't an aspect of God's nature, mercy is a strange sort of thing to attribute to God essentially—it would imply an essential and therefore necessary connection between God and the victim or victims of evil, which would imply that God has a necessary connection not just to creatures, but to fallen creatures and a fallen creation, such that God's very being requires the existence of fallen creatures. Anselm's argument in M 15 that it's impossible for relational terms to apply to God's substance would seem to preclude that mercy would be a candidate for a divine attribute.

Yet in P 1, Anselm asserts right away that God is merciful. So he "seeks to understand" this non-negotiable yet seemingly impossible article of faith. Unfortunately, he fails. As Anselm notes in chapters 9-11, there are two paradoxes that arise if justice and mercy are both divine attributes. The first is that, since mercy is defined in opposition to justice, mercy is unjust and justice is merciless (P 9). But if mercy and justice are both good, then it would be a contradiction for "that than which nothing greater to be conceived" to lack either of them, because it would be possible to think of a greater being that didn't lack them. So it would be both blasphemous and absurd to hold that God is either merciless or unjust, and yet it seems that His just actions are merciless and His merciful actions unjust.

The second paradox notes a particular way in which mercy seems unjust: mercy seems to be applied arbitrarily. Anselm just throws up his hands at trying to understand why God doesn't treat similar cases similarly:

Surely we cannot at all comprehend why from among those who are similarly evil
You save some and not others because of Your supreme goodness, and condemn
some and not others because of Your supreme justice. (P 11)

We can sharpen the paradox a little by showing that either mercy is applied arbitrarily, such that similar cases are not treated similarly, or else mercy is not applied arbitrarily, in which case it seems to be reducible to justice. If all wicked persons with a particular characteristic are pardoned, that would seem not to be mercy so much as a redefinition of what's just: e.g., if no *women* or *members of the noble class* or *people with difficult childhoods* who commit a certain crime are punished, then the law has been de facto changed so that such people are now allowed to commit such crimes. But if the law allows that some but not all such people are pardoned when committing such crimes, then it is inevitable that similar cases will not be treated similarly, which seems unjust.

It is not necessary to explore in detail the arguments of P 9-11, but two conclusions are important. First, Anselm doesn't think his arguments in the *Proslogion* have solved the paradoxes: "But if we can somehow grasp why You can will to save those who are evil, *surely we cannot at all comprehend* why from among those who are similarly evil You save some and not others. . ." (P 11). Mercy remains a mystery. Second, Anselm's paradoxes are classic paradoxes about any attempt to define mercy and justice as opposites of each other.³ The paradoxes, which Anselm formulates in terms of God's attributes rather than human cases, are actually paradoxes about the very concepts of justice and mercy, and thus are perfectly general. It's not possible to come up with an account of justice and mercy that, when restricted to other, non-divine contexts, can avoid these paradoxes, such that mercy is not unjust and justice merciless; that is, so long as mercy and justice are conceived as contraries, in opposition to each other. And it is that observation that suggests to Anselm the way forward: to define both justice and mercy in terms of some third concept.

Theory 3: Mercy is the desire to restore justice and rectitude in one who has lost it.

Anselm in *Proslogion* 9ff tried to define God's justice and mercy both in terms of God's goodness—as one might expect, since the whole argumentative pattern of the *Proslogion* is to show that God possesses every attribute that it is better (i.e., more good) to have than not (P 5). But the concept of goodness was not adequate to the task. Goodness in Anselm's early thought is the first divine attribute,⁴ and is barely distinguishable conceptually from the divine essence itself. So when in P 9 Anselm appeals to God's *goodness* to explain why He forgives some but not all sinners, it is barely conceptually distinguishable from the claim that God simply decides arbitrarily to forgive some but not others.

³ Jeffrie G. Murphy, "Mercy and Legal Justice" in Jeffrie G. Murphy and Jean Hampton, *Forgiveness and Mercy* (Cambridge: Cambridge University Press, 1990). Also, generally, Alex Tuckness and John M. Parrish, *The Decline of Mercy in Public Life* (Cambridge: Cambridge University Press, 2014); in particular, pages 7ff. and 113.

⁴ Cf. *Monologion* 1.

And so, partly with this question in mind, Anselm sets out on the rest of his major treatises to develop a third, quite different and better idea of justice, one which is compatible at the conceptual level with mercy, and thus which also has applications to human political questions.

The first major move was to introduce the concept of *rectitude* as the third concept that could reconcile justice and mercy. At the beginning of Chapter 12 of *On Truth*, Anselm defines justice as simply rectitude (“*justitia non est aliud quam rectitude*”), before going on to specify the conditions for justice in rational natures as “rectitude of the will that is preserved for its own sake.” What does he mean by rectitude? Rectitude (or “rightness”) here is a teleological notion: “When a statement signifies what it ought to, it signifies correctly (*recte*).”⁵ When one wills what one ought, one wills correctly. Likewise, rectitude in action is doing what one ought, or even suffering what one ought, or being what and where one ought.⁶ Rectitude can be either natural or non-natural, depending on whether a thing’s *telos* is determined by the nature of the thing or something outside the thing. So a true statement like “It is day” has two kinds of truth, a natural truth if it is a well-formed sentence (it fulfills the nature of a sentence, i.e., to signify), and a non-natural truth if it signifies that what-is is so.⁷ Rectitude can be either contingent or necessary, depending on whether the rectitude depends on the will or not: Anselm says that a fire’s heating is necessary, but a man’s doing good is not from necessity. Anselm even argues that, since a thing ought to be as God made it to be, a thing is more fully a being the more it corresponds to its paradigm in God’s mind. A thing *is* insofar as it *is rightly*.⁸ Consequently, to think or will or act wrongly diminishes one’s very being. Rectitude creates a tight connection between ought and is here, a law of nature that is true for God as well as rational creatures. Rightness is a pure perfection, and a divine attribute.

Having developed this idea of rectitude, Anselm then turns to the concept of justice. He defines justice in rational beings as rectitude of the *will* just as truth was rectitude of the *intellect*.⁹ With this general notion of rectitude before us, we can highlight some important features of Anselm’s revised conception of personal justice as “rectitude of the will that is preserved for its own sake”:

- Justice is convertible with rectitude, so that justice implies that things are rightly ordered. Justice in rational beings specifically depends on what it means for a rational being to be well-ordered, which ultimately requires that the will be rightly-ordered.
- Since a will can be called just only if it is morally worthy, the will must be free and not constrained by necessity.

⁵ DV 2

⁶ DV 4

⁷ DV 5

⁸ DV 7

⁹ DV 12. I sometimes think *On Truth* should be renamed as *On Truth and Justice*, because in the rest of his treatises Anselm doesn’t really do much with his definition of truth, but his definition of justice is quite important.

- Every act of willing has both an *object* and a *motive* for willing. A rightly ordered will is rightly ordered in both dimensions: the just person must a) choose the right thing and b) for the right reason (because it is the right thing to do) and not do the right thing for the wrong reason (e.g., because bribed or coerced by appeals to self-interest).
- Justice has the same definition for all rational beings (men, angels, God).¹⁰
- Justice in persons is a quality of the will, so it is a spiritual quality *internal* to the rational being, although its object can be some sort of order outside the person as well. (In his earlier view, Anselm spoke of God's justice towards men primarily in terms of *extrinsic* punishment and reward.)
- Rectitude is distinct from justice but essential to it.

The introduction of the concept of rectitude/rightness allows Anselm to define mercy and justice in terms of a third divine attribute which suits his purposes more precisely than did goodness.

This definition of justice as, in general, a right ordering and, in the case of man, as a right ordering of the will, is a major development in Anselm's thought. In *Cur Deus Homo*, Anselm takes the notion of rightness further in a political direction, by arguing that God must not overlook anything disordered (*inordinatum*) in his kingdom (I.12). Indeed, Anselm's famous notion of honor is actually a political term from Anglo-Norman law,¹¹ such that *to honor* means something like 'to keep or promote good order in a society,' and *to dishonor* 'to usurp the good order in society.' It's not unfair to say that honor is *rectitude in a society*, just as rectitude in the will is justice and rectitude in the intellect is truth. All of Anselm's later thinking on these issues hinges on this idea of God's providential ordering of creation as His honor. Justice is no longer merely about reward and punishment, but about maintaining and restoring order in all of creation, including in the free wills of rational creatures.

Anselm doesn't give a precise definition of mercy, but the concept he develops is something like this: *Mercy is the desire*¹² *to restore rectitude in one who has lost it*. Mercy is the desire to restore to good order a person whose situation or whose will is not rightly ordered. Mercy is thus the reaction to something wrong, an evil, whether situational or moral. If someone is not in their right place in society for nonmoral reasons (e.g. homeless because of an earthquake), to restore rectitude is to put the person in his or her proper place (a home). This is a helpful broadening of the scope of justice and mercy from Anselm's earlier theory: many of the traditional "works of mercy" do not involve punishment contexts, but rather involve picking up

¹⁰ In both DV and DLA, Anselm seems to be following the principles and methods of a Boethian definition, especially the rule that a definition must apply equally to all objects to which it applies. While Anselm is quite aware of the difficulties in stretching our human concepts to talk about God, he insists on this point, tilting his theory towards Scotist univocity rather than Thomistic analogy.

¹¹ See R. W. Southern, *Saint Anselm: A Portrait in a Landscape* (Cambridge: Cambridge University Press, 1990), 225-27.

¹² Alternatively, since one might have a quibble about God *desiring* something, mercy might be defined the "will to restore rectitude" or even "the *act* of restoring rectitude in one who has lost it."

those who have fallen into a situation that doesn't reflect their dignity, and restoring them to a situation that better reflects their dignity.

In the case of lack of rectitude in the will, mercy seeks a conversion in the will in which the offender now truly wills the right thing for the right reasons, even when it seems to conflict with his self-interest. In the case of mercy towards someone who usurps the right order of society, restoring right order requires a conversion of the usurper's will, so that he ceases to prefer his own advantage and instead wills to preserve justice for the sake of justice itself. He decides to become a "law-abiding citizen" going forward, to work to uphold the good order of society because he now *loves* the good order of society. In the case of a sinner, restoring right order means he wants to be a saint, to be obedient to God and to prefer God's will to his own.

This is the concept of mercy that Anselm arrives at in *Cur Deus Homo*. In order to get there, he had to rework not only his theory of the will, as we have seen, but also his theory of sin and punishment, and his theory of what fulfills a man.

Anselm's first theory of sin and punishment was that the sinner decided to reject God, and then God deprived the sinner of that which he seeks by nature, namely God Himself. The punishment results in an "inconsolable need" (*inconsolabilem indigentiam*) that is never filled (M 71). This view has certain shortcomings, the most obvious being the difficulty in explaining why the angels could ever reject God, since they possess direct knowledge of God (including certainly everything that Anselm can figure out through human reason), in particular that God created them and, as Goodness itself, is their own good. Without any bodies or passions to weaken their wills, how could they know the good and not choose it? The fall of the devil seems impossible, given the eudaimonistic theory of the will in M 68. Also, Anselm's *Monologion* theory of punishment is retributive, backwards looking, claiming that God's justice *required* him to punish past sins for all eternity, such that even rather severe alternatives to eternal punishment such as annihilation are considered less than what justice requires (M 71). Retributive theories of justice do not leave conceptual space for mercy. And finally, the goal of punishment in the *Monologion* is fairness and just deserts—Anselm argues that annihilating the sinner rather than punishing him would treat him similarly to the rather different case of someone who had never existed and thus never sinned. Anselm asserts that this does not reflect what he deserves. But mercy would seem always to involve *not* treating the wicked as they deserve.

Anselm's mature theory of sin holds that created rational beings originally had two powers of the will—the power to love one's own good out of self-interested advantage and, alongside it, the power to love the good itself for its own sake without reference to oneself. He calls these the will for beatitude or happiness (*voluntas beatitudinis*) and the will for rectitude or justice (*voluntas rectitudinis* or *voluntas justitiae*).¹³ Rational beings possess the will to

¹³ *De Casu Diaboli*, chs. 12-14. Anselm uses *voluntas justitiae* more frequently than *voluntas rectitudinis*, whose only major appearance is in the title of chapter 14.

NB: In his late treatise *De Concordia*, Anselm introduces a terminological clarification to distinguish between two equivocal senses of "voluntas," differentiating between will as the rational *power* of choosing, and the *affections* or

advantage or happiness always; it seems a feature of our subjectivity that we are self-regarding and care for our own personal good. Angels and men possess a will for justice only when it is given to them by the gift¹⁴ of God. When God first created angels and men, he created them rightly, with rectitude, as they ought to have been—and therefore their wills were as they ought to have been, with the justice that they received (as they received all things) from God (who is Justice Itself, Supreme Justice). Through their disobedience, that is, through their failure to will rightly for the right reasons, the bad angels and the first parents lost the rightly ordered wills that they were supposed to have. They were left only with the ability to will self-regardedly, with the will for happiness alone. Because it is impossible for one to derive the will for justice from one's own self-interest (*pace* John Rawls), for a rational being to will rightly again requires divine intervention, for the source of all justice to give justice again to the person whose will lacks it.

This new notion of the effects of sin—as leaving the sinner lacking the affection for justice—allows Anselm to explain in a new way why the wicked cannot be allowed into heaven. In CDH I.24, Anselm makes the argument that even if God were to let someone into heaven without a will to justice, that person wouldn't be blessedly happy. Either he would recognize that he is missing the rectitude that he ought to have and be unhappy about it (think of Isaiah being miserable because he cannot sing in the heavenly liturgy with his unclean lips¹⁵); or he won't care that he is underdressed for the wedding banquet,¹⁶ such that with his imperfect will he is ruining the perfection of heaven—which implies that he doesn't delight in heaven. And so even without any act of punishment on God's part, the wicked would be deprived of eternal happiness simply by not being as they ought to be.

There must be an act of punishment, however, for those who would threaten the divine order by persisting in their wickedness. Here Anselm's use of honor, which we summarized as 'the rectitude of a society', comes into play—and sets the stage for divine mercy. In *Cur Deus Homo*, Anselm changes the focus of justice from what we might call a legal-transactional model to a governance model. In a legal-transactional model of justice, justice means that each person gets his or her due. In a governance model of justice, justice means that a society is rightly ordered as a whole. Many of the considerations of legal-transactional justice are still important to the governance model, of course (a just society would only punish those who are guilty and deserving of punishment, rather than the innocent). But those considerations are subordinated to the common good, understood as right order. Anselm's original readers would have understood by his use of the Anglo-Norman legal term *honor* a whole host of social associations, including

dispositions of that rational power towards choosing justice or choosing one's advantage; in his later terminology Anselm speaks of the *affection of the will* towards justice or advantage. *De Concordia* 11; cf. a similar set of distinctions in DLA 7. I will for the most part use the earlier terminology, switching to the later terminology only for clarity's sake.

¹⁴ Or grace—see *De Concordia* chs. 3-4. In his philosophical treatises, Anselm doesn't use the term "grace," but his consistent view is that the will to justice is received from justice itself as a gift, which justifies the more religious language.

¹⁵ Isaiah 6:5.

¹⁶ Matthew 22:12-13

spiritual bonds and duties that went both from the governor to the governed and vice versa.¹⁷ The governor was required to protect the honor both from outside threats and from usurpation from within, and failure to do so could justify serious action against him by those governed.¹⁸ A weak governor who was unable to maintain order was bad for everybody.

On the governance model of justice, then, a perfect governor would be one who maintained perfect order. As we saw above, Anselm insists (CDH I.12) that God must be a perfect governor, and therefore he cannot allow his society to be imperfectly governed by allowing the slightest disorder in heaven. Certainly God couldn't allow the second of the wicked persons from the thought experiment above (CDH I.24), the one who doesn't care that he is a sinner and doesn't belong, into heaven. Such a person would represent a threat to heaven, and simply out of God's duty to the saints to make heaven a perfect society, he would have to be kept out and subjugated.

On the governance model, however, there's an additional way for a governor to fail in having a just society. It is possible that a governor could behave justly in the sense of legal-transactional justice, deciding each case before him rightly, and yet the aggregate result is a less than perfect society.¹⁹ Anselm argues that in such a case, the governor would be duty-bound to find a way to make the society better ordered, because his goal is a well-ordered society as a whole rather than merely that all his decisions give each his due (CDH I.25). And when the source of disorder is in the will of a rational being with free will, the governor cannot simply coerce the person's behavior by appealing to his or her own self-interest—he must persuade the person to will the right thing for the right reason. In the case of a convicted criminal, the desired outcome would be that he converts, leaves behind his desire for crime, and becomes a law-abiding citizen who follows the law because it is the law (and not just because he's afraid of further punishment). In the case of one who has disobeyed God, the desired outcome is that the sinner has his affection for justice restored to him and that subsequently he choose definitively to will the right thing (what the Supreme Justice wills) for the right reason (that He wants it). Then he can be a citizen of heaven, and can be happy.

¹⁷ "The largest aristocratic estates, held by the earls and barons, were termed 'honors,' assemblages of estates held by military tenure. They consisted not of unbroken stretches of magnate territory but of dozens of manors or holdings scattered across counties and intermingled with the lands of other lords. . . . The honor represented a principle of territorial administration different from that of the county. Rather than comprising a homogenous and continuous unit of land under the authority of one royal official, the honor was given whatever coherence it had by common tenure." Robert Bartlett, *England under the Norman and Angevin Kings, 1075-1225* (Oxford University Press, 2000), 219. Bartlett points out that the kingdom of England was considered to be an honor (218). See also, Southern, *Saint Anselm*, 225-7: "The central feature of this estate [an honor] was [the lord's] landed property. But it also embraced his due place in the hierarchy of authority, his family background, and his personal honor. The fundamental crime against anyone was to attempt to diminish this complex of rights and status."

¹⁸ Bartlett claims (ibid., 221) that "denial of justice would have constituted at least an extenuating circumstance for even such a drastic step as imprisoning one's lord."

¹⁹ In the United States, for example, 3.8% of all men are under the supervision of the criminal justice system. Even assuming that each conviction was correct, it does not reflect well on the nation that millions of its citizens are in jail, on probation and on parole. See Bureau of Justice Statistics, "Correctional Population in the United States, 2015," Appendix Table 3.

Mercy, on this third model, requires that the merciful be concerned about restoring those who lack dignity to the dignity they ought to have. It is in the service of the common good, understood as rectitude or good order at the level of society, which depends not just on the good behavior of its citizens, but also on the justice or rectitude of the will of each person in the society, so that each chooses justice for its own sake even when they might see a personal advantage in something else. This view of justice and mercy is thus more personalistic than the earlier views, because it is at the same time more political: the question is how to get free and rational beings, not just to do the right thing, but to love the right way; and if that's currently not the state of affairs, not just to change their behavior, but to provoke a change of heart. That second task requires leadership, not just the application of rules. And it requires of the leader that he rejoice not in the punishment of the wicked, but rather in his conversion.²⁰

Conclusion

Saint Anselm discovered that in order to have an adequate theoretical account of justice and mercy, he had to reject or alter several common assumptions of the classical philosophical tradition. He had to reject the eudaimonistic account of the will, in which every person seeks his own happiness, as insufficient to explain the moral life of angels, and thus incomplete (though not wrong as far as it goes). He had to reject the legal-transactional account in which justice is defined as “giving to each his due,” because that account makes mercy unjust and justice merciless. And he had to reject a retributive theory of justice and punishment that sees punishing the guilty as a good, in favor of an approach that in the service of the common good looks for opportunities for rehabilitation and change of heart.

It is perhaps surprising that the neglected topic of mercy would require such wholesale changes to an otherwise traditional theory of justice. It was probably surprising to Anselm. Indeed it is not farfetched to suggest that solving the problems that mercy introduced into his theory of justice was Anselm's primary intellectual project after the *Proslogion*! At minimum, since the questions that Anselm raises about his own traditional account of justice, and his proposed solutions, are meant to be perfectly general in scope—that is, they are meant to apply to the concepts of justice and mercy in all contexts, not just theological ones—they deserve to be studied and pondered more than they have to date.

²⁰Cf. Ezekiel 18:23; Luke 15:7. See also CDH I.7, where Anselm notes that the Devil punishes the damned not reluctantly, out of a love of justice, but out of malice—because he enjoys it.