



# Realistic Justice 2

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# Overview

1. Remember starting points: “enlightened” equality and psychological realism condition
2. Three formulations of equality
3. Justice by mutual advantage
4. Justice by reciprocity
5. Justice by impartiality
6. Rawls’ original position (built out of (parts of) 3, 4, 5)

## 1. Starting points

### Idea of arguments pro Justice

1. Premises have to start from **enlightened equality**
2. Premises have to be **psychologically realistic**
3. Both conditions have to be taken up in an **original situation**, which collects (experimentally) the premises of the argument.
4. Conclusion of the argument are **principles of justice**. These principles are the most basic principles for a just society.

**Comment 1:** This is a contract-like argument, because the original situation is comparable to a legal contract.

**Comment 2:** So far this is a logical structure, which is experimental in the sense that we can go back and forth.

## 1. Starting points

### Idea of arguments pro Justice

#### 1. Premises have to start from **enlightened equality**

“Enlightened equality”:

- Justification must be acceptable by others in the same way it is acceptable by all. (Impartiality condition)

**Or**

- Justification must be acceptable by others on behalf of successful cooperation with them. (Cooperation condition)

#### 2. Premises have to be **psychologically realistic**

- They have to fit into the law of reciprocity.

## 1. Starting points

### What we expect from a conception of justice

(Rawls)

#### **Civic and political justice (freedom) – strict equal**

1. Principles of **political** rights (equal voting, fair procedure of election, regular control of government)
2. Principles of **civic** rights (equal application of law, freedom of thought, freedom of conscience, freedom of assembly, freedom of the person)

#### **Social and economic justice (social positions & income) – not strict equal?**

3. **Equal opportunity** in education and work sphere
4. Distributive justice: **just wealth and income**

## 2. Three formulations of equality

***Original position* is the core of a just society**

### **Three alternatives of an “original position”**

- Equality on basis of **mutual advantage** (Hobbes)

**Idea:** take people (as a whole) as they are and let them cooperate instead of fight.

- Equality on basis of **reciprocity**

**Idea:** take people (as a whole) as they are & let them cooperate fairly.

- Equality on basis of **impartiality**

**Idea:** take people as they are & let them think about their role impartially & see what that means and how it works for them.

### 3.Equality as mutual advantage

#### What does equality on basis of *mutual advantage* mean?

- Members of a collective are **self-interested**: looking for their advantage in material **and** ideal goods (religion, worldview)
- There are **not yet** moral/legal/political principles among them (potential civil war)
- For **all** of them **together** it is better if there is peace and a social order.
- **Therefore**, they agree (accept a “contract”) that there should be a social order by principles of justice for all.

**Why is this equality?** There are no one-sided rights (feudalism) ahead of the contract. All are equal in being considered in their individual interests as they are.

### 3.Equality as mutual advantage

#### Critique of mutual advantage

##### **Not very substantially equal** (tested here only for distr.justice)

- Collective vs individual advantage: Hobbes' "Fool"; necessity of heavy sanctions for free-riders.
- Disabled, aborigines/Indians, minorities are not 'mutual' enough and drop out of the contract.
- Could we talk of justice at all? Rather a peace-keeping method.

##### **Not meeting reciprocity**

- Instrumental attitude in conflict with reciprocity: free-rider does not reciprocate

##### **Not meeting enlightened equality**

- Cooperation will not be successful, if there is no trust, and with free-riders there is no trust.

## 4. Equality as reciprocity

### What does equality on basis of *reciprocity* mean?

- Members of a collective are **self-interested** & fair in **reciprocating** on the same level.
- **Example:** A helps B on condition that B helps A; A provides his contribution, but there will not be further cooperation in the future – will B then contribute? Yes, due to fairness in reciprocation. (Typical behaviour in restaurants!)

How does the whole cooperation **start**?

- Similar to mutual advantage through experience that there is an improvement involved for all collectively by cooperation.

**Advantage:** cooperation much more stable through reciprocity.

## 4. Equality as reciprocity

### Critique of reciprocity

- Still **neglect** of disabled as those who cannot contribute. If no contribution then no reciprocal contribution: justice here is conditional (different to common sense morality)
- **Different levels** of distributive justice: Rules of justice will document the different degrees of contribution: contribution of 10 will be answered by 10, one of 2 by 2. Therefore, fairness only extends to responses on the same level. (More concrete: different levels of health-care, schools, infrastructure, etc.)
- **Different levels** also of civic and political rights, if reciprocity is extended to these rights. (Political and civic rights depend on costs!)

## 5. Equality as impartiality



## 5. Equality as impartiality

### What does equality on basis of *impartiality* mean?

- Members of a collective in reality have different abilities and properties
- All personal properties are either ones people are **luck-based** or non-luck-based ones, ones people are **responsible** for.
- **Luck-based** properties: talents, health, beauty, social background.  
**Non-luck based** properties: behaviour, effort, interests, etc.
- Equality asks for correcting luck-based properties (blind-fold in statue of Justitia).
- Impartial morality means:
  1. **Equal political & civic rights**
  2. **Full equal opportunity**
  3. **Luck-sensitive distributive justice.**

## 5. Equality as impartiality

### Full equal opportunity

Everything should be done to **correct** original natural and social inequalities in human abilities, in principle up to the point of full equality.

### Luck-sensitive distributive justice

Distributive justice has to be sensitive to what people are able to do and honour the mere intention of the **unable** to the same extent as the effective contribution of the **able**.

## 5. Equality as impartiality

### Critique of impartiality

- Different to Mutual Advantage and Reciprocity in **full contrast** to self-interest: not a correction of self-interest but fully fairness-driven. But is it realistic to abstract totally from self-interest?
- Unclear, what the **psychological force** could be to make impartiality work.
- **Justification** of burden for able **unclear**: why should able step in for unable's deficiency, **if** unable is not among the causes for unable's deficiency?

## 6. Rawls' original position

### Rawls' argument for justice

Combination of elements in the foregoing three models

- Mutual advantage: Members of a collective are **self-interested**
- Reciprocity: The outcome is documenting a wide-ranging form of **reciprocity** among all members of a society
- Impartiality: The **blindfold** is applied on member's knowledge of themselves.

## 6. Rawls' original position

### Principles of justice to be arrived by decision procedure

- Members of a collective are **self-interested (utility maximizers)**
- Members do **not know** about their personal characteristics (“veil of knowledge”)
- Members choose principles on basis of this according to **theory of choice**.
- Expected result:
  1. **Equal civic and political rights for all**
  2. **Fair Equal opportunity**, restricted to socially caused inequalities
  3. **Difference principle**: social and economic inequalities have to be to the advantage to the worst-off

## 6. Rawls' original position

### Principles of justice to be arrived by decision procedure

**Maximin-principle:** choose in order to maximize the minimum

State of the world	Go to the mountains	Stay at home
rain	10	-5
sunshine	20	-5
earthquake	-200	<b>-100</b>

## 6. Rawls' original position

### Principles of justice to be arrived by decision procedure

**Maximin-principle:** choose in order to maximize the minimum

State of small business	Unrestricted freedom	Improve the potentially worst case
extremely successful	100 (no taxes)	20 (huge taxes)
medium successful	50	10
bankrupt	-200	<b>-100</b>

## 6. Rawls' original position

### Reciprocity in Rawls' principles of justice?

**Fair equality of opportunity:** Correction of **socially** caused unequal starting positions, but not in natural ones.

**Reciprocity?** Social restrictions to the unequal are being made good. Reciprocity between social causes and social compensation.

**Difference principle:** Differences in wealth and income are just if they help the worse-off in the unequal relation.

**Reciprocity?** Worse-off accept the better-off to earn more, and the better off subsidize the worse-off.

In both cases reciprocity between classes, not individual persons!