

# JUSTICE

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- **MORAL CONCEPT OF JUSTICE**

- Concept of justice is as old as an idea of **Plato** who said that **harmony** and **balance** in society is justice which requires just moral virtuous human being. Law and punishment is unnecessary for creating a just society.

- **PROCEDURAL JUSTICE**

- Neo-liberals like **Hayek** believe in procedural justice. **Nozick** propounded entitlement theory which includes the following features:-
- (a) Property can be accumulated by a person because it is natural.
- (b) A person can transfer his property.
- (c) Any illegal acquisition or property is unjust.
- Procedural justice believe in the **capacity** and **efficiency** and just procedures result into just result.

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# SOCIAL JUSTICE

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- Opposite to procedural justice social justice is known as **substantive justice** too.
- Concept of social justice is drawn from the idea of **Richard Tawney** a British socialist. Nowadays, **Brian Barry** wrote a book 'why social justice matters' (2005). Social justice refers economic and political justice too. It maintains equality of opportunity. It believes in non-hierarchical society and **Rawlsian** concept is also a notion of social justice.
- **REMEDIAL JUSTICE**
- Marxist and radical feminist propound the radical concept of justice which believes in the **restructuring** of society and economy and they oppose the **distributive** concept of justice which accept the distribution of **primary social goods** in society but want to retain the capitalist form of economy. On the other hand, Marxist want to destroy **capitalism** and feminist are looking for the destruction of **patriarchy**.

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# DISTRIBUTIVE JUSTICE

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- Aristotle said that justice is essentially an art of distribution. He said that but distribution should be based on **capabilities** or **contribution** of the person **towards society**.
- Person should receive in proportion of their contribution for society. Therefore, it is known as **proportionate justice** too. It is different **arithmetical** justice which treats everyone is equal.
- **Neo-liberals** believes distribution on the basis of capability, efficiency. However, **socialist** favour the distribution on the basis of **need**.
- Nowadays, distributive justice is practiced in form of **inclusive** policies.

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# RAWLSIAN CONCEPT OF JUSTICE

- **(1) DIGNITY OF INDIVIDUAL**
- Justice of Rawls is influenced by **Kantian** philosophy who said that '**man is end in itself**'. Rawls accepted the same presumption and said that **self is prior to its end**.
- This shows that concept of justice is the **creation of individual**. It is **not any divine concept**. This also shows **primacy of individual** in making of justice. Worth of every individual is same and each person is having his own concept of justice and ultimately, principle of justice is decided by **social contract**. Involvement of every person is inevitable for arriving on the principle of justice.

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## • (2) REJECTION OF UTILITARIANISM

- Utilitarians say that justice is the maximum happiness of maximum numbers. However, Rawls believe in the dignity of each individual.
- For Bentham overall happiness is more important. Thus, it is known as **consequentialist notion of justice**. However, justice of Rawls is **ontological** where procedures should be fair. And it is known as **fairness**. Fair procedures result in the fair consequence.
- Bentham is emphasizing over happiness but Rawls believes in the dignity of individuals.

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- **(3) JUSTICE IS FIRST VIRTUE**

- Rawls says that the most significant quality of a society is justice. **Justice** is more important than **efficiency**. But **right** is more important than **welfare**. Rawlsian justice is based on the principle of **lexical priority** which implies that:-
  - (i) Each person is to have an **equal right** to the most extensive basic **liberty**, compatible with a similar liberty for others.
  - (ii) **Social and economic inequalities** are to be arranged so that they are both (a) reasonably expected to be to **everyone's advantage** and (b) attached to position and offices open to all.

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- **(4) MAXIMIN PRINCIPLE**

- Rawls says that justice implies the **distribution of primary goods**. Justice of Rawls is distributive which believes in the distribution of primary goods.
- Primary goods includes:-
- **(a) Natural primary goods:-** Health, intelligence.
- **(b) Social primary goods:-** Liberty, rights and basic income.
- Rawls says that maximum primary goods are distributed for the **least advantaged sections** of society. Social economic inequalities which is better for least advantaged sections of society shall be retained. Distribution of goods in favour of marginalised sections is known as **difference principle** too.

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- **(5) JUSTICE IS FAIRNESS**

- Rawls invented analogy of social contract for arriving over the principle of justice. He made a hypothetical assumption of **veil of ignorance**. This makes the position of each and everyone equal.
- For making social contract, veil of ignorance is creating equal opportunity for everyone for arriving over the principle of justice.
- **Veil of ignorance implies:-**
- (a) Individual is not aware about his present condition in society.
- (b) He neither knows about his position in society in future. Although person is aware about the basic psychological principles.

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- **(6) PURE PROCEDURAL JUSTICE**

- Rawls says that procedure must be fair. It can't be diverted. Therefore, **liberty can be only curtailed for sake of liberty.**
- Liberty cannot be compromised for obtaining social economic equality. **Fair procedures result in just society.**
- Rawls speak about the distribution of maximum primary goods for the marginalised sections of society. Therefore, it becomes **substantive justice.** Justice of Rawls believes in the principle of **compensation and** the people occupying worst condition in society must be compensated.
- Under veil of ignorance nobody knows that who is occupying what position in forthcoming society.

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## ● (7) **INSTITUTIONAL FRAMEWORK**

- (a) The **allocation branch** keeps the **price system** competitive by preventing the formation of a **unreasonable market power** and change property rights through taxes and subsidies.
- (b) The **stabilization branch** takes care of employment opportunities.
- (c) The **transfer branch** is responsible for maintaining a social minimum by way of unemployment and family allowances.
- (d) The **distribution branch** preserves an approximate justice in **distributive shares** by means of taxation.

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# COMMUNITARIAN CRITIQUE

- Sandal wrote a book '**Liberalism and Limits of Justice** (1982)'.
- Veil of ignorance implies **abstract** and **atomistic** individual which ignores the social context.
- In the Rawlsian concept of justice, individual is more important and justice is **artificial**, which is the **result of contract** among the people.
- However, communitarians said that **community is more important not individuals**. And justice lies in **true society**, like- family is an example of just society.
- Rawls believe that **self is prior to self**, however, communitarians believe that **end is prior to self**.
- Rawls believed in the distribution of primary goods for all, on the other hand communitarians believed that same set of goods is **not be preferable for all**.

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# RAWLS DEFENSE

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- In 1993 Rawls wrote a book '**Political Liberalism**'. Communitarian philosophy emerged in 1980's. he said that principle of **justice is independent** of **philosophical** or **religious doctrine**.
- He propounded the concept of **basic structure** which depends upon constitutional democracy and shared political culture. Social justice is different from **moral aspiration** of people. It means liberal democratic system can accommodate the diversity of culture.
- Rawls said that theory of justice should be made according to the need of **plural** and **diverse** society and subsequently he admitted the importance of community.
- He wrote a book '**Law of people**'.
- He wanted to maintain justice among the nations also.
- Rawls never preferred the **war**, instead **peaceful coexistence** and **harmony** between the nations is fundamental principles of international relations.

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