



# Absence of Unfairness: Towards a Welfare State

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*It is important for a welfare state to attain fairness in procedures, opportunities and outcomes. Procedural fairness depend on rules, and hence, the need that the rules themselves be fairly determined. Equal opportunity is about being inclusive by providing a level playing field, but does not imply that each individual has to be included at every stage. Fair outcomes are context-specific and are based on non-discrimination while ensuring rights, merit while selecting people to positions, and minimising disadvantage while addressing concern for the vulnerable.*

## Introduction

Absence of unfairness is an important requirement.

Absence of unfairness is an important requirement. It would do us a lot good if we could attain fairness in procedures, opportunities and outcomes. To attain all three is a tall order, but that is what a welfare state should strive to achieve.

## Procedural Fairness

Procedural fairness require adherence to rules.

At a procedural level, fairness will be attained if rules have been followed and that the rules are themselves fair and have been decided beforehand in an impartial manner without recourse to personal whims and fancies. Rather, the rules ought to be based on principles derived from the statutes (legislative dictum) or moral and ethical positions, which themselves have spatio-temporal basis. The framing of rules is an executive exercise.

A procedural lapse or lapse in framing the rules can be adjudicated in a court. The case of awarding bonus marks to erroneous questions in Joint Entrance Examination (Advanced) 2017 for Indian Institute of Technologies will fall under this.

## Equality of Opportunity

Equality of opportunity is about being inclusive.

Fairness of opportunity is to provide a level playing field to all those who are capable of delivering. The basis is to be inclusive. If it is about educating children then the school system should be such that each and every child gets the opportunity to hone their innate capabilities. In this process, it is possible that one pupil becomes a mathematician and another a musician. The skill sets that either of them acquired from the school is different; yet it cannot be construed that the school was unfair to them.

If equal opportunity is being envisaged in the selection of a candidate to a position, then there ought to be well laid down procedures. To begin with, the eligibility criteria should be clearly defined. Equality of opportunity envisages that all eligible candidates should be considered. This, however, does not mean that each and every candidate is to be included at every stage of selection. This would tantamount to inclusion error.

Inclusiveness requires guarding against inclusion errors.

Pragmatism requires a process of elimination. The purpose is not to cast aspersions on the capability of those



who are excluded, but rather to ensure that those who are included are capable.

In many job selection procedures, the last stage happens to be a personal interaction. For instance, in the selection of Vice Chancellors to Universities of Odisha, followed in recent times, the last stage is an interaction of three short-listed candidates with the Chancellor (Governor of Odisha). Short-listing three candidates not only serves as a pragmatic consideration to manage the total number of candidates called for a personal interaction, but also creates conditions where the interaction is meaningful and serves its purpose. At this stage, equality of opportunity implies that all the three short-listed candidates have an equal possibility of being selected.

### Fair Outcomes

Fairness in outcomes depends on the context and situation. We elucidate three possibilities - liberties and rights, selection to positions, and distribution of resources to the vulnerable.

If it is about liberties and rights then each and every individual has the same and equal inalienable rights that is non-discriminatory such as 'one person, one vote'. The basis is equal basic liberties.

Equality and non-discrimination should be the basis for rights.

This reminds me of a visit to a village Dorli in Yavatmal (not the Dorli in Wardha that was put on sale by the inhabitants) where a resident comes and informs that he was born and brought up in the village, but his name has not been included in the voters' list and he has not been able to vote. The citizen's inability to vote is an unfair

outcome.

A fair outcome will be different while selecting people to positions, as only one person can be selected like the selection of a Vice Chancellor. The underlying criteria are some notion of merit.

Merit should be the basis for selecting people to positions.

Let me get back to our two pupils - one who has become a mathematician and the other a musician. In the process of honing their innate capabilities, the mathematician learnt some music and the musician learnt some maths. However, if the mathematician is selected to teach music even when the musician was also an eligible applicant and did better in the evaluation process then the intended purpose in the selection will not be achieved. It does not matter if some post-facto reasons are provided indicating that the person knows the basic fundamentals of music, that there is maths in music, and that the person can also teach maths. If these were the requirement then that should have been articulated beforehand. The outcome of such post-facto reasoning would not only be unfair to the musician, but also unfair to the prospective students who are to be taught music.

When it comes to distribution of resources, concern for the vulnerable is an important aspect. This does not mean that one ought to disregard property rights and facilitate transfers from the rich to the poor. Instead, it argues against property rights that facilitate rent-seeking. More importantly, it calls for minimising disadvantage to the vulnerable. It is in

Minimising disadvantage should be the basis for distributing resources to the vulnerable.

this context that provisioning of food for the hungry, care for the sick, and shelter for the homeless become relevant.

At times, provisioning for the vulnerable could involve affirmative action in the form of jobs. This does not mean that one is questioning the principle of merit in such selections.

Affirmative action in the form of jobs does not bypass the principle of merit.

Rather, the principle of merit is restricted to a smaller subset. Or, without diluting merit, preference is given to certain sections when all other things remain the same.

Does this mean that it would be justified to select the mathematician to teach music because the musician can earn a living by performing, but there are no such visible livelihood opportunities for the mathematician. The answer is no. If this were to be the selection criteria then the authorities concerned, without violating the school's policy of honing the innate

capabilities of its pupils, ought to have decided beforehand that the school requires someone to teach music at a basic level and that preference would be given to someone whose opportunities for earning a livelihood is limited.

### Sum-up

Fairness in procedures, opportunities and outcomes is needed for a welfare state. Procedural fairness are based on rules and their lapses can be adjudicated in a court. But, it is important to note that the basis on which rules are framed can change over time. Equality of opportunity is about being inclusive by providing a level playing field, but does not imply that each individual has to be included at every stage. Fairness in outcomes will depend on the context. The basis is equality in the space of rights and liberties, the basis is merit while selecting people to positions, and the basis is minimising disadvantages for distributing resources to the vulnerable.

*[The author has been teaching Rawls' Justice and some aspects in this note might have been influenced by that. Comments from the editor has helped improve clarity.]*

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