Chapter 7. A Stake in Democracy—citizenship and society

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tossed, to me:
I lift my lamp beside the golden door [*]

7.1 The US Diversity Immigrant Program—the Green Card Lottery

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7.1 The US Diversity Immigrant Program—the Green Card Lottery:

This chapter deals with Government at its most general, distributing benefits and often burdens to its own citizens, or in the case of the example, to most of humankind. Later on I will discuss the fairness and justice of randomly imposing some of the burdens, such as jury service and compulsory military conscription (known in the US as the draft). This example, distributing entry permits to the US—the so-called Green Card—is a use of random distribution which seems to be an expression of 'republican virtue' at its best.

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[*] A verse from a poem, 'The New Colossus,' by the nineteenth-century American poet Emma Lazarus. 'The New Colossus,' describing the Statue of Liberty. It appears on a plaque at the base of the statue.

Example: The 'Green Card' Lottery – 2004

'Green Card is the nickname for document I-551 issued by the U.S. Immigration and Naturalization Service (INS, now part of DHS – Department of Homeland Security). This card, which is actually pink and blue in color today, allows foreign nationals to legally and permanently live and work in the U.S. The Green Card Lottery, or to give it its more correct title **The Diversity Immigrant Visa Program,** is a system where the U.S. government annually issues 50,000 permanent Green Cards randomly selected through a computer. Those people who enter the lottery and are selected by a computer at Williamsburg in Kentucky can emigrate, with their spouse and any children under 21, permanently.

As is to be expected with any Western immigration program, there are restrictions. Only countries that already have a low rate of immigration to the U.S. can enter, while countries whose former citizens have received more than 50,000 Green Cards through other means in the past five years are not eligible. Residents of the UK cannot enter the lottery due to the number of Green Cards issued to its citizens in the past five years. Northern Ireland is considered an exception, as is the Republic of Ireland. Other countries whose citizens are not allowed to enter at present are Canada, China (excluding Hong Kong and Taiwan), Colombia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, the Philippines, Russia, South Korea and Vietnam. The draw for DV-2005, the current influx, took place in June 2004. Of the 9.5 million applications, the 50,000 'winners' have just been informed that they have between October 1, 2004 and September 30, 2005, to take up the offer.'

(details taken from: http://uscis.gov/graphics/hodoi/divlott.htm a U.S. Government websites)

7.2 Discussion on the Green Card lottery

Despite the fine sentiments expressed on the Statue of Liberty, the U.S. had been operating overtly racist immigrant quotas which aimed to maintain the existing ethnic balance in the US, whilst excluding many, especially Asiatics. In 1989 long after this had become indefensible, the system was changed. Most visas were to be issued for the normal 'deserving' cases based on jobs, qualifications or close family relationship. A further small category—the Diversity Immigrant Visa Program (usually shortened to DV) was to be selected from the world at large. The legislation did not specify the means for selecting the diverse immigrants. It was the administration which organised the process as a lottery, which has been held each year since 1989. In 2002, for example, just over one million immigrants in all categories were accepted into the US (US DHS, 2003). Of these, only about 5% (50,000 out of 1 million) had come through the DV program.

Public Choice Theory says that politicians will respond to electors' concerns, as well as to those of their corporate paymasters. The Economist (2002c) advocates opening up immigration as a means of stimulating the economy for the benefit of all, but particularly for corporate vigour. For the voters, the ordinary citizens, the idea of unlimited immigration, especially of the unskilled from alien cultures, is horrifying. For politicians to propose lottery entry must have required some higher motive than pleasing the electors' basest instincts. Faced with the need to replace existing immigration controls with something less racist, they reached, it seems, for a familiar option: Historically the US military draft took the form of a public draw. Numbered balls (representing birthdates of 19-year-olds) were pulled from a transparent container (known as the 'gold-fish bowl) at a public ceremony[*]. Many US school board voucher schemes make use of random allocation. Lotteries seem to reflect the genuine egalitarian impulse of the American body politic.

If the intention of the DV Program is to select immigrants from a wide range of 'deserving' countries, it certainly seems to be working. Although the Program is not completely open to everyone, the net is cast widely: Countries from which applicants

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[*] A photograph of the actual drawing ceremony is shown on p223 in Tashman & Lamborn (1979)

came for the DV-2004 lottery include: Ghana 6,333, Botswana 4; Bangladesh 4,935, Oman 4; Bulgaria 2,843, Malta 3; Fiji 524, Samoa 2; Peru 1,063, Chile 27 (taking the five continental 'regions' used by the INS).

The DV may be open to many, but there are still barriers to entry: The process of finding out about the DV Lottery requires some ingenuity. Once the appropriate website has been accessed, potential applicants discover that there are limitations: Only those who have completed elementary schooling or training are eligible, and they must be a native of one of the countries allowed to enter. Applicants who fail to follow the procedures at the right time will be rejected—which results in millions being turned down. Only one application per person is allowed, with multiple applications causing rejection. Biometric facial recognition technology is used to catch cheats, and ensure that no post-draw trading can take place.

In the 2004 DV Program, of the 9.5 million applicants, only 7 million applications reached the draw. Since there are 50,000 places, each one has about a 1 in 140 chance of winning. A computer at the Consular Center in Williamsburg, Kentucky is programmed to randomly select the winners. Each applicant has the same chance of winning, and there are about 87,000 'winners'. Some fail to take up their offers, others are rejected after scrutiny. Once 50,000 have come forward and been accepted, no more are granted visas. There are also pre-ordained limits on the number of visas awarded to each of the five 'regions' (continents). In the current round only on-line applications are accepted, which creates yet another barrier to entry (details fromwww.travel.state.gov/visa/imigrants_types_diversity3.html)

But the result of the Green Card Lottery is not quite as diverse as intended. According to Barrett (1996) the lottery winners were of better labour-market quality, compared to those immigrants who came through the standard channels. This may reflect hurdles to be overcome in completing a DV lottery application, effectively screening out the less able.

For individuals world-wide, the DV Program can be highly attractive. This is a lottery where the you have a 1 in 140 chance of gaining a prize worth $300,000 with minimal

entry costs. That is the extra amount, on average, that winners can expect to earn over a lifetime of earnings, according to James Smith of the California-based Rand Institute (quoted in The Economist 31.10.02). World-wide, the U.S. is the destination of choice for most would-be migrants.

There may be some venal motives behind the DV Program, with politicians responding to their corporate paymasters. The results may not quite produce the members of the poor, nor huddled masses yearning for a better life for themselves and their families. But overwhelmingly, this is a story of noble motives, with the US establishment acting in the best traditions of fairness and justice, extending a glimmer of hope to millions of people, expressing a unique sense of global inclusion.

7.3 Justice—the highest ideal

Standard economic theory deals with the individual's wants and needs, and how they are satisfied, with self-interest as the sole motive. When the setting was a group of people, whether they be co-workers, neighbours or club members, who have personal knowledge of each other, then inter-personal relationships can be the basis for the value set on fairness and reciprocity. But the Green Card lottery example in this chapter takes things to yet a higher level[*]. Other than basic humanity, those applying have nothing in common, no sense of affinity. The only collective value that the process could confer is Justice.

 But is Justice valued as a separate category (in the same way that values of inter-personal fairness are valued differently to self-interest)? There is massive philosophical support for the value of Justice, which is often referred to by economists. For example a paper entitled 'Distributive justice and the argument for an unconditional basic income' by Zelleke (2005) reviews three important philosophical sources who make the case for the *justice* of the market economy: Dworkin, Nozick and of course Rawls. Of these, Rawls's 'A theory of justice' (1971) is undoubtedly

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[*] It might be valid to think of the motivation of Justice being higher than Reciprocity, which in turn is superior to Greed as examples of Maslow's (1987) 'Hierarchy of Needs'. This idea also crops up as 'Humanistic Economics' in Lutz (1999).

the most influential and most called in aid by economists. I am happy to do so too: Rawls's first chapter, which sets the tone for the whole book has the title 'Justice as Fairness'. Taken overall, there is substantial support from Elster (*Local Justice,* 1992) and Goodwin (*Justice by Lottery,* 2005) and others that using a lottery to distribute benefit embodies ideas of Justice. People too, are said to 'want' or even 'thirst for' Justice. How valuable this might be on some form of economic calculus is difficult to figure out, but it is surely the case that Justice and Fairness in the wider social setting have some fundamental value, which random distribution can embody and sustain.

7.4 Theory: Fairness in the wider community

The description of fairness was used in the last chapter, but in relation to communities which had some social contact with each other. In this chapter I am using the rather inelegant term 'in the wider community' to indicate a requirement of fairness within a group which may have some affinity, but almost certainly do not know each other personally. There will be shared values, but not personal attachments. The citizens in one country would be a good example of such a wider community. All those applying to enter higher education, mostly from the same state, with universities as national institutions would be another wider community.

What might Fairness mean in the context of 'the wider community'?

Smith (2005) says that 'the descriptor 'fairness' has so many meanings in different contexts that I believe it is best to avoid the term entirely ..except where it is explicitly modelled ..'. However, there are so many references to fairness and its importance, especially in relation to non-market allocations, that I feel it is necessary to examine some of the ways 'fairness' is defined:

Fairness according to Rawls:

Rawls equates justice with fairness, but how does he define fairness? Search as I might I can nowhere find any definition given by Rawls for 'fairness'. Is it a

philosophical concept so obvious that it does not require definition? If people are to be treated as equals, then maybe the strictly equal chance in a lottery gives fairness by definition. Procedures like the US Green Card or the earlier US Military Draft fulfil this requirement, so is that enough to consider them fair, and conforming to Rawlsian ideals? Broome (1990) expands on Rawls' ideas about fairness, suggesting that it 'is concerned only with how well each person's claim is satisfied *compared with* how well other people's are satisfied.' This relativistic approach may ease the requirements for fairness, but still leaves it undefined. 'Claims' give rise to further requirements: everyone's valid claim should be satisfied, in proportion to their strength, which as Broome points out is normally impossible. His solution in the special case where all applicants have equal claims is to select by a simple lottery. Thus, as with the Green Card lottery, even the losers have had a chance of the prize.

Fairness is whatever people say it is:

'The rules of fairness cannot be inferred either from conventional economic principles or from intuition or introspection' according to Kahneman, Knetsch & Thaler (1986b). Fairness can only be tested empirically, in specific situations. This seems to suggest that elicitation is the only way of discovering what is considered to be fair. People, it seems, have an intuitive understanding of what is fair, or at least can recognise it when they see it. But the results may not always be very consistent: A large-scale survey in the 1990s produced the results shown in the Table overleaf. There is a wide discrepancy in responses in different countries.

Table 1. Summary of International Social Justice Project, 1991 findings on attitudes towards rationing and priority setting[a]

	East Germany	West Germany	The Nether-lands	Britain
Choice made by a lottery	40.3%	54.9%	49.0%	30.2%
Choice is made by judging the usefulness of each patient for society at large	18.6	10.2	15.7	26.9
Choice made by following the rules of the hospital	44.2	32.4	56.0	61.2
The patient who can afford to pay most is treated first	1.4	2.7	2.1	6.0
The patient supporting the largest family is treated first	66.8	57.6	44.8	52.3

[a] Percentage of respondents considering the method of choosing between patients to be very or somewhat just.

Source: International Social Justice Project (ISJP) in King & Mossialos (1999)

Elicitation to test for the presence of fairness should be used with caution. When given wide-ranging or hypothetical questions (as in the medical emergency example in Chapter 1), the results may not be reliable, or as in the example in Table 1, particularly consistent across countries. This may be due to framing effects, although Konow (1996) in a number of surveys, found that the responses to specific, though hypothetical questions showed that there was a universality of views on basic fairness. Focussing on specific examples related to actual experience would be more reliable and avoid framing effects. This was the approach taken by Huang et al (2005). They asked if it was 'fair' for hotels to charge different prices as between customers who booked on-line and those who phoned up to make a reservation. They chose this example because 'most people have experience of using this service'.

A statistical approach

I developed some statistical ideas on the use of random distribution in earlier paper in *The Statistician* 'Organizations selecting people: how the process could be made fairer by the appropriate use of lotteries' (Boyle, 1998). There are different methods of drawing a representative sample from a population, but all depend on some form of randomisation. Simple random sampling operates so that each member of the population has an equal chance of being selected. Samples which have not been picked strictly randomly may exhibit bias. Fair, bias and equal chance are ideas that

will be familiar to statisticians, as well as the implications of such techniques—that there will be occasions when a single sample produces a freak result. In the long run such variation will even out. This is a subtle and complex process which is not well understood outside the profession. Statisticians may clearly understand fairness as a product of random selection, but it is not clear whether this corresponds to a Rawlsian concept of fairness and justice.

Sociologists views on fairness

Whereas 'fair' may have a strict scientific meaning in statistics and sampling, fairness is much less clear cut in the social sciences. A useful definition proposed by Elster is that '*Fairness means that relevantly like cases should be treated alike ... it could be argued that even where there are relevant differences, people should be treated alike*' Elster (1989), p. 113). This definition comes close to the way statisticians identify 'not significantly different'.

Zajac and Baumol: Economists views on Fairness and Superfairness

Zajac (1995) in his *Political economy of fairness* considers a wide range of ideas related to fairness. He quotes the sceptical economists' saying that 'anyone talking 'fairness' is peddling self-interest.' He suggests that it is the market which will deliver the most for all, with any blatant inequalities remaining left to be cleared up by income re-distribution through taxation. When dealing with 'positive theories of fairness' produced by sociologists, Zajac suggests that (p104) their theories are too clumsy to be of practical use. He quotes some indicators from Fienberg (1971) about fairness: That there should be like treatment of like cases; and Selection should be on the basis of relevant merit. There is a Formal Principle that '*Equals should be treated equally and unequals unequally, in proportion to relevant similarities and differences.*' Zajac gives no advice how such generalised principles could be operationalised.

William Baumol tries to go one further than Zajac, and propose what he called 'Superfairness'. He produced a book with that title in 1986. (This is before Zajac's book, but he refers to his earlier publications). He refers to Rawls of course, but concludes (p4) that 'despite Rawls....few would claim to have tenable criteria of

economic justice of general applicability.' He notes that price controls introduced in the name of fairness often have malign consequences. Baumol is aware of some of the insights of experimental economics, such as customers having a 'framing effect': That the circumstances of obtaining a good can change their perceived value of it. Somewhat like Frank and Fehr & Schmidt quoted in the last Chapter, he goes on to identify another customer need: As well as customers individually maximising their own satisfaction from their purchases or allocations (the greed criterion), Baumol allows them to make comparisons with other customers: That each individual gets a bundle of goods which he prefers and no-one else has a bundle that he would wish to swap for. This is the No-Envy test. To put it crudely Baumol's Superfairness is any distribution which satisfies both the Greed and Envy[*] of the consumer. Moulin (1995) has formalised the no-envy test in his *Cooperative Microeconomics.* Brams & Taylor (1996) also discuss methods of fair division based on a 'no-regret' criterion.

7.5 Conclusion: random as fair hence just

The diverse collection of ideas may feel like a formidable case that fairness and justice matter, but this rather neat conclusion is marred by the fact they are philosophical abstractions. However acknowledged or revered Rawls may be, practical economists and policymakers would ask for the evidence. What experiments have be carried out to show that Justice and Fairness are valued beyond self-interest or inter-personal comparisons? The evidence seems to be lacking, although the experimental problems may go some way to explain this: Once a group, even of strangers are brought together, then they establish inter-personal relationships, where fairness and reciprocity matter more. Of course lack of evidence does not prove that justice has no salience for individuals. Given the frequent and widespread positive comments about justice, it has to be assumed that it has value, and that randomised distribution as an inherently fair mechanism delivers Justice.

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[*] In case the reader has forgotten, the other deadly sins are : Sloth, Gluttony, Pride, Lust and Anger