Formal principle of justice

• As indicated, we need to distinguish between the following:
  • Formal principle of justice
  • Substantive principles of justice
  • Procedural principles of justice
• We now understand procedural principles. What is the formal principle?
Formal principle

• The formal principle of justice says:
  • We are to treat like cases alike,
  • and unlike cases unalike.
Formal principle

• It is a *formal* principle for two reasons:
  
  • It gives us the form that matters of justice must take: Whatever else we do regarding justice, we must treat like cases alike and unlike cases unalike.

  • It does not specify what counts as like and unalike, leaving that for a substantive principle of justice.
Formal principle

- Let us consider how the principle works:
  - We are entitled to complain about being treated unjustly if we are being treated differently than others like us, and
  - others are entitled to complain about how we are being treated if we are unlike them, but being treated as they are being treated.
Formal principle

• Apartheid in South Africa satisfied the formal principle of justice:

• The population was divided into three parts -- white, black, and colored (mainly Indian).

• The whites were treated one way; the blacks another; the colored another.

• So like cases were treated alike, unlike, unalike.
Formal principle

- Was that just?
- Satisfying the formal principle of justice is the minimal condition that must be satisfied for justice.
- If you do not treat similar cases in a similar way, and dissimilar cases dissimilarly, then you have failed to satisfy the first condition of justice.
Formal justice

• What was at issue regarding justice under apartheid was whether the principle or principles by which these three groups were distinguished was justifiable: are there distinctions between the groups that justify treating them differently?

• To answer that, you need a substantive principle of justice, something that justifies picking out one feature or set of features to privilege.
Formal principle

• We often make quite justifiable distinctions between groups of people -- those old enough to drive and those who are not, those old enough to vote and those who are not, those who have earned a college degree and those who have not, and so on.
In any event, the first step is to ask, “Does the distinction satisfy the formal principle of justice?”

E.g. my mother and the allowance she gave me and my brother: we did the same chores, but he got two and a half times what I got for an allowance because, she said, he was “older and needed more.”