

A Rawlsian Perspective on Copyright and Justice in Italy

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John Rawls expounded in his 1971 *Theory of Justice* a view of society informed by a principle of equality, and in this paper I look at those inequalities that I think Italian copyright law has a role in either maintaining or creating anew, thus holding back the project for a just society as envisioned by Rawls. In exploring the role of Italian copyright law in this respect, I also discuss whether the same body of law can be used to actually *lessen* the inequalities in question. The discussion is thus two-pronged, for I take up Bentham's distinction between law as it is and law as it ought to be:

On the one hand I consider the copyright law the currently in force, with the framework it establishes under which to distribute in society the results of our creative endeavours, especially as concerns the question of who can benefit from copyrighted content and under what conditions.

On the other hand, I deal in hypotheticals, considering what copyright law would look like if it were guided by Rawls's difference principle, under which social inequalities are accepted only if they work out to the benefit for the least advantaged.

A comparative assessment of this sort—looking at the law currently on the books next to a hypothetical account of the same law—can help us block out a vision of law by working from the empirical reality of law, thus putting forward an ideal of law without lapsing over into the imaginary.