

## The Nature of a Good and Just Society

- Questions involved in determining what a good and just society entails, revolve around the relationship between citizens and the state).
- Traditional western thought considers individual freedom as essential to achieving “the good life”.
- However, finding a balance between the often conflicting demands of the individual and society is necessary, but what exactly is that balance? How is it decided?
- Plato, Aristotle, Locke, Rousseau, and Marx disagreed over what society **ought** to be like, BUT agreed that a truly good and just life can only be found in a truly good and just society.
- As a starting point, most accept the need for a legitimate authority to create and enforce laws within a group/society/state (political, religious, etc.).
- Generally speaking, the law is a set of rules that tell people what they can and cannot do. Failure to abide by these rules usually results in consequences or punishments. Most of the time, laws are followed if they are seen as **reasonable and just**.
- Key questions –
  - How does one distinguish between reasonable and unreasonable, or just and unjust, laws?
  - What is justice anyways, and does it mean the same thing for everyone?
  - Do fixed principles about justice help?
  - How does the law differ from moral right or wrong?
  - What is the origin and purpose of law?
- Traditionally, there are two kinds of law – POSITIVE LAW and NATURAL LAW that are theories developed to help answer these questions.

## How Do We Judge?

### Positive Law

- Positive law is a human creation.
- Laws are established by the state for the good of the state as a whole.
- Law has no moral purpose (other than the survival of the state) or relationship to conscience.
- It refers to written rules that must be followed to the letter whatever the context or specific situation of any given person who violates the law.

- Anyone who violates or challenges the law must be punished according to the written rules.
- Positive law exists to maintain peace and order and control the greed, fear, and violence that are part of human nature (HOBBS).
- The law's primary purpose is to preserve the fundamental (natural) right to life, liberty, and property (LOCKE).
- Law must be evaluated by its utility to society, meaning that a truly just law provides the greatest good for the greatest number of people (BENTHAM).
- The purpose of law is to secure the good life for the greatest number, but it must not be judged on a moral or religious code BECAUSE it would lead to infinite interpretations of the law and thus no social cohesion or agreement on how to live properly would be possible. Positive law provides an objective measure of judgment (AUSTIN).

### Natural Law

- Natural law is unwritten.
- Natural law underlies moral principles of right and wrong, which can be derived by reasoning and heeding to one's conscience.
- Natural law argues that a universal moral command exists for making and judging laws (positive).
- Natural law is the conscience of the legal system.
- A moral imperative exists in law that guides one in right living. True justice lies in obeying law that is based on the eternal principles that govern the universe (SOCRATES).
- Human laws must be based on knowledge of the eternal laws that rule the universe, such as creating good and avoiding evil (PLATO).
- Law has a moral purpose – that is, to persuade people to follow reason and thus do what is right and avoid what is wrong (ARISTOTLE).
- Natural law is God's law as it operates in humans and is known through the exercise of reason. A moral obligation exists to obey just laws. The law is a product of human reason, which is based on natural law (AQUINAS).