

- ❖ Enables people to make choices of right and wrong based on reason and logic
- ❖ Acts can and should be judged according to their utility
- ❖ Utility = the greatest happiness of the greatest number
 - *Jeremy Bentham, 'An introduction to the Principles of Morals and Legislation' (Clarendon Press, 1789)*
- ❖ **Act Utilitarianism:** Quality of a decision is assessed in terms of the direct impact of the decision upon overall wellbeing
- ❖ **Rule Utilitarianism:** You behave morally if you make decisions and choices according to morally correct rules (a rule is morally correct if the consequences of adopting the rule are more favorable than the consequences of not adopting it)

Rights:

- ❖ The recognition and protection of individual rights
- ❖ Right = entitlement

Individualism:

- ❖ Liberalism emphasizes rights of the individual

Private Property:

- ❖ Property = a bundle of rights relating to the possession, use and distribution of things.
- ❖ Private property is property owned by an individual rather than the state
- ❖ Everyone is entitled to property and the state is obliged to protect private property

Equality:

- ❖ Every member of the community has the same fundamental legal rights and obligations
- ❖ Regardless of age, gender, sexual orientation, cultural background, income, family connections or occupation.

Justice

Theories of Justice:

Justice as Divine Command

- Justice is the authoritative command of a deity

Justice as Natural Law

- Justice is a universal and absolute concept, an objective standard against which all laws and legal processes can be judged

Justice as Positive Law

- Justice is whatever the law says

Justice as Mutual Agreement

- Justice is whatever the community agrees that it is

Justice as Consequentialism

- Justice is the decision or action that has the best consequences for total welfare

Types of Justice:

Distributive Justice

- Concerned with fair and proper distribution within community of things such as wealth, resources and power
- Egalitarianism
 - Resources should be distributed equally within the group or community
 - Equality of opportunity
 - Equality of outcome
- Desert Theory
 - Resources should be distributed according to what each member of the community deserves
- Utilitarianism
 - Resources should be distributed to maximize the total happiness or welfare across all members of the group

Procedural Justice

- A person receives a fair hearing or trial
- Ensures that a person being prosecuted for a crime receives a fair hearing
- Achieved by:
 - Detained only if reasonably suspected of committed an offence
 - Defendant informed of matters alleged against them
 - Person has right to refuse to answer if will incriminate themselves
 - Cross-examination
 - Right for legal matters to be heard before a jury
 - Placing the burden of proof upon the party bring the action
 - Claims and allegations satisfy a certain standard of proof (beyond reasonable doubt)
 - Requirement of unanimous jury decisions in criminal trials

Retributive Justice

- The proper response by the state to a wrongful act
- Desert theory:
 - Punishment should be decided according to what the offender deserves
 - Achieving an appropriate balance between what the offender has actually done and what the punishment the offender receives
- Utilitarianism
 - Punishment is justified if it maximizes overall welfare of community by:
 - Deterring other offenders
 - Rehabilitating existing offenders
 - Ensuring the law is complied with
- Purposes of Sentencing
 - Just punishment
 - To punish the offender in a way that is just
 - To deter the offender
 - To deter the offender and other people from committing the offence
 - Rehabilitation