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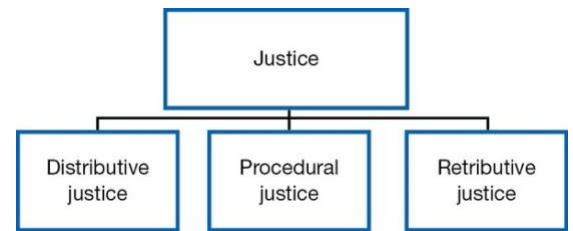
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## TYPES OF JUSTICE

### DISTRIBUTIVE JUSTICE

- Distributive justice - fair and proper distribution within group or community of things such as wealth, resources and power
  - Achieved when distributed fairly and properly
  - Law used to ensure fair and proper distribution
- When is a distribution 'fair and proper'?
  - Egalitarianism → resources distributed equally within group/community, either in terms of equality of opportunity or equality of outcome
  - Desert theory → resources distributed according to what each member of the group or community deserves, the basis of which is not equality but some other criteria such as need, talent or effort
  - Utilitarianism → resources distributed to maximise total or average welfare across all members of group or community



### RETRIBUTIVE JUSTICE

- Retributive justice – 'proper' response to wrongful act → concerned with appropriate responses to criminal and other harmful behaviour
- When is punishment of a wrongdoer justified? What type of punishment is appropriate?
  - Desert theory - punishment should be decided according to what offender deserves
    - Offenders must be dealt with as individuals, not as part of some calculation of overall welfare
    - Benefits of punishment for community not important compared to impact of punishment upon the individual and achieving an appropriate balance between what the offender has actually done and the punishment the offender receives
  - Utilitarian - punishment justified if it maximises overall welfare of the community by deterring other offenders, rehabilitating existing offenders, or ensuring the law is complied with
    - Effect of punishment upon individual less important than benefits of punishment for community
- Retributive justice vs restorative justice
  - Retributive justice concerned with how best to punish person engaged in wrongdoing
  - Restorative justice concerned with restoring or healing victim and reintegrating offender into community
    - Bringing victim and offender together to give the victim the opportunity to express and process harm they have suffered and educate offender about consequences of their behaviour

### PROCEDURAL JUSTICE

- Achieved if a person receives a fair hearing or trial
  - Legal system said to be procedurally if safeguards have been built into the legal system to ensure that a person being prosecuted for a crime or who is a party to civil litigation receives a fair hearing
- Examples of such safeguards include:
  - Requirement that a defendant be informed of the matters alleged against them
  - Requirement that each party be given the chance to test evidence of their opponent by cross-examination
  - Right for a legal matter to be heard before a jury
  - Placing burden of proof upon the party bringing the action
  - Requirement that claims and allegations satisfy a certain standard of proof
  - Requirement for unanimous jury decisions in criminal trials
  - Extent a legal system deviates from these and similar safeguards → system is not procedurally just

## LAW AND ETHICS

- Law vs ethics:
  - Making choice that is legal is not the same as making a choice that is ethical
  - Legal choice - complies with the law
  - Ethical choice - recognised as 'good' and 'right'
- Ethical standards similar to legal rules → offer guidance in making decisions about how to behave
- Important differences between legal rules and ethical standards:
  - To know what is legal → consult the law
  - To know what is ethical → consult own values and family, peers and community
  - Ethical standards are not enforceable by prosecution or litigation
    - 'Enforced' through fear of shame, guilty conscience, losing acceptance within the community or profession, or self-esteem, satisfaction and praise, or seen as a good person

- Business organisation 'pressured' to be ethical by concern that the market will punish unethical behaviour: if customers and community become aware of unethical conduct of an organisation → may react by withholding custom and support for organisation/industry
- Origins of ethical rules come from:
  - *Deontologicalism* — ethical rules are universal rules 'created by God' or existing in nature
    - Apply to everyone, everywhere, anytime
    - Person must comply with these rules regardless of consequences
  - *Consequentialism* — consequences of behaviour
    - EXAMPLE: utilitarianism - person behaves ethically if they make decisions and choices that maximise overall wellbeing
- Making and understanding ethical choices include virtue ethics and relativism
  - Relativism - ethical values, rules and standards differ from time to time and place to place → no universal standards of right and wrong, and you should make best decision in the circumstances
  - Virtue ethics - focus on the personal qualities of an ethical person - what would a virtuous person do?

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## LAW AND POLITICS

- Law - outcome of historical development, tradition, cultural values and community perceptions of justice and ethics
  - Law is more than merely politics → law shaped and influenced by power and politics
  - Particular laws usually expression of political ideology (i.e. liberal, democratic, fascist or communist)
- Legislation made by politicians to implement government policies and achieve political objectives
- Case law made by judges with political opinions and values, although judges are expected to set aside their own personal views on an issue and to apply the law objectively