## (a) **Definition**:

The upholding of rights, and the punishment of wrongs, by the law (Osborn's Concise Law Dictionary).

Just conduct; fairness; exercise of authority in maintenance of right. (Just = acting or done in accordance with what is morally right or proper.) (*The Concise Oxford Dictionary*).

- (b) There are two **types** of justice:
- Formal/Procedural justice which concerns the mechanism by which decisions are made; and
- Concrete/Substantive justice which is more concerned with the end result.

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- (a) **Aristotle** believed that a just law is one which allows individuals to fulfil themselves in society, and distinguished between:
- *distributive* justice regarding the allocation of assets where the aim of justice is to achieve proportion; and
- *corrective* justice regarding wrongdoing and where the judge should discover what damage has been done and then try to restore equality.
- (b) Natural Law Theorists assume that there is a higher order of law, and if the laws of society follow this order they will be just. Aristotle believed that this higher law could be discovered from nature; St Aquinas thought the higher law derived from God.
- (c) **Utilitarians** assess the justice of rules by looking at their consequences: if a rule maximises happiness or has some other desirable effect, for the majority, it is just. A law could therefore be just even if it created social inequalities so long as the benefits to the majority exceeded the loss to the minority.

(d) Economic Analysts calculate the effect of a law or policy in terms of the greatest happiness of the greatest number, by measuring the relative benefits. For example, an NHS doctor has a patient who needs a £100,000 1. The Meaning 2. Theories of Law and life-saving operation and ten who of 'Justice' **Justice** need minor operations at £10,000. Justice 1 Doing ten operations seems to produce benefit for a greater number at the same cost and may be the best way to spend public money.

- (g) Kelsen and Postivists believe that law can be separated from what is just or morally right. A law is still a law and should be obeyed even if it is completely immoral. Kelsen saw justice as simply the expression of individual preferences and values and, therefore, as an irrational ideal. Kelsen argued that it is not scientifically possible to define justice.
- (f) **Nozick** believed that for a truly just society, the State should have the minimum possible right to interfere in the affairs of individuals; its functions should be limited to the basic needs, such as protecting the individual against force, theft and fraud, and enforcing contracts.
- (e) **Rawls** believed that the members of society should decide on a set of principles designed to make their society just, and advance the good of all its members. In addition, there would be two basic principles:
  - (i) a set of basic liberties would be available to all, and
- (ii) equality of opportunity and equality of distribution. If a social order is just according to these principles, tho se who accept its benefits are bound to accept its rules as well, even if they disapprove of some of them, provided they do not impose heavy burdens unequally, nor violate the basic principles.