

The Nature of Law & Law and Ethics (Morality)



Week 1 & 2

What is natural law?

- Natural law or the law of nature (Latin: *lex naturalis*) is a theory that posits the existence of a law whose content is set by nature and therefore has validity everywhere.
- The phrase natural law is sometimes opposed to the positive law of a given political community, society, or nation-state, and thus can function as a standard by which to criticize that law.
- In natural law jurisprudence, on the other hand, the content of positive law cannot be known without some reference to the natural law.
- In this way, natural law can be evoked to criticize decisions about the statutes, but less so to criticize the law itself.
- Some use natural law synonymously with natural justice or natural right (Latin *ius naturale*), although most contemporary political and legal theorists separate the two.

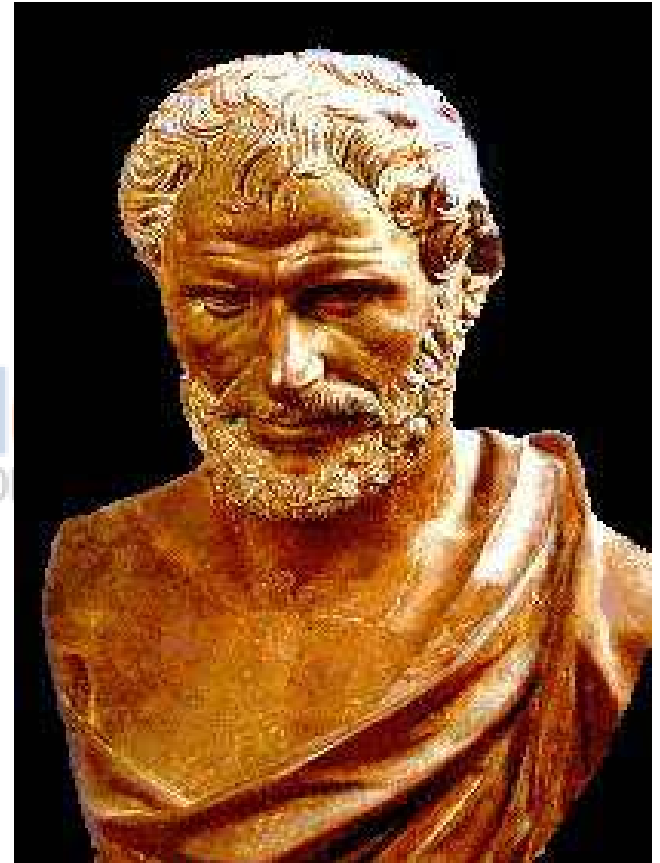
Law and Morality

Aristotelien Ethics

- Focused on the importance of behaving virtuously and developing a virtuous character
- Emphasized the importance of context to ethical behaviour, and the ability of the virtuous person to recognize the best course of action
- Argued that *eudaimonia* (having a good guardian spirit) is the goal of life
- Eudaimonia = happiness. Happiness thus understood is not a mood or temporary state, but a state achieved through a lifetime of virtuous action, accompanied by some measure of good fortune
- Indeed, living according to virtues is often not enough to guarantee a happy life

What is it to live well?

- What is it to live well?
- Analogies:
 - A good knife cuts well
 - A good eye sees well
 - A good teacher teaches well
 - A good person _____s well



The Golden Mean

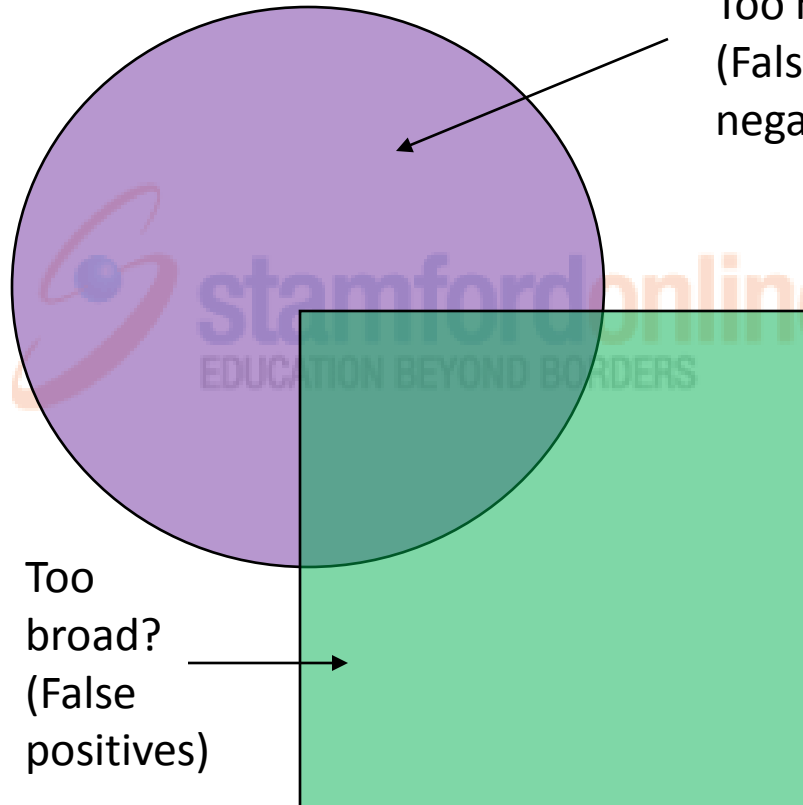
- In philosophy, especially that of Confucius and Aristotle, the golden mean is the desirable middle between two extremes. One of excess and the other of deficiency
- Aristotle's doctrine of the mean consists of three pillars that work together to form a complete account.
- First, there is a sort of equilibrium that the good person is related to a medical idea that a healthy person is in a balanced state.
- E.g. one's body temperature is neither too high nor too low.
- Related to ethics, one's character does not go to extremes. For example, one does not overreact to situations, but rather keeps his composure.
- Equilibrium is the right feelings at the right time about the right things, toward the right people, for the right end, and in the right way

- The second pillar states that the mean we should strive for is relative to us. The intermediate of an object is unchanging; if twelve is excess and four is deficiency, then roughly eight is the intermediate in that object.
- For example, watering a small plant with a gallon of water is excessive but watering a tree with a gallon of water is deficient. This is because different plants have different needs for water intake and if the requirements for each plant are not met, the plant will die from root rot (excess) or dehydration (deficiency).
- The third pillar is that each virtue falls between two vices. Virtue is like the mean because it is the intermediate between two vices. On this model a triad is formed with one vice on either end (excess or deficiency) and the virtue as the intermediate.
- If one's character is too near either vice, then the person will incur blame but if one's character is near the intermediate, the person deserves praise.

Aristotle's Theory



Right



Too narrow?
(False
negatives)

Virtuous
people would
tend to do it

Too
broad?
(False
positives)