



# COMM 2035

Communication, Ethics and Law

Lecture 1 Ethics and Law

Tutorial Part 1

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# Justice



1. Justice is action in accordance with the requirements of some law.
2. Whether these rules are grounded in human consensus or societal norms, they are supposed to ensure that all members of society receive fair treatment.
3. Each of the different spheres expresses the principles of justice and fairness in its own way, resulting in different types and concepts of justice.

# 4 Principles of Justice and Fairness

Distributive  
Procedural  
Retributive  
Restorative

These 4 types of justice have important implications for socio-economic, political, civil, and criminal justice at both the national and international level.



# Distributive justice



- Distributive justice, or economic justice, is concerned with giving all members of society a "fair share" of the benefits and resources available.
- Fair allocation of resources, or distributive justice, is crucial to the stability of a society and the well-being of its members.



Different people will define "fair" differently: some will say that fairness is equity; others equality; still others, need.

When issues of distributive justice are inadequately addressed and the item to be distributed is highly valued, intractable conflicts frequently result.

# Procedural justice

- Procedural justice is concerned with making and implementing decisions according to fair processes that ensure "fair treatment."
- Rules must be impartially followed and consistently applied in order to generate an unbiased decision.





- Those carrying out the procedures should be neutral, and those directly affected by the decisions should have some voice or representation in the decision-making process.
- If people believe procedures to be fair, they will be more likely to accept outcomes, even ones that they do not like.
- Implementing fair procedures is central to many dispute resolution procedures, including negotiation, mediation, arbitration, and adjudication.

# Retributive justice



- Retributive justice appeals to the notion of "just desert" --the idea that people deserve to be treated in the same way they treat others.
- It is a retroactive approach that justifies punishment as a response to past injustice or wrongdoing.
- The central idea is that the offender has gained unfair advantage through his or her behavior, and that punishment will set this imbalance straight.



- In other words, those who do not play by the rules should be brought to justice and deserve to suffer penalties for their transgressions.
- The notion of deterrence also plays in here: the hope is that the punishment for committing a crime is large enough that people will not engage in illegal activities because the risk of punishment is too high.
- Retributive justice also plays a central role in international legal proceedings, responding to violations of international law, human rights, and war crimes.

# Restorative justice



- There is a tendency to slip from retributive justice to an emphasis on revenge, some suggest that restorative justice processes are more effective.
- While a disciplinary justice approach conceives of transgressions as crimes against the state or nation, restorative justice focuses on violations as crimes against individuals.



- It is concerned with healing victims' wounds, restoring offenders to law-abiding lives, and repairing harm done to interpersonal relationships and the community.
- Victims take an active role in directing the exchange that takes place, as well as defining the responsibilities and obligations of offenders.
- Restorative justice aims to strengthen the community and prevent similar harms from happening in the future.

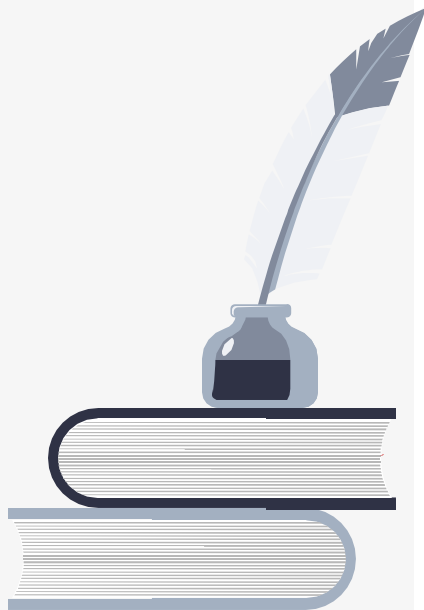


## Reference

Types of Justice, by Michelle Maiese and Heidi Burgess, Beyond Intractability

Original written by Michelle Maiese and published July 2003; updated by Heidi Burgess in June 2013, and again in July, 2020.

[https://www.beyondintractability.org/essay/types\\_of\\_justice#:~:text=This%20a%20rticle%20points%20out%20that,All%20four%20of%20these%20are](https://www.beyondintractability.org/essay/types_of_justice#:~:text=This%20a%20rticle%20points%20out%20that,All%20four%20of%20these%20are)

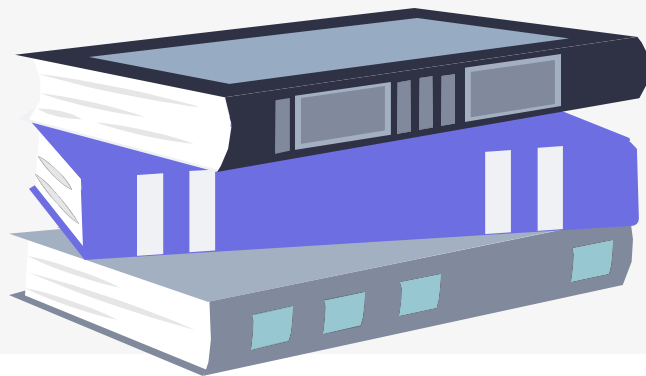


# Reading



Justice and Fairness, Markkula Center for Applied Ethics,  
by Manuel Velasquez, Claire Andre, Thomas Shanks, S.J., and  
Michael J. Meyer, 1 August 2014.

<https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/justice-and-fairness/>



# Reading



A Framework for Ethical Decision Making, Markkula Center for Applied Ethics, 8 November 2021.

<https://www.scu.edu/ethics/ethics-resources/a-framework-for-ethical-decision-making/>

# What is the Rule of Law?

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- The Rule of Law is an intrinsically abstract idea, which finds itself grounded in philosophical and moral concepts.
- No one is above the law.
- All people, whether they be at the lowest level of citizenship or the highest, being the sovereign or government ruler, are all equal under the law itself.
- Any law that is broken should be equally punishable across the board, regardless of status in society or the local community.

# What is Rule by Law?

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- It is a concept that sees the governing authority as somehow being above the law, and has the power to create and execute law where they find it to be convenient
- Les Miserables-Official Movie Trailer 2012  
<https://www.youtube.com/watch?v=luEFm84s4oI>



# Can Law Bring Justice ?

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Reference :

Judges, Access to Justice, the Rule of Law  
and the Court of Final Appeal under  
“One Country Two Systems”

David Neuberger University of Hong Kong,  
13 September 2017

In the 21st century, there is a virtually universal basic minimum set of requirements to the rule of law.

That set of requirements can be encapsulated in the proposition that a society must be governed by laws which are :

1. properly enacted,
2. clearly expressed,
3. publicly accessible,
4. generally observed, and
5. genuinely enforceable.

- The laws by which people are expected to live their personal and commercial lives must be created in a coherent and proper way and written in a way in which they can be understood, and also, once created, these laws must be available to be read by everyone.



It cannot be consistent with the rule of law to have laws which are incomprehensible or inaccessible, because it would mean that people would not be able to find out what their legal rights or legal duties were.

- We live in a world which is technologically, commercially and socially increasingly complex and increasingly fast-moving, and this renders it ever more challenging to draft laws in a coherent way and in clear terms.
- The fast pace of change also means that laws are frequently amended which makes accessibility more difficult to achieve.

# Enforceability

- Enforceability involves access to an institution , to enable people to enforce their rights and to defend themselves.
- Governments must ensure access to justice not merely by providing a court system which is fit for purpose, also people can get competent legal advice and representation.



- Judges and lawyers must ensure access to justice by doing their best to ensure that legal advice is provided, and legal proceedings are conducted, as cost-effectively and proportionately as possible
- This is easy to say, but difficult to achieve in an increasingly complex and fast-changing world.
- But the very fact that access to justice represents such a challenge serves to underline why it must be properly addressed.



## Independence for the judiciary

- It does not mean ignoring the legislature or the executive; it does not even mean having no discussions with the legislature or the executive.
- It means that the legislature and the executive should not be able to exert improper influence over the judges.
- Neither the legislature nor the executive should be able to interfere with, or influence, judicial decision-making (other than by advancing normal legal argument in cases).

# Filming in the Court

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- Filming proceedings in the CFA ( Court of Final Appeal ) would be appropriate in principle or proportionate in terms of cost.
- It is fair to say that, at least in the face of it, cameras in court can be seen as a logical extension to open justice, and open justice is a fundamental aspect of the rule of law, as I have mentioned



Reference and video

Why we need cameras in court ?

THE CONVERSATION , Academic rigour , journalistic flair , 29  
March 2016

<https://theconversation.com/why-we-need-cameras-in-court-56839>



# Reference Reading

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Judges, Access to Justice, the Rule of Law and the Court of Final Appeal under “One Country Two Systems”.

David Neuberger , University of Hong Kong, 13 September 2017

<https://www.hkcfh.hk/filemanager/speech/en/upload/1195/Judges,%20Access%20to%20Justice,%20the%20Rule%20of%20Law%20and%20the%20Court%20of%20Final%20Appeal%20under%20%E2%80%9COne%20Country%20Two%20Systems%E2%80%9D.pdf>

# Media law and regulation

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- The role of the media, both mass media, community media and small and medium-sized media outlets, is instrumental in realizing and exercising the right to freedom of expression.



- Media regulation is enforced by law, rules or procedures and varies across the world.
- They ought to protect freedom of expression and media freedom and regulate media markets, ownership, infrastructure and technical standards and, importantly, protect public interests such as media pluralism and diversity.

# Regulation

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Different parts of the media landscapes can be regulated in different ways:

- Self-regulation: a system of self-regulation where news media (collectively) draw up their own regulations and take full responsibility for monitoring compliance with those regulations through a media council.
- Statutory-regulation: The state sets the relevant legislative or regulatory rules and monitors and enforces compliance in a transparent way.
- Co-regulation: a hybrid form where self-regulation ultimately is back-stopped by statutory regulation.

Areas of statutory regulation can differ greatly per country, but common areas for a regulator are:

- broadcasting regulation and frequency allocation
- infrastructural regulation
- Internet regulation
- advertising and election broadcasting
- protection of independence public media and operational autonomy
- (cross-) media ownership
- media diversity
- licensing and taxation

In countries with limited space for independent media, state regulators typically control:

- publishing and licensing
- content
- issuing of press cards
- Internet access

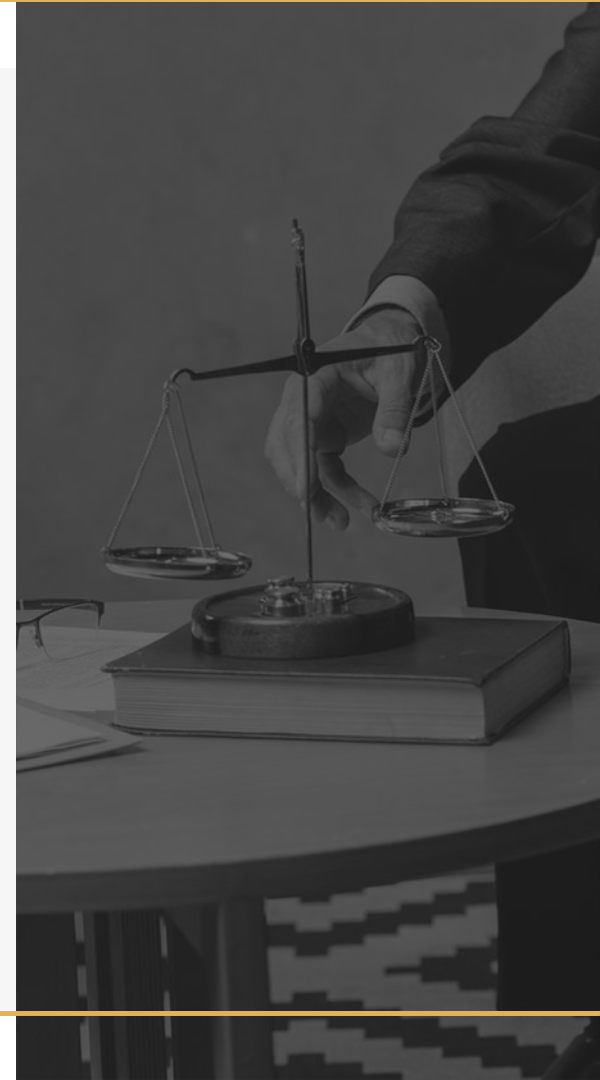
# Reference and video :

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Social media regulation: why we must ensure it is democratic and inclusive

By Rowan Cruft and Natalie Alana Ashton ,  
INFORM's BLOG , 3 May 2022

<https://inform.org/2022/05/03/social-media-regulation-why-we-must-ensure-it-is-democratic-and-inclusive-rowan-cruft-and-natalie-alana-ashton/>



- Not only political and legal pressure, commercial influence is also important.

## Economic enabling environment

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With the decline in readership and –since the advent of social media and search platforms – advertising income, commercial media outlets, big and small, have seen their business models rendered obsolete, forcing them to find new ways to attract readership and income.

- Part of the economic enabling environment for media is determined by the structure and concentration of media ownership, competition policy, the costs of establishing media and having access to advertising and state-subsidies, next to the overall economic situation of a country and ability and willingness to pay for content.



# Reference Reading

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THE RELATION BETWEEN ETHICS AND LAW ,

by Georgeta-Bianca SPÎRCHEZ\*Fiat IustitiaNo. 1/2016

<https://oaji.net/articles/2016/2064-1480331083.pdf>

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# Discussion

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The Singapore Government said :

“ The Western idea of the press as the fourth estate of the realm, as an adversarial watchdog of government, goes against our goal of consensus politics...

Accurately reporting wrongdoings is a legitimate role... But the concept of the press being all-powerful and having the last word smuggles in a power that ordinary citizens do not bestow on them.”

Do you agree?

What does the legitimacy of the Fourth Estate ( of media ) come from ?

# Ethical Dilemma

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- An ethical ( moral ) dilemma involves making a choice between two or more ethical values and in making a decision or in taking action you will compromise or violate some other ethical principles or values.



- An ethical dilemma is a situation that involves a choice, decision, act/action, or solution that may include an unpleasant problem or situation where you feel you simply do not know what to do or which way to turn.
- When identifying what is or is not an ethical dilemma, we need to remember the key words: moral or ethical ( we are using these words interchangeably ).

- A response to an ethical dilemma is not always a matter of “right versus wrong,” as both courses of action or decision could seem moral or ethical.
- It is the “right versus right” ethical dilemmas that seem to be the hardest to resolve.
- In some cases, you have to decide the better or best way to respond when faced with two or more “right “courses of action or decisions to select from.

- When faced with an ethical dilemma, you will probably be asking yourself “What should I do?” or “What ought I do now?”
- You may have a “little voice” inside your head telling you to do one thing, while your immediate desire is to do another.
- Some may refer to this “little voice” as your conscience, wisdom, or experiences.
- No matter what it is, the “ little voice “ should be guided by a set of ethical principles.

# Ethical Dilemmas In Movies

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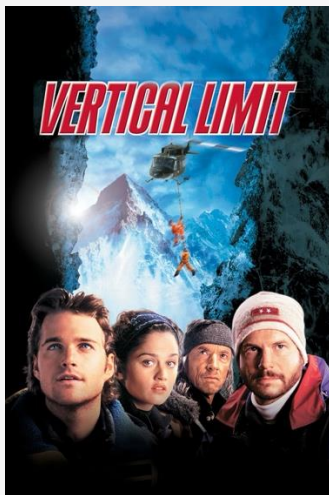
- What ethical dilemmas do movies provoke?



- Movies with ethical dilemmas offer captivating stories and thought-provoking moral quandaries, challenging both the characters and the audience's decision-making.
- They present complex choices, such as compromising morals for the greater good or making impossible decisions in dire circumstances.

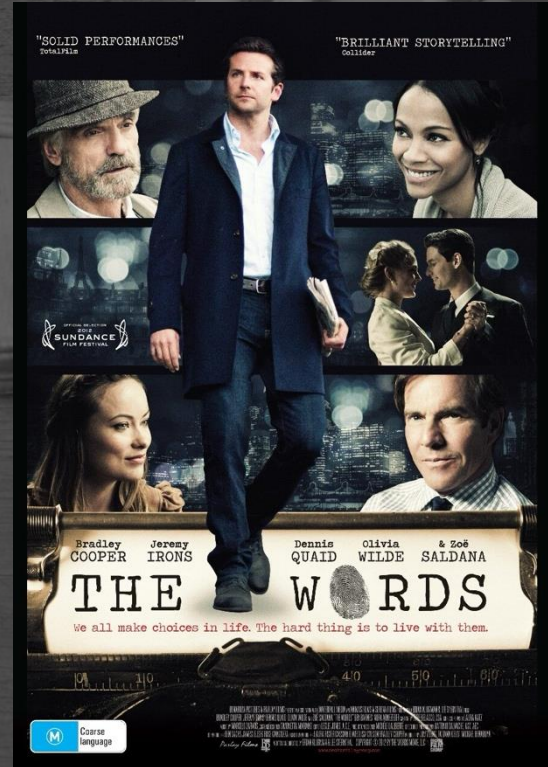
- They showcase the moral grey areas and tough positions the characters face, leaving viewers pondering what they would do in similar situations.

- Vertical Limit
- Saving Private Ryan
- Inception
- 檣山節考



## Film: The Words

<https://www.facebook.com/share/r/FRsbSZwfNSj83TSg/?mibextid=UaIRPS>



# Films that challenge your beliefs: Exploring impossible moral dilemmas

<https://www.youtube.com/watch?v=4Qatwfhif34>



# Films that deal with ethical issues

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## Carnegie Council for Ethics in International Affairs

- Nothing brings concepts and events to life more vividly than a good movie.
- Ethics on Film series which consists of Full Reviews as well as a list of films that deal with ethical issues within Carnegie Council's focus areas.

**<https://www.carnegiecouncil.org/media/series/ethics-on-film>**

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