What is the relationship between Justice and Law?

This discussion begins with two major conflicting views about justice and law.

One view sees justice as no more or less than what the current authority says it is. There are no universal principles by which justice or injustice can be defined other than the way in which the government has made its laws. Thus, in different societies and under different authorities, justice is different. In this view, the idea that there is some sort of universal ideal or natural law is often just an argument by those who do not like the laws of the government in power.

The opposing view argues that there is a natural ideal of justice that law aspires to that can be used as a criteria to measure whether laws are just or not. This school of thought is traditionally described as people who support the concept of natural law or natural justice.

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These two opposite views of justice are the starting point for analysis. There are many different definitions of justice. Most of these definitions are contested. Let us look briefly at a few. Keep in mind that many people discuss justice in terms of a specific situation, that is, what is the right or just thing to do when confronted with certain facts. That is applied justice. These preliminary thoughts are not about applied justice, but the themes which are included in the concept of justice.

Three ancient thinkers helped articulate concepts of justice that form the basis for much of western thought and catholic social teaching. These are Socrates (470BC-399BC), Plato (427BC-348BC) and Aristotle (384BC-322BC).

Socrates was a teacher and philosopher who lived in Athens between 470 BC and 399 BC. Socrates wrote nothing. His method of teaching was to dialogue with his students, questioning their assumptions, and cross-examining what people thought to be true. His most famous pronouncement was that, after questioning all the people that society deemed wise, Socrates concluded “that he was really wiser than them all, because he at least knew he knew nothing and they were ignorant even of their ignorance.” Socrates was ultimately tried and convicted of treason, atheism, and corruption of the young and sentenced to die. He chose death by drinking hemlock. Most of what we know about Socrates and his ideas of justice we learn through his student, Plato.

Plato, who lived from around 427 B.C. until around 348, was a student of Socrates.
Plato’s Republic contains a sweeping discussion of justice that is framed as a dialogue between Socrates and a number of thinkers. One of the most often cited passages from the Republic is a speech by a young man named Thrasymachus. This young man articulates a definition of justice that Plato and Socrates dispute in the Republic but the speech sums up one of the most important perspectives on justice.

Thrasymachus, while arguing with Socrates, says:

“I say that justice or right is simply what is in the interest of the stronger party.... Each type of government enacts laws that are in its own interest, a democracy democratic laws, a tyranny tyrannical ones and so on; an in enacting these laws they make it quite plain that what is “right” for their subjects is what is in the interest of themselves, the rulers, and if anyone deviates from this he is punished as a lawbreaker and “wrongdoer”. That is what I mean when I say that “right” is the same things in all states, namely the interest of the established government; and government is the strongest element in each state, and so if we argue correctly we see that “right” is always the same, the interest of the strongest party.”

For Plato, justice was not just what the government or the stronger said it was, it was yet something else:

“Justice is the virtue which keeps everything in its proper place, both the parts of the soul and the citizens of the State. It is the virtue of good order, and the just man is he who keeps the parts of his soul in proper order internally and in the State and maintains and fulfills all his rights, duties and responsibilities to the State as a whole and the other members according to his position in the social organism.”

Aristotle, in his book Ethics, describes justice in several ways. One of his discussions describes two sorts of political justice, one legal and one natural. Legal justice is the sort that can take one form in one government and another form in a different society. Natural justice is that which has the same validity everywhere and does not depend upon acceptance.

As a contemporary example of legal justice, think of driving rules. In the US we are legally bound to drive on the right side of the road. In England, people drive on the left side of the road. In both communities, these are legitimate and just laws, because there is nothing inherently just about driving on the right or the left.

To Aristotle, natural justice describes conduct that can be judged right or wrong despite whether the community accepts it as right or wrong or not. For example, slavery was perfectly legal, thus it is an example of conventional justice. Was it then just, or did it contradict some natural or inherent understanding of fairness? Aristotle proposed that the principle of natural justice is the true foundation of all truly just laws and government.
These two differing ideas are refined and reflected in subsequent and contemporary discussions about justice and law.

The idea that law and justice are whatever those who can enforce them say they are has been adopted by many including Thomas Hobbes.

Aristotle’s idea that enacted law can be less than justice was later developed by Thomas Aquinas, John Locke and others. One commentator sums that position up in the following statement:

Law is a rule made for the common good of a community, grounded in reason, instituted by the will of a duly constituted authority and having coercive force.”

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