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Kreiter, Marcy. "Drip Pricing" February, 2024.

Canada's Drip Pricing Crackdown

Written by William Ellis

In today's online marketplace, prices are rarely what they seem. When purchasing concert tickets, for example, prices may be advertised as $100, only to find that by the time you reach the checkout page, you're met with additional "processing fees" and "service charges", moving the actual total closer to $150. This practice, known as drip pricing, is described by Canada's Competition Bureau as offering low prices to initially attract consumers, then adding mandatory fees, making the advertised prices no longer attainable.[1] Unfortunately, this pattern has become so commonplace that many consumers have simply accepted it as part of the online shopping experience. However, in Canada, regulators are pushing back.

Fundamentally, drip pricing is a transparency issue. Companies often mislead buyers by quoting prices that are too low, then "drip" in the required costs later on. This not only

affects customers, but also puts companies that promote up-front, all-in costs at a disadvantage. When companies display all-inclusive prices rather than surprising their consumers at checkout with additional costs, the higher upfront cost puts them at a competitive disadvantage. Further, this practice undermines consumer trust, as buyers may feel deceived and lose confidence in both the business and the marketplace as a whole.

In 2022, Canada's Competition Act, which has been Canada's primary law governing fair competition since 1986, was amended to explicitly outlaw drip pricing, recognizing it as a "harmful business practice."[2] Section 52 of the Competition Act states that companies must advertise the full, all-inclusive price of a product upfront, excluding only taxes that are not set or controlled by the business itself. This means that companies that advertise unattainable prices, ones that are impossible to achieve without paying unstated required fees, run the risk of being sued, fined, and having their public image damaged.

Over the last few years, the Competition Bureau has used the Competition Act to take action against a diverse range of companies, including ticket purchasing sites and amusement parks, arguing that their hidden fees have deceived consumers, ultimately resulting in unfair competition within their respective markets. Ticketmaster, for example, faced public scrutiny and legal challenges when charged with a class action lawsuit by Regina-based lawyer Tony Merchant. Merchant launched a lawsuit in 2018 over Ticketmaster's prices and practices, which he claimed affected approximately 1 million people across Canada. Recently, Merchant won the longstanding class action, securing more than $6 million in credits for eligible consumers.[3] This ruling signifies to consumers across the country that they should be able to trust the advertised price, knowing that hidden fees will not, at least legally, inflate the final cost.

Similarly, four of Canada's largest car rental companies were charged and forced to change the way they displayed their daily rates after regulators argued that "extra" charges, such as concession recovery fees, airport surcharges, vehicle licensing, energy recovery, and environmental fees, were unavoidable and should have been included in the upfront price. Between 2015 and 2018, these lawsuits resulted in $5.95 million in administrative monetary penalties between the four businesses.[4]

For business, these penalties are more than just a slap on the wrist. This crackdown across our nation signals a broader shift in consumer protection law, forcing companies to be more transparent with their customers. Companies that fail to comply with this shift are subject to costly litigation and reputational damage. For consumers, the benefits are relatively straightforward. More transparency between businesses and consumers means no more guesswork when browsing online marketplaces, and an opportunity to better compare products and services from different companies.

In all, this shift highlights an integral legal principle: truth in advertising. The law is designed not only to promote fair trade and competition among businesses, but also to protect consumers from deceptive and unfair practices. Canada's Competition Act ensures honesty, fairness, and transparency among businesses, serving as a prime example of how the law can adapt to and shape modern market practices. For the Canadian consumer, these recent shifts signify a transition to a digital marketplace that better represents and protects its consumers, ensuring that transparency and integrity are pillars at the forefront of the environment in which they shop.

On the Practical Revival of Command Theory in American Governance

Written by Connor Sutherland

Botsford, Jabin / The Washington Post. 2023.

I am firmly committed to the idea that law is fundamentally inextricable from politics. It is impossible to write anything of substance regarding the law without mentioning either its political cause or its subsequent political effects.

Law is the instrument by which political thought is turned into political action, which is why an understanding of political theory is almost necessary before setting out to understand genuine legal philosophy. It is also why legal philosophy can sometimes be used to understand political action. Such is the case regarding the contemporary issue of United States President Donald Trump's style of governance. The reasoning behind Trump's reorganization of the administrative state is difficult for the 21st-century Western mind to understand, as it is much more familiar with laws emerging from multiple sources rather than from the authority of one central figure. It is not used to the methods of dispersing oppositional thought employed by Trump, nor the rationale behind the use of those methods. Aside from a few specialists, it is likely also ignorant of the extensive history of the command theory of law within common-law jurisprudence. All of these confusions could lead to Trump's actions being seen as irrational. However, Trump's political actions can be explained by seeing them as the effects of his desire to be an uncommanded commander, which is one of the fundamental concepts of the command theory of law. The command theory of law first appeared within common law jurisprudence in the 17th century, within the work of both Thomas Hobbes and Sir Matthew Hale.[5] However, as Postema notes, the prior ubiquity of the belief that laws are merely the commands of rulers[6] suggests that far from being the invention of Hobbes or Hale, the idea of laws-as-commands was already in the air in England.

Regardless, command theory's most prominent theoreticians were not Hobbes or Hale, but the early legal positivists Jeremy Bentham and John Austin. H. L. A. Hart, who was perhaps the most important legal philosopher of the 20th century, saw them as his "main predecessors."[7] It was Austin who argued that "the sovereign legal authority of any legal order is legally unlimited,"[8] with Hart pithily describing Austin's conception of the sovereign as being an "uncommanded commander."[9]

The long-lasting nature of this theory, as well as its historical prevalence, demonstrates that the command theory of law has an essential place in the history of common law jurisprudence. But why was it later relegated to a mere piece of history? The answer to that question lies in Hart's major work, The Concept of Law. Within that work, there is an extensive critique of the command theory of law as it was put forward by Austin. Hart recognizes that "examples of [legal powers] are to be found in all the three departments, judicial, legislative, and administrative," which are not necessarily formulated as commands.[10] What this means is that Hart observed that there are multiple sources of law besides the sovereign, and rests part of his argument against the command theory of law on this being the case.

However, the world has changed gravely since the time of the Concept of Law's writing. Immigration court hearings are being disrupted by Immigration and Customs Enforcement, which has been described as "an authoritarian takeover of the U.S. immigration court system by the Trump administration."[11] The National Guard has been deployed by Trump to perform armed patrols in Washington, D.C., the home of the United States Congress, which is the central organ of the American legislative branch.[12] Due to these political developments, and many others, I believe the relevance of the command theory of law ought to be reevaluated, as it appears to me that the relationship between the legal system of the United States government and President Donald Trump has begun to demonstrate a return to a more command-based approach.

During his second term in office, President Donald Trump has been widely seen as operating without much regard for the rule of law. As political scientist Donald Moynihan has pointed out, Trump has "focused on finding loyalist lawyers that would allow them to build a legal infrastructure to … pursue goals that previous lawyers would have categorized as illegal."[13]

I believe this reorganization of the legal system and administrative state not only endorses the ideals of command theory, but marks a return to and the endorsement of command theory in the United States government, as the reorganization of the legal system was orchestrated by the very same individual who inhabits the highest office in the country for the purpose of operating without legal restriction. In other words, Trump's reorganization of the American civil service enables Trump to operate as an uncommanded commander.

This desire to become an uncommanded commander has been displayed through Trump's deployment of the National Guard to Los Angeles, California, and Washington, D.C., and his desire to deploy them to other American cities. Such shows of force could be interpreted as a means of coercion. Coercion is identified as one of the fundamental problems for liberal states, due to the paradoxical necessity of "a coercive public order to guarantee individualistic liberty."[14] If we are to take what Trump says about the supposed lawlessness of Los Angeles as an expression of his genuine belief in the lawlessness of the city, it could be because Gavin Newsom, Governor of California, has been a vocal critic of Trump.[15] Using a command theory lens, we can see Trump as attempting to return to a command based model of governance and lawmaking, with his retaliation against Los Angeles transforming from disproportionate to proportionate due to the fact that the supposed lawlessness implies that the fundamental groundwork of legality within a command theory context, that the "defining feature of law" is that "the command of a superior to an inferior," is being threatened, and, ergo, must be stopped as quickly and efficiently as possible.[16]

One efficient method of untying the Gordian knot central to liberalism, which is the paradox of the necessity of a coercive state to guarantee individual liberty, would be to take away problematic individual liberty altogether. This is the method I personally believe Trump to be using. What the aims of his coercive and dominating actions are, and what his understanding of the public good to be, extend beyond the scope of this paper.

Hart's criticism that command theory does not differentiate between the laws espoused by a legally valid sovereign from the coercive threats of bandits would not apply in this instance, as in order for that differentiation to carry any normative weight, people must care about whether or not there is any difference.[17] That is not to imply the morality of a law is unimportant, just that a law's existence does not depend on its merit.[18] Therefore, in the mind of the command theorist, there is no difference between laws and threats. It would not matter to a true-blue command theorist whether a command is given by a president or a man with a gun, as they simply do not believe there is a fundamental difference. Hart would perhaps even agree with my thesis because he believes that social rules only exist if they are actively practiced, and new social rules are being created by the Trump administration almost every day.[19] Perhaps there might even be a way to reconcile command theory and Hartian legal positivism should norms shift enough towards a command model, though this would likely be a case of simple coincidence rather than genuine reconciliation.

The main issue presented by critics of the command theory is the fact that there are diverse sources of law, which requires a more complex rule of recognition, which are secondary rules which allow the recognition of primary rules, also called obligations.[20] Hart argues that:

> "In a modern legal system where there are a recognition is correspondingly more complex: the criteria for identifying the law are multiple and commonly include a written constitution, enactment by a legislature, and judicial precedents. In most cases, provision is made for possible conflict by ranking these criteria in an order of relative subordination and primacy."[21]

What this means is that the complexity of the rule of recognition corresponds to the complexity and diversity of the sources of law. Due to the variety of sources of law, the command theory of law would be inadequate to explain what law is in this highly developed context.

But it is exactly this correspondence which leads me to believe that the command theory of law is being revived by the leaders of the United States of America. Through repeated declarations of states of emergency, which enables the promulgation of executive orders on a diverse array of topics, Trump has simplified the criteria for identifying law. By sending U.S. Marines to Los Angeles in June 2025, Trump has shown disdain for the United States legislature through his apathy towards the Posse Comitatus Act, which proscribes members of the United States military from being used as law enforcement personnel,[22] although whether or not they properly were is still being debated.[23] Trump has shown his disregard for the judicial branch by sending ICE agents to interrupt immigration hearings.[24] Trump has shown his disregard for the Constitution of the United States by withholding funds which had already been allocated by Congress.[25] Through the disregard of traditional American sources of law and his use of executive orders, Trump has effectively limited the

source of American law to the executive branch, of which he is the head. What this means is that even when framed in a fundamentally Hartian context, command theory is still a viable explanation for the source of law within Maga America due to the reduced complexity of legal sources.

But why should we Canadians care? Why is it important that a foreign politician is resurrecting an ancient legal philosophy, one which has not been popular for decades? We should care because this new understanding might help us in our foreign policy and trade relationships regarding this particular global power. It is not a secret that this foreign power is our largest merchandise and service trade partner,[26] or that we share the world's largest undefended land border with this foreign power.[27] It is no secret that there has already been a seismic shift in the global order since Donald Trump resumed office, a shift which lays bare exactly how much just how much Canada relies on the United States. By reaching a deeper understanding of the transformation of both our largest trading partner and greatest military ally into a command-oriented state, we can deal with them and negotiate with them more intelligently. We might also examine Canada's political development and relationship to the command theory, as well as other legal philosophies, like natural law theory and Hartian legal positivism. It could also provide legal philosophers with insight into Trump's execution of the unitary executive, a political theory which could feasibly be connected to the command theory due to the centrality of a central figure which political authority is organized around.[28] Using the lens of the command theory of law, we can now see some of the methods behind the seemingly irrational actions of United States President Donald Trump. Trump's reorganization of the administrative state around himself as the prime source of law could be him positioning himself as an uncommanded commander. The command theory of law could help us understand Trump's reaction to anti-ICE demonstrations in Los Angeles by portraying them as threats to what he desires the legal order within America to be. The claims are supported by the history of command theory within the history of common-law jurisprudence. This has a profound impact on Canada due to our close economic ties with the Americans, and is an opportunity for Canada to understand itself better by taking a look in a new mirror.

How Canada Ensures Fairness in Law

Written by Christie MacNeil

Supreme Court of Canada Collection.

Picture this: police knock on your door, you're accused of a crime you never committed, and suddenly you're dragged into a trial where you're given no chance to see the evidence against you, call witnesses, or defend yourself in court. This is why due process matters. In Canada, due process ensures that the government cannot deprive individuals of their rights without fair and lawful procedures. It is built on the principle of the presumption of innocence in criminal cases, meaning that a person is considered innocent unless proven guilty.[29] The law applies to everyone in Canada regardless of status, race, religion, gender, sexual orientation, or age, including judges, politicians, and law enforcement. It serves to balance the authority of the law with protections for individuals against its misuse. When a government infringes upon a person's rights without adhering to the set legal procedures, it constitutes a violation of due process and undermines the rule of law.[30]

Canada's legal traditions, including the right to due process, stem from its history under British rule. As a former British colony, Canada inherited key principles of English common law, which emphasized the protection of individual rights against arbitrary government action. One of the earliest and most influential statements of these principles was the Magna Carta of 1215. The Magna Carta was the first document to formally establish the principle that the king and his government were not above the law. It aimed to curb the king's abuse of power by placing limits on royal authority and recognizing the law as an independent force.[31] Prior to the 1982 Canadian Charter of Rights and Freedoms, rights and freedoms were protected under the Canadian Bill of Rights (1960) and common law doctrines. The Bill of Rights, as a federal statute, provided only

partial safeguards for fundamental freedoms. In contrast, common law, shaped by judicial decisions, provided a less formal yet more flexible framework of legal principles. The preamble to the Canadian Bill of Rights declares that Canada is founded on principles such as the supremacy of God, the dignity and worth of every person, and the importance of the family in a free society. It affirms that true freedom depends on respect for moral and spiritual values and the rule of law. Parliament's purpose in enacting the Bill is to formally protect human rights and fundamental freedoms while respecting its constitutional authority.[32] The Canadian Charter of Rights and Freedoms (CCRF), which became law in 1982, changed Canadian law in a significant way by creating a constitutional basis for protecting people's legal rights and fair treatment in legal processes. In other words, it made certain legal protections, like the right to a fair trial, the right not to be arbitrarily detained, and other due process rights, part of the Constitution, and thus all levels of government must respect them.[33]

Section 7 of the Canadian Charter of Rights and Freedoms is Canada's closest equivalent to "due process" in the U.S. Constitution. The CCRF states that "everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice".[34] The "principles of fundamental justice" mean that the government must follow fair legal procedures and cannot act in a way that is arbitrary, unfair, or overly broad. This is a core part of due process in Canada, ensuring the law respects individual rights. The courts use a two-step approach to determine whether a government action or law is constitutional. First, they assess whether the action deprives a person of one of the three protected rights: life, liberty, or security of the person. If none of these rights are affected, Section 7 of the CCRF does not apply. If a right is affected, the court then examines whether the deprivation follows the principles of fundamental justice, meaning the law or action must be fair, reasonable, and not arbitrary. In this way, Section 7 ensures that individuals are protected from government actions that unfairly interfere with their fundamental rights and well-being.[35]

Procedural fairness refers to how laws are applied, such as ensuring a fair trial, proper notice, and a hearing before an impartial decision-maker. Substantive fairness refers to what laws are applied, meaning the laws themselves must be fair, reasonable, and not arbitrary. Procedural fairness in Canada has changed from strict, rule-based "natural justice" to a more flexible system that protects both procedure and outcomes. Inspired by developments in the UK, Canadian courts began reviewing more types of decisions, including those affecting privileges, economic interests, and legitimate expectations, not just formal legal rights. In 1977, the Supreme Court introduced "procedural fairness" in Re Nicholson & Haldimand-Norfolk, extending protections to administrative, executive, and Cabinet decisions, and in 1981, Crevier v. Attorney-General for Quebec confirmed that courts could review government actions even if laws tried to prevent it. This approach gives courts more flexibility to ensure fair treatment, though it can sometimes be applied inconsistently. Overall, procedural fairness in Canada now covers both the process and the substance of decisions, while still drawing on traditional legal principles.[36]

In R. v. Stinchcombe (1991), the Supreme Court of Canada set an important legal precedent: the Crown must provide the defence with all information relevant to a criminal case. This duty to disclose goes beyond the evidence the Crown plans to use at trial, encompassing any information that could affect the accused's defence, whether it benefits or undermines the Crown's case. The Supreme Court Judgment states, "The fruits of the investigation which are in its possession are not the property of the Crown for use in securing a conviction but the property of the public to be used to ensure that justice is done".[37] The Stinchcombe ruling protects the accused's right to a fair trial. Due process requires that the legal system treat individuals fairly and ensure they have a meaningful opportunity to defend themselves. By requiring the Crown to disclose all relevant information, the court ensures that the accused can fully understand and respond to the case against them. Without this obligation, the trial could be one-sided, violating the principles of procedural fairness that are central to due process.

Due process in Canada is more than just a legal principle; it is the

foundation of fairness in the justice system. From the Charter's guarantee of life, liberty, and security of the person to landmark cases like Stinchcombe, Canadian law emphasizes that justice cannot exist without fairness and transparency. By safeguarding the process of legal decisions, due process ensures that the courtroom —and the justice system more broadly—is a place where everyone can trust that their rights will be respected, and justice is real.

Youth Crime and the Media: How Public Perception Challenges Canadian Justice

Written by Kenzie Boyd

Canada's youth justice system is built on the idea of rehabilitation. The Youth Criminal Justice Act (YCJA) recognizes that young people are still growing emotionally and mentally, so they shouldn't always be treated the same as adults when they commit crimes. The law encourages a more compassionate approach: instead of focusing only on punishment, it aims to help young offenders learn from their mistakes and reintegrate into society. This approach includes options like community-based sentencing, rehabilitation programs, and counselling with the goal of giving them the tools to make better choices in the future. Police can also use extrajudicial measures, like giving warnings or referrals to support services, instead of laying criminal charges.

In most cases, the YCJA also protects the youth's identity by prohibiting the release of their names to the public. This protection prevents long-term stigma that could harm their future education, employment, or social life. However, despite these protections, one powerful force often pushes against them: media coverage.

When a youth crime is reported in the news, especially a violent or disturbing one, the tone can shift quickly. Instead of reporting facts neutrally, many headlines focus on fear, shock, or outrage. Details are often exaggerated, and the young people involved in the case are often described by words such as dangerous or evil. The media rarely talks about the youth's background, mental health, or the factors that may have contributed to the crime. As a result, the youth are painted as a monster, a symbol of societal decay.

This kind of narrative in the press can shape how the public feels about youth crime. It creates fear, which in turn places pressure on politicians, prosecutors, and judges to respond harshly. In this way, the media can unintentionally (or intentionally) push the justice system toward punishment rather than rehabilitation.

A well-known example of how the YCJA can work, even under public pressure, is the case known as the "Bathtub Girls." In 2003, two sisters from Mississauga, Ontario, aged 15 and 16, were convicted of murdering their mother. They gave her alcohol and drugs, waited until she was in the bathtub, and then one of them drowned her.[38] Afterwards, they staged the scene to look like an accident.[39]

"A 'Bathtub Girl' explains why she took her mother's life," Global News, 2020.

The nature of this crime was truly shocking to the public. The media covered it heavily, and many people called for the sisters to be tried as adults. Regardless of the harsh opinions of the press, the court followed the YCJA, and both girls received the maximum youth sentence of ten years, split between time in custody and supervision in the community. Their names were never released to the public.

At the time of this case, many thought the punishment was too soft. But in the long term, the outcome supported the YCJA's goals of helping young people successfully reintegrate into society. One of the girls went on to attend university and later law school.[40] The other reportedly raised a family. If they had been sentenced as adults and publicly identified, it is likely that their lives would have been ruined, and rehabilitation would have been nearly impossible. This case demonstrates that protecting a youth's privacy and emphasizing rehabilitation, even in severe cases,

can be more effective in supporting the young person and safeguarding the community.

Unfortunately, not all cases unfold this way. In 2003, Kevin Madden, a 16-year-old from Toronto, was charged with murdering his 12-year-old brother.[41] Madden and two friends vandalized his house during a night of heavy drinking, and later, he stabbed his younger brother to death with a butcher knife.

At first, as required by the YCJA, his identity was kept private, and it was presumed that he would be tried as a youth. However, because of the brutal nature of the crime and growing public attention, the Crown prosecutor asked that Madden be tried as an adult. The judge agreed. This meant Madden's name could be released to the public, and he could potentially face a much longer sentence than he would have under the rules of the YCJA.[42]

Many people felt this decision to try Madden as an adult was justified. However, this change in sentencing raises a serious question: should one horrific act define a young person forever? The YCJA is based on the belief that even serious offenders should be given the chance to change. But when the media focuses on outrage, it can shift the system toward adult sentencing and public exposure, weakening the protections the YCJA was meant to provide.

These two cases show two very different responses to serious crimes. In the case of the Bathtub Girls, the YCJA was followed strictly, and thus the outcome supported their rehabilitation and eventual reintegration into society. However, in Kevin Madden's case, the protections the YCJA set out to provide were broken down under pressure from the media, and the youth justice system shifted toward an adult-style punishment.

Kevin Madden (left) Timothy Ferriman (right). CBC, 2019.

This shift of focus from rehabilitation to punishment shows that media coverage doesn't just report on crime, it influences how justice is delivered. When stories are emotional, graphic, or sensational, they can strongly shape public opinion. And when public opinion demands harsh punishment, it can push judges and politicians to respond in ways that go against the YCJA's mission and goals.

The law itself remains strong, as the YCJA provides a clear framework that balances accountability with rehabilitation and future protection for youth. However, even a strong law can be undermined in practice. Its effectiveness depends on how judges, prosecutors, and the media choose to apply and interpret it, shaping whether the system ultimately leans toward punishment or rehabilitation.

At first glance, the Bathtub Girls and Kevin Madden cases might seem very different, but they point to the same underlying issue: how media attention can change the course of youth justice in Canada. One case followed the YCJA's goals of privacy and rehabilitation and produced a successful reintegration. The other shifted toward public exposure and harsher sentencing, influenced by the public's emotional reaction to the crime.

This clear difference in potential outcomes of a trial does not mean that the media shouldn't report on youth crime. Rather, highlights the importance of public awareness and transparency in the media. When coverage becomes sensational or fear-driven, it can put pressure on the legal system to abandon its rehabilitative goals, as well as harm young offenders' chances at reintegration before their trial even begins.

For Canada to uphold a fair and an effective youth justice system, the public, the courts, and the media must all understand and respect the purpose of the YCJA. This includes recognizing that young people are capable of change, and that one terrible decision should not always define one's entire life. We must continue to challenge stigma, demand responsible media coverage, and support policies that give youth genuine opportunities to rehabilitate and rebuild their futures.

Yeater, Steve. 2021.

Justice in a Fallible World

Written by Cameron Preyra

Murphy, Colleen.

Introduction

"For man, when perfected, is the best of animals, but, when separated from law and justice, he is the worst of all."[43] These simple words, written in the first book of Aristotle's Politics, have not only echoed throughout the ages but continue to embody a recurring notion about the corrupt nature of humanity.

Recognizing our propensity for evil, the quote endorses law as a provision of order that aims to curb individuals from acting on their worst behaviours. Taken at face value, the purpose and significance of the law sounds simple. It's not.

Humans are fallible; humans make laws, therefore our laws are likely fallible too. Moreover, when faced with the ever-growing list of injustices perpetrated by global authorities, it seems impossible not to acknowledge the fact that laws themselves can become tools for the unjust. Furthermore, what does it even mean for something to be just?

While not apparent in his introductory quote, Aristotle's thoughts on the intricacies of law go beyond a mere "provision of order." I believe that by exploring these ideas, and scrutinizing legality, we not only strengthen our understanding of the law, but, as Aristotle hoped, begin to foster a more virtuous society.

Law Supports Virtue

Aristotle famously described humans as Zoa Politika – political animals. He believed that beyond mere survival, society enables citizens, through participation in political life, and practice, to develop into virtuous individuals. It is when functioning in part as a 'school of virtue' that a society and its citizens truly thrive.[44]

Virtue, as understood by Aristotle, is synonymous with the Greek word Arete – the pursuit of excellence.[45] However, rather than excellence akin to glory, Arete is more so a pursuit to fulfill an individual's potential, developing qualities that are beneficial to living a fulfilled life in society.

Aristotle understood that those qualities, those virtues, were diverse – those which define an excellent ruler are not required in an excellent citizen.[46] Yet, regardless of individual specifications (and excluding unnecessary nuance*), the pursuit of virtue is best conceptualized, here, as "the practice of being good".[47] Aristotle believed that a primary function of the law was to direct this pursuit.

Law Enforces Order

While Aristotle recognized the nonuniformity of virtues, he too recognized the nonuniform nature of citizens, thus requiring an authority not just to maintain order, but to guide individuals towards good behaviour. As expressed in Antonio Martins' The Zoon Politikon: Medieval Aristotelian Interpretations, "it would be unrealistic to assume that all men who integrate [into] the city are [naturally] good."[47]

In the Nicomachean Ethics, Aristotle states, "The law orders us to do the deeds of the courageous person [don't flee battle], and those of the moderate person [don't cheat or crashout], and those of the gentle person [don't hit or hurt others]... in the case of the other virtues and corruptions; the law commands the ones and forbids the others-correctly."[48]

Simply put, Aristotle understood the law as a means to direct the pursuit of virtue and to maintain order amongst people of diverse moral character. In this way, the law might again seem simple, but also, innately just.

Defining Justice?

But who decides what is just? The pursuit of justice is often defined as one that requires the presence of fairness, moral rightness, reconciliation, or the rectification of wrongs.[50] If the law is the tool by which we are expected to reach this definition of justice, how could we be expected to do so if the law is promulgated by an unjust authority? If corrupted, it seems likely that the very meaning of justice could twist to describe the mere execution of the law, or worse.

Interestingly, in a way seemingly in keeping with this Orwellian

distortion, Aristotle wrote that, "all lawful things are somehow just."[51] He further commented that, "to some…the just thing is kindness, but to others [it] is just…for the conqueror to rule."[52]

Lastly, Aristotle identified that authority can choose to govern either by, "aiming at the common advantage…for all persons or… for those who have authority."[53]

How can this be? How can Aristotle think of law as a means to pursue virtue while presenting such contrary definitions of justice? Wouldn't that make justice "nothing else than the interest of the stronger?" Wouldn't that deem it unjust for the oppressed to seek freedom? Moreover, didn't Aristotle say that it's in some people's nature to be slaves?[54] (He did). Seeing that Aristotle's morality and values are so disconnected from ours, how can we trust him to teach us about justice?

Quick Defence of Aristotle

Faced with such seemingly immoral and contradictory ideas as these, it seems reasonable to question the relevance of Aristotle in the modern world; a far cry from our modern values. With respect to those concerns, I say this. Aristotle, like all humans are, was fallible too.

While it might seem lazy to brand Aristotle as "a product of his time", it is true. To expect any historical figure to have held the same values that we have since spent centuries developing is unrealistic. But if we use their imperfections as an excuse to ignore them, we rob ourselves of not just the pursuit of understanding, but also of an opportunity to appreciate humanity's roots.

Relevance of Aristotle

While some of Aristotle's ideas might not have withstood the test of time, what we gain from understanding his work is not just an appreciation for the origins of law, but a basic yet valuable framework of what the law should be.

As previously noted, Aristotle understood that those with authority could enact laws in the best interest of themselves; however, this type of governance is far from what he endorsed. Rather, Aristotle denounced the notion that human beings should rule above the law.

"We do not permit a human being to rule, but rather law…A [true] ruler is a guardian of the just, and if of the just, then also of the equal. For it seems that [if] he gains nothing for himself… he is indeed just."[55] Revisiting the quote, "all lawful things as somehow just" it no longer seems to be a dictation of an "absolute truth", but rather a hope that the law will remain a fixture that upholds equity and fairness as is the best interest of the people; and that justice is not totally arbitrary, but rather, an end reached by pursuing that which is fair between equals under the law.

As affirmed in Book V of the Nicomachean Ethics, "The law looks only at the difference that stems from the harm done, and it treats persons as equals: if the one person acts unjustly, the other suffers injustice."[56] In short, Justice seems to be the result of the law being used properly.

These concepts are both elements of *Eunomia* – good legislation / governance – which prioritizes the welfare of every citizen.[57] As it was in Ancient Greece and as it remains today, *Eunomia* is the ideal; the greatest way for society, and its citizens, to thrive.

Reflection on Modern Justice

So what of *Eunomia* in the modern day?

Aristotle tells us that ideally, the law maintains order while protecting and elevating citizens in an equitable way. Ideally, justice is the fair, moral, and unbiased outcome that we are to strive for. Ideally, when man is encompassed by the law, he is perfected. But that is the ideal. What history leaves us with is an unfortunate truth that, regardless of political institution, man, separated or surrounded by the rule of law, remains " the worst of all."[58]

The problem with Aristotle's conceptions of law and justice is not that they are wrong, but rather that they are not impervious to human corruption.

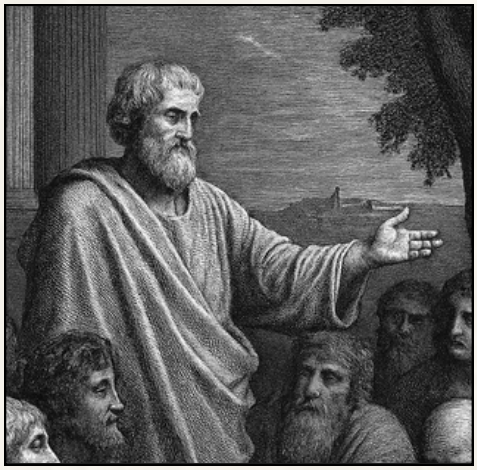
Particularly in Western democracies, it is the ideal that the people will run the government, and that the will of the people will guide government decisions. It is the ideal that the people will make good laws, strive towards justice, and, as is the foundation of any good society, will hold people, even those with power, accountable for their actions.

However, when given power, people tend to consolidate it. While it is true there are laws to make others safe (traffic laws, criminal code, etc), when you look at how laws are applied, it becomes clear that they were not designed entirely for altruism, nor are they beholden to any Aristotelian ideal, but rather to somewhat maintain the status quo.

Observing history, we see how many laws have worked to keep the halls of power confined and further saturate the wealthy; the most clear-cut examples are the fight to abolish slavery, the fight for women's suffrage, and among many others, the ongoing fight to hold businesses that profit from others' suffering, accountable.

Even beyond the use of law to outright suppress the rights of the powerless, the partiality of the legal system towards the rich, especially in the United States, is undeniable. Firstly, the pervasiveness of illegal insider trading, that is impossible for you and I, is measurable, as politicians with modest salaries consistently become millionaires during their time in office. While it is true that many politicians also genuinely care, it seems not enough to be a rule for office.

Furthermore, it seems impossible not to recognize the most recent and abhorrent tramplings of justice. The attempted burial of Jeffrey Epstein's client list by US authorities, and Israel's blatant rape of Palestine, which global leaders were unhurried to condemn; proof that even the most wicked of corruption and evil can lurk behind the facade of justice.



CLAA, 2025.

Conclusion

It is often true that people work to benefit themselves, the elite are no different; other than that one of the tools they use to do it is the law. While it's true that we've made substantial strides towards building a more equitable society, we must also recognize that there is still work to be done.

So… what does this mean for us? Well, if our goal is to pursue true justice, our first aim as citizens should be to ensure transparency and accountability from those with authority.

Laws can be tools for the unjust, but unlike countries under totalitarian rule, in Canada, the law also provides us with the freedom to voice our opinions, to question the law, and most importantly, avenues to hold those with power accountable.

While corruption is the natural byproduct of any human authority (especially given time), it is in the best interest of the citizenry, as well as those in the government who want to remain in power, to hold that corruption accountable. In other words, no system of governance is static. While the law might, to an extent, function to concentrate power, it is not an unchanging machine; if it were, we'd still have segregation and slavery.

While I have certainly painted a bleak picture of the world, that's not what I want you to take away. Not that the law is rigged or that justice is a lie, and certainly not that humanity really is "the worst." Rather, what I want you to take away is an understanding that we live in a flawed and fallible world, and in recognition of that, what it is our duty to do, is strive to make it better.

Aristotle believed that a function of the law is to improve people, and I think that works in the reverse as well. It is a function of the people to make sure that the law functions as intended, without bias, with accountability, and as a means to pursue meaningful justice.

So if you truly care about what is right, participate! Speak out against injustice, and work to become the representation you wish you had. As our generation inherits the Earth, as life continues to get more difficult, don't lose sight of what society can be, and most of all, don't forget your role in shaping it.

Just as Aristotle believed, it is *Eunomia* that makes society a greater asset to its citizens, and in a world ripe with injustice, *Eunomia* begins with you.

The Bar Brief

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Presented by the StFX Pre-Law Society

LETTER FROM THE PRESIDENT

Dear Members and Friends,

Thank you for taking the time to read the latest edition of The Bar Brief. After successfully launching last year, our society's official newsletter is back for its second volume. This newsletter is designed to keep you informed about our society, but also about everything law, politics and justice. As you have read, The Bar Brief gives StFX students the opportunity to research and discuss these important issues and topics. Bar Brief issues will be released on a bi-monthly basis – keep an eye out!

Looking at the Pre-Law society, our community has seen tremendous growth in the past year, particularly in our membership and engagement. In 2024/2025, we introduced numerous events that we're excited to build upon this school year. One aspect of the society that we're particularly excited to develop is our ability to connect members with recruiters from various law schools. Last year, we welcomed Dalhousie to our campus, and coming later this month, we will welcome two new law school representatives from Central Canada. Stay tuned for more details!

On behalf of the Executive team, thank you for being part of the StFX Pre-Law Society. We're in for a very fun and exciting year. Looking forward to seeing you around campus, and at our next event!

Kaleb Boates
President, StFX Pre-Law Society

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