Ethics   
—  
Negative Case by Travis Herche



This case packages several distinct ethical arguments together under a broad value. It uses an advanced “flex-center” structure that allows you to adapt based on what your opponent is doing, making it very dangerous against most affirmatives.

Value-centric affirmative cases face a value that they probably have to argue against, but that is still resilient to most attacks. You’re happy to debate on the value level because every second spent there shifts the focus onto Ethics, and you stand a good chance of winning it.

Contention-centric affirmative cases need to find a way to wash the value, which isn’t easy. The standard approach is to try to combine or subsume the negative value, but that means your contention arguments still have impact. You should be able to push them aggressively, counting on that fact that they are sound arguments supported by well-respected philosophers.

Though powerful, this case is not easy to use out-of-the-box. You should be very familiar with each of the value reasons to prefer and the contention arguments. One of the best ways to do that is to use the Piranha Pack drill, in which you read your case to club mates who then get long (ideally unlimited) periods of cross-examination time to find any weakness in your case. Consider recording the drill and going back over it, noting any point where you were confused, contradicted yourself, or needed more research. Do that a few times, and you’ll be able to take this case to a tournament with great confidence that you can handle whatever your opponents come up with.

Ethics

When someone bravely rushes into a burning building to save someone else, we honor that heroic act. We say: “You are a hero, because you got to choose whether or not to risk your life, and you chose the heroic thing.” Of course, we have to do the opposite, too. When people choose to do evil, we have to give them the respect of saying: “You got to choose whether or not to do that, and you chose wrong.”

That’s a basic idea undermined by the resolution, which is why I oppose it.

# Value: Ethics

Ethics is operationally defined as: “The system of beliefs regulating the moral worth of behavior.”

Here are two reasons to use this value.

## Reason to Prefer 1: Human Imperative

Ethics is an imperative because, if they apply at all, they override other concerns. Choosing between two flavors of ice cream has no ethical charge, so we can use other values, like taste, to decide. Other issues, like kidnapping, have ethical charges – and that means the only thing we look at when deciding whether or not to kidnap is whether or not it is ethical. If it is not, we absolutely must not do it.

In short, ethics is the best way to measure the resolution because is applies to criminal justice systems – overshadowing all other values.

## Reason to Prefer 2: Responsibility of Government

Regardless of your views on the right balance of freedom and regulation, we should all be able to agree that government exists as an enforcer of ethics. It assigns moral worth to behavior and then uses laws to try to prevent behaviors that fall too low on that valuation. So gift-giving is legal, while murder is banned.

Governments don’t always get it right – sometimes, things that should be banned are legal, while things that should be allowed are banned. That reflects on how well each government is doing, but doesn’t change the responsibility. At the core, governments should all be trying to fulfill their basic role of upholding ethics.

# Contention 1: Rehabilitation is Unethical

Rehabilitation attempts to condition criminals to change their behavior. This is unethical for two reasons.

## Sub-point A) Ignores Crime

Crimes create a moral debt. They inflict suffering on their victims. We have a responsibility to repay the debt with punishment. If we don’t, we minimize the suffering.

Groucho Marx once said:

“Those are my principles, and if you don’t like them … well, I have others.”[[1]](#footnote-1)

As a society, we ought to say: “These are our principles, and if you break them … well, there will be consequences.” Rehabilitation does the opposite. It winks at crime and punishment, shattering the integrity of our principles.

Behavioral Scientists Tony Ward and Karen Salmon wrote in 2009:

“Failure to impose punishment following a crime [suggests] is thought to imply that the norms violated are not taken seriously and that the subsequent suffering of victims is not important, an unacceptable ethical response.”[[2]](#footnote-2)

## Sub-point B) Dehumanizes Offenders

Ethics rests on the idea that humans are capable of making choices, and that they are responsible for those choices. That’s why we praise someone for rushing into a burning building to save someone else.

Rehabilitation strips offenders of their moral agency. It says that they didn’t choose to commit crimes themselves; they just helplessly responded to the environment around them. This chips at the whole idea of ethical thought and morality.

Cambridge Philosophy Professor Nigel Walker wrote:

“What is unacceptable for Lewis is the way in which attempts to “cure” offenders of offending appear to demote them to a status which we usually reserve for children, imbeciles, and animals. As he points out, earlier cultures would have added slaves to his catalogue. But the example which makes his point really clear is “animals.” Trying to ‘cure” offenders, whether it succeeds or not, amounts to denying them the status of human beings.”[[3]](#footnote-3)

Rehabilitation says that criminals are our pets; that we can train them to sit and roll over and get an honest job. But offenders are human beings! They deserve the dignity of punishment, not the degrading humiliation of rehabilitation.

Law Professor Deirdre Golash wrote in 2005:

“Judicial punishment can never be used merely as a means to promote some other good for the criminal himself or for civil society, but instead it must in all cases be imposed on him only on the ground that he has committed a crime; for a human being can never be manipulated merely as a means to the purposes of someone else.”[[4]](#footnote-4)

# Contention 2: Retribution is Ethical

In addition to avoiding the serious flaws in rehabilitation, retribution serves as the only ethical response to crime. It repays the moral debt, acknowledges the suffering of the victims, and reflects the moral agency of criminals.

Again from professor Golash 2005:

“Crime is to be annulled, not because it is the producing of an evil, but because it is an infringement of the right as right. What is wrong with crime is not its consequences, but its intrinsic nature as wrong. From that point of view, punishment shares with crime only the incidental feature of producing harm; in its essential nature, punishment is the righting of a wrong, and thus correctly described as opposite to crime.”

In the moment, criminals might prefer not to be punished. But they lose their human dignity in so doing. Retribution is far better.

In Plato’s Gorgias, Socrates says:

“But in my opinion, Polus, the unjust or doer of unjust actions is miserable in any case,—more miserable, however, if he be not punished and does not meet with retribution, and less miserable if he be punished and meets with retribution at the hands of gods and men.”[[5]](#footnote-5)

The choice in this resolution is stark. We can ignore the suffering of victims and treat human beings like poorly-trained pets, or we can uphold basic dignity and moral agency by awarding just punishment. I hope you’ll choose the ethical option. Thank you.

Affirmative Brief: Ethics

This case is a many-headed hydra. Unfortunately, there is no simple roadmap for engaging with it; every affirmative case calls for a different response. Evaluate carefully which negative case elements threaten you; which can be accepted; which can be outweighed.

The case is designed to pull you into a very involved ethical conversation. If your affirmative case does the same, you may have no choice but to follow along. On the other hand, if your case has a more pragmatic focus, or if you’re positioned to disagree with the value, you may be able to sidestep the contentions almost entirely.

Trust your case. It contains the only tools you can possibly use to beat this negative case. There are no unique arguments to be launched against this case, no typical vulnerabilities. In other words, there are no shortcuts. You’ll need a strong grasp of your own case; you’ll need to know exactly how it works philosophically. Most importantly, you need to know how you intend to win strategically with your own case. Attack the negative case surgically, removing only as needed so your own case can still stand.

1. Groucho Marx, “Groucho Marx Quotes,” Brainy Quote. <http://www.brainyquote.com/quotes/quotes/g/grouchomar122547.html> [↑](#footnote-ref-1)
2. Tony Ward & Karen Salmon, Victoria University, 2009, “The ethics of punishment: Correctional practice implications,” Aggression and Violent Behavior, Volume 14, p. 242-3 [↑](#footnote-ref-2)
3. Nigel Walker, 1991. “Why Punish? Theories of punishment reassessed,” Page 62. Nigel Walker was the director of the Institute of Criminology for Cambridge University. [↑](#footnote-ref-3)
4. Deirdre Golash, Law Professor-American University, 2005, The Case against Punishment: Retribution, Crime Prevention, and the Law, p. 50-1 [↑](#footnote-ref-4)
5. Plato, “Gorgias.” <http://www.gutenberg.org/files/1672/1672-h/1672-h.htm> [↑](#footnote-ref-5)