Pay the Debt  
—  
Negative Case by Drew Magness



There are two kinds of cases in this year’s resolution.

1. Morals-Oriented Cases
2. Results-Oriented Cases

And this case has you covered for both of them. Let’s talk about how to face off against each of them, starting off with morals-oriented cases.

On the value, it is crucial that you get your definition of Justice across. If you need to, you can set up some really great reasons to prefer such as historical context, philosophically correct, common-man etc. The definition is logical and has a lot of historical backing. But it’s crucial to your case, so make it work for you.

Your criterion is where it gets fun. You’re saying that Justice is achieved by paying off a debt to society. Your opponent can do one of two things with that argument. They could say that there’s a better way to achieve justice, which would require a lot of precious 1AR time, or they could say that rehabilitation pays a debt to society. If they go the second route, your response is clear. Argue that rehabilitation IN AND OF ITSELF does not pay the debt. If a criminal is successfully rehabilitated, then they can go and maybe pay their debt to society. However, retribution makes sure that the debt to society is paid off first and foremost. Secondly, rehabilitation only pragmatically pays the debt to society. Retribution morally pays the debt.

If you hit a results-oriented case, push your value-criterion structure hard. Outweigh all of the affirmative points by saying that Justice is a more pressing concern. You don’t care whether rehabilitation works or not. You care whether criminals are allowed to remain on the unfair pedestal they have placed themselves on or whether they are brought back down into fair standing with the rest of society.

Pay the Debt

*The People v. O.J. Simpson.**The People v. Jackson.**The People v. Scott Lee Peterson*. Why are criminal cases written out like this?Why is it that “The People” are the ones appealing?It’s because crimes are committed first and foremost against society.In order to require a balance of Justice and to require that criminals pay their debt to society, we must put retribution above rehabilitation in the criminal justice system.

# Value: Justice

Eastern Roman Emperor Justinian defined justice in his “Code of Justinian” as this:

“Justice is a habit whereby a man renders to each one his due with constant and perpetual will.”[[1]](#footnote-1)

All systems of Western civil law and jurisprudence borrowed heavily from the Code of Justinian and the way he defined Justice is how most of us view Justice. You steal a car, you go to jail. You pay your due. Why is this the best value to use in today’s round?

## Reason to Prefer: Purpose of Criminal Justice System

Obviously, any criminal justice system is attempting to uphold justice. So in looking at what to value in respect to that system, we should look at its foremost goal.

But how do we know when justice is upheld?

# Criterion: Debt to Society

Justice hinges on equality under the law. When we live in a society, we all agree to abide by the laws of society. However, criminals unjustifiably usurp liberty in order to pursue their goals, ignoring the law. They’ve put themselves above the law and above society. As Professor of Law at Notre Dame, George V. Bradley put it,

The central wrong in crime, therefore, is not that a criminal causes harm to a specific individual. Rather, it is that the criminal claims the right to pursue his own interests and plans in a manner contrary to the common boundaries delineated by the law. From this perspective, the entire community—with the exception of the criminal—is victimized by crime. The criminal’s act of usurpation is unfair to everyone else; he has gained an undue advantage over those who remain inside the legally required pattern of restraint. [[2]](#footnote-2)

Therefore, when a crime is committed, society has lost its equilibrium. The criminal has put himself above all other members of society and he must be moved down from his pedestal back to where everyone else belongs. He must pay his debt. This is the only way to achieve justice.

I have two contentions that decide which side of the resolution better pays the debt.

# Contention 1: Rehabilitation does not pay the debt

Remember, after committing a crime, a criminal has put themselves on a pedestal above the rest of society. They must pay a debt. Rehabilitation doesn’t force the criminal to pay any kind of debt. In fact, it does the opposite. Rehabilitation confers unearned benefits to the criminal, continuing to destroy the equilibrium of Justice and moving the criminal higher up the pedestal.

Don’t take my word for it, take the word of the Director of Research at the Federal Bureau of Prisons, Gerald G. Gaes:

Prison rehabilitation programs, especially if they are successful, confer valuable but unearned benefits on the undeserving at the expense of law-abiding taxpayers. To benefit convicts thus on the grounds that they have violated the law and may do so again is, in effect, to reward extortion.[[3]](#footnote-3)

Justice is only upheld if “man renders to each one his due.” When a criminal is being rehabilitated, they’re not paying off their debt. They’re just receiving more money and being moved higher up the pedestal and higher than the rest of society. Gerald Gaes continues:

Outside the walls, linking imprisonment with rehabilitation conveys a confusing message to the general public. As punishment, the message of imprisonment is "Felonies are very wrong acts, and those who commit them will be held to account." But the message of the rehabilitation ethic is "Felonies are the result of personal deficiencies (of knowledge, skills, habits, values, temperament, motivation, personality, and so on) on the part of the individual; society must attempt to correct those personal deficiencies." That is not an appropriate message for society to construct through its institutions of punishment. Such a message depicts criminal behavior in deterministic terms and portrays offenders as objects in need of adjustment, rather than as responsible human beings who must accept the consequences of their actions.[[4]](#footnote-4)

# Contention 2: Retribution pays the debt

Morality and Justice require punishment. Criminals have put themselves above society and must be moved off their pedestal and back into an equal standing of justice by the law. George V. Bradley, the Law Professor at Notre Dame put it this way,

Punishment restores the fundamental fairness and equality of mutual restraint disturbed by the criminal’s act. A criminal is punished in order to efface (as it were) his prior extravagance. By and through his punishment, society is restored to the *status quo ante*: The equality of mutual restraint within law is—morally speaking—re-established. The criminal’s debt to society is paid.[[5]](#footnote-5)

The first aim of punishment is to restore a just balance to society. Punishment achieves that goal by removing the advantage the criminal gained over the rest of society. We all obey society’s laws. Why should criminals be rewarded for putting themselves on a pedestal above the rest of society?

Achieve justice and make criminals pay their debt. Break the pedestal.

Affirmative Brief: Pay the Debt

You’ve got a few lines of attack here. Let’s go over them.

**Attack the debt to society:** Accept Justice and argue that criminals don’t need to pay a debt to society. Instead we achieve justice by decreasing crime or by treating criminals in a way that respects their dignity or some other way that you’ve already set up in your case. If your case is morally-oriented, you might be better off accepting justice and fighting on the criterion level.

**Bring in the real world:** Sure, all of this justice and debt payment stuff sounds great. But all the neg has done here is quote professors and ivory tower researchers. He hasn’t actually looked at the real world and what actually decreases crime. He hasn’t looked at what actually causes criminals to change. Let’s talk about the real world and how to make the criminal justice system work for us.

**Defend rehabilitation and attack retribution:** Does retribution truly pay the debt? Does retribution provide any sort of benefits to society? No? Then how is it paying society a thing? Rehabilitation turns criminals into hard-working citizens who provide actual benefits to society. That’s how you pay off the debt.

1. <http://www.heritage.org/research/lecture/the-meaning-of-justice> [↑](#footnote-ref-1)
2. <http://www.heritage.org/research/reports/2012/03/retribution-and-overcriminalization> [↑](#footnote-ref-2)
3. <https://www.bop.gov/resources/research_projects/published_reports/cond_envir/oreprlogangaes.pdf> [↑](#footnote-ref-3)
4. <https://www.bop.gov/resources/research_projects/published_reports/cond_envir/oreprlogangaes.pdf> [↑](#footnote-ref-4)
5. <http://www.heritage.org/research/reports/2012/03/retribution-and-overcriminalization> [↑](#footnote-ref-5)