Justice (Value)  
Opposition Brief by Joel Erickson  


Justice. It seems definitive, unambiguous, clear… an ideal illuminating the woes of the world, a beacon radiating light into our depravity, a standard demonstrating where society misses the mark. Furthermore, it even exists within the context for the resolution—criminal *justice* systems. Wouldn’t it, therefore, be sensible to use justice as a value?

Of course, everyone should endeavor to achieve justice. But because many debaters (and judges) inevitably equate justice with retribution, the affirmative faces an uphill battle against inferential bias. Besides, although some viable justice frameworks for prioritizing rehabilitation (such as restorative justice cases) exist, scholarship and the literature base typically concur that rehabilitation is a *consequentialist*, or results-oriented, philosophy of criminal law. In other words, the rationale for valuing rehabilitation doesn’t derive from moral duty, but from the sheer fact that it works well. Deontological (duty- or ethics-based) justifications for rehabilitation are rare and sometimes too convoluted for the confines of a four-minute rebuttal. Therefore, sometimes your best decision is to exclude your opponent’s case by dismantling the value of justice. This brief strives to consummate that task.

A couple things to note:

1. **Set up in CX**. Most of the quotes in this brief pertain to the fact that justice is not a definitive ideal, but has been disputed by philosophers for two millennia. Impact this in your cross-examination by asking your opponent, “The value we use to measure the round should be clear and undisputed, correct?” Once you establish this premise, reference the list of philosophers and their theories below to show how contested the meaning of justice has been throughout the epochs. No one individual agrees; therefore, it’s a problematic value.
2. **Quotes are summaries**. Most of the evidence below is extracted from the *Internet Encyclopedia of Philosophy*. While it would be immensely beneficial for you to do further research into Plato’s *Republic,* Aristotle’s *Nichomachean Ethics* and *Politics*, Augustine’s *On Free Choice of the Will* and City *of God*, Aquinas’s *Summa Theologica*, Hobbes’s *Leviathan*, Hume’s various writings on justice, and Kant’s *Foundation for the Metaphysics of Morals*, many quotes are esoteric and will be (particularly Kant) unintelligible for judges. The internet encyclopedia crystallizes the key arguments in a commonsensical fashion.

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Plato: Harmonious Function

Dr. Wayne Pomerleau [Philosophy Professor at Gonzaga University since 1989], “Western Theories of Justice.” The Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/justwest/#SH3a>

“For Plato, justice is a virtue establishing rational order, with each part performing its appropriate role and not interfering with the proper functioning of other parts.”

Plato: To Each His Due Is Presented, But Refuted

Dr. Wayne Pomerleau (Philosophy Professor at Gonzaga University since 1989) “Western Theories of Justice.” The Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/justwest/#SH3a>

“Secondly, Polemarchus, the son of Cephalus, jumps into the discussion, espousing the familiar, traditional view that justice is all about giving people what is their due. But the problem with this bromide is that of determining who deserves what. Polemarchus may reflect the cultural influence of the Sophists, in specifying that it depends on whether people are our friends, deserving good from us, or foes, deserving harm. It takes more effort for Socrates to destroy this conventional theory, but he proceeds in stages: (1) we are all fallible regarding who are true friends, as opposed to true enemies, so that appearance versus reality makes it difficult to say how we should treat people; (2) it seems at least as significant whether people are good or bad as whether they are our friends or our foes; and (3) it is not at all clear that justice should excuse, let alone require, our deliberately harming anyone (Republic, pp. 5-11; 331b-335e). If the first inadequate theory of justice was too simplistic, this second one was downright dangerous.”

Aristotle: Lawful and Fair

Dr. Wayne Pomerleau [Philosophy Professor at Gonzaga University since 1989], “Western Theories of Justice.” The Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/justwest/#SH3a>

“Aristotle says justice consists in what is lawful and fair, with fairness involving equitable distributions and the correction of what is inequitable.”

Augustine: To Each his Due

Dr. Wayne Pomerleau [Philosophy Professor at Gonzaga University since 1989], “Western Theories of Justice.” The Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/justwest/#SH3a>

“For Augustine, the cardinal virtue of justice requires that we try to give all people their due.”

Augustine’s Justice Accommodates Slavery

Dr. Wayne Pomerleau [Philosophy Professor at Gonzaga University since 1989], “Western Theories of Justice.” The Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/justwest/#SH3a>

“Unfortunately, his zealous Christian evangelism leads him to identify justice itself, in a divisive, intolerant, polemical way, with the Christian church’s idea of what God requires, so that only a Christian society can possibly qualify as just, as if a just political society would need to be a theocracy. Thus, while he has some sense of some moral or spiritual equality among humans, it does not issue in equal respect for all persons as free, rational agents, allowing him, for example, to accept the institution of slavery as a just punishment for sin, despite the belief that God originally created humans as naturally free, because of the idea that we have all been corrupted by original sin (City, pp. 874-875).”

Aquinas: Rational Mean Between Two Extremes

Dr. Wayne Pomerleau [Philosophy Professor at Gonzaga University since 1989], “Western Theories of Justice.” The Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/justwest/#SH3a>

“For Augustine, the cardinal virtue of justice requires that we try to give all people their due; for Aquinas, justice is that rational mean between opposite sorts of injustice, involving proportional distributions and reciprocal transactions.”

Hobbes: Justice is Social Contract \ Subjective

Dr. Wayne Pomerleau [Philosophy Professor at Gonzaga University since 1989], “Western Theories of Justice.” The Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/justwest/#SH3a>

“Hobbes believed justice is an artificial virtue, necessary for civil society, a function of the voluntary agreements of the social contract.”

“Whereas Plato, Aristotle, Augustine, and Aquinas all offer accounts of justice that represent alternatives to Sophism, Thomas Hobbes, the English radical empiricist, can be seen as resurrecting the Sophist view that we can have no objective knowledge of it as a moral or political absolute value.”

Hume: Justice Is Protection of Property

Dr. Wayne Pomerleau [Philosophy Professor at Gonzaga University since 1989], “Western Theories of Justice.” The Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/justwest/#SH3a>

“Hobbes believed justice is an artificial virtue, necessary for civil society, a function of the voluntary agreements of the social contract; for Hume, justice essentially serves public utility by protecting property (broadly understood).”

Kant: Respecting Human Rights

Dr. Wayne Pomerleau [Philosophy Professor at Gonzaga University since 1989], “Western Theories of Justice.” The Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/justwest/#SH3a>

“For Kant, it is a virtue whereby we respect others’ freedom, autonomy, and dignity by not interfering with their voluntary actions, so long as those do not violate others’ rights.”

Human Dignity and Human Rights Foundational for Justice

United Nations (Universal Declaration of Human Rights, 1948). <http://www.un.org/en/universal-declaration-human-rights/>

*“*Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people, Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, Whereas it is essential to promote the development of friendly relations between nations, Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom, Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms, Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge, Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.”