Resolutional Objection  
Negative Case by Joel Erickson



Lincoln-Douglas resolutions make generalizations. Necessarily. By nature, when the resolution says, “Rehabilitation ought to be valued above retribution in criminal justice systems,” it posits that fifty-one percent of the time, in criminal justice systems throughout the world, rehabilitation automatically takes precedence. And that exemplifies a generalization.

Does the fact that the affirmative side of the resolution must equate dissimilar countries and conflate vastly divergent crimes in order to arrive at its conclusion perturb you? The affirmative’s burden—that rehabilitation ought to be valued more often than not—stipulates that we must uphold rehabilitation in a number of incongruous situations.

The “resolutional objection” affords you a chance to shatter this paradigm. Instead of taking the conventional route and defending retribution, assume a legitimate negative stance (agnosticism toward the resolution) and contend that we cannot generalize because we should determine criminal justice policy on a case-by-case, nation-by-nation, crime-by-crime basis. Only then will we find a satisfactory strategy with which to approach criminal justice systems across the globe.

Speak slowly. Confidently. Dynamically. Judges unaccustomed to metadebate argumentation will need to digest the logic, and motoring through your points will simply not afford them enough time to do so. Although a resolutional objection ought to consume the majority of your negative speech time, ensure that you allot time to impact it to your opponent’s arguments. Preempt the invariable “the negative dropped my arguments, so I win them” response by grouping the affirmative’s arguments and explain that because the arguments uphold an unwarranted generalization, they ought to be rejected along with the resolution.

Resolutional Objection

# Roles of the Affirmative and Negative

Most people generally assume that the affirmative debater stands for rehabilitation and the negative debater promotes retribution. ***But this is an erroneous perspective of debate***. The affirmative speaker is not the standard-bearer of rehabilitation, but rather of the resolution. The negative debater does not defend retribution, but rather refutes the resolution.

Another way of looking at this is through the words “affirmative” and “negative.” Quite simply, the affirmative’s task is to “affirm” the resolution, saying that rehabilitation ought to be valued above retribution in criminal justice systems. The affirmative must uphold the resolution in its entirety, including all of its fundamental assumptions (including ontological assumptions such as “criminal justice exists” or epistemological assumptions such as “we can know truth”).

The negative’s role is naturally to “negate” or “refute” the resolution. There are three ways I could go about negating the resolution.

1. I could negate the resolution through showing that retribution ought to be valued above rehabilitation. This is the conventional route of invalidating the resolution, because the resolution contends that rehabilitation is the higher value.
2. I could negate the resolution through showing that rehabilitation and retribution are equal in value. This would invalidate the resolution, because the resolution requires rehabilitation to be valued *above* retribution.
3. I could negate the resolution through showing some logical fallacy exists in the resolution. This would invalidate the resolution, because it attacks a fundamental assumption.

# Resolutional Analysis

Before I elaborate upon my thesis, I’ll provide one point of resolutional analysis. ***The resolution makes a generalization***. When we say, “rehabilitation ought to be valued above retribution,” of course we’re not suggesting that we must value rehabilitation higher in 100% of situations in every criminal justice system across the globe. Yet, although the resolution isn’t absolute, it does propose a generalization… saying that it’s more likely than not that we should value rehabilitation higher, or that rehabilitation supersedes retribution 51% of the time. On the whole, generalizing the resolution, we ought to uphold rehabilitation throughout the world.

# Thesis

As I’ve stated before, we need to reject the affirmative case because it makes an unwarranted generalization. Why is the resolution untenable? It’s simply impossible for us to say that rehabilitation ought to be valued above retribution more of the time, because the ***decision is situational***. Sometimes we should value retribution, other times rehabilitation, most often a combination of both, and frequently an alternative such as restitution. The overarching philosophy for criminal justice system ultimately situational, influenced by two primary factors: the nation and the crime.

I’ll develop each of these in my two justifications for why the resolution is situational, and show you that we must reject the affirmative generalization because the resolution “just depends.”

# Justification 1: Depends on the Nation

One hundred and ninety-five nations exist in the world.[[1]](#footnote-1) Some are smaller than the state of Rhode Island,[[2]](#footnote-2) and others occupy an eighth of the world’s land mass.[[3]](#footnote-3) Some are ethnically homogenous, others are culturally diverse.[[4]](#footnote-4) Some cling to the vestige of Judeo-Christian heritage, a number identify as Islamic theocracies, and many more are overtly secular. Some are despotic, others empowering. Some are prosperous, others steeped in squalor.[[5]](#footnote-5) Some are economically free, others equitable, and still more oppressive.[[6]](#footnote-6)

As it stands, the effectiveness of rehabilitation and retribution are entirely contingent upon a panoply of complex factors within a nation. Rehabilitation purportedly works in Norway, evidenced by a 20% recidivism rate, but retribution works just as well in Singapore, where the recidivism rate is similarly low.[[7]](#footnote-7) We cannot generalize across the entire globe like the resolution asks us to.

# Justification 2: Depends on the Crime

Just like our decision to value rehabilitation, retribution, both, or neither depends on the society, it also depends upon the offense committed. How should we treat a first-time offender as opposed to a criminal who offends again and again? Is there a point in time in which we give up on rehabilitation? The number of times someone commits the same crime influences whether or not we choose rehabilitation or retribution. What about the gravity of the offense? Should drug users receive retribution? A growing majority says no.[[8]](#footnote-8) What about serial killers? Should they receive retribution? Common sense seems to suggest yet. To top it all off, our legal system distinguishes between *mens rea* and *actus rea* – Latin for “guilty mind” and “guilty act.” Victims should be rehabilitated or alternatively punished based on their motivation—whether or not they were careless, intentional, possessed malicious intent or committed the crime “knowingly.”[[9]](#footnote-9) Ultimately, we cannot generalize and say we should value rehabilitation most of the time because the crimes which we are punishing are too disparate.

# Role of the Ballot

As a judge, your role is simple. As we already established, an affirmative ballot is not a vote for rehabilitation, but a vote for the resolution as a whole. Therefore, voting affirmative makes a generalization that is simply unwarranted when we consider the full scope of reality.

Voting negative, however, does not mean that you are upholding retribution. Rather, it stands against the resolution as a whole. If you check the negative box, you reject the generalization, recognize the situational nature of the resolution, and reaffirm the principle that we ought to determine our criminal justice policy based on a myriad of complex factors, rather than the simplistic solution of the affirmative.

Affirmative Brief: Resolutional Objection

First, recognize that you are buoyed by overwhelming judge bias. Prejudice against resolutional objections has continued to mount as judges perceive objections as impractical, peripheral, and counterintuitive. Leverage the zeitgeist toward your stance and speak to the judge’s deep-seated beliefs.

Second, the resolution objection presupposes pragmatism. Its underlying ideology is that the resolution is situational because rehabilitation will not necessarily *work* for the majority of nations, crimes, or individuals. If you approach affirmative from a staunchly moral perspective, providing deontological reasons for prioritizing rehabilitation, you can preempt a lot of the negative argumentation and then combat the rest in your 1AR by saying, “The negative contends the resolution is situational. And I agree. Nations, crimes, and individuals are very disparate throughout the world. However, we are morally compelled to make a generalization because rehabilitation supports [X morally-charged value].”

Third, when subjected to real world scrutiny, the resolutional objection collapses. All LD resolutions contain generalizations because we are forced to generalize when passing policy proposals, and the purpose of LD is to debate values intended to guide our decisions (we cannot divorce the rehabilitation vs. retribution debate from the actual conflict waged in the penal system and Congress today about how we should structure our criminal justice system). It may be an interesting theoretical position to say that a generalization is impossible for criminal justice systems, but in the real world, our criminal justice system needs *some philosophy* to undergird it. Hence the debate resolution, which you could construct a fairly strong case that the negative is evading altogether.

1. 196, if you recognize Taiwan. “How Many Countries?” InfoPlease World Statistics. <http://www.infoplease.com/ipa/A0932875.html> [↑](#footnote-ref-1)
2. “Ten Smallest Countries in the World,” *WorldAtlas*. <http://www.worldatlas.com/articles/the-10-smallest-countries-in-the-world.html> [↑](#footnote-ref-2)
3. “Russia,” *Nation’s Encyclopedia*. <http://www.nationsencyclopedia.com/economies/Europe/Russia.html> [↑](#footnote-ref-3)
4. Fischer, Max. “A Revealing Map of the World’s Most and Least Ethnically Diverse Nations.” *Washington Post,* May 16, 2013. <https://www.washingtonpost.com/news/worldviews/wp/2013/05/16/a-revealing-map-of-the-worlds-most-and-least-ethnically-diverse-countries/?utm_term=.0fcd067fdf1e> [↑](#footnote-ref-4)
5. *2016 Legatum Prosperity Index*. <http://www.prosperity.com/#!/> [↑](#footnote-ref-5)
6. “2016 Index of Economic Freedom,” *Heritage Foundation*. <http://www.heritage.org/index/ranking> [↑](#footnote-ref-6)
7. Othman, Liyana, “Rate of Repeat Offenders Down for the 2013 Cohort: Singapore Prison Service.” *Channel News Asia,* Feb. 17, 2016. [↑](#footnote-ref-7)
8. Pew Research Center (2014). America’s New Drug Policy Landscape. Washington, D.C. See also The New York Times Editorial Board (2014). **Cited in** Nazgol Ghandnoosh, Ph.D., “Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies,” *The Sentencing Project*, SEPTEMBER 03, 2014 <http://www.sentencingproject.org/publications/race-and-punishment-racial-perceptions-of-crime-and-support-for-punitive-policies/> [↑](#footnote-ref-8)
9. “Mens Rea – A Criminal’s Mental State.” *FindLaw*. <http://criminal.findlaw.com/criminal-law-basics/mens-rea-a-defendant-s-mental-state.html> [↑](#footnote-ref-9)