2026-27 Value Debate Sample Affirmative Backup:

Justice

Case Extensions

Affirmative Framework

Debates over retribution and rehabilitation are often shaped by compelling stories, whether examples of dramatic personal reform or severe acts of wrongdoing. While these cases may illustrate the practical stakes of criminal justice, they do not by themselves resolve the deeper philosophical question posed by the resolution: what justifies punishment as a response to wrongdoing.

The Affirmative does not necessarily deny that rehabilitation can produce meaningful benefits and that reform is often desirable. However, the resolution is not asking which approach may generate better social outcomes or reduce recidivism more effectively. It asks which principle should be valued above the other in order for a criminal justice system to be just. For the Affirmative, this is fundamentally a question of primary moral justification.

A just punishment system must first explain why the state is permitted to punish at all. The Affirmative argues that retribution provides that foundation because it grounds punishment in the offender's wrongdoing and the proportionate response justice requires. Rehabilitation, by contrast, is forward-looking. It evaluates punishment based on anticipated future outcomes such as reform, deterrence, or social improvement. While those aims may be beneficial, they do not themselves explain why punishment is deserved in the first place. Because retribution anchors punishment to moral desert, framed in the sample case as moral debt for clarity, rather than contingent future predictions, the Affirmative contends that it must be valued above rehabilitation within a just criminal justice system.

Value: Justice

Justice is the most appropriate value for this resolution because the resolution explicitly asks whether it is *just* for a criminal justice system to prioritize one approach to punishment over another. Since the resolution directly invokes justice, it provides the clearest evaluative standard for determining which approach ought to be preferred.

The sample case adopts justice as its value because the core affirmative claim is not merely that retribution may produce desirable outcomes, but that punishment must first be morally justified. If the central question is what a criminal justice system rightly owes in response to wrongdoing, justice is the natural lens through which the round should be evaluated.

Reason to Prefer 1: Equality

Justice should be preferred because it ensures punishment is imposed consistently rather than arbitrarily. As legal philosopher Neil MacCormick explains:

> MacCormick, D. N. "FORMAL JUSTICE AND THE FORM OF LEGAL ARGUMENTS." *Logique et Analyse* 19, no. 73 (1976): 103–18. http://www.jstor.org/stable/44084511.
>
> Justice requires that essentially similar cases be treated in the same way, and that essentially different cases be treated differently. But since that is a purely formal principle, it requires supplementation with some conception of substantive justice to establish criteria of essential similarity and essential difference. Accordingly, it may appear that formal justice considered in itself is an empty value. But that would be a misleading conclusion to reach, as may be seen by considering the bearing of justice on the practice of legal argument in its most characteristic function: the justification of claims, defences, counterclaims: above all of decisions, in the context of contested litigation.

A criminal justice system must explain why a particular offender receives a punishment. That explanation requires a principled method for distinguishing when similar offenders deserve similar treatment and when materially different circumstances justify different treatment. Justice is therefore not merely one competing value among many. It is the condition that makes punishment defensible at all. A system that cannot justify why it punishes in a coherent way is not merely flawed. It is unjust.

Reason to Prefer 2: Legitimacy

Justice should be preferred because the legitimacy of any criminal justice system depends on its ability to justify the intentional exercise of coercive state power. Criminal punishment involves deprivation of liberty, bodily control, social standing, and sometimes life itself. A system that imposes such consequences must be grounded in a principle citizens can recognize as morally justified rather than mere institutional preference or expediency. Justice provides that foundation by requiring state action to be principled, accountable, and publicly defensible. Without justice, punishment becomes an exercise of power instead of lawful moral authority.

Criterion: Repaid Moral Debt

Desert is Backward-Looking

Philosopher James Owen McLeod explains that desert is grounded in what has already been done:

> McLeod, James Owen. *On Being Deserving*. PhD diss., University of Massachusetts Amherst, 1995. https://doi.org/10.7275/1enq-b957

> The view that desert bases are always located in the past is supported by any number of examples. If you deserve an apology, this is because you have been insulted, not because you are going to be insulted. If you deserve punishment, this is because you have committed some wrong, not because you will commit some wrong. If you deserve a reward, this is because you have done something good, not because you are going to do something good; and so on. In general, then, it appears that the basis for desert must be located in the past.

Impact: This explains why repaid moral debt begins with the offense itself. If punishment is deserved because of a wrong already committed, then justice must be measured by that wrong rather than by future hopes, predictions, or institutional goals. McLeod gives the criterion its foundation: the debt exists because of past wrongdoing. That makes repaid moral debt the best measure of justice because it identifies the morally relevant starting point for punishment before the state considers any secondary goal like reform.

Moral Debt is Measurable

Philosopher Stephen Kershnar explains that just punishment can be measured by degree:

> Kershnar, Stephen. "A Unified Theory of Intrinsic Value." *Reason Papers* 29 (Fall 2007): 19–40.
>
> It intuitively appears that we can provide a real-number ranking of things such as just punishment and compensation. For example, consider when a particular wrongdoer, for example, a rapist, serves three years rather than six months in prison. Intuitively, this isn't merely more likely to satisfy the victim's (or perhaps the citizenry's) claim to punishment, but more likely to some particular degree to satisfy the claim. Here, also, there is a true zero point (i.e., no punishment). The specific degree will depend on the rapist's utility function and the degree of harm that his act caused the victim (or perhaps could reasonably be expected to cause the victim). The three years might also be equivalent to a specific amount of torture, isolation, lost wages, or other penalty. These comparisons seem to involve the sort of fine-grained rankings that typify realnumber rankings. In fact, it is the fine-grained commensurability of wrongdoings and punishments that on some accounts explains our intuition that justice provides a precise ceiling on permissible punishment.

Impact: This explains how repaid moral debt functions as a measuring tool. It does not merely say punishment is deserved; it asks *how much* punishment is deserved. The criterion compares the seriousness of the wrong with the proportionality of the response. If punishment is too weak, the debt remains unpaid. If punishment is too severe, the state exceeds justice. Repaid moral debt is therefore the best criterion because it provides both a starting and stopping point: punish because of the wrong, and stop when the proportionate debt has been repaid.

Contention 1: Retribution Upholds Justice

Subpoint A Support: Retribution Upholds Equality

Professor Herbert Morris argues that punishment restores equality because crime allows the offender to take the benefits of the legal order while refusing the burdens everyone else accepts:

> Morris, Herbert. "Persons and Punishment." *The Monist* 52, no. 4 (October 1968): 475–501.
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> Third, it is just to punish those who have violated the rules and caused the unfair distribution of benefits and burdens. A person who violates the rules has something others have—the benefits of the system—but by renouncing what others have assumed, the burdens of self-restraint, he has acquired an unfair advantage. Matters are not even until this advantage is in some way erased. Another way of putting it is that he owes something to others, for he has something that does not rightfully belong to him. Justice—that is punishing such individuals—restores the equilibrium of benefits and burdens by taking from the individual what he owes, that is, exacting the debt. It is important to see that the equilibrium may be restored in another way. Forgiveness—with its legal analogue of a pardon—while not the righting of an unfair distribution by making one pay his debt is, nevertheless, a restoring of the equilibrium by forgiving the debt. Forgiveness may be viewed, at least in some types of cases, as a gift after the fact, erasing a debt, which had the gift been given before the fact, would not have created a debt. But the practice of pardoning has to proceed sensitively, for it may endanger in a way the practice of justice does not, the maintenance of an equilibrium of benefits and burdens. If all are indiscriminately pardoned less incentive is provided individuals to restrain their inclinations, thus increasing the incidence of persons taking what they do not deserve.

Impact: Morris explains why equality turns on the rule violation itself. The offender has taken the benefits of legal order while refusing the burden of obedience that others accept. Rehabilitation may vary punishment based on treatment needs or reform potential, but those traits do not answer the unfair advantage created by the crime. Retribution does. It restores equality by tying punishment to the wrong committed.

Subpoint B Support: Retribution Upholds Accountability

Professor Herbert Morris explains that punishment responds to fault, while therapy responds to a condition.

> Morris, Herbert. "Persons and Punishment." *The Monist* 52, no. 4 (October 1968): 475–501.
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> *First, punishment is the imposition upon a person who is believed to be at fault of something commonly believed to be a deprivation where that deprivation is justified by the person's guilty behavior. It is associated with resentment, for the guilty are those who have done what they had no right to do by failing to exercise restraint when they might have and where others have.*

> *Therapy is not a response to a person who is at fault. We respond to an individual, not because of what he has done, but because of some condition from which he is suffering. If he is no longer suffering from the condition, treatment no longer has a point. Punishment, then, focuses on the past; therapy on the present. Therapy is normally associated with compassion for what one undergoes, not resentment for what one has illegitimately done.* *Second, with therapy, unlike punishment, we do not seek to deprive the person of something acknowledged as a good, but seek rather to help and to benefit the individual who is suffering by ministering to his illness in the hope that the person can be cured. The good we attempt to do is not a reward for desert. The individual suffering has not merited by his disease the good we seek to bestow upon him but has, because he is a creature that has the capacity to feel pain, a claim upon our sympathies and help.*

Impact: Punishment and therapy answer different moral questions. Punishment asks whether the offender is at fault; therapy asks whether the person needs treatment. When rehabilitation comes first, the system risks replacing responsibility with diagnosis. Retribution better upholds accountability because it treats crime as a wrongful choice the offender made, not merely as a condition from which he suffers.

Subpoint C Support: Retribution Upholds Proportionality

In Nicomachean Ethics, Aristotle explains that justice requires proportionality between the wrong committed and the response to it:

> Aristotle. *Nicomachean Ethics*. Translated by W. D. Ross. Book V, section 3. *The Internet Classics Archive*. Massachusetts Institute of Technology. Accessed May 2026. **https://classics.mit.edu/Aristotle/nicomachaen.5.v.html**
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> "This, then, is what the just is-the proportional; the unjust is what violates the proportion. Hence one term becomes too great, the other too small, as indeed happens in practice; for the man who acts unjustly has too much, and the man who is unjustly treated too little, of what is good. In the case of evil the reverse is true; for the lesser evil is reckoned a good in comparison with the greater evil, since the lesser evil is rather to be chosen than the greater, and what is worthy of choice is good, and what is worthier of choice a greater good."

Impact: Proportionality is violated when punishment becomes either too much or too little for the wrong committed. Retribution keeps punishment proportionate to the offense itself. It asks what the offender is due because of the wrong committed. Rehabilitation, by contrast, measures punishment by what may improve the offender in the future. That makes punishment depend on reform potential rather than desert. Because justice requires a proportionate response to wrongdoing, retribution must be valued first.

Contention 2: Rehabilitation Fails Justice

Thought Experiment 1 Support: Rehabilitation Undermines Proportionality

General Problem

Britannica explains that rehabilitation can make punishment depend on reform progress rather than the offense:

> Allott, Antony Nicolas. "Punishment." *Encyclopaedia Britannica*. Accessed May 15, 2026. https://www.britannica.com/topic/punishment/Rehabilitation
>
> The most recently formulated theory of punishment is that of rehabilitation—the idea that the purpose of punishment is to apply treatment and training to the offender so that he is made capable of returning to society and functioning as a law-abiding member of the community. Established in legal practice in the 19th century, rehabilitation was viewed as a humane alternative to retribution and deterrence, though it did not necessarily result in an offender receiving a more lenient penalty than he would have received under a retributive or deterrent philosophy. In many cases rehabilitation meant that an offender would be released on probation under some condition; in other cases it meant that he would serve a relatively longer period in custody to undergo treatment or training. One widely used instrument of rehabilitation in the United States was the indeterminate sentence, under which the length of detention was governed by the degree of reform the offender exhibited while incarcerated.
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> Although rehabilitation was widely criticized in the United States in the 1970s, it gained greater acceptance once research in the 1980s and '90s demonstrated that a carefully implemented rehabilitation program could reduce recidivism. Critics nonetheless objected to rehabilitation and sentencing programs that gave significant discretion to the prison administrator, who could decide to release or further detain an offender depending on his assessment of the offender's progress (which could itself be vaguely defined). At issue were cases in which this authority led to gross abuses, such as the lengthy detention of an offender guilty of only a minor crime, simply because of his inability or refusal to adopt a subservient attitude toward prison officials or other persons in positions of authority.

Specific Example

In *Tapia v. United States*, the defendant was sentenced to a longer prison term so she would have enough time to qualify for and complete a drug-treatment program:

> *Tapia v. United States*. 564 U.S. 319. Supreme Court of the United States. 2011.
>
> The District Court imposed a 51-month prison term, reasoning that Tapia should serve that long in order to qualify for and complete the Bureau of Prisons' Residential Drug Abuse Program.

The sentencing court specifically stated that the sentence needed to be long enough to provide "needed correctional treatment" and that one factor affecting the sentence was making sure she was "in long enough to get the 500 Hour Drug Program." The Supreme Court rejected this reasoning because once prison time is extended for treatment, punishment is no longer measured by the offense itself but by the state's rehabilitative goals.[1]

Impact: Britannica shows the danger in principle, and *Tapia* shows it in practice: valuing rehabilitation first can result in punishment being measured by treatment needs rather than the seriousness of the offense. The problem is not that treatment is bad. The problem is that treatment becomes the measure of confinement.

Thought Experiment 2 Support: Rehabilitation Results in Unpaid Debt

Philosopher Herbert Morris explains that therapy cannot satisfy moral debt because the concepts of repayment, forgiveness, and pardon belong to punishment, not therapy:

> Morris, Herbert. "Persons and Punishment." *The Monist* 52, no. 4 (October 1968): 475–501.
>
> Third, we saw with punishment that its justification was related to maintaining and restoring a fair distribution of benefits and burdens. Infliction of the prescribed punishment carries the implication, then, that one has 'paid one's debt' to society, for the punishment is the taking from the person of something commonly recognized as valuable. It is this conception of 'a debt owed' that may permit, as I suggested earlier, under certain conditions, the nonpunishment of the guilty, for operative within a system of punishment may be a concept analogous to forgiveness, namely pardoning. Who it is that we may pardon and under what conditions—contrition with its elements of self-punishment no doubt plays a role—I shall not go into though it is clearly a matter of the greatest practical and theoretical interest. What is clear is that the conceptions of 'paying a debt' or 'having a debt forgiven' or pardoning have no place in a system of therapy.

Impact: Morris shows that therapy has no place for the idea of paying a debt. Rehabilitation may make the offender better, but treatment is not the same as accountability. Even a reformed offender may still owe a moral debt for the wrong already committed. Rehabilitation may change the offender's future, but it cannot by itself satisfy the debt created by past wrongdoing.

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[1] "But the record indicates that the court may have done more—that it may have selected the length of the sentence to ensure that Tapia could complete the 500 Hour Drug Program. 'The sentence has to be sufficient,' the court explained, 'to provide needed correctional treatment, and here I think the needed correctional treatment is the 500 Hour Drug Program.' App. 27; see supra, at 1–2. Or again: The "number one" thing "is the need to provide treatment. In other words, so she is in long enough to get the 500 Hour Drug Program." App. 27; see supra, at 2. These statements suggest that the court may have calculated the length of Tapia's sentence to ensure that she receive certain rehabilitative services. And that a sentencing court may not do. As we have held, a court may not impose or lengthen a prison sentence to enable an offender to complete a treatment program or otherwise to promote rehabilitation." *Tapia v. United States*. 564 U.S. 319. Supreme Court of the United States. 2011.

Additional Arguments

The following can serve either as effective responses in the AR/2AR, or potentially as additional content for the Affirmative Constructive.

Rehabilitation Fails Human Dignity

Political theorist Marc F. Plattner explains that the rehabilitative ideal can treat offenders as products of pathology rather than morally responsible agents:

> Plattner, Marc F. 1976. The rehabilitation of punishment. *The Public interest*. Summer, https://www.proquest.com/magazines/rehabilitation-punishment/docview/1298107362/se-2 (accessed May 26, 2026).
>
> The dynamics of this abrupt 180-degree turn in elite opinion are fascinating, and reveal a good deal about the situation of American social thought in the mid-1970s. The old consensus in favor of rehabilitation had been based on the liberal embrace of what Daniel P. Moynihan has called (in a slightly different context) the "therapeutic ethic." That is, political liberalism came to accept the understanding of man and society associated with the dominant trends in the behavioral sciences and psychiatry. This included a view of crime as a form of "deviant" behavior, whose causes lay in individual or social pathology. Hence criminals could not properly be regarded as bearing moral responsibility for their actions, or as deserving of punishment. Instead, they were themselves the victims of some kind of social or psychological "disorder," and were thus in need of treatment by experts in the behavioral sciences.

Impact: Rehabilitation fails justice when it becomes the highest value because it can reduce the offender to a problem to be solved instead of a person to be judged. Brokenness, environment, trauma, or addiction may help explain behavior, but they cannot erase responsibility. Retribution is stronger because it treats the offender as a moral person whose choices matter. It says: you acted, your action had meaning, and you are accountable for the wrong you chose. Rehabilitation may help restore the offender after accountability, but if it replaces accountability, it denies the very agency that makes dignity possible.

Rehabilitation Results in Uncertain Justice

Political theorist Marc F. Plattner explains that rehabilitation creates uncertainty because punishment depends on predicting when an offender has been “cured”:

> Plattner, Marc F. 1976. The rehabilitation of punishment. *The Public interest*. Summer, https://www.proquest.com/magazines/rehabilitation-punishment/docview/1298107362/se-2 (accessed May 26, 2026).
>
> Since the amount of treatment required obviously varied depending upon the characteristics of the individual offender, judges were granted wide discretion in deciding the length of the sentence (e.g., one to 20 years). And since the criminal's potential for responding to rehabilitative techniques could not be accurately predicted in advance, parole boards were given wide discretion in deciding whether and when to release a convict before he had served the maximum term imposed by the court. (According to the strict rehabilitative theory, of course, there should be no legislatively or judicially imposed maxima or minima at all; sentences should be totally indeterminate, with behavioral experts enjoying complete freedom to determine when an offender had been sufficiently "cured" of his criminal tendencies to return safely to society.) Although the involuntary confinement of the convict for purposes of treatment curiously resembled a form of punishment, proponents of the rehabilitative theory denied that any punitive intention was involved, citing as an analogy the involuntary confinement of the mentally ill. Punishment and the punitive attitude, they argued, were an expression of a barbaric desire for vengeance, which had no place in an enlightened modern society.

Impact: Rehabilitation results in uncertain justice because it makes punishment depend on a future transformation the system cannot guarantee or accurately predict. If justice is tied to whether the offender reforms, then the system never has a clear moral endpoint. Experts may wrongly conclude that an offender has been rehabilitated, or continue confinement because they are unsure. Retribution is stronger because it gives justice a definite endpoint: impose the proportionate punishment, require the offender to serve it, and the moral debt has been answered.

Early Release, Undermined Justice

The *Los Angeles Times* reported that Kenneth McDuff was originally sent to death row for murdering three teenagers, had his sentence commuted after the Supreme Court death penalty decisions, and was later paroled. After his release, he murdered again.

> Associated Press. "Murderer Once Freed Dies for Killing Again." *Los Angeles Times*, November 18, 1998. https://www.latimes.com/archives/la-xpm-1998-nov-18-mn-44169-story.html
>
> But while he awaited execution, the Supreme Court in 1972 struck down the death penalty as unconstitutional, and McDuff's sentence was commuted to life in prison. He won parole about 17 years later when parole board members, facing overcrowded Texas prisons, released him along with thousands of other inmates. Northrup and Reed were killed a short time later.

Impact: This illustrates the danger of treating punishment as something that can be relaxed before justice is fully satisfied. McDuff's release was not merely a failed prediction about reform; it was a failure to honor the moral seriousness of the original crimes. A system that prioritizes release over repaid moral debts risks ending accountability before justice is complete. In this case, innocent people paid the price.

Retribution Vindicates Victims

Political philosopher Jean Hampton explains that punishment matters because it publicly recognizes the victim's moral injury:

> Hampton, Jean. "The Moral Education Theory of Punishment." *Philosophy & Public Affairs* 13, no. 3 (1984): 208–38. http://www.jstor.org.stetson.idm.oclc.org/stable/2265412.
>
> Moreover, if one understands punishment as a moral message aimed at educating both the wrongdoer and the rest of society about the immorality of the offense, one has a powerful explanation (at least as powerful as the one offered by retributivism) of why victims so badly want their assailants punished. If the point of punishment is to convey to the criminal (and others) that the criminal wronged the victim, then punishment is implicitly recognizing the victim's plight, and honoring the moral claims of that individual. Punishment affinns as a fact that the victim has been wronged, and as a fact that he is owed a certain kind of treatment from others. Hence, on this view, it is natural for the victim to demand punishment because it is a way for the community to restore his moral status after it has been damaged by his assailant.

Impact: Retribution should be preferred because punishment vindicates the victim, not just the offender. Crime is not merely bad behavior to be corrected; it is a moral injury that treats the victim's rights and dignity as disposable. Rehabilitation may improve the offender, but it does not necessarily restore the victim's moral status. If rehabilitation comes first, the system risks centering the offender's growth while leaving the victim insufficiently vindicated. Retribution gives punishment its moral force: the victim mattered, the wrong was real, and justice requires accountability.

Retribution is Not Revenge

Law professor Michael O'Hear explains that contemporary retribution is not vengeance, but a principled moral response to wrongdoing:

> O'Hear, Michael M. "Beyond Rehabilitation: A New Theory of Indeterminate Sentencing." *American Criminal Law Review* 48, no. 3 (2011): 1247-1292. HeinOnline.
>
> In the popular imagination, "retribution" may be equated with vengeance or the talionic law of "an eye for an eye," but contemporary retributive theories do not aim for some sort of equalization of the suffering of victims and offenders as an end in itself. Rather, many leading contemporary theorists see punishment (if properly understood and structured along retributive lines) as a form of communication-as a morally fitting way for society to express its condemnation of criminal wrongdoing and to vindicate the worth of victims. This communicative aim is seen as capable of justifying punishment without regard to the sorts of crime-control benefits that utilitarians emphasize as the purpose of punishment.

Impact: Retribution should not be dismissed as revenge. Revenge is personal, emotional, and unlimited by principle. Retribution is different. It is public, proportional, and morally accountable. It does not punish for suffering's sake. It turns punishment into an expression of disapproval rather than a private act of retaliation.

Additional Quotes

Justice is Essential

Kant, Immanuel. *The Metaphysics of Morals*. Translated by Mary Gregor. Cambridge: Cambridge University Press, 1991.

The principle of punishment is a categorical imperative, and woe to him who crawls through the windings of eudaemonism in order to discover something that releases the criminal from punishment or even reduces its amount by the advantage it promises, in accordance with the Pharisaical saying, "It is better for one man to die than for an entire people to perish." For if justice goes, there is no longer any value in men's living on the earth. What, therefore, should one think of the proposal to preserve the life of a criminal sentenced to death if he agrees to let dangerous experiments be made on him and is lucky enough to survive them, so that in this way physicians learn something new of benefit to the commonwealth? A court would reject with contempt such a proposal from a medical college, for justice ceases to be justice if it can be bought for any price whatsoever.

Rehabilitation Turns Compassion Into Coercion

Lewis, C. S. (1987) "The Humanitarian Theory of Punishment," *Issues in Religion and Psychotherapy*: Vol. 13: No. 1, Article 11.

It is, indeed, important to notice that my argument so far supposes no evil intentions on the part of the Humanitarian and considers only what is involved in the logic of his position. My contention is that good men (not bad men) consistently acting upon that position would act as cruelly and unjustly as the greatest tyrants. They might in some respects act even worse. Of all tyrannies a tyranny sincerely exercised for the good of its victims may be the most oppressive. It may be better to live under robber barons than under omnipotent moral busybodies. The robber baron's cruelty may sometimes sleep, his cupidity may at some point be satiated; but those who torment us for our own good will torment us without end for they do so with the approval of their own conscience. They may be more likely to go to Heaven yet at the same time likelier to make a Hell of earth. Their very kindness stings with intolerable insult.