2026-27 Value Debate Sample Affirmative Case:

Value of Justice

I. Introduction

A society that refuses to impose deserved punishment isn't showing mercy. It's abandoning justice. When wrongdoing creates a debt, justice demands that it is paid. I stand **resolved: It is just for a criminal justice system to value retribution over rehabilitation.**

II. Definitions

According to Cornell Law School's Legal Information Institute, **retributivism** is the theory that "wrongdoers should be punished for their wrongdoing proportionate to the severity of their crime rather than to deter future crime or to rehabilitate them."[1]

Rehabilitation, according to *Encyclopedia Britannica*, is "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."[2]

III. Value: Justice

The Institutes of Justinian defines justice as "the set and constant purpose which gives to every man his due."[3] As understood by both ancient philosophers like Aristotle[4] and modern legal philosophers like Neil MacCormick[5], justice requires that like cases be treated alike and relevant differences be treated proportionally. In the context of punishment, that means justice requires equality, because equal wrongdoing should receive equal treatment; proportionality, because

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[1] Cornell Law School Legal Information Institute, "Retributivism," *Wex*, last reviewed July 2023, https://www.law.cornell.edu/wex/retributivism (See Endnote 1)

[2] Antony Nicolas Allott, "Punishment," *Encyclopaedia Britannica*, accessed May 15, 2026, https://www.britannica.com/topic/punishment/Rehabilitation (See Endnote 2)

[3] Justinian I, Institutes, trans. J. B. Moyle (Oxford: Oxford University Press, 1911), bk. 1, tit. 1. (See Endnote 3)

[4] Aristotle, Nicomachean Ethics, trans. W. D. Ross, Book V, in The Internet Classics Archive, Massachusetts Institute of Technology, accessed April 2026, https://classics.mit.edu/Aristotle/nicomachaen.html (See Endnote 4)

[5] Neil MacCormick. "Formal Justice and the Form of Legal Arguments." *Logique et Analyse* 19, no. 73 (1976): 103–18. http://www.jstor.org/stable/44084511. (See Endnote 5)

punishment must fit the offense; and accountability, because only responsible moral agents can deserve punishment.

IV. Criterion: Repaid Moral Debt

The best way to measure justice is by asking whether an offender's moral debt to society has been repaid. When a person commits a crime, they violate a moral obligation owed to the community, creating an imbalance between what is deserved and what has occurred. As philosopher Hegel argues, "punishment is regarded as containing the criminal's right and hence by being punished he is honoured as a rational being. He does not receive this due of honour unless the concept and measure of his punishment are derived from his own act."[6] A just system is therefore one that requires repayment through a proportionate response by society to wrongdoing.

V. Contentions

Contention 1: Retribution Upholds Justice

If justice means giving each person what they are due, then punishment must be aimed at repaying moral debt. That is what retribution provides.

Subpoint a: Retribution Upholds Equality

Retribution upholds equality because it requires that like cases be treated alike. When two offenders commit the same crime with the same culpability, justice demands the same basic moral response. By tying punishment to the offense rather than to personality, sympathy, or reform potential, retribution preserves equality before the law. A system is just only if punishment tracks wrongdoing rather than the variable traits of the offender.

Subpoint b: Retribution Upholds Accountability

Retribution upholds accountability because it treats offenders as responsible moral agents. Crime is not merely a condition to be managed. It is a wrongful act for which a person can be held accountable. As C.S. Lewis writes, "But to be punished, however severely, because we have deserved it, because we 'ought to have known better,' is to be treated as a human person made in God's Image."[7] In other words, deserved punishment affirms human agency by recognizing that

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[6] G. W. F. Hegel, *Philosophy of Right*, "First Part: Abstract Right, iii. Wrong," § 100, Marxists Internet Archive, accessed May 15, 2026, https://www.marxists.org/reference/archive/hegel/works/pr/prwrong.htm (See Endnote 6)

[7] Lewis, C. S. (1987) "The Humanitarian Theory of Punishment," *Issues in Religion and Psychotherapy*: Vol. 13: No. 1, Article 11. (See Endnote 7)

choices have moral significance. Retribution does not deny dignity. It takes dignity seriously enough to hold persons accountable for what they do.

Subpoint c: Retribution Upholds Proportionality

Retribution upholds proportionality because it limits punishment to what is deserved. A just system may neither punish too harshly nor too leniently. This is why retribution is not revenge. Revenge is personal, emotional, and excessive, while retribution is principled and constrained by culpability. By requiring punishment to fit the crime, retribution ensures that justice remains measured rather than arbitrary.

Contention 2: Rehabilitation Fails Justice

Rehabilitation fails justice because it shifts punishment away from what is owed and toward utility. Once punishment is justified by rehabilitation, justice stops being a moral standard and becomes a tool. As Immanuel Kant argues, "Punishment by a court (*poena forensis*) – this is distinct from natural punishment (poena naturalis), in which vice punishes itself and which the legislator does not take into account – can never be inflicted merely as a means to promote some other good for the criminal himself or for civil society. It must always be inflicted upon him only because he has committed a crime."[8] In other words, punishment may produce benefits, but those benefits cannot be its primary justification. Rehabilitation might be useful as a secondary good, but it cannot be the highest value of a just system.

Thought Experiment 1: Equal Crime, Unequal Justice

Imagine two people commit the same armed robbery with the same intent and the same harm. Offender A is articulate, cooperative, and progresses quickly in programs. Offender B is traumatized, addicted, and struggles to improve. In a rehabilitation-first system, A gets treatment and early release while B gets longer confinement because he is harder to "fix." But if the wrongdoing is the same, the moral debt is the same. A system that values rehabilitation above retribution necessarily makes punishment contingent on personality, compliance, and reform potential. That violates justice's demand for equality.

Thought Experiment 2: Debt Unpaid

Imagine there's a program that guarantees an offender will never commit that crime again. Full reform, stable self-control, no future danger. If rehabilitation is the highest value, then punishment loses its justification the moment future risk disappears. But justice is not satisfied because someone becomes safe. Justice is satisfied when the moral debt created by the wrong already done is paid.

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[8] Immanuel Kant, *The Metaphysics of Morals*, trans. Mary Gregor (Cambridge: Cambridge University Press, 1991), 6:331. (See Endnote 8)

Rehabilitation may follow justice, but it cannot replace it. A system that values rehabilitation over retribution abandons equality and moral accountability, and in doing so, abandons justice itself.

Endnotes

Endnote 1 – Definition of Retributivism

Cornell Law School Legal Information Institute. "Retributivism." *Wex*. Last reviewed July 2023. https://www.law.cornell.edu/wex/retributivism

Retributivism is a theory of criminal punishment which states that wrongdoers should be punished for their wrongdoing proportionate to the severity of their crime rather than to deter future crime or to rehabilitate them. In other words, society seeks retribution from the wrongdoer and punishes them according to the perceived wrongfulness of their actions. Proportionality of the punishment to the crime is an important aspect of retributivism. For example, capital punishment for a petty larceny would be considered to be a punishment that is not proportionate to the crime committed and as such does not serve the purposes of retributivism.

Retributivist ideology has been around since the genesis of criminal punishment and has been seen throughout many ancient civilizations. The United States has partially adopted retributivism in the criminal justice system in the form of mandatory sentencing requirements.

Critics of retributivism claim that the theory fails to consider underlying factors that may have contributed to the wrongful act and therefore punishments that are not proportionate to the crime committed are frequently given.

Endnote 2 – Definition of Rehabilitation

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.

Endnote 3 – Justinian (Value)

Justinian I. Institutes. Translated by J. B. Moyle. Oxford: Oxford University Press, 1911. Page 4. https://amesfoundation.law.harvard.edu/digital/CJCiv/JInst.pdf. Accessed May 2026.

JUSTICE is the set and constant purpose which gives to every man his due.

1. Jurisprudence is the knowledge of things divine and human, the science of the just and the unjust.

2. Having laid down these general definitions, and our object being the exposition of the law of the Roman people, we think that the most advantageous plan will be to commence with an easy and simple path, and then to proceed to details with a most careful and scrupulous exactness of interpretation. Otherwise, if we begin by burdening the student's memory, as yet weak and untrained, with a multitude and variety of matters, one of two things will happen: either we shall cause him wholly to desert the study of law, or else we shall bring him at last, after great labour, and often, too, distrustful of his own powers (the commonest cause, among the young, of ill-success), to a point which he might have reached earlier, without such labour and confident in himself, had he been led along a smoother path.

3. The precepts of the law are these: to live honestly, to injure no one, and to give every man his due.

4. The study of law consists of two branches, law public, and law private. The former relates to the welfare of the Roman State; the latter to the advantage of the individual citizen. Of private law then we may say that it is of threefold origin, being collected from the precepts of nature, from those of the law of nations, or from those of the civil law of Rome.

Endnote 4 - Aristotle (Value)

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

"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."

Endnote 5 - MacCormick (Value)

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.

Endnote 6 - Hegel (Criterion)

Hegel, G. W. F. *Philosophy of Right*. "First Part: Abstract Right, iii. Wrong." Marxists Internet Archive. Accessed May 15, 2026. https://www.marxists.org/reference/archive/hegel/works/pr/prwrong.htm

As is well known, Beccaria denied to the state the right of inflicting capital punishment. His reason was that it could not be presumed that the readiness of individuals to allow themselves to be executed was included in the social contract, and that in fact the contrary would have to be assumed. But the state is not a contract at all (see Remark to § 75) nor is its fundamental essence the unconditional protection and guarantee of the life and property of members of the public as individuals. On the contrary, it is that higher entity which even lays claim to this very life and property and demands its sacrifice. Further, what is involved in the action of the criminal is not only the concept of crime, the rational aspect present in crime as such whether the individual wills it or not, the aspect which the state has to vindicate, but also the abstract rationality of the individual's volition.

Since that is so, punishment is regarded as containing the criminal's right and hence by being punished he is honoured as a rational being. He does not receive this due of honour unless the concept and measure of his punishment are derived from his own act. Still less does he receive it if he is treated either as a harmful animal who has to be made harmless, or with a view to deterring and reforming him.

Moreover, apart from these considerations, the form in which the righting of wrong exists in the state, namely punishment, is not its only wrong.

Endnote 7 - Lewis (Contention 1, subpoint b)

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

To be 'cured' against one's will and cured of states which we may not regard as disease is to be put on a level with those who have not yet reached the age of reason or those who never will; to be classed with infants, imbeciles, and domestic animals. But to be punished, however severely, because we have deserved it, because we 'ought to have known better', is to be treated as a human person made in God's image.

Endnote 8 - Kant (Contention 2)

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

Punishment by a court (*poena forensis*) — this is distinct from natural punishment (*poena naturalis*), in which vice punishes itself and which the legislator does not take into account — can never be inflicted merely as a means to promote some other good for the criminal himself or for civil society. It must always be inflicted upon him only because he has committed a crime. For a man can never be treated merely as a means to the purposes of another or be put among the objects of rights to things: His innate personality protects him from this, even though he can be condemned to lose his civil personality. He must previously have been found punishable before any thought can be given to drawing from his punishment something of use for himself or his fellow citizens. 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.