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## Value Resolution Background Paper

***Resolved: It is just for a criminal justice system to value retribution over rehabilitation.***

### Background

This year, debaters are invited to assess what justice means in the context of how a society treats lawbreakers. This is a classic debate between whether a society should primarily value making offenders pay the price for their wrongful behaviors, or instead prioritize an approach that values reconciliation and reintegration of offenders with their communities. This question gives rise to a variety of foundational philosophical considerations:

- What is a society's interest in punishing wrongful behaviors?
- What is a society's right in punishing its members? What is the extent of such a right?
- What is justice? What does it mean to give each person their "due"?
- What does it mean for a society to "uphold" justice?
- Is it just for a society to exact revenge upon a wrongdoer?
- Is it just for a society to deter wrongful behavior?
- Is it just to reintegrate wrongdoers back into society?
- Is it just for a society to use limited resources to rehabilitate lawbreakers?

The affirmative side of this resolution is rooted in the belief that retribution is the most just goal for a society's criminal justice system. There are varied arguments the affirmative may utilize to support why retribution is a more just means of operating a criminal justice system. Many of these arguments will tie back to a fundamental belief that the more clearly a society defines its criminal justice structure, laws, and sentences, the more justly it can treat its members. This belief partly stems from Thomas Hobbes' and John Locke's social contract theory, which asserts that a society only exists insofar as it operates in accordance with the set of moral and political standards that are implicitly agreed to by its members.<sup>1</sup> Therefore, a society's just role in enforcing social norms must be limited to predetermined and unambiguous, not reactive and individualized, punishment.

The negative side of this resolution is rooted in the conviction that the most just way to treat wrongdoers in a society is by taking into consideration their individual circumstances and treating not just the wrongful action, but rather the underlying attitudes and circumstances that gave rise to the wrongful behavior. The negative may appeal to many arguments, but most of them are rooted in a holistic view of what is best for society and offenders rather than a focus on strict payment for individual crimes. Since rehabilitation is the least contentious

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<sup>1</sup> <https://iep.utm.edu/soc-cont/>

means to administer accountability and requires the least amount of oppression by a governing body, this is the most just means for a criminal justice system to administer punishment.

## Resolutational Definitions

Defining essential resolution terms is necessary in order to ensure that the debate takes place with a shared understanding. Effective definitions anchor the intent of the resolution and create a coherent framework for evaluating competing claims. When key terms are left vague or are interpreted inconsistently, debates risk shifting away from the substance of the resolution and toward misunderstandings about scope or application. Resolution-aligned definitions help direct this debate toward the resolution's philosophical implications.

While debaters are expected to adopt interpretations that are reasonable and mutually fair, legitimate disputes over definitions can and do arise. Resolving these disputes requires more than appealing to authority or source credibility. A defensible definition must be shown to meaningfully correspond to the resolution's context and purpose. One way to test a definition's adequacy is through counterexamples. If the definition excludes cases that clearly belong under the resolution or includes cases that fall outside of its scope, this signals a mismatch between the definition and the resolution it is meant to explain.

Here are some definitions you can consider for the key terms of the resolution:

**Just** – Because “just” is the central term of the resolution, debaters must consider and discuss how justice itself should be understood when evaluating punishment. Dictionaries and philosophers have differing conceptions of justice, and it is up to debaters to advocate for a particular understanding.

- “fair; morally correct” ([Cambridge Dictionary](#))
- “Exactly proportioned; proper” ([Webster's Dictionary 1928](#))
- “In a moral sense, upright; honest; having principles of rectitude; or conforming exactly to the laws, and to principles of rectitude in social conduct” ([Webster's Dictionary 1928](#))
- “Equitable; due; merited” ([Webster's Dictionary 1928](#))
- “Impartial; allowing what is due; giving fair representation of character, merit or demerit.” ([Webster's Dictionary 1928](#))

**Criminal Justice** – “Criminal justice refers to the formal processes and institutions that have been established to apprehend, try, punish, and treat law violators” ([Office of Justice Programs](#))

**Criminal Justice System** – “The criminal justice system is the network of government and private agencies intended to manage accused and convicted criminals. The criminal justice

system is comprised of multiple interrelated pillars, consisting of academia, law enforcement, forensic services, the judiciary, and corrections.” ([Science Direct](#))

**Value** – “to consider something as important and worth having” ([Cambridge Dictionary](#))

**Retribution** – “a form of punishment given to an offender with the aim to repay or seek revenge for the wrongdoing they committed” ([Justia Legal Dictionary](#))

**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” ([Britannica](#))

## Resolutional Analysis

### Actor

This resolution is different from many recent resolutions because it specifies the actor, the entity taking actions according to possible values. In this case, the actor is a criminal justice system of some sort—though not specifically the United States criminal justice system. **As always, value resolutions are timeless and relevant to all societies.**

A criminal justice system is concerned with what happens when the established law is broken. It’s not the system of establishing the law itself, nor of governing a nation generally, but rather the system that deals with what follows the breaking of a law.

A criminal justice system is, however, always embedded within a larger system of government tasked with making and executing law on the behalf of a population. A society can never separate criminal justice from its societal context. Some elements of the resolution may involve exploring that context—how does a society decide to even form a system to deal with criminals based on the requirements of justice?

At the same time, the resolution limits debaters to consider transgressions in society, which demands an awareness of the role criminal justice serves in securing the goods of that society and protecting the same. An actor always requires values to be considered from a perspective, and in this case that perspective is one that is dedicated to the good of a society.

### Real-World Implementations

What do retribution and rehabilitation look like? Debaters can easily draw on examples from many historical and present-day legal structures. Our earliest legal documents, such as the Code of Hammurabi, are largely retributive in their view of justice by assigning punishments fitting for each crime—and often prescribing the death penalty. For instance, if you harm someone’s eye, your eye can be taken in turn. If you take from a person, you must repay it, sometimes twice what you took. These principles aimed to create a safe and stable society under the principle that justice concerns repaying your debts to victims, society, or the law

itself.<sup>2</sup> While the Code of Hammurabi is ancient, the same principles of deterrence and restitution have been used to inform many modern criminal justice systems today around the world. While few systems are purely retributive, the United States, South Korea, South Africa, and Germany have systems that prioritize deterrence and paying restitution through tools such as mandatory minimum sentences, punitive prison sentences, and use of the death penalty.<sup>3</sup>

In the modern world, there are also many examples of rehabilitative programs. These programs operate on the belief that justice is not fully satisfied if criminals themselves are not restored as well as victims and society. To meet this goal, rehabilitative programs focus on education, community service and work, and psychological or therapeutic treatment in order to address the reasons crime was committed in the first place. As above, few if any systems are purely rehabilitative and typically include retributive elements, but Norway, Japan, and Finland are systems that highly emphasize rehabilitative programs.<sup>4</sup>

We can therefore begin to see several points of conflict between retribution and rehabilitation as implemented in society. Is justice best served by purely punishing wrongs and restoring victims, or by restoring victims and criminals alike? Which is the more just way to deter crime: helping criminals overcome their behavior in order to become good neighbors or implementing stiff punishments that make people think twice before committing a crime? Is it just to use limited resources to provide services to criminals through rehabilitation that some law-abiding citizens cannot afford? These and other points of conflict could be examined at the level of the individuals—be they victim, bystander, or criminal—or at the level of the society itself and the outcomes produced in it.

In addition to these obvious points of conflict, there is a deeper conflict that lies at the very heart of this resolution: opposing frameworks for understanding justice.

## Frameworks for Justice

The central question driving this resolution is *What is justice?* Once that question is answered, we can then ask how we can act in accordance with justice. We all likely have an innate sense of justice, but once we start to think more deeply about it, justice can be a complex, multifaceted, and difficult to contain concept. In order to see this, let's begin with a simple and common definition of justice, and then see how it becomes complex in four particular ways.

A simple and popular definition of justice is “rendering each person his or her due.” By this we mean that justice is the state where everyone receives what is appropriate for them (whether good or bad), and does not receive what is inappropriate for them. Taking this simple

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<sup>2</sup><https://cdli.earth/artifacts/464358>

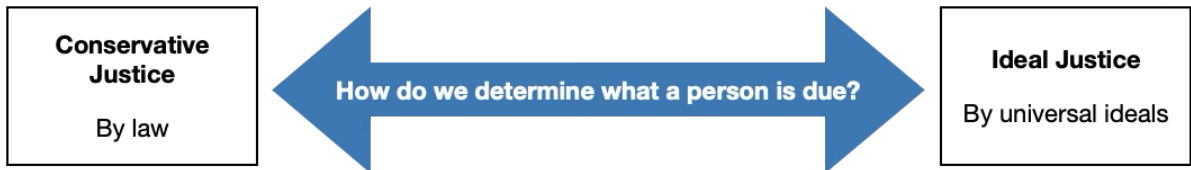
<sup>3</sup> See criteria for what makes a system retributive:  
<https://plato.stanford.edu/entries/justice-retributive/>

<sup>4</sup><https://sites.psu.edu/aspsy/2024/10/20/rehabilitation-in-the-criminal-justice-system-shifting-from-punishment-to-progress/>  
<https://globcci.org/wp-content/uploads/2023/02/Rehabilitation-Programs-in-Japan-2021.pdf>  
<https://www.calwellness.org/stories/lessons-prisons-finland-norway/>

definition, let us explore four nuances of it. Much of this information is drawn from the [Stanford Encyclopedia of Philosophy article on Justice](#).

## Conservative vs. Ideal Justice

The first question we need to put to our definition is “how do we determine what a person is due?” There are two simple and compelling, but contradictory, answers to this.



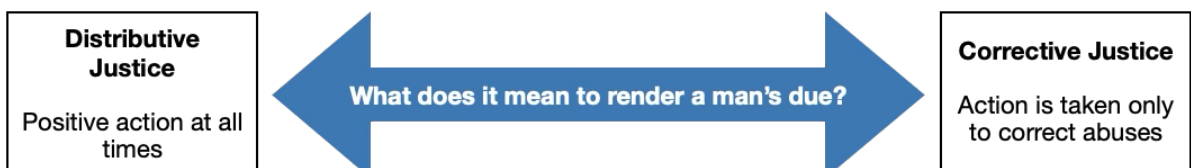
**Conservative Justice** (championed by figures such as David Hume<sup>5</sup> or Friedrich Hayek<sup>6</sup>) is the stance that a person’s due is established by the law, and so justice is the state of action according to the law as it is established. Questions of what the law ought to be are not the domain of justice under this position. Rather, they are concerns of some other philosophy, and justice simply exists within the rules that are set.

**Ideal Justice** is the opposite view: justice demands conformance to absolute, universal, or ideal rules which hold above and beyond all human laws. This view is the more traditional one held by figures such as Thomas Aquinas<sup>7</sup> and Plato<sup>8</sup>. Under ideal justice, the law itself can be unjust if it is not in accordance with higher moral or divine laws, and the question of a man’s due requires understanding and applying those universal ideals.

As an example, conservative justice might say that justice is only concerned with giving out pie to everyone according to the rules as we have set them, while ideal justice will look into nature to find out how we can make our rules match the divine rules so everyone receives the eternally right portions of pie.

## Distributive vs. Corrective Justice

Now that we have a standard for what a man is due, we must ask what it means to “render” a man’s due to him. Yet again, there are two answers we could give, though these two answers lie at the ends of a spectrum of possible views.



<sup>5</sup> [https://ciaotest.cc.columbia.edu/olj/cr/cr\\_v14\\_4\\_yem01.pdf](https://ciaotest.cc.columbia.edu/olj/cr/cr_v14_4_yem01.pdf)

<sup>6</sup> <https://www.econlib.org/library/columns/y2022/lemieuxsocialjustice.html>

<sup>7</sup> <https://iep.utm.edu/thomasaquinas-moral-philosophy/>

<sup>8</sup> <https://iep.utm.edu/platopol/#H3>

The first position, **Distributive Justice**, claims that justice requires us to take proactive actions to create a condition of justice in the world. This requires someone whose role is that of ensuring that everyone receives their due always, in accordance with the rights, dues, or needs of various members of a society. Aristotle illustrates this idea by saying that if society does not have enough flutes for everyone to have them, then they should be given to the best players.<sup>9</sup>

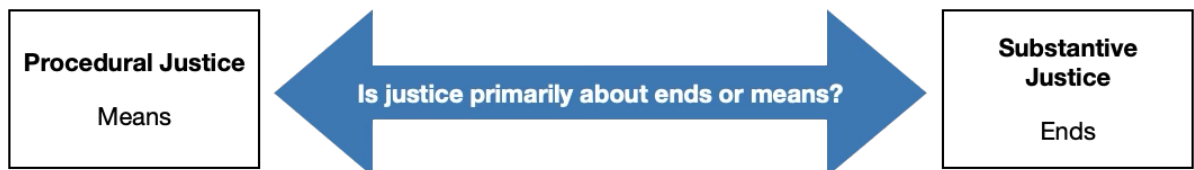
**Corrective Justice** takes a more hands-off approach, assuming that justice requires someone whose role is to correct abuses against the standards of justice, but to do no more. A question of ensuring someone their due only comes into play when there is reason to think they have been denied it, rather than always attempting to give persons their due according to their rights or needs.

This dichotomy is less strict than conservative versus ideal justice, and there are a range of opinions all along the line from distribution to correction. It would be unwise to advocate for only the extremes of the spectrum, and society as we know it basically never does.

To go back to the pie example, we can say that a distributive justice seeks to provide pie to everyone in society, while a corrective justice simply punishes anyone who takes pie that isn't theirs.

## Procedural vs. Substantive Justice

The next distinction we could draw is this: Is justice primarily about ends or means? This is the distinction between procedural and substantive justice.



**Procedural Justice** tells us that the most important element of justice is ensuring that the processes and laws we have are consistent and predictable and fair in ensuring people receive their due, even if the rigidity of those methods sometimes results in us missing the mark.

On the other hand, **Substantive Justice** places the focus on the outcomes and concrete results of our systems of justice. If a system leads to people receiving their due, then the methods themselves are less important.

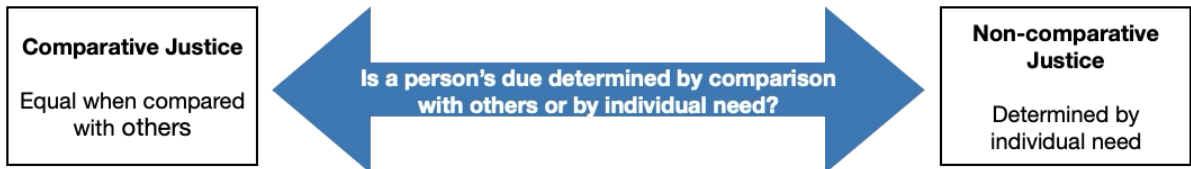
This conflict is surprisingly constant. If you look for it in the news, you will see this distinction all the time. Just as with distributive versus corrective justice, there can exist a spectrum of different opinions between the ends of this spectrum, though some people will actually hold to the extremes here.

<sup>2</sup> [https://contextus.org/Aristotle%2C The Politics%2C Book Three%2C Part Eleven.3?lang=en](https://contextus.org/Aristotle%2C%20The%20Politics%2C%20Book%20Three%2C%20Part%20Eleven.3?lang=en)

Procedural justice says that pie distribution has to be fair each and every time, like insisting that we have to give out pie every Tuesday to each person in order of oldest to youngest. Substantive justice doesn't care about methods as long as everyone gets pie at the end of the day, even if we do it differently each time.

## Comparative vs. Non-Comparative Justice

This last question is a simple one: does one person's due depend on another person's, or is each person's due determined by individual need?



On the one hand, as **Comparative Justice** holds, if we are to justly distribute anything among people, we should do so in a fair and even way. That is, if we are giving out a pie to six people, we should cut it into six equal pieces.

On the other hand, **Non-Comparative Justice** states that each person's due is determined based on themselves alone, not on anyone else. So, if we give out a pie, we should give everyone enough pie for them regardless of how much pie we give to anyone else. Maybe someone smaller deserves half a slice and someone bigger deserves a full slice, because they have different calorie needs.

This issue will be an important one for debaters this year: does all justice have to be equal? Or, do unique persons justly deserve unique approaches?

Hopefully these four distinctions illustrate just a few of the ways that the seemingly simple concept of justice is really quite deep and complex.

There is one last question that will play a deeply critical part of this debate: *Who is justice for?* While the answer to this question seems to obviously be that justice is for the person receiving their due, there are many theorists who would disagree. Maybe justice is for the good of society itself. This question is primarily about whether we decide to center our philosophical concern on the individual, or on something larger such as society or the world. We are often habituated to think in individualist ways (America is an extremely individualistic nation), but challenging that pattern of thought can often lead us to productive and beautiful answers. In this resolution, for example, many of the consequences of justice extend far beyond the individual criminal. What of their victims? What of their society and community? What even of future people? Actions have wide ranging consequences, and deciding the scope of justice is very important. The question of who justice is for is a rich area for further exploration.

## Potential Affirmative Values

Although justice is the primary lens through which both the affirmative and negative sides should view this resolution, supporting values can come into play as we consider what justice means and requires in the context of a criminal justice system.

### Equality

Equality is most consistent with conceptions of justice that emphasize comparative fairness and procedural consistency. Justice that emphasizes equality requires equal moral consideration and non-arbitrary treatment among individuals. This view holds that justice demands that persons be treated as equals unless a morally relevant difference justifies unequal treatment. Equality therefore serves as the default standard of justice. When individuals are similarly situated, justice requires that they receive the same treatment, benefits, and protections under shared rules.

Valuing equality thus requires an emphasis on consistency and uniformity in punishment. Similar offenses committed under similar circumstances ought to result in similar punishments. This ensures that no offender is advantaged or disadvantaged by factors such as background, identity, or subjective assessments of reform potential. A system that prioritizes retribution better satisfies the demands of equality by anchoring punishment to the offense itself, whereas rehabilitation risks introducing unequal outcomes by tailoring punishments to the individual, rather than to shared standards.

### Utility

Utility is a compelling value when adopting a distributive or substantive conception of justice that prioritizes outcomes and the broader well-being of society. Under a utilitarian conception, justice is understood in terms of the rules and practices that best promote overall well-being. This view holds that principles of justice are justified insofar as they form part of a system of rules which produce the greatest benefit for society. On this account, justice is not opposed to utility but is a structured expression of it: rules governing punishment, reward, and social cooperation are considered just when they reliably generate beneficial consequences such as social stability, deterrence of harm, and public trust.

This conception supports punishment practices that promote predictable and socially beneficial outcomes. Retributive rules may deter crime, reinforce shared norms, and sustain confidence in the legal system. Rather than evaluating punishment by whether the offender received what was “due,” justice as utility ultimately evaluates punishment by its effects—whether the rules governing punishment tend to maximize overall welfare when adopted as a general practice.

## Moral Order

Moral order aligns most closely with ideal and corrective conceptions of justice that emphasize accountability and the maintenance of shared structures. A society that values moral order can pursue justice by recognizing wrongdoing as a moral breach that must be addressed in order to maintain the integrity of its norms. Valuing moral order supports retribution because proportionate punishment publicly affirms the seriousness of moral violations and reinforces the boundaries that allow communities to function. When a crime is committed, a moral imbalance is created that must be addressed through proportionate punishment. Retribution satisfies this requirement by publicly acknowledging the wrongness of the offense and reaffirming the norms that were violated. A system that prioritizes rehabilitation risks treating wrongdoing as a mere social malfunction to be corrected rather than a moral breach that demands recognition. Thus, valuing retribution over rehabilitation preserves the integrity and authority of the moral standards underlying the criminal justice system.

## Potential Negative Values

### Equality

Under a non-comparative view of justice, a just philosophical approach to dealing with offenses would be one that treats each offender proportionally, and therefore equally, in relation to their individual circumstances.

Aristotle developed this view, arguing that equality is best understood as proportional rather than numerical. Numerical equality is when all individuals are treated as indistinguishable. However, numerical equality is only truly equal when everyone involved is identical.<sup>10</sup> For example, it is equal to compare one apple to another, but unequal to compare an apple to an orange. They are both fruit, but their characteristics differ fundamentally. Therefore, we must compare the two in light of their *different circumstances*.

Aristotle provides that *proportional equality* provides the most equal, and therefore just, outcome in a situation of differing circumstances. Proportional equality treats each individual in light of their unique, or unequal, circumstances, trying to create the fairest result.<sup>11</sup> Proportional equality does not attempt to fit an apple into the standards for oranges or an orange into the standards for apples. Oranges are judged based on how they compare to other oranges, and the same for apples.

The criminal justice system is another great example of differing circumstances. All criminal acts are weighed on the scales of justice which bend based on aggravating and mitigating factors. No two criminal acts are exactly the same. Every criminal act is either diminished or exacerbated by factors such as the offender's prior criminal record, mental illness, or the fault

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<sup>10</sup> <https://plato.stanford.edu/entries/equality/#PropEqua>

<sup>11</sup> *Ibid.*

of the victim, if any.<sup>12</sup> Every offender also has different life circumstances, has committed different crimes with different intentions, and, therefore, has different levels of culpability. Therefore, the most equal and just approach to criminal justice is one that treats each offender proportionally to their circumstances.

## Punitive Legitimacy

Here, a substantive view of justice could be utilized to argue that rehabilitation best meets a value of punitive legitimacy.

John Locke's conception of the Social Contract Theory asserts that when individuals come together to form a society to protect their social, property, and individual interests, they give up their power to punish transgressors to the established governing body.<sup>13</sup> However, this does not give the governing body an absolute, unjustified right to punish at will as doing so would render the governing body tyrannical and punitively illegitimate as it operated outside of its society's social contract. Since the nature of punishment in the criminal justice system is some persons having a dominant power to deprive other persons, there is an unparalleled opportunity for an abuse of power that undermines a society's punitive legitimacy.<sup>14</sup> Therefore, a just philosophical approach to a criminal justice system would be one that upholds a society's punitive legitimacy through tempered inflictions of deprivation that maintain an offender's ability to perform their social contract duties. In other words, a system that endeavors to ultimately rehabilitate offenders.

Substantive justice focuses less on the procedure or means of punishment, but rather on the results: is how a society punishes actually effective in creating safer communities? Arguably, a society only has punitive legitimacy if its means of punishment results in the best possible outcomes. Therefore, rehabilitation is the more valuable means of criminal justice because it endeavors to achieve the best possible outcome.

## Human Dignity

Here, the ideal view of justice could be utilized to argue that conformity to the absolute and universal rule that each human has inherent dignity, apart from their actions, requires an approach to criminal justice that also reflects such a value.

Both secular and religious philosophers recognize that humans have a certain "distinctiveness" that intrinsically sets them apart from the rest of the material world.<sup>15</sup> As such, there is a certain respect, or dignity, that is owed to them, not for what their actions deserve, but rather for the value they hold as a human being. Since each human carries undeniable value, a just philosophical approach to a criminal justice system is one that treats offenders with dignity, offering pathways of redemption and reconciliation within the

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<sup>12</sup> <https://www.justia.com/criminal/aggravating-mitigating-factors/>

<sup>13</sup> <https://iep.utm.edu/soc-cont/#H2>

<sup>14</sup> <https://plato.stanford.edu/archives/fall2017/entries/punishment/>

<sup>15</sup> <https://plato.stanford.edu/entries/dignity/#ImagDeiPlat>

community. Therefore, rehabilitation is the method best equipped to treat every person with the inherent dignity they possess.

## Summary

This debate topic allows debaters to explore whether it is just for a criminal justice system to prioritize retribution over rehabilitation by examining competing philosophical conceptions of justice and their practical implications. The affirmative side argues that justice is best served through proportionate punishment rooted in social contract theory, procedural consistency, equality before the law, utility, and the preservation of moral order. From this view, retribution affirms shared norms, deters wrongdoing, and ensures that offenders receive their due in a predictable and impartial manner. The negative side contends that justice requires attention to individual circumstances, proportional equality, human dignity, and punitive legitimacy, emphasizing rehabilitation as a more humane and substantively effective approach that seeks to restore both offenders and society. By analyzing distinctions such as conservative versus ideal justice, distributive versus corrective justice, procedural versus substantive justice, and comparative versus non-comparative justice, debaters have the opportunity to highlight deeper philosophical tensions about what justice is, whom it serves, and how a society ought to respond to wrongdoing. Ultimately, the debate centers on whether justice is fulfilled primarily through deserved punishment or through transformative restoration.

## Other Sources

[Justice, Western Theories of | Internet Encyclopedia of Philosophy](#)

[Institutes of Justinian](#)

[The Republic](#)

[Retributive Justice | Stanford Encyclopedia of Philosophy](#)

[The Two Faces Of Justice: Retribution And Rehabilitation In Contemporary Society](#)