Societal Well-being   
—  
Negative Case by Benjamin Vincent

**Summary**

“One nation, under God, indivisible, with liberty and *justice* for all.”[[1]](#footnote-1)

We’ve all said the Pledge of Allegiance a good number of times in our lives. And I’m sure we all know why liberty is important; after all, the Constitution proclaims that the founders sought to “secure the blessings of liberty”[[2]](#footnote-2) for every generation of Americans. But what’s all this about justice? Doesn’t that just mean punishing the bad guys? What does it mean to seek justice for all?

Justice is one of the most essential and enduring values a society can uphold. Yet oftentimes, we lose sight of the nature and purpose of justice. What is justice really supposed to do? In order to establish the best possible justice system, we must consider the ultimate purpose of justice itself. When weighing the issue of competing criminal justice ideologies—rehabilitation and retribution—we must first determine what purpose we’re trying to pursue with our criminal justice system. That’s exactly what this negative case does: it establishes the superiority of retribution by demonstrating its connection to the most basic purpose of justice.

This negative case contends that the primary purpose of justice is to preserve and uphold societal well-being, a concept defined operationally as “the protection of both the people’s rights and their quality of life.” Ultimately, justice is supposed to make society function better. It’s intended to promote peaceable and mutually beneficial interaction between the people. Thus, criminal justice systems ought to be structured in a way that best achieves this goal.

The strength of this case lies in its philosophical roots. Rather than getting stuck in a factual debate or an application war, this case draws on the essential nature of things like justice, rehabilitation, and retribution in order determine their respective value. When running this negative, it’s important to remember what you’re arguing. This negative case doesn’t contend that rehabilitation is a bad thing. It also doesn’t build its argument on whether or not rehabilitation actually works. It simply argues that retribution and rehabilitation are different concepts that fulfill different roles, and that ultimately, retribution is fulfilling a more important goal. Your most important task in running this negative is to paint an accurate and reasonable picture of both sides of the resolution. Build the debate on the roles these principles fulfill, and show the judge why ultimately, retribution is simply more important.

Societal Well-being

If there is one thing that unites mankind more than anything else, it is probably our universal desire for justice. There is something within every one of us that cries out against what is unjust and unfair. Justice is the foundation of a good society and is absolutely essential to the establishment of a nation that defends the rights of its people above all else. For the protection of the overall well-being of society and the rights of the people, it is paramount that justice be upheld and carried out properly.

That is why I stand Resolved: Rehabilitation ought *not* be valued above retribution in criminal justice systems.

# Definitions

[Accept the affirmative definitions, unless they are drastically different from the ones below.]

[If necessary:] To ensure we all stay on the same page, I’d like to clarify a few definitions.

* Rehabilitation: “To restore or bring to a condition of health or useful and constructive activity… to teach (a criminal in prison) to live a normal and productive life.”[[3]](#footnote-3)
* Retribution: “The dispensing or receiving of reward or punishment especially in the hereafter… something given or exacted in recompense.”[[4]](#footnote-4)
* Justice: “The maintenance or administration of what is just especially by the impartial adjustment of conflicting claims or the assignment of merited rewards or punishments… the administration of law.”[[5]](#footnote-5)

# Value

Now that we understand what we’re discussing today, it’s very important that we establish what kind of goal we should be pursuing as we consider this issue. In order to assess a clash of principles correctly, we need to establish a value, or end goal, that we should pursue. And I would contend that our value today ought to be **societal well-being**.

Societal well-being encompasses both the protection of the people’s rights and their quality of life. Ultimately, the purpose of justice is to uphold societal well-being to the greatest extent possible. By discouraging crime, protecting the innocent, and associating negative consequences with criminal activity, justice upholds a state of civil security and the protection of rights.

Now that we understand all the groundwork, let’s go ahead and move into my primary arguments for today’s round, which I’ll be laying out in a series of contentions.

# Contention 1: Upholding Societal Well-Being is the Purpose of Justice

What is justice supposed to do? It may seem like a straightforward question, but it’s very important, and the answer isn’t always straightforward. Ultimately, justice is intended to fulfill one fundamental purpose: protecting the rights and well-being of the people.

There are many ways justice fulfills this goal, but every avenue of justice ought to lead back to this basic pursuit of societal well-being. Esteemed political philosopher Frederic Bastiat wrote in his classic piece The Law,

“What, then, is law? It is the collective organization of the individual right to lawful defense… this common force is to do only what the individual forces have a natural and lawful right to do: to protect persons, liberties, and properties; to maintain the right of each, and to cause *justice* to reign over us all.”[[6]](#footnote-6)

Justice exists to protect the people and their rights and maintain the overall well-being of the collective organization of the people. The question, then, is how best to implement this purpose through our criminal justice system.

# Contention 2: Retribution Upholds Societal Well-Being

## Subpoint A: Minimizing Crime Preserves Societal Well-Being

The first question we have to ask is how criminal justice maintains societal well-being. The answer to that question is pretty simple: minimizing crime, by definition, preserves societal well-being. The people as a whole are better off when the law is upheld and people act justly toward one another. When crime is committed, it is harmful to all of society. As Martin Luther King, Jr. once said, “Injustice anywhere is a threat to justice everywhere.”[[7]](#footnote-7) Thus, the most fundamental goal of a criminal justice system ought to be minimizing and preventing crime, because doing so fulfills the primary purpose of justice.

## Subpoint B: Individual Incentive Minimizes Crime

So then, how to best minimize crime? Of course, ideally, people would choose to abide by the law for the good of society. However, it is a basic fact of human nature that people tend toward selfishness. Thus, it is necessary to provide individual incentive to be a law-abiding citizen. Why should I follow the law? What’s in it for me? By making it beneficial to the individual to abide by the law, criminal justice systems discourage crime across the board.

This is done by ensuring benefits come from obeying the law, and negative consequences come from violating it. This is the most basic fact of retribution: that consequences ought to correlate to individual action. If you do good and live justly, you will benefit. If you take action that is harmful to others, it will end up being equally harmful to you. That is essentially the definition of retributive justice. James Hirby of The Law Dictionary explains the nature of retribution well:

“Retribution is at the heart of just about all judicial systems that deal with law and order… Defendants are expected to give up something in return for the offenses they committed.”[[8]](#footnote-8)

Thus, the principle of retribution creates that essential individual incentive to obey the law. Believe it or not, even the Golden Rule of “treat others the way you want to be treated” is based on the principle of retributive justice; the way you act toward others should affect the way others act toward you. In this way, retribution is the most essential element of upholding the purpose of justice.

The leads me to my final contention: the role of rehabilitation.

# Contention 3: Rehabilitation is a Supplement to Retribution

## Subpoint A: Not Mutually Exclusive

I’ve demonstrated that retribution is the most pivotal element of an effective criminal justice system. However, that’s not to say that rehabilitation is a bad thing. Far from it. Remember, we’re discussing priorities today. Retribution and rehabilitation are not mutually exclusive concepts; we’re not choosing to use only one or the other. We’re merely considering which is more valuable in a system that ultimately ought to utilize both.

Imagine you’re baking cookies: many ingredients are necessary, but you don’t need to same amount of every ingredient. A good criminal justice system utilizes both retribution and rehabilitation, but in the correct proportion to one another.

## Subpoint B: Rehabiliation Fulfills a Different Role

Rehabilitation is, in fact, a very important supplement to retribution in a criminal justice system. However, it’s essential to remember that rehabilitation is just that: a supplement. Rehabilitation doesn’t fulfill the same role as retribution. Whereas retribution serves to discourage crime from happening in the first place, rehabilitation is about re-integrating criminals into society in a way that discourages them from committing further crimes, a problem called criminal recidivism. It’s important, but it’s not a substitute for retribution.

If we attempt to value rehabilitation above retribution, we undermine both; the individual incentive to obey the law is lost, and criminals being released from prison see little reason to change their lifestyle. A good criminal justice system utilizes both retribution and rehabilitation in the proper balance with one another; a balance in which retribution is the foundation and rehabilitation is an important supplement. In such a system, justice is truly able to fulfill its purpose and societal well-being is protected to the greatest extent possible. In that system, the inner cry within the heart of every human being that calls for justice will finally be answered.

As Martin Luther King, Jr., once said, “The arc of the moral universe is long, but it bends toward justice.”[[9]](#footnote-9)

Affirmative Brief: Societal Well-being

As the Affirmative, there are a couple of underlying assumptions and principles in this case that you can address right off the bat. What is societal well-being? Is the prevention of crime the only step required to achieve it? What is justice really about? Start off with a couple of probing C/X questions:

“Is preventing crime the only necessary step in upholding societal well-being?” (No)

“Are most criminals released from prison at some point?” (Yes)

“Do the majority of past criminals commit repeat offenses?” (Yes)

“So in the majority of cases, the system of retribution releases criminals back into society once they’ve received their punishment with a high probability that they will commit more crimes?” (Yes)

Questions like these set you up to make powerful argumentation against the negative’s assumptions. First, you need to go after the idea that preventing crime is the primary means by which justice upholds societal well-being. While preventing crime is certainly important, it’s not the be-all-end-all of justice. Justice is, as the negative’s own definition points out, about protecting the rights and well-being of all people. That means that preventing crime is only part of the picture. It cannot be upheld to the detriment of other important elements of justice, like treating all people rightly and fairly, and giving people the chance at a brighter future. Societal well-being applies to all people, not just those who haven’t made any mistakes.

Second, you need to demonstrate that retribution does not necessarily prevent crime better than rehabilitation. Point out that the vast majority of criminals will eventually be released from prison. We can’t put every offender behind bars for the rest of their life. The negative will surely agree with you on that. So one of the major questions of criminal justice is what to do about the felons who are being released back into society. Under the negative’s own principle of preventing crime, it would be a better idea to give every felon a life sentence, because statistics clearly show that most felons will commit multiple repeat offenses after being released. Yet this is not something any negative would support. So if most criminals are going to be released and then go commit more crimes, rehabilitating prisoners should be one of our absolute highest priorities for preventing crime!

Finally, you need to bring the debate back onto your own terms by focusing on how the criminal justice system actually functions. Building on principle is all well and good, but at the end of the day, if it doesn’t play out in the real world, it really doesn’t matter. Remind the judge that there’s more to justice than punishment, that societal well-being applies to all people, and that preventing recidivism does more than anything else to prevent crime in the long run. If you do all this, you’ll set yourself up for a solid defense against this negative approach.

1. “Pledge of Allegiance to the Flag.” United States of America. <https://publications.usa.gov/epublications/ourflag/pledge.htm> [↑](#footnote-ref-1)
2. “Constitution of the United States.” <http://www.archives.gov/exhibits/charters/constitution_transcript.html> [↑](#footnote-ref-2)
3. “Rehabilitate.” Merriam-Webster Online. 2016. Merriam-Webster, Inc.

   <http://www.merriam-webster.com/dictionary/rehabilitate> [↑](#footnote-ref-3)
4. “Retribution.” Merriam-Webster Online. 2016. Merriam-Webster, Inc.

   <http://www.merriam-webster.com/dictionary/retribution> [↑](#footnote-ref-4)
5. “Justice.” Merriam-Webster Online. 2016. Merriam-Webster, Inc.

   <http://www.merriam-webster.com/dictionary/justice> [↑](#footnote-ref-5)
6. Bastiat, Frederic. “The Law.” June 1850. Translated by Dean Russell, 1950. The Foundation for Economic Education, Inc. [↑](#footnote-ref-6)
7. King, Martin Luther, Jr. “Letter from a Birmingham Jail.” April 16, 1963. African Studies Center, University of Pennsylvania. <http://okra.stanford.edu/transcription/document_images/undecided/630416-019.pdf> [↑](#footnote-ref-7)
8. Hirby, James. “Definition of Retribution in Criminal Justice.” The Law Dictionary.

   <http://thelawdictionary.org/article/definition-of-retribution-in-criminal-justice/> [↑](#footnote-ref-8)
9. King, Martin Luther, Jr. “Out of the Long Night.” February 8, 1958. The Gospel Messenger. Published weekly by the General Brotherhood Board, Elgin, Illinois. [↑](#footnote-ref-9)