Four Motivations on Why We Punish Criminals



By Travis Herche

This guy robbed a bank! We know we need to put him in prison – but why?

Though the resolution only lists two (rehabilitation and retribution), there are actually *four* standard motivations for punishment. You need to understand all of them – both so you can understand the resolution better, and so you can tell when your opponent is supporting a non-resolutional motivation.

1. Rehabilitation

***Rehabilitation seeks to reform and reintegrate a criminal back into society.***

This is appealing because it is the only motivation that seeks to better the wrongdoer. Rather than just mitigate damage, it tries to pull something truly positive out of punishment. The US prison system is bloated with non-violent drug offenders. They and their families would benefit a lot from a rehabilitation mindset.

If you dig down far enough, even the word rehabilitation suggests certain core beliefs about humanity. It is founded on a hope in the inherent goodness of human nature – or on the power of correctional facilities to reeducate the bad stuff out. If you believe humans are intrinsically evil, rehabilitation will be much harder to believe in.

A popular argument against rehabilitation: it seldom works. Rehabilitation was a primary motivation in the US criminal justice system until the 1970s. Reported murders doubled, assault doubled, theft more-than doubled, and robberies tripled from 1963 to 1973. “The idea that this explosion of street crime must be due to an attitude of permissiveness was particularly appealing.”[[1]](#footnote-2)

As the war on drugs was launched, several reforms were made that sought to get tougher on crime, primarily in the name of protection (reason four). Rehabilitation is still a popular idea in America, but it is pursued half-heartedly at best by the actual system.

2. Retribution

***Retribution seeks to enforce moral law. You hurt someone, so you deserve to be hurt.***

Retribution is appealing because it conforms with our understanding of the natural order of things. For example, the maniac responsible for the Aurora theater shooting was charged with 24 counts of first-degree murder (among other things). He did something really awful, worthy of the worst kind of punishment. I feel a personal grievance against him because he shot one of my friends.[[2]](#footnote-3)

But on the other hand, if he is executed just to “get even,” haven’t we lost our moral superiority? His punishment becomes a revenge killing. The difference between a legal court and an angry mob becomes semantic. It’s not like we owe it to the victims – punishing the shooter doesn’t help them in any way except to help them actualize their negative emotions.

Perhaps most disturbing, retribution elevates us to a blasphemous level. It is the only motivation that focuses on imposing moral law (as opposed to civil law). We become the righteous sword bearers of the wrath of God. That’s a scary role to be in, and one the Bible cautions against (Deuteronomy 32:35; Romans 12:19; Hebrews 10:30).[[3]](#footnote-4)

3. Prevention

***Prevention seeks to set an example for future potential criminals.***

A wise friend once told me: “10% of people will steal no matter what. 10% of people won’t steal no matter what. And the other 80% will steal if they think they won’t get caught.” At least that is what it appears. Security cameras work better as a deterrent to crime than a solution. Prisons are intimidating. If we penalize crime, it won’t happen. It seemed to work when I was growing up: Facing the threat of a spanking from my parents usually changed my behavior.

Prevention has a few flaws. First, it assumes that potential criminals make rational cost-benefit analyses before going forward. Most don’t. You can’t stop a crime of passion or carefully planned murder-suicide with the threat of punishment. Brilliant supervillains make great movies, but in reality, the world of crime is mostly populated by people who are too desperate, angry, insane, or stupid to get by another way. Prevention doesn’t work on those people, which means it doesn’t work on most people.

Second, prevention encourages horrifying public punishments. Punishing someone humanely behind a closed door takes the fear out of it! For example, Spartacus was a Roman gladiator who rose up against his taskmasters. He roamed the countryside with his friends, freeing every slave he met until he had an army of thousands. Then he was defeated by Roman legionaries. The empire was very dependent on slave labor, and couldn’t tolerate the risk of another uprising. The subdued rebels were crucified along the road from Rome to Capua.[[4]](#footnote-5)

Imagine 120 miles of slaves being killed in one of the most excruciating fashions devised by man. Six thousand crosses. That would make you think twice about rebelling. Bottom line: you’re probably not comfortable with the kind of cruelty prevention leads to.

4. Protection

***Protection seeks to protect society from bad people. It is the exact opposite of rehabilitation.***

While rehabilitation says: “There’s hope for you, we can fix you,” protection says “There’s no hope for you, we don’t want you in society.” Think back to the Aurora shooter. I can’t imagine anything he could do or say that would convince me to let him near anyone I care about. No matter how much time passed or how much he grovelled and pleaded, my mind is permanently made up about him. If he is ever free, I’ll feel less safe. For such a person, protection urges either life imprisonment or death – not because he had it coming, not to stop future shootings, but because we don’t want him around anymore.

Protection is concerning no matter what your views on human nature. If you think people are inherently good, locking them away forever is pointless cruelty. If you think man is inherently evil, the question is: where do you draw the line? We’ve all done evil things, and we’ll keep doing them. At what point are you so bad that you need to be locked away? Any line you draw is inherently arbitrary, and that’s pretty scary when you’re dealing with people’s lives. Hammurabi’s Law Code – an ancient landmark in legal history – had very strict punishments (including death) for most crimes.[[5]](#footnote-6) It’s unclear whether the motivation was prevention or protection, but Hammurabi clearly had no faith in the goodness of his people.

Protection doesn’t care if people are executed or imprisoned for life. It also doesn’t care how they’re treated. We could trot bad people away for immediate execution, or throw them into a deep hole, or lock them into their own criminal resort & spa. As long as they’re not with us, we’re okay. Exile is also an appealing option, but it has become less practical with the growing ease of travel.

Most people embrace some combination of these four motivations. All four are troubling, but one cannot simply reject them all and say: “We will no longer punish criminals.” Grapple and come to terms with these challenging philosophical ideas. Confront the flaws of each. The better you understand them, the better you’ll be well-equipped for the coming year of debate.

Note to advanced debaters: Running a resolutional objection saying that prevention or protection is the only true motivation is a solid negative strategy. I’m working on such a case for a future release of *Red Membership.[[6]](#footnote-7)*

1. Jerome G. Miller, D.S.W. “The Debate on Rehabilitating Criminals: Is It True that Nothing Works?” Washington Post, March 1989. <http://www.prisonpolicy.org/scans/rehab.html> [↑](#footnote-ref-2)
2. Petra Anderson was a former writer for Monument Publishing’s *Red Book*. She was shot in the face in Aurora but survived due to a birth defect that was not discovered till that awful day. It is quite the remarkable story. See “Brain condition helps save Colorado shooting victim” by CNN at <http://www.cnn.com/2012/07/24/us/colorado-theater-shooting-survivor/>. [↑](#footnote-ref-3)
3. “What does the Bible say about revenge?” Got Questions?.org. <http://www.gotquestions.org/revenge-vengeance.html> [↑](#footnote-ref-4)
4. “The Civil Wars.” *The Histories of Appian.* Published 1913.[http://penelope.uchicago.edu/Thayer/E/Roman/Texts/Appian/Civil\_Wars/1\*.html#120](http://penelope.uchicago.edu/Thayer/E/Roman/Texts/Appian/Civil_Wars/1*.html#120) [↑](#footnote-ref-5)
5. Robert Francis Harper. *The Code of Hammurabi King of Babylon*. University of Chicago, 1922. <https://upload.wikimedia.org/wikipedia/commons/4/4e/The_code_of_Hammurabi.pdf> [↑](#footnote-ref-6)
6. See <https://monumentpublishing.com/mem>. [↑](#footnote-ref-7)