Affirmative Case: Social Progress

By Hannah Fear

*Resolved: Criminal Justice ought to prioritize rehabilitation over retribution, restitution, or deterrence.*

This case is built on the value of Social Progress, which is based on Maslow’s hierarchy of needs. I recommend that you keep Maslow’s hierarchy at an arm’s length, as it is materialist and humanist and inimical to the idea of universal justice. Still, all of the “desires” in Maslow’s hierarchy of needs are good things. Unfortunately, the hierarchy itself is upside down.

I justify using the value by the following reasoning:

1. We are discussing the priorities of criminal justice.
2. Criminal justice was created (i.e. has the purpose) to benefit society.
3. Society’s highest good is social progress.
4. Therefore, we ought to use social progress to weigh the round.

Obviously, #3 is the weak link. If they do, observe that the Harvard Business School’s definition of social progress is incredibly vague. It basically boils down to “good results.” “Good results” subsumes almost every LD value in existence. Additionally, the predominating LD theory holds that a “value” is simply the “end goal” or “highest good” of the round, or the “best results.” To knock down your value, your opponent will have to attack the preeminent (if unjustified) assumption in LD theory.

Of course, the definition is vague. It doesn’t sound vague, though. I ran this value my senior year in high school, and the only person who ever caught on to its vagueness was my coach. (I didn’t realize it was vague myself until he pointed it out.) Of course, after he pointed it out publicly, all my clubmates jumped on it, but no one ever called me on it at a tournament.

The application may require a bit of explanation on your part, but that’s okay. Since parole is such a mainstay of our justice system, I doubt many people will question your reasoning.

**Introduction**

Too often when we discuss criminal justice, we forget that we designed our justice system to aid our society and the individuals within it. As value debaters, we tend to debate criminal justice in the abstract, without considering the people it was designed to protect. Because I believe that any criminal justice system that fails to support the people has failed its very purpose, I stand *Resolved: Criminal Justice ought to prioritize rehabilitation over retribution, restitution, or deterrence.*

First, we need to define some key terms:

Definitions

“**Criminal justice system**.” Black’s Law Dictionary, 6th edition. (Black's Law Dictionary is the most widely used law dictionary in the United States. Henry Campbell Black (1860–1927) was the author of the first two editions of the dictionary.) Originally by Henry Campbell Black, 1891. Sixth edition published 1990, edited by Joseph R. Nolan and Jacqueline M. Nolan-Haley, with co-authors M. J. Connolly, Stephen C. Hicks, and Martina N. Alibrandi. Page 374.

The network of courts and tribunals which deal with criminal law and its enforcement.

“**Retribution**.” Black’s Law Dictionary, 6th edition. (Black's Law Dictionary is the most widely used law dictionary in the United States. Henry Campbell Black (1860–1927) was the author of the first two editions of the dictionary.) Originally by Henry Campbell Black, 1891. Sixth edition published 1990, edited by Joseph R. Nolan and Jacqueline M. Nolan-Haley, with co-authors M. J. Connolly, Stephen C. Hicks, and Martina N. Alibrandi. Page 1317.

Something given or demanded in payment. In criminal law, it is punishment based on the theory which bears its name and based strictly on the fact that every crime demands payment in the form of punishment.

“**Rehabilitation**.” Black’s Law Dictionary, 6th edition. (Black's Law Dictionary is the most widely used law dictionary in the United States. Henry Campbell Black (1860–1927) was the author of the first two editions of the dictionary.) Originally by Henry Campbell Black, 1891. Sixth edition published 1990, edited by Joseph R. Nolan and Jacqueline M. Nolan-Haley, with co-authors M. J. Connolly, Stephen C. Hicks, and Martina N. Alibrandi. Page 1287.

Investing or clothing again with some right, authority, or dignity. Restoring person or thing to a former capacity; reinstating; qualifying again. In re Coleman, D.C.Ky., 21 F.Supp. 923, 924, 925. Restoration of individual to his greatest potential, whether physically, mentally, socially, or vocationally. Jones v. Grinnel Corp., 117 R.I. 44, 362 A.2d 139, 143. For rehabilitation of debtor, see Bankruptcy proceedings; Wage earner's plan.

**Resolution Analysis 1: The actor**

Today’s resolution has a stated actor: criminal justice. Criminal justice, however, cannot exist in the abstract. It exists through the workings of the criminal justice system. Thus, the criminal justice system is the implied actor here. Notably, a formalized criminal justice system only materializes under a formalized civil government. The oxymoronic “vigilante justice” is not criminal justice at all.

**Value: Social Progress**

***Harvard Business School*** *(Harvard Business School is the graduate business school of Harvard University, a private research university in Boston, Massachusetts. It is consistently ranked among the top business schools in the world and offers a large full-time MBA program, management-related doctoral programs, and many executive education programs. It owns Harvard Business Publishing, which publishes business books, leadership articles, case studies, and the monthly Harvard Business Review. It is also home to the Baker Library/Bloomberg Center.) No author or publication date available.* ***Accessed October 7, 2022.***

*https://www.isc.hbs.edu/research-areas/Pages/social-progress-index.aspx*

Social progress is defined as the capacity of a society to meet the basic human needs of its citizens, establish the building blocks that allow citizens and communities to enhance and sustain the quality of their lives, and create the conditions for all individuals to reach their full potential. Our research supports the development of effective measurement tools for social progress.

Social progress measures a society’s ability to allow its citizens to thrive. A society that succeeds is one that brings about social progress. Since criminal justice must be administered by a human society, we need a value that measures the success of a society.

**Value Link: Goal of criminal justice**

Like I mentioned earlier, criminal justice is administered by society. It allows society to function well by attempting to reduce crime. Since society must strive toward social progress, criminal justice must strive toward it as well.

**Contention 1: Prioritizing rehabilitation best achieves social progress**

Criminal justice systems that prioritize retribution, restitution, or deterrence often believe that giving a second chance to condemned criminals necessarily hurts society at large. That is simply false. In fact, statistics show that criminals who have been successfully rehabilitated are less likely to cross the law again than those who served the sentence they had been given. Let’s look to my first application

**Application 1: Parole**

Parole is one of the hallmarks of our criminal justice system.

***As Cornell Law explains*** *(no author or publication date available, accessed October 7, 2022),*

*https://www.law.cornell.edu/wex/parole#:~:text=Parole%20is%20the%20conditional%20release%20of%20prisoners%20before,their%20release%2C%20they%20may%20be%20returned%20to%20prison.*

Parole is the conditional release of prisoners before they complete their sentence. Paroled prisoners are supervised by a public official, usually called a parole officer. If paroled prisoners violate the conditions of their release, they may be returned to prison. For example, paroled prisoners often must get and keep a job, avoid drugs and alcohol, avoid their victims, not commit any crimes, and report regularly to their parole officer. If a paroled prisoner violated his parole by violently assaulting someone, he would probably be returned to prison. If he ran a stop sign, he probably would not be.

Cornell Law says later in the same context,

Prisoners do not have a right to parole. Typically, prisoners are reviewed by a parole board, which determines whether to parole them and what conditions to place on their release. Rules regarding parole vary by jurisdiction. See, e.g., the United States Parole Commission website.

Parole is perhaps the textbook example of criminal justice system valuing rehabilitation over retribution, restitution, or deterrence. When a judge sentences a thief to twenty years with the possibility of parole after ten years, she assumes that the thief deserves twenty years in prison. That would be true retribution. She also probably knows that refusing parole to the trembling man in front of her would make others less likely to steal. She’s not prioritizing deterrence. Why, then, is she allowing him the possibility of parole? The judge gives him parole because she wants to give him a shot at rehabilitation. She wants him to “enhance and sustain the quality of his life” as social progress requires. She wants him to “reach his full potential.”

Do her efforts accomplish this? Statistics suggest so. Studies show that criminals who have been granted parole are less likely to become recidivists, that is, repeat criminals. This benefits both former felons and society at large: felons no longer resort to a life of crime, and society is safer.

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*https://bostonbar.org/journal/parole-evidence-of-rehabilitation-and-means-to-rehabilitate/*

However laudable Diatchenko’s reform, it has collided with a countervailing pressure to tighten the standards for granting parole following the high-profile murder of a police officer committed by a parolee in 2010, and the subsequent public outcry which led to the resignation of five Parole Board members who had voted for his release. According to several studies, including by the Boston Bar Association and the Parole Board, once the data are corrected for high-profile offenses, recidivism rates are actually higher for persons who are released after serving a complete sentence than for those who are paroled. Proponents of parole attribute this difference to the supervision, programs, and assistance parolees receive after release to facilitate reintegration into society.

Mrs. Lyons says later in the same context,

Reconciliation of the two viewpoints lies in the application of one of the primary goals of sentencing: rehabilitation. Commonwealth v. Goodwin, 414 Mass. 88 (1993). Parole offers a “carrot and stick” approach to achieving rehabilitation. The carrot, because parole can be granted at least in part based on an offender’s showing of rehabilitation, and the stick, because the Parole Board can place conditions on receiving parole, or rescind or revoke parole, based on failure to engage in programs, counseling, substance abuse treatment and a wide variety of other conditions. M.G.L. c. 127, § 5; 120 C.M.R. § 300.07. Importantly, offenders are not required to participate in treatment or educational opportunities offered during their incarceration, yet offenders often undertake such steps voluntarily with the goal of demonstrating rehabilitation and receiving parole. Similarly, conditions of parole and the creation of a release plan cannot be mandated except for those offenders subject to parole. Parole can thus be accurately described as both evidence of rehabilitation and a means of effecting the sentencing goal of rehabilitation. By extension, the best advice to attorneys representing either parolees or the Commonwealth in life sentence parole hearings is to focus on presenting a cohesive narrative that focuses on rehabilitation. The facts of the offense and an individual’s criminal history have already been established, but an attorney can situate those facts within a narrative arc of the offender’s development and future goals.

When a criminal justice system prioritizes rehabilitation over retribution, restitution, or deterrence, it benefits the society it was ordained to protect. Because such a justice system best upholds social progress, I urge an Affirmative ballot.

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