Affirmative Case: Human Dignity

By Hannah Fear

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

This case is based on the idea of human dignity, something that can only be upheld under a theistic framework (not under a materialist/naturalist one). Ideally, it would be run through a Christian worldview, because the Bible states that humans are created in the image of God. Unlike the Natural Law/Justice cases I’ve written in the past, it is not as easily adaptable to a secular judge.

A consensus has developed in Stoa that LDers should not explicitly refer to their Christian worldview in developing their arguments. Still, I’ve written a case that is implicitly based on the Christian worldview and indefensible without it because Stoa is a Christian league that already assumes everything you’re trying to say here.

There are two major weaknesses here. The first is the definition of human dignity. The definition I’ve used in the case is incredibly vague, and intentionally so. You don’t want to provoke a fight about it if you can help it. If you’re pressed about it in-round, you probably want to define it by its consequences: you want to make it almost a meta-version of human rights. When we value human dignity, we protect the rights of individuals and respect them for their humanity. In the back of your mind, you should have a second definition, one that defines it by its source: human dignity is the intrinsic worth of any creature created in the image of God that is delegated to that individual directly as a consequence of that creature’s being human. If you say that in-round, though, you’ll almost certainly have to deal with the *imago Dei* principle.

The second is the inevitable bifurcation between the case you read in the round and the case you have in the back of your mind. You’re building a case in your mind that is based on an explicitly Christian concept. Your case in-round cannot be that explicit. Thus, you will struggle to make your in-round case clear while avoiding bringing up an explicitly Christian argument. Many debaters consider an explicitly Christian argument in an explicitly Christian league to be abusive. Your cases can and should be implicitly Christian, though.

Your biggest hurdle that’s actually a strength of this case is proving that criminals ought to have human dignity as well. The quote under the value link (Stanford Encyclopedia of Philosophy) should help with this. Since human dignity is inalienable (cannot be taken away), people deserve human dignity even if they commit horrific crimes. Hammer that to prove your point. If you can prove that criminals deserve human dignity just like the rest of us, you’ll have a massive leg up.

**Introduction**

When discussing criminal justice, we are often tempted to dwell on the crimes and not on the criminals. We often conveniently forget that the featherless biped in the orange jumpsuit is a human being like we are. Because I would preserve that man’s humanity even in a court of law, 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.

“**Deterrence**.” U.S. Legal. (US Legal, Inc. offers a variety of services including legal information, legal products, legal forms, and document preparation. The Company is multi-faceted publishing company, which has pioneered Internet ventures geared toward the public, small businesses, and the legal profession since 1997. It continues growth through increased sales and marketing partnerships and through building alliances in the legal, media, and corporate arenas.) No author or publication date available. Accessed October 14, 2022.

*https://definitions.uslegal.com/d/deterrence/#:~:text=Deterrence%20Law%20and%20Legal%20Definition%20Deterrence%20refers%20to,the%20acts%20out%20of%20a%20fear%20of%20punishment.*

Deterrence refers to the act of discouraging or preventing something. For example, in criminal law, the punishments assigned to the commission of crimes are designed to prevent criminals from committing the acts out of a fear of punishment. In order to be effective, the deterrer must have the capability and the will to carry out the threat, and the threat must be communicated to and understood by the potential perpetrator.

“**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: Human Dignity**

*“****Human Dignity****.” The Center for Bioethics and Human Dignity at Trinity International University.* (*The Center for Bioethics & Human Dignity (CBHD) is a Christian bioethics research center at Trinity International University that explores the nexus of biomedicine, biotechnology, and our common humanity. CBHD fosters a distinctly Christian conception of bioethics that is both academically rigorous and broadly accessible.) No author or publication date available. Accessed 3 December 2022.*

*https://cbhd.org/category/issues/human-dignity*

Human dignity is the recognition that human beings possess a special value intrinsic to their humanity and as such are worthy of respect simply because they are human beings. This concept, once foundational to ethical reflection in such diverse areas of engagement as social ethics and human rights on to the clinical bedside and bioethics, has come under increasing criticism. As part of our institutional identity as a Christian bioethics center, The Center for Bioethics & Human Dignity is firmly committed to the belief that human dignity is an inherent quality in all human beings in virtue of our having been created in the image of God. Thus every human being, regardless of age, ability, status, gender, ethnicity, etc., is to be treated with respect. Furthermore, we believe that how one understands this concept affects how one views and engages bioethical issues across the entire life span. The articles in this section explore this key concept in both its foundational development and its application to the broader concerns of bioethics.

**Value link: Universal**

Traditionally, human dignity has figured prominently into discussions of international law. International law scholars have studied the idea considerably, and they agree that it is universally applicable and takes precedence over other interests, or values.

*Stephen Riley (Utrecht University) and Gerhard Bos (Utrecht University) Stanford Encyclopedia of Philosophy (The Stanford Encyclopedia of Philosophy (SEP) combines an online encyclopedia of philosophy with peer-reviewed publication of original papers in philosophy, freely accessible to Internet users. It is maintained by Stanford University. Each entry is written and maintained by an expert in the field, including professors from many academic institutions worldwide. Authors contributing to the encyclopedia give Stanford University the permission to publish the articles, but retain the copyright to those articles.) No publication date available. Accessed 3 December 2022.*

*https://iep.utm.edu/human-dignity/.*

First, the idea of form allows us to distinguish the IHD from other uses of ‘dignity.’ Human dignity in international law is associated with a cluster of closely related, but distinguishable, formal characteristics. Human dignity connotes universality (ascription to every human person), inalienability (it is a non-contingent implication of one’s status as human), unconditionality (a property requiring no performance or maintenance), and overridingness (having priority in normative disputes). These immediately assist in distinguishing an IHD concept from a behavioral description of dignity which would not be inalienable, a virtue ethical reading which would either not include ascription to every human person or would be contingent, or a healthcare ethics reading which might not insist on the overridingness of human dignity. Note that these formal criteria are not treated as necessary conditions for human dignity but are, rather, claims commonly associated with human dignity in international law. They assist, amongst other things, in distinguishing human dignity from dignity simpliciter with its associations with behavior and comportment. They also situate the IHD close to certain currents of Kantianism and deontology without assuming that Kant’s work is definitive of the concept.

Riley and Bos explain four things about human dignity: (1) every person has it; (2) no one can lose it; (3) no one need earn it; and (4) it trumps other values when the two come into conflict.

**Contention 1: Rehabilitation best upholds human dignity**

When the sentencing judge walks into the courtroom, he ought to see the figure in the orange jumpsuit as both a criminal and a man. But is he a criminal first and a man second? On the contrary, according to human dignity, he is a man first and a criminal second. To recognize this, the sentencing judge ought to prioritize rehabilitation.

**Application 1: The Eight Amendment**

In the U.S., we have the Eighth Amendment to ensure that our courts prioritize the human dignity of all, including convicted criminals. The rights of a human being do not evaporate when he breaks the law. He may have to face some limitations on his liberty, but he retains his rights. The Eighth Amendment was written to protect the human dignity of these individuals.

**In the 2011 Supreme Court case Brown v. Plata,** (Brown v. Plata, 563 U.S. 493 (2011), was a decision by the Supreme Court of the United States holding that a court-mandated population limit was necessary to remedy a violation of prisoners’ Eighth Amendment constitutional rights. Justice Kennedy filed the majority opinion of the 5 to 4 decision, affirming a decision by a three judge panel of the United States District Court for the Eastern and Northern Districts of California which had ordered California to reduce its prison population to 137.5% of design capacity within two years.) **Justice Anthony Kennedy explained that** (https://supreme.justia.com/cases/federal/us/563/493/. Accessed on Justia, 3 December 2022.)

As a consequence of their own actions, prisoners may be deprived of rights that are fundamental to liberty. Yet the law and the Constitution demand recognition of certain other rights. Prisoners retain the essence of human dignity inherent in all persons. Respect for that dignity animates the Eighth Amendment prohibition against cruel and unusual punishment. “ ‘The basic concept underlying the Eighth Amendment is nothing less than the dignity of man.’ ” Atkins v. Virginia, 536 U. S. 304, 311 (2002) (quoting Trop v. Dulles, 356 U. S. 86, 100 (1958) (plurality opinion)).

Remember that human dignity is inalienable: it cannot be lost, even if a person has committed a crime. Thus, the Eighth Amendment stands to protect these criminals. The Supreme Court has interpreted the Eighth Amendment to show that a court’s interest in retribution and deterrence must be balanced with rehabilitation.

***Two years later, in the 2008 Eighth Amendment case Kennedy v. Louisiana,*** *(Kennedy v. Louisiana, 554 U.S. 407 (2008), is a landmark decision by the Supreme Court of the United States that held that the Eighth Amendment's Cruel and Unusual Punishments Clause prohibits imposing the death penalty for the rape of a child in cases where the victim did not die and death was not intended.)* ***Justice Kennedy again wrote that*** *(https://supreme.justia.com/cases/federal/us/554/407/. Accessed on Justia, 3 December 2022.)*

 Evolving standards of decency must embrace and express respect for the dignity of the person, and the punishment of criminals must conform to that rule. See Trop, supra, at 100 (plurality opinion). As we shall discuss, punishment is justified under one or more of three principal rationales: rehabilitation, deterrence, and retribution. See Harmelin v. Michigan, 501 U. S. 957, 999 (1991) (Kennedy, J., concurring in part and concurring in judgment); see also Part IV–B, infra. It is the last of these, retribution, that most often can contradict the law’s own ends. This is of particular concern when the Court interprets the meaning of the Eighth Amendment in capital cases. When the law punishes by death, it risks its own sudden descent into brutality, transgressing the constitutional commitment to decency and restraint.

The opinion went on to forbid the death penalty for child rape, foreclosing the possibility of a punishment that allows the offender no chance at rehabilitation. As human beings, convicted criminals ought to receive the chance to better themselves. That’s why I urge you to vote that *criminal justice ought to prioritize rehabilitation over retribution, restitution, or deterrence.*

**Works Cited**

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