

2010-2011 Season

NDF LD Topic Analysis Packet on the potential LD topics



CONTRIBUTORS:

ROSS BROWN

PAT DONOVAN

PERRY GREEN

GARRETT JACKSON

MATT KAWAHARA

ALEX KRAMER

EMILY MASSEY

CAROLINE SHERRARD

CATHERINE TARSNEY

GRAHAM TIERNEY

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Tom Evnen•Ernie Rose• Emily•Massey• Becca Traber•Jon Kwan• Catherine Tarsney•Ross Brown•Ellen Noble•Perry Green

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Resolved: In the United States, juveniles charged with violent felonies ought to be treated as adults in the criminal justice system.

Topic Analysis

Ross Brown

Background Information

In the United States, it is not uncommon for juveniles who have committed violent crimes to be charged as adults. In fact, almost every state has adapted its laws so that it is easier to try juveniles as adults. These cases appear in the media quite frequently. On June 24, the Oregon News reported that a 16-year-old murder suspect is being charged as an adult since “anyone over the age of 15 accused of a serious Measure 11 crime is automatically considered an adult in the eyes of the court¹.” Even more recently, the Des Moines Register reported that a 14-year-old boy is being charged as an adult for intentionally shooting one of his friends with a shotgun². Popular TV shows like *Law and Order* air episodes where children are tried as adults all the time. This phenomenon is so engrained in the American legal system that most don’t question its legitimacy. Fortunately, this particular resolution asks debaters to delve into a debate that no longer receives much attention from the courts.

In the United States, when police officers find a juvenile engaging in illegal behavior, the police officers can handle the situation in three different ways. First, they can warn the child and let her go. Second, they can warn the child, hold her until her parents arrive, and then let her go. Third, they can take her into custody.

If the officer chooses the third option, the child can either be charged as a juvenile, as an adult, or have the matter dismissed entirely. Generally, the children who are tried as adults are between the ages of 12 and 18 and have committed serious, violent crimes. On the other hand, children between the ages of 7 and 15 are typically considered excellent candidates for juvenile courts (regardless of the crime)³. These children are also the most likely to have the charges dismissed.

¹ <http://www.nwcn.com/news/oregon/Teenage-Portland-murder-suspect-charged-as-an-adult-97074159.html>

² <http://www.desmoinesregister.com/article/20100628/NEWS/100628016/Police-Indianola-teen-admits-arguing-with-shooting-friend>

³ <http://criminal.findlaw.com/crimes/juvenile-justice/when-minor-commits-crime.html>

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Ultimately though, the decisions as to whether or not a child is charged as a juvenile or as an adult depends on several variables: particular state laws, the severity of the crime, the age of the offender, the discretion of those in the juvenile justice system, and many more. Many states in the United States automatically transfer children charged with the most heinous offenses (like first-degree murder) to the adult court system. Florida leads the nation in these direct file cases. If states don't have direct file laws or if the case doesn't meet the necessary characteristics, the juvenile court decides whether or not to enact the judicial waiver (transferring the case to adult criminal court). States generally have lower age limits that prohibit children under a certain age from being charged as adults, but these lower limits are by no means universal. There are even some states where a prosecutor can file a case in both juvenile and adult court. Some states have laws in place that prohibit children who aren't sufficiently competent to stand trial to be charged as adults, but these laws are also not universal.

The differences between juvenile and adult court are profound. In juvenile court, rehabilitation is the primary objective. For this reason, if a child is convicted of a crime in juvenile court, upon completion of her sentence, she can have the crime expunged from her record. Children convicted of crimes in juvenile court need not worry about having to explain to employers or colleges the delinquent act they committed. On the other hand, adult courts aim to guarantee retribution, rather than rehabilitation. Thus, if a child is convicted of a crime as an adult, the charge will stick with her for the rest of her life.

Definitions/Contextual Clarifications



“In the United States” limits the debate to the United States. Arguments about how the juvenile court system in some other country is completely unjust are not topical unless there are relevant similarities between that country and the United States.

A juvenile is “An individual who has not reached the statutorily defined upper age for original juvenile court jurisdiction in the state in which he or she is charged, be that 15, 16, or 17⁴.” Even more generally, in the United States, individuals are typically considered juveniles until they turn 18. Smart affirmatives will need to spend some time clarifying the definition of juvenile to avoid being forced to defend morally repugnant conclusions. For instance, affirmatives should probably not have to argue that a six-year-old who shot and killed her mother should be treated as an adult. Affirmatives would be wise to use historical precedent and reasonability claims to make this necessary theory argument.

⁴ <http://www.buildingblocksfor youth.org/ycat/ycat.html>

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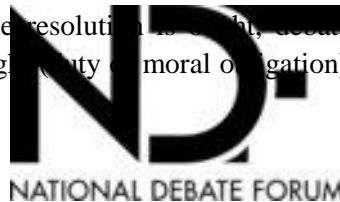
Violent felonies “Include murder, rape, robbery, assault, and other crimes against persons such as domestic violence and negligent homicide⁵.” The phrase violent felonies intentionally steers the debate away from a discussion of drug-related offenses. Criticisms of the way the criminal justice system in the United States regards drug abuse are not topical.

Ought can be defined in a number of different ways. Prescriptively, ought means duty or moral obligation. Descriptively, ought means logical consequence. A prescriptive framing of the word ought will be the most popular interpretation of this resolution, is it generally always is.

“Treated as adults”—see the prior discussion of the differences between the juvenile and adult court system. Affirmatives should recognize that the affirmative world need not be a place where

Value/Criterial Issues

Given that the evaluative term in the resolution is ought, debaters would be wise to adopt the more popular interpretation of the word ought (duty or moral obligation) and discuss the moral implications of the affirmative and negative worlds.



There seems to be a solid foundation for both teleological and deontological arguments in this resolution, so debaters should experiment with cases containing each of these frameworks.

At first glance, though, it does seem that one crucial debate that must be resolved in the majority of rounds is whether or not children possess sufficient rational capacity to be considered adults in the criminal justice system. If an affirmative debater attempts to justify charging children as adults under a deontological framework, she must present evidence that children have the rational capacity to will moral maxims. If children don't possess this rational capacity, it appears unjust to punish them as though they do. We don't consider those who demonstrate insanity to be responsible for their actions since they don't possess the ability to restrain their actions. In the same way, if children don't have rational capacity that mirrors that of an adult, it appears unjust to charge them as adults. Affirmative debaters may think that a utilitarian approach to the resolution solves the problem. The thought here is that the rational capacity of children is irrelevant when we are solely trying to maximize the greatest amount of happiness for the greatest amount of people. However, even utilitarian defenses of the resolution must account for the rational capacities of children. Utilitarian defenses of punishment are generally deterrence based. From a utilitarian perspective, laws would be meaningless without punishments. The reason people have such a

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strong incentive to follow the law is because individuals fear the consequences that result from breaking the law. Thus, if children don't possess enough rational capacity or knowledge about the world to change their behavior as a result of a world in which stricter punishments exist for children who commit violent felonies, then there doesn't seem to be much of a utilitarian justification for doing so. At the very least, affirmatives would have to compare other potentially positive impacts resulting from such a world (supposed peace of mind for society, etc.) to the potentially negative effects of such a world (the unjustified imprisonment of children).

In order to answer these questions, debaters should investigate scientific studies related to brain development in children. The debater with the best evidence on this issue is probably going to be very successful.

Affirmative Arguments

1-Retribution. This defense of the resolution would involve a) a thorough discussion of how children possess sufficient rational capacity to stand trial (to be compared to adults and b) argue that allowing individuals with such a capacity to be charged in a juvenile court does not treat them as ends in themselves, as it doesn't adequately reflect the decision to commit a crime. The case would obviously have to make arguments justifying a retributive approach to punishment.

2-Deterrence. This defense of the resolution would again involve a discussion of how children have sufficient rational capacity to stand trial, and then it would argue that stricter punishments for juveniles would curb crime rates. In order to make this argument effectively, affirmatives would be wise to find a study comparing juvenile crime rates in states with stricter punishments for children.

3-Rehabilitation is impossible. This defense of the resolution would first argue that when children are prosecuted in adult courts, they end up spending more time in prison than if they were prosecuted in juvenile court. Then, the affirmative would discuss recidivism amongst juveniles who were charged in juvenile court and obviously not successfully rehabilitated. The argument here would be that charging juveniles as adults is key to stopping future crime. The recidivism argument would also take care of the rational capacity question to some extent. Even if children's brains don't function in similar ways to adults, if individuals who commit crime as juveniles are likely to commit crime again as adults, from a utilitarian perspective, rational capacity could be arguably irrelevant.

4-Legal Positivism or Democratic Proceduralism. This position takes advantage of the fact that the resolution narrows the debate to the United States. Legal positivism basically says that whatever is legal is just. Democratic Proceduralism says that whatever has stood the test of democracy is just. It's obvious why this is a strategic affirmative position. Charging juveniles as adult has, on balance, a) been determined to be legal and b) passed the tests imposed by democracy. Debaters running this position force the negative to basically go all-on on framework debate—the contention level arguments for these cases are indisputable.

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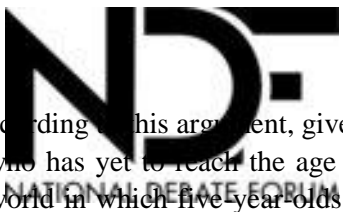
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5-Important Defense. Although this is by no means a stellar offensive argument, it's important to note given the common arguments against charging children as adults. A child being charged as an adult doesn't guarantee that she will be convicted. After all, the main premise behind the criminal justice system is that individuals should be innocent until proven guilty. But this has important implications in terms of this resolution. Affirmatives can argue that there are still checks against convicting children, like an insanity defense or even the sympathy of the jurors. The jurors will recognize that the individual on trial is still a minor and will take that into consideration when formulating the verdict.

6-Constitutionality. This argument criticizes the juvenile court system because it fails to give children basic constitutional rights. The biggest rights violation in the juvenile court system is the lack of double jeopardy in all jurisdictions. Many believe that jeopardy doesn't attach because it's a juvenile trial and not an adult one, but the court is still judging the delinquency of an individual, and jeopardy should still apply. There are still other constitutional violations, like the lack of a trial by jury, which is guaranteed in the due process clause. A constitutionality framework would obviously have to be presented for this argument to be coherent.

Negative Arguments

1-The Picky Arguments.

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- A. "Juvenile"—According to this argument, given that a juvenile is commonly defined as an individual who has yet to reach the age of eighteen years old, the affirmative must advocate a world in which five-year-olds who have committed violent felonies are charged as adults. This neg argument is more of a criticism of the particular phrasing of the resolution than an argument that addresses the main substance of the topic. There are several easy answers to this argument (it's not a very good one), but debaters should be aware that people will run it.
- B. "Felony"—Debaters can also criticize the word felony, and argue that ruling elites can define as felonies crimes that are more often than not committed by minority groups. Although the word violent in the resolution takes care of the famous crack cocaine/powder cocaine example that is often used to illustrate this point, there's still a case to be made that the affirmative necessarily embraces this mindset. At the very least, some people will say they do.

2-Racism. There is a lot of literature about how minorities are structurally disadvantaged in any criminal proceeding for a variety of reasons. This neg argument can have both deontological and utilitarian implications, and functions to highlight the fact that the American criminal justice system is far from perfect.

3-The scientific argument. Expect every neg to run this argument in some fashion. There is a ton of evidence out there about brain development, specifically about how the human brain doesn't stop developing until an individual is in his or her mid-twenties. This evidence also specifies that certain parts of the brain that are key to make collected, rational decisions are some of the last parts to develop. As I

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mentioned earlier, this argument is tremendously powerful since it takes out nearly all aff ground. Moreover, it's a no-risk issue. If the aff wins that children and adults possess similar rational capacities, that just meets one of the tests required to affirm the resolution.

4-Rehabilitation is good. This argument is a criticism of the retributive approach of the adult criminal justice system. There are a number of reasons why a retributive approach is bad. First, it's nearly impossible to achieve. For instance, if an individual kills ten people, it's impossible to be entirely proportional because the state can't kill the criminal ten times. Moreover, how does one assess what a proportional punishment for armed robbery is? The legal system merely establishes punishments and does its best to make them reasonable—exact proportionality can never be achieved. Second, there are myriad social conditions that contribute to individuals' decisions to commit crimes that are impossible to account for. More often than not, crime is merely a product of one's environment, not a result of a person being inherently evil. This argument takes out retributive theories because it implies that punishment doesn't actually give the criminal what he or she is due. Third, it's backwards looking. Punishing someone for a crime that's already been committed doesn't really help society in any way. It just makes the victim and her family feel a little bit better. There are plenty of other arguments for why a retributive approach to criminal justice doesn't make any sense. Beyond arguments for why retributive systems are bad, there are good reasons to believe that rehabilitative systems are uniquely good. There are many studies indicating that children who are transferred to the adult system are more likely to commit crimes in the future. The impact of all these arguments is that the juvenile court is preferable to the adult court, so children shouldn't be treated as adults.

5-The social context argument. This argument is basically a soft-deterministic approach to the resolution, and argues that our actions are largely determined by the surrounding environment. This seems especially true for children since they often haven't seen enough of the world to make the "objectively correct" choice. Instead, they do what they see their parents/peers doing. If this means committing a violent felony, they don't really know any better. The point of this argument is to minimize the degree to which children are culpable, which would provide reasons to keep them in juvenile court.

6-Foucault. This neg argument functions to criticize punishment altogether, as it argues that the state expresses unjustified bio-political control over its citizens, particularly when it imposes punishments. When punishing people, the state just re-entrenches the norms that are dominant in society, further solidifying its control over the populace. Foucault writes about how the punishment system is far from humane and is terribly oppressive. The impact of this argument is to minimize the amount of time individuals spend incarcerated given the problems associated with the prison system, which is something that's arguably guaranteed by the affirmative world.

7. The status argument. This argument says that juveniles are, well, juveniles according to the law. They aren't able to legally vote, gamble, smoke, or any of the other privileges associated with adulthood. These additional privileges are accompanied by additional punishments. When children can be charged as adults, they aren't granted the necessary initial privileges like other adults. Given this, the action proposed by the affirmative seems unfair. Moreover, if the most heinous children can be charged as adults, why can't the brightest children be granted the right to vote? It just doesn't make sense. Children shouldn't be seen as children in one area and adults in another.

8. Lack of flexibility. The affirmative has to advocate a world in which every juvenile charged with a

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violent crime is charged as an adult. A negative debater could stand up and argue that this eliminates a lot of the flexibility necessary in the juvenile court. There are a number of studies and articles that indicate that the juvenile court does a fabulous job of determining whether or not an individual should be charged as an adult. Those who work for the juvenile court have seen numerous children and recognize characteristics that would indicate where children are most likely to be successful. This argument is probably best phrased as a counter-plan, since a world in which flexibility exists is neg ground.

9. Constitutionality. This position argues that a necessary consequence of charging children as adults is incarcerating children with adults, and says that this is cruel and unusual punishment given the high percentages of inmates who are sexually abused or simply assaulted in prison.

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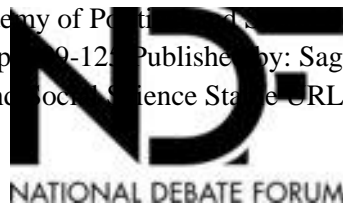
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Resolved: On balance, internet neutrality is desirable.

Topic Analysis

Pat Donovan

I. Overview

- a. What is internet neutrality? While there is no universal definition of internet neutrality (also “network neutrality” or “net neutrality”), people who use the term in the topic literature generally agree on the following three conditions for it: a) all users who pay for the same internet plan have the same level of internet access, meaning that they can access the same data at the same speed, b) Internet Service Providers (ISPs) deliver each website’s data to those users at the same speed, and c) ISPs do not restrict website’s content to internet users. Any policy option defended by the aff must ensure that all three of these conditions are met for the population that it effects. In other words, there is no such thing as partial internet neutrality.
- b. The function of “On balance”: The aff must prove that internet neutrality is desirable in general in order to meet the text of the resolution. The aff cannot, therefore, defend only one instance in which internet neutrality is questioned. However, the aff may arguably defend internet neutrality over a group of cases in which it is disputed provided that the majority of cases in which it is disputed are part of that group.

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- c. Desirability: This is an unusual evaluative term for a resolution in LD. The debate community tends to associate a consequentialist connotation with the word “desirable”, but, depending on its definition, desirability can leave room for deontology. Definitions that associate desirability with pleasure or what is wanted exclude deontological arguments by making moral concerns irrelevant. However, definitions that equate desirability to advisability can open the door to moral frameworks based on the argument that morality is the rational standard for advisability.
- d. Key questions related to the resolution
- i. Is the internet public or private?
 - ii. What justifies government regulation?
 - iii. Do we trust internet service providers?
 - iv. What is the best way to promote innovation?

II. Aff Arguments

- a. The internet serves an important democratic role by providing a network for communication. Giving groups with private interests control over what information can be accessed and how quickly certain users access certain information disrupts the free flow of information.
- b. ISPs will use their control of the flow of information to give themselves and the businesses they are tied to an arbitrary advantage over competitors by slowing

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down or blocking users from accessing the internet content of competitors.

Further, they can require websites to pay taxes in order to have an unobstructed level of accessibility to internet users.

- c. Internet neutrality promotes innovation. Without it, new websites will not be able to grow and compete because larger internet corporations will always be able to afford a higher quality of service.
- d. The internet is public. Billions of taxpayer dollars have been given to ISPs in the form of government subsidies to maintain their networks.

III. Neg Arguments



- a. Internet neutrality reduces ISPs' incentive to develop faster ways of connecting to the web. Non-net neutrality allows them to pay for the expensive process of innovation by imposing a fee on those who benefit from a faster connection, at least until that connection grows cheaper to provide.
- b. Net neutrality lets large internet companies such as Google and Skype, who uniquely benefit from ISPs' use of cable lines, free ride. ISPs are forced to cover expensive fees by themselves in order to use cable companies' lines. This free riding makes the ISPs more likely to raise the rates of internet plans, so internet neutrality hurts users in the long run.
- c. Internet neutrality hurts innovation. New technologies are developing that will allow ISPs to analyze data being trafficked through the internet in order to

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determine what to prioritize. For example, video conferencing arguably should be prioritized over other data because it requires a great amount of bandwidth.

Internet neutrality would prevent these technologies because it disallows the prioritization of certain data on the internet. Additionally, some technologies, such as robotic surgery, cannot be used through a public connection unless they can be prioritized within the network.

- d. The internet is private property. ISPs have spent large sums of money to build networks. Moreover, users have different choices over what ISP to use, meaning that ISPs have an incentive to meet consumer needs. Therefore, government has no claim to force net neutrality upon the ISPs.

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Resolved: Progressive Income Taxes are Just

Topic Analysis

Perry Green

INTERPRETATIONAL ISSUES:

1. Structure: One of the most important things you should do when evaluating a new resolution is to look at its structure and organization. Before you even bother to figure out what a progressive tax is, you can tell that the resolution takes the relatively common form:

X is/are Just

This means a couple of things in round. First, the resolution is completely devoid of an explicit actor or context; there is only an evaluative term, and an object of evaluation. As will become clear later, we can be pretty sure that we are talking about a government. But, the ambiguity should make it difficult to make arguments specific to the United States, or political situations in the status quo.

Second, there is no clear action associated with the resolution. Pragmatic implementation issues will be much more difficult to run, because you will have to demonstrate that the real-world problems of acting in a specific way somehow speak to the general ethical nature of the entity. In contrast, you can easily make broad (and potentially extreme) philosophically based arguments, without worrying about their actual implementation.

2. Resolutional Terms:

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- Just: “acting or being in conformity with what is morally upright or good”⁶. Obviously, this is the evaluative term. Your value should be justice, and your criterion will be a particular theory / conception of justice. Some ideas will come in the CASE IDEAS section.
- Progressive Income Taxes: Everyone knows what an income tax is, but a definition can’t hurt. Income taxes are “a sum of money demanded by a government for its support or for specific facilities or services, levied upon incomes”⁷.

So, now on to the important word: Progressive. “A progressive tax system is one which assesses a higher percentage rate of taxation as income levels or income brackets increase.”⁸

Note that this is not simply that you collect more money from people that have a higher income, but that the RATE at which income is collected increases.

Consider:



Example 1: The government taxes by taking \$100 dollars from each person. A person who makes \$100 would pay 100% in taxes, while a person who makes \$200 would pay 50% in taxes. Since higher income levels pay a lesser percentage, the tax is NOT PROGRESSIVE.

Example 2: The government taxes 15% from each person’s income. Someone who makes \$100 would pay \$15, someone who makes \$200 would pay \$30, but both pay the same percentage, so it is NOT PROGRESSIVE.

Example 3: The government taxes the first \$100 at 5%, and each subsequent dollar at 10%. Someone who makes \$100 pays \$5, and someone who makes

⁶ "just." Merriam-Webster Online Dictionary. 2010. Merriam-Webster Online. 22 July 2010 <<http://www.merriam-webster.com/dictionary/just>>

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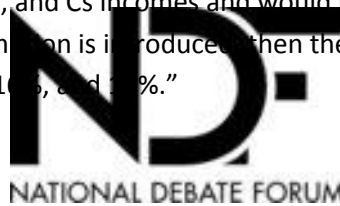
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\$200 pays \$15. Since the person who makes more money pays a higher percentage in taxes, the tax system is PROGRESSIVE.

3. On Flat Taxes: You might expect that a flat tax (example 2 above) would be an obvious example of negative ground on this topic. However, under one of the commonly accepted interpretations of ‘progressive income tax’ you could argue that flat taxes are progressive, as long as some small amount of money is exempted for all people. Charles O’Kelley⁹ points out this potential problem for negative debaters:

“Most advocates of a flat rate tax favor or accept the inevitability of a personal exemption—a deduction from gross income shielding a fixed amount of each taxpayer's income from taxation. Introducing a personal exemption into a flat rate system makes an income tax progressive. For example, consider A, B, and C, individuals who have comprehensive annual incomes of \$10,000, \$25,000, and \$50,000, respectively. A 20% flat rate comprehensive tax allowing no personal exemption would take the same percentage of A's, B's, and C's incomes and would not be progressive. However, if a \$5,000 personal exemption is introduced, then the effective rate of tax for A, B, and C, respectively, is 10%, 16%, and 24%.”



When writing negatives, you need to pre-empt this by either:

- a. Making sure your indictments of progressive taxes also apply to a flat tax with exemptions. This will require a philosophical grounding lacking in many arguments by the political proponents of flat taxes.
- b. Argue that ‘income taxes’ already restricts the money that we are talking about to taxable income. This means that deductions don’t make the tax scheme progressive, but rather place restraints on the money that is subject to ‘income taxes’ in the first place. For example, allowing a business to deduct operating expenses would be progressive if you looked at Taxes Paid vs. Income, but not Taxes Paid vs. Profits.

AFFIRMATIVE CASE IDEAS:

⁹ Associate Professor of Law, University of Oregon “TAX POLICY FOR POST-LIBERAL SOCIETY: A FLAT-TAX-INSPIRED REDEFINITION OF THE PURPOSE AND IDEAL STRUCTURE OF A PROGRESSIVE INCOME TAX” Southern California Law Review, Vol. 58, No. 3, pp. 727-776, 1985 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1548657

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1. Equal Sacrifice Theory: This is the simplest affirmative argument. There are diminishing marginal returns to income (e.g. the difference between \$1 and \$2 is much larger than between \$101 and \$102 in terms of the importance / happiness provided by purchased goods). There are (at least) two different ways this can be impacted:
 - a. In terms of some conception of fairness, you can argue that citizens ought sacrifice an equal percentage of their wealth to the government. If the correct measure of wealth is not just money, but the value of that money to the citizen, then you would need to have a progressive system to compensate.
 - b. In a pure utility calculus, you would have a certain amount of money that the government needs to fund its programs. It needs to take money from citizens, which causes a loss of utility. So, they should take money such that it minimizes the marginal change in utility from the citizens. This means taking a greater proportion from the richest people.
2. Veil of ignorance: Rawls's theory is particularly strong on this topic. He argues that we should create social institutions in a way, by which he means a way that everyone would agree upon. But, we don't want this agreement to be based on arbitrary factors, such as race, gender, and wealth of parents. Nor do we want this system to reward past injustices (such as stealing land, etc). Thus, arguments as to what is a fair way to organize society must be done behind the veil of ignorance: we know general facts about society and the world, but we don't know who WE are. We choose as if we were self-interested, but also as if we had an equal probability of being each person in society. This ensures that, in agreeing to social structures, our decisions are not based on the fact that we are white, our parents are rich, etc.

Rawls then argues that, under these conditions, we would accept a maximin principle: we would want to maximize the wellbeing of those with the minimum amount of wealth, and so accept a progressive tax system. Rawls argues that this seemingly risk-averse strategy is actually the only reasonable option, because those in the worst economic position have the least ability to pursue their own interests, including (possibly) risk-taking. So, even those who would want to take risks OUTSIDE the veil of ignorance would accept a policy of minimizing inequalities BEHIND the veil.

3. (Other) Inequality Bad: There are a variety of less philosophically based arguments as to why taxes should seek to minimize inequality. There are a variety of studies and authors that seek to show that social ills like crime and

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sickness are correlated not just with net income, but also with relative income.

There are also authors that point out the political power that follows from wealth. That, combined with the ability for the richest people to use their money most efficiently, creates the fear that a group of relatively few, but incredibly powerful, rich citizens will emerge. Progressive taxes are one means to combat this.

NEGATIVE CASE IDEAS:

1. Entitlement theory: If you want to negate this topic, you must get a copy of *Anarchy, State, and Utopia* by Robert Nozick.
<http://www.amazon.com/Anarchy-State-Utopia-Robert-Nozick/dp/0465097200>

Even if you don't want to run Nozick, you should expect a large proportion of affirmative rounds either arguing against him, or arguing against authors based in his work. Either way, you want to have a very detailed understanding of his theory, more than can be described here.

Nozick argues against utilitarianism in a variety of ways (including an attack against aggregating people and the 'experience machine' thought experiment). From this he argues that redistributive policies cannot be morally justified, because they represent taking away one person's legitimate possessions for an ephemeral and unjustified greater good.

2. Implementation Advantages: There are a variety of reasons why a flat tax may be preferable simply because of its comparative simplicity. It eliminates bureaucratic procedures and complications so that, even if the government collects less money, the same or even more money may actually be spent on services.

A non-progressive tax may also be key to promote fiscal responsibility. Under a progressive system, one group of the population can fund projects by changing the taxes on a bracket that leaves the unaffected, or is of marginal importance. In this way part of the population can internalize government benefits, while externalizing the costs, leading to wasteful or unnecessary spending. A non-progressive tax fixes this

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problem by making everyone subject to the same changes in the tax system.

3. Economic growth: These negative authors grant that there are diminishing marginal returns to income. But, they then argue that as less money is spent on consumer goods, a higher percentage of money is spent on capital goods, which are ultimately beneficial for economic growth because they increase the demand for labor, and lower prices, by increasing efficiency. So, by taxing the richest the most, you actually hurt everyone, including the poor, who would benefit from a total increase in wealth.
4. Ignore Progressive: Some negatives may be able to get away with ignoring the term progressive, and just arguing that income taxes should be rejected. The two major alternatives are a lump-sum tax, where each person pays the same amount of money in taxes (not the same rate, the same actual amount of money), and a consumption tax, where people are taxed based on certain kinds of spending completely independently of how much they make. Consumption taxes are particularly strategic for the negative, because they allow the negative to get the benefits of a graduated / progressive tax system, co-opting most or all of the AC offense.



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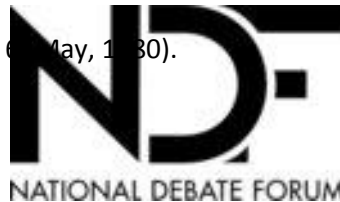
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Resolved: The constitutions of democratic governments ought to include procedures for secession.

Topic Analysis

Garrett Jackson

Interpretation Considerations:

“Constitutions of democratic governments” limits the range of justifications for procedures for secession. Arguments about whether it is moral or immoral to secede are only relevant if they relate to whether or not secession procedures should be in constitutions. For instance, giving the President veto power seems purely procedural and doesn’t seem to flow from our moral intuitions like giving people freedom of religion does. Thus, secession does not necessarily have to be moral, but there does have to be a sufficient reason to include a secession procedure. Further, rights guaranteed in constitutions can be immoral and prone to abuse. We have a right to remain silent even though being forced to tell information to the police would probably maximize utility.

“Procedures for secession” is pretty vague, so there will be some diverse cases. Some things to consider: Should the right to secession be unilateral and unlimited? Should the right be heavily qualified so that democracies can control the secession process? These questions are open to topicality debate and offer the affirmative a lot of room to parameterize. For instance, an aff could have an extremely complicated procedure for secession which obstructs secession in practice, or an aff could allow anyone to create her own country. The diversity of interpretations prevents the debate from devolving into “secession good” vs. “secession bad.” Thus, the most strategic cases will have a philosophical framework that discusses why secession is a right independent of arguments about secession actually happening.

The implicit value is democracy. Even if ought indicates a moral obligation, obligations are still constrained by the qualities of the actor. The state has burden of protecting its citizens that alters its moral calculus and is why nations are justified in possessing armies and individuals aren’t. Thus, the value criterion should focus on the obligations that democratic governments have. The criterion will be dependent on the case, but should focus on what governmental obligation is most important. A range of standards could deal with democratic cooperation, prevention of anarchy, and eliciting consent from the governed. Also, the definition of democracy will play a strategic role in debates. You can use your definition to exclude empirical secession scenarios people run that might not meet your definition. Further, you can choose a biased definition to help set up the framework. For instance, a definition that claims citizens have a right to govern themselves would advantage the affirmative.

Negative positions:

Hobbesian theory would not justify secession. Hobbes held that people motivated by their self-interest escape the state of nature and form a social contract with the state. Membership in a Hobbesian state is permanent. Secession is problematic for Hobbes because if the state doesn’t retain ultimate authority, there is no conflict arbiter. Without a supreme arbiter, people revert to asserting their own rights and

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return to the state of nature because there is literally no authority. This argument is strengthened by affirmatives who say that everyone has a right to freedom and a right to secede. In that sort of affirmative world, people could secede for any reason at all, forcing states to collapse into anarchy. [Daniel McCarthy, “Who Wants to Die for Liberal Democracy?” www.lewrockwell.com (October 31, 2001).]

Another negative strategy could deal with democratic cooperation. Even if people should be able to secede, a right to secede should not be in a constitution. Having a right to secession polarizes the state because certain regions would be unwilling to help ensure the rights of others. For instance, economically rich regions would have no incentive to hand over their resources that are necessary for the state to distribute justice. If the right to secede exists, every state, city, etc. would be vulnerable to threats of secession. The result would be instability because the government would be too bogged down with the secession issue to spend time on meaningful policy.

[Cass Sunstein, *Designing Democracy: What Constitutions Do* (Oxford: Oxford University Press, 2001) p. 103]

Utilitarianism/disadvantages – You can argue that giving people a right to secede will allow certain groups within specific countries to secede. You can argue that secession in those particular instances could cause terrible results or even more oppression than the status quo.

Affirmative positions:

The “consent of the governed” argument is the most intuitive argument that’s found in the Declaration of Independence. Whenever a government becomes destructive to the citizens who constitute it, people have a right to alter or abolish the government. Since governments are instituted by people for a certain purpose, if the government fails to meet its purpose, then it doesn’t seem to be a reason people don’t have a right to get rid of it. To argue against secession is to argue against people choosing the kind of government they want. This kind of case is based on two main theories: remedial right and primary right theories. Remedial right theory suggests that people only have a right to secede when a government has become illegitimate by violating the rights of citizens. Primary right theory says that people always have the right to secede. You should read about both theories and decide which one you’re more comfortable defending.

Autonomy/liberty/majority rule – These cases all depend on the idea that freedom is important. If a group wants to secede, it should be allowed to because they deserve the freedom to choose a government. This argument is strengthened by the majority rule argument. If democracy is defined by what the majority wants, if the majority wants to secede for any reason, they should be allowed to.

Cultural Secession – This argument focuses on the rights of minorities within the state. Divides in race and religion justify immediate secession because of the tension between the minority and majority. This argument is strengthened because many groups of minorities have been previously oppressed in their current state and continue to be discriminated against. Thus, secession may be justified to preserve minority rights and to allow the minority to defend itself against a nearby threat.

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Resolved: When forced to choose, a just government ought to prioritize universal human rights over its national interest.

Topic Analysis

Matt Kawahara

Interpretational issues:

- “Ought”:
 - Ought as obligation. Under this interpretation, the resolution is a question of what just governments are obligated to do. This renders the resolution somewhat redundant, since it already specifies that the government in question is just, and by necessity a just government would fulfill its obligations.
 - Ought as logical expectancy. This is the more sensible interpretation of ought. Under this interpretation the resolution is a question of whether we would logically expect a government to prioritize UHR or national interest given that it is just. This interpretation avoids the redundancy of ought as obligation.
- “Forced to choose”: This mandates a conflict between universal human rights and national interest. The negative could not win by proving that protecting universal human rights is in the interest of national interest, or vice versa (classic “balanced” NC). The topic is about situations in which national interest and universal human rights are mutually exclusive.
- “Prioritize”: The resolution questions whether UHR or national interest would be more important to a just government. The framework arguments (in a criterion, burden, etc.) should be a mechanism for how we prioritize obligations.
- “Just government”:
 - This implies that the value for the debate is justice.
- “Universal human rights”: The resolution fails to specify some pretty important things about what it means to prioritize UHR over national interest. It doesn’t tell us whether prioritizing UHR would mean “not proactively violating the rights of foreign citizens” or “protecting the rights of foreign citizens from violations”. It’s certainly easier to argue that governments ought not commit human rights violations in order to promote its national interest. Whether or not the government should try to stop human rights violations in other nations at the expense of its nation’s citizens is a more difficult question to answer. There are several ways one could go about interpreting this phrase:
 1. You could argue for some particular moral theory that sets up a definition of what constitutes a right e.g. a deontological framework would argue that UHR would include negative rights and not positive rights.
 2. The UN Declaration of Human Rights in 1948 is a document formed after WWII to combat the humanitarian atrocities perpetrated in the war. This would function as a

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laundry list of universal human rights according to the UN-it includes both positive and negative rights.

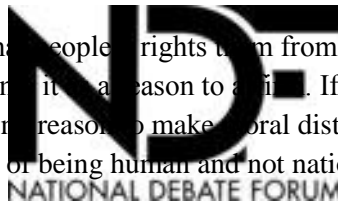
- “National Interest”:
 1. Objective definition: You could define “national interest” as what is objectively in the interest of the nation’s citizens.
 2. Subjective definition: You could define it according to what the nation *thinks* is good for its self-interest.

Affirmative Arguments and Strategies

The Question of Rights

It is more strategic for the affirmative to argue that UHR are negative rights rather than positive rights. If UHR=negative rights, then the topic is a question of whether governments can violate foreign citizen’s rights in order to gain national interest. If UHR=positive rights, then the topic is a question of whether governments should be required to take actions to prevent rights violations against foreign citizens, even when taking those actions conflicts with the interests of its own citizens.

The affirmative could argue that people’s rights stem from their interests or from their humanity. If you argued that latter, you could frame it as a reason to affirm. If people’s rights stem from their status as human beings, then there would be no reason to make moral distinctions between citizens of different nations since moral worth is a product of being human and not national residence.



Cosmopolitanism

Cosmopolitanism is probably the most obvious literature base for affirmative ground. Cosmopolitanism, according to the Stanford Encyclopedia of Philosophy, is “the idea that all human beings, regardless of their political affiliation, do (or at least can) belong to a single community, and that this community should be cultivated.” (<http://plato.stanford.edu/entries/cosmopolitanism/>). A cosmopolitan would argue that our membership in a specific nation doesn’t override the fact that we are a member of a global community if human beings that share moral obligations towards one another. Different arguments that would fall under the category of cosmopolitanism that function as aff ground:

1. You can argue that borders are morally arbitrary since they are the result of historical disputes over territory. Since the historical formulation of national boundaries is in no way related to what people morally deserve, the fact that a person lives in a particular country and not another should have no effect on their rights.
2. You can make an argument about the lottery of birth. This is closely related to #1. The argument is that where you are born is a matter of chance rather than moral desert (what one deserves). This means that we shouldn’t make moral delineations based on where people are born

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3. There are cosmopolitan authors that argue why we ought to apply Rawls's concept of the original position/veil of ignorance and apply it to a global perspective. The argument would be that since rational participants under the veil of ignorance would choose to advantage the least well-off (without any knowledge of their social placement), they would choose for nations to prioritize UHR over national interest. That is true because if they happened to be born in a nation with dismal living conditions or a dictatorial government, they would want other nations to step in to ensure their human rights.

Utilitarian Arguments

1. Rule-Utilitarianism: You could argue that the resolution is a moral rule that is utilitarian to follow. You would need evidence that proved why it produces good consequences when nations prioritize UHR over national interest

2. Parametricizing/Act-Utilitarianism: It is possible to parametricize the resolution (to run a specific advocacy that is a subset of the topic). You could do this by isolating the debate to a specific scenario in which it would produce beneficial consequences were a government to prioritize UHR over its national interests. This strategy is open to quite a few theoretical objections however, since the topic is vaguely worded and it seems unfair for the affirm to narrow the debate down to one specific instance (excluding all the neg ground on the rest of the topical instance).

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Negative Arguments and Strategies

Realism

Realism is a theory in international relations that views the international "arena" as an anarchic system in which states compete with one another for resources and power. Realists believe that states are not actually bound by any moral constraints (i.e. international law, alliances, treaties, etc.) and that they only follow these things if it is in their self-interest. Under a realist framework, states would not need to

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do anything to help foreign citizens (i.e. protect their UHR) unless it was instrumentally good for their own citizens. Since the topic specifies a conflict between UHR and national interest, a realist would negate since states wouldn't act to protect UHR if it conflicted with their own self-interest. It is important to note that you need to find *moral* reasons why realism is *good*, not *descriptive* reasons why realism is *true*. Many authors simply argue that realism is an accurate *description* of the way states behave, but that is distinct from saying that it is the way states *ought* to behave.

Social Contract Theory

You can argue that a government and the citizens of a government share a moral relationship that gives the government special obligations towards its own citizens as opposed to all others. The social contract theory argues that the governments have special obligation towards their own citizens because of the reciprocal relationship between the people and the state. Citizens explicitly or tacitly consent to state policy, they give up freedoms (by paying taxes, performing jury duty, etc.), and do other things that produce a unique relationship with their government. In exchange, the state has special obligations towards its own citizens. One could easily argue that one of those obligations is to protect their citizens interests. Therefore, when UHR conflicts with national interest, a just government would prioritize national interest given the unique moral relationship it has with its citizens produced by the social contract.

Communitarianism

Communitarians believe that there are not inherent, transcendent moral truths. They argue that our moral obligations stem from our placement in a social context--our duties towards others emerge because of the interactions we have with fellow community members and the conventions regarding morality that arise in society. Our moral obligations therefore, cannot exist absent our placement in a community. One could argue that since our moral obligations are owed towards those with whom we share a communal bond, we ought not prioritize the rights of foreign citizens (those outside our community) over the interests of our fellow community members.

Rights Bad

You could argue that the idea of “universal human rights” or “rights” is a construction of Western discourse--that it is a uniquely western moral concept that doesn't transcend the specific social context in which it was produced. In other words, UHR isn't a concept that is culturally-neutral and good for everybody, and to impose on foreign citizens in the interest of their “universal human rights” could be a form of imperial domination since it forces them to accept a uniquely Western idea. Additionally, you could argue that universal human rights have been used as a guise for countries to intervene in other nation's affairs and execute a form of domination over them.

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Resolved: Secular ethics ought to be prioritized over religious ethics in the legislative process.

Topic Analysis

Alex Kramer

Introduction

The relationship and differences between religion and politics refers to a host of philosophical issues within historical, political, and philosophical traditions. Much of history can be viewed through a lens of religious influence in both positive and negative ways. While religion can lead to conflict and struggle, it also has the potential to unite otherwise diverse groups to achieve a particular goal. Politically, religion can be viewed as integral in the development of many present-day political systems, especially throughout Western history. In the status quo, religion continues to have a major political influence, whether one considers widespread public views on LGBTQ rights-legislation within the United States or a territorial conflict between Israeli and Palestinian ethnic groups. The benefits and drawbacks of religion in political discourse, the nature, role, and authority of politics in representing and regulating diverse groups of people, the relationship between ethics and politics, and toleration for alternative viewpoints are all core questions of this resolution.



Interpretational Issues

The resolution lacks context in regards to what the characteristics of the are respective secular and religious ethical systems and the characteristics of the legislative process in question. Given the wide variety of potential legislative processes and ethical theories which could be addressed by this resolution, it appears difficult to affirm or negate the topic in a completely abstract manner. Analyzing what constitutes a legitimate ethical claim, a legitimate legislative process, or both would allow for a prioritization of secular or religious ethics through questioning the validity of certain ethical justifications or through establishing what ethical claims would logically be acceptable in a proper method of legislation.

"Religious Ethics" – Religion is defined by Princeton Word Net as either "a strong belief in a supernatural power or powers that control human destiny" or "an institution to express belief in a divine power." These two definitions imply that religion operates on two levels. The first level contains individuals who possess some belief in a supernatural power, while the second level refers to organizations which aggregate people who possess some belief in a divine power. This nuance could be potentially important

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in analyzing the resolution because many philosophers would likely say that organizations are bound to different ethical and political ideals than individuals.

Religious ethics is a subset of religious theories which attempt to provide an all-encompassing set of beliefs concerning the cause, nature, and purpose of the universe. Ethics is a primary branch of philosophy that concerns right conduct and the good life. Religious ethics are often claimed to be derived from supernatural or divine revelation or guidance.

"Secular Ethics" – In contrast to religion, secular is defined by Princeton WordNet as "of or relating to the doctrine that rejects religion and religious considerations." This implies that what is secular is that which is not religious. Secular ethics refers to the branch of ethical philosophy based on reason and/or moral intuition, rather than from the supernatural.

"Prioritized" – To prioritize is defined by Princeton WordNet as "to assign a priority to," where priority is a state of precedence. In the resolution, what is prioritized is not defined. This is an important interpretational issue because there are different ways that a government (or a legislative process) could prioritize secular ethics, religious ethics, or hold both on the same level, which influences strategic argumentation.. For example, there is likely a difference in the justification required for a government to allow religiously-justified reasons in political debate as compared to sponsoring a religious organization, even though both mindsets could be considered negating the prioritization of secular ethics over religious ethics. This is especially important if either debater wishes to contextualize the resolution through specific characteristics of government or situations in which the resolutorial question plays a major role, since how one should prioritize different ethical claims would likely implicate the benefits and logical consistency of that advocacy.

"Legislative Process" – The legislative process is generally considered to be the method by which laws are created. The resolution does not specify a particular legislative process, nor does it specify a particular piece of legislation being considered. This is an important element of the resolution because what constitutes a legitimate legislative process influences whether secular ethics should take precedence. For example, a direct democracy could legitimize the use of all ethical claims in argument, regardless of their secular or religious basis because each individual claim would be an important deliberative factor in determining the consensus of the population.


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An important element to consider regarding a hypothetical legislative process is what kind of laws and regulations would be considered and passed. In many circumstances, it appears unlikely that religious ethics and secular ethics would necessarily conflict, as both methods of ethics would come to the same legislative conclusion. Since a conflict would exist only in a much smaller subset of potential legislation, it may be potentially strategic for debaters to analyze specific cases or scenarios in which religious and secular ethics conflict. However, the theoretical legitimacy of such strategies could be questionable given the complete lack of context in the resolution.

"Ought" – Ought is the evaluative mechanism in the resolution. Unlike many other resolutions, this resolution does not immediately imply how ought must function. Ought could pertain to whether a particular justification for ethics is legitimate in a political context or whether it would be good in the ethical sense for a certain political mindset towards secularism and religion be adopted, because both legislative and ethical legitimacy are questioned by the resolution. The differences between these two interpretations make for an important debate, because the two differ in assuming whether ethics or politics serves as the justification for the other.

Framework Issues



The most important aspect of the framework debate on this resolution seems to be the nature of ought since the resolution crosses a variety of philosophical traditions, as opposed to only proposing an ethical dilemma. Merriam-Webster's defines ought as "used to express obligation, advisability, natural expectation, or logical consequence." None of these four possibilities necessitates ought as referring to or contextualized by the political or ethical/meta-ethical. If ought expresses an ethical proposition, then what is ethical shapes what constitutes a legitimate political theory and/or whether religion can serve as a valid basis for ethical claims. However, if ought refers to a political proposition, then which ethical justification ought to be prioritized is what is consistent with a certain view of politics. In other words, it seems important to analyze the relationship between ethics and politics in order to determine which takes precedence and allows for the other to be formulated.

In considering what evaluative mechanism should be used for this resolution, there initially seem to be three distinct approaches. The first approach is political consistency, in which a specific political theory is justified and each side debates the place of secular and religious ethics within that specific context. The second approach concerns the nature of ethics and politics from a meta-ethical standpoint. In this approach, proper politics stems from proper ethics, which means that the question of whether ethics can legitimately stem from religious (and/or secular) guidance determines how any legitimate political theory should prioritize ethical claims. The third approach establishes an ethical theory and claims that a specific prioritization of religious or secular ethics meets (or fails to meet) the established ethical theory.

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This interpretation is conceptually distinct from the second approach because it concerns the act of politically prioritizing certain ethical justifications as opposed to establishing whether those ethical justifications are legitimate. Which approach is taken heavily influences the evaluative framework used for the debate.

After establishing the evaluative mechanism for each round, burdens of proof for each side must be taken into consideration. The specific burdens will necessarily depend on the evaluate framework being offered, but in general, it seems as if the affirmative should have the textual burden to demonstrate that secular ethics in some way take precedence over religious ethics. In contrast, the textual negative burden is to demonstrate that secular ethics do not take precedence over religious ethics. This could be accomplished either through establishing that religious ethics actually take precedence or that there ought not be a political distinction between secular and religious ethical justifications.

Apart from an evaluative framework, an additional consideration is whether one views the resolution as a general statement or applied principle. As a general statement, almost all debating would likely take place in the abstract, since the resolution does not have a specific context. As an applied principle, additional parameters to contextualize the resolution would be needed. This could take a variety of forms, such as an exploration of a specific legislative process or policy in which secular and religious ethics are in contention. While the theoretical legitimacy of each approach is something that will likely be discussed in many debates, both approaches have theoretical benefits and flaws. For example, evaluating the resolution as an abstract, general statement might be the most consistent with the specific text of the resolution, such abstraction is detached from actual political scenarios and applications that give the resolution meaning. Likewise, specifying a particular context allows for research and argumentation grounded in current political and philosophical issues, but does assert a context not contained within the resolution.

Affirmative Arguments

In terms of argumentation, if the resolution is to be evaluated as a general abstract principle, this topic seems to prioritize framework argumentation over contention-level argumentation because of the lack of context in the resolution. Many arguments concerning religious and secular ethics in politics rely upon differing underlying assumptions about the nature of religion, ethics, and politics, meaning that demonstrating the legitimacy or illegitimacy of certain assumptions has the potential to exclude a wide range of contention-level arguments that rely upon differing assumptions. It seems strategic that debate over these assumptions will probably occur at the framework level, while arguments in the contention will likely be contingent upon and interact closely with the framework being used. This seems strategic

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because it means that winning the evaluative framework debate should allow for the contention-level argument to be easily impacted.

One of the most common affirmative arguments will likely criticize religion and/or religious ethics. Such arguments would claim that religion is "bad" or cannot be legitimately justified while establishing a benefit to or justification of secular ethics. There are a number of different approaches that could be used to establish this since religion is viewed by many to be fundamentally illogical and a primary causal factor in moral atrocities throughout history. Establishing that religious ethics is meta-ethically illegitimate or that allowing a legislative process to support religious justifications denies an ethical framework (lends support to fundamentalist groups, etc.) would show that religious ethics ought not be embraced, so any ethically-justifiable legislative process would reject religious ethics (and instead prioritize secular ethics).

Separate from ethical criticisms of religion, one could establish that appropriate justifiable political theories require the prioritization of secular ethics over religious ethics. There are a wide range of specific theories and variants of such theories which could be used, but an overriding concept that unifies most of these theories is known as the Doctrine of Religious Restraint, which is endorsed by many political theorists, including Jürgen Habermas, John Rawls, and others. This theory says that there is an important difference between secular and religious ethical justifications in that citizens should not support laws for which they believe there is no conceivable secular rationale, although they can support laws for which there is only a secular rationale. There can be additional religious reasons for a law, but secular justifications must first be present, which establishes that secular justifications must be prioritized. One potential justification for this doctrine is that personal freedom of religion means that one can have religious justifications for their viewpoints, but because every person has that freedom, only a universal (secular) justification separate from subjective religious views is necessary to avoid asserting a specific religious viewpoint.

A related argument about the proper role of government concerns the separation of church and state, which is often credited to the political theorist John Locke and is an important foundation of many modern governments. There are two different variants of this viewpoint. The "friendly" separation of church and state limits the interference of the church in state affairs and state interference in church affairs but still maintains some level of mutual cooperation between the two, while the "hostile" separation of church and state seeks an absolute separation of religion from politics. In terms of the resolution, justifying a hostile separation of church and state would likely affirm while a friendly separation would not necessarily in of itself answer the resolitional question.

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A completely different approach to affirming would assume that the resolution ought to be evaluated in a specific context or situation, rather than as an abstract principle. These affirmatives would discuss specific political climates or policies within such climates. For example, one could argue that religious ethics are currently denying LGBTQ individuals basic non-discrimination rights which is a moral harm that ought to be rejected in favor of secular reasoning recognizing all individuals as receiving basic rights regardless of sexual preferences and gender identification. Without addressing a specific policy issue, one could also explain how in a country such as the status quo United States, legitimizing religious justifications for policy cedes political power to certain groups, which would be reprehensible. This type of argumentation allows for different types of arguments that are not as framework-heavy as their counterparts that assume the resolution indicates a general principle. Instead, by focusing on real-world situations, a better link story is developed and current issues are discussed in greater depth. However, one potential caveat to this approach, especially in regards to specific policies or political groups, is that religion is a contentious issue and many public policies which are disputed on religious grounds are publicly controversial (abortion, etc.). This controversy could be beneficial in promoting depth of discussion but could also influence a judge's decision if that judge decides to assert their personal stance on that issue.

Negative Arguments

One of the most common negative arguments for this resolution will likely argue that there ought not be a prioritization of either religious or secular ethics, but rather that a legitimate system of politics or ethics requires a consideration of multiple conflicting viewpoints rather than categorically rejecting certain viewpoints (or that there is no difference between religious and secular ethics). Politically, a strictly democratic political ideal would call for allowing all citizens to voice their ethical considerations and allow public discourse to construct what constitutes proper a legislative process. Additionally, one could argue that purely secular ethics is an unreasonable expectation for political systems since a large portion of any body public does not think in terms of abstract rationality but a more informal (sometimes "intuitive") ethical system often influenced by religion, so excluding religious ethical justifications would exclude a large portion of the body public. This kind of argument could be strategic because it preempts criticisms of religious viewpoints – even if the viewpoint is bad, it should still be a part of civil discourse. However, this argument also bites into standard criticisms of democracy, such as a tyranny of the majority in which democratic choice leads to a non-democratic end.

While the democracy negative views religious and secular ethics to exist on the same level which denies the necessity for prioritization, another way the negative could meet their textual burden is to establish a political or ethical system which argues that religious ethics ought to be prioritized over secular ethics. The most common justification for this claim comes from the New Traditionalists, who criticize the Doctrine of Religious Restraint and modern ethical discourse as a whole. New Traditionalism uses a MacIntyrean narrative to trace the development of the modern liberal state and the Doctrine of Religious Restraint. This argument claims that the modern liberal state attempts to be a political

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structure that protects individual rights but really instrumentalizes the basis of practical reason and the historical virtues that gave value to human life and a shared conception of the good.

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Resolved: Justice requires the recognition of animal rights.

Topic Analysis

Emily Massey

Overview

This topic deals with interesting philosophical issues that aren't often considered in high school debate. The question of whether animals have rights has far-reaching implications for the way we lead our lives and for the way our society is structured. Is it permissible to eat animals or to keep them in zoos? Recent science has told us that we share a large proportion of our DNA with animals. 96% percent of our DNA is the same as chimpanzees'.



The basic question of the resolution is whether animals have moral status. Arguments that deal with the consequentialist impacts of recognizing animal rights don't work well on this topic because the resolution is about whether animals count morally, rather than whether we should take a particular action towards animals. If we stop factory farming in order to prevent environmental harms, for instance, that might not be a recognition of animal rights because we aren't respecting animals' moral status or making any claims that animals deserve to be treated in certain ways. Rather, the rationale for our action is that it would prevent harms to humans. Certainly, positions that say that recognizing animal rights would prevent egregious harms to animals don't work because they beg the question of the resolution—those harms would only be morally relevant if animals have rights in the first place.

Interpretations

Justice: usually defined as giving each his or her due.

Animal rights: Dictionary.com defines rights as “that which is due to anyone by just claim, legal guarantees, moral principles, etc.” Although the word “animal” technically includes humans, “animal rights” is a term of art that refers to non-human animals, as opposed to those who have “human rights.”

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So, the resolution asks whether non-human animals are due anything on the basis of moral principles. In other words, it asks whether there is a moral claim that animals have on beings that recognize such claims. The negative might want to force the affirmative to defend more, however. Negatives could argue that people use the term “animal rights” to refer to a specific set of rights such as the right not to be killed for sport, fur, or even food, and maybe the right not to be kept in captivity for entertainment.

One important question that frameworks should address is the scope of the affirmative burden with regard to animal rights. Does the affirmative need to defend that all animals have rights, that most animals have rights, or that just one other species should have rights? There is a big difference between a chimpanzee and a sponge, although both are animals. You could justify an affirmative burden of “most animals” by arguing that when we use the phrase “animal rights,” we refer to animals that are more closely related to us than organisms like sponges. Also, this might be more fair ground for the affirmative to defend. It could be difficult to draw the line. Maybe you should outline certain phyla that the affirmative defends.

Recognition: defined by Dictionary.com as “the acknowledgment of something as valid or as entitled to consideration.” The resolution doesn’t ask whether animal rights override human rights or are on the same level as human rights. Rather, the question is whether animals have a moral status, or in other words, whether they can make moral claims on others. The content and strength of those claims might not be relevant because we can recognize rights without treating them as more valuable than other rights. For instance, every time we resolve a rights conflict, we recognize that we are violating some rights in favor of others. The affirmative could also argue that if she had to defend that animals had a moral status equal to or greater than humans’ status, that would be too hard to defend and thus not a fair distribution of ground.

Case structure

Since the resolution asserts that justice requires the recognition of animal rights, the value is justice. As I explained above, the topic is about whether animals count morally rather than about evaluating an action. So, standards will be different on this topic. Rather than “treating people as ends in themselves,” “minimizing suffering,” or some other ethical theory, the standard - whether it is a criterion or a burden - should explain what qualifies someone to make moral claims. The arguments in the contentions, then, would say that animals are qualified to make moral claims because they have the capacity outlined in the standard.

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Affirmatives

One possible affirmative could argue that absent a morally relevant distinction between animals and humans, we should default to recognizing animal rights. Then, the negative burden would be to demonstrate a morally relevant distinction and the affirmative contention arguments would be pre-emptive answers to any distinctions the negative could try to set up. This case would not require the affirmative to outline what qualifies one to make moral claims, because the negative would have the job of proving a distinction. That makes the affirmative's job easier in some senses, but any good negative case will probably meet the burden, so without excellent answers to a wide range of possible negatives, an affirmative debater who runs this strategy would be in trouble.

Other affirmatives will take a stance on what sort of capacity qualifies someone to make moral claims and then argue that animals have such a capacity. Some possible capacities might be the ability to suffer, to live in social groups, to have consciousness, to experience emotion, or to have an individual welfare.



If you want to run a more critical case, you could consider eco-feminist literature that argues that the domination of animals reinforces logic that supports sexism. It is possible to recognize differences among people and species and simultaneously recognize that all have moral status.

These are just a few ideas for affirmative positions, but they are by no means exhaustive. You should take advantage of both the amount of literature on animal rights and debaters' lack of familiarity with the moral conflict in this topic compared to that of most resolutions.

Negatives

A common negative will argue that rationality is the basis of moral status and animals aren't rational. This argument draws from the work of Immanuel Kant, who argued that reason must be the basis for morality. Animals arguably don't have the same ability to reflect on their desires and formulate reasons for action as humans.

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Another route the negative can take is to argue that justice shouldn't recognize anyone's rights. You could run skepticism or critique the notion of rights.

Finally, the negative could argue that justice or morality is a concept that was created through human evolution because it benefited the species for people to be obligated to promote mutual benefit. Thus, we only have moral obligations within our species because the purpose of morality is to further species survival.

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Resolved: In political campaigns within the United States, corporations ought to be afforded the same First Amendment free speech protections as individuals.

Topic Analysis

Caroline Sherrard

Overview: A large portion of the topic literature will be discussing the case Citizens United vs. Federal Elections Commission. This is a Supreme Court case decided in January of 2010 that ruled the government could not limit the political speech of corporations. The decision allows for corporations to spend freely on political campaigns. In the majority opinion, the judges stated that corporations are simply an association of citizens and thus deserve the same political speech rights. This topic should be one that is relatively easy to research since there was such a recent decision about the constitutionality of the resolution.

Analysis of resolutional phrases:

“In political campaigns” contextualizes the free speech protections. This is important since it means you don’t need to discuss speech rights in other contexts.

“within the United States” contextualized the debate to the US. This is important since many other resolutional phrases are specific to terms in the US political system.

“corporations” is the subject of the topic. They are distinct from individuals and are defined as “an association of individuals, created by law or under authority of law, having a continuous existence independent of the existences of its members and powers and liabilities distinct from those of its members” (Random House Dictionary).

“ought” is the evaluative term in the topic, as it is in many other topics. Ought generally implies a value of morality. Different definitions of ought can change which sort of moral theories that it implies. For example, ought as desirability is often used to imply a utilitarian or consequentialist standard. Ought defined as a moral obligation usually sets up a framework where one discusses the obligations of the implied actor in the resolution.

“to be afforded the same... as individuals” simply states that individuals and corporations should be given the same rights in this context.

“First Amendment free speech protections” is a very important phrase of the resolution. This is basically just what the resolution is about. This precludes any arguments in the topic literature that talk about how making corporations the constitutional equivalent of individuals is good or bad, because they only share one specific political right. Additionally, this phrase in addition to the phrase “in political campaigns” contextualized the free speech rights to political speech, meaning that criticism of free speech protections should be contextualized to political speech as well. This also could give links into a framework justifying why we look to constitutional law.

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Affirmative Ground:

The first possible affirmative position would set up a framework about how we need to determine the constitutionality of the resolution. This can be done in a few ways. One such way includes arguing that the way we derive our moral theories is from the constitutionality of action. Another way could be to derive arguments for constitutionality based on the resolution's contextualization to the United States.

In addition, a common default argument on the topic will probably be that in absence of clear reasons to reject the resolution, we ought to presume affirmative since they are currently constitutional.

Another way that an affirmative could approach the topic is to argue that political free speech rights are bad, thus corporations and individuals should have the same political speech rights, none. Potential arguments include a straight utilitarian position talking about the need to maintain order and how safety considerations will always supersede free speech rights.

Additionally, one way to approach the topic would be to write an affirmative position based around the value of free speech, and argue that the actors don't matter. The thesis of this position would be that more political information is always better, and the actor providing this information is irrelevant.

Finally, there are many issues in which corporations have specific viewpoints, and thus crafting a position about why they rights to political speech could be strategic. Incorporated into this position could be arguments about how many advocacy groups are incorporated, and thus they have specific viewpoints and need to have political speech rights in order to effectively advocate.



Negative Ground:

The first most obvious position is one with some sort of utilitarian framework that utilizes the large amount of literature based upon the negative effects of giving corporations free speech rights. However, if running this case, you should be careful not to run various slippery slope arguments that are being discussed based on the recent Supreme Court decisions. For example, since the resolution only refers to First Amendment free speech rights then arguments about how making corporations the legal equivalent of persons means they would get ridiculous rights, like the right to hold political office, irrelevant.

Another common argument is that giving corporations free speech rights gives citizens who are in charge of or a part of corporations "double" free speech rights. Basically, since individuals already have these speech rights as individual citizens, it would be nonsensical to give corporations those rights as well. This could also have a negative effect since corporations would be given greater power.

Additionally, a common position is that giving corporations political speech rights violates the interests of the shareholders. If corporations were to speak out on certain political issues, this would require potential shareholders to vet companies on their political views in addition to looking at the financial viability of the company. This sort of issue is often called "corporate waste" in the literature.

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Finally, an interesting negative position might be to also run a constitutionality case and argue that the recent Supreme Court decision was wrong. Since it was such a close ruling, and it was so recent, there is an abundance of literature both refuting and supporting the decision. However, if debating a constitutionality affirmative, it might be more strategic to run a different negative case, and have this position written out as turns.

Tips for Research:

LexisNexis, especially the legal section, is extremely helpful to find research on this topic. Google scholar also gives you the option to search legal opinions, which can be very helpful in researching constitutionality cases.

Suggested Readings

Muzzling Corporations: The Court Giveth and the Court Taketh Away a Corporation's "Fundamental Right" to Free Political Speech in *Austin v. Michigan Chamber of Commerce*, Michael Schofield
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Communication Law and Policy, Spring, 2009, 14 Comm. L. & Pol'y 105, 27954 words (Lexis)

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The Corporate "Person": A New Analytical Approach to a Flawed Method of Constitutional Interpretation, Jess M. Krannich Copyright (c) 2005 Loyola University Chicago School of Law Loyola University Chicago Law Journal, Fall, 2005, 37 Loy. U. Chi. L.J. 61 (Lexis)

Corporate Rights to Free Speech. Mary Lyn Stoll Journal of Business Ethics, Vol. 58, No. 1/3, Promoting Business Ethics (Apr. - May, 2005), pp. 261-269 (Jstor)

The Continuing Debate on Political Advertising: Toward a Jeopardy Theory of Political Advertising as Regulated Speech Clarke L. Caywood, Ivan L. Preston Journal of Public Policy & Marketing, Vol. 8, Health and Safety Issues (1989), pp. 204-226 (Jstor)

A Critical Analysis of Commercial Speech David F. McGowan California Law Review, Vol. 78, No. 2 (Mar., 1990), pp. 359-448 (Jstor)

Corporate Political Speech, Political Extortion, and the Competition for Corporate Charters Robert H. Sitkoff The University of Chicago Law Review, Vol. 69, No. 3 (Summer, 2002), pp. 1103-1166 (Jstor)



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Resolved: The United States is justified in using private military firms abroad to pursue its military objectives.

Topic Analysis

Catherine Tarsney

1. Background you should know about
 - a. The United States uses private military firms extensively in its military endeavors
 - i. PMCs were utilized to some extent during the Persian Gulf War to supplement the forces of the US military – around 10,000 private contractors were used in this war.
 - ii. The use of PMCs has increased significantly since then, and as of 2006 there were over 100,000 private contractors assisting the US military in the Iraq War.
 - iii. Beyond being used simply as ground forces in foreign wars, private military firms work in concert with agencies like NASA and the CIA.
 - b. Sources of controversy
 - i. Abu Ghraib
 1. In 2004, reports started to emerge of torture, rape, and murder of prisoners at the Abu Ghraib prison in Iraq.
 2. While the prisoners who received public attention and were removed from their positions were members of the US military, there were over 30 private contractors working at Abu Ghraib and who may have been involved in the torture that went on there.
 - ii. Blackwater
 1. Blackwater is by far the most well-known private military contractor to have worked in conjunction with the US military.
 2. Founded in 1997, it is the world's largest private military firm.
 3. Blackwater was contracted to provide services in Iraq in the early years of the war.
 4. In 2004, four Blackwater contractors were murdered by Iraqi insurgents. In retaliation, a group of Blackwater operatives fired on a group of 400 protesting Iraqi civilians.
 5. In early 2006, a Blackwater guard initiated fire on guards on and Iraqi street, killing three people in an unprovoked attack. The US military sanctioned/condoned this action.
 6. In May of 2007, contractors opened fire on civilians on the streets of Baghdad twice within a two day period. This prompted intense controversy over the applicability of military law to private contractors not acting in the name of the US military.
 7. In September of 2007, Blackwater contractors murdered seventeen Iraqis. This led to the revocation of Blackwater's license to operate in Iraq, along with multiple investigations into Blackwater operations by agencies like the FBI.

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8. In 2009, Blackwater's name was officially changed to Xe Services LLC.

2. Framework/interpretational issues

a. "Justified"

- i. "To prove or show to be just, right, or reasonable" – Merriam-Webster's – this could mandate an evaluation of justice or feed a more pragmatic reading of the topic that questions whether PMFs are a reasonable means for achieving military goals.
- ii. "To show to have had a sufficient legal reason" – Merriam-Webster's – less common or perhaps contextually appropriate interpretation, but this could give easy access into arguments about how PMFs interact with international legal standards of military conduct.

b. "Using"

- i. "To employ for some purpose" – Random House
- ii. A potential interpretive issue is whether 'using' implies putting on the ground in combat positions.
- iii. Think about the effect this would have on arguments about the use of contractors for consulting work or by intelligence agencies.

c. "Private military firms"

- i. "PMFs are profit-driven organizations that trade in professional services intricately linked to war. They are corporate bodies that specialize in the provision of military skills—including tactical combat operations, strategic planning, intelligence gathering and analysis, operational support, troop training and military technical assistance" – Singer (see cite in article list).
- ii. Some authors conflate, while others differentiate between, terms like 'private military firm', 'private military company', and 'mercenary' among others. It's important to look into and understand the potential differences and relevant ground covered by the term PMCs.

d. "Abroad"

- i. The position of this word in the resolution may seem to imply that the military firms actually have to be operating, or on the ground, in a foreign country.
- ii. Similar to the interpretive issues from the word 'using' this calls into question the topicality of arguments about PMFs being used for consulting but not actually fighting on the ground in military conflicts.

3. Potential affirmative arguments

a. Military efficacy

- i. The free market creates incentives for the efficient provision of goods and services.
- ii. Competitive incentives drive prices down which makes PMFs a more economically efficient means of providing military forces than the state-run military services.

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- iii. Similarly, the quality of training programs increases when there's a financial need to get contracts with the state, making the average quality of preparedness and training higher among PMFs than the US Army.
- b. US military supremacy/hegemony
 - i. The conventional military is occupied all over the world, making it impossible for the United States to expand, or even maintain, its current levels of involvement overseas.
 - ii. The use of PMFs is essential to ensuring that the US can remain a strong or viable military presence overseas.
- c. Overstretch
 - i. The US military is currently facing overextension of its limited resources
 - ii. Private military firms offer financial and career based incentives that are more powerful than incentives offered by the conventional military, which means that PMFs can help solve recruitment shortfalls.
- d. R&D incentives
 - i. The market driven nature of private military firms creates a competitive incentive for firms to innovate and make technological advancements in order to ensure things like contracts with the USFG.
 - ii. Thus, there will be more technological innovations and progress within PMFs than within the state run military.
 - iii. This can facilitate military, technological, and scientific advancements.
- e. Facilitating peace keeping operations
 - i. Private military firms have been used by the UN to supplement the forces available for peace keeping operations abroad.
 - ii. Thus PMFs can assist in promoting human rights goals around the globe that would be impossible with the limited force of the conventional military.
- f. Checks public support
 - i. Unlike the state military, private contractors can opt in or out of participation in PMFs or the US military.
 - ii. Things like stop-loss in the state military force soldiers to continue fighting even for wars they, or the more general public, don't actually support.
 - iii. The willingness of individuals to continue working for PMFs, or for PMFs to continue contracting with the state, is a reflection of the support outside of the state for military actions.
 - iv. This provides a check against unpopular, needless, or dangerous military adventurism.
- 4. Potential negative arguments
 - a. Militarism bad
 - i. This argument would generally criticize the military objectives of the United States, and argue that we shouldn't become militarily involved overseas.

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- ii. All military actions risk civilian casualties and recent US military actions have been criticized for being needlessly violent, meaning pulling back on military endeavors is key to rights protection.
- b. Profit drive overwhelms quality
 - i. In the state military, soldiers are driven by a desire to further the goals of the state or achieve military objectives.
 - ii. Within private military firms, however, the main drive of both the firm and the individual contractors is to make a profit and ensure future contracts.
 - iii. That's not necessarily consistent with military or humanitarian goals and means that there's less of a check on the actions taken by contractors when acting to achieve military aims.
 - iv. PMFs are more likely to cut corners to save money even if that involves risks to human life.
- c. Trains and arms revolutionaries
 - i. Private military firms provide technical training to individuals who aren't under the direct influence or authority of the state.
 - ii. That provides resources and potential manpower to revolutionary movements acting to undermine the power of the state.
 - iii. This has happened empirically – in Sierra Leone in the mid-1990s, private contractors broke off deals they had held with the government and are believed to have provided direct military support to revolutionaries fighting to overthrow the state.
- d. Dependency
 - i. The use of private military firms creates a reliance of the state on their services, and leads to cut backs in the investment in the state-run military.
 - ii. This is particularly risky since it's very easy for firms to end their contracts with the state at any time – generally firms operate in other countries and there's no mechanism for punishing contract violations.
 - iii. A firm ending its involvement with the state can thus leave the state with too few resources and underprepared when a need for military force emerges.
- e. Lack of accountability
 - i. Many PMFs operate internationally and aren't clearly bound under the laws of individual states.
 - ii. There's also a lack of clarity concerning the legal status of many of these firms.
 - iii. As a result, there's no good way to control their operations or ensure that they're following international laws or normally accepted standards of military conduct.
 - iv. This can lead to needless and uncontrolled rights abuses.
- f. Violate rights
 - i. Purely empirically, private military firms have a horrible history of committing human rights abuses abroad in the process of achieving military objectives.

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- ii. This is a direct harm in terms of rights but also kills popular support for otherwise legitimate or valuable military pursuits by associating them with random and unjustified killings.
- g. Need public and multilateral support
 - i. Private military firms help the government solve shortfalls in recruiting and compensate for a lack of international backing for specific military objectives.
 - ii. This is bad since it removes the necessity for getting outside support, which is a litmus test for the legitimacy of initiating military action.

Articles to Read:

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Stinnett, N. “Regulating the Privatization of War: How to Stop Private Military Firms from Committing Human Rights Abuses,” BC Int'l & Comp. Law Review, 2005

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“Resolved: The abuse of illegal drugs ought to be treated as a matter of public health, not of criminal justice.”

Topic Analysis

Graham Tierney

Definitions

Abuse

- make excessive and habitual use of (alcohol or drugs, esp. illegal ones) (New Oxford American Dictionary)
- use or treat in such a way as to cause damage or harm (New Oxford American Dictionary)
- a corrupt practice or custom (Merriam-Webster Dictionary)
- improper or excessive use or treatment (Merriam-Webster Dictionary)

Illegal Drugs

chemical substances that people of any age may not lawfully manufacture, possess, buy, or, sell.

For lists of illegal drugs, the US Controlled Substances Act and United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Ought

- Used to indicate duty or correctness (New Oxford American Dictionary)
- Used to express obligation, advisability, natural expectation, or logical consequence (Merriam-Webster Dictionary)
- used to express duty or moral obligation (Dictionary.com)
- used to express justice, moral rightness, or the like (Dictionary.com)

treated

- Behave towards in a certain way

Public health

There is no agreed upon definition of what the public health approach to illegal drug abuse is within the literature, however there are commonalities between many definitions. They more often focus on treating and aiding the health of drug users rather than the retributive focus of criminal justice.

Lawrence Gostin defined the public health approach as follows

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[The] public health approach does not require society to abandon criminal penalties for illicit drug use. However, it does require implementation of public health policies that are known to work based on sound scientific studies. ...

The objective of a public health approach is not to encourage or enable IDUs [Intravenous drug users] to obtain and use drugs; public health strategies actively seek to reduce drug use due to its profound adverse effects on physical and mental health. Rather, the public health approach seeks to substantially improve health outcomes for IDUs who cannot or will not stop using drugs.

A common conflict between the criminal justice and public health approaches is the availability of syringes. Currently, the criminal justice approach prevails and access to syringes is severely restricted based on the belief that easy access will increase the amount of drug users. Public health officials, however, often claim that providing needle exchange programs and sterile syringes will decrease the transmission of blood-borne illness, such as HIV and hepatitis B and C. Gostin again explains the difference between the two vies using the example of syringes.

The tenets of the **criminal justice** model hold that illicit drug use and its instrumentalities, including syringes, must be criminally proscribed. Syringes, essential for delivering injection drugs, are seen as an integral and pernicious part of the **illegal drug** trade and of the underground drug subculture. ⁵⁵ Syringes have become a metaphor for illicit drug use itself and associated criminal activity, family disintegration, child neglect, economic ruin, and social decay. ⁵⁶ To many, legalizing, and particularly promoting, the possession and use of sterile drug injection equipment sends the wrong message, encourages initiation into drug use, and undermines moral and family values. ...

The **public health** approach ... recognizes the disutilities of drug use and supports interventions that discourage drug use or that facilitate treatment of drug users. Unlike the **criminal justice** construct, however, the **public health** framework advocates harm reduction, a strategy that seeks to minimize health risks for injection drug users (IDUs). **Public health** professionals reason that persons who persist in using drugs might nevertheless mitigate the considerable and demonstrable health risks of injection drug use. Accordingly, harm reduction strategies embrace education, counseling, and the means for safer injection practices. A key aspect of a harm reduction strategy for IDUs is to maximize the lawful distribution and use of sterile injection equipment. These harm reduction measures, which promote access to drug injection equipment, encompass three interrelated policies: permitting physicians to write prescriptions for syringes, authorizing pharmacists to sell syringes over-the-counter, and legalizing and funding syringe exchange programs (SEPs). From a **public health** perspective, physicians who prescribe syringes, pharmacists who dispense syringes, and IDUs who possess syringes should not face criminal penalties for complying with **public health** recommendations.

Public health models would focus on aiding users and communities harmed by drug abuse, even if making drug use less harmful might result in more users.

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It is important to note that medical marijuana does not fit exactly with a public health approach to illegal drug abuse. It is part of some public health plans, but not all of them. Also, used for medicinal treatment it is not an illegal drug, so it is questionably topical at best. This will be addressed more later.

Criminal justice

Criminal justice is generally the status quo of US drug policies. Use and trafficking of drugs is punished and forbidden. However, there are many who advocate changes to our criminal justice system's treatment of drug users that would still fall into a criminal justice model. Authors using a criminal justice approach often advocate reduced sentencing, treatment imprisonment, and community based policing.

The most common feature lacking from public health models is coercion. Mandatory drug treatment courts and other criminal justice approaches all involve forcing the addict to enter a treatment program, sometimes similar to a probation where if the addict fails to finish his or her treatment they will be imprisoned.

General Framework

This topic is very ambiguous. It is written in the passive voice, so the actor is unknown. This means the topic could refer to any country or any illegal drugs. It has two main implications. A- Copious amounts of plan ground is opened up and there will likely be theory debates as to how much specification the aff can do. Marijuana legalization/decriminalization will likely be a common specification, but fiatting changes in the drug policies of other countries and different drugs are also possible due to the lack of specification. Who treats drugs differently is also important. It could be the state, communities, law enforcement officers on the streets, or any combination thereof. B- Different forms of weighing than simply probability, magnitude, scope, and time frame can be used. Very general evidence can be used to outweigh specific empirics or less generally applicable cards by arguing that your evidence better applies to the very broad question the resolution asks. This does not exclude empirics or specific evidence, so it is less open to theoretical objections, but it does advantage general evidence when the judge is left to weigh arguments at the end of the round.

The topicality of legalization/decriminalization of drugs is also debatable as to who's ground, if anyone's, it is. Legalization is a process whereby a drug can be legally acquired without a prescription. There can still be legal restrictions on who can acquire the drug, as with alcohol or tobacco, however.

Decriminalization is where sentences are reduced or not enforced for a drug but it remains illegal. This can create odd situations where use or possession of small amounts is lawful, but growing or trafficking in the drug is illegal. Legalization clearly is not using the criminal justice system by abandoning the court system entirely, but that means the drug is no longer topical because it is now a legal drug. If the aff proposes legalization of a drug the plan is topical before it is implemented but not afterwards, leaving open a theoretical or textual question of the plan's legitimacy. If the aff cannot legalize a drug, then negatives could possibly legalize drugs the aff is only decriminalizing. In the affirmative world or to prove the resolution true the drugs in question must be treated as illegal, so the two are mutually exclusive on that level.

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Affirmative ground

Because the topic is so vague it is hard to pin down a single question it asks. It could be a question of Man vs. Society; should the individual's need for treatment supersede society's welfare. It could be what best improves society's welfare, public health or criminal justice. It could be which approach best helps the addict. The question for each round will likely depend on how the affirmative chooses to frame the resolution.

This means, unlike many topics, there is a wealth of affirmative arguments to choose from and negatives will be more constrained in their options after the AC is read.

Deontology

While most public health approaches focus on consequentialist benefits, it is possible to frame a deontological affirmation in a few ways. Criminal justice often coerces individuals, which could violate privacy or property rights they hold. Some authors also argue that public health respects individuals as rational agents capable of choosing treatment, while criminal justice mandates treatment or incarcerates addicts because of a belief they are not capable of making decisions themselves. Another argument in a different vein is that drug users aren't responsible for their crimes so ought not be punished by the criminal justice system, rather treated for health problems.

What makes this approach less strategic is that criticisms of criminal justice often also criticize public health measures in similar ways. The recently debated compulsory immunization topic is an example of coercive public health law. While the resolution does use the word not, the affirmative has to defend actively treating drug abuse as a matter of public health. Also, the aff's util ground is quite good and often better than the negative's. The criminal justice approach and "war on drugs" in the US has been in place so long that many who support it (negative authors) don't write about their support because it is so ingrained. This gives the aff the advantage in terms of finding persuasive evidence. Also, people who shoot up on heroin every other day probably aren't the most rational of agents by the end.

General Utility

There are a wide variety of utilitarian positions that don't require much specification.

There are many discussions decriminalization/legalization of drugs and its benefits. Obviously those authors would not support giving crack to children, but some specification will always happen when attempting a consequentialist discussion of this topic because of its vagueness.

The benefits often include reduction of drug-related violence, less illicit transactions, the availability of quality control, taxation, and ending the war on drugs. Each of these could be one of multiple contentions or some entire case positions. If drugs are legalized there will be less black market deals for them and the government can insure each dosage is the same so users don't accidentally overdose. Prison overcrowding has surprisingly good empirics and will likely catch some negatives by surprise because the advantage isn't what people first think to block out given the topic wording.

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One possible objection is that decriminalizing/legalizing a drug is only not using criminal justice. It lacks support of treating drugs as a matter of public health. The ways around this could be to argue the advantages are benefits to public health or include a new public health treatment method (such as a needle exchange program). This, however, could make for a difficult 1AR because the neg would only need to beat one of the prongs (the public health method or legalization) and permute the other. If the aff needs to do both legalize and something else to affirm then the negative could do one and reject the other.

Plans

While it is hard to find textual grounding for parametric in the resolution, there will likely be many when this topic is debated.

Popular plans will likely be decriminalizing/legalizing specific drugs or implementing specific public health based policies. Education, counseling, needle exchange, and community involvement could all be options.

They are all too different to be individually discussed, but a popular strategy might be reading specific evidence but not excluding neg arguments about other empirics, merely weighing them against one another. This avoids most theory objections because the neg doesn't have to predict what the aff will specify because they can use their own specifics.

Critical Arguments

There are a lot of critical arguments about drugs. Foucault has a lot to say about drugs and biopower, however many of the criticisms of the criminal justice approach would also apply to a public health approach. Attempting to regulate what a "healthy" person should be is the main point of statist and biopolitical critiques, but promoting a public health also often links to the same critiques.

One option could be to frame the resolution to mean the neg had to defend coercive state action (the criminal justice system is part of the state) while the aff could defend the public (or specifically public health professionals) changing their policies on drugs for a individual or community based movement as opposed to statist oppression the neg must defend. This is where the aff can reference the passive voice of the resolution hiding who is treating drugs differently.

Critical Race Theory

Many people think the "war on drugs" is targeted at African Americans. The recommended sentence for crack, a drug used mostly by impoverished African Americans, is significantly higher than the recommended sentence for cocaine, a more pure version of the same drug used more by wealth white people. There are also far more African Americans arrested for drug related offenses than white people. Removing the criminal justice approach would protect the civil rights of African Americans because supposedly racist law enforcement officers and legislation could no longer be used to coerce them.

Again, the problem is how this is a public health approach. Focusing on a minority population's health is questionably a public health concern because it does not affect a majority of the population and is not done for primarily health reasons, rather a concern for equality and civil rights. This problem can be

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avoided by having impacts that say racism harms the whole of society, but the aff is left open to outweighing by the neg and loses the benefit of the unique/specific criterion of minimizing racism or however its phrased.

Neg Ground

Stock ground

The stock neg ground will likely be clearly criminal justice approaches to drug enforcement. Authors defending a no tolerance policy's deterrent effects, the necessity of coercion to treat addicts, and drug treatment courts will likely be popular strategies.

Drug courts or mandatory rehab treatments offer good counter-plan ground to compete with decriminalization or syringe exchange programs through net-benefits because both focus on aiding the drug users and utilitarian benefits. Prison overcrowding is solved if addicts can be treated without jail time; drug related violence decreases if there are less users to sell to; sterile syringes aren't necessary if drug users are no longer addicts.

Unique Positions

A lot of what the negative's strategy can be is finding the resolution in different ways.

Third Options

If the aff does not address whether the ~~neg must defend the criminal~~ justice approach many options are available. Most affs will compare public health to criminal justice, but a negative could propose a third option (such as a private health approach, a community based approach). The aff's arguments won't be as applicable because comparisons to a criminal justice system aren't relevant to the neg's position. These options are likely few and not as good as the two more mainstream approaches in the abstract, but the surprise value in round of breaking a new one could enable some easy wins.

This can be debated textually both ways. If a better option is available we ought not treat illegal drugs as a matter of public health, not criminal justice because public health isn't as desirable as something else. The aff could also argue that even if public health isn't the best it is still better than criminal justice so the resolution is true.

Plan Plus/Do Both

Presumably the aff's public health approach avoids the harms of criminal justice that they developed. Therefore, if both the public health and criminal justice approaches are used (drug treatment courts and syringe exchange programs for instance) some of the harms of criminal justice may be avoided (for instance, the stigma of drug use as evil will be reduced by providing syringes even if coercive measures are still taken to stop drug abuse). This is less strategically advantageous because some of the aff's

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criticisms of criminal justice will still apply, but that also means the position is less theoretically objectionable as the neg isn't kicking out of the entire AC.

Another way to do both is to use the aff's public health approach, then if that fails use criminal justice as a last resort. Providing education, sterile syringes, and free counseling could be a public health approach but the drug abuse that remains could be treated as a matter of criminal justice. This would be mutually exclusive with affirming because the aff cannot treat illegal drugs as a matter of criminal justice at all.

Legalizing drugs as the neg also opens up options. If the aff decriminalizes marijuana, the neg could legalize it and also treat it as a public health matter not criminal justice. The neg is free to treat legal drugs however it wants, but the aff must treat the drugs in question as illegal ones. Many affirmative advantages would be irrelevant because the negative is no longer criminally prosecuting drug offenders.

Articles

Syringe Exchange Program

Lawrence O. Gostin. "DRUGS: THE EPIDEMICS OF INJECTING DRUG USE AND BLOOD-BORNE DISEASE: A **PUBLIC HEALTH** PERSPECTIVE." Spring 1997 Valparaiso University Law Review. LexisNexis

This article focuses very specifically on the problem of sharing needles and doesn't address many general concerns. It concludes strongly in favor of a needle exchange program based in a public health approach.

Lawrence O. Gostin and Zita Lazzarini. "PREVENTION OF HIV/AIDS AMONG INJECTION DRUG USERS: THE THEORY AND SCIENCE OF **PUBLIC HEALTH AND CRIMINAL JUSTICE** APPROACHES TO DISEASE PREVENTION." Spring 1997 Emory Law Journal. LexisNexis

This article also provides a good overview on the difference between public health and criminal justice approaches. It focuses less specifically and concludes that both criminal justice and public health approaches are necessary.

Deontology

James Ostrowski. "A SYMPOSIUM ON DRUG DECRIMINALIZATION: THE MORAL AND PRACTICAL CASE FOR DRUG LEGALIZATION." Spring 1990 Hofstra Law Review. LexisNexis

This article has a section on how individual rights protect drug users. The argument is based in the fact that drug users don't harm others and have a right to self-determination. It also answers some possible objections with multiple short arguments.

Norbert Gilmore. "DRUG USE AND HUMAN RIGHTS: PRIVACY, VULNERABILITY, DISABILITY, AND HUMAN RIGHTS INFRINGEMENTS." Spring 1996 Journal of Contemporary Health Law & Policy. LexisNexis.

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This author argues the human rights of drug users are often violated in the status quo by the criminal justice system. He concludes we need to change the stigma associated with drugs and drug users.

Racism

Kathleen R. Sandy. "The Discrimination Inherent in America's Drug War: Hidden Racism Revealed by Examining the Hysteria over Crack." Winter 2003 Alabama Law Review. LexisNexis.

Sandy don't focus on public health, but provides a lot of arguments about racism in the war on drugs and drug enforcement in general.

Kenneth B. Nunn. "Race, Crime and the Pool of Surplus Criminality: Or Why the "War on Drugs" was a "War on Blacks". Fall 2002 The Journal of Gender, Race & Justice. LexisNexis.

This focus on many instances of historical racism in drug policies. Again, not a lot of focus on solutions, but decriminalization/legalization would solve most of his harms.

Amendments To Current Policy

Steven Belenko. "THE CHALLENGE OF INTEGRATING DRUG TREATMENT INTO THE **CRIMINAL JUSTICE** PROCESS." 2000 Albany Law Review. LexisNexis.

This author argues for a criminal justice approach but with modifications to our current system.



Drug Treatment Courts

U.S. Department of Justice - Drug Enforcement Agency. 2003. Speaking Out Against Drug Legalization.. Available at: www.dea.gov/demand/speakout/index.html.

This website is very pro-criminal justice.

Belenko, Steven. "Research on Drug Courts: A Critical Review." *National Drug Court Institute Review*. 1998

Vick, Dwight. "COMMUNITY-BASED DRUG COURTS: EMPIRICAL SUCCESS. WILL SOUTH DAKOTA FOLLOW SUIT?" 2007 South Dakota Law Review

Legalization of Marijuana Good

Blumenson, Eric and Eva Nilsen. "NO RATIONAL BASIS: THE PRAGMATIC CASE FOR MARIJUANA LAW REFORM." 2009 Virginia Journal of Social Policy & the Law

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