# **Resolved: A just government ought to pay reparations to indigenous populations for historical oppression.**

# **Topic Overview**

The mistreatment and historical oppression of indigenous groups is something that exists in many of the largest and most powerful countries today. Not only does the United States have a long history of genocide as well as oppression of indigenous groups, other countries such as Canada and Australia do as well. This topic doesn't specify what indigenous groups or what country may have affected them through historical oppression, so debaters should be prepared to discuss the implications of reparations to numerous groups of indigenous people from varying geographical locations.

However, since it is most proximal to the debaters and because most of the debates will end up centering around the United States because of our history, the arguments in this brief will largely focus on the historical oppression of Indigenous people in the United States.

In the succinct words of historian Roxanne Dunbar-Ortiz, “genocide was the inherent overall policy of the United States from its founding.” - The United States was founded literally on top of Indigenous lands and has not stopped expanding into indigenous lands from the point of its founding. Since the first explorers from Europe laid foot on the shore, the population of Indigenous people in the United States has dropped - by some estimates - by as much as 90%. Due to disease spread, direct violence, displacement, and other methods of systematic eradication, the United States has decimated and stolen from the Indigenous people leaving them impoverished and enclosed in small reservations.

This historical oppression is indisputable, but what the topic asks of us is whether reparations are an adequate or ‘Just’ action to be taken by a government in response to that history. Keep in mind that the debate centers around this and not around whether the historical oppression warrants reparations or not.

In this context the word reparations in the resolution would likely mean something along the lines of financial restitution to the indigenous people affected by a history of state oppression. However, you may encounter all sorts of forms of ‘reparations’ including giving back the land, or land restoration initiatives. Be prepared, adapt your arguments, and utilize your definitions if your opponent tries to reframe the debate away from the commonly understood definition of reparations.

Ultimately, this debate will often boil down to a question of framing, are reparations something a Just government would do, not are reparations the best possible choice.

#### **Aff Strategy**

The Affirmative on this topic must defend reparations as a just action for governments to take. In this case we make the argument that since poverty is the largest influencing factor for most of the problems Indigenous people in the US face, giving back money would allow the Indigenous people to escape the systems of poverty they have been placed into.

The AFF uses the Value of social justice and the criterion of quality of life. Since reparations could help alleviate the poverty that indigenous people face, it would certainly impact their quality of life for the better. Basically, the simplest way to put the argument is that giving indigenous people money gives them a chance to have better/more things that are necessary to live and live well.

 The key to this debate is framing. Even if reparations are not the best answer to historical oppression, they are a just action that a just government ought to take. Reparations are not mutually exclusive with other forms of restitution. Unless the negative can prove that reparations are actively unjust on their own, the affirmative is still upholding the resolution to be true.

#### **Neg Strategy**

 The Negative on this topic must prove that a Just government would not use reparations as a method. The strategy here is fairly simple - prove that reparations are unnecessary and ineffective. Since countries have given reparations to their indigenous people in the past without major benefit, and because indigenous people themselves have openly said they do not want reparations, reparations are simply not the correct method to atone for past atrocities.

# **Further Reading**

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# **Aff Case**

## **1AC**

### **Definitions:**

**Reparations ---**

**Miriam Websters Dictionary, Last Accessed 2018** "Reparation." Merriam-Webster.com. Merriam-Webster, n.d. Web. 12 Aug. 2018. https://www.merriam-webster.com/dictionary/reparation

Reparations: a : the act of making amends, offering expiation, or giving satisfaction for a wrong or injury b : something done or given as amends or satisfaction

**Ought ---**

**Miriam Websters Dictionary, Last Accessed 2018**"Ought." Merriam-Webster.com. Merriam-Webster, n.d. Web. 12 Aug. 2018. https://www.merriam-webster.com/dictionary/ought

—used to express obligation

### **Value:**

#### **Social Justice --- A just government must be just in regards to historically marginalized populations, in this case, a just government must support social justice.**

#### **The value of Social Justice is best defined when looking through its ability to ameliorate social discrimination.**

**Bhugra, 2016** (Dinesh [CBE, Professor at King’s College], Social Discrimination and Social Justice, *International Review of Psychiatry*, 28:4, pp 336-341)

As has been shown in the case of racism (UNESCO, 1967 UNESCO. (1967). Statement on race and racial prejudice. Paris: UNESCO. [Google Scholar] ), all human beings belong to the same species and descend from the same stock. Thus, no illness—be it mental or physical, acute or chronic—should lead to discrimination of any kind whatsoever. Social discrimination against people with mental illness is a global issue and it covers a range of spheres which influence daily living and daily functioning. Social discrimination appears to be lodged in the system and, therefore, can be pervasive and intrusive, and stop people from reaching their full potential and, more importantly, labelling them changes their identities. Micro-identities related to race, gender, age, religion, sexual orientation, and other components all get trumped by [a] the label of being mentally ill. Social discrimination is defined as sustained inequality between individuals on the basis of illness, disability, religion, sexual orientation, or any other measures of diversity. Social justice is aimed at promoting a society which is just and equitable, valuing diversity, providing equal opportunities to all its members, irrespective of their disability, ethnicities, gender, age, sexual orientation or religion, and ensuring fair allocation of resources and support for their human rights. Any number of diverse factors, including those mentioned above, but also education, social class, political affiliation, beliefs, or other characteristics can lead to discriminatory behaviors, especially by those who may have a degree of power in their hands. Stigma is a prejudiced attitude and is readily applied to people with mental illness (especially to those with severe and serious mental illness such as schizophrenia and bipolar disorders), and widespread insidious and pervasive stigma leads to discriminatory attitudes and practices. Stigma can also explain widespread negative attitudes and behaviors, as well as negative cognitions and structures which create and perpetuate inequities.

## **Criterion: Quality of Life**

**The criterion to measure social justice in this case will be Quality of Life. The best way to measure whether a government is enacting social justice in the historical context of oppression of indigenous groups is through examining their quality of life.**

**Quality of Life For Indigenous People is Staggeringly Low**

**Native Partnership.org last Accessed August 2018** “Native American Aid”, http://www.nativepartnership.org/site/PageServer?pagename=naa\_livingconditions

About 22% of our country’s 5.2 million Native Americans live on tribal lands (2010 U.S. Census). Living conditions on the reservations have been cited as "comparable to Third World," (May 5 2004, Gallup Independent). It is impossible to succinctly describe the many factors that have contributed to the challenges that Native America faces today, but the following facts about the most pressing issues of economics, health, and housing give a hint of what life is like for many first Americans. Employment Typically, Tribal and Federal governments are the largest employers on the reservations. Many households are overcrowded and earn only social security, disability or veteran's income. The scarcity of jobs and lack of economic opportunity mean that, depending on the reservation, four to eight out of ten adults on reservations are unemployed. Among American Indians who are employed, many are earning below poverty wages (2005 BIA American Indian Population & Labor Force Report). The overall percentage of American Indians living below the federal poverty line is 28.2% (2008, American Indians Census Facts). The disparity for American Indians living below poverty on the reservations is even greater, reaching 38% to 63% in our service area (2006, National Center for Education Statistics, and other sources). Often, heads of household are forced to leave the reservation to seek work, and grandparents take on the role of raising their grandchildren. In order to survive, extended families pool their meager resources as a way to meet basic needs. The relative poverty still experienced by these blended families is best understood as the gap between the overall need and the need that goes unmet. Housing There is a housing crisis in Indian country. Despite the Indian Housing Authority's (IHAs) recent efforts, the need for adequate housing on reservations remains acute. One legislator deplored the fact that “there are 90,000 homeless or underhoused Indian families, and that 30% of Indian housing is overcrowded and less than 50% of it is connected to a public sewer.” (March 8, 2004, Indian Country Today). In addition, many American Indians are living in substandard housing. About 40% of on-reservation housing is considered inadequate (2003, U.S. Commission on Civil Rights). The waiting list for tribal housing is long; the wait is often three years or more, and overcrowding is inevitable. Most families will not turn away family members or anyone who needs a place to stay. It is not uncommon for 3 or more generations to live in a two-bedroom home with inadequate plumbing, kitchen facilities, cooling, and heating. Further increasing the concerns with reservation housing is the noticeable absence of utilities. While most Americans take running water, telephones, and electricity for granted, many reservation families live without these amenities. On a seriously stretched budget, utilities are viewed as luxuries compared to food and transportation. Overcrowding, substandard dwellings, and lack of utilities all increase the potential for health risk, especially in rural and remote areas where there is a lack of accessible healthcare. Health "The average life expectancy for Native Americans has improved yet still trails that of other Americans by almost 5 years” (2010, HHS Indian Health Disparities Fact Sheet). About 55% of American Indians rely on the Indian Health Service for medical care (2006, Indian Health Facts). Yet, the Indian Health Care Improvement Act only meets about 60% of their health needs (2003, U.S. Commission on Civil Rights). Due to underfunding, Indian Health Service facilities are crisis-driven and leave a wide gap in adequate and preventative health care for many Native Americans on the reservations. Pharmacies and doctor's offices outside of hospitals are completely non-existent in some communities. The pressures to shift from a traditional way of life toward a Western lifestyle has dramatically impacted the health and welfare of the Native peoples and created a terrible epidemic of chronic diseases such as diabetes, heart disease, tuberculosis, and cancer. The statistics are alarming. Heart disease is the leading cause of death for American Indians (2003, Center for Disease Control). Due to the link between heart disease, diabetes, poverty, and quality of nutrition and health care, 36% of Natives with heart disease will die before age 65 compared to 15% of Caucasians (2001, HHS Office of Minority Health). American Indians are 177% more likely to die from diabetes (2011, Indian Health Disparities). 500% are more likely to die from tuberculosis (2011, Indian Health Disparities). 82% are more likely to die from suicide (2011, Indian Health Disparities). Cancer rates and disparities related to cancer treatment are higher than for other Americans (2005, Native People for Cancer Control). Infant death rates are 60% higher than for Caucasians (2001, HHS Office of Minority Health). The facts presented are important realities about the living conditions faced by many Native Americans in this country — facts that every non-Native American needs to know.

## **Contention 1: Poverty**

**The biggest issue is Indigenous Poverty, reparations fix that problem by enabling Natives to invest in cultivating their own resources**

Shawn **Regan**, Forbes, "5 Ways the Government Keeps Native Americans in Poverty", Mar 13, **2014**, https://www.forbes.com/sites/realspin/2014/03/13/5-ways-the-government-keeps-native-americans-in-poverty/#320a2aa82c27

Imagine if the government were responsible for looking after your best interests. All of your assets must be managed by bureaucrats on your behalf. A special bureau is even set up to oversee your affairs. Every important decision you make requires approval, and every approval comes with a mountain of regulations. How well would this work? Just ask Native Americans. The federal government is responsible for managing Indian affairs for the benefit of all Indians. But by all accounts the government has failed to live up to this responsibility. As a result, Native American reservations are among the poorest communities in the United States. Here’s how the government keeps Native Americans in poverty. Indian lands are owned and managed by the federal government. Screen Shot 2014-03-13 at 3.01.24 AM Chief Justice John Marshall set Native Americans on the path to poverty in 1831 when he characterized the relationship between Indians and the government as “resembling that of a ward to his guardian.” With these words, Marshall established the federal trust doctrine, which assigns the government as the trustee of Indian affairs. That trusteeship continues today, but it has not served Indians well. Underlying this doctrine is the notion that tribes are not capable of owning or managing their lands. The government is the legal owner of all land and assets in Indian Country and is required to manage them for the benefit of Indians. But because Indians do not generally own their land or homes on reservations, they cannot mortgage their assets for loans like other Americans. This makes it incredibly difficult to start a business in Indian Country. Even tribes with valuable natural resources remain locked in poverty. Their resources amount to “dead capital”—unable to generate growth for tribal communities. Nearly every aspect of economic development is controlled by federal agencies. All development projects on Indian land must be reviewed and authorized by the government, a process that is notoriously slow and burdensome. On Indian lands, companies must go through at least four federal agencies and 49 steps to acquire a permit for energy development. Off reservation, it takes only four steps. This bureaucracy prevents tribes from capitalizing on their resources. It’s not uncommon for years to pass before the necessary approvals are acquired to begin energy development on Indian lands—a process that takes only a few months on private lands. At any time, an agency may demand more information or shut down development. Simply completing a title search can cause delays. Indians have waited six years to receive title search reports that other Americans can get in just a few days. The result is that many investors avoid Indian lands altogether. When development does occur, federal agencies are involved in every detail, even collecting payments on behalf of tribes. The royalties are then distributed back to Indians—that is, if the government doesn’t lose the money in the process. Reservations have a complex legal framework that hinders economic growth. Screen Shot 2014-03-13 at 3.02.43 AM Thanks to the legacy of federal control, reservations have complicated legal and property systems that are detrimental to economic growth. Jurisdiction and land ownership can vary widely on reservations as a result of the government’s allotment policies of the nineteenth century. Navigating this complex system makes development and growth difficult on Indian lands. One such difficulty is fractionated land ownership. Federal inheritance laws required many Indian lands to be passed in equal shares to multiple heirs. After several generations, these lands have become so fractionated that there are often hundreds of owners per parcel. Managing these fractionated lands is nearly impossible, and much of the land remains idle. Energy regulations make it difficult for tribes to develop their resources. Darrin Old Coyote, chairman of the Crow Tribe in Montana, puts it plainly: “The war on coal is a war on our families and our children.” Coal provides the greatest economic opportunity for the impoverished tribe, but regulations are making it hard for the tribe to capitalize on their natural resources. Some are even trying to prevent the tribe from exporting coal to Asia. The federal government has repeatedly mismanaged Indian assets. Screen Shot 2014-03-13 at 3.03.58 AM Tribes historically had little or no control over their energy resources. Royalties were set by the Bureau of Indian Affairs, but the agency consistently undervalued Indian resources. A federal commission concluded in 1977 that leases negotiated on behalf of Indians were “among the poorest agreements ever made.” Unfortunately, it hasn’t gotten much better. A recent class action suit alleged that the government mismanaged billions of dollars in Indian assets. The case settled in 2009 for $3.4 billion—far less than what was lost by the feds. -- Reservations contain valuable natural resources worth nearly $1.5 trillion, according to a recent estimate. But the vast majority of these resources remain undeveloped because the federal government gets in the way. Ron Crossguns of the Blackfeet Tribe recently put it this way: “It’s our right. We say yes or no. I don’t think the outside world should come out here and dictate to us what we should do with our properties.” As long as tribes are denied the right to control their own resources, they will remain locked in poverty and dependence. But if tribes are given the dignity they deserve, they will have the opportunity to unleash the tremendous wealth of Indian nations.

## **Contention 2: Reparations would spotlight the issue**

**Reparations would spotlight the issue of historical indigenous oppression, recognizing and further legitimizing the need for change. By choosing to pay reparations to Indigenous people, the government would be publicly recognizing their fault and engaging in the first step to meaningful reconciliation with indigenous people.**

**Reparations are a meaningful first step, or 'Transitional Justice', they may not fix every little problem, but a Just government ought to utilize them as a starting point**

Belinda Cooper, Time, "Reparations Could prevent the Next Ferguson", August 29, 2014, http://time.com/3222275/reparations-could-prevent-the-next-ferguson/

Watching the events unfold in Ferguson, Missouri, I can’t help thinking about the Holocaust and post-war Germany. As the daughter of a Holocaust survivor, I’ve spent years watching Germany wrestle with its dark past. It’s just one of many places that have made efforts to understand and compensate for a difficult history: For nearly three decades, countries as varied as South Africa, Rwanda, and the nations of Latin America and post-Communist Eastern Europe have been engaged in this process, often called “transitional justice.” That’s a broad term for the ways in which societies deal with the legacies of past injustice. Many believe that countries can only move forward once they have come to terms with their past in this way. We’re accustomed to looking abroad for examples of such processes. But maybe — especially in light of racial tensions once again revealed in Ferguson — it’s time for us to begin thinking about what “transitional justice” could mean for the U.S. Like many nations, Americans are reluctant to see ourselves in the same light as human rights abusers elsewhere. And yet our history includes a number of glaring atrocities, including the genocide of Native Americans and slavery and its aftermath. But the United States lags behind other societies in its efforts to confront and make amends for that legacy. What, exactly would that entail? Justice means more than putting perpetrators on trial. The transitional justice process also encompasses methods focused on the victims and the wider society, such as truthseeking, memorialization, education, institutional change, and material compensation — that is, actions that seek not only to punish, but to encourage a shared historical understanding, begin to repair the damage done, and ensure that it can’t happen again. A first step in the process seems simple: official acknowledgment. Yet societies are often hesitant to admit historical wrongdoing. Armenians have been trying for decades to get Turkish authorities to acknowledge that they were the victims of an organized crime. To understand what this means, I’ve tried to imagine what I would feel had Germany not accepted responsibility for the Holocaust. Official silence negates the experience of the victims, but it’s also damaging to perpetrator societies; it feeds denial and false narratives of history that allow tensions and resentments to persist. Apology often accompanies acknowledgment. Both Australia and Canada have recently apologized to their aboriginal populations for decades of removing children from their families. German Chancellor Willy Brandt’s famous gesture in Warsaw in 1970, when he fell to his knees before a memorial to the Warsaw Ghetto uprising, enraged many Germans who preferred not to face questions of guilt and responsibility. But this spontaneous gesture of atonement was enormously important to Holocaust survivors. In recent years, the Polish government has reversed decades of denial under its Communist government by acknowledging the participation of some Poles in anti-Semitic atrocities during World War II. Even the U.S. has managed an apology — in 1988, after a long campaign by Japanese-Americans, president Reagan apologized for the internment of Japanese-Americans during World War II. Yet the U.S. has never officially apologized for slavery or Jim Crow (and a 2009 “apology” to Native Americans, slipped into a Defense Appropriations Act, made little impact). Nor are there memorials to slavery or to the Native American genocide on a scale similar to the Memorial to the Murdered Jews of Europe in Berlin. That memorial, imperfect as it is, represents a conscious public acknowledgment by a perpetrator society of its own wrongdoing — both a rebuke to deniers and a purposeful statement that memory should not only be the job of victims. One reason societies often resist officially acknowledging wrongdoing is the fear of being held financially accountable. Even years after the fact, victims or their descendants may ask for the return of confiscated property, bank accounts, or uncollected insurance claims, as they have in the case of the Holocaust, Eastern European communism, and the Armenian genocide. Reagan’s apology for our treatment of Japanese-Americans was accompanied by monetary compensation. Financial reparations are in fact the most direct way to compensate victims for past suffering. Germany was able to pay millions to survivors of the Holocaust who suffered quantifiable harm, and continues to do so (my father received a small monthly check that made an enormous difference, especially to a penniless new immigrant in the 1950s who had lost his entire family in the Holocaust; my mother, not a survivor, still receives a widow’s pension). Societies with fewer resources have offered other types of reparation: scholarships to victims’ children, affirmative action programs, and preferential housing, health care and other entitlements. In the United States, however, we are more likely to insist that existing institutions already provide a sufficient foundation for improving conditions, as though we could erase the effects of past atrocity without undertaking any difficult changes. Except in the brief period following the Civil War, direct financial compensation for slavery and Jim Crow has never had a serious place on the national agenda. The most significant effort to compensate for the institutionalized legal, economic and social discrimination against black Americans that persisted into recent decades—a modern legacy of slavery and Jim Crow vividly described in Ta-Nehisi Coates’ recent Atlantic Monthly piece “The Case for Reparations” — was affirmative action, but it has largely been reversed by the Supreme Court. Very little has been done to directly address ongoing racial injustices such as the disproportionate incarceration of black Americans, which author Michelle Alexander has referred to as “The New Jim Crow.” Transitional justice demands recognition that fulfilling responsibilities to the past requires more than merely lip service from a perpetrator society. Crimes against minority groups in any society bring benefits to the perpetrator group, and compensating for them can necessitate material sacrifice. But remorse often ends where personal sacrifice begins. Marco Williams’ 2006 documentary, Banished, tells the story of several black towns in the American South that were ethnically cleansed in the early 20th century. A black family from one of these towns sought to have a father’s remains reburied near their new home and was met with sympathy from the white residents of the town — until they asked the town to pay the costs. As in Germany, where polls over the years have shown significant minorities that deny an ongoing financial responsibility towards the victims of the Holocaust, many fail to see why they should be held individually accountable for the acts of their parents or grandparents. The benefits accrued through the injustices of the past are not always apparent. One of the most important aspects of successful transitional justice, therefore, lies in illuminating not only the victims’ suffering, but the ways in which an entire society continues to bear the burdens of history. This helps elevate an important point: correcting injustice may require affirmative steps. The U.S. government and society need to recognize — and educate citizens on — the direct connections between continuing racial disparities in this country and the wrongs that gave rise to them, and to talk far more about the responsibilities we all share for repairing the damage. Perhaps Ferguson – which has revealed what can happen when we suppress these conversations – will finally motivate us to think about how to address the harms, whether through material reparations or otherwise. If we’re willing to start talking, we’ll find no shortage of role models for transitional justice throughout the world to help us take the next steps.

# **AFF CARDS**

#### **In a socially just world, all people would be valued and respected**

**Goodman, 2015 (Diane, Ed.D., consultant, author, professor, “Oppression and Privilege: Two Sides of the Same Coin,” Journal of Intercultural Communication, No. 18 (2015): 1-14)**

**In a socially just world, all people, regardless of their particular social identities, should be valued and respected. Everyone would have equitable access to resources and opportunities, be safe** (psychologically and physically) **and be able to fulfill their potential**. However, **this is not currently the case. Instead of embracing and appreciating social/cultural differences, social groups get ranked into a hierarchy, with some social identities being seen as better than others.**

#### **Oppression is a system of advantage and disadvantage based on social groups**

**Goodman, 2015 (Diane, Ed.D., consultant, author, professor, “Oppression and Privilege: Two Sides of the Same Coin,” Journal of Intercultural Communication, No. 18 (2015): 1-14)**

One way to define **oppression is as a system of advantage** (privilege) **and disadvantage** (oppression) **based on social group membership. Some groups are advantaged** – seen as superior, have greater social power, **and receive unearned benefits,** **while other groups are disadvantaged** – seen as inferior, have less social power, **and face discrimination and violence.** In the US, as in many countries, men, heterosexuals, the dominant racial/ethnic group (whites), wealthier people, the dominant religious group (Christians), native born people, and able-bodied people are the advantaged (or the dominant or privileged) groups, while women, lesbian, gay, bisexual, transgender, and queer (LGBTQ) people, marginalized racial/ethnic groups, low income and poor people, non-native born people, and people with disabilities are in the disadvantaged (or the subordinated or marginalized) groups. **Even though individuals within these social identity groups may have their own particular experiences, examinations of systems of inequality use a social group lens, focusing on what typically happens for people within these social group categories in a given society.**

#### **How groups are viewed by others matters**

**Wilkinson, 2009 (Richard, Author and professor or social epidemiology, “The Spirit Level: Why Greater Equality Makes Societies Stronger,” Bloomsbury Press, New York)**

The psychoanalyst Alfred Alder said, ‘To be human means to feel inferior.’ Perhaps he should have said ‘**To be human means being highly sensitive about being regarded as inferior.’ Our sensitivity to such feeling makes it easy to understand the contrasting effects of high and low social status on confidence. How people see you matters.** While it is of course possible to be upper-class and still feel totally inadequate, or to be lower-class and full of confidence, in general the further up the social ladder you are, the more help the world seems to give you in keeping the self-doubts at bay. If the social hierarchy is see – as it often I s – as if it were a ranking of the human race by ability, then the outward signs of success or failure (the better jobs, higher incomes, education, housing, car and clothes) all make a difference.

#### **Utilitarianism fundamentally fails to protect individual rights – “greatest good” claims simply conflict.**

#### **Byrnes, 1999 (Erin [JD U Arizona], “Therapeutic Jurisprudence: Unmasking White Privelege to Expose the Fallacy of White Innocense,” 41 Ariz. L. Rev. 535, 1999**

Moral rights are objectionable not only because they lack social recognition but also because they necessarily imply a correlation between rights and duties. Again, utilitarianism's specific rejection of the tie between rights and duties renders recognition of white privilege nearly impossible. Without this recognition, there can be no meaningful solution. 247 If accepted, moral rights would provide the grounds for the appraisal of law and other social institutions, a system of appraisal antithetical to utilitarianism's rubric of assessment. Moral rights carry with them the expectation that institutions will be erected with an eye towards respect and furtherance of such rights. 248 Such a proposition would certainly require more than just striving towards color-blindness were it applied to affirmative action. Utilitarianism, however, requires that institutions and rights be evaluated solely with respect to the promotion of human welfare, welfare being the satisfaction of overall citizen desires. 249 The assumption, implicit in the foregoing argument, is that moral rights neither fit perfectly nor converge with legal rights. 250 This may not necessarily be the case. David Lyons' "theory of moral rights exclusion" discusses the way in which utilitarians conceive of moral rights working at odds with the utilitarian goal. 251 Lyons' theory describes the way in which a moral right, at some point, gains enough currency to warrant individual exercise of that right. According to Lyons, when a moral right has reached this point, it has achieved the "argumentative threshold" and gains normative force. 252 The potential for this occurrence is precisely what leads to the utilitarian rejection of moral rights. Rejection is predicated on the fact that once the argumentative threshold is reached, a presumption is created against interference upon the individual exercise [\*564] of the right. 253 Under a system which recognized moral rights, but still organized itself according to the utilitarian goal of achieving human welfare (which is happiness), individual rights would purportedly run headlong into the pursuit of welfare. 254 Though the pursuit of welfare would be deemed morally relevant and would justify a course of action on welfare's behalf, in a scenario where that course of action constituted a mere "minimal increment of utility," it would be incapable of overcoming the argumentative threshold of rights. 255 Thus, the argument is that the recognition of moral rights is diametrically opposed to utilitarianism because in a moral rights regime, rights act as a limitation upon the utilitarian goal of fulfilling as many individual desires as possible.

#### **The only way to preserve individualism is to allow all persons to have the right to own themselves regardless of any negative consequentialist impacts**

#### **Schroeder, 86 – (Christopher [Professor of Law at Duke], “Rights Against Risks,”, April, Columbia Law Review, pp. 495-562, http://www.jstor.org/pss/1122636)**

Liberal Theories in the "Rights" Tradition. **A second group of theories avoids the modern criticism of utilitarianism by making the individual central.** Contemporary theorists as diverse as John Rawls, Robert Nozick, Richard Epstein, Charles Fried, and Ronald Dworkin continue a tradition variously described as the Kantian, natural rights, or **"rights" tradition**.62 They all **define the requirements of justice in terms of recognizing and preserving the essential characteristics of individuals as free and autonomous moral agents. In this approach, the individual is defined prior to articulating the terms under which that individual can be acted upon or interacted with, and those terms are consequently specified so as to protect and preserve what is essential to the individual.** In this context, **rights** have been called "trumps" since they **constrain what society can do to the individual. These theories all aspire to make the individual more secure than he is under utilitarianism.** In the rights tradition, the crucial criteria for assessing risks derive from the impact of those risks on risk victims, and the criteria are defined independently of the benefits flowing from risk creation. To be plausible, such a program cannot totally prohibit risk creation, but the ostensible advantage of this program over utilitarianism is that risk creation is circumscribed by criteria exclusively derived from considerations of the integrity of the individual, not from any balancing or weighing process.65 The root idea is that nonconsensual risks are violations of "individual entitlements to personal security and autonomy."66 This idea seems highly congruent with the ideology of environmentalism expressed in our national legislation regulating technological risk. Indeed, two scholars have recently suggested a modern rendering of Kant's categorical imperative: "**All rational persons have a right not to be used without their consent even for the benefit of others**."67 If imposing risk amounts to using another, this tradition seems to be the place to look **to secure the status of the individual**.

# **Neg Case**

## **1NC**

## **Definitions:**

**Reparations ---**

**Miriam Websters Dictionary, Last Accessed 2018 "Reparation." Merriam-Webster.com. Merriam-Webster, n.d. Web. 12 Aug. 2018. https://www.merriam-webster.com/dictionary/reparation**

Reparations: a : the act of making amends, offering expiation, or giving satisfaction for a wrong or injury b : something done or given as amends or satisfaction

**Ought ---**

**Miriam Websters Dictionary, Last Accessed 2018**"Ought." Merriam-Webster.com. Merriam-Webster, n.d. Web. 12 Aug. 2018. https://www.merriam-webster.com/dictionary/ought

—used to express obligation

## **Value: Justice**

#### **For this debate I propose the value of justice which is explained by**

**Pomerleau** (Wayne, a graduate of Gonzaga law school, “Western Theories of Justice”, The Internet Encyclopedia of Justice, no date, web)

Justice is one of the most important moral and political concepts. The word comes from the Latin jus, meaning right or law. The Oxford English Dictionary defines the “just” person as one who typically “does what is morally right” and is disposed to “giving everyone his or her due,” offering the word “fair” as a synonym. But philosophers want to get beyond etymology and dictionary definitions to consider, for example, the nature of justice as both a moral virtue of character and a desirable quality of political society, as well as how it applies to ethical and social decision-making. This article will focus on Western philosophical conceptions of justice. These will be the greatest theories of ancient Greece (those of Plato and Aristotle) and of medieval Christianity (Augustine and Aquinas), two early modern ones (Hobbes and Hume), two from more recent modern times (Kant and Mill), and some contemporary ones (Rawls and several successors). Typically the article considers not only their theories of justice but also how philosophers apply their own theories to controversial social issues—for example, to civil disobedience, punishment, equal opportunity for women, slavery, war, property rights, and international relations. For Plato, justice is a virtue establishing rational order, with each part performing its appropriate role and not interfering with the proper functioning of other parts. Aristotle says justice consists in what is lawful and fair, with fairness involving equitable distributions and the correction of what is inequitable. For Augustine, the cardinal virtue of justice requires that we try to give all people their due; for Aquinas, justice is that rational mean between opposite sorts of injustice, involving proportional distributions and reciprocal transactions. Hobbes believed justice is an artificial virtue, necessary for civil society, a function of the voluntary agreements of the social contract; for Hume, justice essentially serves public utility by protecting property (broadly understood). For Kant, it is a virtue whereby we respect others’ freedom, autonomy, and dignity by not interfering with their voluntary actions, so long as those do not violate others’ rights; Mill said justice is a collective name for the most important social utilities, which are conducive to fostering and protecting human liberty. Rawls analyzed justice in terms of maximum equal liberty regarding basic rights and duties for all members of society, with socio-economic inequalities requiring moral justification in terms of equal opportunity and beneficial results for all; and various post-Rawlsian philosophers develop alternative conceptions. Western philosophers generally regard justice as the most fundamental of all virtues for ordering interpersonal relations and establishing and maintaining a stable political society. By tracking the historical interplay of these theories, what will be advocated is a developing understanding of justice in terms of respecting persons as free, rational agents. One may disagree about the nature, basis, and legitimate application of justice, but this is its core.

## **Criterion: Consequentialism**

#### **Acting out of moral purity and not evaluating whether policy will have beneficial outcomes allows for the replication of violence.**

**Isaac, 02** – Professor of Political Science at Indiana-Bloomington, Director of the Center for the Study of Democracy and Public Life, PhD from Yale (Jeffery C., Dissent Magazine, Vol. 49, Iss. 2, “Ends, Means, and Politics,” p. Proquest)

As a result, the most important political questions are simply not asked. It is assumed that U.S. military intervention is an act of "aggression," but no consideration is given to the aggression to which intervention is a response. The status quo ante in Afghanistan is not, as peace activists would have it, peace, but rather terrorist violence abetted by a regime--the Taliban--that rose to power through brutality and repression. This requires us to ask a question that most "peace" activists would prefer not to ask: What should be done to respond to the violence of a Saddam Hussein, or a Milosevic, or a Taliban regime? What means are likely to stop violence and bring criminals to justice? Calls for diplomacy and international law are well intended and important; they implicate a decent and civilized ethic of global order. But they are also vague and empty, because they are not accompanied by any account of how diplomacy or international law can work effectively to address the problem at hand. The campus left offers no such account. To do so would require it to contemplate tragic choices in which moral goodness is of limited utility. Here what matters is not purity of intention but the intelligent exercise of power. Power is not a dirty word or an unfortunate feature of the world. It is the core of politics. Power is the ability to effect outcomes in the world. Politics, in large part, involves contests over the distribution and use of power. To accomplish anything in the political world, one must attend to the means that are necessary to bring it about. And to develop such means is to develop, and to exercise, power. To say this is not to say that power is beyond morality. It is to say that power is not reducible to morality. As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one's intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about unintended consequences as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with "good" may engender impotence, it is often the pursuit of "good" that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one's goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

## **Contention 1: Justice through the lens of settler colonialism is not justice for Indigenous People**

**Indigenous people in America don't want reparations, they want their land restored and returned**

Daniel R. **Wildcat**, Washington post, "Why Native Americans don't want reparations", June 10, **2014**, https://www.washingtonpost.com/posteverything/wp/2014/06/10/why-native-americans-dont-want-reparations/?noredirect=on&utm\_term=.347303475cb1

In this month’s Atlantic, Ta-Nehisi Coates makes a strong case for reparations for black Americans. But what about payment for the injustices endured by American Indians? Both groups have suffered centuries of severe damage, courtesy of the U.S. political and economic systems. There’s the legacy of slavery, Jim Crow laws and segregated housing nationwide. Similarly, the establishment of the reservation system, the “Kill the Indian, Save the Man”-inspired Indian boarding schools, and the Dawes Act of 1887 (the largest “legal” colonial dispossession of Native American lands in U.S. history) contribute to the social dysfunctions many American Indians experience daily. Still, reparations have never figured prominently into American Indian calls for justice. Why? The greatest harm done to us was the theft of land – our homeland – often accompanied by forced removals and under the cover of law. To American Indians, land is not simply a property value or a piece of real estate. It is a source of traditions and identities, ones that have emerged from centuries and millenia of relationships with landscapes and seascapes. That territory is irreplaceable. Reparations are ill-suited to address the harm and damage experienced by people who understand themselves, in a very practical and moral sense, as members of communities that include nonhuman life. For many Native Americans, our land (including the air, water, and biological life on which we depend) is a natural relative, not a natural resource. And our justice traditions require the restoration of our land relationship, not monetary reparations. Two cases, United States v. Sioux Nation of Indians and Kivalina v. ExxonMobil Corporation, et. al, highlight the importance of thinking about reparations in this context. The first case illustrates the role tribal world views continue to play in our indigenous traditions of justice. The tribes of the Great Sioux Nation have steadfastly refused a money settlement for the illegal taking of the Black Hills, which they consider the sacred center place of their creation. The tribes have repeatedly stated that the Black Hills aren’t for sale. No case more clearly illustrates the ongoing collision of world views between the First Peoples of this land and the settler colonists. In the second case, the Alaska Native Village, Kivalina, unsuccessfully sued the large corporations they hold responsible for the climate change events literally subsuming the land where their village sits right out from under them. Their unsuccessful suit for damages, a literal loss of their land making them climate refugees like many natives of Pacific islands, may serve as a harbinger for future claims by American Indians and Alaska Natives. The prevailing culture of the Unites States is a money culture. America’s ceremonies, habits and dominant institutions are all shaped by money. In such a society, it makes sense that monetary reparations will play a role in addressing injustice. However, I think Coates and I agree that the injustices of slavery and its real legacy may not be recompensed with dollars. The discussion about reparations may be most useful as a catalyst for the difficult discussions we must have about institutionalized racism in the United States and our tacit acceptance of it. American Indian struggles for justice to date have been framed as treaty rights issues. However, we, like African Americans, have civil rights issues, too. Longtime activist intellectual Suzan Harjo may be right when she states, “The American Indian civil rights movement is really just getting started.” Anyone want to go to a Redskins game?

## **Contention 2: Reparations don’t work**

**Canadians are already giving reparations, it will never be enough to fix the years of trauma and oppression that have caused systemic issues for indigenous people**

Harron **Walker**, Splinter News, "Canada Is Giving Reparations to Indigenous Survivors. It Won't Be Enough.", 10/13/**17**, https://splinternews.com/canada-is-giving-reparations-to-indigenous-survivors-i-1819446980

The Canadian government announced on October 6 that it had reached a proposed settlement with survivors of the Sixties Scoop, a term that describes the forced removal of tens of thousands of Indigenous children from their homes during the latter half of the twentieth century. Once removed, usually without the consent of their parents, the children were placed into the Canadian child welfare system. Many were adopted into the homes of middle-class white families and, with their records altered by the state, didn’t learn the full extent of what was done to them until years later. Some still don’t know. The bulk of that $800 million settlement, reached after an eight-year legal battle, will go to individual survivors, with a maximum payout of $50,000 each. $50 million will go towards a foundation focused on funding reconciliation initiatives. Crown-Indigenous Affairs Minister Carolyn Bennett hopes the proposed settlement will “begin to right the wrongs” caused by the Sixties Scoop. Not every survivor is so optimistic. “I don’t know what dollar amount to put on a lifetime of loss, but $50,000 seems pretty low,” Colleen Cardinal tells me. Some of the plaintiffs in the case against the government, she says, didn’t find out about the settlement until the day it was announced. And there are logistical questions to be resolved: If more than 20,000 survivors make a claim, that maximum payout will be significantly reduced. Cardinal has been minimized by the government too often not to be skeptical of the settlement. “An apology can’t just be an apology. They need to ask us for forgiveness for what they’ve done to our families.” “The state is congratulating itself and patting itself on the back, when it really hasn’t done anything yet,” she says. “All they’ve done is make an announcement about money. Until I see action, until they invite us to the table, I can’t even speak of it.” Tired of waiting for a dinner invitation, Cardinal built a table of her own. She is the co-founder and coordinator of the National Indigenous Survivors of Child Welfare Network, a group based out of Ottawa that provides support and advocacy for Métis, Inuit, and First Nations people affected by the Canadian government’s colonial child welfare system, a system that has more Indigenous children in it today than it did at the height of the Sixties Scoop. Cardinal says she and the others involved in the network began doing this work because, as she puts it, “there was nobody else doing it.” “There was nothing for us,” she says. “We’re the ones who have to do the educating in our communities. We’re the ones who have to educate our doctors, our social workers. For instance, if I ever have to go to the hospital, I always have to tell them why I have post-traumatic stress disorder or why I have depression. I have to explain to them what the Sixties Scoop is. It’s really hard for people to grasp the kind of harm that constant educating causes on top of the harm that’s there in the first place.” Splinter spoke with Cardinal, three days after the proposed settlement was announced, to hear more about how the Network counteracts that harm and what justice might look like to her. The interview has been edited and condensed for clarity. How do you go about envisioning what justice might look like? First and foremost, healing is integral to our work. It’s at the center of what we do. For us to come to justice, we need to be in a good place. We started doing this work four years ago because we want wellness for everybody, when they’re ready for it. Part of that means holding space in an anti-oppressive way, making sure our spaces are accessible, safe, and inclusive so that we have ceremony for two-spirit and transgender people who may not otherwise got those services in their communities. We’ve had many transgender and two-spirit people come to our gatherings and say that this is the first time they really felt like they belonged. Not just, you know, to a transgender community or a two-spirit community but to an adoptive community, with their own people. As for justice, justice to us looks like us leading the work. If the state wants to craft an apology, they need to consult us on what they’re apologizing for. Survivors need to be at the table. An apology can’t just be an apology. They need to ask us for forgiveness for what they’ve done to our families and our communities. How would you describe the Canadian government’s efforts to involve Indigenous people, specifically survivors of the child welfare system, in this process of reconciliation? Well, so far it’s been nothing. [laughs] All they’ve done is make an announcement about money. Until I see action, I can’t even speak of it. We weren’t even invited to the announcement. We had to get special security clearance just to be there. The plaintiffs didn’t even find out about the announcement until the day of and were flown in the next day. They had no idea what was going on. Their lawyers were the ones who negotiated the settlement. It’s very troubling that the plaintiffs didn’t know. Especially for something that, like you said, is a minefield of potential triggers for the survivors involved. When the settlement was made, Chief Martel Brown, the main plaintiff in the Ontario class action suit, said something about how you can’t make everybody happy. Well, then you shouldn’t have settled. What you’ve done by settling is trigger thousands of people who feel like their losses are worth more than $50,000. I don’t know if the state intended to pacify people with this settlement, but what they’ve done is woken them up to the larger picture That works out to be, what, six or seven dollars a day? That’s nothing. I don’t know what dollar amount to put on a lifetime of loss, but $50,000 is pretty low. And to have our Métis and non-status brothers and sisters excluded is hurtful. These are people we do ceremony with, people we do healing with, people who are just as marginalized as we are. This decision has triggered thousands of people into a state of anger and defeat. It’s also woken up a lot of people. I don’t know if the state intended to pacify people with this settlement, but what they’ve done is woken them up to the larger picture of injustice. Here in the U.S., our education system does a terrible job of teaching us Indigenous history. How is it in Canada? [Laughs] It’s not very good. There’s a deliberate lack of effort on the part of the Canadian government. As a person who teaches at universities and colleges, I’ve met a lot of first-year students who don’t even know the basics of treaties in Canada. I always start my presentations by asking if anybody can name all the provinces and territories. They’ll all raise their hands and name them off. Then, I’ll put the treaty map up and ask if anybody knows what treaty they live on. None of them know. As I tell them, that map right there is the making of Canada. Without those treaties, Canada would cease to exist. After I say that, you can hear a pin drop. They have no idea about how the land was negotiated to share and the resources were negotiated to share with Indigenous people. When I teach it that way, they get it. The treaties are binding, just as binding as any other international treaty. That’s why they refuse to share that knowledge with Canadians. As if it’s our fault that we live the way we do. As if it has nothing to do with Canada not providing proper resources and funding to our communities. There are more Indigenous children in Canada’s welfare system today than there were at the height of the Sixties Scoop. Yet, the policies aren’t exactly the same as they were back then. Would you like to speak to how those two things can both be true? It’s really just a continuation of the same policies. The only thing that’s changed is on account of the Kimelman report—basically, they’re not shipping children out of provinces or out of the country anymore. Now, they’re warehousing them in foster homes and group homes. These kid get shuffled back and forth, and they end up either running away or aging out of the system and living on the street because there’s not another place to them. Basically, we’re looking at generations of children who are the products of residential schooling and the Sixties Scoop. My mother is a residential school survivor. Then we were taken away from her. Then I spent my whole life trying to make sure that my kids weren’t taken away because there’s always that fear that child welfare will come and take our kids away. Then, my sister’s kids ended up going into care. That’s just my family. You’re talking about thousands of Indigenous people who are repeating cycles of trauma and abuse whose kids are constantly going into care because that trauma is inherited. It’s just cycles of addiction, cycles of trauma that are continually replicating and continually being used as excuses to remove these kids, raise them without their culture, raise them with internalized racism towards their culture, and assimilate them into mainstream culture. Definitely not the kind of thing that $50,000 can fix. Oh, no. Not at all. And that’s just off-reserve we’re talking about, in urban centers. We’re not even talking about on-reserve, where child welfare is chronically underfunded by a quarter of what non-Indigenous folks get. It’s kind of a cruel joke. It’s kind of like what’s happening with Trump. All of, you know, “He’s a bad man,” but nobody does anything. [Laughs] It’s the same thing in Canada. Everybody knows that Indigenous people are almost like pariahs up here, but nobody wants to address it, especially the government. We’ve been putting in our own time to volunteer and raise funds, but we can only go so far without funding. Without it, we just can’t do the work that needs to be done at the national level. Does the Network get any funding from the Canadian government? We did actually get some funding this past year to have our Bi-Giwen Indigenous Adoptee Gathering. We brought together 75 survivors for four days of ceremony and workshops. We did sweat lodges, drum making, rattle making, art therapy workshops, body care workshops, workshops that deal with faith and loss and healing, workshops that deal with conflict resolution—tools that will help us as we’re healing, right? Because a lot of us are just starting to heal. We have survivors in their 40s or 50s who are just learning about the Sixties Scoop or who are just starting to come to ceremony. We make sure that the survivors who come to us can learn about their culture in a safe, supportive environment. There are people out there who use culture to prey on survivors who don’t know any better. We call those people “popcorn elders” or false prophets, you know? They use our culture against us. They charge money. You should never have to pay for culture. Is there anything you’d like to say to a survivor of Canada’s colonial welfare system who might be hesitant or nervous about going to a future gathering? It’s really hard to tell people to come. They have to want it. They have to know that we’re here for you. We know what you’re going through. Our experiences are the same. And we come away as family, and we keep in contact and support each other through Facebook and other social media. We want other survivors who are out there in the world to know that we’re here. You can come home. We got you. It might seem like you’re alone out there, but you’re not.

# **NEG CARDS**

**Money only treats the symptom not the cause**
**Sawhill 2016** (Isabel V. [Senior Fellow - Economic Studies, Center on Children and Families] “Money for nothing: Why a universal basic income is a step too far” Brookings.edu)

Liberals have been less willing to openly acknowledge that a little paternalism in social policy may not be such a bad thing. In fact, progressives and libertarians alike are loath to admit that many of the poor and jobless are lacking more than just cash. They may be addicted to drugs or alcohol, suffer from mental health issues, have criminal records, or have difficulty functioning in a complex society. Money may be needed but money by itself does not cure such ills. A humane and wealthy society should provide the disadvantaged with adequate services and support. But there is nothing wrong with making assistance conditional on individuals fulfilling some obligation whether it is work, training, getting treatment, or living in a supportive but supervised environment. In the end, the biggest problem with a universal basic income may not be its costs or its distributive implications, but the flawed assumption that money cures all ills.