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# Mass Incarceration

# Refutation Gaps

Overview

Templates can help students master the format, linguistic constructs, and conceptual structure of the more difficult aspects of argument writing. Refutation of counter-arguments certainly falls into the “difficult aspects” category. Through practice with the scaffolding device of the writing template, students can assimilate the formal aspects of written refutation so that they can cultivate the even more higher-order quality of thinking hard about why it is that the best counter-arguments against their position aren’t reasons to abandon their original position, even if they necessitate some concession and adjustment.

Method and Procedure

Students should be paired. They should then work on completing each of the four refutation templates, filling in the gaps with the most appropriate language they can produce. When they’ve completed their templates, they should exchange their templates with their partner. They should talk through their differences in their respective refutation paragraphs, with each partner asking the other why they made their choices, asking them to justify those choices, and comparing them to their own.

The activity can end with sharing out of the most interesting and productive differences the partners’ found in their refutation paragraphs, in addition to the specific points at which they most strongly agreed. The teacher should collect the refutation templates for formative assessment.

Refutation Paragraphs with Gaps

There are two types of counter-arguments in these refutation paragraphs: one that is “independent” of the arguments being made by the writer but that opposes the position, and one that is “specific” to an argument in the essay. Both are valid types of counter-arguments to include in an essay to refute. Choosing between them depends in part on which is the stronger counter-argument – “level of difficulty” is a criterion for effective and convincing refutation, and writers always want to try to address the strongest counter-argument that they can refute. It also depends in part on how many counter-arguments the writer wants to include; responding to more counter-arguments usually means addressing more “specific” counter-arguments.

**Independent Counter-Arguments**

**(1) Overall Position: Mass incarceration is not the moral equivalent of slavery**

 Many of the recent and most influential commentators on the controversy surrounding mass incarceration argue that the 13th Amendment to the U.S. Constitution explicitly allows for and equates the slavery of imprisonment. According to [insert source and evidence to support the counter-argument] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 **(2) Overall Position: Mass incarceration is the moral equivalent of slavery**

 Some critics of the position that [insert overall position] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ argue that African-Americans themselves have been strong supporters of tough law enforcement policies. They have even said that the War on Drugs and the Law and Order campaigns of the 1970s and 1980s were supported by a preponderance of African-Americans in this country. For instance, Alex Mikulich has written that [insert evidence that supports the counter-argument] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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The implication is that if African-Americans have been supportive of the policies that have led to a sharp increase in arrests and imprisonment, those same policies could not have been motivated by racism. That isn’t necessarily true, however. [Insert your refutation of the counter-argument] \_\_\_\_

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[Insert your support for the refutation] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Thus, even if it is true that many African-Americans originally supported get-tough criminal justice policies, that support doesn’t disprove the connection between mass incarceration and slavery, since [insert your evaluation of the arguments that favors your own] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**Specific Counter-Arguments**

**(3) Overall Position: Mass incarceration is the moral equivalent of slavery**

 Some scholars have recently countered the argument that the War on Drugs led to explosion in the imprisonment of black men for minor drug offenses, and was therefore either deliberately or unintentionally part of a strategy to bring back the governmental control of millions of black men. Fordham University law professor John Pfaff, for example, argues in his recent book *Locked In* that it mass incarceration as much more a result of an increase in violent crime than of an increase in small-scale drug arrests.

 The example I always point to is New York state. We passed and ratified drug laws in 1973. That was when New York state sort of declared its war on drugs. And the number of people in the New York state prison goes up slightly in the years after '73 and then it goes down. In 1984 there were actually fewer people in New York state prison for drugs than '73, so you have this huge rhetorical war on drugs being declared and local prosecutors just don't do anything with it. Then in the mid-1980s, there's this giant explosion of violence, and you see this huge rise in drug-related incarcerations which suggests to me that there is a substantial contextual component to this (Reason, February 25, 2017).

There may have been an increase in violent crime over the past several decades, but that doesn’t get the War on Drugs off the hook. [Insert refutation of the counter-argument] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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[Insert support for the refutation] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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[Explain why the refutation is stronger than the counter-argument] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**(4) Overall Position: Mass incarceration is not the moral equivalent of slavery**

 A common argument heard by people that cannot accept that mass incarceration is the historical extension of the legacy of American slavery and the long train of racism in this nation draws a distinction between who is affected by each institution. Prisons incarcerate convicted criminals – literally the guilty – they say, whereas slavery controlled and oppressed innocent (‘not guilty”) black people. This distinction, they argue, negates the connection. This common argument, however, misses the underlying and more subtle connection between the two institutions. [Insert refutation of the counter-argument] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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[Insert support for the refutation] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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[Insert analysis as to why the refutation is stronger than the counter-argument] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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