

# Does Communicative Retributivism Necessarily Negate Capital Punishment?

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**Abstract** Does communicative retributivism necessarily negate capital punishment? My answer is no. I argue that there is a place, though a very limited and unsettled one, for capital punishment within the theoretical vision of communicative retributivism. The death penalty, when reserved for extravagantly evil murderers for the most heinous crimes, is justifiable by communicative retributive ideals. I argue that punishment as censure is a response to the preceding message sent by the offender through his criminal act. The gravity of punishment should be commensurate to the preceding criminal message, so that the offender can face up to the nature and significance of his crime. All murders are not the same. To measure up to the most evil and humanity-degrading murderous message, capital punishment should be the counter-message. Next, I argue that capital punishment does not necessarily violate human dignity. The death penalty and torture may both disrupt human dignity, yet in distinct ways. The death penalty terminates life, the vessel that holds together autonomy, while torture directly assaults autonomy. Torture is never permissible as a form of punishment. But death penalty, when used only on the extravagant evildoers, is justifiable, as life is thoroughly degraded by his own evil act. Further, I argue that mercy is integral to communicative retributivists' theory of capital punishment.

**Keywords** Capital punishment · Communicative retributivism · Human dignity · Proportionate sentencing · Evil

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J.S.D., 2009, The University of Chicago Law School

An early draft of this paper was presented at "The 2012 Conference on Legal Thought and Social Change: Life and Justice" at Academia Sinica, Taipei, Taiwan. I thank Matthew Kramer and Matt Matravers for their very helpful remarks at the conference. I also thank the anonymous referee for critical comments. My special thanks go to Douglas Husak for his meticulous editorial effort to improve this article.

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