

Can/Should We Purge Evil Through Capital Punishment?

Matthew H. Kramer: *The Ethics of Capital Punishment: A Philosophical Investigation of Evil and its Consequences*. Oxford University Press, New York, 2011

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Abstract Matthew Kramer's *The Ethics of Capital Punishment: A Philosophical Investigation of Evil and its Consequences* explores the morality of capital punishment and develops his own "purgative rationale" in support of the practice. I present my objections to Kramer's purgative rationale and trace our disagreement to differences over the nature of evil, the autonomy of human character formation, and the concept of defilement.

Matthew Kramer opens his erudite and engaging book on the ethics of capital punishment with a personal preface that motivates his account. Kramer explains that upon learning about the Holocaust as an eight-year-old child, he began to develop in an inchoate way what he now defends as a "purgative" rationale for the use of the death penalty—the claim that capital punishment is a morally required response to certain extreme evils. He remembers thinking that "it would have been morally grotesque if the trials of some of the major Nazi leaders had ended with sentences that would involve the devotion of resources to sustaining the lives of those leaders" (v).

I have a contrasting childhood-reaction-to-the-Holocaust story that similarly motivates my own views on capital punishment and my response to Kramer's argument in particular. At a slightly older age (12 or 13?), I immersed myself in the standard American Jewish teenage girl Holocaust canon of the early 1970s—Anne Frank's *Diary of a Young Girl* and Elie Wiesel's *Night*, among other works—which made a strong impression on me. I remember ruminating not so much about the proper treatment of the surviving Nazi leaders, but more about how so many Germans (and others) could have come to see an entire people (*my* people) as not really people at all—as something less than human. When I later chose to work as a public defender early in my legal career, I would often advert to this childhood experience when friends, relatives, and even fellow lawyers questioned my choice to take on a role that they saw as morally dubious at best. I would explain that I viewed the representation of (allegedly) heinous criminals as a kind of extreme civil rights

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