super-Retributivism

a criminal should suffer more than their victim

an earlier version is posted at **reddit/r/philosophy**,
with additional dialogue

two accounts of **punishment**:

A. pure Retributivism: criminal C deserves to suffer a harm *equal to* the harm that C has inflicted on victim V.

B. super-Retributivism: criminal C deserves to suffer *an injustice:* a harm *greater than* the harm that C inflicted on V.

yet this "extra" harm is, on fuller accounting, deserved - thus is not actually excessive:

p1. by Retributivism, the Criminal's suffering ought to equal the Victim's suffering.

p2. the Victim suffered **an injustice**.[1]

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c. by Retributivism, the Criminal ought to suffer an injustice.

[1] if they *justly* suffered, then they weren't victimized: it wasn't a *crime* to have harmed them.

the victim suffers *an injustice* - not just x amount of pain.

V's suffering typically increases [e.g. is complexified & intensified] by their realization that their suffering was undeserved. they suffer the pain e.g. of losing their family home, *then* suffer from the realization that their home in fact was *stolen* from them through the financial chicanery of a trusted advisor.

the violation of V's innocence is an outrage, i.e. we suffer the **passion of anger** when we comprehend the violation. our anger is righteous: our anger *correctly tracks* the objective moral reality that **V's suffering is undeserved**.

thus the "extra" punishment inflicted on C in fact *completes* the punishment. the "extra" punishment - call it the **super-punishment** portion of the total punishment - renders the total punishment **super-just**: the total punishment is *strictly* more than deserved, therefore *ultimately* deserved.[2]

[2] i think it is part of the suffering of Hell that it is undeserved. we shouldn't imagine our demon tormentors as measured dispensers of pain. released into their chamber we're released into their *unrestrained* sadism. we'd suffer many lifetimes-worth of agony - *& this undeserved torture would be super-just*, if we - like our demons - had *done as we pleased* to creatures we should have been stewards over.

a point about p1

notice i didn't write "by Retributivism, the Criminal's suffering ought to be *identical with* the Victim's suffering." that's an impossible demand, and an Ought implies a Can.

impossible because - most formally - *C's suffering can't be V's suffering*, thus can't be *identical to* V's suffering. V's suffering is V's.

response 1 to super-Retributivism

s-R is the *true* Retributivism, the *pure* Retributivism. pure **Retributivism** requires that the punishment fit the crime. yet the crime was *an injustice*. thus the punishment, too, must be formally unjust, excessive.

super-justice is true justice.

response 2 to super-Retributivism

s-R is self-contradictory. it is a putative account of **just punishment** that demands we punish unjustly.

response 3 to super-Retributivism

s-R implies an endless regress of punishments. s-R demands that we punish C *more than C deserves*, so that C, like V, suffers an injustice. thus in the course of their punishment, C, like V, shall be *victimized*. thus the punisher, P, will now deserve to be punished. but the proper punishment against P should be super-just: more than, strictly, P deserves. thus **the punisher of P** deserves to be punished - and so on, endlessly.

also, s-R implies that C should be infinitely punished. according to s-R, the super-Punishment portion of C's punishment is, in the fuller accounting, totally deserved. but s-R demands that we give C *more* punishment than they deserve. thus s-R demands that we inflict a *third* portion of punishment - call it the super-super-Punishment - on C. but then, it seems, the super-super-Punishment will have been totally deserved. thus we ought to inflict a fourth portion of Punishment upon C, and so on. by whatever increment, C's total deserved punishment is infinite.

response 3 perhaps doesn't imply that s-R is incorrect. perhaps *an exclusively punitive* response to crime indeed unleashes an endless sequence of harms - both from Criminal outward to Punishers, and upon the Criminal.

perhaps s-R is the correct account of punishment because it correctly reduces punishment to absurdity, to a regress impossible to complete.

perhaps s-R is the correct account of punishment, but something like **forgiveness / mercy** need enter into our response to crime, to stop the regress.

we never *deserve* forgiveness / mercy - it issues from considerations outside of justice.