Economic Principles and the Morality of Capital Punishment
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Around 20,000 people are murdered in the United States each year, though only about 300 death sentences are given and only a few convicted murderers are actually executed. Where proponents of capital punishment claim that murderers deserve to be executed, opponents claim that capital punishment is state-sanctioned murder. For opponents, it is bad enough that someone has been murdered. To kill the murderer compounds the evil.

What is particularly notable about this moral controversy is its focus on the case at hand. For a particular case it is asked whether execution is a justified punishment. Someone might hold that a Timothy McVeigh deserves execution while rejecting capital punishment for most other murderers. Whether execution is deserved depends on the circumstances surrounding the particular case at issue. (The accuracy of convictions and executions is also a relevant though distinct matter, and is explored in the Death Penalty Initiative at [www.constitutionproject.org](http://www.constitutionproject.org).) Capital punishment is deserved if the murderer is viewed as being sufficiently evil. Otherwise, imprisonment should be the penalty.

Each case is treated on its individual merits, with capital punishment being warranted, if, indeed, it is ever warranted, only for the most heinous of cases. This type of moral framing of the issue is backward looking in nature, in that it seeks to determine whether killing a murderer is a good or bad response to the murder by looking back to the murder that was committed.
There is also a forward looking way to approach capital punishment, which leads to more of an economic way of framing the issue. What does economics have to do with this intense moral controversy over capital punishment? Plenty, it turns out. There is a fairly substantial economic literature on the ability of punishment to deter crime, including murder. The idea behind the economics of deterrence is quite simple. People are more likely to pursue criminal acts as the gains rise and the costs fall. Diamonds are stolen more often than ice cubes because they are more valuable.

Punishment is the cost of a criminal act, though it is a cost that is discounted from its full cost because not all crimes are solved and not all criminals are punished. Regardless of the extent to which criminals might discount the cost of crime, punishment is a price of crime. As that price goes up, people will commit fewer crimes. That price can go up because punishment becomes harsher. It can also go up because it has become more likely that criminals will be caught and convicted. Regardless, the economic principles of deterrence recognize that present punishment reduces future crime.

The focus on deterrence looks beyond a particular murder that has already been committed, and asks whether execution of the murderer will help to reduce the number of murders committed in the future. The claim that capital punishment deters murder has a simple logic: the death penalty is more fearsome than life imprisonment, so there will be some people who might have committed murder had life imprisonment been the penalty who will not do so if death is the penalty. The great effort that most convicted murderers make to
avoid execution is surely strong testimony that death is more feared than life imprisonment.

The most widely cited study in this literature was published by Isaac Ehrlich in 1975. Ehrlich estimated that each execution prevents somewhere between 8 and 24 murders. Just recently three economists from Emory University (Hashem Dezhbakhsh, Paul Rubin, and Joanna Shepherd) have estimated that each execution results in between 8 and 28 fewer murders (this study can be found at www.emory.edu, which is strikingly close to Ehrlich’s 1975 estimate.

The economics of deterrence has profound implications for the moral arguments about capital punishment. Opponents of capital punishment seek to occupy some moral high ground by refusing to sanction yet another murder through execution of the murderer. This moral high ground crumbles if capital punishment is a deterrent to murder. It is no longer possible to claim to hold a moral position that refuses to follow one killing with another. Either you choose to kill the murderer or you choose to create an involuntary lottery that will select between 8 and 28 people to be murdered.

In the presence of deterrence, a failure to execute murderers is to condemn other people to be murdered. A choice not to execute a murderer forces innocent people to participate in a lottery where the losers get murdered. The relevant option thus becomes either to kill the murderer or to allow additional innocent people to be murdered. The opponent of capital punishment would allow the innocent people to be murdered. The proponent of capital punishment
would kill the murderer instead. In the presence of deterrence, there is no other option.