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CRITICAL MASS

Debating the Impact of the Death Penalty

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Is the death penalty an effective deterrent against future homicides? That question has assumed fresh urgency since the U.S. Supreme Court recently imposed a de facto moratorium on executions while it considers the legality of lethal injections (*Baze v. Rees*). Though nearly a dozen studies have appeared in the last few years purporting to show that capital punishment saves lives, few have triggered the sort of sharp condemnation that greeted a recent opinion article by two scholars from Pepperdine University — Roy D. Adler, a professor of marketing, and Michael R. Summers, a professor of business administration. The barrage of criticism about "Capital Punishment Works," published in *The Wall Street Journal*, came from those who found fault with the study on both methodological and moral grounds.

The Argument:

Roy D. Adler and Michael Summers: Most commentators who oppose capital punishment assert that an execution has no deterrent effect on future crimes. Recent evidence, however, suggests that the death penalty, when carried out, has an enormous deterrent effect on the number of murders. More precisely, our recent research shows that each execution carried out is correlated with about 74 fewer murders the following year. ...

The conclusion that each execution carried out is associated with the saving of dozens of innocent lives creates an extraordinarily difficult moral dilemma for those who campaign against the death penalty. Until now, those activists could look into the eyes of a convicted killer, hear his or her sad story, work tirelessly to set aside the execution and, with that goal accomplished, feel good about themselves for having "saved a life." These data suggest that the moral equation is not nearly that simplistic.

It now seems that the proper question to ask goes far beyond the obvious one of "Do we save the life of this convicted criminal?" The more proper question seems to be "Do we save this particular life, at a cost of the lives of dozens of future murder victims?" ([The Wall Street Journal](#))

The Response:

Amitai Etzioni, George Washington University: There are some measures that civilized societies just don't employ, whether they are efficient or not. And if these measures are used, the societies at issue should be profoundly shamed rather than comforted with pseudoscientific mumbo jumbo. Good societies do not hang people, do not torture people, and in select key areas, they allow their values to take precedence over all other considerations. After all, if our legal system followed the cost-benefit analysis of economics, we would shoot all young, first-time offenders — because we know they are very likely to offend again. Not to mention that the costs of incarceration are higher than many college tuition rates; some \$30,000 per year, per inmate. A bullet and cremation can be readily had for a few bucks.

The death penalty, especially given how often innocent people have been executed, belongs on this — granted short — list of no-nos. It is this taboo which I urge the United States to finally embrace, and also which is the only reason I oppose hanging a few economists in order to deter the others from building such deadly models. ([The Huffington Post](#))

Douglas A. Berman, Ohio State University: Since cert was granted in *Baze*, roughly 15 executions have been stayed. Are the authors of this commentary prepared to assert that the Supreme Court's handiwork may be costing the lives of over 1,000 future murder victims? Indeed, given that de facto moratorium seems likely to delay or prevent many dozens of executions, are the authors of this commentary prepared to suggest that the moratorium could end up costing more lives than the 9/11 tragedies? ...

The suggestion in this commentary that every execution could be saving 74 lives seems bold to the point of recklessness. ([Sentencing Law and Policy](#))

Justin Wolfers, University of Pennsylvania: It is no coincidence that their work was published in *The Wall Street Journal*, which has a very political editorial board. ...

The public certainly looks to academics to try to sort out some of these questions, like, Does the death penalty deter? The people who

have the largest appetite to try to answer the public on that, unfortunately, are those with ideological opinions, which often they will dress up as science. ([National Public Radio](#))

Ronald J. Allen, Northwestern University: During the period that obviously drives these results — from the early 1990s on — crime rates were falling dramatically across the country. Crime rates were falling across the board, not just for homicide. And so Messrs. Adler and Summers could also draw a graph showing that executions caused the crime rate to fall for burglary, robbery, assault and so on, which is implausible.

And now the most devastating error. The homicide rate more or less fell everywhere and not just in states that executed people. So in essence, the model of these authors attributes the declining murder rate in, e.g., New York to the executions that occurred mostly in Southern states. Is that plausible? Of course not. ([The Wall Street Journal](#))

Cassandra Stubbs, American Civil Liberties Union: One does not have to be a statistician to know the inherent danger of mistaking correlation for causation. A common illustration of this basic point is that children with larger shoe sizes perform better in reading tests. While this may be true, it is age, not shoe size, that correlates with improved reading.

Another flaw in the analysis is the false comparison between national crime statistics and national death-penalty statistics. The death penalty is not a federal penalty and it is not applied or available in several states with high crime rates. There are other credible studies comparing death-penalty states with non-death-penalty states that have found no evidence that executions have any effect on murder rates. ([The Wall Street Journal](#))

Cass R. Sunstein, University of Chicago: While this new Pepperdine study, based on the op-ed, is entitled to very little weight, there are many other studies that are published in peer-reviewed journals and that are careful, and those studies at least make plausible — I wouldn't say they make clear — but they make plausible the claim that the death penalty is having a deterrent effect.

We have enough data now to know that there is a reasonable dispute here. ... I would say that if we do conclude that there is a deterrent effect then those of us, like me, who are skeptical about the death penalty should probably rethink. What comes from our rethinking is not clear, but we should rethink. ([National Public Radio](#))

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