

Capital Punishment

In fact, the Ehrlich study was severely criticized by other researchers who claimed that his statistical methods were simplistic and inadequate for the complex series of relationships involved.

A large number of other researchers attempted to replicate and verify Ehrlich's findings, some using the same data he used, others using new and more extensive information on murder rates, and almost all using more sophisticated models and statistical methods. In fact, the issue was so controversial that the American National Academy of Sciences created a special panel on research on deterrent and incapacitative effects of punishment to review the different studies. The panel's conclusions supported the overwhelming body of research which has appeared since 1975. There is no evidence to support the contention that executions deter murder.

Representative of the many, many studies which have found no deterrent effect, in fact about 90 per cent of all research done, are the comments of Dane Archer, Rosemary Gartner, and Marc Beittel, writing in the *Journal of Criminal Law and Criminology* in 1983. They conducted an analysis of murder and executions in 14 countries including Canada. They came to the following conclusion:

Other justifications for the death penalty can and presumably will be debated, but the deterrence hypothesis must be regarded at this time as scientifically insupportable—

William C. Bailey's statistical investigation of the relationship between killings of police officers and executions in the United States between 1961 and 1971 concluded that the death penalty offered no protection to police officers.

Ezzat A. Fattah, writing in the *Canadian Journal of Criminology*, reviewed a large number of deterrence studies, including 10 which dealt specifically with the effect of executions on murders of law enforcement officers. He also came to the conclusion that there was no evidence that the death penalty protected law enforcement officers.

These studies also indicate that the abolition of the death penalty does not result in an increase of violence within penitentiaries where convicted murderers are sent to serve their sentences.

As Members of Parliament we cannot rely on intuition for our judgment on this issue. We cannot afford to ignore the empirical evidence available to us. Deterrence is a utilitarian argument, one which must have demonstrable effects to be valid. Such an argument, as opposed to, say, the argument for revenge, demands evidence, and that evidence is not there.

I think we have as well an obligation to use the research resources available to us as Members of Parliament to test our preconceptions against reality, to bring our own intelligence and capacity for critical judgment into play, to inform our constituents, and not to just respond to them.

Let me move to the second issue which has affected my vote, that is, the question of the risks posed to society by the death penalty. Not only is there no demonstrated deterrent effect for the death penalty, there is good evidence to suggest that

executions actually provoke murders which would not otherwise have occurred. This ominous possibility must be of concern to even the strongest proponents of the death penalty.

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Several reputable studies, investigating the short-term deterrent effects of execution on murder rates, have found that the murder rate actually rose significantly in the weeks and months immediately following an execution. Among the chilling results of this research it was found that in several states where data was analyzed, such execution appeared to account for between one and two additional murders in the weeks following.

In South Carolina, an estimated 24 murders were directly tied to executions over a 10 year period. In New York State, one investigation of murder rates between 1907 to 1963 found that on average each execution accounted for an additional two murders in the month after the execution, which were definitely tied to the execution. Another study in Chicago also found a significant increase over a five year period in both first degree murders and general homicides following each execution.

This has come to be called the brutalization effect. Far from deterring murders, executions appear to legitimize the idea that death is justified for people who have gravely offended us.

Executions provide a savage example of how the state, with all of its resources, feels it must solve its problems. If some murderers are people who feel humiliated, betrayed or dishonoured, is it any wonder that they borrow the state's methods to solve their problems? But whatever the psychology behind the effect may be, the effects are nonetheless established, executions increase the risk to innocent people by provoking murders.

I would like my colleagues to consider this evidence carefully. It is possible, of course, to ignore this, just as it is possible to ignore the evidence on deterrence. But those who do so will bear a terrible responsibility for the effects of their judgment on the innocents who may die as a result of it. The dangers to innocent people do not end with the brutalization effect.

My third concern lies in the effect of the death penalty on juries. Several reputable studies, some already cited in this debate, have indicated that juries are reluctant to convict when the death penalty is in effect. A recent study in Ontario indicated that members of juries in 29 of 32 cases where defendants were convicted of murder, have said they would have been reluctant to convict if the death penalty had been in effect. At least some of the people convicted, incarcerated and, therefore, incapacitated right now, would be on the streets if the death penalty had been in effect in Ontario over the last five years.

My fourth concern, and in many ways I think the most important, lies with the threat to innocent life inherent in an imperfect judicial system. We all know, at least every single