

The Market for Justice

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Should all murderers be hanged? Should all car firms produce red cars? These are both matters on which laymen like you, me, the newspapers, politicians and high-court judges are quite incompetent to decide for everyone else. In the free market the punishment for criminals would depend on what satisfies the consumers. Thus in the UK, private courts would be likely to compete to supply punishments geared to efficient deterrence and restitution, as these seem fair and safe to most of us. The precise levels and methods of punishment that made for the best deterrence would be researched by professionals and continuously tested by market competition.

With hanging (or gladiatorial combat on pay-TV) the level of risk to the innocently convicted would be pointed out. The self-interested consumers might well prefer to take the tiny risk of being killed by a miscarriage of justice, rather than the much larger risk of being murdered because of insufficient deterrence.

But some might not prefer this. They might consider it always immoral to kill. And in the market one could always take out a policy that allowed one's own murderer to have a lesser punishment than death.

A vengeful few might desire extreme retribution for relatively minor crimes. They would accept the high price in terms of personal risks from both the criminals (who reason that they might as well be hanged for a sheep as a lamb) and their own protection company (which might mistakenly convict them). But to enforce these sentences they would probably have to congregate in areas where they owned all the property.

Contractual Justice

Yet how is any punishment justified from within the market-libertarian viewpoint? Not because it deters and provides restitution - though these do seem likely to be seen as the

safest and most moral, and so the most popular criteria of choice - but because the criminal opts in with a quasi-contract. The diner in the restaurant tacitly contracts to pay the bill later though there is no explicit agreement; the burglar quasi-contracts to be liable to be punished for his burglary. He chooses to consume the crime, and should pay the local going price.

We should replace the state's arbitrary monopoly of justice. The market would give us a system of justice based on informed, individual choices where we (innocent and criminal) bear our own costs. What could be more moral and efficient?

Free Life