



# Evidence of marginal deterrence: Kidnapping and murder in Italy



Claudio Detotto<sup>a</sup>, Bryan C. McCannon<sup>b,\*</sup>, Marco Vannini<sup>a</sup>

<sup>a</sup> University of Sassari & CRENoS, DiSea, 34 via Torre Tonda, 07100 Sassari, Italy

<sup>b</sup> Saint Bonaventure University, School of Business, P.O. Box 42, Saint Bonaventure, NY 14778, USA

## ARTICLE INFO

### Article history:

Received 12 May 2014

Received in revised form 20 October 2014

Accepted 2 November 2014

Available online 13 November 2014

### JEL classification:

K42

H11

### Keywords:

Crime

Italy

Kidnapping

Marginal deterrence

Murder

## ABSTRACT

Empirical evidence of the marginal deterrent effect is provided. Exploring a data set of kidnapping crimes in Italy between 1960 and 2012, changes in Italian policy regarding sanctions for kidnapping and their associated impact on murders is considered. Deaths associated with kidnappings increase in prevalence when the kidnapping sanction increased, causing a decrease in the marginal sanction for murder. Death rates reversed when enhanced sanctions for murder were later introduced.

© 2014 Elsevier Inc. All rights reserved.

## 1. Introduction

The idea of marginal deterrence is that one should not necessarily consider a criminal act in isolation. In many circumstances individuals, considering whether to engage in criminal behavior, have multiple illegal activities to choose from. Marginal deterrence recognizes that the setting of sanctions for one particular offense not only affects deterrence of that crime, but also affects the incentives to engage in other activities. Early discussion of this phenomenon is done by [Stigler \(1970\)](#).

[Shavell \(1992\)](#), pioneering the formal analysis of marginal deterrence, considers an environment where an individual can choose between one of two illegal acts. Increasing the sanction for one offense encourages substitution to the other. He distinguishes between enforcement that can be made specific to each offense and general enforcement where both crimes are apprehended at the same rate, deriving optimal sanctions in each environment. Theoretical extensions include marginal deterrence in the context of completing a crime ([Kramer, 1990](#)), a normative analysis ([Wilde, 1992](#)), optimal sanctions with differing enforcement costs ([Mookherjee and Png, 1994](#)), enforcement of environmental

standards when the regulatory agency can select its inspections ([Franckx, 2004](#)), optimal marginal deterrence sanctions in antitrust enforcement ([Houba et al., 2011](#)), and examples in Islamic law ([Gouda, 2012](#)).

[Friedman and Sjöström \(1993\)](#) take the theoretical analysis a step further. They consider the situation where one first decides whether to commit a crime and then, if the illegal act occurs, decides whether to commit another complementary crime. They motivate their analysis with an illustration of deterring armed robbery. If sanctions were enhanced to attempt deterrence, the marginal deterrence of the complementary crime of murdering the store clerk is, in fact, mitigated.

Evidence of a substitution effect between related crimes exists. See [Detotto and Pulina \(2013\)](#) for an example of Italian crime, [Koskela and Viren \(1997\)](#) for a substitution between robbery and auto theft, and [Shepherd \(2002\)](#) for an example of spillover of California's Three Strikes law onto other crimes not covered by the legislation. To the best of our knowledge, though, the phenomenon of marginal deterrence of complementary crimes has not been documented.<sup>1</sup> This is important. If increased sanctions for an act, in an attempt to deter, can be shown to encourage more violent

\* Corresponding author.

E-mail addresses: [cdetotto@uniss.it](mailto:cdetotto@uniss.it) (C. Detotto), [bmccannon@sbu.edu](mailto:bmccannon@sbu.edu) (B.C. McCannon), [vannini@uniss.it](mailto:vannini@uniss.it) (M. Vannini).

<sup>1</sup> [Ekelund et al. \(2006\)](#) find no evidence of a deterrent effect of capital punishment on multiple murders, which is in line with the theory of marginal deterrence.

and serious crimes, then the cost imposed due to the enhanced sanction may be exacerbated.

We argue a reasonable application of the theory of marginal deterrence exists for the crimes of kidnapping and its complement, murder. Once kidnapping has commenced, the perpetrators decide whether or not to kill the victim. While the death exposes the criminals to punishments, if the sanction for kidnapping is great, then the marginal sanction for homicide is reduced.

We use a unique data set of kidnappings in Italy between 1960 and 2012 to test the theory of marginal deterrence. Kidnapping was a major concern for Italy in the 1960s and, as a consequence, in 1974 a new set of sentencing policies were set with greatly enhanced punishments for the crime. The 1974 reforms, though, did not change the sanction for murder. Thus, marginal deterrence of death reduced. In 1978 in response to increased homicides,<sup>2</sup> the Italian government created escalated sanctions for deaths resulting from kidnappings, addressing the marginal deterrence problem. We document that the impact on kidnapping-related homicides coincide with the predictions of the theory. The initial reforms correlate with an increased level of kidnappings resulting in homicides. The escalation of sanctions for kidnap-murders of 1978 reduced the prevalence of death. Thus, Shavell's (1992) "classic example" of kidnapping/murder as an application of marginal deterrence finds empirical support.

## 2. Kidnapping in Italy

We first provide a brief history of the setting of sanctions for kidnapping in Italy. Then we describe the data collected to be used in the analysis.

### 2.1. History of Italian kidnapping sanctions

Currently, the Italy penal code §630 on ransom kidnapping (*sequestro di persona a scopo di estorsione*) outlines the sanctions for kidnapping as (Zagrebelsky and Pacileo, 1999),

- (1) Any person who seizes another person with the aim of reaping, for himself or for somebody else, an unjust profit as a price of the liberation, shall be punished by imprisonment for 25–30 years.
- (2) If the hostage dies as a result of the kidnap, but this consequence was unintentional for the offender, the latter shall be punished by imprisonment for 30 years.
- (3) If instead the kidnapper intentionally causes the death of the hostage, then he shall be punished by imprisonment for life.

Moreover, in case one of the offenders withdraws from the criminal organization and helps free a hostage (not as a result of the payment of the ransom), then he shall be punished according to the terms of the simple kidnapping (§605) i.e., imprisonment for 6 months to 8 years. However, even in this case, if the victim dies as a consequence of the kidnap, after the liberation, imprisonment from 6 to 15 years shall apply.

Article 630, as it stands today, derives from the original 1930s penal code. In the initial code, the penalty for ransom kidnapping was (a) imprisonment for 8–15 years (plus a fine from 400,000 to 800,000 Italian Lira) if the ransom was not paid and (b) imprisonment for 12–18 years in case "the intended profit is realized" i.e., the ransom was actually paid. Thus, the sanction for kidnapping was based solely on whether a payment was received. Since the

<sup>2</sup> As will be discussed, the change in the policy occurred immediately after the assassination of the influential politician, Aldo Moro.

original 1930s code, two major changes have occurred to shape the current policy.

Kidnappings under this code became a significant problem. In the three-year window of 1966–68, for example, the island of Sardinia alone experienced 42 kidnappings, as compared to an average of 1.6 kidnappings per year between 1955 and 1965. This phenomenon occurred similarly throughout Italy making the country the world leader in the crime (Carramazza and Leone, 1984). Thus, policy needed to adjust to the rising concern.

As a response, in 1974 with law n. 497 the punishment for ransom kidnapping was escalated. Clause (a) above was increased to imprisonment for 10–20 years (and a fine of not less than 400,000 Italian Lira) whereas clause (b) was extended to imprisonment for 12–25 years (and a fine of not less than 1,000,000 Italian Lira). In addition, a new clause was added which addressed the scenario where the offender helped free the victim. Hence, the 1974 reform escalated, specifically, the punishment for kidnapping. The sanction for death deriving from the kidnapping did not increase. Throughout this entire time period intentional homicides are punishable with 21 years to life sentences. Consequently, the marginal sanction for murder reduced. The theory of marginal deterrence, then, would predict an increase in the rate of deaths conditional on kidnapping occurring.

Finally, against the backdrop of the kidnapping of the political leader Aldo Moro, seized by terrorists on March 16, 1978 and killed on May 9, new enhanced sanctions were introduced. The new law (n. 191) enacted in May 1978 specifically increased the sanction for deaths associated with kidnapping.<sup>3</sup> Accordingly, §630 was amended creating clauses (2) and (3) previously cited. Hence, while ransom kidnappings retained strong sentences, reforms targeting deaths were addressed. The theory of marginal deterrence, then, would predict that law focusing on the marginal sanction should decrease the prevalence of this complementary crime. It is these two policy interventions in the 1970s we explore to test the validity of the theory of marginal deterrence.

The policy change in response to the Moro assassination means that the alteration in the policy is exogenous to the level of ransom kidnappings since ransom and political kidnappings can be expected to be unrelated. Individuals motivated by political reasons are different individuals with separate objectives from those interested in the economic crime of ransom kidnapping.

### 2.2. Description of data

A data set is compiled of all kidnapping events in Italy between 1960 and 2012. The primary sources used are *Sequestri Di Persona in Italia* (Casalunga, 2013). The publication, produced by law enforcement officials, collects factual information on kidnapping in Italy. It provides information on the kidnapping experiences. Additionally, background information on the victims was filled in from local newspaper articles. A total of 593 observations arise.<sup>4</sup> Failed attempts were excluded from the data set. In failed kidnappings the criminals did not have the decision to murder the victim and, since the emphasis here is on this choice, they are not included.

A number of measurable variables arise. The primary variable of interest, *Death*, captures whether a kidnapping experience ended

<sup>3</sup> A noteworthy feature of the change is that sanctions for kidnapping were no longer based on the payment of ransom, but now based on death of the victim. For example, after the 1978 reform it would be possible to receive a shorter sentence for murder without a kidnapping (a minimum of 21 years) than an unintentional death arising from a kidnapping (a minimum of 30 years) regardless of the presence of mitigating circumstances.

<sup>4</sup> A total of 601 kidnappings occurred during the time period in the country, but the exclusion of the eight offenses not in the data set are due to missing information on the background of the victims and/or information on the crime.

Download English Version:

<https://daneshyari.com/en/article/5085577>

Download Persian Version:

<https://daneshyari.com/article/5085577>

[Daneshyari.com](https://daneshyari.com)