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Beccaria, Cesare: Classical School

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Cesare Beccaria was an Italian Enlightenment philosopher, politician, and economist whose celebrated book *On Crimes and Punishments* condemned the use of torture, argued for the abolition of capital punishment, and advocated many reforms for the rational and fair administration of law. Beccaria's ideas about legal and penal reforms, which influenced intellectuals and statesmen throughout Europe and in North America, inspired many significant reforms in the last decades of the 18th century and the first decades of the 19th century.

Beccaria influenced the British philosopher Jeremy Bentham who, along with Beccaria, produced the foundational ideas of the Classical School of Criminology. Many of the reforms that Beccaria advocated remain aspirations for contemporary systems of legal justice, including punishment proportionate to the severity of the crime and [p. 74 ↓] the development of a system of published laws and legal procedures applied equally to all without interference by the particular interests of rulers, judges, or clerics and without providing favorable treatment to individuals of higher social, political, or economic status.

Intellectual Foundations

Beccaria was the first reformer systematically to apply to law the intellectual principles and political ideals of the Enlightenment. His work on the law applied two concepts developed by other Enlightenment thinkers: first, a social contract political theory, according to which political authority is legitimate because it was consented to by individuals within a society who joined together for mutual benefit; and, second, a utilitarian theory of ethics, according to which the rightness or wrongness of actions depends on the extent to which those actions lead to individuals' happiness or unhappiness. Similar to other Enlightenment thinkers, Beccaria expressed a fundamental faith in the power of rationality. To a large extent, his reforms are based on the thought that human beings are rational creatures who can collaborate in peace to their own mutual benefit.

When he applied them together, Beccaria's utilitarianism, his social contractarianism, and his optimism about human rationality led him to argue that, because society exists

for the sake of its members' mutual benefit, social institutions should be arranged rationally to serve that end. In this process, efforts should be made first to respect and protect individuals' rights to enjoy those benefits and, second, to support and enforce individuals' obligations to cooperate peaceably with each other to fulfill each other's needs for security and prosperity.

Beccaria used this understanding of society to critique legal institution, traditions, and practices he believed failed to respect the rights of individuals, that enforced obligations and imposed punishments in an unfair manner, and that were mired in irrational violence. He also rejected the administration of justice he judged to be systematically corrupted by authorities who lacked legitimacy under the lights of social contract theory, who acted immorally according to the judgments of utilitarianism, and whose behavior failed to live up to Beccaria's ideals for rational human cooperation.

Beccaria's Social Critique and Rejection of Legal Tradition

Beccaria's use of these Enlightenment methods and ideas conformed to a shift in the common understanding of what legitimates social arrangements that occurred during the seventeenth and early eighteenth centuries. Following the Reformation and Enlightenment, this new understanding of society embraced the use of instrumental reason to create a more "civilized" way of life that rejected the violence that marked earlier eras. What emerged, and what Beccaria's legal reforms promoted, was the ideal of a rational society arranged so that all its members could enjoy greater freedom, more security, and more prosperity than was possible in earlier times.

Beccaria's acceptance of this model of a rational society caused him to break with European traditions that included acts of excessive violence, both personal (e.g., honor duels) and political (e.g., tyranny and massacres). More generally, Beccaria rejected traditions and practices that he considered to be marked by "the horror of the crimes which afflicted our forefathers, who became by turns tyrants and slaves" and that included irrational and wicked laws and criminal procedures that reflected, in Beccaria's arresting words, "humanity groaning under the weight of superstition, greed,

the ambition of a few staining with human blood the coffers of gold and the thrones of kings, hidden betrayals, public massacres, every nobleman a tyrant ..." (p. 18).

In short, Beccaria found the legal traditions of Europe wholly objectionable, and his calls for reform ultimately rested on a radical rejection of those traditions.

Key Areas of Reform

To replace those objectionable traditions, Beccaria insisted that reforms must respect and support the true right of the state to punish criminals, which he argued was based neither on divine authority nor on the whims or political need of sovereign rulers. Instead, and in accordance with his social contractarianism, Beccaria argued that all political obligation among the members of a society, including the obligation to obey the law and to subject oneself to punishment for crimes, was grounded on the fundamental purpose of a society to provide for its [p. 75 ↓] members' needs for security and prosperity. For Beccaria, therefore, a fundamental requirement for a rational and just system of criminal justice was a system of laws and legal procedures designed to promote and preserve the social bonds that make it possible for a society to meet those two fundamental needs.

Each of the legal reforms Beccaria advocated was intended to support the role of criminal justice in sustaining a rational society devoted to its members' security and prosperity. Thus, for example, when arguing for rational reform of criminal punishments, Beccaria argued that reforms must respect and support the role of punishment in maintaining those social bonds. Vitaly important, Beccaria argued, was "the restraint necessary to hold particular interests together, without which they would collapse into the sold state of unsociability. Any punishment that goes beyond the need to preserve this bond is unjust by its very nature" (p. 11).

Many of the legal reforms that Beccaria advocated reflected the same twinned goals of removing the cruelty and irrationality from past practices and traditions and creating new systems of rational laws and processes that supported the development of a fully legitimate, fully rational state that Beccaria's Enlightenment sensibilities set as his political ideal. It was on this idealistic basis that Beccaria argued for practical reforms

like the proportionality between crimes and punishments, the rational classification of crimes, the rational use of credible witnesses, the rational use of evidence, and a prohibition against secret accusation.

Several of the reforms that Beccaria advocated were based on his belief about the importance of individuals' understanding both what the laws and legal procedures are and also why they serve the mutual benefit of all. Thus, he called for education about laws and legal procedures that were published openly, distributed widely, and written in a manner that avoided legalistic jargon and in language comprehensible to all who fall under their authority. This is why Beccaria concluded that "we see how useful the printing press is, which makes the general public, and not just a few individuals, the repository of the holy law" (p. 18).

Arguments Against Torture

Beccaria's general call for reform to make accessible to all a rational system of laws and criminal procedures that supports a society dedicated to the security and prosperity of all its members was greatly influential and, as seen below, occasioned legal innovations and reforms around the world. Two of the reforms he advocated are worthy of special note: his arguments against the use of torture and his arguments for the abolition of capital punishment.

When Beccaria published *On Crimes and Punishments*, torture had long been commonplace in Western Europe to determine innocence or guilt, to compel confessions, to identify accomplices, and to punish. Acts of torture included savage mutilation performed as part of a criminal investigation and extended public spectacles culminating in a convict's execution.

Beccaria offered five main objections to the use of torture. First, he considered torture wickedly cruel and disproportionately harsh even in response to the worst crime or the most extreme circumstances. Second, Beccaria argued that the use of torture promotes the development of inadequate criminal justice procedures. For example, it fosters investigative processes that rely on torture victims who will bear false witness against others or will affirm false confessions in order to end their torment. Third, Beccaria

argued that torture was unnecessary for investigating, prosecuting, and punishing crimes. Fourth, he argued that violent criminals become habituated to violence in a way that can allow them to withstand torture. Fifth, he argued that the use of brutal methods of torture can serve to coarsen an entire society and so contradicts the goal of creating enlightened, peaceful, and prosperous civilization. This is why he concluded that the widespread use of torture in Europe “is a standing monument to the law of ancient and savage times” (p. 41).

Beccaria considered torture to be a vestige of a more violent and less civilized age that undermines the development of a rational, fair, and effective system of criminal justice. Therefore, he concluded, enlightened rational societies must forswear torture.

The Abolition of Capital Punishment

Famously, Beccaria also called for the abolition of capital punishment. He offered three main arguments: first, that the death penalty is not useful [p. 76 ↓] within a rational and well-ordered criminal justice system; second, that capital punishment is illegitimate under a social contractarian theory of political obligation; and, third, that the irrevocable nature of the death penalty is incompatible with the fallible human judgments that are necessarily involved in sentencing someone to death.

Beccaria's first argument, about the utility of capital punishment within a rational and well-ordered system of criminal justice, relied on the two philosophical foundations of his conception of an enlightened society: utilitarianism and social contractarianism. A utilitarian assessment of capital punishment, Beccaria argued, must conclude that the use of the death penalty has numerous bad consequences for individuals, for societies, and for the administration of law. As with the case of torture, he maintained that the violence of capital punishment coarsens individuals and societies by reinforcing violent passions that an enlightened and rational society should strive to reduce. Thus he concluded that the “death penalty is not useful because of the example of savagery it gives to men” and argued that the abolition of the death penalty has the extreme social utility of promoting the development of a peaceful and rationally ordered society (p. 70).

Beccaria also asserted that capital punishment was incompatible with the legitimacy of political authority grounded on a social contract designed, in part, to defend individuals against threats to their lives. Since “deep in their souls ... men have always believed that no-one and nothing should hold the power of life and death over them” (p. 70), he observed, individuals who chose to be governed under a social contract would not choose to subject themselves to the possibility of capital punishment. For this reason, he concluded, legal and political authorities have no right to institute capital punishment.

Beccaria's third argument against capital punishment was based on his analysis of human weaknesses and limitations, including the fallibility of human judgments. He noted that the irrevocability of death is inconsistent with the fallibility even of the most judicious human judgments. It is a fundamental fact of human existence that our judgments are fallible and are subject to many forms of error and corruption. In turn, these limitations mean that capital punishment must be abolished if we are to avoid the horrible outcome of mistakenly executing innocents.

Beccaria's Worldwide Influence

Beccaria's *On Crimes and Punishments* met with immediate literary and political successes. Beccaria's critiques and suggestions for reforms were accepted by many leading European intellectuals and by several prominent heads of state, including Catherine the Great, who sought unsuccessfully to hire Beccaria to plan legal reform in Russia, and by Peter Leopold, who in 1786, as Grand Duke of Tuscany (and several years before becoming the Holy Roman Emperor), became the first European head of state to abolish capital punishment. Beccaria's ideas inspired many other European heads of state to take up legal or penal reform, for example in Prussia, Sweden, and the Austrian Empire.

On Crimes and Punishments was translated quickly into English and had significant influence on legal and prison reforms in England and North America. In England, Beccaria's ideas influenced the utilitarian philosopher Jeremy Bentham, the jurist William Blackstone, and the prison reformer John Howard. In North America, Beccaria's book influenced John Adams, Benjamin Franklin, and Thomas Jefferson.

In France, Beccaria's ideas influenced the development of two extremely important documents, the *Declaration of the Rights of Man* in 1789, a fundamental political document of the French Revolution, and the post-revolutionary *Code Napoléon* of 1804, which influenced the development of legal codes around the world.

Despite these successes, Beccaria's ideas also generated significant critiques. For example, the great German Enlightenment philosopher Immanuel Kant defended capital punishment as the just and necessary punishment for some crimes. He criticized Beccaria as acting “from motives of compassionate sentimentality and affected humanity” and concluded that Beccaria's arguments for abolishing the death penalty were “pure sophistry and distortion” (p. 158). Against Beccaria, Kant advocated a retributive account of punishment based on the principle of *lex talionis* (“an eye for an eye”). Although Kant agreed with Beccaria that punishment must fit the crime, Kant's ethical theories led [p. 77 ↓] him to reject Beccaria's utilitarian conception of punishment as serving the greater social end of deterring others from future criminality.

The 19th century philosopher Georg Wilhelm Friedrich Hegel offered another significant critique. He rejected Beccaria's account of punishment and arguments for the abolition of capital punishment by rejecting the social contract theory upon which they rest. The leading French Enlightenment figure Voltaire, who was a strong influence on Beccaria, was a gentler critic. He accepted and promoted many of Beccaria's ideas but rejected his arguments for the abolition of capital punishment. Finally, some of the social institutions Beccaria criticized so harshly resisted his calls for reform. For example, the Vatican denounced Beccaria's secular and anti-clerical arguments and, until 1962, kept *On Crimes and Punishments* on its index of condemned titles.

Beccaria has garnered less scholarly attention in recent decades, although one notable exception is found in the work of the prominent French social theorist Michel Foucault, who provocatively denied that Beccaria's legal reforms were grounded in Enlightenment humanism. The extended attention Foucault paid to Beccaria's ideas demonstrates the power of his writings to inspire contemporary theorists.

Beccaria's Relevance

Capital punishment, torture, the fairness and rationality of our laws and legal processes, the equal administration of justice, the efficacy of punishments for deterring criminal behavior, and the social utility of well-publicized systems of laws each remain important issues within contemporary societies and for students and scholars of criminology. Beccaria engages these issues in a clear and insightful philosophical manner that illuminates present-day social concerns and scholarly debates. For this reason, Beccaria's writings retain far more than historical interest and remain worthy of close attention even despite the subsequent development of theories of crime that reject the Enlightenment optimism about human rationality that so inspired Beccaria.

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See also

- [Abolitionism](#)
- [Bentham, Jeremy: Classical School](#)
- [General Deterrence Theory](#)

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