

**Excerpts from**  
***An Essay on Crimes and Punishments\****  
**by**  
**Cesare Beccaria**  
**(1764)**

**Introduction**

In every human society, there is an effort continually tending to confer on one part the height of power and happiness, and to reduce the other to the extreme of weakness and misery. The intent of good laws is to oppose this effort, and to diffuse their influence universally, and equally. But men generally abandon the care of their most important concerns to the uncertain prudence and discretion of those, whose interest it is to reject the best, and wisest institutions; and it is not till they have been led into a thousand mistakes in matters, the most essential to their lives and liberties, and are weary of suffering, that they can be induced to apply a remedy to the evils, with which they are oppressed. It is then they begin to conceive, and acknowledge the most palpable truths, which, from their very simplicity, commonly escape vulgar minds, incapable of analyzing objects, accustomed to receive impressions without distinction, and to be determined rather by the opinions of others, than by the result of their own examination.

If we look into history we shall find, that laws, which are, or ought to be, conventions between men in a state of freedom, have been, for the most part, the work of the passions of a few, or the consequences of a fortuitous, or temporary necessity; not dictated by a cool examiner of human nature, who knew how to collect in one point, the actions of a multitude, and had this only end in view, the greatest happiness of the greatest number. Happy are those few nations, who have not waited, till the slow succession of human vicissitudes, should, from the extremity of evil, produce a transition to good; but, by prudent laws, have facilitated the progress from one to the other! And how great are the obligations due from mankind to that philosopher, who from the obscurity of his closet, had the courage to scatter amongst the multitude, the seeds of useful truths, so long unfruitful!

The art of printing has diffused the knowledge of those philosophical truths, by which the relations between sovereigns and their subjects, and between nations, are discovered. By this knowledge, commerce is animated, and there has sprung up a spirit of emulation, and industry, worthy of rational beings. These are the produce of this enlightened age; but the cruelty of punishments, and the irregularity of proceeding in criminal cases, so principal a part of the legislation, and so much neglected throughout Europe, has hardly ever been called in question. Errors, accumulated through many centuries, have never been exposed by ascending to general principles; nor has the force of acknowledged truths been ever opposed to the ill-bounded licentiousness of ill-directed power, which has continually produced so many authorized examples of the most unfeeling barbarity. Surely, the groans of the weak, sacrificed to the cruel ignorance, and indolence of the powerful; the barbarous torments lavished, and multiplied with useless severity, for crimes either not proved, or in their nature impossible; the filth and horrors of a prison, increased by the most cruel tormentor of the miserable, uncertainty, ought to have roused the attention of those whose business is to direct the opinions of mankind.

The immortal Montesquieu has but slightly touched on this subject. Truth, which is eternally the same, has obliged me to follow the steps of that great man: but the

Space for Notes



studious part of mankind, for whom I write, will easily distinguish the superstructure from the foundation. I shall be happy, if with him, I can obtain the secret thanks of the obscure, and peaceful disciples of reason, and philosophy; and excite that tender emotion, in which sensible minds sympathize with him, who pleads the cause of humanity.

### **Chapter I: Of the Origin of Punishments**

Laws are the conditions, under which men, naturally independent, united themselves in society. Weary of living in a continual state of war, and of enjoying a liberty which became of little value, from the uncertainty of its duration, they sacrificed one part of it, to enjoy the rest in peace and security. The sum of all these portions of the liberty of each individual constituted the sovereignty of a nation; and was deposited in the hands of the sovereign, as the lawful administrator. But it was not sufficient only to establish this deposit; it was also necessary to defend it from the usurpation of each individual, who will always endeavor to take away from the mass, not only his own portion, but to encroach on that of others. Some motives, therefore, that strike the senses, were necessary to prevent the despotism of each individual from plunging society into its former chaos. Such motives are the punishments established against the infractions of the laws. I say, that motives of this kind are necessary; because, experience shows, that the multitude adopt no established principle of conduct; and because, society is prevented from approaching to that dissolution, (to which, as well as all other parts of the physical, and moral world, it naturally tends) only by motives, that are the immediate objects of sense, and which being continually presented to the mind, are sufficient to counterbalance the effects of the passions of the individual, which oppose the general good. Neither the power of eloquence, nor the sublimest truths, are sufficient to restrain, for any length of time, those passions, which are excited by the lively impressions of present objects.

### **Chapter II: Of the Right to Punish**

Every punishment, which does not arise from absolute necessity, says the great Montesquieu, is tyrannical. A proposition which may be made more general, thus. Every act of authority of one man over another, for which there is not an absolute necessity, is tyrannical. It is upon this then, that the sovereign's right to punish crimes is founded; that is, upon the necessity of defending the public liberty, entrusted to his care, from the usurpation of individuals; and punishments are just in proportion, as the liberty, preserved by the sovereign, is sacred and valuable.

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Thus it was necessity that forced men to give up a part of their liberty; it is certain then, that every individual would choose to put into the public stock the smallest portion possible; as much only as was sufficient to engage others to defend it. The aggregate of these, the smallest portions possible, forms the right of punishing: all that extends beyond this is abuse, not justice.

Observe, that by justice I understand nothing more, than that bond, which is necessary to keep the interest of individuals united; without which, men would return to their original state of barbarity. All punishments, which exceed the necessity of preserving this bond, are in their nature unjust. . . .

### **Chapter VI: Of the Proportion between Crimes and Punishments**

It is not only the common interest of mankind, that crimes should not be

committed, but that crimes of every kind should be less frequent, in proportion to the evil they produce to society. Therefore, the means made use of by the legislature to prevent crimes, should be more powerful, in proportion as they are destructive of the public safety and happiness, and as the inducements to commit them are stronger. Therefore there ought to be a fixed proportion between crimes and punishments.

It is impossible to prevent entirely all the disorders which the passions of mankind cause in society. These disorders increase in proportion to the number of people, and the opposition of private interests. If we consult history, we shall find them increasing, in every state, with the extent of dominion. In political arithmetic, it is necessary to substitute a calculation of probabilities, to mathematical exactness. That force, which continually impels us to our own private interest, like gravity, acts incessantly, unless it meets with an obstacle to oppose it. The effects of this force are the confused series of human actions. Punishments, which I would call political obstacles, prevent the fatal effects of private interest, without destroying the impelling cause, which is that sensibility inseparable from man. The legislator acts, in this case, like a skilful architect, who endeavors to counteract the force of gravity, by combining the circumstances which may contribute to the strength of his edifice.

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Pleasure and pain are the only springs of action in beings endowed with sensibility. Even amongst the motives which incite men to acts of religion, the invisible legislator has ordained rewards and punishments. From a partial distribution of these, will arise that contradiction, so little observed, because so common; I mean, that of punishing by the laws, the crimes which the laws have occasioned. If an equal punishment be ordained for two crimes that injure society in different degrees, there is nothing to deter men from committing the greater, as often as it is attended with greater advantage.

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### **Chapter XII: Of the Intent of Punishments**

From the foregoing considerations it is evident, that the intent of punishments, is not to torment a sensible being, nor to undo a crime already committed. Is it possible that torments and useless cruelty, the instrument of furious fanaticism, or the impotency of tyrants, can be authorized by a political body? Which, so far from being influenced by passion, should be the cool moderator of the passions of individuals. Can the groans of a tortured wretch recall the time past, or reverse the crime he has committed?

The end of punishment, therefore, is no other, than to prevent the criminal from doing further injury to society, and to prevent others from committing the like offence. Such punishments, therefore, and such a mode of inflicting them, ought to be chosen, as will make the strongest and most lasting impression on the minds of others, with the least torment to the body of the criminal.

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### **Chapter XIX: Of the Advantage of Immediate Punishment**

The more immediately after the commission of a crime, a punishment is inflicted, the more just and useful it will be. It will be more just, because it spares the

criminal the cruel and superfluous torment of uncertainty, which increases in proportion to the strength of his imagination and the sense of his weakness; and because the privation of liberty, being a punishment, ought to be inflicted before condemnation, but for as short a time as possible. (. . .) An immediate punishment is more useful; because the smaller the interval of time between the punishment and the crime, the stronger and more lasting will be the association of the two ideas of Crime and Punishment; so that they may be considered, one as the cause, and the other as the unavoidable and necessary effect.

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### **Chapter XXVII: Of the Mildness of Punishments**

The course of my ideas has carried me, away from my subject, to the elucidation of which I now return. Crimes are more effectually prevented by the certainty, than the severity of punishment. Hence in a magistrate, the necessity of vigilance, and in a judge, of implacability, which, that it may become an useful virtue, should be joined to a mild legislation. The certainty of small punishment will make a stronger impression, than the fear of one more severe, if attended with the hopes of escaping; for it is the nature of mankind to be terrified at the approach of the smallest inevitable evil, whilst hope, the best gift of heaven, hath the power of dispelling the apprehension of a greater; especially if supported by examples of impunity, which weakness or avarice too frequently afford.

If punishments be very severe, men are naturally led to the perpetration of other crimes, to avoid the punishment due to the first. The countries and times most notorious for severity of punishments, were always those in which the most bloody and inhuman actions and most atrocious crimes were committed; for the hand of the legislator and the assassin were directed by the same spirit of ferocity; which, on the throne, dictated laws of iron to slaves and savages, and, in private, instigated the subject to sacrifice one tyrant to make room for another.

In proportion as punishments become more cruel, the minds of men, as a fluid rises to the same height with that which surrounds it, grow hardened and insensible; and the force of the passions still continuing, in the space of an hundred years, the wheel terrifies no more than formerly the prison. That a punishment may produce the effect required, it is sufficient that the evil it occasions should exceed the good expected from the crime; including in the calculation the certainty of the punishment, and the privation of the expected advantage. All severity beyond this is superfluous, and therefore tyrannical.

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