

# Beccaria on Discounting Intentions in Adjudicating Punishments for Crimes

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*Abstract:* This essay considers Cesare Beccaria's arguments in Chapter 7 of *Dei delitti e delle pene* for discounting an agent's intentions in assigning punishments for crimes. Beccaria offers four different arguments in this compact section of the book, including the impenetrable subjectivity of another subject's intentionality and the risk of committing blasphemy by punishing intentions to act as sins and effectively usurping God's authority. These objections are answered and the role of intentions in determining criminal guilt and appropriate punishments is investigated in light of Beccaria's objections.

*Keywords:* Cesare Beccaria; intentions; criminal liability; proto-utilitarianism.

## 1. *Intending to Do Wrong*

Cesare Beccaria, in his 1764 Enlightenment tract, *Dei delitti e delle pene*, *On Crimes and Punishments*, argues on several grounds that intentions should be disregarded in adjudicating punishments for different kinds of crimes. In Chapter 7: 'Errors in the measuring of punishments', Beccaria first declares his opposition to the sentiment that a criminal's intentions ought to be taken into account in determining what level of crime may have been committed, so that an appropriate punishment for the crime can justly be assessed. He states:

The foregoing considerations give me the right to affirm that the one true measure of criminality is the damage done to the nation and that, therefore, those who believe that the true measure of criminality lies in the malefactor's intention are mistaken (Beccaria 1995: 22).<sup>1</sup>

For Beccaria, all crimes are punishable on just one theory. His principle is that crime injures society, and that society accordingly has not only the right, but the moral-political responsibility, to defend itself from such offenses. The only mechanism by which society is able to resist criminal violation of its inter-

<sup>1</sup> All references and translations in quotation from Beccaria in this source.

ests, Beccaria believes, is through the proper, morally justified and behaviorally effective, administration of punishments.<sup>2</sup>

Beccaria resists the subjectivity of intention as a basis for assigning levels of criminality or their appropriate punishments. He opposes the concept because it is individually variable, both between different subjects and for the same subject under different circumstances. There seems accordingly to be nothing objective about intentions to act on the part of agents responsible for crimes by which to measure the degree of their culpability and assess their candidacy for one sort of punishment rather than another. Beccaria writes:

A person's intention is contingent on the impression caused by the objects at the time and the preceding disposition of the mind, and these vary from man to man and in the same man according to the very swift succession of ideas, emotions and circumstances (Beccaria 1995: 22).

The objection seems to depend on the problem of determining exactly what intention a person has, given how variable the circumstances that occasion intentions, and how quickly thoughts of many kinds flit through the mind. If the law had to account for such subjectivity, particularity and high levels of specificity, for events that are so circumstantially determined and at high speeds of psychological occurrence, then Beccaria believes that the law has no choice but to discount intention. Were it to do otherwise, Beccaria argues, then the logically absurd consequence must follow, that there would need to be different laws for each citizen of the state, and presumably by extension, also, for each moment of each citizen's life, and for each commission of each particular crime.

That would not be justice, Beccaria thinks. The same actions committed by different persons with different subjective states of intention would then either be criminal or not, punishable or not, depending on a person's inter-subjectively inscrutable state of mind. There is also an enforcement problem in the intentionalist proposal, since individuals accused of a crime could then always plead having had some other benign intention, with the resulting socially damaging effects of their intended action surpassing anything they had wanted or expected to happen. By eliminating intention from the justice equation, Beccaria may hope to make criminal prosecutions more objective, and to that degree more just.

As further evidence of Beccaria's general distrust of intentions in determining criminality and apportioning appropriate punishments in the case of suicide, Beccaria later maintains, in Chapter 32, Suicide:

<sup>2</sup> See Hart 1982; Draper 2000.

Once such a crime has been committed, it can no longer be punished; and punishing it beforehand is to punish men's will and not their actions, which would be to control the intentions, a part of a man utterly free from the reign of human laws (Beccaria 1995: 84).

The implication is that intentions are irrelevant to the administration of justice because they are anyway altogether outside of its control. The law cannot interest itself in people's intentions, because it can do nothing whatsoever to police thinking subjects from intending anything they please. The actions issuing from intentions may be another matter. Along with their objectively determinable consequences within a proto-utilitarian consequentialist empirical causal scientific framework, such as the eighteenth century conceived of it, Beccaria considers the play of ideas, purposes, directions of thought and other psychological ephemera altogether outside the jurisdiction of civil law. Beccaria continues, again in Chapter 7:

It would, therefore, be necessary to frame not only a special code of laws for each citizen, but also a new law for each particular crime (Beccaria 1995: 22).

Here Beccaria's reasoning is more difficult to follow. Beccaria generally wants to focus on external action in the objective fair and impartial design and administration of justice, rather than on unobservable internal states of mind. The purpose in and of itself is highly commendable, although the questions it raises concern the extent to which physical events involving a subject's body can rightly be thought to constitute an action, and which may fall short.

It is true that we do not always know confidently how to judge that a subject has or does not have a certain intention, and, more pertinently, whether a defendant on trial for a crime did or did not have a certain intention in circumstances that could have taken place at some significant distance in time and place. Such a requirement would be absurd, needless to say. Why, however, would these problems, real and pressing in some ways as they are, imply the need for a special code of laws for each citizen? Assuming Beccaria does not mean to complain against the multiplicity of dedicated laws appropriate for each kind of crime, which are presumably required anyway, why does he imagine that making the commission of a crime dependent on a perpetrator's intentions would imply the need for distinct laws, for each and every crime undertaken by each and every individual law offender?

The answer, not to be found in Beccaria's succinct exposition, may have something to do with assuming that if an agent's subjectively individual intentions enter in any way into the determination of level of criminality or apportionment of punishment to type of crime, then each element of criminal law

must be correlated with a distinct individual intention to break the law on the part of each individual law-breaker as a passing momentary psychological event. The further question that is immediately occasioned, then, is whether Beccaria's objection against intention as a condition of criminal responsibility is correct.

## 2. *Intention in Action, Crime and Punishment*

The obvious reply to this part of Beccaria's argument is to say that the question of intention is not quite so subjective as one might think. Of course, there is a subjective dimension to intending, but it is not necessarily the individual subjectivity of intending that is relevant to judgments in the prosecution and adjudication of criminal law. The usual distinction is to emphasize only a general difference between a subject intending versus not intending to do something.

With all the subjective nuances in intending at work, the bare fact of intending that an event take place as opposed to intending no such thing, marks an evident difference in many sorts of real life and thought experiment kinds of examples in ethics and social and political decision-making and the enlightened administration of justice. Here is a commonsense example from Beccaria's era. I intend to close a window, but in closing the window I inadvertently bring a candle into contact with a curtain in a sequence of unintended events, resulting in the house burning down. The question then would be whether or not I committed the crime of arson. I think it would be unfair, unreasonable, and unenlightened to hold an agent responsible for the crime of arson under the circumstances described. Perhaps the individual is guilty of some kind of negligence at most. I should have been more careful. But a charge of arson seems not only harsh, but strictly inaccurate, lacking a solid basis in truth.

Assume, for the sake of argument, that in both cases, where an agent deliberately sets fire to the curtain with the candle, and where the agent does not deliberately do so, the physical actions, muscle movement, handling of objects, and the like, are otherwise identical in every respect. Then it is hard to see how the difference between committing the crime of arson and being innocent of that particular offense in the scenario described could be correctly explained without invoking the difference in intentions between setting out deliberately to burn down a house and having it happen against one's will and wishes, and despite all one's intentions to the contrary.

The laws themselves need not be multiplied in assessing the criminality of a given act, if the only question is whether or not an agent acts intentionally to break the law. There are often many external signs of this, from past behavior, demeanor under questioning, written documents, conversations with other persons, how the incident is connected to the suspect's other interests, and in

general whether the suspect might have had a motive in this case for intending to commit an act of arson. There may be many other things besides that it would then be the task of ingenious forensics to discover and apply as a routine matter of law enforcement. By taking an agent's intentions into account, we do not require a new and different law for every action-related intending act that falls under legal jurisdiction. We can decide generally in every case, or in a selection of appropriate matters of legislation, where reasonable exceptions obtain, that the otherwise relevant law applies only if the agent intended to commit a crime, or to engage in an action subject to criminal interdiction. Moreover, if the agent's intent, its intended object, or the state of affairs that the agent sought by acting to bring about, can be determined, as in practice is frequently done in contemporary jurisprudence, then further discriminations can reasonably be made as to whether a given course of events represents one type of crime rather than another. The difference between first, second, and third degree homicide, of aggravated or unaggravated homicide, of manslaughter as opposed to murder, and many other useful distinctions in the practice of law, are made without the prohibitive logical or conceptual difficulties that Beccaria envisions in precisely this way.

We know that Beccaria's argument must be mistaken. To hold that intentions cannot be brought into the conduct of criminal law on the grounds that we would then need to have different laws to cover each relevant mental act of intending and each intending agent, is pointing in the wrong direction, because intention is recognized in contemporary law and its administration with no such attendant difficulties. Beccaria seems to be caught in the grip of a kind of pre-positivism, whereby anything psychological, by virtue of not being transparent, objective, open to public inspection, and the like, is theoretically suspect, and too messy, subjective, and semantically intensional, as a more recent philosophical terminology would say, for use in scientific judgment in the law.<sup>3</sup>

### 3. *Uncompromising Consequentialism in the Determination of Crime*

Next, Beccaria's pre-utilitarian moral underpinning comes to the fore in recommending against including intentions in the determination of criminality or degree or type of criminality. Beccaria explains the irrelevance of intention to committing acts of social wrong:

Sometimes men do the greatest wrongs to society with the best of intentions; and at other times they do it the greatest service with the worst will (Beccaria 1995: 22).

<sup>3</sup> See Duff 1990; Kugler 2002; Naffine, Owens and Williams 2001.

The heart of the matter is clearly shown here. Beccaria is a thoroughgoing consequentialist. In arriving at moral judgments, he does not care about any factors other than an action's resulting consequences.

Taking the above passage literally, Beccaria seems to imply that the person whose actions accidentally and without any intention or premeditation burned down the house has committed the very same *crime* as the person who deliberately chose to perform an act of arson. The unlucky person who accidentally brought the curtain into contact with the candle with no intention of burning down the house and the premeditative arsonist are legally on a par in Beccaria's radically consequentialist philosophy of law. The same house burns in the same way, regardless of the intentions that might have flitted about in the impenetrably subjective thoughts, respectively, of the unlucky agent who did something resulting in the house burning down, and the evil-intending arsonist who deliberately set fire to the building.

Society is equally adversely affected by a house being burned, we may suppose, regardless of the subjective occurrences in the mental lives of the unlucky agent causally involved in the unintended burning and the evil-intending arsonist. The law, it would then appear, is obligated by Beccaria to enforce the same punishment for the same crime regardless of the defendants' intentions. The differences in intentions on the part of the two agents involved in the unlucky burning and the act of arson cancel out in Beccaria's informal consequentialist calculus. The identical consequence in either case is that society suffers equal harm when the house burns. The house in smoldering ashes is the same consequence of the actions of the two imagined unlucky and arsonist individuals responsible before the law, regardless of what they may or may not have intended, meant, wanted or attempted to do. Nor, presumably, with regard for whatever reason they may have acted as they did. If intentions are judicially irrelevant, and all that should matter in the eyes of the law is whether or not an agent's actions contribute to or at least do not detract from a society's especially material interests, then, on Beccaria's principle, the unlucky incendiary and deliberate arsonist are guilty of the same crime for which justice requires the same punishment.

What is more, where only the consequences of an action are weighed, it is implied by Beccaria in the above passage that persons will deserve praise and social reward if their actions, despite their most malevolent intentions, in the end unexpectedly contribute to a positive social good. The maniac who tries to poison an entire population must be deemed a great benefactor, if, upon carrying out in action the intention to poison a population the individual's actions accidentally result in destroying a plague-infested vermin, through which large numbers of people are preserved from decimation by disease as a totally

unintended consequence. Surely all this is counter-intuitive. What is more, no agent has full predictability or control over all the eventual good or bad consequences resulting from an action, especially when projected sufficiently far into the future. What shall we say as to whether an action was a crime or not, if every five years its effects fluctuate circumstantially from being socially beneficial to being socially harmful, and so on and so on again, indefinitely? No one has such oversight of the causal fate of a set of events once it has been set in motion to make epistemically responsible pronouncements. The deeper problem is that if intention is excluded from the philosophy of law and its administration, then we have no sound principle for distinguishing actions from nonactions in which a person's body may have been only instrumentally involved. Given that actions generally are intentional, we may be led to conclude, contrary to Beccaria, that we can only be morally or legally responsible for our actions, in trying to bring about whatever it is we intend to do.

Beccaria, if he is to be taken literally in the above remark, believes that all and only physical bodily events involving muscular enervation and control count as actions that may come up for consideration under the law. Whereas, in the practice of law, intent to kill, intent to distribute or sell, and many other kinds of intent are made relevant to the precise determination of a person's criminal liability, if any, once the intended action has been performed. A classic counterexample for Beccaria's inflexible commitment to the consequences of an action as the only relevant factor in assessing moral responsibility and criminal accountability on purely proto-utilitarian grounds is that in which doctors by performing horrible experiments on innocent persons in their charge make discoveries that lead eventually to miraculous cures that save many other persons' lives and enable them to avoid still greater pain and suffering in the future. Consequentialism reflects the outlook that the moral end can justify the immoral means, regardless of intent. Beccaria is refreshingly confident in his proto-utilitarian Enlightenment convictions, for which he seems to lean heavily on Jean Baptiste d'Alembert, Denis Diderot, and others of the French *philosophes*. Certainly Beccaria in his own right caught Voltaire's attention.<sup>4</sup>

#### 4. *Religion and Sin, Crime and the Law*

Turning to the third potential source of error in the adjudicating or 'measuring' of punishments in Chapter 7, Beccaria considers at greater length grounds for increasing punishment according to the 'gravity of a sin', presumably as

<sup>4</sup> Spurlin 1963; Maestro 1972; Draper 2000.

interpreted by an institutional church. It was undoubtedly in Beccaria's eighteenth century Italy, more a linguistic and cultural than political entity at the time, where the idea was favored that civil punishments should in some way take their bearings from ecclesiastical law. There is good positive correspondence in some of these matters, since murder is treated both in religious teaching and secular practice as a greater offense worthy of a greater punishment than petty theft. Why, then, should it be supposed an error in measuring punishments for a judiciary to take all its cues from religion?

Beccaria first emphasizes the difference in the 'true relations' between human beings, which he matter of factly says 'are of equality', and between human beings and God. Then, for most of the remainder of this final paragraph in the chapter, Beccaria leaves aside the question of how human beings are related to God. Perhaps he considers it enough to have spoken of human beings as being of equal stature and status, presumably meaning when they stand before the law. Obviously, human beings are not on the same moral and legal par with God as with one another, about which no more need be said. To pass too quickly over this part of Beccaria's argument is nevertheless to miss one of its most essential distinctively Enlightenment features. Beccaria brings God into the account as a basis for asserting without further justification that human beings are all morally and legally of equal footing with one another. Despite this connection, Beccaria is explicit that he does not want civil law appealing to religious doctrine in determining the appropriateness of punishments for crimes.

This is revolutionary thinking with astonishing aplomb. Beccaria projects an image of all of humanity appearing before God in transcendent relation from the standpoint of moral perfection, legal and moral authority, wisdom, and, above all, power. The unspoken half of the comparison implies that since all human beings are equal before God, they are equal also before one another. It is the sort of attitude translated from the *philosophes* among Beccaria's intellectual heroes who were battling the inherent injustices and unprofessional, occasionally disastrous, statescraft of a hereditary monarchy by which most of Europe was then governed.

The irony is that, in a part of this chapter where Beccaria wants to distance law and good government from religion, he appears to rely upon a culturally embedded understanding of the equality of souls before a transcendent God in order to establish the mutual equality of human beings among themselves and before the best proto-utilitarian system of legislation. This is manifest in the shortest of the three paragraphs that comprise this suite of reflections on the proper apportionment of punishments. It is the second, which Beccaria considers only briefly and dismissively, proposing that punishments should be the greater according to the social rank of the injured party. Murdering a baker

might then deserve a lesser punishment, other things being equal, to the good of society, than murdering a marquis. Beccaria in republican spirit is content to dismiss this suggestion with an analogy to our moral regard for the dignity of God. "If this were the true measure of criminality, an irreverence toward the divine Being ought to be more harshly punished than the murder of a monarch, the superiority of His nature off-setting infinitely the difference in the offence" (Beccaria 1995: 22).

The assumption is that no one imagines that cursing God or the like exercise of expressive speech should earn the agent a greater punishment than regicide. The assassin of a monarch causes infinitely greater harm to the state, and on proto-utilitarian grounds is accordingly to bear a far stiffer, perhaps the greatest justifiable punishment available to the administration of law in the society, than could be justified for someone's uttering ill-considered remarks about the Deity. Since, however, God is so much higher in 'social' rank than a monarch, the offense against God, on the discredited social-class theory of the measurement of punishments, would absurdly imply that the blasphemer should be punished infinitely more severely than a monarch's assassin. From Beccaria's standpoint, the hierarchical social-class answer to the question as to how punishments are to be properly measured or distributed according to the severity and circumstances of crimes cannot possibly be correct and is not worth further consideration. One nevertheless imagines counterfactual cultural circumstances in which it is truly believed that speaking badly of God could have more adverse consequences for the good of a society than even the murder of its reigning crown. The fact that Beccaria does not pause to consider such a remote possibility is not so much a sign of his philosophical indolence as his full involvement with purely earthly proto-utilitarian considerations in developing a theory of law and the state, and an indication of his modern Enlightenment secular scientific outlook in the conduct of public policy.

Once again, in pursuit of the chapter's general theme of the human inability to penetrate the subjectivity of another person's intentions in administering justice, and the need to mete out punishments solely on the basis of the objective 'measurable' injury done to society as a consequence of an offending action, Beccaria now explains that only God is capable of judging the gravity of a sin. The implication is that God's judgments in such matters are inherently unavailable to human makers and enforcers of human law, and as such are irrelevant in determining appropriate punishments for human legal infractions. Beccaria states:

The gravity of a sin depends on the inscrutable malice of the heart, which finite beings cannot know without special revelation. How, then, could it be used as a guide for the punishment of crimes? If such a thing were tried, men could punish when God

pardons and pardon when God punishes. If men can run counter to the Almighty by blaspheming against Him, then they can do so also by punishing on His behalf (Beccaria 1995: 232).

In a final set of comments in this short chapter, Beccaria compares human and divine efforts to implement the law. Here the implication seems to be that without God's knowledge of an agent's exact intentions, the very inscrutability of subjective intentionality in the case of what someone may or may not have intended to achieve in carrying out an action, it is impracticable if not finally impossible to implement the punishment of crimes on the basis of an agent's intentions. The difficulty Beccaria perceives in this instance seems to be that human justice might then fail to coincide with God's judgments. This is a peculiar argument for Beccaria to make, because one might naturally suppose that what he describes is a possibility in any case. We finite fallible beings cannot suppose ourselves capable in every instance of knowing how God would judge a person's actions and what sort of punishment God might ordain, or even that any and all other human agencies might dispense. If God judges the individual's intent, however, and if human law is meant to emulate to whatever extent possible divine judgment in mundane law, then we might suppose, contrary to Beccaria's argument, that human law-makers and enforcers ought also to try to properly judge the intent of agents involved in actions for which they are held responsible before the law.<sup>5</sup>

### 5. *Blasphemy of Mixing Civic Law with Divine Command*

As a capping argument, Beccaria notes that if human law enforcers sought to punish human offenders according to divine judgment concerning the gravity of sin as a measure of seriousness in a breach of law deserving of proportionate punishment, then men might punish despite God's pardon, and pardon when God punishes. Beccaria regards it as a kind of blasphemy for human law enforcers to punish as though in God's name by punishing for infractions against the social order on the basis of divine rank orderings of venial and mortal sins.

There is something compelling about Beccaria's stance from a modern standpoint. However, the distinction is strained for those kinds of crimes against society that Beccaria is concerned to have punished on proto-utilitarian grounds when they also involve what revealed religion condemns as sinful.

<sup>5</sup> The difference between divine and human judgment and justice, especially for the most virulent crimes, in part motivates discussion about the irreversibility of capital punishment and Beccaria's own campaign against capital punishment except in the most extraordinary cases. See Young 1983; Foucault 1995; Jacquette 2009.

Moreover, it would only be standard-issue Christianity to suppose that if a wrongdoer of whatever magnitude sincerely repents, then he or she is saved from eternal punishment, which is to say pardoned by God. Surely, however, in almost all these situations, the civil legal authorities would be called upon to punish the sinner whom God with more infinite grace than the social order has to spare may freely pardon. Sincere repentance and atonement are furthermore paradigm matters of individual intentionality. We need look no further for affirming instances of this than to the case of murder or theft, where sin and crime generally conceived fully overlap.

Beccaria may naturally be concerned that allowing ecclesiastical considerations into the drafting, promulgation and enforcement of the civil law may open the door in a bad precedent encouraging the state to punish whatever religion considers to be sin, regardless of the proto-utilitarian consequences of the actions, for the protection and furtherance of interests of the body politic. Beccaria relies on utilitarian considerations as a caution against the general incursion of the church into civil law, but his argument here is conducted along rather different lines that seem intended for polemical effect, to appeal primarily to those otherwise disposed to consider it the duty of civil law to enforce religious commandments against sin, by serving as God's legal representatives on Earth.

Beccaria resists such pressures, and in so doing strikes another blow for the separation of church and state, and in particular for leaving sin in the hands of God along with religious matters outside of the human practice of the law. Enthusiasts for a civil enforcement of religious indictments of sin are quelled by Beccaria's general principle, at least for anyone who accepts the pronouncement that God alone has 'the right to be at the same time Lawgiver and Judge, for He alone can be both without impropriety' (p. 23). The way is thereby paved for the contrary opinion to be branded by Beccaria as a form of blasphemy. Such reasoning would have no effect on thinkers like Beccaria's deist or atheist contemporaries, Voltaire, say, or Paul-Henri Thiry, Baron d'Holbach, but only with as yet unpersuaded believers for whom there could be concerns about the dangers of committing acts of blasphemy.

It is worth remarking that when it suits his theoretical purpose, Beccaria sometimes makes exceptions to his rejection of the subjective messiness of psychological phenomenological factors in an agent's decisions to act. A good case in point is Beccaria's treatment of the concept of luxury in his lectures on public economy. The compromise position appears in Part IV, Chapter 5, with full original publication details mentioned by the Cambridge edition editors, pp. xlv-xlv, on whose text and translation the present discussion relies. There, although it is not in *On Crimes and Punishments*, Beccaria seems to accept the

argument that we can introduce special concepts to our explanations of social behavior involving subjective intentional attitudes.

Despite their resistance to objective externalist scientific reduction, and, in particular, despite their externally impenetrable real subjective intentionalities to any remotely scientific psychology that does not rely on inherently subjective phenomenological reportage, Beccaria underscores the significance of an agent's intention. In lecturing on Luxury, Beccaria adopts a heavily intentionality-laden terminology to explain the very concept of luxury, let alone its desirability or pursuit. Beccaria writes: "Granted all this, we will define luxury as every expense incurred to rid us of the pains that are privations of pleasure. This definition necessarily extends to the idea of pursuing a pleasure that outlasts the pain which was disturbing us, or, at least, which outlasts our original intention of freeing ourselves from the pain. Someone who is tormented at not having a certain sort of food, is not tormented merely by the desire to get rid of hunger, but by not having that very taste; by contrast, any food which is not disgusting will do for someone who wants merely to satisfy his hunger" (Beccaria 1995: 163).

### 6. *Intending to Act and the Concept of Legal Culpability*

Here, apparently, to wax polemical for a moment with Beccaria's ghost, one might say that the vagaries of intentionality are no obstacle to mounting a definition of the concept of luxury, whereas nothing of the sort will do in the case of distinguishing between different types of homicide, from first degree premeditated to manslaughter, crimes of passion and reckless endangerment.

Beccaria is vulnerable on this point, and one can only remark the astonishingly compact and hurried manner in which he draws such monumental conclusions. Beccaria seems to expect that he can avoid criticisms simply because he is on the side of the angels in terms of the progressive proto-utilitarian consequentialist moral, social-political and legal values which he espouses. How could a theorist as astute as Beccaria dream of covering the topic of assigning punishments to crimes in the space of exactly three relatively short paragraphs? The end is not questioned merely by demanding good reasoning for a proposed particular means to that end. Beccaria deserves respect for sensing intuitively where a humane enlightened philosophy might come out on some of these vital issues, though not always for the specific arguments he advances in support of certain values, even when the values themselves are shared.<sup>6</sup>

<sup>6</sup> See Maestro 1973.

Beccaria has an overweening confidence supported by the courage of his philosophically under-supported moral convictions. His lifetime of service to the betterment of conditions in his part of the world are testimony to his sense of mission in the service of a philosophical ideal. These facts about Beccaria, ironically, speak only to the question of his intentions, and not of the correctness and adequacy or otherwise of the arguments he advances in support of his theoretical and practical purposes. Independently considered, Beccaria's efforts to eliminate intentions from the administration of justice and its theory are inconsistent with his own attempts to define the concept of luxury. They are in any event disrecommended by virtue of their conflict with considered judgments about how justice ought to be administered in many cases where there are clearcut indications of an agent's intentions. Enlightened common sense in legal theory and practice today regularly includes such salient judgment factors as pre-meditation, forensically evidenced in countless many different ways, that, many seem prepared to say, are logically relevant to adjudicating degrees of criminality, if any, and corresponding apportionments of punishments. The reasonable inclusion of an agent's intentions to act are appropriate on utilitarian and on Beccaria's proto-utilitarian grounds. Bringing intentions into the determination of criminality and assignments of punishments for crimes can be understood as promoting greater answerability for the actions undertaken by responsible agents. Acknowledging common sense judgments about the role of intention in social behavior might thereby more powerfully serve Beccaria's philosophical ideal of jurisprudential practice in promoting the betterment of all, and "the greatest happiness shared among the greater number" (see Hostettler 2011).

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