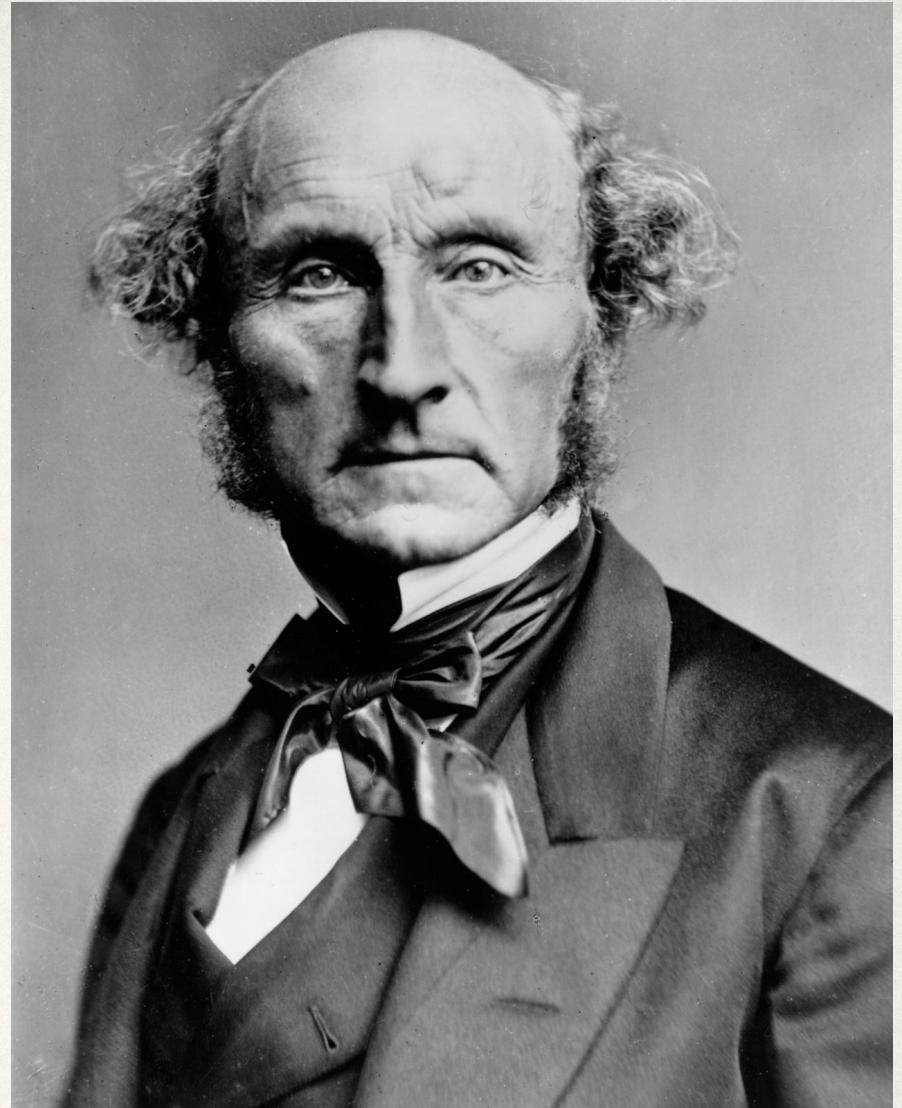




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PHI 169 - Fall 2014



# *Beccaria and Mill on the Death Penalty — Comparing Arguments*

# What We Have Learned About Critical Reasoning So Far

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- ❖ An argument consists of **premises** and a **conclusion**
- ❖ Arguments have different **structures**
- ❖ Good arguments are **formally valid** and have **true premises**
- ❖ Validity can be **inductive** or **deductive**

Critical Reasoning Is Not Only  
About Arguments in Isolation. It is  
Also About Comparing Arguments

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# Why Is it Important to Compare Arguments?

Suppose you are reading an argument for X, for example, an argument that the death penalty is wrong. The best way to assess whether the argument is good is to compare it with an argument for not-X, for example, with an argument that the death penalty is right.

Why?

Conclusions of arguments are uncertain. We cannot know for sure whether the premises are true, and often conclusions follow only as a matter of probability (inductively). So, comparing conflicting arguments increases the probability of getting to the right conclusion.

Really?

# How To Compare Arguments

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- ❖ Summarize and reconstruct the arguments  
(graphically if that's helpful)
- ❖ Identify the common ground
- ❖ Identify the differences
- ❖ Decide which argument is better or identify further questions that need addressing in order to decide which argument is best

# Contrasting Mill's and Beccaria's Argument About the Death Penalty

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# Mill's Argument in Short

*The death penalty is much less cruel than life imprisonment. Compare a life in slavery with a short moment of pain immediately followed by death. Surely, a short moment of pain causes less suffering than an entire life in slavery. Therefore, the death penalty is less cruel than life imprisonment. And to those who think that human life is sacred, one can respond that we should not protect human life as such, but minimize suffering as much as possible.*

*Further, the death penalty is effective at preventing or deterring crime. It has not deterred many criminals, but its effects must be measured on those who have not yet committed a crime, not on those who have already committed a crime. Although we cannot quantify how many people the death penalty has deterred, we can say that the death penalty is effective at deterring crime because it triggers fear and horror in the public.*

*Hence, if the choice is between the death penalty and life imprisonment, the death penalty must be preferred because (1) it is more humane, and also, (2) we can assume that the death penalty must be at least as effective as life imprisonment at deterring crime. So, there is no reason to prefer life imprisonment to the death penalty.*

# Two Qualifications in Mill's Argument

*The death penalty must be limited to very serious crimes, for example, murder or very violent crimes. There is no point in using the death penalty for smaller offenses because it is unlikely the the jurors or the judge would use such a severe punishment for small offenses. And if a punishment is not used in practice but only mentioned in the law, it ceases to be effective and credible for the public.*

*A well-functioning legal system that administers the death penalty must minimize the number of mistakes; it must minimize the number of innocent defendants who are convicted as much as possible. In a well-functioning legal system, then, the death penalty should be allowed provided the number of innocent defendants who are put to death is kept to a minimum.*

# Beccaria's Argument in Short

*The death penalty is not effective at preventing or deterring crime, or at least, it is less effective than life imprisonment.*

*The death penalty is more cruel and severe than life imprisonment.*

*Imagine a potential criminal, in a condition of poverty, who is thinking to commit a robbery. If the punishment is the death penalty, he will reason as follows: "If I commit the robbery, I will enjoy the fruits of my crime and later on will be put to death (provided I get caught). If I do not commit the crime, I will continue my life in poverty for the rest of my days".*

*Instead, if the punishment is a life in prison, no one would want to risk because of the terror of living one's life in prison and slavery.*

*The pain experienced when one is put to death is so intense that it exceeds the pain one experiences at every single moment during life imprisonment. Of course, the totality of pain experienced during life imprisonment is larger than the pain experienced when one is put to death. But we experience pain at single moments, not cumulatively.*

# The Common Ground

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Both Beccaria and Mill think that, in order to assess the acceptability of the death penalty, we should ask:

1. Does the death penalty prevent/deter crime? Is life imprisonment equally (or more) effective at preventing/deterring crime?
2. Is the death penalty needlessly cruel? Is life imprisonment less cruel than the death penalty?

# The Differences

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## *Mill*

*The death penalty is effective at preventing or deterring crime.*

*Further, the death penalty is much less cruel than life imprisonment.*

## *Beccaria*

*The death penalty is not effective at preventing or deterring crime, or at least, it is less effective than life imprisonment.*

*The death penalty is more cruel and severe than life imprisonment.*

# How Can we Decide Who Is Right?

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Let's Begin with the Question Whether  
the Death Penalty is More Cruel than  
Life Imprisonment

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# Mill

Further, the death penalty is much less cruel than life imprisonment. Compare a life in slavery with a short moment of pain immediately followed by death. Surely, a short moment of pain causes less suffering than an entire life in slavery. Therefore, the death penalty is less cruel than life imprisonment. And to those who think that human life is sacred, one can respond that we should not protect human life as much, but minimize suffering as much as possible.

# Beccaria

The death penalty is more cruel and severe than life imprisonment.

The pain experienced when one is put to death is so intense that it exceeds the pain one experiences at every single moment during life imprisonment. Of course, the totality of pain experienced during life imprisonment is larger than the pain experienced when one is put to death. But we experience pain at single moments, not cumulatively.

# Do Mill and Beccaria Disagree?

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Mill claims that the life imprisonment is more cruel **because** a life in prison — overall, cumulatively — involves more suffering than the short moment of pain preceding one's death.

Beccaria claims that life imprisonment is less cruel **because** the cruelty of a punishment does not depend on the pain that the punishment — overall, cumulatively — inflicts. Rather, the cruelty depends on the amount of pain the punishment inflicts at each moment in time. By this metric, the death penalty inflicts more pain than life imprisonment, so it is more cruel.

# How Can We Decide Whether the Death Penalty is More Cruel or Not?

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Beccaria and Mill do not disagree on the facts.

They disagree on what kind of considerations are relevant for the question whether the death penalty is more cruel than life imprisonment.

- ✿ Beccaria thinks we should consider pain **momentarily**
  
- ✿ Mills, instead, thinks we should consider pain **cumulatively, overall**.

# Let's Turn to the Question Whether the Death Penalty Deters Crime

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# Mill

The death penalty is effective at preventing or deterring crime. It has not deterred many criminals, but its effects must be measured on those who have not yet committed a crime, not on those who have already committed a crime. Although we cannot quantify how many people the death penalty has deterred, it is plausible to think that by causing a feeling of fear in the public, the death penalty is effective at deterring crime.

# Beccaria

The death penalty is **not effective** at preventing or deterring crime, or at least, it is less effective than life imprisonment.

Imagine a potential criminal, in a condition of poverty, who is thinking to commit a robbery. If the punishment is the death penalty, he will reason as follows: "If I commit the robbery, I will enjoy the fruits of my crime and later on will be put to death (provided I get caught). If I do not commit the crime, I will continue my life in poverty for the rest of my days".

Instead, if the punishment is a life in prison, no one would want to risk because of the terror of living one's life in prison and slavery.

# Strength and Weakness of Beccaria's Argument

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Beccaria considers the perspective of a potential criminal who has not yet committed a crime and who lives in poverty.

Beccaria senses that violent crime is often caused by poverty. Mill, by contrast, ignores completely the link between crime and poverty.

Beccaria speculates that although the death penalty will not deter a potential criminal who lives in poverty, life imprisonment will. But does Beccaria offer any support for this speculation except his own intuition?

# Can the Disagreement Be Adjudicated or Do we Need Something More?

**The open question is whether the death penalty can deter crime.**

Both Beccaria and Mill have offered arguments that are based on the **psychology of the criminal**. These arguments are speculations about how much fear and horror the death penalty causes in the minds of potential criminals.

If possible, however, it is best to look for **data from the social sciences**. We can look for data showing whether there is a **statistical correlation** between the death penalty and rates of violent crimes.

This is the topic for next week.

# Two Types of Disagreement

In comparing arguments that lead to conflicting conclusions, you might encounter two types of disagreements:

## Factual disagreements.

These are disagreements about the facts. For example, the disagreement about whether the death penalty deters crime or not. These types of disagreement **could** be settled by gathering more data.

## Relevance \ definitional disagreements.

These are disagreements about which facts are relevant. For example, the disagreement about whether “pain momentarily” or “pain cumulatively” is the right measure of cruelty in punishment.