

On Torture and Capital Punishment

François-Marie Arouet de Voltaire

In his Philosophical Dictionary (1764), Voltaire included the following article on “torture,” and two years later, in his Commentary on the Book of Crimes and Punishments (Beccaria’s), he made his attack on “capital punishment.”

Although there are few articles of jurisprudence in these honest alphabetical reflections, a word must be said concerning torture, otherwise called the question. It is a strange manner of questioning men. It was not invented, however, out of idle curiosity; there is every likelihood that this part of our legislation owes its origin to a highway robber. Most of these gentlemen still are accustomed to squeeze thumbs, burn feet and question by other torments those who refuse to tell them where they have put their money.

When conquerors had succeeded these thieves, they found the invention very useful to their interests: they put it to use when they suspected that anyone opposed them with certain evil designs, such, for instance, as the desire to be free; that was a crime of high treason against God and man. They wanted to know the accomplices; and to accomplish this, they subjected to the suffering of a thousand deaths those whom they suspected, because according to the jurisprudence of these early heroes, whoever was suspected merely of entertaining against them any slightly disrespectful thought was worthy of death. The moment that anyone has thus merited death, it matters little that terrible torments are added for several days, and even for several weeks, a practice which smacks somewhat of the Divinity. Providence sometimes puts us to the torture by means of stone, gravel, gout, scurvy, leprosy, pox of both varieties, excruciating bowel pains, nervous convulsions, and other executioners of providential vengeance.

Now as the early despots were, by the admission of all their courtiers, images of the Divinity, they imitated it as much as they could....

The grave magistrate who has bought for a little money the right to perform experiments on his neighbor tells his wife at dinner what took place during the morning. The first time, madam was revolted by it; the second time she got a taste for it, because after all women are curious; and now the first thing she says to him when he comes home in his gown is: “My dear, didn’t you have anyone put to the question today?”

The French who are considered, I do not know why, a very humane people, are astonished that the English, who had the inhumanity to take all Canada from

us, have given up the pleasure of putting the question.

When the Chevalier de la Barrè, grandson of a lieutenant-general in the king's service, a young man of great intelligence and much promise, but possessing all the thoughtlessness of unbridled youth, was convicted of having sung impious songs and even of having passed in front of a procession of Capuchins without taking off his hat, the judges of Abbeville, men comparable to the Roman Senators, ordered not only that his tongue should be torn out, his hand cut off and his body burned by slow fire; but they applied torture to him to find out how many songs he had sung and how many processions he had seen pass with his hat on his head.

It was not in the thirteenth nor the fourteenth century that this adventure took place; it was in the eighteenth. Foreign nations judge France by its plays, novels and pretty poetry; by its opera girls, who are very gentle of manner; by its opera dancers, who are graceful; by Mlle. Clairon, who recites her lines in a ravishing manner. They do not know that there is no nation more fundamentally cruel than the French.

The Russians were considered barbarians in 1700, and it is now only 1769; an Empress has just given to that vast state laws which would honor Minos, Numa and Solon, if they had been intelligent enough to invent them. The most remarkable is universal tolerance, the next is the abolition of torture. Justice and humanity guided her pen: she has reformed everything. Woe unto the nation which, though long civilized, is still led by ancient atrocious customs! "Why should we change our jurisprudence?" we say. "Europe uses our cooks, our tailors and our wig makers; therefore our laws are good."

026

It is an old saying that a man after he is hanged is good for nothing, and that the punishments invented for the welfare of society should be useful to that society. It is clear that twenty vigorous thieves, condemned to hard labor at public works for the rest of their life, serve the state by their punishment; and their death would serve only the executioner, who is paid for killing men in public. Only rarely are thieves punished by death in England; they are transported overseas to the colonies. The same is true in the vast Russian empire. Not a single criminal was executed during the reign of the autocratic Elizabeth. Catherine II who succeeded her, endowed with a very superior mind, followed the same policy. Crimes have not increased as a result of this humanity, and almost always, criminals banished to Siberia become good men. The same thing has been noticed in the English colonies. This happy change astonishes us, but nothing is more natural. These condemned men are forced to work constantly in order to live. Opportunities for vice are lacking; they marry and have children. Force men to work and you make them honest. It is well known that great crimes are not committed in the country, except, perhaps, when too many holidays bring on idleness and lead to debauchery.

A Roman citizen was condemned to death only for crimes affecting the welfare of

the state. Our teachers, our first legislators, respected the blood of their fellow citizens; we lavish that of ours.

This dark and delicate question has been long discussed: whether judges may punish by death when the law does not expressly require this punishment. This question was solemnly debated before Emperor Henri IV. He judged, and decided that no magistrate could have this power.

There are some criminal cases that are so unusual or so complicated, or are accompanied by such strange circumstances, that the law itself has been forced in more than one country to leave these singular cases to the discretion of the judges. If there really should be one instance in which the law permits a criminal to be put to death who has not committed a capital offense, there will be a thousand instances in which humanity, which is stronger than the law, should spare the life of those whom the law has sentenced to death.

The sword of justice is in our hands; but we ought to blunt it more often than sharpen it. It is carried in its sheath before kings, to warn us that it should be rarely drawn.

There have been judges who loved to make blood flow; such was Jeffreys in England; such in France was a man who was called *coupe-tête*. Men like these were not born to be judges; nature made them to be executioners.