

he published it anonymously. Even though he defended himself in the introduction to the book, claiming that he was not a revolutionary or an unbeliever, the book was condemned by the Catholic Church in 1777 for its rationalistic ideas (Vold et al., 2002). It was placed on the Church's *Index of Forbidden Books* for more than 200 years. Beccaria proposed the following principles for the proper operation of the criminal justice system:

- Laws should be made by legislatures, and they should be specific.
- The role of judges is only to determine guilt and to follow strictly to the letter of the law in determining punishment. Judges should not interpret the laws.
- The seriousness of crime should be determined by the harm it inflicts on society and be based on the pleasure/pain principle.
- Punishment should be based on the seriousness of the crime and its ability to deter.
- Punishment should not exceed that which is necessary for deterrence.
- Excessive severity in punishment often increases crime that is then committed in order to avoid punishment.
- Punishment should be sure, swift, and certain.
- Capital punishment should be abolished as should the use of torture in order to gain confessions.
- Laws should be structured so as to prevent crime in the first place. It is better to prevent crimes than to punish them.
- All should be treated equally before the law (Beccaria, 1764/1963).

## **Hedonism and Crime: Jeremy Bentham**

Beccaria's British contemporary, Jeremy Bentham (1748–1832), borrowed from Beccaria the notion that laws should provide "the greatest happiness shared by the greatest number" (Beccaria, 1764/1963, p. 8). Bentham graduated from Oxford University at the age of 12. In his will, the eccentric Bentham gave all of his original book manuscripts to the University College of London on one condition: The administrators had to embalm his body and put it on display for all to see. Such a wooden and glass box with a sitting, fully clothed Bentham is on display to this day. He saw the purpose of punishment to be deterrence rather than vengeance and, similar to Beccaria, was more interested in the certainty of punishment than in its severity.

Bentham has been called an advocate of “utilitarian hedonism” or “felicific calculus” or “penal pharmacy.” *Utilitarianism* is a practical philosophical view that claims “we should always act so as to produce the greatest possible ratio of good to evil for all concerned” (Barry, 1983, p. 106). One of Bentham’s best-known contributions to criminology was his invention of the “panopticon” (from the Greek, meaning “all seeing”; Bentham, 1823). The panopticon, or “inspection house,” was envisioned as a circular prison with a glass roof, featuring a central grand tower from which inspectors could observe all cells located around the perimeter. Although prisons incorporating this design were built in both England and the United States, the plans were later found impractical and were modified (F. E. Hagan, 1996).

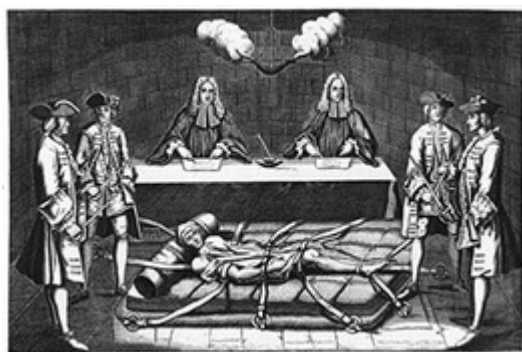
The classical theorists viewed individuals as acting as a result of free will and as being motivated by hedonism. The latter refers to a pleasure principle, the assumption that the main purpose of life is to maximize pleasure while minimizing pain. Individuals are viewed as entirely rational in this decision-making process in which they will attempt to increase the experience of pleasure, even from illicit desires, until the anticipated pain to be derived from a particular activity appears to outweigh the expected enjoyment. In a work titled *Seductions of Crime: Moral and Sensual Attractions in Doing Evil*, Jack Katz’s (1988) research based on interviews with career criminals supports Beccaria’s notion of the pleasure or thrill of evil outweighing the fear of punishment. Image, danger, glamour, and the excitement of crime overshadow any desire for a successful life in straight society. In assessing Katz’s theory, Bill McCarthy (1995) noted that such thrill-related property crime is influenced by age, gender, and strain associated with inadequate economic opportunities.

---

Hedonism

a pleasure-seeking philosophy.

---



**Photo 5.2** In 18th-century Europe, the administration of criminal justice was cruel, uncertain, and unpredictable. Line engraving of the Frenchman who, after attempting to assassinate King Louis XV, was shackled to an iron bed, on which he was tortured, before being drawn and quartered.

GRANGER/GRANGER—All rights reserved.

## Critique of Classical Theory

The classical school and the writing of Beccaria in particular were to lay the cornerstone of modern Western criminal law as it became formulated from 1770 to 1812. The characteristics of Western criminal law—politicality, uniformity, specificity, and described penal sanctions—are in essence called for in Beccaria's essay. The *French Declaration of the Rights of Man* (cited in J. E. Jacoby, 2004), which was passed by the revolutionary National Assembly of France in 1789, included the statement, "The law ought to impose no other penalties but such as are absolutely and evidently necessary; and no one ought to be punished, but in virtue of a law promulgated before the offense, and legally applied" (p. 215). The Eighth Amendment to the U.S. Constitution, prohibiting cruel and unusual punishment, was also a Beccarian legacy.



**Photo 5.3** Jeremy Bentham (1748–1832) borrowed from Beccaria the notion that laws should provide the greatest happiness shared by the greatest number.

MykReeve at the English language Wikipedia

Some recent analysis suggests that the importance of Beccaria's works may have been exaggerated and that he was actually less important than other social reformers of the 18th century such as Voltaire and Bentham (Newman & Marongiu, 1990). Beirne (1991) claims that Beccaria's famous treatise *Dei Delitti e Delle Pene* (*On Crimes and Punishments*) was the application to crime policy not of rationality and humanism but of the Scottish-inspired "science of man," which emphasized utilitarianism and determinism. Beirne felt that Beccaria was less of an advocate of free will than has been supposed and that his writings exhibited much determinism.

The revolutionary and liberating impact of the ascendancy of classical theory in reforming Western jurisprudence is now taken for granted, but without the fundamental changes classical theory introduced, the remaining criticisms and subsequent modifications would not have been possible. However, classical theory contained the seeds of its own demise. Although Justitia, the blind goddess of justice, carefully weighing the evidence irrespective of the violator, is an appealing symbol, classical theory by its very insistence on equality of punishment proposes inequality: Should minors or the insane be treated in the same manner as others? Should repeat offenders be accorded the same sanctions as first offenders for an equivalent act? Thomas and Hepburn (1983) state,

---

Contemporary criminologists tend to assign little importance to [classical theory's] concepts and ideas. Perhaps the two major reasons are that it focuses our attention on criminal law rather than criminal behavior and that it is based on a speculative set of philosophical premises rather than a sound theory that could be verified or refuted by the collection of systematic empirical evidence. (p. 137)

---

Application of the pure classical theory would rob judges of discretionary power and seems to rest on a simplistic assumption of the ability to exactly measure individual conceptions of pain and pleasure. Recent revivals in the United States of determinate sentencing and mandatory punishments for specific offenses are remnants of classical theory. Although theoretically appealing because of the essential cookbook application of graduated punishment reflecting the seriousness of crime, implementation becomes problematic for reasons already described: The quantification of such acts and their perpetrators defies such a simplistic scheme (Hagan & Tontodonato, 2004).

## NEOCLASSICAL THEORY

**Neoclassical theory** basically admits environmental, psychological, and other mitigating circumstances as modifying conditions to classic doctrine. The beginnings of this approach can be found in the later writings of Cesare Lombroso (1835–1909) and in those of his students, Ferri and Garofalo, to be discussed shortly. Beginning in the late 1960s, particularly in the writings of economist Gary Becker (1968), James Q. Wilson (1983a, 1983b), and Ernest Van den Haag (1966), a resurgence in neoclassical doctrine can be noted. Becker advocated a cost-benefit analysis of crime, reminiscent of hedonistic doctrine. Becker argued that individuals freely choose crime based on their estimate of their likelihood of being caught. Disappointed with criminology's overconcern with the search for basic causes of crime, Wilson (1975) proposed a policy analysis approach, applied research that is less concerned with finding causes and more concerned with what works. These writers sparked an interest in the abandonment of treatment and rehabilitation and in a return to the classical punishment model. Often ignored by devotees of such theories are the very limited categories of crime such as theorists, in fact, address. Wilson (1975), for instance, quite clearly indicates that this call for incapacitation of offenders (criminals in jail can no longer victimize) is applicable to what we have described as conventional property offenders or common burglars and thieves. Although

a more practical, policy-oriented approach is needed, what is disturbing in such theories is the relatively conservative ignorance of criminogenic, social structural conditions, as well as an often cavalier disregard for theoretical approaches to crime causation. Neoclassicists argue that less theory and more action are needed but at times ignore the fact that the basic theoretical underpinnings of their own theories are rooted in assumptions of 18th-century hedonism, utilitarianism, and free will. On balance, however, they make a key point: that one need not have a basic explanation of cause to meet pressing policy needs that cannot wait for a final explanation.

---

#### Neoclassical theory

new classical theories that view crime as influenced by criminal opportunities to commit crime.

---

### Rational Choice Theory

In another neoclassical theory, Cornish and Clarke's (1986) *rational choice theory* proposes that offenders weigh the opportunities, costs, and benefits of particular crimes. The argument by rational choice theorists is not that individuals are purely rational in their decision making but rather that they do consider the costs and benefits. A number of factors may constrain choice, such as social factors, individual traits, and attitudes toward crime. Rational choice theorists also argue for a crime-specific approach to crime; that is, the circumstances involved in the typical burglary may differ from robbery or domestic assault. Offender characteristics are seen as combining with offense types in shaping offender choices. Rational choice theorists admit that much behavior is only partly rational but that most offenders know quite well what they are doing. The criminal justice system must make crime less rewarding by increasing the certainty and severity of punishment. Crime is viewed as a matter of situational choice, a combination of costs, benefits, and opportunities associated with a particular crime. Increasing prevention or decreasing the opportunity to commit crime is viewed as an important means of deterring crime. Situational crime control could include target hardening (securing of entries, doors, and locks), access c