

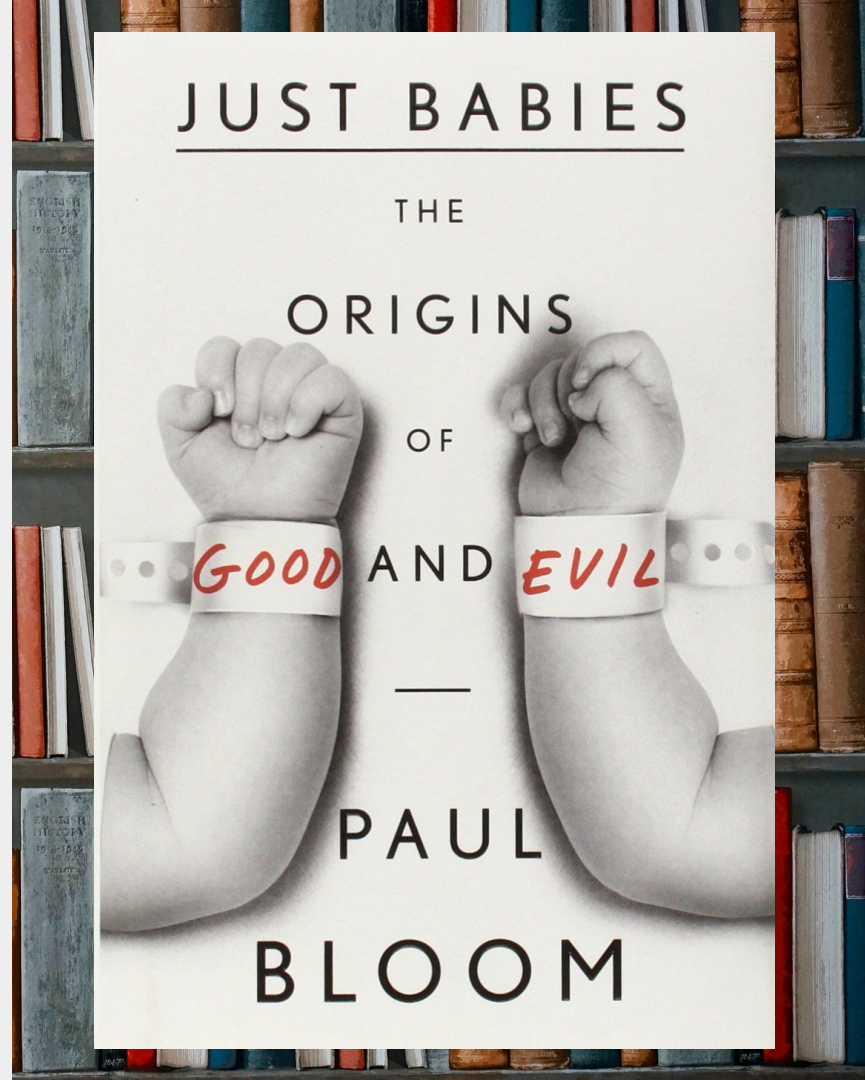


**Seeing Justice Done**

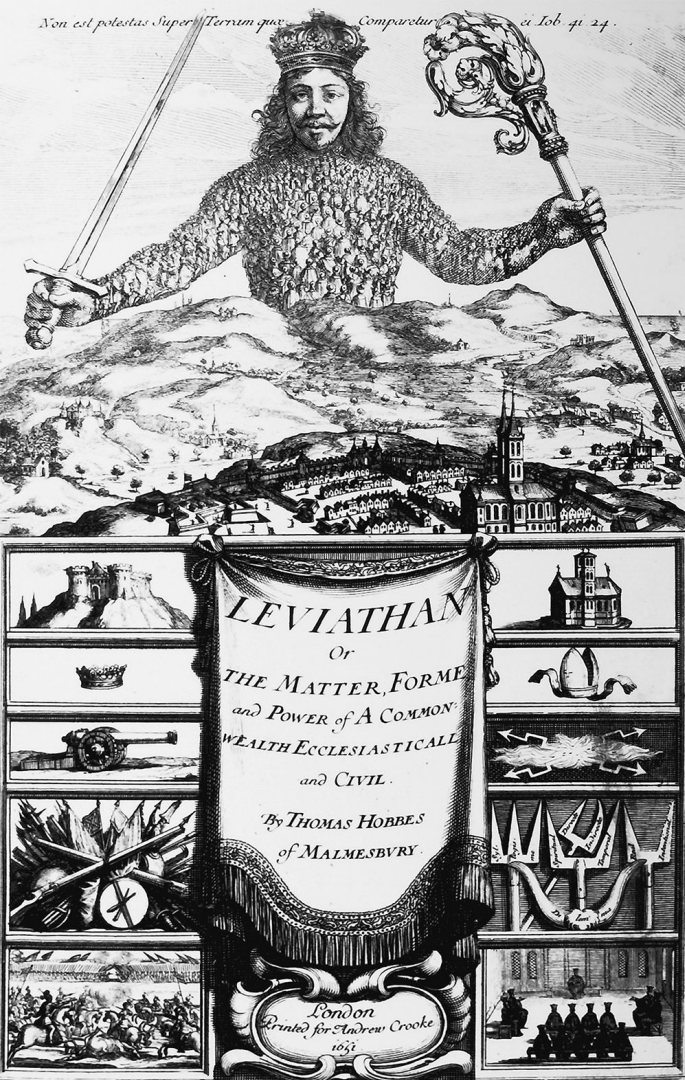
*"It is more necessary for the soul  
to be cured than the body;  
for it is better to die  
than to live badly."*

*-Epictetus*

In his 2013 *Just Babies* (chapter 1), Paul Bloom presents the hypothesis that the moral sense has two sources: one innate which develops slowly through childhood into adolescence and one that is culturally conditioned.







Thomas Hobbes also theorized that justice has both a biological and social origin: it comes from our biological predisposition for egoism and then is ratched it up by our human contracts.

As such, he believed that states have a mandate to hold a **monopoly on violence.**

In other words, only the state can incarcerate, impose fines, punish, and execute.

# Capital Punishment



# Walter Berns (1979)



# Justice Demands Punishment

Berns argues that anger is somehow connected to Justice.

If this anger is not alleviated, the people will take out this anger on their own terms.

Therefore, the Law must do it for them.





People who  
aren't angered  
by injustice are  
not good  
citizens.



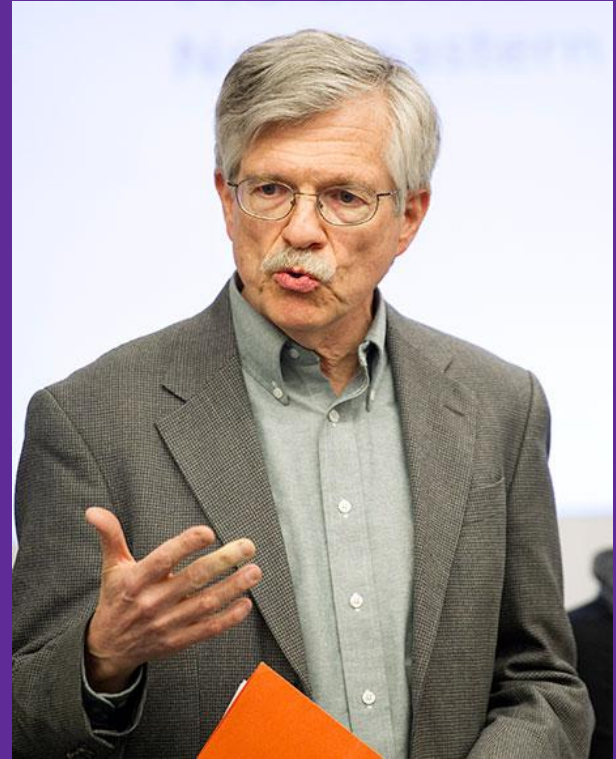
# Capital Punishment...

...reminds criminals of “the majesty of the moral order that is embodied in our law.”

The law possesses a dignity.

We give it that dignity by imposing the ultimate penalty on those who chose to break it.

# Stephen Nathanson (2017)



# Main Points:

1. Just because one is angry enough to kill another, it doesn't mean that it is morally permissible.
2. Sometimes the law itself is immoral.
  - a. Eg, Jim Crow Laws, Apartheid, etc.
3. When someone commits crimes, they do lose *some* rights, namely their freedom.
4. Criminals, however, do not forfeit *all* their rights.  
E.g., Torture is still not permissible.

## **Take-home message:**

By renouncing the death penalty,  
we would affirm the sanctity of human life.

We would reinforce the principle that violence is morally  
permissible only in the case of self-defense.

The State will set the example.

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# Storytime!





**Code of Hammurabi, 18th century BCE, Babylon**

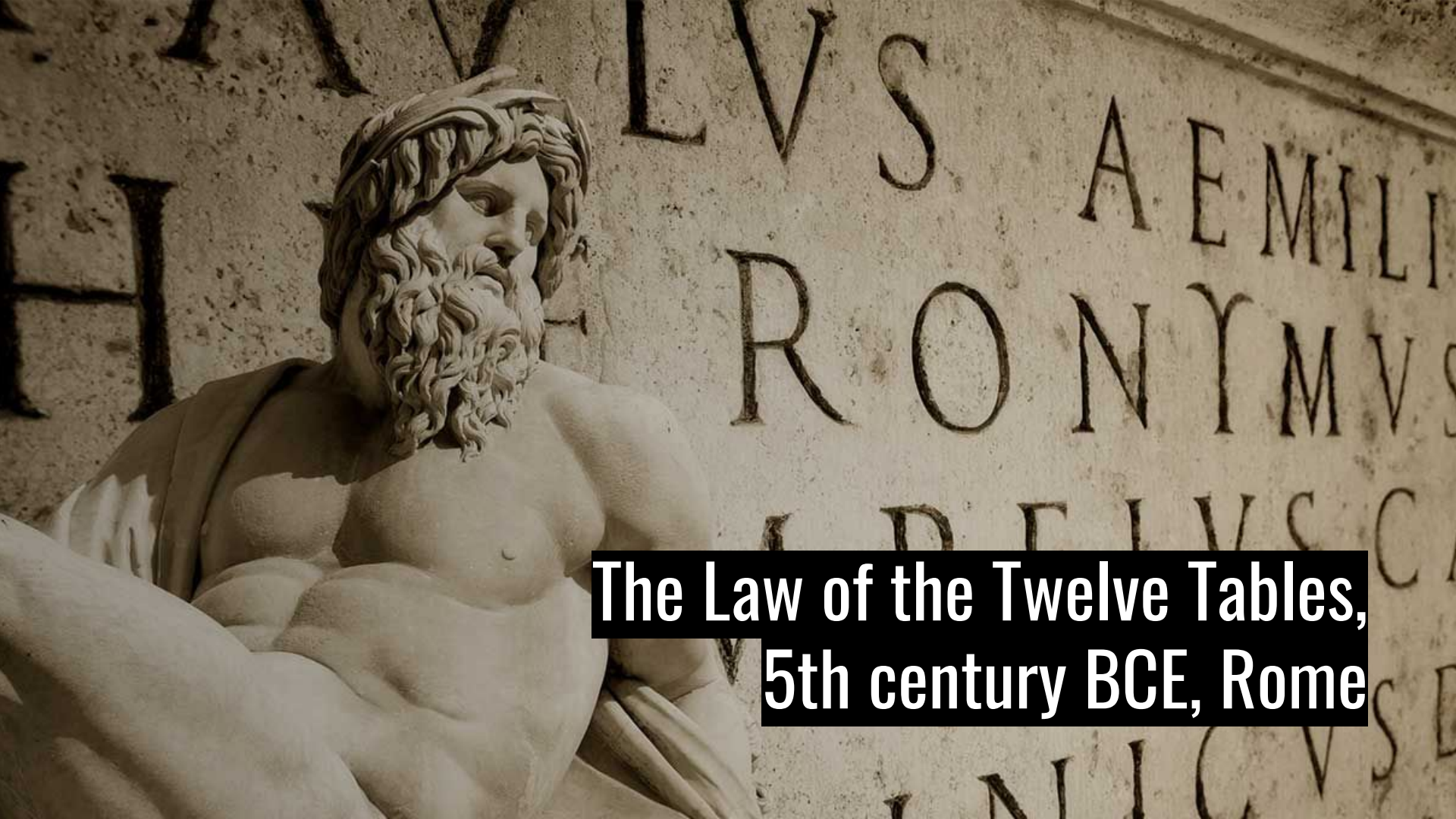


**Hittite Code, 14th century BCE**



A marble statue of a bearded man, likely a philosopher or legislator, is shown in a classical architectural setting. The man has a full, curly beard and hair, and is depicted in a thoughtful pose, with his right hand raised to his chin. He is wearing a draped garment over his left shoulder. The background features large, fluted columns and a classical archway, suggesting an ancient Greek or Roman temple or public building.

**The Draconian Code, 7th century BCE, Athens**



**The Law of the Twelve Tables,  
5th century BCE, Rome**



**American Colonial Period, 17th-18th centuries**



**Thomas Granger is hung, 1642**



**High-point in American executions, early 1930's**



**The U.S. Supreme Court finds the application of capital punishment to be unconstitutional, 1972**



**The U.S. Supreme Court  
reinstates capital punishment, 1976**

# Modern Day Capital Punishment

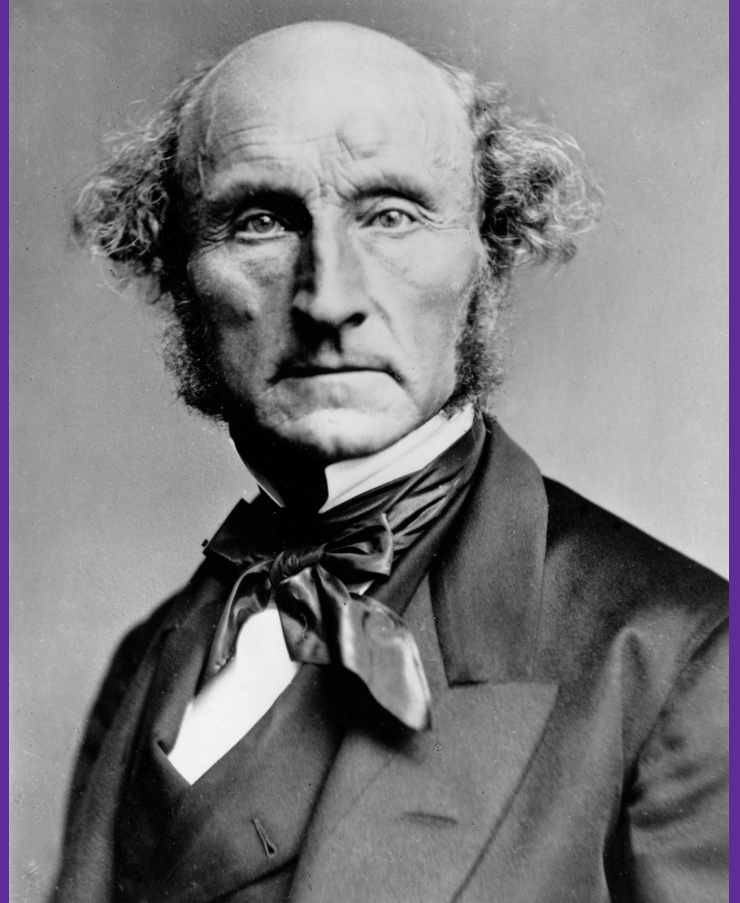


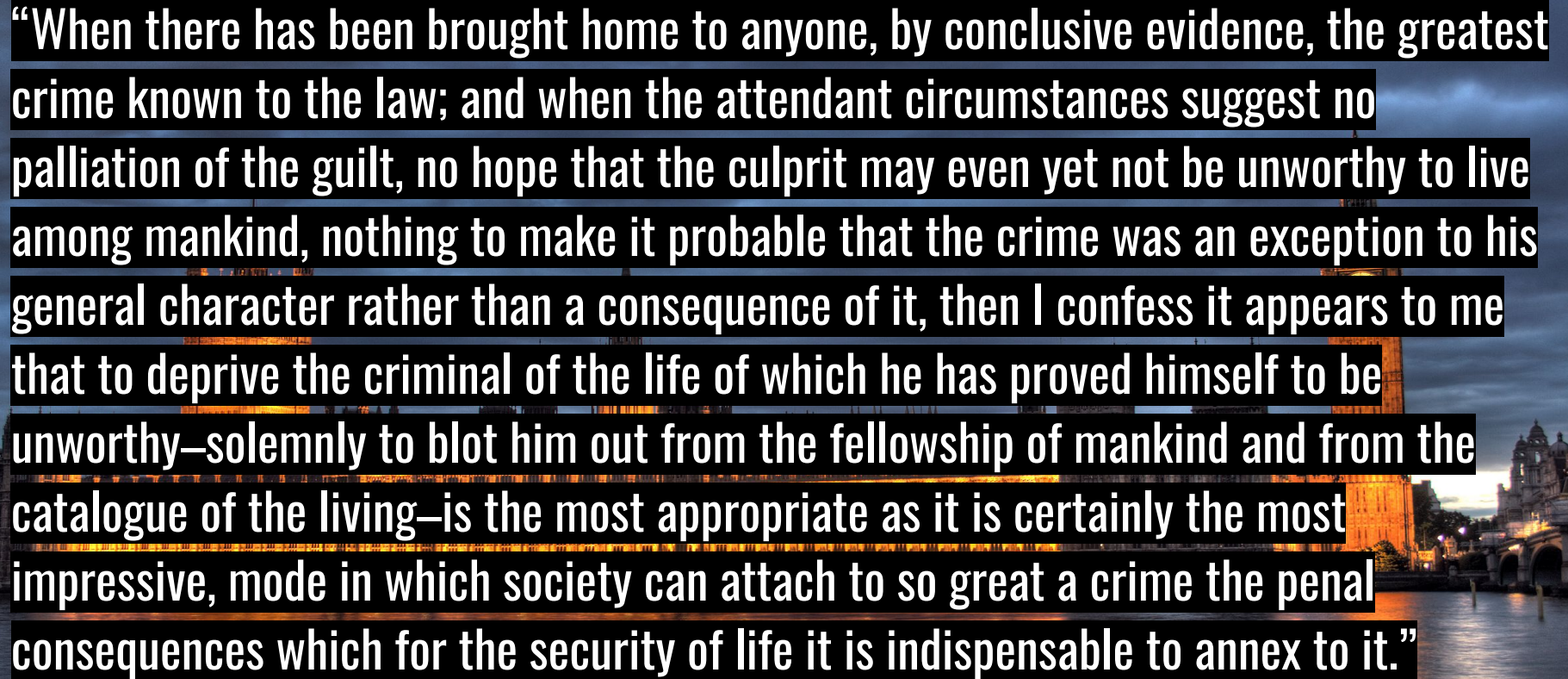
Property of Shoreline Historical Museum





**JS Mill**





**“When there has been brought home to anyone, by conclusive evidence, the greatest crime known to the law; and when the attendant circumstances suggest no palliation of the guilt, no hope that the culprit may even yet not be unworthy to live among mankind, nothing to make it probable that the crime was an exception to his general character rather than a consequence of it, then I confess it appears to me that to deprive the criminal of the life of which he has proved himself to be unworthy—solemnly to blot him out from the fellowship of mankind and from the catalogue of the living—is the most appropriate as it is certainly the most impressive, mode in which society can attach to so great a crime the penal consequences which for the security of life it is indispensable to annex to it.”**

**~JS Mill, speech before the British Parliament on April 21, 1868**

# Modus Ponens for Capital Punishment

1. If the threat of capital punishment can serve as a deterrent for future crimes, then capital punishment is morally permissible.
2. The threat of capital punishment is a deterrent for future crimes.
3. Therefore, capital punishment is morally permissible.

**A consequentialist argument can also be made against capital punishment...**

# ACLU's Reasons to End Capital Punishment

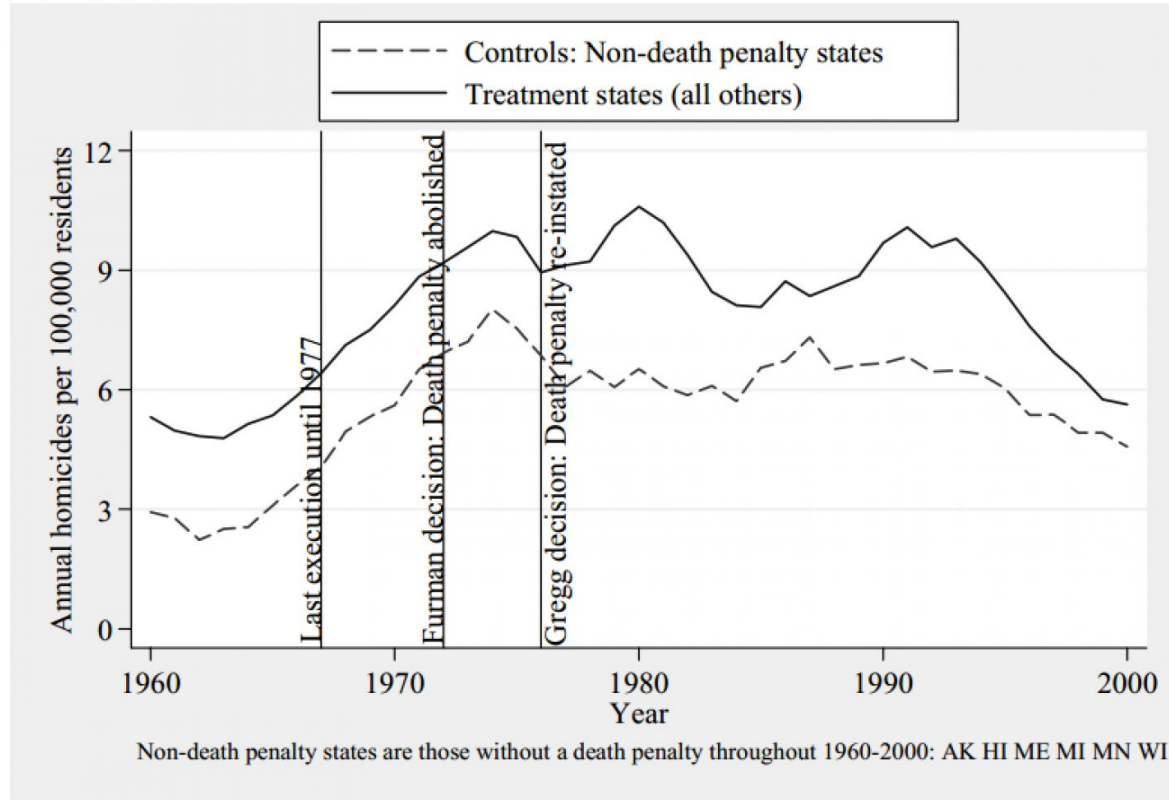
Capital punishment:

- is fraught with error
- is disproportionately applied to minorities
- costs taxpayers far more than life imprisonment without release
- does nothing to protect people from crime

**Question:**

**Does capital punishment  
deter crime?**

Figure 3. Homicide Rates in the United States



It seems that capital punishment **as it is** currently practiced does not deter crime.

But this **doesn't** mean that, in principle, capital punishment can't deter crime.

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*Food for thought...*



**Three reasons for not bringing back public executions...**

**#1 Lingerin questions about free will and  
moral responsibility**

Recall:

Some scientists explicitly reject the notions of free will and punishment, for example neuroendocrinologist Robert Sapolsky (2017, ch. 16) argues that we have, at best, **mitigated** free will and so the criminal justice system must be completely overhauled and reformed.

This aversion to punishment has a long history...

# BEHAVE

THE BIOLOGY  
*of* HUMANS *at* OUR  
BEST *and* WORST



ROBERT M.  
SAPOLSKY

**Baron D'Holbach believed that "man is a poor, degraded captive" and that moral responsibility is an outmoded concept. Humans are machines which can be molded, and human wickedness comes from poor education, madness, or drunkenness.**

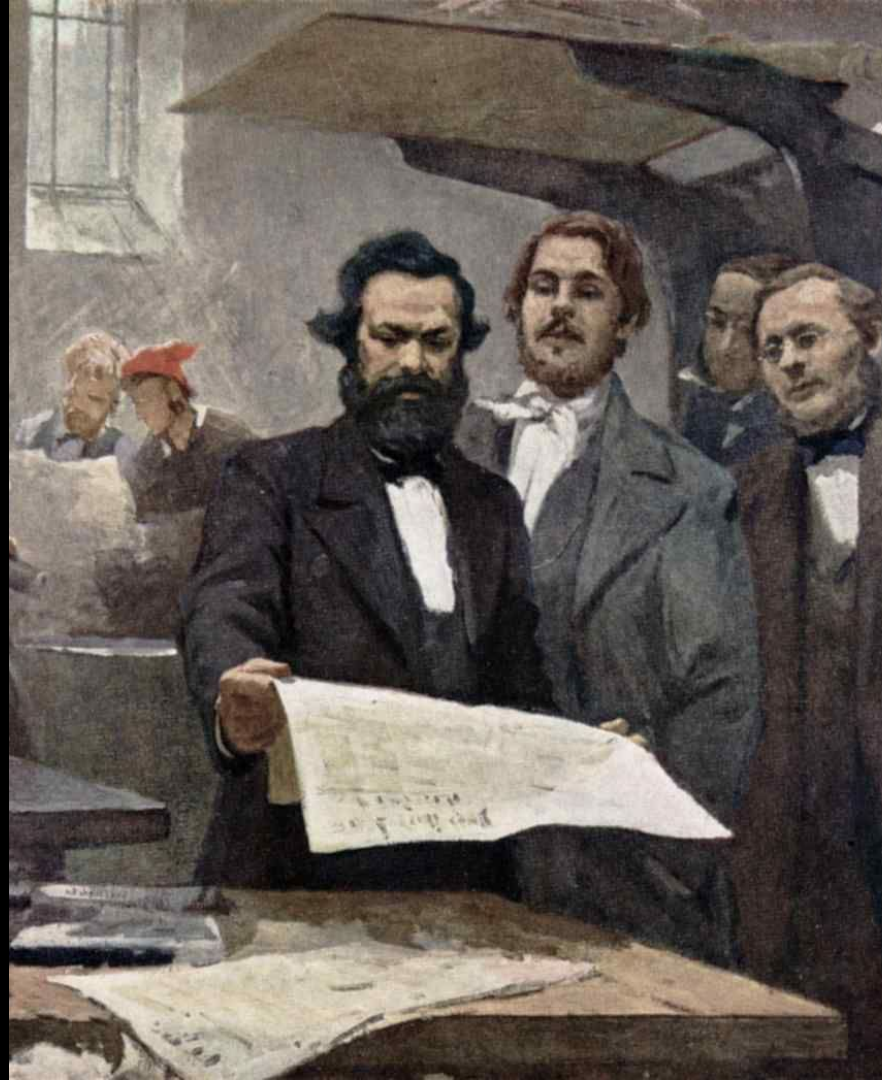




**This view stemmed from D'Holbach's philosophy of materialism, the view that there exists only one type of thing: matter. He also explicitly rejected the existence of God/souls. All matter conforms to natural law, and thus human actions are the products of natural law.**

**Marx and Engels, although themselves materialists, derided d'Holbach's materialism.**

**They reminded their readers that, although humans are molded by circumstances, circumstances are also molded by humans.**





## The Holy Family

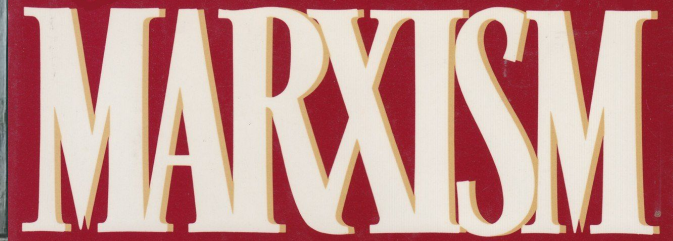


MARX, KARL, 1818-1883, ENGELS, FRIEDRICH,  
1820-1895

In *The Holy Family*, Marx and Engels argued that if humans are shaped by their surroundings, their surroundings ought to be made conducive to flourishing; i.e., human surroundings “must be made human.” Importantly, this is where Marx wrote that neither religion nor education is to be regulated by the state.

As such, not only were Marx/Engels opposed to capital punishment, but they were committed to a view of freedom *to* do what is fulfilling (as opposed to merely the freedom *from* the actions of others).

See Sowell (1985, chapter 3) for detailed analysis of Marx/Engels' materialism.

The image shows the front cover of a book titled 'MARXISM' in large, bold, white, serif capital letters. Below the title, the subtitle 'PHILOSOPHY AND ECONOMICS' is written in smaller, white, serif capital letters. A thick black horizontal bar is positioned below the subtitle. At the bottom of the cover, the author's name 'THOMAS SOWELL' is printed in large, bold, yellow, serif capital letters. The book cover is set against a background of a bookshelf filled with various books of different colors and sizes.

# MARXISM

PHILOSOPHY AND ECONOMICS

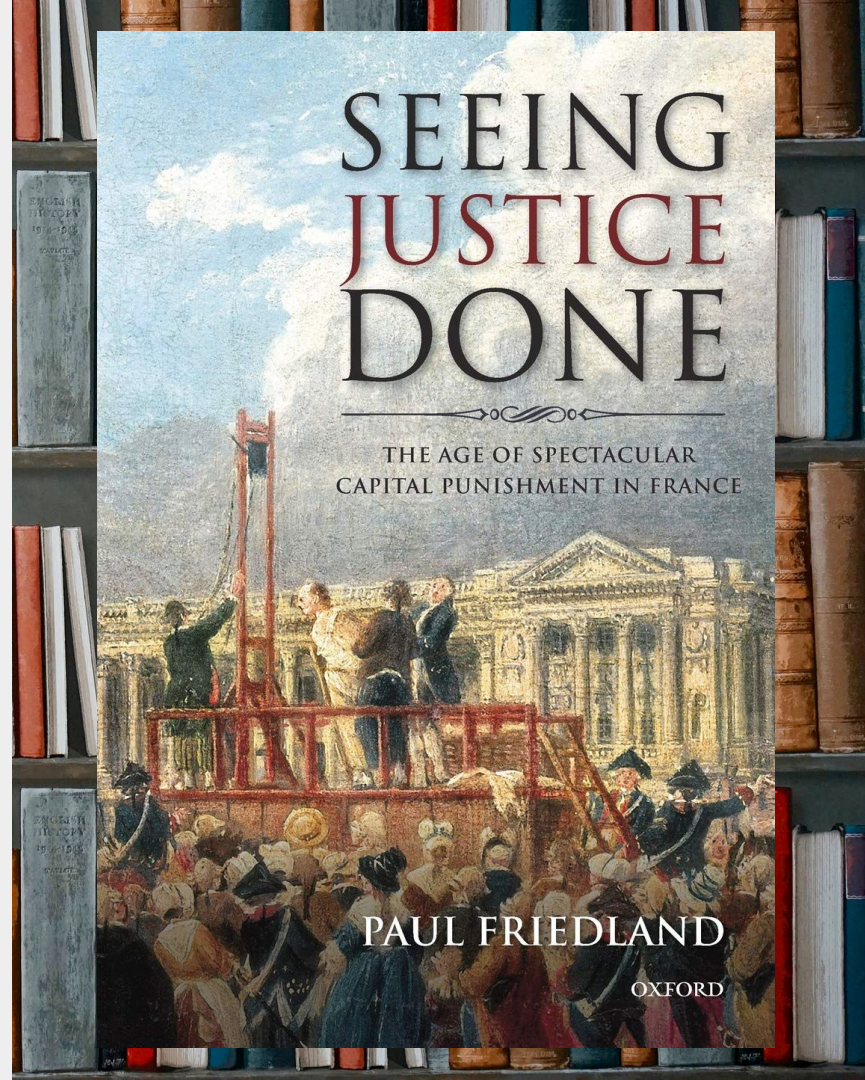
THOMAS  
SOWELL

**#2 Religious ideological uniformity is gone**

Friedland (2012) reminds us that public executions went from rituals to spectacles as Protestantism grew.

This is because Protestants didn't "follow the script" and so public executions didn't go "as planned."

This is why many started to go to public executions: voyeurism.



# #3 Class conflict

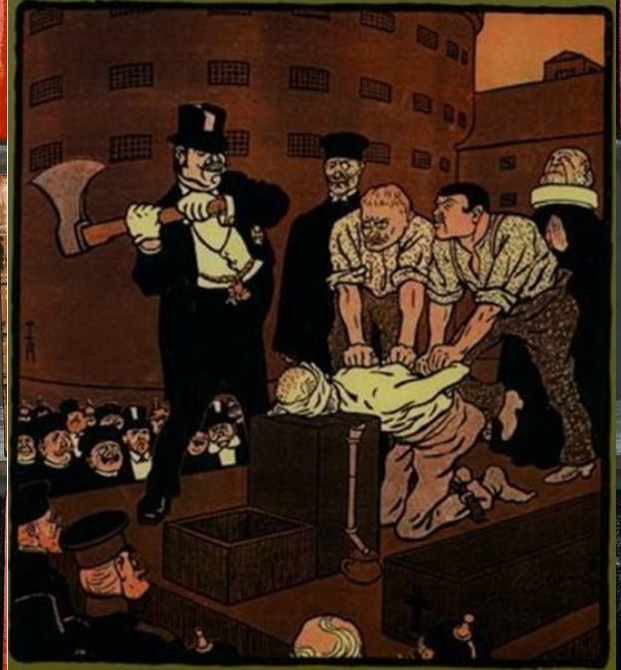
“The transition from a status-bound society to one of growing class antagonism between bourgeoisie and proletariat had broken asunder the synthesis of state and community ritual that had created the early modern public execution.

The educated middle classes now found the crowd’s behavior repugnant...

[T]he political reforms and social changes of the first half of the 19th century had destroyed the structured crowd and replaced it, in the eyes of the authorities, with a formless, volatile mob” (Evans 1996: 69).

# RITUALS OF RETRIBUTION

CAPITAL PUNISHMENT IN GERMANY 1600-1987



RICHARD J. EVANS

For example, Vitale (2017) builds an argument for police reform (and perhaps even abolition) by demonstrating that the **function of the police** is to be a **tool for managing inequality** and maintaining the status quo.

The problem is not police training, police diversity, or police methods. The problem is the dramatic and unprecedented expansion and intensity of policing in the last forty years, a fundamental shift in the role of police in society. The problem is policing itself.

**Alex S. Vitale**

# The End of Policing

# García's TWO cents

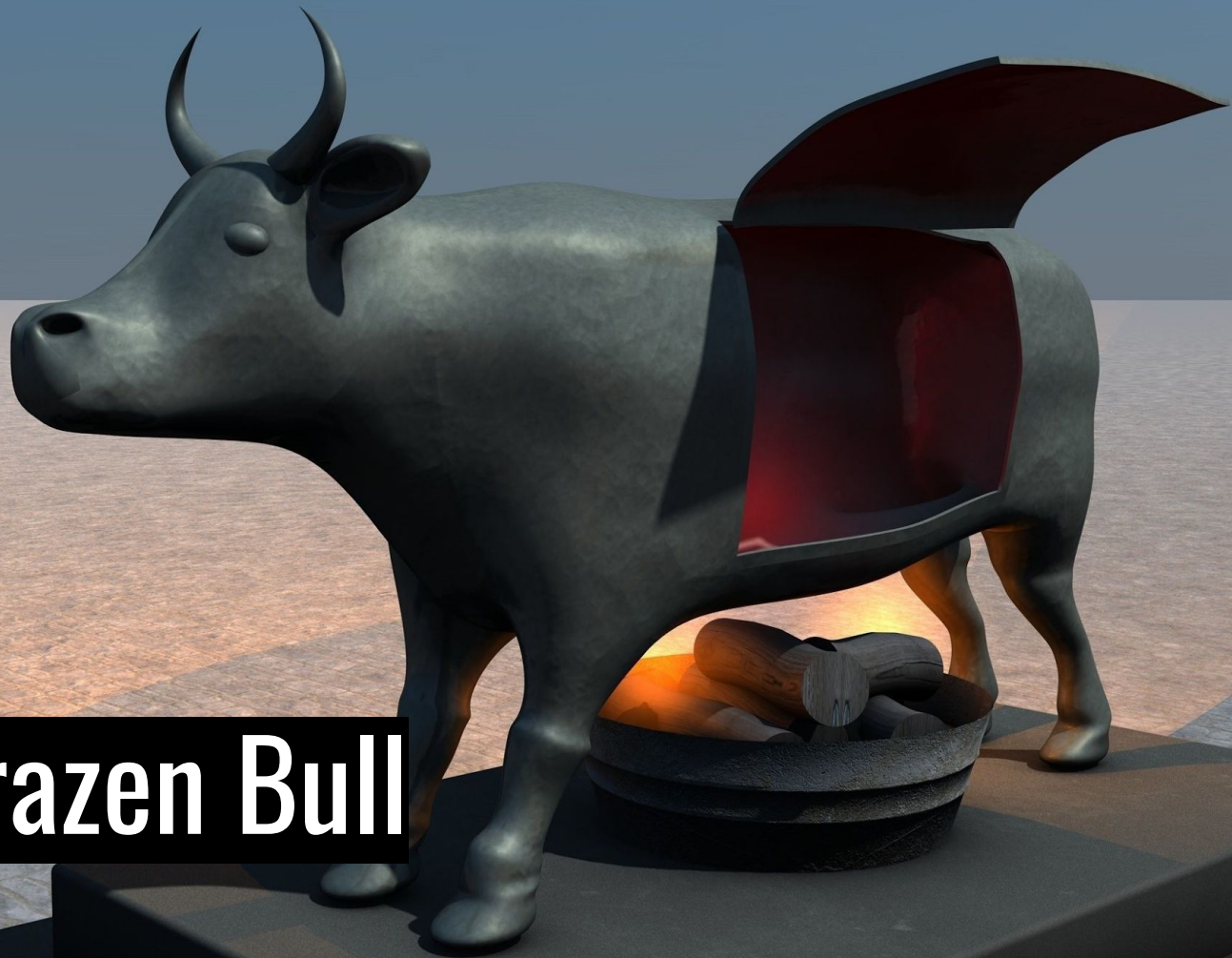




# **García's Favorite Methods of Execution**



# The Brazen Bull





Lingchi





**Impalement**

**Utilitarianism seems to  
leave us with an open  
question...**

**Kant**



**Kant:** To punish a criminal as a deterrent for future crimes would be using them as a means to an end; hence, it is wrong.

To try to rehabilitate the convicted criminal, however, would be to violate the criminal's autonomy.

Once guilt is determined, then, the appropriate amount of punishment is determined by the crime itself.

The punishment for death is death.





**Taking stock...**

**Berns (1979) appears to sacralize our laws (SCT).**

**Nathanson (2017) also holds the state in high regard, albeit differently than does Berns (SCT).**

**Lastly, Kant and Mill agree(!) that capital punishment is permissible, albeit for different reasons.**

Round

1

2

3

4

5

6

