



Citation: R. Loretelli, J. Dunkley (2019) The criminal question in the public sphere. Cesare Beccaria's *On Crimes and Punishments* and Eighteenth-Century Britain: A Two-Way Perspective. Introduction. *Diciottesimo Secolo* Vol. 4: 3-9. doi: 10.13128/ds-25433

Copyright: © 2019 R. Loretelli, J. Dunkley. This is an open access, peer-reviewed article published by Firenze University Press (<http://www.fupress.net/index.php/ds>) and distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

Data Availability Statement: All relevant data are within the paper and its Supporting Information files.

Competing Interests: The Author(s) declare(s) no conflict of interest.

The criminal question in the public sphere. Cesare Beccaria's *On Crimes and Punishments* and Eighteenth-Century Britain: A Two-Way Perspective

INTRODUCTION BY ROSAMARIA LORETELLI AND JOHN DUNKLEY

... jamais, dans aucune autre période de l'histoire, le problème pénal n'a été aussi débattu qu'au Siècle des Lumières. Matière autrefois confidentielle et hautement spécialisée, le droit criminel s'ouvre brusquement à une sphère plus large de discussions publiques. Jadis formulée en latin dans d'épais volumes de doctrine, la question pénale 'tombe dans le domaine public'. [...] Or, il est à la fois banal et frappant de constater que l'événement déclencheur de ces débats est la publication des Délits et des peines¹.

It would be difficult to find more apposite words than these by Philippe Audegean and Luigi Delia to set the background for the present collection of essays. In the eighteenth century, the question of criminal law and practice not only sparked furious debates among specialists but also entered public opinion in general, appearing in newspaper articles, in journals and letters, and even in dictionaries and novels. The focus of this collection of essays is the two-way relation of *On Crimes and Punishments* with Britain. It is, to the best of our knowledge, the first to be entirely devoted to this subject, although a conference, organized by the Società italiana di studi sul secolo diciottesimo, the British Society for Eighteenth-century Studies and the Associazione Antigone preceded it in 2017, on the 250th anniversary of the first English translation of Beccaria's treatise. Some, though not all, participants in the conference are also contributors to the present volume.

Dei delitti e delle pene was first published in Livorno in 1764. The event caused an instantaneous sensation in Europe: the first edition sold out immediately and, in the course of less than two years, three more authorised Italian editions appeared, each with new additions by the author. Over the same period, many pirated editions also circulated.

In the summer of 1765, the French *philosophes* discovered Beccaria, and started corresponding with him. They promptly invited him to Paris, where he went in 1766 accompanied by Alessandro Verri, and was fêted and hon-

¹ Ph. Audegean and L. Delia, *Introduction*, in Ph. Audegean and L. Delia (eds.), *Le moment Beccaria. Naissance du droit pénal moderne (1764-1810)*, Liverpool University Press, Liverpool 2018 (Oxford University Studies in the Enlightenment, s.n.).

oured in the most prestigious salons². In the meantime, the first French translation had been published in December 1765 (although dated 1766), a few months before the Italian fifth edition, the last to be edited by the author himself³.

This French translation, authored by *philosophe* and *encyclopédiste* André Morellet, gave a powerful boost to a further dissemination of Beccaria's book and ideas in Europe. In 1766, Voltaire published his *Commentaire sur le Traité des délits et des peines*.

Other European countries responded just as rapidly. In October 1765, Switzerland honoured the book with a medal, at the initiative of the Berne Patriotic Society. In 1766, Catherine II invited its author to go to Russia as her advisor on the penal reform she was planning. Beccaria, however, declined. Reforms along the lines the book had indicated were passed in Europe. In Prussia, Frederick II promulgated a new criminal code. In 1786, in Tuscany, Grand Duke Leopold, the future Leopold II emperor of Austria, promulgated a new code which abolished the death penalty⁴. Judicial torture declined⁵. In England, where stories about real criminals were very popular and, since the previous century, had given rise to a thriving production of printed matter, the interest in criminal legislation grew considerably and the need for reform was felt by a growing number of people⁶.

In North America, Beccaria was immediately popular, and many editions of *Dei delitti* were published at a very early date. Before Beccaria, William Penn had tried to pass a humane criminal code in Pennsylvania, but the

attempt was thwarted by the Crown. After Independence, however, Beccaria's influence surfaced in the decisions taken by the legislatures of the new states, as John Bessler, one of the contributors to the present collection, has amply demonstrated in his books *The Birth of American Law: An Italian Philosopher and the American Revolution* and *The Celebrated Marquis: An Italian Noble and the Making of the Modern World*⁷.

The impulse to translate *Dei delitti* into the European languages was not slow to arrive⁸. After France, there followed Britain, with two 1767 editions, one issued in London and one in Dublin. The Swedish translation was published in 1770. In Poland, where Beccaria's ideas had already found much fertile ground, the first translation appeared in 1772. In Spain, the book was translated in 1774⁹. The first German translation, based on the French version, was in print as early as in 1766; while another translation, based on the Italian original, was published in 1778. Within less than ten years after its first publication, Beccaria's text had been translated into the principal European languages.

Other translations followed a short time later. The Danish translation appeared in 1796; while Prince Michail M. Ščerbatov authored the first Russian translation during the last quarter of the eighteenth century¹⁰. The first Greek translation was published in 1802, during that country's Enlightenment. It was based on Morellet, entitled *Peri amartimàton kai pinòn* and authored by Adamántios Korais. The second edition was partially corrected by Cesare Beccaria's daughter, Giulia Beccaria, and appeared in 1823 under the title of *Peri adikemàton kai pinòn*¹¹.

In Italy, *Dei delitti e delle pene* was put on the *Index librorum prohibitorum* in 1766; and, in 1777, the Madrid

² P. e A. Verri, *Viaggio a Parigi e Londra (1766-1767)*, a cura di G. Gaspari, Adelphi, Milano 1980, p. 38 ff.

³ Franco Venturi established the fifth Italian edition as the authoritative text, the last to be supervised by Beccaria himself. *Letteratura italiana. Storia e testi*, vol. 46/III. *Illuministi italiani. Riformatori lombardi, piemontesi e toscani*, a cura di F. Venturi, Ricciardi, Milano-Napoli 1958; L. Firpo, *Le edizioni italiane del Dei delitti e delle pene*, in *Edizione nazionale delle opere di Cesare Beccaria* [hereafter EN], vol. I. *Dei delitti e delle pene*, a cura di G. Francioni, Mediobanca, Milano 1984, pp. 466-473.

⁴ For the information in this paragraph, see M. Maestro, *Cesare Beccaria and the Origins of Penal Reform*, Temple University Press, Philadelphia 1973, pp. 134 ff; F. Venturi, *Beccaria, Cesare*, in *Dizionario Biografico degli Italiani*, VII, 1970, pp. 463-465; and, by the same, *Introduzione a Cesare Beccaria, Dei delitti e delle pene: con una raccolta di documenti relativi alla nascita dell'opera e alla sua fortuna nell'Europa del Settecento*, a cura di F. Venturi, Einaudi, Torino 1965, pp. xxxii ff.

⁵ See W.F. Schulz, *Introduction*, in *The Phenomenon of Torture. Readings and Commentary*, ed. by W.F. Schulz, Forword by J.E. Méndez, University of Pennsylvania Press, Philadelphia 2007; and the illuminating E. Motta, *Verità del maleficio. Alle origini dell'abolizione della tortura giudiziaria*, in *Il caso Beccaria. A 250 anni dalla pubblicazione del Dei delitti e delle pene*, a cura di V. Ferrone and G. Ricuperati, Il Mulino, Bologna 2016, pp. 231-334.

⁶ L. Radzinowicz, *A History of English Criminal Law*, vol 1. *A Movement for Reform*, Stevens & Sons Ltd., London 1948.

⁷ Published, respectively, in 2014 and 2018 by Carolina Academic Press, Durham. See also, the even more recent *The Baron and the Marquis: Liberty, Tyranny, and the Enlightenment Maxim that can remake American Criminal Justice*, Carolina Academic Press, Durham 2019.

⁸ Maestro, *Cesare Beccaria*, cit., pp. 129 ff; and Venturi, *Beccaria*, cit.

⁹ Maestro, *Cesare Beccaria*, cit., pp. 129 ff.

¹⁰ In manuscript until 2007, when it was published by Ettore Gherbezza. See E. Gherbezza, *Dei delitti e delle pene nella traduzione di Michail M. Ščerbatov*, Firenze University Press, Firenze 2007. The first scholar to research on the Russian reception of Beccaria and to mention this translation was F. Venturi, *Beccaria in Russia*, «Il Ponte», IX, 1953, pp. 163-174. For this, see G. Ricuperati, *Franco Venturi, Luigi Firpo e la riscoperta storiografica di Beccaria*, in *Il caso Beccaria*, cit., pp. 25-60.

¹¹ I. Di Salvo, *L'opera Dei delitti e delle pene di C. Beccaria nella traduzione di A. Korais*, in *Studi Bizantini e Neogreci*, a cura di P.L. Leone, Congedo, Galatina 1983, pp. 561-574. The context and the modalities of reception have been convincingly illustrated by Giorgio Stamboulis in his presentation *L'Illuminismo nei Balcani: sviluppi e prospettive di ricerca* at the annual conference of the Società italiana di studi sul secolo XVIII, Marina di Massa 2018. Explaining the change of words in the two titles, Giorgio Stamboulis noted that the term 'amartimàton' implies sin, while 'adikemàton' refers to injustice.

Inquisition condemned its Spanish translation. There were enthusiastic responses, but also fiercely polemical reactions. In France, Italy and elsewhere, debates continued during and after the French Revolution. In time, Beccaria's treatise became one of the classics of criminal law, known to be at the foundation of modern penal theory. In the words of Luigi Ferrajoli – another contributor to our collection – *Dei delitti e delle pene*

*a fondé le garantisme pénal en définissant le droit pénal comme un système de garanties pour l'individu, c'est-à-dire comme un ensemble de limites rationnelles opposées à l'arbitraire et aux excès du pouvoir répressif et destinées à minimiser la violence punitive*¹²,

a model which, even in democratic countries, has been absorbed more into their legislation than into their actual penal practices.

It is highly significant that a new edition of *Dei delitti* appeared before the end of Second World War, edited by Piero Calamandrei, an opponent of Fascism, a partisan and a jurist who at the end of the war would be elected to the Constituent Assembly to draw up the Italian Constitution. This edition was published in Florence in January 1945, five months after the liberation of that city, and three months before the end of the war. In his long introduction, Calamandrei explained the reasons for taking his initiative precisely at that moment. He wrote that «this slim volume» which aspires neither to show nor to erudition¹³ was addressed not to specialists but to «those who look to books [...] for a refuge from the sorrows of their tormented humanity. Now this little book may therefore, at this moment more than any other, offer a source of consolation»¹⁴. The general reader will be painfully surprised, as he becomes aware that the moral problems relating to crimes and punishments are still largely live and still hurting us. These pages, Calamandrei continues,

do not contain theories pulled out of the air by jurists for dialectical fun, rather, they mirror this impending daily reality in which each and every one of us, as recent experience has shown, from one moment to the next, can see

*danger crushing our homes, our freedom, our dignity and our very lives*¹⁵.

The book should be a warning, says Calamandrei,

*to peaceful people, intent on enjoying the benefits of civilization, which they think are established once and for all, and do not feel threatened by the possibility of a relapse into barbarism. They are not aware of this unseen juridical atmosphere which is the basic condition of our shared lives and which they take for granted like the air they breathe. But the day will come when out of the blue this air will be whipped into hurricane. [...] The assassins sit on the judges' bench, and purity of conscience becomes a lift to the scaffold*¹⁶.

He referred to the recent Nazi and Fascist regimes, but at the same time he warned future generations, which might take peace and protection of the law for granted as if they were set in stone.

According to Calamandrei, the radical penal reform which *Dei delitti* proposed also questioned traditional societies and put forward a new idea of human beings and of the psychological impulses which lead them to action. His interpretation was shared by Franco Venturi, the historian who inaugurated the post-war wave of academic studies on Beccaria and who, as a youth under Fascism, had followed his father to France, returning in 1943 to fight in the Resistenza¹⁷. Venturi established the fifth Italian edition as the authoritative text, the last to be supervised by Beccaria himself.

Since then, much research – not only Italian, of course – has focussed on *Dei delitti*. A further impetus came from the National Edition of Beccaria's works, a project conceived by Franco Venturi and Luigi Firpo in the early sixties, which opened with Gianni Francioni's critical edition of *Dei delitti e delle pene* in the first volume. Francioni then became general editor of the whole project with Luigi Firpo, whose name he retained as editor even after Firpo's death.

¹² Note de L. Ferrajoli, in C. Beccaria, *Des délits et des peines*, Préface, traduction et notes de Ph. Audegean, Editions Payot & Rivages, Paris 2014, p. 23.

¹³ P. Calamandrei, *Prefazione*, in C. Beccaria, *Dei delitti e delle pene*, a cura di P. Calamandrei, Felice Le Monnier, Firenze 1945, p. 17.

¹⁴ In order to preserve the flow and the emotional impact of Calamandrei's argument, we have chosen to give the English translation directly in the text. The original runs: «si rivolge a quelli che ricercano nei libri [...] un rifugio e un conforto della loro dolorante umanità. Ora questo piccolo libro può essere appunto, e in questo momento più di sempre, una lettura consolatrice» (*ibidem*, p. 9).

¹⁵ «non hanno per tema teorie campate in aria per svago dialettico dei giuristi, ma questa incombente realtà quotidiana, in cui ciascuno di noi, come la recente esperienza ci ha mostrato, può da un momento all'altro trovare in pericolo il proprio focolare, la propria libertà, la propria dignità, la propria vita» (*ibidem*, p. 13).

¹⁶ «Gli uomini pacifici, tutti intenti a godere i benefici di quella civiltà che stimano stabilita per sempre e senza la possibilità di ricadute nella barbarie, non si accorgono più di questa invisibile atmosfera giuridica che è condizione della vita sociale, come non si accorgono dell'aria che respirano. Ma arriva inaspettato il giorno in cui quell'atmosfera è sconvolta dall'uragano [...]. Gli assassini salgono ad assidersi al banco dei giudici, la purità di coscienza diventa titolo per essere portati al patibolo» (*ibidem*, pp. 14-15).

¹⁷ *Categorie e identità*: Franco Venturi e il concetto di Illuminismo, «Rivista storica italiana», 108, 1996, 1-3, pp. 550-648.

In the essay which opens the present collection, Francioni draws on his exhaustive knowledge of Beccaria's writings to provide an overview of the presence in his work of British philosophy, and also lists the books by English authors in his library, mostly either in Latin or in French translations. In addition, he offers information about the English books mentioned in *Il Caffé*, the periodical written and published from June 1764 to May 1766 by Beccaria and his friends of the Accademia dei Pugni and which was overtly modelled on *The Spectator*. Francioni also draws attention, albeit briefly, to two questions, central to recent scholarly debate: the balance between contractarianism and utilitarianism, and the question of whether Beccaria was a follower of the theory of natural law or not. Francioni had addressed the first of these questions in essays which many scholars consider definitive, showing how, before Bentham, utilitarianism and contractarianism were not felt to be mutually exclusive, and how they were connected in Helvétius¹⁸.

In her essay, entitled *Beccaria e Bacon: una fonte inglese alle origini del Dei delitti?*, Marialuisa Parise presents the results of her research on Beccaria's autograph manuscript of the excerpts from Francis Bacon's works¹⁹, and on his pencilled annotations to his copy of the *in folio* volume of Bacon's *Opera Omnia*. These are the two main *testimonia* of Beccaria's in-depth reading and studying of Francis Bacon. The *legislatore dell'intelletto*, as he called him, was one of the authors who influenced Beccaria's 'conversion', to philosophy. Beccaria was reading the English philosopher and making excerpts precisely at the time when he was writing *Dei delitti*, in which at least eight excerpts appear almost *verbatim*, besides the *exergo* and other parts definitely echo Bacon.

In *Droit naturel et droit à la vie. Beccaria lettore de Hobbes*, Philippe Audegean discusses a fundamental point for the interpretation of Beccaria's idea of the social contract. In contrast with the traditional – and by some scholars still accepted – interpretation²⁰, which

maintains that Beccaria was a follower of John Locke's theory of natural law, Audegean has been arguing over the last nine years that Beccaria was indeed *not* a follower of the theory of natural law. Since his book *La Philosophie de Beccaria. Savoir punir, savoir écrire, savoir produire* (2010), he has produced increasing evidence to support his hypothesis that Beccaria's was a version of the social contract which ran counter to the theory of natural law²¹. Slightly later, Dario Ippolito sided with him in some finely argued essays, bringing more evidence to this position²². In the essay in the present collection, Audegean brings crucial hermeneutic evidence for his thesis, to an extent that cannot hereafter be overlooked when considering Beccaria's contractualism. It will be impossible in future to maintain the natural law thesis without first challenging Audegean's arguments on their own ground²³.

In *Anglo-Italian Interdisciplinary networks 1765-1767. Frisi, Beccaria, the Verris and the Fellows of the Royal Society*, Mauela D'Amore shows how Father Frisi, one of the friends of the Accademia dei Pugni and a member of the Royal Society, was at the centre of a transnational cultural bridge between Milan and London. Despite their stronger ties with Paris and the *philosophes*, Beccaria and the Verri brothers benefited from these exceptional contacts, which can be traced through countless letters in French, Italian and Latin. In the years 1765-1767, when *Dei delitti e delle pene* was being discussed and translated, the Italian members active in the Royal Society were about thirty in number. They were politicians, men of the Church and men of learning, who belonged to the Universities of Turin and Pisa, to the Crusca and the Apatisti Academies, to the Turin and Bologna Academies of Sciences. D'Amore reports that, enhancing humanistic and scientific studies, they managed to create a direct link between these Italian centres and the London Society.

¹⁸ G. Francioni, *Beccaria filosofo utilitarista*, in *Cesare Beccaria fra Milano e l'Europa*, Atti del convegno di studi per il 250° anniversario della nascita (Milano, 15-17 marzo 1989), Prolusioni di S. Romagnoli e G.D. Pisapia, Cariplo-Laterza, Milano-Roma-Bari 1990, pp. 69-87. A slightly modified French translation appeared under the title of *Beccaria, philosophe utilitariste*, in *Le bonheur du plus grand nombre. Beccaria et les Lumières*, sous la direction de Ph. Audegean et al., ENS Éditions, Lyon 2017.

¹⁹ On the importance of these still partly unpublished notebooks of excerpts from Bacon's *Works*, see also M. Fattori, *Baconiana: Nuove prospettive nella ricezione e fortuna delle opera di Francis Bacon*, «Rivista di storia della filosofia», 3, 2003, pp. 405-422.

²⁰ For a recent example, see P. Costa, «Non è dunque la pena di morte un diritto»: alle origini di un dibattito ancora aperto, in *Il caso Beccaria*, cit., pp. 167-207.

²¹ In the Italian translation of the book, titled *Cesare Beccaria, filosofo europeo* (Carocci, Roma 2014), this subject is at pp. 33-64. Audegean restated his position in *Cesare Beccaria*, in *Enciclopedia italiana*, vol. VIII. *Appendice, Filosofia. Il contributo italiano alla storia del pensiero*, a cura di M. Ciliberto, Istituto dell'Enciclopedia italiana, Roma 2012; and in *Cesare Beccaria's On Crimes and Punishments: the meaning and genesis of a jurisprudential pamphlet*, «History of European ideas», 43, 2017, 8, pp. 884-897.

²² D. Ippolito, *La philosophie pénale des Lumières entre utilitarisme et rétributivisme*, in L. Delia et G. Radica (eds.), *Penser la peine à l'âge des Lumières*, «Lumières», 20, 2012, pp. 21-34. By the same, *Contratto sociale e pena capitale: Beccaria vs. Rousseau*, «Rivista internazionale di filosofia del diritto», 4, 2014, pp. 589-620; «*Pour qu'une peine ne soit pas une violence: formes et modalités des sanctions pénales dans la philosophie des Lumières*», in *Le Moment Beccaria*, cit., pp. 159-189.

²³ From some brief statements in Francioni's and Ferrajoli's essays in the present collection, it seems clear to us that he has already won them over.

Lia Guerra's *A member of the Accademia dei Pugni translates Frances Brooke's The History of Lady Julia Mandeville. From Giambattista Biffi's manuscripts* presents the results of part of her research on Giambattista Biffi's unpublished manuscripts. Biffi was the only member of the Accademia dei Pugni who knew English well. Lia Guerra's essay follows on from a previous article²⁴ of hers in which she explored Biffi's manuscripts in order to trace the relations between the Milanese periodical *Il Caffè* and the English papers *The Spectator*, *The Guardian* and *The Idler*. She demonstrated how Biffi actually collected and translated English texts for his friends and acted as a direct link with British culture. Guerra's essay in the present collection examines his partial translation of the epistolary novel *The History of Lady Julia Mandeville* (published anonymously in 1763) and hypothesises Biffi's reasons for translating it. It also delineates Biffi's life and role in the group of friends of the Accademia dei Pugni.

The second part of this collection opens with Philip Schofield's and Luigi Ferrajoli's essays. Schofield is the director of The Bentham Project and the general editor of *The Collected Works of Jeremy Bentham*²⁵. On the basis of unpublished manuscripts from different periods in Bentham's life, Schofield offers new information about an additional number of evocations of Beccaria's name and of the presence of themes discussed in *Dei delitti* in the context of Bentham's reflections. Schofield focusses particularly on an important manuscript headed *Critical Jurisprudence Criminal*, which consists in working notes from the mid to late 1770s not intended for publication. In significant portions of this manuscript, Schofield identifies a response, sometimes unacknowledged, to ideas found in *Dei delitti*. In this way, Schofield brings to light new and more detailed evidence of the fact that, since his formative years, Bentham worked closely and critically through Beccaria's book. He concludes, however, that if in the end Bentham assimilated and systematised some Beccaria's positions and rejected others, it was because they chimed in with his own ontology and epistemology.

In *Beccaria e Bentham*, Luigi Ferrajoli – to whom we owe one of the most important contemporary theories of criminal law, which he elucidated in *Diritto e Ragione. Teoria del garantismo penale*²⁶ – highlights within a

broad perspective the fundamental similarities and differences between Beccaria's and Bentham's thought. As to the similarities, he draws attention to their both being against jurisprudential and for positive law, for penal parsimony and for a criminal law based on the offence and not on the person who committed it, as well as for proof grounded on inductive logic. As to the differences, Ferrajoli develops his argument that, although both Beccaria and Bentham were exponents of utilitarianism and were liberal thinkers, Beccaria's adherence to the theory of the social contract led his utilitarianism to be more radical.

Beccaria was warmly received in England – says Jeanne Clegg in her essay entitled *'Piecemeal, incremental, ad hoc': 'Beccarian' experiments in law enforcement in late seventeenth and early eighteenth-century England* – because in a sense he preached to the converted. In a perspective which runs from the Glorious Revolution to the mid-eighteenth century, Clegg illustrates the measures which were introduced in England for the prevention of crime and for law enforcement, drawing a parallel between those measures and Beccaria's suggestions in some chapters of *Dei Delitti*. She also draws attention to the fact that they were implemented, «piecemeal, incremental and *ad hoc*», thanks to the agency of countless magistrates, lawyers, merchants, ordinary people, the poor, and even of criminals.

From her essay, we can understand the reasons why Beccaria commended England in *Dei delitti*. He admired England for its jury system and for being a country in which judicial torture was not applied, a country «in cui la gloria delle lettere, la superiorità del commercio e delle ricchezze, e perciò della potenza, e gli esempi di virtù e di coraggio non ci lasciano dubitare della bontà delle leggi»²⁷. Beccaria's admiration for England found an amplified echo in Alessandro Verri's letters to his brother. In December 1766, at the end of their stay in Paris, while Beccaria went back to Milan, Alessandro proceeded alone to London, where he stayed until February 1767, informing his brother of his impressions. In a recent article, in which she examines this group of letters, Lidia De Michelis notes that Alessandro's gaze was

²⁴ L. Guerra, *Giambattista Biffi and his Role in the Dissemination of English Culture in Eighteenth-Century Lombardy*, «Journal for Eighteenth-Century Studies», 33, 2010, 2, pp. 245-264.

²⁵ University College, London. Most of Bentham's manuscripts are there, and some in the British Library. Over thirty volumes of *The Collected Works* have so far appeared, several of them edited by Philip Schofield.

²⁶ Laterza, Roma-Bari 1989. Ferrajoli is also the author of an important general legal theory. See *Principia iuris. Teoria del diritto e della democrazia*, Laterza, Roma-Bari 2008.

²⁷ C. Beccaria, *Des délits et des peines – Dei delitti e delle pene*, Introduction, traduction et notes de Ph. Audegean, Texte italien établi par G. Francioni, ENS Éditions, Lyon 2009, chap. XVI: *Della tortura*, p. 196. In the modern translation by Thomas and Parzen, this passage runs: «... whose glory in letters, superiority in commerce and in wealth, and therefore in power, and whose examples of virtue and courage leave no doubt as to the goodness of its laws» (C. Beccaria, *On Crimes and Punishments and other writings*, ed. by A. Thomas, transl. by A. Thomas and J. Parzen, Introduction by A. Burgio, University of Toronto Press, Toronto-Buffalo-London 2008, p. 35).

uncritically positive²⁸. His enthusiasm for England led him to praise the English penal system for more reasons than Beccaria. As a matter of fact, he commended England as the incarnation of a fundamental tenet of *Dei delitti*, namely that punishments should be determined exclusively by the law, since laws are fixed and impartial; while nothing should be left to the magistrate's discretion, which is arbitrary and could verge on the tyrannical. This was more myth than reality, but Alessandro stated it repeatedly. A letter in which he describes two executions is particularly noteworthy:

... vi darà la relatione del modo di farsi appiccare alla inglese ... Non mi sento il minimo rimorso di ciò: questo spettacolo qui non ispira l'orrore come da noi [...] I rei erano dunque quattro: due falsari di lettere di cambio, due ladri di strada [...] Tutta Londra è in gran moto per tal funzione, della quale sono curiosi gl'inglesi anco più di noi. Vi sono gran palchi di legno dall'una e l'altra parte del patibolo, per montare I quali si paga un tanto. Sono sempre pienissimi [...] per la strada correvano sempre palle di neve che il popolo si divertiva di scagliare alle carrozze e a' pederasti incessantemente. Questa si chiama libertà [...] le guardie, che stanno attorno al patibolo, e che altro non sono Borghesi I quali per torno fanno lo sbirro, non d'altro armati se non di un grosso bastone [...] L'impertinentissimo inglese lascia fare: e non si rivolta contro un uomo così male armato perché teme le leggi [...] Il timor delle leggi è grandissimo. [...] Ieri è stato appiccato un uxoricida. Ecco la proporzione fra i delitti e le pene in Inghilterra! Pochi giorni fa fu appiccato un Capitano, come vi scrissi, che ha fatta una falsa cambiale di 20 ghinee. Così è lo stesso rubare venti ghinee e ammazzare la moglie. In questa parte non ammiro codesta legislazione [...] Ma qui le leggi fredde e in differenti condannano, e non gli uomini e le loro passioni [...] Non si può chiamare tiranna che la legge²⁹.

²⁸ L. De Michelis, *Letters from London: A 'Bridge' between Italy and Europe*, in F. O'Gorman and L. Guerra (eds.), *The Centre and the Margins in Eighteenth-Century British and Italian Cultures*, Cambridge Scholars Publishing, Newcastle upon Tyne 2013, pp. 36-55. On Beccaria and Britain, by the same, also: *Una rete immensa lega tutte le verità: Cesare Beccaria's Lectures on Public Economy and Sylvester Douglas' Translation On Public Oeconomy and Commerce*, in L. De Michelis, L. Guerra and F. O'Gorman (eds.), *Politics and Culture in 18th-Century Anglo-Italian Encounters: Entangled Histories*, Cambridge Scholars Publishing, Newcastle upon Tyne 2019, pp. 76-90 (ch. 3).

²⁹ Letters of January 25 and 26, 1767 in P. e A. Verri, *Viaggio a Parigi e Londra (1766-1767)*, respectively pp. 251 ff and 271 ff: «I shall give you a relation of the English way of being hanged [...] I do not feel the slightest remorse about it. The spectacle does not inspire here the horror it does in our country. [...] The cuprits were four: two forgers of bills of exchange and two highwaymen [...] London is all in great stir for such a function, of which the English are even more curious than we are. There are big wooden benches on both sides of the scaffold. One has to pay to sit on them. They are always packed with people [...] along the way [from the prison to the place of execution] the populace enjoyed throwing snowballs at carriages and pederasts incessantly. This

In point of fact, much was left in England to the discretion of judges, and the 1767 translation of *Dei delitti* seems to have intervened in a debate about the magistrates' power which was already under way, but which acquired greater force in the light of Beccaria's book. A forceful challenge came on different occasions for instance from Charles Pratt, Lord Camden. The most famous was probably that against general warrants in 1763, in which John Wilkes was involved.³⁰ On another occasion, Camden pronounced words which chime with Beccaria's ideas and which would later be frequently quoted, even in Parliament. In 1765, during a case debated in court, he said:

*The discretion of a judge is the law of tyrants; it is always unknown; it is different in different men; it is casual, and depends upon constitution, temper, and passion. In the best, it is often times caprice; in the worst, it is every vice, folly, and passion, to which human nature is liable*³¹.

In *The first English translation of Dei delitti e delle pene. A question of sources and modifications*, Rosamaria Loretelli presents the results of a collation of the first English translation with one of the sixth Italian editions and with Morellet's French translation, defining once and for all the question of the sources for the 1767 English translation³². She proves that the unknown English translator not only used both those texts for his/her translation, but also introduced ideologically relevant differences of his/her own, all tending to a more radical interpretation of Beccaria's words.

John Bessler's essay, *The Marquis Beccaria: An Italian Penal Reformer's Meteoric Rise in the British Isles in the Transatlantic Republic of Letters*, underpinned by a

is freedom [...] the aldermen, who stand around the scaffold and are nothing else but civilians who in turn act as keepers of the peace are armed only with sticks The very impertinent Englishman lets them alone, and does not turn on men so poorly armed, because he is afraid of laws. [...] The fear of the law is very great [...] Yesterday a wife-killer was hanged. This is the proportion between crimes and punishments in England! A few days ago a Captain was hanged who, as I wrote to you, had forged a bill of exchange for 20 guineas. So, stealing 20 guineas and killing a wife is one and the same thing. In this I do not admire this legislation. [...] But here punishments are imposed by cold and indifferent laws, not by men or their passions. [...] Only laws can be called tyrants here. (Our translation).

³⁰ P.D.G. Thomas, *John Wilkes: A Friend to Liberty*, Clarendon Pr., Oxford 1997, ch. 3.

³¹ J. Almon, *Biographical, Literary, and Political Anecdotes*, Printed for J. Almon, opposite Burlington-House, London 1797, vol. I, p. 398.

³² In a previous essay, entitled *The First English Translation of Cesare Beccaria's On Crimes and Punishments. Uncovering the Editorial and Political Contexts* («Diciottesimo Secolo. Rivista della Società Italiana di Studi sul Secolo XVIII», II, 2017, pp. 1-22), Loretelli shed light on the editorial, political and cultural environments in which this translation came into being.

comprehensive bibliography, charts aspects of the reception of *Dei Delitti*. He documents its enhancement by the prestige of the *Commentary* of 1766 from the pen of Voltaire, written in the wake of the La Barre execution of the previous year. Voltaire's revulsion matches that of the prominent Anglophone writers, cited by Bessler, to the Bloody Code, which Beccaria's treatise clearly calls in question. The favourable reaction of a number of divines, expressed in sermons and letters, is also documented, and implies a fertile field for ongoing research.

In examining the relationship between Beccaria and Hume, in *Mille choses de sa part. Hume, Ramsay and Beccaria*, Emilio Mazza addresses a question particularly relevant to the subject of the present collection. Beccaria mentioned Hume as one of the philosophers he studied, and his presence can clearly be detected in Beccaria's thinking. What is more difficult to detect is what happened in the other direction. Beccaria and Hume did not meet in Paris, as Hume had just left when Beccaria and Alessandro Verri arrived. While in a letter to Beccaria Morellet informs him that Hume sends him «mille choses de sa part», Beccaria is never actually mentioned in Hume's letters. And Mazza indicates that what Morellet had said in his letter – now held in the National Library of Scotland – was more than likely untrue. Basing his hypothesis on Hume's philosophy in general and on a letter in which Ramsay comments on *Dei Delitti*, in the second part of his essay, Mazza speculates on the position Hume may have held with regard to the text.

In her article entitled *Crime, Punishment, and Law in eighteenth-century British Encyclopedias*, the linguist Elisabetta Lonati examines entries related to crime and punishment in a sample of reference works such as some editions of British universal dictionaries of arts and sciences before and after the publication of the 1767 English translation of *Dei Delitti*. What emerges, she concludes, is that the notions of law and justice underwent noticeable changes in those dictionaries after 1767. Lonati recognises that this is possibly attributable to the publication of Blackstone's *Commentaries*, but also shows how Beccaria is explicitly mentioned too.

In *Oliver Goldsmith's The Vicar of Wakefield and Cesare Beccaria's On Crimes and Punishments*, Barbara Witucki examines the probability of a direct or indirect influence of Beccaria's ideas as they are reflected in the narrative of the *Vicar of Wakefield*, especially in chapters 26 and 27. Goldsmith is recorded as «tinkering» with the novel over several years both before and after its publication in 1766, a period which coincides with the publication of Beccaria's treatise in Italian, French and English. While the novel's 'opacity' precludes definite assertions about Goldsmith's adoption of Beccaria's ideas,

Witucki finds plausible grounds in the events and tenor of the novel to suggest that Beccaria's ideas had at least sufficiently engaged contemporary intellectuals to have prompted Goldsmith to offer a demonstration of them in action. Goldsmith may have wished to signal, in fiction, his Protestant slant on the issues involved.

It may not be insignificant that John Almon, the publisher who published the first English translation of *Dei Delitti*, was also a journalist who wrote for the *Gazetteer*, and a rival of Goldsmith, who worked for the *Public Ledger*³³.

In *Tra filosofia e diritto. Il pensiero critico-riformista di Manasseh Dawes, studioso di Beccaria*, Alberto Carrera turns to the jurist and philosopher Manasseh Dawes's comments on *Dei Delitti* in his *An Essay on Crimes and Punishments, with a view of, and Commentary upon Beccaria, Rousseau, Voltaire, Montesquieu, Fielding and Blackstone*, which was published in London in 1782. Dawes, along with Eden, Blackstone and Dagge was among those reformist jurists who, from their different perspectives, proposed changes to English criminal law. Carrera examines the parts of Dawes's essay specifically devoted to *Dei Delitti* and provides yet further illustration of the penetration of Beccaria's ideas into English thought.

The aim of the present collection is to open up lines of inquiry into the relationship between *Dei delitti* and Britain. On one hand, this collection reassesses, specifies and in some case modifies scholarly perspectives as to some English sources for Beccaria's thinking, on the other it unearths the subsequent repercussion of *Dei delitti* on and development of English thought, including legal theory and practice and literary, hortatory and epistolary writings. It is clear, from the sample presented here, that Beccaria's ideas were diffused and absorbed on a hitherto suspected but under-researched scale³⁴, and that material so far underexploited invites further academic scrutiny and promises highly stimulating results.

³³ See D.D. Rogers, *John Almon and the Politics of Eighteenth-Century Publishing*, Peter Lang, New York-Berne-Frankfurt 1986, p. 6.

³⁴ The very few articles published on this subject are mentioned in the essays in this collection. Here we want to draw attention only to a most recent one, unreported in this collection: Ch. Béal, *Beccaria et le réformisme pénal en Angleterre (1764-1790)*, in *Le Moment Beccaria*, cit., pp. 45-64.