



'Beccaria who?': A brief look at the life and thought of Cesare Beccaria

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1. Biographical remarks

At the time Cesare Beccaria published his *An Essay on Crimes and Punishments* (1764), criminal law appeared an (even more than now...) obscure science: a congeries of laws dating back to the Roman Empire and to the medieval times, intertwining local traditions, city statutes, judges' interpretations, and doctrinal opinions. Legislative obscurity was then accompanied by extreme harshness when the law was enforced: torture and physical punishments were constituent elements of criminal proceedings. In opposition to this, Beccaria's manifesto advocated a complete revolution of criminal justice systems, arguing that principles of proportionality, equality, compassion, and legality (which sounded almost subversive when the *Essay* was published) had to become the new pillars on which to rebuild penalty. The most

famous of Beccaria's critiques, against capital punishment, is to be understood within this wider project.¹

All this is quite well-known: it is part, one might say, of the broader historical legacy of European liberal criminology. Less well-known is the man who took it upon himself to formulate and then disseminate these ideas. In other words: who was Beccaria? What do we know about his life? What were his beliefs? How did the *Essay* come about?

Answering these questions will necessarily lead us on a more *historiographic* path than the *penological* one we are probably used to. At the same time though, this choice seems to be justified by the fact that, historically speaking, there is no doubt that the work of Beccaria represents an unprecedented

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turning point in the discourses concerning criminal justice and, more specifically, the death penalty.²

The following lines will focus on Beccaria's life and the wider Beccarian project (and on his contemporaries' reactions to it), i.e. the ideas and theories underlying his conception of criminal justice, hoping this could give some additional element to understand the reasons and foundations of his abolitionist stance. The peculiarity of which, it is worth observing, is that Beccaria expresses his argument with a clarity and a commitment unequalled among his contemporaries:³ "*If I can go on to prove that such a death is neither necessary nor useful, I shall have won the cause of humanity.*"⁴ Indeed, in the years prior to the publication of Beccaria's work, Montesquieu and Jean-Jacques Rousseau (whose influence on the Italian philosophers and reactions to the *Essay* will be considered below) had variously justified capital punishment and allowed room for its application: the former, in his *Esprit des lois* (1748),⁵ arguing that the murderer deserves to die; the latter, in his *Contrat social* (1762),⁶ justifying State imposition of death on murders and public enemies.⁷ In these works, the focus is on the excesses and abuses in the use of state-imposed death: the revolutionary element of the Beccarian approach consists of contesting the death penalty and its legitimacy *per se*.⁸

Beccaria's approach relies on a three-pronged argument. First, the death penalty is illegitimate as no one would, when subscribing to the social contract, give another man the power to take his/her life: criminal law can only be the sum of minimal portions of liberty men give up to ensure peaceful coexistence. Second, capital punishment is not necessary: life imprisonment appears a more adequate and useful punishment. Third, the death

penalty is immoral, as the state cannot forbid murder and then commit an assassination itself.⁹

But what is the life path that leads Beccaria to take such a radical (for his times) stance on the death penalty? What are the historical and intellectual/philosophical foundations of his arguments? This paper will seek to address these issues, starting from the former.

The first chapters of Beccaria's biography¹⁰ certainly do not appear to be those of a man destined to make revolutions: he is born into a family of old Milanese aristocracy, not rich, but noble and well-to-do. He attends the schools of the *élite* of the time: first the Collegio Farnesiano in Parma – where he meets the other leading exponent of the Milanese Enlightenment, Pietro Verri – and then the University of Pavia, where he graduates in law at 20 years of age (1758). His temperament is rather peculiar: introverted to the point of seeming lazy, easy to change mood quickly and dramatically. He excels at studying: for his habit of reducing every problem to a mathematical calculation of utility, he is nicknamed the '*Newtoncino*' (i.e., the Little Newton).¹¹

In 1762, at the age of 22 and after a youth lived in tranquillity, a crisis occurs, which paves the way to what Beccaria himself will call his "*conversion to philosophy*": a quarrel with his father, destined to be reconciled only years later, caused by his desire to marry Teresa Blasco, a woman neither noble nor wealthy, at a time when the Beccaria family is facing financial difficulties. Despite his father's opposition, the marriage takes place thanks to the young Beccaria's stubbornness and determination (Beccaria himself writes to his father, begging him not to "*violate his will and consciousness*").¹²

This confrontation leaves a deep mark, and something gets broken in his soul: a period begins that his friend Verri simply calls “*despair*” and that Beccaria himself describes as “*fatal calm*”. A form of apathy, surrender, laziness that, as Beccaria already suspects, will beset him again in the future. A period of closure and estrangement from the world, spent in the grip of fear and anguish – feelings that Verri considers the “*Furies of his imagination*”. Thus Beccaria writes: “*My soul needs a continuous motion, which keeps it in vigour, otherwise boredom and the pain of seeing myself despondent and confused in the crowd of common spirits oppress me. But how to overcome this lethargy [...]?*”¹³

The opportunity to escape this condition soon arrives, thanks to his friendship with Pietro Verri: it is the encounter with the philosophy of the French Enlightenment, in the context of the Accademia dei Pugni (literally, the “*Fists Academy*”), founded by Verri himself. The Accademia dei Pugni, as the name suggests, is a *lively* place for discussion among Milanese intellectuals, and the discussions revolve around the new ideas coming from Paris, formulated by the founding fathers of the Enlightenment, i.e. the *philosophes*: Diderot, Rousseau, Montesquieu, d’Alembert, Condillac, Morellet, Voltaire.

This season means, for Beccaria, a newfound enthusiasm. First, for the new friendships he finds: in addition to Pietro Verri, his brother Alessandro Verri, and other representatives of Milanese intellectual life: Giambattista Biffi, Alfonso Longo, Luigi Lambertenghi, Paolo Frisi. In a letter to Biffi, Beccaria writes: “*Friendship is the sweetest of all sentiments, and lets us forget all our miseries.*” These friendships are based on a common desire for renewal, a similar dissatisfaction with the reality of their time and a shared idea of progress (“*You know*

that I am truly your friend, let us continue to cultivate philosophy in the secret of our hearts, do good to men without expecting any reward, and make our friendship ever closer”¹⁴). In Milan, subjugated by an absolute and foreign monarch (i.e. the Emperor of Austria), the ideas of the French *philosophes* (which they discussed and reworked) seem almost subversive in the way they promote equality, a sense of common humanity, and a utilitarianism whose aim is to promote “*the greatest happiness shared among the greater number*”,¹⁵ to alleviate the conditions of those who suffer.

The Accademia finds its editorial expression in the articles published between 1764 and 1766 in its journal *Il Caffè*, and in several monographic works, the most relevant of which is certainly the *Essay*.

The *Essay*, in fact, is born almost by chance. Pietro Verri, director of the Accademia, suggests a division of tasks: each member of the Accademia is to deal with certain legal, economic and social issues. To Beccaria, almost as a pastime, and in order to shake him out of his torpor, his friend entrusts the task of dealing with questions of criminal politics.

Now, it must be considered that the philosophical-scientific production system of the time appears somewhat different from that of today: in the eighteenth century, originality and the fight against plagiarism were not yet top priorities. Therefore, the *Essay*, like many of the works by the French *philosophes*, is the product of a collaborative effort: the basic ideas and the general guidelines of the work are the result of the (heated) discussions between the intellectuals of the Accademia.

Having said that, one should not think that Beccaria’s contribution in this process only consists of writing verbatim what is said during the group’s meeting or merely re-editing scattered notes. Verri

himself later acknowledges that “*the book is by Marquis Beccaria. I gave him the subject matter, and most of the thoughts are the result of daily conversations between Beccaria, Alessandro [Verri], Lambertenghi and myself*”.¹⁶

So, in 1764, the *Essay* is published – in Livorno (Tuscany) to escape Austrian censorship. And it is a resounding success. Read everywhere in Italy, immediately put on the index of forbidden books in the Austrian empire (1766), it is translated into French by André Morellet so that even Parisian *philosophes* can appreciate it. The French translation is successful throughout Europe. The work reflects the discussions of the Milanese philosophers and applies them to the criminal question: it is the passionate work of a young man (24 years old) whose desire is to alleviate the fate of those under the yoke of the criminal justice machine: “*the groans of the weak, sacrificed to cruel indifference and to wealthy idleness, the barbarous tortures that have been elaborated with prodigal and useless severity, to punish crimes unproven or illusory, the horrors of prison, compounded by that cruellest tormentor of the wretched, uncertainty, ought to have shaken into action that rank of magistrates who guide the opinions and minds of men.*”¹⁷

And (at least) one of the reasons for the *Essay's* success is precisely its ability to combine both empathy and scientific rigour. As a result, Beccaria's audience is varied: on the one hand, it is limited to the perimeter of the European aristocratic and bourgeois elites, but, on the other, the *Essay* is not exclusively a text for criminal justice experts or philosophers, but for a larger public audience of everyone who is interested. Empress Catherine of Russia, for example, is greatly impressed by the work and invites the young Beccaria to contribute

to the reform project of the Russian penal system that she is undertaking.

Beccaria declines her invitation. And it could not have been otherwise: along with the satisfaction of the fame achieved, Beccaria again falls prey to his blackest thoughts. He fears that this local, national and international exposure might harm him, and longs for his previous life, quiet and anonymous, wishing he never wrote the *Essay*. He confides to Morellet that he intended “*to defend humanity, not to become its martyr.*” He also confesses to feeling a thrill every time he sees his book on a bookstore shelf.

During this period, what seems to give him the greatest joy is the correspondence with the leaders of the French Enlightenment he has always looked up to. One above all, d'Alembert, the famous author of the *Encyclopédie*. And his comments on Beccaria's work are all enthusiastic: in July 1765, d'Alembert writes: “*This book, despite being a small volume, is sufficient to assure to his author an immortal glory. What a philosophy, what a truth, what a logic of precision and, at the same time, of sentiment and humanity in this work!*”¹⁸

The final consecration comes sometime later: in 1766, Beccaria is invited to Paris by the circle of the *philosophes*, who are eager to meet him. Beccaria, despite his reluctance, cannot refuse the invitation. Pietro Verri appoints him as the representative of the entire Milanese Enlightenment, with the aim of spreading the group's ideas to a wider audience.

He leaves Milan, reluctantly and accompanied by Alessandro Verri. But the journey can be hardly called a success. Arriving in Paris in October 1766, Beccaria feels incredibly lonely: he shows the shyest and most introverted side of his character, is reluctant to join in social occasions and struggles to

keep up with the pace that Parisian intellectual worldliness requires of him. He feels distant from Milan, his family and his wife. In addition, the trip does not proceed as the Verri brothers had planned: Beccaria steals the scene, he is the real protagonist of the Parisian guests' curiosity, and the broader school of Milanese Enlightenment arouses little interest. The result of this is a painful quarrel with the Verris, which will leave Beccaria even more alone. For as long as his pride supports him (or his "vanity", as Pietro Verri will say later), Beccaria tries to stay in Paris; but before long he gives in, and leaves the French capital, the *philosophes* and their warm reception. To everyone's amazement, he returns to Milan prematurely in December of the same year, leaving Alessandro Verri alone.¹⁹

The disastrous end to the trip to France also represents the end of the upward trajectory of Beccaria's career as a writer and philosopher. And Beccaria's contribution to the criminological field will stop here: apart from a few revisions to the original *Essay*, Beccaria would no longer write on the subject of criminal justice. For the rest of his academic and professional life, he would devote himself to something else entirely. Indeed, for Beccaria and his fundamentally utilitarian mindset, penalty is only one of the areas in which interventions are needed to improve the conditions of the most unfortunate. Beccaria declines the invitations of the *philosophes* who ask him to continue writing about criminal justice or the necessary reforms in private law. Instead, he devotes himself to completely different matters. But his new works do not have the same intellectual vigour and persuasive force as the *Essay*, and are subject to criticism for this: Diderot describes Beccaria's work on style (*Ricerche intorno alla natura dello stile*²⁰) as: "an obscure work, of a subtle metaphysics and sometimes false, a fabric of

general laws teeming with exceptions, of dry and hard pages, a work on style with no style."²¹

Even in his professional life, Beccaria takes a path that might surprise: despite the revolutionary, almost subversive vigour of the *Essay*, Beccaria embarks on a career as a bureaucrat. After a brief stint as an economics professor, he climbs the hierarchies of the Viennese administration in Milan: firstly, as a member of the *Supremo Consiglio di Economia Pubblica* (the Supreme Council of Public Economy), and finally participating as a high administrative figure in the larger reform project undertaken by Joseph II, the Austrian Emperor.

This, however, is not uncommon at that time: what the Milanese philosophers had in mind was not *revolution*, but *reform*.²² However innovative their theories, their project is to give these ideas concrete application through the old (better: *Ancien Régime*), Austrian state administration. Pietro Verri and other members of the *Accademia* also have similar careers to Beccaria's: the aim is to shift absolute power from despotic to enlightened, to orient it so that it can promote the good of the people.

To our ears, it may sound unusual to hear theories allowing such a coexistence between absolute, anti-democratic power and a fair criminal justice system, such as the one envisioned by Beccaria. Such a decoupling of, on the one hand, the surrounding constitutional framework and, on the other, criminal justice, might make the model advocated by the Italian Enlightenment, however interesting, seem almost naïve. And here we see the greatest difference between the Italian Enlightenment and the original French matrix: the Parisian *philosophes* will never take part in the state bureaucratic machine, they constitute "a party apart".²³ Between reform and revolution, they tend

decidedly towards the latter. And facts will prove them right: the French revolution of 14 July 1789 occurs not long after the facts recounted here.

A final note on Beccaria's biography (although a lot more could be said about his life and character) must be dedicated to the friendship between Cesare Beccaria and Pietro Verri: begun in childhood, invigorated by the experience of the Accademia and the *Caffè*, and then painfully marked by Beccaria's early return from Paris. Verri will never forgive Beccaria's premature return to Italy, after having drawn all the attention to himself and achieved meagre results for the larger Milanese school. Thus, a process of delegitimisation and isolation begins: first, Verri's contribution is decisive in spreading the legend of a "lazy Beccaria", who is not able to write anything of worth without the stimulus of his friends; then, the two Verri brothers do what they can to instil doubts about the authorship of the *Essay* – hence, a long dispute begins, among scholars and experts, around Beccaria's actual contribution to the work.²⁴

This said, one could also say that whether it was one, two, three, or ten Beccarias who wrote the *Essay*, in a sense, matters little: Beccaria, in modern times, has become more of a *concept* than a *name*. A few years ago (2019), in response to the repressive policies of a populist government, Italian academics and lawyers wrote and signed a *Manifesto of liberal criminal law and due process*.²⁵ They circulated a copy of the Manifesto, and on the cover was a portrait of Cesare Beccaria. The word "Beccaria" is today a reassuring reference, capable of conveying ideas of freedom, justice, fair trial, and compassion, i.e., all the basic tenets of liberal criminal justice. It embodies the idea that it is possible and rightful to build barriers to excessive (oppressive, repressive... or, as Beccaria would say *tyrannical*²⁶) use of punishment.

Luigi Settembrini was a Neapolitan man of letters, also famous for his political activism in the struggle to unify Italy. Writing one century after the *Essay* was published, he observed "[Cesare Beccaria] wrote less than anyone, and had more fame than anyone: his name represents a concept of justice and humanity: and yet he will never be forgotten."²⁷

2. Literary remarks

I have already mentioned what Beccaria and his work represents for us today. It remains to say a few more words about what the *Essay* represented for the readers of the time. In other words: for the Milanese or the Parisian who sees this work on a bookshop shelf in 1764, how might he/she react?

Let's make this personification as simple as possible and imagine our reader as the stereotypical intellectual of that time: male, upper-class or aristocratic, with a good education. First, we can imagine, he scrolls through the table of contents. Like us today, he sees a complex work that touches on very heterogeneous issues: from general principles of criminal law (§1, The origin of punishment; §2, The right to punish) to more specific problems (§7, Errors in measuring punishment; §15, Secret denunciations); from questions of substantive law (§8, The classification of crimes; §12, The purpose of punishment) to questions of procedural law (§13, Of witnesses; §14 Evidence and forms of judgement; §29, Of detention awaiting trials); from the theory of punishment (§6, The proportion between crimes and punishment) to punishments in particular (§25, Banishment and confiscations; §28, The death penalty).

Following Beccaria's considerations and opinions, the reader gets an idea of a brutal criminal justice system, a legacy of the obscurantist and violent

Middle Ages ("These laws, which are the residue of the most barbarous centuries"²⁸), where criminal trials routinely involve torture and false confessions (§16, Of torture) and punishments are atrocious.

Interestingly, in the face of these dense contents pages, our reader might not necessarily be most struck by the 29th chapter on the death penalty. When another famous reader of the time, d'Alembert, writes a letter to Beccaria thanking the Italian philosopher for sending him the *Essay*, he says he is very positively impressed by the work, and in particular by the *postilla* on sentencing the innocent, the reflections on confiscation and the granting of pardon.²⁹

Nor should we assume that Beccaria's ideas are shared by *all* the readers. As mentioned, Beccaria draws inspiration from the French Enlightenment (to d'Alembert he writes "*it was you, sir, who were my master; from your works I drew the spirit of philosophy and humanity that you enjoyed in my book; it is therefore yours more than you think*"³⁰), which, however, represents a rupture with the culture and politics of the time. In other words, while it is true that Beccaria's work immediately becomes extremely popular, this does not necessarily mean that it is always enthusiastically received. One reader who certainly does not appreciate the *Essay* (and who, in a sense, helps us to better appreciate its *avant-garde* nature) is Ferdinando Facchinei, an intellectual and friar living in the then Venetian Republic.

Facchinei's critiques, contained in his *Notes and Observations on the book entitled An essay on crimes and punishments* (1765), allow us to take a step back and briefly analyse the foundations of the Beccarian thought.

In short,³¹ Beccaria's philosophy can be said to be built on two pillars.

The first pillar is the theory of the social contract, which Beccaria derives (mainly)³² from the works of Montesquieu and Rousseau: Beccaria, "*digesting Rousseau's ideas in his own way*",³³ writes that the criminal law must be understood as the repository of all those freedoms that men have freely and voluntarily renounced in order to avoid anarchy³⁴ and that laws represent the conditions under which they unite and live together. A criminal law, therefore, that should be reduced to a minimum measure, because no man would concede more than is necessary of his own freedom. Having made this renunciation, men enter into a contract with one another: an obligation that affects everyone, indiscriminately, from the throne to the hut ("*These obligations, which descend from the palace to the hut, bind equally the most elevated and the humblest of men*"³⁵), because it limits the actions of each individual and provides a sanction for all in the event of violation. Otherwise, "*Violation by even one man begins to legitimate anarchy*."³⁶ In the social contract, men are thus free and equal, in "*relations of equality*"³⁷ with each other.

The second pillar, one could say, is a sense of humanity, which Beccaria says is inspired by d'Alembert ("*from your works I have drawn the spirit of philosophy and humanity that you enjoyed in my book*"³⁸). As already illustrated, Beccaria writes the *Essay* because he is greatly distressed by the state of pain and prostration suffered by those under the yoke of trial and punishment: "*What reader of history does not shudder with horror at the barbaric and useless tortures that so-called wise men have cold bloodedly invented and put into operation? Who can fail to feel himself shaken to the core by the sight of thousands of wretches whom poverty, either willed or tolerated by the*

laws, which have always favoured the few and abused the masses, has dragged back to the primitive state of nature, and either accused of impossible crimes invented out of a cringing ignorance or found guilty of nothing but being faithful to their own principles, and who are then torn apart with premeditated pomp and slow tortures by men with the same faculties and emotions, becoming the entertainment of a fanatical mob?"³⁹ It is this compassion for the fate of the most unfortunate that sustains Beccaria's intellectual battle.

Ferdinando Facchinei, for his part, disagrees with both the theoretical premises and the practical implications of Beccaria's thought. Facchinei's aim is to dismantle, one by one, the theories and proposals of the *Essay* – which he describes as one of the "many, horrible, monstrous works that the supposedly strong spirits have given us"⁴⁰. Facchinei even invokes the intervention of a special tribunal for these *strong spirits* (i.e., the liberal intellectuals of the time), and is pleased that the *Essay* has already been banned in many Italian states. He then describes the egalitarian and contractualist spirit that pervades Beccaria's work as "faults, heresies and horrors,"⁴¹ opposing the social contract with an absolutist idea of the state ("Who is that free man [...] who wants to subject himself to the government of his peers?"), and openly questioning the equality of all before the law ("How? Would Beccaria teach, by any chance, that one who slaps a cowardly porter in the face must be castigated equally to one who commits such an attack on an army general?"⁴²).

As to the penal system more specifically, Facchinei's writing represents a strenuous defence of all the practices then in force: torture, anonymous denunciations, the Inquisition tribunal, the privileges of the nobility and even the death penalty.

Concerning the latter, most notably, Facchinei states: firstly, expunging the death penalty from the catalogue of penal sanctions would entail an amputation of the sovereign's prerogatives, a crime of lese-majesty; secondly, Holy Scripture itself envisages it as just and necessary, and to deny this would constitute heresy ("If the author believes Holy Scripture, therefore, he must also believe it when it teaches him that the death penalty is just and necessary"⁴³).

So: our eighteenth-century reader has scrolled the table of contents, convinced himself Beccaria's work is worth buying, and read it. A few months later, he is told that another book has been published, presenting a completely different approach and drawing opposite conclusions. He buys it and reads it. At this point, who is he going to agree with? Beccaria or Facchinei?

It would be probably too optimistic to assume that, of course, he would discard Facchinei's ideas as ancient and backwards-looking, and would agree with Beccaria. However, the most realistic answer is that he would not fully subscribe to either Beccaria's or Facchinei's approach and solutions. And proof of this can be found in the events that follow the publication of both the *Essay* and the *Notes and Observations*.

Indeed, in 1765 Pietro and Alessandro Verri write and publish *Responses to an Essay entitled: Notes and Observations on the Essay on Crimes and Punishments*, in defence of their colleague Beccaria. Franco Venturi (a historian and Beccaria scholar) observes how the work of the Verri brothers plays a fundamental role in the process of acceptance and dissemination of the *Essay*: sidelining its most radical implications and dismantling the accusations of heresy and impiety, it contributes to getting it approved even by the more moderate public of

readers. Again, it is eighteenth-century Europe we are talking about: absolute monarchies, legal privileges of the clergy and of the nobility. In short, *Ancien Régime*. In this historical (but also philosophical and intellectual) context, words like *freedom* and *equality* might sound too revolutionary to our reader.

At the same time, however, what the Verri brothers understand is that the reforms that Beccaria advocates for are deemed necessary by all those who consider Facchinei's defence to "*deny the spirit of the times*."⁴⁴ In other words, a new sensitivity is spreading, one that, regardless of the political and social place of origin of its bearer, leads to firm condemnation of the atrociousness of the criminal law of the time. Gian Rinaldo Carli, a moderate exponent of *Il Caffé*, writes: "*it is true that there are principles of Rousseau and Montesquieu. But they are good [...]. May it please God that [...] the Essay be read every day by those who believe that it is a fine right to destroy men, and that it is common to*

the most miserable of thugs and street murderers."⁴⁵ In short: the French *philosophes* and their ideas may not appeal to many, but the reforms Beccaria outlines do – they are considered in line with the common feeling of his time. It is possible then that our Parisian or Milanese reader of the 1760s locates himself somewhere between the two extremes: it is possible that he is frightened by a social upheaval as significant as that which forms the backdrop to Beccaria's theories, but at the same time no longer considers the Holy Scriptures a valid lens to assess the penal system's legitimacy. We can imagine him as the bearer of a pragmatic and, for the time, moderate orientation.

For our reader, the *Essay* outlined a very ambitious (maybe, too ambitious) reform plan. And history proved him right: it took a long time for Beccaria's reforms to find acceptance and application. And arguably more time is still needed.

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References

¹ Richard Bellamy (ed), Richard Davies (tr), Cesare Beccaria, *Beccaria: 'On Crimes and Punishments' and Other Writings* (1st edn, CUP 1995), §§ "To The Reader", XVI and XXVIII.

² On the importance of the *Essay* for modern criminology (as sometimes it is even considered the birthplace of criminology *tout court*) see Leon Radzinowicz, *Ideology and Crime: A Study of Crime in Its Social and Historical Context* (Heinemann Educational Books 1966) 10; Gabrio Forti, *L'immane concretezza* (Raffello Cortina Editore 2000) 201. In this Research Paper Series, and with specific reference to the centrality of Beccaria's work vis-a-vis the death penalty, see Carolyn Hoyle, 'Efforts towards abolition of the death penalty: Challenges and prospects' (2024) *DPRU Research Papers* <<https://www.law.ox.ac.uk/sites/default/files/2023-12/Carolyn%20Hoyle%20-%20%27Efforts%20towards%20abolition%20of%20the%20death%20penalty%27.pdf>> 1.

³ John Hostettler, *Cesare Beccaria* (Waterside Press 2011) 25.

⁴ Bellamy (ed), Davies (tr), Beccaria, *Beccaria: 'On Crimes and Punishments'* (n 1) 66.

⁵ Montesquieu, *Esprit des lois* (1748).

⁶ Jean-Jacques Rousseau, *Contrat social* (1762).

⁷ Ettore Dezza, 'Il problema della pena di morte', *Treccani* < [⁸ Hostettler, *Cesare Beccaria* \(n 3\) 25.](https://www.treccani.it/enciclopedia/il-problema-della-pena-di-morte_(Il-Contributo-italiano-alla-storia-del-Pensiero:-Diritto)/>.</p>
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⁹ Bellamy (ed), Davies (tr), Beccaria, *Beccaria: 'On Crimes and Punishments'* (n 1) § 28.

¹⁰ All the biographical references (including the excerpts of letters sent from/to Beccaria) in the following lines are taken from: Franco Venturi, *Riformatori lombardi, piemontesi e toscani* (Milano-Napoli Riccardi 2006), 3 ss.; Mario Ricciardi, 'Cesare Beccaria' in *Il Mulino*, 1 2014 137 ss.; Philippe Audegan, *Cesare Beccaria, filosofo europeo* (Roma Carrocci 2014). The original letters in Italian or French have been translated into English by the author of the present work.

¹¹ Venturi, *Riformatori* (n 10) 3 and 631.

¹² *ibid.*

¹³ Venturi, *Riformatori* (n 10) 4.

¹⁴ Venturi, *Riformatori* (n 10) 5.

¹⁵ Bellamy (ed), Davies (tr), Beccaria, *Beccaria: 'On Crimes and Punishments'* (n 1) 7. Famously, Jeremy Bentham was greatly impressed by the Beccarian formula, which also finds its roots in the work of Claude-Audrien Helvetius – *De l'Esprit* (Paris Durand 1758), and later resumed and reworked it in his *An introduction to the principles of morals and legislation* (1780).

¹⁶ Ricciardi, *Cesare Beccaria* (n 10) 141.

¹⁷ Bellamy (ed), Davies (tr), Beccaria, *Beccaria: 'On Crimes and Punishments'* (n 1) 8.

¹⁸ Venturi, *Riformatori* (n 10) 8.

¹⁹ Hostettler, *Cesare Beccaria* (n 3) 32.

²⁰ Cesare Beccaria, *Ricerche intorno alla natura dello stile*, in Franco Venturi, *Riformatori* (n 10) 124.

²¹ Venturi, *Riformatori* (n 10) 11.

²² Audegan, *Cesare Beccaria* (n 10) 25

²³ The expression is borrowed from Franco Venturi, *Settecento Riformatore* (Torino Einaudi 1969) 23.

²⁴ Ricciardi, *Cesare Beccaria* (n 10) 141.

²⁵ See at the following link:

<https://www.camerepenali.it/cat/9880/il-manifesto-del-diritto-penale-liberale-e-del-giusto-processo.html>.

²⁶ Bellamy (ed), Davies (tr), Beccaria, *Beccaria: 'On Crimes and Punishments'* (n 1) § XXVII.

²⁷ Luigi Settembrini, *Lezioni di letteratura italiana dettate nell'università di Napoli* (Napoli Morano 1878) 67.

²⁸ Bellamy (ed), Davies (tr), Beccaria, *Beccaria: 'On Crimes and Punishments'; To the reader* (n 1) 3.

²⁹ d'Alembert, *Lettera di d'Alembert a Beccaria*, in Franco Venturi (ed) *Cesare Beccaria – Dei delitti e delle pene*, Mondadori 2015, 109 (translation from the original French, then translated by the author into English).

³⁰ *ibid.*

³¹ For a much wider analysis see: Antje Du Bois-Pedain and Shaḥar Eldar (eds), *Re-Reading Beccaria: On the Contemporary Significance of a Penal Classic* (Bloomsbury Publishing 2022), 21–38.

³² Dezza, *Il problema della pena di morte* (n 7).

³³ The expression is borrowed from Franco Venturi, *Riformatori*, 33, footnote 8.

³⁴ "Thus it was necessity which compelled men to give up a part of their freedom; and it is therefore certain that none wished to surrender to the public repository more than the smallest possible portion consistent with persuading others to defend him", and thus concludes, "The sum of these smallest possible portions constitutes the right to punish" – Bellamy (ed), Davies (tr), Beccaria, *The right to punish* (n 1) 11.

³⁵ Bellamy (ed), Davies (tr), Beccaria, *Beccaria: 'On Crimes and Punishments'*, §III "Consequences" (n 1) 12.

³⁶ *ibid.*

³⁷ Bellamy (ed), Davies (tr), Beccaria, *Beccaria: 'On Crimes and Punishments'*, §VII "Errors in the measuring of punishment" (n 1) 22.

³⁸ Venturi, *Riformatori* (n 10) 8.

³⁹ Bellamy (ed), Davies (tr), Beccaria, *Beccaria: 'On Crimes and Punishments'*, §27 "Lenience in punishing" 64.

⁴⁰ Facchinei, *Note ed osservazioni sul libro intitolato Dei delitti e delle pene*, Venezia 1765, as reported in Venturi, *Riformatori* (n 10) 7.

⁴¹ Facchinei, *Notes*, as reported in Venturi, *Riformatori* (n 10) 7.

⁴² See previous note (n 41).

⁴³ Facchinei, *Notes*, as reported in Dezza, *Il problema della pena di morte* (n 7).

⁴⁴ Venturi, *Riformatori* (n 10) 9

⁴⁵ Venturi, *Riformatori* (n 10) 10.