



Citation: E. Mazza (2019) Mille choses de sa part. Hume, Ramsay and Beccaria. *Diciottesimo Secolo* Vol. 4: 121-129. doi: 10.13128/ds-25444

Copyright: © 2019 E. Mazza. 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.

Saggi

Mille choses de sa part. Hume, Ramsay and Beccaria*

EMILIO MAZZA

IULM-Libera università di lingue e comunicazione, Milano

Abstract. At the end of 1765 Morellet wrote to Hume: «I send you 3 copies of my translation of the book *de' delitti*». A few days afterwards he informed Beccaria that Hume «desires me to tell you one thousand things for him». To justify his translation Morellet appeals to Hume's authority: he «read the original and the translation with great care» and «approved of my freedom in translating it». In his works and letters Hume never mentions Beccaria: what about the «one thousand things» that he is supposed to have told Morellet about *Dei delitti*? Were they close to those that Ramsay mentioned to Diderot? What did Hume think about the theory of original contract and the abolishment of capital punishment?

Keywords. David Hume, Cesare Beccaria, Allan Ramsay, Capital Punishment, Original Contract.

GOOD THINGS: MORELLET, BECCARIA AND HUME.

«I send you 3 copies of my translation of the book *de' delitti*»¹, Morellet writes to Hume at the end of December 1765. A few days later he announces to Beccaria: «without having the honour of being known to you, I think myself entitled to send you a copy of my translation of your work»². It is a «universal success»³. The new order, he claims, is fitted to the French genius⁴. D'Alembert appreciates it so much. Diderot, Helvétius, Buffon, Hume and d'Holbach send their congratulations⁵. Hume «desires me» – Morellet declares – «to tell you one thousand things for him»⁶. *Milles choses de sa part*. The great authorities approve of Morellet's freedom in translating Beccaria's *Delitti*. And Hume, who «read the origi-

* I am grateful to Giuseppe Cospito, Gianni Francioni, Marina Leoni, Alberto Mingardi, Gianluca Mori, Laura Nicoli, Emanuele Ronchetti, Luigi Turco for their useful comments. All the translations from Beccaria and Ramsay and Diderot are my own

¹ A. Morellet to D. Hume, 31 December 1765, Edinburgh, NLS MSS 23153 n. 40.

² A. Morellet to C. Beccaria, 3 January 1766, in *Lettres d'André Morellet*, ed. by D. Medlin, J.-C. David, and P. Leclerc, The Voltaire Foundation, Oxford 1991, p. 36.

³ *Ibidem*, p. 39.

⁴ *Ibidem*, pp. 41-42; cfr. *ibidem*, pp. 36, 39.

⁵ *Ibidem*, p. 39.

⁶ *Ibidem*.

nal and the translation with great care»⁷, agrees with them.

The works of d'Alembert, Diderot, Helvétius, Buffon, and Hume – Beccaria replies (following Morellet's order of names⁸) – are the object of his «continuous reading»⁹; even though it was Montesquieu who produced his philosophical «conversion», and Helvétius who later accomplished it¹⁰. «The profound metaphysics of Hume» – Beccaria goes on – «the truth and novelty of his views astonished me and enlightened my understanding. Not so long ago I read the 18 volumes of his history with infinite pleasure»¹¹.

In September 1766 Beccaria asks Morellet to send Hume a copy of his new edition to show how «sensible» he is of Hume's attention to his work, and how «encouraged» he is by the «good» things Hume told Morellet about it and Morellet «faithfully» reported to him¹². What about these good things? Hume probably reads Beccaria in autumn 1765. Four years before Hume's philosophical and historical work was almost achieved; afterwards he does not feel the need to add any explicit reference to Beccaria (or any other French *philosophe* among those mentioned above); not even in the 1774 essay «Of the Origin of Government»¹³.

⁷ *Ibidem*, p. 42. Like Ramsay, Hume probably read Beccaria's 1765 third edition. There is no trace of it in the Hume library sold in 1840, which contains another edition given to Hume by Morellet: [C. Beccaria] *Dei delitti e delle pene*, Harlem [Livorno] 1766⁵ (cfr. D.F. Norton, M.J. Norton, *The David Hume Library*, Edinburgh Bibliographical Society, Edinburgh 1996, p. 115). Morellet received some copies of this edition in July 1766 (A. Morellet to C. Beccaria, 17-28 July 1766, in *Lettres d'André Morellet*, cit., p. 60) and, satisfying Beccaria's desire (*ibidem*, p. 73, note 1), sent a copy to Hume in September (A. Morellet to D. Hume, 8 September 1766, *ibidem*, pp. 71-72).

⁸ A. Morellet to C. Beccaria, 3 January 1766, in *Lettres d'André Morellet*, cit., p. 39 («compliments de M^r. Diderot, de M. Helvetius, de M. De Buffon [...] M. Diderot [...] M. De Buffon [...] M. Hume [...] M. Le Baron d'Holbac [sic]»); C. Beccaria to A. Morellet, 26 January 1766, in C. Beccaria, *Carteggio*, ed. by C. Capra, R. Pasta and F. Pino Pongolini, in *Edizione Nazionale delle Opere di Cesare Beccaria*, 16 vols., ed. by L. Firpo and G. Francioni, Mediobanca, Milano 1984, vol. IV, pp. 222-223 («Alembert, Diderot, Helvetius, Buffon, Hume [...] monsieur Helvétius [...] monsieur de Buffon [...] monsieur Diderot [...] monsieur Hume [...] monsieur Dalember»), 226 («il signor Helvetius, Diderot, ed il signor di Buffon ed Hume e di Holbac [...] signor d'Alembert»). Beccaria merely thanks d'Holbach, without adding any (positive) remarks on his philosophy.

⁹ C. Beccaria to A. Morellet, 26 January 1766, in Beccaria, *Carteggio*, cit., 222.

¹⁰ *Ibidem*.

¹¹ *Ibidem*, p. 223.

¹² A. Morellet to D. Hume, 8 September 1766, *Lettres d'André Morellet*, cit., pp. 71-72.

¹³ Beccaria is never mentioned in the most recent companions to Hume: *The Oxford Handbook of Hume*, ed. by P. Russell, Oxford University Press, Oxford 2016; *The Continuum Companion to Hume*, ed. by A. Bailey and D. O'Brien, The Continuum International Publishing, London 2012; *The Cambridge Companion to Hume*, by D.F. Norton and J.

DIFFERENT KINDS OF CEMENT: BECCARIA AND HUME.

Reading carefully *Dei delitti* (if indeed he did it), Hume could have enjoyed Beccaria's assertion, and his Lockean use of the cement image: «it is demonstrated that the union of the ideas is the cement which forms the entire fabric of human understanding»¹⁴. Hume called himself «inventor» for the use he makes of the principles of association: these principles «are really to us the cement of the universe, and all the operations of the mind must, in a great measure, depend on them»¹⁵. Yet, it is unlikely that Beccaria, who couldn't read English (despite Morellet's exhortations¹⁶), knew the *Abstract of the Treatise*.

We all know that Beccaria read Hume. We all repeat what he declares. Since Morellet told him that Hume enjoyed his work (and Morellet's translation), how could Beccaria declare something different¹⁷? Why do we not

Taylor, Cambridge University Press, Cambridge 2009²; *A Companion to Hume*, ed. by E. Radcliffe, Blackwell, Oxford 2008. He is not even mentioned in E.C. Mossner, *The Life of David Hume*, Oxford University Press, Oxford 1980; A. Sabl, *Hume's Politics. Coordination and Crisis in the "History of England"*, Princeton University Press, Princeton 2012; J.A. Harris, *Hume. An Intellectual Biography*, Cambridge University Press, Cambridge 2015. There are a few exceptions. Burton, for example, underlines the utilitarian connection between Hume and Beccaria (J.H. Burton, *Life and Correspondence of David Hume*, 2 vols., W. Tait, Edinburgh 1846, vol. I, p. 121; cfr. J.A. Harris, *Liberty, necessity and moral responsibility*, in *The Routledge Companion to Eighteenth Century Philosophy*, ed. by A. Garrett, Routledge, London 2014, pp. 320-337: 335; J.E. Crimmins, *Utility and religion*, *ibidem*, pp. 465-499: 481-485, 494), and Berry maintains that Beccaria's view on luxury «bear the hallmarks of his knowledge» of Hume's *History* (C. Berry, *David Hume*, Bloomsbury, London 2009, p. 124; cfr. L.L. Bongie, *David Hume. Prophet of the Counter-revolution*, Liberty Fund, Indianapolis 2000², p. 13).

¹⁴ C. Beccaria, *Dei delitti e delle pene*, [M. Coltellini], Lausanne [Livorno] 1765³, § XVIII, p. 55 (cfr. C. Beccaria, *Des délits et des peines / Dei delitti e delle pene*, ed. by P. Audegean and G. Francioni, ENS, Lyon 2009, § XIX, p. 206; hereafter BAF). For the Lockean flavour of the cement image, cfr. J. Locke, *An Essay concerning Human Understanding*, ed. by P.H. Nidditch, Clarendon Press, Oxford 1985, II, XI, § 13, p. 161; II, XXIII, § 26, p. 310; II, XXXIII, § 11, p. 398.

¹⁵ D. Hume, *An Abstract of a Book lately Published; Entitled, «A Treatise of Human Nature»*, in *A Treatise of Human Nature*, ed. by L.A. Selby-Bigge, rev. by P.H. Nidditch, Clarendon Press, Oxford 1978, pp. 640-662: 662.

¹⁶ A. Morellet to C. Beccaria, 17-28 July 1766, in *Lettres d'André Morellet*, p. 60.

¹⁷ Audegean at first appositely remarks on the influence of the context on Beccaria's acknowledgments in the letter to Morellet, and then reverts to the common opinion: «it is likely that these readings had the importance and the impact that Beccaria ascribed them» (P. Audegean, *Introduction*, BAF, p. 25); with regard to Hume's influence on Beccaria, he consequently makes the common reference: G. Imbruglia, *Riformismo e illuminismo. Il Dei delitti e delle pene tra Napoli e l'Europa*, in *Cesare Beccaria. La pratica dei lumi*, ed. by V. Ferrone and G. Francioni, Olschki, Firenze 2000, pp. 99-126 (cfr. Audegean, *La philosophie de Beccaria. Savoir punir, savoir écrire, savoir produire*, Vrin, Paris 2010, cit., p.

precisely indicate the passages where Hume's French translations exert an influence on Beccaria's writings?

A METAPHYSICAL INEFFECTUAL TREATISE: RAMSAY AND BECCARIA.

«Diderot had transmitted me a letter from M. Ramsay [...] which contains some general critical reflections on your work»¹⁸, Morellet writes to Beccaria in July 1766. In October 1765, chez d'Holbach, Diderot had informed Ramsay about *Dei delitti*¹⁹. At the end of January 1766 Ramsay sends Diderot his reflections²⁰, and Diderot, considering them «too serious to be neglected»²¹, translates them into French and gives them to Morellet²², who sends these «false discouraging maxims»²³ to Beccaria. One year after, Alessandro Verri informs Pietro that Diderot gave Beccaria some short «objections» as «very powerful», but Beccaria did not take the trouble to answer them²⁴. In March Morellet is still remembering Ramsay's reflections to Beccaria: «I recommend you [...] the letter from Ramsay that I gave you»²⁵.

Allan Ramsay is the first painter to the King of England. «It is said that he paints badly, but he reasons well»²⁶, Diderot remarks. In 1765 Ramsay is already

known as a political writer: the *Gazette littéraire*, edited by Suard, calls him a follower of Harrington's *Oceana* who is well acquainted with Hume's *History*²⁷. In 1762, Voltaire's history of Jean Calas had called him a «philosopher»²⁸, because, Diderot adds, he «opened the eyes to English Justice» and saved some gentlemen from capital punishment²⁹. Ramsay's reflections (a «light reading»³⁰ of the Italian original) concern the Introduction and the first two chapters of Beccaria's work. It is a double attack: against the theory of social contract in general, and against *Dei delitti* in particular. Ramsay is sceptic concerning Beccaria's ingenious observations and their possible useful consequences; yet he is assertive concerning their philosophical weakness: their foundations are «too uncertain [...] to support a useful and solid edifice»³¹. A few months before Grimm had written: Beccaria's edifice lacks «solid» foundations³².

Loo at the beginning of September (is van Loo one of those who say that Ramsay «paints badly»?), depicted him as the author mentioned by Voltaire in his «papers on the Calas» (*ibidem*).

²⁷ Review of the «*Essai sur la Constitution d'Angleterre*», «Supplément à la Gazette Littéraire de l'Europe», 28 April 1765, no. 10, art. VII, pp. 285-295; 295; cfr. *ibidem*, art. VI, pp. 243-253: 245; Review of the «*Essai sur la Constitution d'Angleterre*», «Journal des Sçavants», March 1765, pp. 251-254: 252 (cfr. Review of «*An Essay on the Constitution of England*», «The Monthly Review», XXXII, 1765, pp. 59-66: 59); Review of the «*Essai sur la Constitution d'Angleterre*», «Gazette Littéraire de l'Europe», June 1765, no. 6, pp. 311-327: 311.

²⁸ Voltaire, *Histoire d'Elisabeth Canning et de Jean Calas*, [Paris] 1762, p. 5.

²⁹ D. Diderot to S. Volland, 8 September 1765, *Correspondance V*, cit., p. 113.

³⁰ [A. Ramsay] «Il y a environ un mois...», end of January 1766, in Diderot, *Correspondance V*, cit., letter 374, pp. 245-254: 246 (hereafter RR). Ramsay's reflections are contained in a letter to Diderot: the original was in English, and Diderot translated it into French (Naigeon, *Avertissement de l'Éditeur*, cit., p. 449; A. Morellet to C. Beccaria, 17-28 July 1766, *Lettres d'André Morellet*, cit., p. 60). Grimm first made public Diderot's translation in the *Correspondance littéraire* on the 15th of July 1766 (U. Kölvig, J. Carriat, *Inventaire de la «Correspondance littéraire» de Grimm et Meister*, 3 vols., The Voltaire Foundation, Oxford 1984, vol. I, p. 184 n. 66:207), together with a «Notice sur Ramsay» (*ibidem*, n. 66:206). In January 1782 Meister included it again in the *Correspondance* (*ibidem*, vol. II, p. 32 n. 82:001). Diderot's translation was published by Naigeon in 1798, cfr. [A. Ramsay] «Lettre de M. De Ramsay, peintre du roi d'Angleterre A M. Diderot», in *Œuvres de Denis Diderot*, cit., pp. 451-466.

³¹ RR, p. 246 (cfr. RR, p. 248). On Ramsay and Beccaria, cfr. F. Hörcher, *Beccaria, Voltaire, and the Scots on Capital Punishment: A Comparative View of the Legal Enlightenment, in Scotland and France in the Enlightenment*, ed. by D. Dawson and P. Morère, Associated University Press, London 2010, pp. 305-330: 308, 314-316; A. Smart, *Alan Ramsay. Painter, Essayist and Man of the Enlightenment*, Yale University Press, New Haven and London 1992, pp. 201-202.

³² [M. Grimm] «M. l'abbé Morellet...», 1 December 1765, in *Correspondance Littéraire, Philosophique et Critique par Grimm, Diderot, Meister Etc.*, par M. Tourneux, Garnier, Paris 1878, vol. VI, pp. 422-429: 427 (Kölvig, Carriat, *Inventaire*, cit., vol. I, p. 169 n. 65:359); cfr. [M. Grimm] «Un petit livret, intitulé *Dei Delitti*...», 1 August 1765, in *Correspondance Littéraire*, cit., pp. 329-337 (Kölvig, Carriat, *Inventaire*, cit., vol. I, p. 162, n. 65:234).

23, note 1).

¹⁸ A. Morellet to C. Beccaria, 17-28 July 1766, in *Lettres d'André Morellet*, cit., p. 60.

¹⁹ Ramsay owns that he was informed about Beccaria's work in Paris (chez d'Holbach) by Diderot and Suard (D. Diderot, *Correspondance V* (Janvier 1765 - Février 1766), ed. by G. Roth, Les éditions de Minuit, Paris 1959, p. 246). Ramsay possibly arrives in Paris at the beginning of September 1765, since Diderot dined with him (chez van Loo) on the 2nd (*ibidem*, p. 113), and with him, Hume and Walpole (chez d'Holbach) on the 6th. Ramsay leaves Paris on the 15th of October 1765 (*ibidem*, p. 137).

²⁰ *Ibidem*, p. 245 and note 3.

²¹ J.-A. Naigeon, *Avertissement de l'Éditeur*, in *Œuvres de Denis Diderot*, ed. by J.-A. Naigeon, Desray et Deterville, Paris 1798, vol. IX, pp. 449-450: 449.

²² At the beginning of June 1766 Morellet possibly received Diderot's translation of Ramsay's «general critical reflections» (A. Morellet to C. Beccaria, 17-28 July 1766, *Lettres d'André Morellet*, cit., p. 60). In 1765 Diderot and Morellet «talked a lot» about Beccaria's work, and Morellet has written his own «observations» and «reflections» resulting from these «conversations» (A. Morellet to C. Beccaria, 3 janvier 1766, *ibidem*, p. 39; A. Morellet to C. Beccaria, 17-28 July 1766, *ibidem*, p. 60).

²³ A. Morellet to C. Beccaria, 17-28 July 1766, *ibidem*, p. 60.

²⁴ A. Verri to P. Verri, 15 January 1767, in *Viaggio a Parigi e Londra (1766-1767). Carteggio di Pietro e Alessandro Verri*, ed. by G. Gaspari, Adelphi, Milano 1980, p. 247; cfr. E. Mazza, *Hume's «Meek» Philosophy among the Milanese*, in *Impressions of Hume*, ed. by P.J.K. Kail and M. Frasca-Spada, Oxford University Press, Oxford 2005, pp. 213-243.

²⁵ A. Morellet to C. Beccaria, 14-15 March 1767, *Lettres d'André Morellet*, cit., p. 88.

²⁶ D. Diderot to S. Volland, 8 September 1765, *Correspondance V*, cit., p. 113. Diderot, who first met Ramsay chez the painter Louis-Michel van

The first attack is in two phases. First, the «metaphysical idea» of a social contract «has no source in any real transaction»³³ (again, Ramsay agrees with Grimm³⁴, and Ferguson will follow them³⁵). Secondly, Beccaria's method is far from being experimental, therefore his system is full of «ambiguities» and «contradictions»³⁶. Beccaria must acknowledge that force is «a tie of this voluntary contract»: without its «menace» we shall be «incessantly» inclined to take back our smallest portion of liberty³⁷. Beccaria concedes that we are «constrained by necessity» to consent to such contracts; yet he does not say whether they were voluntary, and whether men had been brought into them by need or necessity³⁸. Finally, if by social contract Beccaria means a tacit «mutual obligation» between the powerful and the weak (protection and service)³⁹, such a contract had always existed and will always exist (even between the Mogol and his subjects), but it is a «poor basis» for an edifice of civil liberty⁴⁰.

Here begins the second attack. Again, it is in two phases. First, if moral politics must be founded on our indelible sentiments, as Beccaria asserts, we should first consider our universal «desire of superiority and command»⁴¹ (in 1774 Hume will call it «Love of dominion», which, he says, is «so strong»⁴²): those who «actually» possess power must necessarily use «all the means they can» to protect their authority and safety⁴³. They must «prevent and punish» every plot, with a degree of «severity proportioned to the danger»⁴⁴. Therefore, in governments of a certain nature (like Turkey), those who propose «to suppress tortures [...] (upon the lightest suspicion) and the most cruel executions (upon the smallest proof), will tend to deprive the governments of the best means of security»⁴⁵. The laws and their severities did flow everywhere from the particular «circumstances», «necessities» and «dangers» of the particular societies⁴⁶.

Secondly, Ramsay sets up a dialogue between Beccaria and his adversaries. Beccaria complains that men commonly abandon the «most important» regulations into the hands of «those whose interest is to oppose the most wise laws», that is, Ramsay translates, the «rich and powerful» men⁴⁷; but these interested men are the «only» persons «naturally» apt to exert this prerogative⁴⁸. Force always commands over weakness⁴⁹ (again, Grimm says almost the same⁵⁰). Beccaria complains that laws commonly arise from a «fortuitous and temporary necessity»; but, «without necessity, there would have been no law at all»⁵¹. Beccaria complains that only a «few happy nations» did speed the intermediary stages by «good laws», instead of waiting for the «slow motion of human vicissitudes»⁵²; but, as history shows (a Machiavellian retort⁵³), these happy nations «never» existed, and the same good laws are the outcome of human vicissitudes⁵⁴. Laws are commonly written «with the sword» to the advantage of those who establish them⁵⁵. Beccaria may well obtain the praise of the inexperienced, insignificant and ignored partisans of reason⁵⁶; but his particular reform asks for a universal revolution, which can happen only in a very violent way (an obvious calamity)⁵⁷. *Dei delitti*, Ramsay concludes, is a «speculative» work, which does not consider the «actual» interests and safety of the masters⁵⁸. It shows the wit and «humanity»⁵⁹ of the author (a traditional, and sometimes slightly ironical, remark)⁶⁰, but will

³³ RR, p. 246.

³⁴ [Grimm] «M. l'abbé Morellet...», *Correspondance Littéraire, Philosophique et Critique par Grimm, Diderot, Meister Etc.*, cit., p. 427.

³⁵ A. Ferguson, *Principles of Moral and Political Science*, 2 vols., A. Strahan and T. Cadell, London / W. Creech, Edinburgh 1792, vol. II, pp. 220-221.

³⁶ RR, p. 247.

³⁷ *Ibidem*.

³⁸ *Ibidem*.

³⁹ *Ibidem*, pp. 247-248.

⁴⁰ *Ibidem*, p. 248.

⁴¹ *Ibidem*. The expression recalls Machiavelli's «ambition and desire of command» (N. Machiavelli, *Discourses on Livy*, The University of Chicago Press, Chicago-London 1996, p. 28).

⁴² D. Hume, *Of the Origin of Government*, in *Essays and Treatises on Several Subjects*, 2 vols., T. Cadell, London 1777, vol. I, pp. 35-39: 37.

⁴³ RR, p. 248 (emphasis added).

⁴⁴ RR, p. 249.

⁴⁵ *Ibidem*.

⁴⁶ RR, pp. 249-250.

⁴⁷ RR, p. 250. Ramsay quotes the original Italian («gli uomini [...] piu provide leggi»; Beccaria, *Dei Delitti*, cit., «Introduzione», p. 5; BAF, p. 142) and either he – or Diderot – adds a French translation with an omission («alla giornaliera prudenza»; RR, pp. 250-251).

⁴⁸ RR, p. 251.

⁴⁹ *Ibidem*.

⁵⁰ [Grimm] «M. l'abbé Morellet...», *Correspondance Littéraire, Philosophique et Critique par Grimm, Diderot, Meister Etc.*, cit., p. 428.

⁵¹ RR, p. 251; Ramsay refers to the «Introduzione» («le leggi [...] nate da una fortuita e passeggera necessità» (Beccaria, *Dei Delitti*, cit., «Introduzione», p. 6; BAF, p. 142).

⁵² RR, p. 251; Ramsay quotes the original Italian («Felici sono [...] buone leggi»; Beccaria, *Dei Delitti*, cit., «Introduzione», p. 6; BAF, p. 142) and either he – or Diderot – adds a French translation.

⁵³ Beccaria maintains: «Let's open the Histories, and we shall see that the Laws...» (Beccaria, *Dei Delitti*, cit., «Introduzione», p. 6 [emphasis added]; BAF, p. 142); and Ramsay replies: «if these philosophers would open the history and see to what are due the best institutions» (RR, p. 253 [emphasis added]), «if he [Beccaria] would take the pains to examine carefully the history and the archives of the nations...» (RR, p. 251). Possibly recalling Hume's works, Ramsay frequently appeals to «history and observation» (RR, p. 246) against Beccaria.

⁵⁴ RR, p. 251.

⁵⁵ RR, pp. 251-252.

⁵⁶ RR, p. 252.

⁵⁷ *Ibidem*.

⁵⁸ *Ibidem*.

⁵⁹ RR, pp. 246, 252.

⁶⁰ Cfr. [Grimm] «Un petit livret, intitulé *Dei Delitti*...», *Correspondance*

never have «any actual and present influence on human affairs»⁶¹.

«OF CRIMES» REFORMED (BY RAMSAY).

Those who want to reform the laws should enquire into «the actual and real origin of different governments and their different laws»⁶² and survey «only one single society at a time»⁶³ – this is Ramsay’s prescription. If they discover some «unnecessarily severe» laws, they should modestly address themselves to the masters and show them that the same «circumstances», which originally required these laws, may be satisfied by means «more mild for the subjects and at least equally safe for the masters»⁶⁴. The reformers should always consider the security of «those who alone have the power to sanction the laws»⁶⁵.

In 1771 Diderot seems to have Ramsay’s reflections on the table. Punishments, he writes, can only refer to the «security of the masters»⁶⁶, which is the supreme law, and they must be different in different nations: in Constantinople one illicit assembly is enough to strangle a Sultan, in London it takes twenty years of illicit assemblies to overthrow a minister (this is Ramsay’s example)⁶⁷. Ramsay recalls Grimm, and Diderot recalls Ramsay. Are their observations the outcome of their common discussions in 1765? The work of the humane Beccaria is not «so important», nor his ideas «so true»⁶⁸ as they are claimed to be.

Littéraire, *Philosophique et Critique par Grimm, Diderot, Meister Etc.*, cit., p. 344; [Grimm] «M. l’abbé Morellet...», *ibidem*, pp. 427, 429; [Voltaire] *Commentaire sur le Livre Des délits et des peines, Par un Avocat de Province*, [Paris] 1766, IX, p. 51; XII, p. 63; D. Diderot, *Recherches sur le style*, in *Encyclopédie Méthodique. Philosophie ancienne et moderne*, 3 vols., ed. by J. A. Naigeon, Panckoucke, Paris 1792, t. II, pp. 223a-224b: 223b; P. Verri to A. Verri, 15 gennaio 1767, *Viaggio a Parigi e Londra (1766-1767)*, cit., p. 247.

⁶¹ RR, p. 252.

⁶² RR, p. 246.

⁶³ RR, p. 250.

⁶⁴ *Ibidem*.

⁶⁵ *Ibidem*.

⁶⁶ Diderot, *Recherches sur le style*, cit., p. 223b.

⁶⁷ *Ibidem* (cfr. RR, p. 239). Ramsay refers to «Robert Walpole», Diderot to a London «minister»: in both cases the term of comparison is the Sultan of Constantinople.

⁶⁸ Diderot, *Recherches sur le style*, cit., p. 223b. It is certainly difficult, as Venturi observes, «to say to what extent Diderot [...] might have been influenced by this letter from Allan Ramsay» (F. Venturi, *Utopia and Reform in the Enlightenment*, Cambridge University Press, Cambridge 1971, p. 110); and it is equally difficult to say to what extent this letter from Ramsay was influenced by Grimm’s *Correspondance littéraire*, and Diderot’s and Suard’s observations, since Diderot and Suard were those who first introduced Ramsay to *Dei delitti* (RR, p. 246).

THE HUMEAN RAMSAY AS A POLITICAL PHILOSOPHER.

In 1754 Ramsay and Hume founded the Edinburgh Select Society, where they discuss the questions «Whether Capital punishment be the most proper method for restraining theft?»⁶⁹, and «Whether severe or moderate punishments have the greatest effect in preventing the commission of Crimes?»⁷⁰.

In 1753 Ramsay had published *An Essay on Ridicule and Elizabeth Canning*⁷¹, which was celebrated by Voltaire⁷². In 1755 he publishes a dialogue *On taste*⁷³, which recalls Hume’s *A Dialogue* and is silently discussed in Hume’s *Of the Standard of Taste*⁷⁴. As a Humean writer, Ramsay intends to show the «usefulness and necessity of experimental reasoning in philological and moral enquiries»⁷⁵ (Hume’s *Treatise is An Attempt to introduce the Experimental Method of Reasoning into Moral Subjects*), and recalls that philosophy is «nothing but common sense and experience methodised»⁷⁶ (according to Hume «philosophical Decisions are nothing but the Reflections of common Life, methodiz’d and corrected»⁷⁷). In 1765 Ramsay publishes the *Essay on the constitution of England*; in 1766 he writes the *Thoughts on the Origin and Nature of Government*, which were to be published three years later (Hume probably possessed all of them)⁷⁸. Before his arrival in Paris the *Gazette*

⁶⁹ NLS, Select Society Adv. Mss. 23.1.1, pp. 43, 67. The question, named as a subject of debate in January and November 1755, is declared «Debated» (*ibidem*, p. 191).

⁷⁰ NLS, Select Society Adv. Mss. 23.1.1, pp. 150, 167. The question, named as a subject of debate in January 1760 and June 1761, is declared «Debated» (*ibidem*, p. 250), possibly in July 1761.

⁷¹ [A. Ramsay] *A Letter to the Right Honourable the Earl of – Concerning the Affair of Elizabeth Canning. By a Clergyman*, T. Seddon, London 1753.

⁷² Voltaire, *Histoire d’Elisabeth Canning et de Jean Calas*, [Paris] 1762.

⁷³ [A. Ramsay] *The Investigator. Number CCCXXII*, A. Millar, London, 1755. Ramsay’s performance is retitled in 1762: *The Investigator. Containing the following Tracts. I. On Ridicule. II. On Elizabeth Canning. III. On Naturalization. IV. On Taste*, London 1762; *A Dialogue on Taste*, London 1762².

⁷⁴ Cfr. E. Mazza, *Fluctuations: manners and Religion in Hume’s “Of the Standard of Taste”*, in *The Humean Mind*, ed. by A. Coventry and A. Sager, Routledge, London 2019, pp. 272-284

⁷⁵ [A. Ramsay] *Advertisement to An Essay on Ridicule*, A. Millar, London 1753, p. i.

⁷⁶ [A. Ramsay] *The Investigator. Number CCCXXII*, cit., p. 28.

⁷⁷ D. Hume, *Philosophical Essays Concerning Human Understanding*, A. Millar, London 1748, p. 251.

⁷⁸ [A. Ramsay] *An Essay on the Constitution of England*, T. Becket and P.A. De Hondt, London 1765; *An Essay on the Constitution of England*, T. Becket and P.A. de Hondt, London 1766²; [A. Ramsay] *Thoughts on the Origin and Nature of Government. Occasioned by The late Disputes between Great Britain and her American Colonies. Written in the Year 1766*, T. Becket and P.A. de Hondt, London 1769. Hume probably owned a «unique» collection of all Ramsay’s essays (cfr. Norton, Norton, *The David Hume Library*, cit., pp. 34-35, 45, 124).

Littéraire announces: he is a «skilful painter, already known for some ingenious writings»⁷⁹.

Both the *Essay* on the constitution and the *Thoughts* on the origin of government show some connection with the reflections on Beccaria. Especially the *Thoughts*, which attack those who believe in «a voluntary social contract, by which each man gives up, as it were into a common stock, a small portion of this natural liberty»⁸⁰. The reflections had attacked those who believe that «each man, by contributing to this imaginary repository, puts in it only the smallest possible portion of his own liberty»⁸¹. The *Essay* makes repeated appeals to «experience» and the «real» motives of men, like their «hopes of superiority»⁸². The political philosopher must have an «attentive eye» to the «constituents» of government and their interests⁸³. The *Thoughts* repeat these appeals, and proceed to attack the «idle dreams of metaphysicians, uncountenanced by fact and experience», who maintain that «all the rights of government are derived from a voluntary social contract»⁸⁴. «Unfortunately», Ramsay writes, «no such voluntary contract was ever known to be entered into»⁸⁵ (does Bentham, who is acquainted with Hume⁸⁶, know Ramsay?⁸⁷). The rights of government are built upon the «weakness and necessities of

mankind»⁸⁸. If a contract exists, it is a «reciprocal obligation of protection and service»⁸⁹ («if you are powerful I will be obedient»⁹⁰). Any act of power must tend to the «support or safety of government»⁹¹. Any project, which does not proceed upon this, will be «for ever abortive, or fatal to the projector»⁹².

In *Elizabeth Canning* Ramsay allowed: «in the present state of ignorance, credulity, and irregular method of enquiry, I should be extremely fearful of my life and character, if I were accused of a capital offence; and should, by no means, think my innocence a sufficient protection»⁹³. A battle in favour of a legal trial does not necessarily mean a battle against capital punishment.

SUICIDE AND CAPITAL PUNISHMENT: HUME IN PARIS.

Self-murderers, the *Persian Letters* deplore, «are put to death a second time»⁹⁴. Any punishment for suicide, Beccaria agrees, is «useless and unjust»⁹⁵. Suicide, Hume proclaims, is no «transgression of our duty either to God, our neighbour, or ourselves»⁹⁶. According to Montesquieu, «the English kill themselves» even in the very midst of happiness⁹⁷. A travelling Englishman, Diderot adds, «is often a man who gets out of his country in order to kill himself somewhere else»⁹⁸. One of them, he goes on, has just thrown himself into the Seine. It is September 1765. «They fished him out alive and brought him to the Grand Châtelet»⁹⁹. The English Ambassador «had to interpose his authority to prevent them from putting him to death»¹⁰⁰.

As the Secretary to the English Embassy, Hume makes the French understand that there is no Anglo-French treatise that «forbids an Englishman from drowning himself in the Seine under pain of death»¹⁰¹. And then he amusingly concludes: «if my compatriot had unfortunately been jailed, he would have risked

⁷⁹ *Review of the «Essai sur la Constitution d'Angleterre», «Supplément à la Gazette Littéraire de l'Europe», 28 April 1765, n. 10, cit., p. 295.*

⁸⁰ [Ramsay] *Thoughts on the Origin*, cit., p. 9 (emphasis added).

⁸¹ RR, p. 247 (emphasis added; cfr. Beccaria, *Dei delitti*, cit., § I, p. 8; § II, p. 10; BAF, pp. 146, 148).

This could be Ramsay's only textual reference to the chapter «The death penalty» («laws are nothing but a sum of the smallest portions of each man's own freedom»; Beccaria, *Dei delitti*, cit., § 27, p. 73; BAF, p. 228); yet, it is more likely that Ramsay is still referring to the chapters «The origin of punishment» («the sum of all these portions of freedom sacrificed to the good of everyone forms the sovereignty [...] everyone is always trying to take out of the repository his own portion»; Beccaria, *Dei delitti*, cit., § 1, p. 8; BAF, p. 146) and «The right to punish» («none want to put in the public repository more than the smallest possible portion of his freedom [...] the aggregate of these smallest possible portions forms the right to punish»; Beccaria, *Dei delitti*, cit., § 2, p. 10; BAF, p. 148).

⁸² [Ramsay] *An Essay on the Constitution of England, 1766*², cit., sect. II, p. 15.

⁸³ *Ibidem*, sect. I, p. 6.

⁸⁴ [Ramsay] *Thoughts on the Origin*, cit., p. 9.

⁸⁵ *Ibidem*.

⁸⁶ According to Bentham the notion of original contract «had been effectually demolished by Mr Hume» (J. Bentham, *A Fragment on Government*, ed. by J.H. Burns and H.L.A. Hart, Cambridge University Press, Cambridge 2001, p. 51).

⁸⁷ «In this society we will say no contract has as yet been entered into» (Bentham, *A Fragment on Government*, cit., p. 50). In 1770 Ramsay's pupil, the engraver and portrait painter David Martin, «offered to paint Bentham, who refused [...], as he could not afford to pay the import duty into England» (J. Bowring, *Memoirs of Bentham*, in *The Works of Jeremy Bentham*, W. Tait, Edinburgh 1842, 66b).

⁸⁸ [Ramsay] *Thoughts on the Origin*, cit., p. 10.

⁸⁹ *Ibidem*, p. 11; cfr. *ibidem*, p. 14.

⁹⁰ *Ibidem*, p. 25.

⁹¹ *Ibidem*, p. 21; cfr. *ibidem*, p. 25.

⁹² *Ibidem*, p. 11.

⁹³ [A. Ramsay] *The Affair of Elizabeth Canning*, cit., 1753, p. 55.

⁹⁴ Montesquieu, *Lettres Persanes*, 2 vols., P. Marteau, Cologne 1731, vol. 2, letter LXIV, p. 9.

⁹⁵ Beccaria, *Dei Delitti*, cit., § XXXI, p. 101 (BAF, p. 260).

⁹⁶ [D. Hume] *Essay I [Of Suicide]*, in *Two Essays*, London 1777, p. 5.

⁹⁷ [Montesquieu] *De l'Esprit des Loix*, 2 vols., Barillot, Geneve 1748, vol. I, XIV, XI, p. 377.

⁹⁸ D. Diderot a S. Volland, 6 octobre 1765, *Correspondance V*, cit., p. 132.

⁹⁹ *Ibidem*.

¹⁰⁰ *Ibidem*.

¹⁰¹ *Ibidem*.

disgracefully losing his life for having or not having drowned himself. If the English are quite mad, you will allow that the French are quite ridiculous¹⁰². Marischal Keith congratulates Hume for so «many good works» in his ministerial functions and for saving «a poor fellow from the gallows who chose rather to drown than starve»¹⁰³. The author of *Suicide* is closer to that of *Dei delitti* in practice than in theory¹⁰⁴.

TYRANNICIDE AND CAPITAL PUNISHMENT:
HARMFUL THEREFORE BLAMEWORTHY.

Tyrannicide was so «approv'd of by ancient Maxims»¹⁰⁵, Hume remarks in 1748; yet «instead of keeping Tyrants and Userpers in Awe, made them ten times more fierce and unrelenting»¹⁰⁶. Now it is «universally condemn'd as a base and treacherous Method of bringing to Justice these Disturbers of Society»¹⁰⁷. Its useless or harmful consequences make it blameworthy. In 1751 Hume recalls the question. «History and Experience [...] [have] convinc'd us, that this Practice encreases the Jealousy and Cruelty of Princes»¹⁰⁸: if its «great Inconveniencies» could have «prov'd clearly» to the ancients, we could have «reform'd their sentiments» concerning tyrannicide¹⁰⁹. Can the same argument be used against capital punishment?

Hume's *History* applies it against the attempt to extirpate a widespread heretical opinion «by capital punishments». Besides its «extreme barbarity», this attempt «proves commonly ineffectual to the purpose intended»¹¹⁰: it «serves only to make men more obstinate in their persuasion»¹¹¹. Yet, someone else argues, unlike soft persecution, which does «serve only to irritate the

sects, without disabling them from resistance», hard persecution is useful: «the stake, the wheel, and the gibbet, must soon terminate in the extirpation or banishment of all the heretics, [...] and in the entire silence and submission of the rest»¹¹². And Hume bitterly acknowledges: since the latter argument was «more agreeable to the cruel bigotry» of the Queen, it was «better received»¹¹³.

HUME AND THE ORIGINAL CONTRACT: A
PHILOSOPHICAL SIN.

«Of the Original Contract» anticipates some of Ramsay's reflections¹¹⁴. The essay is «a short, but compleat Refutation of the political Systems of Sydney, Locke, and the Whigs, which [...] are plainly [...] repugnant to Reason & the Practice of all Nations» (even though «all the half Philosophers of the Nation have implicitly embrac'd for near a Century»¹¹⁵). These «so refin'd»¹¹⁶ systems, which «suppose that there is a Kind of *original Contract*»¹¹⁷, can only be either «seditious» or «delirious»¹¹⁸.

Hume appeals to «History or Experience»¹¹⁹. The notion of an original contract could have a meaning only if referred to government in its «earliest infancy»¹²⁰: savage people «voluntarily [...] abandon'd their native Liberty» for the advantages of peace and order¹²¹. If this «be meant by *original Contract*, it cannot be denied that all Government is, at first, founded on a Contract»¹²² (Ramsay follows the same line of argument: «if by his social contract our Italian means [...] we are ready to acknowledge that...»¹²³). Yet, philosophers assert that «even at present», in its «full Maturity», government «rests on no other Foundation»¹²⁴. If they look outside in the world, they will find «every where» sovereigns, who «claim their Subjects as their Property», and subjects,

¹⁰² *Ibidem*.

¹⁰³ G. Keith to D. Hume, Postdam, 10th September 1765, NLS MS 23155, n. 112, ff. 85-88: f. 85.

¹⁰⁴ In 1757 Hume ironically declares that he will proceed directly «to recommend Suicide & Adultery» (D. Hume to J. Edmonstoune of Newton, 29 September 1757, in *New Letters of David Hume*, ed. by R. Klibansky and E.C. Mossner, Clarendon Press, Oxford 1954, p. 43). Yet he never declares that he will proceed to recommend the abolition of capital punishment. With regard to this question he doesn't wish to be a «disturber of the public peace among philosophers» (P. Bayle, *Arcesilas*, in *Dictionnaire historique et critique*, 4 vols., P. Brunel et al., Amsterdam-Leyde 1740⁵, vol. I, Rem E, p. 285b; cfr. *ibidem*, p. 285).

¹⁰⁵ D. Hume, *Of Passive Obedience*, in *Essays, Moral and Political*, A. Millar, London / A. Kincaid, Edinburgh 1748³, pp. 308-312: 310.

¹⁰⁶ *Ibidem*.

¹⁰⁷ *Ibidem*.

¹⁰⁸ D. Hume, *An Enquiry concerning the Principles of Morals*, A. Millar, London 1751, pp. 29-30.

¹⁰⁹ D. Hume, *A Dialogue*, *ibidem*, pp. 223-253: 240.

¹¹⁰ D. Hume, *The History of England under the House of Tudor*, 2 vols., A. Millar, London 1759, vol. I, p. 375.

¹¹¹ *Ibidem*.

¹¹² *Ibidem*, p. 377.

¹¹³ *Ibidem*.

¹¹⁴ On Hume's criticism of the notion of original contract, cfr. *A Treatise of Human Nature*, cit., pp. 541-542, 547-549.

¹¹⁵ D. Hume to Lord Elibank, 8 January 1748 O.S., in E.C. Mossner, *New Hume Letters to Lord Elibank, 1748-1776*, «Texas Studies in Literature and Language», 4, 1962, pp. 431-460: 437.

¹¹⁶ D. Hume, *Of the Original Contract*, in *Essays, Moral and Political*, cit., pp. 289-307: 293.

¹¹⁷ *Ibidem*, p. 289.

¹¹⁸ *Ibidem*, p. 294.

¹¹⁹ *Ibidem*, p. 295; cfr. *ibidem*, pp. 293, 296, 304; *supra*, note 54.

¹²⁰ Hume, *Of the Original Contract*, cit., p. 292; cfr. *ibidem*, pp. 291-292, 294.

¹²¹ *Ibidem*, p. 291.

¹²² *Ibidem*, pp. 291-292.

¹²³ RR, pp. 247-248.

¹²⁴ Hume, *Of the Original Contract*, cit., p. 292.

who «acknowledge this Right» in them¹²⁵. There is nothing discoverable «but Force and Violence»: no «voluntary Association»¹²⁶. The necessity of human affairs will never admit of this consent. Historical governments have been «originally» founded «either on Usurpation, or Conquest, or both without any [...] fair Consent, or voluntary Subjection»¹²⁷: «Force, by dissolving the ancient Governments, is the Origin of almost all the new ones, that ever were establish'd in the World»¹²⁸. In 1758 Hume adds a footnote: «New discoveries are not to be expected in these matters»¹²⁹.

In the «Idea of a perfect Commonwealth» Hume maintains that «all plans of government, which suppose great reformation in the manners of mankind, are plainly imaginary. Of this nature, are the republic of *Plato*, and the *Utopia* of *Thomas More*»¹³⁰. According to Ramsay «all speculative work, such as that *dei Delitti e delle Pene*, belong to the category of *utopias*, of platonic republics and other ideal politics»¹³¹. Perhaps Hume would have called *Dei delitti* an imaginary reformation; certainly he thought that «political projectors» are very «pernicious», where they have power, and very «ridiculous», where they want it¹³².

HUME AND (CAPITAL) PUNISHMENT.

The young Hume knew the train of ideas of a prisoner going to the scaffold: «the action of the executioner; the separation of the head and body; bleeding, convulsive motions, and death»¹³³. He knew that people commonly feel a «kindness» for him. He accounted for this in the *Treatise*¹³⁴, possibly drawing from a bookish experience (Hobbes and Malebranche)¹³⁵. Unlike Alessan-

dro Verri, he never went outside London to see the new «English way of being hanged»¹³⁶, as Alessandro calls it.

In 1752 Hume observes that at the end of the Roman commonwealth the laws were «absurdly contriv'd»¹³⁷: «all capital punishments were abolish'd» and, however dangerous any citizen might be, he was regularly punished by «banishment»¹³⁸ (Hume seems to follow Sallust¹³⁹ and criticise Montesquieu¹⁴⁰). It became «necessary» to make use of private vengeance and it wasn't easy «to set bounds to» it¹⁴¹. «One extreme produces another»¹⁴², he concludes: «in the same manner as excessive severity in the laws is apt to beget great relaxation in their execution; so their excessive lenity naturally engenders cruelty and barbarity»¹⁴³. This is one of those *Political Discourses*, translated into French¹⁴⁴, which are quoted by Beccaria in 1762¹⁴⁵, but never mentioned in *Dei delitti*.

In 1755, while the Select Society is discussing the question, Hume observes that «Punishment, without any proper purpose, is inconsistent with *our* ideas of goodness and justice»: «according to *our* conception, it should bear some proportion to the offence»¹⁴⁶. A certain lenity may be natural to us: nothing can «steel the breast of judges and juries against the sentiments of humanity but reflections on necessity and public interest»¹⁴⁷. As Hume

¹²⁵ *Ibidem*, p. 293.

¹²⁶ *Ibidem*, p. 295.

¹²⁷ *Ibidem*.

¹²⁸ *Ibidem*, p. 298.

¹²⁹ D. Hume, *Of the Original Contract*, in *Essays and Treatises on Several Subjects*, A. Millar, London / A. Kincaid and A. Donaldson, Edinburgh 1758, pp. 252-262: 262, note g. Even Boullainvilliers, Hume adds, knew that «time alone bestowed right and authority on what was commonly at first founded on force and violence» (*ibidem*).

¹³⁰ D. Hume, *Of the Idea of a Perfect Commonwealth*, in *Political Discourses*, R. Fleming for A. Kincaid and A. Donaldson, Edinburgh 1752, pp. 281-304: 283.

¹³¹ RR, p. 252.

¹³² Hume, *Of the Idea of a Perfect Commonwealth*, cit., p. 281. The sentence was deleted after the 1770 edition.

¹³³ Hume, *A Treatise of Human Nature*, cit., p. 406.

¹³⁴ *Ibidem*, p. 388.

¹³⁵ T. Hobbes, *Human Nature*, in *The Elements of Law Natural and Politic*, ed. by J.A.C. Gaskin, Oxford University Press, Oxford 1994, p. 53; N. Malebranche, *De la Recherche de la vérité*, ed. by G. Rodis-Lewis, 3 vols., Vrin, Paris 1991³, vol. I, pp. 238-239.

¹³⁶ A. Verri to P. Verri, 15 January 1767, in *Viaggio a Parigi e Londra*, cit., p. 251 (cfr. *ibidem*, p. 255). The «spectacle», Alessandro writes, does not excite «horror» nor offend «humanity» (*ibidem*, p. 251; cfr. *ibidem*, p. 255). The criminals are calm on their chariot pulled by a horse, their face is covered by a cap, and the executioner does not torment them (*ibidem*, p. 255): around them people enjoy themselves playing with snowballs (*ibidem*, pp. 251-254). It is like a «feast» (*ibidem*, pp. 252, 255).

¹³⁷ D. Hume, *Of the Populousness of antient Nations*, in *Political Discourses*, cit., pp. 155-261: 202.

¹³⁸ *Ibidem*.

¹³⁹ Sallust, *The War with Catiline*, in Sallust, W. Heinemann, LOEB, London 1921, pp. 94-95; cfr. *ibidem*, pp. 98-99; *Livy Books VIII and IX*, 13 vols., W. Heinemann, LOEB, London 1926, vol. IV, pp. 388-389; *Livy Books I and II*, 13 vols., W. Heinemann, LOEB, London 1967, vol. I, pp. 104-105.

¹⁴⁰ On the «moderation» and «mildness» of punishments with the Romans and the «Porcian law», cfr. [Montesquieu] *De l'Esprit des Loix*, cit., vol. I, VI, XV, p. 141.

¹⁴¹ Hume, *Of the Populousness of antient Nations*, cit., p. 202.

¹⁴² *Ibidem*, p. 203.

¹⁴³ *Ibidem*.

¹⁴⁴ Cfr. *Discours Politiques de Mr. David Hume*, [transl. by E. de Mauvillon], J. Schreuder & P. Mortier le Jeune, Amsterdam 1754, pp. 238-239.

¹⁴⁵ C. Beccaria, *Del disordine e de' rimedi delle monete nello stato di Milano nel 1762*, in *Scritti Economici*, ed. by G. Gaspari, Mediobanca, Milano 2014, II, I, p. 38.

¹⁴⁶ [D. Hume] *Essay II [Of the immortality of the Soul]*, in *Two Essays*, cit., pp. 25-41: 32.

¹⁴⁷ *Ibidem*, p. 34. «This lenity» – Hume observes – «suits our natural ideas of right even towards the greatest of all criminals, and even though it prevents so inconsiderable a sufferance. Nay, even the most bigotted priest would naturally without reflection approve of it, provid-

puts it in the moral *Enquiry*, what matters is the «Benefit of Society»¹⁴⁸.

How many heads lying on the block and severed from their bodies, how many stretched out slender necks, illegal trials, and unjust sentences; and how many executions we meet with in Hume's *History*, which Beccaria read with «infinite pleasure»¹⁴⁹! But only a few remarks on those capital punishments which were ineffectual to the purpose, and no general reasoning on their illegitimacy or inhumanity. On the contrary, we find some remarks on them as necessary acts of severity. The execution of Sidney, Hume writes, is «one of the greatest blemishes» of the age¹⁵⁰. The court and the ministry were «inexcusable»¹⁵¹. The evidence was «not legal» and the jury «very blameable», and this is a «great reproach on the administration»¹⁵². But Sidney was «undoubtedly guilty», he was always «a most inflexible and most inveterate enemy to the royal family», and even «abused the King's clemency»¹⁵³. That the King should pardon such a man «might be an act of heroic generosity, but can never be regarded as a necessary and indispensable duty»¹⁵⁴. This is *History*. And perhaps these are some of those thousand things that Hume could have said about Beccaria, and his philosophical *Crimes*.

In short, Morellet, who is connected with Hume, tells Beccaria that Hume desires him to tell Beccaria «one thousand things». Being the unfaithful and criticized translator of *Dei delitti*, Morellet adds that Hume carefully read the original and the French translation and approved of Morellet's use of translator's licence. Beccaria thanks Morellet for Hume's congratulations and celebrates Hume as a profound philosopher and a historian. Morellet tells Hume that he «faithfully» reported to Beccaria the fact that Hume paid attention to his work and said «good» things about it: Beccaria told him to tell Hume that he is «sensible» of this attention and «encouraged» by these things. Yet, Hume apparently never wrote to Beccaria, and certainly never

wrote anything about *Dei delitti* in his published works. On the other hand, Hume's friend Ramsay wrote a criticism of *Dei delitti*, which is partly founded on Hume's criticism of the contract theory and has something in common with Grimm's and Diderot's perplexity over Beccaria's work. It is likely that Hume could agree, at least in part, with Ramsay's reflections. It is certain that he could not accept any proposal for the abolition of capital punishment which was founded on a social contract, and it is equally certain that in the *History* he takes it as a matter of fact.

Even if we could maintain that Hume had at his disposal some argumentative resources for a critique of the death penalty, it is a fact that he never used them, at least in his public writings nor – as far as I know – in his private correspondence. In 1766 d'Alembert informs him about the execution of *La Barre* («such an absurd and atrocious arrest [...] an abomination»)¹⁵⁵, and twenty days afterwards Hume writes to the Marquise de Barbentane concerning «the atrocious punishment of the Chevalier de la Barre by the Parliament of Paris, on account of some youthful levities»¹⁵⁶. Hume has no doubts: these «very strange stories [...] excite horror in every one, and give me a sensible concern»¹⁵⁷. As a lover of France, he is «pleased to hear, that the indignation was as general in Paris as it is in all foreign countries»; as a philosophical historian he finds it «strange» that «such cruelty should be found among a people so celebrated for humanity, and so much bigotry amid so much knowledge and philosophy»¹⁵⁸. Yet, even in this case, Hume does not appeal to Beccaria's *Delitti* nor say a single word against capital punishment.

ed the crime was not heresy or infidelity; for as these crimes hurt himself in his *temporal* interest and advantages, perhaps he may not be altogether so indulgent to them» (*ibidem*, pp. 34-35).

¹⁴⁸ «When any Man, even in political Society, renders himself, by his Crimes, obnoxious to the Public, he is punish'd by the Laws in his Goods and Person; that is, the ordinary Rules of Justice are, with Regard to him, suspended for a Moment, and it becomes equitable to inflict on him, for the *Benefit* of Society, what, otherwise, he could not suffer without Wrong or Injury» (Hume, *Enquiry*, cit., p. 40).

¹⁴⁹ C. Beccaria a A. Morellet, 26 gennaio 1766, *Carteggio*, cit., p. 223.

¹⁵⁰ D. Hume, *The History of Great Britain*, A. Millar, London 1757, vol. II, p. 363.

¹⁵¹ *Ibidem*, p. 362.

¹⁵² *Ibidem*, p. 363.

¹⁵³ *Ibidem*.

¹⁵⁴ *Ibidem*.

¹⁵⁵ J.-B. Le Rond d'Alembert to D. Hume, 4 August 1766, in *Letters of Eminent Persons Addressed to David Hume*, ed. by J.H. Burton, W. Blackwood, Edinburgh and London 1849, pp. 196-197.

¹⁵⁶ D. Hume to the Marquise de Barbentane, 29 August 1766, in *The Letters of David Hume*, 2 vols., ed. by J.Y.T. Greig, Clarendon Press Oxford, 1932, vol. II, p. 85.

¹⁵⁷ *Ibidem*.

¹⁵⁸ *Ibidem*.