Cesare Beccaria's Dei Delitti e delle pene (1764)
Approaching the Multilingual Textual and Paratextual
Tradition from an (Undogmatic) Digital Point of View

Claudine Moulin, Christof Schöch

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Toward Undogmatic Reading

Narratology, Digital Humanities and Beyond

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Cesare Beccaria's Dei Delitti e delle pene (1764)

Cesare Beccaria's treatise *Dei Delitti e delle pene* (*On Crimes and Punishments*) can be described as one of the most influential and vividly discussed texts of the Age of Enlightenment.[1] Originally a philosophical pamphlet, it soon developed with its following editions into a fundamental legal treatise and one of the founding stones of modern criminal law (Audegean, 2009, p. 43). First published in Italian in 1764 in Livorno, it rapidly spread over Europe in a multitude of translations and rearrangements of the primary source and created an intellectual discourse laboratory, often depicted as "le moment Beccaria".[2] In the last third of the 18th century alone, numerous editions of the Italian original were published (1764, 1765, 1766, 1774, 1780, 1781, 1786), with translations and reeditions in German (1766, 1767, 1778, 1788, 1798), French (1766, 1773, 1782, 1784, 1794, 1796) and British and American English (1767, 1769, 1778, 1785, 1788). The velocity of the transmission of the text from Italy to France, Germany and England, and then, among other countries, to Spain,

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[2]   See Audegean & Delia, 2018; for the history of the textual transmission e.g. Alff, 1998, pp. 186–188; Audegean, 2009, pp. 61–92; Babini, 2007; Loretelli, 2017; for the reception of Beccaria in 18th century Germany Kreutziger, 1988.

Sweden and Poland is on the one hand remarkable, on the other also typical for the diffusion of print since the Early Modern times, where similar phenomena can be observed for other types of treatise literature with relatively fast and wide-spreading republication and translation processes.[3]

In the case of Beccaria (1738–1794), the core subject of the – originally philosophical – treatise with its rejection of torture and death penalty was not only timely for enlightened thinking, but in its initial form, the text already tackled a wide range of pertinent societal questions, ranging from further aspects of civil and criminal law (as for example infanticide) to general contemporary subjects of moral and legal behavior. Giving subject to (controversial and/or supplementary) discussion, the primary text was thus reconsidered, reorganised and revised in various ways by its foreign translators and editors, and also „revisited" by contemporaries within the framework of contemporary intellectual discourse, for example in France by Voltaire and Diderot, and in the following decades in England by Jeremy Bentham. Besides playing an important role in the intellectual debates of the time, it also found a pragmatical reception by contemporary practitioners such as magistrates and lawyers. The history of the book can thus itself be regarded as the result of an interaction of "undogmatic readings", which constantly recontextualise and reconstruct the text anew.

Beccaria's treatise and its philosophical, historic and judicial dimensions and implications have been studied intensively in the past decades, especially in the domains of philosophy, history and law studies.[4] In the following, we want to open the discussion towards an interdisciplinary approach involving also philology and Digital Humanities. To this aim, we will focus on issues of textual transmission and the paratextual dimension. The paper is structured as follows: In a first step, we explore general aspects of the transmission of the primary text of the treatise and its subsequent editions and translations in the 18th-century European context and address central aspects concerning paratextual issues and their embedding in networks of printing. The following section reflects on how Digital Humanities can help analyse and explore Beccaria's treatise through the times from an interdisciplinary perspective, especially from the point of view of the dynamics of translation cultures, digital lexicography and conceptual history. We will first focus on the textual history and how para-textual elements help to reconstruct and explain the transmission process. Based on first results of our corpus analysis, we will then discuss the digital perspective and how digital methods can be made fruitful in an interdisciplinary approach to Beccaria in a European context.

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[3]   See e. g. for the 16th and 17th centuries the case studies in Moulin, 2016, 2018.

[4]   See e. g. the overview in Audegean, 2009; Porret & Salvi, 2015; Audegean & Delia, 2018 and the publications in the Journal *Beccaria. Revue d'histoire du droit de punir* (2015–2016).

Textual metamorphosis and (para-)textual transmission

The intense circulation of the Italian primary text and the exact "genealogy" of the Italian editions, translations and reeditions of the text (including fictitious places of printing and pirated editions), as well as the interdependence of the Italian primary text with the subsequent ones in other European vernaculars, reveal a complex network of actors involved in the dissemination process. The details of this complex textual metamorphosis and transmission process still require an in-depth analysis from the point of view of source history.[5] On the whole, we can observe a growth of the material as translators and/or editors are rearranging the text or adding commentaries to it. Central to the early textual transmission was the French translation of the third Italian edition (1765) by the economist and *Encyclopédie* contributor André Morellet (1727–1819) in 1766. His translation featured a rearrangement of the chapters and new, hitherto unpublished additions by Beccaria himself, which in turn flowed into subsequent Italian editions, and then considerably contributed to the prestige of the author in his home country.[6] This revised French edition (which could even be considered to have been "rewritten"[7]) was itself the basis for the first translation into German in the same year, and also the commentary part of the first English edition of 1767, with the core text translated directly from Italian (see Fig. 1; the title pages of the first editions in Italian, French, German and English).

The various phases of revision and transformation of the treatise as a print "in motion" include in particular the following key elements that can change from one edition to the other. Regarding the nature of the primary text, we can observe, for example, rearrangements of the textual structure (e. g. chapters) and its presentation and/or additions/deletions of text and passages of text, possibly leading to the generation of a new primary text.

Regarding secondary elements of the original, primary text resp. its material realisation in the printing process, a wide range of elements can be found, as for example the addition of supplementary (non-auctorial) text in the form of commentaries, designated as such and distinct from the primary text. Further secondary features to be mentioned here are the diverse rearrangements of the title pages (providing e. g. supplementary information about the genesis of the translation, the addition of commentaries etc., and, as the case may be, mottos – notably a quote from Francis Bacon), then printed marginalia with the primary text, footnotes, prefaces and accompanying

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5   See e.g. the overview in Audegean, 2009; Alff, 1998; Bretschneider et al. (forthcoming).

6   See e.g. Pandolfi, 1977; Juratic, 2014, p. 241; Thomas, 2014, pp. 580–583.

7   See Abbrugiati, 2009, p. 18: "Les débats suscités par la traduction-réécriture de Morellet mettent remarquablement en évidence la valeur littéraire du texte source et ce que Diderot n'a pas hésité à appeler sa poésie".
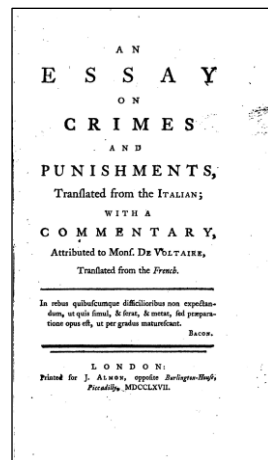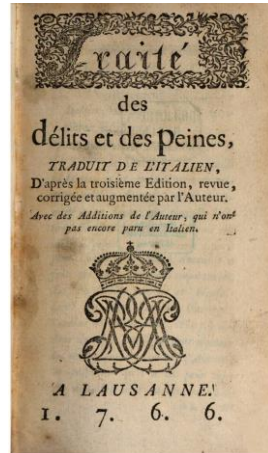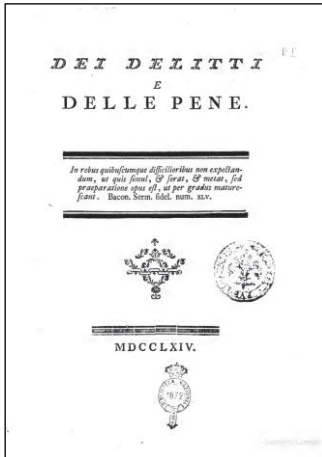
Fig. 1:   Title pages of the first Italian, French, German and English editions of Beccaria's
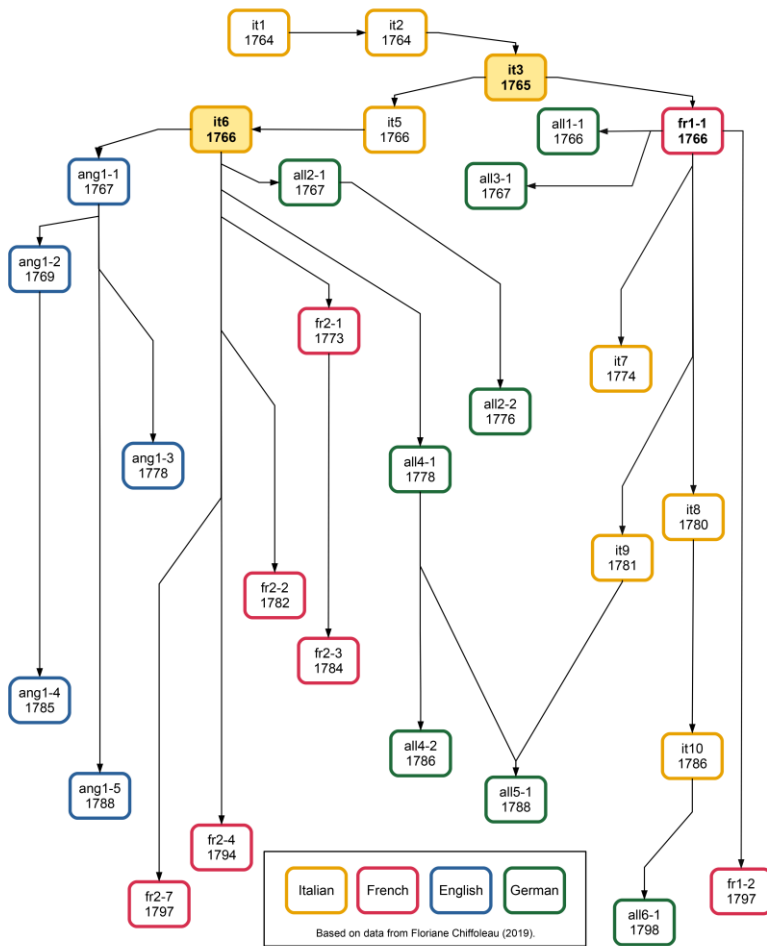Dei Delitti e delle pene

Fig. 2:   Tentative genealogy of the editions and translations of Beccaria's treatise, published before 1800, on the basis of an analysis of the title pages and the prefaces by Floriane Chiffoleau (EHESS); see Chiffoleau, 2019 (it4 having no extant copy)

letters, appendixes, indices, errata lists, presence/absence of iconographic elements (frontispiece) etc.

These additions and transformations can not only lead to an increase in the volume of the book: the first Italian edition of 1764 having 104 pages, the ninth one (Venice 1781) comprising two volumes (xvi p., 269p.; 248p.), with many possible variations in between. Given the extent of the modifications made, they can also be said to produce historically contingent, undogmatic readings of their respective previous versions.

Taking up the concept of *paratext* developed by the French literary scholar Gérard Genette (1987), we can note that of all the secondary elements mentioned above that do not involve the primary text itself are of paratextual nature, that is additional to the latter (with their own transformations, each edition in fact creating its own primary text). These paratexts are supplements to the primary text and interact dynamically with it. Regarding the complex history of the primary text in question here, paratexts are of fundamental value for the reconstruction of the genesis and circulation of the treatise and its textual variations (cf. also Tonin 2016). Moreover, they can help uncover the multi-layered and complex transmission and revision process of the text itself. Figure 2 provides a first attempt at such a reconstruction by using paratexts in a digital context (here title pages and prefaces) to evaluate the relationship between the extant editions and the Italian original, the subsequent translations and their interaction with following editions, both in Italian and in other languages. This reconstruction and visualization of text transmission in a multilingual context forms a first step, needing adjustment by means of further (ongoing) analysis of other elements in the network built by the different editions and their constitutive chapters, commentaries and the other textual elements mentioned above.

The clarification of the individual and collective text genesis and (dynamic) transmission is not only an interesting instrument that helps clarify, for example, the history of the intellectual discourse around the text and the dynamics of editing and printing networks in 18th century Europe, but it also constitutes the heuristic preliminary work for other research questions that can be approached and treated especially by Digital Humanities methods.

The digital perspective – toward undogmatic reading of the European Beccaria

In the following, we would like to reflect on the possibilities of an interdisciplinary approach to the Beccaria corpus, building on digital methods in the Humanities. For this purpose and based on the survey of the target languages described above, a complete corpus of digital facsimiles of all extant (and available) editions and translations

up to 1800 has been constituted by the MetaLex team. From these image files, full text is derived using Optical Character Recognition software with semi-automatic post-processing to ensure a consistently high quality of the resulting text. This process is ongoing but has been completed for a sufficient amount of text from a sufficient number of editions and translations to allow for proof-of-concept work to begin on subsequent steps. One of the central aspects of the digital investigation in the project is the history of the words of law, including lexical change from a conceptual point of view. Furthermore, the project is dealing with the challenges of a historical, multilingual corpus of heterogeneous editions where the texts do not have uniformised, normalised grammatical and orthographical systems.

Thus, as for the annotation dimension of the corpus, there are several different types to be considered. Besides document-level annotations (i. e. metadata), four types of in-line annotations are provided: one providing alignment information, one for linguistic annotation, one relevant for spelling normalisation and finally the most important one, which we call meta-lexical and that is concerned with legal concepts. Document-level annotations describe each of the editions and translations in respect of their language, place and date of publication and translator. Alignment information is recorded on a per-sentence-level, so that each sentence in each edition or translation has an identifier which can be used to link that specific sentence to all of its realisations in other editions and translations. This has huge benefits in terms of concept retrieval across editions and translations, which is one of the key requirements for the MetaLex project. Linguistic annotation is added using standard automated procedures from Computational Linguistics. In our case, token-level annotation is added using Tree-Tagger in conjunction with appropriate language-specific models (Schmid, 1994). It includes information about the lemma (the base form of a word) as well as about the part-of-speech (e. g. whether the word is a noun or a verb). This kind of information is useful when creating complex queries relating to the data, like multi-token morphological and lexical patterns. Annotation regarding spelling normalisation is added in such a way, that for any word that is normalised or modernised in the running text because the original edition has a variant historical spelling (such as "die That" for "die Tat" in German or "elle demandoit" for "elle demandait" in French), the original spelling found in the edition is preserved in a separate annotation layer. Finally, the meta-lexical level of annotation is based on an inventory of key legal concepts appearing in Beccaria's treatise. In terms of lexicography, we call these concepts "meta-lemmas" or "termes noyaux"; they start with "crime" and "punishment", include "law", "truth" and "torture" and do not end with "incest", "humanity" and "probability". The system is designed in such a manner that both onomasiological as well as semasiological dimensions can be targeted.

BECCARIA31 [mlx="LAW"] ✕			☐ ☐

Query 🔧 [mlx="LAW"]   ▼ ⦿ ⚙ ✒ ▾ ⬦

text_lang, text_year, s_n	Left context	Pivot	Right context
de, 1766, 33	wahr, so müßte man alle	Gesetze	und Gewohnheiten, die den Endzweck haben,
de, 1778, 33	dem also, so müssen die	Geseze	, welche, um gerade durch zu fahren
en, 1767, 33	, or rather pernicious must all	laws	and customs be, which tend to diminish
en, 1785, 33	, or rather pernicious must all	laws	and customs be, which tend to diminish
fr, 1766, 33	même comme funestes, toutes les	loix	et les coutumes dont le but seroit de
fr, 1773, 33	. Ce principe admis, toute	loi	, toute coutume qui cherchera à diminuer la
it, 1764, 33	inutili, anzi perniciose sarebbero quelle	Leggi	, e quei costumi, che cercassero diminuirne
it, 1781, 33	inutili, anzi perniciose sarebbero quelle	leggi	e quei costumi, che cercassero diminuirne la
de, 1766, 34	als schädlich ansehen: weil diese	Gesetze	einem Theile der Gesellschaft dessen eigene Bedürfnisse,
de, 1778, 34	als schädlich angesehen werden. Dergleichen	Geseze	würden zu nichts anders helfen, als daß
en, 1767, 34	effects of this passion. Such	laws	would only burden one part of society with
en, 1785, 34	effects of this passion. Such	laws	would only burden one part of society with
fr, 1766, 34	cette passion: parce que ces	loix	chargeroient une portion de la société de ses
en, 1767, 35	the contrary, wise are the	laws	, which, following the natural couse of
en, 1785, 35	the contrary, wise are the	laws	, which, following the natural course of
en, 1767, 38	motives, which correct the eternal	laws	of nature. s The act of adultery
en, 1785, 38	motives, which correct the eternal	laws	of nature. THE act of adultery is
de, 1766, 39	, und worunter es gleichwol die	Gesetze	zu verbergen zwingen, verstecktes Verbrechen, daß
de, 1766, 39	verstecktes Verbrechen, daß es dem	Richter	weit leichter fällt, demselben vorzubeugen, als
de, 1778, 39	Vorhange bedeket, den selbst die	Geseze	darüber gehänget, und mit so zweydeutigen Folgen

⧀ ⦉ 1 -95/95 ⦊ ⧁

Figure 3: Query across languages on a proof-of-concept sample version of the corpus

In terms of the "three axes of digital text annotation" defined by Jan Christoph Meister, the annotations regarding lemma, part-of-speech and spelling are clearly situated at the inductive, declarative and algorithmic pole of the space, whereas the meta-lexical annotation can be said to be interpretive and hermeneutic, at least to some extent (cf. Meister, 2020). Technically, the annotations are all added (automatically for all but the meta-lexical annotations, which require human annotators) to a version of the texts that is encoded according to the Guidelines of the Text Encoding Initiative (cf. Burnard, 2014), the *de facto* standard for representation of texts in the Humanities. The annotation scheme is designed to allow import into the text analysis workbench TXM (cf. Heiden, 2010), where analyses on all levels of annotation can be conducted. The latest version of TXM (0.8.0) allows for annotations to be modified manually after an algorithmic pass, adding some flexibility and context-sensitivity to the annotations, but ultimately our approach aims for consensus regarding the annotations rather than allowing for disagreement between annotators (cf. Meister, 1994). A small part of the results of such a query, searching for the meta-lemma "law" across several translations, is shown in Figure 3.

Based on this annotated text, the next step will be to test the relevance and feasibility of such an approach – which brings us back to Beccaria. For his treatise *Dei Delitti et delle pene*, it is not a question of considering how one should translate a particular word or concept, but of seeing in what ways it has actually been translated.

Our project therefore does not offer modern translations, however scientifically based they may be, but confronts the user with a strong historical reality, namely that there is a diversity of possible translations in a given space and time. In this sense, the project supports an undogmatic reading of the Beccaria tradition.

What this means can be shown by the Italian word "reo", in Beccaria. This has two opposing legal meanings: on the one hand, it corresponds to the word "coupable" in French, "guilty" in English, which in modern German would most likely be translated instead as "Täter" or "Schuldiger". On the other hand, it corresponds to "the accused" in English or the "l'accusé" in French, a concept that also embraces the person who could ultimately be acquitted by the court as not guilty, which in modern German is referred to by the terms "Beschuldigter" or "Angeklagter". The explanation lies of course in the fact that the justice of the Old Regime did not yet know the presumption of innocence in a modern sense. Thus, this confusion highlights, in a resolutely historical perspective, that the relationships that words have in translations are not simply correspondences. As Werner Zillig (2005, 1835) has written: „[...] vielmehr ist zu zeigen, dass Begriffe, wie alle Wörter natürlicher Sprachen, grundsätzlich durch eine Unschärfe der Wortverwendung charakterisiert sind und dass sich aus dieser Unschärfe die Möglichkeit zur begrifflichen Dynamik und zum Erkenntnisfortschritt ergibt". Indeed, the concepts of a legal language history (like those of language in general) have no meaning in themselves, in each language, independent of their spatial and temporal context, and even less so if one crosses linguistic boundaries. If we are followed in these basic considerations, we will have to conclude that words need to be contextualised, otherwise they are only a simple ordering of letters. In the metalexicographical research platform the project plans to build, the users will be able to organise the material in such a way that they can visualise and analyse the concepts underlying the lemmata, their development over time, their circulation, or even the crossing of spatial and linguistic boundaries. To this end, the project enables not only new insights into the multilingual textual transmission of the Beccaria treatise in the era of Enlightenment, but also opens up new horizons, both in the field of historical lexicography and in the online presentation of lexicographical content.

Contact

Prof. Dr. Claudine Moulin, Prof. Dr. Christof Schöch
Universität Trier
Trier Center for Digital Humanities
D-54286 Trier
moulin@uni-trier.de, schoech@uni-trier.de

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