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SILVANA GRECO

## Cesare Beccaria and the Lombard Enlightenment in the Sociological Thought of Moses Dobruska

**Abstract:** The aim of this article is to analyse the influence of the theoretical-philosophical framework elaborated by the Milanese Enlightenment philosopher Cesare Beccaria (1738-1794), in the volume *On Crimes and Punishments* (1764), on the sociological thought of Moses Dobruska (1753-1794) and in particular his main work, the *Philosophie sociale*, published in 1793 in revolutionary Paris. Dobruska, a founding father of sociology forgotten for two centuries, inspired Henri de Saint-Simon (1760-1825) and later Auguste Comte (1798-1857). The article highlights both similarities and differences in the theoretical approaches and intentions between the two authors, delving into the themes of deviance, transgression of norms, sanctions as well as the ultimate goal of society, which Beccaria aspires to reform, and which Dobruska instead wants to revolutionise. The aim of Beccaria's philosophical essay is to rationalise the penal system in order to reduce unhappiness in the Duchy of Milan. Dobruska incorporates the reforms of the judicial system elaborated by Beccaria, albeit with some alterations. As a forerunner of sociological thinking, he is, however, more interested in investigating the inclinations of the deviant person and the structural processes that hinder deviance or those that support it. In preparation for a democratic society after the abolition of the *Ancien Régime*, Dobruska reflects on the social and cultural determinants of happiness.

**Keywords:** History of Sociology, Moses Dobruska, Cesare Beccaria

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### 1. Introduction

The purpose of this contribution is to retrace certain transversal, forgotten intellectual paths that unite important moments of social thought. In this case, the path I want to unearth connects the Italian Enlightenment of Cesare Beccaria (1738-1794) to the Habsburg Moravia and revolutionary Paris of Moses Dobruska (1753-1794), a founding father of sociology, forgotten for a good two centuries<sup>1</sup>, who inspired and influenced the thought of Henri de Saint-Simon (1760-1825) and Auguste Comte (1798-1857).

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1. Born in 1753 in Brünn, Moravia, then part of the Habsburg Empire, Moses received a Jewish education. His family belonged to the Sabbatian sect, which was very open to the

We will thus discover two seemingly distant worlds that nevertheless display unexpected consonances. Investigations such as this may contribute to a new European intellectual geography, a reconsidered and updated geography that I believe we all feel the need for.

Moses Dobruska's main work is titled *Philosophie sociale dédiée au peuple François par un Citoyen de la Section de la République Française, ci-devant du Roule* [Greco 2021, 2022, 2023]. From my extensive studies, it is clear to me how the author found intellectual nourishment in the late seventeenth- and eighteenth-century thinkers of England, Switzerland, Prussia, and Italy. He transforms and reworks the ideas of John Locke (1632-1704), Samuel Pufendorf (1632-1694), Jean-Jacques Rousseau (1712-1778), and Immanuel Kant (1724-1804). Among others, he also drew on Cesare Beccaria's philosophy of law in answering the pressing questions of the revolutionary context in Paris, to which he had moved as a fervent Jacobin once he left Vienna, the capital of the Habsburg Empire.

Dobruska intended to elaborate his own revolutionary social philosophical thought and to establish a new science- *art social*, which would be renamed "sociology" beginning in the nineteenth century<sup>2</sup> - that enabled him to contribute

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influences of the Christian majority culture. Moses can thus also study European literatures, and become familiar with Western philosophical thought. He moved to Prague and converted to Catholicism in 1775, along with his wife Elke Joß and young daughter Maria Anna, changing his name to Franz Thomas Schönfeld. A few years later he left Prague for Vienna, where he lived for 16 years and entered the Viennese court after being granted a patent of nobility by Maria Theresa in 1778. He would henceforth known as Franz Thomas von Schönfeld. After the birth of two more children, Katherine and Josef Franz Salis, he would accumulate a large fortune while experiencing dizzying upward social mobility. In 1792, however, he left Vienna, along with his brother Emmanuel and sister Léopoldine, who was still very young, to follow the call of the French Revolution. He first settled in Strasbourg and from there moved on to Paris, where he made a name for himself among the Jacobins as Junius Frey. In June 1793 he gave his *Philosophie sociale* to the presses. Accused of conspiring against the Revolution, he was imprisoned during the Terror and died at the guillotine, along with Emmanuel, on April 5, 1794, the same day Georges-Jaques Danton (1759-1794) was guillotined [see Greco 2022].

2. Although for centuries the term was attributed to Auguste Comte's the first, who coined it, was Emmanuel Joseph Sieyès (1748-1836) as early as 1780, in a note which remained, however, unpublished [see Greco 2022, 6].

not only to the political and intellectual debate in revolutionary Paris, but also to lay the foundations for a new society in a democratic state. On the one hand, social philosophical thinking allowed him to sharply criticise the society of the *Ancien Régime*, and to identify the *mélanges monstrueux*, as he calls them, and which, following Axel Honneth, we would nowadays call “social pathologies” [see Honneth 1994] to be eliminated. Dobruska identifies three such *mélanges*: absolutist monarchy and divisions of men into social classes by birth; tyranny and, lack of concern for the common good; and finally, great abuses of power by a minority (rulers, aristocrats, clergy, etc.) over most of the population.

For a new social order to be reorganized, it was essential that the previous one be disorganized, dismantled.

Dobruska affirms:

For you, O wise men! So that your first care is to overthrow (disorganize) the artificial regime, and bring us back to the simple regime of nature, developed by a healthy culture. Let us first return to it, examining it; and derive a new art, a new culture. Sages! Pull us out once and for all from the labyrinth of consequences and bring us back at last to the primitive source of principles. Let us draw deeply from the bosom of this fertile mother. [Dobruska/Frey 1793, 47]<sup>3</sup>.

The first revolutionary martyrs in the history of “sound reason” are Socrates, Christ, and then Kant, “the immortal, the ‘disorganiser of all philosophical systems’” [Dobruska/Frey 1793, 49].

It is precisely after disorganizing and overthrowing the social order of the *Ancien Régime* that Dobruska invites us to rethink society, to reorganize it on other bases, with a new culture<sup>4</sup>, from new principles.

The new art, which Dobruska calls *art social* – and which Auguste Comte will call “social physics”, and later “sociology” – is that new scientific knowledge marked by its use of the methodological approach of mathematics, physics, and chemistry.

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3. My translation from the original French text.

4. This theory of disorganization and reorganization, formulated by Dobruska, would later be taken up by Henri de Saint-Simon, in his 1814 essay *De la réorganisation de la société européenne*, and by Auguste Comte both, in his 1817 contribution entitled *Industrie* and in *Prospectus des travaux scientifiques* (1822) without ever mentioning Dobruska, aka Junius Frey.

Such a new scientific discipline, which aims to understand human beings, and human action, modes of interaction, but also the deviance of norms. Like scientists, who observe the phenomena of physics and chemistry, the scholar of *art social* will also be able to enucleate “laws” based on the logic of cause and effect. Dobruska, who focused on the human being living in society, elaborated 70 such laws in order to establish a social organisation under which human beings can live happily. Such laws are the constituent pieces of the Universal Constitution, described in his work. An entire chapter of the *Philosophie sociale*, entitled “Punishments and Crimes”, is devoted to the transgression of norms and the need to sanction deviant behavior in order to safeguard the stability of the social order.

It is on this thematic core that I intend to focus in the following pages to analyse the influence of Cesare Beccaria’s legal and social theories had on Dobruska. But I am not only looking for assonances. I will also seek to highlight the radical philosophical and social differences between the two authors.

## *2. On Crimes and Punishments (1764): the philosophical and social thought of Cesare Beccaria*

In the reform climate fostered by the Habsburgs, after nearly two centuries of Spanish rule and misrule [see Mauri 1931, 514], an Enlightenment intellectual *élite* was formed in Milan, in which the brothers Pietro and Alessandro Verri (1741-1816), promoters of the journal *Il Caffè* (1764-1766), stand out [see Romagnoli 1960]. A prominent role in Milanese culture would also be played by Cesare Beccaria. The firstborn son of a wealthy aristocratic family, Cesare was born in the Lombardic capital on March 15 1738 [Mirri, Beccaria, 1960, 326].

In 1764, at the age of just 26 and soon after completing his studies in law and mathematics at the University of Pavia, Beccaria, at the invitation of Pietro Verri (1728-1797), would give to the presses the short essay entitled “On Crimes and Punishments” [Beccaria 1995], immediately translated into French, in Lausanne, in 1765 [Audegean 2014, 14]. It would be an immediate publishing success, a true *best seller*, not only in the European context – in Italy, France, Prussia, and

England – but also in the American context.<sup>5</sup> In addition to French, the volume was translated into German and English in 1767, Spanish in 1774, and Russian and Greek in the early nineteenth century [De Dominicis 1911, 357]. There was no shortage of harsh criticism for the marginal role played by religion in Beccaria's thought, both from Milanese jurists of the traditionalist naturalistic law school and from the Catholic Church [Maestro 1973, 464].

The bond of friendship and intellectual confrontation with Pietro Verri were instrumental in that *conversion à la philosophie* which Beccaria dates back to 1761 [Santato 1996]. In a letter dated January 6 1766, Beccaria addresses the French translator of *Crimes and Punishments*, André Morellet (1727-1819), an economist and Enlightenment philosopher, whom he held in high esteem, and manifests to him in his own deep interest in philosophy [Mirri, Beccaria 1960, 322].

From the early 1960s onward, in fact, Beccaria's only occupation, married to a "sensitive young lady", as he himself describes his first wife Teresa Blasco, "is to cultivate philosophy and to satisfy at the same time three very vivid feelings, the love of glory, that of freedom and sensitivity to the evils of men oppressed by error" [Mirri, Beccaria, 1960, 326].

In this period, Beccaria became a true "European philosopher", as Philippe Audegean [Audegean 2014] calls him, strongly influenced especially by the thought of Montesquieu (1689-1755) and Helvétius (1715-1771).

Beccaria's reflections on the need for reform of the penal system fit into the climate of economic, cultural and social reforms implemented by Empress Maria Theresa of Austria.

As Michel Foucault [Foucault 1975] noted, the system of punishment is orchestrated by a political authority and is symbolic of its control and power. It is therefore understandable how the change in modern economic and political organizations has brought with it new forms of punishment [Mathias 2013, 1253].

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5. As many as two future U.S. presidents, the second John Adams (1735-1826) and the third Thomas Jefferson (1743-1826), were deeply influenced by Beccaria's thought and incorporated his concepts at the forefront of criminal law, especially those concerning the abolition of the death penalty. As many as 26 excerpts from Beccaria's *On Crimes and Punishments* [Mastro 1973, 467, see Funston, Funston 1976] can be found in Jefferson's book, an advocate of the abolition of the death penalty, entitled *Commonplace Book* dl 1819. To date, only 23 out of 50 states in the United States of America have abolished the death penalty [Buchholz 2023].

The theories and axioms of criminal law formulated by Beccaria in his work, conceived as a philosophical essay [Audegean 2014, 21], still constitute the pillars of the legal system today, both in Italy and in many other European countries. *On Crimes and Punishments* is the fruit of the socio-economic and cultural changes in the second half of the eighteenth century. Thanks to the spread of Enlightenment ideas in the Duchy of Milan, Beccaria welcomes, on the one hand, and incorporates into his thought the concept of the “sacralization of the individual” or the institutionalization of human rights [Mathias 2013, 1247-48]. On the other hand, he makes the utilitarian tradition of public good his own.

Without going into the merits of Beccaria’s entire work, I focus here on four concepts transposed by Moses Dobruska, albeit with variations, in the Universal Constitution outlined in the *Philosophie sociale*. These deal with the origin of punishments, their justification, proportionality and the death penalty.

### 3. *The origin, justification and purpose of punishment*

Beccaria distanced himself from the traditionalist philosophical current, in vogue in the eighteenth century, which based political authority on divine natural law, and instead embraced the natural law theory<sup>6</sup> of the social contract as the foundation of the state (the “sovereign” or political authority), which enables men to live in society.

According to Beccaria, in the state of nature that historically preceded the state of culture, men were free and autonomous. They were, however, violent and constantly in conflict with one another. Similarities with the thought of Thomas

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6. Although the currents of natural lawism are multiple declined in different ways by their authors and the few female authors including Olympe de Gouges (1748-1793), known for the *Declaration of the Rights of Woman and the Citizen* (1791), they are based on her two theses. The first thesis states that alongside “positive” law conceived by human beings, there is also non-positive law, which refers back to “nature.” The second thesis holds that natural law is “just,” axiologically superior to positive law, such that positive law deserves obedience only if it abides by natural law. The contractualistic natural law conception assumes that there are norms that do not depend on a divine will, but simply on knowledge of “nature” (the nature of man or the nature of things) [cf. Greco 2021, 109-110].

Hobbes (1588-1679) and his *homo homini lupus*, conceived in the *Leviathan*, are evident here [Hobbes 1904]. Tired of these constant tensions, which in fact do not allow them to enjoy their longed-for freedom, men decided to enter into a social contract, whereby they give birth to society, which is regulated by laws. Men sacrifice a part of their freedom “in order to enjoy what remains in security and calm” [Beccaria 1995, 9].

Justice is thus conceived as an inevitable consequence of the social contract, “the restraint necessary to hold particular interests together, without which they would collapse into the old state of unsociability” [ibid., 11]. A *common utility* must therefore be placed at the foundation of justice, because the greatest possible happiness must be granted to the greatest possible number of individuals [see Del Bo 1939, 149].

Living in society enables individuals to become the holders of rights, including the right to enjoy freedom and security. At the same time, men cede certain rights – a portion of their freedom – to the “sovereign”, or political authority, and allow it the use of force to protect the public good.

According to Beccaria, in society or in the state of culture, men retain an inclination to transgress social norms, to become deviant, to commit crimes, that is, to perform “all the actions which are inimical to the public good [...] which cause harm to society” [Ibid., 19, 24]. In his view, the extent of the crime, is not to be measured by the intentions of the perpetrator but by the harm the transgression causes to society. Beccaria is not interested in understanding the motivations for social action and deviance but rather focuses on the consequences that these behaviours have on society. Indeed, individuals are moved by different passions and “dispositions of the mind”, and it happens that “men do the greatest wrongs to society with the best of intentions” [Ibid., 22].

By the nature and severity of the harm they do, Beccaria then distinguishes different types of crimes. Major crimes concern the destruction of society and its political representatives, as well as those that endanger the private security of a citizen: his life, property, and honour. Lesser crimes are those acting, or failing to act, in a way that is contrary to the provisions of the law and undermining the public good.



To prevent such deviant actions, punishments are necessary, which only the legislature can impose by force, thanks to the social pact “signed” with citizens. The innovation in the criminal justice system, which Beccaria introduces as an enlightened philosopher, is that punishments should inflict as little physical pain as possible while imprinting themselves permanently “on the minds of men” [Ibid., 31]. He sharply criticizes the use of torture, which he considers a cruelty that should be abolished. Only then can punishments be effective over time. This innovation in the penal system fits into the broader process of cultural change that would no longer accept punishment based on physical pain [see Foucault 1975].

According to Beccaria, the legislator can be compared to a “skilled architect” [Beccaria 1995, 112] who must keep the building, a metaphor for society. The legislator-architect must be aware that there are opposing forces, internal and external, that must be balanced so that the building does not collapse.

Law and force are not in opposition and contradiction to each other. The mere enunciation of the law or discursive arguments, more or less articulate, more or less moralistic, would not eliminate the tendency of men to commit crimes. It is necessary, however, that punishment be enforced, “to prevent the offender from doing fresh harm to his fellows and to deter others from doing likewise” [Ibid., 31].

The application of punishment to the deviant person must adhere to two main criteria. First, there must be *certainty of the crime committed*. As long as guilt has not been proven, the person accused of a crime before the law is to be presumed innocent. This is based on the so-called “presumption of innocence”. Every subject is innocent until proven guilty. It is up to the accuser to prove guilt, while the accused is not required to prove innocence. This is a pivotal legal principle of criminal law that still applies today.

Second, *proportionality of punishment* is necessary, in relation to the nature of the crime committed and the harm done to society. Those that cause greater harm should be punished more severely than those that are less serious [Ibid., (§ VI, 19-21)].

What’s more, for each offense, the penalty must be defined within the maximum and minimum levels.

A first argument in support of this axiom of proportionality of punishment according to offenses is as follows. If for crimes of different severities the legislature provided identical punishments, the delinquent would be driven to commit

the more serious crime. If this were the case, then criminal law would not reduce the propensity to commit crime. On the contrary, it might even incentivise it.

A second argument in favour of proportionality is that the penal system should not provide too heavy a punishment, but neither should it be too light. In both cases, the offending person would be incentivised to the crime, based on a comparison of costs and benefits.

For Beccaria, the purpose of all good legislation is to enable men to enjoy the maximum happiness and to minimise unhappiness. Consequently, the purpose of the legislator is to prevent crimes rather than to punish them. Therefore, punishment according to the Milanese philosopher must have a primarily preventive, rather than an educational or retributive, purpose, and must be proportional to the harm done.

#### 4. *The death penalty*

One of the most heinous, cruel, and inhumane punishments is the death penalty, which was widespread in most of Europe at the time and is still in vogue in many countries around the world [Mathias 2013]. According to the Milanese philosopher, this should be abolished from the penal system<sup>7</sup>. Although there are many reasons for the abolition of the death penalty, I limit myself here to recalling three main ones.

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7. Chapter XXVIII on the death penalty in *On Crimes and Punishments* resonated widely and raised a far-reaching intellectual debate. Beccaria's arguments for the abolition of the death penalty influenced both the conception of the Russian constitution, drafted by Tsarina Catherine between 1765 and 1767, and the *Reform of Criminal Legislation*, introduced in 1786 by the Grand Duke of Tuscany, Peter Leopold (1765-1790) by which the death penalty was abolished for the first time in Europe. Article 51 defined as a penal system to be abolished [see De Luise, Farinetti 2010 – Unit 9 – Reading 7 Cesare Beccaria, *Contro la pena di morte*]. Although the debate on the abolition of the death penalty dates back to Beccaria's work, the death penalty in Italy was abolished only with the entry into force of the Italian Constitution of 1948 for all crimes committed in peacetime. It was with Law No. 589 of October 13, 1994, that the death penalty was also banished from the military penal code for any crime. The highest penalty in Italy is life imprisonment.

A first argument, supporting the abolition of the death penalty is based on Beccaria's contractualist theory, and is rooted in the thought of John Locke (1632-1704). By entering society, men gave up certain rights, which were vested in the sovereign, such as the ability to use force. However, they did not give the sovereign the right to destroy society itself. The task and duty of the sovereign is exactly the opposite: to keep society alive and to protect its citizens.

A second important argument in support of abolishing the death penalty refers back to the principle of non-contradiction. If the ruler believes that committing murder is unbearable and to be repressed with severe punishment, he cannot in turn commit a crime without falling into contradiction.

A third criticism of the death penalty is related to the principle of the efficacy of punishment. If the fear of being sentenced to death prevented crimes, it might also be acceptable. But as history shows, the death penalty has never reduced "the drive to crime, to kill".

More effective than the death penalty is, according to Beccaria, life imprisonment, which he calls the "penal servitude, [that] frightens those who see it more than those who undergo it". [Ibid., 69].

However, there are only two cases in which the death penalty should be applied and maintained. The first case concerns the citizen who, even in the absence of freedom, maintains such ties of power and influence as to endanger the "security of the nation" or even to cause a revolution of the incumbent government [Ibid., 66]. The second case, concerns the prevention of crimes that can only be repressed by exemplary punishment:

I do not see any need to destroy a citizen, unless his death is the true and only brake to prevent others from committing crimes, which is the second ground for thinking the death penalty just and necessary. [Ibid., 66].

##### 5. *The Philosophie sociale of Moses Dobruska*

Long forgotten because of his tragic death at the guillotine, and because of his eccentric origin, Moses Dobruska deserves to be considered as one of the precursors of sociology, as I believe I have shown in my recent studies [Greco 2021,

2022, 2023]. A comparison between his theories on punishment and crime and those of Beccaria, on whom Dobruska certainly depends, will allow us to better identify those hidden paths that I mentioned at the beginning of this article.

Before touching the arguments from Beccaria that are used in Chapter XIV, “Punishments and Crimes”,<sup>8</sup> of the *Philosophie sociale*, it is necessary to clarify some important differences between Dobruska’s philosophical and social thinking when compared to that of the Milanese thinker.

As I have already mentioned, the *Philosophie sociale*, in which social philosophical thinking and “sociological” thinking are developed and intertwined, has a twofold objective. In the first part of the work, the *destruens* part, Moses Dobruska identifies and analyses the social pathologies of the *Ancien Régime*, which needs to be “disorganized” in order to reconstruct a new social order. In the second part, the *construens* part, he elaborates “principles” for a universal constitution as the foundation of the new society in a democratic state in which citizens can be happy. These principles are the fruit of “art social”, or Dobruska’s sociological thinking.

It is in the *construens* part of the *Philosophie sociale* that the chapter on reflections about deviance and the sanctions to be applied is contained.

Similarly to Beccaria, in the *Philosophie sociale*, the philosophical premise of departure, for the reconstruction of the new society and to justify the emergence of a new social order, is rooted in the jusnaturalism of the social contract. Unlike Beccaria, however, Dobruska does not espouse Hobbesian negative anthropology. In the state of nature (*Naturzustand*, as he calls it in the German version of his work), understood as a presocial and not historically determined condition, men are free, autonomous, and endowed with an instinct for self-preservation. They are different from one another in capacity, as Montesquieu already noted [see Aron 1967, 81], they are not good as Rousseau imagined them, but neither are they hostile and warlike as Hobbes in *Leviathan* and, in the wake of the latter, Beccaria conceived them. Instead, they are selfish in that they think only of themselves and act in their own interests [Greco 2021, 112-114]. In contrast to Beccaria’s view, for Dobruska, men sign the social pact not so much to overcome their belligerence and to enjoy freedom, but out of a desire to become members

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8. In French *Peines et Délits*.

of a society, not a political body, to overcome their lack of self-sufficiency and autonomy, as well as to ensure their survival. According to Dobruska, only in the state of culture, that is, in living in society and through social interaction with other individuals, do human beings “have the opportunity to develop and enhance to the highest levels their intellectual and material desires and capacities, which they could not have done in the state of nature” [Greco 2021, 115].

Starting from this philosophical premise, his analytical observations are sociological in nature, as they aim to understand individuals, their individual motivations and social interactions, the relationship between individuals and society, and the relationship between individual and collective morality. In this regard, Dobruska departs from Beccaria, who has no sociological interests.

In the chapter preceding those on “Punishments and Crimes”, Dobruska makes a point that falls under what we will now call “political socialization”, or the process by which “individuals in a given society become familiar with the political system, and which largely determines their perception of politics and their reactions to political phenomena” [Rush 2007, 11]. For this purpose Dobruska uses both a macro and micro approach.

At the macro level, he questions what agents and institutions allow for the stability of a democratic government, consensus formation [Rampazi 1977], enthusiastic adherence to a democratic state and its laws, and prevention of norm transgression.

In accordance with Montesquieu’s *Spirit of the Law* [see Montesquieu 2014], which he cites in the opening of his own discussion of Penalties and Crimes, Dobruska emphasizes the role of education in the internalization of political virtues, unlike in tyrannical regimes, where it is fear, with threats and punishments, that keeps the social system cohesive.

Political virtue, as Dobruska understands it, differs somewhat from Montesquieu’s understanding of it as the love of laws and country which presupposes a “renunciation of self” on the part of each citizen; a renunciation can be painful, almost something out of nature [Ibid.].

According to Dobruska, on the other hand, if something is against nature, it is illusory to think that the citizens of a democratic state will take it on for a long

time. If, on the other hand, political virtue is conceived as a form of “morality”, which brings with it “the love of good, beautiful morality” into society, then individuals will follow it [Dobruska/Frey 1793, 216]. In other words, democracy must fascinate and be attractive to the younger generation to whom it is necessary to show the real and concrete benefits of living in a democratic state. The benefits of democracies are first and foremost the equality of citizens before the law and the enjoyment of freedom [Dobruska/Frey 1793, 216]. Freedom of expression, freedom to enjoy private property, freedom of religion. This is the only way to educate and inflame the hearts of young people so that they will be loyal, faithful, grateful citizens, enough to ensure the cohesion of the social system over time.

As was already the case with Montesquieu, the main agents of this education on democratic life, its mechanisms, and the principles of the universal Constitution are the parents. It is they who instruct their children to become citizens aware of their rights and duties, and who teach them the “dignity of man”, which is the ultimate foundation of all true democracy [Dobruska 1793, 216]. Taking a cue from Montesquieu, Dobruska thus anticipates a fundamental theme on which political sociologists still reflect today: the role of the family in the transmission and political socialization of the values of democracy, political orientations, and behaviours [see Davies 1965, Macaluso, Tumminelli 2018].

Young people who have learned and internalized the deeper meaning of democracy, its benefits, and the mechanisms of democratic functioning will be able to aspire to become the new governmental *elite*: from being politically passive subjects, they will have become active subjects, capable of moving and affecting the public sphere.

At the micro level, Dobruska’s focus shifts to the subject and the psycho-social processes of political socialization. The author of *Philosophie sociale* emphasises that political education must trigger in the subject a cognitive and intellectual, but above all emotional, process. Not only must the young citizen intellectually understand the basic theoretical concepts of democracy and constitutional principles, but he or she must also be emotionally involved, a theme that is still highly topical in sociology today [see Cerulo 2014]. Education must arouse in the young person a feeling that provokes some form of “pleasure” and a love for the good. A positive emotion such as love strengthens social ties and that makes

one perceive the common good. It is pleasure that makes democracy attractive and that alone makes it desirable, something to aspire to in the future.

Good political education not only ensures stability and political continuity for democratic government but also provides a valuable deterrent against law-breaking. As a good enlightener, Dobruska firmly believes that education is a key element in convincing citizens to follow the law, and not to transgress it.

However, what to do when citizens transgress, break laws, commit crimes?

Although Dobruska does not an in-depth and systematic analysis of the motivations and structural conditions that lead to the transgression of norms, he does point out in his work – unlike Beccaria – three relational modes and processes that lead to lawbreaking. The first is lack of reciprocity in social interactions, which turns into excessive selfishness. The need for reciprocity depends of the multiple needs that individuals alone are unable to satisfy. The fulfilment of these needs can only come about through the continuous social interrelation between individuals, according to the principle of reciprocity. The person who refuses to interact with others in terms of reciprocity stands outside the law. It hoards more goods and services in the long run than it would need, with the risk of generating new power groups. Selfishness is infamous because it destroys the “divinity of a common interest” [Dobruska/Frey 1793, 99]. Infringement of democratic norms occurs either by the imposition of force by some individuals or social groups on the majority (the right of the fittest) or by acting deceptively for ends that “offend” the ultimate principle of individuals and democratic society, namely their physical, moral, and social preservation. If, on the other hand, they “defend” individuals and society, the same behaviours are not to be condemned. Abuses of force and deception toward the “body of the social self” can result in the establishment of a tyrannical regime [Dobruska/Frey 1793, 114].

After these sociological reflections, Dobruska questions the necessity of punishment if crimes and transgressions of norms occur that endanger society and citizens’ rights, clearly drawing inspiration from the conceptual framework outlined by the Milanese philosopher.<sup>9</sup>

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9. Although Beccaria’s name is not mentioned directly in the *Philosophie sociale*, the title, “Punishments and Crimes”, chosen by Dobruska, is an obvious allusion, as are the conceptu-

Although he does not elaborate on the judiciary and its main organs, such as the judiciary or the prosecutor's office, Dobruska embraces the basic spirit of the criminal law reform advocated by Beccaria [Burgio 1996, 660]. Punishments are "grounded in nature and must be proportionate to the crimes", and must likewise "be fixed by degrees". Dobruska essentially refers back to the principle of proportionality of punishments to crimes committed, conceptualized by Beccaria. He also seemed to theorise the power of a judge's discretion in the application of punishment. The gradualness of punishment within the limits set by law.

Dobruska continues his reflection by advocating, like Beccaria, for the abolition of the death penalty. However, in his view the penalty can be applied in special cases particular conditions and actions, which endanger the survival of society, where they attack the social body:

Society cannot punish one of its members with the death penalty unless he has committed a crime against the whole body. Since the individual self, in the state of culture, is changed into the social self (*social moi*); and since the principle, individual preservation, has become the individual preservation of the whole society, it follows that one cannot commit a crime against the principle unless one commits it against the body of the whole society. [Dobruska/Frey 1793, 219]<sup>10</sup>.

One obvious point of departure from Beccaria, is that Dobruska does not distinguish between moments of serious political upheaval (revolutionary) and moments of orderly functioning of society.

## 6. *Concluding remarks*

There are some basic conceptual differences between Beccaria and Dobruska, concerning the purpose of their works, which I will summarize below.

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al assonances. After all, Dobruska, who knew Italian well, was well informed about cultural developments in the Peninsula.

10. My translation from the original French text.



### 7. *Transformation of the social order: from reform to revolution*

While the Lombard Enlightenment was essentially *reformist*, the French Enlightenment of the second half of the eighteenth century, to which Dobruska was an heir, was marked by a *utopian and revolutionary* valence.

In *On Crimes and Punishments*, Marquis Beccaria basically accepts the absolute monarchy of Maria Theresa of Austria, albeit hoping for reforms. These include that of the penal system, with the renunciation of unnecessary torture, the abolition of the death penalty for common crimes, and the proportionality of punishment according to crimes. It should also be mentioned that, in 1771, Beccaria had a role in public administration, as a member of the Supreme Council of Economy.

Although Moses Dobruska achieved a considerable social ascent to the rank of nobility, he would embrace the revolutionary ideas of the Jacobins and struggles intellectually for them. He would fight the absolutist regime of Louis XVI's *Ancien Régime*, desire to see it overthrown, and to witness its beheading. He was therefore careful not to condemn the revolutionaries to the death penalty.

### 8. *Purpose of thought and its social function*

Beccaria reflects, yes, on the “urge to commit crime, to transgress laws”, but he is not interested in understanding human behaviours in general and the functioning of society as a whole. Although he has no wish to revolutionize the society of Maria Theresa's Habsburg reign in which he lives, he is interested in the critique of legal and economic knowledge and the refounding of these two bodies of knowledge - autonomous of each other - with a view to reforming legal and economic institutions [see Audegean 2014, 23]. He aspires to a criminal law that has preventive and not just repressive purposes, and hopes for economic institutions aimed at a more equitable redistribution of resources. After *On Crimes and Punishments*, he had ventured into the study of political economy, trade, and strategies and policies for the redistribution of economic resources [Ibid.], within the framework of a non-theoretical but empirically grounded science. In

November 1768 he was appointed professor of political economy [Ibid., 161]. The fruit of his long teaching is the book *Elements of Public Economy*, published posthumously in 1804 [Beccaria 1804].

Instead, Dobruska instead wants to found a new thinking and new knowledge, which today we will call sociological, aimed at revolutionizing and reorganizing society on a scientific basis.

Like mathematics, physics and chemistry, “social art” must discover the laws of cause and effect that pertain to its object of study. It is required to understand that truth which remains hidden from most, which has nothing to do with the opinion of individuals. In other words, Dobruska believes that “the social world, like the natural world, is governed by laws. And the former, like the latter, can be studied objectively, with the same logic of inquiry and the same method”.

Dobruska believes that this is possible in the age in which he lives, because humanity is ripe to embrace sciences after overcoming the theological and metaphysical ages. The famous law of the three stages, usually attributed to Auguste Comte, but in truth anticipated, too, by the outsider Dobruska, immediately comes to mind.

### *9. From the reduction of unhappiness to the social determinants of happiness*

Although the foundation of justice is, for Beccaria, common utility, understood as maximum happiness, the purpose of *On Crimes and Punishments* is to reduce the unhappiness that comes from the inclination to commit crimes, which is so harmful to society as a whole. Unhappiness can be reduced by improving trial procedures and means of investigation, for example through the abolition of torture, and capital punishment, except in the cases discussed.

Quite different is the purpose pursued by Dobruska in his work. The reflection of the *Philosophie sociale* is aimed at building a democratic society that can guarantee happiness for free citizens with equal rights. That is why the part devoted to criminal discipline is, in the *Philosophie sociale*, relatively short. The analysis of happiness is addressed by Dobruska at both the micro-social and macro-social levels.

At the former level, the argument starts from the observation that human beings are in constant transformation. Because of his living in society, he has the possibility of developing and empowering to the highest levels his intellectual and material desires and capabilities, which he could not have done in the state of nature. And this entails the possibility of development, of empowerment, a central element of happiness. From the still rather rudimentary and comparative empirical analyses conducted by Dobruska – comparing different societies in different historical periods - it emerges that the inclinations of human beings are quite varied, depending on the values and customs internalized by individuals (today we would say by their socialization) [Dobruska/Frey 1793, 195-196]. Consequently, Dobruska refrains from determining what subjective factors make human beings happy. He does, however, identify an emotion and cognitive process of great importance: hope. He states:

What then would be man's greatest happiness? Hope. It is hope which shows man a more distant purpose, to sweeten the pains of the past, the anxieties of the present, through the enjoyment of a future that he has not yet tasted. [Greco 2022, 141; see Greco 2023]<sup>11</sup>

At the latter level, what I have called the macro-social level, Dobruska anticipates a major sociological theme, which today we would call the social and cultural determinants of happiness [see Ono, Schultz Lee 2013; Lee 2022]. Dobruska first identifies the political factors that facilitate and support happiness. These are first and foremost the democratic regime, the only one that can guarantee equal rights and put human dignity at the centre. In the *Philosophie sociale*, it is the legal framework, and in particular the implementation of the universal constitution, that provides the basis for the emergence of a democratic state. In addition, cultural factors, including parental education of young people in constitutional principles, strengthen the feeling of dignity and enthusiasm for democracy, which is necessary for the achievement of individual and collective well-being. Finally, economic factors can affect individual satisfaction. However, Dobruska does not believe that the state should intervene a more equitable distribution of economic resources, since the inequality of resources can be a stimulus for the development of human abilities.

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11. My translation from the original French text.

We could say that Beccaria, educated in a historicist pessimism, tends to identify punishment as a preventive guarantee, aimed at avoiding behaviour detrimental to social living. For Dobruska, nurtured by revolutionary utopia and, before that, the redemptive vision of Jewish messianism, the ultimate goal is instead to establish the age of redemption and hope.

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**Silvana Greco** is Associate Professor of Sociology at the Department of Sociology of the Technische Universität Dresden. She is Adjunct Professor of Sociology of Judaism at the Freie Universität Berlin and Vice-president of Fondazione Palazzo Bondoni Pastorio. Her latest publications include: *Moses Dobruska and the Invention of Social Philosophy. Utopia, Judaism, and Heresy under the French Revolution*, De Gruyter 2022; *Amarsi. Seduzione e desiderio nel Rinascimento* (with G. Busi), il Mulino, 2022.

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## SAGGI

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Ambrogio Santambrogio, *Bibliografia di Franco Crespi*

## INTERVISTA

Lorenzo Bruni, Giulia Salzano, *Intersubjectivity, Empathy and Community. A Dialogue with Dan Zahavi*

## RECENSIONI

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