

effects of "phantasmatic truth": on the reading of albert camus in jacques derrida's *the death penalty seminars*

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the essence of the light common to all these enlightenings, the essence of this aube [dawn], would it not be the twilight of capital punishment, the doubly crepuscular moment in which one begins to think the death penalty, starting from its end, starting from the possibility of its end, starting from the possibility of an end that breaks like day, and already begins to condemn the condemnation to death? The age of Enlightenment would be like the rising, the sunrise, the east or the yeast [le levant ou le levain] of a form of speech diagnosing, prognosticating: the condemnation to death is condemned, in the long run [à échéance].

—Jacques Derrida, *The Death Penalty*, Volume I¹

None among us is authorized to despair of a single man, except after his death, which transforms his life into destiny and then permits a definitive judgment. But pronouncing the definitive judgment before his death,

decreeing the closing of accounts when the creditor is still alive, is no man's right. On this limit, at least, whoever judges absolutely condemns himself absolutely.

—Albert Camus, “Reflections on the Guillotine,” *Resistance, Rebellion, and Death*²

BEYOND CALCULATION

Albert Camus and Jacques Derrida affirm in their writings, from different positions, their sustained intellectual and political engagement with the subject of the death penalty. Strenuously opposed to capital punishment, they are nevertheless also acutely aware that its definitive abolition is not easily achieved. Derrida's reading of Camus is largely set out in the first volume of *The Death Penalty*, a collection of seminars, held from 1999 to 2000, although references to Camus are also scattered through the second and final volume, which brings together the seminars from 2000 to 2001. In Derrida's two weighty tomes, there is a wide-ranging analysis of the topic from the Bible, the Greeks and ancient times to Montaigne, Rousseau, Kant, Beccaria, Hegel, Cortés, Hugo, Nietzsche, Freud, Reik, Benjamin, Heidegger, Schmitt, Blanchot, Genet, Camus, Badinter and contemporary views. Camus was a prominent figure in the abolitionist debate in France and further afield, not only due to his outspoken views and attempts to intervene on behalf of some offenders, as did Derrida, but also because of his well-known writings, hence Derrida necessarily engages with Camus' texts.³ The subject of the death penalty is not an isolated matter but fundamentally linked, for both Derrida and Camus, to a profound questioning of Western civilisation. For Derrida, the issue is clearly tied to his extensive considerations on justice, the law and decision-making, politics, democracy, sovereignty and theology, where the boundaries of faith, truth and knowledge are brought into question, as shown for example in *Acts of Religion*. For Camus, the death penalty, which necessitates a re-examination of the role of the State, religion and society in history, demonstrates an unspeakable violence, which can only be condemned; more generally, it is indicative of nihilism and “indifference to life”⁴ as opposed to a certain conception of revolt and measure.

In this article, I concentrate on Derrida's analysis of Camus' “Reflections on the Guillotine,” discussed in most detail in the last three sections of the first volume, namely in the ninth, tenth and eleventh sessions, from March 2000. Following some general remarks, I examine firstly Derrida's and Camus' objections to the

death penalty and talionic law: both writers reject a notion of justice which is simply reduced to an economy of calculation. Then I consider the symmetrical opposition which Derrida establishes between the Christian abolitionist Victor Hugo and Camus, whose views he classifies as “immanentist humanism.” Finally, while Derrida’s direction concerning the end of the death penalty would point beyond these positions, I stress that there are also aspects of Camus’ perspectives on justice and the death penalty, which merit further analysis, all the more if Camus’ conception is situated in terms of his subtle determinations on revolt, or rebellion, and limits in *The Rebel*, which Derrida only mentions in passing. Of course, within the scope of this article, it is only possible to point to some of the multi-layered arguments woven into the subject of the death penalty and developed in Derrida’s and Camus’ vast corpuses.

Derrida’s seminars on the death penalty were part of the broader topic “Questions of responsibility” (1991-2003). They preceded his teaching on “The Beast and the Sovereign” (*The Beast and the Sovereign*, Volumes I and II) and followed his reflections on the pardon and forgiveness (*On Cosmopolitanism and Forgiveness*), in which he meticulously expounded the impossible, aporetic conception that a pardon could only take place in relation to the unforgiveable. Derrida’s writings on the death penalty are part of his far-reaching deliberations on death, the “gift of death,” in the works of many writers, especially Hegel, Nietzsche, Freud, Heidegger and Levinas, and include such concerns as the lack of mastery of my “own” death and its unrepresentability,⁵ as well as the possibility of distinguishing between the deaths of living creatures, human, animal and plant. Indeed in the first session, Derrida begins with the consideration of whether the death penalty is “what is proper to man,” or perhaps to God, and the idea of the “sovereign decision of a power” (DPI 1-2).⁶ Moreover, if the death penalty relates to time, “given time,” and “the instant of my death,”⁷ death exceeds a logic in which objective determinations might be made to end the life of another human being. Thus, Derrida’s seminars on the death penalty inscribe the “knowledge” of death beyond any “proper” moment, outside any belief in the calculated technological control supposedly embodied in the mechanism of the guillotine’s immediate precision. What is brought into question is the very decision, in which calculations are made, as if from a position of truth, to terminate in an instant the life of another and to pretend to dominate death in life.⁸

In his study of Camus, Derrida dwells upon the opening passages of “Reflections on the Guillotine,” in which Camus tells of his horrified father, who had decided

to attend the execution of a particularly brutal murderer of a family of farmers and their children.⁹ The assassin had been condemned to death in Algiers shortly before 1914. What strikes both Camus and Derrida is the unspeakable horror and suffering, imposed in the clutches of the guillotine (RG 175-177; DPI 280-281). It is in effect, in the terms of the Eighth Amendment of the US Constitution, “cruel and unusual punishment”¹⁰ and not the supposedly instantaneous, gentle, almost anaesthetised mechanical decapitation, which Monsieur Guillotin gave all to believe, in extolling the virtues of his mechanical invention (see DPI 202-204).¹¹ Both Camus and Derrida express their fierce opposition to capital punishment and the unequivocal need to recognise human dignity in the combat against the death penalty.¹²

In asking what the death penalty is, having evoked four major figures Socrates, Jesus Christ, Al-Hallaj and Joan of Arc, Derrida underscores the necessity of reconstituting this history and horizon of sovereignty, presenting or representing itself as the right to declare capital punishment. It is imperative to bring into question the scaffolding of the concepts of history and horizon, which moreover may not resist.¹³ Derrida writes:

By scaffolding, I mean the construction, the architecture to be deconstructed, as well as the speculation, the calculation, the market, but also the speculative idealism that provides its supports. History, the concept of history is perhaps linked, in its very possibility, in its scaffolding, to the Abrahamic and above all the Christian history of sovereignty, and thus of the possibility of the death penalty as theologico-political violence.
(DPI 23)

The problem of the death penalty, in fact not abolished in France until 1981, cannot be confined to contemporary debates but also necessitates, as Derrida emphasises, a deconstruction of the very notions of history, sovereignty, religion and sacrifice, indeed faith and knowledge. Derrida engages in a radical questioning of Christianity, although in a different way from Jean-Luc Nancy’s deconstruction of it, for in a double gesture of pursuing as far as possible both a “hyper-atheological” discourse and the analysis of Abrahamic culture, Derrida stresses the necessity to deconstruct a certain Christian heritage of deconstruction, including the Lutheran origins of Heideggerian deconstruction, perhaps in a “radically non-Christian deconstruction” (see DPI 334 n6).¹⁴

Referring to Michel Foucault's *Discipline and Punish* in the early pages of his seminars (DPI 42-46), Derrida focuses on a central problem of the death penalty, which also preoccupies Camus: that justice is conceived as vengeance, as calculability, embedded in retribution or talionic law, "Eye for eye, tooth for tooth" (*The Bible, Exodus 21: 24*). In "Force of Law: *The 'Mystical Foundation of Authority'*," Derrida clearly argues against a conception of justice, as merely a calculable process and describes an experience of aporia, the haunting of the undecidable and "an experience of the impossible."¹⁵ In the seminars on the death penalty, Derrida refers to *On the Genealogy of Morals* and brings to the fore the way in which Nietzsche undoes the notion of any so-called "rationally and morally pure calculation, the principle of equivalence, the *jus talionis*, between the crime and the punishment, the injury and the price to be paid." Derrida states further:

Nietzsche's archeo-genealogical question, which is in short the question of the origin of law, and of penal law, as origin of a calculation, a rule of calculation, Nietzsche's question is then: whence comes this bizarre, bizarre idea, this ancient, archaic (*uralte*) idea, this so very deeply rooted, perhaps indestructible idea, of a possible equivalence between injury and pain (*Schaden und Schmerz*)? Whence comes this strange hypothesis or presumption of an equivalence between two such incommensurable things? What can a wrong and a suffering have in common? (DPI 151-152)¹⁶

In the wake of Nietzsche, Derrida brings into question the belief in a measure between crime and punishment, fundamental to the conception of the death penalty. It is as if the entire matter could be resolved by substituting the murder of one person with the execution of another; as if one person could simply take the place of the other, singularity signifying virtually nothing but replaceability.¹⁷

Like Derrida, Camus is outspoken against the calculations inherent in the law of retaliation and retributive justice and writes in "Reflections on the Guillotine":

We still define justice according to the rules of a crude arithmetic. Can it be said at least that that arithmetic is exact and that justice, even when elementary, even when limited to legal revenge, is safeguarded by the death penalty? The answer must be no." (RG 198-199; n 4 198)

Denying any notion of equivalence, Camus objects strongly to the concept of justice reduced to a calculation and meted out in the death penalty. Moreover pre-

meditation might well be thought to apply to capital punishment. Camus writes: "Many laws consider a premeditated crime more serious than a crime of pure violence. But what then is capital punishment but the most premeditated of murders, to which no criminal's deed, however calculated it may be, can be compared?" (RG 199). Thus, Camus challenges the law of retaliation fundamental to the death penalty and furthermore disputes contentions, which assert the need to set an example, since the secrecy, in which the State carries out executions in the dead of night, renders null and void its argument that they might serve as a spectacle to deter the people from crime. Camus also notes that there was more humanity in Greek civilisation in that access to hemlock gave the condemned some liberty in determining the time of death, in a sense allowing a choice between suicide and execution.¹⁸ The death penalty involves an irreversible decision, in which it is as if justice were always clear-cut in a society without fault. While there are differing views on the way to achieve the abolition of the death penalty, the path is not straightforward.

THE WAY TO ABOLITION

In the third session of the seminars in the first volume, following a discussion on concerns about the death penalty including in the United States,¹⁹ Derrida summarises the question to be elaborated in subsequent sessions and draws an opposition between the reflections of Hugo and those of Camus. He writes:

[...] and I am deliberately leaving aside the enormous religious question, the enormous question of Christianity, that I will formalize later taking as a pretext reflections by Hugo and Camus on the death penalty, in order to enlarge and displace them somewhat. To put succinctly what I will develop later, the question would be the following: is the growing and perhaps irreversible force of the abolitionist movement a Christian force (in which case the countries that maintain the death penalty would betray both the cause and the spirit of Christianity; they would represent a vestige of pagan or pre-Christian barbarity) or else, on the contrary, is the force of the abolitionist movement linked (this is Camus's thesis) to the progression of an atheistic humanism or of a secularization that no longer wants to accept a death penalty that trusts in the justice of heaven after death and thus, within this logic, it would not be difficult to understand that the death penalty is maintained and resistance to abolitionism remains invincible in a country, the United States, so strongly marked at the heart

of its culture and its political institutions by religion and especially by the Christian religion? As you can imagine, we will have to complicate this schema, since the conflict here does not oppose Christianity to its other, but rather two experiences, two interpretations, and two instances of the Christian Passion, the Gospels, and the church. (DPI 74-75)

In an analysis of the force of the abolitionist movement, Derrida distinguishes therefore between the two different directions of Hugo and Camus. In general terms, the distinction would be between, on the one hand, the idea that the death penalty must be abolished since it runs counter to beliefs upheld by Christianity and, on the other hand, the conviction that its abolition lies rather in the development of a secular society or “atheistic humanism,” as it is indeed religion which contributes to maintaining the death penalty. While Derrida certainly opposes these reflections on the death penalty, his intention is “to enlarge and displace them somewhat”; in short, it is evident that there are no simple choices to be made in framing the suppression of the death penalty, especially since Christianity, the Passion and sacrifice have prominently influenced civilisation and are already part of any reflection on it.

Importantly, in considering the grounds for a viable abolitionist position, Derrida believes that there is above all an alliance between Camus’ atheistic position and Hugo’s profoundly Christian perspective, which needs to be rethought. Thus, following comments on the preface to Hugo’s *The Last Day of a Condemned Man*,²⁰ Derrida states in the eighth session that in the “logico-teleological structure of this argumentation,” one could discern what may seem like different sides—

between those who, like Hugo, see in the death penalty a phenomenon that, however tied it may be to the church, cannot be abolished except through recourse to a natural law implicating both the existence of God and Christ’s passion (the death penalty is abolished in the name of Christ), and, on the other hand, those who, like Camus (we will hear from him later), think on the contrary that the abolitionist horizon is a horizon of atheistic humanism, immanentist humanism—given that one can accept the death penalty only by believing in divine justice in the beyond, a justice that renders the verdict of death reversible, not irreparable, relativizable, whereas in a world of man alone, without God, the death sentence, its merciless, implacable irreversibility, would no longer be tolerable.

(DPI 208-209).²¹

Derrida questions therefore “these two logics of abolitionism,” that of Hugo, in keeping with “Christological transcendence” and that of Camus, in line with an “atheistic humanism” or “immanentist humanism,” which would not be about divine justice but human justice existing within the world. Derrida maintains nevertheless, particularly since in the sacrifice, the Passion of Christ and the Incarnation, transcendence is transposed into flesh and blood, that the logic of Camus’ discourse of “immanentist humanism” would be “more Christian” or “Christlike” (DPI 209) than he might think. In short, the conception of immanence in Christ’s appearance on earth would mean that Camus’ “immanent humanism,” ultimately disqualifying an implacable divine notion of justice in the name of which the death penalty might be tolerated, is not entirely differentiated from aspects of the Christian religion. Derrida quotes the following passage, among others, from Hugo’s preface to *The Last Day of a Condemned Man*:²² “Civilization is nothing other than a series of successive transformations. What then are you going to witness? The transformation of penalty. The gentle law of Christ will finally permeate the legal code and radiate out from there.” (DPI 208) From this perspective of Derrida’s reading, it is the permeation of the “gentle law of Christ,” as if perhaps in a realisation of truth within man’s horizon, that might be thought to bridge the gap between Hugo’s and Camus’ seemingly opposing abolitionist conceptions.

However it is precisely the notion of Camus’ “immanentist humanism,” ultimately aligned with the Christian concept of Incarnation, which is perhaps more problematic than it appears to be in Derrida’s reading. Camus’ writings put forward something other than an immanentist, atheistic or so-called “secularised” society, which would merely be symmetrical with “Christological transcendence,” along with the advent of Christ on earth. Camus’ perspective signals a different horizon, which perhaps also “remains to be interpreted,” such as in the notion of justice which Derrida discusses in the passage cited below. In a reading of Kant’s comments in opposition to Beccaria and the abolitionist logic of the Enlightenment, in fact countering those for and against the death penalty, Derrida states:

All this, says Kant, subjects the principle of justice, from both sides in short, to a calculation of interest and thus to the evaluation of a price. But justice must remain not pricey but priceless, transcendent in relation to any calculating operation, to any interest or even to the price of life, at the cost of one’s life. Justice is above life, beyond life or the life drive, in a surviving of which the *sur*, the transcendence of the “sur”—if it is a transcendence—remains to be interpreted. (DPI 271)²³

Indeed in relation to justice and its “survival,” beyond calculation and price, there are some underlying affinities between Derrida’s and Camus’ perspectives. Camus’ reflections share some of Derrida’s concerns, which point beyond immanence as well as Christian monotheistic beliefs, beyond a metaphysics of presence, seemingly only too apparent, as Derrida would suggest, in the positions of Hugo and Camus.

HORIZONS OF JUSTICE

In Derrida’s approach, Hugo and Camus would adopt more or less symmetrical stances in decrying the death penalty. In both cases, the just resolution of the issue would be too simplistic. The death penalty could not be as easily abolished as in the realisation in the world of either truly Christian or humanist justice. However, Camus’ texts certainly expose some of the complex questions which Derrida explores. It is important to emphasise that Camus’ opposition to the death penalty is grounded in his notion of revolt in *The Rebel*. Unlike revolution, revolt involves a relentless struggle, whose goals are not simply achieved once and for all.²⁴ Always in play is the positioning of boundaries, unjustly overstepped in talionic law²⁵ and in the excessive decision imposed in the death penalty. In opposition to the nihilism of immoderation, Camus affirms rebellion, the “thought at the Meridian,” in effect, the necessity of ongoing negotiations in the setting of just parameters. Measure is fundamental to the notion of revolt which, in the demand for “a just limit,” excludes total freedom and above all the “freedom to kill.”²⁶ Crucially, the limits of revolt are not set once and for all by decision-making but point to new tensions and horizons, while absolute justice remains elusive. The demand for measure affirms an opposition to intemperance, allowing for some freedom, however the place where the limits are to be drawn is always in contention; the limits are not a given but always in play.

In explaining his opposition to the death penalty, Camus sets out just visions for the ongoing reinvention of the world. Against the disorder of nihilism, against a society which has certainly lost contact with the sacred, yet which “proceeds sovereignly to eliminate the evil ones from her midst *as if* she were virtue itself” (RG 225-226, my emphasis), Camus insists on values which place human life above the State, whose powers are excessive, and on the necessity of a balanced society. Individuals must be defended against State oppression, against absolute justice in which it is *as if* the judge were godly. The death penalty is of course definitive and irreversible. Camus writes: “Forbidding a man’s execution would amount to pro-

claiming publicly that society and the State are not absolute values, that nothing authorizes them to legislate definitively or to bring about the irreparable.” (RG 228; see 194-196) Fundamental in Camus’ argument is certainly a stand against the belief in omniscience and in favour of a position which necessarily asserts both hope and ignorance. It is what he calls a “mid-course” and, in advocating and hoping for the abolition of the death penalty as the first article of the European Code, he states:

Henceforth in mid-course, both certain and uncertain, having made up our minds never to submit and never to oppress, we should admit at one and the same time our hope and our ignorance, we should refuse absolute law and the irreparable judgement. (RG 230)

The view which Camus adopts in opposing the death penalty and refusing absolute law is one which posits neither simply immanence nor transcendence. Like the limits affirmed in his notion of revolt in *The Rebel*, in opposition to the totalising movement of revolution, Camus describes a vision of renewal, at the limits of the unknown. He writes:

Europe’s malady consists in believing nothing and claiming to know everything. But Europe is far from knowing everything, and, judging from the revolt and hope we feel, she believes in something: she believes [*elle croit*] that the extreme of man’s wretchedness, on some mysterious limit [*que l’extrême misère de l’homme, sur une limite mystérieuse*], borders on [*touche à*] the extreme of his greatness [*son extrême grandeur*]. (RG 229)²⁷

In such a position, which marks a horizon, in opposition to the absolute decree of the death penalty, the notion of justice is not retributive, based simply on a calculation, nor is it a manifestation of pure justice. There is the belief that at “some mysterious limit,” man, in his misery, will attain greatness. In Camus’ “thought at the Meridian,” by the very refusal of “the unlimited power to inflict death,” as well as the refusal of deification, the rebel is involved in “living” justice.²⁸

Through Camus’ insistence on what he designates as “living” justice, one which is always necessarily rethought, reconfigured, his position is in tune with Derrida’s perspective, notably in “Force of Law: *The Mystical Foundation of Authority*,” in which justice is of course not merely given or limited to calculated decisions. In underlining “the mystical foundation of authority” following Montaigne and Pas-

cal, Derrida distinguishes between justice as incalculable, as an experience of aporia and of the impossible, and law or calculation. Not simply of the order of calculation, justice involves experiences of “moments in which the *decision* between just and unjust is never insured [*assurée*] by a rule.”²⁹ As in Camus’ notion of revolt, justice and its “mysterious” limits are always necessarily reconceived. The inescapable element of the unknown makes it all the more problematic to make the irreparable decision, as if it were absolute truth, in favour of the death penalty.

The horizon to which Camus points is one which recognises both “hope” and “ignorance” and it marks a rejection of “absolute law,” for he argues that while we know enough to impose hard labour for life on a major criminal, we “do not know enough to decree that he be taken from his own future—in other words, from the chance we all have of making amends (*à notre commune chance de réparation*)” (RG 230, translation modified).³⁰ It is shared humanity and the problematic determination of limits which Camus evokes, not absolute knowledge; in the play of the boundaries lie the freedom and threats of democracy.³¹ Importantly, Camus distances himself from thinking which would remain simply within a historical horizon and which is nihilistic for, as he states: “it wholeheartedly accepts the evil of history and in this way is opposed to rebellion.”³² Camus writes: “The revolution of the twentieth century believes that it can avoid nihilism and remain faithful to true rebellion, by replacing God by history. In reality, it fortifies the former and betrays the latter.”³³ In bringing into question the belief in the “absolute rationality of history,” Camus affirms revolt, in which a certain ignorance necessarily plays a part, and if it could establish a philosophy, “it would be a philosophy of limits, of calculated ignorance, and of risk. He who does not know everything cannot kill everything.”³⁴

THE OPENING

Indeed Camus’ position moves beyond views of “immanentist humanism” and does not replicate a position of religious transcendence and Incarnation. Above all, what both Derrida and Camus recognise is the impossibility of just setting aside history, Christianity and the sacrifice of Christ, linked also to the economy of calculation, debt and indemnity.³⁵ As Derrida reminds us at the end of his discussion with Elisabeth Roudinesco on “Death Penalties,” it is precisely the movement beyond this history, its deconstruction, which is involved, and this does not entail simply stepping outside it.³⁶ For both Derrida and Camus, the opposition to the calculating decision of the death penalty,³⁷ which takes away humanity and

puts a price on life, is an ongoing and difficult combat in the affirmation of justice, whose borders are not fixed.

While Camus describes a persistent contest, Derrida underscores the necessity of continuing to militate against the death penalty. He does not underestimate the task, believing that even if the death penalty were abolished, it will survive in the face of other lives which would feed into it. It is evident that it provides the illusion of control and that it can return under various guises. However this means that militating against it is imperative and “for life, for survival, in the priceless interest of life, to save what is left of life [*ce qui reste de vie*].” (DPI 283)³⁸ Indeed Derrida ultimately links the question of the death penalty to the notion of auto-immunity,³⁹ whose precarious limits are impossible simply to designate by means of calculations—by equating the death of the alleged murderer and my death, the boundaries of my life and another life. In the calculation of a decision to terminate life, through the death penalty, Derrida contests the illusion of mastery over time, over the future. In effect, what is at stake is the belief that justice can be delivered once and for all. Derrida emphasises that my life exists in a way by virtue of the fact that I have a relationship with the “incalculability” and “undecidability” of the instant of my death, however the decision to terminate it would seem to abolish this relationship, in short it would paradoxically appear to put an end to what constitutes the finitude of “my life.” Derrida writes:

It is because my life is finite, “ended” in a certain sense, that I keep this relation to incalculability and undecidability as to the instant of my death. It is because my life is finite, ‘finished’ in a certain sense, that I do not know, and that I neither can nor want to know, when I am going to die. Only a living being as finite being can have a future, can be exposed to a future, to an incalculable and undecidable future that s/he does not have at his/her disposal like a master and that comes to him or to her from some other, from the heart of the other. (DPI 256-257)⁴⁰

The calculating decision and mastery, which would seem to guard against the “irruption of the other” (DPI 258), remain a phantasm or an illusion of control; “decidability,” which is indeed the very “origin of phantasm in general,” Derrida maintains, and “perhaps of what is called religion” (DPI 258).

Importantly, Derrida states in relation to indispensable opposition to the death penalty:

The point is that it belongs to life not necessarily to be immortal but to have a future, thus some life before it, some event to come only where death, the instant of death, is not calculable, is not the object of a calculable decision. Where the anticipation of my death becomes the anticipation of a calculable instant, there is no longer any future, there is thus no longer any event to come, nothing to come, no longer any other, even no more heart of the other, and so forth. So that where “my life,” be it originally granted by the heart of the other, is “my life,” it must keep this relation to the coming of the other as coming of the to-come [*venue de l'à-venir*] in the opening of the incalculable and the undecidable. (DPI 256)⁴¹

Derrida’s condemnation of the death penalty and any steadfast belief in this calculating decision is fundamentally tied to the necessary affirmation of a notion of justice beyond calculation and the phantasm of mastery. Above all, “my life” has a relation to the incalculable, to “the coming of the other” (DPI 256),⁴² which is not thought in terms of incarnation. The pathway of an abolitionist stance, which Derrida signals, would be grounded in the relation to the undecidable and lie beyond perspectives which oppose the death penalty simply from an immanent or a transcendent position.

In short, in Derrida’s reading, where Hugo’s theological abolitionist standpoint, in the name of God and the sacrifice of Christ on earth, would be merely symmetrical with Camus’ elevation of man to a godly stature, it is as if both writers created the vision of a paradise, one fundamentally transcendent, the other immanent, but neither of which is sustainable. Derrida’s pathway would not be to choose between two such alternatives, but to indicate the complexity of the task of overcoming the death penalty, whose “theologico-political violence” is no doubt embedded in our history. It is evident that for Derrida there is no simple way to step beyond the problem of the death penalty, cruelty which has continued for so long and which is engrained in civilisation. Thus, to maintain, on the one hand, that abolitionism hinges on the belief in God is no less fraught with difficulty than to maintain, on the other hand, that it hinges on the belief in man. However, it is apparent that Derrida underestimates the importance of revolt and the notion of limits in Camus’ position on the death penalty, for it is less about “immanentist humanism” than about the ongoing necessity that the horizons of a justice which “lives” always be reconceived. Such an ongoing reconfiguration in revolt, perhaps at “some mysterious limit” (RG 229),⁴³ cannot but exceed a position of “immanentist humanism.”

For Camus, the necessity to abolish the death penalty is inexorably tied to the fact that there is no place for a supreme judge, be it in an afterlife or in an incarnation on earth, in the play of limits of man in revolt. Moreover, in emphasising revolt rather than suicide, designated as the only “truly serious philosophical problem” in the earlier essay *The Myth of Sisyphus and Other Essays*,⁴⁴ Camus’ affirmation is on the side of life. In the same way, Derrida, not only underscores the affirmation of life before death, but also the necessity for the preference of life for itself to oppose the “death *penalty*” (DPI 256, Derrida’s emphasis). Clearly, both Camus and Derrida emphasise the ongoing necessity to combat the death penalty, as well as its link to religious transcendence. Furthermore, in arguing against the death penalty, Derrida also cautions against “the effect of phantasmatic truth” (DPI 258), at one with the belief in God, whereby as supreme judge, one believes that one could occupy all of the positions in a structure and succession of substitutions, so that even if the death penalty were abolished throughout the world, it will nevertheless continue to survive and to threaten lives.⁴⁵ While Derrida thinks about the question of the death penalty in relation to autoimmunity, Camus reminds us of the somewhat fragile limits between murder and suicide, suicide and execution. Indeed if Derrida emphasises that there is perhaps no absolute abolition of the death penalty, exposing the notion of autoimmunity, Camus insists no less on the necessity of revolt and the affirmation of limits, in which the responsibility for the other is not simply given once and for all. The untold strength of Derrida’s and Camus’ positions lies in their various affirmations of justice as incalculable, and in a sense necessarily always impossible or spectral, in place of a belief in retributive justice and absolute law.

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NOTES

1. Jacques Derrida, *The Death Penalty*, Volume I. Ed. Geoffrey Bennington, Marc Crépon and Thomas Dutoit. Trans. Peggy Kamuf. Chicago: The U of Chicago P, 2014, 278. These references will be given parenthetically within the text after the abbreviation DPI.
2. Albert Camus, "Reflections on the Guillotine," *Resistance, Rebellion, and Death*. Trans. with an Introduction by Justin O'Brien. New York: Vintage International, 1995 (173-234), 221. These references will be given parenthetically within the text after the letters RG. See also *Albert Camus contre la peine de mort*. Écrits réunis, présentés et suivis d'un essai par Ève Morisi. Paris: Éditions Gallimard, 2011.
3. Another question which Derrida discusses with reference to Camus is hospitality in Camus' short story "L'hôte," translated simply as "The Guest," in *Exile and the Kingdom*. Stories. Trans. by Justin O'Brien. New York: Vintage Books, 1958. See "Responsabilité et hospitalité," *Manifeste pour l'hospitalité*. Ed. Mohammed Seffahi. Grigny: Paroles d'Aube, 1999, 111-124.
4. *The Rebel. An Essay on Man in Revolt*. Foreword by Sir Herbert Read. Trans. Anthony Bower. New York: Vintage International, 1991, 6. See also Maurice Weyembergh, "Camus et Nietzsche. Évolution d'une affinité." *Albert Camus ou la mémoire des origines*. Paris, Bruxelles: De Boeck Université, 1998, 41-50.
5. On one's own death and unrepresentability, see Derrida, "From Restricted to General Economy. A Hegelianism without reserve." *Writing and Difference*. Trans. with an introduction and additional notes, Alan Bass. London and New York: Routledge & Kegan Paul, 1978, 317-350; "Tenth Session, March 26, 2003," *The Beast and the Sovereign*, volume II. Trans. Geoffrey Bennington. Ed. Michel Lisse, Marie-Louise Mallet and Ginette Michaud. Chicago: The U of Chicago P, 2011, 258-290 and *Séminaire. La peine de mort*, volume II (2000-2001). Ed. Geoffrey Bennington, Marc Crépon. Paris: Éditions Galilée, 2015, 107-108 (forthcoming in English). Mentioning his analyses on death in *The Gift of Death* and *Aporias*, Derrida will now ask whether it is necessary to think death before the death penalty or paradoxically, the death penalty first in order to pose the general question of death (DPI 237-238).
6. This issue is further developed in Derrida, *Séminaire. La peine de mort*, II, 292-293.
7. See Maurice Blanchot. *The Instant of My Death*/Derrida, Jacques. *Demeure: Fiction and Testimony*. Trans. Elizabeth Rottenberg. Stanford: Stanford U Press, 2000. Derrida devotes several pages to the question of literature and Blanchot's "Literature and the Right to Death," *The Work of Fire*. Trans Charlotte Mandell (Stanford: Stanford U P, 1995), 300-344, in the fourth session entitled "Right to Life, Right to Death" (DPI 97-122).
8. Especially in relation to talionic law and Freud and Reik's notion of the unconscious, Derrida re-examines in detail oppositions concerning the death penalty, such as "heteropunishment" and "autopunishment," "condemned to die" and "condemned to death," "act" and "non-act," "active" and "passive." See *Séminaire. La peine de mort*, II, 291; 229-250.
9. Derrida also comments on Camus' *The First Man* and *The Stranger*. In this novel, the protagonist Meursault is condemned to death for murder but which he cannot explain and in a sense unwittingly commits, while blinded by the sunlight (DPI 234).
10. In relation to cruelty and the ties between the history of the death penalty and the "cultural history of blood," see in particular *Séminaire. La peine de mort*, II, 292-297.
11. On "anaesthetical logic," whereby the guillotine or lethal injection would be imagined to be like a painkiller, see also Peggy Kamuf, "Protocol: Death Penalty Addiction," *The Southern Journal of Philosophy*, 50 (2012): 13 (5-19) and David Wills, "Machinery of Death or Machinic Life," *Derrida*

Today 7:1 (2014), 2-20.

12. For a far-reaching and nuanced discussion of dignity, sovereignty, law and the death penalty, see in particular DPI 116-117, 179-183.

13. In discussing justice, the aporia in relation to “the urgency that obstructs the horizon of knowledge” and the conventional notion of “horizon” in “Force of Law: The ‘Mystical Foundation of Authority,’” Derrida adds: “As its Greek name suggests, a horizon is both the opening and the limit that defines either an infinite progress or a waiting and awaiting.” (See *Acts of Religion*, ed. and intro. Gil Anidjar, New York, Routledge, 2010, 255-256).

14. See Derrida and Elisabeth Roudinesco, *For What Tomorrow... A Dialogue*. Trans.

Jeff Fort. Stanford: Stanford U P, 2004, 165. Derrida, *On Touching—Jean-Luc Nancy*. Trans. Christine Irizarry. Stanford, California: Stanford U P, 2005, 68-74; also Jean-Luc Nancy, “D’un Wink divin,” *Dis-Enclosure: The Deconstruction of Christianity*. Trans. Bettina Bergo, Gabriel Malenfant, and Michael B. Smith. New York: Fordham U P, 2008, 155-177; *Adoration: The Deconstruction of Christianity II*. Trans. John McKeane. New York: Fordham U P, 2013.

15. Derrida, “Force of Law: The ‘Mystical Foundation of Authority,’” *Acts of Religion*, 244.

16. Friedrich Nietzsche, *On the Genealogy of Morals and Ecce Homo*. Trans. Walter Kaufmann and R.J. Hollingdale. Ed. Walter Kaufmann. New York: Vintage Books, 1989, 62-63; see also Judith Butler’s commentary in “On Cruelty: The Death Penalty, Vol. I by Jacques Derrida, translated by Peggy Kamuf.” *London Review of Books*, 36:14 (17 July 2014) 31-33.

17. From another perspective, see Derrida, *The Work of Mourning*, trans. Pascale-Anne Brault and Michael Naas. Chicago: U of Chicago P, 2001.

18. See RG 202. Clearly, such a “choice” opens many questions, whose problematic limits cannot be underestimated. Derrida considers Camus’ proposed “compromise” (RG 233), in which the condemned would be at liberty to use a “painkiller,” as both “serious and lightweight”: while it might humanise the situation, it also anticipates, in a way, the use of lethal injections. Thus, “this anesthesial compromise can just as well confirm and legitimize and authorize the survival of the death penalty at the very moment this compromise attenuates the suffering it causes or even promises survival tout court./ Anesthesia and religion, then, there is the program.” (DPI 282). Derrida links Camus’ “compromise” to the anaesthesia of religion, as if it were an anaesthetic affording the soothing belief in an afterlife and the promise of salvation. See also Derrida’s analysis of Kant (DPI 270-274); Derrida and Elisabeth Roudinesco, *For What Tomorrow...*, 148-152; Geoffrey Bennington, “Rigor; or, Stupid Uselessness,” *The Southern Journal of Philosophy*, 50, Spindel Supplement (2012), 20-38.

19. See also Diane Rubenstein, “‘Trop de justice’: Race, US Constitutional Law and the Administration of Death,” *Parallax*, 22:1 (2016), 5-21.

20. Victor Hugo, *Écrits sur la peine de mort*. Arles: Actes Sud, 2002, 37-38; “Préface,” *Le Dernier Jour d’un condamné*, suivi de “Claude Gueux” et de “L’Affaire Tapner”. Préface de Robert Badinter. Paris: Librairie Générale française, 1989, 42-43; *The Last Day of a Condemned Man*. Trans. Eugenia De B. Adelaide: University of Adelaide P, 2014.

21. See also Derrida, *Séminaire. La peine de mort*, II, 289 n1; 337.

22. Hugo, *Écrits sur la peine de mort*, 38.

23. Immanuel Kant, “The Doctrine of Right” *The Metaphysics of Morals*. Trans. and ed. Mary Gregor. Intro. Roger J. Sullivan. Cambridge: Cambridge U. P, 2013, 105-107; see also Geoffrey Bennington, “Ex Lex,” *The Oxford Literary Review*, 35.2 (2013), 143-163.

24. See Camus, *The Rebel*, 246-252.

25. Camus writes that the law of retaliation “can operate only between two individuals of whom

one is absolutely innocent and the other absolutely guilty.” The victim is innocent, however Camus asks: “can the society that is supposed to represent the victim lay claim to innocence? Is it not responsible, at least in part, for the crime it punishes so severely?” (*The Rebel*, 206). On the law of retaliation, see notably Robert Badinter, “La loi du talion,” *Contre la peine de mort. Écrits 1970-2006*, Paris: Librairie Arthème Fayard, 2006, 35-39.

26. Camus notes the following: “The more aware rebellion (*la révolte*) is of demanding a just limit, the more inflexible it becomes. The rebel undoubtedly demands a certain degree of freedom for himself; but in no case, if he is consistent, does he demand the right to destroy the existence and the freedom of others. He humiliates no one. The freedom he claims, he claims for all; the freedom he refuses, he forbids everyone to enjoy.” (*The Rebel*, 284; *L’Homme révolté*, Œuvres complètes, volume III, 304-305). See also, among many texts, Denis Salas, *Albert Camus. La juste révolte*. Paris: Éditions Michalon, 2002.

27. Camus, “Réflexions sur la guillotine.” Œuvres complètes, volume IV (1957-1959). Ed. Raymond Gay-Crosier et al. Paris: Éditions Gallimard, 2008, 164 (125-167). In *The Rebel*, Camus states of the “men of Europe”: “They no longer believe in the things that exist in the world and in living man; the secret of Europe is that it no longer loves life.” (305). By contrast, the lack of a certain conception of the love of fate, *amor fati* (Nietzsche, *Ecce homo* 68), does not characterise the heroes evoked at the close of *The Rebel*, who “give us as an example the only original rule of life today: to learn to live and to die, and, in order to be a man, to refuse to be a god.” (306). See also Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning and the New International*. Trans. Peggy Kamuf. Intro. Bernd Magnus and Stephen Cullenberg. New York: Routledge, 1994, 176-177.

28. Camus, *The Rebel*, 306.

29. Derrida, “Force of Law,” *Acts of Religion*, 244, Derrida’s emphasis. Derrida, *Force de loi. Le “Fondement mystique de l’autorité,”* Paris, Éditions Galilée, 1994, 38.

30. Camus, “Réflexions sur la guillotine,” 165.

31. Moreover Camus writes: “Absolute freedom mocks at justice. Absolute justice denies freedom. To be fruitful, the two ideas must find their limits in each other.” (*The Rebel* 291). Clearly, these limits are not simply fixed. In Derrida’s discussion of a “democracy to come” and the notion of the opening of undecidability, where there is a shadow cast on reason, there is some common ground with Camus’ insistence, not on the immanence of what is simply given, but on the ongoing configuration of the limits. See Derrida, *Rogues: Two Essays on Reason*. Trans. Pascale-Anne Brault and Michael Naas. Stanford: Stanford U Press, 2005, 35-36; Giovanna Borradori, *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida*. Chicago: Chicago U Press, 2003, 121.

32. Camus, *The Rebel*, 289.

33. Camus, *The Rebel*, 288.

34. Camus, *The Rebel*, 289.

35. In one aspect of his reading of Hugo, who is a tireless supporter of “the inviolability of human life” (DPI 202), Derrida states: “This whole economy of substitution or this sublation (Christian *Aufhebung*, as always, that amounts to keeping what it loses) plays on, turns round, and this is not fortuitous, the little word *reste* [remains].” (DPI 207-208). See also Kas Saghafi, “The Death Penalty, in Other Words, Philosophy,” *The Southern Journal of Philosophy*, 50, Spindel Supplement (2012), 136-142.

36. Derrida and Elisabeth Roudinesco, *For What Tomorrow...*, 165.

37. Derrida states: “At bottom, I would say by way of perhaps an excessive shortcut, that what we *rebel* against when we *rebel* against the death penalty is not death, or even the fact of killing, of taking a life; it is against the calculating decision [...]” (DPI 256, my emphasis).

38. Derrida, *Séminaire. La peine de mort*, I (1999-2000). Ed. Geoffrey Bennington, Marc Crépon and Thomas Dutoit. Paris: Éditions Galilée, 2012, 380.
39. In this context, see also DPI 247-249; Borradori, *Philosophy in a Time of Terror*, 85-136; Hillis Miller, "Derrida's Politics of Autoimmunity," *For Derrida*. New York: Fordham U P, 2009, 222-244; Michael Naas, "'One Nation...Indivisible': *Of Autoimmunity, Democracy, and the Nation-State*," *From Now On*. New York: Fordham University Press, 2008, 122-146 and, from another perspective, Peter Gratton, "Philosophy in Denial: Derrida, the Undeniably Real, and the Death Penalty," *Derrida Today*, 9:1 (2016), 68-84.
40. See also Peggy Kamuf, "At the Heart of the Death Penalty," *The Oxford Literary Review*, 35.2 (2013), 241-251.
41. Derrida, *Séminaire. La peine de mort*, I (1999-2000), 347.
42. See also *Specters of Marx*, 81-82.
43. Camus, "Réflexions sur la guillotine," 164.
44. Camus, *The Myth of Sisyphus and Other Essays*. Trans. Justin O'Brien. New York: Vintage International, 1991, 3.
45. See also Derrida's analogy with substitutions in the Game of the Goose, where the square which might be assigned to the death penalty would remain a possibility yet not an act. *Séminaire La peine de mort*, II, 282-285; 292; 322-324.