

Remarks on Session 4 of Jacques Derrida's Seminar *Death Penalty 1*

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This fourth session of the seminar is devoted almost entirely to Victor Hugo's various writings against the death penalty and Maurice Blanchot's essay "Literature and the Right to Death," where Blanchot, while not explicitly coming out in favor of the death penalty, certainly cannot, as Derrida cautiously puts it, be interpreted as opposing it. This session on Hugo and Blanchot, on one literary figure firmly against the death penalty and another who leans in the direction of a logic, at least, that favors it, has been preceded, as we have seen, by a reading of Robert Badinter's *The Execution*, which is quite clearly against the death penalty, and a reading of Genet, who in his glorification of the death penalty also cannot be said to be against it in any simple way,¹ and it is followed in Session 5 by a brief detour through Baudelaire, who, in his support of the death penalty, found himself in bitter conflict with the abolitionist Hugo. Derrida thus identifies two camps within literature, and in the five sessions we have read and in the sessions to follow, I presume, he will continually play the one side off the other: Hugo, Camus, and Shelley, on the side of the abolitionists, and Blanchot, Genet, Baudelaire, and Wordsworth, on the side of those favoring the death penalty or at least the logic behind it.

But this raises the obvious question of why there are so many writers or literary figures in this seminar. One answer would be simply historical: in the case of Hugo, he was an internationally recognized literary figure whose abolitionist writings were known not only in France but throughout much of Europe and the United States. He was, as

Derrida called him, an “immense” figure who has to figure prominently in any consideration of the death penalty, and Shelley, Camus, Baudelaire, and Wordsworth can hardly be called minor figures in the story of the death penalty. It is also the case, we might speculate, that it is in literature, in novels, plays, and today in films, that we have *perhaps* the most powerful depictions of the death penalty, spectacular dramatizations that, arguably, have moved public sentiment more than all the well-reasoned and researched works of jurists, criminologists, or sociologists on, say, the ineffectiveness of the death penalty as a deterrent or the discriminations involved in its application. (I underscore *perhaps* here because it is not clear exactly how much public sentiment has really changed in the U.S. and even in parts of Europe, despite the abolition of the death penalty in all parts of the latter.) Derrida thus turns to literary figures, it might be thought, because they are the ones who have portrayed in such a powerful and often moving way the drama surrounding death penalty cases, the cruel effects of its application, the possibilities of innocent people being condemned, and so on.

But it seems that Derrida in this seminar will want to link the question of the death penalty to that of literature in a much more essential way: first to the figure of the writer or public intellectual who, and particularly in France, considers it his moral obligation to criticize existing law, such as laws supporting the death penalty, in the name of a higher or superior law, and second to the nature of literature itself, and particularly modern literature. Derrida will detect *both* in this conception of the writer *and* in this view of literature a certain *religious*, essentially Christian rhetoric that must be questioned. On the side of the writer, for example, who believes it his responsibility to listen to his conscience to discern a higher or superior law, a divine law, and on the side

of literature itself, where the literary object in modernity comes to have an inviolable status conferred upon it by its creator, Derrida will see the marks of a Judeo-Christian rhetoric, symbolics, and theology. He will detect certain theological presuppositions that, when conjoined with a discourse on the death penalty and with a state apparatus that applies it, qualify as what Derrida calls the theologico-political. This analysis of the death penalty through literary figures is thus able to show not only how the death penalty is marked by a Christian or Judeo-Christian theologico-political heritage but how a certain conception of the writer and of literature was similarly marked, and even—perhaps especially—in those who opposed the death penalty. Hence Derrida is able to show the way in which the death penalty and literature, and literature or literary figures on the death penalty in an exemplary way, belong—and particularly in modernity—to the theologico-political heritage that Derrida pursued in almost all his work of the last couple of decades. Literature would thus be related to the death penalty and the death penalty to the theologico-political, and especially to its core notion of sovereignty.

Whatever else literature is for Derrida—and this is an extremely complicated issue that we can return to later in our discussion—one thing that can be said for certain is that it belongs to a long list of notions that Derrida considers to be the remnants or relays of a Judeo-Christian or Abrahamic lineage or tradition. At the head of this long list would be, in the wake of Carl Schmitt's work, the theologico-political concept of sovereignty, even as we find it in modern democracies. But this concept of sovereignty is just the first in a very long list that includes the concepts of democracy, the world, work, cosmopolitanism, pardon (see *DPI* 82 and 89), even, as Derrida remarks here, the date or the calendar (Derrida refers to the fact that the Chinese were celebrating the year 2000),

and the concept of religion itself (a concept that Derrida in “Faith and Knowledge” and elsewhere argues is inseparable from its Judeo-Christian and Latin origins). Indeed even such seemingly modern, Enlightenment concepts and values as secularism, religious tolerance, and so on, belong, according to Derrida, to this same theologico-political tradition. One of the reasons Derrida is interested in the death penalty and would devote two entire years of his seminar to the subject would thus have to be that it too seems related to this same theologico-political tradition. The death penalty as the lawful or legally sanctioned putting to death of a citizen on the part of the state would seem to be inseparable from and unthinkable without this theologico-political tradition, beginning with its notion of sovereignty. What the death penalty reveals perhaps better than all these other notions is the exceptional status of state sovereignty, the right the state gives itself to decide on questions of life and death, on the right to put its citizens to death through the death penalty or expose them to death in war.

In some sense, then, questions of the death penalty, of literature on the death penalty and writers on the death penalty, would seem to be prime *examples* for Derrida of this larger question of the theologico-political and Derrida’s project of a deconstruction of the theologico-political or a deconstruction of the Abrahamic lineage, as he often liked to call it. But this language of examples is not quite right. For Derrida will argue, in effect, that the best way to understand the theologico-political is through an analysis of the death penalty, and not the other way around. Because these terms—sovereignty, theologico-political, death penalty, and so on—mean nothing in isolation, that is, nothing outside the historical and linguistic context or matrix in which they are located, what *appears* to be an example within a larger structure often reflects, inflects, illuminates *and*

reconfigures that larger structure. That, it seems, is the exceptional case of the death penalty, which appears to be just an example, a case, of the theologico-political but which ends up reconfiguring the whole. To understand the nature of the theologico-political or the nature of sovereignty, one must begin, says Derrida, by thinking the death penalty. (Derrida even suggests that the best way to understand *deconstruction* itself is through the death penalty. He writes, for example, “Deconstruction . . . is perhaps, *perhaps* the deconstruction of the death penalty” [DPI 32].²)

It is thus no coincidence that Derrida speaks already on the second page of the seminar of the theologico-political and a couple pages later of a “religion of the death penalty” (DPI 4), and then a few pages after that of the “phantasmatico-theological” (DPI 9) and “the properly *theologico-political* meaning of what is called the ‘death penalty’” (DPI 8). Because the very core of this theologico-political seems to be the notion of sovereignty, the death penalty is especially significant insofar as it reflects, lays bare, and reconfigures the nature of sovereignty in the prince’s or the state’s power over the life and death of its citizens (DPI 9). Inasmuch as the death penalty is considered an exception to the right to life, it offers an exemplary access to Schmitt’s claim, which Derrida looks at in Session 3, that “Sovereign is he who decides on the exception” (DPI 106-108). Discourses on the death penalty are thus marked by the theologico-political and by an essentially Christian discourse on the sovereignty of God in ways that need to be questioned or deconstructed, especially when they come from what appear to be modern, Enlightenment, and seemingly secular sources. Derrida will thus try to demonstrate how every claim either *for* or *against* the death penalty borrows in some way from this theologico-political and from a Judeo-Christian heritage. In every case, what we

see is thus *not* one claim to some transcendent or divine source being countered by what would be radically other to the divine or the transcendent but one claim to transcendence or the divine being opposed by another. This will help explain why the four cases Derrida chooses to examine (Socrates, Jesus, al-Hallaj, and Joan of Arc) are all cases of the death penalty being applied by a state against a religious claim or against a claim to another transcendence. In all four cases, Derrida will want to show, we witness the condemnation of a speech that presented itself as a *divine speech* (*DPI* 33).³ In other words, in all four cases those who were executed had a “theological and political message” (*DPI* 37). In the same way, then, that the debate between critics and partisans of the death penalty opposes *not* a wholly secular, areligious, or anti-religious position to a Christian position but, as we will see, two different aspects of the Christian, so Derrida’s four cases feature *not* an opposition between state claims to transcendence and claims against transcendence in general but claims to a *counter*-transcendence that threatens the state.

So, to summarize where we are at this point, Derrida turns to literature for several reasons; he turns to literature because some of the best known and most powerful critics—as well as partisans—of the death penalty were literary figures; he perhaps turns to literature because some of the most powerful depictions of the death penalty have come from literature and public sentiment has perhaps been changed as a result; and, most importantly, he turns to literature because literature is intrinsically related to that same theologico-political tradition of which the death penalty forms an important part.

But there is no doubt one more reason for this turn to literature and to the *two camps* within it, namely, that there is no similar division of camps in philosophy. Indeed, if literature will have been divided on the death penalty, philosophy will have spoken in

favor of it with a single voice. As Derrida writes in a very telling marginal note to the first session: “No philosophy against the death penalty” (*DPI* 24). This claim is very reminiscent of the claim in *Rogues* that no philosopher as a philosopher has been a champion of democracy or the claim in *The Animal That Therefore I Am* that no philosopher as philosopher has questioned the single line distinguishing man from the animal. These claims are all similar, indeed related, not only in their scope and rhetorical formulation but in their content. Derrida’s claims about democracy, the animal, and the death penalty are all aimed at the very same “carno-phallogocentric” tradition that places man, and often a certain transcendence of man, at its center. Thus even when the death penalty is opposed by writers (such as Hugo), the opposition is formulated on the basis of an emphasis on *human* life (as opposed to animal life). Or in the case of democracy, it is often the very same conception of sovereignty that has prevented philosophers qua philosophers both from embracing democracy and from wanting to abolish the death penalty. On the other side, there is an intrinsic relation, it seems, between democracy, a “poetic” thinking of the animal, literature as the right to say everything, and the critique or deconstruction of a certain conception of sovereignty (*DPI* 72-73). To question the death penalty, then, is to question the “carno-phallogocentrism” of which a certain thinking of democracy, of literature, of man in relation to the animal, and of sovereignty all form an essential part (*DPI* 31).

Those are just few remarks to help situate what Derrida is doing in this fourth session of the *Death Penalty Seminar*. Let’s turn now to the session itself to see how Derrida’s argument develops in relationship to this more general context.

The first thing to note is that this session has a sort of subtitle, “Right to life, right to death,” which already seems to lay out the opposition between Hugo and Blanchot that will be at the center of the session. That this session, like the entire seminar, aims to show, as I have just tried to argue, the relationship between the death penalty, literature, and the theologico-political can be seen in the reference to Schmitt right at the beginning of this session where Derrida speaks of “the theological origins of the concepts of modern politics, notably of sovereignty (with reference to Schmitt)” (*DPI* 125).

Derrida himself begins the session somewhat dramatically by citing Victor Hugo’s direct, powerful, and dramatic line: “I vote for the pure, simple and definitive abolition of the death penalty” (*DPI* 125).⁴ Starting from this single speech act, Derrida is going to analyze the various writings of Hugo on the death penalty in terms of their strategy, their rhetoric, and the *principles* that subtend them. Indeed the first thing to be said about Hugo’s position in 1848 against the death penalty is that it is, precisely, a *principled* position, a stand based on principle. As such it can be opposed to all those other non-principled stands against the death penalty, such as the one taken a hundred years later in 1948 in the United Nations Declaration of Human Rights which allows nation-states to maintain the death penalty so long as they respect certain conditions or the one taken by the United States Supreme Court when it ruled in 1972 not against the *principle* of the death penalty but simply against its application when it is deemed to constitute “cruel and unusual punishment.” Hugo’s stance is thus, as opposed to these others, a principled one, and it is based on one core, central principle: the “inviolability of human life” (*DPI* 127). This inviolability of human life is itself, argues Derrida, an inviolable principle for Hugo, the principle of principles, “the inviolability of human life

as an *inalienable property*, as a right of property over one's own life" (DPI 154). Based upon this principle to which Hugo claims to have access but which is not recognized by law, Hugo asserts the writer's right to defy or change the law (DPI 131). It is thus in the name of a higher law, a law above the laws, or in the name of *justice*, that Hugo claims to criticize and even attack the laws of France (DPI 132). Now, this language of criticizing or perhaps even deconstructing the law in the name of justice might make us wonder whether Derrida is not finding in Hugo a kind of precursor for deconstruction. It might indeed look at first glance as if Hugo, like Derrida, is criticizing or deconstructing law, the law of the state, on the basis of a "concept" or "ideal" of justice that exceeds all law. While Derrida will, of course, share Hugo's position against the death penalty and share some of his rhetoric, the main difference between them will be the figure or accessibility of this conception of justice or of this law above the laws. As Derrida will read Hugo, Hugo believes he has *access* to this higher law within him, within his moral conscience, and he believes he knows that it is a divine law he is following and a divine mission he is on.

This reference to obeying a higher law, or to disobeying state law in the name of a higher law, should make us think of Emerson and, especially, Thoreau, whose "Civil Disobedience" was published in 1849, just one year after Hugo's declaration cited at the outset of the session. This American tradition is in fact mentioned at one point in the seminar (DPI 136), but Derrida will ultimately want to show how this Hugolian gesture is related to an essentially *French* tradition of literature and of the figure of the writer. He thus says that he would "like to take a (rather long) detour by way of literature and by way of the question of literature on Christian soil, on French soil, even. And therefore

also a detour by way of the figure of the writer or even of the intellectual in this history of France, of Christian France” (*DPI* 131). As we will see, this detour will also take us through a certain renewal of the French Revolution in Hugo’s time, and thus through Hugo’s desire to reject once and for all the sad chapter of the Revolution called the Terror and return to a certain spirit of the French Revolution in its opposition to the death penalty. Derrida will call this Hugo’s Revolution within the French Revolution (*DPI* 131).

This is, then, an essentially French story that Derrida is following, but as a French and therefore largely Christian story it has international, even cosmopolitical implications. For the conception of literature and of the writer that Hugo is implicitly appealing to here is European with very definite cosmopolitical and theological presuppositions.⁵ Hugo’s view of literature and, in an exemplary fashion, of the position of the writer is related to a certain conception of cosmopolitanism and of the world citizen, to a kind of “civil disobedience,” but also, I think, to what Derrida calls in “Faith and Knowledge” a process of *globalatinization* or *mondialatinisation* that links together Christian notions of the world, cosmopolitanism and, here, a certain conception of the writer as world-citizen.

Hence Derrida goes on to find in Hugo what he calls an ambiguous Christian axiomatics (*DPI* 133). While Hugo wants to put an end to the death penalty and to the conception of sovereignty it implies, he wishes to do so, Derrida underscores, through a *divine* means; as Derrida writes, “the abolitionist instrument must be divine” (*DPI* 135). Derrida concludes this part of his argument:

Hugo's abolitionism is profoundly Christian, Christlike, evangelical. Whether it is a matter here of profound faith or of obligatory rhetoric or, as I believe, between the two, a matter of a moral conscience or of a discourse of moral conscience, of an *inner* conviction [*for intérieur*] that can be cultivated as an authority only in a Christian space, of an idea of man, of "human life," of the inviolability of life as human life that is fundamentally heir to and elementarily the offspring of a Christian family, a holy family, it remains that it is in the name of God and of a Christian God that the death penalty is going to be opposed. (*DPI* 135; my emphasis)

Derrida calls Hugo's abolitionism evangelical because Hugo is on a mission, an international mission, to spread the good word of abolitionism. It is the moral responsibility of the writer and his "unconditional right" (*DPI* 137) not to be limited by existing, nation-state laws but to question laws deemed unjust in the light of this higher law (*DPI* 136). It is thus a *sacred* mission Hugo is on, sacred, that is to say, writes Derrida, "divine or of divine right, a sovereign right" (*DPI* 136). These references to divine right and sovereign right give us our best indication, I think, of the angle of attack Derrida takes in his reading of Hugo. Though any self-respecting prince or sovereign would obviously come down on the opposite side of the question of the death penalty than Hugo, *both* the sovereign or prince, who claims the right to life or death over his subjects, *and* Hugo, who claims a sovereign or divine right of critique, rely upon the rhetoric, which Derrida argues is more than a rhetoric, of divinity and sovereignty. In short, they are two sides of the same theologico-political coin (or sovereign).⁶ Hence Hugo will condemn the law of blood for blood "by asserting divine law above human

law” (*DPI* 137), but he will do so only by invoking on his own behalf the blood of Christ (*DPI* 175). He will condemn the human and barbaric laws of the Romans and Jews, but he will do so only by invoking the name of a divine law that bears all the traits of the incarnated law of Christianity (*DPI* 138).⁷

Invoking once again the notion of the sacred, Derrida speaks of a lineage of “men-writers in French literature, from Voltaire to Chateaubriand and to Hugo, [who] institute the responsibility and give themselves the *sacred* right to make the law above the laws, to make themselves the representatives of eternal justice above the law and thus of divine justice” (*DPI* 139). Derrida seems to see in this appeal to a higher law another example of the theologico-political: an appeal to a divine law that has *already* spoken, a Christian law to which one must simply open one’s heart to hear it and so bring it down to earth in an opposition to the death penalty. Even if, as Derrida says (*DPI* 140), this higher law must sometimes be turned against the Church, it is no less Christian; indeed the claim would be that it can be all the more Christian, a return to a more original Christianity (Voltaire) or, here in Hugo, a return to the true meaning of Christianity in the inviolability of human life that would be the very lesson of the incarnation, a return, moreover, to the true Spirit of the French Revolution and a final rejection of the Terror. Hugo’s position against the death penalty, his principled stand against it, can thus be located within Christianity and within the Revolution:

Just as one condemns a certain church, or even a certain political theology in the name of Christ, one condemns the guillotine or revolutionary terror in the name of true fidelity to the spirit of the French Revolution: the borderline of this right to literature thus runs through Christianity, it marks the divide between a good and a

bad Christianity, between a Christianity that is faithful and one that is unfaithful to itself; this borderline, this line of demarcation, runs between several figures of the French Revolution. (*DPI* 140)

Derrida ends his analysis of Hugo by relating this appeal to a law beyond law, to universal conscience, to a certain notion of progress and an eternal justice that would be opposed to the transitory laws of one's time (*DPI* 142). Hugo not only calls on law to be criticized and improved but believes in a kind of historical progress. The abolition of the death penalty would be a sign of this progress, a progress that, *it too*, is marked by a Christian theology and teleology. That is what licenses Derrida to say near the very end of the session that “this abolitionist discourse is a revolutionary theodicy, a revolutionary Christian theodicy” (*DPI* 156).⁸

Though Derrida begins and ends the session on Hugo and spends nearly two thirds of his time on Hugo, there is also in this session an important reading of Blanchot's “Literature and the Right to Death,” which is contrasted, as I suggested at the outset, with Hugo's abolitionist discourse. Hence Derrida turns about two thirds of the way through a session (at *DPI* 142) that begins and ends with Hugo to Blanchot's essay of 1948—1948 being the same year, Derrida notes, as the United Nations Declaration of Human Rights and the one hundred year anniversary of Hugo's famous discourse against the death penalty that begins the session. Derrida will go to great lengths to qualify Blanchot's text as ambiguous and equivocal, though he will not hesitate to call it—choosing his words carefully—a “*terrifying* document from a certain period of French literature” (*DPI* 142; my emphasis). In this text Blanchot relates literature to the right to death, to revolution and to freedom (*DPI* 143), to the annihilating power of the name, and thus (invoking

Sade) to the point of absolute sovereignty and a certain kind of terror (*DPI* 144). Like Hugo, then, Blanchot relates literature to revolution, but unlike Hugo he relates it to that other side of the French Revolution, that is, to the Terror, to the values of blood, cruelty, and madness (*DPI* 145). Whereas Hugo thus puts literature and revolution on the side of life, Blanchot puts them on the side of death (*DPI* 145). Derrida is extremely careful to specify here that Blanchot does not praise the death penalty per se but that his discourse on literature as the right to death, on literature in relation to the Terror, does not allow one to conclude that at this period in time Blanchot was *against* the death penalty (*DPI* 146). Though not a discourse explicitly in favor of the death penalty, Blanchot's essay reproduces, says Derrida, the logical core of philosophical arguments (for example those of Hegel and Kant) that support it. It is here that Derrida finds something in Blanchot or in *this* Blanchot that makes this discourse which seems to break with the Enlightenment values of individuality, humanism, and an inviolable right to life, resemble in certain respects that with which it would seem to be breaking.⁹ Derrida thus writes of a line of thought that would run from Kant and Hegel to Blanchot:

The dignity of man, his sovereignty, the sign that he accedes to universal right and rises above animality is that he rises above biological life, puts his life in play in the law, risks his life and thus affirms his sovereignty as subject or consciousness. A law that would refrain from inscribing the death penalty within it would not be a law; it would not be a human law, it would not be a law worthy of human dignity. (*DPI* 148)

According to this logic, life is what must be sacrificed in order for there to be law:

“sacrifice is what raises, what raises itself above egoism and the anxiety of individual

life” (*DPI* 148). Neither Kant nor Blanchot (nor Baudelaire, for that matter¹⁰) can imagine a code of law without death penalty (*DPI* 159); “no law will ever be founded on an unconditional love of life for its own sake, on the absolute refusal of any sacrifice of life” (*DPI* 163).¹¹ Sacrifice, death, self-sacrifice, and sovereignty must thus all be thought together in a discourse that, if not explicitly in favor of the death penalty, at least seems to follow its logic. Derrida concludes: “Right is both the right of literature and the right to death, as right to the death penalty” (*DPI* 148). In the beginning of Session 5, after referring back to the figure of Lazarus in Blanchot’s work (see session 4), Derrida says quite directly that Blanchot’s text is not only ambiguous or equivocal but “more Christian than it appears” (*DPI* 157).

While Blanchot’s discourse on literature and the right to death appears diametrically opposed to Hugo’s emphasis on the inviolability of human life, to his humanism (*DPI* 149), what subtends both, it seems, is a certain notion of sovereignty—the sovereignty of a writer with an unconditional right to criticize existing law in the name of divine law or the sovereignty of the writer to accede through literature to death, a sovereignty that asserts its right to death in the name of a life that goes beyond mere biological or natural life. Once again, Derrida has taken what appears to be an opposition (Hugo vs. Blanchot, an abolitionist side of the Revolution with its emphasis on life vs. the Terror of the Revolution with its emphasis on the right to death) and found an element that would appear to subtend both sides (a certain theologico-political conception of sovereignty).

One final comment about the relationship between literature and the death penalty: in the course of arguing that the death penalty must be understood in relation to

the history of literature, Derrida suggests here—as he has elsewhere—a division within the history of literature itself, a shift in its nature at the beginning of modernity. This will raise a whole series of interesting questions that we cannot address here, questions that would require a good deal more justification and explanation on Derrida's part. Derrida writes in the first session of the seminar of this historical shift or division within literature or within the poetic:

if the history of the general possibility, of the largest territory of the general conditions of possibility of epic, poetic, or belle-lettristic productions (not of literature in the strict and modern sense) supposes or goes hand in hand with the legitimacy or the legality of the death penalty, well then, on the contrary, the short, strict and modern institution named literature in Europe over the last three or four centuries is contemporary with and indissociable from a contestation of the death penalty, an abolitionist struggle that, to be sure, is uneven, heterogeneous, discontinuous, but irreversible and tending toward the worldwide as conjoined history, once again, of literature and rights, and of the right to literature. A *desacralization* that, in a complex and contradictory fashion, as in the history of forgiveness, moves away from the scene and the authority of Exodus and of divine punishment. (*DPI* 40-41; my emphasis)

Derrida calls this desacralization complex and contradictory because, as we have seen, while Hugo moves away from Exodus he does so only by moving to John, to the Gospels. The right to literature, linked to a right to life, thus moves away from Exodus only by reinscribing another aspect of the theological. There is not an erasure of the theological (or, when inscribed in the state through the death penalty, the theologico-political) but a

displacement or *internalization*, perhaps even an *immanentization* of it, as the source of supreme value or worth—in Hugo or in Kant—shifts from God to man. Pre-Modern “literature” would thus maintain a certain relationship to the sovereignty of the king, to “external” authority, to the application of the death penalty, to divine punishment, while Modern literature would be related to the abolition of the death penalty (though sometimes, as in Genet or Blanchot, to its reinscription), to a desacralization of the divine realm and a resacralization of the human, to the sovereignty of the individual, to the individual as the creator (of a work) or the one endowed with the right to say everything. Modern literature would thus be related to an *interiorizing* movement of sovereignty from the divine realm to the human one.

It is from this perspective that we might want to consider Derrida’s interesting speculations concerning the beheading of Louis XVI. Derrida contrasts (at *DPI* 129), in effect, the Divine right of kings which is cut off at the same time as Louis XVI’s head with the abolition of the death penalty. Right at the moment the king is no longer sovereign or inviolable, human life—the life of the individual citizen—becomes inviolable. Derrida says that the two bodies of the king ends with the cutting of Louis XVI’s body in two; but perhaps this just institutes, in Kant for example, a certain duality of man, between, say, *homo noumenon* and *homo phaenomenon*, the second of which must be sacrificed in order for the law to accede to the first. This interpretation would suggest a certain Christian axiomatics in Kant as well; it would suggest that while Hugo and Kant would be opposed with regard to the death penalty, the debate or opposition between them would be intra-Christian and not an opposition between the Christian and what is outside it. Derrida will have thus demonstrated yet again that if deconstruction is

perhaps always the deconstruction of the death penalty, and if the death penalty cannot be thought outside a certain Christian axiomatics, then deconstruction is perhaps always a deconstruction of Christianity or of the Abrahamic lineage.

¹ Derrida writes of Genet: “one cannot say that he condemns the death penalty when he sings of the condemned and recalls that they are the Christlike and fascinating heroes of prisoners, criminals, and evildoers. The death penalty can always, also, be reaffirmed and celebrated in the name of the literature and poetry linked to the possibility of evil, to the right to evil, to the right to death, to the right to death beyond life, to the Sadian tradition of cruelty that Blanchot spoke of, in short, to what might be called the flower of evil, the possibility of the poetic and poetic blossoming that ties the tradition of the *Flowers of Evil* to *Our Lady of the Flowers* . . .” (*DPI* 164).

² Derrida will thus want to read “the possibility of the death penalty as theologico-political violence.” He thus goes on to say: “Deconstruction is perhaps always, ultimately, through the deconstruction of carno-phallogocentrism, the deconstruction of this historical scaffolding of the death penalty . . . Deconstruction . . . is perhaps, *perhaps* the deconstruction of the death penalty, of the logocentric, logomonocentric scaffolding in which the death penalty is inscribed or prescribed” (*DPI* 32). To think the theologico-political, then, one must thus think the death penalty (*DPI* 32).

³ “The point in all four cases was to put to death a speech that claimed to be but the presentation of a divine speech to which the clerical-state authorities, the double power of the churches and the states, the twinned and conjugated power of the church and the state remained deaf—and intended very well to hear and understand nothing” (*DPI* 33). In all four cases, one claim to transcendence is condemned in the name of another.

⁴ Throughout this session Derrida plays on the double meaning of *voix* as both *vote* and *voice*. Derrida's argument regarding the theologico-political value of Hugo's discourse on the death penalty might thus be summarized by this single word *voix*, where a political (human) *vote* is motivated by or crossed with a theological (divine) *voice*.

⁵ Derrida speaks of "what in Europe is called literature," and he describes these Euro-cosmopolitans as "citizens who have more or less broken with citizenship" (*DPI* 32).

⁶ This also gives us a clue into the critique of Blanchot, or of a certain Blanchot: Derrida will be suspicious, it seems, of the writer's claim to a sovereign right to literature and the right to death.

⁷ Derrida shows the way in which Hugo, through a kind of Christian axiomatics, presents himself as both father *and* son in the speech before the court where he testifies for his son.

⁸ Derrida speaks at the beginning of Session 5 of "the Christian teleo-theological character of the Hugolian interpretation of the history of humanity's progress toward the abolition of the death penalty, and his revolutionary theodicy as revolutionary Christian theodicy" (*DPI* 157). Derrida had earlier cited Hugo's claim that the death penalty is "the special and eternal sign of barbarity" (*DPI* 117). It is as if Hugo is able to see or foresee this progress and his place in it, as if the inviolability of life made us all eternal in the light of this progress. Derrida adds during session 5, speaking for Baudelaire against Hugo and his ilk: "It is as if the abolitionists were people who basically dreamed of eternity, who dreamed of remaining eternally the proprietors of their lives" (*DPI* 166 n.6).

⁹ Derrida asks earlier whether the abolitionist movement is Christian or a kind of atheist humanism (*DP1* 95); but Derrida would ultimately argue, it seems, that this is a false opposition, that humanism is in most of its incarnations essentially Christian. Similarly, just as literature can be read as both a holdover from Christianity or as a form of secularism, Derrida will demonstrate the essentially Christian presuppositions of both.

¹⁰ Baudelaire's accusation concerning Hugo's descent into animality is like Kant's notion of the *homo phaenomenon* (*DP1* 170).

¹¹ For Kant, "the death penalty testifies to human dignity and the remarkable possibility that properly distinguishes man by allowing him to rise above life, and to do so by inscribing in his law the possibility of the death penalty" (*DP1* 165).