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Scenes of Mortality in Derrida's *Peine de mort*

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How to hold a seminar on the death penalty? How to do so without, on the one hand, simply writing *on* the death penalty? As though from a point of mastery, *beyond* or *outside* its scope, from a feigned position of objectivity, or one conceived of as being without interest? But at the same time, and on the other hand, how to hold a seminar on the death penalty that does not simply equate, and thereby *reduce*, the scene of execution to that of the seminar? The gravity of a condemnation to death and death row, suffered by only a few, to the condemnation to die shared by all? To approach this difference while remaining vigilant to the specificity of both of these scenes is one of Derrida's most persistent concerns through the first year of the Death Penalty seminar (1999-2000), and it is only after taking various forms in its first ten sessions that the theatrical *rapprochement* of the scene of the execution and that of the seminar reaches what we might consider its dramatic limit, in the eleventh.¹ It is with this theater that I will here be concerned, and in particular with the two initial examples that Derrida offers there, in the eleventh session. They give us to think yet another iteration of this problematic, and one that may in turn allow us to articulate a bridge from Derrida's late thinking of sovereignty and the death penalty and their quasi-transcendentality, to his much earlier thinking of writing, citationality and the trace.

With these two issues in mind then, let us begin by recalling what Derrida says on the first pages of session six to open the second half of the first year of the seminar. After, we will explore some of the different directions that session eleven opens up. The first full paragraph of

page three (session six) opens as follows: (Note especially the role of “sur” or “on,” which will be taken up again in later sessions—and especially eleven—in terms of the valences of “survivance,” and whose value here introduces into that economy the very issue of the seminar, and its relation to its subject.)

Quand on veut éviter qu’un séminaire *sur* la peine de mort soit seulement un séminaire *sur* la peine de mort; quand on voudrait éviter que cela ne soit juste un discours de plus, et un discours de la bonne conscience... il faut au moins tout faire pour s’approcher soi-même, dans son *corps*, *d’aussi près que possible*, de ceux pour qui la peine de mort est la peine de mort, effectivement, de façon effective, concrètement, indéniablement et cruellement menaçante, dans l’imminence absolue de l’exécution, et parfois dans le suspens d’une imminence qui peut paraître infiniment brève ou durer interminablement.
(DP2 3; my emphasis)

This problem of the bearing of the seminar *on* the scene of the execution, of the possibility of an “approach,” but also, and conversely, the reluctance to simply and unjustly confound what is not at all the same, at bottom depends on the plausibility of the division—first referred to in session nine (DP2 102)—between being condemned to death, and being condemned to die. A division that will be behind all that follows. On this difference rests the possibility of a rigorous separation of the basic condition of mortality, from what might appear to be a secondary or derivative form of putting to death, namely capital punishment. And one way to understand Derrida’s various attempts to think the scene of the seminar and death penalty together—the impetus, in other words, for this interest—is precisely as a means of thinking this difference between *condemné à mort* and *condemné à mourir*. The encounter between the scene of the seminar and that of the execution would then *stage* a confrontation of these two condemnations.

1 *First Example*

In the final session of year-one of the death penalty lectures, the metaphorical space of the theater is set forth as the space of the seminar. It is the dramatization of a citation:

C'est une citation: "épouser au prix de la vie." *Je la dramatise, cette citation, je la théâtralise un peu en l'arrachant à sa page: "épouser au prix de la vie."* (DP2 167; my emphasis)

The scene of the lecture is, consequently, made that of a disembodied text, violently wrenched from its body-context, and thrust forward into the spotlight of the seminar-stage. And the presentation that follows will be none other than a kind of attempted re-capitulation. It will call forth the body [corps] of the text to testify [comparaître], and thereby reunite the two divided parts, but do so while retaining the scar of their dissection:

Tout à l'heure, je vous dirai d'où elle vient et de quel corps, du corps de quelle phrase je l'en extrais violemment, ou théâtralement, pour vous la donner à voir et à entendre.
(ibid.)

It is a text, Derrida explains, that itself concerns what it is to "se décircconcire" [de-circumcise]. And we will see that at stake in Derrida's treatment of this text is the issue of survival. Indeed, it will be a matter of the whole system of survival, whether that be in the name of religion in general, or Christianity in particular, of a life *after* death, or even, on the other hand, a "survivance" in the name of an opinion, or belief, as here interests especially Montaigne. The latter being a survival *without* life, "*une sur-vie sans vie,*" (DP2 177), for which one pays with one's life, without the recourse to *another* life. (In these modalities of "survie," which encompass the sacrifice of life both with and without afterlife, both in the name of *another* life and in the name simply of that which is *above* life, or *worth* the price of a life, we can perceive a likeness to the system of cruelty and the history of blood Derrida has spent so much time already commenting on in earlier sessions. To this history of blood he calls the "sans sang," (DP2 71)

and the history of the legal treatment of the death penalty in the United States especially, which, by focusing on the question of cruelty, has systematically attempted to remove all traces of blood from the scene of the execution, without reflecting—or wanting to reflect—on the legitimacy of the death penalty *as such*.)

What would it do, however, to consider these sacrificial survivals against the very mode of textual citation through which Derrida introduces them? To think the model of citation here, of textual life-death, as a non-sacrificial, or at least non-sacrificing, *survie*. A *survie*, indeed, before any *vie*. To think this model of citation, of the severed and mechanical inscription whose life is, in a manner of speaking, constituted by and through its death, as survival. Citationality—the necessary possibility of being cited—follows necessarily from the notion of text, which in order to be such, in order to signify, need be iterable. As the condition of possibility—and thus impossibility—of text is its iterability, text thereby also assumes a certain decapitating or circumcising act, and one which, indeed, opposes all sacrificial survivals in the respect that they rest on the essential binary of an oppositional life/death, while text or iterability is only thinkable *as* life-death. This is a kind of life *as* survival, a life already inhabited by death, scarred by decapitation. Notwithstanding what this might do to a thinking of survival, how would this change the notion of sacrifice? How would it make it thinkable otherwise?

2 *Second Example*

After this opening problematization of survival, the thread of this theatrical metaphor of the scene of the seminar is then picked up in the discussion of Kant, again on the subject of the price of life and survival, in particular the “pricelessness” of human life that the dignity of man dictates for Kant. Derrida will give two long citations that he explains will hopefully serve to clarify this line from Kant’s *The Metaphysics of Morals*: “justice ceases to be justice if it can be

bought at any price whatsoever.” (DP2 169) It is then, after giving these long citations, that he will synthesize them with the following comments:

Legal execution of the guilty, Kant is thus saying, death freed from any mistreatment that could debase the humanity in the person of the sufferer, from any mistreatment that could transform the condemned sufferer, the person suffering *into an object of horror or into a theatrical monstrosity*. (DP2 170-171; my emphasis)

So it is precisely a matter for Kant of preventing the transformation of the condemned into an “object of horror” or “theatrical monstrosity,” for such would in turn defeat the purpose of the punishment, which, in addition to fulfilling the requirement of justice in the form dictated by the categorical imperative of the talionic law, should also restore to the guilty one the dignity he or she sullied in acting unjustly in the first place. Such would thus obstruct the payment of the debt, and the righting of the order of humanity.

This requirement, Derrida will parenthetically explain, renders Kant a *de facto* abolitionist, for in practice how could one ever, “prevent the calculation of interest from sliding into a condemnation to death? And especially, how is one to avoid the suffering and the spectacle of suffering in the execution, even the most discrete or the most anesthetic?” (DP2 171) Such would, in turn, betray the dignity of man and foil what was the original the purpose of the juridical act. This possibility, this supplement, is that of the theatricality of the execution. The possibility of a supplemental pleasure or pain that would, precisely, shift the weight of the scales of justice. And this, Derrida explains, in spite of all discretion or anesthetic.

An interesting analogy is thus opened, implicitly, between the scene of the seminar and that of the execution, whereby the execution cannot help but to stage a theater of cruelty or suffering, of *inhumanity*, and the seminar in its turn, *as theater*, is involved in a logic of decapitation or circumcision—of *disembodiment*, in any case. And this inscription of

theatricality is chiasmatic: the seminar as theater in which one stages a circumcision of text from its body, or at least shows how it always already was so divided—and how the survival of the text already rests therein—versus the execution which cannot help but being theatrical. And this essentially means, for Kant’s thought, the necessary de-contextualization or slippage of the execution from its proper “context,” into that which should have no part in it.

While such a crossing of scenes should not be read as simply equating the seminar—or the site of a reading—with an execution, and still less as equating what a reading accomplishes with what occurs in the *legal* putting to death of a subject, it does raise the question once more of what they might essentially share. Can thinking the death penalty inform the pedagogical space, and vice versa? Need we understand something about the violence implicit in any act of reading in order to approach that of the decapitating death penalty? And conversely, what can the space of the execution, and the history of its form—from that of the spectacle of the guillotine, to the sealed room of the lethal injection, and beyond—reveal about the erasure of the trace, and the writing of text?

ⁱ Compare this comment made at the conclusion of the first session, to those at the beginning of the eleventh:

We are here—permit me to recall this because it is essential and decisive at this point—neither in a courtroom or on a witness stand, nor in a place of worship, nor in a parliament, nor at a newspaper or on the radio or television news. And neither are we in a real theater. To exclude all of these places, to exit from all of these places, without exception, is the first condition for *thinking* the death penalty. And thus for hoping to change something. (DPI 37)

And then at the opening of the second part of the first session:

But, still before beginning, still at the dawn of the seminar on the quasi-theater of the death penalty, I wish to bring in someone else here—not onto the stage or into the witness box, because I have just said that this is neither a courtroom nor a true theater, but right *here*. (DPI 38)