Legacies of the Death Penalty: Sacrifice, Survival, and the Possibility of Justice

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LEGACIES OF THE DEATH PENALTY: SACRIFICE, SURVIVAL, AND THE POSSIBILITY OF JUSTICE

by

Sarah Kathryn Marshall

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Dedication

For CV

Love is just a dream
A beautiful dream
And time has robbed us blind
To all these precious moments
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Abstract

Concluding the first year of his seminars on the death penalty, Derrida writes that “even when it will have been abolished, the death penalty will survive.” This dissertation interprets his claim in various contexts and with particular attention to the specificity of Derrida’s discourse on survival or survivance. The first chapter attends to the complicity of the Western philosophical tradition, through the example of Martin Heidegger, in providing the theoretical scaffold for the institution of capital punishment. This chapter also traces a logic of donner la mort, or giving death, from the philosophical level to the social level, working out the mechanics of a process of “sacrificial indemnification” that perpetuates any form of identity through an effaced but effective form of putting-to-death. The second chapter interprets a tendency in the history of execution that moves from the effusion of blood to its staunching through the lens of a Derridean phylogenetic psychoanalysis of the body. Through readings of Freud and Breuer and Hungarian analysts Nicolas Abraham and Maria Torok, this chapter reads Derrida’s treatment of inheritance as essential to any understanding of the historical discourses on the death penalty as well as Derrida’s elaboration of survivance. The final chapter turns to Derrida’s engagement with Immanuel Kant’s rigorous defense of the death penalty, interpreting Kant’s argumentation in terms of his desire for another life beyond the temporality and the phenomenality of this one. This chapter reads Derridean survivance as a working-though of Derrida’s own Kantian heritage, and suggests that it is inextricable with Derrida’s treatment of justice in the later works. These chapter work together to distinguish Derridean survivance from traditional economies of survival. A main theme of this dissertation is that survivance, if and when it occurs, can only occur through an other, leaving open the question of the survival of the death penalty to the dissemination of indefinite and unpredictable forms that could consist in its abolition. Another
objective of this project has been to emphasize the importance of *The Death Penalty* seminars to both the trajectory of Derrida’s own thought and the Western theoretical tradition in general.
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GMM 


MoM

“Anesthesia and religion, then, there is the program [Anesthésie et religion, donc, voilà, le programme]” (DP1 379/282). In the final session of the first year of The Death Penalty seminars, after having announced his intention for the seminar’s continued course of study, in his next breath, Derrida disavows all knowledge of the seminar’s direction: “Without knowing where this seminar is going, one can presume it will always be vain to conclude that the universal abolition of the death penalty, if it comes about one day, means the effective end of any death penalty.” Derrida’s uncertainty with respect to the direction of the seminar is thus accompanied by the presumption of a certain vanity in the idea of an “effective end of any death penalty [à la fin effective de tout peine de mort]” (DP1 379-80/282). To conclude that the universal abolition of the death penalty (that is, the abolition of the death penalty from every political institution in every known community on the planet) would necessarily bring about an effective end to all forms of the death penalty “will always be vain,” that is, futile, pointless, empty, even hubristic. With an assurance that, while not completely absent from Derrida’s texts, is at least a departure from the more predominant and familiar open-ended modalities of his style, he asserts that “[e]ven when the death penalty will have been abolished, when it will have been purely and simply, absolutely and unconditionally, abolished on earth, it will survive; there will still be some death penalty [il y aura encore]” (DP1 380/282). “Other figures will be found for it,” he insists, other figures will be invented for it, other turns in the condemnation to death, and it is this rhetoric beyond rhetoric that we are taking seriously here. We are taking seriously all that is condemned, whether it be a life or a door or a window – or whatever or whoever it may be whose end would be promised, announced, prognosticated, decreed, signed like a verdict.” (DP1 380/282)
The juxtaposition of Derrida’s anticipated program for the seminar with his professed uncertainty regarding its direction thus mirrors another aporetic moment in the seminar: his avowed abolitionism paired with an affirmation of the death penalty’s ineluctable survival.

Together with the enigma of the death penalty’s purported survival, however, there is another curious juxtaposition contained within Derrida’s concluding remarks for the year. The vanity he associates with assuming the effective end of the death penalty from its abolition accompanies, by way of analogy, believing “that the vegetarian effectively abstains from eating, in reality or symbolically, living flesh, or even from participating in any cannibalism” (DP1 380/282). Derrida thus draws a parallel between the death penalty and carnivorous or even cannibalistic ingestion. Each will survive its end in abolition and vegetarianism, respectively, and assuming otherwise would be, on Derrida’s view, vain. In what would seem to be an elucidation of this analogy, Derrida asks, “[h]ow can one love a living being without being tempted to take it within oneself?” “Love and Eucharist,” he goes on. “Transubstantiation.” And then he invokes Scripture, repeating Christ’s words from the Gospel of Luke: “Eat me, this is my body, hoc est corpus meum, touto estin to sōma mou. Keep it in memory of me.” Derrida specifies that these words

also mean, in the mouth of the Son, eat me, keep me [gardez-moi]. I am leaving (or I am dying provisionally), I sur-vive [sur-vis], that is to say, I am going to come back; I am coming back right away [je reviens tout de suite]; time does not count, but on the condition that, as living beings, you eat while waiting, that you have the cold-blooded composure [le sang froid] to eat well, to eat me, that is, to eat for me, since one very well has to eat well [car il faut bien manger], as the other says, while waiting for me, you must assimilate my blood or the blood for me, but without me, like a slow sugar [here the translators note that sucre lent “is more commonly called a complex carbohydrate in English”]. Sense me – sans me [Sens moi – sans moi]. (DP1 380/282)

In this passage, Derrida not only returns to questions of religion and anesthesia, or, to be precise, the condition of the possibility of aisthēsis, sensation, he also makes clear that it, sensation,
along with survival, at least in his sense of the term, are predicated upon a peculiar sort of cannibalism. “Cannibalism and the food of carnivores will always survive the literal end of human sacrifices or vegetarianism,” he writes, “just as crime and the death penalty will always survive the suppression of the death penalty” (DP1 380/282). “Let us harbor no illusion on the subject,” Derrida enjoins those in attendance, “even when it will have been abolished, the death penalty will survive; it will have other lives in front of it, and other lives to sink its teeth into [et d’autres vies à se mettre sous la dent]” (DP1 380/283).

Derrida’s confounding and impossible claim that the death penalty will survive its abolition has been the subject of commentary and speculation even before the publication of the seminar’s first volume in French in 2012. At a 2011 conference on the seminars held here in Memphis under the organization of Kas Saghafi, several of the speakers offered preliminary interpretations of Derrida’s attestation. The presentations from this conference, titled “Derrida and the Theologico-Political: From Sovereignty to the Death Penalty,” were later edited and compiled in a supplement to the Southern Journal of Philosophy. Michael Naas, in his paper “The Philosophy and Literature of the Death Penalty: Two Sides of the Same Sovereign,” suggests that in the same way theological concepts survive in the ostensibly secular political concepts of modernity (Derrida follows Carl Schmitt in this respect), the death penalty would secure a clandestine survival in its non-institutionalized predecessors.¹ Moreover, Naas argues that insofar as the death penalty is a modern political concept, it carries within it the remains of the very theological concepts that Schmitt identifies in his analyses and Derrida interprets in the seminar, such that both abolitionist and proponent discourses would carry within them one and the same theological heritage. Were the abolitionist discourse to triumph, Naas suggests, this

theological inheritance would remain to be deconstructed. In other words, the conceptual basis and systematic structure of the death penalty would survive its abolition. Mattias Fritsch, in his response to Naas’s paper, extends and troubles the Schmittian notion of sovereign exceptionalism by underscoring the Derridean treatment of death as “always the decision of the other.” Fritsch emphasizes the patience required of a Derridean abolitionism, which would find its basis in the idea that “death is not only integral to life but marked by an unmasterable alterity to which life remains passively exposed, even as it dreams of giving death to itself or others.” The “unmasterable alterity” of death, Fritsch contends, “puts into question the legally-enshrined borders between suicide, murder, and the death penalty.” And if “there is not one unitary, objective death (DP1, 9),” Fritsch contends, then “there is not just one death sentence (arrêt de mort)” and “that is why the death penalty will survive.” For Fritsch, this survival opens upon other forms of letting die, such as the perpetuation of world hunger and the AIDS epidemic.

In her paper “Cruelty and its Vicissitudes: Jacques Derrida and the Future of Psychoanalysis,” Elizabeth Rottenberg interprets the death penalty’s survival by reading “deconstructive signs” that register “mutations” that are taking place in our experience of the death penalty without theological or humanist alibi.” She insists that a deconstructive sign, as opposed to a historical sign, registers mutations without recourse to what Kant would call “philosophical prophesy.” On Rottenberg’s reading, then, Derrida’s resolve with regard to the

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3 Ibid.

4 Ibid., 70.

5 Ibid., 71. “Arrêt de mort” signifies both “death sentence” and “stay of execution”; by putting this term in parentheses, Fritsch thus signals that the word is not itself one.

survival of the death penalty first of all counters the teleo-theology accompanying traditional forms of abolitionism. Rottenberg goes on to identify psychic cruelty as one mode of survival for the death penalty. On her view, Derrida’s alliance with psychoanalysis facilitates the chance of a transformation in psychic cruelty by interpreting “the phantasm of putting an end to finitude” serving as an alibi for the death penalty. Olivia Custer responds to Rottenberg by drawing attention to the humanitarian dimensions shared by both abolitionist and proponent discourses around right and law. Drawing from an image Derrida uses to illustrate his approach to dismantling the history of philosophy in *The Animal That Therefore I Am*, Custer imagines Derrida putting pressure on the nervous system of an octopus, working to disarm but not kill the animal, forcing it to dispel its ink in the least violent manner possible. By way of analogy, Custer sees Derrida “trying to disarm the killer discourse” of the death penalty “without falling into mimicking it by putting it to death or killing the animal.” Allowing the death penalty to survive, Custer contends, is “the condition of possibility of Derrida actively becoming a nonkiller.”

In a 2013 essay, perhaps in part a nod to Custer’s response at the Spindel Conference, Rottenberg again considers the death penalty’s survival. This time, she frames it in terms that echo *The Animal That Therefore I Am* and the first year of *The Beast and the Sovereign* seminars, in which Derrida analyses the humanism central to the history of philosophy,

7 Ibid., 156.


9 Ibid., 168.

10 Ibid.
particular through the various determinations of what is said to be “proper to man.”  

Rottenberg details an analogy Derrida develops in the second year of *The Death Penalty* seminars, in which he imagines a “game of the goose” where each space on the board represents one response to the question “what is man?” Because all the spaces or qualities work together to characterize “man” as superior to the “animal,” removing one of them – for example, the death penalty – would not put an end to the humanist paradigm and the violence it perpetuates in its name. Were one square to disappear, Rottenberg explains, “[n]othing changes because what is proper to man is still represented by all the other squares, and each one involves a metonymic or synecdochic relation to the rest; in other words, the possibility of the death penalty – *qua* possibility – remains.”

In the same issue of *The Oxford Literary Review*, Ronald Mendoza-de Jesús also takes up the question of the death penalty’s survival, focusing on Derrida’s use of the term “invention.” Looking to the essay “Psyche: Invention of the Other,” in which Derrida develops this notion, Mendoza-de Jesús considers the modality of Derridean survival in terms of the invention considered event. Attending closely to the modality of the “possible-impossible” in Derrida’s thought more generally, but especially in relation to his deconstruction of the invention in Kant, Mendoza-de Jesús draws out the implications of Derrida’s claim about the survival of the death penalty for Derrida’s thinking of survivability more broadly. Because the death penalty forecloses the possibility of survival, Mendoza-de Jesús understands the survival

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12 Ibid., 197.

13 Ronald Mendoza-de Jesús, “Invention of the Death Penalty: Abolitionism at its Limits,” *Oxford Literary Review* 35, no. 2 (2013): 221-240. For reference, the quotation is: “Other figures will be found for it; *other figures will be invented for it*, other turns in the condemnation to death, and it is this rhetoric beyond rhetoric that we are taking seriously here” (DP1 380/282).

14 Ibid., 234.
of the death penalty to bring “to the forefront the deepest aporia of survivability: namely, that survival can only survive on the condition of its impossibility.”¹⁵ For Mendoza-de Jesús, “[t]he death penalty paradoxically and perversely gives chance, namely, it gives the chance to think a survival that no longer survives as itself, and is no longer recognizable under any figure of life as we know it.”

Once more in 2015, at a paper first delivered at the Collegium Phaenomenologicum and published a year later in *The Oxford Literary Review*, Elizabeth Rottenberg approaches the question of the death penalty’s survival. In “A New Primal Scene: Derrida and the Scene of Execution,” Rottenberg focuses on the spectacular, phantasmatic dimensions of the death penalty, also providing a reading of Derrida’s treatment of Foucault’s devisibilization thesis from *Discipline and Punish.*¹⁶ Rottenberg, herself a practicing psychoanalyst, reads Derrida’s strategy in the seminar to resemble “that of an analyst who, in bringing the theater of a patient’s phantasies to the fore in an analytic setting, gives place to the non-theatrical at the heart of the theatrical, the place from which these phantasies can be analyzed and thus potentially transformed.”¹⁷ The primary (indeed, the *primal*) phantasy that Rottenberg analyzes in this piece, with both humor and lucidity, is that of “putting an end to finitude,” which she also treated in her 2013 paper. Here, with close attention to Freud’s work on dreams, Rottenberg identifies the death penalty’s calculating decision on the instant of death with a desire to master the irruption of alterity that is constitutive of subjectivity. As she explains, “what the phantasm of the end of finitude makes visible is a primal or final scene of self-protection: self-destruction as

¹⁵ Ibid., 239.


¹⁷ Ibid., 196.
self-protection against what threatens to irrupt or break into us from the outside.”18 Thus, “what keeps the death penalty alive” or perpetuates its survival, on Rottenberg’s analysis, is “a dream, a desire, a fabulous and virtual scene of mastery in which we occupy all the roles, all the positions, at once or successively.”19 “But if the death penalty fascinates and seduces us,” she goes on, “if it promises us the fulfillment of our oldest wish for omnipotence, it is because it allows us to externalize what is otherwise always (en permanence) internally occurring: in the real phenomena of death penalty and execution, we see actually staged, actually enacted, in projection what we are dreaming all the time.”20 In other words, the death penalty would be a wish fulfillment that is fulfilled both phantastically and also in “reality”; it is, as Rottenberg puts it, “a dream come true.” Thus, the death penalty will always survive its abolition, because the human drive to externalize the always-occurring internal phantasy of omnipotence will remain, taking on new forms and reinventing itself. Rottenberg goes so far as to identify this projection, with perhaps a certain measure of tongue-in-cheek, at work in a product marketing campaign for “Tikker,” a device that claims to help consumers make the most of their lives by counting down the minutes its wearer has left until their heart stops “ticking.”

The same year, albeit from a less explicitly psychoanalytically-oriented perspective, Kelly Oliver makes a similar claim about the survival of the death penalty in “Death as Penalty and the Fantasy of Instant Death,” published in Law Critique.21 She identifies a Cartesian logic of divisibility at work in the idea that death can be decided and administered instantaneously at a given time, providing reassurance that “we can accurately make the cut where it belongs and

18 Ibid., 211.
19 Ibid., 212.
20 Ibid., 212-213.
thereby control the process of death.”22 On Oliver’s view, “this fantasy of control and sovereignty guarantees that, as Derrida says, ‘the death penalty will survive.’” Based on the idea that the survival of the death penalty is linked to the phantasm of putting an end to finitude by mastering the instant of death, Peggy Kamuf suggests that literature is a privileged form through which this survival takes place, with and beyond “actual” instances of capital punishment.23 In her 2019 book, Literature and the Remains of the Death Penalty, she attends closely to the American context while analyzing literary depictions of execution that can, on her view, “make readable that phantasm as such, as well as its remains.”24 Kamuf concludes that “in relation to the death penalties they represent, these literary survivals live on or outlive them in the sense of living more, not just longer but also more intensely, diffusely, or profusely – virtually without end.”25

The established literature on the death penalty’s survival thus suggests several modes through which the death penalty will survive (and indeed has already been surviving) in addition to some explanations accounting for that survival. The proposed modalities through which the death penalty will survive include: a discursive and/or structural survival via theologico-political concepts; forms of letting-die, such as world hunger or fatal illness; psychic cruelty; literature; and even in the drone attacks of the Obama administration.26 Explinations of the death penalty’s survival generally point to its compensatory function with regard to the irruption of alterity (especially with respect to death) or point to a deconstructive reinterpretation of survival, which

22 Ibid., 147.


24 Ibid., 5.

25 Ibid., 148.

is certainly underway in Derrida’s corpus from the start of his publishing career. It remains to be seen what accounts for these diffuse modes of survival and how they relate to one another while maintaining the specificity of the death penalty as a historical form of punishment that remains operative today. In the seminar, Derrida stresses the specificity of the death penalty as “a legal apparatus of the domestic politics of a nation-state supposed to be sovereign” (DP1 35/10). For Derrida, it is of the utmost importance to recall the fact that “every death and even inflicted death is not the sentence or the application of a death penalty” (DP 71/40). He insists that “we must keep in mind in a vigilant manner that every death dealt, every murder, every crime against the living, every homicide even, does not necessarily correspond to what is strictly called a ‘death penalty,’ to the concept, to the supposed juridical concept of the death penalty” (DP1 71-2/40). How then, to account for this specificity while at the same time interpreting Derrida’s claim that the death penalty will survive its abolition?

This dissertation undertakes to answer the question by giving an account of the function of the death penalty as a specific institution within the modern penal system of a collective political body and as the legacy of ancient political economies based on sacrificial rites. Derrida’s treatment of inheritance will, therefore, be a central theme and subject of analysis throughout these chapters. Because inheritance exceeds personal subjectivity in Derrida’s analysis, as will be shown, thinking the death penalty in this manner opens upon the possibility of reading it as both a political-juridical phenomenon and a psychic one. Moreover, since inheritance and survival are indissociable in Derrida’s thought, this dissertation will serve as a sustained meditation on Derridean survival or survivance. Crucial to giving an account of the survival of the death penalty is a strong sense of what Derrida means by the term “survive.”

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dissertation treats Derridean survival through the lens of his remarks on cannibalism and the Eucharist in the final session of the first year of the seminar, remarks central to Derrida’s avowal of the death penalty’s survival but left almost entirely untouched in the secondary literature on the topic. The parallel Derrida draws between the survival of the death penalty and the survival of carnivorous eating or “eating the other” ties his treatment of the death penalty to a thinking of the relationship between any self-sameness and alterity. One of the main objectives of this dissertation is to link Derrida’s treatment of the death penalty to his insight that any identifiable self-sameness establishes itself through the necessary and impossible appropriation of an other. This dissertation will thus interpret the death penalty both structurally and specifically, accounting for the indissociable relationship between the particular institution known as “the death penalty” and its conceptual structure more broadly.

The first chapter, titled “Of Vigilance that Sets One to Dreaming: The Death Penalty and Sacrificial Indemnification,” begins with a close reading of Derrida’s “dream of deconstructing death” in the ninth session of the first year of the seminar. This chapter interprets Derrida’s remarks in this session with special attention to the theme of vigilance and the allusions he makes to Hamlet. This interpretation will serve as a frame for the chapter and will guide the analyses of various themes related to death in both the seminar and other relevant texts from Derrida’s corpus. Derrida’s discourse on death is both challenging and unparalleled in the history of philosophy, and little research has been conducted on this aspect of his oeuvre.

Derrida’s thinking of death is especially important to understanding what is at issue in *The Death...*

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Penalty seminars, however, since there he privileges a thinking of the death penalty as the crucial philosophical issue, thereby challenging a canonical tendency to prioritize the theorization of death in general over what are deemed to be its “accidental” manifestations. Much of this chapter is therefore devoted to an examination of Derrida’s treatments of death and survival in order to interpret this emphasis on and attention to the death penalty.

Since the works in which Derrida analyses these themes rely heavily on other thinkers, his deconstructions of his predecessors’ treatments of death are necessary to understanding his own work on the death penalty. In this vein, Heidegger serves as an exemplary figure, because much of Derrida’s analysis of death takes place through his reading of Being and Time. In Specters of Marx, The Gift of Death, and Aporias, Derrida argues that death cannot be experienced as such, and as a result it cannot be wholly comprehended by any philosophical, phenomenological, or deconstructive elaboration. Attempts to theorize, delimit, and circumscribe death “give death,” in the sense that they provide a common definition of an inaccessible event, but also in the sense of the idiomatic expression donner la mort, “to put to death.” This donner la mort secures “life” on the level of phantasy as that which is opposed to “death.” On this view, death “itself” or death “as such” would thus be the phantasmatic product of a process occurring outside of or beyond the level of conscious experience.

In Aporias and The Gift of Death, Derrida’s characterizes of Heideggerian Being-toward-death as just such an attempt to “give death.” Derrida’s analyses in these texts make it clear that, despite Heidegger’s efforts, no conception of death would succeed in revealing or presenting death as such. Instead, it is argued, such attempts serve another function altogether: that of perpetuating the “life,” the identity, or the self-sameness of something by limiting it, transgressing it, or putting-it-to-death. This chapter works out the mechanics of this process,
which both threatens and makes possible self-sameness through a constitutive exchange with alterity. A reading of Aporias and “Faith and Knowledge” together with The Death Penalty seminars reveals that any identifiable thing is reproduced through an interminable process of putting-itsel-(as-other)-to-death. Any “thing” said to exist is thus indemnified (rendered whole, intact, pure, or unscathed) against its other through an auto-immune, sacrificial gesture. No existence would survive without capitalizing on this fatal economy of sacrificial indemnification.

This chapter thus interprets the death penalty as an “economy of sacrificial indemnification” in which the social body is secured through a regular suicidal-sacrificial “putting-to-death.” As such, the death penalty can be considered structurally, as an operation that both exceeds and makes possible the legal and juridical institution by the same name. It is argued that Derrida diagnoses a certain “pathology” of the social body, one that is auto-immune in so far as it guards against threats to its integrity by destroying its own vital resources. The death penalty would be, at the same time, the etiology of societal auto-immunity and a symptom of it, in so far as it is understood both as the historical and modern-day practice of executing a death sentence and as a structural mechanism through which societies perpetuate themselves in an always auto-immune manner.

Since an economy of sacrificial indemnification mechanically reproduces any identifiable thing, this economy can be shown to operate at the “collective” level as well as the “individual” level. The social body must reproduce its own identity through a process of sacrificial putting-to-death, “giving death” in order to secure its survival. The death penalty can be understood to serve this function at the social level, “giving death” both by putting some part of itself to death (in the form of the condemned) and by projecting the concept of “death” as an object of mutual consensus. According to the logic of indemnification, however, what is given along with
“death” is the social body itself, which would not be possible without sacrificial putting-to-death. This analysis accounts for Derrida’s prediction regarding the survival of capital punishment. By broadening the scope of the death penalty’s operation, the death penalty can be understood to function in contexts left unaffected by its actual or potential abolition – first and foremost, that of the Western philosophical tradition.

The second chapter, titled “Phantom Hemorrhage: The Death Penalty’s Ciphered Legacies,” turns more explicitly to Derrida’s remarks on the Eucharist, eating the other, blood, and the body. This chapter interprets the “history of blood” Derrida analyses in the first year of the seminar through a confession he makes in the second year of the seminar regarding his faith in a phylogenetic, embodied form of psychoanalysis, ultimately demonstrating how this transgenerational psychoanalysis of the body accounts for the death penalty’s historical discourses – both proponent and abolitionist – through the examples of Victor Hugo and Juan Donoso Cortés. A main contention of this chapter is that one cannot fully account for Derrida’s analyses in The Death Penalty seminar without attending to his psychoanalytic inheritance and the impact of that inheritance on his treatment of the institution of capital punishment. More specifically, while Derrida’s debt to the works of Sigmund Freud is evident from his earliest writings and well-documented in the literature, little attention has been given to his close personal and intellectual ties to analysts Nicolas Abraham and Maria Torok of the Hungarian school. These analysts’ theoretical contributions to psychoanalysis are revolutionary in their own right; however, the impact of their work on Derrida’s thought is also profound and extensive. This chapter will trace some important trajectories in this line of psychoanalytically-oriented theory with regard to trauma, the body, the ego, inheritance, violence, and retributive justice.
Since Derrida maintains that “[a]ll the questions related to the opposition flow/staunch [épancher/étancher], whether it is a matter of tears or blood, ultimately demand recourse to this phylogenetic psychoanalysis of the so-called body proper,” a structural analysis of the rhetoric of effusion and staunching will be an overriding theme in the texts treated here (DP2 300/225). The elucidation of Derrida’s psychoanalytic inheritance will lead into a thematization of inheritance itself and the role of inheritance in Derrida’s treatment of the body, the self, the psychoanalytic establishment, and finally, the institution of capital punishment. Throughout the chapter, the logic of effusion and staunching weave together these diverse and wide-ranging topics.

Divided into four “crossings,” the chapter will first look to Freud and Breuer’s early account of hysteria as a paradigmatic treatment of the relationship between the psyche and the soma. Using the condition of hysteria as a guide, the Freudian sources will set up a specifically psychoanalytic paradigm for understanding the body, its response to trauma, and its symptomology. As Derrida implies in The Death Penalty seminar, psychoanalysis inaugurates a thinking of the body that diverges from both the history of philosophy and its more recent phenomenological iterations. For Freud, the body is always a foreign body with respect to the ego, and the ego’s familiarity with the body is based on a mediated system of drive representations stemming from an archaic source in the phylogenetic history of the species. The psychoanalytic subject is, on this reading, effusing the traumas and adaptations of its evolutionary past, either through embodied symptomology (as is the case in hysteria) or through linguistic substitutive formations. At once foreign and intimately familiar, this overflow is both a threat to the integrity of the ego and the force motivating its development. Psychoanalysis aims to leverage the flow of the drives to the benefit of the ego through a controlled form of discharge – the expiating confession.
The second “crossing” details the manner in which Freudian thought was taken up in the Hungarian school of psychoanalysis. Analysts Nicolas Abraham and Maria Torok, who were friends and contemporaries of Derrida, reenvision and complicate the Freudian account in important ways. Based on Freud’s insight regarding the mediation between the drives and the ego, Abraham develops a specifically psychoanalytic theory of signification, designated by the neologism *anasemia*. Rather than a direct (or even an indirect) system of corresponding meanings, he argues, psychoanalytic concepts *de-signify* by signaling an inexhaustible unconscious kernel of meaning that founds all possible signification but can never be fully accounted for by any signifying act. For Abraham and Torok, psychoanalysis aims to facilitate this interminable process of interpreting unconscious contents in a manner consistent with the ego’s representing capacities, a process they identify with introjection. When introjection fails, they contend, a crypt is incorporated into the ego, a sealed-off space where unconscious crime is disavowed and prohibited from egoic representation. Such crypts can, they contend, haunt subsequent generations via the phantom transmission of gaps in language and subjectivity. The role of the analyst, according to Abraham and Torok, is to identify and banish the phantom, thereby restoring the integrity of the haunted ego and promoting the introjective process. These analysts follow the work of Sandor Ferenczi in reading bodily expressions as a phylogenetic cipher, such that the analysis of any one phantom necessarily entails the encrypted remains of evolutionary pre-history.

The third “crossing” will follow Derrida’s close and subtle readings of Abraham and Torok to establish his own psychoanalytic inheritance. Derrida interprets the analysts’ later, coauthored works through the lens of Abraham’s anasemic theory of signification. If it is true, as Abraham demonstrates, that there remains an inexhaustible kernel of unconscious meaning (at
once onto- and phylogenetic), then the process of introjection can never be complete or fully realized. Moreover, because the process of introjection is interminable and only ever partial, encryption (in the sense of both a ciphered signification and the installation of a crypt in the ego) is constitutive of subjectivity. From the irreducibility of encryption, it follows that subjectivity is also constitutively haunted and must contend with multiple and innumerable phantoms. Unlike Abraham and Torok, who advocate an analytic exorcism, however, Derrida imagines a non-punitive relation with phantoms in which the subject “learns to live” with phantoms by choosing “from among that which one inherits” (S 15/xvii, 40/18). For Derrida, the task of inheritance is in no way a guarantee against violence, loss, or death; it is, rather, responsibility in the face of an alterity that overflows the bounds of any identifiable subject. The “me” or the ego (le moi in French) survives only and always through an irreducible kernel of heterogeneity that both ruptures all identity and makes it possible. Rather than castigating and purging this heterogeneity in an attempted disavowal (itself already an inheritance, and thus one form of the heterogeneity disavowed), Derrida implies another relation with that which precedes and exceeds “me.” While interpreting, sifting, sorting, and deciding among phantoms, as one must, Derrida appeals for grace.

The fourth and final “crossing” returns to Derrida’s analyses of the writings of Victor Hugo and Juan Donoso Cortés to investigate the ways in which the logic of effusion and staunching operates there as a means of mitigating the irruption of transgenerational inheritance in the political body. The debate between Hugo and Cortés, along with the “history of blood” that it exemplifies, thus can only be fully understood through the lens of Derrida’s encounter with a phylogenetic psychoanalysis. A first and cursory comparison of these two figures would uncover a logic of effusion in the writings of Cortés, a proponent of the death penalty, and a
logic of staunching in the writings of Hugo, an abolitionist; a closer examination of their rhetoric, however, reveals the same logic at work in both discourses: a logic of sacrifice that attempts to purify the social body through the excision of heterogeneous elements. For Cortés, the death penalty functions as a bloody sacrifice, one demanded by God for the expiation of original sin, as evidenced in the doctrine of Cain and Abel. And yet, the story of Abel’s first bloody sacrifice demonstrates the power of the “Catholic word” to staunch the flow of blood by making sense of it to account for all varieties of human experience, behavior, and history (DP2 338/254). Hugo’s reasoning is more complicated since his rhetoric explicitly presupposes the staunching of blood as he advocates for the abolition of the death penalty. As Derrida shows, however, Hugo’s abolitionism maintains Cortés’ presuppositions through their sublation. Thus, it is through another, opposing stance that Hugo is better able to secure a fundamentally sacrificial Christian legacy. In other words, it is through, and not despite, Hugo’s appeal to an Enlightenment-inspired rationality that he remains heir to the tradition of violence from which he so strongly distances himself. At the same time that Derrida remains critical of Hugo’s articulation of abolitionism, he nonetheless affirms his own opposition to the death penalty in words that echo both Hugo and Christ, traditions against which Derrida maintains a decided suspicion. With this gesture, then, Derrida signals his commitment to living with generational phantoms, rather than attempting to exorcise them, as he undertakes the task of inheritance. Derrida’s approach to the abolitionist legacy thus affirms not the end of the death penalty, but its interminable and unpredictable returns – and the chance, perhaps, of its other survival in a gift of grace.

The final chapter, titled “Under Kant’s Watch: The Time of Survival and the Possibility of Justice,” will explore certain aspects of Derrida’s Kantian inheritance and the influence of
Kant’s texts on Derrida’s thinking throughout *The Death Penalty* seminars and other related works. A central contention of this chapter is that Derrida’s preoccupation with Kant in the seminar signals a closeness between these thinkers that endures through and beyond Derrida’s explicit and legitimate deconstruction of Kant’s theoretical positions. There is something at work in Kant’s thinking that haunts Derrida, both in the sense that it troubles him and in the sense that it serves as a source of inspiration for his own thinking. Salient aspects of Kant’s theoretical and practical works will be considered in their own right before treating their deconstruction and reiteration in Derrida’s writings. These include Kant’s theorization of time and its relationship to phenomenal life, his desire to transcend that life along with its irreducible finitude, his conviction that God and a future life are promised to those who align their existence with the moral law, and his transcendental conception of justice. The chapter will also thematize two recurring motifs implicit in Kant’s writings: the equivocal notion of credit and the legacy of a published work. First, the notion of *Glaube*, usually translated as “faith” or “belief,” but also meaning “credit,” figures prominently in Kant’s analyses throughout his theoretical and moral philosophy both in an economic or fiscal sense as well as the more general sense of credence. This chapter will draw out the ways in which Derrida exploits this bivalence of meaning in his readings of Kant. Second, the self-consciousness with which Kant considers the legacy of his published works, at times explicit and at other times implied, will play a central role in this chapter’s interpretations of both Kant’s own analyses and Derrida’s readings of Kant. The survival of the book, and with it, the author, will be considered as an explicit theme in Derrida’s works and central to his conception of *survivance*.

The first section, “Another Life Time,” will analyze Kant’s well-known confession in the second preface to *The Critique of Pure Reason* that he “had to deny knowledge in order to make
room for faith [mußte also das Wissen aufheben, um zum Glauben Platz zu bekommen]” through the lens of his claim that human beings are universally dissatisfied with “the temporal [Zeitliche]” and consequently maintain a “hope for a future life [die Hoffnung eines künftigen Lebens]” (CPR B xxx, xxxii). As opposed to reading the latter claim as an insight into human nature, this discontent with finitude will be read as a lament and the hope for a future life as a desire. The desire to transcend the limitations of phenomenal life, it is suggested, motivates Kant’s critical philosophy as a means through which to sublate theoretical knowledge in order to recoup its objects of inquiry in the practical sphere. This section reviews the foundations of Kant’s theoretical philosophy in the “Transcendental Aesthetic” and the “Transcendental Analytic” before attending to the impact Kant’s desire for another life has on his reasoning in the “Transcendental Dialectic” and the “Transcendental Doctrine of Method.” It is shown that an inner conflict between Kant’s desire and his understanding drives his analyses throughout The Critique of Pure Reason – specifically in the articulation of the forms of intuition, the distinction between phenomena and noumena, the critical resolution to the third antinomy, and his justification for believing in God and a future life. Ultimately, and through readings of the “Canon of Pure Reason,” it is suggested that Kant defends his moral convictions and leaves their definitive truth open to the accreditation of posterity.

The second section, “Another Interest,” interprets Kant’s practical philosophy through both Kant’s enduring desire for a future life and the appreciation of value given to that life in comparison to the life given. In passages from The Critique of Practical Reason in particular, Kant makes clear that a life lived in alignment with the moral law, and hence with pure practical reason, secures for humanity another, noumenal life whose value appreciates without limit. The demand to act only dis-interestedly – the obligation, in other words, to act only from duty to the
moral law and not from empirical incentives – paradoxically promotes the accrual of another interest, one of infinite worth beyond the marketplace of phenomenal life. As this section demonstrates, Derrida’s readings of Kant’s practical works thematize the economic language of worth to deconstruct the economies of exchange operative in Kant’s moral, and as a result, political, philosophy. Derrida places particular emphasis on the purported equivalence between the crime and the punishment in Kant’s articulation of the talionic law in *The Metaphysics of Morals*. This section contends that Derrida follows Nietzsche in “sniffing out” another interest at work in Kant’s purportedly disinterested practical philosophy, one that effaces its indebtedness to the commercial origins of penal law through its claim to a pure, transcendent value that exceeds the calculation of the market. Nietzsche’s analyses in *The Genealogy of Morals* call this exchange into question by tracing its history through ancient economic practices. For Nietzsche, Kant is guilty of a cruelty that sacrifices empirical, animal life to credit another rational, purely human life of infinite worth, all the while claiming an asceticism that renounces gratification. In considering the possibility of such an exchange, and especially its inscription in the legal code as a death sentence, Derrida asks with Nietzsche whether we should credit such a calculation.

The final section, “Another Justice,” centers Derrida’s texts more explicitly and focuses on his deconstruction and reiteration of Kant’s desire for another life as well as his conceptualization of justice. This section also offers a reading of the tenth session of the seminar’s first year – a short but diffuse and elliptical session whose main ideas are not clearly stated – within the context of other sessions from the seminar and relevant passages from *Specters of Marx*. Implied in this reading is an interpretation of Derrida’s engagement with Kant as being carried out through analyses of Albert Camus and Michel de Montaigne. In each of these figures, Derrida discerns a conceptualization of suicide as a means of gaining access to a
sur-vival worth more than life. This section reads these figures closely in connection to Kant’s theorization of time as the form of inner and outer intuition in order to articulate a logic of anesthetic survival. This logic identifies life with the passive suffering of the sensible forms of intuition, values a sur-viving without life, and attempts to secure this form of survival through sacrificial forms of putting-to-death. Derrida’s engagement with Nietzsche remains in the background as he considers this form of survival in the context of faith and religion. Throughout this session, Derrida endeavors to deconstruct this logic of anesthetic survival while gesturing at another form of survival that is not easy to distinguish from its problematic precursors in Kant, Camus, and Montaigne. Ultimately, Derrida credits a certain reiteration of the Eucharist as one figure of a surviving that, if it occurs, occurs always and only by the grace of an other who lets “me” live on. A main contention of this section is that Derridean survival or survivance, the term he expressly comes to prefer, involves an unorthodox intimation that makes known by bringing the outside-in and maintaining the utmost alterity within the inmost intimacy. This impossible, paradoxical, or aporetic intimation is exemplified in the book, which “resuscitates” each time someone reads it anew, taking it in and giving it new life. The “survivance of a book” involves a non-linear, dis-joint temporality that begins, if it does, by returning, over and over again, through the risks and perils of incalculable others (BS2 194/131). In this sense, a legacy is one form of survivance, never secure or guaranteed, but always to-come from a past that returns from the future. This dis-juncture of space and time conditions (without necessity or sufficiency) the emergence of and relation to any alterity, and thereby, any possibility of justice. In this way, Derrida credits an other life time as the quasi-transcendental condition of justice.

This dissertation proceeds according to a deconstructive way of thinking and writing that is at times non-linear, disjunct, and non-hierarchical in that it considers trajectories whose
relevance to the topic at hand may not be immediately apparent. Attempts have been made, *aprèş coup*, to give an account of what has taken place throughout these chapters and to explain the significance of certain directions taken and topics covered. The aim of this project, if it can be said to have one properly speaking, is not to have thoroughly and definitively exhausted the meaning of Derrida’s seminars on the death penalty, much less what he means by the death penalty’s survival. Derrida’s thought and writing do not admit of such finality, and for good reason: to have the “final say” would amount to a phantasmatic foreclosure of the very alterity that makes any discourse possible; it would put an end to the future of the seminar as *arrivant*, a future that opens upon the chance of an always unpredictable and never secure survival. Instead, I have attempted to think the death penalty’s survival from several angles and through various detours. I have also worked to situate *The Death Penalty* seminars within the context of Derrida’s oeuvre, with particular emphasis on his final seminar, *The Beast and the Sovereign*, along with themes and texts relating to both sets of lectures. Finally, I have, with a certain measure of intuition, attempted to follow trajectories within Derrida’s thought that make sense to me, while maintaining an always-impossible fidelity to the values and modalities unique to that thought. In the second year of *The Death Penalty* seminar, Derrida writes that “this would perhaps be the categorical imperative of deconstruction, if there is one: to say and to think what can barely [à peine] be said and thought. Barely, with great difficulty [à peine].” (DP1 55/30). Playing on the title and topic of the seminar, *la peine de mort*, Derrida characterizes the task of deconstruction as *taking pains* to articulate that which can only be thought, said, and written with *pain*, barely, or with difficulty. I have endeavored, and with great pain, to think and write what Derrida begins to think and write in his work on the death penalty. The rest, I leave to another.
CHAPTER 1

“Of Vigilance that Sets One to Dreaming: The Death Penalty and Sacrificial Indemnification”

When I write, there is a force stronger than myself that compels me to write what I write, whatever the consequences. So nothing intimidates me when I write. But when I’m falling asleep, there is a moment, in this state of half sleep, when all of a sudden, what I’m doing frightens me. [...] In this state of half sleep I have the feeling that I’m doing something criminal, shameful, and inadmissible that I shouldn’t have done. The order that is implied here is for me to stop what I’m doing, to burn my papers – that what I’m doing is inadmissible. But when I wake up, it’s over. So when I’m awake, conscious, at work, I am, in a certain way, more unconscious than when I am in this state of half sleep. In this state of half sleep, there is a certain vigilance which tells me the truth, that sees what I am doing is grave. But when I am awake and working this vigilance is asleep.

Derrida (2002)\textsuperscript{30}

In the final moments of The Death Penalty seminar’s first year, Derrida predicts that “even when it will have been abolished, the death penalty will survive” (DP1 282). This chapter treats the death penalty as an “economy of sacrificial indemnification” in which the social body is secured through a regular suicidal-sacrificial “putting-to-death.” As such, the death penalty can be considered structurally, as an operation that both exceeds and makes possible the legal and juridical institution by the same name. It is argued that Derrida diagnoses a certain “pathology” of the social body, one that is auto-immune in so far as it guards against threats to its integrity by destroying its own vital resources. The death penalty would be, at the same time, the etiology of societal auto-immunity and a symptom of it, in so far as it is understood both as the historical and modern-day practice of executing a death sentence and as a structural mechanism through which societies perpetuate themselves in an always auto-immune manner.

In the seminar, Derrida privileges a thinking of the death penalty as the crucial philosophical issue, thereby challenging a canonical tendency to prioritize the theorization of death in general over what are deemed to be its “accidental” manifestations. Much of this

\textsuperscript{30} Screenplay and Essays on the Film Derrida, dir. Kirby Dick and Amy Ziering Kofman (New York: Routledge, 2005), 45.
chapter is devoted to an examination of Derrida’s treatments of death and survival in his seminars as well as the published works in order to interpret this emphasis on and attention to the death penalty. Since the works in which Derrida analyses these themes rely heavily on other thinkers, his deconstructions of his predecessors’ treatments of death are necessary to understanding his own work on the death penalty. In this vein, Heidegger serves as an exemplary figure, because much of Derrida’s analysis of death takes place through his reading of Being and Time. In Specters of Marx, The Gift of Death, and Aporias, Derrida argues that death cannot be experienced as such, and as a result it cannot be wholly comprehended by any philosophical, phenomenological, or deconstructive elaboration. Attempts to theorize, delimit, and circumscribe death “give death,” in the sense that they provide a common definition of an inaccessible event, but also in the sense of the idiomatic expression donner la mort, “to put to death.” This donner la mort secures “life” on the level of phantasy as that which is opposed to “death.” On this view, death “itself” or death “as such” would thus be the phantasmatic product of a process occurring outside of or beyond the level of conscious experience.

In light of Derrida’s characterization of Heideggerian Being-toward-death as an attempt to “give death,” it becomes clear that no conception of death would succeed in revealing or presenting death as such. Instead, it is argued, such attempts serve another function altogether: that of perpetuating the “life,” the identity, or the self-sameness of something by limiting it, transgressing it, or putting-it-to-death. This chapter works out the mechanics of this process, which both threatens and makes possible self-sameness through a constitutive exchange with alterity. A reading of Aporias and “Faith and Knowledge” together with The Death Penalty seminars reveals that any identifiable thing is reproduced through an interminable process of putting-itself(-as-other)-to-death. Any “thing” said to exist is thus indemnified (rendered whole,
intact, pure, or unscathed) against its other through an auto-immune, sacrificial gesture. No existence would survive without capitalizing on this fatal economy of sacrificial indemnification.

Since an economy of sacrificial indemnification mechanically reproduces any identifiable thing, this economy can be shown to operate at the “collective” level as well as the “individual” level. The social body must reproduce its own identity through a process of sacrificial putting-to-death, “giving death” in order to secure its survival. The death penalty can be understood to serve this function at the social level, “giving death” both by putting some part of itself to death (in the form of the condemned) and by projecting the concept of “death” as an object of mutual consensus. According to the logic of indemnification, however, what is given along with “death” is the social body itself, which would not be possible without sacrificial putting-to-death. This analysis accounts for Derrida’s prediction regarding the survival of capital punishment. By broadening the scope of the death penalty’s operation, the death penalty can be understood to function in contexts left unaffected by its actual or potential abolition – first and foremost, that of the Western philosophical tradition.

0. Death to death! An Oneiric Interval

A vision, a reverie: death to death! that’s the dream of deconstruction. Having unexpectedly stumbled upon an American newspaper article announcing the deconstruction of death among medical experts, Derrida recounts a daydream. An angel appears before him,

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31 During the session, Derrida explains that the article, titled “What is Death? Experts Wrestle with Legal Definitions and Ethics,” was sent to him by Richard Rand. At the end of the session, he improvises a translation from the English, emphasizing the differing criteria reportedly used to recognize death. The article details contestation from the families and doctors of three patients who were declared “brain dead.” Since some do not accept “brain death” and instead use other criteria to determine death, such as heartbeat or respiration, Dr. Stuart Younger of Case Western Reserve University surmises that “we are in a phase in which death is being deconstructed” (DP1 242/328). Derrida comments that new technologies, such as “transplanted organs,” ventilators, and feeding tubes, “make it that one knows less and less (1) when death has taken place; and (2) when it is, so to speak, irreversible.” Derrida refers to this article again in the second year of The Beast and the Sovereign seminars (BS2 162/234-5). Interestingly, the editors were apparently unable to locate the original article, instead citing another
whispering a message: “hey, at bottom, that’s the dream of deconstruction, a convulsive movement to have done with death [pour en finir avec la mort], to deconstruct death itself” (DP1 240/327). Reading into this good news a little, Derrida interprets questions about the philosophical nature of death as irreducible to this dream of deconstructing death. To “put into question again the question” of death – the to ti esti? what is it, death – such a deconstruction of death is not necessarily the dream of deconstructing death. Deconstruction does, and indeed must, Derrida insists, deconstruct death, “death,” “la mort,” “Tode,” what is called death, commonly, and throughout the tradition of Western philosophy. But the angel, who challenges Derrida to “deconstruct death” with a smile, suggests not only considered, careful analysis, but also a convulsion, an involuntary movement, a desire motivating such work: “to come to blows with death and put it out of action [pour en découdre avec la mort et la mettre hors de combat]. No less than that. Death to death” (DP1 241/327). This evangelist message reveals to Derrida a temptation. His angel tempts him with a deconstruction of death, one which leverages a certain thinking of death in order to overcome it, to put an end to death and master mortal existence. Behind the scene of deconstruction, Derrida perceives a desire at work. Through a critical approach to the philosophical conception of death, deconstruction secretly pursues its own salvation, the blessed assurance of a certain survival.

And yet, Derrida also discerns in deconstruction “a multiplicity of angels,” the knowledge of which comprises “its vigilance and its necessity” (DP1 241/327). Any angel tasked with guarding deconstruction would thus diffère, differing from and deferring itself along

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reference to Dr. Younger’s comment found in an article by Karen Long, “Oh Death, Where is Thy Starting?” in Baptist Standard: Insight for Faithful Living (November 3, 1999), http://www.baptiststandard.com/1999/11_3/pages/death/html. But according to Dr. Younger, whom the editors contacted in an effort to source the first article, his remark came from a conversation he had with Karen Long and was not published elsewhere.
with its tidings. This recognition manifests in the form of a “same other angel of deconstruction” who “just as implacably calls [Derrida] back to order and says to [him]: you will not get off so easily.” “[T]o assure one’s salvation [pour assurer son salut]” is not so easy, so obvious, nor so simple as a deconstruction of death, Derrida’s angel continues, since “[i]t is not enough to deconstruct death even, as it is necessary to do, in order to survive or take out a life insurance policy. For neither does life come out unscathed by this deconstruction. Nothing comes out unscathed by this deconstruction” (DP1 241/327-8).32 Deconstruction’s guardian angel thus alerts Derrida to an undeniable consequence of deconstructing death: to deconstruct death is to implicate life, the life that philosophy has conceived as such and as worthwhile (or not), but also the very living of life, the life that is uniquely and singularly called one’s “own.” Deconstructing death will have never stanched the desire to put an end to death and to thereby save one’s life, to “live on” or survive “unscathed” by death. Rather, deconstruction figures death as at the same time wholly other than life and yet in intimate relation to it. Life “deconstructed” will be a life other than the life that deconstruction would have desired, a life marked by death and thus a life that remains in a certain sense scathed, irreducibly damned or condemned.

Deconstruction’s “vigilance and necessity” thus challenges one to bear in mind that its effects are unforeseeable, and therefore not entirely under its own direction, control, or proper dominion. Derrida cautions those who would keep watch over the deconstruction of death:

To deconstruct death, then, that is the subject, while recalling that we do not know what it is, if and when it happens, and to whom. Here is what is both relatively incontestable and a task for every kind of vigilance in the world: to be vigilant in deconstructing death, to keep one’s eyes open to what this word of death, this word “death” means, to what one wants to make it say or make us say with it in more than one language. This is in fact a task of vigilance for the vigilant, for those who keep watch [veillent], who keep watch over life, and yet here is a task of vigilance that sets one to dreaming. When one loves

32 The French reads “[i]l ne suffit pas de déconstruire la mort même, comme il le faut, pour survivre ou contracter une assurance sur la vie. Car la vie non plus ne sort pas indemne de cette déconstruction. Rien ne sort indemne de cette déconstruction.”
keeping watch [la veille] and vigilance, when one loves period, one may sleep perhaps, but one dreams. (DP1 240/326)

Deconstructing death is not only a task for the vigilant; it is a “task of vigilance for the vigilant.” Derrida seems here to suggest that vigilance is itself in need of vigilance. In other words, there remains another task of vigilance for those who would remain vigilant in deconstructing death.

One can and must be vigilant in deconstructing death; that is to say, one must be vigilant in attending to what it means or “wants to say.” When one asks, “qu’est-ce que ça veut dire?” – “what does that mean?” – to inquire about the meaning of something, the expression vouloir dire literally translates “to want to say.” This implies that any meaning of death conveys a desire, and does so singularly in different languages or linguistic registers. Thus, vigilance in attending to the diverse significations of the word “death” requires another kind of vigilance, that of keeping watch over the desire that invests a deconstruction of this word and its various determinations. Deconstructing death in the name of life or keeping watch over life through a deconstruction of death: this indicates a love for life and a desire to keep it, to guard it, so that it remains intact, safe and sound, unscathed by this coming “death.” This desire to save life by indemnifying it can operate within and upon any deconstruction of death at an unconscious level; Derrida thus calls for a certain vigilance with respect to the vicissitudes of this desire as it manifests in and directs deconstruction.

There is another aspect of this “task of vigilance for the vigilant,” however (DP1 240/326). Vigilance with respect to deconstructing death also entails guarding the secrets that the word “death” encrypts, for there remains something wholly inaccessible and non-phenomenalizable in what is called “death.” Every kind of vigilance risks losing sight of this fact. For vigilance – to hold vigil – from the Latin vigil, vigilare, translates watchful, awake, to keep watch, not to sleep, especially in reference to the eve of a religious festival. The French
still maintains this latter reference, as la veille, “vigil,” “watch,” or “wakefulness” also refers to
the preceding day, evening, or night. Similarly, the masculine le veilleur indicates a “night
watchman” or “lookout,” while the feminine la veilleuse refers to a “nightlight” or to the tiny
flame that keeps an appliance on standby when it is turned off, a “pilot light.” Vigilance,
therefore, watches and maintains wakefulness in the face of that which is coming but has not yet
arrived. When everyone else sleeps, the night watchman remains awake, steadfast, waiting for or
guarding against the advent of some imminent future. Vigilance even illuminates or brings to
light that which is absent or invisible, like the nightlight that allows the child to see in the dark so
as not to be afraid. Vigilance in deconstructing death, therefore, can assure or reassure by
delimiting, circumscribing, and defining death, putting death in its proper place: over there,
beyond life, but wholly comprehended from the side of life. Vigilance turns night to day,
presents absence, and makes light of death, accrediting the belief that one can see the invisible,
predict the future, assume death and thereby master it. Death to death!

Still, a certain vigilance remains necessary; Derrida calls for it explicitly. But he
complicates this vigilance by inverting the terms implied in the concept. “This is in fact a task
of vigilance for the vigilant, for those who keep watch, who keep watch over life, and yet here is
a task of vigilance that sets one to dreaming” (DP1 240/326). Here, vigilance takes the form of a

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33 I thank Pascale-Anne Brault and Michael Naas for their attention to the French en veilleuse in their translator’s
note to Derrida’s “The Night Watch,” in Derrida and Joyce: Texts and Contexts, edit. Andrew J. Mitchell and Sam Slote

34 In what would be the introduction to her book To Follow: The Wake of Jacques Derrida, Peggy Kamuf analyses
Derrida’s use and displacement of critical vigilance across his corpus. She notes that while he often attributes
vigilance to others as a sign of virtue, this is not without due attention to a certain “pivot” or “swerve” at work in the
ambiguity of the word. This conceptual, etymological, and semantic instability allows Derrida to both affirm the
Enlightenment tradition of vigilance while at the same time orienting it toward an alterity that cannot be anticipated
as such and from which, however enigmatically, the vigilant subject follows. See Peggy Kamuf, “Introduction:
wakefulness that dreams, a daydream or a reverie. Derrida is, of course, playing with a well-known line from *Hamlet*. In Shakespeare’s play, Hamlet contemplates suicide as a means of escaping the sufferings fortune brings to bear upon living. In his soliloquy, sleep figures death: “to die, to sleep,” Hamlet muses, “‘tis a consummation/ Devoutly to be wished.” And yet, Hamlet observes that “what dreams may come,/ When we have shuffled off this mortal coil,/ Must give us pause.” Reticence in the face of the unknown “makes calamity of so long life.” It is this “dread of something after death” that “makes us rather bear those ills we have/ Than fly to others that we know not of.” For Hamlet, death is therefore a possible course of action; one could “his quietus make/ With a bare bodkin,” but for fear of what happens after death. The threat associated with this “undiscovered country, from whose bourn/ No traveler returns, puzzles the will,” making “cowards of us all” and preventing us from taking our own lives. Hamlet thus makes of death a certainty, putting into doubt what lies beyond: “To sleep; perchance to dream.” This precarious survival is to be guarded against, such that one clings to the familiarity of life, however painful it may be. Derrida, on the other hand, reverses the formula. For him, death represents the unknown, whereas survival is given: “When one loves keeping watch and vigilance, when one loves period,” Derrida contends, “one may sleep perhaps, but one dreams.” To hold vigil, to keep watch over life, to guard it against the unknown

35 Indeed as early as 1967, Derrida writes of dreams and vigilance: “Is not the opposition of dream to wakefulness a representation of metaphysics as well? And what must the dream be, what must writing be, if, as we now know, one can write while dreaming?” *Of Grammatology* (Baltimore: Johns Hopkins University Press: 1976), 316. Simon Morgan Wortham has traced the thematics of sleep, vigilance, dreaming, consciousness, and insomnia through the thought of Levinas, Blanchot, and Derrida in the fifth chapter of his book *The Poetics of Sleep: From Aristotle to Nancy* (London: Bloomsbury, 2013), 77-104. He contends that Levinas’s notion of the “there is” [*il y a*] leads Blanchot and Derrida to a thinking of “vigilance beyond attentiveness” (99). Morgan Wortham interprets Blanchot’s “Sleep, Night” to suggest “that within the heart of sleep – in another sleep beyond sleep – there is also a certain vigilance which must radically interrupt itself, exceed itself, or enter into the abyss of itself” (91).


– this is to present what is not here and now. Vigilance puts one in relation to what is wholly other, in a beyond-living, a *sur-vivance* or surviving, that is always already beyond the living present. Vigilance guards life by giving death, such that living, *vivance*, is but the dream of *sur-vivance*.

1. Why the Death Penalty? Derrida’s Challenge to the “Great Thinkers of Death”

The subject, then, if not the question, is to deconstruct death. Whereas “all great thinking or philosophies of death” have, like Hamlet, supposed a certain “pre-comprehension of the meaning of the word ‘death,’” Derrida calls for vigilance, for *toutes les vigilances du mondes*, “for every kind of vigilance in the world” (DP1 237/323, 240/326). Recalling that to deconstruct death also means to deconstruct life, in his seminars on the death penalty Derrida thus thinks life and death otherwise than the philosophical tradition which has, almost without exception, served as a protracted apology for the practice of capital punishment and the theoretical platform for its justification. Contrary to this tradition, which privileges a thinking of death as the foundation to all supposedly secondary or accidental instances of death in its empirical manifestations – one of

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38 It should be noted that “*vivance*” and “*survivance*” are not adequately translated by the present participles “living” and “surviving,” nor by the noun forms “life” and “survival.” Derrida’s use of the “-ance” affix joins the substantive and verb forms of these words, suspending them between the active and passive. In the second volume of *The Beast and the Sovereign*, he comments on his use of “*survivance*” rather than “living on,” “to survive,” and “survival”: “I prefer the middle voice ‘survivance,’ to the active voice of the active infinitive “to survive” or the substantializing substantive *survival*,” he writes (BS2 131/194).


> *First, différance* refers to the (active and passive) movement that consists in deferring by means of delay, delegation, reprieve, referral, detour, postponement, reserving. In this sense, *différance* is not preceded by the originary and indivisible unity of a present possibility that I could reserve, like an expenditure that I would put off calculated for reasons of economy. […] *Second*, the movement of *différance*, as that which produces different things, that which differentiates different things, that which differentiates is the common root of all the oppositional concepts that mark our language. […] *Third, différance* is also the production, if it can still be put this way, of these differences. […] *Différance – fourth* – would name provisionally this unfolding of difference.

It can at least be said that *survivance* displaces any “state” considered to be purely active or passive, past or present, living or dead. Similarly, *vivance* can no longer be understood as simply “living” in an active, willful, or future-oriented sense, nor passively “being alive,” “life” understood to be a univocal and substantive state of being.
which would happen to be the death penalty – Derrida shifts toward a thinking of the death penalty as that which circumscribes and determines death itself, that is to say, what has been historically presupposed by this concept. Through an alternative reading of Heidegger’s *Being and Time*, Derrida’s approach figures death as that which cannot be resolutely taken on, mastered, or appropriated without always already having been “ex-appropriated.” Neither is death treated as the end of life, “life” indicating that which is opposed to “death,” with “life” and “death” considered to be mutually exclusive terms or determinable states. Instead, death exemplifies Derrida’s notion of the event, which always exceeds the comprehensive capacities of the living present and fractures all identity. This allows Derrida to affirm a *sur-vivance* or “surviving” open to a death that is neither “one’s own” nor the capacity of a willing subject, at once imminent, intimate, pervasive, and yet wholly other.

In the eighth session of the seminar, Derrida reflects on the form in which many of the seminar’s major questions have hitherto taken shape. Questions about cruelty, blood, and humanity, among others, are posed in “a classical philosophical form, the form of What is…?” (DP1 236/322). According to Derrida, these investigations reveal something about *ti esti* questions in general: “that to articulate themselves, to take shape, they would have to pretend to know at least what they are talking about at the very moment they seem to be asking about it” (DP1 237/322). In other words, to pose the question *what is cruelty?*, for example, one must presuppose a certain familiarity with the meaning of the words “what,” “is,” and especially

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39 This is a neologism Derrida coins to designate a movement wherein alterity is both taken on through an appropriative gesture and lost as other by that very same gesture. Once alterity is appropriated and made “one’s own,” it is no longer “other than…”; or, if it remains “other,” then it has not been fully appropriated into the same. In order to acknowledge this fact, Derrida refers to appropriation as ex-appropriation. For more on ex-appropriation, see section 6 of this chapter, “The Thing Itself of the Death Penalty; that is, Sacrificial Indemnification.”

40 This will be shown throughout the chapter, especially in sections three and four, “The Figure of Death as the Crossing of a Border, an Aporia” and “Vigilance and the ‘Problem’ of the Border.”
“cruelty.” Otherwise, the question could not be formulated in the first place. This is another way of thinking about the problem of circular reasoning, which Heidegger elaborates and dismisses in the Introduction to Being and Time.\footnote{See §2, “The Formal Structure of the Question of Being” (BT 24-28/6-11).} According to Heidegger, any inquiry “must be guided beforehand by what is sought” (BT 24/7). For Heidegger, as is well-known, it is a question of theorizing the concept of Being through a certain “pre-ontological understanding of Being” that Dasein has as a being for whom its Being “is an issue” (BT 32/16).\footnote{See §4, “The Ontical Priority of the Question of Being” (BT 32-35/15-20).} This concern with its Being gives Dasein privileged access to the question of Being in general, since posing the question what is Being? is a possibility of Dasein’s Being. Because the existential analytic presupposes a vague understanding of the Being of this being, Dasein, in order to formulate the question of Being itself, Heidegger acknowledges a certain circularity at work. Circular reasoning can, he claims, “be cited at any time in the study of first principles” (BT 27/10). Nevertheless, Heidegger deems such “formal objections” “sterile” when it is a matter of “considering concrete ways of investigating,” because they can be leveled at all investigations into first principles and merely prevent one from ever “penetrating into a field of study.” But he goes on to deny that there exists any circular reasoning in the inquiry at all, since such a provisional articulation of Being is not “necessarily having the explicit concept of the meaning of Being at one’s disposal.” Thus, Heidegger makes a sharp, important, and influential distinction between grounding a deduction on its logically derived conclusion and elucidating the presuppositions on which a particular line of reasoning has hitherto been grounded.

This allows Heidegger to circumvent epistemological challenges accompanying the traditional framework of formal logic. Because Dasein’s primary mode of “being-there” consists
of “being-in-the-world,” a world where other beings are available to Dasein and have significance, Dasein always already has a vague understanding of things, their common meanings, and certain of the possibilities they afford Dasein in its concrete existence (BT 78/71). This is Dasein’s “everyday” manner of existing in the world where things are familiar (BT 69/59). Dasein is “at home” in this world, and things are “ready-to-hand” for it (BT 98/93). Nevertheless, one of the possibilities Dasein has as a being for whom its Being is an issue, is to reflect upon the inherited meanings of things, reconsider them, and interpret them for itself, as things that can or cannot contribute in various ways to its own existence. For Heidegger, interpretation works out possibilities that are already latent within everyday understanding. He calls this Dasein’s “fore-structure,” wherein one thing (another being that is ready-to-hand for Dasein perhaps, but especially, Heidegger supposes, Being itself) becomes meaningfully explicated as something through the interpretation of prior understanding, however implicit such understanding may have been (BT 192/200). Heidegger contends that “a positive possibility of the most primordial kind of knowing” lies “hidden” in what has been deemed a vicious circle: the search for a foundation on which to ground further knowledge (BT 195/203). “[A] ‘ground [Grund],’” he claims, “becomes accessible only as meaning [Sinn],” that is, as an interpretation of something previously understood in some manner (BT 194/202). For Heidegger, knowledge can only ever be founded upon Dasein’s interpretive understanding of its own worldly existence, “even if [a ground] is itself the abyss [Abgrund] of meaninglessness [Sinnlosigkeit].”

While Heidegger acknowledges the groundless abyss opened up by “all entities whose kind of Being is of a character other than Dasein’s,” he nonetheless emphasizes the ground Dasein’s meaningful interpretation of B/being(s) makes possible (BT 193/202). Derrida, by

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contrast, would maintain both sides of Heidegger’s insight. All the *ti esti?* questions posed, considered, and reinterpreted throughout the seminar’s previous sessions, he explains, were “meant to show, with their own inadequation, the vertigo or the abyss of their own impossibility” (DP1 237/322). So whereas Heidegger retains a certain faith in phenomenology’s potential to ground scientific knowledge (following Husserl, he writes “‘To the things themselves!’”), Derrida will insist on the *Ab-grund* or abyss of this ground, the impossibility at the core of its possibility, what he will call in *The Beast and the Sovereign* seminars a “groundless ground” (BT 50/37, BS1 180/245). “[E]ven though there is indeed a sort of hermeneutic circle here that lets us presuppose a pre-comprehension of that about which we are asking,” Derrida affirms, reversing Heidegger’s emphasis, the abyss remains and induces a sense of vertigo (DP1 237/322). Moreover, Derrida writes, “this vertigo is not only, I believe, the one that can be induced by the dizziness of a simple hermeneutic circle.” The vertigo Derrida means to discuss is therefore not reducible to the circle of interpretation from which it perhaps arises. This vertigo exceeds hermeneutics, undermining the resoluteness of any interpretation with the groundlessness of an existence without inherent meaning. It is enough to make one lose one’s head, and perhaps literally. Derrida suggests here that where vertigo takes hold, where it threatens the stability of a secure ground, a certain de-capitation means to eliminate that vertiginous anxiety. To cut off the head that spins or turns, and especially the head that returns, is to purge the vertigo and shore up the threatened ground.

This is the reason Derrida begins his analysis not with death, but with the death *penalty*:

I believe on the subject of death, the question, what is death? cannot let its vertigo make the head spin in a simple hermeneutic circle that would give us some pre-comprehension of the meaning of the word “death,” a supposed pre-comprehension on the basis of which the question and its elucidation would develop. At bottom, it is this pre-comprehension that is supposed, more or less explicitly, by all great thinking or philosophies of death […]. I would like to attempt another gesture today starting from the question of the death
penalty about which, strangely, these great thinkers of death never seriously spoke and which they no doubt held to be a circumscribable and relatively dependent, secondary question. (DP1 237/323)

While the “great thinkers of death,” and here Derrida names Heidegger and Levinas explicitly, never consider the death penalty as an object of philosophical interest, Derrida would treat the death penalty as the philosophical question. This gesture inverts a traditional hierarchy, which would privilege a preparatory analysis of death in general from which particular deaths would be derived. The primary articulation of “death itself” is meant to ground secondary or accidental instances of death. The death penalty, murder, suicide, mourning practices: these would all be treated as species of the genus “death” according to the conventional model Derrida seeks to challenge here. “My hypothesis,” he counters,

is that all the alleged pre-comprehensions of the meaning of the word “death” […], these refined semantico-ontological analyses must rely, even as they deny it, on so-called common sense, on the alleged objective and familiar knowledge, judged to be indubitable, of what separates a state of death from a state of life – a separation that is determined or registered by the other, a third party – that is, of the supposed existence of an objectifiable instant that separates the living from the dying. (DP1 238/323-324)

Where thinkers such as Heidegger and Levinas purport to bracket “real-life” practices concerning death in order to investigate the nature of death itself, Derrida suggests that they in fact presuppose those familiar understandings of death, and that this common sense knowledge contaminates their properly philosophical discourses. Importantly, for Derrida, the “thinkers of death” secretly take an assumption from this common knowledge: the belief that the limit between a state of life and a state of death is knowable, that someone can authorize the passage from life to death and ensure that what crosses this border remains safely beyond the world of the living.

Philosophical knowledge disavows common sense as such, and yet appropriates it as an indubitable first principle, as the very ground of objective proof. This process encrypts both the
everyday source of philosophical thought and the uncanny secret contained in such knowledge, that is, the fact that familiar notions of life and death lack a sure ground. The border between life and death has therefore never been so secure as philosophical abstraction would lead one to believe. As Derrida characterizes this disavowal in Specters of Marx, it is a matter of “not wanting to know what everyone alive knows without learning and without knowing, namely, that the dead can often be more powerful than the living” (S 60/85). This demands a constant vigilance that stands on guard against ghosts, the return of the dead, and the rupturing of the living present. Death must be kept in its proper place, “certified” through a performative gesture that is “effective” (S 59/85). In a passage from Specters, Derrida describes an “effective exorcism” in remarks that foreshadow The Death Penalty seminars. An effective, as in successful, exorcism must also be effective, as in productive of desired effects: conjuring away the dead and accrediting the concept of death as such, “death” as an identifiable state subsequent to the end of “life.” An effective exorcism “pretends,” Derrida explains,

to declare the death only in order to put to death. As a coroner might do, [effective exorcism] certifies the death but here it is in order to inflict it. This is a familiar tactic. The constative form tends to reassure. The certification is effective. It wants to be and it must be in effect. It is effectively a performative. But here effectivity phantomalizes itself. It is in fact [en effet] a matter of a performative that seeks to reassure but first of all to reassure itself by assuring itself, for nothing is less sure, that what one would like to see dead is indeed dead. It speaks in the name of life, it claims to know what that is. Who knows better than someone who is alive? it seems to say with a straight face. It seeks to convince (itself) there where it makes (itself) afraid: now, it says (to itself), what used to be living is no longer alive, it does not remain effective in death itself, don’t worry. (S 59/85)

Philosophy or phenomenological ontology, according to Derrida, delimits death, grounds it, certifies it from the side of life, in order to donner le mort, the French idiomatic expression meaning “to put to death,” literally “to give death.” It does so by performatively effecting death and then covering its tracks, “phantomalizing” that performativity and rendering it in a
reassuring, constative form. This performative gesture assigns a meaning to death and to life, and it secures life for the living by putting death to death. Effectively, at least, for as Derrida concludes, “it is often a matter of pretending to certify death there where the death certificate is still the performative act of war or the impotent gesticulation, the restless dream, of an execution” (S 60/85).

2. The Heideggerian “Apprehension of Death”: How Dasein Gives (Itself) Death

Despite the sizable shift in thinking that Heidegger’s philosophy marks in the tradition of Western thought, and in particular with respect to death, Derrida maintains that Heidegger’s analyses remain in line with this classical gesture which effectively secures life by giving death. In The Gift of Death, Derrida calls this “the apprehension of death,” which, he explains,

refers as much to the concern, anxious solicitude, care taken for the soul (epimeleia tês psykhês) in the meletê thanatou, as it does to the meaning given to death in the interpretive attitude that, in different cultures and at particular moments […] apprehends death differently, giving itself [s’en donnant] each time a different approach. The approach or apprehension of death signifies the experience of anticipation while indissociably referring to the meaning of death that is suggested in this apprehensive approach. It is always a matter of giving oneself that which one can probably never [ne peut sans doute jamais] give oneself in a pure and simple way. Each time the self anticipates death by giving to it or conferring upon it a different value, giving itself or reappropriating what in fact it cannot simply appropriate. (GD 39-40/62)

Placing Heidegger in a long line of “apprehenders” going back at least to Plato, Derrida contends that, in giving death a meaning, in valuing, evaluating or revaluing death, one gives oneself “death.” Here a clause is missing from the translation: “C’est toujours une manière de voir venir ce qu’on ne voit pas venir, et de se donner ce qu’on ne peut sans doute jamais se donner purement et simplement.” It is always, Derrida says in Donner la mort, a way of seeing come that which one cannot see coming, and of giving (oneself) that which one can never give (oneself) purely and simply without doubt.” Interpreting the ontologico-existential meaning of death, as Heidegger does in Being and Time, is thus one of the many ways of apprehending
death, giving death to oneself in order to, ultimately, constitute the self as living presence. Yet this or that “death” given, Derrida insists, can never be given purely and simply, and never with absolute assurance.

The “apprehension of death” Heidegger effects in Being and Time consists in his treatment of Dasein’s “authentic Being-toward-death,” *eigentliche Sein zum Tode* (BT 304/345).44 According to Heidegger, Dasein exists as a proper self only when it understands its existence in terms of its own death. Because Dasein is *da-Sein*, “being-there,” its Being [*Sein*] consists entirely in projecting itself toward or upon certain of its possible ways of existing in the world. Dasein’s existence is, therefore, in each case mine [*je meines,*]” and Dasein always understands its existence in terms of “mineness,” *Jemeinigkeit* (BT 68-9/57). In Being-toward-death, however, it would seem that Dasein’s very being-there “is” no more and “has” nothing left. Yet, Heidegger deems it necessary to ground “the Interpretation of the Dasein’s Being,” in a complete and total account of Dasein’s existence – up to and including its “end,” death (BT 276/310). He thus designates death in its properly ontological sense, *Sterben*, as a possibility which Dasein must maintain as possibility, rather than as a possibility to be actualized. In “anticipation,” *Vorlaufen*, Dasein “runs ahead” of death as a possibility, giving this possibility, death, to itself “understandingly” as “the possibility of the impossibility of any existence at all [die Möglichkeit als die Unmöglichkeit der Existenz überhaupt]” (BT 306-307/348).45 Since

44 Since it is clearly beyond the bounds of this chapter to provide the kind of close and detailed reading that Heidegger’s text deserves, I refer the reader to Division One, Chapters two and three of *Being and Time*. Paola Marrati offers a rich interpretation of these chapters, along with Derrida’s analyses of them, in “Dasein’s Life,” Chapter 2.3 of her book *Genesis and Trace: Derrida Reading Husserl and Heidegger*. See Paola Marrati, *Genesis and Trace: Derrida Reading Husserl and Heidegger*, trans. Simon Sparks (Stanford: Stanford University Press, 2005): 143-176.

45 As Marrati astutely notes, *Sterben* has nothing whatsoever to do with the end of life in Heidegger’s discourse: “it is authentic death that separates Dasein from life, from a life that, as *pure life*, can know nothing of death, nothing of the death worthy of the name and worthy of having an ontological sense, namely *Sterben.*” “Life,” she explains, “would be what remains once Dasein has been divested of everything essential to it, of everything that makes it a Dasein.” See Marrati, *Genesis and Trace*, 155.
Dasein’s existence just is its projection upon possible ways it can “be,” the possibility of death must be understood as the possibility of im-possibility, in the sense that Dasein “is” not possible, has no possibilities, rendering Dasein non-existent, but also incapable, un-able – by definition, not-Dasein. In understanding its proper death, therefore, Dasein takes as possible that which is impossible, effectively making what is not possible possible.

Heidegger maintains proper death, Sterben, this possibility of impossibility, as the “ownmost [eigenste]” possibility for Dasein’s existence (BT 307/349). It is death that “individualizes” Dasein, separates Dasein from others in the word, and grounds its Jemeinigkeit (BT 308/350). No one can die for a Dasein, at least in the sense that, as Heidegger emphasizes, “[n]o one can take the Other’s dying away from him” (BT 284/319). Even in sacrifice, Heidegger notoriously asserts, the other’s death is at best postponed; dying for another never makes that other immortal. Hence, death is essentially non-substitutable; each Dasein is irreplaceable in death, such that death is always “my death.” Because death “is in every case mine, in so far as it ‘is’ at all,” Heidegger affirms it as “something that every Dasein itself must take upon itself at the time [Das Sterben muß jedes Dasein jeweilig selbst auf sich nehmen].” It is “my death,” therefore, the death “I” give “myself” as “my own,” that constitutes Dasein as a “me.” Death thus attests not only to Dasein’s existence, but to Dasein’s singular existence. Anticipation of death makes “certain” to Dasein “its ownmost Being in its totality,” giving Dasein the “courage” to understand death and exist authentically in relation to it, as opposed to existing in accordance with the shared meanings attributed to death in order to “console” and “tranquilize” Dasein in the face of death (BT 310/352, 297-298/337). In anticipation, death is certified as Sterben, and Dasein gives itself to itself as this da-Sein and no other, securing its singular existence with certainty.
In *The Gift of Death*, Derrida follows these analyses of Heidegger in detail, but he reads them otherwise, drawing from these claims very different conclusions than does Heidegger himself. Much of Derrida’s reading hinges upon Heidegger’s juxtaposition of the other’s death, which cannot be *taken away*, even in sacrifice, to “my death,” which Dasein must *take on* as its ownmost possibility. “Because I cannot take death away from the other who can no more take it from me in return,” Derrida writes, “it remains for everyone to take his own death *upon himself* [sur soi]” (GD 44/67). This logic apprehends death as “the one thing in the world that no one else can *either give or take*” – it “can never be taken, borrowed, transferred, delivered, promised, or transmitted.” “Even if one gives me death [on me donner la mort] to the extent that it means killing me [*tuer,*]” Derrida elucidates, “that death will still have been mine and as long as it is irreducibly mine I will not have received it from anyone else” (GD 44/68). There are thus *two ways* of “taking” involved when it comes to the Heideggerian apprehension of death. They correspond to two different German words: there is *Abnehmen*, taking away, and *Aufnehmen*, taking on. Death cannot be *abgenommen*, so it must be *aufgenommen*. One can neither take the other’s death away nor *la donner la mort*, give her death or put her to death in the sense of an *Abnehmen*. Nevertheless, one can take one’s own death upon oneself, one can *se donner la mort*, give oneself death, put oneself to death, in the sense of an *Aufnehmen*. Death properly speaking, *Sterben*, can only be taken upon or given to oneself (for Derrida, these amount to the same) in an *Aufnehmen*. This death, “my death,” effectively immortalizes me; by taking it on and giving it to myself as *Sterben*, “my death” spares me of any *other* death I could suffer. Death, properly speaking, spares me from itself when I take it on, when I give it to myself as such. As Derrida explains, “[d]eath would be this possibility of *giving and taking* [donner-prendre] that actually exempts itself [*se soustrait*] from the same realm of possibility that it institutes [à ce qu’elle rend...
possible], namely, from giving and taking.” What translates “to exempt” here is soustraire, “to remove,” “to shield,” “to escape” or “to avoid,” quite literally to pull out from under, “to subtract,” to take from below. Thus, death makes giving-taking possible, but only in taking itself out from under the possibility of giving-taking. I take death upon myself, I give myself death, only in so far as death cannot be given or taken. At the moment I give myself death, put myself to death, me donner la mort, death se soustrait, takes itself out from under me, disappears; death becomes impossible as soon as I apprehend it as my own possibility, as that which I can (and must) take upon myself. In me donner la mort, both “giving myself death” and “putting myself to death,” I effectively put death to death.

As Derrida points out, Heidegger’s articulation of death as possibility is grounded in the distinction between oneself and the other. Thus, for him, everything “becomes concentrated in this ‘oneself,’ in the identity [le même] or oneself [le soi-même] of the mortal or dying self.” “‘Who’ or ‘what,’” Derrida asks, “gives itself death or takes it upon themselves or itself?” His response to this question is nothing short of abyssal:

The sameness of the self [Le même du soi-même], what remains irreplaceable in dying, only becomes what it is [n’est pas ce qu’il est], in the sense of an identity as a relation of the self to itself [le même comme rapport à soi dans le soi-même], by means of this idea of mortality as irreplaceability [avant ce qui le rapporte à sa moralité en tant qu’irremplaçabilité]. In the logic that Heidegger develops it is not a matter of oneself – a Dasein that cares – apprehending its Jemeinigkeit and so coming to be a being-towards-death. It is in the being-towards-death that the self of the Jemeinigkeit is constituted, comes into its own, that is, comes to realize its unsubstitutability. The identity of the oneself is given by death [Le même du soi-même est donné par la mort], by the being-towards-death that promises me to it. (GD 45/69)

Alternate translation: the sameness of the oneself (Dasein’s singular existence as Jemeinigkeit, to translate this once more into Heidegger’s idiom) is not what it is, that is to say, it is not sameness as relation to self in the oneself, before that which relates it to its mortality as irreplaceability. Thus, as David Wills rightly accounts for in his translation, Dasein is only
*Jemeinigkeit* by means of the irreplaceability it is in Being-toward-death authentically, understandably, and with certainty. It is only *through* Being-toward-death that Dasein realizes itself as one singular, proper self. The classical logician would judge Heidegger to have reasoned in a vicious circle: Dasein realizes itself as itself only by taking death upon itself, giving itself its own death. To put it differently, Dasein must have preexisted itself in order to make itself Dasein. The self that Dasein is, in other words, is constituted by coming to an understanding in which it must already be what it will have become due to having arrived at this understanding. So, Derrida asks, who or what must this self be? Is it possible? “Is” it?

Derrida, however, is not, at least not merely, a classical logician. The point is not to “catch” Heidegger in a logical fallacy. Instead, Derrida will follow Heidegger’s reasoning to its breaking point, to the point at which the logical system’s scaffolding begins to give way. In his reading of Heidegger’s apprehension of death, therefore, Derrida attends closely to the circle that grounds Dasein’s existence, the circle that secures Dasein’s *Jemeinigkeit*, its potential, its certainty, and without undermining the perspicacity of these disclosures, Derrida attempts to account for what recedes from a disclosure, what is expropriated in any appropriation, what only presents itself as absence. Dasein’s *Jemeinigkeit*, or self-sameness, is haunted by its *unheimlich* other, the possibilities it “is” are at the same time foreclosures, and its certainty never quite self-assured. While Heidegger acknowledges the circularity that makes the existential analytic possible, Derrida stresses the abyssal impossibility upon which Heidegger’s thought opens. *Being and Time* circles around a Dasein struck with a vertiginous sense that its ground has always already been pulled out from under it. Dasein’s Being-in-the-world spins, and Dasein is not well, is not “itself”; Dasein is out of its head. To steady this *Um-welt*, Dasein brings it to an
end: _il se donne la mort_. Dasein returns to itself but only to realize that it will have always already been – dead.

3. The Figure of Death as the Crossing of a Border – an Aporia

In a Cerisy-la-Salle conference paper, delivered the same year as the initial publication of _The Gift of Death_ and published a year later under the title _Aporias_, Derrida again takes up Heidegger’s ontological analysis of death. Here, it is less a question of circular reasoning than that of the aporia or impasse, a theme occasioned by the topic of the conference, “Border Crossings [Les passage des frontières] (on Jacques Derrida).” In the _prière d’insérer_ to the 1996 extended text, he writes, “Passing from death: beyond. Death is so often represented as an end, a limit, a border. Does death _happen_ [La mort y arrive-t-elle]?” (A/1). Observing that “death takes a figure,” that its “privileged form” is “the crossing of a line,” Derrida thus considers the ways in which classical, anthropological, and philosophical treatments of death lead to or trespass upon _aporias_ (A 58/107). Alongside this ubiquitous and defining metaphor that characterizes death as passage, _poros_ in the Greek, Derrida discerns an irreducible and disavowed _aporos_, literally non-passage. To put it simply, Derrida would here think death as aporia. To think death as _aporia_, however, would be to think both _aporia_ and death otherwise than the traditions upon which he draws in his analysis.

Derrida is aware that this gesture is, in a way, that of Heidegger himself. In paragraphs 48 and 49 of _Being and Time_, passages leading to the formulation of death as “the possibility of the impossibility” of Dasein, Heidegger also calls into question the ordinary, everyday conceptions of death. If death is said to be the “end” of Dasein, then this end cannot be the end of something ready-to-hand, such as the amortization of a debt or the “disappearance” of a loaf of bread (BT 286-7/322, 289/326). Nor can Dasein’s end be compared to the “stopping” of
something present-at-hand, such as the cessation of a rain shower or the end of a road (BT 289/325). The being of these entities differs from the being of Dasein, who exists understandingly toward its possibilities, and who therefore “is already its end” (BT 289/326). As Derrida notes, “[t]hese problematics neglect, forget, and misrecognize the essence of Dasein,” since “the essence of Dasein as an entity is precisely the possibility, the being-possible (das Möglichsein)” (A 63/113-4). For Heidegger, Dasein’s proper being-possible lies in a Being-toward-death that authentically takes death upon itself in an Aufnehmen. In this way, Dasein gives itself to itself as the possibility of the impossibility of its existence. So even as Heidegger identifies death as “a phenomenon of life,” he argues that both life and death must be interpreted within the ontological framework of the Dasein analytic (BT 290/328). This demands a reinterpretation of death, one that leads Heidegger to restrict its proper meaning to Dasein’s existence alone.

Heidegger thus makes it quite clear that the only living beings who properly die are ones with the sort of existence Dasein has. Existence comes to an end for all living beings, but whereas Dasein dies, stirbt, non-Daseins “perish,” verendet (BT 284/320). Even Dasein can end without properly dying, however, in an “intermediate phenomenon” associated with (though irreducible to) the legal declaration of death. Heidegger designates this coming to an end by the term Ableben, translated into English as “demise” (BT 291/329). Derrida emphasizes the “medico-legal sense” of demising, which is only a possibility for Dasein, “when it is declared dead after its so-called biological or physiological death has been certified according to conventionally accredited criteria” (A 37-8/73). This phenomenon, demising, upon which the medical and legal conceptions of death rely, literally implies a departing from life, a step into the beyond. Derrida comments on the German Ab-leben, which the French translators render as
décès, from the Latin *decedere*, to fall off or away from, related to “decay” and “decease” in English. The German “reminds us that the moment of the ultimate separation, the partition that separates us from life, *involves a certain step* [il y va d’un certain pas]” (A 37/72). To demise is therefore characterized as the crossing of a border, a *poros*, passing beyond life into some other plane. Like Derrida, Heidegger resists the predominance of this figure of death. Heidegger instead designates death as *Sterben*, authentic and proper death, which only Dasein can give to or take upon itself as such by interpreting its preunderstanding. Demise, *Ableben*, leaving life or passing beyond it, is an average, ordinary, conception of death, perpetuated by *das Man*, and certified through its various medical and legal discourses.

These conceptions of death, *Ableben* and *Verenden*, Heidegger argues, assume and rely upon an undeveloped understanding of death, the development of which the existential-ontological analysis alone can provide. For him, an understanding of Dasein’s proper death as *Sterben* is presupposed by all other discourses on life and death, including: biology and physiology, history, psychology, anthropology, and even metaphysics and theology. “The existential Interpretation of death takes precedence over any biology and ontology of life,” Heidegger writes (BT 291/329). “But it is also the foundation for any investigation of death which is biographical or historiological, ethnological or psychological.” Derrida elucidates this “logic of presupposition”:

In order to identify the different ways of living (*erleben*), the demise (*Ableben*), that is, the ways of living as such the moment of “leaving life,” the moment, in the lived experience (*Erleben*) of the living thing, of passing as a living thing, the passage out of life (*Ableben*), and in order to speak competently of these modes of passage, of the one who passes or of the other who allows the one to pass or cross, one must already know what death means, and how to recognize death properly speaking. One must already have an understanding or a comprehension (*Verständnis*) of what death is for *Dasein*: an understanding of the word “death” as an understanding of what relates this word to its

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46 Derrida notes that all the French editions of *Sein und Zeit* have agreed to translate *Ableben* by décès. He refers to the German throughout *Aporias*, apparently using his own translations.
meaning. This logic of presupposition consists in raising the question of what, already and from the outset, makes possible every determination, every theme, every project, and every object. In this context, such a logic of presupposition is also a logic of, or a request for, foundation. (A 44-5/85-6)

Thus, and as Derrida points out, according to Heidegger all discourses on death presuppose Heidegger’s concept of death as Sterben. Indeed, Sterben founds all other discourses on death as their condition of possibility. “All of the disciplines thus named,” Derrida explains, “necessarily presuppose a meaning [un sens] of death, a preunderstanding of what death is or of what the word ‘death’ means” (A 27/57). Because these other disciplines have not interpreted their preunderstandings of death in light of the existence of Dasein, Heidegger contends, their knowledge remains groundless. “The theme of the existential analysis” as Derrida understands it, is therefore “to explain and make explicit this ontological preunderstanding.” And thus to ground all other domains of inquiry.

It is “the logic of this Heideggerian gesture,” Derrida admits, that “interests” him (A 27/57). But he expresses a desire “to assert the force of its necessity and go with it as far as possible […] so as to try to bring to light several aporias that are internal to the Heideggerian discourse.” “At stake for me,” he writes,

would be approaching the place where such aporias risk paralyzing the ontological, hierarchical, and territorial apparatus to which Heidegger lends credit. These aporias risk interrupting the very possibility of its functioning and leading it to ruin. Death would be the name, one of the names, of this threat, which no doubt takes over from what Heidegger himself very early on called “ruination.” (A 27-8/57-8)

Aporia would here designate the vertiginous abyss conditioning any ground, and hence the philosophical and scientific structures built upon it. This is the abyss or Abgrund Heidegger analyses in Division I of Being and Time.47 As Derrida points out, however, Dasein’s existence

47 See the first section of this chapter for further discussion of vertigo and the abyss, “Why the Death Penalty? Derrida’s Challenge to the ‘Great Thinkers of Death.’”
can never be absolutely secured through an understanding interpretation, since Dasein’s existence concerns beings whose existence differs radically from its own. Any ground would therefore remain a provisional, uneasy scaffold over an irreducible void. Derrida would thus follow Heidegger’s reasoning carefully and in detail, but in order to identify the disavowed aporias that destabilize the foundation upon which Heidegger’s theoretical apparatus relies.

One of the “sites” of this instability would center around Heidegger’s deployment of what Derrida will call “order.” He observes that “Heidegger describes this relation of [other discourses’] dependence [upon the existential analysis of death] by using the classical idea of order, an order of priority, precedence, and presupposition” (A 44/84). Attending carefully to paragraph 49 of Being and Time, Derrida discerns “[a] hierarchical order” that “delimits the field” of inquiry (A 29/60). It is important to note that, throughout Being and Time, Heidegger purports to uncover ontological domains as they are, given the privileged point of view Dasein has as the sort of being it is. What Derrida shows throughout Aporias, however, is that these ontological domains appear to Dasein in the ways Heidegger describes as a result of the hierarchical ordering that Heidegger deploys. This hierarchy “rigorously superordinates or subordinates the questions, themes, and, in fact [en vérité], the ontological regions.” “According to Heidegger,” Derrida acknowledges, “these regions are legitimately separated by pure, rigorous, and indivisible borders. An order is thus structured by uncrossable edges. Such edges can be crossed, and they are in fact crossed all the time, but [on Heidegger’s view] they should not be.” Through the deconstruction Derrida undertakes, however, it becomes clear that the ontological domains Heidegger discloses are foregrounded by his anxious anticipation of that impossible death that subtracts itself from the Heideggerian account of Being-toward-death.
Because the borders securing Heidegger’s ontological domains are in fact crossable, there is a need to guard them against illegitimate crossings, that is, against traffic for which phenomenological ontology cannot account. One of Derrida’s concerns in Aporias is to identify the stakes of this vigilance over the borders of Heidegger’s ontological demarcations. On Derrida’s reading of Being and Time, the rigorous, territorial ordering that propels Heidegger’s analysis attempts over and over again to effect a secure existence for Dasein by localizing death. Dasein’s own, self-determined death would protect it from death’s pervasive, excessive irruption. Thus, for Derrida, “the hierarchy of this order is governed by the concern to think what the death proper to Dasein is” (A 29-30/60). It is Heidegger’s investment in Dasein’s own, proper death – a death that secures Dasein’s existence as such – that orders, hierarchizes, and delimits the boundaries of what counts as true within the existential analysis. What Heidegger takes to be ontological truths are, for Derrida, manifestations of the desire to circumscribe and certify death – to give death a place, to disclose death in the phenomenal light of day, to unveil it in its a-letheia as something, some-thing, that can be understood or preapprehended as “my” possibility, rather than awaited as the imminent and incomprehensible promise of alterity.

4. Vigilance and the “Problem” of the Border

“Here is what is both relatively incontestable and a task for every kind of vigilance in the world: to be vigilant in deconstructing death” (DP1 240/326). A certain vigilance motivates Heidegger’s “destructuring” [Destruktion] of death in Being and Time; Derrida, however, suggests that this vigilance demands another sort of vigilance: “This is in fact a task of vigilance for the vigilant.” It is only through a vigilant reading of Heidegger that Derrida could ask, from the hither-side of Heideggerian vigilance, “Is my death possible [Ma mort est-elle possible]?” (A 21/48). For Heidegger, death is always “mine.” Sterben names an impossible experience,
Dasein’s very non-being, but something that is nevertheless possible to take on or give oneself in an *Aufnehmen* that establishes Dasein as being-possible. Constituting Dasein in its *Jemeinigkeit*, death is a *possibility* for Heidegger, and not just one possibility among others. Death is Dasein’s ownmost, proper possibility for being itself. Derrida marvels at the fact that this “gripping paradox” conjoining the possible and the impossible, and in particular around property (the possible as impossible is “mine”), is “hardly noted” (A 68/121). “Less so than for any other noun,” Derrida ventures, “save God – and for good reason, since their association here is probably not fortuitous – is it possible to attribute to the noun ‘death,’ and above all to the expression ‘my death,’ a concept or a reality that would constitute the object of an indisputably determining experience” (A 22/49). Yet if, as Heidegger maintains, the syntagm “my death” “names the very irreplaceability of absolute singularity,” Derrida reasons, then “[e]veryone’s death, the death of all those who can say ‘my death,’ is irreplaceable. So is ‘my life.’” In quotation marks, “my death” (and also, it should be noted, “my life”) thus marks both an absolute singularity *and* a limitless substitutability: two sides of an irresolvable aporia.

Derridean vigilance could perhaps be figured as interminably aporetic.

The aporia, as Derrida conceives it in this text, is “the impossible, the impossibility, as what cannot pass or come to pass [*comme ce qui ne peux passer ou se passer*]” (A 23/50). Derrida nonetheless identifies this inability to pass or this impassivity with a “derivation of the *pas,*” *pas* indicating both negation and the word “step”, but also maintaining an etymological link to the Latin *pati,* “to endure,” “to suffer,” as in a possible experience.48 Thus, what cannot pass or come to pass in the aporia would be irreducible to an in-ability to step beyond a threshold or over a given border. This “privative form would,” for Derrida, “be a kind of *a-pas.*” Rather than

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48 Derrida here uses the literary “*ne peux passer,*” which does not require the *pas,* as in “*ne peux pas passer.*”
associating the aporia with a negation or a phenomenal experience which would be subsumed by the dialectical movement of a Hegelian Aufhebung, Derrida would shift the figure of the aporia to a thinking of that which comes to pass without passage, a passing that occurs without experience, will, or transgression. Such coming to pass would resist any institutionalized limit presenting itself as indivisible:

The crossing of borders [Le passage des frontières] always announces itself according to the movement of a certain step [pas]—and of the step [pas] that crosses a line. An indivisible line. And one always assumes the institution of such an indivisibility. Customs, police, visa or passport, passenger identification—all of that is established upon this institution of the indivisible, the institution therefore of the step that is related to it [Et donc du pas qui s’y rapporte: And therefore of the pas that is related to it], whether the step crosses it or not [pas]. Consequently, where the figure of the step [pas] is refused to intuition, where the identity or indivisibility of a line (finis or peras) is compromised, the identity to oneself and therefore the possible identification or an intangible edge—the crossing of a line—becomes a problem. There is a problem as soon as the edge-line is threatened. And it is threatened from its first tracing. This tracing can only institute the line by dividing it intrinsically into two sides. There is a problem as soon as this intrinsic division divides the relation to itself of the border and therefore divides the being-one-self of anything. (A 11/29-30)

The tracing of the border thus institutionalizes the pas as both the prohibition and its transgression as sublation. But this movement presupposes an indivisible border that can never be secured as such, since the very tracing of the line divides one into (at least) two. Derrida refers to this as “the double concept of the border,” wherein any border implies a doubling: there are the “contents” of what is determined to be “within” the limit and what is thereby designated as “outside” of those limits, and there are the associated conceptual demarcations that operate according to an oppositional logic (A 17-18/39-40). “What is at stake” in the aporia or a-pas, “is therefore not the crossing of a given border,” at least not primarily (A 18/40). For Derrida, the decision to draw a border-line in the first place “concerns the choice between the relation to an other who is its other (that is to say, an other that can be opposed in a couple) and the relation to a wholly, non-opposable, other, that is, an other that is no longer its other” (A 18/39-40). To
draw or institute – indeed to maintain or transgress – a border is thus to de-limit a proprietary boundary and thereby ap-propriate the other as “my own.” In this sense, “my death” would concern the relation to an appropriate, proper death and a wholly other death that cannot be said to be “mine.”

The stakes of the aporia or a-pas therefore concern alterity and the relation of the self to an other. But because this relationality requires a demarcation between the self and the other, one which always incorporates the other through a constitutive exclusion, the aporia becomes a problem. In the Greek, problema means both projection and protection, and, according to Derrida, “[e]very border is problematic in these two senses” (A 12/30). A problem is thus what “one throws in front of oneself” as a task to be completed or a “prosthesis that we put forth in order to represent, replace, shelter, or dissimulate ourselves, so as to hide something unavowable” (A 11/30). Derrida uses the metaphor of a shield, which problema can also signify, to denote something that one hides behind in order to guard oneself “in secret or in shelter in case of danger” (A 12/30). Derrida does not spell out the connections between these claims, however, one can infer the following: whenever the integrity of the self is compromised – and it is compromised from the very moment it is distinguished as having its own proper borders – its identity becomes a problem, in the sense that “oneself” is projected out as a task to be completed and as a protective mechanism that both hides its irreducible “at-least-twness” (one could also say alterity), shielding it from threats to its integrity.49 The border is always already doubled, and yet it is represented as an indivisible line or limit. Derrida thus conceives it as a disavowed a-pas, where what cannot come to pass in the aporia is problematized: the unavowable or threatening secret is projected “out” as its opposite. One could translate this into another

49 It should be noted that this integral threat is projected “out,” but is always already “within” the oneself, which is never one, whole, or intact.
Derridean idiom and say that the disavowed performatively effects a more reassuring form, that of a phantasmatic substitute accrediting a certain security, unity or completion, soundness, purity – all of which translate the indemnity of the unscathed.

Clearly, this is how Derrida reads Heidegger’s Dasein analytic, which characterizes Dasein’s existence as projecting upon its possibilities, the most proper of which is its own death, “my death.” Dasein’s death is problematic: it is not a natural given or an ontological truth in the sense that Heidegger would maintain; rather, Dasein’s death is a project that protects Dasein from the threat of rupture and ruination. Dasein takes death upon itself understandingly, giving itself death as its ownmost possibility. “My death” shields Dasein from the other death that remains impossible, unavowable, inappropriable, even inappropriate, absolutely deprived of the pas. This accounts for Heidegger’s rigorous ordering of ontological and disciplinary boundaries: the de-limiting of these problematic borders both project Dasein’s death “out” as that which can be taken back “in,” re-gifted, as properly mine in an understanding interpretation and protect Dasein from any other death it would suffer, including the internal principle of ruin implied in the tracing of Dasein’s Jemeinigkeit. The hierarchies that Heidegger erects in Being and Time condition Dasein’s proper death as such. And in turn, Dasein’s proper death grounds the order that makes it possible. Heidegger’s theoretical apparatus thus circles around “my death,” at once grounding and problematizing existence.

To describe this operation, Derrida invokes the figure of the border guard:

“My death,” this syntagm that relates the possible to the impossible, can be figured flashing like a sort of indicator-light (a light at a border) installed at a customs booth [une sorte de voyant installé à un poste de douane], between all the borders that I have just mentioned: between cultures, countries, languages, but also between the areas of knowledge or the disciplines, and, finally, between conceptual de-terminations. A light flashes at every border, where it is awake and watches [ça veille]. One can always see there a nightwatchman [du veilleur] or a nightlight [de la veilleuse]. (A 24/51)
Derrida characterizes “my death” as un voyant, a sort of “seeing-light” that flashes at every border. When used as a present participle, voyant literally means “seeing,” indicating that every border must be watched over. Vigilance is necessary in order to guard against the irruption of impropriety, that is, the constitutive self-exclusion inherent in the doubling-effect of the border’s “own” tracing. A seeing-light keeps vigil, ça veille, over the irreducible a-pas of every border. Derrida figures “my death” as a vigilant border guard, and he takes Heidegger’s articulation of Dasein’s Jemeinigkeit to be an exemplary articulation of this vigilance over borders. To draw this border-line with respect to death is to put Dasein in relation to a death that is its death rather than a death that is wholly other. This proprietary limit disavows the other death by effecting “my death” as the secure foundation of all the other territorial disputes Derrida mentions, in particular, the theoretical apparatus of Being and Time along with its conceptual and disciplinary hierarchies. One may sleep perhaps, but one dreams: Heideggerian vigilance, like all vigilance, sets one to dreaming. Being and Time would be the dream of this veilleur or veilleuse, resolute in the face of a certain death, this “death” over which it keeps watch and which keeps watch over it, perhaps. With and beyond such wakeful interpretation, Derridean vigilance is oriented within the dreamwork, whose secrets await a death to come.

5. Marranism: The Secret Life-Death of Being and Time

Derrida concludes Aporias with an enigmatic invocation: “Let us figuratively call Marrano anyone who remains faithful to a secret that he has not chosen” (A 81/140). Death, this word, what has been called “death,” Derrida observes, “is always the name of a secret, since it signs the irreplaceable singularity” (A 74/130). “It puts forth the public name,” he continues, the common name of a secret, the common name of the proper name without name. It is therefore always a shibboleth, for the manifest name of a secret is from the beginning a private name, so that language about death is nothing but the long history of a secret society, neither public nor private, semi-private, semi-public, on the border between the
two; thus, also a sort of hidden religion of the awaiting (oneself as well as each other), with its ceremonies, cults, liturgy, or its Marranolike rituals. A universal Marrano, if one my say, beyond what may nowadays be the finished forms of Marrano culture.

As the linguistic and cultural site of both singularity and homogeneity, the word “death” names that irreplaceability common to all. “Death” marks the aporetic borderline between the pairs public-private, shared-secret, singularity-substitution, and possible-impossible, such that the rigorous scaffolding of these oppositions both disavows and facilitates their exchange. Like the Marrano or crypto-Jew, whose forced conversion to Christianity became the authorized expression of an enduring fidelity to Judaism, the public avowal of “death” encrypts a secret heritage. For Derrida, Heidegger’s treatment of death forcefully rearticulates a Marranolike fidelity to death’s secret in and through a forced conversion. In a rather scandalous gesture, Derrida thus conveys an image of Martin Heidegger, the notorious National Socialist philosopher, as Marrano.

On Derrida’s reading of Being and Time, Heidegger’s hierarchical ordering of disciplines and concepts exemplarily repeats and reformulates a traditional schema under the guise of a fundamental ontology. “This order of orders belongs to a great ontologico-juridico-transcendental tradition,” Derrida discerns,

and I believe it to be undeniable, impossible to dismantle, and invulnerable (at least this is the hypothesis I am following here) – except perhaps in this particular case called death, which is more than a case and whose uniqueness excludes it from the system of possibilities, and specifically from the order that it, in turn, may condition. What I mean

50 Derrida’s use of the proper noun “Marrano” does not, or at least not merely, designate the Jewish people who were historically forced to convert to Christianity under fifteenth-century Spanish and Portuguese rule. Derridean marranism instead tries to think the transmission of a secret heritage through its very erasure, forgetting, or denial. An extensive treatment of Marranism in Derrida’s corpus is not possible in this chapter, but one could look to several other texts in which Derrida invokes this figure: “The Jew,” in “Circumcision,” Jacques Derrida, translated by Geoffrey Bennington (Chicago: University of Chicago Press, 1993), 292-296; Derrida’s remarks on a “marrano of the marrano” in D’ailleurs Derrida, directed by Safaia Fathy (Paris: Gloria Films, 1999); “Ontotheology encrypts faith and destines it to the condition of a sort of Spanish Marrano who would have lost – in truth, dispersed, multiplied – everything up to and including the memory of his secret.” (FK 51 100); and “Abraham, the Other” in Religion, Beyond a Concept, edited by Hent de Vries (New York: Fordham University Press, 2008), 321.
Here is an entirely other [tout autre] “logic” of the order: if there are legitimate and powerful questions about the foundation and the “already” of the condition of possibility, then they are themselves made possible and necessary by a relation to death, by a “life-death [la-vie-la-mort]” that no longer falls under the case of what it makes possible. That is what I will call the aporia. (A 45-6/86-7)

Here Derrida suggests that death cannot be ordered by the order that it conditions: although the existential analysis of death in Being and Time conditions and orders all the other conceptual, disciplinary, and methodological distinctions at work in that text, Derrida contends that a certain relationship to death exceeds the hierarchizing order that it makes possible. What Derrida calls “life-death”51 puts into question the logic of presupposition that grounds both Heideggerian phenomenological ontology and its interpretation of other, supposedly secondary fields of inquiry. For Heidegger, Dasein always already has a relation to death in its preunderstanding of its end, a preunderstanding which is wholly and authentically understood in the existential analytic of Being-toward-death. Derrida’s point, however, is that if a relation to death indeed grounds Heidegger’s theoretical framework, that relation cannot be fully comprehended and defined by that apparatus, since a relation between da-Sein, “Being-here,” and death, understood as not- or no-longer-Being-here, brings death here, presents it as such, giving/taking death as that which makes one’s existence “mine,” properly speaking. In other words, existing authentically toward death means Being-here and not-Being-here simultaneously. This relation troubles any pure limit which would mark “life” and “death” as mutually exclusive, opposed

states of being and non-being, presence and absence, possibility and impossibility. A relation to
death indicates that “life” and “death” each exceed the boundaries of the conceptual
determinations they make possible, since they permeate one another in ways that cannot be
calculated, circumscribed, or predicted with any assurance. By juxtaposing the terms “life” and
“death” in the term “life-death,” Derrida marks the non-place of an undecidable aporia, one that
he would leverage to rupture a certain ontologico-juridico-transcendental inheritance privileging
the living present.

In a way, Heidegger is well aware of the undecidability inhering within this tradition. In
paragraph 49 of Being and Time, he notes that the ontological analysis of death leaves open as
undecided any questions about “das ’Jenseits,’”” the beyond, the other side, or as Macquarrie-
Robinson have it, the “other-worldly” (BT 292/329). Nonetheless, Derrida emphasizes the fact
that Heidegger does indeed decide on what must be left undecided, and his decision rests on this
side. In order to attain “methodological assurance,” Heidegger proclaims that “our analysis of
death remains purely ‘this-worldly’ [rein ‘diesseitig] in so far as it Interprets that phenomenon
merely in the way in which it enters into [in dieses hereinsteht] any particular Dasein as a
possibility of its Being.” In other words, interpreting death exclusively insofar as it “stands in”
as a potentiality-for-Being a singular Dasein means privileging the here and now of “this side.”
Derrida stresses “the importance of what is being decided, so authoritatively and so decisively, at
the very moment when what is in question is to decide on what must remain undecided” (A
54/100-1). Whether one could theoretically start from the other side of the border must remain
undecided in order to shore up the phenomenological methodology Heidegger employs. For
Derrida, what is at stake in this decision, and what justifies Heidegger’s “pré-ferance [pré-
férence]” for this side, das Diesseits, is a concern for order and methodological certainty (A
Such “methodologism,” Derrida discerns, “poses as its axiom that one can only start from here [d’ici], from this side [de ce côté-ci];” it says that “the best point of departure is the point from which we can start and that is always here” (A 53/99). As a result, any questions pertaining to survival, immortality, or the return of the dead are subordinated to the existential analytic of death. Questions about the “other side” are speculative, Heidegger reasons, not phenomenological (BT 292/330). Privileging “this side” of the border thus sides with phenomenology, with apodictic certainty, and with the assurance of a firm ground. The “other side” opens upon interminable speculation without proof, foundation, or security.

Derrida is nonetheless attentive to the complex logic reinforcing Heidegger’s decision to privilege “this side” of the border crossing from death to the beyond. Heidegger does not pose a simple opposition, nor does he eschew Dasein’s inescapable mortality in favor of some naïve affirmation of life. For Derrida, “it is not enough to say that Heidegger interprets death in terms of a decision that consists in privileging the ‘this side’ (das Diesseits) of the line, even if at the same time he neutralizes the interest for the other side that would be opposed to this side” (A 55/102). It is instead based on Dasein’s very concern for the “other side” that Derrida understands Heidegger to suspend all questions with regard to it:

it is the originary and underivable character of death, as well as the finitude of the temporality in which death is rooted, that decides and forces us to decide to start from here first, from this side here. A mortal can only start from here, from his mortality. His possible belief in immortality, his irresistible interest in the beyond, in gods or spirits, what makes survival [survivance] structure every instant in a kind of irreducible torsion, the torsion of a retrospective anticipation that introduces the untimely moment and the posthumous in the most alive of the present living thing [la plus vivant du présent vivant], the review mirror of a waiting-for-death [s’attendre-à-la mort] at every moment, and the future anterior that precedes even the present, which it only seems to modify, all this stems from his mortality, Heidegger would say. No matter how serious all this remains [si grave que cela reste], it would only be secondary. This very secondariness testifies to the primordiality of being-toward-death, of being-until-death, or, as one could also say, being-to-death. Only a being-to-death can think, desire, project, indeed “live [vivre]” immortality as such [l’immortalité comme telle]. (A 55/102)
For Heidegger, the phenomenological interpretation of death as *Sterben*, thus as Being-toward-death, Dasein’s ownmost, proper, and inescapable potentiality-for-Being, conditions any speculation regarding “what lies beyond.” And thus any theological treatment of salvation, the metaphysics of death and the afterlife, and everyday concerns about “the other side.” In a way, however, Heidegger sells himself short, because it is not simply, solely, or purely mortality, death, or finitude that structures Dasein’s experience as Heidegger describes it in *Being and Time*. Dasein’s Being-in-the-world is always already marked by an exchange with what cannot appear in the world, what “is” not or is not experienced “here and now.” But no matter how forcefully Heidegger insists on the primacy of *da-Sein*, Being-here on “this side,” a relation to the “other side” remains; *survivance reste*, inescapably. As Derrida movingly writes, survival and the posthumous already rupture every instant of life, of what phenomenology terms “lived experience.” Heidegger thus thinks without thinking both sides at once, and Dasein is already, in this thinking, a figure of life death. Even though this thought is disavowed in *Being and Time*, Derrida maintains that “one cannot think originary finitude without removing it as infinity, nor can one think being-to-death without starting from immortality” (A 55/103).

As Derrida demonstrates throughout *Aporias*, Heidegger’s hierarchizing schema in *Being and Time* institutes a series that orders: possibility over impossibility, finitude over infinity, mortality over immortality, phenomenological ontology over all other inquiries, the “here and now” over the what lies beyond, *Jemeinigkeit* and the proper over alterity, *Sterben* over *Ableben* and *Verenden*, and so on; Derrida nonetheless finds the resources in Heidegger’s text to account for the trafficking Heidegger leaves “off the books” when he accredits a phenomenological method that starts from “this side” and privileges the presencing of *da-Sein*. For Derrida, the complexity of Heidegger’s analysis, and above all with respect to death, exceeds its own
boundaries (indeed, since to draw a borderline is already to compromise it). Nonetheless, and Derrida is just as adamant about this, the line is promised in this compromise. The borderline marking one’s own, proper limit is only traced as the possibility of impossibility – in other words, as death, the ex-propriating “principle of ruin” that both “threatens and makes possible” Heidegger’s “analysis itself as a discourse of delimitation, of guaranteed dissociation, of the border” (A 73-4/129). On this view, Being and Time is not only a text about death, Being and Time “is” death, it lives death as an aporetic testament to the a-pas destining experience as affirmative advance. Death would figure this a-pas at the heart of living presence, an aporetic nonpassage that, Derrida explains,

   can in fact be something else, the event of a coming or of a future advent [événement de venue ou d’avenir], which no longer has the form of the movement that consists in passing, traversing, or transitioning. It would be the ‘coming to pass [se passer]’ of an event that would no longer have the form or the appearance of a pas: in sum, a coming without pas. (A 8/25)

In this way, Derrida leverages “the ontological, hierarchical, and territorial apparatus to which Heidegger lends credit” against itself in order to think the problematic nature of its borders and the disavowed aporia whose abyssal ground structures the existential analysis of Dasein’s death (A 28/57-8).

Of course, Derrida recognizes that “Heidegger does not say this and he cannot say it anywhere in Being and Time up to its interruption”; nevertheless, Derrida argues, “such an (aporetic) form of the nonsaid can always be interpreted as a denied revelation, avowal, betrayal, or symptomatic regression, and as a secret that cannot be kept and presents itself cryptically” (A 74/130). And indeed, this is just how Derrida reads Being and Time, as a text that encrypts a hidden fidelity to that which it betrays, or to put it differently, Being and Time maintains its secret by presenting it otherwise. Being and Time advances through a negating step – a pas –
that perpetuates the disavowed in the form of a more reassuring affirmation. But this sublating movement carries within it the remains of the nonsaid, and the existential analysis bears witness “to that from which it demarcates itself,” as a monument to the crypt upon which it is erected.52 Derrida interprets the nonsaid in Heidegger’s text as “contaminating contraband” that “insinuates itself through the idiom of the existential analysis,” an analysis which interprets death – and therefore life – in its originary, proper purity (A 79/138). As they function within the existential analytic, the integrity, fundamentality, and purity of these concepts always already assume and contain within them the remains of their biological, theological, metaphysical, and everyday usages. Heidegger’s adamancy regarding the independence and priority of his methodology thus encrypts the fundamental derivation, dependence, and indebtedness that makes phenomenological ontology possible. A Marrano-like practice of life-death will have therefore survived Heideggerian Destruktion, from which nothing will have come out unscathed.

6. The Thing Itself of the Death Penalty; that is, Sacrificial Indemnification

Derrida concludes his discussion of the vigilance which must accompany any vigilant deconstruction of death, along with the ninth session of The Death Penalty seminar’s inaugural year, by returning to the “question of the unscathed [l’indemne],” a term that he had begun to articulate six years prior at a Capri conference on religion (DP1 241/328).53 There, Derrida developed the question “of the indemnity of the unscathed [de l’indemnite de l’indemne], of the safe and of salvation [du sauf et du salut], of the saving-oneself [du se sauver], with that of the immunity of the immune, as the question of religion,” but here he asserts that this “is also, of

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52 For more on Derrida’s notion of the crypt in the context of his psychoanalytic inheritance, see the second chapter of this dissertation.

53 Two years later, Derrida expanded and published these remarks under the title “Foi et savoir.” This text has by now become the subject of much critical attention. Michael Naas has written an extensive and elucidating commentary under the title Miracle and Machine: Jacques Derrida and the Two Sources of Religion, Science, and the Media (New York: Fordham University Press, 2012).
course [bien entendue], the question of the death penalty.” Well understood, bien entendu,
Derrida contends that the indemnity of the unscathed is not only “the very matter – the thing
itself – of religion [la chose même de la religion],” as he suggests in “Faith and Knowledge,” but
also that of the death penalty (FK 27 [61/38]). L’indemne is derived from the Latin indemnis,
indicating “that which has not suffered damage or prejudice, dam-num” (FK 27 [61 n. 16/38 n.
12]).54 From the Indo-European root dap-no-m, damnum is itself tied to the daps or banquet
meal celebrating “the sacrifice offered the Gods as ritual compensation.”55 There is thus a
relationship between indemnis and damnum, one that is, for Derrida, irreducible to their
intersecting etymology. The history of these terms can instead be read as a testament to, or even
as a symptom of, what Derrida calls “a process of sacrificial indemnification [indemnisation
sacrificielle]” that “strives to restore the unscathed [l’indemne] (heilig) that it itself threatens”
(FK 29 (66/46)). “If the question of the death penalty is that of indemnity, it remains to be
thought what indemnity means,” Derrida insists, “either being-unscathed [l’être-indemne] […] or
else being-indemnified [l’être-indemnisé], that is, rendered once again unscathed, made
unscathed, that is paid, reimbursed by the payment of a compensation, redemption, by the
payment of a debt” (DP1 254/344). What remains to be thought, then, is la chose même de la

54 Following (while at the same time displacing) the work of Emile Benveniste, Derrida uses a set of etymologically
and semantically related but ultimately undecidable terms to discuss indemnity, including: le salut, salvation, safety;
(se) sauver, to save (oneself); sauf, safe, but also save, except; sain, healthy, well, sane, but also whole, sound, intact;
sacré, sacred, but also profane; saint, holy, or a saint; intégre, integrated, whole; vivant, living; fecund or fertile;
fort, strong, hard; and a parenthetical string of words in Latin, German, and English, “sacre, sanctus, helig, holy”
(FS 2 [9/42]). Kas Saghafi has analyzed this term within the context of a proposed “deconstruction of Christianity”
through a comparison of Derrida and Jean-Luc Nancy in “‘Safe, Intact’: Derrida, Nancy, and the ‘Deconstruction of
Christianity,’” in A Companion to Derrida, edited by Zeynep Direk and Leonard Lawler (Oxford: Wiley and Sons,

55 Derrida analyses Émile Benveniste’s etymology of damnum and the daps in much greater detail in The Death
Penalty seminar. For more on this, see the following subsection of this chapter, titled “‘Capital’ Punishment: When
Sacrifice Enters the Market.”
*peine de mort*, that is, a sacrificial economics of indemnificatory security driving the practice of capital punishment.

Although inaccessible to direct experience, this economy of sacrificial indemnification would be the very work of both the death penalty and religion, but also science, which Derrida associates with “a *certain* tradition of the Enlightenment” whose influence “traverses like a single ray a *certain* critical and anti-religious vigilance, anti-Judeo-Christian-Islamic, a *certain* filiation ‘Voltaire-Feuerbach-Marx-Nietzsche-Freud-(and even)-Heidegger” (FK 29 [65/46]). According to Derrida, this critical vigilance would, in remaining within this tradition, oppose “Reason and Religion, Critique or Science and Religion, technoscientific Modernity and Religion” (FK 29 [65/45]). Derrida, however, maintains that science and reason share with religion a common source, one that “renders possible, but not necessary, something like religion” understood as a socially and historically determined institution (FK 47 [93/88]). And he identifies such a possibility as “the place where, before and after all the Enlightenments in the world, reason, critique, science, tele-technoscience, philosophy, *thought* in general, retain the same resource as religion in general” (FK 47 [94/89]). This common source or re-source nonetheless “divides itself mechanically, automatically, and sets itself reactively in opposition to itself,” such that “the same unique source” would be “two sources in one” (FK 29 [66/46]). Religion and science therefore share the following apparently opposed re-sources: the indemnity of the unscathed, a drive to maintain or restore the integrity of what has been or is threatened with contamination by the other; and the fiduciary, an accredited belief or faith in the other, to which both science and religion must respond by means of some repetitive, performative mode of address. In order to secure institutional integrity, the scientific and the religious each require external validation, undermining the self-sufficient autonomy associated with institutionalization.
The fiduciary and the indemnity of the unscathed are thus caught in a polarizing feedback loop in which the role of each as a requisite institutional resource is effaced.

Despite distancing himself from the traditions of both Enlightenment rationality and religious faith, “even” Heideggerian phenomenological ontology, Derrida argues, forcefully rearticulates a critical vigilance that opposes thought to religion by ordering a disciplinary hierarchy headed by the Dasein analytic. Heidegger’s critiques of both modern scientificity and metaphysical theology thus repeat the reactive disjunction of science and religion with the force of a disavowal. This facilitates the indemnification process within Heidegger’s analysis of Dasein’s death, which privileges the “here and now” of a Dasein realizing its authentic Being only in se donner la mort – that is, by sacrificing da-Sein to “be” Dasein. Rather than leveling yet another critique, however, which would serve to perpetuate this tradition in the form of a negation of the negation, Derrida would displace the Heideggerian gesture through a certain affirmation of the indemnification process at work therein. Hence, Derrida relates science and religion through their common re-sources, the indemnity of the unscathed and the fiduciary. And diverging from a traditional model, which would polarize these re-sources while neglecting their irreducible interplay, Derrida treats them as “axioms,” each of which “already reflects and presupposes the other” (FK 47 [93/88]).

56 Derrida’s extended treatment of Heidegger is outside of the scope of this chapter; fortunately, however, Michael Naas has provided a detailed analysis of Derrida’s engagement with Heidegger in Miracle and the Machine, 319-330. As Naas observes, Derrida appeals to several works from Heidegger’s oeuvre in an effort “to demonstrate a coherence or consistency within Heidegger’s thought about religion” (320). Much of this line of reasoning has to do with Heidegger’s insistence on the “independence of thought” with respect to faith, while at the same time affirming a primordial Zusage that conditions all thinking (FK 48 [94/89]). As Derrida writes, Heidegger still extends with force and radicality the assertion that belief in general has no place in the experience or the act of thinking in general. And there we would have difficulty following him. […] It still seems difficult to dissociate faith in general (Glaube) from what Heidegger himself, under the name Zusage (“accord, acquiescing, trust or confidence”), designates as that which is most irreducible, indeed most originary in thought, prior even to that questioning said by him to constitute the piety (Frömmigkeit) of thinking. (FK 48 [95/91-92])
From the Greek, *axios,* “worthy,” an axiom, accepted truth, or first principle “confirms or promises an evaluation that should remain intact and entail, like every value, an act of faith” (FK 47 [93/88]). Each of the “two sources in one” of science and religion, and indeed religion and science themselves (along with their associated domains) rely upon an elementary act of faith in an other that affirms, confirms, confers, and *secures* worth. A fiduciary exchange with the other is, therefore, constitutive of all disciplines, institutions, contracts, practices, and discourses.

“Without the performative experience of this elementary act of faith,” Derrida observes, there would neither be “social bond” nor the address of the other, nor any performativity in general: neither convention, nor institution, nor constitution, nor sovereign state, nor law, nor above all, here, that structural performativity of the productive performance that binds from its very inception the scientific community to doing, and science to technics. If we regularly speak here of technoscience, it is not in order to cede to a contemporary stereotype, but in order to recall that the scientific act is, through and through, a practical intervention and a technical performativity in the very energy of its essence. And for this very reason it plays with putting distances and speeds to work. It delocalizes, removes or brings close, actualizes or virtualizes, accelerates or decelerates. (FK 37 [80/68])

To be what it is, scientific endeavor must exist in relation to an other upon whose prior work it builds, into which it intervenes, with whom it communicates what it is doing, and upon whose trust it relies so as to be believed when it gives an account of itself; in other words, science always already exists as returning to itself from beyond. Derrida refers to this operation as “teletechnoscience” to indicate the “critical history of the production of knowledge, of knowledge as production, know-how and intervention at a distance” (FK 29 [66/46]). In other words, scientific knowledge is produced through a kind of trafficking in what lies beyond its own borders. Ultimately, it is this process of distancing and proximation that produces the very thing (*la chose même*) that is believed to be the object of investigation, along with the investigating

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57 Naas analyses this performativity in more detail in * Miracle and the Machine,* 88-92. There, he describes a twofold performativity in “Faith and Knowledge,” one which promises to tell the truth and involves an elementary act of faith and one which involves the workings of the technoscientific machine. (More on the machine to follow.)
subject – in this case, science. But this teletechnoscientific performativity also appropriates the
other of the (scientific) subject, which becomes known as *its* other.

Derrida’s analysis here can be understood to account for a necessary but disavowed,
mystified, or phantomalized movement perpetuating the existence of any self-same thing – the
“itself” of any known thing, indeed, that of “the thing itself.” As Derrida articulates it in “Faith
and Knowledge,” the thing itself would neither be the transcendental Kantian *noumenon* nor the
Platonic *eidos*, as it cannot be understood to pre-exist the inquiry that purports to reveal it in the
light of truth. The thing itself is rather effectively produced, according to the *unheimlich*
automaticity of a machine:

this machinability, this ineluctable automatization produces and re-produces what *at the
same time detaches from and reattaches to* the family (*heimisch*, homely), to the familiar,
to the domestic, to the proper, to the *oikos* of the ecological and of the economic, to the
*ethos*, to the place of dwelling. This quasi-spontaneous automaticity, as irreflective as a
reflex, repeats again and again the double movement of abstraction and attraction that *at the
same time detaches and reattaches* to the country, the idiom, the literal or to
everything that is confusedly collected today under the terms “identity” or “identitarian”;
in two words, that which at the same time ex-propriates and re-appropriates, de-racinates
and re-enracintes, *ex-appropriates* according to a logic […] of auto-immune auto-
indemnification. (FK 37 [78/64])

The ex-appropriating movement Derrida describes here *produces and re-produces* the very thing
that mechanically detaches and reattaches to the *oikos*, but it does so in a “mystical,” “secret,” or
“inaccessible” manner, effacing the productive apparatus that engendered it.58 The thing itself
thus appears to be a natural phenomenon, understood through scientific inquiry, (or, in the case
of religion, a dogma revealed to man by God) when it is effectively produced by the economic
exchange between the “itself” and the “other.” The very act of securing any thing as itself thus
demands alienation and repatriation, exposure to an other that de-limits it and circumscribes its

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58 I am here indebted to Michael Naas’ incisive reading of the machine in “The Telegenic Voice,” where he
illustrates the manner in which the miracle is effected through a self-effacing technical apparatus. See *Miracle and
the Machine*, 125-151, esp. 140-1.
borders. Without this ex-appropriating exchange with alterity, there would be no way to identify one thing as the same thing: no thing itself, no itself, no self.

Every thing understood to be a “self” therefore deals in its own limitation, division, and differance, such that a certain sacrifice of the self is necessary in order to maintain itself. This constitutive self-sacrifice is what nonetheless allows for any thing’s continued existence as the thing that it “is”; but since that existence is predicated upon a disavowed ex-appropriation of alterity, self-sacrifice and the sacrifice of the other become theoretically indistinguishable.\(^{59}\) This explains why anything “collected under the terms ‘identity’ or ‘identititarian’” is, for Derrida, (re-)produced according to an auto-immune, auto-indemnificatory logic (FK 37 [78/64]). The thing itself is established and sustained through a repetitive, mechanical exchange with the other; hence, the other is the condition for the possibility of the self and its impossibility, since no self can be the homogenous, intact, unscathed self-sameness it perpetually indemnifies. Any thing, in so far as it can be said to be itself, thus effects sameness-to-self through a process of auto-indemnification, excising the alterity that at the same time thwarts identification by dividing it and enables identification by delimiting it. In excising this constitutive alterity, however, the self is cut off from its other source, effectively killing itself in a suicidal struggle for survival. The other must then be re-incorporated into the self, only to be expelled once more. Indemnification, therefore, requires a two-front defense strategy. Excising the other starves the self, such that it must also attack its own defenses in order to secure the influx of vital resources. As Derrida writes, “We are here in a space where all self-protection of the unscathed, of the safe and sound,  

\(^{59}\) See what Derrida says about the “testimonial pledge of every performative” at FK 29 (66/46):  

*Either* it addresses the absolute other as such, with an address that is understood, heard, respected faithfully and responsibly; *or* it retorts, retaliates, compensates and indemnifies itself in the war of resentment and of reactivity. One of the two responses ought to be able to contaminate the other. It will never be proven whether it is the one or the other, never in an act of determining, theoretical, or cognitive judgment.
of the sacred (*heilig*, holy) must protect itself against its own protection, its own police, its own power of rejection, in short, against its own, which is to say, against its own immunity” (FK 37 [80/67]).

It is this “terrifying but fatal logic of the *auto-immunity of the unscathed*” that leads Derrida to question the logic Camus deploys in his abolitionist piece “Reflections on the Guillotine” (FK 37 [80/67]). To dispute the death penalty’s purported deterrent effect, Camus appeals to the death drive, which, as he understands it, manifests a human desire to “be nothing” or to want “death for its own sake.”

Someone compelled by this vertiginous desire, Camus reasons, could be incited to kill, rather than deterred, so that they might secure their own death by the hand of the state. And yet, Derrida recognizes that one could leverage a thinking of the death drive in order to level a proponent argument, since

one might infer, rather boldly, that the suppression of the death penalty can frustrate these desires, prevent some from killing themselves by killing others as they might wish to do and thus create formidable turbulence in the economy of the drives or the psychic equilibrium of the social body: what indeed would a society be in which not only the death penalty is abolished, [...] but in which one could no longer either kill another or kill oneself by killing someone in oneself, and so forth? I leave this question suspended, but it is formidable, as you can easily imagine, and properly diabolical: it would be the question of an unforeseeable pathology of the social body [*du corps social*] provoked by the double disappearance of both the possibility of any murder and the possibility of any death penalty, as if the need for death and the death penalty were the response not only to a kind of external security [*de sécurité extérieure*], to the necessity of discouraging through example potential criminals, but to the necessity of securing [*d’assurer*] for the social psyche a kind of internal health [*une sorte de santé intérieure*], by making sure it had its ration, its measure, its fill, its share of lethal sacrifice [*son compte de sacrifice létal*], as if a society, the health [*la santé*] of a social or national psychic body, or even a human body in general, needed to have its share, its measure, its fill of murder or death penalty in order to survive [*pour survivre*]. (DP1 249/338-9)

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61 Camus, “Reflections,” 192; quoted in DP1 248/337.
If it is true that any collected identity is effected by means of an auto-immune, auto-
indemnifying machine, then the nation-state or social body would re-produce itself in like
manner, requiring a process of sacrificial indemnification to secure its survival. In this passage,
Derrida thus suggests that the death penalty would serve as an indemnificatory mechanism on the
societal level. In some way, the death penalty would perpetuate society unscathed, intact, safe
and sound, and salubrious by eradicating the threat of alterity, a threat that is both internal and
external to – indeed, constitutive of – the *salut public*.

As with any collected “identity,” the community mechanically re-produces itself through
a mystical ex-appropriative foreign exchange,\(^{62}\) secretly capitalizing on some alterity that both
secures and threatens its existence. Perpetuating itself beyond its borders, the possibility of
community is the possibility of its impossibility. The security, health, existence – the *life* – of
the community is thus sustained by an other that de-limits it, gives it an end, indeed, *puts it to
death*. In turn, the community protects itself against the existential threat posed by the other by
attacking that which also sustains it, thereby killing itself. On Derrida’s view, this
supplementary process of life death would condition “the possibility of the death penalty,”
which, he writes, “begins where I am delivered over to the power of the other, be it the power of
the other in me” (DP1 250/339). Since the other is constitutive of the self, thwarting any
theoretical or abstract distinction between the two, one is always already delivered over to the

\(^{62}\) The phrase “mystical ex-appropriative foreign exchange” is meant to indicate the process described earlier in this
section, whereby any “thing” is constituted through an effaced relation to an other that defines it by giving it limits.
Derrida has used the terms “proper,” “im-proper,” “property,” “appropriate,” “ex-appropriate” throughout his corpus
to designate an operation in which “the self” or “the same” takes on aspects of the other without being able to fully
or completely incorporate that alterity as its own. He often links the Greek terms *idioma* and *oikos* to think through
the ways in which alterity resists the “appropriation” of the same, being “brought home” or made familiar. This is
elaborated through readings of Hegel and Heidegger in *Margins of Philosophy*, translated by Alan Bass (Chicago:
University of Chicago Press, 1982), see especially 129 n. 25 and 4 n. 1 and 2. He also discusses the proper,
appropriation, and ex-appropriation in the context of Hegelian *Sittlichkeit* in *Glas*, translated by John P. Leavey, Jr.
and Richard Rand (Lincoln: University of Nebraska Press, 1986), 52-3, 82.
power of the other. “To have done with [the power of the other]” would therefore require that one “have done with the other [en finir avec l’autre]” tout court, which would also mean having done with oneself. Derrida thus provides an objective of sorts for the death penalty, which would aim to have done with being delivered over to the power of the other by having done with the other. Having done with the other, however, would only be achieved at the cost of a certain collateral damage, that is, at the cost of also having done with the self. In using the first person to discuss the aim of the death penalty, Derrida suggests that capital punishment serves this function at both the “individual” level and the “collective” or societal level, purging both forms of “identity” of a constitutive alterity, but only by threatening the integrity it means to secure.

Derrida makes a similar claim in “Faith and Knowledge,” where he characterizes all community “as com-mon auto-immunity,” or, as he coins it, “auto-co-immunity” (FK 40 [87/79]). Societal auto-immunity, he contends, accounts for two opposed but mutually held cultural values, “the absolute respect of life” and “the no less universal sacrificial vocation” (FK 40 [86/77]). This “double postulation” involves both the protection and sacrifice of life or, what amounts to the same, the prevention and procurement of death. The “mechanics” of such an opposition “reproduces, with the regularity of a technique, the instance of the non-living or, if you prefer, of the dead, in the living,” since the life of the community is secured through an interminable suicidal-sacrificial putting-to-death. This “life” is nonetheless perpetuated according to a mystical or phantomalized process of life-death, wherein death is ex-appropriated for life, re-producing “life” and its other, “death.” What is called “death” is thus regularly exorcised through displays of masterful putting-to-death, which serve to delimit and circumscribe “death” as distinct from “life.” The death penalty functions as a machine producing “life” and “death” by indemnifying the social body through a regular practice of
putting-itself-to-death. A secret, collective “becoming-indemnified” would therefore survive in the community’s “being-uncathed.” Without being an object of direct experience, this indemnification would be la chose même de la peine de mort: the mechanical re-production of the unscathed.

What remains of the process of indemnification in the production of the unscathed community Derrida calls “the spectral fantasy [le phantasme spectral] of the dead as principle of life and of sur-vival [sur-vie: literally “on-” or “above-life”]” (FK 40 [86-7/78]). This phantasmatic principle maintains that “life has absolute value only if it is worth more than life [la vie ne vaut absolument qu’à valoir plus que la vie].” The mechanical reproduction of the dead in the living is effaced as such, but its spectral effects endure in the phantasm of a more-than-life investing life with value. Life must be able to be sacrificed so that it can live-on, surviving beyond itself as life worth more-than-life. According to Derrida,

This excess above and beyond the living, whose life only has absolute value by being worth more than life, more than itself-this, in short, is what opens the space of death that is linked to the automaton (exemplarily “phallic”), to technics, the machine, the prosthesis: in a word, to the dimensions of auto-immune and self-sacrificial supplementarity, to this death drive that is silently at work in every community, every auto-co-immunity, constituting it as such in its iterability, its heritage, its spectral tradition. Community as com-mon auto-immunity: no community <is possible> that would not cultivate its own auto-immunity, a principle of self-sacrificial destruction [d’autodestruction sacrificiel] ruining the principle of self-protection (that of maintaining its self-integrity intact), and this in view of some sort of invisible and spectral sur-vival. This self-contesting attestation keeps the auto-immune community alive, which is to say, open to something other and more than itself: the other, the future, death, freedom, the coming or the love of the other… (FK 40 [87/79])

It is thus only by *se donner la mort*, by putting itself to death, that the community can live on; indeed, the community lives *on* (to stretch a Levinasian turn of phrase\(^{64}\)) the sacrificial auto-destruction that ensures its sur-vival by maintaining it in a constitutive relation to some alterity. Life and sacrifice are therefore irreducible – the doubling of an uncanny survival that reproduces it-self in “the indemnification of a spectrality without limit.”

7. “Capital” Punishment: When Sacrifice Enters the Market

“The indemnity? And a damnation, a condemnation?” (DP1 259/351). Each term in the series shares a common etymological root with the Latin *damnum*, which, as Derrida reports, means “wrong, harm, damage, that which wrongs, but also by the same token, loss or fine or penalty: thus the wrong and what must be paid to repair the wrong, to remunerate, indemnify, redeem.” Attending to Benveniste’s *Vocabulaire* and an inter-cultural parallel drawn there between the Germanic *ghilde* and the Greco-Roman *daps*, Derrida discerns a logic of association linking notions of sacrifice to economic exchange and legal concepts. In the chapter “Gift and Exchange” from the section on economy and the first three chapters of the section on religion, “The Sacred,” “The Libation,” and “The Sacrifice,” Benveniste speculates about ancient cult rituals to consolidate linguistic terms with apparently unrelated or opposed meanings.\(^{65}\)

Drawing from analyses of ancient and modern European languages, Benveniste posits a historical economy of sacrifice that unites men in a social compact. To put it briefly, Benveniste maintains that terms associated with the sacred originally refer to the vigorous fecundity of nature, whose life-giving force is attributed to the divine and worshipped as such. Sacrifice, he

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\(^{64}\) This phrase would be more literally translated as “living from,” as Alphonso Lingis renders “*vivre de*” in Levinas’ *Totality and Infinity* (Pittsburg: Duquesne University Press, 1969), 111-2. Since Levinas there describes life as a “transitive verb” composed of “direct objects” that nourish it and fill it with pleasure, *vivre de* could also be translated into English as “living on...” in the sense of “living off of...”; it could even be rendered as “to get off on.”

contends, is meant to establish communication with the divine realm beyond the human world in an effort to secure human life by making a contribution to the god’s generative capacity. In order to transmit something from this world to the beyond, however, the offering must undergo transformation, which means the living being must be put to death in order to be sacrificed. Putting-to-death therefore marks the condition of exchange with the other, whose divine power of protection is secured by means of the trade. Life is exchanged for life, and this sacrificial *donner la mort* incorporates the community under the safety of the god.

According to Benveniste’s etymology, then, the ghilde and the daps refer not simply to a meal, but rather to a corporate banquet in which those who dine are compelled to spend in order to mutually profit. This carries both the religious sense of a sacrificial feast as well as the economic sense of a mercantile corporation. But in both cases, Benveniste places a certain emphasis on the expenditure involved. In the feast of the daps, extravagance and overabundance engage guests in a reciprocal commitment akin to the potlatch, driving the communal circulation of wealth. And in the ghildes, membership obliges individuals to commit resources intended to promote and insure mutual interest. Because these economic obligations support the collective body, failure to fulfill them constitutes a threat to the security of all. Hence, on Benveniste’s interpretation, what were originally religious obligations later become social and political obligations recorded in the legal code. In this way, the individual’s debt to the socius is inscribed in the law, and this sacrifice is justified in so far as it allows one to live on in the collective phantasm of a shared legacy guaranteeing a mutual interest worth more than any one of its parts.
Of the ancient cultural phenomena associated with *damnum*, Benveniste claims, there remains a “derived sense of ‘injury sustained, what is taken away by forcible seizure.’”66 Derrida quotes Benveniste’s conclusion from the chapter on “The Gift”: “*Damnare* means to afflict a *damnum* on somebody, a curtailment of his resources; from this stems the legal notion of *damnare* ‘to condemn.’” This is more explicit in the chapter on sacrifice: “Here we have the origin of the sense of *damnum* as ‘damage’: it is properly money given without return. The fine is indeed money given for nothing. *Damnare* does not mean first of all to condemn in general, but to compel someone to spend money for nothing.”67 It is clear that, for Benveniste, to be damned or condemned is essentially to be indebted; *damnare* implies an economic relation between the self and the other. Once individuals incorporate to form a society, each is part of a whole and required to contribute to the collective well-being, security, and wealth. Failure to meet such responsibilities incurs a debt that must be paid, either in the form of a fine or in the form of a punishment. To be damned or condemned, then, is to be compelled to make a sacrifice of one’s capital, be it monetary or vital.

As Benveniste conceives the historical development of *damnum*, there is, on the one hand, economy, the expenditure circulates in the interest of the community, contributing to the well-being of the whole and each of its parts; but there is also, on the other hand, an economy, a gratuitous expense outside of the circle of mutual interest whose value cannot be assured and which does not necessarily return to the spender. There is both an investment and a loss. “The condemned one or the damned one,” Derrida writes,

pays what he owes but also does something altogether other and thus infinitely more than that, something more and other than acquit himself of a calculable debt. There is economy and aneconomy, unless it is a matter of reimbursement (indemnification) and interest as the incalculable surplus value [*plus-value*] of capital. And we can wonder

where to situate capital punishment here, in this double logic or this double sense of interest. It is in this zone between the capital of capital punishment, or even of decapitation, and the capital of capitalism, of capitalization, that the relations are both necessary and murky, troubling, causing one’s head to spin to the point of vertigo. Vertigo seizes hold of the calculating drive when capital or the interest of capital is no longer calculable and becomes virtually infinite, when death without return is a part of the market there where it cannot be part of the market, where it ought to remain incalculable. (DP1 261-2/354)

To condemn or damn someone, then, is inextricably bound up with an indemnifying process in which a gratuitous expense (one with no calculable return), nonetheless enters into the circle of exchange. The *damnum* restitutes the community by restoring the loss, securing the mutual interest against the damage it has suffered; the *damnum* thus indemnifies the *socius*. But the *damnum* only indemnifies by speculating on an investment outside of the communal economy of guaranteed interest, one whose returns are irregular, unpredictable, “incalculable” – in other words, not subject to indemnity. This ex-change indemnifies the community through a transformation of the *damnum* itself, which is expended absolutely, and therefore without hope of return, so that it can be recovered, however paradoxically, in another form, at another rate, and/or in another “realm.” An abyss separates the life saved from the life taken in sacrifice, the potlatch from the trade, or even the tax from the fine, and yet each is appraised in the market. The *damnum* thus indemnifies by becoming more and other than itself, a surplus that sustains and threatens the social body with an inassimilable alterity that perpetually requires further indemnification.

The “interest” involved in this never-ending cycle of *damnum-indemnis* is twofold: interest is shared between those who have incorporated and agreed to contribute to the whole, and interest is accrued from the expenditures that exceed the communal economy. Much earlier in the seminar, Derrida elucidated this “double sense” of interest through its Latin etymology:
What is an interest? The word itself is interesting, where it implies in Latin both the fact of finding oneself or of being in the middle, between, implicated in a space larger than oneself and, on the other hand, fiduciary calculation, surplus value, the search for a profit [bénéfice] and a capitalization, in short, an economy—either monetary or psychological, the search for a greater well-being, for a greater good, one’s own good or one’s own well-being, and increase of enjoyment [d’un plus de jouissance]. (DP1 140/201-2)\(^68\)

Derrida locates in the Latin interesse first, an in-between space in which one finds oneself only in and through one’s relation to what is other than or somehow beyond oneself, and second, an endeavor to go beyond, to increase what one is or has, a striving for the more than, the other, the greater. This “interesting” duality shares its structure with the sacrificial economy Derrida discerns in the semantico-historical analysis of Benveniste, where the damnum contributes to both the mutual interest of the social body and something altogether other than the communal circulation of wealth. Derrida’s insight, however, and his point of departure from Benveniste (or even Marx), consists in a rejection of any developmental account of economic relations, and therefore of capital, surplus-value, and interest. This is not to disregard the historical occurrences influencing and differentiating cultures in their singular institutions and practices; it is rather to account for a spectral presence that drives the narrative at every “stage”: the sacrificial economy in which losses are taken on absolutely, but in order to build credit, the perpetual ex-appropriation of debt to multiply capital. Within this economics, debt, forfeiture, and loss are indissociable from death and alterity. Though disavowed, “the spectral phantasm of the dead as principle of life and of survival” drives Benveniste’s account. It is the uncanny secret that death pervades life, that the other contaminates the self-same, and that returns are predicated upon losses. This disavowal is accompanied by the compulsion to eradicate death, to excise the other, and to “write off” debts through the infinite process of sacrificial

\(^68\) The notion of interest (as opposed to a certain rational disinterest) arises in the context of Derrida’s discussion of Kant and Nietzsche. This is the subject of the third chapter. See especially the second section, “Another Interest.”
indemnification. What remains of this mystified activity are the singular permutations of an ex-appropriated alterity put in the service of the self-same or, considered otherwise, cultures of survival leveraging death in the interest of life.

Derrida clearly understands capital punishment to embody this logic by “capitalizing” on death in order to gain a surplus of life, a sur-vie believed to be “sacred,” inviolable, or untouched by death – in a word, unscathed. But because what is called “life” is, for Derrida, always already a surviving, a life-death haunted by an irreducible, incalculable alterity that cannot be anticipated, the “life” secured through capital punishment constitutes a foreclosure. “The insult, the injury, the fundamental injustice done to the life in me, to the principle of life in me, is not death itself, from this point of view,” Derrida explains in what are now well-known lines from the seminar;

it is rather the interruption of the principle of indetermination, the ending imposed on the opening of the incalculable chance whereby a living being has a relation to what comes, to the to-come and thus to some other as event, as guest, as arrivant. And the supreme form of the paradox, its philosophical form, is that what is ended by the possibility of the death penalty is not the infinity of life or immortality, but on the contrary, the finitude of “my life.” It is because my life is finite, “ended” in some sense, that I keep this relation to incalculability and undecidability as to the instant of my death. (DP1 256/347-8)

When death enters into the market – and the inextricable association of loss-sacrifice-debt with death ensures that death will have always been a part of the market – the fundamentally incalculable, incomprehensible, and aporetic nature of death is foreclosed. Derrida’s abolitionism, therefore, affirms a certain finitude, which, aligned with death, the event, the other, and absolute loss, makes possible the infinite ex-appropriations of self-sameness that constitute life in a shared world.\(^69\) The death penalty reduces this finitude by effacing the indemnificatory

\(^69\) This paradoxical juxtaposition of the finite and the infinite calls for a reconsideration of Derrida’s infamous claim in *Voice and Phenomenon* that “infinite différance is finite.” See Jacques Derrida, *Speech and Phenomena,* and
machine that effects a “life” unscathed by “death.” For Derrida, this sur-vival remains a phantasmatic surplus-value produced by the sacrificial economy known as capital punishment. What is lost here is death, and by relation life, the singular survivance in which life and death differ indefinitely.

8. The Death Penalty and the Phantasm of Mastery over Death

“From ‘being condemned to die’ to ‘being condemned to death,’ it is a matter, then, of passing over to another death, perhaps” (DP1 218/299). In the aporetic space where the death penalty both forecloses and fabricates “death,” Derrida entertains a distinction between what are perhaps two deaths: that of “being condemned to die [être condamné à mourir],” common to all mortals, and that of “being condemned to death [être condmané à mort],” specific to those sentenced to capital punishment. The condemnation to die differs from a legal death sentence, since even someone “in the throes of death” lacks knowledge of “the moment, the date, the precise hour” that they will die (DP1 219/301). “And no one,” Derrida emphasizes, “will know it in advance.” For every mortal, “an essential trait” of being condemned to die is “indetermination,” a lack of knowledge regarding the exact moment of death. Invoking the first person, Derrida maintains that “indetermination is an essential trait of my relation to death [indétermination est un trait essentiel de mon rapport à la mort].” And yet, he ventures, “I may dream of appropriating this knowledge, of having this knowledge at my disposal,” since this

&other Essays on Husserl’s Theory of Signs, trans. by David B. Allison (Chicago: Northwestern University Press, 1973), 202, where Derrida writes:

Only a relation to my-death could make the infinite differing of presence appear. By the same token, compared to the ideality of the positive infinite, this relation to my-death becomes an accident of empirical finitude. The appearing of the infinite différence is itself finite. Consequently, différence, which does not occur outside of this relation, becomes the finitude of life as an essential relation with oneself and one’s death. The infinite différence is finite. It can therefore no longer be conceived within the opposition of finiteness and infinity, absence and presence, negation and affirmation.

would, “at least phantasmatically,” provide “some calculable certitude, some quasi-suicidal mastery of my death” (DP1 219/300). “By knowing at what hour, on what day I will die,” he continues, “I can tell myself the story of how death will not take me by surprise and will thus remain at my disposal.” Hence, ascertaining the time of one’s death in advance effects a phantasmatic mastery over death and alters the mortal relation to it. If indetermination is an essential trait of one’s relation to death, then appropriating knowledge of death changes this relation in an essential way. Once I have death at my disposal, it becomes “mine.” Subject to my will, death can no longer take me by surprise.

Following the Camus of “Reflections on the Guillotine,” Derrida imagines a person who “contrives, or even asks, to be guillotined so as to secure this knowledge and this phantasmatic mastery” over death (DP1 219/300). He acknowledges that such a compulsion, “can always be inferred in every case” where “this phantasm of omnipotence over their own death” is operative in “the behavior of criminals or condemned ones who seem to do everything so as to give themselves this death [se donner cette mort].” In securing for oneself a death sentence, Derrida recognizes, one can “finally believe” this knowledge and mastery of death “to be precisely meta-phantasmatic, real.” In other words, the death penalty produces the phantasm of real death: the belief that one can “really” know the exact time of death, the instant at which one will have crossed a clear and indivisible border from this side to the other side, and that one has mastery over when this happens by deciding when to step beyond – indeed, by willing it. The death penalty allows one to believe that this phantasmatic knowledge and mastery are not phantasmatic, that they are “really” real: “I know exactly what ‘death’ is, it is the end of my life, and I resolve to give it to myself at the moment of my choosing.”
According to Derrida, it is the very concept of the death penalty that produces this fatal “reality” by supposing that

the state, the judges, society, the bourreaux and executioners, that is, third parties, have mastery over the time of life of the condemned one and thus know how to calculate and produce, in so-called objective time, the deadline to within a second. This knowledge, this mastery over the time of life and death, this mastering and calculating knowledge of the time of life of the subject is presupposed – note that I say presupposed – alleged, presumed, in the very concept of the death penalty. Society, the state, its legal system, its justice, its judges and executioners, all these third parties are presumed to know, calculate, operate the time of death. (DP1 220/301)

The masterful knowledge here presupposed is effected according to the mechanical reproducibility of the death penalty, which, Derrida notes, is “the only example of a death whose instant is calculable by a machine, by machines,” and he specifies, “by all sorts of machines: the law, the penal code, the anonymous third party, the calendar, the clock, the guillotine or another apparatus” (DP1 257/348-9). The very idea of the death penalty presupposes what it in fact produces and reproduces with the regularity of a machine: the belief in “death” as the opposite of “life,” the end of “life,” both of which can be known objectively in such a way that death can be planned in advance and given, either by one’s own hand or at the hand of the state. Derrida goes so far as to suggest “that every imagined sense of the word ‘death’ […] supposes the possibility of calculating and mastering the instant of death, and this calculating mastery can only be that of a subject presumed capable of giving death: in murder, suicide, or capital punishment, all three arising here from the same possibility (DP1 239/324). This explains why, for Derrida, any philosophical analysis of death “itself,” death “in general,” or death “as such” already presupposes and leads back to the death penalty as its condition of possibility and ultimate justification. The great thinkers of death are but cogs in the great death penalty machine; they automatically, reflexively re-produce the phantasm of one actual, true “death” as that which can be mastered in a powerful donner la mort. Here, theory works in tandem with the penal-juridical
apparatus, where the staging of capital sentences, disseminated through the publication of official documents, witness testimony, and media coverage, gives the public virtual access to and participation in putting-to-death, demonstrating before all that the execution was in fact “death.” The regular production of this *mise en scène* accredits the phantasm of mastery over death *en masse*.

In the seminar, Derrida is unequivocal in his assessment of the mortal relation to death: “my” relation to death cannot be determined, circumscribed, or comprehended with any precise certainty. The painstakingly detailed analyses undertaken in *The Gift of Death*, *Aporias*, and “Faith and Knowledge” similarly destabilize masterful appropriations of death, including those of the Heideggerian Dasein analytic, the ubiquitous figure of the passage, indemnificatory measures, and sacrificial logics. Throughout these contexts, Derrida consistently articulates a disavowed indeterminacy, alterity, forfeiture, or insecurity that conditions any stable interpretation of death that would be leveraged in the service of presence. And yet, he is also consistent in maintaining that this mastery and this disavowal nonetheless constitute an irreducible relation to death, one that drives the sacrificial indemnificatory machine interminably re-producing death and the other in the interest of life and the self. This economy assures an endless supply of “deaths,” ex-appropriative reinterpretations of an event that can never be experienced as such. *Any* understanding of death would therefore be a provisional,

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70 In a paper delivered at the *Collegium Phaenomenologicum* on July 28, 2015, Elizabeth Rottenberg describes the ways in which the spectacle of the death penalty has been virtualized. She reads the seminar as a critical extension of Foucault’s claim in *Discipline and Punish* that punishment has been subject to a process of devisibilization in the modern era. For Derrida, the concept of the death penalty demands that someone see the sentence as it is carried out; a witness must attest to the execution. The virtualization of the spectacle through various media sources allows for the phantasm of mastery over finitude to be effected at the level of mass culture. This has since been published under the title “A New Primal Scene: Derrida and the Scene of Execution,” in *Oxford Literary Review* 38, No. 2 (2016): 188-220. Also see Gwynne Fulton, “Phantasmatics: Sovereignty and the Image of Death in Derrida’s First Death Penalty Seminar.” *Mosaic* 48, no. 3 (2015): 75-94.
preapprehensive, fiduciary account – not the object of absolute knowledge, but rather of belief. For a mortal living being, “death” is irreducibly phantasmatic. The specificity of the death penalty, and hence also its infinite reproducibility, lies in its effective phantomalization of the phantasm itself; the death penalty produces the phantasm of a non-phantasmatic – that is, real – death.

Recalling the mechanics of sacrificial indemnification that performatively re-produces the thing itself, which Derrida elaborates in “Faith and Knowledge,” the death penalty can thus be understood to effect “life” and “death,” each in itself and in its proper, unscathed, purity. The movement which constitutes “life” itself and “death” itself, however, is nothing other than the sacrificial economy of the death penalty, which leverages death for “life” and life for “death.” The perpetuation of the dead in the living and the living in the dead is effaced as such, but it continues its secret, mystical operation via the phantasm of a masterful donner la mort worth more than the life taken in capital punishment. This phantasm of mastery over death is simultaneously a phantasm of mastery sur vie, “over life” – the spectral interest of an in-finite

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71 This claim is further elaborated in the final subsection of this chapter, “‘You Have to Be Able to Dream’: Thinking and the Affective Force of Phantasy.” In the second volume of The Beast and the Sovereign, Derrida notes that his use of the term fantasme (which he sometimes spells phantasme) “is not necessarily congruent or compatible with any philosophical concept of the phantasma, of fantasy or fantastic imagination, any more than with the psychoanalytic concept of the phantasm [fantasme]” (BS2 149/218). Despite Derrida’s regular usage of this term, especially in the later works, the only sustained treatment of its meaning was recently published by Kas Saghafi. See Kas Saghafi, “Phantasms,” Bollettino Filosofico 36 (2021).

Provisionally, at least, the Derridean phantasm is a powerful belief that is produced and authorized through human practices, institutions, technologies, and discourses in both their interrelatedness and relative autonomy. Phantasms are highly effective, organizing human life and relations on a variety of registers. Phantasms, like Platonic copies, are not the “thing in itself”; unlike the Platonic tradition, however, no subtending reality would, for Derrida, serve as the determining factor regarding judgments of truth and misconception. Like Freudian fantasies, phantasms cathect libidinal investments in the absence of the object. Unlike classical psychoanalysis (which Derrida has shown to be indebted to a Platonic tradition [see Jacques Derrida, The Post Card: From Socrates to Freud and Beyond, trans. Alan Bass (Chicago: University of Chicago Press, 1987)]), however, no “proper” object would adequately satisfy phantasmatic investments. Thus, modifying or dispelling (or deconstructing) a phantasm would not be a matter of subjecting it to a reality principle.

capitalization. As Derrida writes, “the finality of this end as damnation or condemnation to
death, its paradoxical finality, is to produce the invincible illusion, the phantasm of this end of
finitude, thus of the other side of an infinitization” (DP1 258/349). The condemnation to death
thus speculates on the condemnation to die, paradoxically in-finitizing mortality. What is put to
an end, along with the life of the one condemned to death, is the finitude through which mortal
life survives in an always phantasmatic, spectral, or aporetic relation to death. Because death can
never be experienced as such, mortal life is finite, in that it comes to an “end” in death, but also
in that it is only insofar as it is limited – in its borders, knowledge, power, and so on. But “the
machine of the death penalty deprives me of my own finitude,” Derrida laments; “it exonerates
me, even, of my experience of finitude” (DP1 257/349).

Derrida is not so credulous as to propose putting an end to the death penalty, as the death
penalty puts an end to life and thereby to finitude. His analysis of donner la mort undermines
any faith one could have in its meta-phantasmatic effectiveness. To do justice to Derrida’s
treatment of the death penalty demands a recognition of the critical role of the death penalty in
producing and maintaining the social body. A thinking of life-death ensures that there will have
been no life and no identity without a certain sacrificial gesture, and Derrida does not suggest
that this economy will be overcome, except insofar as it will be sublated and reinvented to
produce novel forms of indemnificatory security.72 Hence, even while he avows an enduring
abolitionism, Derrida infamously proclaims that “even when it will have been abolished, the

72 Ronald Mendoza-de Jesús calls Derrida’s thought of the death penalty an “abolitionism at its limits”; it is, he
writes, “to be an abolitionist on the condition that all anticipation concerning the moment of the death penalty’s
abolition becomes strictly speaking impossible.” See Mendoza-de Jesús, “Invention of the Death Penalty: Abolition
at its Limits,” The Oxford Literary Review 35, No. 2 (2013): 225. Mendoza-de Jesús articulates this impossible
abolitionism by interpreting the survival of the death penalty in terms of Derrida’s analysis of invention. He
describes invention as an aporia in which “the only ‘possible’ invention would be the invention of the impossible,
namely, the kind of invention that does not even succeed in inventing itself as invention, the invention that becomes
other to itself in every moment of its in-finite movement” (233).
death penalty will survive” (DP1 282-3/380). And rather than foreclosing that survival through either a naïve progressivist abolitionism or a dogmatic proponent conservatism, he affirms it with “courage and composure [le sang froid],” admitting that the phantasm of putting an end to finitude by putting-to-death is “at work in us all the time” (DP1 283/380, 258/349). Indeed, he cites this experience as “constitutive of finitude, of mortality,” finitude and mortality being just this phantasmatic re-production of donner la mort and survival.

[S]ince we cannot keep ourselves from permanently playing out for ourselves the scene of the condemned one whom we potentially are [la scène du condamné à mort que nous sommes en puissance], well, the fascination exerted by the real phenomena of death penalty and execution, this fascination of which we could give so many examples, has to do with its effect of truth or acting out [elle tient son effet de vérité ou de passage à l’acte]: we then see it <as> actually staged [mise en scène effective]; we project it as one projects a film or as one projects a project; we see in projection actually enacted what we are dreaming of all the time – what we are dreaming of, that is, what in a certain way we desire, namely, to give ourselves death [à savoir nous donner la mort] and infinitize ourselves by giving ourselves death [en nous donner la mort] in a calculable, calculated, decidable fashion; and when I saw “we,” this means that in the dream we occupy, simultaneously or successively, all the positions, those of a judge, of judges, of the jury, of the executioner or the assistants, of the one condemned to death, of course, and the positions of one’s nearest and dearest, loved or hated, and that of the voyeuristic spectators who we are more than ever. And it is the force of this effect of phantasmatic truth that will probably remain forever invincible, thus guaranteeing forever, alas, a double survival, both the survival of the death penalty and the survival of the abolitionist protest. (DP1 258/349-350)

Derrida describes the death penalty as a sort of wish fulfillment, as a scene in which the desire to put an end to finitude is satisfied in projection; it is the site where the phantasm of sur-vival is effected, certified, made actual, real – the death penalty is a dream come true.73 As Derrida writes, “a calculating decision on the subject of our death cherishes the dream of an infinitization and thus an infinite survival assured by interruption itself.” The effect of the death penalty’s

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73 Elizabeth Rottenberg uses the same language to describe Derrida’s analysis of the death penalty in her paper “A New Primal Scene.” This chapter was written in the interim between Rottenberg’s Collegium presentation and the publication of her paper in the OLR the following year. I cannot be sure whether her formulation remained with me unconsciously or if we independently arrived at this idea. And, of course, the two need not be mutually exclusive. For Rottenberg’s analysis, I again refer the reader to “A New Primal Scene,” 213.
regular putting-to-death is to give “death” to the social body as an objectively recognizable phenomenon, and thereby to assure its salvation through an identifiable, controlled form of survival.

9. Survival between Montaigne, Heidegger, and Derrida

In the final session of the first year of The Death Penalty seminars, Derrida reads Michel de Montaigne’s “very resolute” answer to the question of survival (DP1 274/370). In his essay “A Custom on the Isle of Cea,” which Derrida reads aloud, Montaigne remarks:

> It comes to the same thing if a man puts an end to himself [se donne sa fin] or passively suffers it; whether he runs to meet his last day or awaits it; wherever it comes from [{and Derrida adds,} this day, then, the day of death], it is always his; wherever the thread [filet] may break, the whole thread is broken, the spindle is at an end. The fairest death is the death that is most willed [La plus volontaire mort, c’est la plus belle].

> “Since death is still death,” Derrida explains as he interprets the passage, “whether one gives it to oneself or receives it [qu’on se la donne ou qu’on la reçoive], it is still better to give it to oneself [mieux vaut encore se la donne]” (DP1 274/371). If one must die, Montaigne seems say, if one is going to die anyway, no matter what, then it is better to will it, to take it upon oneself, to put oneself to death or give oneself death in se donner la mort. Life is not the most precious asset according to this view, but neither is death; it is the death willed while one is still living that is the most valuable. The cost of this belle mort is, of course, none other than life itself, life being but a small price to pay to insure its return, and with interest.

Derrida finds in Montaigne’s Essays a glimpse into a pre-Enlightenment attitude preferring “something else to life” even to the point of preferring death and execution (DP1 278/365). Derrida nonetheless reads Montaigne’s texts from a post-Enlightenment vantage point.

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“in which one begins to think the death penalty from its end” or “starting from the possibility of its end,” an end he associates with the dawning Enlightenment. Positioned in this manner, Derrida interprets Montaigne’s anecdotes and examples as a signal “that there was something worth more than life [valait plus que la vie], which was above life [au-dessus de la vie], like a sur-vival [sur-vie] that would be something other and better than life [autre chose et mieux que la vie].” This survival would not necessarily be, for Derrida, “a life prolonged in another way or in another world, but a survival without life [une survie sans vie], which would thus respond, correspond to something else.” The sur-vival Derrida locates in Montaigne’s writings, therefore, would not correspond to “life” itself nor to “death” itself, but to the surplus-value arising from the interest collected on these “dividends.” Se donner la mort divides life and death in such a way that one can be phantasmatically exploited to the benefit of the other under the control of a willing, masterful subject who can insure sur-vival.

Derrida associates this form of sur-vival with another quotation from Montaigne: “Any opinion,” he reads aloud, “is strong enough [assez forte] to cause someone to espouse it at the cost of his or her life [au prix de la vie].”75 Emphasizing the force of this opinion, Derrida explains that “what allows one to rise above life, sur-viving beyond the livingness [vivance] of life” is “the force of an act of faith that says yes” (DP1 279/376). “It is the force of this force,” Derrida continues, “that exceeds life, that causes one to espouse it at the cost of one’s life, that amounts to sacrificing life to its force, to the force or intensity of its yes.” Sur-vival, on this reading of Montaigne, is only possible because one has faith in something beyond oneself, and this beyond, this alterity, the “other side,” are never comprehensible as such – the other is only ever ex-appropriated as a phantasmatic truth, a belief or an opinion. According to the logics of

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75 Montaigne, Essays 54; quoted in DP1 378/280.
sacrificial indemnification and the double border, one lives on a fiduciary exchange with the other, the relation to which simultaneously thwarts and makes possible an identifiable existence through its de-limitation. Any self-same thing is mechanically reproduced in relation to the other side of it its own border, in a movement that perpetually attempts to return home with interest. The returns that characterize this oikonomia are driven by what lies beyond the circle of the same, since without it, nothing would be possible. But since what remains outside the oikos can never be fully appropriated, it is effected through the phantasmatic re-collection of the survivor.

One survives only though the forcible conversion of a constitutive but excessive and incomprehensible alterity into an accredited, calculable property of the same. Because this unfathomable other is constitutive of the self, however, one lives perpetually beyond one’s means or on credit, and thus in debt. In this sense, to live is always already to sur-vive a sacrifice of one’s most vital resource – the alterity disavowed and projected out as a masterful subject capable of overcoming its limits, the powerful affirmation of an “I can.”

Though the letter of Montaigne’s text involves any opinion strong or powerful enough, assez forte, to move one to sacrifice one’s life for it, Derrida attends to the phantasmatic force of Montaigne’s own opinion that the most beautiful death is the one most willed. Rather than interpreting such an opinion as a position to be taken up or rejected based on its correspondence to some “reality,” Derrida treats Montaigne’s belle mort as the phantasmatic remnant of a surviving that could never be experienced as such, because it happens – if indeed it can be said to happen at all – beyond the comprehensive capacities of any identifiable, self-same subject. As Derrida articulates it, survival would therefore never be within the subject’s powers of mastery; instead, the subject would be subject to some alterity through which it continues to survive. Surviving would be fundamentally insecure, on Derrida’s view, whereas Montaigne’s belle mort
secures, or attempts to secure, survival through the will of a subject who masters the other by giving it to itself as death, as *its death*. The price of this *se donner la mort* is life, but the surplus-value accrued from its product far surpasses the operating cost. Putting-onself-to-death is always phantasmatic, that is to say, it effects the truth of that which it purports to have done. This effect is to make-believe the “death” has taken place, to deliver “death” before all, to bring it to light or make it appear for all to see. In giving oneself “death,” one also gives oneself “life,” but more than that, one gives “oneself,” where the subject of the action is implied. *Se donner la mort* thus gives the sur-viving subject that secures power over mortal existence by willing “death.”

Montaigne’s sentiment resounds in the Heideggerian gesture grounding Dasein’s being in a complete account of its existence, up to and including its “end.” For Heidegger, Dasein realizes itself only when it understands this end as the possibility of the impossibility of any *da-Sein*. Interpreting its existence in this way, Dasein gives itself its own death as a possibility-for-Being, effacing the im-possible death it would passively suffer. This logic raises *se donner la mort sur vie*, above life, rendering something more valuable than living in the “here and now.” While Heidegger does not use the exact language of Montaigne – Being-toward-death is not the “best” death nor “*la plus belle*”; it is the most “authentic” possibility for Dasein, and its most proper capacity for existing as the Being that it is – both figures treat death as an activity one *can* undertake. Death becomes in-sufferable, subject to the *potentia* of a master who reaps the benefits of putting it to work. Would not man, for Montaigne, or Dasein, for Heidegger, be a sort of grim reaper, a capitalist profiteer living on the interest amassed through black market dealings? Surviving on such a livelihood is only made possible through trafficking kept “off the books,” where exchanges are secured on credit – or by force. Indeed, it is the force of *make-**
believe that ultimately presents an irreducibly abyssal surviving as the ground securely tread by the master.

Through Montaigne, Derrida thus treats the death penalty as a testament to a certain desire for survival.\(^7^6\) This desire would not be satiated by the surviving of a singular life-death, that of a being who lives only and always through another, but more than that, this desire would demand *une survie sans vie*, a survival that, closing itself off to the other in an absolute effort to indemnify itself, to render itself a thing unscathed, utterly expends all in *se donner la mort*. The difference between these two positions is subtle, and it would perhaps be better to assume that they contaminate one another in a relation of différance; even Heidegger thinks it obvious that Dasein must not “actually” commit suicide to “be” its most authentic self. It is clear, however, that Derrida deems the second iteration of survival to prove more violent and unjust than the first, because its absolutism forecloses the relation of différance whose vertigo grounds any surviving whatsoever. Significantly, such a distinction could not have been discerned through a deconstruction of death; it took Derrida’s attentive, philosophical treatment of the death penalty to think *survivance* beyond the will of a masterful *donner la mort*.

Thus, rather than asking once again, in classical philosophical form, *what is death?*, Derrida considers the production of “death” that the death penalty makes possible when it *donne la mort*, both puts-to-death and gives “death” as an object of scientific investigation and consensus. In the seminars, Derrida demonstrates that the death penalty makes-believe the human subject can secure survival through a measured putting-to-death, and thereby discredits a precarious, unsettling survival subject to the other’s mercy. When it comes to survival, death,\(^7^6\)

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\(^7^6\) As Kas Saghafi has forcefully argued, such a desire for survival would not be reducible to a desire for “life” understood in a radically mortal or finite sense. See Kas Saghafi, “The Desire for Survival?” in *Desire in Ashes: Deconstruction, Psychoanalysis, Philosophy*, edited by Simon Morgan Worham and Chiara Alfano (London: Bloomsbury Publishing, 2015): 139-160.
and the other, however, one deals only in the phantasmatic, and therefore without the aid of a claim to “Truth.” So rather than rejecting the sacrificial logic scaffolding the death penalty in favor of a more “accurate” account, Derrida attends to what remains strategically forgotten in the re-collections of sur-viving self-sameness: another desire, or a desire for the other, whose force compels both an absolute self-sacrifice and a reactive return to self, but which guarantees neither.

Derrida’s abolitionism, therefore, affirms both sides of a desire for survival, this restless dream of a perpetual self-sameness irreconcilably conjoined with absolute alterity, by reconfiguring life as survivance, a living on some other that exceeds the bounds of life itself. This allows him to affirm life otherwise than do Montaigne or Heidegger when Derrida says “straight on” that “yes, I am against the death penalty because I want to save my neck, to save the life I love, what I love to live, what I love living” (DP1 254-5/345). This is not the masterful gesture of a subject who would secure his existence by excising all alterity, but a declaration of love for the others who have and continue to support his life, open as it is to a future that is not at his disposal. “I can believe in and affirm what is called life, what I call, what an ‘I’ calls, life only by setting out from and within a ‘my life’ even if this belief in ‘my life,’ the sense of ‘my life,’ originally passes by way of the heart of the other,” Derrida explains in oft-cited lines from the tenth session of the seminar.77 “Even if my life drive [pulsion], my life pulse, is first of all confided to the heart of the other and would not survive the heart of the other.” This is the “heart” of Derrida’s abolitionism, and the reason why he is no longer interested in re-posing the question of “death” itself. “It is still necessary to go from this quasi-tautological opposition of life to death to a more specific opposition,” Derrida writes, “no longer simply the opposition to death but the opposition to the death penalty” (DP1 256/346-7). “The point is,” he continues

77 Peggy Kamuf has written a moving commentary on the significance of the phrase “the heart of the other” in the seminar. See Peggy Kamuf, “At the Heart of the Other,” The Oxford Literary Review 35, no. 2 (2013): 241-251.
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. When the anticipation of my death becomes the anticipation of a calculable instant, there is no longer any future, there is 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.

(DP1 256/347)

This life, Derrida’s life, the life that he affirms and loves, only survives in relation to a death that is tout autre, altogether other, and therefore not subject to the decision of a calculable se donner la mort. The living being survives only in relation to the other, only by the grace of another who allows it to live on, living always scathed by a precarity that at once threatens it and makes it possible. In a sense, then, one lives on borrowed time, on a line of advanced credit, on faith in some other who lets one live. Where death is mastered absolutely and effectively certified by penalty of death, life is no more. At face value, this much seems obvious. To put someone to death is to put an end to their life. What Derrida means to say, however, goes a step further: the death penalty takes not only the life of the one condemned, but the life surviving in each and every virtual participant in the event, by effacing the relation to death as absolutely other. It is this survivance that Derrida would, de sang froid, seek to “save” from the death penalty, even as he anticipates a return in “capital gains.”

10. “You Have to Be Able to Dream”: Thinking and the Affective Force of Phantasy

Derrida returns to a thinking of death in what would be his final seminar, The Beast and the Sovereign. In the sixth session of the seminar’s second year, Derrida reads Freud “against Heidegger,” affirming Freud’s insight that “the relation to our own death is not representable” (BS2 157/229). If indeed death names that which does not come to pass in the aporia, happening only where there is no “I” to claim it as one’s own (and if, moreover, death can be said to happen
at all), then “each time we try to represent our own death to ourselves, we continue to be there as spectators, observers, voyeurs, at a distance and subject to imagery, to imagination.” The figure of sight recalls the voyant watching over the border crossing between life and death, a vigilance that, by approximating the to-come, puts the one on watch in relation to the absolute other and “sets one to dreaming.” With this language of visibility, Derrida suggests that to represent “my death” is to imagine or fantasize what has not come to pass by projecting an image, presenting the invisible by forcing it into the line of sight. The possibility of such a representation implies that “we are alive enough to see ourselves and imagine ourselves dead, and therefore,” Derrida continues, speculating on Freud, “buried or swallowed up or cremated alive.” To represent death implies that one is still alive enough to imagine death and that death has not come to pass, at least not as such or in an absolute, pure, or proper form. “This is another way of saying, against Heidegger, that we never have access to our own death as such, that we are incapable of it,” Derrida writes. “Our death is impossible.”

Against Heidegger, therefore, death cannot be understood to be the property of the living subject, it does not belong to the proper existence of any da-Sein, and death, if it happens, is not under the power, direction, or control, of a masterful will. Nevertheless, Derrida recognizes that Heidegger is, in a certain sense, on to something when he contends that Dasein takes death upon itself. Indeed, Derrida affirms that he has himself “insisted on the zone in which the impossible is named, desired, apprehended. Where it affects us” (BS2 148/217). Throughout the second volume of The Beast and the Sovereign seminars, where Derrida interprets Daniel Dafoe’s Robinson Crusoe, this impossibility is articulated under the designation “the phantasm of living death.” Reflecting on his use of the word “phantasm,” Derrida explains that he has tried “to figure or configure the contradictory, the inconceivable, or the unthinkable […] state in which
the dead man is alive enough to see himself die and know that he is dying, to live his own death, to last, perdure, and endure the time of his death, to be present at his death and beyond, without however failing to die, to survive his death while really dying, to survive his death.” Experience and common sense would, of course, deny the possibility of this “living death,” and Derrida is emphatic on this point; nonetheless, he insists on the irreducibility of this phantasm’s “real almightiness” when he acknowledges that

of course, as dying a living death, in the present, can never really present itself, as one cannot presently be dead, die, and see oneself die, die alive, as one cannot be both dead and alive, dying a living death can only be a phantasmatic virtuality, a fiction, if you like, but this fictive or fantasmatic virtuality in no way diminishes the real almightiness of what thus presents itself to fantasy, an almightiness that never leaves it again, never leaves it, and organizes and rules over everything we call life and death, life death. This power of almightiness belongs to a beyond of the opposition between being and not being, life and death, reality and fiction or fantasmatic virtuality. (BS2 130/192-3)

Thus, where Heidegger attempts to recoup the reality of Sterben as the truth of Dasein’s Being, designating death as such in the gesture whereby it is aufgenommen, Derrida emphasizes the impossibility of this gesture as such; it is unthinkable and contradictory, only ever possible phantasmatically. Paradoxically, for Derrida, it is from this phantasmatic virtuality that living death derives its force, its power to move us.

Derrida detects the phantasm of living death at work in a certain feature of European modernity: that of the choice between burial or cremation. Designating the proponents of each with the “more or less neologizing expressions” inhumers [inhumants] and cremators [incinérants], Derrida imagines them to be “something like secret societies, orders, sects – religious orders” (BS2 232/324). Each order, in its own way, and despite accusations of “inhumanity” directed at the other, attempts to put the phantasm of living death to work for the living by exorcising death (BS2 163/235). The inhumers, for their part, claim to be more humane by leaving the body intact and authorizing a place for the dead among the living. In
localizing the remains, however, the *inhumers* both give the dead a place and confine them to that location, guarding against their return and delimiting the realm of the dead from that of the living. The *cremators*, on the other hand, claim that incinerating the body prevents the possibility of being buried alive, freeing the remains of the dead from being abandoned to die a second death alone in the grave. But by burning the body, the *cremators* deny the dead any place among the living, both exiling the dead from the realm of the living and effectively securing their virtual omnipresence. Both sects thus attempt, in autoimmune manner, to *put death to death*, to purge death by bringing it close, to secure life by delimiting death – two sides of the same-other, unscathed-indemnifying paranoid phantasy. Like the Marrano Derrida describes in *Aporias*, these “religious orders” maintain a fidelity to death or to the dead through the very practices that excise, expel, or banish the dead from the world of the living.

In deploying this strange and morbid fable, Derrida suggests that the choice between burial and cremation in Western society attests to a disavowed fear of and desire for an *unheimlich* exchange between the living and the dead, an exchange that affects the living subject on the level of phantasy. “Whatever this choice [between inhumation and cremation] be,” Derrida writes, “it implies credit accorded to what, in an obscure way, I have proposed to call a phantasm, i.e., a certain ‘as if’” (BS2 149/217). It is “‘as if’ something could still happen to the dead one” or “‘as if,’ ‘perhaps,’ something could still happen to the survivors on behalf of the dead one.” In making a choice between burial and cremation, therefore, the living attest to a certain faith in the phantasm of living death, the imagery associated with being present at the moment of death, a projected experience of dying which would require that one remain sentient, that is, alive, as one dies. “Under the sign of this ‘as if,’ ‘perhaps,’ ‘I do not know,’” Derrida explains,
we allow ourselves to have an impression made on us, we allow ourselves to be affected, for this is an affect, a feeling, a tonality of pathos, we allow ourselves really to be affected by a possibility of the impossible, by a possibility excluded by sense, excluded by common sense, by the sense and by good sense, excluded by what is often called the reality of the reality principle, i.e., by the impossible possibility that the dead one be still affected or that we could still be affected by the dead one him or herself, by the dead, by the death of the dead one itself, him or herself: just where this affection, this affect, this being-affected, everything seems to tell us — and this is the very sense that we simultaneously give to the word “death,” and to the words, “sense,” “good sense,” “reality,” — everything seems to tell us, then, with an invincible authority, that this affection, this being-affected of the dead one or by the dead one is, precisely, interrupted, radically, irreversibly interrupted, annihilated, excluded by death, by the very sense of the word “death.” (BS2 149/217-8)

The vision that the living project of their own deaths or the deaths of loved ones, the plans they make with an eye toward the experience of death, the stories they tell to account for what happened or will have happened to them — this macabre phantasmatics allows the living to live death, where an impossible experience is smuggled in under the guise of a possible fantasy and what can never come to pass is impressed upon the vigilant. “We allow ourselves really to be affected by a possibility of the impossible,” Derrida writes, reinscribing the Heideggerian language of death. Passion lets in what is denied sens — “sense,” “meaning,” or “direction.” As Derrida notes, the agreed upon sense of being able to sense anything whatsoever is available only to the living. No one would attribute feeling or understanding to the dead, except in so far as they may be believed to live on. To sense death would be to die alive, an utter oxymoron. And yet, Derrida suggests that, “under the sign of the ‘as if’” — in other words, through the designation “fiction,” “fantasy,” or “imaginary,” which bars any attribution of “truth” or “reality” — the contradictory, unthinkable, unrepresentable, impossible experience of death is lived.

The credit afforded this phantasmatic impression, as evidenced in Derrida’s elaboration of burial and cremation rituals, challenges all convention, sense, and logic. As he writes, “the
phantasm resists, defies and dislocates the *logos* and logic in all its figures” (BS2 185/262). This resistance extends to every iteration of the *logos*, including reason as the law of non-contradiction, the decision between two opposed in a couple, speech or linguistic articulation, and the generalization of a synthesis. “This is why,” Derrida explains as he justifies the seminar’s departures from traditional philosophical themes, methodologies, and problematics, all the things we’re dealing with here, sovereignty, the animal, the living dead, the buried alive, etc., the spectral and the posthumous—well, the dream, the oneiric, fiction, so-called literary fiction, so-called fantastic literature will always be less inappropriate, more relevant, if you prefer, than the authority of wakefulness [*la veille*], and the vigilance of the ego, and the consciousness of the so-called philosophical discourse. (BS2 185/262-3)

In trying to think death’s impression upon the living, Derrida thus champions the domains philosophy has cast out as “false” or “erroneous”: dreams, imagination, literature, fiction. It is not insignificant that Plato characterizes as shades the prisoners who, dealing in images, know only the shadows of the cave.78 Philosophy has banished affective impressions to the realm of the dead, dismissing what Derrida calls phantasmatic virtuality as unintelligible, obscure, or at least dubious. Through its methods of ordering, hierarchizing, identifying, synthesizing, and disclosing, philosophy privileges clarity, univocity, and the security of a strong foundation. Such methodological commitments not only delimit and restrict disciplinary boundaries, they also perpetuate the discipline through a reduction of the alterity upon which it relies. Hence the need for vigilance in policing philosophy’s borders. A misbegotten heir to this tradition, Derrida calls for another vigilance, one which attends to the mechanical reproducibility of the philosophical ego through a critical, death-dealing blow.

A Derridean deconstruction of death thus keeps watch over the designation “death,” as it is securely deployed according to “common sense.” A deconstruction of death would thus

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examine the agreed-upon meaning of the term in ordinary usage and the scientific consensus for determining its “status,” but it would also consider the sense that is given to that which is supposed to mark the end of any sensibility, and the stakes that the living have in the phantasm of dying alive, in what is ultimately an irresistible compulsion to re-produce “death” for all to see. A task of vigilance for the vigilant, to be sure, and one that could not but set one to dreaming, since this deconstruction would not be possible without its own fictions and fables that re-produce “death” with the affective force of phantasmatic virtuality. In the penultimate session of the last seminar Derrida was able to deliver before his death in 2004, there is thus a bequest: “I’ll let you dream of a death that would no longer leave us in the hands of these itinerant sects of cremators or inhumers, and would definitively put out of a job those arrogant sects that pass for the religious to which they appeal for their authority, or that secularizing laity to which they lay claim…” (BS2 233/326). Derrida implies that the “choice” between burial and cremation (for it is hardly a choice at all), betrays a continued faith in the authority of religion, through its secularization, to sur-veille the border between life and death, to maintain the entire conceptual apparatus that regulates the exchange between the two by making-believe they can be opposed in a couple, in order to put death to death! and secure this world for the living. Such a “choice,” Derrida suggests, is hardly a choice, since it amounts to the same thing: *a donner la mort* that effects what it purports to watch, apprehend, and protect with the utmost vigilance. In the face of such vigilance, Derrida proposes no critique, scrutiny, or opposition. He does not advise another philosophy, phenomenology, or deconstruction of “death,” nor another account of “death itself” or “as such,” which would be the result of a rigorous and exacting logic. Surveilling this scene, as one must, Derrida instead stresses the necessity of the dreams to which vigilance gives rise. It is as if, he suggests, what cannot happen under the watchful eye – death, the other, the event –
comes to pass only in dreams. “You have to be able to dream,” he insists, *faut pouvoir rêver.* “To think a little, have to be able to dream.”

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This chapter has worked out the details of an economy of sacrificial indemnification. Sacrificial indemnification is *economic* in so far as it profits from taking on insecure assets, calculating and predicting ways that losses can be returned with interest in an effort to secure capital. Capitalizing on risk in this way makes possible any identifiable thing as the thing it is by mitigating damages to life or integrity, perpetually restoring the “life” of the thing to its pure or unscathed form. This chapter argues that such an economy of sacrificial indemnification is a driving force for philosophy, and specifically Heideggerian phenomenology, but more broadly, any analysis that attempts to isolate things “in themselves” or in their pure or proper forms. Sacrificial indemnification also motivates human individuals and societies, however; on what could be called an unconscious level, perpetuating the safety, security, and identity of human groupings through a measured *donner la mort*, both “putting to death” and “giving ‘death’” as an object of knowledge.

Since both the idea of “death” and the belief that it can be willfully given or brought about are products of sacrificial indemnification, Derrida challenges the priority given to the general concept of death by the history of philosophy. This chapter has analyzed how “death” is re-produced and indemnified in the Heideggerian notion of Being-toward-death. Taking Heidegger as an exemplary case, Derrida demonstrates that any attempt to localize, delimit, or comprehend “death itself” serves only to perpetuate the process of sacrificial indemnification. Thus, while Derrida maintains the necessity of deconstructing death and of participating in a certain sacrificial, indemnificatory logic, in *The Death Penalty* seminars he attempts another
gesture, namely, the privileging of the death *penalty*, rather than death “itself,” as an object of philosophical consideration.

According to Derrida, the condemnation to death has long served as the mechanism for sacrificial indemnification, capitalizing on debt to secure the survival of the social body. By presenting death “as such” through a regular putting-to-death in the form of executing those condemned to capital punishment, the death penalty economizes sacrifice and indemnifies the community. This chapter argues that Derrida’s treatment of the death penalty is vital to any deconstruction of death, including Derrida’s own return to themes of death and survival in his final seminar. In so far as anything survives, it is mechanically reproduced according to the logic of sacrificial indemnification; thus, it deals in death in order to perpetuate life, a process Derrida calls “life-death.” It is a thinking of the death penalty, and not another philosophy or phenomenology of death, that makes it possible for Derrida to articulate the unconscious economy of sacrificial indemnification at work in “individual” and “collective” processes of survival. This chapter demonstrates the centrality of this thinking to Derrida’s understanding of social structures as well as philosophical conceptualizations of life and death.
CHAPTER 2

“Phantom Hemorrhage: The Death Penalty’s Ciphered Legacies”

In the final session of The Death Penalty seminars, Derrida proposes “something that is both a recapitulation and a step forward,” an “overture” that would also be a “reprise” (DP2 325/244). With this, he gestures not only toward The Beast and the Sovereign seminars to come; he also returns to what has gone before, a recirculation that recalls the pulsion of a circulatory system or a hematology—perhaps one could say that Derrida is “out for blood.” And indeed, he devotes most of the session to “an economy of bloody sacrifice” in Juan Donoso Cortés’ Essays on Catholicism, Liberalism, and Socialism (DP2 350/263). But he reads Cortés within the context of a “history of blood” that he began to examine the year before, and in particular within the context of a certain internalization of blood that he finds, one could say, “operative” in the rhetoric of Victor Hugo’s Writings on the Death Penalty.

Hugo and Cortés are contemporaries, and both comment on the issues surrounding the 1848 Revolution in France. In particular, both figures contribute to the debate over the Constituent Assembly’s abolition of the death penalty for political crimes. Hugo famously calls for the “pure, simple, and definitive abolition of the death penalty.”79 Cortés warns against the abolition of what he takes to be a “providential law which no people will abandon with impunity” (DP2 350/263). But despite their opposing political persuasions, Derrida attends to the fact that Hugo and Cortés each articulate a position with reference to Christianity. It is, Derrida observes, “[d]ivine law of abolitionism against divine law of the death penalty” (DP1 255/182). At the crux of this unexpected crossing is the crucifixion: Cortés and Hugo represent opposing sides of the so-called political spectrum, yet both scaffold a political discourse upon the passion

of Christ. For Cortés and Hugo, the blood shed on Calvary will not have been shed in vain, since for both, Christ’s sacrifice has meaning. This bloodshed either validates the maintenance of or brings an end to the death penalty, but it will have never been lost. Attending to the economic deployment of Cortés’ and Hugo’s texts, Derrida discerns how blood counts, and is saved. He thus recounts a bloody history that keeps its accounts and accounts for its returns.

Within this history of blood, Derrida recognizes “a turning point that is also a return,” in which l’histoire du sang is also une histoire “du sans sang,” a history “of the without blood” (DP1 267/191). He identifies this (re)turning point with “a turn in the rhetoric of the body [du corps], the trope that causes [ferait] blood to turn or circulate in this history, the symbol of blood, blood that flows [qui coule], red blood, the color of blood that exhibits, by pouring out [à s’épancher], and lets one see the inside on the outside.” This rhetoric of the body circulates a certain bloody exchange: blood will épancher, pour out, and it will be étanché, staunched or even quenched. Seeing blood pour out will be substituted by a logic of making blood disappear by taking it in and making sense of it. As Derrida succinctly writes, “[m]eaning is what staunches blood [le sens est ce qui étanche le sang],” where le sens refers to both “meaning” as the translation indicates, but also “sense” or “feeling,” which returns this notion of blood to the body. (DP2 288/215). For Derrida, the history of blood as a history of the bloodless takes into consideration that which “must progressively absent itself, make its absence sensible […] and will endeavor to make the blood disappear” such that any progress toward the abolition of the death penalty will necessarily consist in “experiences of the bloodless, experiences of becoming bloodless, of reabsorption, drying up [de l’assèchement], or the disappearance by interiorization of blood, of the visibility of blood” (DP1 267/191-192).
The rhetoric of in-corporation, this “ab-sensing” of blood, if it can be so called, is “always in the memory of the blood of Christ,” which Derrida associates with “the experience and general rhetoric of the Eucharist, of the transubstantiation that brings about the real presence of the blood of God or of the man who is the son of God in the wine, and his flesh in the host” (DP1 267/191). And “from sacrificial blood or Christ’s blood to the blood of filiation,” he notes, “there is always good blood and bad blood, and the two are often indiscernible” (DP1 277/200). Even so, he observes, “within the same and unsurpassable sacrificial logic, good blood is supposed to redeem bad blood, to have the historical meaning of a redeeming expiation.” Blood’s ab-sensing therefore presupposes a continuation of the sacrificial structure that characterizes its presence, and the disappearance of blood from executions (by way of lethal injection, for example), actually reinforces the death penalty’s continued relevance and operation. Similarly, Victor Hugo’s fierce (and even admirable) abolitionism allows for a more subvert perpetuation of the same economy Derrida sees in Cortés’s defense of state-sanctioned bloody sacrifices, all in the name of a certain Christianity. Over the course of two years, and in memory of a certain “me,” Derrida thus traces a sort of hematropology that economizes the ebb and flow of blood in the language used to both justify and denounce the death penalty.

In the course of this hematropology, Derrida finds it necessary to question, in the form of a traditional philosophical inquiry, “what is blood?” [qu’est-ce que le sang?] (DP1 267/192). The question appears simple enough, yet Derrida discusses a history of blood, including its corporeal “rhetoric,” its symbolic significance, the discursive emphasis on its circulation in- and outside of the body, and even the implications of its color – all indications that what is at issue for Derrida lies beyond any straightforward philosophical account of blood in and of itself. He nonetheless leaves the question open, letting it linger for over a year, until the penultimate
session of the seminar’s second year, where he reminds those in attendance that the “kinship” he has traced “between the history of the death penalty and the history of blood” is not “the natural history of blood, but the cultural history of blood, and also the imaginary, symbolic, phantasmatic, techno-scientific history of blood, of what is called blood, of the ‘blood’ fable, of the fabulation of blood, of the invention [affabulation] of blood” (DP2 293/220). He goes on to specify that what is at issue here is “a history of the treatment of blood,” and he returns to the language of épancher and étancher to elaborate his meaning: “a history of bloodletting [de l’épanchement], of the blood one sees flow [couler], of the blood one lets flow [couler], of the blood one causes to flow [qu’on fait couler], of the blood that one does or doesn’t staunch [étancher]” (DP2 294/220). And once again, he elaborates the motivating force behind this movement. It is “a history of blood as the history of a purification to be staunched [étancher], blood suddenly without blood, the history of an immunity to be saved [sauver], to be kept safe and sound [saine et sauve].”

The drive to purify or to save, one could add “to indemnify,” parallels his discussion the year before about the Christian narrative and the good blood that redeems or expiates bad blood, but with the added association between the verbs étancher, “to staunch,” and sauver, “to save.” This association emphasizes a cessation of the flow in order to draw attention to the fact that the drive to purify can operate in a bidirectional manner, much like the disappearance or ab-sensing of blood that he analyzed the year before. Despite its “debatable” etymology, Derrida observes

80 For more on Derrida’s treatment of indemnification, see the first chapter of this dissertation.

81 According to the Littré, étancher has the following meanings in Old French: to close a wound, to stop the flow, to curtail one’s pride, to bring an end to mortality, to tire a horse, and to quench thirst. The author explains the relation between these diverse significations by speculating that étancher “derives from the Latin stagnare, to be stagnant, to which the active meaning of preventing the flow has been given, and which may have taken the figurative meaning of tiring (in Italian). It seems to us more probable to propose another stagnare or stannare which means to tighten up, from which to stop either a flow or anything else; the Provençal meaning of satiating is easily deduced from this;
that “the vocabulary of étanche, étancher [...] has come to signify what stops the flow of a liquid, for example, tears or blood, but also water in general” (DP2 267/198). “[I]t’s a wound,” he explains, “whose flow of blood one staunches or stops by closing the scar, with stitches, for example.” And “even if water and tears” – “to which one would have to add milk and sperm” – “could also be seen figuring among the liquidities to be stanched,” Derrida suggests that an analysis of the death penalty seems to demand a certain privileging of blood “among the liquid bodies produced or secreted by the body itself [le corps propre]” (DP2 287/214). He thus characterizes the seminar as “the scene of hemorrhaging, if not the hemophilia, of the wound and the bleeding to be staunched, the effusion of blood to be staunched (by draining, suturing, ligaturing, stricturing, closing the wound, [or] binding).” The Death Penalty seminars thus stage what comes to pass in the crossing of étancher and épancher – indeed, in their crisscrossing, since sometimes one lets in order to heal or re-stricts in order to flood.

If, however, this hematropic mise en scène is indissociable from the language of the body, if “a turn in the rhetoric of the body” is indeed “the trope that causes blood to turn or circulate in this history” of the death penalty, then the analysis of épancher and étancher in The Death Penalty seminars presupposes a certain somatization (DP1 267/191). It is perhaps this that leads Derrida to make a parenthetical confession:

Every time, and it happens very often, that I have my doubts about psychoanalysis, about this or that state, whether theoretical or practical, of psychoanalysis and its institutions, about the past, present, or <the> future of psychoanalysis, well, there is always a moment of a question, there is a question that reconciles me with psychoanalysis, that leads me back to it and reassures me that this question, with its dignity of the question, will never be resolved, nor could it even be asked, without the help of something like psychoanalysis, at the crossroads of a soul or a life, of a psyche – which is not an ego [un

and it is from this sense that thirst comes to be quenched. The sense of being weary either in French or in Italian is much more obscure; it seems, however, that stanching, from the meaning of ceasing, has passed to that of tiring, because lassitude puts an end to the action to which one was engaged. Doesn't the expression mettre à bout represent something analogous?” Emile Littré, Dictionnaire de la langue française, Paris: Gallimard et Hachette, 1959. Accessed July 1, 2021 via The University of Chicago’s ARTFL Project at https://artflsrv03.uchicago.edu/philologic4/publicdicos/query?report=bibliography&head=etancher&start=0&end=0.
moi, literally “a me”) or a consciousness – and of a living body [un corps vivant], of a 
hoc est meum corpus, which need not be Christlike. And it’s the following question, the 
type of question that involves what we naively call body language [le langage du corps], 
the rhetoric of the body; what are we doing, what is happening to our body, between our 
soul and our body, when we laugh? When we blush? When we shed tears? Why does 
this or that type of emotion translate as water that flows [qui coule] from the eyes? As 
blood that rushes [qui afflue] to the face? As this movement that causes our eyes and our 
mouth to move, or even causes our entire body to convulse with laughter, with 
uncontrollable laughter [fou rire]? Since these manifestations are specific, by which I 
mean both typical, general, and by and large proper to the species in general, they 
presuppose a long phylogenetic history, an immemorial but historical sedimentation of 
hexis, as Aristotle would say, a paleobiology of habit or habitus that cannot help but pass 
by way of the unconscious and the complex calculations of the unconscious body, of a 
body that is originally social, collective, cultural, nonindividualized. (DP2 300/224-5)

Accordingly, Derrida will insist that “[a]ll the questions related to the opposition flow/stauch 
[épancher/étancher], whether it is a matter of tears or blood, ultimately demand recourse to this 
phylogenetic psychoanalysis of the so-called body proper [du corps dit propre], of the living body 
[du corps vivant] in general” (DP2 300/225). Consequently, Derrida must engage in or with a 
practice of trans-generational psychoanalysis, one that somehow fosters a relation to the 
immemorial, an unfathomable history that does not appear and does not speak its name, but 
drives “me” roundabout psycho-somatic crossroads.

Derrida’s confession in The Death Penalty seminar is not his only direct reference to 
bodily language and effusions. In the third chapter of The Gift of Death, where Derrida sets forth 
from an analysis of Jan Patočka’s use of the phrase “mysterium tremendum” in his Heretical 
Essays on the Philosophy of History, Derrida poses a similar problematic. He observes that one 
neither knows “why one trembles” nor “why it produces this particular symptom, a certain 
irrepressible agitation of the body, the uncontrollable instability of its members or of the 
substance of the skin or muscles” (GD 81/55). “This symptomology is as enigmatic as tears,” he 
declares, noting that even in cases where one is aware of the situation that caused one to cry, 
“that still doesn’t explain why the lacrimal glands come to secrete these drops of water which
are brought to the eyes rather than elsewhere, the mouth or the ears.” To answer this question, he affirms that it would be necessary to

make new inroads into thinking concerning the body, without dissociating the registers of discourse (thought, philosophy, the bio-genetico-psychoanalytic sciences, phylo- and ontogenesis), in order to one day come closer to what makes us tremble, or what makes us cry, to that cause which is not the final cause that can be called God or death (God is the cause of the mysterium tremendum, and the death that is given \( \text{la mort donée} \) is always what makes us tremble, or what makes us weep as well\(^{82} \)) but to a closer cause \( \text{la cause la plus proche} \); not the immediate cause, that is the accident or circumstance, but the cause closest to our body \( \text{[la cause au plus proche de notre corps]} \), that which means one trembles or weeps rather than doing something else. What is it a metaphor or figure for? What does the body mean to say \( [\text{Que veut dire le corps}] \) by trembling or crying, presuming one can speak here of the body, or of saying \( \text{[de dire]} \), of meaning, and of rhetoric? (GD 81-2/55)

Here again, and although it is not privileged in the same manner, Derrida refers to psychoanalysis among other disciplines. He also invokes Aristotle in this passage, by referring to the four causes, specifying that what is at issue in this question is not the “immediate” or efficient cause (i.e., what situation made one experience grief or terror and so cry or tremble), nor is it the final cause (i.e., God or death given by the other, the two of which Derrida here associates); but rather “a closer cause,” “the cause closest to our body,” which should not be confused with anything like a material or a formal cause. Instead, Derrida identifies this “closer cause” as being a metaphor for something else, something that the body means or wants to say, convey, or transmit \( [\text{vouloir dire}, \text{literally “to want to say,” but idiomatically “to mean to say”}] \). (Hence the need to account for the appropriate “registers of discourse.”) At issue here is a relation to the body and its archaic history, a history of the body that pours out of “me.” It is an immemorial effusion communing in indecipherable experiences that ultimately make no sense and leave “me” lost, defenseless, without direction.

\(^{82}\) For more on the specificity of donner la mort, see the first chapter of this dissertation.
Down at the crossroads, then; \textit{au croisement}. When one is at the crossroads, it is always a question of the soul, and of a possible trade-deal, an exchange between the soul and the body, and thus a matter of faith – one which, as Derrida remarks, need not be Christian. If not an age-old question, it is a question at least as old as philosophy itself: the problem of the \textit{psychē} and the \textit{soma}, otherwise known as the mind-body problem. Here, though, in second year of \textit{The Death Penalty} seminar, Derrida attributes the very possibility of this question, with all “its dignity,” not to philosophy (despite the Aristotelian invocation), but to psychoanalysis. And rather than heading off in the direction of a classical philosophical problematic, which would delimit and order the poles of a binary, Derrida waits at the crossroads, in the intersection of a whence and a whither without origin or destination.

This chapter will follow the trail of blood that Derrida leaves behind in his seminars on the death penalty to demonstrate how a transgenerational psychoanalytic thinking of the body can give an account of the death penalty’s historical discourses, both proponent and abolitionist, bloody and bloodless, through the examples of Victor Hugo and Juan Donoso Cortés. A main contention of this chapter is that one cannot fully account for Derrida’s analyses in \textit{The Death Penalty} seminar without attending to his psychoanalytic inheritance and the impact of that inheritance on his treatment of the institution of capital punishment. More specifically, while Derrida’s debt to the works of Sigmund Freud is evident from his earliest writings and well-documented in the literature, little attention has been given to his close personal and intellectual ties to analysts Nicolas Abraham and Maria Torok of the Hungarian school. These analysts’ theoretical contributions to psychoanalysis are revolutionary in their own right; however, the impact of their work on Derrida’s thought is also profound and extensive. This chapter will trace
some important trajectories in this line of psychoanalytically-oriented theory with regard to trauma, the body, the ego, inheritance, violence, and retributive justice.

Since Derrida maintains that “[a]ll the questions related to the opposition flow/staunch [épancher/étancher], whether it is a matter of tears or blood, ultimately demand recourse to this phylogenic psychoanalysis of the so-called body proper,” a structural analysis of the rhetoric of effusion and staunching will be an overriding theme in the texts treated here (DP2 300/225). The elucidation of Derrida’s psychoanalytic inheritance will lead into a thematization of inheritance itself and the role of inheritance in Derrida’s treatment of the body, the self, the psychoanalytic establishment, and finally, the institution of capital punishment. Throughout the chapter, the logic of effusion and staunching will weave together these diverse and wide-ranging topics.

Divided into four “crossings,” the chapter will first look to Freud and Breuer’s early account of hysteria as a paradigmatic treatment of the relationship between the psyche and the soma. Using the condition of hysteria as a guide, the Freudian sources will set up a specifically psychoanalytic paradigm for understanding the body, its response to trauma, and its symptomology. As Derrida implies in The Death Penalty seminar, psychoanalysis inaugurates a thinking of the body that diverges from both the history of philosophy and its more recent phenomenological iterations. For Freud, the body is always a foreign body with respect to the ego, and the ego’s familiarity with the body is based on a mediated system of drive representations stemming from an archaic source in the phylogenetic history of the species. The psychoanalytic subject is, on this reading, effusing the traumas and adaptations of its evolutionary past, either through embodied symptomology (as is the case in hysteria) or through linguistic substitutive formations. At once foreign and intimately familiar, this overflow is both a threat to the integrity of the ego and the force motivating its development. Psychoanalysis
aims to leverage the flow of the drives to the benefit of the ego through a *controlled* form of discharge – the expiating confession.

The second “crossing” details the manner in which Freudian thought was taken up in the Hungarian school of psychoanalysis. Analysts Nicolas Abraham and Maria Torok, who were friends and contemporaries of Derrida, reenvision and complicate the Freudian account in important ways. Based on Freud’s insight regarding the mediation between the drives and the ego, Abraham develops a specifically psychoanalytic theory of signification, designated by the neologism *anasemia*. Rather than a direct (or even an indirect) system of corresponding meanings, he argues, psychoanalytic concepts *de-signify* by signaling an inexhaustible unconscious kernel of meaning that founds all possible signification but can never be fully accounted for by any signifying act. For Abraham and Torok, psychoanalysis aims to facilitate this interminable process of interpreting unconscious contents in a manner consistent with the ego’s representing capacities, a process they identify with introjection. When introjection fails, they contend, a crypt is incorporated into the ego, a sealed-off space where unconscious crime is disavowed and prohibited from egoic representation. Such crypts can, they contend, haunt subsequent generations via the phantom transmission of gaps in language and subjectivity. The role of the analyst, according to Abraham and Torok, is to identify and banish the phantom, thereby restoring the integrity of the haunted ego and promoting the introjective process. These analysts follow the work of Sandor Ferenczi in reading bodily expressions as a phylogenetic cipher, such that the analysis of any one phantom necessarily entails the encrypted remains of evolutionary pre-history.

The third “crossing” will follow Derrida’s close and subtle readings of Abraham and Torok to establish his own psychoanalytic inheritance. Derrida interprets the analysts’ later,
coauthored works through the lens of Abraham’s anasemic theory of signification. If it is true, as Abraham demonstrates, that there remains an inexhaustible kernel of unconscious meaning (at once onto- and phylogenetic), then the process of introjection can never be complete or fully realized. Moreover, because the process of introjection is interminable and only ever partial, encryption (in the sense of both a ciphered signification and the installation of a crypt in the ego) is constitutive of subjectivity. From the irreducibility of encryption, it follows that subjectivity is also constitutively haunted and must contend with multiple and innumerable phantoms. Unlike Abraham and Torok, who advocate an analytic exorcism, however, Derrida imagines a non-punitive relation with phantoms in which the subject “learns to live” with phantoms by choosing “from among that which one inherits” (S 15/xvii, 40/18). For Derrida, the task of inheritance is in no way a guarantee against violence, loss, or death; it is, rather, responsibility in the face of an alterity that overflows the bounds of any identifiable subject. The “me” or the ego (le moi in French) survives only and always through an irreducible kernel of heterogeneity that both ruptures all identity and makes it possible. Rather than castigating and purging this heterogeneity in an attempted disavowal (itself already an inheritance, and thus one form of the heterogeneity disavowed), Derrida implies another relation with that which precedes and exceeds “me.” While interpreting, sifting, sorting, and deciding among phantoms, as one must, Derrida appeals for grace.

The fourth and final “crossing” returns to Derrida’s analyses of the writings of Victor Hugo and Juan Donoso Cortés to investigate the ways in which the logic of effusion and staunching operates there as a means of mitigating the irruption of transgenerational inheritance in the political body. The debate between Hugo and Cortés, along with the “history of blood” that it exemplifies, thus can only be fully understood through the lens of Derrida’s encounter
with a phylogenetic psychoanalysis. A first and cursory comparison of these two figures would uncover a logic of effusion in the writings of Cortés, a proponent of the death penalty, and a logic of staunching in the writings of Hugo, an abolitionist; a closer examination of their rhetoric, however, reveals the same logic at work in both discourses: a logic of sacrifice that attempts to purify the social body through the excision of heterogeneous elements. For Cortés, the death penalty functions as a bloody sacrifice, one demanded by God for the expiation of original sin, as evidenced in the doctrine of Cain and Abel. And yet, the story of Abel’s first bloody sacrifice demonstrates the power of the “Catholic word” to staunch the flow of blood by making sense of it to account for all varieties of human experience, behavior, and history (DP2 338/254). Hugo’s reasoning is more complicated since his rhetoric explicitly presupposes the staunching of blood as he advocates for the abolition of the death penalty. As Derrida shows, however, Hugo’s abolitionism maintains Cortés’ presuppositions through their sublation. Thus, it is through another, opposing stance that Hugo is better able to secure a fundamentally sacrificial Christian legacy. In other words, it is through, and not despite, Hugo’s appeal to an Enlightenment-inspired rationality that he remains heir to the tradition of violence from which he so strongly distances himself. At the same time that Derrida remains critical of Hugo’s articulation of abolitionism, he nonetheless affirms his own opposition to the death penalty in words that echo both Hugo and Christ, traditions against which Derrida maintains a decided suspicion. With this gesture, then, Derrida signals his commitment to living with generational phantoms, rather than attempting to exorcise them, as he undertakes the task of inheritance. Derrida’s approach to the abolitionist legacy thus affirms not the end of the death penalty, but its interminable and unpredictable returns – and the chance, perhaps, of its other survival in a gift of grace.
In a discussion of psychoanalysis and the body, it seems apt to begin with hysteria. In the first place, Freud began his psychoanalytic publishing career with several papers on this condition, including the “Preliminary Communication” to the Studies on Hysteria, which was first published in the Neurologisches Centralblatt in 1893 and co-authored with Josef Breuer, and he continued to concentrate his research on the condition through 1910. For this reason, the inception of psychoanalysis is marked by Freud’s seemingly ever-morphing and controversial accounts of a psychiatric condition characterized by the conversion of psychical contents into physical ones. And although Freud suspends his emphasis on hysteria in the published writings, in the introduction to their book A Non-Oedipal Psychoanalysis? A Clinical Anthropology of Hysteria in the Works of Freud and Lacan, Philippe Van Haute and Tomas Geyskens note that “during the last two decades of the 19th century […] Freud uses hysteria as a matrix through which he considers and understands pathology as a whole.” Hysteria thus plays a prominent role in Freud’s theorization of psychoanalysis, such that his elaboration of trauma and the analytic technique as well as his subsequent iterations of symptoms, the drives, and their relation to trauma remain, if not hysterical, at least indebted to this paradigmatic condition in significant ways.

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83 Freud modifies his position several times regarding the role of the libido, seduction, and phantasy in the etiology of hysteria. This chapter will not recount these iterations in detail. For an account of Freud’s positions on these matters, see the first two chapters of Philippe Van Haute and Tomas Geyskens, A Non-Oedipal Psychoanalysis? A Clinical Anthropology of Hysteria in the Works of Freud and Lacan (Leuven: Leuven University Press, 2012). In these chapters, the authors present a compelling case against a dominant interpretive trend in Freud studies holding that Freud moves directly from his so-called “seduction theory” of hysteria to an Oedipal etiology of the condition. Van Haute and Geyskens instead claim that Freud holds an intermediary position that privileges an individual’s disposition to develop hysteria or other neurotic conditions. Although it is outside the scope of this paper, it is important to note here that Van Haute and Geyskens seem to delimit trauma to what Freud and Breuer describe as “external trauma” rather than what they designate as “internal trauma.” Since much of this section is devoted to the troubling and ultimate deconstruction of this binary, it may well be that Van Haute and Geyskens’ position is ultimately not as far removed from this section’s elaboration of traumatic etiology as it might seem at the outset.

Relatively, and perhaps more significant, privileging Freud’s early account of hysteria makes sense since hysteria is *par excellence* the condition that *embodies* the troubled relationship between the soul or the mind and the body. As Freud defines the condition in his 1895 contribution to the *Studies*, hysteria “originates through the repression of an incompatible idea from a motive of defense. On this view, the repressed idea would persist as a memory trace that is weak (has little intensity), while the affect that is torn from it would be used for a somatic innervation. (That is, the excitation is ‘converted.’)” (SE 2: 285). In hysteria, then, the ideational content of a traumatic event is repressed while the affective component is converted into the physical symptoms classically associated with nineteenth century depictions of the condition: paralyses or paresis, ane- or hyperesthesia, convulsions, anorexia and/or bulimia, aphasia, visual and auditory disturbances, etc.\(^85\) Van Haute and Geyskens remark parenthetically that Freud’s elaboration of hysteria indicates that “physical symptoms have a psychological meaning.”\(^86\) Indeed, they proclaim that “the relationship between ‘body’ and ‘soul’” is “inscribed in the founding act of psychoanalysis itself.”

Hysteria’s foundational role in the development of psychoanalysis, however, is not the condition’s only relevance to this chapter’s topic. Several themes converge around hysteria and its legacy in Freudian theory, including, of course, the relationship between the mind and the body, but also the opposition flow/staungh and its valuation in an economy. All these themes are, moreover, cast in the wide net of inheritance, as Breuer and Freud theorize hysteria under the shadow of Darwin’s legacy. It is of particular relevance that both blood, as Derrida analyzes

\(^85\) Historically, great variation has existed in both the symptomology and diagnosis of hysteria as a medical, neurological, and later psychiatric condition. For a fascinating account of these transmutations in Europe and the United States from the early seventeenth century to the present day, see Andrew Scull, *Hysteria: The Disturbing History* (Oxford: Oxford University Press, 2009).

it, and trauma, as Freud develops this concept beginning with cases of hysteria, operate in a liminal space between the mind and the body. Along these same lines, blood and trauma share a circulatory movement characterized by incorporation and projection, absorption and effusion, troubling any easy demarcation of the inside and the outside. The idea, mentioned above, that the symptom *means something* relates back to Derrida’s insights regarding the significance of blood in *The Death Penalty* seminars. As the rhetoric of blood’s ab-sensing memorializes Christ, salvation, and the drive to purify, the treatment paradigm for psychical trauma is figured in terms of confession, relief, and absolution.

Remarkably, in the “Theoretical” chapter of the *Studies*, Breuer makes an observation inversely parallel to that of Derrida in *The Gift of Death* and again in the second year of *The Death Penalty* seminar:

If a somatic symptom is caused by an idea and is repeatedly set going by it, we should expect that intelligent patients capable of self-observation would be conscious of the connection; they would know by experience that the somatic phenomenon appeared at the same time as the memory of a particular event. The underlying causal nexus is, it is true, unknown to them; but all of us always know what the idea is which makes us cry or laugh or blush, even though we have not the slightest understanding of the nervous mechanism of these ideogenic phenomena. […] But this is not the case with very many or even the majority of hysterical symptoms. Even intelligent patients are unaware that their symptoms arise as a result of an idea and regard them as physical phenomena on their own account. (SE 2: 220)

What distinguishes hysterical patients from other people engaging in self-reflection, Breuer observes, is that hysterical patients don’t take for granted any immediate connection between the mind and the body. Through inductive reasoning, most people have some awareness of the immediate cause of their involuntary bodily expressions: “all of us always know what the idea is which makes us cry or laugh or blush” even if the “underlying causal nexus is, it is true, unknown.” Hysterical patients, by contrast, do not attribute these somatic manifestations to any psychic content and instead attribute them to the body alone: they “regard them as physical
phenomena on their own account.” Like Breuer’s hysterical patients, Derrida gives less priority to the immediate and psychical cause of the somatic experience, questioning instead what Breuer calls the “underlying causal nexus” at work in the “unconscious body” (DP2 300/225). “Even if one knows why one weeps, in what situation, and what it signifies,” Derrida writes in The Gift of Death, “that still doesn’t explain why the lachrymal glands come to secrete these drops of water which are brought to the eyes rather than elsewhere, the mouth or the nose” (GD 81/55). What concerns Derrida is not so much the idea that makes one cry, laugh, or blush, but rather what Breuer calls the “physical phenomena on their own account.” Derrida asks, “what are we doing, what is happening to our body, between our soul and our body, when we laugh? When we blush? When we shed tears?” (DP2 300/225). Or again, “what does the body mean to say [que veut dire le corps] by trembling or crying, presuming one can speak here of the body, or of saying [de dire], of meaning, and of rhetoric? (GD 82/55). On Breuer’s assessment, Derrida is a little hysterical.

Freud, on the other hand, who once admitted to his own case of “mild hysteria,” speculates that from an evolutionary point of view, the unconscious body would be primary with respect to hysterical etiology (SE 1: 259). At the end of the “Fräulein Elizabeth Von R.” case study, he opines that

when a hysterical creates a somatic expression for an emotionally-coloured idea by symbolization, this depends less than one would imagine on personal or voluntary factors. In taking a verbal expression literally and in feeling the “stab in the heart” or the “slap in the face” after some slighting remark as a real event, the hysterical is not taking liberties with words, but is simply reviving once more the sensations to which the verbal expression owes its justification. How has it come about that we speak of someone who has been slighted as being “stabbed to the heart” unless the slight had in fact been accompanied by a precordial sensation which could suitably be described in that phrase unless it was identifiable by the sensation? What could be more probable than that the figure of speech “swallowing something,” which we use in talking of an insult to which no rejoinder has been made, did in fact originate from the innervatory sensations which arise in the pharynx when we refrain from reacting to the insult? All these sensations and
innervations belong to the field of “The Expression of the Emotions,” which, as Darwin (1872) has taught us, consists of actions which originally had a meaning and a purpose. These may now for the most part have become so much weakened that the expression of them in words seems to us only to be a figurative picture of them, whereas in all probability the description was once meant literally: and hysteria is right in restoring the original meaning of the words in depicting its unusually strong innervations. Indeed, it is perhaps wrong to say that hysteria creates these sensations by symbolization. It may be that it does not take linguistic usage as its model at all, but that both hysteria and linguistic usage alike draw their material from a common source. (SE 2: 180-1, emphasis added)

In this final paragraph of the final case study included in the Studies on Hysteria, Freud indicates that the ideational and linguistic content associated with hysterical symptomology is secondary to what he calls “somatic innervation.” What happens to the hysteric, in other words, is first registered in their body. Rather than processing a slighting remark at a cognitive level, the hysteric feels the sensation of being stabbed in the heart or slapped in the face. The extreme behaviors characteristic of nineteenth-century hysteria make more sense when considered from this perspective: someone who has been stabbed in the heart convulses and a slap to the cheek stings or tingles. But there is a more profound claim here. Freud suggests that when the hysteric

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87 Although it is not within the scope of this project to undertake a full account of Darwin’s theory of emotional expression, it is worth briefly recounting his views in order to supply some background for Breuer and Freud’s own understanding of the role of evolutionary theory and the nervous system in hysterical etiology. Based on observations of humans and other animals (both Darwin’s own observations and those that were reported to him by others), Darwin develops three “general principles” that account for the expression of emotions (Charles Darwin, The Expression of the Emotions in Man and Animals [New York: Greenwood Press, 1969], 27). In the first place, Darwin theorizes that according to the principle of serviceable habits, certain actions that have proved useful to the organism under specific conditions in the past will continue to be performed habitually under similar conditions, even when those actions are no longer of use to the organism (Darwin, The Expression of Emotions, 28). Secondly, according to the principle of antithesis, he speculates that when opposite conditions are present, directly opposite actions are likely to occur in the organism, even when they are not serviceable. Finally, according to the principle of the direct action of the nervous system, Darwin argues that when the nervous system experiences excess excitation, nerve force is discharged along predictable routes based on both the constitution of the nervous system and force of habit (Darwin, The Expression of Emotions, 29). These principles, he thinks, explain how and why emotions are expressed in specific and predictable ways at the species level, since to him “it seemed probable that the habit of expressing our feelings by certain movements, though now rendered innate, had been in some manner gradually acquired” (Darwin, The Expression of Emotions, 19). “If practiced during many generations,” he reasons, habitual actions “would probably at last be inherited” (Darwin, The Expression of Emotions, 61). Thus, according to Darwin, animals express their emotions through specific movements because they inherited the behaviors that were, at one point and under certain conditions, serviceable to their ancestors based on their neurophysiology.
feels the sensation of being stabbed in the heart, being slapped in the face, or being forced to swallow something, they are not exaggerating the emotional pain associated with an emotional insult; they are instead “restoring the original meaning” of common figurative phrases whose “description was once meant literally.” Originally, Freud implies, personal injuries were not inflicted on the psyche but rather the body. Freud imagines the hysteric as a medium, channeling the brutality of prior generations. This leads him to speculate that, ultimately, maybe, hysteria “does not take linguistic usage as its model at all, but that both hysteria and linguistic usage alike draw their material from a common source.” Perhaps, Freud suggests, human beings are prone to developing hysteria for the same reason that human beings use language; the wellspring of language would also be the wellspring of hysteria. This section undertakes a search for the “common source” of both hysteria and language through close readings of the Studies and later texts in Freud’s oeuvre with particularly close attention to the development of trauma as a psychoanalytic concept.

It is true that Freud ostensibly bases his understanding of trauma and consequent models of the psyche on the appropriately named traumatic neuroses, which he discusses in the Studies and which continue to serve as a paradigm for his investigations in Beyond the Pleasure Principle. And yet, the Freudian model of trauma, whose elaboration is begun in the Studies, undermines the very distinction between physical traumas originating from the “outside” and psychical traumas emerging from the “inside.” In the “Preliminary Communication” of the Studies, Freud and Breuer take particular interest in traumatic hysteria, a form of traumatic neurosis in which the patient develops conversion symptoms. Citing several of the case histories included in the publication, Freud and Breuer observe that various conversion symptoms can be traced back to a “precipitating trauma,” which leads them “to establish an analogy between the
pathogenesis of common hysteria and that of traumatic neurosis” (SE 2: 4-5). “In traumatic neurosis,” they claim, “the operative cause of the illness is not the trifling physical injury but the affect of fright – the psychical trauma” (SE 2: 5-6). In this way, Freud and Breuer dissociate physical, bodily trauma from mental, affective trauma, apparently privileging the latter. “Any experience which calls up distressing affects – such as those of fright, anxiety, shame or physical pain – may operate as a trauma of this kind,” they write, thereby shifting the emphasis of trauma from what happens on the “outside” to the experience of that event on the “inside” (SE 2: 6). This shift motivates “an extension of the concept of traumatic hysteria,” where trauma, here identified with *psychical* trauma, is understood to be the cause of all forms of hysteria (SE 2: 5). The traumatic neuroses and hysteria therefore come to have the same etiology, at least in so far as psychical trauma, and not physical trauma, is understood to cause the pathalogical profiles of both conditions. Further, since trauma is only psychologically significant insofar as it is considered in its psychical dimension, the treatment methods developed for hysteria would apply to the traumatic neuroses as well, such that hysteria becomes the model for the traumatic neuroses, rather than the reverse. Thus, at this time in the theorization of psychoanalysis, the privileging of psychical trauma ultimately results in a reduction of the distinction between the traumatic neuroses (associated with external, physical trauma) and hysteria (associated with internal, psychical trauma).

The implications of this reduction reverberate throughout Freud and Breuer’s analysis of hysteria and its traumatic etiology. Close attention to psychoanalytic theory, however, arouses the suspicion that the physical, the external, or the outside is not so easily dismissed, since that which is repressed tends to return, and with a vengeance. Still, Freud and Breuer maintain that hysterical symptomology, with all its physical manifestations, is a direct consequence of
psychical trauma. “[T]he memory of the trauma,” they write, “acts like a foreign body which long after its entry must continue to be regarded as an agent that is still at work” (SE 2: 6). This “determining process continues to operate in some way or other for years – not indirectly, through a chain of intermediate causal links, but as a directly releasing cause” (SE 2: 7). To elucidate this causal connection, they assert that the relationship between traumatic memory and symptom operates in the same manner “as a psychical pain that is remembered in waking consciousness still provokes a lachrymal secretion long after the event.” In the same way that the recollection of past suffering can still provoke tears, the unconscious registration of past trauma can still produce symptoms. “Hysteric,” Freud and Breuer write famously and with emphasis, “suffer mainly from reminiscences.” And yet, unlike the memory of a painful event that brings a tear to one’s eye even still, traumatic memory paradoxically cannot be remembered. As Freud and Breuer explain, “these memories, unlike other memories of their past lives, are not at the patients’ disposal. On the contrary, these experiences are completely absent from the patients’ memory when they are in a normal psychical state, or are only present in a highly summary form” (SE 2: 9). Though the memory of trauma is not consciously accessible, it nonetheless persists with peculiar “freshness and affective strength” (SE 2: 11). Describing recollections from the case studies of Anna O. and Elizabeth von R., Freud and Breuer report that their patients’ memories were “astonishingly intact,” that they possessed “hallucinatory vividness” and “remarkable sensory force,” and that they acted “with all the affective strength of new experiences” (SE 2: 9-10). In her paper “Freud’s Other Legacy,” Elizabeth Rottenberg aptly calls hysterical reminiscence “a singular, paradoxical kind of memory: an unremembered and unforgettable memory.”88 Because traumatic memory is inaccessible, Freud and Breuer explain,

it is not subject to the normal “wearing-away process” by which other memories are integrated into the psyche and fade with time. Instead, memories of trauma persist with all the intensity of present experience, continuing to impinge upon the psyche through the direct production of symptoms. Freud will later write that repressed content “proliferates in the dark” by “putting out derivatives and establishing connections” with other psychic material (SE 14: 149). In his contribution to the Studies, Freud indicates that traumatic memories exist intact, untouched by conscious associations: “the pathogenic psychical material which has ostensibly been forgotten, which is not at the ego’s disposal and which plays no part in association and memory,” he writes, “nevertheless in some fashion lies ready to hand and in correct and proper order.” (SE 2: 287).

The traumatic event, in other words, lies in wait, ready to be recollected and brought to light by psychoanalytic treatment.

In the psychotherapy chapter of the Studies, Freud elaborates the therapeutic process by which repressed traumatic memories are uncovered. In a rhetorico-theoretical strategy that he will continue to make use of throughout his career, Freud borrows from the biological sciences to depict repressed psychical material as a stratified nucleic structure. “To begin with,” Freud imagines the nucleus of the organization to consist “in memories of events or trains of thought in which the traumatic factor has culminated or the pathogenic idea has found its purest manifestation” (SE 2: 288). Surrounding this core, Freud sees “an incredibly profuse amount of other mnemonic material which has to be worked through in the analysis.” He goes on to describe the arrangement of psychical material around the trauma in three ways. “In the first place,” he identifies “an unmistakable linear chronological order” presenting in reverse as the patient recounts their memories. “The freshest and newest experience in the file appears first,” Freud explains, “as an outer cover, and last of all comes the experience with which the series in
Secondly, Freud understands the linear progressions “as constituting ‘themes,’” each of which is “stratified concentrically round the pathogenic nucleus” according to the intensity of the resistance associated with the psychic material in question (SE 2: 289). “The contents of each particular stratum are characterized by an equal degree of resistance,” he expounds, “and that degree increases in proportion as the strata are nearer to the nucleus.” Finally, Freud discusses the “most important” form of stratification, but the one about which he finds it “least easy to make any general statement.” “What I have in mind,” he writes, “is an arrangement according to thought-content, the linkage made by a logical thread which reaches as far as the nucleus and tends to take an irregular and twisting path, different in every case.”

Whereas the other two forms of stratification have a “morphological” character, Freud understands the logical arrangement to have a “dynamic” one. While the chronological and thematic arrangements would be spatially represented by a “continuous line, curved or straight,” the logic of the nucleic structure would be represented by a “broken line which would pass along the most roundabout paths from the surface to the deepest layers and back, and yet would in general advance from the periphery to the central nucleus, touching at every intermediate halting-place,” like the “zig-zag line” with which one moves the knight in a game of chess. Still, Freud finds his description dissatisfying and endeavors to further complicate this picture by adding that

the logical chain corresponds not only to a zig-zag, twisted line, but rather to a ramifying system of lines and more particularly to a converging one. It contains nodal points at which two or more threads meet and thereafter proceed as one; and as a rule several threads which run independently, or which are connected at various points by side-paths, debouch into the nucleus. (SE 2: 290)

Freud’s depiction of traumatic memory as a nucleus surrounded by ordered strata guides his development of therapeutic practice. He advises the analyst to “get hold of a piece of the logical
thread, by whose guidance alone we may hope to penetrate the interior” (SE 2: 292). This procedure can only be accomplished “by detecting lacunas in the patient’s first description,” where they have encountered psychic resistances that prevent them from recollecting details of or connections to memories of the trauma (SE 2: 294). This process goes on in a complex manner, during which the analyst follows threads until they reach nodal points, “drops” them and picks them back up elsewhere, until “we at last reach a point at which we can stop working in strata and can penetrate by a main path straight to the nucleus of the pathogenic organization” (SE 2: 295). Once the nucleic memory is reproduced and all its connections are “exhausted,” the flow of symptoms ceases and the treatment ends, the reason for the symptoms having been understood and addressed.

Despite the emphasis Freud and Breuer place on the direct causal nature of traumatic memory in the production of hysterical symptoms, Elizabeth Rottenberg suggests that “the language of ‘reminiscence’” in reference to traumatic memory “is fundamentally a rethinking of the structure of trauma, of the causal relation between external and internal events.” So even though Freud and Breuer accord the psychical nature of trauma a certain privilege with respect to symptom formation, Rottenberg reads their use of the figure of the foreign body as a way to characterize trauma as a boundary-concept, blurring the very distinction between inside and outside, and as a result, the model of causation Freud and Breuer employ to account for hysterical symptomology. “Because it cannot be appropriated by the inside or assimilated by the outside, the foreign body remains at the boundary of the inside-outside. *It is a figure of psychical trauma as a figure of spatial unlocatability.*”

89 Ibid.

90 Ibid., 16. Rottenberg also identifies a temporal unlocatability in the Freudian account of trauma, which she illustrates through an analysis of the term *Nachträglichkeit.*
unlocatability, she cites Freud’s later refiguration (or as Rottenberg quips, “dis-figuration”) of the foreign body metaphor into what Freud calls an “infiltrate” that “does not admit of being cleanly extirpated from the ego” (SE 2: 290).** Unlike the mere foreign body, the infiltrate enters into relation “with the tissues that surround it,” modifying them and necessitating “a reactive inflammation in them.” The infiltrating trauma’s “external strata pass over in every direction into the portions of the normal ego,” Freud writes, “and, indeed, they [the strata of the trauma] belong to the latter [the ego] just as much as to the pathogenic organization.” Although the repressed content of the trauma is “alien to the ego,” Freud asserts that “the boundary between the two” is artificially created in analysis to aid in treatment, whereas there exists no distinct “boundary at which the pathogenic material begins.” In this way, the foreign, “outer” trauma comes to occupy the “inner” ego itself, *becoming part of the ego*. Thus, the “alien” content of the trauma and the “familiar” content of the ego become indistinguishable, irrevocably intertwined, and mutually reactive. When it comes to trauma, Rottenberg affirms, “there can be no clean boundaries between inside and outside.”** In the same vein, one might add, when it comes to trauma, there can be no clean boundaries between “foreign” and “familiar,” “ego” and “trauma,” or “self” and “other.” It becomes impossible to know with any certainty from where the symptom is being sent, and to whom or what it is addressed. The directionality of traumatic causation is left irreducibly circuitous.

The circuity of trauma becomes even more evident as Freud and Breuer undertake an account of the paradoxical nature of hysterical reminiscences. Their explanation for this enigmatic form of memory is twofold: in the first place, they claim, the patient was unable to

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91 Ibid.
92 Ibid., 17.
react to the trauma when it occurred; and second, because the memory of the trauma is subject to repression, it cannot enter into “the great complex of associations” wherein the patient might have gained some perspective on the event and worked through what happened to them. Freud and Breuer clearly consider the first of these factors to be paramount (SE 2: 9). “The most important” factor in the wearing-away of memory, they stress, “is whether there has been an energetic reaction to the event that provokes an affect” (SE 2: 8). Reactions, they assert, allow for the discharge or diminution of affects, and they include in their understanding of what it means to react to a traumatic event “the whole class of voluntary and involuntary reflexes – from tears to acts of revenge.” To illustrate the discharge of affects in the wearing-away process, Freud and Breuer emphasize the role of language as a substitute for motor reflexes:

Linguistic usage bears witness to this fact of daily observation by such phrases as “to cry oneself out” [“sich ausweinen”], and “to blow off steam” [“sich austoben,” literally “to rage oneself out”]. If the reaction is suppressed, the affect remains attached to the memory. An injury that has been repaid, even if only in words, is recollected quite differently from one that has had to be accepted. Language recognizes this distinction, too, in its mental and physical consequences; it very characteristically describes an injury that has been suffered in silence as a “mortification” [“Kränkung,” lit. “making ill”]. The injured person’s reaction to the trauma only exercises a “cathartic” effect if it is an adequate reaction – as, for instance, revenge. But language serves as a substitute for action; by its help, an affect can be “abreacted” almost as effectively. In other cases speaking is itself the adequate reflex, when, for instance, it is a lamentation or giving utterance to a tormenting secret, e.g. a confession. If there is no such reaction, whether in deeds or words, or in the mildest cases in tears, any recollection of the event retains its affective tone to begin with. (SE 2: 8)

This passage is significant for several reasons. In the first place, trauma has a particular directionality: trauma impacts the inside from the outside and demands to be returned to the outside. The reflexive structure of the German phrases they call upon to testify to this experience, however, complicate this picture and the model of psychoanalytic treatment Breuer and Freud lay out. The expressions “sich ausweinen” and “sich austoben” remain ambiguous with regard to what it is that is coming out and recall Freud’s account of the infiltrating trauma.
that becomes part and parcel of the ego itself. It is thus impossible to determine what is really “discharged” in the movement of catharsis – is it the affect (e.g., sorrow or rage), the trauma itself, the memory of the trauma, or some part of oneself, irrevocably altered by the impact of the event? Whatever it is that is being discharged, the emphasis placed on this movement from the outside to the inside and then back out recoups a certain externality as inherent in the experience of and recovery from trauma. It is likely for this reason that, in the psychotherapy chapter, Freud renounces an account of psychoanalytic treatment based on a model of extirpation in favor of a model of circulation: “the treatment,” he writes, consists “in causing the resistance to melt and in thus enabling the circulation to make its way into a region that has hitherto been cut off” (SE 2: 291). As Elizabeth Rottenberg argues, the theoretical insight that trauma is ultimately unlocatable “leads Freud to reformulate his conception of the analytic process itself,” where “psychoanalytic treatment will be less about the removal or excision of what is pathological than it will be about the establishment of conditions that enable movement or circulation in areas that have been cut off.”

The text also reveals that the dismissed physical trauma clearly remains a model for understanding traumatic harm to the psyche. Hence, Freud and Breuer continue to employ the language of “injury.” The deployment of physical injury as a means for understanding purportedly psychical trauma recalls Freud’s phylogenetic speculations about the nature of hysteria. Modeling trauma on physical injury makes sense if hysteria is understood to consist in the sensation of transgenerational violence in the body – hysteria would be the somatic reexperiencing of violent crimes from the past in the present. In this passage, however, Freud and Breuer depict the trauma not only as an injury, but as an injury that demands restitution.

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93 Rottenberg, “Freud’s Other Legacy,” 17.
Freud and Breuer specifically discuss vengeance and confession as forms of relief from trauma. Vengeance and confession, a motor response and a linguistic one, parallel Freud’s suggestion that hysteria and language emerge from a “common source.” Here, though, the common source of vengeance and confession is a traumatic injury, and vengeance and confession forms of a recompense.

The examples of vengeance and confession further imply a wrong, culpability, punishment, and absolution. These metaphors are not mere illustrations; they figure prominently in both Freud and Breuer’s individual accounts of the therapeutic process. In the “Theoretical” chapter, Breuer elaborates cases wherein patients’ symptoms originate from repressed conflicts between inclinations and “firmly rooted complexes of moral ideas” (SE 2: 210). “There is a normal, appropriate reaction to excitement caused by very vivid and irreconcilable ideas,” he writes,

namely, to communicate them by speech. An amusingly exaggerated picture of the urge to do this is given in the story of Midas’s barber, who spoke his secret aloud to the reeds. We meet the same urge as one of the basic factors of a major historical institution – the Roman Catholic confessional. Telling things is a relief; it discharges tension even when the person to whom they are told is not a priest and even when no absolution follows. If the excitation is denied this outlet it is sometimes converted into a somatic phenomenon […] (SE 2: 211)

The repressed idea(s), in other words, must get out, and if they do not follow the appropriate channels, then they will find another way – the repressed content will be conveyed in the form of symptoms, and sometimes somatic ones. It is as if Breuer were suggesting that inner conflicts must be resolved or else there will be consequences for life and limb.

Freud is even more explicit about psychoanalysis’s absolving role. In the psychotherapy chapter of the Studies, Freud recognizes a “universal character” of repressed ideas: “they [are] all of a distressing nature, calculated to arouse the affects of shame, of self-reproach and of
psychical pain, and the feeling of being harmed” (SE 2: 269). Naturally, this is what leads Freud to posit the concept of defense as a “repelling force” protecting the ego from threatening ideas and the concept of resistance to recollecting those ideas in analysis. The role of the analyst, as Freud sees it, is to overcome the resistances, uncover the “motives” for the patient’s defense, and “deprive them of their value or even to replace them by more powerful ones” (SE 2: 282). “One works to the best of one’s power,” he affirms, as an elucidator (where ignorance has given rise to fear), as a teacher, as the representative of a freer or superior view of the world, as a father confessor who gives absolution, as it were, by a continuance of his sympathy and respect after the confession has been made. [...] For it is well to recognize this clearly: the patient only gets free from the hysterical symptom by reproducing the pathogenic impressions that caused it and by giving utterance to them with an expression of affect, and this the therapeutic task consists solely in inducing him to do so; when once this task has been accomplished there is nothing left for the physician to correct or remove. (SE 2: 282-3)

Not only is the analyst here a “father confessor” absolving patients of their guilt and shame, but the analyst also figures as a kind of prophet, leading patients to the promised land of the cure, or even as a savior, delivering patients from the evils of their symptoms. The analyst reunites the body and the soul, the linguistic and the somatic registers: “the therapeutic task consists solely in inducing” the patient to recount the repressed injury while at the same time experiencing the feelings associated with it. In so doing, psychoanalysis inaugurates a “freer or superior view of the world,” righting wrongs and restoring past injuries. In a way then, psychoanalysis aims to do the impossible, if one takes seriously Freud’s own account of trauma as infiltrate rather than a foreign body: psychoanalysis demarcates the outside from the inside, the self from the other, the right from the wrong, and purifies the soul and body from contaminating elements. Psychoanalysis makes us whole.

These two textual themes, the directionality of trauma and its depiction as an injury demanding restitution, are not unrelated. The movement of injury and restitution follows the
same path as the traumatic harm impacting the psyche and demanding discharge. Just as trauma impacts the psyche from the outside to the inside and then requires discharge to the outside, injuries impact the body or the psyche from the outside to the inside and demand recompense through motor responses or linguistic substitutions. The relationship between the directionality of trauma and the imagery of injury and wrongdoing, however, goes beyond a common circulatory movement. Freud’s 1915 metapsychological paper “Instincts and their Vicissitudes” provides significant insight into this connection. There, he sets forth to define one of psychoanalysis’s “basic concepts,” that of the instinct or *drive [Trieb]* (SE 14: 117-118).# Freud first approaches the concept of the drive from the physiological perspective of the “reflex arc,” by which “a stimulus applied to living tissue (nervous substance) from the outside is discharged by action to the outside” (SE 14: 118, original emphasis). Here, Freud finds a physiological basis for the directionality deployed in the *Studies* to analyze the nature of psychical trauma. Further, Freud points out that this reaction on the part of living tissue is “expedient in so far as it withdraws the stimulated substance from the influence of the stimulus, removes it [the stimulated substance] out of its [the stimulating substance’s] range of operation.” Reacting to an external stimulus, in other words, protects the organism from outside influence. Implied in this claim regarding the adaptivity of the motor response is the idea that stimulation from the outside is dangerous; it threatens the integrity of the organism.

Unlike stimuli that impact the ego from the *outside*, however, drives stimulate the organism from *within* (SE 14: 118). “For this reason,” Freud explains, drives operate “differently upon the mind and different actions are necessary in order to remove” a drive stimulus. Whereas an external stimulus, even if it is repeated, “operates [upon the mind] as a

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# While the Strachey translation conveys *Trieb* as “instinct,” this chapter will, in keeping with contemporary convention, utilize the more accurate language of “drive.”
force giving a *momentary* impact,” a drive stimulus operates as a force giving a “*constant* one.” And since this constant force “impinges not from without but from within the organism, no flight can avail against it.” Motor reactions, in other words, do nothing to protect an organism from its drives. The drives are not affected by the fight or flight response; instead, they must be satisfied “by an appropriate,” or as Freud notes parenthetically and in scare quotes “adequate,” “alteration of the internal source of stimulation” (SE 14: 118-119). Ultimately, Freud thinks, the dissimilarities between drives and external stimuli allow the organism to differentiate between itself and the external world. “Let us imagine ourselves,” he writes,

in the situation of an almost entirely helpless living organism, as yet unoriented in the world, which is receiving stimuli in its nervous substance. This organism will very soon be in a position to make a first distinction and a first orientation. On the one hand, it will be aware of stimuli which can be avoided by muscular action (flight); these it ascribes to an external world. On the other hand, it will also be aware of stimuli against which such action is of no avail and whose character of constant pressure persists in spite of it; these stimuli are the signs of an internal world, the evidence of instinctual needs. The perceptual substance of the living organism will thus have found in the efficacy of its muscular activity a basis for distinguishing between an ‘outside’ and an ‘inside.’” (SE 14: 119)

The basis for identifying the external world and distinguishing it from the internal world of psychic life therefore rests squarely on a defensive posture. The organism is driven to fend off stimulation, to prevent or reduce a change in its equilibrium. As is well known, Freud refers to this as the “principle of constancy,” and later the “Nirvana principle,” a theory he and Breuer first published in the *Studies on Hysteria* and one that Freud eventually defends, albeit with difficulty, in *Beyond the Pleasure Principle* (SE 18: 56). It is also the basis for his “economic point of view” (SE 14: 181).

Breuer first mentions the principle of constancy in the theoretical chapter of the *Studies*, where he writes that “there exists in the organism,” and here he quotes, “a ‘tendency to keep intracerebral excitation constant’ (Freud)” (SE 2: 197). He goes on to elaborate an early
account of the pleasure principle, where he judges surplus intracerebral excitation to be “a burden and a nuisance” with an accompanying “urge to use it up.” “If it cannot be used in sensory or ideational activity,” Breuer writes, “the surplus flows away in purposeless motor action, in walking up and down, and so on.” A few pages later, he deems it self-evident that “all the disturbances of mental equilibrium which we call acute affects go along with an increase in excitation” (SE 2: 201). These affects, however, leave one “senseless” and “cannot be employed in psychical activity”; instead, they must be “leveled out” in the form of “motor discharge.” In this way, he accounts for many human behaviors and reflexes, which are all understood to promote the flow of excess excitation or tension:

Shouting and jumping for joy, the increased muscular tone of anger, angry words and retaliatory deeds – all these allow the excitation to flow away in movements. Mental pain discharges it in difficult breathing and in an act of secretion: in sobs and tears. It is a matter of everyday experience that such reactions reduce excitement and allay it. As we have already remarked, ordinary language expresses this in such phrases as “to cry oneself out,” “to blow off steam,” etc. What is being got rid of is nothing else than the increased cerebral excitation. (SE 2: 201-202)

This passage is notable in that it ties the principle of constancy to the movement of traumatic injury using the imagery of fluid: the excitation flows, or perhaps more accurately, overflows the bounds of the organism. Here, the paradigm for a psychoanalytic understanding of nervous system functioning is involuntary bodily secretion. Moreover, the principle of constancy is aligned with the pleasure principle, such that the fluid depiction of the nervous system is also valued: stimulation, whether from the inside or the outside, causes increased excitation that is felt as displeasure – stimulation is to be avoided; whereas equilibrium or a decrease in excitation, discharging it to the outside, is felt as pleasure – equilibrium is desirable. This is the basis for Freud’s “economic” model of the psyche, in which the nervous system undertakes to “balance” the level of excitation. If there is too much excitation, the nervous system must find ways to
expend it. Following the imagery of secretion, one could even say that the overstimulated organism must “liquidate” its assets. The underlying idea here is that “it is better to get it out,” as one might say of a splinter or the ingestion of excess alcohol.

The developmental account Freud elaborates in “Instincts and their Vicissitudes” provides further insight into the valuation of the poles inside/equilibrium over outside/stimulation. “The antithesis ego—non-ego (external), i.e. subject—object,” Freud reminds the reader, is “thrust upon the individual organism at an early stage, by the experience that it can silence external stimuli by means of muscular action but is defenseless against drive stimuli” (SE 14: 134, translation modified). Returning to the scene of his imagined “primal psychical situation,” Freud describes how the outside comes to be assigned the values of indifference and hate, whereas the inside comes to be associated with what is loved. At the origin of the psychic life, Freud understands the burgeoning ego to be narcissistically “auto-erotic”; it has a limited ability to obtain drive-satisfaction on itself without external mediation. At this stage, Freud writes, the ego is its own source of pleasure and “loves itself only” while its attitude toward the external world is primarily indifference (SE 14: 135). Inevitably, however, the internal self-preservative drives are felt to be unpleasant and must be satisfied through external objects, upsetting the blissful state of primal, auto-erotic pleasure. The developing ego must therefore find other ways to avoid stimulation and satisfy its drives – that is, the ego must find other sources of pleasure. Freud thus envisions a “new development” in the ego:

In so far as the objects which are presented to it are sources of pleasure, it takes them into itself, “introjects” them (to use Ferenczi’s term); and, on the other hand, it expels whatever within itself becomes a cause of unpleasure. (See below, the mechanism of projection.)

Thus the original “reality-ego,” which distinguished internal and external by means of a sound objective criterion [that is, whether or not its motor reflexes can impact the source of stimulation], changes into a purified “pleasure-ego,” which places the characteristic of pleasure above all others. For the pleasure-ego, the external world is
divided into a part that is pleasurable, which it has incorporated into itself, and a remainder that is extraneous to it. It has separated off a part of its own self. Which it projects into the external world and feels as hostile. After this new arrangement, the two polarities coincide once more: the ego subject coincides with pleasure, and the external world with unpleasure.

[...] At the very beginning, it seems, the external world, objects, and whatever is hated are identical. If later on an object turns out to be a source of pleasure, it is loved, but it is also incorporated into the ego; so that for the purified pleasure-ego, once again objects coincide with what is extraneous and hated. (SE 14: 136)

This development marks the point where Freud moves from a biological explanation to a psychological one. The emerging ego adapts to the demands of reality by psychically aligning itself with what is loved and “othering” what is hated. The ego accomplishes this task by incorporating loved objects and projecting hated drive representations, bringing what is good inside and discharging what is bad to the outside. Gesturing to the *Three Essays*, Freud identifies the mechanism of incorporation or introjection of psycho-social development (SE 14: 138). Implicitly, the language of ingestion depicts projection as a spitting-up or out, like vomit.

Perhaps most significant in this account of egoic development, though, is the movement from the objective to the subjective. The influence of the pleasure principle on the developing ego drives it away from the “sound” distinction between inside and outside based on the effects of motor reflexes and toward a phantasmatic reinvention of that distinction based instead on what is loved and hated. The only “criterion” with which to distinguish between the internal and external worlds becomes the subjective sensation of pleasure, that is, a lack of stimulation/excitation; or, to put it differently, there is no longer any “real” criterion with which to distinguish inside from outside. Something akin to knowledge is replaced by sensation, and the basis for the distinction between what is inside and what is outside begins to crumble. Parts of the outside now comprise the inside, the ego, or the self, and what is left over, what Freud
calls “a remainder,” is “separated off,” discharged or spit out, such that parts of “me” collect outside myself (SE 14: 136). Importantly, the psychic development Freud elucidates in “Instincts and their Vicissitudes” is not just a phase whose influence is eventually overridden. Rather, the psychic mechanisms of incorporation and projection continue to drive object-relations for the mature ego. “If the object becomes a source of pleasurable feelings,” Freud writes,

a motor urge is set up which seeks to bring the object closer to the ego and to incorporate it into the ego. We then speak of the “attraction” exercised by the pleasure-giving object, and say that we “love” that object. Conversely, if the object is a source of unpleasurable feelings, there is an urge which endeavors to increase the distance between the object and the ego and to repeat in relation to the object the original attempt at flight from the external world with its emission of stimuli. We feel the “repulsion” of the object, and hate it; this hate can afterwards be intensified to the point of an aggressive inclination against the object – an intention to destroy it. (SE 14: 137)

There is an implicit anthropological claim here. Even at an advanced stage of development, human beings are still under the sway of subjective pleasures, infantile phantasy, and importantly, the ideal of containing only goodness and attributing all evil to what exists outside the self. In a certain sense, on Freud’s account, “we are all good on the inside,” because what is perceived as evil is expelled and destroyed: “it is better to get it out.”

Ultimately, the phantasy of incorporation reveals a fundamental breakdown in the “sound” distinction between not only inside and outside, but also love and hate, ego and other, and subject and object. However, this picture becomes even more abyssal where Freud investigates the source of the drive. Conceptually, Freud understands the drive to be a boundary-concept between the psyche and the soma. It exists “on the frontier between the mental and the somatic,” he writes, “as the psychical representative of the stimuli originating from within the organism and reaching the mind, as a measure of the demand made upon the mind for work in consequence of its connection with the body” (SE 14: 122). Later, in the third chapter of The
Unconscious, Freud will clarify that a drive “can never become an object of consciousness – only the idea that represents the drive can” (SE 14: 177, translation modified). “If the drive did not attach itself to an idea to manifest itself as an affective state, we could know nothing about it.” Thus, the drive mediates between the mind and the body, serving as a messenger between the two. Importantly, this relay is indirect, since drives never reach consciousness in and of themselves, but are instead translated into psychic representatives – ideas, sensations, or affects.

In “Instincts and their Vicissitudes,” Freud acknowledges a deficiency in scientific understanding of the drives, excusing this lack with the assertion that “the study of the drives lies outside the scope of psychology,” and that, anyway, “exact knowledge of the sources of a drive is not invariably necessary for purposes of psychological investigation” (SE 14: 123, translation modified). Nevertheless, he writes that the drives are “wholly determined by their origin in a somatic source,” even if “in mental life we know them only by their aims” (SE 14: 123, emphasis added). Freud’s attempts to justify his conceptual framework despite a lack of scientific knowledge to ground it and his dismissals of the significance of this deficit point to a profound but unstated feature of his theory of the drives: the somatic source of the drives is completely unknown to the psyche. There is an abyss between the psyche and the soma, with the drive relaying between the two at a distance twice removed. In the first place, the drive comes from the body but is not reducible to the body, so it is itself already a mediator. Further, the psyche is not conscious of the drive directly, but only through the drive’s manifestation into psychic content, so the drive is also mediated by its representation to consciousness. The soma is therefore unknowable to the psyche except insofar as it is interpreted through drive representatives. In this way, the body is outside the psyche; the soma is an inside-outside. And since the soma makes demands upon the psyche “in consequence of its connection with the
body,’ the psyche is driven by the outside inside itself, the unknown other that can be deciphered only indirectly.

Since the somatic source of the drive can be interpreted as an inside-outside with regard to the psyche, it becomes clear that the circuitous directionality of trauma is, in a way, maintained, and the drives can themselves be sources of psychical trauma. This is consistent even with Freud’s most controversial claims about the role of the libido in symptomatic etiology. Perhaps more significant, however, is the inference that what motivates ego development beyond the primal state of auto-eroticism is not the hated external world of objects, but rather the hated inside-outside world of the drives. This insight leads Freud to phylogenetic considerations that will foreshadow Beyond the Pleasure Principle. In these passages, Freud assigns the nervous system the task of “mastering stimuli” (SE 14: 120). He elucidates this task, once again, as a “postulate” that is “biological in nature.” “[T]he nervous system,” Freud writes, “is an apparatus which has the function of getting rid of the stimuli that reach it, or of reducing them to the lowest possible level; or which, if it were feasible, would maintain itself in an altogether unstimulated condition.” The drives thwart this aim since they prevent the nervous system from ever experiencing homeostasis. “External stimuli,” he explains,

impose only the single task of withdrawing from them; this is accomplished by muscular movements, one of which eventually achieves that aim and thereafter, being the expedient movement, becomes a hereditary disposition. Drive stimuli, which originate from within the organism, cannot be dealt with by this mechanism. Thus they make far higher demands on the nervous system and cause it to undertake involved and interconnected activities by which the external world is so changed as to afford satisfaction to the internal source of stimulation. Above all, they [the drives] oblige the nervous system to renounce its ideal intention of keeping off stimuli, for they maintain an incessant and unavoidable afflux of stimulation. We may therefore conclude that drives and not external stimuli are the true motive forces behind the advances that have led the nervous system, with its unlimited capacities, to its present high level of development. There is naturally nothing to prevent our supposing that the drives themselves are, at least in part, precipitates of the effects of external stimulation, which in the course of

95 The Darwinian influence is evident here. See above, note 9.
phylogenesis have brought about modifications in the living substance. (SE 14: 120, translation modified and emphasis added)

Freud glosses a significant assumption about human phylogenetic history: the dispositions characterizing human behavior have, he thinks, been passed down from prior generations, because they were the most expedient means of reducing stimulation from the external world. This evolutionary postulate leads Freud to speculate that the drives are themselves a phylogenetic inheritance, meaning that they do not originate in “me” or even in “my” body. The drives come from elsewhere. Beyond the inside-outside of the soma, beyond the external world and the outside-inside of “my” projections, the drives pulsing through “my” body come to “me” from a deep and impenetrable ancestral history. The drives would be the pre-primal trauma, and perhaps the common source of hysteria and language. Overwhelming the nervous system with a force at once completely alien and most intimate to the psyche, the drives demand discharge through words or deeds – get it out. And yet, the inside-outside nature of the drive paired with the mechanisms of incorporation and projection, means that any attempt to dispel, remove, or reduce this force inevitably results in its return, intensification, or reinforcement. The foreign body become infiltrate, the unlocatable recirculation of inside-outside, the other in the self, the past in the present, interminably: what is happening between the soul and the body when we laugh? when we blush? when we shed tears? What is it a metaphor of? What causes us to tremble? to cry? What does the body want to say?

Second Crossing. “‘Introjecting—Incorporating’: Transgenerational Haunting and the Language of the Dead”

Twentieth-century psychoanalysts and partners Nicolas Abraham and Maria Torok together re-envisioned Freudian concepts with a particular emphasis on the encrypted transmission of psychic content, both within the individual psyche and beyond it in the form of
transgenerational inheritance. Prior to meeting each other and undertaking training analysis, each fled Nazi-occupied Hungary to Paris, where Abraham studied Husserlian phenomenology and Torok studied clinical psychology. Their co-authored books were published after Abraham’s death in 1975 and include *The Wolfman’s Magic Word: A Cryptonomy* in 1976 and *The Shell and the Kernel* in 1978. Derrida wrote introductions to both texts: “Fors” was published as the foreword to *The Wolfman’s Magic Word*, and in a somewhat more complicated manner, “Me—Psychoanalysis” was published in 1979 in the journal *Diacritics* alongside the first English translation of Abraham’s 1968 essay, “The Shell and the Kernel.” Derrida’s introduction to “The Shell and the Kernel” was translated into French three years after its English publication and was subsequently included in the first volume of *Psyche: Inventions of the Other*. The English translation of *The Shell and the Kernel* was to be published in two volumes, but only the first volume was released prior to Torok’s death in 1998. It contains roughly half of the essays included in the original French, alongside several of Torok’s previously unpublished essays. One of Abraham’s contributions to the French volume, “Seminar on the Dual Unity and the Phantom,” was recently translated and published in a 2016 issue of *Diacritics*. Against the backdrop of this uncanny assemblage of texts, this section will explore Abraham and Torok’s novel theorization of the relationship between the psyche and the soma through their understanding of introjection (which they oppose to incorporation), cryptic repression, and the transgenerational phantom. Ultimately, and alongside Derrida’s subtle commentary on these topics, a uniquely deconstructive transgenerational bodily inheritance will emerge from this account.

In “The Shell and the Kernel,” Abraham argues that psychoanalytic concepts “are not reducible to any known system of reference” and for this reason “psychoanalytic theory demands
a genuine mental conversion” (SK 208/83-4, emphasis added). With this, Abraham clearly takes aim at the entirety of the psychoanalytic corpus, returning practitioners and theorists alike to the body of psychoanalytic literature to reinvest it otherwise. “[I]f a conceptual organization of psychoanalysis is to exist, it cannot yield its unity within the bounds of traditional thinking,” he affirms, “and its apprehension requires a new dimension yet to be found” (SK 205/81).

Ostensibly, Abraham writes this essay as an extended review of the now well-known Vocabulaire de la psychoanalyse, published the year before under the authorship of Laplanche and Pontalis and translated into English as The Language of Psychoanalysis. Commending the researchers for their “patient and minute labors” in compiling “everything that, for various reasons, is problematic in Freud’s elaborations of psychoanalytic theory,” Abraham remains decidedly critical of the authors attempt to “fix the inter- and intra-disciplinary status of each psychoanalytic concept” (SK 204/79). Despite the essay’s apparently critical project with regard to The Language of Psychoanalysis, what is clearly at issue here is nothing less than a conversion of psychoanalytic theory itself. Indeed, Abraham intends to turn psychoanalytic discourse in a direction altogether other, toward an unconscious, organic wellspring of psychic life whose registration at the conscious level is only ever ciphered.

For Abraham, psychoanalysis as a discipline must itself be analyzed in a manner consistent with its theory and practice. This commitment leads him to evoke the Freudian vesicle of Beyond the Pleasure Principle in his characterization of the psychoanalytic ego. Fighting a two-front battle against the demands of the external world, on the one hand, and inner drive-representations, on the other, Freud imagines the development of consciousness as a

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“sensitive cortex” surrounded by a “protective shield” hardening over time in response to trauma:

This little fragment of living substance is suspended in the middle of an external world charged with the most powerful energies; and it would be killed by the stimulation emanating from these if it were not provided with a protective shield against stimuli. It acquires the shield in this way: its outermost surface ceases to have the structure proper to living matter, becomes to some degree inorganic and thenceforward functions as a special envelope or membrane resistant to stimuli. In consequence, the energies of the external world are able to pass into the next underlying layers, which have remained living, with only a fragment of their original intensity; and these layers can devote themselves, behind the protective shield, to the reception of the amounts of stimulus which have been allowed through it. (SE 18: 28, 27)

The figure of the vesicle ultimately allows Freud to formulate the compulsion to repeat as a response to a breach in the protective shield (that is, in response to trauma) wherein psychic energies are summoned to the site of the rupture to bind excitation (SE 18: 29-30). Abraham, however, reformulates this trope to account for not only the relationship between the psychoanalytic ego and its unconscious, but also a distinctly psychoanalytic theory of signification.

Abraham bases his account of psychoanalytic signification on a reconceptualization of Freud’s vesicle as a differential relationship between a protective shell or envelope and the kernel or nucleus it shelters. On Abraham’s elaboration, the shell’s protective role “is not unattended by some concealment of the very thing to be secured [ rôle qui ne va pas – on le comprend – sans un certain camouflage de cela même qui est à sauvegarder]” (SK 205/80). At the same time, however, “the shell itself is marked by what it shelters,” in such a way that “what it encloses is disclosed within it.” The psychoanalytic ego will, on this view, perpetuate itself

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97 The text is unclear as to whether consciousness ultimately arises in the protective layer itself or underneath the protective layer in the sensitive cortex. David Wills provides a helpful elucidation of Freud’s thinking in these passages in his essay “Order Catastrophically Unknown,” Mosaic: An Interdisciplinary Critical Journal 51, no. 4 (December 2018): 129-131.
through a certain dis-simulation that relates the kernel and the shell. Abraham articulates what is at issue in the form of a question: “if Freud’s theories form the protective shell around his intuition, simultaneously concealing and revealing it, what of the actual kernel?” (SK 207/82). The “invisible but active” kernel of Freud’s intuition “confers its meaning upon the whole construction,” he goes on to explain, even though the kernel “will not show through unless all the apparent contradictions have found their explanation in the unity [Abraham] ascribe[s] hypothetically to Freud’s intuition.” Thus, for Abraham, “even if the kernel of psychoanalysis need not come to light in the pages of The Language of Psychoanalysis, its secret and elusive action is attested to at every step by its unbending resistance to encyclopedic systematization” (SK 205/80-1). Abraham therefore undertakes to submit psychoanalytic concepts to an interminable “enterprise of exegesis” aimed at deciphering the shell’s encrypted kernel by “search[ing] out what the theory manages to communicate from behind its contradictions and lacunae” (SK 206/81). The challenge and the task of such a project consists in the possibility of including “in a discourse – in any one whatever – the very thing which, being the precondition of the discourse, fundamentally escapes it” (SK 209/84). In this way, Abraham utilizes Freud’s own description of the therapeutic process, as he describes it in the Studies, and applies it to psychoanalytic discourse itself, with the caveat that, for Abraham, one never uncovers the traumatic kernel, leaving the therapeutic process structurally incapable of complete articulation – psychoanalysis interminable.

When considered in terms of Abraham’s theory of signification, psychoanalytic concepts would possess a unique power to put into words an unspeakable non-presence-to-self. By introducing into language “a radical semantic change” (signaled by the capital letters Laplanche and Pontalis utilize in their rendering of metapsychological terms), Abraham contends that
psychoanalysis ultimately signifies nothing except “the founding silence of any act of
signification” (SK 208/83, 210/84). Designating this discursive gesture “anasemia,”\textsuperscript{98} Abraham
explains that “the language of psychoanalysis no longer follows the twists and turns (the tropoi,
he notes parenthetically) of customary speech and writing,” since its concepts “are not
metaphors, metonymies, synecdoches, [or] catachreses” (SK 211/85). He instead considers these
concepts “products of de-signification” that “constitute new figures, absent from rhetorical
treatises.” As Derrida interprets Abraham in “Me—Psychoanalysis,” psychoanalytic language
“radically alters words, the same, ordinary language words it goes on using and yet translates
them into a whole other language” (P 135). Or again, “psychoanalytic discourse, still using the
same words (those belonging to ordinary language and those, bracketed by inverted commas,
belonging to phenomenology) quotes them once more in order to say something else, something
other than sense” (P 134). “Anasemic translation,” Derrida elucidates, “does not concern
exchanges between significations, signifiers and signifieds, but between the realm of
signification and that which, making it possible, must still be translated into the language of that
which it makes possible, must still be repeated, reinvested, reinterpreted there” (P 135).
Anasemia thus translates “the unpresentable into the discourse of presence, [and] the
unsignifiable into the order of signification” (P 138). But since the kernel “passes beyond the

\textsuperscript{98} In his translator’s preface to “Seminar on the Dual Unity and the Phantom,” Tom Goodwin includes the following
footnote explaining the etymological and contextual significance of the term “anasemia”: “The neologism anasemia
(translating the French anasémie) is the term by which Abraham defines all authentic psychoanalytic concepts.
Combining ana from the Greek for “up, back, again, anew,” with a derivative of the Greek sēma pertaining to
the production of meaning, it designates a discourse that has no reality or usage other than in its function of mediation
between a shell of phenomenal sense (or conscious reality) and a kernel of non-sense whose continual displacement
and disruption of the shell’s meaning stands as their ever-deferred and traumatic origin. Between these realms, the
distinctions between fiction and realist become more fluid, especially where clinical effectiveness is the purpose of
interpretive construction.” See Tom Goodwin, “The Haunted Delimitation of Subjectivity in the Work of Nicolas
limitation of sense,” remaining forever inaccessible, psychoanalytic concepts make no sense—they ab-sense.

Anasemic de-signification thus performs the “ab-sensing” gesture that Derrida describes in *The Death Penalty* seminars and that he associates with an incorporating étancher. Psychoanalytic concepts bring to “pre-sense” the unpresentable kernel of the unconscious within speech and language, while at the same time, the unconscious kernel “ab-senses,” evading both sensation and meaning. And in order to illustrate psychoanalytic anasemia, the example Abraham deploys is none other than that of the psyche and the soma. He takes this figure from the pages of the *The Language of Psychoanalysis*, where Laplanche and Pontalis conceive “the relation between the somatic and the psychic” as analogous to that “existing between a delegate and a sender [un délégué et son mandant].” According to Abraham, the comparison to an emissary relation renders both terms, “psychic” and “somatic,” de-signified, since the context leaves nothing of their ordinary meanings intact. All that remains is the symbolic mediation between two terms, terms which are themselves ultimately indeterminable. The message’s symbolic content is only revealed in the singular relation between the terms. In the message’s general content, Abraham recognizes the drive [*pulsion*], “with its cortège of affects, representatives, or even fantasies [*fantasmes*]” (SK 213/87). “Psychic representatives,” he affirms, “are mysterious messages from one knows not what to one knows not whom; they only

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99 It is important to note that ab-sensing/pre-sensing can and must signal another sense of ab-sensing/pre-sensing, which, derived from the Latin *esse* rather than *sentire*, would signal the register of being and non-being central to the phenomenological discourse. As a trained phenomenologist, Abraham certainly has this register in mind when he writes of the relationship between the shell and the kernel. Following the phenomenological vein of this discourse, significant though it may be, is nonetheless outside the scope of this chapter.

100 Laplanche and Pontalis, *Vocabulare de la Psychoanalyse*, 412. Quoted in Abraham and Torok, *The Shell and the Kernel*, 212/86. The full text from the entry on psychic representatives reads “la relation du somatique au psychique n’est conçue ni sur le mode du parallelisme ni sur celui d’une causalité; elle doit être comprise par comparison avec la relation qui existe entre un délégué et son mandant.”
reveal their allusiveness in a context, although the ‘to what’ of the allusion must necessarily stop short of articulation” (SK 212/86). The role of psychoanalysis lies in de-signifying these messages, and in so doing, reconfiguring the psycho-somatic relation without sacrificing the irreducible secrecy encrypting each pole.

These considerations lead Abraham to formulate a familiar problematic: “How does it happen,” he asks, “that fantasy has the power to move our bodies, be it sexually or by creating real diseases?” (SK 213/87). “This enigma,” he affirms, “could be reduced to another: what is the sense of the non-sensical ‘organic sources of the Instinct or Drive,’ or of the deployment of either one ‘on the limits of somatic and the psychic?’” Abraham’s enigmatic line of questioning here resonates with Derrida’s in *The Death Penalty* seminar, while at the same time linking what happens to the body with the Freudian theory of the drives and their organic source. Abraham deems such questions to be irresolvable if the terms “psyche” and “soma” are treated from the perspective of “naïve empiricism” or “the body proper and the habitudes [le corps propre et les habitus]” of the phenomenological ego. From a properly psychoanalytic perspective, Abraham explains, what is intelligible through the phenomenological reduction of experience and through the objectivation of anatomical or physiological occurrences both belong to the “set of representations” comprising the Freudian ego. “The somatic,” he explains,

must be something quite different from the body proper which derives from the psychic as one of its functions, the psychic having been described by Freud as an exterior layer, an envelope. The somatic is what I cannot touch directly, either as my tegument or its interior prolongations or as my psyche, the latter given to the consciousness of self; the somatic is that of which I would know nothing if its representative, my fantasy, were not there to send me back to it, its source as it were and ultimate justification. The Somatic must thus reign in a radical non-presence behind the Envelope where all phenomena accessible to us unfold. It is the Somatic which dispatches its messages to the Envelope, exciting it from the very place the latter conceals. Under the influence of its solicitations, the whole of the Psychic is moved, the body proper included. Its emotions as well as its fantasies are nothing but modalities of the reception given by the Envelope to these
delegates of one and the same Kernel. Thus the relay between fantasy and affect passes through the Organic from which they both emanate. (SK 213-4/87)

Bodily expressions are, in other words, the psychic representations of an unconscious exchange between the psychic envelope and the somatic kernel. This exchange affects me, pulses through and drives me, but it also effects me, it effects le moi, the ego, at the crossroads of a psyche and a soma, a shell and a kernel. “I,” pronounces Derrida, “to whom a kernel can appear, and so that a kernel may appear to me, must remain the shell of a kernel forever inaccessible” (P 138). This means that, from a psychoanalytic point of view, the soul moves the body by having in fact always already been moved by the “Somatic,” the unconscious kernel whose ciphered representatives are the fantasies, affects, and bodily states experienced by the psyche. Following Abraham’s lead, Derrida articulates the kernel of Abraham’s intuition: more than the phenomenological or objectal experience of the body, the very identity of the subject, the “me,” is but the translation and reception of an unconscious alterity.

What is this kernel? This inner safe that makes a shell of me, that makes me “me” without my ever knowing it? For Derrida, the question is resolutely aporetic. He approaches this enigma by pointing out the “dissymmetry” between the figure of the shell and the kernel and its “natural’ provenance” (P 138). In French, the title of Abraham’s essay, “L’écorce et le noyau,” suggests the peel or rind and the core or pit of a fruit, respectively. As Derrida points out, however, “[t]here is a point and a moment when the image, the comparison, the analogy cease. ‘The-shell-and-the-kernel’ resembles and no longer resembles its ‘natural’ provenance; the resemblance that refers to fruit and to the laws of natural or ‘objective’ space comes to be interrupted. A fruit’s kernel can in turn become an accessible surface. In the ‘figure,’ this turn never arises.” At some point, Derrida observes, the shell and the kernel “no longer belong to the
same element” and instead “become incommensurable within the very relation they never cease to maintain.” Unlike the pit of a fruit, which, upon removing its skin and flesh, is perceivable according to the modalities of sense, Abraham’s kernel, “by virtue of its structure, can never become a surface.” “The kernel is not a surface hidden from view”; Derrida explains, rather “[i]t is inaccessible, and it follows that what marks it with absolute nonpresence passes beyond the limitation of sense, beyond the limit of what has always tied the possibility of sense to presentability.” And even though the kernel escapes “the laws of presence itself,” remaining unsignifiable “except symbolically and anasemically,” Derrida affirms that “it will have been necessary to translate the unpresentable into the discourse of presence, the unsignifiable into the order of signification.” “A certain ‘trans-’ assures the passage to or from the Kernel, through translation, tropic transformation, according to ‘new figures, absent from the treatises on rhetoric,’ all anasemic transfers.” Derrida writes, quoting Abraham directly (P 140). “Absolute heterogeneity, signaled by the ‘outside itself’ that extends beyond or on this side of sense,” he contends, “must still be translated” (P 139).

What Derrida calls the “translation” of the unconscious kernel into the language of the conscious envelope Abraham would identify with the metapsychological process of introjection. Abraham attributes to Freud the idea that both self-consciousness and consciousness of the external world emerge through an exchange with “an ‘internal, foreign territory,’ the Unconscious,” such that “the internal foreigner will be the founder of the external one, the Object” (SK 221/93). “Consciousness,” he explains, “is only possible thanks to the Unconscious whose image comes back to it by way of the object.” This exchange, which Abraham identifies with Ferenczian introjection, puts “nucleoperipheral dramas onto the internal stage in the innumerable figures of objectal reciprocity.” “All psychoanalysis, clinical and theoretical, rests
upon this cardinal tenet,” Abraham writes, namely, that consciousness is constituted in the reflection of the unconscious kernel-shell relation projected onto the object and taken back in. It is only through this foreign exchange that the unconscious kernel can be signified, and only ever anasemically. Anasemic translation thus involves “pre-sensing” otherwise, since what is being presented is not the “thing itself;” the unconscious kernel that, by definition, is beyond the order of perception, presence, and signification, but rather its introjection through an outside or an other. Thus, “pre-sensing” presupposes a constitutive “ab-sensing” of the thing “pre-sented.” And the drives that move “my” body by way of affective and phantasmatic representatives are always mediated through a relation to the other, the other “in” me (the unconscious kernel) and the other “outside” me but taken back in (the object), intro-projected. “I” am these symbolic objectivations of the relations between the kernel and the shell, “me” and “my” body properly contrabanded in an interminable trafficking between foreign territories.

“The Shell and the Kernel” was published the same year as Maria Torok’s pioneering essay on pathological mourning titled “The Illness of Mourning and the Fantasy of the Exquisite Corpse.” In this work, Torok accounts for the mechanics of introjection and distinguishes it sharply from incorporation. Returning to Sandor Ferenczi’s introduction of the concept in Final Contributions to the Problems and Methods of Psycho-Analysis, Torok claims that, contra Freud, who uses the terms introjection and incorporation interchangeably to designate any psychic appropriation of the object, Ferenczi circumscribes the use of introjection to refer to “an extension to the external world of the original autoerotic interests, by including its objects in the ego.”

101 Focusing on Ferenczi’s attention to the ego’s early autoeroticism, Torok interprets introjection as a psychic mechanism allowing for the signification of unconscious drives. She

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defines introjection as “the process of including [le processus d’inclusion] the Unconscious in the ego [l’Inconscient dans le Moi] through objectal contacts [commerce objectal].” (SK 236/113). “By broadening and enriching the ego,” she explains, “introjection seeks to introduce into it the unconscious, nameless [anonyme], or repressed libido” (emphasis added). “[I]t is not a matter of ‘introjecting’ the object, as is all too commonly stated” she insists, “but of introjecting the sum total of the drives [l’ensemble de pulsions], and their vicissitudes as occasioned and mediated by the object.” “Moving back and forth between ‘the narcissistic and the objectal realms,’ between auto- and heteroeroticism,” she concludes, “introjection transforms instinctual promptings into desires and fantasies of desire, making them fit to receive a name and the right to exist and to unfold in the objectal sphere” (emphasis added). Introjection allows the psyche to make sense of the drives by presenting them to the ego, naming them, and thereby allowing them to exist. Through introjection, the psyche thus reflects anonymous, unconscious drives back to itself through the object, thereby giving them a name and content that is representable to the ego.

As opposed to the liberatory and expansive qualities of introjection, incorporation, on Torok’s view, is compensatory and regressive. “[I]ntantaneous and magical,” Torok characterizes incorporation as “an eminently illegal act” whereby the object is itself taken into the ego rather than drive-representations. (SK 237/113-4). On her view, incorporation is a “fantasmic [fantasmatique]” imitation of introjection (SK 237/113). Its “ultimate aim” is “to recover, in secret and through magic [sur un mode magique et occulte], an object that, for one reason or another, evaded its own function: mediating the introjection of desires” (SK 237/114). Incorporation occurs, therefore, when the object resists serving in this role as a mediator between the drives and the ego. It is “born out of a prohibition it sidesteps but does not actually transgress.” And whereas introjection operates “in the open [au grand jour]” by “naming [la
nomination],” incorporation “must hide from view along with the desire for introjection it masks.” According to Torok, incorporation therefore impedes the process of introjection, making any signification of the drives impossible, and bringing to a halt the exchange between the unconscious and the ego.

Despite the distinct conceptual opposition Torok makes between introjection and incorporation, she speculates that the two “could still be fused” on an “archaic level” (SK 238/114). To illustrate this possibility, Torok imagines the ego in the oral phase of psychosexual development, wherein introjection “signals its meaning to itself by means of a fantasy [of] ingestion [au moyen d’un fantasme d’ingestion].” Cathexed with auto-erotic libido, the nascent ego “consists at this stage in the use it makes of ingestion and its variants (salivation, hiccups, vomiting, etc.), in symbolic expressions, such as asking for or refusing food regardless of the actual state of hunger or, alternatively, fantasizing the consumption and refusal of food by means of the same mechanism but when the object is absent.” At this early period in its development, then, the ego makes sense of the drives through the only means available to it – the ingestion and purging or refusal of nourishment. Importantly, for Torok, introjection at this stage takes place by means of fantasy rather than in opposition to it. In other words, it is only though the fantasy of ingestion that the ego can begin the signification process. Nevertheless, Torok understands incorporation to be “the first lie” and “the first instrument of deception,” since it brings about the absent object in the form of hallucinatory wish fulfillment. The originary and true hunger is not, according to Torok, for food or milk (or even for the breast), but for introjection. Analysts like herself, she affirms, therefore do not interpret “the fantasy of incorporation as a request to be granted or hunger to be satisfied, but as the disguised language of as yet unborn and unintrojected desires” (SK 239/115).
Four years after their separate publications of “The Shell and the Kernel” and “The Illness of Mourning,” Abraham and Torok co-author the essay “Mourning or Melancholia: Introjection versus Incorporation,” where they further their investigation into the distinction between the two concepts in relation to the acquisition of language. In this text, the authors elaborate upon Torok’s thesis regarding the early fusion of introjection and incorporation during the oral phase of development. Acknowledging the therapeutic context as Ferenczi’s primary concern when he invents the concept of introjection to theorize transference love, Abraham and Torok maintain that “introjection undoubtedly appears under comparable circumstances soon after birth [nul doute que celle-ci débute dès après la naissance et dans des conditions comparable]” (SK 262/127). “[T]he initial stages of introjection emerge in infancy,” they explain,

when the mouth’s emptiness is experienced alongside the mother’s simultaneous presence [les tout débuts de l’introjection ont lieu grâce à des expériences du vide de la bouche, doublées d’une présence maternelle]. The emptiness is first experienced in the form of cries and sobs [pleurs], delayed fullness, then as calling, ways of requesting presence [moyen de faire apparaître], as language. Further experiences include filling the oral void by producing sound and by exploring the empty cavity with the tongue in response to sounds perceived from the outside. Finally, the early satisfactions of the mouth, as yet filled with the maternal object, are partially and gradually replaced by the novel satisfactions of a mouth now empty of that object but filled with words pertaining to the subject [de mots à adresse du sujet]. The transition from a mouth filled with the breast to a mouth filled with words occurs by virtue of the intervening experiences of the empty mouth. Learning to fill the mouth with words is the initial model for introjection. (SK 262/127-8)

In this passage, Abraham and Torok theorize language acquisition as a progressive experience of filling an emptiness localized in the infant’s mouth. Prior to the differentiation of self and other or self and environment, the infant experiences only the plenitude of alimentary care and the

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102 It should be noted that the English translation of the title differs significantly from its original: “Deuil ou mélancholie: Introjecter – incorporer,” that is, “Mourning or melancholy: Introjecting – incorporating,” or, alternatively, “Mourning or melancholy: To introject – to incorporate.”
Language develops from out of the void, as an attempt to fill the emptiness left in the absence of the caregiver. The authors note, however, that introjection could not take place “without the constant assistance of a mother endowed with language” (SK 262/128). “[T]he mother’s constancy,” they explain, “is the guarantor of the meaning [la signification] of words. Once this guarantee has been acquired, and only then, can words replace the mother’s presence and also give rise to fresh introjections” (SK 262-3/128). Thus, even though the caregiver’s absence is necessary to inaugurate language as the void filled, the caregiver’s presence is equally necessary as the guarantee that these words are not as empty as the void itself. Even in their absence, therefore, the caregiver’s presence guarantees meaning. The ab-sensing gesture Abraham articulates in “The Shell and the Kernel” is here reiterated in the caregiver-infant bond: at the same time present and absent, the caregiver ab-senses. And it is this constitutive ab-sensing of the other that allows for the social world to unfold before the speaking subject: “So the wants of the original oral vacancy are remedied by being turned into verbal relationships with the speaking community at large,” Abraham and Torok conclude. “Introjecting a desire, a pain, a situation means channeling them through language into a community of empty mouths” (SK 263/128).

In “The Shell and the Kernel” and “Seminar on the Dual Unity and the Phantom” Abraham provides further detail on the process of introjection stemming from the relationship between caregiver and infant. As part of his reinterpretation of the Oedipus complex, Abraham

103 Abraham and Torok consistently use the language of “maternal” and “mother” to denote this function. It is consistent with an anasemic approach to interpret the “maternal” as the role of primary caregiver rather than a designation reducible to something like assigned sex or gender. Unless quoting Abraham and Torok directly, however, this chapter will utilize the gender-neutral language of caregiver in an effort to make clear the fact that people of all sexes and gender identities can and do take on this role with respect to raising children. It should also be noted that this relation is not merely bi-directional, and that “a third” is always already implied in the relationship between the infant and the caregiver by the fact that signification is directed toward an object. For more on this see Abraham’s reinterpretation of the Oedipus Complex in “The Shell and the Kernel,” SK 224/96.
emphasizes the child’s eventual separation from the primary caregiver and toward multiple libidinal investments in society at large. In “The Shell and the Kernel,” Abraham notes that until the child begins to seek connections beyond the primary caregiver,

the mother had the functions of the Envelope; she was everything: amnion, warmth, nourishment, mainstay, body, cry, desire, rage, joy, fear, yes, no, you, me, object, and project. However, the child has progressively been able to appropriate this exterior maternal Envelope. As a result, the child has nothing more to expect from the mother. Once accomplished, maternal introjections must yield to other introjections, the introjection of the vast domain encompassing all that is not part of the motherhood of the mother [la maternité de la mère], the whole of social life, as represented by the non-mother, whatever form the non-mother may take, that is to say, in our civilization, the “father.” (SK 224/96)

This passage relates Abraham and Torok’s narrative about the role of introjection in early development to Abraham’s more general treatment of psychoanalytic theory. It is clear that the caregiver serves as a kind of prosthetic ego for the developing subject. The infant introjects the drives emanating from the unconscious kernel only through the caregiver, who also serves the role of envelope or shell by registering, representing, and satisfying (or failing to satisfy) those drives on the infant’s behalf. Importantly, the infant can only introject its drives and develop its “own” ego by appropriating the caregiver, that is, by taking in the caregiver (in all senses of “taking in”: materially, figuratively, psychically, etc.). Through the appropriation of the caregiver, however, the developing subject takes in not only the caregiver’s conscious ego but also the unconscious kernel that ab-senses therein. Introjection thus requires a constitutive and multiple ab-sensing, an abyssal ab-sense, in fact, one could call it a void: the caregiver ab-senses, but within this ab-sense lies the ab-sensing of both the caregiver’s unconscious kernel as well as that of the infant, and within this ab-sense lies the ab-sensing of a vast and unknowable nucleic legacy. This developmental account of “filling the void with words” – the translation or conversion of a lack into a plenitude, an ab-sense into a pre-sense, the interminable tropoi that
put the *psyche* and the *soma* into relation, along with the self and the other, the foreign and the familiar – this account remains the model for all subsequent forms of social investment. The relation of any “me” to the social world is therefore that of a perpetual and constitutive loss (of intimacy, of immediacy, and of self), a loss that is disavowed in order to project an identifiable subject engaged in a social world.

Abraham and Torok do not thematize this constitutive loss as such, instead focusing their research on the clinical phenomena of “pathological” mourning. Their clinical experiences, they claim, necessitate the conceptual dissociation of introjection from incorporation. “Incorporation denotes a fantasy,” Abraham and Torok write in the opening lines of “Mourning or Melancholia,” “introjection a process” (SK 259/125). On their view, fantasy functions in “a preventative and conservative” manner by refusing to accept a “reality” that would require a “topographical shift” in the psyche. The fantasy of incorporation denies “the reality of a loss sustained by the psyche” (SK 261/126). 104 “Incorporation,” Abraham and Torok write,

is the refusal to reclaim as our own the part of ourselves that we placed in what we lost; incorporation is the refusal to acknowledge the full import of the loss [*le vrai sens de la perte*], a loss that, if recognized as such, would effectively transform us [*celui qui ferait qu’en le sachant on serait autre*]. In fine, incorporation is the refusal to introject loss. The fantasy of incorporation reveals a gap [*une lacune*] within the psyche; it points to something that is missing [*un manque*] just where introjection should have occurred [*aurait dû avoir lieu*]. (SK 261/127)

What is here translated as “a loss that, if recognized as such, would effectively transform us” literally reads “that which would make it so that in knowing it one would be other.” In a certain sense, then, Abraham and Torok indicate that introjecting object loss makes or remakes

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104 An analysis of mourning is clearly central to Abraham and Torok’s thinking here (as well as Derrida’s commentaries on these topics and his own thought more generally). This chapter will not discuss mourning in great detail, as this topic has been well researched by other scholars. See especially Elissa Marder, “Mourning, Magic, and Telepathy,” in *The Mother in the Age of Mechanical Reproduction: Psychoanalysis, Photography, Deconstruction* (New York: Fordham University Press, 2012), 37-52; and the late Pleshette DeArmitt, “The Eye of Narcissus,” in *The Right to Narcissism: A Case for an Impossible Self-Love* (New York: Fordham University Press, 2014), 101-123.
subjectivity otherwise, whereas incorporation denies this alterity by actually bringing the other inside the self. “[T]he fantasy of incorporation,” they claim, “merely simulates profound psychic transformation through magic; it does so by implementing literally something that has only figurative meaning” (SK 261/126). And in language reminiscent of Freud and Breuer, they explain that “in order not to have to ‘swallow’ a loss, we fantasize swallowing (or having swallowed) that which has been lost, as if it were some kind of thing.” Unlike in hysteria, where one would develop physical symptoms (perhaps a cough or the inability to swallow), in incorporation, one takes the lost object into their body. “Introducing all or part of a love object or a thing into one’s own body, possessing, expelling or alternately acquiring, keeping, losing it,” Abraham and Torok affirm, “here are varieties of fantasy indicating, in the typical [exemplaire] forms of possession or feigned dispossession [sous la forme exemplaire de l’appropriation (ou de la désappropriation feinte)], a basic intrapsychic situation: the situation created by the reality of a loss sustained by the psyche.”

According to Abraham and Torok, incorporation does not follow the loss of any and every object. On their view, the usual course of mourning involves the introjection of the loss. Incorporation, by contrast, occurs when “the barely initiated or expected work of introjection encounters a prohibitive obstacle” (SK 263/128). Such an obstacle involves a type of loss that cannot be communicated due to the existence of a shameful secret shared between the subject and the lost object. (SK 265, 267/129, 131). “Because our mouth is unable to say certain words and unable to formulate certain sentences,” Abraham and Torok explain, “we fantasize, for reasons yet to be determined, that we are actually taking into our mouth the unnamable, the object itself” (SK 263/128). “Failing to feed itself on words to be exchanged with others,” they continue,
the mouth absorbs in fantasy all or part of a person – the genuine depository of what is now nameless. The crucial move away from introjection (clearly rendered impossible) to incorporation is made when words fail to fill the subject’s void and hence an imaginary thing is inserted into the mouth in their place. The desperate ploy of filling the mouth with illusory nourishment has the equally illusory effect of eradicating the idea of a void to be filled with words. (SK 264/128-9)

In this passage, the authors employ the notion of the “nameless,” which recalls Torok’s definition of introjection in her essay on mourning. There, she defined introjection as an objectally mediated process of naming previously unconscious, anonymous drives, thereby translating unconscious material into content representable to the ego. Combining Torok’s earlier account with this one presented in the essay co-authored with Abraham, introjection can be understood to fill the empty, meaningless void by bridging the gap between others (both within and without) though language. Torok notes that naming the drives gives them “the right to exist and to unfold in the objectal sphere” (SK 236/113). From this perspective, incorporation can be better understood as in some way illicit, since it involves putting the subject into relation with something it cannot represent, comprehend, or make sense of at a structural or experiential level. “Like a commemorative monument,” Torok writes, “the incorporated object betokens the place, the date, and the circumstances in which desires were banished from introjection: they stand like tombs in the life of the ego” (SK 238/114).

Based on the language of commemoration and entombment Torok uses to describe incorporation in her earlier work, Abraham and Torok together use the language of “tomb” or “crypt” to designate this mechanism in their co-authored works. In The Wolf Man’s Magic Word, they make clear that the crypt is included “in the Ego” as a “false Unconscious” (WM 80, 89-90/lxxi,4). Similarly, in “The Topography of Reality,” from 1971, Abraham and Torok affirm that the crypt “is neither the dynamic unconscious not the ego of introjections,” but rather “it is an enclave between the two, a kind of artificial unconscious, lodged in the very midst of the
ego” where it “has the effect of sealing up [d’obturer] the semipermeable walls [les parois semi-perméables] of the dynamic unconscious” (SK 254/159). In “Mourning or Melancholia,” they assign the crypt not to the unconscious system, but to “the system where the wound is itself located, namely in the preconscious-conscious system” where it is nonetheless subject to repression (SK 272/135). “The process recreates in a single psychic area, system, or agency, the correlate of the entire topography,” they explain, “isolating the wound and separating it (with a multitude of counter-investments) from the rest of the psyche.” Abraham and Torok maintain that the content of the crypt, barred from conscious articulation, “leads its own separate and concealed existence” unbeknownst to the subject, whom the authors designate with the term “cryptophore” (SK 266/130). The entombed content thus continues to act from the crypt, haunting the subject and “giving him strange and incomprehensible signals, making him perform bizarre acts, or subjecting him to unexpected sensations.” In words that echo the Freud of “Repression,” Abraham and Torok write that “[t]he unspeakable words and sentences, linked as they are to memories of great libidinal and narcissistic value, cannot accept their exclusion” and therefore “never cease their subversive action” (SK 268-9/132).

And indeed, for Abraham and Torok, the contents of a crypt haunt not only the subject who incorporated its contents; a crypt can haunt subsequent generations. As Torok succinctly writes in “Story of Fear: The Symptoms of Phobia – the Return of the Repressed or the Return of the Phantom?” “the ‘phantom’ is a formation in the dynamic unconscious that is found there not because of the subject’s own repression but on account of a direct empathy with the unconscious or the rejected psychic matter of a parental object” (SK 439/181). Because the phantom returns from the crypt of another, it “is not at all the product of the subject’s self-creation [l’autocréation]; rather, “the phantom is alien to the subject who harbors it [le fantôme qu’il
porté en lui lui est étranger].” Similarly, in “Notes on the Phantom,” Abraham writes with emphasis that “[t]he phantom which returns to haunt bears witness to the existence of the dead buried within the other” (SK 431/175). “What comes back to haunt,” he affirms, “are the tombs of others” (SK 427/172). Like Torok, Abraham also depicts the phantom as a “stranger within the subject’s own mental topography,” characterizing its effects as being “like a ventriloquist” (SK 429/173). He goes on to theorize the manner in which phantoms are transmitted between generations:

The phantom counteracts libidinal introjection; that is, it obstructs our perception of words as implicitly referring to their unconscious portion. In point of fact, the words used by the phantom to carry out its return (and which the child sensed in the parent) do not refer to a source of speech in the parent. Instead, they point to a gap, they refer to the unspeakable [une lacune dans le dicible]. In the parent’s topography, these words play the crucial role of having to some extent stripped speech of its libidinal grounding. The phantom is summoned therefore, at the opportune moment, when it is recognized that a gap was transmitted to the subject with the result of barring him or her from the specific introjections he or she would seek at present. The presence of the phantom indicates the effects, on the descendants, of something that had inflected narcissistic injury or even catastrophe on the parents. (SK 430/174)

Abraham explains phantom transmission in more detail in “Seminar on the Dual Unity and the Phantom,” where he follows the work of Imre Hermann in L’instinct filial. Hermann identifies the “originary fiction” as “the unity of the unseparated mother-child,” rather than, as Freud would have it, the androgyne of Aristophanes’ speech in the Symposium (DUP 16). Abraham calls the early fusion of the infant with the primary caregiver “the dual unity,” and for him, the two fictions “offer a double-myth hypothesis, a double instrument of thought from which to orient a psychoanalysis concerned with early sexual development.” Prior to language acquisition, Abraham maintains that the child “has no conscious or unconscious other than that of his mother” (DUP 26). The caregiver’s words are the site of phantom transmission since the child takes them in along with the drives they introject or fail to introject. “[T]he mother’s
word,” Abraham writes, “is a bout-de-mère, a piece of the mother.” The child begins to separate from the caregiver “when these words or pieces-of-mother move away from the mother’s person to designate objective events; that is, events unencumbered by the mother’s unconscious.”

Nevertheless, according to Abraham, “the child only appears to be freed from the parental unconscious,” since “objective language” represses and supplements the caregiver’s unconscious, allowing for “analogues of the mother to be found in the external world” as well as “a return to the mother at the level of communication” (DUP 27). “It is,” Abraham concludes, “where the word’s objective reference involves the repression of the maternal unconscious that there is introjection but also the risk of creating or awakening virtual phantoms.” Learning to speak, in other words, is a double-edged sword; it is the condition for the possibility of both subjectivity and the phantom.

Abraham and Torok thus reelaborate the Freudian model of ego development based on Ferenczi’s more circumscribed theory of introjection; in their account, however, language acquisition plays a primary role in these processes. Abraham and Torok also make explicit what remains unthought in Freud’s treatment of the drives, namely, that their “Organic” source remains absolutely unknowable to the subject whom they affect/effect. This kernel of unconscious content makes possible both the ego and the symptom in the form of the ontogenic crypt and the phylogenic phantom. Through the influence of fellow Hungarian analyst Ferenczi, Abraham and Torok thus enrich and complicate the Freudian picture of personal and ancestral inheritance.

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105 One of the examples Abraham uses to illustrate this process is a novel interpretation of Freud’s grandson’s fort-da game, which Freud famously recounts in the second chapter of *Beyond the Pleasure Principle* (SE 18: 15-17). On Abraham’s reading, little Ernst’s words reveal his mother’s unconscious conflicts surrounding her husband’s deployment to the war front and her father’s (Freud’s) substitutive role in her husband’s absence. For a helpful account of Abraham’s reading, see the first chapter of Christine Berthin, *Gothic Hauntings: Melancholy Crypts and Textual Ghosts* (London: Palgrave Macmillan, 2019), 21-23.
In his introduction to Ferenczi’s *Thalassa*, Abraham describes a transgenerational psychoanalysis that “would be capable of deciphering” any living being by approaching “the organism as a hieroglyphic text, sedimented in the course of the history of the species” (SK 20, my translation). This characterization of psychoanalysis resonates strongly with Derrida’s remarks in the second volume of *The Death Penalty*, and it is certainly not without significance that, on Abraham’s account, Ferenczi arrives at a consideration of an archaic, embodied form of signification through an analysis of hysterical symptomology and blushing:

The “expressive” phenomena of conversion hysteria and also emotive manifestations in general – according to Ferenczi – reduce to the utilization of phylogenetic possibilities inscribed in our body for the satisfaction, at the same time magic and symbolic, of some repressed desire. Take the case of the blushing of the face in the course of an affectively charged situation. This superficial vasodilation, localized on the face, can symbolize the adolescent’s repressed desire to welcome the male organ. Putting to the side the question of the displacement from the bottom to the top, it remains to be seen how this desire precisely takes the form of a passing congestion. It is that the afflux of blood through the surface of the body *already* has a signification, in some way a priori, even more so as it has the effect of appeasing a local excitation through the intensification of the exchanges. The actual desire thus only takes hold of a significant means, already at its disposal. Blushing realizes that which is prohibited to conscious thought magically through the language of the body. The vessels dilate *so as to* absorb an object and this organic fiction itself becomes the symbol of the repressed desire. […] And this is possible because our body functions from the beginning as a language. In symbolizing we only speak by making use of the original sense of organic semantemes. (SK 19-20, my translation)

In this passage, Abraham describes a phylogenetic signification pathway *in the body*. What he finds to be most revolutionary in *Thalassa* is the way in which Ferenczi (who refers parenthetically to blushing as an “erection of the entire head”\(^\text{106}\)) portrays the body as a text to be deciphered.\(^\text{107}\) Every bodily expression, on Abraham’s reading of Ferenczi, is an archive of


\(^{107}\) See Ferenczi, *Thalassa*, 44: “For if through observations a hundred times repeated one becomes confirmed in the preconception that in symbolic or indirect forms of expression on the part of the psyche or the body, there are preserved whole portions of buried and otherwise inaccessible history—much in the manner of hieroglyphic inscriptions from out of the prehistoric past—and if, an equal number of times, the deciphering of these symbols and characters in the history of the individual proves valid, it is perhaps understandable, and at the same time its own
human phylogenesis; therefore, the body can and must be read and understood in terms of its evolutionary history. “If our body is language from the origin,” Abraham explains, “the basic significations could only come to it through a symbolization even more original, accomplished in phylogenesis and having to do with the traumas and privations that affected the species” (SK 20, my translation). And he concludes that “[t]he language of the organs and functions would therefore be in its turn a set of symbols returning to a language even more archaic and so on.” Abraham and Torok return and respond to this Ferenczian insight throughout their work. Such an inheritance is evident in the anasemic theory of signification, the elaboration of introjection, and the notions of the crypt and the transgenerational phantom. Every bodily expression communicates both “me” and a pre-history of untold others, that is, “not-me.” The development of the ego or the “me” [le moi] is not merely a personal process of managing the conflicting demands of the drives and the external world as they are mediated by language; it is also the reoccurring ab-sense of archaic traumas that resulted in the survival of the human species. Whether or not “I” am aware of it, crying, laughing, or blushing each express both “me” and the phantoms of evolutionary pre-history. This encrypted transmission, according to Ferenczi, Abraham, and Torok, can and must be read.


“[A]nd what if there were a crypt or a phantom within the Ego [le Moi] of psychoanalysis?” (P 158/142). Derrida poses this question toward the end of “Me – Psychoanalysis,” and although he does not provide a direct answer to it, the question itself makes clear the fact that, for him, Abraham and Torok’s theoretical discourse demands evaluation consistent with its articulated logic and constructs. “At the moment it introduces or presents excuse, that one should also venture to make use of this method of cipher-reading to decode the vast secrets of the developmental history of the species.”
itself as the reflexive, critical, authoritative, designated subject of a ‘movement,’ a ‘cause,’ a ‘theoretical’ discourse, a ‘practice,’ a multinational ‘institution’ more or less happily doing business with itself [commerçant plus ou moins bien avec elle-même],” Derrida explains, “Psychoanalysis [la psychoanalyse] would not for all that be released a priori from the structural laws and notably from the topic whose hypothesis it has formulated” (P 151/135). “Doubtless something we identify as psychoanalysis [la psychoanalyse] has said ‘le moi,’ that is, ‘the me,’ ‘the ego,’” he continues. “It will have identified it, defined it, situated, and decentered it. But the movement that assigns something a place under a certain topography [topique] does not itself necessarily, or in any case simply, escape the jurisdiction of that topography.” Derrida therefore treats Abraham’s theory of signification accordingly: “this anasemic translation bears also, one might say, on itself,” he writes (P 157/141). “It translates itself and asks to be read according to the protocols that it constitutes or itself performs.” Derrida thus intends to make use of the terms, theories, and techniques that psychoanalysis developed to conceptualize and treat the human psyche in order to analyze the discipline itself. He will, in other words, undertake a deconstruction of psychoanalysis, and more specifically, he will do so through the lens of Abraham and Torok’s unique theoretical contributions.

Derrida’s most evident engagement in “this long term reading project,” which, he notes, “is not only a question of reading, but in the most active, working sense of the term, of translating,” takes place in “Me – Psychoanalysis” and “Fors,” the foreword to The Wolfman’s Magic Word, but one would be justified in claiming that Derrida was engaged in this endeavor throughout his life (P 157/141). Derrida’s most explicit treatment of the phantom can be found in a somewhat different context in Specters of Marx, though he hardly makes mention of Abraham and Torok and includes only one reference to Abraham in a footnote. A complete
account of Derrida’s engagement with the work of Abraham and Torok cannot be recounted here, but the kernel of his translation can be found in the very first lines of “Me – Psychoanalysis,” where Derrida begins with the following enigmatic opening: “I am introducing here – me – (into) a translation [j’introduis ici – moi –, à une traduction]” (P 145/129). He goes on to explain his unusual choice of the word introduire rather than the more idiomatic présenter: “I’m writing in ‘my’ language but in your idiom I have to introduce [introduire]. Or otherwise, and again in ‘my’ language, to present [présenter] someone.” Because he is writing in French for an English-speaking audience and knows that his paper will be translated for publication, he plays on the idiomatic differences between cognates. Despite the common Latin etymology between “to introduce” and introduire, in contemporary French usage introduire more commonly means “to insert.” Hence, Derrida opens a paper ostensibly introducing the work of Nicolas Abraham to English speakers by inserting himself in the text or the content that he is introducing while at the same time making a subtle claim about the introduction or presentation of any “me” or ego, namely, that one is only ever introduced or presented through an other.

“J’introduis ici – moi –, à une traduction,” “I am introducing here – me – (into) a translation.” (P 145/129). While both inserting himself, “moi,” into Abraham’s discourse and commenting on it, Derrida also employs the English idiom, which paradoxically effaces him in his French idiom through the very insertion of himself in the text. “That says clearly enough where I will be led by these double voicetracks [C’est assez dire où je serai, par ces deux voies, conduit].” Derrida goes on, “to efface myself on the threshold in order to facilitate your reading [m’effacer sur le seuil pour faciliter votre lecture].” Rather than interpreting this enigmatic claim as a lament about what is “lost in translation” or the nature of the work at hand (that is, an introduction to the work of another), it can be read as an insight into what it means to present
oneself or another as a “me.” Derrida plays on the differences between two languages, French and English, to illustrate Abraham’s theory of anasemic signification between the shell or ego and the nucleic unconscious. A translation is necessary for the ego to represent and read unconscious content. Derrida uses the future anterior to convey this: *C’est assez dire où je serai, par ces deux voies, conduit, “it is enough to say where I will have been, by these two paths, conducted (or ‘lead,’ ‘guided,’ even ‘driven’).” Voies is the plural of voie, “route,” “path,” “road,” “way,” or “street,” but it is also a homonym with voix, “voice,” hence Richard Klein’s clever translation of “voicetracks.” On a surface reading, then, Derrida will have been led to efface himself at the threshold of this essay, by taking two paths, writing in two languages at once, inserting himself into the discourse of another. On a closer reading, however, Derrida shows that this is what is to be a “me” or an “ego” in relation to a vast unconscious world twice mediated: mediated first in the form of drives delegating messages from the Somatic and second in the form of drive representations suitable to consciousness. The kernel of Derrida’s translation of Abraham and Torok’s works centers around the analysts’ own theory; namely, that any act of self-reflection, any determination of one’s own physical or emotional state, and any engagement with an other is necessarily presented or translated through “me” only partially and in cipher.

With the stated intention of effacing himself “on the threshold in order to facilitate your reading,” however, Derrida also signals his indebtedness to Abraham’s thought. Indeed, Derrida models his commentary on that of Abraham in Abraham’s introduction to the Ferenczi’s *Thalassa*. At the close of this text, Abraham writes, “But it is time for the presenter to efface himself and leave the reader to follow his own inspiration. May the joy of discovery accompany his steps” (SK 24, my translation). Derrida’s use of the language of effacement here can be read
as an homage to Abraham himself. Clearly, Derrida is following Abraham by modeling his commentary on that of Abraham, who followed Ferenczi, who followed Freud, etc. And yet, Derrida is heeding Abraham’s injunction to “follow his own inspiration.” He reads Abraham while at the same time translating Abraham – and with him, his psychoanalytic inheritance – otherwise. In this sense, Derrida is himself engaged in an anasemic translation of the psychoanalytic tradition, just as Abraham describes his own “conversion” of psychoanalysis in “The Shell and the Kernel.” Like Abraham, Derrida uses the same terms but from a completely heterogenous point of view to convey something altogether other – from the perspective not of psychoanalysis but of deconstruction.

What, then, might be encrypted in the texts of Abraham and Torok and passed down in their iteration of psychoanalysis? Another clue lies in the conclusion to the same essay:

And since we have spoken here, as if it were finally a difficulty of translation, about the homonymy between “Egos” [des “Moi”] and the singular expression “the Ego [le Moi] of Psychoanalysis,” the question will have already posed itself [la question se sera d’elle même posée]: and what if there were a crypt or a phantom within the Ego of psychoanalysis? And if I say that question has already posed itself [aura été posée], by itself [d’elle même], like a pierre d’attente [tooothing stone], it is not in order to presume the knowledge of what “pierre” means [ce n’est pas pour prêsumer le savoir de ce que “pierre” veut dire]. (P 158/142)

A footnote to the English text explains that a “tooothing stone” is “an architectural term” and quotes from the OED that tooothing stones are “[b]ricks or stones left projecting from a wall to form a bond for additional work to be built on.” The French pierre d’attente, literally “waiting stone,” conveys this sense of expectation. With this architectural terminology, Derrida depicts the possibility of a crypt or a phantom in the Ego of psychoanalysis as an edifice awaiting further construction (or, as is likely in this context, deconstruction). On his own admission, Derrida is already undertaking such a project. However, the importance of remaining open to the meaning of the word pierre is not obvious. A closer reading of the French provides some context: “Si je
dis que la question aura été posée, d’elle même [If I say that the question will have been posed, of or from itself], en pierre d’attente [in the form of a toothing stone], ce n’est pas pour prémunir le savoir de ce que ‘pierre’ veut dire [it is not in order to presume knowledge of what pierre means, or literally, “wants to say”].” The question of a crypt or a phantom within the ego of psychoanalysis is not, therefore, “like” une pierre d’attente; rather, the question poses itself in the form of this projecting stone, anticipating the future anterior that, for Derrida, often designates the arrivant, event, or other that will have come while surpassing any present knowledge.108

And yet, there is a specificity to Derrida’s petrous choice of language here. Something remains to be said about this stone whose meaning or message should not be presumed to be on the order of knowledge. It is not insignificant that the figure of the stone also appears a few years earlier in Derrida’s engagement with the work of Abraham and Torok, in “Fors,” the foreword to The Wolfman’s Magic Word. Here, the stone is white, scrupulous, and while voiceless, it still communicates something, la pierre veut dire. In the first pages of this essay, Derrida depicts himself writing on the partition of a crypt, indeed on the very Cryptonomie which begins the French title of the text, where he hesitates:

I’ll stop here, already (vault to a stop), setting down on the edge of the crypt the little blank stone of a scruple, a voiceless word for thought alone, on the sole path, in order to engage others to it, of a crypt.

108 The connection between the phantom and the event is made more explicit in Specters of Marx. See, for example, the second chapter, where he writes, “[i]f we have been insisting so much since the beginning on the logic of the ghost, it is because it points toward a thinking of the event that necessarily exceeds a binary or dialectical logic, the logic that distinguishes or opposes effectivity or actuality (either present, empirical, living – or not) and ideality (regulating or absolute non-presence),” Jacques Derrida, Specters of Marx (New York: Routledge, 1994), 78; and again in the last footnote of the final chapter, where he explains, “[g]iven that a revenant is always called upon to come and to come back, the thinking of the specter, contrary to what good sense leads us to believe, signals toward the future. It is a thinking of the past, a legacy that can come only from that which has not yet arrived – from the arrivant itself” (Derrida, Specters, 245, n.39).
Before returning to the figure of the stone, it will be necessary to mention some important features specific to the language of this dense passage. To begin, arrêter carries the English sense of arrest, where the cessation is sudden, there is an interruption, or something is cut off. Idiomatically, s’arrêter can also mean to give up or quit. By using this language, Derrida is not simply coming to a close (this is after all, only the second page of over sixty written); much like the effacing gesture in “Me – Psychoanalysis,” Derrida is instead performing, in some sense, the deconstruction he is undertaking with respect to Abraham and Torok’s theoretical contributions to psychoanalysis. He does so by arresting the egoic consciousness that says “I” and “me,” both of which are included in the French reflexive form of je m’arrête. Moreover, this arrête has somehow already happened: Je m’arrête ici, déjà. As with the temporality of the event, Derrida’s arrest takes place outside of the present. Finally, Derrida includes in parentheses the ambiguous aside “tombe en arrêt,” where both tombe and arrêt have multiple significations. In its verb form, tomber means to fall, but there exist several idiomatic connotations, including to find oneself in a particular state or location, to arrive or come in (even in the sense of the latest media “drop”), and to announce a final verdict in a court hearing. Relatedly, arrêt can also signify a sentence or decree. As a noun, tombe is indicative of a tomb, grave, or vault. And in common speech, tomber en arrêt has the sense of being taken aback by something overwhelming. This sense, along with the temporality of the déjà, supports an interpretation of je m’arrêt as connected to the event in Derrida’s thought more generally, but it also puts the

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event or the coming of the other in the specific context of the tomb (another word for crypt), the dead, and judgment.

It is significant that Derrida evokes a sense of judgment here, since according to Abraham and Torok, a crypt is formed, by definition, when the parties involved share a shameful secret (cf., SK 267/131). The notion of the crypt centers around a wrong or a transgression of some kind and the disavowed or displaced condemnation of the encrypted object. The title of Derrida’s essay, “Fors,” also relates to this sense of judgment. As translator Barbara Johnson explains, “fors is the plural\textsuperscript{110} of the word for, which, in the French expression \textit{le for intérieur}, designates the inner heart, ‘the tribunal of conscious,’ subjective interiority” (F/xi-xii). At the same time, Johnson notes that “[t]he word \textit{fors} in French, derived from the Latin \textit{foris} (“outside, outdoors”), is an archaic preposition meaning “except for, barring, save.” This sense of exception or barring, partitioning, brings the tribunal of conscious (or a tribunal in general, as \textit{for} derives from the Latin \textit{forum}, the marketplace in which business and legal matters were decided) into connection with a separate space, divided or marked off from the rest, much like the crypt is set up inside but sealed off from the ego. Clearly, Derrida is associating the dual significance of \textit{fors} with Abraham and Torok’s theory of the crypt. This place (which Derrida refers to as a “no-place,” a \textit{non-lieu} that also refers to a case thrown out of court), a holding cell for the dead one whose guilt is disavowed, is like a limbo from which one might seek exoneration or even salvation (F 24/xxi).

On the edge of this crypt, then, where Derrida stops already having been arrested, he places a stone, \textit{la petite pierre blanche d’un scrupule} (F 10/xiii). A preliminary reading would observe Derrida engaged in a traditional Jewish practice of reverence for the dead. Another

\begin{footnotesize}
\begin{itemize}
    \item[\textsuperscript{110}] The plural form here will prove to be an important part of Derrida’s treatment of Abraham and Torok’s theory of the phantom. More on this to follow.
\end{itemize}
\end{footnotesize}
interpretation would indicate that Derrida’s scrupulous stone expresses some misgiving about the crypt or its contents, since the term “scrupule” (like the English “scruple”) often designates a moral or ethical concern, something that “weighs” on one’s conscience. A less common but equally relevant signification of “scrupule” (again in French and in English) indicates exceptional conscientiousness with respect to detail or attention and would confirm Derrida’s intention to undertake a thorough and careful deconstruction of Abraham and Torok’s Cryptonomie. Further consideration of this “scrupule,” however, leads to a sort of doubling of the figure of the stone, since, from the Latin scrupulus, the etymology itself refers to a small stone or pebble.\textsuperscript{111} In antiquity, small stones served a multitude of uses, including as units of weight and measurement, objects of exchange, and even electoral ballots. One context stands out for its relevance to the present discussion: in a well-known passage from The Metamorphoses, Ovid recounts a historical practice for determining guilt in capital cases: “There was an ancient custom to use black pebbles / To condemn prisoners and white to acquit them, / And the death penalty was decided in the same way.”\textsuperscript{112} This symbolism adds content to Derrida’s misgiving and the motivation behind his careful deconstruction: he votes to absolve the encrypted object. With this white stone of a scruple, Derrida signals a desire to pardon the dead one, while noting that the stone is also a “voiceless word for thought alone [un mot aphone à la seule pensée], on the only path [sur le seul chemin], in order to engage or even compel others there [pour y engager d’autres], of a crypt [d’une crypt]. Derrida deposits this voiceless, pensive scruple on the crypt not just for his own reflection, but in order to enjoin others to it. Like the

\textsuperscript{111} The Centre National de Ressources Textuelle et Lexicales defines the Latin scrupulus literally as a “petite pierre pointue,” a “small pointed stone,” but with the figurative sense of “sentiment d’inquiétude, souci, scrupule,” an “uneasy sentiment, worry, misgiving” (https://www.cnrtl.fr/definition/scrupule). According to the OED, scrupulus derives from scrupus, a “rough or hard pebble,” but “used figuratively by Cicero for a cause of uneasiness or anxiety” (https://www-oed-com.ezproxy.memphis.edu/view/Entry/173744?rskey=TohrtW&result=2#eid).

\textsuperscript{112} Ovid, Metamorphoses, 15.49-51, trans. Stanley Lombardo (Indianapolis: Hackett, 2010), 418.
pierre d’attente of “Me – Psychoanalysis,” then, the petite pierre blanche d’un scrupule of “Fors” is oriented towards a future and the contributions of unknown others. The stone symbolizes anticipation of the event, an appeal for grace, and a certain surrender or suspension of the one who says “I,” “me.”

The figure of the stone, when interpreted in this sense, echoes comments Derrida makes at the end of the first year of The Death Penalty seminar, where he urges those who would militate for abolition to maintain “composure,” le sang froid, in the face of both the inevitable “surveillance” of the death penalty and the “abyss” of the figure of Christ as an example of passion and forgiveness (DP1 381/283). “[L]et us keep our composure,” he advises,

[I]ove has need of it, of this granted grace, in order to save itself, to attempt forever to come through safe and sound. It must keep watch [veiller], it must mount sur-veillance over survival; it must keep watch, organize, work, and militate with a cool head, but it must never cease appealing to the chance of a pardon issued, of grace granted [mais ne jamais cesser d’en appeler à la chance de la grâce accordée]. (DP1 381, 283)

In this passage, Derrida encourages would-be abolitionists to remain on the lookout for “other figures” or forms of the death penalty while also appealing interminably for grâce. Grâce carries multiple significations in French, including both “grace” and “pardon” in their informal senses in English, but also the literal “pardon” of the condemned by a legal or divine authority. In the plural, les grâces refers to the prayer one recites before a meal, often referred to in English as “saying grace” or “giving thanks.” In this sense, “grace” connects the figure of Christ’s Passion and the forgiveness implied therein to the figure of the Eucharist, the memorial meal with its anticipation of return. The ingestion of Christ’s flesh and blood in the Eucharist prior to the Passion of the crucifixion leads Derrida to link cannibalism to the survival of the death penalty, cautioning against both the assumption that “the universal abolition of the death penalty, if it comes about one day, means the effective end of any death penalty” and the belief that “the
vegetarian effectively abstains from eating, in reality or symbolically, living flesh” (DP1 379-80/282). Evidently, for Derrida, vegetarians do consume living flesh. “How can one love a living being without being tempted [sans être tenté] to take it within oneself?” he asks. Trying or being tempted to, tenter, take the other inside the self, Derrida implies, is part and parcel of the experience of loving another living being. This is clearly a psychoanalytic inheritance, taken from Ferenczi’s theory of introjection, its treatment in the Freudian developmental model of the ego in “Instincts and their Vicissitudes,” and its reelaboration in the work of Abraham and Torok. Derrida leverages this tradition to characterize any relation to the other as taking them in and thereby consuming living flesh – that is, cannibalism.

Derrida’s psychoanalytically-inspired conception of love as eating the other leads him to an enigmatic reflection on the Last Supper. “Love and Eucharist,” he writes,

Transubstantiation. Eat me, this is my body, hoc est corpus meum, tutto estin to sôma mou. Keep it in memory of me. Which also means, in the mouth of the Son, eat me, keep me, I am leaving (or I am dying provisionally), I sur-vive, that is to say, I am going to come back; I am coming back right away; time does not count but on the condition that, as living beings, you eat while waiting, that you have the cold-blooded composure [le sang-froid] to eat well, to eat me, that is, to eat for me, since one very well has to eat well [car il faut bien manger].113 as the other says, while waiting for me, you must assimilate my blood or the blood for me, but without me, like a slow sugar. Sense me – sans me [Sens moi – sans moi]. (DP1 380/282)

From a psychoanalytic point of view, this is in fact the condition of every “me” in its transubstantiating comings and goings: the pouring out of the drives, épancher, and étancher, their satiating reabsorption in another form. These processes effect “my” body, perpetuate “me” only and always through another, perpetuate, in other words, “me” as not-me, as not-myself.

113 The phrase “il faut bien manger” is the title of a 1989 interview conducted with Jean-Luc Nancy and published in Cahiers Confrontations. The translation is included in Points... Interviews 1974-1994. The idiomatic significance of “il faut bien manger,” as translators Peter Connor and Avital Ronell write in a note, consists in the fact that it “can be read in at least two ways: ‘one must eat well’ or ‘everyone has to eat’” (Points 475n15). “In addition,” they continue, “when the adverb ‘bien’ is nominalized as ‘le Bien,’ there results the sense of ‘eating the Good.’” More on the implications of Derrida’s analysis of this phrase in the final section of this chapter.
“Me” and “my” body exist only in an ab-sensing relation between encrypted poles. My body, Derrida suggests, is never my own; it belongs, first and foremost, to the other, who swallows me up and keeps me at its mercy. Christ instructs the disciples to eat his body and to drink his blood so that they may remember him and carry on his teachings after his death. It is a question of inheritance and the next generation; Christ enjoins those who would follow him to continue his work in his absence. More remains to be said about Derrida’s condensed and elusive musings here, but of note is the fact that he uses the language of incorporation rather than the language of introjection. Clearly, Derrida takes from psychoanalysis an understanding of the “me,” the body, and the relation to another that is centered around incorporation, a point of departure from Abraham and Torok.

Reservation concerning the binary opposition between introjection and incorporation is, if not to be expected in a deconstructive analysis, at least explicitly documented in Derrida’s texts. In “Istrice 2: Ick bünn all hier,” a 1990 interview with Maurizio Ferraris, Derrida reflects rather explicitly that “the opposition between incorporation and introjection, however fruitful it may be, remains of a limited pertinence” (Points 321). “There is no successful introjection,” he affirms, and “there is no pure and simple incorporation.” In “Fors,” he is more elliptical in his commentary, noting that while “in actual clinical practice, one has to be sensitive to the sometimes massive, spectacular opposition between tendances in a bipolar mechanism,” one could reasonably consider the terms differently from a non-clinical perspective:

if one starts out from the possibility of compromise and passageways, and with the structural semi-permeability\textsuperscript{114} of the partition (which “the existence of such a vault is

\textsuperscript{114} It is significant that, in troubling the dissociation of incorporation from introjection, Derrida uses the term “semi-permeability,” semi-perméabilité (F 18/xviii). The word “semi-permeability” is a direct quote from The Shell and the Kernel, where in the essay titled “The Topography of Reality,” which Derrida references extensively in “Fors,” Abraham and Torok write that
designed to block” [here he notes that this claim is taken directly from Abraham and Torok (SK 255/159)], rather than with the partitions themselves and the spaces they divide, one could be tempted to see a simple polarity, a polarized system (introjection/incorporation) rather than the intractable, untreatable rigor of their distinction. (F 18-19/xviii)

Incorporation and introjection, in other words, could be understood as constructs within a polar theoretical apparatus: useful in analyzing clinically-relevant psychic occurrences that would otherwise be obscure, but ultimately misleading when treated as logical binaries that are completely distinct and mutually exclusive. Derrida grants that the “these tendencies [in a bipolar mechanism] can be analyzed only [by] starting out with a rigorous dissociation, even if the purity of such a dissociation remains in fact only a theoretical ideal” (F 19/xviii). As Pleshette DeArmitt rightly points out in her book The Right to Narcissism: A Case for an Impossible Self-Love, “[i]n his own recasting of the structures of mourning, Derrida problematizes the hard and fast demarcation between a normal and pathological state to which these analysts [that is, Abraham and Torok] so tenaciously adhere.”

The demarcation to which DeArmitt refers here is the one Abraham and Torok make between introjection, understood to be a “normal” response to loss, and incorporation, theorized as an “abnormal” or pathological state of failed mourning. “Mourning, for Derrida,” DeArmitt explains, “can never be an either-or proposition,” and she clarifies further that “it is never the case that an individual either wholly

The crypt marks a definite place in the topography. It is neither the dynamic unconscious nor the ego of introjections. Rather, it is an enclave between the two, a kind of artificial unconscious, lodged in the very midst of the ego. Such a tomb has the effect of sealing up the semipermeable walls of the dynamic unconscious [L’existence d’un tel caveau a pour effet d’obturer les parois semi-perméables de l’Inconscient dynamique]. Nothing at all must filter to the outside world. (SK 254/159, emphasis added)

The notion of the permeable, perméabilité, is closely related to epancher, or the flow of a liquid. In the second year of The Death Penalty, Derrida describes the work of deconstruction as that which “always begins by challenging, with properly conceptual work, the impermeability [étanchéité] the airtight barrier, the distinction or rigorous oppositional partition that is supposed to separate conceptual couples” (DP2 291/217). Thus, from a deconstructive standpoint, the idea of a crypt that is completely sealed off or impermeable, étanché, would be suspect.

115 Pleshette DeArmitt, The Right to Narcissism, 111.
and completely absorbs its lost object, thus accomplishing ‘normal mourning,’ or entirely refuses the work of mourning by leaving the beloved other alone (even if this is walled up in a crypt or safe within the ego).”\footnote{Ibid., 112. For more on the work of mourning in Derrida’s work specifically, Part III of DeArmit’s book, titled “Derrida: The Mourning of Narcissus,” is invaluable. Other essential secondary sources include Geoffrey Bennington, \textit{Not Half No End: Militantly Melancholic Essays in Memory of Jacques Derrida} (Edinburgh: Edinburgh University Press, 2010); Sean Gaston, \textit{The Impossible Mourning of Jacques Derrida} (New York: Continuum, 2006); Peggy Kamuf, \textit{To Follow: The Wake of Jacques Derrida} (Edinburgh: Edinburgh University Press, 2010); again Marder, \textit{The Mother in the Age of Mechanical Reproduction}; J. Hillis Miller, \textit{For Derrida} (New York: Fordham University Press, 2009); Michael Naas, \textit{Derrida from Now On} (New York: Fordham University Press, 2008); Kas Saghaferi, \textit{Apparitions – Of Derrida’s Other} (New York: Fordham University Press, 2010) and \textit{The World After the End of the World: A Spectro-Poetics} (Albany: SUNY Press, 2020); and Nicolas Royle, \textit{In Memory of Jacques Derrida} (Edinburgh: Edinburgh University Press, 2009).} Similarly, Elissa Marder writes that Derrida “shows that there can be no pure introjection that would remain untouched by the possibility of incorporation, and no pure incorporation without some potential element of introjection.”\footnote{Marder, \textit{The Mother in the Age of Mechanical Reproduction}, 43.} It is thus very clear that, for Derrida, incorporation and introjection exist in a relation of irreducible contamination.

Throughout \textit{“Fors,”} Derrida is subtle in his articulation of this contaminating relation each time he gestures at a deconstruction, and it is perhaps his repeatedly avowed respect for and admiration of Abraham and Torok paired with a sensitivity to Abraham’s recent death that informs Derrida’s restraint in this text. Nonetheless, when he dismantles a nominalist or purely “linguistic” interpretation of the analysts’ method of cryptonomy by emphasizing the “oral moment in the process of introjection,” one can infer that incorporation cannot, for Derrida, function on the level of \textit{mere fantasy} in the traditional sense of the term nor as it is recast in the writings of Abraham and Torok (F 55/xxxvii). Instead, Derrida implies that there is a \textit{bodily inheritance} in “the eventual autonomization of language.” He quotes extensively from Abraham and Torok’s developmental account of introjection from “Mourning or Melancholia: Introjection vs. Incorporation”:

The mouth’s empty cavity begins as a place for shouts, sobs, as “deferred filling,” then it becomes a place for calling the mother, then, gradually, according to the progress of
introjection or autoaffection, it tends toward “phonic self-filling, through a linguo-palato-
glossal exploration of its own void.” One would thus witness a “progressive partial
substitution” (emphasis [Derrida’s]): the “satisfactions of the mouth, full of the maternal
object,” would be replaced, partially, by “satisfactions proper to the mouth emptied of
that object but filled with words addressed to the subject. … To learn to fill the mouth’s
void with words is actually a first paradigm for introjection. … Thus the absorption of
food in a literal sense becomes introjection in a figurative sense. To pass from one to the
other is to succeed in transforming the presence of the object into an auto-apprehension
of its absence. The language which is substituted in that absence, as a figure of presence,
can only be comprehended within a ‘community of empty mouths.’” (F 55/xxxvii-
xxxviii).

Derrida’s prolonged citation from the analysts’ perhaps most well-known essay demonstrates
two critical points. First, “[l]earning to fill the emptiness of the mouth with words,” that is,
language acquisition, is only possible due to an experience of filling the void located in the
mouth (that is, in the body) with the presence of the caregiver (SK 262/128). This embodied
history is, therefore, both the condition of possibility and disavowed or forgotten foundation of
learning to speak. Second, replacing ingestion with language is only ever a partial substitution.
Derrida notes this twice and with emphasis (F 55/xxxvii-xxxviii). Hence, language never fully
replaces ingestion as a means of filling the void.118 To be sure, Derrida is not making a judgment
regarding the effectiveness of “eating your feelings” as a coping mechanism in the face of the
void of meaninglessness; his point is much more profound, namely, that verbal expression
harbors the residue of an other form of signification, one that is both embodied and ciphered, and
therefore never fully present within language.

Derrida depicts “the buccal orifice” as existing “[o]n the borderline between the outside
and the inside [à la limite du dehors et du dedans],” and “as a system of borders [comme système
de bordures, translation modified],” much like the very ego whose development it fosters (F 55-
56/xxxviii). This is not a passing comparison; it is in fact essential to Derrida’s deconstruction

118 This, of course, begs the question as to whether this void can ever be filled completely in the first place. More on
this point to follow.
of the introjection-incorporation binary. Recall that Abraham and Torok’s analysis of introjection is another way of explaining or translating Abraham’s figure of the shell and the kernel. Introjection, for these analysts, is not only the process by which the ego comes to be, but also the way in which unconscious content comes to be representable and represented to the ego. The figure of the shell and the kernel also accounts for these processes. Derrida thus reads Abraham and Torok’s theory of introjection through the lens of Abraham’s account of the relationship between the unconscious and the ego in “The Shell and the Kernel,” and this means that the crypt and/or the phantom must also, from any Derridean perspective, take into account a fundamental untranslatability \(^{119}\) between the two poles. The unconscious kernel of meaning can never be translated without some untranslatable remainder; and yet, Derrida and Abraham would agree that this kernel must still be translated.

In “Fors,” this untranslatability is figured as a certain silence. Much like the voiceless stone he places on the crypt’s edge in the beginning of the text, Derrida notes that the mouth can only function as a paradigm for introjection in so far as it “is first a silent spot in the body, never totally ceases to be silent, and only ‘speaks’ through supplementarity” (F 56/xxxviii). The mouth’s enduring silence “also informs the additional limitation and the catastrophic reversal

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119 “Untranslatability” is a term Derrida uses throughout his writings to mark that which cannot be fully accounted for in any translation (between languages, idiom, registers, etc.). It is of note that, in *Specters*, the notion of untranslatability parallels the notion of heterogeneity, which will figure prominently below. See, *Specters of Marx*, where Derrida writes that

[w]hat one must constantly come back to, here as elsewhere, concerning this text [Derrida is reading Blanchot on Marx] as well as any other (and we still assign here an unlimited scope to this value of text) is an irreducible heterogeneity, an integral untranslatability in some way. It does not necessarily signify theoretical weakness or inconsistency. The lack of a system is not a fault there. On the contrary, heterogeneity opens things up, it lets itself be opened up by the very effraction of that which unfurls, comes, remains to come – singularly from the other. (S 63/40)

See also *The Beast and the Sovereign*, Volume 1, where Derrida uses the French phrase point d’intraduisibilité, which means both “point of untranslatability” and “no untranslatability,” to designate “neither pure and simple translatability nor pure and simple untranslatability” (BS1 238/175).
that will occur with the fantasy of incorporation,” Derrida infers, since the fantasy of incorporation, by transforming “the oral metaphor presiding over introjection into a reality,” paradoxically “refuses to accept (or finds itself prohibiting), along with introjection, the metaphor of substitutive supplement, and actually introduces an object into the body.” The reader can almost hear Derrida speaking here with two voices at once, in “double voicetracks” (P 145/129). On the one hand, he is exegeting Abraham and Torok’s texts, merely explaining their larger theoretical framework to would-be readers of The Wolfman’s Magic Word. Moreover, he is agreeing with them that the fantasy of introjection is impossible, that of course one cannot ingest another person, that such an idea would be absurd. On the other hand, however, he is calling into question both the common-sense and metaphysical principles that support Abraham and Torok’s claim. These sentences can be read as an almost revolutionary act on the part of the psyche: there is a refusal, a gnawing awareness that introjection and its supplementarity is a hoax, that it is not “the whole story,” that incorporation “gets at” something unthinkable and yet truly profound. “[T]he fantasy involves eating the object,” Derrida continues, “in order not to introject it, in order to vomit it, in a way, into the pocket of a cyst.” Unlike introjection, which figures digestion, in which what is taken in is assimilated into material that the body can recognize and utilize, incorporation cannot metabolize what is ingested. “The metaphor is taken literally in order to refuse its introjective effectiveness,” Derrida explains, adding that such an effectiveness is “a form of idealization.” In other words, introjection is never complete or fully realizable – it is never real. Neither introjection nor incorporation are exactly on the order of reality, which blows open the opposition between reality and fantasy underlying the distinction
between introjection and incorporation and, along with it, the realm of fantasy and its potential meaning.

In effect, Derrida’s deconstruction of Abraham and Torok’s opposition between introjection and incorporation finds the analysts engaging in the same disavowal of loss that they describe in their cryptophoric patients. Rather than the circumscribed loss of an object in the traditional psychoanalytic sense, however, Abraham and Torok have disavowed the constitutive loss accompanying the kernel’s ab-sensing. They have, in other words, disavowed the void. It is never possible to completely fill the emptiness of the “buccal orifice,” because it is never possible to exhaustively translate unconscious meaning, much less its mysterious wellspring in the “Organic” or the archaic evolutionary trauma encoded therein. Hence the psychanalytic mantra, “analysis interminable.” This means that in representing itself to itself, the psyche only ever takes in that which it cannot digest or fully integrate, such that the ego is constitutively other than itself. The ego or “the me,” le moi, is not really what it is or how it presents itself to itself or others. “The Self [Moi, “Me” or “Ego”]: a cemetery guard,” Derrida writes in “Fors,” echoing the words of Abraham and Torok (F 51/xxxv). “The crypt is enclosed within the Self [le crypt est enclose en lui], but as a foreign place, prohibited, excluded. The Self [II] is not the proprietor

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120 Although it is not within the scope of this chapter to pursue the connection between Abraham and Torok’s analysis of fantasy, its relationship to the phantom in their work, and Derrida’s own work on the phantom, the phantasm, and his deconstruction of a certain Platonic inheritance implied in these terms, it can at least be said that, for Derrida, fantasy or the phantasm has an inextricable relation to the event, the arrivant, or the coming of the other and therefore falls outside of or beyond any simple distinction between what is real and what is not real, imaginary, a copy of reality, etc. In the second volume of The Beast and the Sovereign, Derrida distances himself from both philosophical and psychoanalytic conceptions of the phantasm:

I do not know if this usage of the word “phantasm” [fantasme] is congruent or compatible with any philosophical concept of the phantasma, of fantasy or fantastic imagination, any more than with the psychoanalytic concept of the phantasm [fantasme], supposing, which I do not believe, that there is one, that there is only one, that is clear, univocal, localizable. (BS II/149)

Whereas for Abraham and Torok, fantasy is regressive and static, the Derridean phantasm is powerfully effective. For more on the phantasm, see the first chapter of this dissertation. Also see Saghafi, “Phantasms.”
of what he is guarding. He makes the rounds like a proprietor [Il fait bien le tour du propriétaire], but only the rounds.” Again, Derrida equivocates as he both exeges the text of “The Topography of Reality,” while at the same time articulating it otherwise.¹²¹ For Derrida, the dispossessed cemetery guard posturing as proprietor is not merely a form the ego takes under certain unfavorable psychic conditions; rather, this dispossessed cemetery guard is the condition of every “me.” Whereas Abraham and Torok use the same language to theorize a pathological condition, Derrida implies that incorporation is nothing less than the human condition.

To be clear, in using the language of incorporation Derrida is not simply inversing the values implicit in the binary by suggesting that incorporation is better or more fundamental than introjection, where introjection would in its turn be relegated to the order of “fantasy” or “pathology.” Instead, Derrida is emphasizing the absolute heterogeneity at the core of the “me,” as it constitutes itself through the process of translating unconscious contents (the other “in me”) through an exchange with objectal investments (the other “outside me”). Whereas introjection idealizes the effectiveness of this process through disavowal, Derrida suggests that incorporation better acknowledges the heterogeneity at the heart of the “me,” the excess of meaning for which no translation can fully account, the fundamental ab-sense conditioning all sense. And yet, Derrida remains adamant that this process must take place, that the “me” or the ego must attempt to take in, integrate, or understand (that is, “introject” for Abraham and Torok) what it can never fully digest, even (or especially) if this process is partial and impossible (that is, even if it is always also “incorporation”). “It will be, it will have been necessary to translate the unpresentable into the discourse of presence, the unsignifiable into the order of signification,” he writes in “Me – Psychoanalysis” (P /138). “Absolute heterogeneity, signaled by the ‘outside

¹²¹ This is another point at which it is clear that Derrida is engaged in an anasemic translation of Abraham and Torok’s texts.
itself” that extends beyond or on this side of sense, must still be translated” (P/139-40). This imperative is nothing less than a matter of survival. Recall that, for Freud, the organism begins to distinguish between “inside” and “outside,” “self” and “other” in order to protect itself from stimuli that would annihilate it. The psyche must project and (partially) introject the drives to survive annihilation. If the process of projection and introjection/incorporation is interminable, partial, and supplemental, it is nonetheless the only chance of salvation. But because introjection always also involves incorporation, surviving necessarily implies a crypt, loss, and death – one never survives intact.122 “[T]he entire theoretical space” of Abraham and Torok’s thought, Derrida writes, “is redistributed” starting from “the possibility of this ‘loss’ or of the ‘death’ of the subject (these words to be read anasemically), from out of the possibility of a sepulcher” (F 50/xxxiv). But equally, Derrida identifies within this space “the analysts’ desire,” which invests it, is part of the operation, and even gives it its first push” (F/xxiii). This desire, on Derrida’s analysis, “is also the desire to save.” He cites a passage from the second chapter of The Wolfman’s Magic Word where Abraham and Torok make a confession:

The Wolf Man’s drama remains incomplete for its hero. But once set into motion, its action cannot be stopped [elle ne peut s’arrêter]; it must proceed in us inevitably to its final outcome [dénouement final]. And here our dissatisfaction, spurred on by a providential deus ex machina, expounds, imagines, dreams. An irresistible force pulls us: to save the analysis of the Wolf Man, to save ourselves. With time the fourth act opens within us, stretches before us, and in us comes to fulfillment, bringing salvation. (WM 111/16, quoted in F 30/xxiv)

Beyond the reflexivity of egoic (“my”) consciousness, Derrida suggests, the force that drives Abraham and Torok’s work, indeed all work, is the desire for survival in the face of constitutive

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122 For more on this idea in a different context, see the first chapter of this dissertation. I also refer the reader to Kas Saghañ’s essay "Safe, Intact: Derrida, Nancy, and the 'Deconstruction of Christianity,'" A Companion to Derrida. Edited by Leonard Lawlor and Zeynep Direk (Walden, MA: Wiley-Blackwell, 2014): 447-463.
loss, void, death, crypt or phantom – a desire for survival in the face of a heterogeneity that resists being incorporated into the same and remains forever to-come.

Derrida suggests that this irreducible heterogeneity is the ultimate source of both Abraham’s break with phenomenology and his personal and intellectual partnership with Torok as they revolutionized psychoanalytic concepts (F 43/xxx). For Derrida, “‘The Shell and the Kernel’ (1968) marks, with a much more incisive gesture, the heterogeneity” of Abraham’s approach from that of phenomenology. “I would say,” Derrida goes on,

that this heterogeneity comes from heterogeneity itself, from otherness [l’altérité]; not so much the commonly accepted otherness [non pas tant celle, communément admise] of the Unconscious, but more radically, the otherness that [celle qui] will soon make possible the definition of the crypt as a foreigner in the Self [le Moi], and especially of the heterocryptic ghost [fantôme hétérocryptique] that returns from the Unconscious of the other, according to what might be called the law of another generation. (F 43/xxx)

It is notable that Derrida conceives Abraham and Torok’s notion of the phantom, which on their account haunts from the crypt of another, as operating according to “the law of another generation.” Derrida does not take this phrasing from Abraham and Torok, but rather signals his divergence from the analysts’ rendering of the phantom. “The law of another generation” implies that the phantom is accompanied by some imperative, an injunction that governs inheritance in general. This marks a point of departure from Abraham and Torok’s theory of the phantom, which privileges a clinical context and a therapeutic exorcism.

It is evident in Abraham and Torok’s separate writings on the subject that the ultimate aim of analysis in cases of phantom transmission is to rid the patient of the phantom. In “Notes on the Phantom,” for example, Abraham demonstrates the ways in which traditional analysis has proven ineffective in treating the phantom (SK 431/174). “The phantom will vanish,” he explains, “only when its radically heterogenous nature with respect to the subject is recognized.” Abraham describes a successful analysis of the phantom thus:
Often enough, patients need only feel that the analytic construction does not endanger their own topography; they need only sense, apart from any form of transference, an alliance with the analyst in order to eject a bizarre foreign body [pour éjecter un bizarre corps étranger] – and not the content of repression Freud called a familiar stranger [un étranger familier]. In this way, “the phantom effect” (in the form of acting out as well as other specific symptoms) will gradually fade [en s’atténuant]. When the analyst offers a comment like “Somebody is breaking rocks,” the patient no doubt notices the analyst’s frame of mind and sees that the latter refrains from implicating [mettre en cause] the subject. The analyst implicitly signals the emergence of the stranger and thereby masters it. (SK 432/175)

Again, in “The Phantom of Hamlet,” Abraham amends and extends Shakespeare’s play by adding a “sixth act” in which the ghost of Hamlet’s father is “dissipated” through the unveiling of his truth (SK 451/190). Similarly, in “Story of Fear,” Torok’s retelling of the Little Hans case study, she argues that

[b]efore we can hope to gain access to the patient’s own conflicts, the phantom must vanish and, while waiting for that to happen, we need to replace the traditional question – what kind of repression is returning in the guise of the symptom? – with another: what is the nature of the phantom returning to haunt? How can the phantom be weakened so as to make it restore the unhappy subject’s own speech – whether or not it ultimately refers to repression – that had been victimized by haunting? (SK 437/180)

In each of these examples, it is clear that the role of the analyst is to locate or summon the phantom in order to expel it from the subject’s psyche. This objective assumes that it is possible to identify and separate one’s “own” psyche from other strange or alien inhabitants, other bodies that should not be there. Abraham and Torok depict the phantom in a noticeably unfavorable light; in each of their accounts, the phantom is in some way guilty of harming the subject whose psyche they haunt. In Abraham’s description of a phantom analysis, it is not the subject who is “mise en cause,” “implicated,” but also “accused” or “blamed” – it is the phantom. According to him, the analyst’s role is no less than to master the phantom. Likewise, for Torok, the phantom must be “diluer,” “weakened,” literally “diluted,” in order to restore to the “victim” what has been unjustly taken from them: the speech which belongs to or should belong to the subject.
These descriptions, despite their significant clinical insight and theoretical rigor, echo the characterizations of the analyst from Freud and Breuer’s *Studies*. The analyst is seen as the arbiter of justice, the healer who purges the body of contaminants, the savior who restores the integrity of the subject.

By using the language of “the law of another generation” with regard to the heterogeneity grounding Abraham and Torok’s theories of the crypt and the phantom, Derrida shifts the authority from the analyst, indeed from the living, to the uncanny returns of the phantom, whose ambiguous status with regard to life and death, self and other, foreign and familiar, undermines the reassuring categories that scaffold human experience. As for Abraham and Torok and Freud and Breuer, for Derrida, this is nothing less than a question of justice. Although this register is implicit in “Fors” and “Me – Psychoanalysis,” the theme of justice is foregrounded in *Specters of Marx*, where Derrida deconstructs both the figure of the phantom and the conventional understanding of inheritance. “If I am getting ready to speak at length about phantoms, inheritance, and generations, generations of phantoms, which is to say about certain *others* who are not present, nor presently living, either to us, in us, or outside us,” Derrida prefaces, “it is in the name of justice” (S xviii).123 “Of justice,” he continues

where it is not yet, not yet *there*, where it is no longer, let us understand where it is no longer *present*, and where it will never be, no more than the law, reducible to laws or rights. It is necessary to speak of the phantom, indeed to the phantom and with it, from the moment that no ethics, no politics, whether revolutionary of not, seems possible and thinkable and *just* that does not recognize in its principle the respect for those others who are no longer or for those others who are not yet *there*, presently living, whether they are already dead or not yet born. No justice – let us not say no law and once again we are not speaking here of laws – seems possible or thinkable without the principle of some *responsibility*, beyond all living present, within that which disjoins the living present, before the phantoms of those who are not yet born or who are already dead. (S 15/xviii)

123 In order to attend to the linguistic specificity of *fantôme* as it appears in the texts of Abraham, Torok, and Derrida, I have modified Peggy Kamuf’s translation of “ghost” to “phantom” throughout *Specters of Marx*. 
As Derrida elaborates it here, justice is not punitive, retributive, or restorative; it is not a matter of restoring the haunted subject and/or “their” speech, nor is it a question of purging the psyche of phantoms that would contaminate or damage it. Derrida does not advocate attaining power or mastery over the phantom or indicting it for some crime or wrongdoing. Similarly, this justice is not reducible to “rights” or “laws,” in the abstract or in their current political instantiations. For Derrida, justice appears impossible and *unthinkable* without “the principle of some responsibility” before phantoms. *In the plural.* Whereas for Abraham and Torok, there is a phantom haunting the psyche of certain “unhappy” patients, for Derrida, the phantoms are “*plus d’un,*” “more than one,” but also “no more one” (S 18/xx). “It is necessary [Il faut],” Derrida writes in the imperative form, “to speak *of* the phantom, indeed *to the* phantom and *with* it” (S 15/xviii). Rather than “curing” the subject of the phantom that haunts from the crypt of another generation, Derrida advocates a certain “being-with specters”: “to learn to live with phantoms, in the upkeep, the conversation, the company or the companionship, in the commerce without commerce of phantoms” would be to “live otherwise” and “more justly” (S 15/xvii-xviii).

For Derrida, “being-with specters would also be, not only but also, a *politics* of memory, of inheritance, and of generations” (S 15/xviii). While not reducible to one another, the phantom and trans-generational inheritance are nonetheless inseparable for Derrida. And in treating inheritance in *Specters,* Derrida utilizes the same language that he uses in “*Fors*” to describe the motivating force of Abraham’s work – the language of heterogeneity. “Let us consider first of all,” he writes, “the radical and necessary *heterogeneity* of an inheritance, the difference without opposition that has to mark it” such that an inheritance “is never gathered together” or “one with itself” (S 40/18). Inheritance, the law of another generation, the crypt, and the phantom are all
marked by a radical and necessary heterogeneity or alterity that disrupts the unity of any subject.

The “presumed unity” of an inheritance, “if there is one,” Derrida observes,

> can consist only in the injunction to reaffirm by choosing. “One must [Il faut]” means one must filter, sift, criticize, one must sort out several different possibles that inhabit the same injunction. And inhabit it in a contradictory fashion around a secret. If the readability of a legacy were given, natural, transparent, univocal, if it did not call for and at the same time defy interpretation, we would never have anything to inherit from it. We would be affected by it as a cause – natural or genetic. One always inherits from a secret – which says “read me, will you ever be able to do so?” (S 40/18)

The heterogeneity in which inheritance consists is therefore not simply an abstract form of alterity; it is a fundamentally “disparate” multiplicity of influences that cannot be unified except insofar as one must “choose and decide from among what you inherit” (S 40/18). For Derrida, an analysis of the phantom is misguided if, by “analysis,” one means that which Abraham and Torok often seem to indicate in their texts, that is, the identification of one, unified phantom whose effects on the subject are evident, univocal, and eradicable. Instead, Derrida advocates “learning to live with phantoms” by interpreting and choosing between fundamentally untranslatable and indeterminate influences (S 15/xvii-xviii). Nonetheless, responsibility before phantoms is not necessarily benevolence or a relation of good will. Derrida harbors no illusions regarding the consequences of the decisions inheritance demands of subsequent generations:

> we intend to understand spirits in the plural and in the sense of specters, of untimely specters that one must not chase away but sort out, critique, keep close by, and allow to come back. And of course, we must never hide from the fact that the principle of selectivity which will have to guide and hierarchize among the “spirits” will fatally exclude in its turn. It will even annihilate, by watching (over) its ancestors rather than (over) certain others. At this moment rather than at some other moment. By forgetfulness (guilty or innocent, it little matters here), by foreclosure or murder, this watch will engender new phantoms. It will do so by choosing already among the phantoms, its own from among its own, thus by killing the dead: law of finitude, law of decision and responsibility for finite existences, the only living-mortals for whom a decision, a choice, a responsibility has meaning and a meaning that will have to pass through the ordeal of the undecidable.” (S 144/109)
As this passage makes clear, responsibility before phantoms is not a matter of safety or security. Any choice among several is always at the same time an exclusion, which means that the responsible decision does not exorcise the phantom – to the contrary, it is the responsible decision that perpetuates phantoms. And yet, this is the task. “Inheritance is never a given,” Derrida quips, “it is always a task” (S/67). Indeed, Derrida insists, one must inherit; it is imperative that the subject engage in this task of selective translation that effects or performs one-ness. Still, Derrida maintains that this injunction “can only be one by dividing itself, tearing itself apart, differing/deferring [différant] itself, by speaking at the same time several times – and in several voices” (S/40/18). This claim could be further translated: the injunction to reaffirm by choosing, to inherit one-ness as a task, is to engage in the work of anasemic translation. Rather than a restoration of the subject, who would terminate analysis healed, whole, innocent, indemnified or unscathed, however, Derrida describes a haunted subject who interminably executes one-ness in communion with phantoms.

Like Abraham before him, in Specters of Marx, Derrida re-reads Hamlet as a paradigmatic text concerning phantoms, inheritance, and generations. And just as Abraham presents an unorthodox interpretation of the play in “The Phantom of Hamlet or The Sixth Act preceded by The Intermission of ‘Truth’,” Derrida reads the play as a staging of inheritance as both misfortune and promise. Derrida’s interpretation centers around lines from the first act, in which Hamlet, Horatio, and Marcellus swear to the Ghost of King Hamlet that they will not speak of his appearance. As they exit the scene, Hamlet laments that “[t]he time is out of joint: Oh cursed spight, / That ever I was borne to set it right” (S/19/1). Commenting on the differing translations and definitions of the phrase “the time is out of joint,” Derrida notes that the OED gives it “as an example of an ethico-political inflection” (S/44/22). “The perversion of that
which, out of joint, does not work well, does not walk straight, or goes askew,” he writes, “can easily be seen to oppose itself as does the oblique, twisted, wrong, and crooked to the good direction of that which goes right, straight, to the spirit of that which orients or founds the law [le droit]” (S 44-45/23) Derrida understands this to be at the heart of Hamlet’s lament. “He curses the destiny that would precisely have destined him, Hamlet, to do justice,” Derrida explains, and he continues, “to put things back in order, to put history, the world, the age, the time upright, on the right path [à l’endroit], so that, in conformity with the rule of its correct functioning, it advances straight ahead [tout droit] – and following the law [et suivant le droit].” On Derrida’s telling, what is so compelling about Hamlet’s lament is that it attests to a fundamental and irreducible disjunction (one could also say heterogeneity) borne out in time, identity, and justice. According to Derrida, Hamlet

swears against a destiny that leads him to do justice for a fault, a fault of time and of the times, by rectifying an address, by making of rectitude and right (“to set it right”) a movement of correction, reparation, restitution, vengeance, revenge, punishment. He swears against this misfortune, and this misfortune is unending [sans fond] because it is nothing other than himself, Hamlet. Hamlet is “out of joint” because he curses his own mission, the punishment that consists in having to punish, avenge, exercise justice and right [la justice et le droit] in the form of reprisals; and what he curses in his mission is this expiation of expiation itself; it is first of all that it is inborn in him, given by his birth, as much as at his birth. […] Hamlet curses the destiny that would have destined him to be the man of right [l’homme du droit], precisely [justement], as if he were cursing the right or the law itself [le droit même] that has made of him a righter of wrongs, the one who, like the right, can only come after the crime, or simply after: that is, in a necessarily second generation, originally late and therefore destined to inherit. One never inherits without coming to terms with [s’expliquer avec] some specter, and therefore with more than one specter. (S 45-46/23-24)

What Hamlet laments or curses is, on Derrida’s interpretation, having to be the one (and indeed, what is at issue here is a matter of identity – the misfortune “is nothing other than himself [lui-même], Hamlet”) who inherits both the injunction to make right and the prevailing modes of rectitude: vengeance, punishment, recompense, expiation, etc. Moreover, what must be made
right is an *inherited wrong*, what Derrida refers to as the “properly spectral anteriority of the crime – the crime of the other, a misdeed whose event and reality, whose truth can never *present themselves* in flesh and blood, but can only allow themselves to be presumed, reconstructed, fantasized” (S 46/24).^{124}

Derrida returns to the idea of an originary guilt in the second volume of The Death Penalty seminar, through readings of Theodore Reik’s *The Compulsion to Confess*. Reik argues against the commonsense idea that guilt arises as a consequence of having committed a crime or a wrongdoing; on his view, crime is rather a reaction to or a manifestation of an archaic, unconscious form of guilt.^{125} What seems to be at issue in Derrida’s reading of Reik, when considered against the backdrop of Derrida’s long-term engagement with Freud, Abraham and Torok, and through them, Ferenczi, is the sense that there is something “in me” that should not be there, a foreign body at the heart of the “me,” that “I” am ultimately “out of joint,” not “myself,” twisted, *wrong*; and that, further, this heterogeneity must be contained (*étanche*) and/or purged (*épanche*) – rectified. If there is a crypt or a phantom within psychoanalysis, it is, at least in part, this disavowal and castigation of the kernel of heterogeneity that exceeds “me” and yet makes “me” possible, haunted as “I” am by the others who live on, anachronistically, in and through “me.” In the first session of the seminar, Derrida writes that

> things are all the more complicated, unsettling, disconcerting, difficult to grasp given that the multiplicity of ages, our ages, of the heterogenous ages that divide up our lives as mortals, and divide them up simultaneously (synchronically we have more than one age), this disynchrony or essential anachrony that divides us, multiplies us, splits us, devours us

^{124} It would be necessary to read this interpretative claim alongside Abraham’s preface to “The Phantom of Hamlet,” where he writes that “[r]educing the ‘phantom’ entails reducing the sin attached to someone else’s secret and stating it in acceptable terms so as to defy, circumvent, or domesticate the phantom’s (and our) resistances, its (and our) refusals, gaining acceptance for a higher degree of ‘truth’” (SK 450/189).

^{125} See Theodore Reik, *The Compulsion to Confess* (Toronto: Ambassador Books, Inc., 1959) x-xii. Although it is not within the scope of this chapter, I would suggest that Reik is a foil for Abraham in this volume of the seminar, and that what Derrida considers here in reference to Reik also applies to the work of Abraham and Torok, but in a more explicitly “socio-political” context.
while leaving remains, leads us to death while leaving vast zones of youthfulness or even embryonic and not yet “born” virtualities intact in us, [things are all the more complicated, unsettling, disconcerting, difficult to grasp given that the multiplicity of ages, our ages] is not only the ontogenic multiplicity of ages of an individual, of a conscious or unconscious subject, or even a conscious or unconscious ego [moi]; it is not only the multiplicity of ages of each of the agencies of the psychical economy or system (the id, if you like, the ego, the superego, the ego ideal, the ideal ego, etc., and we could multiply these agencies) but also the irreducible multiplicity, in each of us, of the ages of humanity, of anthropological culture, indeed of the ages of (human or animal) life in general. […] There is in us simultaneously, in our conscious and our unconscious, something of the old man and of the child but also of the man of the twenty-first century, of the fifth century BCE, of Cro-Magnon man and the Neanderthal, of the great ape, the tiger, and the squirrel. Who are you? (DP2 32-33/12-13)

Who am I, indeed? Who is it that cries, laughs, or blushes, and what do they mean to say in these languages of the body? Whose bodies come forth through “me” by way of these expressions? What sense can be made of such questions, other than the acknowledgment of a vast and often traumatic inheritance, not-quite-thinkable and eternally ciphered? A specifically Derridean transgenerational psychoanalysis of the body would harbor no illusions as to the translatability of the body’s languages, since what the body veut dire, what it means or wants to say, could never be articulated as such. And yet, such a thinking would still acknowledge the impact of inheritance on every human expression, be it tears, laughter, or executing a death sentence. How to think the unthinkable, without reducing it to the realm of knowledge and judgement? “Sense me – sans me”: arrested at the edge of this unfathomable, phylogenetic crypt, and continuing to translate without cease, as one must, Derrida places la petite pierre blanc d’un scrupule.
Fourth Crossing. “Victor Hugo, Juan Donoso Cortés, and the Conception of Blood”

In the beginning was the word [logos], and the word [logos] was with God, and the word [logos] was God. (John 1:1)
And the word [logos] became flesh and dwelt among us. (John 1:14)

“How to conceive, how to conceive of it, the relation between the concept and blood?” (DP2 214/287). Derrida poses this question at the start of the penultimate session of The Death Penalty seminar’s second year. “How to conceive of blood?” he queries. “Can blood be conceived? And how might a concept bleed, how might it, this concept, lead to an effusion [épanchement] of blood?” He is, of course, playing on the dual sense of “to conceive,” which, in French and English alike (owing to their common Latin origin), can mean both “to form an idea in the mind” as well as “to become pregnant.” In posing this question, Derrida links the concept and conception – the philosophical tradition and inheritance in general – with the history of blood that he began analyzing in the first year of the seminar. Recalling his 1974 text Glas, Derrida remarks parenthetically that

[a] first philosophical and Hegelian, dialectical response to the question of the relations between the concept and blood is that the concept, well, the concept is the end of blood, in the double sense of the word end, the concept is at once in a single stroke, the term that puts an end to blood and the telos of blood spiritualized. I would even say that the concept is consummate or consumed [consommé] blood, namely blood fulfilled, completed, refined, sublimated, and blood drunk, interiorized in the Eucharist, like the body of the one condemned to death, like the body of Christ, and in remembrance of him, as he enjoins: “This is my body, hoc est meum corpus, keep it in remembrance of me,” he says holding out the bread and the wine, that is, his blood to his disciples. Staunch me, this is what I give [donne] you or command [ordonne] you to do in asking you, in asking you to keep it, my blood. (DP2 288-9/215) ¹²⁶

For Derrida, the dual sense of conception is figured in an exemplary manner in Hegel’s interpretation of the crucifixion, since, for Hegel, “the blood of a man condemned to death” is

considered to be “an essential moment of the concept” (DP2 288/215). “[W]e have to conclude,” Derrida explains, “since Hegel, that the blood that Christ lost on the cross, he didn’t lose, it wasn’t lost. The concept, the history of spirit, the history of truth or the history of God, will in a certain way have staunched its flow.” “The absolute concept,” he continues, “will have staunched the blood by giving it meaning.” “Meaning,” he summarizes, “is what staunches blood [Le sens est ce qui étanche le sang].” And “to remain very close to this this history of blood as history of conception of the concept,” Derrida reminds his listeners that “the blood shed or staunched is not only that of violent death, of death sentences, from the crucifixion to the guillotine; it is also that of birth, of filiation, of lineage” (DP2 290/216). “One inherits from one’s parents,” Derrida elaborates, “and in the Jewish tradition, one inherits from one’s mother by blood.” This means that “the blood of Christ was also the blood of his mother, and the concept is still there in the dogmatic figure of Mary’s Immaculate Conception, both of Mary’s birth by immaculate conception and of Mary’s virginity at the birth of Jesus.” The connection between the blood of lineage, and specifically the Jewish lineage in which one inherits from one’s mother, and the doctrine of “Immaculate Conception” leads Derrida to the relationship between the conception of blood and castigare, to reprove or chastise, to punish in order “to restore the purity of a castitas, a virginity.” Derrida’s treatment of blood here and its relation to both “conception” in the sense of both a philosophical concept and lineage more broadly, ultimately brings him back to the ways in which blood purifies, expiates, or indemnifies through its effusion or staunching, depending on the context. This paradigm sets up a return to sacrificial blood in the Christian tradition as Derrida concludes the seminar in the subsequent session.

“[T]he question of the death penalty remains, in every sense and in the depths of the very enigma of these two words, a sacrificial logic” (DP2 320-1/240). Derrida deems this
“undeniable”; so much so that, in the final session of his seminar, he turns to a conservative, counter-revolutionary figure who devotes an entire chapter of his *Essays on Catholicism, Liberalism and Socialism* to “bloody sacrifices” and the death penalty. Derrida introduces Cortés as “a great essayist, an extreme right-wing, Spanish, Catholic ideologue of the last century” (that is, of the nineteenth century) (DP2 327/246). Cortés was a major influence for Carl Schmitt, who often cites Cortés’ writings on sovereignty and his defense of dictatorship. Recalling Schmitt’s well-known claim that all modern political concepts are secularized theological concepts, Derrida underscores Schmitt’s attention to these concepts’ “systematic structure.” According to Schmitt, as Derrida reads him, “one must show, not as a historian but as a systematic logician, the link, the systemic connection between all of these concepts, their systematic inseparability” (DP2 331/249). And it is Cortés, Derrida contends, “who turns Catholic thought into the only absolutely systemic, systematic thought.”

On Derrida’s reading, the *Essays* begin with a claim regarding what was then the current political opposition, that of socialism and Catholicism. This difference between socialism and Catholicism is not, for Cortés, “the difference between two theories, between two systems or between two philosophies or visions of the world”; it is rather “the difference between an incoherence and a coherence” (DP2 338/254). On Cortés’ assessment, “[s]ocialism is not coherent.” Catholicism, by contrast, “is the only great synthesis […] where all things enter into” what Cortés calls “sovereign harmony.” “Catholicism is,” in the end, “irrefutable,” Cortés alleges, because it alone achieves a sovereign harmony “whose interconnections are so perfect that it is impossible to dissociate one element from the other.” Cortés’ text is thus exemplary in that it brings together a certain logical or systematic unity with the attributes of sovereignty. For

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him, the “Catholic word” is “invincible” and “eternal,” and in this lies its “sovereign virtue.”

Derrida quotes from the Spanish: *la palabra católica invencible.* The word, *la palabra,* or to put it otherwise, the *logos* in its Cortésian-Catholic incarnation is invincible in its power to subsume everything, “such that if one wanted to deny something, if one wanted to contest one point of Catholicism, a particular Catholic thesis, everything would be swept away with this negation.”

“You cannot refute one part without refuting the whole,” Derrida explains Cortés’ reasoning, “and you cannot refute the whole without refuting yourself.” Ultimately, Derrida concludes Cortés’ line of reasoning, “one cannot possibly oppose Catholicism.” Sovereignty’s virtue, its excellence or function, lies in its power to bind elements into a coherent whole with no extraneous or unnecessary parts, a totality without remainder. The *logos* leaves out nothing and provides a complete account.

Indeed, Catholicism is able to account for all of human nature and history through the doctrine of Cain and Abel. Derrida reads Cortés’s recounting of this story in detail. According to Derrida, Cortés takes Abel’s inaugural offering to be the only one “which could then be acceptable to God,” since the bloody sacrifice of the lamb prefigures the crucifixion (DP 345/259). Abel’s first bloody sacrifice is thus a “commemorative and symbolic” one, which synthesizes “all the Catholic dogmas” into a single figure (DP 346/259). This synthesis creates a *mise en abyme* of condensation: Catholicism, “which explains and includes all things,” is itself contained and explained in the doctrine of Abel’s first sacrifice. Through what Cortés refers to as “a miracle of condensation,” this sacrificial narrative also contains the doctrine of original sin. Derrida underscores Cortés’ insistence on the “double dogma” of “imputation and substitution”: through the prevarication of Adam, the human race inherits guilt, and through the process of substitution, that guilt can be remitted (DP 340/255). It is in an effort to pay for the debt he has
inherited from his father and thereby appease God that Abel sacrifices the lamb. The story thus reveals man’s true nature as a sinner in need of expiation. “[T]he sins of some may draw down the wrath of God upon the head of everyone,” Derrida explains, so “deliverance from punishment and sin may be obtained by a victim offered as a holocaust.” Cortés purports to find “signs” of this “general law of imputation and substitution” among all peoples, attesting to “the universality of Catholicism,” which, as Derrida remarks, here incorporates foreign cultures within its dominion “in order to explain that sin is transgenerational, that children are guilty of the sins of their parents and have to pay or be redeemed for the sins of their parents.” The expiation of transgenerational fault through an offering of blood is, on this account, both a Catholic dogma and a natural law that, by virtue of its universality, encompasses even those who do not ascribe to the Catholic faith. What makes the sovereign harmony of the Catholic word so invincible and irrefutable for Cortés is its “infinite power [puissance] of expansion and condensation” (DP2 346/260). Catholicism can expand to encompass all peoples, past and present; yet it can also be condensed into a single doctrine, that of Abel’s first bloody sacrifice.

Not only does Catholicism enshrine the sacrificial expiation of transgenerational sin in divine and natural law, however; Catholicism also explains, makes sense of, or accounts for this institution through the rivalry between Cain the farmer and Abel the shepherd. Derrida remarks with comic flair on a “stupefying” feature of this well-known story: God favors Abel’s “bloody offering,” the lamb, over Cain’s “organic,” locally-sourced vegetables (DP2 341-2/257). On Derrida’s interpretation of Cortés, “everything begins” with the chiasm of Cain and Abel: Cain, who is unwilling to put the animal to death, commits fratricide, while Abel, who is unwilling to harm his brother in self-defense, slaughters an innocent lamb (DP2 342/257). Cortés takes this to attest to the necessity of shedding blood in the expiatory offering. “This is what matters to
him,” Derrida observes, “and in any case, what counts for Cortés, is that on both sides, Cain and Abel, blood must be shed. Abel by making an offering to God, Cain by killing his brother. And thus, at the very least, both sacrifices or the same sacrifice in two phases presuppose the institution of the bloody, of sacrifice as bloody sacrifice.” Even more important, though, is the implication that, because Abel’s offering confers upon him God’s favor whereas Cain’s fratricide incurs punishment, this shed blood means something. “[O]nce it is shed, here as purification, there as crime, it makes sense [il a du sens]” (DP2 343/258). Derrida remarks on the logic of Cortés’s reading of Cain and Abel:

Blood makes sense. Sacrifice makes sense. It produces sense. [Le sang a du sens. Le sacrifice a du sens. Il produit du sens.] This means that blood is never shed in vain. It makes sense: this means that it is purifying or corrupting, purification or stain and, in both cases, the bloody sacrifice produces sense and is therefore not in vain. Hence, the origin of sense [sens] is bloody sacrifice. (DP2 343/258)

For Cortés, as Derrida reads him, “the effusion of blood is necessary, and this is absolutely undeniable” (DP2 344/258). On Cortés’s telling, blood is the very thing that makes sense, and quite literally, le sang a du sens. Blood has some meaning; it allows us to perceive distinctions: this blood here is good blood, that blood there is bad blood. In this sense, the concept is inaugurated in blood. According to this logic, bloody sacrifice is necessary and undeniable, because it is what brings about meaning in the world through the discernment of differences between seemingly identical phenomena and values those differences according to a religio-moral code. All effusions of blood are thus reabsorbed in this conceptualization of the world. There is, therefore, no gratuitous bloodshed – blood is shed, alas, but it has meaning. There is a reason for it, there is reason, in fact, and right (avoir raison, as the French say), because blood was shed. The effusion of blood (épancher) is always already its staunching conceived (étancher).
The idea that “blood makes sense” is, according to Cortés, a “general belief” accredited “by the legislation of all nations, whereby he who takes the life of another is always and everywhere condemned to lose his own” (DP2 344/258). For him, the purportedly universal implementation of a death sentence for murder justifies capital punishment as an institution backed by natural law. Put differently, Cortés takes the ubiquity of capital punishment throughout history and across peoples to indicate that the laws of nature demand bloodshed in the form of a death penalty: the death penalty, understood as bloody sacrifice, “confirms that this instituted law [the death penalty], as law, is in fact natural law” (DP2 344/259) As Derrida reads Cortés, “blood is the element of the natural resource of the institution, of the artificial.” “Where within the nature of man is the artificial, the institutional, the historical inscribed?” Derrida asks rhetorically. “Blood. In blood.” Following this logic, one could say that blood is the vital source of human artifice. It inscribes the artificial, the institutional, and the historical in the natural. “It is blood that nourishes the institution of nature,” Derrida explains, “it is through blood that the incarnation, as it were, of law, of culture, of everything that is artifice, of technology, passes: incarnation means blood.” Blood institutionalizes nature, makes it possible for nature to incarnate law, culture, technology, etc.; blood fuses all that man is said to possess “by nature.” On this view, civilization has always survived on blood transfusion. This means, for Derrida, that “the Catholic dogmas, in the end, are not essentially evangelical: they are primarily paleo-testamentary” (DP2 346/259). In a certain sense, then, what Derrida finds in this reading of Cortés, among other things, is the idea that, when treated as a bloody sacrifice, the death penalty stands as both a testament to the inscription of human history in human nature and the means through which this inscription occurs. The Catholic dogmas, in other words, tell a story about human inheritance.
The idea that natural law is grounded in capital punishment leads Cortés to defend the institution as that which secures civilized society, law and order, politics, and the state. Derrida deems this a “very powerful logic,” and one that runs “from Kant to Cortés” and beyond (DP2 348/262). It says that “the elimination of the death penalty is the elimination of law itself”; it is “the end of law, the end of the political, the end of the state” (DP2 349/262). Because Cortés understands the death penalty as a bloody sacrifice that grounds human institutions in natural law, abolition would essentially uproot the political body from its foundation, its source, and its ultimate justification in nature as divine creation; putting an end to the death penalty would throw humanity into a dangerously unnatural, unheimlich state, crueler than even the state of nature. Staunching the flow of blood effectively cuts civilization off from its life force, resulting in mass, uncontrolled violence and death. By “suppressing the death penalty,” Derrida explains, “one causes a juridical and political catastrophe.” It is for this reason that Cortés attributes the June Days Uprising of 1848 to the Constituent Assembly’s abolitionist decree and warns that “blood will again flow abundantly” if France does not reinstitute capital punishment for political crimes (DP2 350/263). Derrida calls this “strange logic” nothing other than “an economy of bloody sacrifice, an economy of blood in sacrifice,” since it implies that the state must practice “a controlled form of bloody sacrifice,” namely, the death penalty, in order to “spare greater effusions of blood [translation modified].” According to this logic, Cortés understands the bloody violence in June of 1848 to be a result of limiting the death penalty’s scope during the Second Republic. As Derrida puts it, taking on the role of Cortés, “if you abolish the death penalty and bloody sacrifice, there will be such disorder that blood will flow, that blood will flow all the more. In an excessive, catastrophic way.”
And yet, Derrida queries, “what happens when one puts to death without shedding blood?” (DP2 348/261). When one considers the history of blood as a history of the bloodless, a history in which the prevailing modes of execution no longer privilege a bloody épanchement, but rather an étanchement or staunching of this flow, what then becomes of the sacrificial logic Cortés articulates in his interpretation of Catholicism? “Is blood in fact a metaphor,” Derrida asks, and “is it always shed even when one moves to the electric chair or lethal injection, or does one escape this logic from the moment that one loses the visibility of literal blood, the visible literality of blood?” Since, for Cortés, the flow of blood is reabsorbed into a totalizing Catholic dogma that accounts for human practices as universal, natural laws, created by a divine logos, Cortésian bloody sacrifice is in fact already a manifestation of the history of blood as a history of the bloodless. Because “le sang a du sens,” blood has or makes sense, the effusion of blood is always already the pouring out of its other, of something other than itself, namely its staunching in the concept. The fact that bloody sacrifice is significant, that it has or makes some meaning, implies that, from the very beginning, the history of blood has always already been a history of the bloodless. What is at issue here, then, is less a matter of blood, its effusion or its staunching, the blood that flows from a scene of execution or in the streets of a revolution, and more a matter of mitigating the eruption of heterogeneity within the political body. The economy of bloody sacrifice that Derrida identifies within Cortés’ reasoning consists in a regular practice of state-sanctioned violence as a means of controlling other, random instances of violence. Cortés compounds this paradigm, however, when he centers the doctrines of original sin and imputation and substitution condensed in the biblical account of Cain and Abel. Evidently, what is at stake for Cortés also concerns the wrongs inherited from prior generations. Because inheritance is indeterminate and its effects are unforeseeable – because, in other words, no complete account is
possible with regard to what we inherit – the threat of intergenerational inheritance is nothing short of existential. Inheritance resists the *logos* and, in so doing, compromises the expansive, totalizing power of Catholicism. The function of the death penalty, then, is to reinforce the sovereign coherence of the Catholic word. The strength of Cortés’s logic consists in logic itself: the power of the *logos* to encompass, identify, value, and master the diversity, unpredictability, and force behind generations of danger, violence, suffering, and all the reactive adaptations that made possible the survival of the human species. According to this reasoning, the faults of previous generations haunt subsequent generations and must be expiated through a sacrificial offering that restores a *castitas* or a purity, an uncontaminated whole. Thus, Derrida concludes that, “[i]n both cases” the bloody and the bloodless, “in both ways of treating blood,” *étancher* and *épancher*,

we are dealing with a drive to purify, to indemnify, to secure against harm, to immunize. Where chastisement is destined to *castigare*, to make chaste, virginal, to restore a *castitas*, a virginity, the ambiguity of blood plays a decisive role. One can purify both by causing blood to flow and by preventing it from flowing, in the effusion as well as in the staunching, so to speak. (DP2 295/221)

This is evident in Cortés’s proponent discourse. By interpreting the death penalty as a sacrificial practice, Cortés defends its continued application as necessary to maintain the integrity of the Catholic state. Cortés’s logic is, as Derrida remarks, undeniably sacrificial in its attempt to shore up the body politic through a controlled purging of the heterogeneity that, according to the law of another generation, both threatens it and makes it possible.

This drive to circumscribe and purge a constitutive heterogeneity, to leverage a fundamental insecurity in the interest of group identity, to purify a legacy from undesirable or contaminating elements is as operative in the abolitionist discourse as it is in proponent discourses such as that of Cortés; however, when the object is to bring an end to the death
penalty and to staunch the flow of blood, the logic of sacrifice becomes more obscure. It is perhaps for this reason that Derrida allots significant time and attention to the political writings of Victor Hugo in the first year of the seminar. Hugo, who in an address the provisional government of the Second Republic, famously demanded the “pure, simple, and definitive abolition of the death penalty,” translates the figure of blood beginning with his early novel, Last Day of a Condemned Man (DP1 147/97). Derrida attends closely to Hugo’s descriptions of the guillotine’s 1832 relocation from the Place de la Grève (at the Place de l’Hôtel de Ville) to the Saint Jacques gate. As Derrida explains in the seminar, Hugo takes this move to be an indication that “the machine was doing its job badly, that one was hiding it by exiling it and that one day or other, it is as if it itself would have to be en grève, ‘on strike’” (DP1 283/205). Hugo further personifies the guillotine as a “toothless old prostitute who dismisses her pimp the bourreau,” or executioner, by moving away from this prime location in central Paris to the city’s outer periphery (DP1 295/215). Derrida notes Hugo’s insistence on the feminine nature of the machine, which Hugo refers to as la buveuse de sang, translated elegantly as “blood swiller” – essentially a female lush intoxicated with blood rather than alcohol (DP1 284/206). The aged buveuse de sang has lost all her teeth, and since “[s]he can no longer eat, she drinks.” Derrida finds this characterization important and analyses it in detail:

The expression “blood swiller” [buveuse de sang] deserves, it seems to me, a moment’s pause. It means, of course, that she makes blood flow, that she demands and consumes blood, she is bloodthirsty and bloody and blood red, butcher red, like her wooden uprights. But since she swills blood, she is also a blotter [buvard] that makes blood disappear. She absorbs blood, she assimilates it and does not splatter, hence the progress people credit her with: she causes blood to flow, to be sure, but she economizes on it by drinking it, by making it disappear right away into herself, by swallowing it, by gulping it down, by no longer letting it appear so much on the outside, by minimizing it, by reducing it, by sparing it. She is hemophilic, but so hemophilic that she keeps the blood for herself, she keeps it to herself. She economizes blood. She manages to do this all by herself. Which allows her to repudiate the executioner. (DP1 284-5/206)
In Hugo’s characterization of the guillotine as *la buveuse de sang*, Derrida thus discerns a paradigmatic account of the history of blood as a history of the bloodless. The *buveuse de sang* ab-senses blood, assimilates it, makes its absence sensible by incorporating it and turning it into its other – an abolitionist repudiation of the *bourreau*.

Derrida finds this same logic at work in “Literature and Philosophy Combined,” a text written two years after the preface to *Last Day of a Condemned Man* and following it in Hugo’s collected *Écrits sur la peine de mort*. Here, Derrida follows Hugo’s use of what Derrida calls a “hemato-medico-surgical metaphor” (DP1 280/202). Challenging an argument in support of the Terror that compares the guillotine to “a surgeon’s scalpel” performing a necessary social “amputation,” Hugo substitutes for the surgeon what Derrida calls “the doctor of internal medicine.” Rather than its effusion, Hugo proposes “the purification of blood.” And yet, Derrida hears in this “slow and gradual purification of blood” a “spiritualizing, interiorizing, sublating, redeeming, and fundamentally Christian economy” (DP1 280/203). This Christian *Aufhebung* is exemplified in the preface to *Last Day of a Condemned Man*, where Hugo analyses the implications of the guillotine’s move away from the heart of Paris as a substitutive process advancing civilized progress. For Hugo, “what moves away from the Place de la Grève” along with the guillotine “is also the old society” represented by three pillars or columns, “the priest, the king, and the executioner” (DP1 286/207). On Derrida’s assessment, however,

the distancing of the priest does not mean the disappearance of God or Christ any more than the disappearance of the king or the father means the disappearance of the fatherland. As for the disappearance of the executioner, well, even though things and the substitution are more enigmatic here, as you are going to hear, it does not signal the disappearance of order. 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]. There is what leaves, moves away, disappears (the guillotine, the death machine, and the columns of the old social order, the priest, the king, the executioner), but there is what remains and replaces or relieves, advantageously, what is lost. (DP1 286/207-8)
There is thus a substitution that replaces the priest with another, purportedly more enlightened form of Christianity, the king with a nationalist claim to the fatherland, and the executioner with a liberal political order. Importantly for Derrida, however, the first of each item in the series is effaced in the substitution of the second item. Thus, the executioner, the king, and the priest “[do] not count” insofar as each is replaced by order, the fatherland, and a certain evangelical Christianity; each is, nevertheless, maintained in and through its sublation. “What counts,” Derrida discerns, “is the remainder, what remains.” What counts is therefore what remains of each of the first terms in the series; with respect to the executioner, it is order that remains, order that is present, perceptible, counted and accounted for, while the executioner recedes from the horizon, ab-senses, becoming imperceptible. Still, and this is Derrida’s concern, something of each (the priest, the king, and the executioner) lives on in its heir (Enlightenment interpretations of Christianity, the fatherland, and a liberal political order).

Derrida attends closely to how what remains of the priest, the king, and the executioner are economized in the Enlightenment-inspired Christian patriotism of Hugo’s 1848 address to the Constituent Assembly. While Hugo “applauds a conditional abolition,” Derrida emphasizes that Hugo nonetheless “calls for an unconditional abolition in the double name of the divine law of Christ and of what he calls the ‘almightiness of logic’” (DP1 263/188). Hugo attributes ultimate responsibility for the provisional government’s decree to the “sovereign voice” of the people, under whose “single cry” of “Clemency!” progress immediately rises (DP1 261/187). This progress is personified in the figure of the resurrected Christ, ascending and unifying the revolutionary masses under divine law. Hugo thus identifies abolitionism with the telos of divine reason, leading him to conclude that “the abolition of capital punishment in political matters must bring about and will necessarily bring about, by the almightiness of logic, the pure
and simple abolition of the death penalty!” (DP1 263/188-9). Derrida remarks that “this is the philosophical logic, philosophy, ideas, etc., Aufklärung, Enlightenment, and then Christ” (DP1 262/187). For Derrida, Hugo’s speech represents “the teleo-theological reconciliation of the Enlightenment of reason or natural law with Christianity” (DP1 260/186). “Implacably,” Hugo’s rhetoric assures, the abolition of the death penalty “will take however long it takes, but reason will impose it.” According to Hugo, as Derrida interprets him, “[n]o proponent of the death penalty can be in agreement with himself logically, can be in agreement with logic” (DP1 263/188). Derrida understands Hugo to suggest that “[t]here is no logic of the death penalty,” and that, therefore, “the almightiness of logic will end up triumphing.”

While it “is not directly the revolution of Christ,” Derrida admits, “it is logic, an irresistible movement of reason, of logos” (DP1 263/188). “In fact,” he contends, “what is almighty in the last instance is logic.” The priest, the king, and the executioner, move away; but there is what remains: reason, common interest, natural and divine law of the logos – that which in fact grounds Cortés’ proponent discourse. Cortés finds the passion of Christ condensed in the story of Abel’s first bloody sacrifice, citing the latter as evidence that only blood can expunge original sin. Accordingly, Abel’s sacrifice, as a symbol of the crucifixion, is meant to show that the death penalty allows mankind to pay this debt in the most economical manner. The death penalty is worth its cost in blood since it promises a future surplus in liquid assets. What’s more, the systematic structuring of Catholic dogmas around “bloody sacrifice” means to secure this investment by speculating on an all-encompassing account that effects the force of necessity. The death penalty is thus the guarantor of civilization’s trust fund. The need to accredit the death penalty in this way, however, betrays a risk: Cortés’ defense of bloody sacrifices hedges the very blood it means to secure, yielding an unexpected bloodless re-turn in blood. The Enlightenment
rationality represented in Hugo’s Christian rhetoric pulses with a force of reason that makes sense of blood by taking it in. Hugo thus maintains and reinforces, indeed ups-the-ante on, Cortés’ fundamentally Christian logic though a political liberalism committed to abolishing the death penalty. For Hugo, the death penalty culminates in the passion of Christ, which washes away the sins of mankind, purifying from the “inside” without the shedding blood on the “outside.” Blood is thus taken in, transubstantiated, thereafter only circulating as its other—the bloodless, the humane, the civilizing light of reason that invests the death penalty’s futures.

Hugo’s abolitionist rhetoric, in other words, banks on what Cortés’s proponent discourse left implicit by explicitly thematizing the conception of blood. Blood is, for Hugo, a metaphor, a medium, a symbol, or a rhetorical tool capable of generating out of chaos, disorder, faction—indeed revolution—a sense of identity in common: a single, Christian legacy. Derrida comments throughout the first volume of the seminar on Hugo’s efforts to establish his own intellectual lineage and thereby lend himself credibility. In what Derrida refers to as “a scene of autobiographical filiation, basically like that of a genealogical tree in the family of abolitionists,” Hugo repeatedly cites Beccaria in the preface to Last Day of a Condemned Man (DP1 292/212).

Hugo writes, for example, that he [the author, i.e. Hugo] can know of no higher, no more august aim than that one: to contribute to the abolition of the death penalty. Thus, it is from the bottom of his heart that he endorses the hopes and efforts of generous men from all nations who have been working for many years to bring down the sinister tree, the only tree that revolutions do not uproot. It is with joy that he comes in turn, puny that he is, to deliver his hatchet blow and to enlarge as best he can the notch that Beccaria made, sixty-six years ago, in the old gallows erected for so many years on Christendom. (DP1 294/214)

Derrida comments on the threefold and intertwined function of the tree metaphor in Hugo’s rhetoric: first, the genealogical tree traces Hugo’s lineage to Beccaria, and Beccaria’s lineage to Montesquieu, securing a French Enlightenment intellectual legacy that ties the abolitionist
movement to a progressivist rationality; second, the tree represents the history of the death penalty, and this tree is in the process of being cut down by the line of abolitionist writers onto which Hugo grafts himself; third, the tree representing the death penalty has been erected “on Christendom,” which Derrida takes to mean both “that the gallows in question was founded on Christendom and that, founded on Christendom, it has also betrayed, hidden, buried the Christian message” (DP1 293/213). This alignment of the death penalty with a certain betrayal of the “true” Christian message situates the abolitionist “family” as the rightful heirs to the Christian legacy. Put differently, by shoring up his abolitionist inheritance as the truth of the Christian message, Hugo also shores up his own Christian inheritance, and along with it, a powerful claim to divine truth and righteousness.

There is yet another side to Hugo’s generational rhetoric, however; one that evinces the way in which he secures a French Christian Enlightenment legacy through the careful eradication of its others: the “uncivilized” in the form of the “barbaric,” the “Roman,” and the “Hebraic” (DP1 282/204). When, in “Literature and Philosophy Combined,” Hugo substitutes a model of education that would restore the health of society through the internal purification of blood in place of a surgical metaphor defending the guillotine, he rhetorically aligns abolitionist staunching with a civilizing, progressivist Christianity that claims moral superiority over its predecessors’ privileging of bloody effusion. “The death penalty is departing from our customs,” Hugo writes in “Literature and Philosophy Combined,”

A little while longer and Christian European civilization, having developed more and more in the direction that is properly its own, will let fall in ruins this old labyrinthine construction of blood punishments, built of gallows, paved with skulls, covered on every level with the bronze of Hebraic texts, ironclad, nailed, pieced together here and there with the rusted and formless debris of Roman law; a veritable Babel of criminal procedure that speaks every language except ours. (DP1 282-3/204)
Derrida’s emphasis on this passage, which associates abolitionism, European Christianity, and civilizing progress while contrasted with the “savage” forms of punishment found in the Hebrew Bible and ancient Roman legislation, makes clear that, like Cortés, Hugo is engaged in a sacrificial logic that, much like the guillotine-as-surgical-scalpel metaphor, works to identify and excise certain generational phantoms in order to establish a collective identity through an appeal to one, true legacy. This legacy, however, performs the very sacrificial practice to which it claims to put an end, and Hugo’s abolitionist discourse remains the unwitting heir to the same colonialist, white supremacist, heteropatriarchal violence of its death-dealing forebears. And yet …

“This cup is the new covenant in my blood, which is shed for you.”128 These words are among the last of one who was executed in accordance with a death sentence. With them, a teacher enjoins his disciples to live on in his memory. In remembrance, one survives through another, through others, in and through generations of others, who, along with his blood and his body, incorporate his teachings and disseminate them along singular and unforeseeable detours. Derrida’s analyses of Juan Donoso Cortés and Victor Hugo illustrate two such detours through Christian inheritance. With each transmission comes both the perpetuation of the same but also the chance for something wholly other. It is with this in mind that Derrida, an Algerian Jew, takes in the words of Christ – étancher – and echoes them back – épancher – more than two thousand years later, to those in attendance at the École des hautes études en sciences sociales:

Love and Eucharist. Transubstantiation. Eat me, this is my body, hoc est corpus meum, touto estin to sōma mou. Keep it in memory of me. Which also means, in the mouth of the Son, eat me, keep me, I am leaving (or I am dying provisionally), I sur-vive, that is to say, I am going to come back; I am coming back right away; time does not count but on the condition that, as living beings, you eat while waiting, that you have the cold-blooded composure [le sang-froid] to eat well, to eat me, that is, to eat for me, since one very well has to eat well [car il faut bien manger], as the other says, while waiting for me, you

must assimilate my blood or the blood for me, but without me, like a slow sugar. Sense me – sans me [Sens moi – sans moi]. (DP1 380/282)

With the language of sang-froid, “cold blood,” Derrida signals a recognition of the troubling nature of inheritance, namely, that no inheritance is possible without some cannibalism or necrophagy, some killing and eating of the mortal other, and, perhaps more disconcerting, that the incorporation of the other guarantees an uncanny return in other, even more unfamiliar forms. This means both that “I” kill and eat others to survive and that “I” am never done with them, that they survive in and beyond “me.” Moreover, “I” am not the only one eating; “I” am also being eaten, such that my survival is always left to the other, who kills me and/or leaves me at its mercy. As Derrida writes in a perplexing passage in the second year of the seminar, “it is as if, and I mean always, every day, as if for the other I were dying [je mourais], I would die [je mourrais], an “I” had to come to die FOR THE OTHER” (DP2 322/242). To die for another: this is, to be sure, a sacrificial logic. But Derrida affirms this sacrificiality while leaving space for something else: one does not die for the other “in truth and especially not only in the sacrificial sense,” but also “in the disseminial opening of all the senses of ‘for.’” “I die and I die only for the other,” he insists, “however you want to deal with it.” This opening or chance of what lies outside any economy of sacrifice, beyond any calculative knowledge or foreseeable

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In Abraham’s sacrifice, as in carnivorous sacrifice, one substitutes someone for oneself and in so doing engages a powerful structure from which carnivorous sacrifice receives all its meaning. And in love, since we’re talking about love (it was our point of departure), when one loves, one dreams of eating the other too. It’s an expression ‘I’d like to eat you’—a mother who says to her son, ‘I’d like to gobble you up’. All this falls under the same sacrificial and devouring logic of love. Love, in this sense, is cruel. Loving, because it wants to take the other into oneself, with oneself, is cruel because it makes the other bleed . . . cruor is blood, one makes the other bleed, one puts the other to death . . . by love . . . (175).
possibility, and therefore of what resists any conceivable legacy, is clearly at issue when,
echoing the words of Christ, Derrida enjoins those in attendance at his seminar to “eat me.”

Derrida does not, therefore, disavow the existential threat inheritance demands; rather, he
prescribes, in the imperative, that one must have the composure to eat, and to eat well. That is,
one must both eat their fill and eat in the most ethical manner possible. As Derrida characterizes
this ethical injunction in “Eating Well,’ or the Calculation of the Subject,” a 1989 interview
with Jean-Luc Nancy,

If the limit between the living and the nonliving now seems to be as unsure, at least as an
oppositional limit, as that between “man” and “animal,” and if, in the (symbolic or
real) experience of the “eat-speak-interiorize,” the ethical frontier no longer rigorously
passes between the “Thou shalt not kill” (man, thy neighbor) and the “Thou shalt not put
to death the living in general,” but rather between several infinitely different modes of the
conception-appropriation-assimilation of the other, then, as concerns the “Good” [Bien]
of every morality, the question will come back to determining the best, most respectful,
most grateful, and also most giving way of relating to the other and of relating the other
to the self. […] The question is no longer one of knowing if it is “good” to eat the other
or if the other is “good” to eat, nor of knowing which other. One eats him regardless and
one lets oneself be eaten by him. […] This moral question is thus not, nor has it ever
been: should one eat or not eat, eat this and not that, the living or the nonliving, man or
animal, but since one must eat, in any case and since it is and tastes good to eat, and since
there is no other definition of the good [du bien], how for goodness’ sake should one eat
well [bien manger]? (Points 281-282)

For Derrida, then, eating the other is inevitable; it is indeed requisite for survival. In light of this
necessity, Derrida reframes the question from a one of eating or not eating to a one of how to eat
well. Eating well, on his view, “must be nourishing not only for me, for a ‘self,’ which would
thus eat badly; it must be shared” (Points 282). “One must eat well’ does not mean above all
taking in and grasping in itself, but learning and giving to eat, learning-to-give-the-other-to-eat”
since “[o]ne never eats entirely on one’s own.” Much is condensed in this minor, almost trivial

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130 See the first chapter of this dissertation for more on the deconstruction of the limit between the living/life and the
non-living/death.

131 This is the subject of the first volume of The Beast and the Sovereign seminars.
point that could be read as a mere reflection on the etiquette of hosting dinner parties. When read in connection with the *hoc est corpus meum* as an unfolding of inheritance *and* in light of Derrida’s deconstruction of inheritance as “learning to live with phantoms” in *Specters of Marx*, however, it is evident that eating well, as Derrida understands it, involves taking up the task of inheritance as the affirmation of an irreducible heterogeneity rather than its disavowal in the form of a projected oneness (S 15/xvii). This means thinking and performing heritage *otherwise*, in the sense that no legacy is ever homogenous, pure, or complete unto itself. It follows that no heir can lay claim to the last word, that deciphering a legacy only multiplies the alterity at its core and engenders that which will become the task of subsequent generations.

When the legacy is that of the death penalty, then, Derrida does not shy away from the task, quite the opposite; taking up the responsibility of inheritance, Derrida resolutely stands *against* the death penalty, proclaiming “straight on: yes, I am against the death penalty” (DP1 345/254-5). But where Hugo’s discourse endeavors to siphon off one, pure abolitionism that would leave the death penalty, along with any other contaminants, in its wake; Derrida’s abolitionism circulates alongside the death penalty, which, he avows, “will survive” (DP1 380/282). “Even when the death penalty will have been abolished, when it will have been purely and simply, absolutely and unconditionally, abolished on earth,” he writes in the language of Hugo, “it will survive; there will still be some death penalty.” “Let us harbor no illusion on the subject,” he reiterates, “even when it will have been abolished, the death penalty will survive; it will have other lives in front of it, and other lives to sink its teeth into” (DP1 380/282-3). For Derrida, “nursing no illusion on this subject must not prevent us – on the contrary, this is courage and composure [*le sang-froid*] – from being militant, from organizing with cool heads [*de sang-froid*], to militate, while waiting, for what is called the abolition of the death penalty, and thus for
life, for survival” (DP1 380/283). And “whether or not the corpus here is that of Jesus Christ,” Derrida adds, signaling a divestment in the univocity of the Christian legacy or that of any other, “whether or not the blood, wine, or slow sugar of life comes from the Gospels, from the Song of Songs, and from what they teach us about love as love of life” would be, on his view, “somewhat secondary” (DP1 381/283). Instead, Derrida leaves open the wellspring of other, unplumbed and opposing forces that would allow the legacy of abolitionism to be taken up otherwise, interminably. In calling for the abolition of the death penalty, then, Derrida advises a certain vigilance in expectation of its returns, the tropoi of its perpetual épancher and étancher, the unpredictable forms of its coming ab-sense. And for those who would militate in the name of abolitionism, Derrida advocates a certain incorporation. One must have “the cold-blooded composure” to eat, and to eat well, since il faut bien manger, but while waiting, and “appealing to the chance of a pardon issued and a grace granted.”
CHAPTER 3

“Under Kant’s Watch: The Time of Survival and the Possibility of Justice”

If anyone spreads it about that someone who has died committed a crime which in his lifetime would have made him dishonorable or only contemptable, whoever can produce proof that this charge is an intentional untruth and a lie can then publicly declare the one who spread the evil gossip a calumniator and so take away his honor. He could not do this unless he could rightly assume that the dead man was wronged by it, even though he is dead, and that this defense brings him satisfactions even though he no longer exists. (MM 6:295-6)

In a curious section of the Metaphysics of Morals, Kant considers the possibility of “Leaving behind a Good Reputation after One’s Death” (MM 6:295). In the first part of the “Doctrine of Right,” at the end of the chapter on “Contract Right,” he affirms that “for someone to be able to acquire such a right is, I say, a phenomenon as strange as it is undeniable, a phenomenon of reason giving law a priori which extends its commands and prohibitions beyond the limits of life.” Kant reminds the reader that, according to his moral theory, “in the context of his rights in relation to others, I actually regard every person simply in terms of his humanity, hence as homo noumenon.” He elaborates this further in a lengthy note: “These are relations in which human beings stand as intelligible beings, insofar as one logically puts aside, that is, abstracts from, everything physical (i.e. everything belonging to their existence in space and time)” (MM 6:296). A good reputation is not “a thing,” he reasons, but rather “an innate external belonging, though an ideal one only, which clings to the subject as a person” even “when he no longer exists as homo phenomenon” (MM 6:295). And since a person is “a being of such a nature that I can and must abstract from whether he ceases to be entirely at his death or whether he survives as a person,” it is, Kant argues, “indisputable that there is a basis for such an ideal acquisition, and for someone’s right after his death against those who survive him, even though no deduction of its possibility can be given” (MM 6:296). This is a strange phenomenon, indeed,
if even conceivable as such, since the experiences of the dead are not objects of possible experience for the living. (Hence Kant’s inability to provide a logical deduction here.\textsuperscript{132}) Nevertheless, Kant affirms the undeniability, indisputability, and the legitimacy of securing a good reputation beyond the apparent limits of life.

In his defense of the right to one’s “good name” even in death, Kant is quick to refute “any visionary conclusions about presentiments of a future life or about unseen relations to disembodied souls” or “spirits” who “would feel the injury of those who slander them.” (MM 6:296). Rather, writes Kant in the first person, “[s]omeone who, a hundred years from now, falsely repeats something evil about me injures me right now; for in a relation purely of rights, which is entirely intellectual, abstraction is made from any physical conditions (of time), and whoever robs me of my honor (a slanderer) is just as punishable as if he had done it during my lifetime.” Here, Kant makes it clear that there is a justice owed the dead, and any wrong perpetrated against one dead demands a reckoning “in accordance with the right of retribution” that “inflicts on [the perpetrator] the same loss of honor he diminished in another.” He underscores that even “a plagiarism” of a dead author must still be punished for stealing a part of the dead one’s honor. And yet, such retribution would occur according to an almost unthinkable temporality; according to this timeline, an unjust denunciation of Kant today would do Kant injury in the time in which he lived, in the eighteenth century – that is, the injury would take

\textsuperscript{132} The right in question, since it concerns the human person abstracted from the forms of intuition (i.e., space and time), and therefore all experience, cannot be the object of a deduction. As Kant explains in the Transcendental Dialectic, the idea of the soul is a concept of pure reason, given to the human mind in its drive to unify the understanding. Since the idea of the soul lacks any intuition in space and time, however, it is not an object of determinate cognition. For this reason, therefore, no proof of the soul is possible. “No objective deduction of these transcendental ideas [they are: the soul, the world, and God] is really possible, such as we could provide for the categories,” Kant writes (CPR A 336/B 393). “For just because they are ideas, they have in fact no relation to any object that could be given congruent to them.” Kant nevertheless makes the case that humans have good reason to believe in these ideas due to their necessary role in determining our actions in the practical sphere. More on this to follow.
place two hundred years before the harmful deed would have been committed. This timeline would, in a way, put the detractor in Kant’s time, even under Kant’s watch, rendering them guilty in their time of a crime committed before they were ever born and robbing them of the last word on the matter. The temporality implied in Kant’s elaboration of justice owed the dead is further complicated by the fact that it not only sends the perpetrator back in time; it also projects Kant into the time of his future critic, where he will have already been under posterity’s watch and mounting a virtual defense via proxies, who or which would lie ready to guard his reputation and his legacy. The unusual futurity of this justice is made evident when Kant explains that injuries inflicted on the dead are punishable “not by a criminal court but only by public opinion”; that is, justice will have been indefinitely deferred according to the vicissitudes of an ever-changing and unpredictable Zeitgeist. With respect to Kant’s own oeuvre, the unsettled discourse known as philosophy would arbitrate a seemingly interminable trial without verdict, promising the author a survival beyond the limits of phenomenal life.

Kant’s affirmation of the obligations the living owe the dead place an ethical demand upon his readers, compelling them to read his works with not only philosophical acuity but also with justice. It would, therefore, be hard not to read the following claim with Kant’s analysis in mind: “Kantian thought is a sacrificial thought through and through; Kantian morality is a sacrificial morality” (DP2 245/327). A bold and sweeping pronouncement, and one that Jacques Derrida reserves for the final session of his seminars on the death penalty. It is as if he were rendering a final judgment. Having weighed the evidence over the course of two years, through numerous recesses, adjournments, and continuances, it is as though Derrida were finally pronouncing Kant guilty. Does Derrida do justice to Kant? One could argue that he gives Kant a fair trial: Derrida refers to Kant in each of the seminar’s twenty-one total sessions, and he
gives the practical philosophy a significant treatment in eleven. Brief references regularly serve to position the Kantian framework with respect to other texts and authors under discussion, an indication that Kant remains with Derrida throughout the seminar. Even when Kant’s texts are not the explicit object of study, Kant is still in the background working on or over the seminar and its author. Michael Naas notes that Derrida “turns to and around” The Metaphysics of Morals “in an almost obsessive way,” an observation that opens the question of the relation between Derrida and Kant, Derrida and the philosophical legacy of Kant, and/or Derrida’s own Kantian inheritance.133 Throughout The Death Penalty seminars, Kant appears, time and time again, to haunt Derrida, to keep watch over Derrida from before or beyond Derrida’s time, such that it becomes difficult to distinguish the judge from the condemned. And with both parties now among the dead, the task of the reader becomes more fraught than ever, especially since what is at stake in this case concerns nothing less than life, death, survival, and justice.

Nevertheless, one could yet give a more standard reading of Derrida’s interest in Kant: it could simply be that Kant’s work is especially pertinent to the seminar’s topic, and Derrida reads Kant carefully because Derrida is a responsible teacher and a careful scholar. In other words, one could reason that Derrida attends closely to Kant’s writings merely because Kant’s practical philosophy presents a strong and principled argument in support of capital punishment. It is true, as many commentators have noted,134 that for Derrida, Kant’s defense of the death penalty

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represents its “purest ethico-juridico-rational formulation”; on Derrida’s assessment, the Kantian defense is the one with which any future abolitionism must contend (DP1 124/180). “[I]f there is to be an abolitionist discourse in the future,” Derrida writes, “it is the Kantian argument – the argument that places criminal law and the death penalty at a level of principle and of the categorical imperative – that will have to be refuted” (DP2 42/69-70). Derrida thus agrees with Kant in finding arguments for the abolition of the death penalty from passion and utility fundamentally weak, since, even when persuasive, the death penalty can be and has historically been maintained in its principle even after the issues raised by such arguments have been addressed by the relevant institutions. Much of the seminar, and especially the sessions of the first year, is devoted to illustrating the ways in which the abolitionist movement has failed, both historically and philosophically, as well as the ways that contemporary attempts to limit the application of capital punishment continue to fail by repeating the same basic arguments.135

Beyond his interest in strengthening and contributing to the abolitionist cause, however, (and this is a stated interest for him136) Derrida seeks to deconstruct a specific logic that he finds operative throughout the philosophical tradition, especially in the thought of philosophers who promote the maintenance and exercise of the death penalty, but also – and this is at least just as important – in the rhetoric of abolitionists who decry the very same. From the outset, in the first session of the seminar’s first year, while analyzing Plato’s Laws, Derrida states what is at issue explicitly: “Here, in a logic that we will continue to find up to Kant and many others, but in Kant

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135 Derrida considers, for example, the tendency of executions to become more “humane” throughout the first year of the seminar. See especially the eighth session, where he analyses the rhetoric of Guillotin as a counter-position to Victor Hugo’s speeches. He also treats the abolitionism of Cesar Beccaria, who maintains that it would be more useful to society to sentence the condemned to hard labor. (For this analysis, see especially the third session.)

136 See DP1 254-255/345-346.
*par excellence*, access to the death penalty is an access to the dignity of human reason, and to the dignity of man who, unlike beasts, is a subject of the law who raises himself above natural life” (DP1 8/32, emphasis added). And again a few lines below: “I underscore this point heavily […] the death penalty is a sign of the access to the dignity of man, something that is proper to man who must, through his law, be able to raise himself above life (which beasts cannot do)” (DP1 9/33). In the tradition of Western philosophy and its heirs, Derrida is identifying a connection between the death penalty and a specific articulation of humanity as that which surpasses natural, biological, or animal life to realize another form of life, one that is more fully or specifically human, one that is often articulated in the language of the spirit, the soul, or the *logos*. In the fourth session of the same year, Derrida analyses this logic in the work of Maurice Blanchot, whose writing in *Literature and the Right to Death* “reproduces the argumentative core, the classic philosopheme of all the great right-wing philosophies that have favored the death penalty, such as the logical core of Kant’s philosophy of right and of Hegelian philosophy” (DP1 116/170). He goes on to explain this reasoning in more detail:

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 code of law that would refrain from inscribing the death penalty within it would not be a code of law; it would not be a human law, it would not be a law worthy of human dignity. The very idea of law implies that something is worth more than life and that therefore life must not be sacred as such; it must be liable to be sacrificed for there to be law. And the idea of sacrifice is common as much to Kant, Hegel, as it is to Bataille and to this Blanchot, even when they are speaking of literature. *Sacrifice is what raises, what raises itself above the egoism and anxiety of individual life.* Between law and death, between penal law and death penalty, there is a structural indissociability, a mutual, a priori dependence that is inscribed in the concept of law or right, human right, human law, as much as the concept of death, of non-natural death, thus of death as decided by a universal reason, a death that one more or less gives oneself sovereignly. (DP1 116/170, emphasis added)

In these sentences, Derrida explains both what he means by a “logic” and how this logic is sacrificial. The logic he is interested in deconstructing defines humanity as that which sacrifices
biological life in order to secure a properly human life. The idea of law is based on the idea of a properly human life, such that any law “worthy of the name” also requires a sacrifice of biological life. In the sphere of penal law, this sacrifice has been encoded as some form of the death penalty. Derrida understands the terms in this line of reasoning to be structurally indissociable; that is, these concepts (death, law, humanity) work together \textit{a priori} to uphold the philosophical system. This logic is, he thinks, as strong as it is ubiquitous, and it is inherently sacrificial. Much of this chapter will be devoted to parsing out how Kant rigorously deduces his defense of the death penalty from his moral and political philosophy, and \textit{in an exemplary manner}, since for Derrida, the sacrificial logic that is at stake throughout the seminar is articulated \textit{par excellence} in the work of Immanuel Kant.

It is thus quite clear that a thorough reading of Kant is important to understand both the (oft unstated) logical framework supporting various discourses around the concepts of life, death, humanity, law, and capital punishment as well as the ways in which those discourses rely on an (also usually unstated) demand for sacrifice. This would suffice to explain why Derrida would return, time and time again, to various themes throughout the Kantian corpus, but especially to \textit{The Metaphysics of Morals}. Still, another reading remains possible, one that better accounts for the complex relationship between these two thinkers and their texts. Derrida’s rebuke of Kant in \textit{The Death Penalty} seminar can be read as a cipher for other Kantian legacies in Derrida’s own thought. One such legacy involves time, or rather its interruption, suspension, or deferral. Derrida dedicates a significant portion of the seminar’s first year to the notion of anesthesia, of a certain analgesic trend in modern applications of the death penalty but also considerations of
ameliorating suffering, either that of the death penalty or that of life in general.\textsuperscript{137} In the ninth session, while examining the humanitarian rhetoric associated with the purported instantaneity of the guillotine’s blade, Derrida explains that

[t]ime is sensibility or receptivity, affection, (a major vein of philosophy from Kant to Heidegger, which I will not get into here); time is suffering; the time of execution is endurance, passion, the pathetic, pathological \textit{paskhein} – which sometimes means not only “to undergo” but “to undergo a punishment,” and the fact of passively undergoing can already be interpreted as the suffering of a punishment: sensibility is itself a punishment. If you suppress time, you will suppress sensibility.” (DP1 226/308)

For Kant, as he explains it in the \textit{Critique of Pure Reason}, time is not derived from empirical perceptions, but is rather “a pure form of sensible intuition” (CPR A 162/B 179). As will be explained in more detail below, the temporal forms of succession and simultaneity make it possible for human cognition to structure representations of internal and external experiences. This leads Derrida to suggest that, “in Kantian language,” anesthesia might name “that almost sublime desire to escape from the realm of sensitivity or imagination, from space and time, that is to say, from the realm of phenomenality, that is to say, of the pathological, of affect, of receptivity, or the empirical” (DP1 273-4/369-70). This reference to time in Kant aligns anesthesia with death as an escape from phenomenal life. By suspending time, the death penalty would function as an anesthetic, leaving its victim (or beneficiary) literally senseless.

Kant’s theorization of time and sensibility remains in the background in the seminar’s second year when Derrida considers the possibility of “a phenomenology of the death penalty” (DP2 76/113). Although he does not return to this theme in the seminar, Derrida claims that “according to a good Kantian logic,” it would be possible to demonstrate that the death penalty “remains inapplicable in a phenomenal way, for the \textit{homo phenomenon}” such that one would

have to speak of execution rather than the death penalty as such (DP2 51/80). To be clear, Derrida is not denying that individuals have been killed and made to suffer at the hands of the institution known as capital punishment; he is instead suggesting that, if one follows Kant’s analyses to their logical conclusions, then it would be impossible for the death penalty to serve its purpose insofar as it is intended to punish the perpetrator. “The subject who is punished, executed, removed, is removed as subject of punishment,” he explains; “[h]e is not the subject, he has not yet been and will not have been the present subject of the punishment to which he is presently subjected,” which, he adds, “obviously implies a demanding and unorthodox, uncommon interpretation of the temporalization of time.” (DP2 50/80). Because Kant theorizes time as a subjective condition of sensibility, there would be no duration beyond the phenomenal life of the subject and hence no sensibility, no experience, and no ability to undergo punishment. By bringing about the death of the experiencing subject, the death penalty would no longer be an object of possible experience for the one condemned; it would be impossible for one who no longer exists in time as homo phenomenon to undergo the death penalty. Impossible, at least, “outside of a sacrificial logic” (DP2 34/58, emphasis added). “At the instant of death,” writes Derrida, adding “if there is one, for everything is played out there […], as soon as death supervenes, life can no longer be, outside of a sacrificial logic, outside of a scene of vengeance or revenge that the law seeks precisely to escape, [life can no longer be] a currency of exchange, a payment, a retribution” (DP2 33-34/58). Derrida thus reads Kant’s theoretical philosophy against the practical philosophy and the sacrificial logic Kant deploys there to justify the death penalty.

Reading Kant in this manner allows Derrida to consider the death penalty as something other than one form of punishment among others. “Once it is no longer a finite punishment,”
Derrida reasons, “once it exceeds the limit, and precisely exceeds the finite life of the subject being punished, then the punishment, the death penalty, becomes infinite and thereby loses its essence as punishment, its punitive value” (DP2 33/58). Following a good Kantian logic, then, the death penalty would not be a penalty at all; it would instead serve some other purpose. Over the course of the second year of the seminar, Derrida does not elucidate what other purpose the death penalty could serve, but he does make a suggestion in the first year of the seminar. “A certain insensitivity, a certain anesthesia,” Derrida writes, “would be the condition of access to a pure, intelligible, and transphenomenal justice, sur-viving beyond life” (DP1 274/370).

Understood as an anesthetic in the Kantian-informed sense described above, the death penalty would be less a punishment than a salvation; it would secure a form of justice that transcends phenomenal life. And, indeed, in The Metaphysics of Morals, Kant describes justice in just such a manner. In a passage Derrida mentions repeatedly, Kant refers to a transcendental justice that – because it gives life value, and because it alone makes life worth living – exceeds the order and economy of life itself. “[I]f justice goes, there is no longer any value in human being’s living on the earth,” writes Kant (MM 6:332). And further, in the same paragraph, he affirms that “justice ceases to be justice if it can be bought for any price whatsoever.” This claim, the idea that justice in some way makes life worth living, is at face value a sentiment as cliché as it is ancient, at least as ancient as the trial and death of Socrates, and so overdetermined by the history of Western culture that it hardly seems worthy of a deconstructive analysis. Derrida nonetheless takes its Kantian elaboration seriously, and for at least two reasons. In the first place, Kant alone situates justice outside of any attempt to secure individual or collective life. “One can interpret the entire history and especially the modern history (I mean the last three centuries) of the death penalty,” Derrida ventures, “as a history of insurances, social insurances, or even social security”
But “[p]ure penal reason” in Kant’s thought, “the Idea of a civil constitution among human beings, implicating as it does the concept of some punitive justice, is not a calculating reason that would seek to reassure, or would be in the service of an insurance project” (DP2 184/248). The Kantian practical philosophy could thus be interpreted as situating justice outside of both a biopolitical or vitalist paradigm that seeks only to secure life in something like its sheer biological functioning and an ideological framework that would seek only to indemnify life by exorcising or inoculating it against death.\textsuperscript{138} Such a Kantian-flavored justice would resist being put in the service of an interest, whether vital, pathological, pulsional, political, economic, or otherwise.

Perhaps more significant for Derrida, though, is Kant’s transcendental conceptualization of justice; that is, justice is the condition for the possibility of life in its very livability while remaining heterogenous to the life it makes possible. Derrida will not go so far as to embrace Kant’s transcendentalism (regarding justice or any other concept), but the notion of a justice that exceeds the limits of life supports Derrida’s efforts to think otherwise than the death penalty that both assumes and produces the opposition between life and death and to articulate a surviving that moves altogether beyond that opposition.\textsuperscript{139} Because it is worth more than life, and gives value to life, Kantian justice hints at a living-on or sur-viving beyond the limits of life itself. In the seminar and elsewhere, Derrida sometimes hyphenates the word “sur-vivre” to emphasize the French prefix “sur-,” meaning “over,” “above,” “on,” or “in addition to.” Whereas the excess of life in the Kantian sense of justice would imply a purely intellectual or rational, more properly

\textsuperscript{138} For more on the process of sacrificial indemnification and its role in determining the conceptual framework of life and death, respectively, see the first chapter of this dissertation.

\textsuperscript{139} For more on the death penalty’s role in securing “life” and “death” as pure and mutually-exclusive spheres, I again refer the reader to the first chapter of this dissertation.
human, and therefore superior life, however, the Derridean iteration of sur-viving would not retain Kant’s hierarchization and sacrificial structure. As he explains it in his final seminar, *The Beast and the Sovereign*, Derrida comes to prefer the term “survivance” to designate a sense of survival that is neither life nor death pure and simple, a sense that is not thinkable on the basis of the opposition between life and death, a survival that is not, in spite of the apparent grammar of the formation of the word (überleben or fortleben, living on or to survive, survival), [that is not] above life, like something sovereign (superanus) can be above everything, a survival that is not more alive nor indeed less alive, than life, or more or less dead than death, a sur-vivance that lends itself to neither comparative nor superlative, a survivance or surviving (but I prefer the middle voice “survivance” to the active voice of the active infinitive “to survive” or the substantializing substantive survival), a survivance whose “sur-” is without superiority, without height, altitude or highness, and thus without supremacy or sovereignty. It does not add something extra to life, any more than it cuts something from it, any more than it cuts anything from inevitable death or attenuates its rigor or necessity […]. (BS2 130-131/193-194)

Based on these descriptions of survivance, a concept or quasi-concept this chapter with explore further, it is clear that, for Derrida, survivance is not based on a demand for sacrifice, at least not in any simple sense, since sacrifice puts to death in order to secure life in some other form, one that is considered to be better than or superior to the life taken. Attempting to think this survivance will have occupied Derrida up until his death, where in his last interview, *Learning to Live Finally*, he describes it as “life beyond life, life more than life […] the most intense life possible” (LLF 50-51). When considering the history of Derrida’s thought, identifying the sacrificial logic at work in Kant’s descriptions of justice would thus have been necessary for Derrida to think a survivance that is, as he puts it in *Learning to Live Finally*, “on the side of the affirmation of life” (LLF 50).

Derrida’s condemnation of Kantian thought and morality as thoroughly sacrificial thus demands to be read alongside Derrida’s other Kantian inheritances involving time, survival, and justice. Kant’s philosophical contributions to Derrida’s thought are significant, and Derrida will
have had to work through the centrality of sacrifice and capital punishment in Kant’s practical works in order to articulate a thinking of *survivance*. Derrida remains close to Kant in *The Death Penalty* seminars; he inhabits Kant’s texts and his language, takes in Kant’s entire system, and then reworks the terms, restructures the logic, and shatters Kant’s legacy by exposing the most revolutionary and unthought aspects of Kant’s own works. Is this not, at least in part, Kant’s concern when he writes, in 1797 and in the first person, of the injury the dead suffer in defamation and plagiarism? Derrida could be interpreted as having misrepresented Kant with a critique meant to hide an indebtedness to Kant’s own concepts. And yet, according to Derrida, this is the condition of all inheritance. “An inheritance is always the reaffirmation of a debt,” he writes in *Specters of Marx*, “but a critical, selective, and filtering reaffirmation” (SM 114). This reaffirmation is always left to the one who survives in the form of an injunction that “says ‘choose and decide from what you inherit’” (SM 18). “One always inherits from a secret,” Derrida writes, and it “says ‘read me, will you ever be able to do so?’” There is something fundamentally insecure about a legacy; it is not “given, natural, transparent, univocal,” but remains always to be read. Kant therefore has an interest in securing the right to one’s reputation after death, for at stake in this seemingly impartial analysis is the precarity of his legacy and the chance of survival.

Always left to the survivors, a legacy is thus oriented toward a future, but the future in question contains within it a return of the past as not yet over-and-done. In *Specters*, Derrida analyzes Hamlet’s well-known quip that “the time is out of joint” to characterize the temporality of inheritance as disjunct: the past has not passed and returns from the future to disrupt the present, upsetting any linear progression and rendering each term in the series (past, present, future) inadequate to itself. The work of inheritance is an “‘experience’ of the past as to-come”
(SM xix). As in Kant, though more explicitly for Derrida, a just relation with the dead implies another thinking of temporality, one “that no longer belongs to time, if one understands by this word the linking of modalized presents (past present, actual present: ‘now,’ future present).” “To be just,” Derrida emphasizes, is to be carried “beyond the living present in general.” This reference to the living present, an allusion to Husserl, equivocates by evoking both temporal and existential dimensions. Derrida clearly exploits this bivalence of meaning to characterize the manner in which justice exceeds conventional conceptualizations of life and time. The surfeit of justice moves beyond succession in general, whether it be along a temporal horizon (past, present, future) or an existential horizon (birth, life, death). But where Kant begins to think this possibility while disavowing future lives and unseen relations to spirits, Derrida affirms them. “It is necessary to speak of the ghost, indeed to the ghost and with it,” he insists, “from the moment that no ethics, no politics, whether revolutionary or not, seems possible and thinkable and just that does not recognize in its principle the respect for those others who are no longer or for those others who are not yet there, presently living, whether they are already dead or not yet born” (SM xviii). Speaking of Kant, to Kant, and with Kant, perhaps even more Kantian than Kant himself, Derrida articulates a thinking of justice that would be incommensurable with any sacrificial logic attempting to secure a future or a life by taking it, since such a logic would rely upon conventional frameworks of order and succession to demarcate the terms as mutually exclusive.140 Justice “carries life not toward death, but toward a living-on [sur-vie],” Derrida writes, “namely, a trace of which life and death would themselves be but traces and traces of traces, a survival whose possibility in advance comes to disjoin or dis-adjust the identity to itself

of the living present as well as any effectivity. There is then *some spirit*. Spirits. And one must reckon with them” (SM xx).

This chapter will explore certain aspects of Derrida’s Kantian inheritance and the influence of Kant’s texts on Derrida’s thinking throughout *The Death Penalty* seminars and other related works. A central contention here is that Derrida’s preoccupation with Kant in the seminar signals a closeness between these thinkers that endures through and beyond Derrida’s explicit and legitimate deconstruction of Kant’s theoretical positions. There is *something* at work in Kant’s thinking that haunts Derrida, both in the sense that it troubles him and in the sense that it serves as a source of inspiration for his own thinking. Salient aspects of Kant’s theoretical and practical works will be considered in their own right before treating their deconstruction and reiteration in Derrida’s writings. These include Kant’s theorization of time and its relationship to phenomenal life, his desire to transcend that life along with its irreducible finitude, his conviction that God and a future life are promised to those who align their existence with the moral law, and his transcendental conception of justice. The chapter will also thematize two recurring motifs implicit in Kant’s writings: the equivocal notion of credit and the legacy of a published work. First, the notion of *Glaube*, usually translated as “faith” or “belief,” but also meaning “credit,” figures prominently in Kant’s analyses throughout his theoretical and moral philosophy both in an economic or fiscal sense as well as the more general sense of credence. This chapter will draw out the ways in which Derrida exploits this bivalence of meaning in his readings of Kant. Second, the self-consciousness with which Kant considers the legacy of his published works, at times explicit and at other times implied, will play a central role in this chapter’s interpretations of both Kant’s own analyses and Derrida’s readings of Kant. The
survival of the book, and with it, the author, will be considered as an explicit theme in Derrida’s works and central to his conception of survivance.

The first section, “Another Life Time,” will analyze Kant’s well-known confession in the second preface to *The Critique of Pure Reason* that he “had to deny knowledge in order to make room for faith [mußte also das Wissen aufheben, um zum Glauben Platz zu bekommen]” through the lens of his claim that human beings are universally dissatisfied with “the temporal [Zeitliche]” and consequently maintain a “hope for a future life [die Hoffnung eines künftigen Lebens]” (CPR B xxx, xxxii). As opposed to reading the latter claim as an insight into human nature, this discontent with finitude will be read as a lament and the hope for a future life as a desire. The desire to transcend the limitations of phenomenal life, it is suggested, motivates Kant’s critical philosophy as a means through which to sublate theoretical knowledge in order to recoup its objects of inquiry in the practical sphere. This section reviews the foundations of Kant’s theoretical philosophy in the “Transcendental Aesthetic” and the “Transcendental Analytic” before attending to the impact Kant’s desire for another life has on his reasoning in the “Transcendental Dialectic” and the “Transcendental Doctrine of Method.” It is shown that an inner conflict between Kant’s desire and his understanding drives his analyses throughout *The Critique of Pure Reason* — specifically in the articulation of the forms of intuition, the distinction between phenomena and noumena, the critical resolution to the third antinomy, and his justification for believing in God and a future life. Ultimately, and through readings of the “Canon of Pure Reason,” it is suggested that Kant defends his moral convictions and leaves their definitive truth open to the accreditation of posterity.

The second section, “Another Interest,” interprets Kant’s practical philosophy through both Kant’s enduring desire for a future life and the appreciation of value given to that life in
comparison to the life given. In passages from *The Critique of Practical Reason* in particular, Kant makes clear that a life lived in alignment with the moral law, and hence with pure practical reason, secures for humanity another, noumenal life whose value appreciates without limit. The demand to act only *dis-interestedly* – the obligation, in other words, to act only from duty to the moral law and not from empirical incentives – paradoxically promotes the accrual of another interest, one of in-finite worth beyond the marketplace of phenomenal life. As this section demonstrates, Derrida’s readings of Kant’s practical works thematize the economic language of worth to deconstruct the economies of exchange operative in Kant’s moral, and as a result, political, philosophy. Derrida places particular emphasis on the purported equivalence between the crime and the punishment in Kant’s articulation of the talionic law in *The Metaphysics of Morals*. This section contends that Derrida follows Nietzsche in “sniffing out” another interest at work in Kant’s purportedly disinterested practical philosophy, one that effaces its indebtedness to the commercial origins of penal law through its claim to a pure, transcendent value that exceeds the calculation of the market. Nietzsche’s analyses in *The Genealogy of Morals* call this exchange into question by tracing its history through ancient economic practices. For Nietzsche, Kant is guilty of a cruelty that sacrifices empirical, animal life to credit another rational, purely human life of infinite worth, all the while claiming an asceticism that renounces gratification. In considering the possibility of such an exchange, and especially its inscription in the legal code as a death sentence, Derrida asks with Nietzsche whether we should credit such a calculation.

The final section, “Another Justice,” centers Derrida’s texts more explicitly and focuses on his deconstruction and reiteration of Kant’s desire for another life as well as his conceptualization of justice. This section also offers a reading of the tenth session of the seminar’s first year – a short but diffuse and elliptical session whose main ideas are not clearly
stated – within the context of other sessions from the seminar and relevant passages from *Specters of Marx*. Implied in this reading is an interpretation of Derrida’s engagement with Kant as being carried out through analyses of Albert Camus and Michel de Montaigne. In each of these figures, Derrida discerns a conceptualization of suicide as a means of gaining access to a survival worth more than life. This section reads these figures closely in connection to Kant’s theorization of time as the general form of sensibility in order to articulate a logic of anesthetic survival. This logic identifies life with the passive suffering of the sensible forms of intuition, values a sur-ving without life, and attempts to secure this form of survival through sacrificial forms of putting-to-death. Derrida’s engagement with Nietzsche remains in the background as he considers this form of survival in the context of faith and religion. Throughout this session, Derrida endeavors to deconstruct this logic of anesthetic survival while gesturing at another form of survival that is not easy to distinguish from its problematic precursors in Kant, Camus, and Montaigne. Ultimately, Derrida credits a certain reiteration of the Eucharist as one figure of a surviving that, if it occurs, occurs always and only by the grace of an other who lets “me” live on. A main contention of this section is that Derridean survival or *survivance*, the term he expressly comes to prefer, involves an unorthodox intimation that makes known by bringing the outside-in and maintaining the utmost alterity within the inmost intimacy. This impossible, paradoxical, or aporetic intimation is exemplified in the book, which “resuscitates” each time someone reads it anew, taking it in and giving it new life. The “survivance of a book” involves a non-linear, dis-joint temporality that begins, if it does, by returning, over and over again, through the risks and perils of incalculable others (BS2 194/131). In this sense, a legacy is one form of survivance, never secure or guaranteed, but always to-come from a past that returns from the future. This dis-juncture of space and time conditions (without necessity or sufficiency) the
emergence of and relation to any alterity, and thereby, any possibility of justice. In this way, Derrida credits an other life time as the quasi-transcendental condition of justice.

1. Another Life Time

In the preface to the second edition of the *Critique of Pure Reason*, Kant confesses a desire. He cannot rest content with the temporal. And so he hopes for something else entirely – another time, another life – the dream of a life time to come. This confession takes place in the midst of a polemic against the “monopoly of the schools” (CPR B xxxii). Disparaging scholasticism for its failure to hold sway with the masses, Kant offers alternative “rational grounds [Vernunftgründen]” on which the common understanding should base its metaphysical convictions. Such “rational grounds” rest on a peculiar and inescapable trait of human nature. According to Kant, this “remarkable predisposition of our nature,” which is, moreover, “noticeable to every human being,” consists in never being “capable of being satisfied by what is temporal [Zeitliche].” It is a strong claim: human beings are universally incapable of being satisfied by what is temporal; or, put differently, there is no human being who possesses the ability to be satisfied with temporality. And because human beings lack this capacity to be satisfied by what is temporal, we cannot help but arrive at “the hope of a future life [die Hoffnung eines künftigen Lebens].” This capacity, or rather, a lack thereof, involves the satisfaction of a desire. Human beings harbor a desire that cannot be satisfied by the time given, and yet, Kant’s sentiment here cannot be reduced to a desire for more time. We humans do not simply want more time in this life; rather, we are fed up with the temporal itself and we want something altogether other. To follow the literality of künftig, that which we desire is a time and a life to come. Human nature, for Kant, cannot rest content with what is given. Being human means being given a lifetime with a limit, and, he thinks, we can’t help but to desire another one
– another life time. More than a rational ground for a metaphysical conviction, Kant’s description of humanity’s purported universal discontent with life’s finitude reads more like a lament; his grief when faced with the inevitability of human mortality is palpable. The entirety of the Kantian philosophical system could be read as a response to this protest and the desire to which it gives rise. The scope of the present work, however, is more humble: the task of this section involves demonstrating the influence of Kant’s desire for another life time on his moral philosophy.

Kant famously writes that he “had to deny knowledge to make room for faith” (CPR B xxx). Situated in the context of his dissatisfaction with the temporal and his hope for a future life, the force of this imperative takes on added significance. Much of what his confession conveys through the German, however, is lost in the English translation and its dissemination in both popular and academic contexts. The German reads “Ich mußte also das Wissen aufheben, um zum Glauben Platz zu bekommen.” What Guyer and Wood render as “to deny” translates aufheben, a notoriously challenging concept for translators due to its contradictory meanings, some of which include “to cancel,” “to raise,” “to save,” and “to remove.” In Hegel scholarship and in the continental tradition more broadly, aufheben is often rendered “to sublate” in order to designate this double meaning, which amounts to taking something in order to raise it to another level. The loss or annihilation involved in the Aufhebung is always recouped in some other way, through a substitution, a saving, a reallocation, or another investment. This is especially significant in Kant’s statement, since what is saved is Glaube, translated as “faith,” but which can also mean “belief” or “credit.” Kant thus had to sublate knowledge in order to credit nothing other than credit itself. It is only through renouncing speculative or theoretical reason, “knowledge,” that Kant is ultimately able to recover its objects of inquiry in another domain,
namely, and as will be shown, the practical sphere. And as is borne out in his system, *nothing is lost* through this renunciation – to the contrary, *infinitely more* is gained.

In the preface to the first edition of the same text, Kant emphasizes the boundlessness of reason, conceptualizing it as an infinitely ascending and all-consuming force of nature. Reason “begins from principles whose use are unavoidable in the course of experience and at the same time sufficiently warranted by it,” he writes (CPR A vii). “With these principles it rises (as its nature also requires) ever higher, to more remote conditions,” taking refuge “in principles that overstep all possible use in experience.” (CPR A viii). Reason, on Kant’s assessment, is compelled to transcend the bounds of experience and lay claim to answers outside its proper domain. This is, of course, the ostensible reason Kant deems it necessary to undertake a critique of reason’s “speculative” capacity. “Human reason,” he explains, “has the peculiar fate in one species of its cognitions that it is burdened with questions it cannot dismiss, since they are given to it as problems by the nature of reason itself, but which it also cannot answer, since they transcend every capacity of human reason” (CPR A vii). These questions, to which “human nature cannot be indifferent,” are three: God, freedom, and immortality (CPR A x). As he writes later in “The Doctrine of Method,” “the final aim to which in the end the speculation of reason in its transcendental use is directed concerns three objects: the freedom of the will, the immortality of the soul, and the existence of God” (CPR A 798/B 826). Reason unites these ends “in order to advance, in a united manner, that interest of humanity which is subordinate to no higher one.” The language Kant uses throughout these passages and others makes it clear that humanity has something to gain from the unification and attainment of these ends – our credit is at stake. And yet, without “any touchstone of experience,” reason “falls into obscurity and contradictions” whose “endless controversies” comprise the tradition of metaphysics (CPR A
Kant therefore sets out to reign in reason’s theoretical use, to identify its proper function, and to circumscribe its application while simultaneously liberating reason in another sphere, that of the practical, in order to achieve those same ends. Throughout his works, Kant uses the term “speculative” to refer to reason’s theoretical capacity, and especially its tendency to erroneously cognize objects beyond the field of experience; importantly, however, reason is speculative in another sense, because it risks everything (its credibility, but also the phenomenal life designated by the Kantian conception of “experience”) to secure futures in the beyond. Reason has an interest in speculating on what is given, since it has infinitely more to gain by investing in metaphysical securities – God, freedom, and immortality. But reason cannot realize its worth in thinking its highest ends, which exceed experience and therefore cannot be properly cognized; reason must instead take a detour, assuming the loss and reinvesting in the practical sphere, where the will accrues interest in the beyond by acting in accordance with the moral law. In other words, reason sets for itself a limit so that it can surpass itself and realize itself as in-finite.

In an effort to better elaborate how Kant credits his desire for another in-finite, future life over and against the certainty and inevitability of human finitude, it will be necessary to review, in a rather schematic way, some of the basics of both his theoretical and practical works. It is well-known that Kant developed his system of transcendental philosophy in part as a solution to the modern philosophical debate between rationalism and empiricism. He thus devised a compromise position in which sensibility and the understanding collaborate to give objects to human experience. There are, for Kant, certain structures of the human mind that render things
in the world cognizable to the subject.\textsuperscript{141} Transcendental philosophy provides the conditions for the possibility of human experience, judgment, thought, and values; Kant therefore analyses what must be necessary \textit{a priori}, or prior to, experience in order for humans to intuit and understand the world in a consistent manner.\textsuperscript{142} As he writes in the introduction to the second edition, “I call all cognition transcendental that is occupied not so much with objects but rather with our mode of cognition of objects in so far as this is possible \textit{a priori”} (CPR B 25).\textsuperscript{143} What allows Kant to make this distinction between objects as such and the way objects are constituted by human cognition is his elaboration of the concepts \textit{phenomenon} and \textit{noumenon}. Human beings are only able to experience things in the world as they appear subjectively, such that what is called “experience” \textit{[Erfahrung]} is, for Kant, a complex combination of sensory intuitions with \textit{a priori} conceptual categories that order and make sense of the information given to the senses. Experience, therefore, does not give humans direct access to things in the world; rather, things in the world \textit{appear} in a certain way in experience due to human mental faculties. Kant refers to things as they appear to the human subject as \textit{phenomena}. As he writes in “The Doctrine of Elements,” “we call certain objects, as appearances \textit{[Erscheinungen]}, beings of sense \textit{[Sinnenwesen]} (\textit{phaenomena}), because we distinguish the way in which we intuit them from their constitution in itself” (CPR B 306). \textit{Noumena}, by contrast, indicate things as they are “in themselves,” that is, beyond human capacities of intuition. As Kant explains, “to [\textit{phenomena}]

\textsuperscript{141} Kant often qualifies the application of his theory to all finite rational beings; however, he clearly believes divine beings, should they exist, to be non-finite and non-human animals to be non-rational. For the purposes of this chapter, we will therefore use the term human being or human subject, as is implied by Kant’s analyses.

\textsuperscript{142} Kant maintains that transcendental philosophy, by analyzing the conditions for the possibility of experience in general prior to the cognition of any particular object, can provide a universal framework for human experience as well as a valid account of long debated philosophical categories such as those of identity and substance, ultimately grounding all rational investigation including the sciences and metaphysics.

\textsuperscript{143} This differs slightly from the A edition, which reads “I call all cognition transcendental that is occupied not so much with objects but rather with our \textit{a priori} concepts of objects in general” (CPR A 11-12).
we oppose, as objects thought merely through the understanding, either other objects conceived in accordance with the latter constitution” (that is, “their constitution in itself” without regard for how they appear in human consciousness) “even though we do not intuit it in them, or else other possible things, which are not objects of our senses at all, and call these beings of understanding [Verstandeswesen] (noumena).” Noumena therefore designate both things as they are beyond our capacity to represent them empirically and things of which we have no experience but have reason to think must exist anyway.

As mentioned above, Kant postulates that human experience is only possible as a result of a priori conceptual and intuitive structures that allow the subject to represent objects to consciousness. On the side of sensibility, Kant analyses forms of intuition that allow the senses to receive information from the external world. These are distinct from the matter they contain. “I call that in the appearance which corresponds to sensation its matter,” Kant explains, “but that which allows the manifold of appearance to be ordered in certain relations I call the form of the appearance” (CPR A 20/B 34). These forms of intuition are temporal and spatial, respectively conditioning “inner” and “outer” senses that allow the human subject to represent the self in relation to a world of objects. As he writes,

By means of outer sense (a property of our mind) we represent to ourselves objects as outside us, and all as in space. In space their shape, magnitude, and relation is determined, or determinable. Inner sense, by means of which the mind intuits itself, or its inner state, gives, to be sure, no intuition of the soul itself, as an object; yet it is still a determinate form, under which the intuition of its inner state is alone possible, so that everything that belongs to the inner determinations is represented in relations of time. Time can no more be intuited externally than space can be intuited as something in us. (CPR A 22-23/B 37-38)

Whereas space accompanies all outer appearances, Kant affirms that time, as the form of sensibility in general, accompanies all phenomenal appearance and therefore all empirical experience (CPR A 24/B 39, A34/B51). Kant maintains the “empirical reality” of the forms of
intuition, since they condition sensibility \textit{a priori}, while confirming their “transcendental ideality” with respect to \textit{noumena}, or things beyond their representation to human sensibility (CPR A 28/B 44, A 36/B 52). Space and time are thus necessary forms through which matter can be represented to the senses, but they are “nothing at all if one abstracts from the subjective conditions of sensible intuition.” The forms of intuition, space and time, therefore, give objects to sensibility; however, another faculty is necessary for the human subject to cognize these objects in thought. Kant thus takes a “clue” from logic to deduce what he calls the “pure concepts of the understanding,” or categories, through which objects can be not just sensed but understood. (CPR A 66/B 91). Ultimately, conceptual cognition of objects is made possible by reason, which, as the understanding’s “subjective law of economy,” unifies the manifold of its cognitions “\textit{a priori} through concepts” (CPR A 306/B 362, A 302/B 359). Thus, and without going into too much detail, Kantian “experience” is what occurs when the manifold of sensible intuitions is conceptually unified and ordered in a single self-consciousness via the faculty of reason (CPR B 132).

Just as the sensible forms of intuition cannot be applied to objects beyond human experience of them, Kant likewise holds that human conceptual categories have no bearing on \textit{noumena}. He deems it irrefutable “that the pure concepts of the understanding can never be of transcendental, but only always of empirical use, and that the principles of pure understanding can be related to objects of the senses only in relation to the general conditions of a possible experience, but never to things in general (without taking regard of the way in which we might intuit them” (CPR A 246/B 303). Applying the categories to noumena would, Kant explains, require some form of intuition other than that of empirical experience in space and time, namely what he calls an “intellectual intuition” (CPR B 308). Since, however, this sort of intuition “lies
absolutely outside our faculty of cognition,” Kant concludes that “the use of the categories can by no means reach beyond the boundaries of the objects of experience,” beyond, that is, *phenomena*, in order to cognize *noumena*. “In the end,” Kant writes, “we have no insight into the possibility of such *noumena*, and the domain outside of the sphere of appearances is empty,” and he adds the parenthetical qualifier, “for us” (CPR A 255/B 310). On Kant’s analysis, therefore, “[t]he concept of a noumenon is therefore merely a boundary concept” elucidated for the sole purpose of limiting “the pretension of sensibility” (CPR A 255/B 311). “With us,” Kant writes in summary, “understanding and sensibility can determine an object only in combination” (CPR A 258/B 314). Because human cognition is strictly limited to the cognition of phenomenal appearances in space in time, Kant devotes the “Transcendental Dialectic” to demonstrating the error in transcending these limits to cognize noumena.

Still, Kant maintains that, even if we cannot obtain *knowledge* of them, humans have reason to *believe* in certain noumenal objects (CPR A 828/B 856). In particular, and this should come as no surprise, Kant thinks that we have strong reason to believe in the existence of God, freedom, and immortality. Though these ideas are impossible to prove from a theoretical standpoint, Kant insists that their existence must be postulated for practical purposes. “One must be able to know what is just or unjust in all possible accordance with a rule,” Kant writes, “because our obligations are at stake” (CPR A 476/ B 504). And Kant goes to extraordinary lengths to demonstrate that, although the speculative problems, or antinomies, to which the ideas of God, freedom, and immortality give rise cannot be resolved objectively, they can be solved critically by considering “the foundations of the cognition in which it is grounded” (CPR A 484/ B 512). Since these ideas are “merely in your brain” and not encountered in experience, Kant reasons that “all you have to worry about is agreeing with yourself, and avoiding the amphiboly
that would make your idea into a putative representation of something given empirically, and thus of an object to be cognized in accordance with the laws of experience.” In other words, provided that one avoids theorizing the ideas of God, freedom, and immortality as objects of knowledge and provided that the ideas themselves do not contain logical contradictions, Kant maintains that some sense can be made of them.

In treating the antinomy between freedom and determinism, then, Kant observes that if phenomena and noumena can be reduced to the same, then “freedom cannot be saved,” but if “appearances do not count for any more than they are in fact, namely, not for things in themselves but only for mere representations connected in accordance with empirical laws, then they themselves must have grounds that are not appearances” (CPR A 536-7/B 564-5). Kant thus posits an “intelligible cause” that grounds natural, empirical laws of causality but is not conditioned by those same laws. Despite its unconditioned nature with respect to phenomenal occurrences, Kant maintains that the effects of an intelligible cause “are encountered in the series of empirical conditions” (CPR A 537/B 565). “The effect can therefore be regarded as free in regard to its intelligible cause,” Kant concludes, “and yet simultaneously, in regard to appearances, as their result according to the necessity of nature.” As Kant goes on to refine his position, he defines “intelligible” as “that in an object of sense which is not itself appearance (CPR A 538/B 566). “Accordingly,” he infers,

if that which must be regarded as appearance in the world of sense has in itself a faculty which is not an object of intuition through which it can be the cause of appearances, then one can consider the causality of this being in two aspects, as intelligible in its action as a thing in itself, and as sensible in the effects of that action as an appearance in the world of sense. Of the faculty of such a subject we would accordingly form an empirical and at the same time an intellectual concept of its causality, both of which apply to one and the same effect. (CPR A 538/B 566)

144 This is, in fact, Kant’s argument against idealism in the Transcendental Analytic (cf. CPR B 274-279).
Thus, for any effect that appears to intuition, Kant conceives two causes or one cause in two “aspects”: one empirical and therefore conditioned according to the laws of nature and one intelligible and therefore unconditioned, free, and not subject to the forms of intuition.

Kant’s critical resolution to the problem of causality, which contemporary philosophy would classify as a form of compatibilism, has significant and far-reaching consequences for his moral theory.\(^{145}\) Positing an unconditioned, noumenal cause grounding but not subject to the phenomenal laws of nature opens the door to a form of humanity that also transcends natural, empirical laws. This form of humanity, or humanity considered in this aspect, would exceed time and therefore phenomenal life; Kant would have thus secured for humanity another life time. As he explains, “for a subject of the world of sense we would have first an empirical character, through which its actions, as appearances, would stand through and through in connection with other appearances in accordance with constant natural laws” (CPR A 539/B 567). The causes of these phenomenal actions can thus be attributed to other phenomenal occurrences according to natural laws, Kant explains, such that together “they would constitute members of a single series of the natural order.” According to Kant, however, this same subject would also have “an intelligible character, though which it is indeed the cause of those actions as appearances, but which does not stand under any conditions of sensibility and is not appearance itself.” Kant explicates further that the empirical character of such a subject would be phenomenal and the intelligible character noumenal. Since “time is only the condition of appearances but not things in themselves,” Kant deduces, “this acting subject, in its intelligible character, would not stand under any conditions of time.” The implications of this conclusion,

\(^{145}\) Matthé Scholten argues, against a prominent vein in the tradition of Kant scholarship, that Kant is indeed a “soft determinist.” See Matthé Scholten, “Kant is a Soft Determinist,” European Journal of Philosophy 29, no. 1 (March 2021): 1-17.
though (or perhaps because) conditional, are profound: noting that “we can have nothing more than merely the general concept of it,” Kant writes that the subject, in its intelligible character, would nevertheless have to be declared free of all influences of sensibility and determination by appearances; and since, in it, insofar as it is a noumenon, nothing happens, thus no alteration requiring dynamical time-determination is demanded, and hence no connection with appearances as causes is encountered in its actions, this active being would to this extent be independent and free of all natural necessity present solely in the world of sense. Of it one could say quite correctly that it begins its effects in the sensible world from itself. (CPR A 541/B 569, emphasis added)

The human subject, on this view, would be, at least to a certain extent, independent of all natural necessity and free of all sensible influences, such that its effects in the sensible world originate in itself.

In his continued defense of an unconditioned, intelligible form of causality, Kant walks a fine line between affirming a certain kind of knowledge – ultimately that of “pure practical reason” – and disavowing that knowledge in the theoretical sphere. A careful reading of his elucidation in the section titled “Clarification of the cosmological idea of a freedom in combination with the universal natural necessity” reveals subtle shifts in the modality of Kant’s language. He vacillates between a conditional claim (“if … then it would mean that …”) to an existential one (“it is the case that …”). The first shift begins with a “sensible sign,” das sinnliche Zeichen, Kant locates in experience (CPR A 546/B 574). Until this point in the text, Kant reiterates that freedom is compatible with determinism if freedom is considered to be an intelligible form of causality and determinism is considered to be a sensible one that continues to operate according to the laws of nature. “We need the principle of the causality of appearances

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146 All these conclusions are premised upon the possible co-existence of freedom and natural necessity in “a different relation” of “the same occurrence” (CPR A 536/B 564).

147 What allows him to make this distinction is his contention that reason sets before itself certain “regulative” principles that risk leading it into antinomies but also serve to unify and systematize the understanding according to rules (cf. CPR A 508-515/B 536-543). Ultimately, as will be shown, these regulative principles serve a practical purpose in unifying human actions under the moral law.
in order to be able to seek for and specify the natural conditions, i.e., causes in appearance, for natural occurrences,” Kant explains (CPR A 544/B 572). “If this is conceded, and not weakened by any exceptions, then the understanding, which in its empirical use sees nothing but nature in all events and is justified in doing so, has everything it could demand, and physical explanations proceed on their own course unhindered” (CPR A 544-5/B 572-3). “Now this is not in the least impaired,” Kant continues,

supposing also that it is in any case merely invented [that is, for the sake of argument, Kant grants that this could simply be made-up; it could be a mere “thought experiment”], if one assumes that among natural causes there are also some that have a faculty that is only intelligible, in that its determination to action never rests on empirical conditions but on mere grounds of the understanding, as long as action in the appearance of this cause accords with all the laws of empirical causality. For in this way the acting subject, as causa phenomenon, would have all its actions linked with inseparable dependence to the natural chain of causes, and only the phenomenon of this subject (with all its causality in appearance) would contain certain conditions that, if one would ascend [aufsteigen] from empirical objects to transcendental ones, would have to be regarded as merely intelligible. (CPR A 545/B 573, emphasis added)

Thus, Kant speculates that, intelligible faculties could be derived from phenomenal experience by rising from empirical objects to transcendental ones. He goes on to note that the “intelligible ground” of such a faculty, because it lies beyond human intuitive capacities, cannot be the subject of human knowledge and, therefore, “need not worry” us (CPR A 545/B 573). Kant then shifts to an existential statement:

although the effects of this thinking and acting of the pure understanding are encountered among appearances, these must nonetheless be able to be explained perfectly from their causes in appearance, in accord with natural laws, by following its merely empirical character as the supreme ground of explanation; and the intelligible character, which is the transcendental cause of the former [und den intelligiblen Charakter, der die transzendentale Ursache von jenem ist], is passed over as entirely unknown, except insofar as it is indicated through the empirical character only as its sensible sign [den empirischen als das sinnliche Zeichen desselben angegeben wird.]” (CPR A 545-6/B 573-4, emphasis added).
A sign, therefore, *das Zeichen*, found in experience but indicative of something beyond experience, motivates a shift in Kant’s language and his speculation. From a potentially “invented” or dreamed-up theory, Kant moves to an existential claim: the intelligible character of the action *is* the transcendental cause of its phenomenal character, and this intelligible character *is indicated* by a sensible sign. Kant therefore takes this sign from sensory experience to indicate that phenomenal actions *are* noumenally conditioned.

From here, Kant moves on to an example: “Let us apply this to experience,” he writes (CPR A 546/B 574). Human beings are also phenomena in the sensible world, he reasons, so they must also have an empirical character and a form of causality that operates according to natural laws. Unlike “lifeless nature and nature having merely animal life,” in which Kant does not find any reason to believe there exist faculties other than those of sensibility, “the human being [...] knows himself also through pure apperception, and indeed in actions and inner determinations which cannot be accounted at all among impressions of sense.” The human being, Kant concludes, “is obviously in one part phenomenon, but in another part, namely in regard to certain faculties, he is merely an intelligible object, because the actions of this object cannot at all be ascribed to the receptivity of sensibility” (CPR A 546-7/B 574-5). Kant identifies reason and the understanding as just such intelligible faculties, and as evidence of reason’s causal capacity, Kant offers “the imperatives that we propose as rules to our powers of execution in everything practical.” The reason practical imperatives evince reason’s non-phenomenal causality, for Kant, lies in the fact that they prescribe what *ought* to occur rather than what *has occurred, is occurring, or will occur*, as is appropriate to the empirical laws of nature. Reason, Kant declares,

does not follow the order of things as they are presented in intuition, but with complete spontaneity it makes its own order according to ideas, to which it fits the empirical
conditions and according to which it even declares actions to be necessary that have not yet occurred and perhaps will not occur, nevertheless presupposing of all such actions that reason could have causality in relation to them; for without that, it would not expect its ideas to have effects in experience. (CPR A 548/B 576)

Thus, Kant affirms that reason is “spontaneous” with respect to the order it creates. Reason applies its order to empirical conditions but imposes upon those conditions a necessity that lies beyond their natural, phenomenal order. Moreover, Kant infers that since reason expects that its demands can impact the sensible word, its ability to actually bring about empirical effects is presupposed.

At this point, Kant pauses and returns to a conditional mode, asking his readers to “assume it is at least possible that reason actually does have causality in regard to appearances” (CPR A 548-9/B 576-7). If reason’s causality is granted, Kant reasons, then reason must still have an empirical character, since it would have empirical effects and some degree of “uniformity” is demanded between causes and their effects (CPR A 549/B 577). Kant then returns, once again, to an existential mode:

Thus every human being has an empirical character for his power of choice, which is nothing other than a certain causality of his reason, insofar as in its effects in appearance this reason exhibits a rule, in accordance with which one could derive the rational grounds and the actions themselves according to their kind and degree, and estimate the subjective principles of his power of choice. (CPR A 549/B 577)

It is, therefore, the rules according to which one chooses to act on appearances that have a rational basis. But because reason’s effects accord with natural laws and its rules are also derived from empirical experience, human choice also has an empirical character that is entirely reducible to natural causality. Kant returns to a conditional mode, acknowledging that “if we could investigate all the appearances of his power of choice down to their basis, then there would be no human action that we could not predict with certainty, and recognize as necessary given its preceding conditions” (CPR A 549-550/B 577-8). “Thus in regard to this empirical character,”
Kant concludes, “there is no freedom” (CPR A 550/B 578). If, on the other hand, Kant suggests, “we consider the very same actions in relation to reason,” and he qualifies, “not, to be sure, in relation to speculative reason, in order to explain them as regards their origin, but” rather, “insofar as reason is the cause of producing them by themselves – in a word, if we compare them with reason in a practical respect – then we find a rule and order that is entirely other than the natural order.” Here Kant distinguishes between reason’s speculative capacity to determine objective causality by identifying the origin of an action and reason’s practical capacity to produce actions from itself rather than as an effect of the natural series of conditions.

Everything hinges on this distinction between an objective, speculative form of reason and its productive, practical form: from it, Kant is able to give an account of how reason remains free in its intelligible character despite also being completely determined in its empirical character. “The empirical character” of the action, Kant confirms, “is once again determined in the intelligible character” (CPR A 551/B 579). Although “we are not acquainted with the latter,” Kant acknowledges, since the intelligible character would be noumenal and therefore not presented to human experience, “it is indicated through appearances, which really give only the mode of sense (the empirical character) for immediate cognition.” This is, again, the sensible sign, given in experience but indicative of something beyond it, namely a noumenal, intelligible aspect of reason that remains free with respect to phenomenal causality.¹⁴⁸ Here, in a curious manner, Kant adds a note about justice:

¹⁴⁸ In a compelling and thoughtful essay, Gabriela Basterra reads Kant’s analysis in the third antinomy against his stated aim of proving that freedom and determinism do not contradict one another to suggest that the Kantian subject designates a structural position connecting the natural series to its other. See Gabriela Basterra, “Unconditioned Subjectivity: Immanent Synthesis in Kant’s Third Antinomy,” The Journal of Speculative Philosophy 29, no. 3 (2015): 314-323. “The subject begins its effects in the chain,” she writes, “but nothing begins in the subject itself, because the subject is not the other (is not freedom), only the location of the other or, more exactly, a relationship to the other” (319).
The real morality of actions (their merit and guilt), even that of our own conduct, therefore *remains entirely hidden from us*. Our imputations can be referred only to the empirical character. How much of it is to be ascribed to mere nature and innocent defects of temperament or to its happy constitution (*merito fortunae*) this *no one can discover*, and hence *no one can judge it with complete justice*. (CPR A 551/B 579 note, emphasis added)

Kant is very clear that *complete justice is impossible in the human world*. He goes on to further his explanation of reason’s freedom with respect to the natural order. Reason, Kant explains, since it lies beyond experience and therefore beyond the forms of intuition (space and time), does not follow the empirical law of succession. “Pure reason,” he writes, “as a merely intelligible faculty, is not subject to the form of time, and hence not subject to the conditions of the temporal sequence” (CPR A 551/B 579). Actions considered in their intelligible character are therefore not “preceded by the conditions of pure reason, but only” the effects of empirical laws “in the appearance of inner sense precede it.” Although the action’s effects, aligned with the succession of natural causes, appear to the inner sense, and are thus temporally determined, Kant maintains that the actions themselves lie beyond intuition and remain unconditioned with respect to time. “For since reason itself is not an appearance and is not subject at all to any conditions of sensibility,” Kant explains in an existential mode, “no temporal sequence takes place in it even as to its causality, and thus the dynamical law of nature, which determines the temporal sequence according to rules, cannot be applied to it” (CPR A 553/B 581). In this way, Kant secures for reason, *in its practical form*, a noumenal freedom from the temporal.

Kant goes on to elucidate an example meant to *clarify* but not *confirm* reason’s regulative function with respect to experience, for he admits that “such proofs are unworkable for transcendental propositions” (CPR A 554/B 582). The example he provides is none other than that of a lie – and not just any act of deception, but one that generates public confusion. “[O]ne may take a voluntary action,” he suggests, “e.g. a malicious lie, through which a person has
brought about a certain confusion in society; and one may first investigate its moving causes, through which it arose, judging on that basis how the lie and its consequences could be imputed to the person.” To undertake such an investigation, Kant explains, “one goes into the sources of the person’s empirical character” searching for “a bad upbringing,” “bad company,” and “the wickedness of a natural temper insensitive to shame, partly in carelessness and thoughtlessness.” “In all this,” he continues, “one proceeds as with any investigation in the series of determining causes for a given natural effect.” In other words, Kant affirms the usual practice for determining whether to impute guilt or blame for a vicious action, namely, an empirical investigation into its cause according to natural laws. And yet, “even if one believes the action to be determined by” natural, empirical causes as evidenced in the course of the investigation, Kant observes that “one still blames the agent” regardless of “his unhappy temper,” “the circumstances influencing him,” and “the life he has led previously.” (CPR A 555/B 583). It is a confounding observation but, at face value, accurate: in court, for example, criminal records and character witnesses evince the likelihood that the defendant committed a crime. Rather than proving that the offender could not have done otherwise, given their past circumstances and temperament, these factors establish the likelihood of guilt. Kant offers the following explanation for such judgments:

One presupposes that it can be entirely set aside how that life was constituted, and that the series of conditions that transpired might not have been, but rather that this deed could be regarded as entirely unconditioned in regard to the previous state, as though with that act the agent had started a series of consequences entirely from himself. This blame is grounded on the law of reason, which regards reason as a cause that, regardless of all the empirical conditions just named, could have an ought to have determined the conduct of the person to be other than it is. (CPR A 555/B 583, emphasis added)

Imputation, on Kant’s account, therefore proceeds as follows: investigate the natural causes determining the action, then act as if those causes did not determine the action and presuppose
that the person could have done otherwise. Whether or not they were compelled by circumstances beyond their control, one acts as if the person acted freely and imputes guilt. Kant affirms that “the action is ascribed to the agent’s intelligible character” and insists that “in the moment when he lies, it is entirely his fault.” (CPR A 555/B 583). “[H]ence reason, regardless of all empirical conditions of the deed” Kant concludes, “is fully free, and this deed is to be attributed entirely to its failure to act.” It is as if Kant were already, sixteen years prior to writing the Metaphysics of Morals and affirming the justice owed the dead in defamation, laying the groundwork for his position. Here, in the first Critique, Kant clarifies just how to impute guilt based on the perpetrator’s atemporal, intelligible character and thus beyond their phenomenal life.

Kant’s example, though meant to clarify the experiential use of pure practical reason, in truth reveals his discontent with human finitude, both in terms of the time given in this life and the limits of human justice. His elucidation of the malicious lie and the footnote acknowledging the impossibility of complete human justice expose the limitations of human moral judgment. Human experience provides only the empirical conditions determining actions; any intelligible grounds for actions lie beyond our intuitive capacities. Therefore, human morality is not known but rather presupposed. Kant’s vacillation between conditional and existential claims in his analysis is symptomatic of the tension between his understanding and his desire. This is evident in a final paragraph separated from the rest of this section of the text, where Kant qualifies everything that has gone before, noting that “we have not been trying to establish the reality of freedom, as a faculty that contains the causes of appearance in our world of sense” (CPR A 558/B 586). “[W]e have not even tried to prove the possibility of freedom,” Kant continues. He avows only having proved that this antinomy of speculative reason, which ends in an irresolvable
dilemma between freedom and determinism in its attempt to find the unconditioned, “rests on a mere illusion, and that nature at least does not conflict with causality through freedom.” So, although Kant goes into great depth and provides extraordinary detail regarding reason’s freedom with regard to the natural order, clarifying its use in the experience of imputation, and often drawing conclusions in an existential modality, in the end, he maintains that the absence of any contradiction between the natural causal order and freedom “was the one single thing we could accomplish, and it alone was our sole concern.” He then remarks, again in a footnote, that “[m]orality is that which, if it is correct, positively presupposes freedom.” “If the former is true,” he affirms, “then freedom is proved.” This comment makes clear Kant’s purpose, namely, to demonstrate that no conflict exists between the laws of nature and rational causality (that is, determinism and freedom), so that he can later establish the truth of morality and prove the existence of freedom. His critical resolution to this antinomy reveals the stakes of this preliminary demonstration: because freedom is only feasible as an intelligible cause beyond human experience, the veracity of human morality would imply that some form of humanity exceeds the determination of time and the limits of phenomenal life.

The truth of morality is just what Kant undertakes to show in the second chapter of the “Doctrines of Method,” titled “The Canon of Pure Reason.” Here, Kant begins by lamenting the “humiliating” circumstances in which human reason “accomplishes nothing in its pure use, and even requires a discipline to check its extravagances and avoid the deceptions that come from them” (CPR A 795/B 823). While he finds consolation in the fact “that reason can and must exercise this discipline itself, without allowing anything else to censor it,” reason’s self-sufficiency with regard to its limits leaves Kant expressly discontent. “[T]here must somewhere be a source of positive cognitions that belong in the domain of pure reason,” Kant insists,
and that perhaps give occasion for errors only through misunderstanding, but that in fact constitute the goal of the strenuous effort of reason. For to what cause should the unquenchable desire to find a firm footing beyond all bounds of experience otherwise be ascribed? Pure reason has a presentiment of objects of great interest to it. It takes the path of mere speculation in order to come close to these; but they flee before it. Presumably it may hope for better luck on the only path that still remains to it, namely that of its practical use. (CPR A 795-6/B 823-4).

Kant thus acknowledges the tenacity of his desire to credit what lies beyond phenomenal experience and sets out to find reason’s objects of interest in the practical sphere. For again, Kant reiterates that if the “three cardinal propositions,” namely, “the freedom of the will, the immortality of the soul, and the existence of God,” “are not at all necessary for our knowing, and yet are insistently recommended to us by our reason, their importance must really concern only the practical” (CPR A 799-800/B827-8; A 798/B 826).

“Everything is practical that is possible through freedom,” Kant begins. If, then, there are to be “pure practical laws” of morality, he insists, they cannot “command under empirical conditions” determined according to natural causality, but rather “absolutely” in an unconditioned form “whose end is given by reason completely a priori” (CPR A 800/B 828). Although Kant acknowledges, again, that freedom cannot be proven in a “transcendental signification of the concept,” he affirms that “practical freedom can be proved through experience” (CPR A 801-2/B 829-30). “For it is not merely that which stimulates the senses,” Kant explains, “that determines human choice, but we have a capacity to overcome impressions on our sensory faculty of desire” (CPR A 802/B 830). Unlike non-human animals whose choice, according to Kant, “cannot be determined other than through sensory impulses, i.e., pathologically,” human choice “can be determined independently of sensory impulses” and “thus through motives that can only be represented by reason.” In other words, Kant repeats his argument from the third antinomy, namely, that human beings prove the existence of practical
freedom by overcoming desire. Since this capacity to defer or renounce gratification is not an immediate reaction to sensory input, Kant infers that it must be attributable not to empirical experience but to reason. “Hence,” Kant concludes, “this also yields laws that are imperatives, i.e. objective laws of freedom” or “practical laws.” Importantly, for Kant, the ability to overcome desire, to delay gratification, and to inhibit reactivity with respect to empirical stimulation not only proves the existence of practical freedom, this capacity also sets humanity apart from other forms of animality. Kant thus implies that, since humanity alone possesses pure practical reason, the credit attained in securing reason’s ends is also attributable only to humanity.

Kant maintains that the transcendental concept of freedom “concerns merely speculative knowledge” and can therefore be “set aside as quite indifferent if we are concerned with what is practical” (CPR A 803-4/B 831-2). Moreover, he affirms, “there is already sufficient discussion” of transcendental freedom “in the Antinomy of Pure Reason,” detailed above. Thus, Kant’s demonstration in the “Antinomy” is a necessary prolegomenon to his analyses of reason’s practical interests in the “Canon.” Having established that no logical contradiction occurs between a noumenal freedom and a phenomenal determinism, Kant is free to examine experience in an effort to locate a practical form of freedom on which to base morality. He thus brackets all speculative questions concerning freedom and looks only to practical freedom in human action. As he explains,

whether in these actions, through which it prescribes laws, reason is not itself determined by further influences, and whether that which with respect to sensory impulses is called freedom might not in turn with regard to higher and more remote efficient causes be nature – in the practical sphere this does not concern us, since in the first instance we ask of reason only a precept for conduct; it is rather a merely speculative question, which we can set aside as long as our aim is directed to action or omission. (CPR A 803/B 831)
By setting aside any speculative interest of reason, whose returns only yield problematically, Kant secures those same interests in the practical sphere. As he writes at the beginning of the next section,

Now yet another experiment remains open to us: namely, whether pure reason is also to be found in practical use, whether in that use it leads to the ideas that attain the highest ends of pure reason which we have just adduced, and thus whether from the point of view of its practical interest reason may not be able to guarantee that which in regard to its speculative interest it entirely refuses to us. (CPR A 804/B 832)

“So in a canon of pure reason,” he concludes, “we are concerned with only two questions that pertain to the practical interest of pure reason, and with regard to which a canon of its use must be possible, namely: Is there a God? Is there a future life?” (CPR A 803/B 831).

Kant begins his investigation into these two questions by uniting reason’s speculative and practical ends in the following three questions: “What can I know?” “What should I do?” and “What may I hope?” (CPR A 804-5/B 832-3). Kant dismisses the first question as “merely speculative” and the second as “merely practical,” taking an interest in the third, which he understands to involve both the practical and the theoretical (CPR A 805/B 833). Changing the form of the question to “If I do what I should, then what may I hope?” Kant claims that “the practical leads like a clue to a reply to the theoretical question and, in its highest form, to the speculative question.” “For all hope concerns happiness,” he explains,

and with respect to the practical and the moral law it is the very same as what knowledge and the natural law is with regard to theoretical cognition of things. The former finally comes down to the inference that something is (which determines the ultimate final end) because something ought to happen; the latter, that something is (which acts as the supreme cause) because something does happen. (CPR A 805-6/B 833-4)

Here, Kant argues that the same inferential logic applies to both practical and theoretical cognition, but with a slight difference; in the theoretical sphere, one infers a thing’s existence based on the fact of its occurrence, whereas in the practical sphere, one infers a thing’s existence
when it is requisite to the pursuit of duty. Although Kant presents this analogical claim formally and in the abstract, his parenthetical remarks make his intention clear: he is interested in determining the existence of a future life of happiness (the final end) and God (the supreme cause and guarantor of that life). He will, therefore, go on to draw the existence of God and a future life from the necessity of the moral law.

The moral law, on Kant’s view — and he is quite consistent about this throughout his texts — concerns not the motivation to achieve happiness through pragmatic means, but rather the worthiness to be happy based on actions that align with duty (CPR A 806/B 834). The moral law, he writes, “abstracts from inclinations and natural means of satisfying them, and considers only the freedom of a rational being in general and the necessary conditions under which alone it is in agreement with the distribution of happiness in accordance with principles.” In this way, Kant suggests, the moral law “at least can rest on mere ideas of pure reason and be cognized a priori,” as opposed to finding its ground in the sensory inclinations occurring in experience.

Kant goes on to assert that

I assume that there are really pure moral laws, which determine completely a priori (without regard to empirical motives, i.e. happiness) the action and omission, i.e., the use of freedom of a rational being in general, and that these laws command absolutely (not merely hypothetically under the presupposition of other empirical ends), and are thus necessary in every respect. I can legitimately presuppose this proposition by appealing not only to the proofs of the most enlightened moralists but also to the moral judgment of every human being, if he will distinctly think such a law. (CPR A 807/B 835)

Taking this presupposition to be true (i.e., that there are unconditional laws of morality binding the actions of all human beings by virtue of their rationality), Kant maintains that “[p]ure reason thus contains — not in its speculative use, to be sure, but yet in a certain practical use, namely the moral use — principles of the possibility of experience.” Since these principles of pure reason “command that these actions ought to happen,” Kant reasons, “they must also be able to happen,
and there must therefore be possible a special kind of systemic unity, namely the moral, whereas the systemic unity of nature in accordance with speculative principles of reason could not be proved.” Thus, Kant confirms that “the reply to the first of the two questions of pure reason that concern the practical interest” (that is, “What should I do?”) to be “Do that through which you will become worthy to be happy” (CPR A 808-9/B 836-7).

Kant goes on to investigate the second question, which he reformulates “Now if I behave so as not to be unworthy of happiness, how may I hope thereby to partake of it?” (CPR A 809/B 837). “For the answer to this question,” he explains, “the issue is whether the principles of pure reason that prescribe the law a priori also necessarily connect this hope with it.” Kant observes that “the necessary connection of the hope of being happy with the unremitting effort to make oneself worthy of happiness that has been adduced cannot be cognized through reason if it is grounded merely in nature,” since many people do not behave in accordance with the moral law (CPR A 810/B 838). Thus, Kant reasons that the connection of happiness with moral action “may be hoped for only if it is at the same time grounded on a highest reason, which commands in accordance with moral laws, as at the same time the cause of nature.” “I call the idea of such an intelligence,” Kant asserts,

in which the morally most perfect will, combined with the highest blessedness, is the cause of all happiness in the word, insofar as it stands in exact relation with morality (as the worthiness to be happy), the ideal of the highest good. Thus only in the ideal of the highest original good can pure reason find the ground of the practically necessary condition of both elements of the highest derived good, namely of an intelligible, i.e., moral, world. Now since we must necessarily represent ourselves through reason as belonging to such a world, although the senses do not present us with anything except a world of appearances, we must assume the moral world to be a consequence of our conduct in the sensible world; and since the latter does not offer such a connection to us, we must assume the former to be a world that is a future for us. Thus God and a future life are two presuppositions that are not to be separated from the obligation that pure reason imposes on us in accordance with principles of that very same reason. (CPR A 810-11/B838-9, emphasis added)
In other words, Kant acknowledges that, *in this life*, human beings are not guaranteed happiness in proportion to their worthiness of being happy – a mundane, if not obvious, claim. But he does not rest content with this reality. Instead, he contends that, *because* we cannot hope for happiness in this life, we must *assume* the existence of God, who *could secure our happiness in a future life*, should we work toward acting in accordance with the moral law in this one.

“Morality in itself constitutes a system,” Kant elucidates, “but happiness does not except insofar as it is distributed precisely in accordance with morality” (CPR A 811/B 839). But since in the sensible world happiness is not distributed in such a precise and just manner, Kant contends that this “is possible only in an intelligible world, under a wise author and regent.” “Reason” on Kant’s view, “sees itself as compelled either to assume such a thing, together with life in such a world, which we must regard as a future one, or else to regard the moral laws as empty figments of the brain, since without that presupposition their necessary success, which the same reason connects with them, would have to disappear.” In other words, because reason’s function, as Kant understands it, lies in the unification of its ends, God and a future life, together with free moral actions, must form a system in which humanity’s highest ends are *all* advanced.

“Hence,” Kant continues, “everyone also regards the moral laws as commands, which, however, they could not be if they did not connect appropriate consequences with their rule *a priori*, and thus carry promises and threats.” This claim to the universality of human reason justifies Kant’s claim to *both* the unconditional nature of the moral law *and* to its necessary connection with freedom, God, and immortality. “Thus without God and a world that is now not visible to us but is hoped for,” Kant contends, “the majestic ideas of morality are, to be sure, objects of approbation and admiration but not incentives for resolve and realization, because they would not fulfill the whole end that is natural for every rational being and determined *a priori* and
necessarily through the very same pure reason” (CPR A 813/B 841). “[I]n the end,” Kant concludes, “only pure reason, although only in its practical use, always has the merit of connecting with our highest interest a cognition that mere speculation can only imagine but never make valid, and of thereby making it into not a demonstrated dogma but yet an absolutely necessary presupposition for reason’s most essential ends” (CPR A 818/B 848).

Importantly, Kant’s recuperation of reason’s highest ends in the practical sphere does not prove the existence of God, freedom, and immortality in the strict sense; as Kant reiterates throughout the “Canon,” any conceptualization of these ends as objects of theoretical cognition remains impossible. Instead, Kant claims that we are “led” from the practical to the speculative according to an inferential clue:

the practical leads like a clue to a reply to the theoretical question and, in its highest form, to the speculative question. For all hope concerns happiness, and with respect to the practical and the moral law it is the very same as what knowledge and the natural law is with regard to theoretical cognition of things. The former finally comes down to the inference that something is (which determines the ultimate final end) because something ought to happen; the latter, that something is (which acts as the supreme cause) because something does happen. (CPR A 805-6/B 833-4, emphasis added)

Throughout these sections, Kant uses the language of assume and presuppose: if we are to act in such a way as to be worthy of happiness, which can be rationally determined prior to experience according to rules, then we must assume that such happiness can be secured in accordance with the unification of reason’s highest ends, and the only way to guarantee happiness in accordance with moral worth is to presuppose that God exists to secure it in a future life. In its practical use, reason’s ends are therefore assumed, both in the sense that they are believed and in the sense that they are taken. Humanity thus takes for itself these ends and accredits them, thereby accrediting itself. Through the renunciation of phenomenal, animal life, humanity thus gains another life, and with interest – a life without limits.
Kant is nonetheless aware that the pursuit of reason’s highest ends in its practical use entails an assumption; in an effort to justify this assumption, he therefore devotes the final section of the “Canon” to the differences among “having an opinion [Meinen], knowing [Wissen], and believing [Glauben]” (CPR A 820/B 848). Kant begins by distinguishing conviction, *Überzeugung*, in which something is taken to be true based on “objectively sufficient” grounds, which he understands to entail universal rational agreement, from persuasion, *Überredung*, in which something is taken to be true based solely on “the particular constitution of the subject.” Truth, Kant maintains, “rests upon agreement with the object, with regard to which, consequently, the judgments of every understanding must agree.” Kant thus defines truth as the mutual agreement of rational minds on a third thing:

The touchstone of whether taking something to be true is conviction or mere persuasion is therefore the possibility of communicating it and finding it to be valid for the reason of every human being to take it to be true; for in that case there is at least a presumption that the ground of the agreement of all judgments, regardless of the difference among the subjects, rests on the common ground, namely the object, with which they therefore all agree and through which the truth of the judgment is proved.

Accordingly, persuasion cannot be distinguished from conviction subjectively, when the subject has taken something to be true merely as an appearance of his own mind; but the experiment that one makes on the understanding of others, to see if the grounds that are valid for us have the same effect on the reason of others, is a means, though only a subjective one, not for producing conviction, to be sure, but yet for revealing the merely private validity of the judgment, i.e., something in it that is mere persuasion. (CPR A 820-1/B 848-9, emphasis added)

In other words, we can only assess our own subjective perspective on things by comparing our judgments to the judgments of others in order to see if there is agreement. If I, Kant, take something to be true, then I must make an experiment on the understanding of others to see if they also hold it to be true. Could this not describe the undertaking of the *Critique of Pure Reason*, along with every other book that Kant published? *All published writing*, it could be argued, is an experiment of this nature, an attempt to determine the validity of that which one has
taken to be true. Accreditation cannot take place without the input of others and the construction of a common ground. Kant’s insistence, his justifications, and his vacillations can all be read as a solicitation: “Grant me credit. Invest in my system. Make my dream come true.” In this sense, The Critique of Pure Reason can be read as a kind of grant proposal, as Kant’s bid for credit.

Kant goes on to provide an account of how he arrived at his judgement, including how certain he is that it is valid. Having already outlined the means for obtaining the objective validity of a conviction, Kant proposes “three stages” for determining the subjective validity of a conviction (CPR A 822/B 850). He first defines having an opinion, *Meinen*, as “taking something to be true with the consciousness that it is subjectively as well as objectively insufficient.”

When, by contrast, one understands objective grounds for determining the conviction to be lacking but maintains its subjective sufficiency, then Kant calls this believing, *Glauben*. Knowing, *Wissen*, on the other hand, requires both subjective and objective sufficiency – conviction and certainty, respectively. Based on these definitions, Kant goes on to illustrate their application in various domains. In the first place, he writes that when “judging from pure reason, to have an opinion is not allowed at all.” “[E]verything that is necessary should be cognized *a priori,*” Kant explains, and since “the principle of connection requires universality and necessity,” pure rational judgments demand “complete certainty” (CPR A 822-3/B 850-1). “Hence, it is absurd to have an opinion in mathematics” Kant reasons, “one must know, or else refrain from all judgment” (CPR A 823/B 851). “It is just the same with principles

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149 It would appear that there exists some overlap between persuasion and opinion in Kant’s account. Kant maintains that, unlike opinion, which he takes to be a stage in the development of conviction, persuasion is “a mere semblance” of conviction in which a subjective ground is held to be an objective ground (CPR A 820/B 848). I take this to mean that persuasion entails being misguided about the sufficiency of the grounds of the conviction. Andrew Chignell holds a similar position in his essay “Belief in Kant,” *The Philosophical Review* 116, no. 3 (July 2007): 323-360. Chignell provides a thorough account of Kant’s moral epistemology in this article. For his reading of the difference between persuasion and opinion, see especially pages 331-335.
of morality,” he continues, “since one must not venture an action on the mere opinion that something is allowed, but one must know this.” The truth of the moral law, in other words, is a certain conviction, both objectively and subjectively valid. Although Kant glosses this point in the “Canon,” it is clear from the notes he makes in his analysis of the third antinomy that proving the truth of morality has been crucial to his project all along. By proving the truth of morality, Kant claims to have also proven the truth of freedom, and from the possibility of human freedom (freedom from being causally determined by the laws of nature, which is to say, ultimately, freedom from all empirical determination and therefore the form of time and phenomenal life in general), Kant is able to secure for humanity another life time.

As opposed to reason’s pure use in mathematics and morality, Kant prohibits the formation of judgments in the use of speculative reason, since this would involve the theorization of things beyond empirical experience (CPR A 823/B 851). Thus, Kant concludes that believing is appropriate “only in a practical relation,” in which one believes something to be true “for absolutely necessary ends.” “Once an end is proposed,” Kant explains, “then the conditions for attaining it are hypothetically necessary.” But he understands this hypothetical necessity to become “sufficient absolutely and for everyone if I know with certainty that no one else can know of any other conditions that lead to the proposed end” (CPR A 823-4/B 851-2). In such cases, Kant affirms that the belief in question is “a necessary belief.” One such necessary belief, for Kant, is “moral belief”:

For there it is absolutely necessary that something must happen, namely, that I fulfill the moral law in all points. The end here is inescapably fixed, and according to all my insight there is possible only a single condition under which this end is consistent with all ends together and thereby has practical validity, namely, that there be a God and a future world; I also know with complete certainty that no one else knows of any other conditions that lead to this same unity of ends under the moral law. (CPR A 828/B 856)
Whereas one can and must claim knowledge regarding the moral law, Kant indicates here that one can only believe in the truth of God and a future life based on their necessity to unifying and securing the reason’s highest ends in conformity with the moral law. Kant justifies that this belief is not mere persuasion based on his “certainty that no one else knows of any other conditions that lead to the same unity of ends under the moral law.” In other words, he has compared his judgment to those of others and determined that it is a necessary belief. “Of course,” Kant admits that “no one will be able to boast that he knows [wisse] that there is a God and a future life,” but he maintains that “we have cause to be satisfied with it from a practical point of view.” (CPR A 828-9/B 856-7). Nonetheless, Kant still refers to his belief in God and a future life as a conviction; although he adds the qualification that it involves “not logical but moral certainty.” Since this conviction “depends on subjective grounds (of moral disposition),” Kant insists, “I must not even say ‘It is morally certain that there is a God,’ etc., but rather ‘I am morally certain’ etc.” (CPR A 829/B 857). And he avows that “the belief in a God and another world is so interwoven with my moral disposition that I am in as little danger of ever surrendering the former as I am worried that the latter can ever be town away from me.”

Kant thus makes clear his subjective judgment: he takes it to be true that there are universal moral laws that bind free wills unconditionally, and that the practical pursuit of these laws necessarily credits the existence of God and a future life of happiness. He claims that his moral beliefs are necessary, that they are not mere persuasions but rather convictions. Yet, he is haunted by the impossibility of proving these ideas objectively. And ultimately, the difference between persuasion and conviction lies in the court of public opinion – the life of these beliefs, along with that of their author, lies in the consensus of Kant’s future readers. Taking on this role with prescience, Kant asks, “is that all, one will say, that pure reason accomplishes in opening up
prospects beyond the bounds of experience? Nothing more than two articles of belief? This much common understanding could have accomplished without taking advice from philosophers!” (CPR A 830/B 859). Preempting his own defense, Kant responds with the following:

The very thing that you criticize is the best confirmation of the correctness of the assertions that have been made hitherto, that is, that it reveals what one could not have foreseen in the beginning. Namely that in what concerns all human beings without exception nature is not to be blamed for any partiality in the distribution of its gifts, and in regard to the essential ends of human nature, even the highest philosophy cannot advance further than the guidance that nature has also conferred on the most common understanding. (CPR A 830/B 859)

Unlike the scholastics, in other words, whose conclusions are lost on the masses, the beliefs Kant espouses make sense to everyone and not solely to philosophers. Kant contends that God and a future life are beliefs that any rational being can accredit. This claim to universality, to a common understanding among diverse points of view, is in fact an argument for the truth of the beliefs it champions. Kant’s pithy remark, which concludes the “Canon of Pure Reason,” thus carries with it both an appeal to lend credit to his desire and the promise of infinite returns. It is thus left to the reader, to innumerable and anonymous readers, to answer: “Can you credit that?”

2. Another Interest

“Two things fill the mind with ever new and increasing admiration and reverence the more often and more steadily one reflects on them,” Kant famously writes in his conclusion to The Critique of Practical Reason, “the starry heavens above me and the moral law within me” (CPrR 5:161). The moral law, he contends, “begins from my invisible self, my personality, and presents me in a world which has true infinity [Unendlichkeit] but which can be discovered only by the understanding, and I cognize that my connection with that world (and thereby all those visible worlds as well) is not merely contingent, as in the first case, but universal and necessary”
Whereas reflecting on “the multitude of worlds” comprising the starry heavens “annihilates [vernichtet] my importance as an animal creature, which after it has been for a short time provided with vital force (one knows not how) must give back to the planet (a mere speck in the universe) the matter from which it came,” Kant affirms that reflecting on the moral law infinitely raises my worth as an intelligence by my personality [erhebt dagegen meinen Werth, als einer Intelligenz, unendlich durch meine Persönlichkeit], in which the moral law reveals to me a life independent of animality and even of the sensible world, at least so far as this may be inferred from the purposive determination [zweckmäßigen Bestimmung] of my existence by this law, a determination not restricted to the conditions and boundaries of this life but reaching to the infinite [sondern ins Unendliche geht].

(KPrR 5:162)

Kant’s reflections here are consistent with his analyses in the first Critique, but with the explicit addition of value. The two perspectives Kant elaborates, the starry heavens above and the moral law within, work together to release humanity from the burden of phenomenal life, delivering us from mortality and finitude and making way for an eternal ascent. The perspective provided by the starry heavens crushes the weight of animal being, freeing humanity to rise through the purposive alignment of human existence with it the perspective of the moral law. Reflecting on and observing the moral law thus opens upon another, completely independent and intelligible life that raises the human subject’s worth beyond the limits of this life, toward the infinite.

Throughout his moral philosophy, Kant consistently identifies humanity’s worth with the purported ability to overcome the inclinations arising from sensory experience through an alignment with rationality and the moral law. As early as the first Critique, and as evinced in the previous section, Kant identifies practical freedom in the specifically human ability to act from reason, as opposed to other animals who supposedly only react to sensory stimuli in a “pathological” manner. For human beings, therefore, the moral law takes the form of a categorical imperative that is universally binding a priori rather than determined according to
empirical conditions.\textsuperscript{150} Kant therefore maintains that the categorical imperative must be devoid of “everything material” and hence solely \textit{formal} (CPrR 5:27). Kant sometimes formulates this moral determination as “disinterested” and in other instances as a “pure” interest, implying that moral interest is not contaminated by sensory pleasures or other empirical motivators. Once more from the second \textit{Critique}, he writes that while it is often necessary to take advantage of empirical motivators to direct an “uncultivated” or “degraded” mind toward a moral life, as soon as this machinery, these leading strings, have had even some effect, \textit{the pure moral motive} must be brought to bear on the soul, the motive which – not only because it is the only one that can ground a character (a consistent practical cast of mind in accordance with unchangeable maxims) but also because \textit{it teaches the human being to feel his own dignity} – \textit{gives his mind power}, unexpected even by himself, \textit{to tear himself away from all sensible attachments} so far as they want to rule over him and \textit{to find a rich compensation for the sacrifice he makes in the independence of his rational nature} and the greatness of soul to which he sees that he is called. We will therefore show, by observations anyone can make, that this property of our minds, this receptivity to a \textit{pure moral interest}, and hence the moving force of the pure representation of virtue, when it is duly brought to bear on the human heart \textit{is the most powerful incentive} to the good and the only one when an enduring and meticulous observance of moral maxims is in question. (CPrR 5:152-3, emphasis added)

This passage contains several points that are essential to Kant’s moral philosophy and Derrida’s analysis of it in \textit{The Death Penalty} seminar. In this first place, Kant makes a sharp distinction between the \textit{empirical} interests motivating pragmatic actions (e.g., sensory pleasures, material gain, and political power) and the \textit{pure} interests of morality, which motivate us to recognize and align our actions with reason, and therefore morality. As he explains it in the second \textit{Critique}, whereas an interest is “an \textit{incentive of the will insofar as it is represented by reason},” a specifically \textit{moral interest} is a pure, sense-free interest of practical reason alone” (CprR

\textsuperscript{150} Kant is remarkably consistent in his articulation of the categorical imperative:

“Act only in accordance with that maxim through which you can at the same time will that it become a universal law” (GMM 4:421).

“So act that the maxim of your will could always hold at the same time as a principle in a giving of universal law” (CprR 5:30).

“Act upon a maxim that can also hold as a universal law” (MM 6:225).
For Kant, the essential difference between empirical interests and moral interests is the inclusion or avoidance of input from the senses. Derrida refers to this moral interest as “a disinterested interest, as it were, an interest that is pure and independent of the senses, a non-pathological interest, an interest that comes from pure and simple practical reason (DP2 135/94). But as Derrida will demonstrate in the seminar, and in particular through readings of Nietzsche and Theodore Reik, humanity still gains something from observing the moral law; by renouncing empirical interests (and this should sound familiar, since it is the same sublation structure analyzed in the previous section with respect to the speculative and practical forms of reason), humanity in fact gains infinitely more than is possible in the empirical realm. This is evident in Kant’s language in the second Critique: the moral law motivates human actions with the promise of mental “power,” the “rich incentive” of “the independence of his rational nature,” and the feeling of one’s “dignity,” Würde, literally “worth” (CPrR 5:152-3). This specifically moral incentive precisely consists in freedom from sensory perception, and, ultimately, empirical life. Kant writes that observation of the moral law demands the “sacrifice” of “all sensible attachments.” What is lost in this sacrifice, however, is recovered with interest in the promise of a future life of in-finite worth, that is, a worth that increases without limit.

It is with this in mind that Derrida analyses Kant’s defense of the death penalty in The Metaphysics of Morals. For Derrida, “The Doctrine of Right” represents the “purest ethico-juridico-rational formulation of the necessity of the death penalty” in its elaboration of “the categorical imperative of penal justice, namely that, according to talionic law [jus talionis],

151 Compare with The Metaphysics of Morals: “if a pleasure necessarily precedes a desire, the practical pleasure must be called an interest of inclination. But if a pleasure can only follow upon an antecedent determination of the faculty of desire it is an intellectual pleasure, and the interest in the object must be called an interest of reason” (MM 6:212). Kant also refines his conception of the will in his most mature work, specifying that it is not directly involved in determining actions but only in giving the law (MM 6:226).
homicide – contrary to law – must be punished by death” (DP1 180/124). From the outset, Derrida contends that, for Kant, the death penalty is necessary to penal law “since homo noumenon must raise himself above the homo phenomenon who clings to life and the motives of vital interest, to hypothetical imperatives, etc.” (DP1 180/124). During the session, Derrida comments on this aloud, remarking that “[i]f one wants to get beyond homo phenomenon, the empirical attachment to life, one must raise oneself by means of law above life and thus inscribe from the height of noumenal man the death penalty in the law.” “There is no law without death penalty,” Derrida extemporizes, “[t]hat’s it! The concept of law would not be coherent without a death penalty. One cannot think a code of law without death penalty.” Derrida goes on to explain that the categorical imperative “must not take into account any interest, any empirical or sociopolitical end,” since it is “a pure imperative that, in its immanent and pure calculation free of any extrinsic calculation, of any hypothetical and phenomenal imperative of homo phenomenon” (DP1 182/125). In so far as “people obey subjective motives […] that are in disagreement with the objective rules,” Derrida understands Kant’s position to demand that in order to think the law, the ideal and rational purity of the law, one must maintain the principle of the categorical imperative, that is, the talionic law (a life for a life, a death for a death) and inscribe the death penalty in the law, even if the ideal is to be never obliged to pronounce its verdict. In any case, the possibility of the death penalty, that is, of the law as what raises homo noumenon above homo phenomenon (above its empirical life), belongs to the structure of the law. (DP1 184-5/127)

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152 In the Metaphysics of Morals, Kant uses the language of homo noumenon and homo phenomenon to characterize the human being in its purely rational, intelligible aspect and in its empirical, animal aspect, respectively. In the “Doctrine of Virtue,” he writes that the human being as a natural being that has reason (homo phenomenon) can be determined by his reason, as a cause, to actions in the sensible world, and so far the concept of obligation does not come into consideration. But the same human being thought in terms of his personality, that is, as a being endowed with inner freedom (homo noumenon), is regarded as a being that can be put under obligation and, indeed, under obligation to himself (to humanity in his own person) (MM 6:418). Kant also writes that human beings have an obligation to perfect themselves in this manner: “A human being has a duty to raise himself form the crude state of his nature, from his animality (quod actum), more and more toward humanity” (MM 6:387). Derrida thus attends closely to both the spirit and letter of Kant’s text in his interpretation.
The abolition of the death penalty, on this view, would “put the attachment to phenomenal life above everything,” whereas the possibility of the death penalty, even without its ever actually being implemented, places the highest value on the supersession of empirical life for the properly human life of *homo noumenon*.

Kant’s defense of the death penalty takes place in the context of a remark “On the right to punish and to grant clemency” (MM 6:331). He maintains that the “right to punish is the right a ruler has against a subject to inflict pain upon him because of his having committed a crime.” “Punishment by a court (*poena forensis*),” as distinct from “natural punishment (*poena naturalis*), in which in which vice punishing itself and the legislator does not take into account,” must, on Kant’s view, “never be inflicted merely as a means to promote some other good for the criminal himself or for civil society”; rather, such punishment “must always be inflicted upon him only *because he has committed a crime*.”

Kant explains that “the law of punishment is a categorical imperative,” and, just as this same imperative demands in the moral sphere, in penal law, “a human being can never be treated merely as a means to the purposes of another or be put among the objects of rights to things.” Thus, even though someone “can be condemned to lose his civil personality,” Kant insists that “his innate personality protects him from” being treated as an object to be used as a means to some other end. Kant is so adamant against the punishment serving any utilitarian purpose that he cries “woe to him who crawls through the windings of eudaemonism in order to discover something that releases the criminal from punishment or even reduces its amount by the advantage it promises,” which he associates with “the Pharisaical

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153 Ultimately, and partly through a reading of Theodore Reik, Derrida proves Kant’s distinction between *poena forensis* and *poena naturalis* to be untenable. For this analysis, see the second volume of the seminar, especially the third and fourth sessions. Michael Naas has provided a thorough account of Derrida’s deconstruction of this binary in “Kant with Freud,” *Law Critique* (2016) 27:151–169.
saying ‘It is better for one man to die than for an entire people to perish’” (MM 6:331-2). “For if justice goes,” he explains, “there is no longer any value in human being’s living on the earth” (MM 6:332). To illustrate this point, Kant goes on to imagine a harrowing situation – Derrida notes that this fiction is “not so very fictional, as it happens” – in which a court must consider “a proposal to preserve the life of a criminal sentenced to death if he agrees to let dangerous experiments be made on him and is lucky enough to survive them, so that in this way physicians learn something new of benefit to the commonwealth” (DP2 68/41, MM 6:332). Kant asserts that “[a] court would reject with contempt such a proposal from a medical college, for justice ceases to be justice if it can be bought for any price whatsoever [einen Preis weggeibl]” (MM 6:332). Kant thus claims that punishments based on such utilitarian calculations of interest are not consistent with justice; implied in his statement is the idea that justice is “priceless,” as a series of popular credit card commercials would have it. More to the letter of Kant’s text, though, if justice ceases to be justice when it is available for purchase, and human being’s living on earth is only valuable where justice continues to be justice, then justice is that which gives value to human life on earth. In this sense, for Kant, justice has a transcendental value: it alone is the condition for the possibility of life’s worth.

Interpreting this passage in the second year of the seminar, Derrida writes that “the value of life is worth more than and is better than life, by definition” (DP2 67/41). “What gives life its value is above life,” he explains, “and this has to do with justice, with a justice that is worth more than life.” Crucial to understanding Kant’s reasoning in this passage, on Derrida’s view, is his

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154 Derrida does not fail to point out the anti-Semitism in Kant’s remark: “there is always the silhouette of a hypocritical, literalist, ritualistic, calculating Jew behind the word Pharisee,” he writes in the second session of the seminar’s second year (DP2 68/41).
articulation of human dignity, *Würde*.\(^{155}\) “The criminal must be punished because he has transgressed, because he is guilty,” Derrida explicates Kant, “he must be punished because of his offense and not with the intention of producing some effect, of benefiting either the criminal himself or someone in society, the nation, or even humanity” (DP2 65/39). “In other words,” he continues, “the penalty, like its subject, like the subject being punished, must be an end in itself, and never a means.” “To respect a man who has been judged by punishing him for his transgression, and not because his punishment would serve some purpose,” Derrida elucidates, “is to respect his dignity as an end and not a means” (DP2 66/40). For Kant, as Derrida reads him, anyone who would ground the right to punish in some use-value, happiness, or well-being would not only “understand nothing of the specificity of law,” they moreover would “have no respect for what constitutes the dignity and value of human life, namely to be considered an end and not a means and in this way to rise above life.” “The value of human life” in the Kantian discourse, Derrida reiterates, “by definition, that which gives value to human life, is worth more than life: what gives value to life is what in life is worth more than life” (DP 66-7/40). Derrida points out that Kant’s claim rests on a subtle distinction between two types of value:

> As always, Kant distinguishes between, on the one hand, dignity (*Würde*, value as dignity, a value that is priceless, above all price, like justice), and, on the other hand, value (as *Marktpreis*), a comparative, calculable market value, a price, which is not dignity, which is unworthy of dignity — and thus unworthy of the law of man as rational being or as pure practical reason. (DP 68-9/42)

\(^{155}\) Kant introduces this concept in *The Groundwork for the Metaphysics of Morals*, where he writes:

> In the kingdom of ends, everything has either price [*Preis*] or dignity [*Würde*]. What has a price can be replaced by something else as its equivalent; what on the other hand is raised above all price and therefore admits of no equivalent has a dignity.
> What is related to general human inclinations and needs as a market price [Marktpreis]; [...] but that which constitutes the condition under which alone something can be an end in itself has not merely a relative worth, that is a price, but an inner worth, that is, dignity [*Würde*] (GMM 4:434-5).

This distinction will be important to Derrida’s analysis, explicated below. Derrida also interprets Kantian dignity through Kant’s analysis of respect in the second *Critique* (cf. CPrR 5:73-82). For Derrida’s reading, see the fourth session of the second year (DP2 134-137/93-96).
Whereas a *Marktpreis* can be calculated and exchanged, *Würde* is supposed to remain beyond any economic value of computation and equivalence.\(^{156}\) It is not difficult to see how this distinction is indissociable from the distinction between humanity in its phenomenal aspect (in which an ever-changing *Marktpreis* would be calculated based on empirical data) and humanity in its purely rational, noumenal aspect (characterized by an *a priori* *Würde* that remains immutable through changing conditions). It is thus the case that, in a logic that runs somewhat counter to common sense, Derrida observes that, for Kant, “to execute a man is not to dispose of him; it is not to do with him as one pleases and to affirm one’s power over him by instrumentalizing him” according to some *Marktpreis*; rather, to execute someone “is to respect him, to honor in him a man worthy of being punished because his act is punishable” insofar as human value consists in an unexchangeable *Würde* (DP2 68/41).

For Kant, then, the law of punishment must always maintain the dignity of the human being. It is in an effort to protect this innate human worth that he identifies the law of punishment as *jus talionis*, the talionic law: “only the *law of retribution* (*jus talionis*),” he writes, “can specify definitely the quality and quantity of punishment,” with the stipulation that it be “applied by a court” and “not by your private judgment” (MM 6: 332). “[A]ll other principles,” Kant explains, “are fluctuating and unsuited for a sentence of pure and strict justice because extraneous considerations are mixed into them.” Only the talionic law, in other words, can be determined *a priori* according to rational principles. As Kant explains later in the text, “the *ius talionis* is by its form always the principle of the right to punish since it alone is the principle determining the idea *a priori*,” which, as he clarifies parenthetically, means that the talionic law “is not derived from experience of which measures would be most effective for eradicating

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\(^{156}\) See the previous footnote for the importance of the possibility of exchange in Kant’s elaboration of the difference between *Marktpreis* and *Würde*. 
crime” (MM 6: 363). Derrida notes that in his analysis, Kant “is faithful to many interpreters of Jewish law who see in talionic law a principle of calculation that avoids escalating vengeance” (DP2 131/91). “There is here a rational calculation made by a third party,” Derrida explains, “and not the vengeful rage of a victim who takes the law into his or her own hands in a fit of passion.” Hence, the talionic law is intended to limit or prevent the influence of affective, “pathological” motives on the determination of punishment.

Kant characterizes the talionic law as a “principle of equivalence (in the position of the needle on the scale of justice), to incline no more to one side than the other” (MM 6: 332). “Accordingly,” for Kant this means that “whatever undeserved evil you inflict upon another within the people, you inflict upon yourself,” such that “[i]f you insult him; you insult yourself. If you steal from him, you steal from yourself; if you strike him, you strike yourself; if you kill him, you kill yourself.” Kant goes on to elucidate the meaning of this equivalence:

But what does it mean to say, “If you steal from someone, you steal from yourself?” Whoever steals makes the property of everyone else insecure and therefore deprives himself (by the principle of retribution) of security in any possible property. He has nothing and can acquire nothing; but he still wants to live, and this is now possible only if others provide for him. But since the state will not provide for him free of charge, he must let it have his powers for any kind of work it pleases (in convict or prison labor) and is reduced to the status of a slave for a certain time, or permanently if the state sees fit. (MM 6:333)

Thus, because Kant understands the talionic law to be an a priori principle of reason, and therefore universally binding, any wrong perpetuated against an individual is in fact a wrong perpetrated against all, including the perpetrator. In his interpretation of this passage, Derrida remarks that “Kant is pushing it a bit, as it were,” with the claim that “the thief no longer has anything since he attacked universal property” (DP2 140/98). 157 He nonetheless interprets

157 This is in fact the way the categorical imperative functions: if, in universalizing a maxim for one’s action, the action would no longer be possible (in other words, there exists a rational inconsistency in the maxim), then that
Kant’s claims here carefully, noting that Kant’s “argument consists in saying that the one who steals puts property in danger, everyone else’s property: therefore his own. He deprives himself of security in any possible property” (DP2 139/98). For Derrida, this means that the one who steals “therefore applies the talionic law to himself.” This occurs, on Derrida’s reading, automatically in the action itself. The one who steals “immediately applies [the talionic law] to himself a priori,” Derrida explains, “without even waiting for judgment.” “I steal from the other, therefore I steal from myself,” Derrida articulates Kant’s logic in the first person, “I steal from myself by that very act.” It is thus “always from myself that I steal and it is always myself that I expropriate.” Derrida identifies this exchange as “the economy of autonomy,” reiterating that “[b]y stealing, I threaten the property of others, thus I threaten my own property.” “This substitution is without appeal and without delay.” The implication here and elsewhere in the seminars where Derrida analyses the Kantian iteration of the talionic law, is that where principles of pure practical reason claim to abstract from calculation and exchange, there is still an economy at work.

This economy is evinced in the substitutions that occur through Kant’s articulation of the principle of equivalence. According to Derrida, this principle in fact involves “two equivalences” (DP2 131/91). “On the one hand,” Derrida writes, there is an equivalence “between the evil done to the other and therefore felt in oneself, and on the other hand, the equivalence between self and other, between two human persons of equal dignity.” That is, there is an equivalence between the criminal act and its retributive penalty, and there is an equivalence between the victim and the perpetrator. “This double equivalence might appear to be calculable action cannot be considered a moral action. Thus, in the example of theft, if everyone took property that did not belong to them, then there would be no property, since property depends on the security of everyone’s right to property. Derrida acknowledges the disconnect between Kant’s hypothetical world of reason and the reality of the world we live in with regard to the consequences of actions.
and might resemble a vengeance, be it, in fact, a vengeance inflicted upon oneself, in Kant’s mind and in the text,” but Derrida observes that,

[this double equivalence] actually escapes calculation on two counts: first, it is not the calculation of degrees by an empirical subject, since the equivalence is absolute and without any approximation; on the other hand, because it is rational and pure, anyone, a virtual third between the two parties, could and should be able to determine it; and above all each of the two, both of them, the victim and the guilty party, two human persons are equivalent in so far as they are equally worthy, endowed with human dignity, human personality, that is to say, invested with absolute dignity (Würde) without possible comparison. (DP2 131-2/91-2)

Derrida highlights that, in Kantian theory, since the equivalences in question are purely intelligible principles of pure practical reason, they cannot be calculated according to empirical data gleaned from experience. Moreover, the equivalence between human personalities is one of equal worth in so far as each has dignity, a value that is incomparable and exceeds any market value. As Derrida explains, since dignity as Würde “is not a value or a price that is calculable and open to comparison,” “the dignity of a person, as end and never as means, is an incomparable absolute,” such that “[o]ne person is worth another’” and “one person is as worthy as another” (DP2 132/92). “The equivalence between these dignities is not an equality of value (thus, of a comparative or differential, purely quantitative order),” Derrida emphasizes, “but an equality in dignity.” “The equivalence that grounds this ‘equality,’” he continues, “is thus not on the order of comparable or comparative magnitudes.” Rather, Derrida characterizes the equivalence as “an equality that all in all remains incalculable in spite of appearances: not quantitative even if, as we will see, quality can be figured as quantity.”158 Or again, from a

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158 Derrida reads Kant’s text closely with regard to his quantifications or this incalculable qualitative equality, concluding that “[t]he examination of the text shows that quality dominates and determines quantity, just as the spirit dominates the letter, and that this domination is ultimately what justifies or even prescribes the death penalty in the name of what is elevated and must be elevated above life” (DP2 138/97). Geoff Bennington analyzes this equivalence in detail in his essay “Ex Lex,” where he also treats Hegel’s attempt to provide what is perhaps a more rigorous account of this purely spiritual equivalence in The Philosophy of Right. See Geoffrey Bennington, “Ex Lex” The Oxford Literary Review 35, no. 2 (2013): 143-163.
different angle, Derrida characterizes the equivalence as an equality that “is calculable as the equality between two absolute ends, two ends in themselves, two absolutes, each of which exceed calculation. An incalculable equality between two incalculables.” On Derrida’s reading of Kant, this means that “reciprocity is not the empirical ‘tit for tat’ of vengeance, of the vendetta, of retaliation, but an immediate symmetry between two ‘without measures,’ to measureless or immeasurable dignities.” “Equivalence, that is, equality, equity,” Derrida concludes, “is here symbolic, spiritual, internal” (DP 2 139/97).

As Derrida details the equivalences at work in Kant’s elaboration of the law of retribution (and there are many, as Kant attempts to maintain the proportion of the talionic law through numerous examples and quandaries), he arrives at what he calls a leap in Kant’s text, between, on the one hand, all the problems of equality, literal or spiritual, quantitative or qualitative, external or internal among all sorts of crimes and sanctions in life, where the guilty and their victims are and remain alive, free or in prison, and on the other hand – here’s the leap – the beyond, the crime that consists in committing murder. In this case, all of the displacements from literal to symbolic, (the public apology or the act of kissing the hand of one’s inferior [examples of how to implement the spirit of the talionic law despite differences in social rank]), sentences involving prison or hard labor, which leave the guilty party alive, are no longer possible equivalents for murder. (DP 2 140/98-9)

And here Derrida quotes Kant:

If, however, he has committed murder, he must die. Here there is no substitute that will satisfy justice. There is no similarity [Gleichartigkeit] between life, however wretched it may be, and death, hence no likeness between the crime and the retribution unless death is juridically carried out upon the wrongdoer, although it must still be freed from any mistreatment that could make the humanity in the person suffering it into something abominable. (MM 6:333)

Kant thus maintains that, for the principle of equivalence to hold, there must be some sort of similarity or sameness, Gleichartigkeit, between the crime and the punishment; in cases of murder, then, since the crime involves taking a life, the only common measure is death.

Nevertheless, Kant determines this Gleichartigkeit to vary or need qualification in numerous
empirical cases and exemplary fictions he analyses throughout the text. Derrida seems to find it somewhat scandalous that Kant finds explanatory grounds for excepting literal equivalences between the crimes of dualling, matricide, rape, bestiality, and pederasty, but not in the case of murder. “So everything seems to be organized and disorganized, oriented and disoriented, around the interpretation of talionic law,” Derrida concludes, “between the qualitative and the quantitative, the calculable and the incalculable” (DP2 144/102). “And what Kant seems to prescribe, or what Kant seems to describe, as to what rights, justice, and law, should prescribe,” Derrida confirms, “is like a calculation of the incalculable, a rational and impersonal calculation of what eludes calculation, namely, the qualitative, the spiritual, the symbolic, everything that makes the human person an end and not a means: dignity (Würde) or honor (Ehre) or respect (Acht) that have no price.”

In the first year of the seminar, Derrida suggests that the pure, rational equivalence characterizing Kant’s conceptualization of the talionic law is contaminated by historical, empirical economic considerations. Through a reading of Nietzsche, Derrida suggests that Kant’s purportedly disinterested calculation nonetheless remains interested. “[W]hat makes Nietzsche so interesting,” Derrida quips, “whether or not one agrees with what he says, is that he suspects and sniffs out the partie honteuse, the modestly hidden or negated interest, both in those who advocate interest and in those who allege disinterest,” and in particular, “in Kant, who attempts to raise the categorical imperative of the death penalty above the calculation of interest but in the name of another rationally and morally pure calculation, the principle of equivalence, the jus talionis between the crime and the punishment between the injury and the price to be paid” (DP1 215-6/150-1). Derrida notes that, for Nietzsche, “there is always an interest hidden beneath this alleged disinterest” (DP1 203/142). In On the Genealogy of Morals, Nietzsche
contends that the renunciation associated with asceticism (which he clearly associates with Kantian morality) hides a disavowed but vital gratification. Derrida understands Nietzsche to evoke “in the name of life, the law that produces a hostility to life, but a hostility to life that is also an interest of life, an overwhelming [renversant] interest of life” (DP1 204/142). In the Third Essay, Nietzsche refers to the ascetic as a “life-inimical [Lebensfeindliche] species,” and according to Derrida, Nietzsche underscores Lebensfeindliche “because in question is a principle of death, in sum, a hostility to life, which is a movement that is both irreducibly necessary and immanent to life itself.” “It is,” Derrida elucidates, “life against life, life taking pleasure in life against life, counter-pleasuring in life (contre-jouissant de la vie).” He quotes from the Genealogy as Nietzsche infers that, since the ascetic type “does not die out,” such a self-contradiction must be “in the interest of life itself.”

“So,” Derrida concludes, “hostility is inherent to life itself [la vie même], to the itself of life [au même de la vie], it is found right on life [à même la vie], and disinterest is still the symptom of a repressed interest” (DP1 205/142). Derrida thus finds two insights in Nietzsche. In the first place, opposing life is in the interest of life itself; in other words, life has something to gain from death, or put otherwise, death is in the interest of life. Hence, life and death would not form an oppositional couple. Second, and from this, he infers that cruelty is a part of life: where there is life, there is also cruelty.

Derrida thus finds in Nietzsche’s text “a logic of cruelty (torture, punishment), of the relations between the cruelty of life and the law” (DP1 211/147). In the Genealogy, Derrida interprets Nietzsche as having developed “a philosophy of cruelty, the philosophy of cruelty that, in sum, has no contrary.” “There are to be sure differences among several modes or different degrees of intensity of cruelty, between an active cruelty and a reactive cruelty,” Derrida

acknowledges, “but there is no opposition between cruelty and non-cruelty” (DP1 211/148). On Derrida’s reading of Nietzsche, therefore, “life is—it owes it to itself to be—cruel wherever it keeps itself, wherever it keeps the memory and even,” he adds, “the truth of itself.” Thus, Derrida finds in Nietzsche a thinking of cruelty that takes seriously the possibility that one cannot counter cruelty with something contrary to it; rather, cruelty would be a necessary part of life itself. Derrida goes on to restate this in no uncertain terms: “The death penalty, I repeat, has no originality; putting to death is a degree of torture and a strategy in cruelty, which requires one to interpret it in a non-juridical fashion” (DP1 212/148). Nietzsche’s approach in the *Genealogy* provides support for such a claim. Because his task is to investigate the law from a perspective which considers “movements of animal-human life that are prehistoric or in any case anterior to the law,” Derrida infers that “[t]he cruelty of putting to death is not a matter for law.” This leaves open some other interest behind the principle of equivalence that Kant promotes as the disinterested guarantor of pure practical reason and consequently, justice and human worth.

Since, on Nietzsche’s view, no one can maintain a truly disinterested position or avoid cruelty altogether, Kant would be supremely cruel and undoubtedly interested. According to Nietzsche, Derrida explains, in his articulation of the moral law as categorical imperative, Kant is guilty of “a cruelty that does not speak its name, a hypocritical cruelty that gives itself airs of keeping its hands clean *[de n’ y pas toucher]*, a cruelty [...] that has the odor of blood and torture, on a ground soaked in blood” (DP1 212/148). “In the same movement,” Derrida observes that Nietzsche names “the pleasure taken from suffering,” linking suffering to memory and mnemotechnics. Parenthetically, Derrida notes Nietzsche’s emphasis on the word *Mnemoteknik*, “in order to underscore that archivization and recollection engage the suffering body in a machine, in a technical repetition.” He clarifies further that, for Nietzsche, “to remember, to
imprint the memory, one causes suffering, one must cause suffering.” Derrida stresses Nietzsche’s characterization of this painful imprint, quoting from the German: “Mann brennt etwas ein, damit es im Gedächtnis bleibt, ‘something is burned, something is made red hot by penetrating until it draws blood so that it remains in memory’” (DP1 212-3/148-9). Derrida remarks that, for Nietzsche, “the universal law” would consist in this painful process of impressing memory, rather than anything like a categorical imperative of reason (DP1 213/149). Nietzsche thus “links memory to pain, wound, and trauma,” announcing “‘only that which never ceases to hurt stays in the memory.’” Derrida finds in Nietzsche’s thought a “natural and zoological principle of cruelty, of the causing-to-hurt, causing-to-suffer so as to remember” which allows for “an entire reading of history and culture, law and religion.” From this principle, Derrida again finds that “punishment is not first of all a juridical apparatus”; rather, it is “a movement of life, a writing of life so as to remember, to inscribe, imprint the past in its body.” Accordingly, Derrida elucidates,

“cruelty is no longer just one part among others of this mechanism of biopsychology; it is the essence of life, insofar as it keeps itself, insofar as, at the same time, it protects and keeps itself in memory in its truth; and it can, of course, in sacrifice and death, lose itself to keep itself. Life knows how to make itself suffer in order to keep itself, and to keep itself from forgetting, to keep itself to memory. For all of this is, of course, an interpretation of sacrificiality. (DP1 213-4/149)

Derrida stresses the indissociability of cruel sacrificiality and memory in Nietzsche’s discourse as a counterpoint to Kant. Where Kant clearly identifies humanity with a non-phenomenal, non-empirical, purely intelligible reason, thereby securing for humanity a future life of immortal happiness, Nietzsche maintains that cruel sacrifice secures the life of the human animal (and he emphasizes humanity’s intractable animality) – human life is human life by virtue of the fact that it is painfully remembered.
With this in mind, Derrida returns to Kant’s defense of the death penalty in cases of murder as the only possible punishment that would satisfy the principle of equivalence.

According to Derrida, “Nietzsche deems this idea of equivalence at once mad, unbelievable, inadmissible, and he wants to retrace its genealogy” (DP1 216/151). “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,” is, as Derrida understands it,

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? (DP1 217/151-2)

“Obviously Nietzsche’s very legitimate question,” Derrida discerns, “is that these things are of such heterogenous quality that there cannot be, there should not be, any possible equivalence, any common measure between a wrong and an injury, on the one hand, and on the other, the suffering inflicted by a punishment” (DP1 217/152). Much of The Genealogy of Morals is devoted to Nietzsche’s archeology of this particular aspect of the law and punishment; he attempts to describe how two such incommensurable things as injury and pain came to be considered equivalent. As Derrida reports, Nietzsche finds “the origin of this unbelievable and uncreditable equivalence” in “precisely, credit, in commerce, exchange, sale, trafficking, and so forth.” “The origin of the legal subject, and notably of penal law,” Derrida explains,

is commercial law; it is the law of commerce, debt, the market, the exchange between things, bodies, and monetary signs, with their general equivalent and their surplus value, their interest. This would mean, in sum, that what makes us believe, credulous as we are, what makes us believe in an equivalence between crime and punishment, at bottom, is belief itself, it is the fiduciary phenomenon of credit or faith (Glauben). The origin of the belief in equivalence, that is, in penal law, the origin of our belief in penal law, the origin of the credit we grant it, or that in truth we believe we must grant it, is belief itself. It is because we believe (always in a dogmatic fashion, always in a credulous fashion); it is because we grant credit that we believe in some equivalence between crime and punishment. But this belief does not consist only in believing in what we believe to be or
believe to be true, but in believing by posing, performatively, by inventing an equivalence that does not exist, that has never existed, and that will never exist between crime and punishment, a convenient equivalence but a fictive one in short, which allows us both to believe and to exchange signs and things, signs and affects, [...] which allows us to speak, to exchange things, words, signs, to commerce, in short, to engage in commerce, to contract loans and debts. (DP 1 217-8/152)

Here, Derrida engages with the multiple determinations of credit, Glaube. Exploring these connotations together allows Derrida to emphasize the fact that belief or faith (and not solely credit in a financial sense) is requisite to any economic relation, broadly speaking. In order for there to be exchange of any kind, whether that be monetary, barter, legal, or linguistic, an equivalence between two incommensurable things must be posed “performatively.” The equivalence is thus not “actually” or “factually” equivalent; rather, it is invented and believed in order to make exchange possible. One could characterize belief as transcendental in this manner: it is the condition for the possibility of exchange. “By pushing this logic as far as the example of the death penalty” then, Derrida infers, “we would say that the death penalty is an article of law or an article of faith of commercial law, the market, trafficking” (DP 1 218-9/153). In other words, the death penalty is deemed the necessary retribution for the crime of murder because we believe it to be so, rather than due to anything inherent to the crime and the punishment themselves. Further, as a transcendental phenomenon, accrediting the death penalty in this manner serves as a condition for the possibility of law itself, as a system of equivalences between crimes and punishments.

Derrida continues his reading of the Genealogy, exploring the implications of this act of faith. On his interpretation of Nietzsche, there is at the heart of this logic a “strange and troubling, unheimlich concept of belief or credit, the act of faith, of trusting” that “must be properly and well analyzed,” which Derrida means in its etymological sense of “internal dissociation, element by element” (DP 1 219/153). With this in mind, he again treats the multiple
senses of *glauben*, which allow him to reflect on the “believing subject who is both believing, credulous, and yet who does not believe in what he believes he believes, and who thus divides his own belief, affects to believe, simulates belief.” For Derrida, “the essence of the fiduciary and of interest” and therefore “the market, exchange, the social contract, the promise, the whole system of supposed equivalences that ground money, language, law as well as penal law” is the contradictory and simulacral phenomenon of belief (DP1 219/153-4). “To believe,” Derrida observes, “is this strange divided state or this strange divided moment, quasi-hypnotic, in which I am not myself, in which I do not know what I know, in which I do not do what I do, in which I doubt the very thing I believe or in which I believe” (DP1 219/154). To believe in something, in other words, requires a *lack of knowledge* regarding that which one believes; there must be some doubt about the object of belief – otherwise, it is factual knowledge. Only that which is in some way unknown or uncertain can be believable. This, however, also means that the object of belief remains in some sense unbelievable, uncertain, and unknown. Belief is *simulated*, created from what *is not*; and “this simulacrum” is, Derrida explains, “a part of belief itself, the fiction of this simulacrum belonging to the very structure of what we call credit or belief.” “Believing, in sum, is not believing” Derrida writes, “to believe is not to believe.” In this sense, and like the logic of cruelty, “[b]elieving is its own contrary and thus it has no contrary” (DP1 220/154).

Nevertheless, this “internal division, this properly analytic dissociation, this cleavage, this split of believing haunted by nonbelief is,” Derrida maintains, “almost quasi-hypnotic, one might say spectral, quasi-hallucinatory, or unconscious.” Since all economic, legal, and social exchange presupposes this phenomenon of unbelievable belief, these institutions are founded upon an effective but disavowed simulacrum.
According to Nietzsche’s analysis in the *Genealogy*, this nonbelieving aspect of belief plays a central role in the development of the animal-man as a creature that makes promises. It is the ability to make promises, and hence to engage in fiduciary exchange, Nietzsche thinks, which allows the human animal to progress beyond its merely animal nature. In Nietzsche’s discourse, as Derrida reports, the promise “always entail[s] harshness, cruelty, and violence” (DP1 220/154). In order to “inspire trust in his promise,” Derrida explains, the debtor historically “pledges to indemnify the creditor in case he does not pay, by giving the creditor something he possesses.” Nietzsche details ancient legislation regulating parts of the body which were extracted according to the size of the debt. According to the *Genealogy*, Derrida elucidates, this exchange came to be spiritualized or internalized at the time of the Twelve Tables of Rome, such that “[i]n place of an advantage that compensates (*Rückzahlung*, as equal and accountable compensation in return) in the form of something or someone, a wife, for example, or a good, a thing, a body, the creditor is granted a psychic reimbursement” (DP1 221/155). “Instead of a thing, instead of something or someone, he will be given some pleasure, some enjoyment [jouissance], a feeling of well-being or of a greater well-being (*Wohlgefühl*),” Derrida continues to exegete the *Genealogy*, “he will be given a pleasure that consists in the voluptuous pleasure of causing the other to suffer, and cruelly, the voluptuous pleasure, says Nietzsche in the French, of ‘faire le mal pour le plaisir de le faire,’ that is, of doing harm for the pleasure of it.” Derrida stresses the “infinite disproportion” accompanying what he calls a “bid to raise the stakes” in the logic of cruelty; “for a finite debt, in some sense,” he explains, “the compensation in psychic cruelty does not merely correspond but exceeds the correspondence by responding to it with a pleasure of cruelty that becomes infinite, in any case extreme, to the ‘highest degree’” (DP1 230/163). Derrida finds an irreducible specificity in Nietzsche’s use of the German
**Gegengenuss**, translated as “counter-pleasure.” Cruelty is more aptly characterized by this concept than by pleasure alone, on Derrida’s view, because counter-pleasure “goes to the limit of itself” (DP1 231/163). This means, at least in part, that due to the uncreditable nature of the equivalence between the crime and the punishment, the pleasure obtained in counter-pleasure does not negate the pain of the injury; the pleasure exacted in punishment instead comes *from or through* the pain of the injury. The concept of counter-pleasure thus troubles the purported oppositions between pleasure and pain and injury and punishment.

Nietzsche describes the pleasure associated with punishing incurred debts as in part derived from a fantastical ascent in social status. One imagines, feels, or identifies with those more powerful. “This enjoyment,” Nietzsche surmises “will be the greater the lower the creditor stands in the social order, and can easily appear to him as a most delicious morsel, indeed as a foretaste of higher rank. In ‘punishing’ the debtor, the creditor participates in a right of the masters: being allowed to despise and mistreat someone ‘beneath him.’”

Through the “taming” of the animal-man and the subsequent internalization of its drives, however, Nietzsche discerns that the human can enjoy a feeling of sovereignty in punishing *itself*, which allows it to obtain a release from the guilt or debt [*Schuldig*] associated with its “inferior” animal nature. In this way, Nietzsche’s animal-man becomes both creditor and debtor by making itself suffer to pay for the aggressive drives it can no longer exact upon the other in society. In highly civilized nineteenth century Europe, Nietzsche thinks, this phenomenon reaches a limit point, in which the animal-man considers itself irreparably guilty before its antithesis—the Christian God.

Derrida comments upon Nietzsche’s analysis of the crucifixion in this light: “Nietzsche, in sum,

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does not read the crucifixion as a simple sentencing to death by men or by a theologicopolitical power, or rather, he interprets this sentence of theologicopolitical origin as an extraordinary ruse of cruelty in the logic of debt and payment or redemption of the debt” (DP1 222/156). Attending to Nietzsche’s rhetorical “Can one credit that?”, Derrida plays on the French word “impayable” (literally “priceless” but figuratively “unbelievable”) to emphasize Nietzsche’s incredulity regarding the idea that God, the supreme creditor, would sacrifice himself to pay man’s irredeemable penance, and that, moreover, God would do this “out of love” (DP1 223/156). What makes this story so impayable, at least in part, is that for Nietzsche, the crucifixion, far from redeeming mankind, in fact reinforces the creditor-debtor logic that it purportedly overcomes. “You will have guessed,” Nietzsche retorts,

what has really happened here, beneath all this: that will to self-tormenting, that repressed cruelty of the animal-man made inward and scared back into himself, the creature imprisoned in the “state” so as to be tamed, who invented the bad conscience in order to hurt himself after the more natural vent for this desire to hurt had been blocked—this man of the bad conscience has seized upon the presupposition of religion so as to drive his self-torture to its most gruesome pitch of severity and rigor. Guilt before God: this thought becomes an instrument of torture to him. He apprehends in “God” the ultimate antithesis of his own ineluctable animal instincts; he reinterprets these animal instincts as guilt before God […].

In this psychical cruelty there resides a madness of the will which is absolutely unexampled: the will of man to find himself guilty and reprehensible to a degree that can never be atoned for; his will to think himself punished without any possibility of the punishment becoming equal to the guilt […].

Thus, Derrida understands Nietzsche’s interpretation of the crucifixion as yet another “bid to raise the stakes” in the logic of cruelty (DP1 230/163). The sacrifice God makes to pay for humanity’s debt renders man eternally unworthy of the love the deity has demonstrated. That

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162 Derrida also discusses this aspect of Nietzsche’s thought at the end of The Gift of Death. See GD 156-7/114-5.

163 Nietzsche, Genealogy, 92-93. Derrida finds a parallel here between the condemned one and humanity in general after the crucifixion—both are considered irredeemable, guilty of inexpiable crimes, unforgivable, etc. (DP1 157/224).
this raising of the stakes in cruelty posits an unforgivable guilt does not eradicate the creditor-debtor logic of equivalence; to the contrary, due to the unbelieving or uncreditable nature of Glaube, the lack of any adequate compensation for the crime has constituted punishment from the very beginning. In this sense, guilt or debt, Schuldig, has always already been without possible recompense and rather than undermining retributive justice, this uncreditable equivalence actually makes it possible. The idea of an inexpiable debt thus confirms and reinforces the logic of impayable equivalence already at work in the creditor/debtor or, what amounts to the same for Nietzsche, judge/perpetrator relation.

While Nietzsche recognizes the immense suffering such an unsurpassed level of psychic cruelty brings upon the human, however, it should also be recalled that, on his analysis, making(-oneself)-suffer through the exercising of sovereignty over the (self-as-)other is also accompanied by intense counter-pleasure. Following Nietzsche’s analysis of the sovereign fantasy that contributes to or constitutes the counter-pleasure obtained in making-suffer, it can be inferred that making oneself suffer from an inexpiable debt realizes unparalleled counter-pleasure, because, in punishing oneself, one forms an identification with the supreme being, the Christian God. When, through the crucifixion, the human is conceived as the most unworthy of creatures, eternally punished for an inexpiable indebtedness to God, the human also participates in the infinitely exquisite fantasy of divine retribution in the form of a self-inflicted psychic torture. It is in this sense that Nietzsche sniffs out an odor of “Christian cruelty” at work in Kant’s categorical imperative (DP1 226/159). Kantian practical philosophy is thus, on Nietzsche’s diagnosis, “sick with cruelty,” a cruelty that continually sacrifices animal-empirical life to obtain a “truly human” life of reason through the moral law, a life that is, moreover, not limited to this one. The categorical imperative, that supremely rational principle from which all actions derive
their moral worth, is a secularized means by which the human is divided into creditor and debtor, judge and criminal, executioner and condemned, perpetually counter-pleased-tortured in a cruel exaction of compensation for its unforgivable animal nature. In a certain sense, there is no longer a need for God, as this divine arbiter has been internalized and become one with the self-tormenting human psyche. For Nietzsche, this is metaphysics—the beyond-, after-, or over-physical life—which feigns disinterest, renunciation, asceticism, all the while capitalizing on a cruel but disguised counter-pleasing in a phantasmatic life of human reason. Derrida thus finds “nothing surprising” in the fact that, for Nietzsche, this “greatest thinker of the purest morality in the history of humanity” reeks of cruelty, since the “‘genealogy of morals!’” is nothing but “cruelty, the theater of cruelty, the history of cruelty, or rather the prehistory of history as cruelty” (DP1 225/158).

Through his reading of Nietzsche, therefore, Derrida is conceiving Kant’s interest in disinterest not only in terms of a desire for salvation from an irredeemable, “pathological” animal nature; he is also conceiving Kant’s interest in economic terms—his Christian inheritance profits from a counter-pleasure beyond any possible equivalent, a kind of boundless wish fulfillment. Kantian philosophy renounces the theorization reason’s highest ends and the pathological, animal inclinations while recouping both and then some through the accreditation of those same ends in a properly human life of infinite worth. Importantly, some form of renunciation, loss, or death is the necessary precondition for this return. Kant, in other words, capitalizes on his losses and thus renounces nothing. It is for this reason that Derrida interprets the death penalty to be an a priori necessity for Kant’s conceptualization of law. Sacrifice literally invests the law with a value that transcends the Marktpreis of empirical, phenomenal life. This, however, is all predicated upon a fiduciary trafficking, an exchange perpetuated only
through the grace of credit granted by another. Through his reading of Nietzsche, Derrida emphasizes the *impayable* ground of this market, and particularly there where it surpasses all calculation. Like a good broker, observing the market there where it speculates on incalculable futures, Derrida asks with Nietzsche, “Can you credit that?”

3. Another Justice

“How to sur-vive [*Comment sur-vivre*]? How to understand, in a sure enough way [*de façon assez sûre*], the ‘sur’ of survive [*le ‘sur’ de survivre*]? What is a sur-vival [*Qu’est-ce qu’une survie*]?” (DP 1 365/270). Derrida poses these questions in the final session of the first year of *The Death Penalty* seminar, a session that reads almost like a stream of consciousness narrative, in which Derrida abruptly changes topics without necessarily offering any explanation or explicitly connecting the disparate themes. “The death penalty as theater of life [*vie,*]” he writes, quoting the title of a student presentation scheduled for the end of the session, “let us also say theater of sur-vival [*sur-vie.*]” With these intriguing remarks, Derrida culminates the first year of the seminar by condensing several significant points that will be essential to his analysis throughout the rest of the session and elsewhere. To begin, he qualifies or edits the title of the scheduled presentation with an addition: in place of “life,” *vie,* Derrida invites those in attendance to include the word “sur-vival,” *sur-vie,* signaling an association between the two concepts or an elaboration of the concept of life by the addition of the term “sur-vival.” Second, he hyphenates the words “survivre” and “survie” in order to emphasize the meaning of each syllable: the verb “vivre,” which means “to live”; the noun form “vie,” which means “life”; and the prefix “sur-,” which can indicate “on,” “over,” or “above.” In particular, Derrida problematizes the meaning of “sur.” And he would have reason to pose this as a question, since the *Littré* contains no less than ninety-five entries for the preposition. To note just a few of the
connotations this little word carries in the French language: “it marks the situation of one thing with respect to another which supports it”; “it simply marks that an object is above another, without the object below supporting it”; “it marks the position of an object relative to its elevation”; “joining, very close”; “it is said of the place in which we are”; “it is said of what is written, engraved, printed on the surface of something”; “towards, on the side of”; “among”; “above”; “it is said of any levy”; “it is said of the effect of passing time”; “beyond, ahead of”; “it marks superiority, domination, excellence, influence”; “it is said while speaking of pledge, of insurance”; and finally “it is used to mark the affirmation, the guarantee, the oath.” Several of these associated contexts for the usage of the preposition “sur” involve the most widely used sense of spatial orientation, but others involve a temporal dimension relevant to Derrida’s reading of Kant, and another involves the common sense of hierarchy. There are several senses of “sur” that could map on to Nietzsche’s *Genealogy*, concerning the levy or debt, the associated pledge or guarantee to pay what is owed, and the impression.

Certainly, each of these significations remain to be interpreted with respect to “survivre.” Instead of exploring these potential meanings, however, and in an apparent topical shift, Derrida quotes a line from Montaigne: “to espouse at the cost of his or her life [*au prix de la vie]*” (DP1 365/270). He notes that at issue in this excerpt is “an oath, a ‘beautiful oath’ of sworn faith.” Putting aside “all the other questions that one could turn loose on a ‘cost of life’ or on what a life is *worth,*” and he specifies that this would include “what is *worth the trouble* [peine] of living, on what costs or what it costs, on life that, as someone says ‘has no price,’ but also on what is worth *more* than life, on the surplus value of life, on the ‘sur-viving’ that would be ultra-life, more than

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life in life,” Derrida confirms that “here as everywhere, it is a matter once again, once and for all, of interest, of that interest that we have been speaking of since the opening of the seminar, and therefore of cost, of surplus value, and of the priceless” (DP1 366/270-1). Evidently, then, Derrida remains attentive to the diverse and inconsistent significations of “sur” as he shifts topics once more, and this time, it is an explicit return to Kant. “I thus recall,” Derrida reports, “that Kant [...] always says that the categorical imperative, like human dignity (Würde), is without price, and thus not negotiable by any calculation of interest” (DP1 366/271). He notes that Kant says precisely the same thing on the subject of the death penalty and of the justice that commands imperatively that one sentence to death without considering any benefit, without calculating any interest, without social or political goal, without any concern for setting an example or deterrence, without phenomenal calculation, without evaluation of price and cost. Thereby he means to disqualify in advance the two adversaries, the two parties in dispute, both those who are for the death penalty on the pretext that it is useful to society, to its security, its peace, and so forth, and the abolitionists who contest this calculation, who deny that the cruelty of the death penalty serves as an example and has any deterrent effect whatsoever. 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 sur-viving of which the sur, the transcendence of the “sur”—if it is a transcendence – remains to be interpreted. (DP1 366/271)

In bringing the topic of the seminar back to Kant and the figure of interest, Derrida thus returns to the plurivocity of “sur,” tying it to the quotation from Montaigne. Kant’s treatment of justice figures this concept as a priceless value that is worth more than life and gives value to life, a sur-life, to literalize the French sur-vie. In this sense, Derrida seems to imply that, as that which “makes life worth living,” justice could be considered as that which one might “espouse at the cost of one’s life.” It is no surprise, then, that Derrida goes on to quote directly from the relevant passages in The Metaphysics of Morals, in which Kant defends the law of punishment as categorical imperative, since this is, he thinks, the only means by which punishments can be
reasonably, disinterestedly, objectively, and thus justly determined, up to and including, especially, the penalty of death for murder. Recall that, in The Metaphysics of Morals, Kant argues against utilitarian conceptions of justice, instead insisting that punishment must serve no purpose in order to be consistent with justice. “For if justice goes,” he writes, “there is no longer any value in human beings’ living on the earth” (MM 6:332). If the value of humans’ living on the earth comes from justice, if, to put it differently, justice makes human life worth living, then it would follow that forfeiting living would be preferable to disavowing justice – this would be to value justice over life, survie. It is in this sense that Derrida remains decidedly critical of the Kantian iteration of justice. Derrida clearly understands Kant’s conception of justice to involve a hierarchization of values in which justice is supreme and living is, comparatively, inferior and worth-less. According to this logic, living is something that is liable to be sacrificed to secure the supreme value of justice. This is clearly at issue in Kant’s articulations of reason’s highest ends, his confessed discontent with temporality, and the infinite worth attached to living a life in alignment with the moral law. Kant desires another life time – beyond and better than the life given – a future life that appreciates without limit. The “sur” of this “vie” is one of superiority, of excess, and of another, “purely intelligible” order; it is, moreover, sacrificial in the sense that it is predicated upon the forfeiture of empirical life. And yet, Derrida hesitates to designate the Kantian “sur” as a transcendence. In other words, Derrida leaves Kantian survival, along with the conception of justice it implies, open to the possibility of another, immanent interpretation.

Throughout this session, Derrida returns again and again to a thinking of anesthesia, wondering whether it, along with the implied loss of “all sensation,” is something that one can “really desire” (DP1 369/273). Noting the potential connection of such a desire with suicidal ideation, Derrida observes that the desire for anesthesia “might also, in Kantian language, name
the almost sublime desire to escape from the realm of sensibility or imagination, from space and
time, that is to say, from the realm of phenomenality, that is to say, of the pathological, of affect,
of receptivity, that is to say, of the empirical” (DP1 369-370/273-4). “A certain insensitivity, a
certain anesthesia would be the condition of access to a pure, intelligible, and transphenomenal
justice, sur-viving beyond life” (DP1 370/274). Derrida follows Nietzsche in identifying this
desire to escape the realm of phenomenality with a certain renunciation of life, going so far as to
associate this desire with suicide through readings of both Camus and Montaigne. He first
considers a “compromise” Camus proposes in “Reflections on the Guillotine,” one that would
give the condemned a lethal “anesthetic” that would allow them to determine their time of death
“freely” and with “decency” (DP1 362/268). Derrida first confirms the fact that Camus is indeed
calling for a kind of suicide, and, while he acknowledges the proposal’s empirical promise with
regard to the alleviation of suffering, he nonetheless discerns a certain Kantian-type logic at
work in Camus’s reasoning. This is evident in Derrida’s language when he analyses the notion
of suicide in Camus’s writing: “suicide,” he writes, “thus the possibility of giving oneself death
by rising above life, through a sur-viving [sur-vivre] that would no longer belong to life, by
cessing to make of life, of “my life,” of the “my life” the absolute price, the without price, the
exorbitantly priced above which nothing has value, not even a sur-viving [sur-vivre]” (DP1 370-
1/274). What is at issue here, for Derrida, is the valuation of something else over life, something
that allows one to phantasmatically supersede life.165 Following a good Kantian logic, however,
Derrida observes that there is a problem with Camus’s proposal. “Interrogating all the terms of
this hypothetical compromise,” Derrida “wonders about the time calculation” (DP1 378/281,
emphasis added). “Why one day?” Derrida demands, “why only a day?” “[F]or whoever loves

165 For more on the role of the phantasm in this form of survival, see the first chapter of this dissertation, especially the final section, titled “The Affective Force of Phantasy.”
life, or loves living or lives to love, for whoever loves what life gives one to love,” Derrida observes that “a day can be an incalculable eternity of suffering or bliss, or suffering in bliss, too much or too little, too much and too little, infinitely too much in the separation, infinitely too little in the bliss” (DP1 379/281). Therefore, Derrida contends that

before looking to this or that anesthetic or tranquilizer, sleeping pill or ‘painkiller,’ to some all-powerful Lemoxil that would dispense death like sleep, it would first be necessary to find an anesthetic that would desensitize one not only to pain but to time itself, that is to say, to sensibility itself, or even the form of sensibility, as Kant says of time ([and here Derrida quotes from the first Critique] “form of the sensibility of internal objects and of objects in general”), there where suffering has to do with the time that must be calculated, the time that separates, that separates one instant from another or that separates one from another in general, the time that spaces, the spacing of time that must be endured in the calculation of the incalculable, a minute, a day, weeks, and so forth. (DP1 379/281, emphasis added)

Derrida is thus suggesting that, in a way, Camus is employing a Kantian logic that doesn’t quite measure up to the rigor of Kant’s own analyses. (This is all the more salient in that Derrida ultimately deems Camus’s compromise “flimsy” insofar as it could allow for the perpetuation of the death penalty by justifying its more “humane” implementation.) For Derrida, Kant seems to cut right to the chase by identifying the form through which all sensibility is made possible and then finding a way beyond it – beyond time, beyond sensation, beyond suffering, beyond life, beyond death.

Derrida also considers the topic of suicide, and with great sympathy, through readings of Montaigne, who affirms “in a very resolute manner” that “since death is still death, whether one gives it to oneself or receives it, it is still better to give it to oneself [se la donner]” (DP1 371/274). Indeed, as Derrida quotes, Montaigne writes in “A Custom on the Isle of Cea,” that “[t]he most voluntary death is the fairest.”166 Derrida reflects that despite Montaigne’s conflicted

relationship with Christianity, Montaigne nonetheless “died a Christian death” in his bedroom, which was located “above a chapel to which he was connected by a staircase he had built into the stone,” and in which he “kept a prayer stool” (DP1 374/277). This, for Derrida, raises a question regarding the connection between anesthesia, survival, and religion:

> And what if religion, even before being defined <as> “the opium of the people,” had been the anesthetic, the analgesic drug meant to make death pass, to appease, attenuate, deny, forget, distract from the pain linked with death, but also by the same token to make the death penalty pass for something less serious than it appears, a sleep or transition, in short, to the beyond, to a survival in the beyond, the system of Christian justification of the death penalty playing the role of anesthetic, the priests and the confessors ritually assigned to the last scene confirming that they are there to alleviate a temporary suffering and to promise heaven, another survival, and so forth? (DP1 372-3/276)

Derrida connects this question, by way of a counter-example, to another passage from Montaigne, where in the essay titled “That the taste of good and evil things depends in large part on the opinion that we have of them,” Montaigne tells the story of a condemned man who “replied to his confessor, who was promising him that he should sup that day with Our Lord:

‘You go there yourself; for my part, I’m fasting.’”¹⁶⁷ Derrida remarks that the condemned man refused confession as a fraud or a trap by which he did not want to let himself be taken in, numbed, distracted, desensitized, anesthetized, signaling thereby that he preferred to love life, to live while loving, and to die while loving, to die while loving life, to die alive, in short, to die in his lifetime (as Hélène Cixous says, in Or, about her father), to die in his lifetime, to die while preferring life, or even to die from loving life rather than to let himself be diverted from it by the analgesic trap of confession. (DP1 374/277-8)

The language Derrida employs in this reading of Montaigne signals that he, Derrida, finds something compelling in this story and its protagonist’s resistance toward (literally) incorporating a Christian dogma to anesthetize himself against death, since, in doing so, he

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¹⁶⁷ Montaigne, The Complete Essays, 34, quoted in DP1 375/278.
would also anesthetize himself against living a life he loves to live.\footnote{This point touches upon Derrida’s notion of life-death, the inextricability of what is called “life” from what is called “death,” and their mutually-reinforcing conceptual schema. For more on this, see the first chapter of this dissertation.} This language mirrors the language of Derrida’s abolitionist avowal in the prior session, where he writes that “yes, I am against the death penalty, because I want to save my neck, to save the life I love, what I love to live, what I love living” (DP1 345/254-5). Derrida thus forms an identification with this condemned character in Montaigne’s story and confirms a resolute resistance to the Christian-Kantian logic of anesthetic survival. Nonetheless, Derrida notes that Montaigne’s work predates the abolitionist movement, allowing Derrida to interpret Montaigne’s anecdote to explain all the reasons men and women and children have had to prefer something else to life and have signaled this by the way they have accepted death, or even, most often preferred the death sentence and execution, all of this signaling that there was something worth more than life, which was above life, like a sur-vival that would be something other and better than life, a sur-vival that would not necessarily be a life prolonged in another way or in another world, but a survival without life [\emph{une surviv sans vie}], which would thus respond, correspond to something else (but what? but who?), to something or someone that would be worthy of “causing one to espouse at the cost of his or her life.” (DP1 375-6/278)

With this reflection, Derrida layers onto this logic of anesthetic survival a thinking of worth, circling back to the beginning of the session and the priceless value of justice. Like Kantian justice, survival in this sense would be “worth more than life” and “better than life,” to such an extent that life would be worthless in comparison.\footnote{Although survival, as Derrida analyzes it here, and justice, as Kant articulates the concept in \emph{The Metaphysics of Morals}, share certain structural similarities, it is not within the scope of this chapter to undertake a complete comparative analysis between these two concepts in Derrida’s oeuvre. This structural resonance is certainly one indication of Derrida’s indebtedness to Kant’s thought on these topics. The terms “survival” and “justice” are associated in both \emph{The Death Penalty} seminars and texts such as \emph{Specters of Marx}. For the purposes of the present chapter, it is suggested that for Derrida, justice and survival are inextricable. More on this to follow.} Further, when he speaks of this form of survival, Derrida, like Kant in his articulation of the desire for a future life, dismisses anything that would correspond to a longer life (as in a life with more time) or a life in another world;
rather, Derrida indicates that survival would, in this sense, be without life—“une survie sans vie,” as he puts it. This is certainly consistent with a Kantian thinking of a future life beyond the empirical experience of space and time. And although Derrida identifies this survival as responding or corresponding to “something or someone that would be worthy of ‘causing one to espouse at the cost of his or her life,’” he nonetheless asks in parentheses “but what? but who?” indicating another opening for a deconstructive rereading of the concept.

Derrida goes on to read a lengthy excerpt from the same essay, “That the taste of good and evil depends in large part on the opinion we have of them,” in which Montaigne recounts numerous instances of people who, for various and peculiar reasons, prefer execution or death in general to living through undesirable circumstances. Montaigne considers these anecdotes to evince the truth of the Pyrrhonian maxim that all suffering comes from human judgments rather than the circumstances warranting such judgments. Death, Montaigne aims to demonstrate, is in itself neither good nor evil; it is rather the opinions people have about death that cause suffering or grant relief. What most interests Derrida in this essay is Montaigne’s conclusion regarding the anecdotes involving the preference for death: “[a]ny opinion is strong enough [assez forte] to make people espouse it at the price of life,” Montaigne affirms.\textsuperscript{170} He goes on to provide yet another example in which the Greeks vowed to die rather than take up Persian values during the Median war, noting that “no sort of religion is incapable” of such an example. Derrida underscores two concepts he finds important in Montaigne’s analysis: strength or force, forte, and religion. In the first place, Derrida interprets force as the vehicle allowing “one to rise above life, sur-viving beyond the livingness [vivance] of life” (DP1 376/279). The force in question here is that of a “strong enough” opinion. “‘[T]o opine,’” Derrida explains, “means to say yes, to

\textsuperscript{170} Montaigne, \textit{The Complete Essays}, 35, quoted in DP1 378/280.
judge by *saying yes*, by affirming, by believing as well.” “Opinion here,” on Derrida’s reading of Montaigne,

has the force of an act of faith that says *yes*, and it is the force of this force, when “opinion is strong enough [*assez forte*],” it is the force of this force that exceeds life, that causes one to espouse it at the cost of one’s life, that amounts to sacrificing life to its force, to the force or intensity of its *yes*, to its act of faith or love, to its belief, its will, its desire to believe, its believing in believing. (DP1 376/279)

With this emphasis on the opinion strong enough to espouse at the cost of life, Derrida brings the seminar back to a certain thinking of Nietzsche, the fiduciary, and (although it doesn’t come up explicitly in the seminar) a certain “Yes-saying” beyond any claim to knowledge. This “act of faith or love” leads Derrida to the concept of religion, which he interprets to be the “example par excellence” of an “opinion strong enough to cause someone to espouse it at the cost of his or her life” (DP1 376/279). Religion, “the religious,” or “religiosity” is “in truth the essence of this force” of opinion, Derrida explains, “of this sworn faith or this belief.”171 And he notes that “Montaigne is speaking of all religions, not only the Christian religion,” which Derrida takes to mean that “every religion is capable, because it is the essence of religion; every religion is capable of preferring something else to life, at the cost of life” (DP1 376-7/279). “In other words,” Derrida specifies, “religion is or grants the surviving of survival” (DP1 377/279). Montaigne’s essay is, at least in part, Derrida maintains, “a hypothesis […] on the essence of the religious: the religious of religion is always the acceptance of sacrificial death and the death penalty, in the shadow of a sur-viving that supposedly is worth more than life.” In this sense, then, Kant’s sublation of knowledge in order to credit faith is essentially religious, prior to or more fundamentally than his Christian orientation and heritage. It is this religiosity that drives

171 In “Faith and Knowledge,” Derrida is insistent that one is “already speaking Latin” when using the word “religion” (FS 66). Through a reading of Benveniste, Derrida considers the etymology of this term and treats it alongside the related concepts of faith/belief and the unscathed. For more on this analysis, I refer the reader to the first chapter of this dissertation.
Kant’s conviction in a future life, a conviction so strong that he would be willing to espouse it at the cost of phenomenal life.

In the second year of the seminar, Derrida returns to the language of loving life in relation to life’s worth or price. In opening the fourth session, he writes “[l]oving-living. Loving: living” (DP2 121/83). With the hyphen, Derrida indicates that “loving” and “living” mutually constitute one and the same experience, such that loving necessarily entails living, and living necessarily involves loving. He complicates this by repeating the words with the substitution of a colon. This iteration implies that “living” is or elaborates “loving” in an important manner. Derrida thus goes on to explain that the “life” indicated by the statement “a living being loves life” is not reducible to some thing “called ‘life,’” such as a substantive, abstract concept; instead, he affirms that “we are saying that this living being loves its life, its ‘being-in-life’ or even ‘life loves the life-of-life.’” “Life loves itself in the living being,” he elaborates, “life loves itself, period, it loves to live, it loves itself in living for life [elle s’aime à vivre].” “This love is,” on Derrida’s view, “its,” that is, life’s “relation to itself, its self-intimacy, its ineluctable self-intimacy, before any other supposed interiority.” “[F]or whoever loves life,” Derrida maintains, “life is worth the trouble [peine] of being lived.” “What does ‘the trouble of being lived’ mean here?” Derrida wonders, “[w]hat is the trouble [peine] in question here?” Derrida thus equivocates on his use of the word peine, as in la peine de mort, “penalty” or “punishment,” but also “pain,” “difficulty,” or “trouble.” “If there is a penalty [peine] to pay,” and he adds aloud in the session, “a price to pay,” “to live life, it is because life is worth something, has something like a price. What price?” “What then is the price of life?” Derrida asks. “What gives life value?” (DP2 122/83). For Derrida, “[t] is harder than ever to avoid these questions when speaking of the death penalty [la peine de mort], that is, when one must, as
they say, ‘pay with one’s life’ or ‘make someone pay with his life.’” And then he subtly reinscribes the entirety of the Kantian logic of anesthetized survival: “Is there a price of life that would not be above life itself [au-dessus de la vie même] – and which would not be other than life itself [autre que la vie même], of another order [d’un autre ordre]?” (emphasis added). In other words, rather than thinking the “sur” of “survive” along the lines of “another order” with respect to life, something “over” or “above” life either literally or in terms of its value, as a “beyond” opposed to life, or as a transcendence, Derrida asks whether the price of life (that is, both what gives life value and its potential forfeiture) might be in some way “in” life, intimate to or constitutive of life, immanent to life itself. Derrida complicates this further as he wonders whether there might be “a value of life [un prix ou une valeur] that would be outside life [hors de la vie], that would not be, in another way, still in life [encore dans la vie], that would not still and always be of the living [du vivant]?” (DP2 122/83-4, emphasis added). With this question, Derrida suggests that life’s ultimate price or value could be both outside of or beyond life, transcendent to life, while remaining, “in another way,” in life and always of the living. Rather than calling attention to or elaborating upon this paradoxical suggestion, however, Derrida instead encourages a “wait-and-see” approach, affirming that “there is every reason to think that they [that is, these questions] will never be done waiting and lose nothing by waiting” (DP2 122/84). “The order has been intimated that we wait,” Derrida affirms. “There is here a strange intimation.”

After a pause in the text of the session, Derrida goes on to explicate his use of the word “intimation.” “In this context,” Derrida ventures, intimation “would be the injunction that transforms, translates, transmutes the outside into the inside, the other into the same, hetero-punishment into auto-punishment. And hence the execution of the one condemned to death into
a suicide” (DP2 122/84). Derrida admits to stretching the meaning of *intimare* to include its etymological root *intimus*, “inmost,” in order to underscore the internalization of the law, which he treats through his reading of Nietzsche’s *Genealogy* in the first year of the seminar. “To intimate is to bring before the law, to summon, to give an order, to enjoin, to call before a higher jurisdiction,” Derrida explains; “the word, in its legal use, comes from the *intimo, intimare*, which in Latin means “to bring into” but also “to publish, to make known, to announce.” In the context of what has gone before, however, the intimation, this “strange intimation,” consists in being ordered to wait. And more specifically to wait for further consideration of, much less any answer to, the possibility that life’s price or value is *both* beyond or outside of life (*sur*-vivre) *and at the same time*, inside or immanent to life and always of the living. As is so often the case with Derrida’s texts, the apparent change in topic in fact informs and elaborates or complicates the subject matter that has supposedly been left behind, and the idea of an etymologically-informed “intimation” provides a way to think the aporetic suggestion regarding the price or value of life. What makes life most precious, what makes it “worth the pain of living,” what constitutes the love of living, Derrida suggests, is the injunction that comes from the outside-inside, that translates the other into the same, that announces or makes known something totally new, as in the publication of a book. Following a certain Nietzschean logic, Derrida thus aligns this movement of internalization with *both* the pain, penalty, cost or debt associated with living, even there where it sacrifices itself cruelly, *and* an affirmation of that same-other life, an accreditation of its value, and a faith in the inextricable experience of loving-living – *yes, yes, yes*.

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172 Here again, Derrida is engaged in a deconstruction of the Kantian distinction between *peona naturalis* and *poena forensis*, which he undertakes by reading Kant through the lens of psychoanalysis as well as by reading Kant’s political philosophy through his articulation of the categorical imperative in his moral philosophy. Once more, I refer the reader to Michael Naas’s article, “Kant with Freud.”
“How can one love a living thing without being tempted to take it within oneself?”

Derrida asks in the final session of the first year of the seminar. “Love and Eucharist,” he writes.

“Transubstantiation.” And he goes on, rather enigmatically, to echo the words of Christ:

Eat me, this is my body, *hoc est corpus meum, tutto estin to sōma mou*. Keep it in memory of me. Which also means, in the mouth of the Son, eat me, keep me, I am leaving (or I am dying provisionally), I sur-vive, that is to say, I am going to come back; I am coming back right away; time does not count, but on the condition that, as living beings, you eat while waiting, that you have the cold-blooded composure [*le sang froid*] to eat well, to eat me, that is, to eat for me, since one very well has to eat well, as the other says, while waiting for me, you must assimilate my blood or the blood for me, but without me, like a slow sugar. Sense me – sans me [*Sens moi – sans moi*].

With these words, Derrida reinscribes the Christian tradition, indeed the Christian faith, with his articulation of intimation. In this passage, Christ intimates in the double sense Derrida describes in the following year of the seminar: first, he enjoins his disciples to partake of the Eucharist, and second, in so doing, he summons his own internalization or incorporation, which brings Christ, his body and his memory, into the “inmost” other(s). Derrida uses the language of “keeping” and “memory,” evoking the Nietzschean insight regarding the cruelty with which life keeps itself in memory. Here, though, rather than emphasizing the *impayable* nature of the Passion, Derrida takes it on, lending credit to this sacrifice as the condition for the very possibility of sentience: “time does not count,” Derrida writes with a decidedly Kantian flavor, “but on the condition that, as living beings, you eat while waiting, that you have the *sang froid* to eat well, to eat me.” With the idiom *sang froid*, “cold blood,” Derrida acknowledges an unavoidable violence, even killing, as part and parcel of sentient life: “*sens moi – sans moi*.” It is only by eating “me,” killing “me,” and thus surviving “without me,” that it becomes possible to “sense me” or to sense anything at all, and therefore to live. This is undoubtedly, Derrida implies in what would appear to be his

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173 I analyze this passage in another context in the second chapter of the dissertation.
response to Nietzsche’s “Can you credit that?”, an act of love. But where Nietzsche discerns only a bid to raise the stakes in the logic of debt and anesthetic survival, Derrida leaves open the chance for another survival, one that, far from anesthetizing life against all pain or peine, makes it possible to feel and even to suffer passively, and also, maybe, to endure by the grace of an other who lets me “live on.”

This alterity is indeed the “heart” of Derrida’s abolitionism, where, in the tenth session, he writes that “the abolitionist struggle, without being either disinterested, in the sense of a Kantian categorical imperative, or interested in the sense of a calculating and hypocritical interest, unavowed and unavowable,” such as the one Nietzsche “sniffs out” in Kant’s moral philosophy, “the abolitionist struggle, in my view, must still be driven; it cannot not be driven, motivated, justified by an interest, but by another interest, but another figure of interest that remains to be defined” (DP1 346/255). Derrida here emphasizes a certain force with respect to being interested as the motivation or drive behind one’s investment in the abolitionist struggle. He goes on to explain what this interest means to him, characterizing it as a belief in one’s life as “confided to the heart of the other,” that is, a life entrusted to some other:

What is an interest here? I can believe in and affirm what is called life, what I call, what an “I” calls, life only by setting out from and within a “my life” even if this belief in “my life,” the sense of “my life,” originally passes by way of the heart of the other. Even if my life drive [pulsion], my life pulse, is first of all confided to the heart of the other and would not survive the heart of the other. (DP1 346/155, emphasis added)

Derrida consequently stresses the necessity of opposing the death penalty, rather than death in general, because the death penalty phantasmatically effects “my death” as the “object of a calculable instant,” thereby “interrupting the principle of indetermination” regarding the future as event (DP1 347/256). For Derrida, “it belongs to life not necessarily to be immortal,” as Kant

174 For more on this line of argument, see the first chapter of this dissertation.
might have it, “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.” Thus,
“where ‘my life,’ be it originally granted by the heart of the other, is ‘my life,’” Derrida explains,
“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 undecidable.” Derrida’s abolitionism finds “[t]he
insult, the injury, the fundamental injustice done to the life in me” not in “death itself”; but rather
in the death penalty, which imposes an ending “on the opening of the incalculable chance
whereby a living being has a relation to what comes, to the to-come and thus to some other as
event, as guest, as arrivant.” “[W]hen I say ‘my life,’ or even my ‘living present,’” Derrida
elucidates, “here, I have already named the other in me, the other greater, younger, or older than
me, the other of my sex or not, the other who nonetheless lets me be me, the other whose heart is
more interior to my heart than my heart itself” (DP1 348/257). Derrida then identifies this
“inmost” other with the motivation behind his abolitionism or any cause in which one could be
invested:

I protect my heart, I protest in the name of my heart, when I fight [en me battant] so that
the heart of the other will continue to beat [battre] – in me before me, after me, or even
without me. Where else would I find the strength and the drive and the interest to fight
[me battre] and to struggle [me débattre], with my whole heart, with the beating [battant]
of my heart against the death penalty? I can do it, me, as me, only thanks to the other, by
the grace of the other heart who affirms life in me, by the grace of the other who appeals
for grace and pardon or appeals the condemnation, and with the appeal to which I must
respond, and that is what is called here, even before any correspondence, responsibility.
It is my own interest, the interest of my life, of the heart of the other in me, that makes
me responsible both for the other and before the other who is in front of me before me
[devant moi avant moi]. […] In other words, I am invested: invested as one is by a force
greater than oneself and that occupies you entirely by pre-occupying you, and invested as
one is by a responsibility. (DP1 348/257)

The interest that Derrida maintains in the abolitionist struggle, then, is that of an intimation, the
call to responsibility that comes from the outside-in, that brings the other into the “inmost” heart
of the self. This is, moreover, a belief Derrida maintains about the responsibility he has toward the other, who or what has entrusted him with his life and continued survival, or not – an opinion, it would seem, strong enough to espouse at the cost of his life. Derrida thus encourages “composure,” le sang-froid, in militating and waiting for “what is called the abolition of the death penalty,” which he understands to involve militating and waiting “for life, for survival, in the priceless interest of life, to save what is left of life” (DP1 381/283).

Derridean survival is, therefore, if it is at all, only possible through another. And the sacrificiality involved in living on, if it happens, is not therefore of “my” doing, is not in “my” power, subject to “my” will, or enacted according to “my” time determination. This is very explicit in Derrida’s final seminar, where he defines the other or others as “those, masculine or feminine, before whom I am disarmed, defenseless” (BS2 189/127). For Derrida, “the other is what always might, one day, do something with me and my remains, make me into a thing, his or her thing, whatever the respect or the pomp, funereal by vocation, with which he or she will treat that singular thing they call my remains.” Derrida discusses this in the explicit context of what happens when “I” die, though he qualifies that his “presupposed pre-definition of death” means “to be delivered over, in what remains of me, as in all my remains, to be exposed or delivered over with no possible defense, once totally disarmed, to the other, to the others” (BS2 188/126). Thus, the other, Derrida affirms, “appears to me as the other as such, qua he, she, or they who might survive me, survive my decease and then proceed as they wish, sovereignly, and sovereignly have at their disposal the future of my remains, if there are any” (BS2 189/127). “But having my remains at their disposal can also take place before I am absolutely, clearly and distinctly dead,” Derrida adds, “meaning that the other, the others, is what also might not wait for me to be dead to do it, to dispose of my remains.” In light of this mutually-defined
understanding of “death” and “the other,” it makes sense that in the penultimate session of The Death Penalty seminar Derrida would say, again, rather enigmatically and in all caps, “it is as if, and I mean always, every day, as if for the other I were dying [je mourais], I would die [je mourrais], an ‘I’ had to come to die FOR THE OTHER” (DP2 322/242).175 The ‘I’ would die for the other, Derrida suggests,

[n]ot in truth and especially not only for the other in the sense of replaceability or prosthetic substitution, nor even in truth and especially not only in the sacrificial sense of “dying for the other,” but in the disseminal opening of all the senses of “for.” I die and I die only for the other – however you want to deal with it – this does not mean that this, my death, does not happen to me. […]

Were I to know one day, one fine day, what “for” means, the day I know what “for” means, perhaps then I could die – not die in peace but at least while beginning to think through what was happening to me.

It is thus clear that, on Derrida’s reading, “I” do not die to secure another, better life, beyond space and especially time; rather, “I” die, as he writes in all capital letters, “FOR THE OTHER,” but without any assurances or knowledge of that that means. “Were I to know one day,” Derrida muses, “what ‘for’ means,” then he might be able to begin to “think through what was happening” to him. Without any claim to knowledge and without any promise of return, Derrida nonetheless contends that “dying for the other” primarily designates “the disseminal opening of all the senses of ‘for.’” Each instance of an “I” dying “FOR THE OTHER” (an instance that, according to Derrida, occurs “always” and “every day,” making it a strange sort of instance indeed), marks a disseminal opening, a beginning.

“It [Ça] begins with survival,” Derrida writes in the second volume of The Beast and the Sovereign, “[a]nd that is where there is some other that has me at its disposal; that is where any

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175 It is worth noting here that Derrida, like Kant, puts forth this claim in a conditional mode and under the sign of an “as if” rather than in an existential mode. Although it is not within the scope of the present work to offer an explanation of the significance of this modality for Derrida, I would gesture at the fact that, for Derrida, thinking the impossible, the non-phenomenal, the aporetic, and what in general resists thinking often takes the form of a certain “as if,” a fiction, the imaginary, literature, etc. See what he says about this in the second year of The Beast and the Sovereign seminar, BS2 202/137 and 217/148-9.
self is defenseless” (BS2 194/131). “That is what the self is, that is what I am, what the I is,” Derrida explains, “whether I am there or not.” “The other,” by contrast, or “the others, that is the very thing that survives me, that is called to survive me and that I call the other inasmuch as it is called, in advance, to survive me, structurally my survivor.” “Not my survivor,” Derrida edits himself, in an effort to shift the possessive quality of the word “my,” “but the survivor of me, the there beyond my life.” By defining “the other(s)” as “structurally my survivor,” Derrida this shifts the meaning of both an “other” and a “survivor” from the specificity of any particular surviving person or persons (known or unknown) and toward a thinking of inheritance more broadly. Inheritance can be personal, of course, but there are also collective legacies, cultural heritages, including, but not limited to, works of art and literature. What gets passed down, what survives, if it does, is an interest, a strong-enough opinion or belief or conviction invested with force, affect, drive, desire. “Like every trace,” Derrida confirms,

a book [un livre], the survivance of a book, from its first moment on, is a living-dead machine, sur-viving [sur-vivante], the body of a thing [le corps d’une chose] buried in a library, a bookstore, in cellars, urns, drowned in the worldwide waves of a Web, etc., but a dead thing that resuscitates each time a breath of living reading, each time the breath of the other or the other breath, each time an intentionality intends it and makes it live again by animating it, like, as the Husserl of the origin of Geometry would say, a “geistige Leiblichkeit,” a body, a spiritual corporeality, a body proper (Leib and not Körper), a body proper animated, activated, traversed, shot through with intentional spirituality. (BS2 194/131)

La survivance d’un livre: is this not what is at issue for both Derrida and Kant? “Eat me, here is my body” – “Read me, here is my corpus.”

Left always to the survivors, “[t]he book lives its beautiful death,” over and over again, returning from a past that “has not yet arrived,” as Derrida writes in a note from the final chapter of Specters, such that it “signals toward the future,” the to-come, l’avenir (BS2 193/130, S

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176 For a more extensive treatment of Derridean inheritance, see the second chapter of this dissertation.
This time that counts only on the condition that one eats or reads “me,” is, indeed, “out of joint.” And yet, is it just this “disjointure” that Derrida, again in Specters, identifies with the possibility of justice (S 55/32). “Beyond right, and still more beyond juridicism, beyond morality, and still more beyond moralism, does not justice as relation to the other suppose on the contrary the irreducible excess of a disjointure or an anachrony, some Un-Fuge, some ‘out of joint’ dislocation in Being and in time itself,” Derrida asks as he analyzes passages from Heidegger, “a disjointure that, in always risking the evil [le mal], expropriation, and injustice (adikia) against which there is no calculable insurance, would alone be able to do justice or to render justice to the other as other?” Justice must be necessarily dis-joint, Derrida maintains, always “in deconstruction” – even if it is also “undeconstructible” insofar as there is an abiding injunction to respond to the other – in order to maintain “the chance of the future,” “the promise or the appeal” of or “the desire” for what Derrida refers to as a “desert-like messianism (without content and without identifiable messiah)” (S 56/33). Waiting in the desert, then, and without any assurances, Derrida calls for “the messianic: the coming of the other, the absolute and unpredictable singularity of the arrivant as justice.”
Conclusion

This dissertation has covered a series of wide-ranging topics, themes, logical frameworks, and thinkers relating to Jacques Derrida’s seminars on the death penalty, delivered at the École des hautes études en sciences sociales from 1999 to 2001. Some of these topics and themes include life, death, sacrifice, survival or survivance, the unscathed and indemnification, autoimmunity, psychoanalysis, the relation between the self and the other, the figure of the Marrano, trauma, the drives, hysteria, the body, sensibility, inheritance, introjection and incorporation, encryption, the phantom, Hamlet, interest, the fiduciary, temporality, human dignity or worth, and justice. Beyond The Death Penalty seminars, this project has undertaken readings of other texts from Derrida’s oeuvre, from major works such as The Gift of Death, Aporias, Specters of Marx, and “Faith and Knowledge,” to interviews and essays such as “Eating Well,” “Fors,” and “Me – Psychoanalysis.” Other major figures and texts treated include Martin Heidegger’s Being and Time; Michel de Montaigne’s Essays; Albert Camus’s “Reflections on the Guillotine”; Sigmund Freud’s “Studies on Hysteria” (co-authored with Joseph Breuer) and “Instincts and their Vicissitudes”; Nicolas Abraham and Maria Torok’s The Shell and the Kernel and The Wolf Man’s Magic Word: A Cryptonomy,” along with Abraham’s “Seminar on the Dual Unity and the Phantom”; Immanuel Kant’s first and second Critique and The Metaphysics of Morals, and Friedrich Nietzsche’s On the Genealogy of Morals.

One of the main objectives of this research has been to position Derrida’s seminars on the death penalty within the context of his later work more broadly. In particular, the diversity of topics covered demonstrates the significance of the seminars both to the development of Derrida’s thought specifically as well as the profound implications of the seminars in their own
right. These are not simply lectures about the institution of capital punishment, the historical significance of the institution, or even its philosophical import in any traditional sense. Derrida does not apply philosophical concepts in an effort to better understand the death penalty nor does he level properly philosophical argumentation to defend or condemn the practice. Derrida prioritizes the death penalty as the philosophical issue, and this dissertation takes his claim to mean that a thinking of the death penalty will be necessary to begin to understand any other topic or concept traditionally privileged by the discipline of philosophy – not the converse. Rather than analyzing the death penalty from the vantage point of the Western philosophical tradition, Derrida rewrites the Western philosophical tradition beginning with his treatment of the death penalty, a treatment that, moreover, he began to undertake long before 1999.

Hence, the first chapter engaged with Derrida’s interpretation of Being and Time as a paradigmatic text insofar as it epitomizes the Western philosophical tradition’s privileging of the concept of death over and above purportedly secondary instantiations or modalities of death, one of which would be the death penalty. As Derrida shows, death is theorized as that which a unified, able subject can give to itself in a quasi-suicidal manner. Through his deconstruction of this tradition, however, Derrida argues forcefully that death can never appear or be given as such. Instead, he demonstrates that what is given is in fact the commonly understood and agreed upon meanings of “death” in opposition to “life,” along with the knowing, masterful subject who is in control of such designations. In this way, Derrida interprets a logic of donner la mort, giving death, at work in the “great thinkers of death,” one which supports and maintains the practice of execution as a legal form of punishment. This logic of giving death necessarily entails sacrifice: the sacrifice of life, and also the sacrifice of aporetic or mutually-contaminating conceptual boundaries that undermine the distinctions upon which the death penalty relies.
Derrida observes a similar logic operating at the societal level, one that disseminates conceptual oppositions and hierarchies through the mechanical reproduction of social identity through a controlled form of putting-to-death. Derrida calls this process, which is effaced in its practice, “sacrificial indemnification.” Any identity produces its sameness-to-self through an exchange with an other, whereby what is other is appropriated, and hence annihilated as other in order to be reduced to what is the same. In this way, identities (be they individual or collective, personal or conceptual) perpetually indemnify themselves against alterity by effecting same-ness to self through a regular sacrifice of alterity. Through the erasure of this mechanism, however, the self always presents itself as one being unscathed by alterity in all its forms – and in particular, death. Since, however, any thing takes on or gives itself death to effect itself as the thing that it is, Derrida discerns that life and death are not the distinct, mutually-opposed concepts produced through the process of sacrificial indemnification; rather, life and death contaminate one another in an irreducible interplay through which any singular being survives only and always through another. Understood structurally as one form of sacrificial indemnification, the death penalty can thus be understood to survive its abolition insofar as all identities effect themselves as what they are through this process. Some form of sacrificial indemnification is, therefore, requisite to survival.

An over-arching theme of this chapter was that although the logic of donner la mort is impossible insofar as the subject cannot give itself death as such, this impossibility is nonetheless constitutive of subjectivity – an always scathed subjectivity in irreducible relation with death. But because death cannot be given, experienced, or conceived as such or in itself, subjectivity is constituted through a relationship with that which it can never fully comprehend, appropriate, or take on. Derrida is clear that we cannot help but to relate to death despite its
ultimate inaccessibility, as is evidenced in everything from societal end-of-life practices to literary and cinematic representations of death and dying. Rather than endeavoring to theorize death again, and more “accurately,” it in an attempt at mastering it, however, Derrida advocates a certain vigilance aligned not with wakefulness, but with the phantasmatic work of dreams, fiction, and the fabular.

The second chapter traced several trajectories relating to blood, the body, inheritance, and psychoanalysis. In the seminars, Derrida traces a movement in the history of the death penalty from bloody executions to bloodless ones. He associates this “staunching” with a change in how society conceives the body, but he also affirms that it is only through a phylogenic psychoanalysis of the body that it is possible to begin to think what takes place between the body and the psyche. Focusing his attention on the effusions of bodily fluids and expressions, Derrida suggests that the body communicates something of human ancestral inheritance that is crucial to any understanding of the death penalty and the underlying frameworks of both abolitionist and proponent discourses. Following Derrida’s lead, this chapter first looked to hysteria as the paradigmatic psychiatric condition involving the psyche and the soma through a reading of Freud and Breuer’s “Studies on Hysteria” and Freud’s “Instincts and Their Vicissitudes.” A deconstructive reading of Freud reveals a conception of the drives as the pre-primal trauma, imposing themselves between the body and psyche from an unknown source in the history of human adaptation and survival. The body effuses this history without ever having access to it, communicating in a foreign language that resists translation.

This chapter turned from Freud to analysts Nicolas Abraham and Maria Torok of the Hungarian school, who reinscribe Freudian concepts in their co-authored works on pathological mourning. These analysts were contemporaries of Derrida and a major influence on his thought.
Any consideration of Derrida’s psychoanalytically-oriented work must therefore contend with the rich and dense writings of Abraham and Torok, and in particular, their theorization of endocryptic incorporation and phantom transmission. This chapter demonstrated the importance of these constructs for Derrida’s work on inheritance specifically, by attending to his subtle deconstruction of Abraham and Torok’s psychoanalytic writings. Whereas these analysts conceive the intrapsychic crypt and its intergenerational transmission via the phantom as pathologies to be treated, Derrida shows that they are fundamental to human subjectivity and survival. And rather than exorcising the phantom in an analysis, Derrida promotes a *communing with* phantoms, in the plural, in an effort to live more justly by grappling responsibly with an always-spectral inheritance.

The final section of this chapter returned to the figure of blood in the historical discourses on the death penalty to interpret the debate between Victor Hugo and Juan Donoso Cortès. Hugo’s abolitionism and Cortès’s defense of the institution were each considered in their own right before drawing out their common logic and assumptions. Ultimately, it was argued that the figures of effusion and staunching – the bloody and the bloodless – serve to secure and purify a univocal Christian legacy. Derrida works to articulate this inheritance otherwise as he takes in the words of Christ and repeats them to his audience at the EHESS, performing and endorsing a certain incorporation, while at the same time leaving the survival of that heritage open to the dissemination of insecure and unpredictable returns. In so doing, Derrida suggests that the survival of the death penalty could, by the grace of an *other*, consist in its abolition.

This chapter is, in a way, a deconstructive-psychoanalytic response to the so-called “mind-body problem,” a debate as old as philosophy itself and one that considers the relationship between the mind, the soul, or the psyche and the body, the material, or the somatic. Derrida
follows a certain Freudian insight maintaining that the body is only ever represented to the psyche in a relationship mediated by the drives. The drives, however, impinge upon the psyche from an unknown source in the evolutionary history of the species. Through the processes of projection and introjection, this history affects and effects the ego in ways that are not directly accessible to human consciousness. For Derrida taking up this tradition, the body is a kind of transgenerational cipher, at once absolutely foreign to and in intimate relation with the psyche. Whereas psychoanalysis would conventionally attempt to delimit, circumscribe, and master this strange and threatening influence, Derrida emphasizes the role of interminably translating our spectral heritage. The death penalty, both as an institution and a drive, can be interpreted as one such inheritance, an inheritance whose motivating force cannot be simply repressed, at least not without the anticipation of its return, and with a vengeance. Derrida thus performs a double-gesture in avowing his abolitionist desire for survival while acknowledging the enduring force of ancestral trauma and violence.

The third and final chapter of this project treated Derrida’s engagement with Kant in *The Death Penalty* seminars. Derrida’s significant attention to Kantian theory and repeated references to Kant during his lectures suggests a closeness between these two thinkers on themes relating to the death penalty, one that endures through and beyond Derrida’s legitimate deconstruction of Kant’s theoretical positions. This chapter has therefore investigated Derrida’s Kantian inheritance, maintaining that Derrida and his seminars are “haunted” by Kant and/or the Kantian discourse in a sense that exceeds the relevance of Kant’s principled defense of capital punishment. One of the central suggestions made in this chapter is that Derrida’s elaboration of temporality in the seminars and in *Specters of Marx*, the development of his reflections on survival or survivance, and his articulation of justice are all heirs to a certain Kantian thinking.
The chapter thus began with a reading of the *Critique of Pure Reason* intended to both review some of Kant’s major contributions but also to demonstrate the motivating force behind the critical philosophy. In this vein, the chapter reads Kant’s famous claim that he had to “deny knowledge in order to make room for faith” in terms of his confessed dissatisfaction with the temporal and hope for a future life. Because cognizing things beyond human intuitive capacities leads reason into irresolvable dilemmas or “antinomies,” Kant must limit reason’s scope in its speculative capacity. Attending to the specificity of the German, however, reveals that Kant *sublates* theoretical knowledge in order to make space for *credit*: “Ich mußte also das Wissen aufheben, um zum Glauben Platz zu bekommen” (CPR B xxx). What he renounces or curtails in the theoretical sphere – freedom of the will, God, and the possibility of survival after death – is thus recouped or returned with interest in the practical sphere of moral and political philosophy. Hence, as this chapter reviewed Kant’s main ideas, it also showed how Kant’s desire for a future life and his intention to restore credit to that idea in the practical sphere shapes his thinking at every stage.

This chapter went on to figure prominently Kant’s hope for a future life and the value he assigns that form of life in its interpretation of Derrida’s treatment of *The Metaphysics of Morals*. Much of this interpretation hinged upon the economic language Kant deploys in his articulation of human dignity or *Würde*, literally “worth,” and the “priceless” nature of justice. The disinterestedness demanded of the moral law translates into the “uselessness” of punishments in the penal sphere, but through a reading of Nietzsche’s *On the Genealogy of Morals*, Derrida implies that Kant remains decidedly *interested* in speculating on a specifically human, non-phenomenal life beyond time and therefore sensibility. Much of the chapter was devoted to parsing out how this sacrificial logic, which is characterized by a “sur-vie sans vie,” a survival
without life, operates in Kant’s works in an effort to articulate Derrida’s divergence from Kant in his own articulation of *survivance*.

Ultimately, and what proved to have been a major thread running throughout this dissertation, Derridean *survivance* is not subject to the will of a unified subject said to be living between the modal presents of birth and death. It is not something one can secure through a sacrifice of empirical life, for example, based on a purely rational alignment with the moral law or based on the idea of rooting out threats to the *polis*. *Survivance*, if and when it happens, passes only by way of the other, through an alterity that disrupts all identity, presence, and mastery. It cannot, therefore, be adequately thought to consist in a mere continuation of life after death. *Survivance* instead ruptures the temporality on which such a timeline is based. Indeed, *survivance* both disrupts and makes possible all “objective,” mutually-agreed upon logical, spatial, temporal, and conceptual demarcations necessary for understanding and navigating life in a shared world. The fundamental and irreducible instability of the boundaries between such critical concepts as self and other, life and death, inside and outside, foreign and familiar, identity and difference, and many others, leaves the entire human edifice insecure. These conceptual demarcations are also, undoubtably, essential to daily functioning and continued survival. What *The Death Penalty* seminars evince is the tendency to disavow the insecurity of all foundation through a violent gesture that succeeds in producing the phantasy of a *secure survival* by locating and eliminating the “source” of the instability. While no doubt reassuring to whomever or whatever is not the victim of such elimination, this gesture nonetheless forecloses the very *survivance* through which anything ever *happens*, if it does, because *survivance* remains irreducibly unstable, unpredictable, insecure, *im-possible*. The erasure of this fundamental impossibility at the core of the possible, the instability of all foundations, the insecurity of all
safety, and the alterity at the heart of any identity is what makes violent eliminative gestures so powerfully effective: they make us believe in our own power to shore up – and therefore master – our limits.

Rather than feeding this phantasm through another eliminative gesture, through a negation of the negation that would only succeed in lending more authority to this death-dealing drive, Derrida reads the phantasy otherwise by shifting the emphasis from a secure, controlled survival to an uncanny and inescapable but disavowed survivance. It is crucial to understand that Derrida is not proposing that we should cease participation in the habits, routines, and practices that contribute to the continuation of life in the traditional sense; he never suggests that survival and survivance are mutually exclusive. Indeed, this is the very core of his strategy: to affirm and imagine a quasi-transcendental survivance without working to repress or eliminate survival. In so doing, this dissertation understands Derrida’s intervention as endeavoring to disrupt the ubiquity, power, and hegemony of the imagery of survival with a thinking of survivance.

In the final section of the third chapter of this dissertation, it is suggested that Derrida’s deconstruction of survival through his readings of Kant is crucial to his articulation of justice as the relation to the other as other. In Specters of Marx, Derrida links justice to a “dessert-like Messianism” awaiting the advent of the other. A thinking of survival in the traditional sense would work incessantly to reduce the other to the same in a purificatory, indemnificatory attempt to produce an unscathed identity. And indeed, as Derrida will maintain, this gesture is necessary to survive, to establish and secure a sense of self, be it individual or collective. Yet, he nonetheless insists that justice consists in an impossible, non-phenomenal relation to an alterity that can never be experienced as such. Because survivance ruptures all presence-to-self (in both its temporal and existential dimensions), it is only on the basis (without foundation) of
survivance that the other can arrive as other, rather than as the immediate appropriation of alterity into sameness even though and perhaps because this arrival is impossible. Thus, it is suggested that justice is only possible as impossible, and only due to the disjointure of a survivance that holds the possible and the impossible in a relation of irreducible différance. In the first year of The Beast and the Sovereign seminars, which were Derrida’s last, he writes that

A principle of ethics or of more radically of justice, in the most difficult sense, which I have attempted to oppose to right, to distinguish from right, is perhaps the obligation that engages my responsibility with respect to the most dissimilar [le plus dissemblable], the entirely other, the monstrously other, the unrecognizable other. [...] So long as there is recognizability and fellow [semblable], ethics is dormant [l’éthique sommeille]. It is sleeping a dogmatic slumber. (BS1 155/108)

Gesturing to analyses he undertook in “Before the Law” and Rogues, Derrida makes clear reference to Kant when he proposes a radical principle of justice based on the dissemblable, that which is wholly other and most unlike oneself. Although time and space did not allow for the continuation of this research here, future iterations of this project would benefit from further exploration of the relationship between Derrida’s elaboration of survivance and his treatment of justice.
Bibliography


