

Jacques Derrida

On Forgiveness

in "On Cosmopolitanism and Forgiveness,  
pages 25-60 (Mark Dooley and Michael  
Hughes trans., 2001)

On  
**Forgiveness**

I

In principle, there is no limit to forgiveness, no *measure*, no moderation, no 'to what point?'. Provided, of course, that we agree on some 'proper' meaning of this word. Now, what do we call 'forgiveness'? What calls for 'forgiveness'? Who calls for, who calls upon forgiveness? It is as difficult to *measure* an act of forgiveness as it is to take *measure* of such questions, for several reasons which I shall quickly explain.

In the first place, because it is the equivocal which is maintained, especially in today's political debates which reactivate and displace this notion, the equivocal is maintained throughout the world. Forgiveness is often confounded, sometimes in a calculated fashion, with related themes: excuse, regret, amnesty, prescription, etc.; so many significations of which certain come under law, a penal law from which forgiveness must in principle remain heterogeneous and irreducible.

As enigmatic as the concept of forgiveness remains, it is the case that the scene, the figure, the language which

'On Forgiveness', © 2001 Studies in Practical Philosophy, translated by Michael Hughes

one tries to adapt to it belong to a religious heritage (let's call it Abrahamic, in order to bring together Judaism, the Christianities, and the Islams). This tradition – complex and differentiated, even conflictual – is at once singular and on the way to universalisation through that which a certain theatre of forgiveness puts in place or brings to light.

From this – and this is one of the guiding threads of my seminar on forgiveness (and perjury) – the very dimension of forgiveness tends to efface itself in the course of this globalisation, and with it all measure, any conceptual limit. In all the scenes of repentance, confession, forgiveness, or apology which have multiplied on the geopolitical scene since the last war, and in an accelerated fashion in the past few years, one sees not only individuals, but also entire communities, professional corporations, the representatives of ecclesiastical hierarchies, sovereigns, and heads of state ask for 'forgiveness'. They do this in an Abrahamic language which is not (in the case of Japan or Korea, for example) that of the dominant religion of their society, but which has already become the universal idiom of law, of politics, of the economy, or of diplomacy: at the same time the agent and symptom of this internationalisation. The proliferation of scenes of repentance, or of asking 'forgiveness', signifies, no doubt, a universal urgency of memory: it is necessary to turn toward the past; and it is necessary to take this act of memory, of self-accusation, of 'repentance', of appearance [comparution]<sup>1</sup> at the same time beyond the juridical instance, or that of the Nation-State. We ask ourselves, then, what happens on this scale. The ways are numerous. One among them consistently leads back to a series of extraordinary events, those which before and

during the Second World War made possible, in any case 'authorised', with the Nuremberg Tribunal, the international institution of a juridical concept such as the 'crime against humanity'. There was a 'performative' event of a scope still difficult to interpret.

Even if words like 'crime against humanity' now circulate in everyday language. That event itself was produced and authorised by an international community on a date and according to a figure determined by its history. This overlaps but is not confounded with the history of a reaffirmation of human rights, or a new Declaration of Human Rights. This sort of transformation structured the theatrical space in which the grand forgiveness, the grand scene of repentance which we are concerned with, is played, sincerely or not. Often it has, in its very theatricality, the traits of a grand convulsion – dare we say a frenetic compulsion? No. It also responds, fortunately, to a 'good' movement. However, the simulacra, the automatic ritual, hypocrisy, calculation, or mimicry are often a part, and invite parasites to this ceremony of culpability. Here is a humanity shaken by a movement which would like itself to be unanimous; here is a human race which would claim to accuse itself all at once, publicly and spectacularly, of all the crimes committed in effect by itself against itself, 'against humanity'. For if we were to begin to accuse ourselves, in asking forgiveness, of all the crimes of the past against humanity, there would no longer be an innocent person on earth – and therefore no one in the position to judge or arbitrate. We are all heir, at least, to persons or events marked, in an essential, interior, ineffaceable fashion, by crimes against humanity. Sometimes these events, these massive, organised,

cruel murders, which may have been revolutions, great canonic and 'legitimate' Revolutions, were the very ones which permitted the emergence of concepts like those of human rights, or the crime against humanity.

Whether we see here an immense progress, an historic transformation, or a concept still obscure in its limits, fragile in its foundations (or one and the other at the same time – I would lean that way, for my part), this fact cannot be denied: the concept of the 'crime against humanity' remains on the horizon of the entire geopolitics of forgiveness. It furnishes it with its discourse and legitimation. Take the striking example of the Truth and Reconciliation Committee in South Africa. It remains unique despite some analogies, only analogies, some South American precedents, notably in Chile. Well, what gave it its ultimate justification, the declared legitimacy of this commission, is the definition, by the international community in its UN representation, of Apartheid as a 'crime against humanity'.

This convulsion of which I spoke would today take the form of a conversion, of a conversion in fact and tendentially universal: on the way to globalisation. For if, as I believe, the concept of a crime against humanity is the main charge of this self-accusation, of this repenting and this asking forgiveness; if, on the other hand, only a sacredness of the human can, in the last resort, justify this concept (nothing is worse, in this logic, than a crime against the humanity of man and against human rights); if this sacredness finds its meaning in the Abrahamic memory of the religions of the Book, and in a Jewish but above all Christian interpretation of the 'neighbour' or the 'fellow man'; if, from this, the crime against

humanity is a crime against what is most sacred in the living, and thus already against the divine in man, in God-made-man or man-made-God-by-God (the death of man and the death of God would here betray the same crime), then the 'globalisation' of forgiveness resembles an immense scene of confession in progress, thus a virtually Christian convulsion-conversion-confession, a process of Christianisation which has no more need for the Christian church.

If, as I was just suggesting, such a language combines and accumulates powerful traditions within it ('Abrahamic' culture and that of a philosophical humanism, and more precisely a cosmopolitanism born from a graft of stoicism with Pauline Christianity), why does it today impose itself on cultures which do not have European or 'biblical' origins? I am thinking of those scenes where a Japanese Prime Minister 'asked forgiveness' of the Koreans and the Chinese for past violence. He presented certain 'heartfelt apologies'<sup>2</sup> in his own name, [at first sight] without implicating the Emperor at the head of state, but a Prime Minister always implicates more than a private person. Recently, there have been real negotiations, this time official and serious, between the Japanese and the South Korean governments on this subject. There will be reparations and a political reorientation. These negotiations, as is almost always the case, aimed at producing a reconciliation (national or international) favourable to a normalisation. The language of forgiveness, at the service of determined finalities, was anything but pure and disinterested. As always in the field of politics.

I shall risk this proposition: each time forgiveness is at the service of a finality, be it noble and spiritual (atonement or

redemption, reconciliation, salvation), each time that it aims to re-establish a normality (social, national, political, psychological) by a work of mourning, by some therapy or ecology of memory, then the 'forgiveness' is not pure – nor is its concept. Forgiveness is not, it should not be, normal, normative, normalising. It should remain exceptional and extraordinary, in the face of the impossible: as if it interrupted the ordinary course of historical temporality.

It would be necessary to interrogate from this point of view what is called globalisation, and which I elsewhere<sup>3</sup> call *globalatinisation* – to take into account the effect of Roman Christianity which today overdetermines all language of law, of politics, and even the interpretation of what is called the 'return of the religious'. No alleged disenchantment, no secularisation comes to interrupt it. On the contrary.

## II

In order to approach now the very concept of forgiveness, logic and common sense agree for once with the paradox: it is necessary, it seems to me, to begin from the fact that, yes, there is the unforgivable. Is this not, in truth, the only thing to forgive? The only thing that calls for forgiveness? If one is only prepared to forgive what appears forgivable, what the church calls 'venial sin', then the very idea of forgiveness would disappear. If there is something to forgive, it would be what in religious language is called mortal sin, the worst, the unforgivable crime or harm. From which comes the aporia, which can be described in its dry and implacable formality, without mercy: forgiveness forgives only the unforgivable. One cannot, or should not, forgive; there is only forgiveness,

if there is any, where there is the unforgivable. That is to say that forgiveness must announce itself as impossibility itself. It can only be possible in doing the impossible. For, in this century, monstrous crimes ('unforgivable' then) have not only been committed – which is perhaps itself not so new – but have become visible, known, recounted, named, archived by a 'universal conscience' better informed than ever; because these crimes, at once cruel and massive, seem to escape, or because one has sought to make them escape, in their very excess, from the measure of any human justice, then well, the call to forgiveness finds itself (by the unforgivable itself!) reactivated, remotivated, accelerated.

When the law of 1964 was passed, which determined in France the imprescriptibility of crimes against humanity, a debate was opened. I note in passing that the juridical concept of the imprescriptible is in no way equivalent to the non-juridical concept of the unforgivable. One can maintain the imprescriptibility of a crime, give no limit to the duration of an indictment or a possible pursual before the law, while still forgiving the guilty. Inversely, one can acquit or suspend judgement and nevertheless refuse to forgive. It remains that the singularity of the concept of imprescriptibility (by opposition to 'prescription', which has equivalents in other Western systems of law, American law, for example) stems perhaps from what it also introduces, like forgiveness or the unforgivable, a sort of eternity or transcendence, the apocalyptic horizon of a final judgement: in the law beyond the law, in history beyond history. This is a capital and difficult point.

In a polemical text justly entitled 'L'Imprescriptible',

Jankélévitch declares that there would be no question of forgiving crimes against humanity, against the humanity of man: not against 'enemies' (political, religious, ideological), but against that which makes of man a man – that is to say, against the power of forgiveness itself. In an analogous fashion, Hegel, the great thinker of 'forgiveness' and 'reconciliation', said that all is forgivable except the crime against spirit, that is, against the reconciling power of forgiveness. Concerning, of course, the Shoah, Jankélévitch stresses above all another argument, in his eyes decisive: it is even less a question of forgiving in this case, since the criminals did not ask forgiveness. They did not recognise their fault, and manifested no repentance. At least that is, a little quickly perhaps, what Jankélévitch maintains.

However, I would be tempted to contest this conditional logic of the exchange, this presupposition, so widespread, according to which forgiveness can only be considered on the condition that it be asked, in the course of a scene of repentance attesting at once to the consciousness of the fault, the transformation of the guilty, and the at least implicit obligation to do everything to avoid the return of evil. There is here an economic transaction which, at the same time, confirms and contradicts the Abrahamic tradition of which we are speaking. It is important to analyse at its base the tension at the heart of the heritage between, on the one side, the idea which is also a demand for the unconditional, gracious, infinite, aneconomic forgiveness granted to the guilty as guilty, without counterpart, even to those who do not repent or ask forgiveness, and on the other side, as a great number of texts testify through many semantic refinements and difficulties, a conditional forgiveness pro-

portionate to the recognition of the fault, to repentance, to the transformation of the sinner who then explicitly asks forgiveness. And who from that point is no longer guilty through and through, but already another, and better than the guilty one. To this extent, and on this condition, it is no longer the guilty as such who is forgiven. One of the questions indissociable from this, and which interests me no less, concerns the essence of the heritage. What does it mean to inherit when the heritage includes an injunction at once double and contradictory? An injunction which it is necessary to reorient, actively and performatively to interpret, but interpreted in obscurity, as if we would have then to reinvent the memory, without pre-established norm or criteria?

Despite my sympathetic admiration for Jankélévitch, and even if I understand what inspires this anger of the just, I have difficulty following it. For example, when he multiplies the imprecations against the good conscience of 'the German', or when he rages against the economic miracle of the Mark and the prosperous obscenity of good conscience, but above all when he justifies the refusal to forgive by the fact, but above all the allegation, of non-repentance. He says, in sum, 'If they had begun in repentance, by asking forgiveness, then we could have conceived granting it to them, but that was not the case.' I have all the more problem following here since in what he himself calls a 'book of philosophy', *Le Pardon*, published earlier, Jankélévitch had been more receptive to the idea of an absolute forgiveness. He claimed at that time a Jewish, and above all Christian, inspiration. He even spoke of an imperative of love and a 'hyperbolic ethics': an ethics, therefore, that carries itself beyond laws, norms, or any

obligation. Ethics beyond ethics, there perhaps is the undiscoverable place of forgiveness. Nevertheless, at that moment, and the contradiction thus remains, Jankélévitch did not go so far as to admit an unconditional forgiveness, one which would be granted even to one who did not ask for it.

The core of the argument in 'L'Imprescriptible' and in the section entitled 'To Forgive?' is that the singularity of the Shoah attains the dimension of the *inexpiable*. However, for the *inexpiable* there is no possible forgiveness according to Jankélévitch, not any forgiveness that would have a meaning [*sens*], that would make sense [*sens*]. For the common or dominant axiom of the tradition, finally, and to my eyes the most problematic, is that *forgiveness must have a meaning*. And this meaning must determine itself on the ground of salvation, of reconciliation, redemption, atonement, I would say even sacrifice. For Jankélévitch, as soon as one can no longer punish the criminal with a 'punishment proportionate to his crime' and 'the punishment becomes almost indifferent' it is a matter of the 'inexpiable' – he says, also, the 'irreparable' (a word that Chirac used in his famous declaration on the crime against the Jews under Vichy: 'France that day performed the irreparable'). From the *inexpiable* or the *irreparable*, Jankélévitch concludes the unforgivable. And one does not forgive, according to him, the unforgivable. This connection does not seem to me to follow. For the reason I gave (what would be a forgiveness that forgave only the forgivable?) and because this logic continues to imply that forgiveness remains the correlate to a judgement and the counterpart to a possible punishment, to a possible expiation, to the 'expiable'.

Jankélévitch seems to take two things as given (as does Arendt, for example, in *The Human Condition*):

1 Forgiveness must rest on a human possibility – I insist on these two words, and above all on the anthropological feature which decides everything (because it will always be about, at the end of it, knowing if forgiveness is a possibility or not, or even a faculty, thus a sovereign 'I can', and a human power or not);

2 This human possibility is the correlate to the possibility of punishment – not to avenge oneself, which is something different, to which forgiveness is even more foreign, but to punish according to the law. 'Punishment', says Arendt, 'has something in common with forgiveness, as it tends to put a limit on something that without intervention could continue indefinitely. It is thus very significant; it is a structural element of the domain of human [my italics] affairs, that people would be incapable of forgiving what they cannot punish, and that they would be incapable of punishing what reveals itself as unforgivable.'

In 'L'Imprescriptible', therefore, and not in *Le Pardon*, Jankélévitch places himself in that exchange, in that symmetry between punishing and forgiving: forgiveness will no longer have meaning where the crime has become, like the Shoah, 'inexpiable', 'irreparable', out of proportion to all human measure. 'Forgiveness died in the death camps', he says. Yes. Unless it only becomes possible from the moment that it appears impossible. Its history would begin, on the contrary, with the unforgivable.

It is not in the name of an ethical or spiritual purism that I insist on this contradiction at the heart of the heritage, and on

the necessity of maintaining the reference to an aneconomical and unconditional forgiveness: beyond the exchange and even the horizon of a redemption or a reconciliation. If I say, 'I forgive you on the condition that, asking forgiveness, you would thus have changed and would no longer be the same', do I forgive? What do I forgive? And whom? What and whom? Something or someone? This is the first syntactic ambiguity which will, be it said, occupy us for a long time. Between the question 'whom?' and the question 'what?'. Does one forgive *something*, a crime, a fault, a wrong, that is to say, an act or a moment which does not exhaust the person incriminated, and at the limit does not become confused with the guilty, who thus remains irreducible to it? Or rather, does one forgive *someone*, absolutely, no longer marking the limit between the injury, the moment of the fault, and on the other side the person taken as responsible or culpable? And in the latter case (the question 'whom?') does one ask forgiveness of the victim, or some absolute witness, of God, of such a God, for example, who prescribed forgiving the other (person) in order to merit being forgiven in turn? (The church of France asked forgiveness of God; it did not repent directly or only before people, or before the victims, for example the Jewish community whom they took only as a witness, but publicly it is true, of the forgiveness asked in truth of God, etc.) I must leave these immense questions open.

### III

Imagine, then, that I forgive on the condition that the guilty one repents, mends his ways, asks forgiveness, and thus would be changed by a new obligation, and that from then on

he would no longer be exactly the same as the one who was found to be culpable. In this case, can one still speak of forgiveness? This would be too simple on both sides: one forgives someone other than the guilty one. In order for there to be forgiveness, must one not on the contrary forgive both the fault and the guilty as such, where the one and the other remain as irreversible as the evil, as evil itself, and being capable of repeating itself, unforgivably, without transformation, without amelioration, without repentance or promise? Must one not maintain that an act of forgiveness worthy of its name, if there ever is such a thing, must forgive the unforgivable, and without condition? And that such unconditionality is also inscribed, like its contrary, namely the condition of repentance, in 'our' heritage? Even if this radical purity can seem excessive, hyperbolic, mad? Because if I say, as I think, that forgiveness is mad, and that it must remain a madness of the impossible, this is certainly not to exclude or disqualify it. It is even, perhaps, the only thing that arrives, that surprises, like a revolution, the ordinary course of history, politics, and law. Because that means that it remains heterogeneous to the order of politics or of the juridical as they are ordinarily understood.

One could never, in the ordinary sense of the words, found a politics or law on forgiveness. In all the geopolitical scenes we have been talking about, the word most often abused is 'forgive'. Because it always has to do with negotiations more or less acknowledged, with calculated transactions, with conditions and, as Kant would say, with hypothetical imperatives. These transactions can certainly appear honourable; for example, in the name of 'national reconciliation', the



expression to which de Gaulle, Pompidou, and Mitterand, all three, returned at the moment when they believed it necessary to take responsibility in order to efface the debts and crimes of the past, under the Occupation or during the Algerian war. In France, the highest political officials have regularly used the same language: it is necessary to proceed to reconciliation by amnesty, and thus to reconstitute the national unity.

This is a *leitmotiv* of all the French heads of state and Prime Ministers since the Second World War, without exception. This was literally the language of those who, after the first moment of purging, decided on the great amnesty of 1951 for the crimes committed under the Occupation. One night I heard (I am citing from memory) Mr Cavaillet say that he had, as a member of parliament, voted for the law of amnesty of 1951 because it was necessary, he said, 'to know how to forget'; above all at that moment, Cavaillet insisted strenuously, that the communist danger was felt to be the most urgent. It was necessary to bring back into the national community all the anti-communists who, collaborators a few years before, risked finding themselves excluded by a law too severe and by a purge not forgetful enough. To repair the national unity meant to re-arm with all available forces in a combat which would continue, this time in a time of peace, or of a war called cold. There is always a strategical or political calculation in the generous gesture of one who offers reconciliation or amnesty, and it is necessary always to integrate this calculation in our analyses. 'National reconciliation': this was, as I said, the explicit language of de Gaulle when he returned for the first time to Vichy and delivered there a famous discourse on

the unity and unicity of France; this was literally the discourse of Pompidou, who also spoke, in a famous press conference, of 'national reconciliation' and of division overcome, when he pardoned Touvier; this was again the language of Mitterand when he maintained, on several occasions, that he was the guarantor of national unity, and very precisely when he refused to declare the culpability of France under Vichy (which he qualified, as you know, as an illegitimate or non-representational power, appropriated by a minority of extremists, although we know the situation to be more complicated, and not only from the formal and legal point of view, but let us leave this). Inversely, when the body of the nation can, without risk, support a minor division, or even finds its unity reinforced by trials, by opening the archives, by the lifting of repression, then, well, other calculations dictate accession to what is called the 'duty of memory' in a more rigorous and public fashion.

It is always the same concern: to see to it that the nation survives its discords, that the traumatisms give way to the work of mourning, and that the Nation-State not be overcome by paralysis. But even where it could be justified, this 'ecological' imperative of social and political health has nothing to do with 'forgiveness', which when spoken of in these terms is taken far too lightly. Forgiveness does not, it should never amount to a therapy of reconciliation. Let us return to the remarkable example of South Africa. Still in prison, Mandela believed that he himself had to assume the decision to negotiate the principle of a procedure of amnesty. First of all, in order to permit the return of the ANC exiles. And in view of a national reconciliation without which the country

would have been mired in fire and blood by vengeance. But no more than acquittal, the withdrawal of a case [*non-lieu*], or even 'grace' (a juridico-political exception we shall speak of again), does amnesty signify 'forgiveness'. However, when Desmond Tutu was named president of the Truth and Reconciliation Commission, he christianised the language of an institution uniquely destined to treat 'politically' motivated crimes (an enormous problem which I will not treat here, just as I will not analyse the complex structure of the aforementioned commission in its comparisons with other juridical instances and penal procedures which are to follow their course). With as much good will as confusion, it seems to me, Tutu, an Anglican archbishop, introduced the vocabulary of repentance and forgiveness. He was reproached for this, among other things, by a non-Christian segment of the black community. Without speaking of the formidable stakes of translation, which I can only evoke here but which, as with the recourse to language itself, concerns the second aspect of your question: is the scene of forgiveness a personal face-to-face, or does it call for some institutional mediation? (And language, the words themselves, are here a first mediating institution.)

In principle, therefore, always in order to follow a vein of the Abrahamic tradition, forgiveness must engage two singularities: the guilty (the 'perpetrator'<sup>4</sup> as they say in South Africa) and the victim. As soon as a third party intervenes, one can again speak of amnesty, reconciliation, reparation, etc., but certainly not of pure forgiveness in the strict sense. The statute of the Truth and Reconciliation Commission is very ambiguous on this subject, as with Tutu's discourse, which

oscillates between a non-penal and non-reparative logic of 'forgiveness' (he calls it 'restorative') and a judicial logic of amnesty. We would have to analyse closely the equivocal instability of all of these self-interpretations. Favouring a confusion between the order of forgiveness and the order of justice, but also certainly in abusing their heterogeneity, as well as the fact that the time of forgiveness escapes the judicial process, it is moreover always possible to mimic the scene of 'immediate' and quasi-automatic forgiveness in order to escape justice. The possibility of this calculation always remains open, and one could give many examples of it. And counter examples. Tutu recounts that one day a black woman comes to testify before the Commission. Her husband had been assassinated by torturers who were police officers. She speaks in her language, one of eleven languages officially recognised by the Constitution. Tutu interprets and translates, in his Christian idiom (Anglo-Anglican), something like this: 'A commission or a government cannot forgive. Only I, eventually, could do it. (And I am not ready to forgive.)'<sup>5</sup>

These are very difficult words to hear. This woman victim, this wife of the victim [*Cette femme victime, cette femme de victime*]<sup>6</sup> surely wanted to recall that the anonymous body of the State or of a public institution cannot forgive. It has neither the right nor the power to do so; and besides, that would have no meaning. The representative of the State can judge, but forgiveness has precisely nothing to do with judgement. Or even with the public or political sphere. Even if it were 'just', forgiveness would be just of a justice which had nothing to do with judicial justice, with law. There are the courts of justice for that, and these courts never forgive in the strict sense of

the word. This woman, perhaps, wanted to suggest something else again: if anyone has the right to forgive, it is only the victim, and not a tertiary institution. For, in addition, even if this spouse is also a victim, well, the absolute victim, if one can say that, remains her dead husband. Only the dead man could legitimately consider forgiveness. The survivor is not ready to substitute herself, abusively, for the dead. The immense and painful experience of the survivor: who would have the right to forgive in the name of the disappeared victims? They are always absent, in a certain way. The *disappeared*, in essence, are themselves never absolutely present, at the moment when forgiveness is asked for, the same as they were at the moment of the crime, and they are sometimes absent in body, often dead.

I will return for a moment to the equivocation of the tradition. Sometimes, forgiveness (given by God, or inspired by divine prescription) must be a gracious gift, without exchange and without condition; sometimes it requires, as its minimal condition, the repentance and transformation of the sinner. What consequence results from this tension? At least this, which does not simplify things: if our idea of forgiveness falls into ruin as soon as it is deprived of its pole of absolute reference, namely its unconditional purity, it remains nonetheless inseparable from what is heterogeneous to it, namely the order of conditions, repentance, transformation, as many things as allow it to inscribe itself in history, law, politics, existence itself. These two poles, the *unconditional* and the *conditional*, are absolutely heterogeneous, and must remain irreducible to one another. They are nonetheless indissociable: if one wants, and it is necessary, forgiveness to become

effective, concrete, historic; if one wants it to *arrive*, to happen by changing things, it is necessary that this purity engage itself in a series of conditions of all kinds (psycho-sociological, political, etc.). It is between these two poles, *irreconcilable but indissociable*, that decisions and responsibilities are to be taken. Yet despite all the confusions which reduce forgiveness to amnesty or to amnesia, to acquittal or prescription, to the work of mourning or some political therapy of reconciliation, in short to some historical ecology, it must never be forgotten, nevertheless, that all of that refers to a certain idea of pure and unconditional forgiveness, without which this discourse would not have the least meaning. What complicates the question of 'meaning' is again what I suggested a moment ago: pure and unconditional forgiveness, in order to have its own meaning, must have no 'meaning', no finality, even no intelligibility. It is a madness of the impossible. It would be necessary to follow, without letting up, the consequence of this paradox, or this aporia.

What is called the *right of grace* gives an example of this, at once an example among others and the exemplary model. For, if it is true that forgiveness would have to remain heterogeneous to the juridico-political, judicial, or penal order; if it is true that it should, each time, in each occurrence, remain an absolute exception, then there is an exception of some sort to that law of exception; and in the West it is precisely this theological tradition which accords to the sovereign an exorbitant right. For the right of grace is, as its name suggests, of the order of law, but a law which inscribes in the laws a power above the laws.<sup>7</sup> The absolute monarch can, by divine right, pardon a criminal; that is to say, exercise in the name of

the State a forgiveness that transcends and neutralises the law. Right [droit] beyond the law [droit]. As with the very idea of the sovereign, this right of grace has been reappropriated into the republican heritage. In modern States of the democratic sort, such as France, one would say that it has been secularised (if this word has a meaning other than in the religious tradition that it maintains in claiming to escape it). In others, such as the United States, the secularisation is not even a simulacrum, since the President and governors, who have the right of grace (pardon, clemency<sup>8</sup>), first take an oath on the Bible, use religious language in official discourse, and invoke the name or benediction of God each time they address the nation. What counts in this absolute exception of the right of grace is that the exception from the law, the exception to the law, is situated at the summit or at the foundation of the juridico-political. In the body of the sovereign, it incarnates what founds or supports or establishes, at the top, with the unity of the nation, the guarantee of the constitution, the conditions and exercise of the law. As is always the case, the transcendental principle of a system doesn't belong to the system. It is as foreign to it as an exception.

Without contesting the principle of this right of grace, the most 'elevated' there is, the most noble but also the most 'slippery' and the most equivocal, the most dangerous and the most arbitrary, Kant recalls the strict limitation which would be necessary to impose upon it so that it would not give way to the worst injustices: that the sovereign could pardon only where the crime concerns himself (and thus concerns, in his body, the very guarantee of the law, of the rule of law [Etat de droit] and of the State). As in the Hegelian

logic we spoke of above, nothing is impardonable but the crime against that which gives the power to forgive, the crime against forgiveness; in sum – the spirit according to Hegel, and what he calls 'the Spirit of Christianity' – but it is precisely this unforgivable, and this unforgivable alone which the sovereign would still have the right to forgive, and only when the 'body of the king' in his sovereign function is threatened through the other 'body of the king' which is here the 'same', the singular and empirical body of flesh. Outside this absolute exception, in all other cases, wherever the harms concern the subjects themselves, which is to say almost always, the right of grace could not be exercised without injustice. In fact, one knows that it is always exercised in a conditional manner, in the function of an interpretation or a calculation on the part of the sovereign regarding what joins a particular interest (his own, those of his family, or those of a fraction of society) and the interest of the State. A recent example of this was given by Clinton – who has never been inclined to pardon anyone and who is a rather offensive partisan of the death penalty. However, using his 'right to pardon' he recently pardoned the Puerto Ricans imprisoned for a long time for terrorism. Well, the Republicans did not fail to contest this absolute privilege of the executive in accusing the President of wanting to help Hillary Clinton in her upcoming electoral campaign in New York, where Puerto Ricans are, as you know, numerous.

#### IV

In the case at once exceptional and exemplary of the right of grace, where what exceeds the juridico-political inscribes itself in the constitutional law in order to found itself; well,

there is and there is not this personal head-to-head or face-to-face, which one could think is required by the very essence of forgiveness. Even there, where it should engage only absolute singularities, it cannot manifest itself in some fashion without calling on a third, the institution, sociality, the transgenerational heritage, on the survivor in general; and first on that universalising instance which is language. Can there be, in one way or another, a scene of forgiveness without a shared language? This sharing is not only that of a national language or an idiom, but that of an agreement on the meanings of words, their connotations, rhetoric, the aim of a reference, etc. It is here another form of the same aporia: when the victim and the guilty share no language, when nothing common and universal permits them to understand one another, forgiveness seems deprived of meaning; it is certainly a case of the absolutely unforgivable, that impossibility of forgiveness, of which we just said nevertheless that it was, paradoxically, the very element of all possible forgiveness. For forgiveness it is necessary *on the one hand* to understand, on both sides, the nature of the fault, to know who is guilty of what evil toward whom, etc. Already a very improbable thing. Because you imagine a 'logic of the unconscious' would come to disturb this 'knowledge', and all the schemas for which it nevertheless holds a 'truth'. And you imagine also what would happen when the same perturbation made everything tremble, when it came to affect the 'work of mourning', the therapy of which we spoke, and law and politics. For, if a pure forgiveness cannot, if it must not present itself as such, and thus exhibit itself in consciousness without at the same time denying itself, betraying or reaffirming a sovereignty, then

how to know what is an act of forgiveness, if it never takes place, and who forgives whom, or what from whom? For, on the other hand, if it is necessary, as we just said, that the two sides must agree on the nature of the fault, must know consciously who is guilty of which evil toward whom, etc., and if the thing remains very improbable, the contrary is also true. At the same time, it is necessary in effect that alterity, non-identification, even incomprehension, remain irreducible. Forgiveness is thus mad. It must plunge, but lucidly, into the night of the unintelligible. Call this the unconscious or the non-conscious if you want. As soon as the victim 'understands' the criminal, as soon as she exchanges, speaks, agrees with him, the scene of reconciliation has commenced, and with it this ordinary forgiveness which is anything but forgiveness. Even if I say 'I do not forgive you' to someone who asks my forgiveness, but whom I understand and who understands me, then a process of reconciliation has begun; the third has intervened. Yet, this is the end of pure forgiveness.

There could be, in effect, all sorts of proximity (where the crime is between people who know each other): language, neighbourhood, familiarity, even family, etc. But in order for evil to emerge, 'radical evil' and perhaps worse again, the unforgivable evil, the only one which would make the question of forgiveness emerge, it is necessary that at the most intimate of that intimacy an absolute hatred would come to interrupt the peace. This destructive hostility can only aim at what Levinas calls the 'face' of the Other, the similar other, the closest neighbour, between the Bosnians and Serbs, for example, within the same quarter, the same house, sometimes

human rights, it is often in the name of human rights, and to punish or prevent crimes against humanity that we come to limit or at least to imagine limiting the sovereignty of certain Nation-States. But of certain ones among them more than others. Recent examples: the interventions in Kosovo, or East Timor, otherwise different in their nature and aim. (The case of the Gulf War is complicated in a different way: the sovereignty of Iraq is limited today, but after having claimed to defend, against it, the sovereignty of a small State – and in the process several other interests, but let's move on.) Let us always be attentive, as Hannah Arendt recalls so lucidly, that this limitation of sovereignty is only imposed where it is 'possible' (physically, militarily, economically), that is to say always imposed on small, relatively weak States by powerful States. The latter remain jealous of their own sovereignty in limiting those of others. It also weighs in a determinate fashion on the decisions of international institutions. It is there an order and a 'state of fact' which could be either consolidated to the service of the 'strong' or, on the contrary, little by little, dismantled, put in crisis, menaced by concepts (that is to say here by instituted performatives, by events in essence historical and transformable), like those of new 'human rights' or of 'crime against humanity', by conventions on genocide, torture, or terrorism. Between the two hypotheses, all depends on the politics that puts these concepts to work. Despite their ageless roots and foundations, these concepts are entirely young, at least as mechanisms of international law. And when, in 1964 – it was yesterday – France judged it opportune to decide that the crimes against humanity were to remain imprescriptible (a decision which made possible all

the trials that you know – yesterday again, the Papon trial), in this it implicitly called on a sort of beyond the law in the law. The imprescriptible, as a juridical notion, is certainly not the unforgivable; we have just seen why. But the imprescriptible, I come back to this, signals toward the transcendent order of the unconditional, of forgiveness and the unforgivable, toward a sort of ahistoricity, even eternity and the Final Judgement, goes beyond history and the finite time of the law: for ever, 'eternally', everywhere and always, a crime against humanity will always be subject to judgment, and it will never be effaced from the judicial archive. It is therefore a certain idea of forgiveness and the unforgivable, of a certain beyond of the law (beyond all historical determination of the law) which inspired the legislators and the members of parliament, those who produce the law, when, for example, they instituted in France the imprescriptibility of crimes against humanity or, in a more general fashion, when they transform international law and install universal courts. This shows well that, despite its theoretical, speculative, purist, abstract appearance, any reflection on an unconditional exigency is engaged in advance, and thoroughly in a concrete history. It can induce processes of transformation – political, juridical, but in truth without limit.

That said, since I am split between these apparently insoluble difficulties, I am tempted by two types of response. On the one hand, there is, there has to be, it must be accepted, the 'insoluble'. In politics and beyond. When the givens of a problem or a task do not appear as infinitely contradictory, placing me before the aporia of a double injunction, then I know in advance what it is necessary to do, I believe the

knowledge, this knowledge commands and programmes the action: it is done, there is no more decision or responsibility to take. On the contrary, a certain non-knowledge must leave me disarmed before what I have to do so that I have to do it in order for me to feel freely obligated and bound to respond to it. I must then, and only then, respond to this transaction between two contradictory and equally justified imperatives. Not that it is necessary not to know. On the contrary, it is necessary to know the most and the best possible, but between the widest, the most refined, the most necessary knowledge, and the responsible decision, an abyss remains, and must remain. We find here again the distinction between the two orders (indissociable but heterogeneous) which has preoccupied us since the beginning of this interview. On the other hand, if 'politics' is what you designate in speaking of 'pragmatic processes of reconciliation', then, taking seriously these political urgencies, I believe also that we are not defined through and through by the political, and above all not by citizenship, by the statutory belonging to a Nation-State. Must we not accept that, in heart or in reason, above all when it is a question of 'forgiveness', something arrives which exceeds all institution, all power, all juridico-political authority? We can imagine that someone, a victim of the worst, himself, a member of his family, in his generation or the preceding, demands that justice be done, that the criminals appear before a court, be judged and condemned by a court – and yet in his heart forgives.

The inverse, of course, is also true. We can imagine, and accept, that someone would never forgive, even after a process of acquittal or amnesty. The secret of this experience remains. It must remain intact, inaccessible to law, to politics, even to morals: absolute. But I would make of this trans-political principle a political principle, a political rule or position taking: it is necessary also in politics to respect the secret, that which exceeds the political or that which is no longer in the juridical domain. This is what I would call the 'democracy to come'. In the radical evil of which we are speaking, and consequently in the enigma of the forgiveness of the unforgivable, there is a sort of 'madness' which the juridico-political cannot approach, much less appropriate. Imagine a victim of terrorism, a person whose children have been deported or had their throats cut, or another whose family was killed in a death oven. Whether she says 'I forgive' or 'I do not forgive', in either case I am not sure of understanding. I am even sure of not understanding, and in any case I have nothing to say. This zone of experience remains inaccessible, and I must respect its secret. What remains to be done, then, publicly, politically, juridically, also remains difficult. Let us take again the example of Algeria. I understand, I share the same desire as those who say: 'We must make peace, it is necessary that the nation survive, that's enough of these monstrous murders, we must do what is necessary for this to stop.' And if, for that, it is necessary to trick, even to the point of lying or confusion (as when Bouteflika said: 'We will free the political prisoners who do not have blood on their hands'), well, go for that abusive rhetoric, it will not have been the first time in recent

history, in less recent and above all the colonial history of this country. I understand, then, this 'logic', but I also understand the opposed logic which refuses at all cost, and on principle, this useful mystification. Well, here is the most difficult moment, the law of the responsible transaction. According to the situations and according to the moments, the responsibilities to be taken are different. It seems to me that what they are now preparing to do in Algeria should not be done in the France of today. The French society of today can permit itself to bring to light, with an inflexible rigour, all the crimes of the past (including those which continue in Algeria, precisely, and the thing is not yet done), it can judge them and not let the memory fade. There are situations where, on the contrary, it is necessary, if not to let the memory fade (that should never be necessary, where possible), but at least to act as if, on the public scene, it was renounced to draw all the consequences from it. One is never sure of making the just choice; one never knows, one will never know with what is called knowledge. The future will give us no more knowledge, because it itself will have been determined by that choice. It is here that responsibilities are to be re-evaluated at each moment, according to concrete situations, that is to say, those that do not wait, those that do not give us time for infinite deliberation. The response cannot be the same in Algeria today, yesterday, or tomorrow, and in the France of 1945, 1968–70, or of the year 2000. It is more than difficult; it is infinitely distressing. It is night. But to recognise these 'contextual' differences is an entirely different thing from an empiricist, relativist, or pragmatist resignation. Precisely because the difficulty emerges in the name of and because of

unconditional principles, it is therefore irreducible to these simplicities (empiricist, relativist, or pragmatist). In any case, I would not reduce the terrible question of the word 'forgiveness' to these 'processes' in which it finds itself engaged in advance, as complex and inevitable as they may be.

All Nation-States are born and found themselves in violence. I believe that truth to be irrecusable. Without even exhibiting atrocious spectacles on this subject, it suffices to underline a law of structure: the moment of foundation, the instituting moment, is anterior to the law or legitimacy which it founds. It is thus *outside the law*, and violent by that very fact. But you know that this abstract truth could be illustrated (what a word, here!) by terrifying documents, and from the history of all States, the oldest and the youngest. Before the modern forms of what is called, in the strict sense, 'colonialism', all States (I would dare to say, without playing too much with the word and etymology, all cultures) have their origin in an aggression of the colonial type. This foundational violence is not only forgotten. The foundation is made in order to hide it; by its essence it tends to organise amnesia, sometimes under the celebration and sublimation of the grand beginnings. However, what appears singular and new today is the project of making States, or at least of heads of state in title (Pinochet), and even of current heads of state (Milosevic), appear before universal authorities. It has to do only with projects or hypotheses, but this possibility suffices to announce a transformation: it constitutes in itself a major event. The sovereignty of the State, the immunity of a head of state are no longer in principle, in law, untouchable. Of course, numerous equivocations will remain for a long



itself, be it as a dream for thought, this madness is perhaps not so mad . . .

## NOTES

- 1 The French word *comparution* has the sense of an appearance before a judge in a court of law.
- 2 In English in the original.
- 3 NDLR. cf. 'Foi et savoir, les deux sources de la "religion" aux limites de la simple raison', in J. Derrida and G. Vattimo, *La Religion*, Le Seuil, 1996.
- 4 In English in the original.
- 5 In English in the original.
- 6 There would be much to say here about sexual differences, having to do with the victims or their testimony. Tutu relates also how certain women forgave in the presence of the executioners. But Antje Krog, in an admirable book, *The Country of My Skull*, describes the situation of militant women who, raped and then accused by the torturers of being not militants but whores, could not testify about this before the commission, or even in their family, without baring themselves, without showing their scars or without exposing themselves one more time, by their very testimony, to another violence. The 'question of forgiveness' cannot even be posed publicly to these women, some of whom now occupy high positions in the State. There exists a 'Gender Commission' on this subject in South Africa.
- 7 'Car le droit de grâce est bien, comme son nom l'indique, de l'ordre du droit mais d'un droit qui inscrit dans les lois un pouvoir au-dessus des lois.' As is often noted, the word *droit* in French has the meaning of both 'law' and 'right'. Trans.
- 8 In English in the original.