

PREFACE

The death penalty is a reality that has been with us for a long, long time: interminable, continually reemerging, perhaps inerasable. It is a complex reality, a cultural fact: as historian Louis Gernet observed, “if the act of putting a criminal to death were only a practical solution to the problem of legal responsibility, and nothing more than the brutal manifestation of a quasi-instinctive passion, then our tour through the garden of punishments would hardly merit any interest, even the interest of the curious.”¹ The model of “semantic study” he proposed in his great *thèse* a century ago remains a landmark study for anyone interested in exploring this subject.² And a scholar who drew on it when recounting the history of capital punishment in the ancient world has written that “few things help more in understanding the most deeply held religious convictions of a people, their remotest psychological needs, their most deeply concealed anxieties, their conception of civil coexistence than how they choose to apply the death sentence.”³

Despite the periodic resurgence of good intentions, new and not so new campaigns on the part of abolitionists, and the recent UN “moratorium” on the death penalty, legalized killing continues to be practiced around the world. It is a fact, however, that the practice is slowly diminishing. The 2013 report of the Hands Off Cain league listed forty nations where the death penalty still exists, just one of which—Belarus—is in Europe. It is still practiced in some US states. The continent where the largest number of executions takes place is Asia. In its largest nation, China, total executions fell by around 50 percent in five years. The trend is one of a slow, and perhaps irreversible, decline.

But whatever the trend, this book is not another of the many attempts to offer a complete overview of the issue: a final all-encompassing study can wait until the whole of humankind has turned its back on the death penalty and the past will be addressed in an effort to understand it. Instead, this work sets out to analyze the complexity of the bonds forged by a whole culture with the condemned in flesh and blood, making them central figures of its symbolic universe. To do this, it is necessary to bear in mind the liminal

condition of a person who is sentenced to death by the justice system. The bridge linking the living and the dead is an actual human being, someone who, though they are still alive, already belongs to the world of the dead as the result of a court sentence. It is a condition that only apparently resembles that of a terminally ill person, a figure familiar to our present because it embodies a condition experientially similar in some way to a futureless present. The figure of the condemned has specific features that are entirely different regarding their relationship with others: their death cannot be blamed on an impersonal cause. Nature or fate do not come into it: rather, it is their fellow human beings, in a word us, who, through the mechanisms of a law and a power that represent us, or even simply by being part of a more or less inherited and shared history, culture, and tradition, carry the responsibility for their death. This sense of co-responsibility enables us to understand the accumulated sediment of guilty feelings that rise to the surface in the dreams and visions with which the history of superstitions and the literature of miracles are so rich. The purpose of this book is to try to understand the cost of the investment that medieval Christian culture had to make in order to habitually maintain reconciled relationships with the thought and the concrete figures of those dying by way of legal channels.

The history that will be the focus of our attention belongs to the age of the Christianization of death as punishment. Springing from the rootstock of the Jewish Bible, the culture of European Christianity had to come to terms not only with the prohibition against killing laid down in the fifth commandment of the Bible, but above all with some fundamental Gospel teachings, such as nonviolence and forgiveness. All this has posed a problem for a religion that, in order to spread and survive over time, reached agreements and compromises with laws, customs, forces, and traditions of every kind—to the point that Christian culture itself acquired a special, reserved power among the powers of the earth. In this journey, a religion promising the way, the truth, and the life has had to draw on particularly elaborate cultural resources in order to legitimate the death penalty as a legal practice. Hence the great richness of theoretical argumentation and practical solutions whereby legal homicide found its place in the most eminent sites of the Christian city and was transformed into a powerful instrument of religious emotions.

In the course of research that has occupied me intermittently for many years, I have become indebted to many people. Acknowledging them all would take too long. But I must at least mention Pier Cesare Bori, the friend who suggested the theme to me way back in 1982. I am only sorry not to have been able to show him the finished work.

CRIME AND FORGIVENESS

