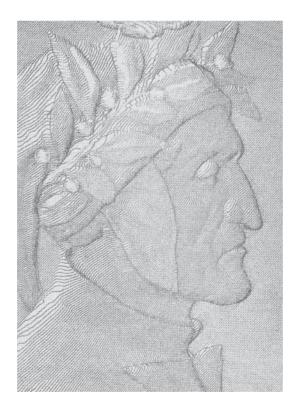
44, Nuova Serie luglio-dicembre 2014 anno LV

L'ALIGHIERI

Rassegna dantesca

Direttori: Saverio Bellomo, Stefano Carrai, Giuseppe Ledda



Angelo Longo Editore Ravenna

«L'Alighieri» Rassegna dantesca

44 - Nuova Serie 2014

Direzione Saverio Bellomo, Stefano Carrai, Giuseppe Ledda

Redazione Luca Lombardo, Nicolò Maldina, Anna Pegoretti, Filippo Zanini

> Comitato d'onore Robert Hollander, Mario Marti, John Freccero, Karlheinz Stierle

> > Comitato scientifico

Zygmunt G. Barański, Teodolinda Barolini, Lucia Battaglia Ricci, Simon A. Gilson, Bodo Guthmüller, Emilio Pasquini, Jeffrey T. Schnapp, Luigi Scorrano, John Scott

I collaboratori sono pregati di inviare copia del loro contributo
(sia per attachment che per posta) al seguente indirizzo:
Giuseppe Ledda - Università di Bologna
Dipartimento di Filologia classica e Italianistica
Via Zamboni 32 - 40126 Bologna - Italia (e-mail: giuseppe.ledda@unibo.it)
I volumi per eventuali recensioni debbono essere inviati a
Giuseppe Ledda, vedi indirizzo sopra

Abbonamenti e amministrazione: A. Longo Editore - Via Paolo Costa 33 - 48121 Ravenna Tel. 0544.217026 Fax 0544.217554 www.longo-editore.it e-mail: longo@longo-editore.it

Abbonamento 2015 Italia: € 40,00 (due fascicoli annui)

Abbonamento 2015 estero: € 60,00 (due fascicoli annui)

I pagamenti vanno effettuati anticipatamente con assegno, vaglia postale

o con versamento sul ccp 14226484

oppure con carta di credito (solo Visa o Mastercard) e intestati a Longo Editore - Ravenna

I contributi pubblicati su «L'Alighieri» sono soggetti al processo di **peer review**. Ogni contributo ricevuto per la pubblicazione viene sottoposto, in forma rigorosamente anonima, alla lettura e valutazione di due esperti internazionali, esterni alla direzione della rivista.

ISBN 978-88-8063-808-7

© Copyright 2015 A. Longo Editore snc All rights reserved Printed in Italy **44, Nuova Serie** luglio-dicembre 2014 anno LV

L'ALIGHIERI

Rassegna dantesca

fondata da Luigi Pietrobono e diretta da Saverio Bellomo, Stefano Carrai e Giuseppe Ledda

SAGGI		
Zygmunt G. Barański	5	Reading the <i>Commedia's</i> IXs "vertically": from addresses to the Reader to the <i>crucesignati</i> and the <i>Ecloga Theoduli</i>
Alessandra Forte	37	La rappresentazione del Minotauro dantesco nei manoscritti trecenteschi della <i>Commedia</i> tra commento scritto e commento figurato
Justin Steinberg	59	Dante's Justice? A reappraisal of the <i>contrapasso</i>
LECTURAE DANTIS	75	Done of seignment
Giuseppe Marrani Domenico Cofano	75 93	Purgatorio XXIII Lettura di <i>Paradiso</i> XVIII
NOTE		
Paola Allegretti	111	L'ecdotica applicata alla <i>Vita Nova</i> : modelli, concetti e ricerche
Lino Pertile	121	<i>Inf.</i> IV, 36: parte o porta?
Nicolò Magnani	129	La terminologia linguistica nel
· ·		De la volgare eloquenzia
		di Giovan Giorgio Trissino:
		alcuni campioni traduttivi
RECENSIONI		
Edoardo Fumagalli	153	Rec. a Luciano Gargan, Dante, la sua biblioteca e lo Studio di Bologna
Antonio Montefusco	157	Rec. a Dante Alighieri, <i>Fiore, Detto d'amore</i> , a c. di Paola Allegretti e <i>Il Fiore e il Detto d'Amore</i> , a c. di Luciano Formisano
Veronica Albi	163	Rec. a Dante Alighieri, Le Quindici Canzoni. Lette da diversi. I, 1-7 e Dante Alighieri, Le Quindici Canzoni. Lette da diversi. II, 8-15 con app. di 16 e 18
Luca Mazzoni	169	Rec. a Mario Apollonio, <i>Dante. Storia della</i> «Commedia», a c. di Carlo Annoni e Corrado Viola

Elisa Maraldi	173	Rec. a Elide Casali, «O gloriose stelle».
Vera Ribaudo	175	L'astrologia cristiana da Barbanera a Dante Rec. a Giuseppe Frasso, Massimo Rodella, Pietro Mazzucchelli studioso di Dante

(University of Chicago)

DANTE'S JUSTICE? A REAPPRAISAL OF THE CONTRAPASSO¹

ABSTRACT

Questo saggio mette in discussione l'uso del termine contrapasso per descrivere la giustizia poetica di Dante, cioè il modo in cui le pene corrispondono ai peccati nella *Commedia*. Esaminando l'uso del termine nell'*Etica Nicomachea* di Aristotele e nei relativi commenti di Alberto Magno e Tommaso d'Aquino, questo studio mostra che la giustizia fondata sul contrappasso era di solito considerata imperfetta e limitata. In quanto forma di riparazione individuale e di tipo privato, il contrappasso non prendeva in considerazione la portata dei danni provocati dai delitti pubblici e il male causato alle persone giuridiche collettive della Chiesa e dello Stato. Ironicamente, questi delitti pubblici contro lo "stato" sono esattamente quelli puniti dal contrappasso di *Inferno* XXVIII. Di conseguenza, sembra improbabile che Dante volesse semplicemente annunciare la "legge" del contrapasso in questo canto. Dante, al contrario, usa le punizioni eccezionali di Maometto e di Bertran de Born per giustificare la sua flessibile 'arte' di punire.

This essay questions the use of the term *contrapasso* to describe universally Dante's poetic justice – the ways in which the punishments fit the sins in the Commedia. Through tracing the term in Aristotle's *Nichomachean Ethics* and its commentaries by Albertus Magnus and Thomas Aquinas, this study illustrates that counter-suffering justice was typically viewed as an imperfect, limited brand of justice. Namely, as a form of private individual reparations, it did not take into account the scope of the damage done by public crimes, the harm caused to the collective, corporate bodies of Church and State. Ironically, these public crimes against the "state" are exactly the crimes punished by the *contrapasso* in *Inferno* XXVIII. Consequentially, it is unlikely that Dante wanted to simply announce the "law" of the *contrapasso* in this canto. Instead, he uses the exceptional punishments of Maometto and Bertran de Born to make a case for the flexible "art" of fitting punishment to crime.

The manner in which the souls are punished in the *Commedia* seems to indicate a necessarily symbolic relationship between transgression and punishment. More often than not, the punishment assumes the form of a brutal literalization of the respective sin, so that the damned are tormented by manifestations of their own externalized psychological states. In life, the adulterous Paolo and Francesca were figuratively blown to-and-fro by the "storm" of their uncontrolled passions;

¹ I would like to thank Albert Ascoli, Zygmunt Barański, Simon Gilson, Ronald Martinez, Roberto Rea, and the fellows at the Franke Institute of the Humanities for their valuable and generous suggestions.

in Hell, a literal storm now blows them round without end.

It has become a commonplace in the field of Dante Studies to describe this "alignment" of punishment and sin as the *contrapasso* – a neologism in Italian and the final word of *Inferno* XXVIII². Yet critics' deployment of the term *contrapasso* as a descriptive category is of relatively recent vintage. When early commentators gloss this rare Latinism – a *hapax legomenon* in Dante's text – they do not extend its purview beyond canto XXVIII³. For example, Guido da Pisa limits the function of *contrapasso* (defined as «sicut fecit, ita recepit») to Bertran de Born's punishment, since dividing persons joined through the bonds of friendship or family was by law a capital offense («capite puniendus»)⁴. For Guido this correspondence between punishment and crime was part of the text's literal meaning. Similarly, Pietro Alighieri distinguishes the "fittingness" of the punishments in *Inferno* XXVIII, that the «pena sit conformis delicto», from other infernal punishments which he interprets «per allegoriam»⁵.

We have to wait until the nineteenth century for commentators to gradually universalize this instance of the term *contrapasso* into a general "law" of the poem by applying it to all the punishments of *Inferno* (and eventually to those of *Purgatorio* as well). Yet in recent decades, scholars have begun to reexamine the one-size-fits-all model of the *contrapasso*, critiquing the «allegorismo a oltranza» necessary to make Dante's poetics of punishment conform to any given scheme⁶. Several critics have even called into question the identification of the *contrapasso* with Dante's conception of justice or with divine justice *tout court*. These scholars demonstrate that the *contrapasso* is commonly associated in contemporary scholastic thought with the *lex talionis* and the eye-for-an-eye justice of the Old Testament⁷. As a consequence, they argue, Dante intends readers to interpret the *contrapasso* critically. It reflects the fallen, «rigida giustizia» (*Inf.* xxx, 70) of the infernal city of Dis, a legalistic dystopia utterly lacking in mercy.

- ² Text and translations from the *Commedia* based on *The Divine Comedy of Dante Alighieri*, ed. and trans. by R. Durling, Oxford, Oxford University Press, 1996-2011.
- ³ For a survey of the commentators' glosses on "contrapasso", see P. ARMOUR, *Dante's Contrapasso: Contexts and Texts*, in «Italian Studies», 55 (2000), pp. 1-20 and V. KIRKHAM, *Contrapasso: The Long Wait to «Inferno»* 28, in «Modern Languages Notes», CXXVII (2012), pp. 1-12.
- ⁴ «Qui separat alios, seu amicitia seu parentela coniunctos, caput a corpore portat divisum, quia secundum leges talis est capite puniendus. Et sic observatur in eo contrapassus, quia debet recipere id quod fecit» (GUIDO DA PISA, *Expositiones et Glose: Declaratio super Comediam Dantis*).
- ¹⁵ «Post hec auctor intelligendus est loqui de dictis vulnerationibus harum animarum potius per hanc rationem, quod pena sit conformis delicto, quam per allegoriam» (P. ALIGHIERI, *Commentarium, ad Inf.* XXVIII, 139-42).
- ⁶ See V. Lucchesi, Giustizia divina e linguaggio umano: metafore e polisemie del contrapasso dantesco, in «Studi danteschi», LXIII (1991), pp. 53-126, at p. 55. From a variety of perspectives but in a similarly critical vein, see also R. Abrams, Against the Contrapasso: Dante's Heretics, Schismatics and Others, in «Italian Quarterly», 27 (1986), pp. 5-19; Armour, Dante's Contrapasso cit.; D. Bolognesi, Il contrapasso come chiasma. Appunti su «Inferno» xxvIII, in «L'Alighieri», LI, n.s. 36 (2010), pp. 5-20; and K. Gross, Infernal Metamorphoses: An Interpretation of Dante's 'Counterpass', in «Modern Languages Notes», C (1985), pp. 42-69.
- ⁷ See especially A.K. CASSELL, *Dante's Fearful Art of Justice*, Toronto, University of Toronto Press, 1984; D. CASTELLI, *L'errore rigorista e la fisica dell'anima in una «Commedia» senza "lex talionis"*, in «Studi danteschi», LXXVIII (2013), pp. 154-95; G. MAZZOTTA, *Metaphor and Justice*,

I would like to add my voice to this swell of critical reappraisals of the *contrapasso* by offering a new perspective. While previous scholarship has contrasted infernal punishment with divine mercy, I will here focus on the tensions that arise in *Inferno* XXVIII between public and private conceptions of justice. As I hope to make clear, the problem for Dante (as well as for Aristotle, Albertus Magnus, and Aquinas) is not that the *contrapasso* is too harsh, but that for the most extreme crimes it is not harsh enough. Its tit-for-tat justice fails to take into account the sacrilege committed against God's collective order. For transgressing the divine sovereign's commandments – irrespective of the damages owed private individuals – the damned must pay back more than just measure for measure.

In this paper I argue that we should be wary of referring to Dante's art of justice wholesale as the "contrapasso" for the following reasons: 1) in influential contemporary texts, the *contrapassum* always denotes a limited, overly narrow conception of justice; it is the imperfect justice of the Other (the Pythagoreans for Aristotle, the Jews for Albertus and Thomas); 2) justice based on simple reciprocation is inherently private; it fails to encompass public crimes, crimes against the body politic; 3) consequently, when Bertran describes his punishment as a "contrapasso", he fails to recognize the public nature of his sin and those of the other sowers of discord; 4) the "contrapasso" should not be considered the "law" of Dante's justice as he evokes it precisely to demonstrate the limits of that law, especially in extreme and unprecedented cases.

I do not want to deny, of course, that some mechanism of poetic justice operates throughout the *Inferno*. Clearly, it does. I simply want to reconsider the prevailing belief that Dante waits until *Inferno* XXVIII to reveal that "the punishment should fit the crime" — especially since he has already provided readers with ample illustrations of this principle earlier in the poem. Rather than simply offering a definition, Dante introduces the *contrapasso* at this point in order to probe the elusive nature of the "fittingness" involved in his poetics of punishment. Above all, Dante makes a case here for a savvy and judicious deployment of artistic "discretion" — rather than the application of a prescribed rule — whenever a poet is tasked with depicting extraordinary circumstances. In this light, the sowers of discord are crucial to his case not because they are exemplars of the *contrapasso*, but because they offer possible exceptions to it.

Inferno XXVIII describes the punishments in the eighth sub-circle or bolgia of Malebolge – the eighth circle of Hell in which the sins of fraud are punished. The damned souls in this particular valley of Malebolge are condemned as «sowers of scandal and schism» (Inf. XXVIII, 34-35) for their instigation of civil and religious strife. In one of the most violent episodes of the poem, a sword-wielding demon

in ID., *Dante's Vision and the Circle of Knowledge*, Princeton, Princeton University Press, 1993, pp. 75-95; and L. Pertile, *Canto XXIX: Such Outlandish Wounds*, in *Lectura Dantis: «Inferno»*, ed. by A. Mandelbaum, A. Oldcorn, and C. Ross, Berkeley and Los Angeles, University of California Press, 1998, pp. 387-91.

ritually mutilates these naked sinners, cutting a series of purposeful and geometric slices into their flesh each time they pass by. Just as the schismatics split the corporate bodies of church and state in life, their own bodies are now cloven in death.

The first soul we encounter, Mohammed, or rather, a cruel and demeaning caricature of the Islamic prophet⁸, is split open from his chin to his anus, «dove si trulla» (*Inf.* XXVIII, 24). According to Dante's medieval sources, Mohammed was originally a Nestorian Christian who, by founding Islam, had perverted Christian doctrine and misled former believers of the true Church. As punishment for separating a section of the faithful from the flock, he is now missing a section of his own flesh, like a barrel missing a stave. Mohammed opens his chest and beckons the pilgrim to marvel at his injuries: «Or vedi com'io mi dilacco! / Vedi come storpiato è Mäometto!» (*Inf.* XXVIII, 30-31). Mohammed's cousin and successor, Alì, follows him; cleft from chin to forelock, he completes the "lineage" of this vertical slash.

The next three sinners in this circular procession – Piero da Medicina, Curio, and Mosca dei Lamberti – suffer forms of amputation as retribution for having advocated actions leading to civil war. Piero, who instigated discord among the nobles of Romagna, is missing his nose and an ear, and is forced to speak through his bloodied trachea – a combination of humiliating injuries that recalls Virgil's depiction of Deiphobus in *Aeneid* VI. Curio's tongue has been cut out – a fitting punishment for this instigator of Roman civil war, who urged Caesar to disregard the senate's laws and cross the Rubicon with his army. Following quickly after Curio, Mosca raises his amputated stumps in the air, thereby bloodying his face, and pronounces his infamous counsel: «Capo ha cosa fatta» (*Inf.* XXVIII, 107). According to Florentine legend, this incisive *sententia* persuaded the Amidei family to take revenge on Buondelmonte de' Buondelmonti and initiated the factional violence between Florentine Guelphs and Ghibellines.

Bringing up the rear of this macabre and hallucinatory parade is Bertran de Born, a Troubadour poet Dante already admires in *De vulgari eloquentia* for his martial poetry. As punishment for having divided the young prince from his father King Henry II of England – the figurehead of the kingdom – Bertran accordingly carries his own head in his hands. (This clean horizontal cut balances the vertical cuts made to Mohammed and Alì, the perpendicular slashes forming a cross). Bertran raises his severed head up toward Dante and Virgil, concluding the canto with an epigraphic description of his infernal sentence: «Perch'io parti' così giunte persone, / partito porto il mio cerebro, lasso!, / dal suo principio ch'è in questo troncone. // Così s'osserva in me lo contrapasso» (*Inf.* XXVIII, 139-42). Through word play on active and passive forms of the verb *partire* in his speech, Bertran exemplifies a grammar of punishment.

⁸ On Dante's representation of Mohammed and anti-Islamic discourse, see O. LIEBERKNECHT, A Medieval Christian View of Islam: Dante's Encounter with Mohammed in «Inferno» XXVIII, available at www.lieberknecht.de/~diss/papers/p_moham.pdf; K. Mallette, Muhammad in Hell, in «Dante Studies», CXXV (2007), pp. 207-24; and R.L. Martinez, Dante between Hope and Despair: The Tradition of Lamentations in the «Divine Comedy», in «Logos: A Journal of Catholic Thought and Culture», v/3 (2002), pp. 45-76.

Dante extends this stylized cutting and slashing to the poetic texture of the canto through an expansive employment of hyperbaton and parenthesis⁹. On a narratological plane, the linear presentation of the characters and their speeches is unexpectedly split open at several points. For example, the retrospective backdrop provided for Mohammed's warning to Fra Dolcino, mysteriously uttered while the speaker is still in mid-step, both describes a suspension and enacts one within the diegetic flow of events. Syntactically, phrases and grammatical clusters are interrupted with conspicuous artifice. When Dante introduces the lurid «mode» of the *bolgia*, «il modo de la nona bolgia sozzo» (*Inf.* XXVIII, 21), the distance between the noun «modo» and its modifier «sozzo» creates a gap like the one the poet will soon describe in Mohammed's body.

Similarly, when Bertran concludes the canto by explaining that «Perch'io parti' così giunte persone, / partito porto il mio cerebro, lasso! / dal suo principio», the separation of «partito» and «cerebro» and the interjection of «lasso» between «cerebro» and its complement «dal suo principio» form a double hiatus mirroring the separation of brain and body. Finally, the rare usage of a *rima franta* or broken rhyme («Oh me!»; *Inf.* XXVIII, 123) reproduces Bertran's use of broken rhymes in his poetry, namely the outburst «a lor» (get them!) (43) in his ode to armed combat, *Be.m platz lo gais temps de pascor*, in which the Occitan poet revels in the knights' cleaving of heads and arms («aslar chaps e brats») (39). Through this "poetics of schism"¹⁰, Dante turns the style of the divisive, war-mongering Bertran against himself, reenacting his poetic crimes as fitting *talio*.

Whereas in the other circles of Hell, Dante often leaves the correspondence between sin and punishment to the reader's imagination, in this circle he explains it twice, at both the beginning and the end of the canto. First, Mohammed pronounces the general rule: «E tutti li altri che tu vedi qui, / seminator di scandalo e di scisma / fuor vivi, e però son fessi così» (*Inf.* XXVIII, 34-36). Similarly, as we have just seen, Bertran explains that he carries his severed head in his hand because he divided father from son – a personal *exemplum* to illustrate Mohammed's collective law. In these complementary definitions, the correlation between what the souls did while alive and what is now done to them as punishment, causally related by the conjunctions «però» and «perciò», seems especially transparent and inevitable¹¹.

Dante thus appears to have chosen the clearest possible examples to illustrate the *contrapasso*. Indeed, although readers have long admired Dante's artistry in creating verisimilar, complex characters out of the infernal souls, the sowers of

⁹ See P.G. Beltrami, *Metrica e sintassi nel canto XVIII dell' «Inferno*», in «Giornale storico della letteratura italiana», CLXII (1985), pp. 1-26; and R.L. Martinez, *The Poetry of Schism*, in *The Divine Comedy*, Durling edition, vol. 1, pp. 573-76.

¹⁰ On the role of Bertran's poetry in this canto, see especially T. BAROLINI, *Dante's Poets: Textuality and Truth in the «Comedy»*, Princeton, Princeton University Press, 1984, pp. 164-73; MARTINEZ, *The Poetry of Schism* cit.; and M. PICONE, *I trovatori di Dante: Bertran de Born*, in «Studi e problemi di critica testuale», XIX (1979), pp. 71-94.

¹¹ We can identify a possible third definition even before the episode begins in the concise formulation preannouncing the sowers of discord, «quei che scommettendo acquistan carco» (*Inf.* XXVII, 136).

discord function almost as pure personifications. Marched before the eyes of Dante (and his readers), these animated emblems actually beckon for their exemplary punishments to be read, as Bertran emphasizes through the three forms of *vedere* in his initial apostrophe: «Or vedi la pena molesta, / tu che, spirando, vai veggendo i morti: / vedi s'alcuna è grande come questa» (*Inf.* XXVIII, 130-32). Similarly, when Bertran closes the canto with «Così s'osserva in me lo contrapasso», the use of the impersonal passive «s'osserva» underscores the idea that legibility is the defining characteristic of the countersuffering.

Yet at the very moment that Dante-the-poet appears to define his art of poetic justice, a hermeneutic breakdown occurs between his character and the desecrated bodies that are paraded before him. Instead of "reading" the sins as they are literalized on the sinners' bodies, he merely gapes at their wounds, stupefied by the novelty of God's justice. By the end of the episode, Dante's eyes have become "drunk" with the violent imagery of the sowers of discord and they long to stay and weep: «le luci mie sì inebrïate, / che de lo stare a piangere eran vaghe» (*Inf.* XXIX, 2-3). Dante is physically blocked («impedito»; *Inf.* XXIX, 28) by the singular vision of Bertran's punishment, just as the damned are momentarily frozen in awe when they discover that he is still alive. Virgil is finally forced to reprimand Dante's character for continuing to stare at the mutilated bodies («Che pur guate?»; *Inf.* XXIX, 4), reminding him of the futility of counting the shades punished within this valley and of the limited time allotted to see *other* torments¹².

As part of his reprimand, Virgil notes that Dante's reaction to the punishments in this canto is unique: «Tu non hai fatto sí a l'altre bolge» (*Inf.* XXIX, 7). In fact, although the *contrapasso* is often presented as a generalized rule of the otherworld, there remains something exceptional about the punishments of canto XXVIII. Bertran himself proclaims that the enormity of his punishment is unprecedented: «vedi s'alcuna è grande come questa» (*Inf.* XXVIII, 132). Bertran here closely echoes the words of *Lamentations* 1, 12, «O vos omnes qui transitis per viam adtendite et videte si est dolor sicut dolor meus», which are spoken in the Hebrew Bible by the personification of fallen Jerusalem. In medieval Christian exegesis and liturgical practice, this passage was commonly interpreted as spoken by the crucified Christ in his passion¹³. Bertran thus personifies the foundational acts of violence of Jewish and Christian history – the diaspora and the crucifixion.

Dante foreshadows this oscillation between normative and exceptional cases, and calls attention to its literary as well as jurisprudential ramifications, in the extended inexpressibility topos with which he opens the canto:

Chi poria mai pur con parole sciolte dicer del sangue e de le piaghe a pieno

¹² Dante's character justifies his actions to Virgil by explaining that he was searching for his unavenged relative Geri del Bello. In other words, he was possessed not by what he was viewing, but by what he wanted to see. These two different accounts of the Pilgrim's state of mind are left unresolved as the narrative continues.

¹³ On the Christological ramifications of Bertran and his quotation of *Lamentations*, see MARTINEZ, *Dante between Hope and Despair* cit.

ch'i' ora vidi, per narrar più volte?

Ogne lingua per certo verria meno
per lo nostro sermone e per la mente
c'hanno a tanto comprender poco seno.

(Inf. XXVIII, 1-6)

In this proem, Dante asserts that the vision of bleeding bodies and gaping wounds he witnessed cannot be adequately expressed by standard poetic conventions. The poet is bound by rhyme, as opposed to the «parole sciolte» of prose, and is additionally limited to a single sequential narrative allowing for only one perspective. Furthermore, memory and language themselves lack the "capacity" to adequately encompass the carnage he has witnessed. (The horror of *Inferno* XXVIII will, in fact, overflow its metrical container, running over into the beginning of the next canto, not unlike how Mohammed's innards spill out from his opened belly.)

After protesting the deficiencies of artistic form and language to represent his experiences, Dante further questions the adequacy of imaginative fantasy. He asks readers to perform a gruesome thought experiment: to imagine all the maimed and perforated bodies ever strewn across the battlefield in Apulian territory, from the time of the Trojan colonizers to more recent battles between the forces representing Church and Empire. If these maimed bodies, gathered together, were all to simultaneously display their wounds, it would not «equal» the «measure» of this subcircle of *Inferno*: «d'aequar sarebbe nulla / il modo de la nona bolgia sozzo» (*Inf.* XXVIII, 20-21).

Through a series of conspicuous literary allusions¹⁴, Dante emphasizes that the wounds of *Inferno* XXVIII are not just unprecedented in the history of violence, but also in the history of representations of violence. The first part of the proem most closely recalls *Aeneid* VI, 625-27 («Non, mihi si linguae centum sint oraque centum...»), in which the Sybil has just finished recounting the sins and punishments of Tartarus following the encounter with Deiphobus. The second part of the proem shifts to echo Bertran de Born's lament for the death of the young prince during the revolt against his father, *Si tuit li dol e·l plor e·l marrimen*, and alerts readers to other echoes of the martial poet's works in the canto. In both cases, Dante sets the stage for reading the stylistic experiments that follow – the poet's brilliant attempt at ensuring that the «word may not be different from the fact» (*Inf.* XXXII, 12) – as exceeding previous literary precedents in Latin and the vernacular.

Why does Dante insist upon the singularity of the imagery in this canto if it is meant to illustrate the poetics of the poem as a whole? Why choose the unprecedented case of Bertran de Born to exemplify the "law" of the *contrapasso*? These contradictions are difficult to resolve if we persist in identifying the *contrapasso* as a standard or rule. But what if the punishments in canto XXVIII do not exemplify the *contrapasso*, but instead warn of its potential limits if overly rigidly

¹⁴ For an especially suggestive recent account of these allusions, see P. Allegretti, *Canto xxvIII*, in *Lectura Dantis Turincensis*. *Inferno*, ed. by G. Güntert and M. Picone, Firenze, Franco Cesati Editore, 2000, pp. 393-406.

applied? What if, in certain exceptional cases, mere countersuffering cannot repair the damage done?

It is unlikely that critics would have universally and unqualifiedly adopted the term *contrapasso* to refer to the punishments of *Inferno* if they had more diligently considered the original context of «reciprocal justice» in Aristotle's *Nicomachean Ethics* V, 5. Dante's *contrapasso* derives from the Latin *contrapassum*, a term that would have been familiar to him from the Latin translations of the *Nicomachean Ethics* and its commentaries. In these texts, *contrapassum* (a translation of the Greek *antipeponthos*) denotes a reciprocal suffering or "passion" for any illicit action. Yet it is rarely mentioned in the secondary literature that Aristotle actually ascribes justice-as-countersuffering to the Pythagoreans and distinguishes his own account of justice from it: «Videbitur autem aliquibus et contrapassum esse simpliciter iustum, ut Pythagorici dixerunt» (it will appear to some that the countersuffering is unqualifiedly just, as the Pythagoreans claimed)¹⁵. It is not Aristotle himself but others who base their vision of retaliatory justice on a formula supposedly derived from the mythic judge Rhadamanthus: «Si patiatur quae fecit, vindicta recte fit» (if someone should suffer that which he did, vindication has rightly been achieved)¹⁶.

The reasons Aristotle gives for distinguishing his conception of corrective justice from Pythagorean justice are not, however, those the modern liberal reader might expect. Justice based on countersuffering falls short not because it is too harsh – because it "doubles down" on the perpetrator – but rather because, in many ways, it is not harsh enough. It does not take into consideration that more aggressive punishments are required in special cases, such as when the injured party is a public official:

For example, if a man who holds sovereign power [principatum habens] has struck someone, he should not be struck back; and if someone has struck the sovereign, he should not only be struck back but also punished. Moreover, there is a great difference between the involuntary and the voluntary¹⁷.

Aristotle's treatment of countersuffering amounts to little more than an aside¹⁸, and modern commentators tend not to dwell on it. The medieval commentators

¹⁵ Ethica Nicomachea: Translatio Roberti Grosseteste Lincolniensis sive «Liber Ethicorum» B. Recensio Recognita, ed. R.-A. GAUTHIER, in Aristoteles Latinus, vol. XXVI, parts 1-3, fasc. 4, Leiden and Brussels, Brill and Desclée de Brouwer, 1972-74, p. 462.

¹⁶ Ibidem.

¹⁷ «Multis enim in locis dissonat (contrapassum). Puta si principatum habens percussit, non oportet repercuti; et si principem percussit, non percuti solum, sed et puniri. Adhuc et involuntarium et voluntarium differt multum» (*Ibidem*).

¹⁸ Aristotle does have more to say about reciprocity in commercial exchanges and his discussion of fair trades follows his discussion of fair reparations. Both Armour, *Dante's Contrapasso* cit., and Bolognesi, *Il contrapasso come chiasma* cit., make much of Aristotle's economic discussion. Although these treatments are suggestive in their own right, I ultimately feel their emphasis on economic exchange is misplaced given the clearly punitive aspects of the canto. As Aquinas makes clear (*ST* Π²-Π^{2c}, q. 61, a. 4 co.), the *contrapassum* most properly applies to personal injury; in a secondary, analogous sense to property damages; and only thirdly is its meaning transferred to voluntary economic exchanges (commutations).

Albertus Magnus and Thomas Aquinas, on the other hand, discuss Aristotle's summary comments at length. For these late medieval theologians, the Greek philosopher's brief critique of reciprocal justice is invaluable because it is the only place in a treatise dedicated almost entirely to private, civil forms of reparation – the justice of lawsuits and compensation – in which he hints at the necessity of a public penal order. Albertus and Aquinas seize upon Aristotle's isolated references to political authority and degrees of culpability in order to theorize a judicial system that not only enforces reparations between private individuals but also employs punishment to deter future violations to the order itself.

In his first commentary on the *Nicomachean Ethics*, Albertus Magnus's concise gloss of the discussion of the *contrapassum* in v, 5 introduces several key issues that will remain fundamental for all future interpretations of Aristotle's text. First, he categorically denies that the *contrapassum* should be understood as representing universal justice: «ergo cum ipsi voluerunt, quod iustum universaliter sit contrapassum, sententia eorum falsa fuit»¹⁹. Second, he associates the *contrapassum* with the *lex talionis* of the Old Testament as expressed in *Exodus* 21, 24 and *Deuteronomy* 19, 212. Most importantly for our purposes, in his discussion of those "instances" in which countersuffering is not suiting («non congruit») – when a prince strikes someone or someone strikes the prince – he raises the specter of political authority and public punishment:

Si princeps aliquem percutit, non oportet per iustitiam, ut repercutiatur, quia percussio huius et illius non sunt aequi ponderis, quia in illo derogatur auctoritati, quam princeps habet super rem publicam; et ideo etiam, si aliquis percutiat principem, non oportet, quod tantum percutiatur, sed insuper plectitur capite²⁰.

When one injures the sovereign he also detracts from his authority, and the extra "weight" accrued by that injury must be equalized through capital punishment.

In his second, more extensive commentary on the *Ethics*, Albertus frames his critique of the *contrapassum* vis-à-vis an exploration into the mechanisms of state violence – violence performed by and against public authorities. As in his first commentary, he insists upon the sovereign's immunity from retaliation (even when he strikes a citizen illegally, «sine lege») and the need to violently punish any offender to the state's majesty:

Si princeps principatum habens, aliquem percusserit et sine lege, illum principem non oportet repercuti ut contrapatiatur: et si principem percusserit aliquis, hunc non oportet percuti tantum quantum percussit principem, sed forte multo plus: oportet enim eum puniri capitis vel membri truncatione²¹.

For Albertus, the punishment for harming the ruler needs to exceed the «tan-

¹⁹ Albertus Magnus, *Super Ethica Commentum et Quaestiones*, v, l. vII, 402, p. 343, ed. by W. Küber, in *Opera Omnia*, XIV, Part I, Münster, Aschendorff, 1968-1972.

²⁰ *Ivi*, Book v, lectio vII, 402, p. 342.

²¹ ALBERT THE GREAT, *Ethica*, v, tr. II, 8, in *Opera Omnia*, ed. by A. Borgnet, Paris, Vives, 1891, vol. vII, p. 354b.

tum quantum» of the countersuffering. His translation, moreover, of this adverbial excess («forte multo plus») into a substantive decapitation or truncation of members clearly resembles the penalties endured by the sowers of discord.

Albertus is not content, however, to simply reaffirm Aristotle's claim. He additionally seeks to illustrate the nature of this apparent disparity in modes of punishment by underlining the role that public *auctoritas* plays in both cases. In the case of a sovereign who strikes a private citizen, he explains, the injustice of the action resides in the fact that it was against the law, not in the action itself, for the sovereign has a general authority to use violence against his subjects. Moreover, regardless of the legality of his actions, if a ruler were to be punished in kind, it would «enervate» his authority – an authority that malefactors need to fear – and greatly damage the city and the common good²².

In the case of a citizen striking the *princeps*, the countersuffering again falls short, because it only corrects the damage suffered by the sovereign as a «private person», not as the embodiment of public majesty:

Adhuc si princeps percutiatur, crimen laesae majestatis incurritur: quod fit ex laesione communis boni, quod magis intendit salvare legislator quam proprium. Si ergo qui percussit principem, non nisi tantum e tale contrapatiatur, quale et quantum intulit principi, crimen laesae majestatis non corrigitur, sed tantum privatae personae: hoc autem iustum non est²³.

Albertus claims that since the crime of *lèse majesté* offends the common good, the «legislator» intended to protect it above and beyond his own well-being. For that reason, if someone who injured the body of the prince were punished in the same way and to the same extent (according to the law of the *contrapassum*), it would be unjust because only the private person of the ruler would be vindicated, not his public majesty.

In his own commentary on the *Nicomachean Ethics*, Aquinas follows his teacher Albertus for the most part, claiming that in many cases the *contrapassum* is "discordant" with true justice and reiterating that if a private person strikes the sovereign, he must not only be struck back, but punished even more severely, «etiam gravius puniatur»²⁴. However, in anticipating a potential objection to Aristotle's text, Aquinas introduces an additional suggestive distinction between property damage and personal injury. He asks: how are we to reconcile Aristotle's treatment of the magistrate striking the private citizen and vice versa with his ear-

²² «Princeps enim percutiens ex auctoritate habet quod percutit: peccat autem in hoc quod non secundum legem percutit: et ideo non tota percussio injusta est: propter quod ad tantum et tale non contrapatitur. Adhuc autem auctoritas est in principe, quam oportet timori esse propter malos quia aliter commune bonum non salvatur enervata auctoritate continentis. In magnum ergo damnum cederet urbanitatis, si princeps contrapateretur» (lib. v, tract. 2., cap. 8, p. 354b).

²³ Lib. v, tract. 2., cap. 8, pp. 354b-355a.

²⁴ «Circa quarum primam dicit quod in multis locis talis vindicta invenitur dissonare verae iustitiae, ut si aliquis in principatu constitutus percusserit aliquam privatam personam, non requirit hoc iustitia quod princeps repercutiatur, et similiter, si aliquis percutiat principem, oportet quod non solum percutiatur, sed quod etiam gravius puniatur» (Thomas Aquinas, *Sententia libri Ethicorum*, v, l. VIII, n. 4, p. 290a-b, in *Opera Omnia*, vol. XLVII, Roma, Editio Leonina, 1882-).

lier statement that in commutative justice all are equal before the law? Why does the philosopher reintroduce personal status into his discussion at this point? Aquinas explains that the question of rank remains relevant only in assessing the "value" of damage incurred. With regards to external things, such as money, the status of either party does not matter. But clearly worse damage is done and greater compensation needs to be paid when someone strikes the ruler, since «that injury is done not only to the person of the ruler, but also the whole commonweal [totam rempublicam]». The injury incurred by the public needs to be quantified, a factor that the mere retaliation of the countersuffering fails to consider²⁵.

In Aquinas's oft-cited (and oft-misunderstood) discussion of the *contrapassum* in *Summa theologica* (Π^a - Π^{ac} , q. 61, a. 4)²⁶, he further elaborates on the potential limitations of countersuffering justice, if narrowly conceived (i.e., arithmetically, rather than proportionally). As in his previous discussions of personal injury, he correlates the *contrapassum* with the *lex talionis*, citing *Exodus* 21, 23-24, «He shall render life for life, eye for eye....» He also argues, as before, that whoever strikes a ruler needs to be punished much more severely («multo gravius»)²⁷.

But then Aquinas slightly revises his earlier comments about property damages, claiming that the *contrapassum* is an inadequate measure for assessing them as well. He cites a different passage from the Law (*Ex.* 22, 1), this time as a positive example of commutative – as opposed to merely reciprocal – justice: if any man steal an ox or a sheep, and kill or sell it, he shall restore five oxen for one ox and four sheep for one sheep. Aquinas was clearly interested in this biblical passage because of its insistence upon a proportional ratio for reparations (five-to-one and four-to-one instead of one-to-one). Yet rather than interpreting this supplemental penalty as compensation for the five potential uses (*utilitates*) of the animal (as does the *Glossa ordinaria* to this passage), he views it as punitive damages for having harmed the state and threatened its stability:

In like manner when a man despoils another of his property against the latter's will,

²⁵ «Videtur autem hoc esse contra id quod philosophus supra dixerat, quod in iustitia commutativa non attenditur diversa conditio personarum, sed lex utitur omnibus quasi aequalibus. Sed attendendum est quod ibidem philosophus dixit quod in commutativa iustitia lex attendit solum ad differentiam nocumenti. Manifestum est autem quod quando nocumentum attenditur circa subtractionem rei exterioris, puta pecuniae, non variatur quantitas nocumenti secundum diversam conditionem personae, sed quando est nocumentum personale, tunc necesse est quod quantitas nocumenti diversificetur secundum conditionem personae. Manifestum est enim quod maius est nocumentum cum aliquis percutit principem, per quod non solum personam ipsius sed totam rempublicam laedit, quam cum percutit aliquam privatam personam. Et ideo non competit iustitiae in talibus simpliciter contrapassum» (*Ivi*, V, I. VIII, n. 5, p. 290b).

²⁶ Although Dante may not have been familiar with Aquinas's discussion of the *contrapassum* in the *Summa theologiae*, I have included it here because it provides the most lucid contemporary treatment of the distinction between compensatory and punitive damages, which I am arguing is at the heart of Dante's depiction of the punishments in *Inferno* XXVIII. In addition, it has become standard practice to cite these passages in modern commentaries on canto XXVIII, often out of context and without consideration as to whether Aquinas is proposing a solution or merely raising an objection.

²⁷ «Et ideo ille qui percutit principem non solum repercutitur, sed multo gravius punitur». Latin and English texts from *Summa theologiae*, trans. by the Fathers of the English Dominican Province, Scotts Valey, CA, NovAntiqua, 2008-, II^a-II^{ae}, q. 61, a.4, co.

the action surpasses the passion if he be merely deprived of that thing, because the man who caused another's loss himself would lose nothing, and so he is punished by making restitution several times over because not only did he injure a private person, but also the commonweal, the security of whose protection he has infringed [quia etiam non solum damnificavit personam privatam, sed rempublicam, eius tutelae securitatem infringendo]²⁸.

Albertus and Thomas's theories about the public nature of crime are in line with the legal practices of their time. Local statutes increasingly required judges to mete out large, onerous fines and corporal punishments for any offense that threatened the security and sanctity of the commonwealth, demanding reparations for criminal offenses in excess of those paid to victims. According to jurists such as Dinus de Mugello and Albertus Gandinus, the victim of public disorder was ultimately the state itself, «omnis delinquens offendit rem publicam civitatis» (Every perpetrator of a crime offends the commonweal of the city). The state, therefore, should demand satisfaction as one of the injured parties²⁹.

This metaphoric understanding of even a private tort as a crime against the "state" provides a suggestive parallel for understanding the relationship between the sinners of *Inferno* XXVIII and the rest of the damned. If, for Aquinas, the striking of the sovereign provides a focal case for the definition of public crime, nonetheless all other lesser transgressions also threaten to destabilize the reigning order; hence, by analogy, they can be viewed as attacks on the Prince. Similarly, the sowers of schism and scandal have injured the corporate entities of State and Church at the literal level, as early commentators noted. Yet in a figural sense, the entire population of the damned have defied the Sovereign's commandments, thus violating, in some sense, Christ's mystical and communal body³⁰.

The sowers of discord are punished for exactly the types of "public" crimes for which the *contrapassum*, according to Aristotle and his commentators, is an inadequate response. These souls have harmed not only private individuals but also corporate bodies, both secular and religious. Mohammed has damaged the

 $^{^{28}}$ «Similiter etiam cum quis aliquem involuntarium in re sua damnificat, maior est actio quam esset passio si sibi sola res illa auferretur, quia ipse qui damnificavit alium, in re sua nihil damnificaretur. Et ideo punitur in hoc quod multiplicius restituat, quia etiam non solum damnificavit personam privatam, sed rempublicam, eius tutelae securitatem infringendo» (Π^a - Π^{ac} , q. 61, a. 4, co). For a similar reading of the five oxen as a deterrent punishment «ad terrorem aliorum», see ST Π^{ac} , q. 105, a. 2, ad. 9. Aquinas appears to be influenced in his reading of this passage by MAI-MONIDES's *Guide to the Perplexed* (part III, ch. XLI).

²⁹ See M. SBRICCOLI, "*Vidi communiter observari*". *L'emersione di un ordine penale pubblico nelle città italiane del secolo XIII*, in «Quaderni fiorentini per la storia del pensiero giuridico moderno», 27 (1998), pp. 231-68, and M. VALLERANI, *Il giudice e le sue fonti. Note su inquisitio e fama nel «Tractatus de maleficiis» di Alberto da Gandino*, in «Rechtsgeschichte. Zeitschrift des Max-Planck-Instituts für europäische Rechtsgeschichte», 14 (2009), pp. 40-61.

³⁰ For a fuller treatment of how all the sins in Hell can be generalized as reenactments of the crucifixion, see R. DURLING, *Christ in Hell*, in the Durling edition of *The Divine Comedy of Dante Alighieri*. *Inferno*, pp. 580-83.

ecclesia; Curio, the res pubblica; Mosca, the civitas; and Bertran, the regnum. For such acts of sacrilege against public majesty, they need to pay an extra "debt" exceeding the tit-for-tat justice of the lex talionis. In short, the damned in this canto need to lose more than an eye.

The most obvious asymmetry between mortal sins and their corresponding infernal punishments is the simple fact that the punishments are without end, as is trenchantly conveyed in *Inferno* XXVIII by the perennially opening and closing wounds of the damned³¹. The apparent excessiveness of divine justice was a long-standing problem in Christian theology. In the *City of God*, Augustine answers the objection that eternal justice is disproportionate by evoking the analogy of earthly punishments such as slavery, exile, and capital punishment. He singles out these punishments because, in direct contrast with the law of the *talio* and the eye-for-an-eye justice of Exodus, they last a lifetime (the earthly equivalent of eternity) even if the original crime only lasted a moment³².

Dante most explicitly deals with the temporal asymmetry of divine punishment in *Inferno* XXVIII because, for their crimes against the Church and State, the sowers of discord would have incurred one of the extreme and permanent forms of punishment in civil justice that for Christian thinkers served as a precedent for understanding the infinite torments of divine justice. In particular, in addition to reliving their capital punishments in eternity, these souls appear to suffer a degrading "social death" as well³³. Dehumanized and reduced to *servi poenae*, they are no longer able to redeem themselves, not even with a payment in flesh. As a consequence, instead of discharging a debt as free citizens – through the mechanisms of civic, reciprocal justice – they now continually pay tribute, «si paga il fio» (*Inf.* XXVII, 135) (*fio*, deriving from the Lombard *fehu*, or the Old French *fiu*, *fieu*, suggests, in fact, a hierarchical, feudal obligation).

Most of all, however, Dante waits until *Inferno* XXVIII to explore Hell's logic of excess because in this canto the souls are punished for crimes against the social "body". In life, the sowers of discord engaged in a realpolitik that belied their skepticism about corporate bodies, and acted as if there were no underlying reality behind the metaphor of the body politic. As evident in the laconic *sententiae* of Curio or Mosca, for them institutions never represented anything more than the sum of individual parts: they lacked faith in the "souls" of corporate bodies. As an ironic punishment for such nominalism, in death the demon dismembers their bodies,

³¹ In contrast with the seven *piaghe* that Dante's character will efface during his purgatorial journey, these never-quite-healing wounds distinguish the punishments of the damned from the reducative, therapeutic punishments of those who still belong to the society of the saved.

³² See the discussion in *De civitate Dei*, XXI.xi. In responding to the question of «interminable» punishments in the *Summa Contra Gentiles*, Aquinas similarly compares the eternal punishments of the damned with the physical and social deaths incurred for crimes against the state: «Et inde est quod secundum civilem iustitiam, qui contra rempublicam peccat, societate republicae privatur omnino, vel per mortem vel per exilium perpetuum: nec attenditur quanta fuerit mora temporis in peccando, sed quid sit contra quod peccavit» (*Summa Contra Gentiles*, Roma, Editio Leonina Manualis, 1934, III, cxliv, p. 402b).

³³ For the social disgrace of the damned, see J. STEINBERG, *Dante and the Limits of the Law*, Chicago, University of Chicago Press, 2013, pp. 40-52. See also O. PATTERSON, *Slavery and Social Death: A Comparative Study*, Cambridge, Harvard University Press, 1982.

which remain nevertheless formally (in the scholastic sense) whole. Indeed, what is perhaps most uncanny about Bertran's punishment is not so much that he has lost his head, but that his detached parts still function as an organic unit.

Bertran's characterization of his sin and punishment is thus truthful as far as it goes, but it is not the whole story. He does recognize that because he divided the «giunte persone» (*Inf.* XXVIII, 139) of king and prince, he is now himself divided. But he unintentionally reveals another crime, that of threatening the «giunte persone» coexisting in the king, the ruler's incorporation of a transcendent public majesty³⁴. His punishment itself, his transformation into a «due in uno e uno in due» (*Inf.* XXVIII, 125), further evokes this incarnational basis of political authority³⁵. At the same time, it exemplifies the Creator's fearful capacity to unmake his own likeness, one of the *arcana imperii* of divine governance: «com' esser può, quei sa che sí governa» (*Inf.* XXVIII, 126).

It is not surprising that Bertran can express his phenomenological suffering but not the full symbolic valence of his punishment, since this punishment is only partially directed at him. More than in any other circle of Hell, the violated bodies of the sowers of discord are brutally on display both for Dante's character and his readers. Utterly defeated, Bertran and Mohammed in particular are made to endure a spectacular punishment that cannot simply be reduced to a system of reparative equivalencies, even taking into consideration the extra debt they owe collective, corporate entities.

For Albertus and Aquinas, this extra debt is largely quantitative, evaluated as a degree of severity: «forte multo plus», «multo gravius». For Dante, it is qualitative, linguistic. It needs to send a message – no longer to the sinner himself, but to those of us who observe. To a large degree, what stuns Dante about Bertran is not so much the manifestation of his emblematic punishment, but the sheer enunciatory power of the God-as-sovereign to make wounded bodies speak on his behalf³⁶.

Although Dante may agree with Albertus and Aquinas about *why* an extra debt is owed by malefactors, he differs with them sharply about *how* it is to be paid. In their critiques of the largely private countersuffering, Albertus and Aquinas reveal the public nature of certain crimes – that the person of the republic is harmed as well as the individual – but they only gesture (when speaking of protecting the security of the state and conserving its right to intimidate) toward the need for a corresponding public and deterrent punishment. They focus on the *tantus* of the

³⁴ See E.H. KANTOROWICZ, *The King's Two Bodies: A Study in Medieval Political Theology*, Princeton, Princeton University Press, 1997.

³⁵ See G. GORNI, *Parodia e scrittura in Dante*, in *Dante e la Bibbia*, a c. di G. Barblan, Firenze, Olschki, 1988, pp. 323-40.

³⁶ It is difficult to reconcile the violence behind this divine ventriloquism with the views of those critics, such as Abrams and Gross, that seek to minimize the active role of God in inflicting infernal punishments, viewing them instead solely as an intensification of the psychological state of the sinners, who have turned away, in Augustinian terms, from the ultimate good. In *Summa Contra Gentiles* III, cxlv, Aquinas rejects a similar view, that sinners are only deprived of their ultimate end and do not experience additional, divinely-ordained torments, as a heterodoxy of Algazel.

punishment more than the *tale*. For Dante's conception of justice, in which punishment plays an educative role as well as a compensatory one, the public aspect is instead paramount. For punishments to be meaningful in such a system they should be symbolically and linguistically "fitting" – not merely objectively equivalent. For this same reason, there need to be limits as to how much a punishment can be translated or commuted into another type of penalty. If Dante wants to maintain an inherent connection between crime and punishment, he cannot avoid the poetic efficacy of the *talio*, the vividness of punishment-as-reenactment.

Because the punishments in *Inferno* must be rhetorically effective as well as fair, they not only appeal to the calculations of reason, but also capture the minds of readers with the shock of the new. Dante deliberately waits to explore the irreducible singularity of his poetic justice until he reaches a canto in which sinners are punished for sins that, in their exceptional audacity, would have been categorized as "enormous". Medieval jurists developed the concept of *enormitas* to deal with heinous crimes, such as heresy and *lèse majesté*, but the category soon encompassed a variety of more "ordinary" offenses they saw as attacking the foundations of order. A *crimen enorme* was considered irregular both with respect to its scale – it exceeded measure – and because it fell outside the purview of standard norms of sentencing: *ex-normis*³⁷. Because irregular crimes could not be assimilated within the pre-existing economy of regulations and penalties, it was left to the discretion of judges to select an appropriately "enormous" punishment.

Daringly associating his innovations in representing violence with the emergent penal order's commitment to "creative" punishments, Dante-the-poet similarly fashions punishments that paradoxically are at once suitable and outside of the norm, aesthetically irregular yet appropriate. In this light, the *contrapasso* perhaps serves Dante less to describe the fact that the punishment fits the crime – a correspondence that by the time we arrive at the sowers of discord has already been amply illustrated – and more to warn *against* an overly mechanistic interpretation of this dynamic. Canto XXVIII would thus remain a highly self-reflexive moment in the poem – but not one in which Dante announces the rule of his imagined otherworld. On the contrary, Dante makes a case in this valley of Hell for the indispensability of *judgment* when challenged with the unforeseen. Unlike the administrator Minos, for Dante both judge and artist must be willing to actively employ their discretion when faced with a novel case³⁸. In this view, the sowers of discord function as a focal case justifying a certain discretionary gra-

³⁷ See in particular J. Théry, "Atrocitas/enormitas". Per una storia della categoria di "crimen enorme" nel basso Medioevo (XII-XV secolo), in «Quaderni storici», CXXXI/2 (2009), pp. 329-76. See also these general studies: J. CHIFFOLEAU, Le crime de majesté, la politique et l'extraordinaire. Note sur les collections érudites de procès de lèse-majesté du XVII^e siècle français et sur leurs exemples médiévaux, in Le procès politique: XIV^e-XVII^e siècle, ed. by Y.-M. Bercé, Rome, École française de Rome, 2007, pp. 577-662; and E. Peters, "Crimen exceptum": The History of an Idea, in *Proceedings of the Tenth International Congress of Medieval Canon Law: Syracuse, New York, 13-18 August 1996, Vatican City, Biblioteca Apostolica Vaticana, 2001, pp. 137-94.

³⁸ For a more extended discussion of the connection between judicial discretion and poetic license, see Steinberg, *Dante and the Limits of the Law* cit., pp. 53-88.

tuitousness in art and justice – a gratuitousness that cannot be adequately expressed by Aristotelian compensation or Jewish atonement.

Dante makes his most explicit case for poetic license directly before he introduces Bertran. Although he lacks external evidence and corroborating witnesses, the poet explains his divergence from the conventions of verisimilitude by evoking his pure "conscience":

Ma io rimasi a riguardar lo stuolo, e vidi cosa ch'io avrei paura, senza più prova, di contarla solo; se non che coscienza m'assicura, la buona compagnia che l'uom francheggia sotto l'asbergo del sentirsi pura.

(Inf. XXVIII, 112-17)

In his representation of Bertran's remarkable punishment, Dante recognizes that he risks surpassing even the "decorous" violence of epic, embodied in the Virgilian precedent of Deiphobus, and entering the unbounded territory of the mere grotesque. Nonetheless, armed with Paul's «breastplate of justice», he relies on artistic discretion alone, above and beyond the laws and commandments of literary tradition.

To return, then, in conclusion, to our initial query: Would Dante approve of the now-common practice of identifying the various punishments of *Inferno* as distinct manifestations of the *contrapasso*? If we understand the term from its uses in Aristotle and the commentary tradition to refer to a limited form of private compensatory justice, he almost certainly would not have. Yet a case can be made that by placing the conspicuous neologism at the end of the canto as Bertran's speech drums to an end, Dante calls attention to his reappropriation of the term *contrapasso*. In fashioning his aestheticized punishments, Dante cannot easily dismiss retaliatory, eye-for-an-eye justice: for the punishment to fit the crime it needs to be not only quantitatively proportional, but also linguistically correlative and memorable. Yet even if Dante effectively re-baptizes the term *contrapasso* in *Inferno* XXVIII he is clearly not simply defining it as a general law. Fitting the punishment to the crime is, after all, an art. As an art, it must be flexible enough to adapt to the excess of divine justice, whether this excess is expressed as gratuitous redemption or interminable punishment.