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# Machinery of Death or Machinic Life<sup>1</sup>

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## **Abstract**

The notion of a ‘machinery of death’ not only underwrites abolitionist discourse but also informs what Derrida’s *Death Penalty* refers to as an anesthesial drive that can be traced back at least as far as Guillotin. I read it here as a symptom of a more complex relation to the technological that functions across the line dividing life from death, and which is concentrated in the question of the instant that capital punishment (at least in order to be distinguished from torture) requires. Further indications of such a relation include the forms of automatic machinism that regulate, on one hand, the generalisable certainty that death occurs (in tension with the singular death of each convict), and on the other, the discursive contagion that the death penalty generates. But it can be analysed most productively in the way in which the putative instantaneity of an execution reveals how life is severed from, but also perhaps tethered to death by means of a machinery of time; how that machinery of time ‘abandons’ its indifference in order to decide the moment of death by execution, and at the same time, by contriving an instant at which death takes over from life, produces the uncanny result of having life and death meet on the same knife-edge.

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It is now more than twenty years since, in February 1994, the lone dissenting voice of Justice Harry A. Blackmun, author of the *Roe v. Wade* decision, expressed from the bench of the Supreme Court,

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opposition on principle to the constitutionality of capital punishment in America. In *Callins v. Collins*, Blackmun famously declared:

On February 23, 1994, at approximately 1:00 a.m., Bruce Edwin Callins will be executed by the State of Texas. Intravenous tubes attached to his arms will carry the instrument of death, a toxic fluid designed specifically for the purpose of killing human beings. The witnesses, standing a few feet away, will behold Callins, no longer a defendant, an appellant, or a petitioner, but a man, strapped to a gurney, and seconds away from extinction.

Within days, or perhaps hours, the memory of Callins will begin to fade. The wheels of justice will churn again, and somewhere, another jury or another judge will have the unenviable task of determining whether some human being is to live or die. . . .

Twenty years have passed since this Court declared that the death penalty must be imposed fairly, and with reasonable consistency, or not at all . . . and, despite the effort of the States and courts to devise legal formulas and procedural rules to meet this daunting challenge, the death penalty remains fraught with arbitrariness, discrimination, caprice, and mistake. . . .

Having virtually conceded that both fairness and rationality cannot be achieved in the administration of the death penalty . . . the Court has chosen to deregulate the entire enterprise, replacing, it would seem, substantive constitutional requirements with mere esthetics, and abdicating its statutorily and constitutionally imposed duty to provide meaningful judicial oversight to the administration of death by the States.

From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored—indeed, I have struggled—along with a majority of this Court, to develop procedural and substantive rules that would lend more than the mere appearance of fairness to the death penalty endeavor. Rather than continue to coddle the Court’s delusion that the desired level of fairness has been achieved and the need for regulation eviscerated, I feel morally and intellectually obligated simply to concede that the death penalty experiment has failed. (*Callins v. Collins* 1994, 510 US 1141)

Blackmun’s dissent was contemptuously rebuffed by Antonin Scalia, who argued that his colleague had read his intellectual and moral misgivings ‘into a Constitution that does not contain them’ (*Callins vs. Collins*). Scalia, we imagine, was speaking from the presumption that debate concerning the death penalty could be strictly confined to the terms of the 8<sup>th</sup> Amendment’s famous reference to cruel and unusual punishment, whereas Blackmun, in a familiar abolitionist move, implies a necessary link to cruelty through the schematics or thematics of the ‘machinery of death’. To paraphrase: *‘intravenous tubes carry the instrument of death, a toxic fluid, into a man strapped to a gurney . . .*

*the wheels of justice churn, the Court abdicates its responsibility, [but] I no longer shall tinker with the machinery of death*'. Blackmun paints a stark contrast between, on one side, human beings, the witnesses, a man, and on the other, an impersonal state with its instruments, justice with its wheels, death via machines. According to his logic, that of a well-known and well-worn mythology and ideology, with which it is difficult not to be in sympathy, cruelty follows where human agency and responsibility cede to a type of mechanistic automatism.

In paying close attention to the question of cruelty in his 1999–2000 seminars, Derrida quite clearly has at least one eye on current American debate concerning the death penalty as currently practiced and the question of cruel and unusual punishment<sup>2</sup>. Nevertheless, he will find that the relation of cruelty to non-cruelty is ‘impossible and unstable and contagious and endemic’ (Derrida 2014, 168).<sup>3</sup> A similarly impossible, unstable, endemic contagion, or unstable, contagious, endemic impossibility, or impossible, contagious, endemic instability is ascribed more or less explicitly to the relation between belief and non-belief (discussion of it accompanies that regarding cruelty [Ibid., 151–54, 167–69]), and, in the case that will form my emphasis here, the relation between between the technologico-mechanical and non-technologico-mechanical as an instance of the relation between living and non-living, between what we call life and what we call death. In what follows I would like to explore certain threads of technicity that are woven through Derrida’s death penalty seminars, without for all that being formalised or thematised there. I hope to show how the specific technological intervention into life that ends it that is constituted by the death penalty as machinery of death, does not simply bring about the mechanical interruption of life but in fact stages the unstable relation that life will always have maintained with the machine.

For Derrida, there is nothing simple, or even unitary about the death penalty. Indeed not only does he dedicate two years of his seminar to thinking through its complexity, he even goes so far as to suggest that it is only by thinking through the death penalty that one will come to think death itself; even more provocatively, that one should perhaps think death through the death penalty rather than think the death penalty on the basis of certain presumptions concerning death. In the second session of the second year he will ask ‘what if the death penalty were an untenable artifact, a pseudo-concept, such that its two terms, *death* and *penalty*, *capital* and *punishment*, never allowed themselves to be joined up?’<sup>4</sup> But toward the end of the first year he will already be asking – ‘brutally’ – whether it is ‘necessary to think death first, and then

the death penalty as a question derived from the first one, despite its importance. Or else, paradoxically, must one start out from the question of the death penalty, the apparently and falsely circumscribed question of the death penalty, in order to pose the question of death in general?' (Ibid., 237–38).

Perhaps the greatest or most naïve presumption concerning death that is exposed by 'all great thinking or philosophies of death' (Ibid., 237)–from Kant to Heidegger and Levinas–is the reliance by such thinkers, 'even as they deny it, on so-called common sense, on the alleged objective and familiar knowledge, judged to be indubitable, of what separates a state of death from a state of life—a separation that is determined or registered or calculated by the other, by a third party—be it of an ungraspable instant that is reduced to the blade of a knife or to the *stigmē* of a point. Without the supposed or supposedly possible knowledge of this clear-cut, sharp limit, there would be no philosophy or thinking of death that could claim to know what it is talking about' (Ibid., 238). Although Derrida limits himself here to philosophical discourse, one could, I think, as easily extend his insight to scientific discourse: every discourse that seeks to define death, for all its refinements concerning what constitutes that death, for all that recent changes in such definitions (e.g. from loss of respiratory function to loss of brain function) have managed to shift the instant of death, every discourse on and definition of death nonetheless relies on the unquestioned concept of the instant. On one side of that instant there is life, and on the other, death. From that point of view death is already a less than absolute concept; death on one side and life on the other are less than essential concepts, being derived from and dependent on a problematic idea of the instant itself. It is therefore only once we know what an instant is that we can begin to know what death is, as distinct from life, and, more to the point perhaps, the converse: what life is as distinct from and opposite to death.

Now it is precisely the question of the instant that is raised by capital punishment, specifically in recent practices of it, and that is perhaps the principal reason why Derrida concentrates on it in the context of death in general. The death penalty—by scheduling death—would be the exemplary instance of the instant that produces death, and much of its machinery, and technological innovation, from the axe to the noose, from the guillotine to lethal injection would be a function of, and confirmation of the same *instantaneism*. Nor would the anesthetic or anaesthetic drive about which Derrida has much to say, especially as mobilised by US Supreme Court decisions regarding

the Constitutional prohibition against cruel and unusual punishment, and leading to current American forms of execution—cloaking the instant of death in a comatose cloud before delivering that death with massive poisonous force—nor would any of that be separable from the same set of logical presumptions, however paradoxical they be, concerning the instant as a fulcrum that balances life on one side and death on the other. The sharper the point, the more punctually insignificant, the more instantaneous the instant, or so the logic goes, the more death will have been decided in opposition to life. Indeed, the increasing technologisation of the death penalty—not that, from flaying, disemboweling, quartering or stoning, to crucifixion, the wrack, beheading, garroting, firing squad, guillotine, hanging, gas chamber, electric chair and lethal injection, it was ever anything other than technological—is designed in great part as a refinement of the moment or instant of execution, as an increasing *instantanisation*; making it quicker and more decisive. Furthermore, the shift from what we might call artisanal forms of capital punishment to more or less high-tech forms, runs parallel to and presupposes a shift from torture to execution. For torture is intended precisely as punishment and threat of punishment that toys with duration, and with the relation between duration and the instant, whereas the death penalties of contemporary modernity opt against duration in favor of the instant alone. That is our anesthetic progress.

The whole debate in the US surrounding cruel and unusual punishment reduces in the final analysis to the question of duration, a question that has of course to be raised not only in terms of the efficacy of the fatal chemical cocktail, but also in terms of the extraordinary machinery of waiting: the languishing on death row, the preparation and last minute stays of execution and so on, which came into intense focus in the case of Troy Davis, who spent about twenty years on death row before being executed by the State of Georgia on 21 September 2011. In comparison, Mumia Abu-Jamal spent twenty-nine years on death row before finally being returned to the general prison population in January 2012, whereas Gary Alvord, sentenced by Florida in 1974, died in prison on 21 May 2013, a few weeks ago as of this writing, with the macabre distinction of being the longest serving death row prisoner in the US (almost forty years). By 2010 the average time spent by prisoners currently on death row in the US had risen to close to fifteen years.

In the time that remains here, I'd like to examine further aspects of the instant of our death penalty. I say 'ours' not only because among so-called 'western democracies' it is a particularly American

prerogative, but also because it is ours as humans, something that is precisely not explicitly proscribed, unlike torture and ‘cruel, inhuman or degrading treatment or punishment’, by the Universal Declaration of Human Rights. Some clarification might be in order here: the 1948 United Nations Universal Declaration of Human Rights asserts that ‘everyone has the right to life’, but does not mention the death penalty; the 1976 United Nations International Covenant on Civil and Political Rights reasserts the ‘inherent right to life’, and adds clauses that clarify how the death penalty is to be imposed in ‘countries that have not abolished [it]’ (Part III, Article 6, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>)(for example, it is prohibited for crimes committed by someone under 18 years of age, and for pregnant women), without for all that making any call for its abolition; finally, the 1953 European Convention on Human Rights added a Protocol (6) in 1983 that prohibited the death penalty except in wartime, which exception was itself abolished by Protocol 11 in 1998.

In the time and space in which we pause here, in July 2012, in California, a state that has executed 13 people since 1976 and has the largest death row population of any state (727 persons), executions have been on hold since 2006 and the question of abolition will be decided by voters in the November election.<sup>5</sup> So in the time that remains in California I would like to examine three aspects of the instant of our death penalty that relate to the machine, in order to argue, as I have already suggested, that not only does capital punishment bring into focus death as something presumed to be instantaneously distinguishable from life, but also life as supposedly distinguishable from the inanimate machine.

## **I. The maleficent anesthetic prosthesis**

In the first place, in light of what I have already developed, the machine comes to the aid of life by purporting to produce a humanitarian death penalty. Derrida analyzes that at length via the theme of anesthesia, ‘an anesthesia ... or even humanization of the death penalty that would spare the cruelty to both the condemned one and the witnesses, all the while maintaining the principle of capital punishment’ (Derrida 2014, 50). The technology of anesthesia functions according to a traditionally understood prosthetic principle, as a supplement to the human that aids or assists that human by filling in for a lack. The human in its natural state cannot, beyond a certain threshold, withstand pain, but can do so when prosthetically assisted by an anesthetic. Anesthesia is

in that sense an orthopedic prosthesis, righting an inherent or acquired defect. For providing that relief, the anesthetic is considered a benefit, even though its benefit brings with it forms of danger: the dangers, of course, of allergic rejection or overdose, which are functions of the more general danger of the supplanting prosthetic supplement, the fact that the addition of any presumed ameliorative or palliative is always also a type of perversion. Anesthesia is seen to pervert or denature the human—as long as we presume that purely natural human to exist—by subjugating it to the synthetic effects of a drug, a drug that, as the word *an-esthesia* makes clear, literally prevents it from feeling anything anymore.

Every discourse on the prosthetic machine, on technology in general, recognises in it either beneficent or maleficent effects, or both, and the machinery of capital punishment is in that respect no exception. On one side we can find the abolitionist discourse of someone as militant as Victor Hugo, whose discourse that Derrida analyzes at length, emphasising the infamy or hideousness of the guillotine as maleficent machine. As Derrida characterises Hugo's comments in what would become the Preface to the latter's *The Last Day of a Condemned Man*, the writer condemns the guillotine as 'a machine of death, a dead machine of death—and which was thus always already dead, mortal, dying, deadly because it is a machine' (Ibid., 204). The machine of death is infamous for being a machine, then for being an imperfect machine, for being unreliable as a machine, but then also for being not enough of a machine, for being a machine with intentions, capable of performing as if wantonly badly, as it were with a mind of its own in spite of the best mechanistic programming that humans can provide. Hence, as Justice Blackmun maintains, tinkering with it should cease. What subsumes that discourse is the presumption that, before being a murderous apparatus such as the guillotine, the machine of death is a machine of death simply because it is a machine, substituting for human agency and responsibility, as Blackmun also complains, performing according to a lifeless automatism.

On the other side, proponents of the death penalty subscribe to the logic of the machine as anaesthetising the act of execution, providing a palliative, remedying the defect of the human incapacity to tolerate pain in the way that I have just outlined. So whether the treatment be a perfected, better designed killing machine in the strict sense, for example the guillotine as it was presented at the time of its invention, or the literal and material anesthesia that is administered to the convict in the American way of death penalty—coma-inducing pentobarbital as an anaesthetising prelude to bringing about cardiac arrest—a prosthetic

intervention is in each case made with respect to the human body, allowing it, for however short a time, to function as though the defect weren't present.

Now, the idea that a 'prosthetic' or 'orthopedic' device would be prescribed in order to terminate rather than ameliorate human life and the functioning of the human body, is both a startling paradox and the most normal thing in the world. It is a startling paradox because we presume that every prosthetic 'attachment' extends the capacity of the human within the perspective of a normal existence measured by a future duration. Prostheses as appendages, either external or internal to the body, are presumed to extend in the sense of prolonging; allowing to live better and longer. But a life that is prosthetised in order to be terminated is the most normal thing in the world because every termination of life that we deem non-natural is a fact of the human body having entered into a relation, willingly or unwillingly, with a foreign body that is presumed to be external to it: a drug, a sharp object, a wild animal. The lethal capacity of the prosthesis is thus the other side of its orthopedic capacity: death waits for the human in the form of that human's external others as much as does (a better) life. All of that encourages, I would hope, a more reasoned conceptualisation of the prosthetic as principle of the articulation of the human or animal with the inanimate that is not restricted to the attachment of supposed external prostheses, an understanding that would instead recognise how the human articulates with itself within itself—which means that it articulates with its own internal othernesses, which can be seen to function more or less mechanistically—always already. Such a concept of the prosthetic, allowing a different understanding of natural vs. unnatural or internal vs. external oppositions, might better account for different but (can we say?) equal forms of death, by organ failure, microbe, narcotic, wild animal, sword, or hellfire missile dropped from a Predator clone aircraft (to bring President Obama's extrajudicial execution of choice into this discussion of the death penalty, where it belongs).<sup>6</sup>

But beyond that, the idea that prosthetic life both extends or prolongs life *and* terminates it, which is to say that it both extends or prolongs life and extends or prolongs death, seriously problematises not just the ability to situate the point at which life becomes death, but the very fact and constitution of that point. As I have just argued, the concept of the prosthetic governs not only the post-partum addition of something artificial to a supposed intact body, but also the very principle of that body's articulations with itself within itself, long 'before' any



inanimate appendage comes into play. Indeed, it is just such an originary prostheticity or articulationality that allows a classically understood prosthetic appendage to function, for a prosthesis can operate as it were in sync with the body it is added to only because that body is not something intact, untouched by ‘objects’ that we call external to it, only because the body was and is always already *in prostheticity*, *in articulationality*, if you wish *in additionality* or *in supplementarity*. By the same token, therefore, the living body is to be understood as always already negotiating a relation to what terminates it, or at least to what it becomes at the end of itself, namely something we call lifeless or inanimate. The death penalty’s particularly paradoxical coupling of living body with prosthetic death-dealing machine, with the instance of it and the instant of it, brings the inanimate back *into* life at the very end of life, on the one hand to assert its sovereign power over life, but not without conceding that its instant and instance—as technological intervention into life—can never simply function *against* life in the way it presumes, for life will have always been dealing with its own technological self. When an execution takes place, death will have been dealt and life will have been terminated by a machine, but one thing that the intervention of that machine between life and death will have illustrated is a type of coextensivity of life and machine, and, at least by figurative extension if nothing more, of life and death; or, as I prefer, of animate and inanimate(d) life.<sup>7</sup>

## II. The automatic *nom fatal*

In the second place, the machinery of the death penalty is, like any machine, bound to a certain mechanistic automatism. Now we might imagine that to be limited to the laws of physics—hence precisely to a *physis* rather than a *technē*—laws that determine that once the lever or switch is thrown the blade will fall; the current, gas or pharmaceutical will flow. It is there perhaps, in the scientific and axiomatic certainty of physical rather than human law that the instant seeks to define itself. But it would do so precisely as the simultaneity or no time of a truism: a self-evidence permits no space of doubt and hence no time of delay. Similarly, the increasing role played, in both formal abolitionist movements and public sentiment, by DNA evidence in overturning wrongful convictions, might be understood as another type of that instant in the form of indubitable scientific decision. The anesthetised death penalty is designed to produce that sort of automatic instantaneous certainty, proven by experiential repetition. Yet there exists also in the instant of capital

punishment a singularity of its moment that is in tension with the search or desire for the simultaneity of automatic self-evident certainty, subjecting it instead to stay, delay and deferral, the irregularities and particularities of each particular instance of it. However, that tension does not simply derive from a corruption of physical law and scientific certainty by human elements. If each death is incommensurably unique and different – each time unique the end of the world as Derrida reminds us in these seminars, as elsewhere<sup>8</sup> – it is on the one hand because each life is incommensurably unique and different, but also because the certainty of death in general, and a death reliably produced by a machine, requires the identifiable singularity of each repetition, ideally an infinite number of times. For both the absolute certitude of scientific provability, and the intensity of the human(istic) moment, it should be as if, in that instant, nothing else were taking place, not anywhere; whereas here, in the place of death, what occurs amount to absolutely everything.

The singularity of the moment of the death penalty is accentuated by the forms of publicity that an execution requires, having it occur more or less in plain view, documenting and exposing its occurrence. At the very beginning of his seminar Derrida evokes dawn or first light as the privileged traditional moment of execution, stage-directing for himself two ‘long silences’ before writing: ‘It is dawn, now, we are at dawn. In the first light of dawn. In the whiteness of dawn (*alba*). Before beginning, let us begin’ (Ibid., 1). He discusses the history of witnessing an execution performed according to the law as an immense topic in itself, and in that context questions Foucault’s idea, in *Discipline and Punish*, that the modern age removes the spectacular theatricality of punishment, arguing instead that the spectacle is transformed without for all that being reduced, calling it ‘a technical, tele-technical, or even televisual complication of seeing, or even a virtualization of visual perception’ (Ibid., 42–43). Indeed, if dawn is less habitually chosen as the moment of execution in the US these days, that no doubt has something to do with current practices of allowing families, of victims and perpetrators alike, as well as other interested parties to witness the event, to perform its publicity. And that publicity, finally, is not itself foreign to the requirement of scientificity: anyone should be able to witness, or ideally perform an execution in its universally iterable anesthetic rectitude.

Another place where, or means by which a form of automatism asserts itself, is locatable in certain discursive elements of the machinery of death. As I am arguing, the machine does not begin with the setting in train of instruments of execution, nor is repetition confined to successive

instances of execution itself. The machinery of death nowhere functions, after all, as a literal instance. I would maintain that to be the case—in spite of the humanitarian scandal of such an assertion—even for the victim of capital punishment. He or she does not *just* die; his or her execution can never be reduced to what we might call a purely concrete utterance, to the single fact or phenomenon of being put to death. It is rather inscribed in a sophisticated discursive apparatus that begins with the declaration made, on one side, by both the word and deed of the state that claims, after a more or less prolonged and prolix judicial process, the right to perform an execution; and it develops on the other side through the condemned one's submission to that execution, expressed in both word and deed, even if that includes refusing to submit, and stating or practicing forms of resistance. Added to those manifold utterances are those made by whomsoever, near or far, chooses to become implicated in the question, albeit by simply signing a petition, or even writing a conference paper. The machinery of death is a machine that produces a proliferation of discourses both verbal and non-verbal.

One element within that contagion of discourses that Derrida draws attention to is the naming or nicknaming of the machine itself—Old Sparky, la Guillotine, la Veuve, the Maiden, Mannaia (names that pronounce such widowmakers as predominantly feminine, but that is another question). His point is that the specific mechanism of a proper name's becoming a common noun already constitutes a 'machination' (Ibid., 194), as in the prime example where a Dr. Guillotin gives birth to a machine 'daughter', a *femme* who is particularly *fatale*, *la guillotine*, who will be formally named as such before she subsequently comes to be nicknamed 'Widow' among other things. That amounts to a certain technologisation being put into play as a form of automatic signatory dissemination. By that I refer—if you will forgive this somewhat terse explication—to the principle that Derrida has elsewhere analyzed extensively, by which an author's proper name, while functioning as the external mark of authenticity, for example on the cover of a book, is transformed within the text itself into a common noun (in some cases explicitly, in other cases 'unconsciously'), or into a network of signification.<sup>9</sup> The author is thus less dead than disseminated; indeed those disseminated effects of his or her name are precisely what survives. By extension Derrida also argues that the proper name itself, which in *every* case (author of writing or not) survives its living referent, automatically inscribes on the person or animal called by it a structure of death.<sup>10</sup> Now, irrespective of the habit some of us have (my wife especially) of naming inanimate machines such as cars or computers

(George, Savannah, Waldo, Milica), the survival of a proper name means that naming not only solemnly attributes a specific moniker to a unique individual but also, in the same breath, puts that same individual 'into the context' or structure of death, sentencing the one who is named to a type of death penalty in life. We are called by the same name while we are alive and once we are dead; in that way, our name attaches death to us and carries death in it. That happens automatically: the fatal naming machine gets working as soon as there is that form of recognition. Whenever one is named, one is named by one's name and in the same instant also called 'Death', given 'one who is going to die and be survived by one's name' as a nickname, a *surnom* as it is called in French, a surviving or surplus name. Indeed, the nickname is a type of supplementary prosthetic name, and when that nickname is Death it functions less as a prosthesis that adds an innocent or affectionate layer of familiarity to our social relations, facilitating in the classic orthopedic sense explained earlier, than the prosthetic structure that, from the start, automatically reveals the imbrication of *inanimation* within the very mechanisms, such as naming, that are designed to perform a straightforward affirmation of life.

That is in play in all its dense complexity in the case of a death-dealing machine that is named a guillotine, and subsequently nicknamed. The life and death in it appear to go both ways: Joseph-Ignace Guillotin, a former Jesuit and a doctor, a lifesaver according to the Hippocratic code (and, in the event, something of an abolitionist), perfects a machine for putting to death in such a way as to save or redeem some 'life' in it, in the form of a humaneness that will cut life short more quickly, painlessly, anesthetically. The doctor's family name, the death-naming-machine that he has automatically received from his father, is Guillotin. It comes to be feminised by having the letter 'e' attached to it when it is attached to the killing machine, which, over time, as it is repeatedly used, adds on other nicknames as well, nicknames that *enliven* it with black humor: *Louissette* [after the Royal Surgeon who perfected its blade], *rasoir national* [national razor], *moulin à silence* [silence mill], *cravate à Capet* [Louis XVI's necktie], *raccourcisseuse patriotique* [patriotic shortener]).

The name Guillotin, which may have already witnessed the death of the doctor's father (and presumably that of previous generations that bore the same name), is transgendered and attributed to a deathdealing lifesaving machine. But that process will have begun with the *nom fatal*, with the automatic deathdealing of the proper name that I just mentioned, before any 'conscious' 'human' intervention occurs

in the form of a decision to call the machine a guillotine, and the same process continues in the strangely automated will-to-proliferate that seems to govern its subsequent appellations. For once there is supplementation, the structure of the surplus is necessarily plural and contagious. In the case of the surplus name *la Veuve*, the guillotine *widowmaker* (or widowermaker—we should not forget the many women who were guillotined, from Charlotte Corday to Germaine Godefroy<sup>11</sup>) is nicknamed *widow*, as it were putting the cart before the horse. The word for a wife who lives on after the death of her husband in the shadow of that death, one whose status in life, and name for that, is given by (a) death, such a word is ascribed as nominal prosthetic addition to the machine that gave that death and produced that form of life. It would take some time to sort logically through all those paradoxical elements, but we can begin to see how this nickname for the guillotine is originarily divided between life and death, automatically, machinically, repeatedly, even before that machine comes to claim to distinguish precisely, trenchantly, in an instant, between the flow of life and the inanimate fixity of death.

### III. The four-stroke time machine

In the third place, Derrida argues that it is precisely the technologies of the death penalty that produce it as ‘the only example of a death whose instant is calculable by a machine, by machines (not by someone, finally, as in a murder, but by all sorts of machines: the law, the penal code, the anonymous third party, the calendar, the clock, the guillotine or other apparatus)’ (Ibid., 257). In that way, ‘what is ended by the possibility of the death penalty is not the infinity of life or immortality, but on the contrary the finitude of ‘my life’ (Ibid., 256). What the machine called the death penalty does is ‘depriv[e] me of my own finitude; it exonerates me, even, of my experience of finitude’ (Ibid., 257).

The death penalty takes away the incalculability and undecidability of the instant of death—my not knowing when I will die, which is also what gives me a future—and replaces it with the calculation of a machine. The explicit staging of that technological calculation that Derrida lights on in the seminar again takes place thanks to a discursive apparatus, one that is again associated with the guillotine. According to the parliamentary record—the speech itself having been lost—Dr. Guillotin offered the following description of the anesthetic advantages of his machine to the revolutionary Constitutive Assembly in 1789: ‘The mechanism falls like a bolt of lightning, the head flies off, blood spurts out, the man is no

more [*la mécanique tombe comme la foudre, la tête vole, le sang jaillit, l'homme n'est plus*]’ (qtd in Ibid., 221). And he is reputed to have added this delicately erotic nuance: ‘the punishment I have invented is so gentle that one would not know what was happening if one were not expecting to die and that one would have imagined feeling nothing but a slight coolness [*fraîcheur*] on the neck’ (qtd in Ibid., 226).

What strikes Derrida in the sentence ‘the mechanism falls like a bolt of lightning, the head flies off, blood spurts out, the man is no more’, is how much it is a discourse on time, by means of the repetitions of the present tense describing a single moment: ‘It suffices that in an infinitesimal, inconsistent, inexistent instant, an instant without time, it suffices that on the point (*stigmē*: instant in Greek) or on the blade edge of an instant “the mechanism falls like a bolt of lightning”’ (Ibid., 222). In that instant the blade falls as if at the speed of light, and it falls like a *deus ex machina* as Derrida notes (Ibid.), like God’s mechanised nature, nature so excessively natural it becomes unnatural, God’s natural drone attack, the act executed again in a type of no-time, the imperceptible time of supernatural decision. In Guillotin’s sentence, that knife-point instantaneity is reinforced by the use of the third person, so that at the point at which the man ‘is no more’ the verb ‘is’ is required to bear the weighty significance of the ‘transition without transition from being to nothingness’ (Ibid.). In the same impossible instant, as the mechanism falls, like lightning, as the head flies off and the blood spurts out, the man comes to be, *is* as if for the first time, but only in order not to be, to be no longer. The death penalty is imagined as that fantastically real *mise en scène* of such an impossible instant, the technological realisation of it, the machinery and machinic calculation of it, down to the last decimal point. It is the apparatus of a moment within which it is claimed that the impersonal machine of death places the life of a human on the knife edge of a decision concerning the separation of that life from its death, and then executes that decision. By doing so it would decide and confirm irrevocably, and prove irrefutably the principle and truth of the instant held to delineate life from death. It would confirm, by executing it, the truth that there is an identifiable moment separating life from death even more than it confirms the executive certitude of the death warrant, even more than it confirms the conviction that ‘you will die because the State will kill you’, which constitutes the imposition of the penalty of death upon a particular individual.

That truth-effect derives from pleonastic repetition of the four intransitive present-tense verbs. Derrida refers to the sentence as a ‘four-stroke verbal machine [*machine à quatre temps*]’ (Ibid.), which

we have to hear as a machine in four times and in four tenses. Its four parallel yet consecutive clauses with their four verbs—falls, flies off, spurts out, is—claim to constitute a syntactic series that will be understood effectively as a single combusive, or perhaps expulsive moment, a single temporal revolution, the putative instant of death that I have been dwelling on here. But the form of Dr. Guillotin's emphasis on instantaneity and simultaneity belies its seeming assurance, for the instant, in being repeated, necessarily comes to be divided in itself. Through the differential repetition of the present tense of this four-stroke verbal machine designed to signify no time, the no more of time, time itself reimposes itself. Indeed, we might say, before being the strokes or repetitive workings of a death-dealing machine, what gets reiterated with each stroke, or each 'time' as the French has it, is time itself, the machine of time itself, the very play between duration and the instant that has determined from the start, as Derrida suggests, that the worst cog in the machine that is the death penalty, the worst blow that it delivers 'is perhaps neither the guillotine nor the syringe, but the clock and the anonymity of clockwork' (Ibid., 256).

It would require another discussion to reflect, as much as the question invites and demands, on what it means to conceive of time, beyond everything Heidegger and others have developed, as the original or originary machine, the technology that precedes us and that we are born into. It is, however, the question that has been consistently probed in what precedes, and that remains a stumbling block for understanding the conceptual limits of 'deathpenalty', perhaps making it the pseudo-concept Derrida will come to call it. Time is, in that respect, not just a machine of history, although the very idea of human history, particularly conceived of as progress, is no doubt 'timed' better by our presumed march towards absolute abolition than by anything else. How long will it take, one wonders for example, some 220 years after Guillotin pronounced his four-stroke sentence, how many years from now will it take for contemporary declarations concerning the wonders of lethal injection, its speed and efficacy, to sound, automatically, as stupefyingly unacceptable as the 18<sup>th</sup> century doctor's words. The time machine of the death penalty is more fundamentally the calculability of an aborted countdown, interrupting the ticking of life's clock that begins as soon as we take our first breath with the certainty of the moment of death that is very different from the certitude of our having to die, as we have seen.

The second year of Derrida's seminar is in many respects all about how that machine operates, as it begins by asking what an act is, what

an age is, what a desire is, all of which questions are brought into acute focus by the law in general and by the death penalty in particular. What, for example, separates the passive time of an act from its presumed actual or active time? How many ages govern us at any given moment? How does the idea of the unconscious call into question both act and age? What will give us our life as finitude, mark the end of that life, and chronicle (count and archive) whatever survives of us (name, reputation, work, memory) beyond that end? What does it mean for life—for a life that is supposed to begin and end at a point in time—that the time-machine of life and death is in operation before or beyond any given life? Is it indeed, or how indeed is it, outside each given life? Time seems not just to function outside our individual experience of it, but also to begin and end with each life and with life in general, as a constitutive structure of it, as its every machinery, but according to mechanisms that far exceed what we call chronology or history. Without it, there is no decisive beginning or end to life, but because of it, the end of life hovers in suspension between the operation of a calculating machine that *infinities* by preempting finitude, and the tracing of a limit whose term remains unknowable.

That is what we might call the *death machine of life's time penalty* that is in focus from beginning to end of Derrida's seminar. The *death machine of life's time penalty* ensures that even if we cannot easily speak of life in the machine, we can understand that there is no life without technology, and that we are in time as in a machine that numbers our days beyond the particular revolution of life into death that constitutes capital punishment. The concept of life as originary technicity is on the line, and perhaps even decided by capital punishment to the extent that the death penalty deconstructs the concept of a life that is presumed to be instantaneously severable from death, *impossibilising* that concept even as it claims to impose it in the ways I have just outlined. And life as originary technicity is on the line to the extent that, with the death penalty, time is engaged as the mainspring of a complex machinery that engineers a singular death instead of functioning with its characteristic supreme indifference. In calculating the moment of death, the death penalty mobilises time as determinant for life; and in claiming to sever life from death with technological precision it has one embrace the other on the same temporal knife-edge.

Let me say in conclusion—in case it needs to be said—that these reflections are in no way intended to have the question of capital punishment retreat into philosophical abstraction. On the one hand, making the death penalty a subject of philosophy, as Derrida does,



answers to the same ethical demand that would or should make it a subject for, say, criminology or sociology. On the other hand, the fact of what I have analysed here as forms of machinic life cedes nothing to death penalty advocates, whose discourse, as Derrida makes clear, proceeds in general not from what might be called an a-, in-, or 'posthuman' position, but from eminently humanist, often Christian grounds. The moment of abolition, which we cannot but wish for, represents, Derrida will insist, only one cog within a much more complex machinery of death than that Justice Blackmun declared he would no longer tinker with. There is much more death penalty, much more state-sanctioned murder beyond the execution chamber. There are, for example, the death penalties of every battlefield, rendered more critical by how problematically the battlefield is coming to be defined. And, for the global state of humanity, there is the immense and imposing question of *letting die* in the killing fields of poverty, hunger and disease. And then, beyond humanity, the questions relating to animal life that Derrida will take up in his final two-year seminar. As he will argue in the second year of the death penalty seminars, echoing *The Work of Mourning*, death does not reduce to the demise of a particular person, someone *in the world*, but signifies every time *the end of the world*, the whole world: 'death ... is not the end of this or that, of this person or that person, of a what or who *in the world*. Every time it [*ça*] dies, it's the end of the world. Not of a world but of the world, of the whole of the world, of the infinite opening of the world. And this is the case for every living being, from the tree to the protozoa, from the mosquito to the human, death is infinite, it is the end of the infinite'.<sup>12</sup> It is the whole world, the global or universal totality that dies each time. That would be the case for every living being, human, animal, plant, and as we know, he is not sure that the concept of the living completely excludes a rock, just as he is conversely convinced that there is no life without the machine.<sup>13</sup>

The idea of an originary technology, or technicity of the human, while problematising the distinction between death by natural and unnatural causes, as much as the instant of separation between life and death, in no way legitimises or celebrates every use of every machine. Instead it removes the current practice of the death penalty—in those places where it persists—from the privileged position it holds, its as it were transcendental position as mechanical arbiter of life and death; it does so as a first step toward removing it altogether, having it join so many other outmoded and useless technologies on the scrapheap of history.

## References

- Callins v. Collins (1994), 510 US 1141.
- Colin Dayan (2007), *The Story of Cruel and Unusual*, Cambridge MA: MIT Press.
- Derrida, Jacques (2005), *Rogues*, trans. Pascale-Anne Brault and Michael Naas, Stanford: Stanford University Press.
- (2014), *The Death Penalty*, trans. Peggy Kamuf, Chicago: University of Chicago Press.

## Notes

1. This paper is the revised text of my keynote address to the *Derrida Today* conference at the University of California, Irvine, in July 2012.
2. See the excellent analysis of cruel and unusual punishment, contextualised in terms of torture and incarceration, and also slavery, in Colin Dayan, *The Story of Cruel and Unusual* (2007). Dayan identifies the origin of the term in the 1689 English Bill of Rights, and mentions its importation by the American colonists ‘into most of the original state constitutions’ (6). She goes on to outline how the term came under scrutiny as ‘Black codes and slave courts in the North American colonies, like those in the Caribbean, focused intensely on protecting the bodies of slaves even while allowing extreme mutilation’ (11–12), before being newly examined in the US death penalty debates of the 1970s.
3. I owe a debt of gratitude to Peggy Kamuf, Elizabeth Rottenberg, and to the other fellow members of the Derrida Seminars Translation Project (Geoffrey Bennington, Pascale-Anne Brault, Michael Naas), as well as to participants in the 2010, 2011 and 2012 sessions of the Project workshop, for their contributions to the translations and my understanding of Derrida’s text.

Given that only the first volume of the two-year seminar is published, I provide the following information: the death penalty seminars immediately precede *The Beast and the Sovereign I* and *II* (trans. Geoffrey Bennington [Chicago: University of Chicago Press, 2009 and 2011]). Within the broad context of beast and sovereign, Derrida argues convincingly that neither the discourses of proponents nor those of abolitionists of the death penalty escape the strictures of what he calls onto-theological sovereignty. Beyond that he asks ‘why have abolitionism or condemnation of the death penalty, in its very principle, (almost) never, to date, found a properly philosophical place in the architectonic of a great philosophical discourse as such?’ (2014, xv) Why has no philosopher or philosophical system been able to develop a principled abolitionist discourse as philosophy, as a matter of principle? Derrida’s response in the second year (unpublished) will consist in mounting such a philosophical abolitionist argument. That takes place in the first instance through an intense engagement with Kant, recognising that the latter philosopher’s arguments will have to be refuted – something Derrida considers much more difficult than might be presumed – if an abolitionist discourse of consequence is to be developed. In the second instance, Derrida mounts what we might quickly refer to as a homegrown deconstruction of the death penalty, some of whose elements or aporias are these: i) pure hetero-punition is as difficult to determine as pure auto-punition; ii) the death penalty functions, particularly in the Kantian schema, as a type of suicide; iii) the death penalty has ascribed to it a type of fictional structure. All of that suggests that there is no death penalty that functions as penalty, which is far from saying there are no executions. Executions keep on

happening, perhaps, precisely because the death *penalty* doesn't work, but not in the same terms that Justice Blackmun was advocating.

4. Peine de mort, séance du 13 décembre 2000. Permission to quote from Derrida's manuscript for the seminars of 2000–2001 is kindly provided by Marguerite Derrida. Translations are courtesy of Elizabeth Rottenberg.
5. Statistical data in general is from the Death Penalty Information Center ([www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)). Update as of May 2013: the Californian proposal (Proposition 34) to abolish the death penalty on the November 2012 ballot failed by a vote of approximately 48% to 52%. In March 2013, Maryland became the 18<sup>th</sup> state to abolish the death penalty, the 6<sup>th</sup> in as many years.
6. See my 'Drone Penalty' (forthcoming in *SubStance*, University of Wisconsin Press), which takes up the question of the Constitutional-lawyer-Nobel-Peace-Prize president's embrace of targeted killing.
7. See my *Inanimation* (forthcoming) for extensive development of this concept.
8. Cf. Jacques Derrida, *Chaque fois unique, la fin du monde* (Paris: Galilée, 2003); English translation: *The Work of Mourning*, eds. and trans. Pascale-Anne Brault and Michael Naas (Chicago: University of Chicago Press, 2003). In the context of the seminars, see my conclusion to this discussion.
9. See, most notably, Jacques Derrida, *Signéponge/Signsponge*, trans. Richard Rand (New York: Columbia University Press, 1985).
10. See the lucid explanation and references in Geoffrey Bennington, 'Derridabase', in Bennington and Jacques Derrida, *Jacques Derrida*, trans. Geoffrey Bennington (Chicago: University of Chicago Press, 1993), 148.
11. Charlotte Corday, assassin of Jacobin leader Jean-Paul Marat who was radicalising the revolution by purging the Girondins with whom Corday sympathised, was guillotined on 17 July 1793. Marat was among those who, some 25 years earlier, had been calling for a more 'gentle' death penalty such as the guillotine would make available, in time of course for the unleashing of the Terror. See Derrida 2014, 197–98.

Germaine Leloy-Godefroy, coal merchant, was the last woman to be guillotined in France, on 21 April 1949, for the axe-murder of her husband. Her crime of passion was motivated by a desire to start a new life with her lover, 12 years her junior.
12. Peine de mort, séance du 10 janvier 2001.
13. In one of his discussions regarding the 'perfectibility' of democracy, which is not without parallel with a presumed or hoped-for progress toward abolition of the death penalty, he asks 'how far is democracy to be extended . . . to the dead, to animals, to trees and rocks?' (Derrida 2005, 54). For the machine in life, see Michael Naas' superb and comprehensive discussion in his *Miracle and Machine: Jacques Derrida and the Two Sources of Religion, Science, and the Media* (New York: Fordham University Press, 2012), 85–86, 116–20, 150–51, and passim.