

NECROPOLITICS IN *THE EXECUTIONER'S SONG*

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Elizabeth Rottenberg's 2016 article in *New Formations* on Norman Mailer and Derrida's death penalty seminar, and Achille Mbembe's concept of "necropolitics," may provide points of departure for revisiting Mailer's epic of the American West, *The Executioner's Song*. A sketch for how a scholarly and critical discourse surrounding such concerns as sovereignty, biopower, prisons, public executions, and autopsies might contribute a fresh perspective on Mailer's book is proposed.

Elizabeth Rottenberg is the translator of the second volume of the English translation of Derrida's death penalty seminar (*The Death Penalty*, a two-year seminar Derrida gave from 1999 to 2001 in Paris and subsequently at American universities). Rottenberg's association of deconstruction with Mailer's book is a starting point, but I take a somewhat different direction, one that would open up an examination, among other things, of what happens when we move from the more deconstructive concerns of Rottenberg's article to a consideration of a theoretical program of "necro-politics" when it is set against the politics of white grievance, and the contemporary politics of the death penalty, as you see states with the death penalty actually entering the underground exchange market in drugs to obtain lethal drugs for purposes of carrying out executions, and what implications that has for the opposition between the justice system and criminality.

"Necropolitics" is a term coined by Achille Mbembe in a 2003 article in *Public Culture*. Foucault's 1975-1976 lectures, "Society Must Be Defended," argued that from the 18th to the 19th century, a shift in sovereignty had occurred from the right to kill, to "making live," and from power as exercised over the individual body and its life or death, to power taking control of the

life of humanity as such, as a living species (biopower). Mbembe's concept of "necropolitics" names how sovereignty persists, however, in "the contemporary ways in which the political, under the guise of war, of resistance, or of the fight against terror, makes the murder of the enemy its primary and absolute objective" (12) and through which politics is defined as "the work of death" (16) as opposed to the administration of life.

Both Derrida's death penalty seminar, and Mbembe's "necropolitics" are thus seen to be responses of sorts to Foucault's arguments about the contemporary nature of power and sovereignty in his 1975-1976 lectures and the description of biopolitics, in ways that need not distract us here from the central emphasis on the politics of the death penalty in Mailer's novel.

Rottenberg's article is foremost concerned with the spectacle and "scene" of the death penalty, and with the "other" seeing she calls, following Derrida, "phantasmatic" seeing, a kind of virtual seeing Joan Didion, in her review of "the Gilmore book," almost seemed to be writing about when she said, "the last months of [Gilmore's] life were expensively, exhaustively covered, covered in teams, covered in packs, covered with checkbooks and covered with tricks, covered to that point at which Louis Nizer was calling Provo in a failed attempt to add some class to David Susskind's bid for the rights, covered to that pitch at which the coverage itself might have seemed the only story." In the second part of Mailer's book, in the section dealing with the Utah Board of Pardons Hearing for Gilmore, Larry Schiller muses in an interior monologue that when Gilmore is brought in to the hearing room, "[i]t was like a movie Schiller saw once about the Middle Ages where a fellow in a white smock trudged in to be burned at the stake. Here, it was loose white pants and a long white shirt, but the effect was similar. Made the prisoner look like an actor playing a saint" (Mailer, *Executioner's Song* 673).

But beyond just the virtuality of a prisoner playing an actor playing a saint, "phantasmatic" seeing describes something more than simply the ways in which the display of executions via the mass media of television, film, and now the internet, makes executions a spectacle, although these media certainly do become some of the technologies of execution. By "phantasmatic" seeing, Derrida means a virtuality that is already inscribed in the act of witnessing a legal execution, by which the public, having become the state in the act of witnessing the execution, witness above all the display of the sovereignty of the state in putting to death, the almightiness of the state that alone has the legal right to kill.

What is staged in the ritual of execution is the becoming-visible to itself (that is, the self-reflection) of sovereign power, so that the “other” seeing of the execution is, in Rottenberg’s reluctant way of phrasing it, a kind of “sovereign selfie” (33).

DRUGS

Taking, as a starting point, the role of medicine in modern penal systems Foucault identified in his 1975 book, *Discipline and Punish: The Birth of the Prison*, could lead us to explore the relationships between licit/illicit drugs in Gilmore’s narrative, in, for instance, the role the antipsychotic medication, Prolixin, he was administered may have had in influencing events. Gilmore had been prescribed this powerful antipsychotic drug by Doctor Wesley Weissart, a psychiatrist at the Oregon State Penitentiary where Gilmore was serving time from 1962–1972.

Doctor John Woods, the Director of the Forensic Program at the Utah State Mental Hospital, thought that Gilmore might have been damaged by this treatment regimen (supporting a legal defense of impairment), although this testimony was never introduced by Gilmore’s public defense attorneys, nor for that matter, was any real defense mounted (Babcock 869).

When after picking Gilmore up from the airport his cousin, Brenda, notices a scar on his face, Gilmore recounts how he acquired it from a scuffle with prison guards who were forcibly dispensing Prolixin to him (Mailer, *Executioner’s Song* 15). And there is also, of course, the Seconal that was used in the attempted lover’s suicide pact between Gilmore and Nicole Baker, the phenobarbital Gilmore used in another suicide attempt, etc.

Among other criminal complaints, Gilmore was charged for using illegal drugs, but in recent years, death-penalty states have themselves resorted to illegal means to obtain drugs used in lethal injections, as availability of these drugs becomes more constrained by drug manufacturers concerned with ethics and liability, blurring the distinction between the criminal justice system and those whom it incarcerates for illegal drug use, or put more simply, the distinction between criminality and criminal justice.

At least thirty-two death-penalty states have been scrambling to find new drugs for lethal injections in recent years after European-based manufacturers started banning U.S. prisons from using their drugs in executions—like Danish-based Lundbeck, which manufactures pentobarbital. As the

supply of drugs used in lethal injections has dried up, states have been increasingly resorting to new drugs or combinations of them, and seeking out suppliers that operate outside of the larger pharmaceutical industry, sometimes at the margin of the law, supplying banned drugs, for instance (Levitt and Feyerick [CNN wire]). Part of the system of execution, then, has crossed the line into criminality itself. A 2013 federal suit against Texas, for instance, alleged that the state corrections department falsified a prescription for pentobarbital, including the patient name as “James Jones,” the warden of the Huntsville Unit “where executions take place,” according to court documents. Drugs were to be sent to “Huntsville Unit Hospital,” which, the complaint says, “has not existed since 1983” (Levitt and Feyerick [CNN wire]).

PRISONS, RACIAL NATIONALISM AND WHITE GRIEVANCE

It is no accident that so many of Foucault’s lectures, “Society Must Be Defended,” concerned the relationship between sovereignty, carceral power, and the disciplinary construction of ethnic or racial nationalism in France.

In a contemporary context of “Unite the Right” marches, and an American administration that seems openly committed to a program of white nationalism, the lines that may be drawn between *The Executioner’s Song*, prisons, and white grievance, invite renewed consideration of the novel’s currency.

The politics of white grievance, the sense of white alienation from politics and the social contract, the identification of outsider status and economic marginality with complaints about racial others, are all traits Gilmore typifies in Mailer’s novel—as seen by the “bad nigger” Gilmore boasts about killing early in the book (Mailer, *Executioner’s Song* 55). The story is repeated on p. 127, when Gilmore tells it to Craig Taylor, the foreman at the paint shop where he is employed. He tells it to Spencer McGrath, his employer at the paint shop, on p. 145, and again, on p. 150, when he tells the story to Kathryn Baker, Nicole’s mother. Although later Gilmore says to Larry Schiller that the first two men he had ever killed were Max Jensen and Bennie Bushnell (the murders he was executed for), which would mean the story about killing a black convict in prison was fabricated (Mailer, *Executioner’s Song* 932), as Spence McGrath suspects when he chides Gilmore, “Come on, Gary . . . 57 times sounds like a variety of soup” (Mailer, *Executioner’s Song* 145). What matters is the racism the story reveals. Although it is only one of the crude

and violent prison stories Gilmore likes to relate to gauge the reaction of his listener, the compulsion to repeat the narrative telling of it, that mimics the repetition of the fifty-seven stabbings Gilmore claims to have administered to his victim in prison, phantasmatically stages a scene repeated over and over in American history and codified in racial ideology.

White grievance directs violence toward racial others whom it resents while simultaneously appropriating victim status for itself. Almost the first thing we learn about him, through the free indirect point of view of Gilmore's cousin, Brenda Nicol, in the opening pages, is Gilmore's sense of victim status: "Once in a while Gary would remark that having been in prison so long he felt more like the victim than the man who did the deed" (Mailer, *Executioner's Song* 7). In the scapegoating logic of victimage, resentment for one's own victim status is yoked with animosity toward racial others. Gilmore boasts of his connections with the Aryan Brotherhood when he was serving time in Oregon to his cellmate, Gibbs, in the Utah county jail where he is being detained (Mailer, *Executioner's Song* 354). In a telephone conversation with Ron Stanger, Gilmore reflects on how he "think[s] of black people" (Mailer, *Executioner's Song* 697) in racist terms, with a hatred that comes through the telephone wires. Barry Farrell identifies "racist Gary" as one of Gilmore's 27 poses in interview transcripts (Mailer, *Executioner's Song* 830).

Gilmore, in certain respects, is the epitome of the white grievance that sees itself as the victim, and racial and ethnic others as the source of its victimage. Thus, while Gilmore's death sentence is the signifier of his debt to society, as the indebted man, white grievance makes it "Gilmore" (the Gilmores of the world) who is owed a debt, even the ultimate debt of paying with one's life, by undeserving racial others given unfair advantages in life over a white man.

"THE WHITE NEGRO"

The logic of scapegoating and victimage is transitive, involving transfer of guilt to the scapegoat, and conversion of guilt by the expiation of the sacrifice. Part of this transitivity involves the instability of the racial signifiers of the prison convict that can be seen in the early article by Mailer, "The White Negro," which I want to link here with the appropriation of victimhood status by white grievance. Philip Buftis has pointed out the difference be-

tween Mailer's earlier, possibly naïve and more literary portrait of a psychopath in "The White Negro" and Gilmore in *The Executioner's Song*, and asked in *The Mailer Review* in 2007, "Gary Gilmore is not the romanticized psychopath of bourgeois imagining we see in 'The White Negro.' He is the genuine article, yet what do we do with the word 'psychopath' when we recognize that Gilmore's life interests us personally?" The fascination of Gilmore's story it could be argued lies less in his life than in his death, and ultimately, in the fascination that is held by the corpse. But beyond this, there is what Derrida called the "phantasmatic" seeing of execution, and the wishful fantasy to master one's own death, as will be discussed, below.

The "antithetical" hipster psychopath of "The White Negro" could be viewed in terms of the instability of racial identifiers regarding incarcerated subjects and populations, particularly in death penalty cases. According to statistics from the Death Penalty Information Center, whites make up about 56% of defendants executed, Blacks are second at 34% , followed by Hispanics at 8% and then "other." In raw numbers, whites are by a fairly wide margin, then, the majority of defendants executed. But the racial disparity of the death penalty only becomes apparent when you consider the race of victims in death penalty cases. When there is a black defendant and white victim, the defendant is more than 10 times as likely to be executed than when the defendant is white and the victim is black. In some states, such as Louisiana, a death sentence is 97% more likely when the victim is white than when the victim is black. So, regardless of the race of the defendant executed, the race of the victim is what really influences whether a defendant receives the death penalty or not. The death penalty system, then, is possibly where the racial disparity of America is seen in sharpest definition, and where the differential social value of white and black lives can be taken the measure of.

Widening to the standpoint of the neoliberal economic order, prison populations are surplus, excess, waste subjects, idle subjects deprived of political legitimacy because outside of the order of *homo economicus*; but not outside the structure of debt, as we will see.

THE ANATOMY OF GARY GILMORE

In the second half of the first session of "The Death Penalty" seminar, Derrida discusses the fate of the corpse, a fate possibly worse than the death

penalty, in that moment in the Gospel of John when Jesus says “do not touch me” to Mary Magdalene to whom he appears before he goes to heaven. It is not to cast Gilmore or his “beloved,” Nicole Baker, as Jesus and Mary Magdalene, an iconography which Gilmore’s Catholic background would have imprinted on him, certainly, but Derrida’s more general discussion of the corpse in the death penalty seminar clearly bears on the description of Gilmore’s autopsy toward the close of the book (Mailer, *Executioner’s Song*, Ch. 40, “The Remains”).

In addition, a direct line could be drawn from a tradition of American Realism in the paintings of Thomas Eakins, such as *The Gross Clinic* (1875), and *The Agnew Clinic* (1889), to the vividly depicted autopsy of Gary Gilmore after his execution; the source of this academic art tradition of realist depictions of autopsies in Western art goes back at least to Vesalius’s *Fabrica* (1543) and Rembrandt’s *The Anatomy Lesson* (1632). Elizabeth Klaver in her book, *Sites of Autopsy in Contemporary Culture*, addresses such questions as the social constructedness of the body, as well as the perception and treatment of death under late capitalism, and provides a rich context for examining the autopsy theme in Mailer’s novel.

READING THE NATION AND THE NEOLIBERAL CONDITION IN THE EXECUTIONER’S SONG

Norman Mailer, in an article titled “A Program for the Nation,” in 1959 wrote of the “buried sadist” in the “flabby American spirit” (11), that makes the United States almost unique among Western democracies in not having abolished the death penalty.

Even though it is disparaging, Mailer’s reference to the “American spirit” brings up a longstanding way in reviews and criticism, from Joan Didion onward (she wrote in her review of the novel that “The very subject of ‘The Executioner’s Song’ is that vast emptiness at the center of the Western experience”), of regarding Gilmore as a certain American “type,” especially representative of the American West, and Mailer’s prose style as encapsulating a certain postwar American Western vernacular (the title of the first book is “Western Voices”), etc.

While there is no disputing this, really, and that way of thinking about the novel’s style and its protagonist, Gilmore, certainly does account for much, the “American exceptionalism” of such frameworks for viewing Gilmore is readily apparent, and this article proposes to approach Gilmore

as a “type,” but a less regional or national one, widening the scope to a more general consideration of Gilmore as the epitome of the “indebted man.”

I am drawing here on Maurizio Lazzarato’s analysis of debt in *The Making of the Indebted Man: An Essay on the Neoliberal Condition*, suggesting its application to the prisoner as the “indebted man.” For Lazzarato the fundamental social relation structuring capitalism is the system of debt. In his book, he shows how the debtor-creditor relation defines mechanisms of exploitation and domination indiscriminately since, in it, there is no distinction between workers and the unemployed, consumers and producers, working and non-working populations, between retirees and welfare recipients, or indeed, prisoners. All are “debtors,” guilty and answerable in the eyes of capital. Debt cannot be reduced to a simple economic mechanism, because it is also a technique of “public safety” through which individual and collective subjectivities are governed and controlled, the aim of which is to restrict the uncertainty of the time and behavior of the governed.

The prisoner’s execution as payment of a “debt to society,” in the neoliberal economic order, could be contrasted with older ways of thinking about public execution as, for example, a step away from a code of honor or vengeance killing and retribution, usually by families, to a regime of scapegoating sacrifice that Mailer had characterized in his 1959 article, “A Program for the Nation” as the buried sadism of the flabby American spirit, the “blood atonement” the ACLU attorney Judith Wolbach muses about (Mailer, *Executioner’s Song* 953); to, finally, a visible rite of display of the power of the sovereign right to kill. Centuries ago, this right passed from traditional civil society, which vested it in the family as the right to take revenge for the murder of one of its members, to the state, in the person of the sovereign. In the neoliberal economic order the right to kill returns to civil society, but at a higher level, the level of capital, the corporation which increasingly takes over the administrative functions of the state, including public safety and security, in the prison-industrial complex.

Much of the second part of Mailer’s book, “Eastern Voices,” concerns attempts by producer Larry Schiller and others to acquire the rights to Gilmore’s life story and execution, and particularly the rivalry between Schiller and David Susskind for the rights to the story Didion’s review had alluded to. Barry Farrell’s contemporaneous article, “Merchandising Gary Gilmore’s Dance of Death” in *New West* (cited in Mailer, *Executioner’s Song* 718) details the competition among the many rival interests for the rights to

Gilmore's story and the stories of others who played a part in it, in a way which shows how the death penalty sharpens the relationship of exploitation that pertains to everyone in the neoliberal economy, how the neoliberal economy converts one's own life and even death into contractual debts that may be monetized in the structure of debt and contract.

For the indebted man, dying is not only figuratively a settling of accounts, but literally the settling of debt. Persuading her husband, Johnny, to sponsor Gilmore after his release from the federal penitentiary in Marion, Illinois, Gilmore's cousin, Brenda, pleads, "He's paid his dues...and I want to bring him home" (Mailer, *Executioner's Song* 9) to Provo, Utah. In his first letter to Nicole after being arraigned for the murders of Jensen and Bushnell, Gilmore writes, alluding to their discussions about reincarnation, "I owe a debt, from a long time ago" (Mailer, *Executioner's Song* 305). At one point, Gilmore reads Ron Stanger a poem he had included in a letter to Nicole: "Dark thots of mayhem murder and gore,/too few dark debts are ever paid/More owed" (Mailer, *Executioner's Song* 774). In an interview, asked what Gilmore thinks might happen after his execution if he met his victims, Max Jensen and Bennie Bushnell, on "the other side," Gilmore responds, "Who knows that I will? It could be that with death you pay all your debts" (Mailer, *Executioner's Song* 748).

As the owner of Gilmore's life story and the movie rights to it, Schiller is even invited to witness Gilmore's death, as if his paying for the rights to Gilmore's story conferred the right to witness the most private moment of a person's death, making this act of witnessing part of the contract, and making, finally, the contract itself the witness to death, the document memorializing at one and the same time Gilmore's power of decision and his surrender of it, in the logic of contract, which one freely enters into, but through which one surrenders one's freedom. It is in this sense that the prisoner is the most representative indebted man in neoliberalism.

In the structure of the prisoner's debt in the neoliberal age, it is not that society is equated with the state, but with capital; capital, rather than state, is the sovereign.

The thought of the prisoner as the quintessence of "the indebted man" names a situation in which we see a blurring of the distinction between state/private enterprise in the post-war prison-industrial complex; and the increasing privatization of prisons.

“LET’S DO IT”—

This of course was Gilmore’s sentence, which he opposed to the sentence of death passed by the state, reappropriating to himself the power to make (himself) die.

Foucault, in *Discipline and Punish*, had analyzed the internalization of subjection, the reversibility of inside and outside, in which the individual assumes the role of surveilling him or herself, as an essentially “phantasmatic” phenomenon, incorporating a *mise-en-scene* in which the subject simultaneously plays the parts of inmate and guard, patient and physician, victim and executioner, etc.

There is something in Gilmore’s refusal of any appeal to his death sentence, in his using the state as an instrument of his own suicide in a grander scheme of “suicide by cop,” that reclaims a kind of sovereignty—of the individual—from the state, and it is probably this feature of his narrative that has led some scholars and critics to regard him as an exemplar of the self-creating American romantic.

Gilmore’s refusal to appeal his death sentence, and his active thwarting of all attempts by others to delay or overturn his execution, returns us to a basic aporia, a logical contradiction, underlying Derrida’s discussion of the death penalty: the “phantasmatic” seeing in Derrida that characterizes the death penalty as a fantasy structure not only for the public, but for the prisoner, as in a dream where one is simultaneously actor and spectator, an ultimately narcissistic fantasy of individual omnipotence over death:

The alternative is terrible and infinite: I may deem it intolerable, and this is the case of the death penalty, to know that the hour of my death is fixed, by others, by a third party, at a certain day, a certain hour, a certain second, whereas if I am not condemned to death but only to die, this calculable knowledge is impossible. But conversely, I may deem it intolerable not to know the date, the place, and the hour of my death and thus I may dream of appropriating this knowledge, of having this knowledge at my disposal, at least phantasmatically, by getting myself condemned to death and thus by arriving in this fashion at some calculable certitude, some quasi-suicidal mastery of my death . . . By knowing at what hour, on what day I will die, I can tell myself the story of how death will not take me by surprise

and will thus remain at my disposal, like a quasi-suicidal autoaffection. (*Death Penalty* I, 218)

The phantasmatic seeing of his own execution at one point in the novel's narrative takes the form of two dreams Gilmore relates to Nicole, one in which he had been executed by beheading in a previous life, and another in which he was placed in a box which was then, itself, immured ("it had a door like an oven," Mailer, *Executioner's Song* 137), but it is not primarily in the work of dreams, but rather in his own stage management of his execution that Gilmore's phantasmatic seeing is most apparent.

In "The White Negro," Mailer had written about "the intolerable anxiety" of life during the Cold War threat of nuclear annihilation of civilization and our own individual lives, "that death being causeless, life was causeless as well, and time deprived of cause and effect had come to a stop." At a press conference following Gilmore's execution, one of his attorneys, Ron Stanger, comments Gilmore "made the statement he had received a gift, and that gift was he knew he was going to die, and he could make the arrangements and, therefore, he was indeed fortunate" (Mailer, *Executioner's Song* 990). Gilmore's last gift to Nicole, of course, was his watch, broken and with the hands taped to the hour and minute of his execution, 7:49 (Mailer, *Executioner's Song* 981), appropriating the sovereign knowledge of his exact time of death in what Derrida calls an act of "autoaffection," and then giving the gift of this phantasmatic knowledge to his paramour, phantasmatic not least because the actual date and hour of Gilmore's execution was January 17, 1977, at 8:07 a.m. instead, so that Gilmore's phantasmatic "knowledge" of his death did not coincide with the actual moment of it.

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