

## **The politics of death: On life after the ‘end of history’**

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### **Abstract**

In this essay, the most recent writings by Giorgio Agamben and Bruno Latour are brought into dialogue by examining what light they shed on contemporary debates concerning ‘end of life’ decisions. More specifically, the essay focuses on the debates sparked by Diane Pretty’s request for a grant of immunity against legal prosecution if her husband were to assist her to commit suicide and so terminate her increasingly unbearable suffering from motor neurone disease. The more general aim of this exercise is to articulate the presuppositions informing two influential and radically opposed views on the contemporary reconfiguration of established relationships between humans, animals and other non-humans.

‘The man of the future will be filled with animals’

Arthur Rimbaud

‘Never send to know for whom the bell tolls; it tolls for thee’

John Donne

### **‘The law is an ass’**

In this essay, I want to consider a very old problem, which can be traced back to a dictum in that fundamental text of modern political philosophy that is Aristotle’s Politics, namely the dictum that ‘man is by nature a political animal’ (Aristotle 1992: 59). The most recent writings of authors as different as Giorgio Agamben, Jacques Derrida and John Gray suggest that the questions about relationship between humans, animals and politics, which this deceptively simple dictum in fact begs, are today very topical. This said, I propose to engage with these authors’ writings by turning firstly to a recent episode concerning that moment when the modern subject comes closest to feeling like an animal, namely as they approach the moment of their death.<sup>1</sup>

In late June 2001, lawyers representing Diane Pretty sought to obtain a grant of immunity against legal prosecution if Pretty’s husband were to assist her to commit suicide and so terminate her increasingly unbearable suffering from motor neurone disease (McVeigh 2001). As the case was increasingly publicised in the media, the British public rallied behind Pretty and her lawyers. It wished to see the courts rule in Pretty’s favour, because otherwise these courts would be condemning Pretty to a fate worse than that suffered by a ‘tortured animal’ (Barclay 2002). Eventually, however, the Law Lords, the highest judicial body in the land, dismissed Pretty’s request. Strikingly, the case would not have been nearly as problematic had Pretty been attached to ‘life-sustaining’ technology, as it would then have been within her rights to order an attending physician to disconnect such technology and thus bring about her death. The public’s outraged reaction to this situation is best summarised by the old adage ‘the law is an ass’ (Thornton 2001; see also Grayling 2002). More importantly, however, a number of commentators argued that Pretty’s difficult situation highlighted the need for a ‘politics of death’, that is, a new way of thinking about life that is more adequate to the unprecedented capacity of contemporary bio-medical technology to keep humans alive, but at the cost of their being ‘increasingly in thrall to machines’ (Riddell 2002). Any dissenting voices were lost in the wind, if not simply dismissed as motivated by ‘religious prejudice’

(Riddell 2002; cf. Birkett 2002).

The concrete question I would like to address is whether the Law Lords' refusal to sanction Pretty's request that she be allowed to die in a manner and at a time of her own choice was indeed as asinine as the majority opinion seemed to believe. Arguably, however, this question is far from straightforward. To unravel the underlying problems, the first part of this essay will focus on Agamben's genealogical reflections on the relationship between humans and animals. As it will hopefully become clear, these reflections are particularly important to any understanding of the bio-political implications of life and death in late modernity (see Seale 1999). Strikingly, contemporary bio-politics seriously tests the philosophical framework that would appear to have informed Western thought about the distinctive nature of human life. In fact, it appears to coincide with the emergence of radically different understanding of life more generally, whereby all categorical distinctions between the 'human' and the 'animal', and the 'human' and the 'machine', seem to lose any meaning, even the residual meaning that Agamben would attach to them. It is from this perspective that, in the second part of this essay, I will juxtapose Agamben's reflections and Paul Rabinow and Bruno Latour's recent attempts to extend the category of the 'nonhuman' well beyond the biological confines set by Aristotle. Significantly, Agamben would argue that these attempts are symptoms of the 'end of history'.

### **Life after the 'end of history'**

Jacques Derrida has recently noted, very provocatively, that it is Adam's pre-lapsarian naming of the animals, and the consequent separation of human and animal life, that marks the beginning of human history (Derrida 2002: 385-387). Symmetrically, a number of eschatological texts suggest that, during the interlude between 'the end of days' and the 'day of judgement', when the divine law will be suspended, the boundaries between humans and animals will once again be blurred beyond recognition. As Giorgio Agamben has noted, this millenarian motif once prompted a debate between Alexandre Kojève and Georges Bataille over the fate of humanity after the end of the historical dialectic, when all fundamental antinomies would be finally resolved (Agamben 2002: 15-18). According to Kojève,

The disappearance of Man and the end of History ... is not a cosmic catastrophe: the natural World remains what it has been from all eternity. And therefore, it is not a biological catastrophe either: Man remains alive as

animal in harmony with Nature or given Being. What disappears is Man properly so-called, that is, Action negating the given, and Error, or, in general, the Subject as opposed to the Object. In point of fact, the end of human Time or History, that is, the definitive annihilation of Man properly so-called or of the free and historical Individual, means quite simply the cessation of Action in the full sense of the term. Practically, this means: the disappearance of wars and bloody revolutions. And also the disappearance of Philosophy; for Man himself no longer changes essentially, there is no longer any reason to change the (true) principles which are at the basis of his understanding of the World and of himself. But all the rest can be preserved indefinitely; art, love, play, etc., etc.; in short, everything that makes Man happy (Kojève, as quoted in Agamben 2002: 14-5).

The question Bataille and Kojève then debated was whether humans who were no longer preoccupied by questions of ‘difference’ could be described as ‘happy’, as opposed to being merely ‘content’. For Bataille, sheep grazing on rich pastures might be said to be content, but certainly could not be said to be happy. Basically, he refused to accept Kojève’s implicit view that the aesthetic life of ‘art, love, play’ somehow was less than ‘superhuman, negative and sacred’ (Bataille, as quoted in Agamben 2002: 15). If, with the ‘end of history’, humanity finally escaped the prison of reason, the ‘man of the future’ should not be understood as then becoming somehow comparable to a ‘contented’ animal. Bataille proposed instead that the ‘man of the future’, a ‘future’ that in his view was already manifest, was better understood as an ‘acephalic man’, a ‘negativity without employment’ that expressed its distinctive nature in ‘eroticism, laughter, and joy before death’ (Bataille, as quoted in Agamben 2002: 16-17). While Kojève and Bataille never settled their disagreement, Kojève eventually came to view the late-modern, global triumph of capital as the end of the dialectic, and argued that post-historical life was becoming so purely formal that contentment and happiness could no longer be distinguished. In his view, the extreme example of this post-historical, hermeneutically void life was offered by the ‘perfectly gratuitous suicide, which has nothing to do with the risk of life in a fight waged for the sake of historical values’ (Kojève, as quoted in Agamben 2002: 22-3).

While objecting to the philosophical idealism, which clearly informed these arguments and contrasting claims about the future of humanity, Agamben believes that an inquiry into emergence of the post-historical human form is none the less urgent since the material and institutional boundaries between human and animal life are everywhere manifestly collapsing. Following Michel Foucault, but also taking issue with the latter’s argument that this collapse is due to a peculiarly modern construction of political order, Agamben articulates the renewed inquiry into the boundaries between human and animal life along two

related lines, namely biological and juridical.<sup>2</sup>

Firstly, Agamben notes that, where we would use the term ‘life’, Classical culture distinguished between two forms of existence, zoē and bios. Zoē referred to the form of life shared by humans and animals alike, a form concerned with material sustenance and reproduction. Bios referred instead to the ethical and political form of life that was oriented toward the realisation of the polis and, as such, was peculiar to humans alone (Agamben 1998: 3-5). For Aristotle, however, this was insufficient since the social habits of some animals blurred the distinction. Yet, his effort to explain the origin of human institutions without recourse to the Platonic eidos and all the categorical distinctions predicated thereon was fraught with ambiguities that he was never able fully to resolve. Consequently, Agamben argues, discovering what is peculiar to the ‘anthropophoric animal’, that is, what is distinctive about the animal bearing human characteristics, has entailed an endless comparative dissection of life, focusing most recently on the location of animal life in the very inner being of human life (Agamben 2002: 30). As Richard Dawkins announces that the decoding of the human genome is best understood as the rendering of the Biblical ‘word’ into ‘flesh’, the working of the ‘anthropogenic machine’ set in motion by Aristotle reaches its end: bios and zoē materially become one (Dawkins 2001; see also Palladino 2002: 206-208). Secondly, Agamben also argues that, on Aristotle’s definition of the ‘human’, the law is the sole guarantor of the separation of bios and zoē. Again, because Aristotle rejected the Platonic eidos, the authority of the law then has to rest on the possibility of its suspension and the implicit threat of reversion to animal life. Today, Agamben notes, this brutal, but essential, truth of the law is everywhere obvious, as the internment of refugees emphasises how much contemporary notions of ‘citizenship’ and immunity from the arbitrary power of the ‘sovereign’ do not rest on inalienable ‘human rights’, but on the contingencies of birth, on the contingencies of humanity’s species existence (Agamben 1998: 126-135).

Significantly, for Agamben, the comatose in a ‘persistent vegetative state’ provides the most striking exemplification of the fate of ‘bare life’ as the historical process he articulates reaches its conclusion. With the advent of a millennial ‘zone of indistinction’, being alive or dead becomes a matter of the bio-medical and juridico-political determination of the ‘life unworthy of being lived’, the notorious legal concept that paved the way to the Holocaust (Agamben 1998: 136). Not surprisingly, Agamben concludes still more ominously that the ‘camp’ is the future (Agamben 1998: 166-180).

A problem arises, however, when the denuded ‘anthropomorphic animal’ itself decides that its life is ‘unworthy of being lived’. Arguably, this is in fact a supreme gesture of sovereignty, though one might want to recall Kojève’s remarks about the emptiness of suicide after the ‘end of history’.

### **(Un)principled arguments**

There can be little doubt that the Law Lords were sincerely moved by Diane Pretty’s difficult situation. Yet, they also maintained that they were bound to uphold the ‘sanctity of life’, the principle that human life should always be protected as far as is humanly possible (House of Lords 2001: para. 5). Moreover, if Pretty’s medical condition made it impossible for her to commit suicide, this was a power over which legal institutions had no control, and, as such, these institutions could not be construed as having violated any rights that Pretty might otherwise enjoy (House of Lords 2001: para. 19). In fact, it seemed to the Law Lords that Pretty’s lawyers had misinterpreted the Suicide Act (1961), insofar as it simply decriminalised the taking of one’s own life, and did not confer any ‘right to death’ (House of Lords 2001: para. 35). According to Pretty, however, the law failed to recognise how contemporary bio-medical technology was bringing about a situation where the paradoxical notion of a ‘living death’ was becoming a mundane reality. In fact, she had become so completely dependent on others, human and nonhuman, that, when asked whether life was not better than death, she would answer: ‘I am dead’ (Barclay 2002). For Pretty, being dead or alive was not a matter of categorical opposition, but part of a continuum whereby death might sometimes be preferable to life. As such, her unquestionable right to ‘human dignity’ entailed both a legal recognition of her freedom to choose between life and death, and the sanctioning of any mechanisms that would realise such freedom (McVeigh 2001; see also Dyer 2001).

From this perspective, Pretty’s case might then be summarised as a clash between two fundamentally different conceptions of the relationship between life and death, which are usually characterised as ‘sanctity of life’ and ‘quality of life’ arguments.<sup>3</sup> Yet, other aspects of the case cast doubt on this all too seductive construction.

The Law Lords were in fact less than convinced about the ‘sanctity of life’, and the corollary

beliefs ‘that euthanasia and assisted suicide are always wrong’, as operative fundamental principles, especially in a society where ‘many millions do not hold these beliefs’ (House of Lords 2001: para. 54). Moreover, when previously asked to consider the case of Tony Bland, a comatose ‘living’ in a ‘persistent vegetative state’, the Law Lords agreed to allow the withdrawal of the medical support that had kept Bland alive for four years. Bland died promptly thereafter. According to the Law Lords, this course of action did not constitute ‘murder’ because, even if the withdrawal of medical support was bound to result in Bland’s death, there was no ‘intention’ to kill Bland. If there is any point of agreement between most thoughtful proponents and opponents of euthanasia, such as Peter Singer and John Keown, it is that this decision was not based on any principled defence of the ‘sanctity of life’ (Singer 1994: 57-80; Keown 2002: 217-281). The Law Lords were quite capable of determining where the boundaries between life and death should be drawn, and they did so on the basis of pragmatic considerations. Similarly, the Law Lords’ rejection of Pretty’s request rested largely on their view that her preference for death did not outweigh their legal responsibility toward the life of others who might be less capable of resisting unwarranted, external pressure to bring their lives to an end (House of Lords 2001: para. 15). In other words, the Law Lords’ position was utilitarian and consequentialist, rather than principled (see Oxenham and Boyd 1997).

Pretty’s position was no more consistent. She wanted to die at home and leave her death in the hands of her husband. As she put it in one of her many interviews: ‘If I am allowed to decide when and how I die, I will feel that I have wrested some autonomy back’ (Dyer 2001). To do so, this ‘vulnerable’ woman, who lived completely ‘in the thrall of machines’, took advantage of another machine, her ‘lightwriter’, to publicly downplay both her ability to commit suicide on her own and the relief offered by palliative medicine (Barclay 2002; see also Lawson 2002). She emphasised instead how the law was forcing her to endure insufferable agony, and how, under such conditions, her agony could only end with her drowning in her own saliva (Barclay 2002). This and other similarly horrific images allowed Pretty to mobilise the public and the media to understand the case as an unambiguous confrontation between a very problematic legal principle, ‘the sanctity of life’, and its inhuman consequences. For Sarah Barclay, who was involved in the production of a BBC documentary on the case, the law was forcing Pretty to live like a ‘tortured animal’. As she put it:

When Diane Pretty wants to tell you something, she makes a noise that is a

cross between a grunt and a moan ... If no one can understand what Diane is trying to say, the grunt becomes a low-pitched scream. If you still cannot understand, it starts to get louder. Eventually, she opens her mouth wide and howls, a sound which makes the hairs stand up on the back of your neck. You can hear this cry from halfway down her street. If you did not know that Diane Pretty lived in that house, you would think it was an animal being tortured (Barclay 2002).

A personal preference for the timing and manner of one's death was thus transformed into a public campaign for the legalisation of 'assisted suicide' (see Lyons 2002). Significantly, this was such a 'good story' about the evils of sovereign power that, when some journalists insisted on describing Pretty as someone completely dependent on others, Pretty would sometimes object (Barclay 2002). Pretty's success in pursuing her case as far as she did depended on her very careful choreography of 'strength' and 'vulnerability', and a good deal of confusion of boundaries between the 'human', the 'animal' and the 'machine' (Birkett 2002; see also Cussins 1996).

In sum, every position articulated during the eleven months between Pretty first request that her husband be allowed to aid her suicide and her death on 12 May 2002 was historical and untrue to any categorical distinction. Strikingly, even Pope John Paul II, an intransigent defender of the 'sanctity of life', has found himself at a loss when confronting the power of contemporary bio-medical technology to extend life to the point where the ill and the elderly might desire death. All that he has been able to do is evoke the increasingly doubtful notion of a 'natural' span of human life, beyond which physicians should simply allow patients to die (Rome and Browne 2002; see also Caygill 2000a). The question then is whether this situation exemplifies the realisation of Giorgio Agamben's 'zone of indistinction', or it is instead a symptom of the inadequacies of Agamben's genealogy.

### **The crisis of the Enlightenment**

In his own recent writings on the lives of humans and animals, John Gray notes how the categorical distinctions between these lives are deeply rooted in Judeo-Christian notions of the 'fall' and the possibility of 'salvation' by purging humanity of all traces of its post-lapsarian animality (Gray 2002). He also adds that these Judeo-Christian notions, often disguised by their neo-Platonic renditions, continue to manifest themselves in the common belief in 'human progress' through the technological mastery of everything, including the 'animal' and the 'human'. The failings of such redemptive thought are so innumerable to list



that Gray prefers to then conceive of the human condition as a 'tragedy' (Gray 2002: 194). If tragedy presumes transgression, the transgression lies in the failure to recognise that,

The ideal of the chosen life does not square with how we live. We are not authors of our lives; we are not even part-authors of the events that mark us most deeply. Nearly everything that is most important in our lives is unchosen. The time and place we are born, our parents, the first language we speak, these are chances not choice. It is the casual drift of things that shapes our most fateful relationships. The life of each of us is a chapter of accidents.

Personal autonomy is the work of our imagination, not the way we live. Yet we have been thrown into a time in which everything is provisional. New technologies alter our lives daily. The traditions of the past cannot be retrieved. At the same time we have little idea of what the future will bring. We are forced to live as if we were free.

The cult of choice reflects the fact that we must improvise our lives. That we cannot do otherwise is a mark of our unfreedom. Choice has become a fetish; but the mark of a fetish that is unchosen (Gray 2002: 110).

In other words, the world is devoid of reason, and life is a meaningless interlude between birth and death.

Strikingly, Gray repeatedly bolsters his nihilism by turning to 'the lesson of evolutionary psychology and cognitive science' (Gray 2002: 79). Despite his assertions that human certainties about the nature of the world are delusional, his own certainty about the meaninglessness of human life is grounded in a socio-biological understanding of life, human, animal and machinic, whereby human history is nothing but the accidental product of a thoroughly orderly struggle. Thus, Gray argues that,

Thinking of our bodies as natural and of our technologies as artificial gives too much importance to the accident of our origins. If we are replaced by machines, it will be in an evolutionary shift no different from that when bacteria combined to create our earliest ancestors. (Gray 2002: 16).

Moreover, if Gray objects to Thomas Hobbes's understanding of the emergence of political order, perhaps because such understanding is accompanied by an unwarranted faith in human progress, the evolutionary struggles in which Gray grounds his nihilism are in fact predicated on the naturalisation of the Hobbesian individual, totally autonomous and brutally competitive (Gray 2002: 28).

Thus, whereas René Descartes appealed to a benevolent God to secure his understanding of the world, an understanding that was less than sympathetic toward animals, Gray turns instead to Richard Dawkins' 'blind watchmaker', who draws no distinctions between humans and animals (Dawkins 1986; see also Shanahan 2001). Judeo-Christian dualism is not discarded, but simply inverted, so that the 'good' lies in freeing the body from all pretence that we are anything other than moved by our need for sustenance and the imperative of reproduction. Significantly, David Marquand has recently noted how Gray's nihilism speaks volumes about Gray's tacit, unwavering belief in 'original sin' (Marquand 2002; see also Bauman 1992: 88-91).

If Gray exemplifies the bewildering effects of the pervasive convergence of political and biological thought, Giorgio Agamben articulates the present crisis by turning to Martin Heidegger's thoughts on the relationship between human and animal. The ultimate consequence of the emptiness at the heart of modern conceptions of the 'human' is that the 'anthropophoric animal' now oscillates hysterically between two poles. On the one hand is the temptation to ignore the unfathomable mystery of humanity's relationship to its own animality, and then attempt to take charge of such animality by bio-political means. On the other hand is the temptation to embrace animality, by way of the aestheticisation of 'life' (Agamben 2002: 121). Either pole leads to a 'politics of death', as the paradoxes of National Socialism amply attest (see Herf 1984).<sup>4</sup> For Agamben, the only way out is to transcend the concept of the 'anthropophoric animal', by rejecting any attempt to articulate a relationship between human and animal life, because any such attempt will always fall back into the dilemma that Heidegger highlights. The way forward is provided by Walter Benjamin's own poetic reflections on life after the 'end of history' (Agamben 2002: 122-126). Now, however, the millennial blurring of distinctions between the human and the animal should be understood as the realisation of Heidegger's *Gelassenheit*, a quiet humility before the mysteries of the world (Agamben 2002: 132-138).

Significantly, Jacques Derrida's thoughts on the 'human' and the 'animal' suggest that Agamben's conclusion underscores a fundamental understanding of human life as melancholic waiting for death. Following Agamben, we can at best note how Diane Pretty's case marks the extent to which we internalised a bio-political order that will eventually transform everyone into 'bare life'. The 'camp' is the future, a dystopian future of our own

making. Despite Agamben's rejection of Alexandre Kojève and Georges Bataille's idealism, 'bare life' is the new transcendental truth, though now transmuted into 'absolute evil' (Derrida 2002: 387-392; see also Žižek 2002: 136-141).

### **The coming 'politics of life'**

Arguably, Paul Rabinow and Bruno Latour's very different approaches to 'life' offer an alternative to the seemingly inescapable 'politics of death'.

Giorgio Agamben's reading of the Classical distinction between bios and zoē lies at the heart of Rabinow's most recent inquiries into contemporary developments in the field of bio-medical technology (Rabinow 1999: 13-17). Rabinow is the first to acknowledge that these developments are radically altering our understanding of humanity, as it becomes possible to envisage a future where human beings will be designed like any other technological artefact. Yet, he rejects Agamben's dystopian vision of the future and its underlying Foucauldian 'hermeneutics of suspicion', whereby such developments should be disclosed as figures of some more stable discursive configuration, namely the deadly discourse of 'bio-power' (Rabinow 1999: 173). Rabinow's increasing concern with the event of novelty, which Michel Foucault was never able to fully confront, leads him to abandon Foucault for Gilles Deleuze.<sup>5</sup> Deleuze would appear to offer the possibility of a more positive engagement with the mundane world of human labour, witnessing, for example, how people appropriate and manipulate the biological constituents of human and animal bodies so as to construct new identities for themselves and profoundly reconfigure the socius (Rabinow 1996: 91-93).<sup>6</sup> While this might very well mean that 'the man of the future will be filled with animals', this does not mean that Rabinow is rejecting bio-power for the socio-biological constitution of the world (Rimbaud, as quoted in Rabinow 1996: 92; see also Deleuze 1988: 124-132). He is simply noting that who we are is no longer a matter of deciphering the contours of a transcendental figure trapped in the mortal body of the animal, be it the sublime 'soul' or the abject 'gene'. It is instead the effect of the playful recombination of cultural artefacts, including the artefacts of bio-medical technology. Hence, the coming formation should be more properly understood as 'bio-social'. Needless to say, avoiding falling back into the Judeo-Christian narrative or its Illuministic translations and inversions also entails the adoption of a new ethic of being, which Rabinow summarises as:

An experimental mode of inquiry ... where one confronts a problem whose answer is not known in advance rather than already having answers and then seeking a problem (Rabinow 1999: 174).

Elsewhere, I have argued that Rabinow's implicit, normative denial of historical consciousness should be understood as actively contributing to the coming post-historical condition (Palladino 2002: 198-202; see also Bauman 1992). This said, Rabinow is still very much the anthropologist interested in how the human is constituted today, as the boundaries between humans, animals and machines are far less secure than they once were (Rabinow 1999: 180-182). Latour, instead, is committed to press the argument beyond Rabinow's renewal of nominalist epistemology, toward the redefinition of ontological categories (Latour 1999a: 21-22).<sup>7</sup>

Latour rejects all transcendental principles that might secure a categorical distinction between humans, animals and machines. The construction of entities and their meaning is instead the laboured and mundane product of 'circulating reference', which ties together a system encompassing a multitude of actors, human and nonhuman. Moreover, such mundane labour is not the product of mathesis, the science of strategic calculation, but of metis, the 'clever and crooked path of technical know-how' (Latour 1999a: 174). Latour's guiding motto is: 'essence is existence and existence is action' (Latour 1999a: 179). Such emphasis on action also means that every moment, however seemingly insignificant, should be understood as the advent of something radically new. As Latour puts it:

Nowhere in this universe, which is not of course nature, does one find a cause, a compulsory movement, that permits one to sum up an event in order to explain its emergence. If it were otherwise, one would not be faced with an event, with a difference, but only with the simple activation of a potential that was there all along (Latour 1999a: 153).

This understanding involves the rejection of historical time for a version of kairological time, the millennial time. This modality of time, however, is no longer understood in its Judeo-Christian reformulation as the interlude between the 'end of days' and the 'day of judgment' (Latour 1999a: 242; see also Alliez 1996). Kairological time is instead returned to its original Classical meaning as 'the moment when the course of time, insufficiently directed, seems to hesitate and vacillate, for the good as well as the bad of man' (Pierre Aubenque, as quoted in Alliez 1996: 244).

From this perspective on the passage of time and the mundane, material entanglement of all human action, it is perhaps not surprising that Latour should have no time for subjective, if not melancholic, relationships between humans and animals. They are all prey to empirically unwarranted anthropocentrism (Latour 1999b: 42-50). Latour is instead quite prepared to consider animals and other nonhumans as 'things', albeit on the condition that humans should also be understood as 'things', or, more precisely, on the condition that these humans recognise how concepts such as the 'human' and 'things' trap them into the Heideggerian cycle of violence: either bio-power or the aestheticisation of 'life' (see Latour 1999a: 174-215).

On Latour's account, Diane Pretty might then be understood as one of the heterogeneous multitude, all those invisible and countless parties that enable, but also suffer at the hands of the law. In the metistic fashion of this multitude, Pretty draws together material artefacts such as the 'lightwriter', people such as the lawyers and journalists in need of a 'good case' or a 'good story', and institutional organisations such as the Voluntary Euthanasia Society and Liberty. In so doing, she becomes someone who counts politically. She can publicly reveal both the incoherence and fundamental violence of the law, as it divides the world between those who can determine the boundaries between life and death and those who cannot, sometimes preferring to devolve its authority on machines rather than humans (Riddell 2002). According to Latour, what we then need is a new democratic order that is more fully aware of the enslaving work accomplished by technologies of power, such as the categorical distinctions between humans, animals and machines, and that will thus emancipate the multitude from its bonds of servitude (Latour 1999a: 174 and 266-292). If anything summarises Latour's motivations, it is his rephrasing of the Rousseauvian motto 'Man was born free, and everywhere he is in chains' into 'Nonhumans are born free, and everywhere they are in chains' (Latour 1999a: 172).

Latour's understanding of the world and its ordering certainly is more promising than Agamben's apocalyptic vision and passive response to the changing relationship between humans, animals and machines. Yet, the positive, exhilarating reading of Pretty's case, which Latour enables, should be balanced against the manner in which Pretty also is a party to the disaggregation of all human bonds of solidarity. Three sets of conceptual problems within Latour's framework help to clarify the reasons for such ambivalence.

Firstly, when articulating his understanding of the ‘multitude’, Latour often elides the difference between the ‘multitude’ and the ‘mass’. For example, he turns to Plato’s Gorgias to illuminate the authoritarian foundations of the most basic cognitive categories to which contemporary thought on humans, animals and machines is heir (Latour 1999a: 216-235). The demos, who Plato famously despised, should be understood as exemplifying the ‘multitude’ that Latour wishes to free. Yet, Latour overlooks how the demos already constituted a political order, which excluded women, slaves and foreigners, and how the agora in which it articulated its grievances was a highly codified space. As Deleuze and Félix Guattari would note, the same could be said of the ‘mass’, a thoroughly historical rendition of the ‘multitude’ (see Latour 1992). Moreover, if it is in fact the ‘mass’ with which Latour is concerned, the desires of the ‘mass’ should not be conflated with the desire that impels the disruptive movements of the ‘multitude’. The former is nothing but the historical ‘anti-productive’ desire for that which the ‘mass’ does not enjoy, namely the power of sovereignty (Deleuze and Guattari 1984: 1-16; and 1988: 208-231). In other words, the ‘mass’ is motivated by resentment and as such already exists in the shadow of the law (Nietzsche 1996: 22-25; see also Deleuze 1985). The question, however, is what is the nature of this law. Pretty’s uncompromising insistence on her right to the complete determination of the manner and timing of her death certainly points to the atomistic individualism of capital.

Secondly, Latour himself provides no explicit account of the forces impelling the movements of the multitude or the mass, because he is concerned with effects rather than causes. Yet, his retrospective accounts of the interactions from which new entities come into the world repeatedly evoke an underlying Hobbesian assumption of autonomous, competitive individuals (see Latour 1988). He would appear to ignore alternative possibilities, such as Deleuze’s turn to a Humean understanding of the individual, whereby the primary desire is for unity, and conflict is a secondary consequence of such desire (see Deleuze 1991: 37-54). The implications of the preference for Hobbes rather than David Hume are twofold. Entanglement with others is based on the purely negative terms that characterise contemporary neo-Liberal ‘contractualism’. Moreover, the advent of novelty is then formal rather than substantive, and, as such, it is always reversible: contracts can always be rescinded and the historical situation resulting from the contracts can equally be returned to the prior order.<sup>8</sup> This is the striking presumption of ‘communitarianism’, and its argument that the destruction of historical bonds of solidarity wrought by capital can simply be undone by a ‘new contract’, or a ‘new constitution’ (see Latour 1993).<sup>9</sup> It seems to me that it is from

just this perspective that we might begin to unravel not just Pretty's implication in the dynamics of capital, but also the paradoxical concomitance of denunciations of all residual attachment to Judeo-Christian values, such as the 'sanctity of life', and the celebrations of Pretty's death with the words 'she is free at last' (Riddell 2002; Dyer 2002). This is not so much a contradiction, occasioned by the incomplete secularisation of contemporary society. Rather, it is a symptom of evacuation, such that the performance of Pretty's trial and death was undoubtedly spectacular, but also hermeneutically void (see also Botting 1999).<sup>10</sup>

Thirdly, and finally, Latour fails to note a performative contradiction, which is best captured by the paradox of Jean Jacques Rousseau's Social Contract, whereby humanity would only realise its freedom under the rule of law (Rousseau 1968: 83). If action is, as Latour maintains, immanent with the multitude or mass, then it is perfectly reasonable to expect that, one day, animals and machines themselves will realise their freedom. Indeed, it is just possible that at some point in the post-revolutionary future, a nonhuman historian will recall humans as 'little more than ... industrious insects pollinating an independent species of machine-flowers that simply did not possess its own reproductive organs during a segment of its evolution' (De Landa 1991: 3). Like John Gray, Latour is not unduly worried about this prospect. Yet, on Latour's account, nonhumans' freedom would none the less seem to require a 'lawgiver' to write the 'new constitution' and thus enable the advent of the 'parliament of things'. Not only will this new legislator's actions require a motivating, transcendental principle, but also what this principle is remains unclear. Perhaps what motivates Latour is in fact the same nightmare that haunts Agamben, and Heidegger before him, that of an 'autonomous technology' (see Winner 1977). It is simply too horrible to contemplate what might happen if the multitude were to liberate itself. The multitude must therefore be tamed according to the neo-Liberal principles underpinning contemporary notions of democracy. The other is welcome as long it surrenders its radical alterity, by allowing us to become more like it, but, preferably, by it becoming more like us (Žižek 2002: 64-66).

In sum, others' silent, but inescapable omnipresence, which compels Latour's impossible desire to speak of them, in themselves and for themselves, cannot escape the asymmetry and inevitable, impending violence of the situation (Derrida 2002; see also Dillon 1999). Latour's implication that time is not affective entails an escape from responsibility for 'I', the performatively, if not historically, separate from the multitude. Echoing Latour, and contradicting him, humans' present, fraught relationship with animals and machines may be a

historical construct, but it cannot be undone without denying humans' irreversible and finite existence in the time opened by the naming of the animal (and other nonhumans).

### **Why 'sanctity of life' is worth defending**

The arbitrariness of death's toll, that moment in which humans thus come closest to being like an animal, cannot be escaped. Ontologically, humans may not be categorically distinct from animals and other nonhumans, but historically they are quite so. At the very least, the whole history of the Enlightenment is a history of denying any form of submission to arbitrary powers such as those that characterise animals and other nonhumans' existence. Today, this denial takes the form of questions about the boundaries between life and death. Taking responsibility for this historical situation and its consequences, that is, becoming a 'political animal', means making sense of the inescapable and fraught relationship to others, and then acting upon our reflections, under conditions of radical incalculability and uncertainty (Žižek 2002: 152-154; see also Caygill 2000b).

Diane Pretty sought to challenge the exclusive power of the law to determine the boundaries between life and death. Her efforts should be welcomed, but it should also not be forgotten that the very conditions whereby her voice could be heard means that she is no representative of the multitude upon which the power of the law rests (see Rancière 1998: 1-19). Her determination to end her life under conditions of her own choice may indeed be a gesture of sovereignty, but sovereignty always entails violence, in this case toward the plurality of sick and infirm who might choose death simply to relieve all those who have to care for them. The question is before whom such violence might be justified. What is at stake in Pretty's case is not the coming 'suspension of the law', whereby all that we are is the bodies 'filled with animals' of the interlude between the 'end of days' and 'the day of judgment'. It is instead the thorough evacuation of time and being advanced by the law of capital. Not to think about this issue, not to think about the law or pretend that it carries no weight because it is a mere historical artefact, would be no more than to live like Georges Bataille's contented sheep.

Consequently, I will conclude by maintaining that the law was indeed 'an ass', but not because it failed to adapt, but because it was unwilling to uphold principle, an understanding of life as a supreme gift, and to do so despite all the new uncertainties that arise from the role of bio-medical technology in reshaping the boundaries between human, animals and



machines. In so doing, it foreclosed the room for any renewal of the dialectic between Plato and Aristotle, the very ground of a politics that is oriented toward life rather than death. Yet, if I echo Slavoj Žižek (2000), in calling for a defence of the ‘sanctity of life’ in such uncompromising terms, effectively ignoring the historical defeat of such concepts, I cannot but wonder if I am not in fact engaged in intellectual terrorism that speaks volumes about having already become one of Bataille’s sheep, which grazes on rich pastures, ‘conscious and yet resigned to the coming slaughter’ (Bataille, as quoted in Agamben 2002: 18).<sup>11</sup> As John Donne once said, ‘Never send to know for whom the bell tolls; it tolls for thee’.

## Notes

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<sup>1</sup> Arguably, this is a peculiarly modern construction of death. It entails an understanding of death as the ultimate submission to arbitrary power. Moreover, such power so defies any reflective understanding that it undermines all the distinctions between the human and the animal which secure modern humanism. See Ariès (1987): 405 and Bauman (1992): 12-50. Significantly, in his novel *The Lives of Animals*, James Coetzee repeatedly evokes this connection between humans, animals and death. While the novel’s main protagonist, Elizabeth Costello, is deeply concerned about the cruel relationship between humanity and the animals it exploits, the reader is repeatedly reminded that Costello’s death is impending, and that only in death will she find relief from her profound sadness about the fate of animals.

<sup>2</sup> Strikingly, Agamben’s approach, whereby the problems of modern bio-political order are traced back to a Classical compact, echoes Derrida’s critique of *Folie et Déraison*, as articulated in Derrida (1978).

<sup>3</sup> On fears of enduring a ‘living death’ and their relationship to the modern reconfiguration of death, see Ariès (1987): 396-401. On the difficulties arising from contemporary efforts to maintain a meaningful distinction between ‘sanctity of life’ and ‘quality of life’, see instead Singer (1994): 106-131.

<sup>4</sup> For a further, striking illustration of this paradoxical understanding of the relationship between humans and animals, see Barbara Smuts’ essay, appended to Coetzee (1999). Although Smuts is a renowned evolutionary psychologist, whose work is integral to the evolving field of socio-biology and its unrepentant reduction of human life to the objective conditions of animal life, her essay evokes an intensely subjective relationship to animals.

<sup>5</sup> As is widely understood, Foucault rejects all notions that oppositional arguments are in any way external to power, and argues instead that such arguments can only be historically meaningful insofar as they are understood as co-constitutive of an evolving discourse; see Foucault (1980b). Arguably, however, Foucault could only advance this argument by ignoring the dynamics of spatio-temporal dislocation; see Foucault (1980a) as well as Deleuze and Guattari (1994).

<sup>6</sup> Significantly, Agamben notes how Deleuze provides an alternative to the Heideggerian impasse, describing it as an ‘attempt to think of the animal in a fashion that is absolutely not anthropomorphic’, but he never fully engages with this alternative, dismissing it as simply reproducing ‘bare life’ and its attendant problems. See Agamben (2002): 63 and (1999): 236.

<sup>7</sup> On the differences between Rabinow and Latour, see Rabinow (2000). On the relationship between Latour and Deleuze, Latour certainly acknowledges his debt to Deleuze, but its full implications are unclear. At the very least, they both draw heavily on Spinoza’s monism; see Deleuze (1990) and Latour (1988).

<sup>8</sup> Admittedly, Latour is less than clear when he writes ‘I can simply say that I have inherited Pasteur’s microbes, I am the descendant of this event, which in turn depends on what I make of it today’ (Latour 1999a: 168). While he bolsters this point by referring to Stengers (1993), thus suggesting some sense of the irreversibility of historical processes, this is inconsistent with his simultaneous dismissal of any principle of causation. Moreover,

Latour (1987) suggests that processes of construction can be reversed, in principle, if not in practice.

<sup>9</sup> For an introduction to the issues at stake in understanding the fraught relationship between ‘contractualism’ and ‘communitarianism’, see Cohen (2000) and Jayasuriya (2002).

<sup>10</sup> The implicit distinction between the formal qualities of mortuary ritual and hermeneutics might go some way toward reconciling Ariès’ claim that modernity is characterised by the ‘disappearance of death’ and Clive Seale’s contrary view that ‘we live in a cultural environment containing a plethora of discursive representations of death’; Seale (1998): 144. See also Bauman (1992).

<sup>11</sup> Strikingly, Olivier Roy (2002) argues that Osama bin Laden’s attacks on the symbolic centres of capital are symptomatic of the more general, historical failure of Islam to provide a viable political alternative to Western geo-political order, which then only allows for individual acts of terrorism that are fundamentally pointless. At best, such acts guarantee the terrorist’s individual salvation. I wonder whether the same might not be said of Žižek, as he too seeks impossibly to escape the logic of capital; see Žižek (1999) and Palladino (2002): 224-229.

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