

## **Political Theology of Abolitionism:**

### **Beyond the Death Penalty**

Vincent Lloyd

Political slogans captivate, circulate, and mutate at an astounding speed. This is not only or especially because of social media, though social media may be an accelerant. New media and old, and very old – personal communication through networks of friends and neighbors – carry the phrases that crystalize the sense of the times. These phrases mark anxieties, solidify identities, and name future possibilities. In the context of the United States, “black power,” “women’s liberation,” “microaggression,” “intersectionality,” “revolution” (as espoused by Bernie Sanders), and “the resistance” (against Donald Trump) each found audiences in the past half century. To embrace, or retweet, such slogans is to identify with a collectivity, to announce participation in a political movement. However, the content or program of such a movement remains underdetermined by its slogans. Slogans mark that there is *something* shared, something amorphous, part feeling and part condition and part desire; what is clear and definite is the collectivity, that individuals at a distance from each other, unknown to each other, share *something* significant.

Certainly, those who embrace a slogan may think that it points to a quite concrete political program, and they may articulate elements of that supposed program. In most cases, however, these elements will be relatively incoherent, and they will stand in tension with other beliefs and desires that individuals embrace. In newspaper and magazine articles, public intellectuals reflect on that *something* that a slogan tries to name, and in the organizational infrastructure identified with a slogan, at movement conferences, in newsletters, and in

memoranda, organic intellectuals provide deeper explication and analysis. This behind-the-scenes work, in which dozens or hundreds of leaders participate, rather than tens or hundreds of thousands, or more, can go astray when it forgets that political slogans function as crucial anchors mobilizing broad collectivities. In the interest of social analysis, historical contextualization, and theoretical rigor, the discussion among intellectual leaders can turn insular, forgetting the phrases that activated the masses. The case of the Black Panther theoreticians' turn from "black power" to "inter-communalism" is a particularly striking example.

Politics is not philosophy: critical thought itself, even when informed by practice, cannot act as an engine to guide a movement to its desired ends.<sup>1</sup> There must be a delicate balance between critical thought, informed by practice, and the grassroots languages that bind together collectivities. Slogans (today, hashtags) provide an occasion for critical analysis but also a continual check on that analysis. Theoreticians must never forget the relatively superficial level at which political slogans are embraced and the fundamental ambivalence that accompanies them – and the precariousness with which collectivities are constituted. It is true that without deeper analysis those collectivities will fizzle or will be politically inefficacious, but it is also true that the most sophisticated analysis that neglects the grassroots, that neglects the phrases that link collectivities, will have little effect, and the result will be very much the same as if there were no analysis at all.

Political theology, when it is engaged with social movements, often sees itself as an arrow in the quiver of critical analysis, allowing for deeper understanding of the dynamics shaping the political issues of the day, whether they be immigration, racism, patriarchy,

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<sup>1</sup> See Guess, *Philosophy and Real Politics*.

homophobia, environmental justice, or the prison system. But embracing political theology when understood in this way, as one of the methods used behind the scenes, in the politically-engaged academy or among organic intellectuals, threatens to lead social movements astray. This disposition of political theology neglects the grassroots: it neglects the slogans that bind disparate individuals and prime them for collective action. Is there a way that political theology can address both the grassroots and deep structures, taking seriously both hashtags and rigorous ideology critique?

In what follows, I experiment with such a method, with a focus on abolitionism. This is a political slogan that is increasingly embraced on the left, embraced because of its resonances with nineteenth-century anti-slavery histories but also because of its amorphousness, its ability to link a wide range of systems of oppression that are all to be uprooted in the name of justice. In part, the current circulation of the language of abolition is a story of mutation, for abolitionism was once a language that linked collectivities opposed to the death penalty, and that history is not unimportant to today's abolitionists. I take Jacques Derrida's work on the death penalty and its abolition as an attempt to link the grassroots and ideology, to link the language of a movement that circulates swiftly and superficially with a deeper analysis, and to approach both by means of political theology.<sup>2</sup> In other words, I see Derrida's work, even though it is conventional in its focus on the concept of sovereignty, as a prototype for a new method in political theology that links grassroots movements and ideology critique, but I also worry that Derrida's work does not

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<sup>2</sup> Note also that political theology, for Derrida, is not just one arrow in the critical quiver but inextricable from critical analysis as such. For him, critical arrows cannot be individuated, as it were. From his perspective, there is no such thing as secular criticism, there is only criticism that engages with political theology, and specifically with Christianity. Gil Anidjar elaborates on this in his *Blood*.

realize its potential in this regard.<sup>3</sup> Its limits become evident when the frame shifts, as we learn from popular political discourse around abolitionism, from a focus on the death penalty to a focus on mass incarceration and then to abolitionism as such, abolitionism aimed at abolishing all forms of oppression. What, then, does it mean to explore the political theology of abolitionism today in a way that shares Derrida's methodological aspirations but that attends to the emergent collectivity named by abolitionism's current manifestation with its more thoroughgoing oppositionality – and its grander dreams?<sup>4</sup>

### Abolitionism Today

Today, abolitionism circulates widely and variously in American leftist politics. Abolitionism is no longer about abolishing this or that law or institution. It is a political stance, an attitude, a mode of engagement in general as well as on any particular issue of the day. Certainly social media is particularly conducive to the rise of abolitionism: social media is a place for performing affect and attitude. And social media is a place where affect and attitude is contagious: after seeing it for a while, we start performing it. Political positions on particular issues, and the slogans representing them, lead to conflict, argumentation, and distinction, but a political slogan that refuses the particulars in favor of a general disposition avoids provoking conflict or distinction – while retaining the possibility for contagion. At most, it provokes

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<sup>3</sup> In other words, we should not let Derrida's conventional subject matter (sovereignty) distract from the novelty of his method (linking grassroots movements to ideology critique). If Derrida was more faithful to his method, his subject matter would have changed: the spotlight on sovereignty would have dimmed.

<sup>4</sup> My point is not that abolitionists should learn from Derrida. Obviously it is not the role of academics to tell organizers what languages or practices to employ. If academics have a role, it is in telling stories and mapping ideological icebergs that may be useful to organizers. In order to do this effectively, I claim, Derrida provides tools. He also uses these tools to point to one largely submerged ideological formation, Christianity, that could be exploited by organizers.

curiosity: what does abolition mean? Abolitionism is not, of course, contained to social media; it circulates at protests, in organizing meetings, and at academic conferences (though these spaces are, in important ways, becoming isomorphic with social media spaces). In person, as online, abolitionism can circulate without dividing while intriguing, perhaps provoking.

In this way, abolitionism today stands (in some cases quite intentionally) in contrast to so-called identity politics. Because it names a stance toward political engagement, and because it is a relative newcomer to the contemporary American left's lexicon, abolitionism crosses traditional political divides – for example, between racial groups, between racial and economic-focused modes of analysis, and between gender and sexuality-focused political formations and other formations. Words like “radical” or “progressive” (or “leftist”) may have done some of this work at certain times and places, but now they are freighted with other meanings that muddy the waters – radical as opposed to reformist, progressive as a wing of the Democratic Party, left as opposed to right on the political spectrum. Similarly, terms like “democratic socialist” and “revolutionary socialist” that, when explicated, name something quite similar to “abolitionist” have been dragged into sectarian disputes on the hard left to such an extent that even the Trump-era resurgence of the organized hard left, in groups like Democratic Socialists of America, does not result in cross-cutting collectivities under these headings.

What is the attitude that abolitionism names, as it circulates in retweets and workshops, in protests and Facebook posts? Before turning to the official explications, those developed by the organic and academic intellectuals around the movement, let us point to three features that give the slogan its appeal at the level of the grassroots, as it circulates. First, abolitionism connotes the depth of change that is necessary in order to combat oppression. Just making prisons more comfortable does not suffice; they must be eliminated. Just electing more women to Congress is

not enough; patriarchy must be ended. Just providing police with body cameras is not enough; militarization and surveillance must no longer be part of everyday life. Second, abolitionism, suggests a commitment to uprooting all oppression, and so an acknowledgment of the ways different forms of oppression are, deep down, interconnected. Mass incarceration and patriarchy and militarism and imperialism and ableism and environmental injustice are each distinctive but each connected. There is no common denominator but a network of relations between the deep structures of these forms of oppression. Third, abolitionism connotes immediacy. Forming committees and study groups and step-by-step solutions are not responses that fit the problems. In the face of the magnitude of oppressions and their status as moral abominations, it is necessary to act today, even if we have little confidence that our actions today will hit the mark.

Here we can see the dimension of abolitionism which is, if not political-theological, at least irreducible to the secular. When it comes to politics, the secularist tends to be a pragmatist in the crude sense, disposed to approach politics by identifying problems, including those that are worthy of moral outrage, and responding with the appropriate solutions based on a careful understanding of social and historical conditions, acknowledging that the proposed course of action may not work but embracing it as calculated to have the best probability of success. The abolitionist dissents.<sup>5</sup> Rather than understanding prison conditions, or microaggressions, or homophobic violence, or the broken healthcare system, as problems to be assessed and addressed, the abolitionist takes these as pointers to systemic failings. At the very root of things, in the very way our world is ordered and in the very way we see our world, something is amiss. The world is fallen. If we ignore this condition and treat grassroots-level problems using the

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<sup>5</sup> I would make a distinction between secularists, who tend to be pragmatists, and those who embrace secularized political philosophy, who work in ideal theory.

resources given to us by the world, the systems of oppression that produced grassroots-level problems will simply produce more grassroots-level problems, and our unknowing reliance on those very systems as we attempt to fix problems will further entrench those systems. So the abolitionist is oriented toward deeper analysis, refusing the tools that the world would have us use but also refusing the time of the world, secular time. The abolitionist sees, feels, the urgency of moral abomination, requiring action today, this moment, not in a series of steps planned by committee over the coming days, months, years, or decades. The eschaton does not come after the years have run their course but rather is perpendicular to quantifiable time, urging us out of our time, urging us to turn away from the fallen world.<sup>6</sup>

While the novelty of the term means the institutions and infrastructure around it remain nascent, *Abolition: A Journal of Insurgent Politics* has positioned itself as a hub for intellectual work refining and orienting abolitionism today. Coordinated by an editorial collective including both those primarily identified with activism and with the academy, from George Ciccariello-Maher and Joy James to Mumia Abu-Jamal and Maisha Jahzara, a pseudonymous formerly incarcerated person, the web and (promised future) print journal have established a robust following – including more than 39,000 “likes” on Facebook.<sup>7</sup> As *Abolition* was establishing itself, it invited central figures in the intellectual abolitionist world to write brief reflections on the meaning of abolitionism. In these statements, religious resonances are very present. Dylan Rodríguez asserts, “Abolitionists are the people who imagine, practice, wage, and thrill in the

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<sup>6</sup> See Lisa Guenther, alluding to Walter Benjamin: “Abolition is not a *telos*, if by *telos* one means the end of a process that is eventually completed, once and for all. It is not an eschaton, if by eschaton one means a redemptive end-state beyond history and politics. But there may be a sense of weak messianism, an eschatological opening to the otherwise in the midst of the everyday, that expresses the ethical and political temporality of abolition.” “These Are the Moments.”

<sup>7</sup> [abolitionjournal.org](http://abolitionjournal.org)

radical and irrevocable destruction of things for the sake of something/anything else, whether it's the end of things as we know them or some kind of revolutionary possibility.”<sup>8</sup> Here we find the sense of unworldly immediacy and the resultant imperative to action that may very well appear irrational and misdirected, the “destruction of things” – paired with the imperative to imagine otherwise. Mumia Abu-Jamal states it plainly, “Abolitionists are, simply put, those beings who look out upon their time and say, ‘No’.”<sup>9</sup> The ways of the world are amiss, a result of something deeply wrong with the world, a kind of fallenness that must be refused. We who join together in refusal, who turn away from the ways of the world, are to label ourselves abolitionists, Abu-Jamal suggests. Lisa Guenther describes abolitionism as an attitude oriented in two ways at once: “Abolition is both a negative process of dismantling oppressive structures and a positive process of imagining, creating, and sustaining the sort of relationships, practices, and institutions that would make oppressive structures obsolete.”<sup>10</sup> Refusing the ways of the world is enabled by, and enables, forming a radically different world – a just world.

*Abolition* began with a manifesto to explain its intellectual project and to define its name. This manifesto hinges on a concept at the core of the abolitionist political imagination: impossibility.

Abolitionist politics is not about what is possible, but about making the impossible a reality. Ending slavery appeared to be an impossible challenge for Sojourner Truth, Denmark Vesey, Nat Turner, John Brown, Harriet Tubman, and others, and yet they

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<sup>8</sup> Rodríguez, “The Production of Freedom and Liberation.”

<sup>9</sup> Abu-Jamal, “Long Live John Africa!” Jacques Derrida wrote the preface for the French edition of Abu-Jamal’s *Live from Death Row*, with Derrida’s remarks published in English as “For Mumia Abu-Jamal.”

<sup>10</sup> Guenther, “These are the Moments.” See also McLeod, “Prison Abolition and Grounded Justice.”

struggled for it anyway. Today we seek to abolish a number of seemingly immortal institutions, drawing inspiration from those who have sought the abolition of all systems of domination, exploitation, and oppression – from Jim Crow laws and prisons to patriarchy and capitalism. ... Recognizing that the institutions we fight against are both interconnected and unique, we refuse to take an easy path of reveling in abstract ideals while accepting mere reforms in practice. Instead, we seek to understand the specific power dynamics within and between these systems so we can make the impossible possible; so we can bring the entire monstrosity down.<sup>11</sup>

The point of abolitionism, on this account, is to refuse the limits set by the world, really by the powers that be. What is beyond those limits cannot be named, of course, so the name that stands for the unnameable is “impossibility.” Sometimes more language is provisionally given to that which is unnameable with words like “beloved community.”<sup>12</sup> Just as the abolitionist pursues the impossible, the powers that be dismiss as impossible all challenges to those systems of oppression that secure their power. To end imprisonment, racism, patriarchy, capitalism – these are all impossible goals, quixotic pursuits that distract from addressing real, pressing social ills with specific, achievable solutions. The powers that be would tether us to the world as it is, as it supposedly always was and will be; the abolitionist attitude, at its core, is to break those tethers.

Why not understand these attitudes as revolutionary rather than turning to political theology? Today’s abolitionism casts a wide tent by resisting heavy theoretical investments, for example in Marxism or Afro-pessimism. This means that the abolitionist’s posture cannot help but be interpreted against the ambient culture, rather than as a result of some critical machinery,

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<sup>11</sup> Abolition Collective, “Manifesto for Abolition.”

<sup>12</sup> I take the catchphrase “black girl magic” to suggest that the supernatural is necessary to confront impossibility.

and that ambient culture is thoroughly shaped by the legacy of Christianity. This last claim is not uncontroversial, but it is the argument of Derrida, and Anidjar, and, I would suggest, the field of political theology more generally.

### Abolitionist Histories

The power of abolitionism, as a political slogan today, is in part due to the history that it conjures. As *Abolition*'s manifesto suggests, the nineteenth century abolitionist movement offers a model for contemporary abolitionists. For today's abolitionists it is important to remember that history in a way that is quite different than how U.S. history books conventionally record it, i.e., as a group of impassioned white men in the North who called on their fellow citizens to legally prohibit slavery. In contrast, abolitionism is now remembered as a movement in which black and white Americans both participated as part of a transnational network with the aim of dramatically transforming American society and advancing social democracy.<sup>13</sup> On this account, abolitionists were not just concerned about changing the law. They understood that slavery was a deeply-rooted social institution affecting all aspects of American society. The nation's democratic fabric would need to be rewoven after the law changed, and that would take not only legal and regulatory interventions but also grassroots mobilizations and institution building so as to move the nation closer to justice – occasioned by a struggle for racial justice but understanding that racial and economic justice are inextricable, and inextricably linked with other justice struggles. The historical work of recovering the voices and stories of black abolitionists has been important

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<sup>13</sup> See especially Sinha, *The Slave's Cause*.

to this project, of revisiting the processes and possibilities of Reconstruction, and of exploring the ways slavery and capitalism were dependent on each other.<sup>14</sup>

By telling a richer story about nineteenth-century abolitionists, today's abolitionists have been able to construct the figure of the abolitionist as something of an ideal type, found throughout American history, with the civil rights movement understood as essentially an abolitionist movement. In other words, grassroots organizers for racial justice have always embraced an abolitionist vision, pairing a refusal of proximate injustice with an embrace of social-democratic transformation, what Angela Davis calls "abolition democracy," but historians invested in preserving the status quo have habitually reduced abolitionism to historically and contextually specific struggles to overturn this or that law, to end this or that social practice.<sup>15</sup> Indeed, abolitionists today see themselves participating in something like an abolitionist spirit that has persisted through the course of America's history, sometimes subterranean, sometimes at the peripheries, once in a long while capturing the national imagination – before being snuffed out and erased by the powers that be.<sup>16</sup>

The turn away from antiquated historiography certainly seems well-warranted, but one wonders whether there might be something important that is lost in moving from specifics of the abolitionist movement to the general abolitionist spirit. For example, what about religion? What about the way that the nineteenth-century abolitionist movement was deeply political-theological? It was not just American laws that were rejected; those laws were rejected, by both black and white abolitionists, in favor of God's law. The just world at which abolitionists aimed

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<sup>14</sup> Du Bois's *Black Reconstruction* has been reclaimed as a political classic because of its analysis along these lines.

<sup>15</sup> Davis, *Abolition Democracy*.

<sup>16</sup> Dubler and Lloyd, "Mass Incarceration is Religious."

was also named the kingdom of God, and, as Gary Dorrien has recently shown, the roots of American social gospel theology can be found in black abolitionist preachers doing theology and organizing, with the two deeply connected, during the era of Reconstruction.<sup>17</sup> In other words, if abolitionists today embrace their participation in an abolitionist spirit, it is important to understand that this spirit is not one of amorphous New Age spirituality but one that has very specific roots in Christian theology. The secularism of contemporary abolitionists often blinds them to this specifically Christian history; a task of political theology is to recover such histories so as to make them available for political organizing in the present.

While today's abolitionists often embrace continuity with historical abolitionisms, abolitionism entered into wide circulation in the past few years for quite specific reasons. Activists coming together in California, in 1998, formed Critical Resistance, an organization aimed at challenging the prison industrial complex. The group now has branches throughout the United States that support organizing and intellectual work around prison justice issues. From the start, Critical Resistance has embraced the language of abolitionism, seeking not reforms of the prison system but the abolition of prisons, and in 2005 the group named its newly founded newspaper, distributed free to those incarcerated, *The Abolitionist*. As mass incarceration finally entered into mainstream public discourse in the United States as a major social ill, a conversation led in part by the publication of Michelle Alexander's *The New Jim Crow* in 2010, using the label of abolitionism, and the analogy with slavery instead of segregation, became a marker of leftist as opposed to liberal responses to criminal justice system failings. The racial justice movements that grew after the death of Trayvon Martin in 2012 and eventually organized under the slogan "black lives matter" pushed those on the left in the U.S. to connect prison abolition

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<sup>17</sup> Dorrien, *The New Abolition*.

with broader racial (and economic and social) justice struggles – hence, the broadening of abolitionism. Today, individuals and formations associated with the slogan black lives matter often identify themselves as abolitionists, indicating a general political attitude but also more or less explicitly indicating a specific stance with respect to mass incarceration.

### The Death Penalty and Beyond

The contemporary political moment in the United States, characterized by concerns about such issues as populism, anti-blackness, and intersectionality, seems a world away from the rarefied world of late-twentieth century literary criticism. Yet Jacques Derrida lectured for two years on abolitionism, as an abolitionist – and, I contend, his reflections on abolitionism can teach us lessons today. From 1999-2001, in Paris and the United States, Derrida reflected on abolitionism as it was generally understood in liberal political culture at the time, as a movement to abolish the death penalty.<sup>18</sup> That Derrida’s lectures and self-positioning are responsive to liberal rather than left political concerns is no surprise: this had long been his political posture, from his earliest reflections on colonialism in his native Algeria.<sup>19</sup> Derrida’s critical insights, and specifically his deployment of political-theological analysis, are nonetheless useful in considering the possibilities and limitations of abolitionism today, as a slogan on the left. I will not delve here into the vexed politics around anti-death penalty advocacy, so often reliant on the all-too-American and all-too-Christian fetishization of the supposedly innocent individual, on framing a problem that offered a straightforward solution, an issue that attracted so much cultural attention at the same time the exponential growth of the prison population went largely

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<sup>18</sup> Derrida, *The Death Penalty*, Volumes I and II, cited parenthetically.

<sup>19</sup> See Baring, “Liberalism and the Algerian War.”

unreported in mainstream culture. Rather, I am interested in the extent to which Derrida's analysis of abolitionism (and the death penalty) applies when abolitionism's target is broader.<sup>20</sup>

In a sense, Derrida's analysis lends itself to such an extension because he takes abolitionism very much to be a disposition, or attitude, or spirit – though in his analysis the specific object of death looms large.

In Derrida's view, to understand the "essence" and "meaning" of the death penalty it is necessary to think through sovereignty, and to understand sovereignty it is necessary to think through political theology (I.23). Characteristically, Derrida is operating at the level of cultural concepts: those shared ideas that organize a community and appear, more or less explicitly, in its great works of literature and philosophy. What writers and thinkers do is grapple with those core ideas of a community, those ideas that usually go unarticulated in everyday conversation, even by politicians, but are nonetheless fundamental. Our everyday conversation and reason-giving supervenes on these core cultural concepts. For Derrida, in the domain of politics the core concept is sovereignty. The monarch, or state, or the people as represented in the state, is sovereign; politics proceeds from that core understanding. Following Carl Schmitt, Derrida suggests that sovereignty means the ability to decide on the exception, the ability to suspend the law in a specific instance. According to Schmitt, this definition of sovereignty began with the understanding of God's sovereignty, meaning that God could suspend the laws of nature whenever God chose, and migrated to the political domain – even though in the political domain that connection with the theological is often disclaimed. Hence, the project of political theology: uncovering unacknowledged connections between the political and the theological so as to gain critical leverage on the political.

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<sup>20</sup> Judith Butler extends Derrida's analysis to the U.S. prison system in "On Cruelty."

The ability of the sovereign to suspend the law itself is rarely seen directly in our era. When sovereignty no longer rests in one individual, the monarch, but in a people and its elected representatives, the brute force of sovereignty that is evident in the exception, and the theological background of sovereignty, is nearly invisible. One of the very few sites where we see the sovereign deciding on the exception today – and certainly the most utilized example in undergraduate courses on political theology in the United States – is the ability of a governor or president to issue a pardon. The most dramatic case of pardon is when it is the life or death of the convicted criminal that is at issue. Thus, in the case of the death penalty we peak at the hidden cornerstone of politics as such, and we are reminded that this cornerstone was taken from the quarry of theology.

While Derrida's lectures occasionally reflect on the present, and on the abolition of the death penalty in France in 1981 and the suspension of the death penalty in the United States from 1972 to 1976, more often he turns to the longer history of the death penalty in modern Europe and equally to the longer history of death penalty abolitionism. He offers varied observations on the connections between the political and the theological exposed by the death penalty. For example, he notes that while the death penalty is an occasion for the sovereign to exercise sovereignty, to decide on the exception, an execution also means ceding the power to pardon to God. Once the accused is dead, the sovereign can no longer decide on pardon for guilt, only God can decide (I.46). Derrida dwells on how the bible is able to distinguish murder, prohibited, from official killing, commended in certain cases, suggesting that the former is about violation of a specific law whereas the latter, in the death penalty, is about securing the status of law itself (I.14). Similarly, Derrida suggests that the paradigmatic figures of execution, including Jesus and Joan of Arc, are not just killed as an exercise in sovereign power but rather are killed because

they represented a challenge to sovereignty as such –alternative political theologies (I.24-26).

Today, we might wonder about the extent to which blackness, so often the occasion for American state violence, represents such an alternative political theology, a refusal of the concept of sovereignty rooted in the architectonics of European whiteness.<sup>21</sup>

Abolitionists, on Derrida’s account, cannot escape the foundational cultural concepts of which sovereignty is a key element. Because the death penalty is a key contemporary marker of sovereignty, abolitionists necessarily, often unwittingly, share common premises and concerns with death penalty advocates. Simply put, there is no other political language to speak except a language that supervenes on sovereignty, and so depends on the death penalty. His point is not that the abolitionist cause is hopeless – he himself identifies with that cause – but rather to demonstrate the need for the abolitionist to proceed carefully and modestly. To what extent do Derrida’s observations about the death penalty apply to abolitionism when its focus shifts to mass incarceration, or when it is thought more broadly? On first glance, Derrida seems to be saying that abolitionism as such, the sort of abolitionism that is gaining traction today, is an impossibility, its embrace possible only because of false consciousness. For Derrida, we cannot escape the cultural concepts that structure our world, nor can we escape these concepts’ long histories. Abolitionism today means turning against what we are told is possible, thinking and feeling beyond the limits of the possible: the embrace of the impossible.<sup>22</sup>

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<sup>21</sup> See, for example, Carter, “Paratheological Blackness”; Hickman, *Black Prometheus*.

<sup>22</sup> I am setting aside here broader, intriguing questions about Derrida’s project and the role of his death penalty lectures in that project. For example, one might wonder whether his work on justice as the “undeconstructable” impulse animating the project of deconstruction aligns in some ways with contemporary abolitionism. From the opposite direction, today’s abolitionists are quite clear that contest within the realm of current possibilities is still necessary even when one embraces a broader abolitionist stance.

There is another sense in which Derrida's observations, and what are effectively cautions, speak directly to contemporary abolitionists. Here we must read Derrida against himself, or rather ask questions that Derrida avoids. Derrida's focus on the death penalty seems, against the background of Michel Foucault's work on punishment, rather quaint. *Discipline and Punish* opens with the gruesome public execution of a regicide: the death penalty as quintessential exercise, and guarantor, of sovereignty. But the rest of Foucault's book explores how that model of sovereignty and punishment came to an end with the close of the early modern period. The exercise of sovereign power did not end; rather it took a dramatically new form in modernity and up to the present day. Foucault famously suggests the panopticon, that prison in which the guards could surveille many prisoners at once without the prisoners knowing whether or not they were, at that moment, under surveillance, offered a new paradigm for sovereignty in modernity. It is exercised impersonally, without decision or exception, democratically in the grotesque sense of all against all, sovereign power circulating horizontally rather than exercised on the subject by the sovereign above.

Foucault would later extend the insights of *Discipline and Punish*, emphasizing the way that the state's disciplinary regimes in modernity focus on the body, implemented through "biopower," examining and classifying aspects of the individual previously excluded from the political realm.<sup>23</sup> A few years before Derrida's lectures, Giorgio Agamben brought together Foucault's work and Schmitt's account of sovereignty.<sup>24</sup> Where in early modernity the gruesome killing of the regicide was the paradigm of sovereign power, and in modernity the panopticon was the paradigm, in late modernity, according to Agamben, the concentration camp functions as

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<sup>23</sup> Foucault, "*Society Must Be Defended*."

<sup>24</sup> Agamben, *Homo Sacer*. Originally published in 1995.

the paradigm. It is a space where bare life has become politicized, and it is a space where ordinary law has been suspended, where sovereign force is exercised directly on the body. Agamben's troubling theory suggests that all life in late modernity is becoming like life in the camp, our bodies politicized and directly exposed to sovereign power.

Derrida has no patience for periodization. For him, foundational cultural concepts may be more or less exposed, more or less repressed, but they persist, found in every great work of literature or philosophy.<sup>25</sup> Setting aside this methodological difference, Derrida does have a powerful instinct for probing the limits of oppositionality – in this case, abolitionism. Foucault and Agamben have little patience for exploring oppositionality, even to show that it remains within the framework of the dominant regime. What happens if we bring Derrida's sensitivity to oppositionality to Foucault and Agamben's insights about the unique configurations of sovereignty in our current moment? Then, we would be investigating the limits and possibilities of abolitionism today, of abolitionism directed against mass incarceration (and the carceral logics named by Foucault) and of abolitionism in its more general form, negation of interlocking systems of oppression and affirmation of an as yet un-thought project of reweaving the social fabric and building the institutions of social democracy. Indeed, the carcerality and biopolitics that are the focuses of Foucault and Agamben closely track the issues that bring together today's abolitionists: opposition to regimes of gender, sexuality, and race, to policing, to militarism, to state surveillance and control of marginalized bodies and communities. Derrida is helpful not only in his attention to oppositionality but also, even more than Foucault and Agamben, in

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<sup>25</sup> Derrida develops this methodological difference in his response to Foucault's earlier work on madness in "Cogito and the History of Madness."

probing the specifically political-theological logic that animates both sovereignty and its opponents – opening the question of the political theology of abolitionism today.

### Derrida's Challenges

Derrida's lectures themselves are rather meandering analyses of great works of literature and philosophy. Collectively they raise a series of challenges for abolitionists; here I focus on the three he develops most fully.<sup>26</sup> These challenges are all special cases of the more general problem that sovereignty, and so the death penalty, is so foundational for our culture that even its opponents must operate on terrain that it carves out – and this shared territory is political theology (of a particular flavor). The result is paradox: Derrida shows how opponents of the death penalty have uncanny and unwanted affinities with the death penalty's supporters. Are today's abolitionists similarly invested in the forms of oppression that they would decry, invested in the shared currency of political theology?

*Challenge 1: Proper to the human.* Death penalty abolitionists worry about the inhumanity of the death penalty. However, over the years the death penalty's supporters have argued that it is particularly humane, and that it is a penalty proper to the human. Explicating Kant, Derrida writes, "The dignity of man, his sovereignty, the sign that he accedes to universal right and rises above animality is that he rises above biological life, puts his life in play in the law" (I.116). Humans have the capacity to do more than act on instinct. We have the ability to discern norms that all should follow, and we have the capacity to follow these ourselves. When

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<sup>26</sup> Among the other challenges Derrida discusses are the parallel between death penalty abolitionism and economic globalization (I.170), the continuing advocacy of death through military action by death penalty opponents (I.172; II.19), the investment of death penalty opponents in strong sovereigns (II.52), and the possibility that guilt motivates death penalty opponents, who want to avoid the possibility of their own death (I.130).

we do this, we exercise our characteristically human nature, “the dignity of man.” When we do not, when we fail to follow norms that we have discerned and institutionalized as law, we are falling back into our animal nature, losing our humanity. To be human means to value the law more than our life, to be so committed to the law that we are willing to set aside our (animalistic) attachment to our life in order to remain faithful to the law (cf. I.129). This willingness to prioritize law over life is essential to the meaning of law. It is what lends law its legitimacy. “The very idea of law implies that something is worth more than life and that therefore life must not be sacred as such” (I.116). Further, the death penalty is not found in nature; “this non-naturality is pure rationality itself,” on Derrida’s explication of Kant – that is, what makes the human image the divine (II.38). The human images the divine and so is sacred in this law-making capacity – so the most common religious arguments against the death penalty, that it extinguishes the image of God, grow from the same ground as arguments for the death penalty.

*Challenge 2: Impulse to cruelty.* Those opposed to the death penalty argue that it is cruel, inflicting unwarranted suffering and activating our worst instincts. Yet Derrida shows that some of the death penalty’s opponents have argued that imprisonment and hard labor is preferable to the death penalty because imprisonment is more cruel (I.160). Moreover, in the impulse to end the death penalty, there is a hint at a desire for death – to put the death penalty to death (I.202). From another angle, drawing on psychoanalysis, Derrida reflects on the way forbidden impulses are expressed in punishment, whether the death penalty or any other punishment – and these impulses are the very same animators of the criminal’s law-breaking (II.130). Relatedly, drawing on Nietzsche, Derrida explores the meaning of punishment as paying a debt to society. That debt is not paid economically, through some monetary benefit of the death penalty or imprisonment, but rather through the pleasure caused by the suffering of the criminal in death or imprisonment.

In other words, “the voluptuous pleasure of causing the other to suffer, and cruelly” is exchanged for the cost of the harm done to society (I.155). The death penalty opponent remains in the position of the creditor, “exercising one’s sovereignty over the debtor,” choosing which form of cruelty will extract the appropriate pleasure for herself (I.156).

*Challenge 3: Useless and incalculable.* Death penalty opponents charge that putting to death a law-breaker does not serve any purpose. It does not make a community whole again, does not improve the conditions of a victim, does not deter future law-breaking, and does not save money. Sometimes statistics are brought out to underscore these latter points to the quantitatively-minded. Yet some death penalty advocates agree that it is useless. Indeed, Derrida’s paradigmatic death penalty supporter, Kant, and opponent, Beccaria, agree that the death penalty is “beyond utility,” they just disagree about the implications of this conclusion (II.40). Beccaria thinks it means the death penalty should be abandoned while Kant thinks this is precisely the death penalty’s justification, as a penalty proper to the human. Purely calculable punishments are suited for animals, responding to stimuli without reason. For the human, as reasoning being, punishment should be beyond calculation. Imprisonment is precisely calculable. Moreover, the distinction between the calculable and the incalculable, the useful and the useless is blurred in the practice of the death penalty. When one blank bullet is randomly given to a member of a firing squad, shifting an execution from the register of individual killing to justice-oriented state violence, “a rule of calculation can give way to the contingency of some incalculable” (II.136). In short, the motivations of neither the death penalty opponent nor the proponent exclusively concern utility.

### Lessons from Derrida

Let us now consider the extent to which the challenges to death penalty abolitionism raised by Derrida apply to the abolitionism of today. Some of the worries that Derrida raises about death penalty abolitionism seem quite specific to that issue and the liberal impulses that animate political advocacy around it while others seem more broadly applicable. In this section I will address each of Derrida's three worries in turn, showing how their force is lessened when our focus is on grassroots politics rather than theorizing through engagements with the texts of elites.

The language of dignity continues to shape oppositional political imaginations around issues of imprisonment in general, but also around racial justice issues (it is a language found broadly in black lives matter-oriented organizing) and around gender and sexuality issues (including in marriage equality advocacy). While not all of those employing the language of dignity today would identify as abolitionists, some certainly would, and most abolitionists would be comfortable deploying the language of dignity.<sup>27</sup> Yet dignity as it is employed in grassroots organizing (setting aside legal advocacy), whether or not it grows out of religious communities, seems much less theoretically freighted than Derrida's turn to Kant would imply. Dignity is a term that circulated widely in the black community before, during, and after the civil rights movement; it was used by Communist governments to suggest the superiority of their human rights records to equality-focused democracies; and it was used to describe charismatic performances, such as those of Paul Robeson and Martin Luther King, Jr. It is an extraordinarily malleable term, to the extent that some suggest its meaning is primarily in the negative, in

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<sup>27</sup> Consider, for example, the name chosen for the black lives matter-associated collective in Los Angeles, Dignity and Power Now, or the opening words of the Movement for Black Lives platform, "Black humanity and dignity require Black political will and power." <http://policy.m4bl.org/platform/>. My current research focuses in the grassroots circulation of dignity, as concept and performance.

opposition to indignity, rather than in some shared conception of what makes human nature special.<sup>28</sup> In sum, if we center the idioms of the grassroots rather than those of the great (European) thinkers, the resonance of dignity, and of the properly human, shifts dramatically – and no longer mirrors the discourse of sovereignty it opposes. As Rodríguez puts it in his explication, abolitionism “is not about rescuing Humanism from the deadly-killing trap of the world-form that’s created it.”<sup>29</sup>

Similarly, the language of cruelty is very much a part of the liberal project, both the sovereignty of liberalism and the liberal opposition to sovereign power. Today’s abolitionists whose target is mass incarceration, or who understand abolitionism as a more general attitude, might speak of injustice or immorality or harm, but cruelty is no longer part of the conversation, associated as it is with liberal condescension. Indeed, in Andrew Dilts’ explication of abolitionism, the slogan connotes an opposition to “oppression and domination,” that is, systematic injustice rather than the individualized acts of meanness, and he describes the practice of abolitionism as a “politics of discomfort.”<sup>30</sup> In other words, there is no contrast set up between the cruelty-free abolitionist and the cruel executioner. Rather, there is unease all around, as all are affected by systems of oppression and domination. When sovereignty is dispersed rather than concentrated in a monarch or even state, as Foucault and Agamben suggest, the relationship between the abolitionist and her opponent shifts. Indeed, it is not even clear whether sovereignty is properly understood as the opponent of the abolitionist. Instead of seeing white supremacy, patriarchy, hetero-normativity, ableism, settler-colonialism, and capitalism (from Dilts’ list) as

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<sup>28</sup> On indignity as a central organizing principle of black political thought, see Bromell, *The Time Is Always Now*.

<sup>29</sup> Rodríguez, “The Production of Freedom and Liberation.”

<sup>30</sup> Andrew Dilts, “To Build a World that is Otherwise.”

subordinate to sovereignty, as the way sovereignty is articulated in our age, the abolitionist is more inclined to see them as primary and interconnected, with claims to sovereignty at most one among many forms of domination or even subordinate to other forms of domination.

Today's abolitionists do not make their claims in terms of utility, in terms of measurable and calculable outcomes. Indeed, this is what distinguishes prison abolitionists from prison reformers, and it is what defines the attitude of the abolitionist as such. Whereas the world would calculate, would look for usefulness and calculability, the abolitionist sees injustice and says no.<sup>31</sup> As the collective behind *Abolition* puts it, "abolition is less a 'cause' that envisions an end victory and more of a practice that requires constant struggle, conflict, and learning."<sup>32</sup> Yet abolitionism is more than just a style of political practice that embraces complexity. It is animated by an unworldly impulse, a sense that another world is possible, to cite the slogan of the late 1990s global justice movement that has been folded into today's abolitionism, and that political organizing against systems of domination in the present makes possible movement toward that new world. Where abolition's opponents might speak of a better world, a world achieved through steady progress in the right direction, following the steps calculated to advance in that direction, abolition speaks of a world as yet unimagined, but urgently necessary. For example, a typical abolitionist demand is releasing all those incarcerated immediately, not dissuaded by the pragmatic reformer's concerns about community safety and reintegration. Adequate responses to those concerns may not exist now, but the abolitionist has faith that answers will come into view, precipitated by the push for abolition rather than prerequisite to

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<sup>31</sup> Note, however, that abolitionists have developed subtle ways of distinguishing reforms that are compatible with abolitionism and those that are not: "transformative reforms" versus "reformist reforms." Butts and Akbar, "Transformative Reforms of the Movement for Black Lives."

<sup>32</sup> Abolition Collective, "Abolition Statements."

reform. This is to overstate the position somewhat: abolitionists in fact do develop robust proposals concerning community safety and reintegration, but these are rhetorically subordinate to the headlining claim about the end of the prison.<sup>33</sup>

Is it the case, then, that today's abolitionist is not subject to Derrida's worries, to his attempts at deconstruction of abolitionism, for abolitionism? Abolitionists today do not fetishize sovereignty because of their focus on the grassroots rather than on great books – or perhaps the causation is the other way around. Yet one point of convergence does remain between the abolitionist and her opponent: more often than not, they both profess secularism.<sup>34</sup> They both repress the Christianity that so clearly shapes their own positions (as well as that of their opponents). Those systems of domination that are the abolitionist's focus, political sovereignty but also whiteness, settler colonialism, patriarchy, and heteronormativity, are inextricably linked with Christianity. Similarly, the faith in another world, a perfectly just and loving world, accessible by saying "No" to the ways of this world, is an unmistakably Christian attitude, or at least one made possible by a specifically Christian cultural heritage.

This is an uncomfortable claim; political theology effective because it produces discomfort. Confronting what has been repressed, what shapes us but is invisible to us, takes us aback – and so allows us to ask deeper questions about the positions we hold, about ourselves, and about our world. But it is not an exclusionary claim. Certainly many religious and non-religious traditions have formed US culture, and Christianity is not the only one that has said "No" to the ways of the world. Indeed, more often than not Christianity has said "Yes" to the

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<sup>33</sup> See McLeod, "Prison Abolition and Grounded Justice," as well as the literature and practice around transformative justice, most prominently advocated by Mariame Kaba.

<sup>34</sup> For a theologian advocating for prison abolition (though one at a distance from today's abolitionist movement), see Griffith, *The Fall of the Prison*.

ways of the world. Nonetheless, given the salience of Christian symbols, practices, and ideas in US culture, and given the professed even if not practiced attitude of negation that characterizes the Christian ideal-type, pointing to the Christian resonances of abolitionism creates the sort of productive tension that creates new political possibilities – in the same way that the psychoanalyst tells stories about childhood in order to open new possibilities for healthier living in the present.

Colleagues and I have pursued a detailed study of the Christian resonances of abolitionism elsewhere.<sup>35</sup> Here I just want to point in the direction that Derrida’s intuition would lead us if it were to be followed – if he had pursued his interest in oppositionality into the present, with greater attention to the specific political formations of the present, that is, with greater attention to political organizing at the grassroots rather than the rhetoric of elites. The promise of political theology, at its best, is to speak rigorously about the religious background of grassroots political mobilizing – which means taking political slogans, ambivalently held, as occasions for critical analysis. This is what Derrida promises to do when he inquires about abolitionism, but at the end of the day his interest is in abolitionism as it circulates in a rarefied world of liberal elites, a world that was, even as he lectured, being superseded by grassroots political organizing reclaiming abolitionism for a more radical attitude.

Before concluding, let us consider the broader story of secularization against which Derrida considers these issues and its implications for abolitionist practice. In the crudest sort of political-theological analogy, God can smite and thus so can the king. Such smiting particularly

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<sup>35</sup> Joshua Dubler, Chris Garces, and I coordinated a working group on religion and mass incarceration from 2012-2016. It included a major international conference, “Religion, Abolition, Mass Incarceration,” held at Cornell in 2014, and a book manuscript that Dubler and I are co-authoring.

happens when it is God or the king that is challenged. Many of the death penalty's opponents are committed secularists: they want to leave behind such political-theological analogies, believing that political sovereignty no longer depends for its legitimacy on theology, or it ought not. Political sovereignty can be justified by reason, or by the consent of the people, or by some other secular means. There may be such a thing as divine justice, but "it is of another order, inaccessible to men," so must be set aside when considering the criminal justice system (I.265).

Derrida's argument is that such dogmatic secularism leads abolitionism astray. Abolitionism must grapple with the complications of the political-theological, and with the specificity of Christianity. Indeed, at the end of his first series of lectures, Derrida asserts that our world continues to be structured by Christianity, "whether or not the corpus here is that of Jesus Christ, whether or not the blood, wine, or slow sugar of life comes to us from the Gospels" (I.283). What is crucial for the abolitionist, working in the cultural shadow of Christianity, is to at once "organize, work, and militate with a cool head" and, at the same time, to "never cease appealing to the chance of a pardon issued, of grace granted" (I.283). In other words, the possibility of the exception should not be discarded along with the death penalty with which it is so closely associated. Dogmatic secularism, repressing the theological, can lead to cruel rationality. Rationality, calculability, is needed for political organizing and advocacy, but so is the possibility that it will be suspended. Even while contesting sovereignty and the related web of concepts and practices, like the death penalty, we should not prevent ourselves from making use of some of the features of sovereignty, like pardon, in our own oppositionality – for there is no other way to proceed.

That practical wisdom is necessary for political practice is certainly not news to the grassroots organizer, even if the organizer would arrive at this conclusion through a different

route and express it in different words. What Derrida does offer to the organizer is the provocation that attending to the ideology of secularism can enliven the political imagination and tap a rich vein of religious stories that might further the project of abolitionism. But my point is not to teach lessons to organizers by means of a French intellectual. Rather, most important about Derrida's reflections on abolitionism is the way he encourages us, scholars, to start with the language of the grassroots and remain accountable to the practices of the grassroots – even when this is advice Derrida himself did not entirely heed.

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