



# Justice versus justice: Geographies of the Death Penalty and Place-Based Activism in the Troy Davis Case

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## One Life

Troy Davis had only one life cut short too soon. And his was but one life among many cut short too soon and unnecessarily in a country where the circumstances of geography lead to decisions over who will live and die. It is a particularly disturbing experience for an anti-racist-activist geographer to come to terms with the implications of the death penalty. Every time I set hands to keyboard to work on this article I am overwhelmed by a Sartrean nausea (Sartre 1965) that impinges upon logical analysis. Deliberate, and deliberated, state killing in the name of justice cuts short the meaning of life and existence, making scholarly meaning at best compromised. The sense of loss over this one life is magnified by the recognition that he was one among many and that the value of his life was diminished by racialization. It is particularly sobering to note that the death penalty *has a geography*.

## Geographies of the Death Penalty

The U.S. is among a minority of countries that routinely use the death penalty as an act of dispensing justice. The only other advanced industrial state to use the death penalty is Japan. The overall international trend is against, and the death penalty is condemned by the United Nations—although it goes beyond UN



mandate to prohibit it—under the [Second Optional Protocol to the International Covenant on Civil and Political Rights](#). On 10 October 2012, the European Union issued a statement calling for the end of the death penalty to mark the World Day Against the Death Penalty (EU Newsbrief 2012). As recently as July 2014, United Nations Secretary-General, Ban Ki-Moon, spoke publicly in support of a 2007 General Assembly vote to support the moratorium, declaring “Death penalty has no place in the 21<sup>st</sup> Century” (UN News Service, 2 July 2014).

There has been extensive research on the geographical variability of death penalty statutes, both internationally and nationally. The death penalty has a place, or rather a range of specific places, the U.S. being one of the most significant. Within the U.S., the death penalty is separately mandated by State and Federal Law. At the federal level, since the death penalty was reinstated (after a legal hiatus) in 1988,<sup>2</sup> there have been 484 federal death penalty cases, of which 215 went to trial, involving 274 defendants. Since reinstatement, however, there have been only three federal-jurisdiction executions (in 2003), although 58 persons remain sentenced to death (18 pending appeal), 12 of them in the state of Texas alone. An additional 29 are awaiting or currently on trial (Death Penalty Information Center 2012). In 2011, Attorney General Eric Holder issued a “Memorandum to all Federal Prosecutors” changing the death penalty protocol, primarily to expand the standards of determination (Holder 2011).

Although the federal-jurisdiction numbers are small, the racialized disparity is striking: In the decade following 1988, a report to Congress showed that the vast majority of those for whom the death penalty was authorized in Federal court were black (89%), although they represented only a quarter of convictions. There was only one conviction during that time period of a white man for killing a black man. In short, it is incontrovertible that, within federal jurisdiction, blacks who killed whites have been overwhelmingly more likely to be prosecuted under the death penalty than are whites who kill other whites, and especially whites who kill blacks (Subcommittee on Civil and Constitutional Rights 1994).

The vast majority of executions, however, occur under state jurisdiction, where there have been a total of 1,383 execution deaths since 1976 when the state moratorium was lifted, including 24 so far in 2014. The geography of state executions is extremely uneven, and there is extensive research on the topic of state differences. Figure II shows the states that currently authorize the death penalty, and Figure III the execution deaths per capita by state. Overall, the number of executions is declining. Even among those states that retain the death penalty,

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<sup>2</sup> There was a moratorium placed on the death penalty for federal crimes in 1964. In the previous four decades (1927–1963) the Federal Government executed 34 individuals, of whom three were women, and the majority were black (DPIC 2012). Also in 1988, President Reagan signed the *Anti-Drug Abuse Act*, (U.S.C. SS 848) also known as the “drug kingpin” death penalty, authorizing the death penalty for certain drug trafficking offenses. Of those prosecuted under the act three quarters have been white, but all sentenced to the death penalty have been black.

twelve have had no executions within the last five years, and half of those have had no executions within ten years. Among those that have retained a death penalty law, the majority have had no executions since before 1976. Among those states that maintain and *have utilized* the death penalty within ten years, Oklahoma, Texas, and Virginia have the highest rates per capita. Texas, with its large population, accounts for the largest number of deaths in both relative and absolute terms, with 508 out of a total of 1,383 since 1977.<sup>3</sup> Florida, another high population state, has a large absolute number (81), but a much lower rate per capita.

There is no correlation between states with high homicide rates and rates of death sentencing (Lewis 2010). The nineteen states without the death penalty have homicide rates at or below the national average. In 2012, the average murder rate of death penalty states was 4.7, and the average for non-death penalty states was 3.7/1,000,000 population. These figures call into question whether the death penalty acts as a deterrent. States with the highest homicide rates include Illinois, which has no death penalty, and California, which retains the death penalty but has not had an execution since 2006. Those states with the highest execution rates, on the other hand, include Virginia with a murder rate of 3.8, Texas with a rate of 4.4, Missouri with a rate of 6.5, and South Carolina with a rate of 6.9; in other words, there is again no correlation between executions and murder rates and nothing about the death penalty explains this variation (data from Death Penalty Information Center 2012).

The racialization of those condemned to die is much more consistent among death penalty states. The figures in Table I.<sup>4</sup> show simply that Blacks are executed in higher relative proportions than are whites, and that whites who kill blacks are extremely unlikely to be given the death sentence. These figures do not provide a basis for analysis of the relationship between type of crime and death sentences, nor other information such as, for example, when mental illness is believed to play a role in what many scholars believe to be the arbitrary nature of the death penalty application, according to geography, money, and race (ACLU 2002; Dieter 2012). Nor do these figures show the ages of those sentenced to death, which tend to be lower for Blacks than for Whites. Some of the most controversial cases have been Black men sentenced while still in their teens.

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<sup>3</sup> The U.S. Supreme Court reinstated the death penalty in 1976 the first execution was of Gary Gilmore, in Utah. It was not reinstated at the federal level until 1988.

<sup>4</sup> Data presented here are compiled by the author from the Death Penalty Information Center data base, an interactive data base that can be searched for detailed information on the year, age, race, gender, state, method of execution and jurisdiction of all those executed. Information is also provided on the circumstances of each execution. The data are available at: [www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)

**Table I: Ascribed Race of U.S. Deaths by Execution, 1977–2014**

Ascribed Race	Number of deaths by execution	Percent of the total U.S. population (2010)	Percent of Deaths by Execution
Black	477	12	34
White	772	69	56
Hispanic	110	12.5	8
Other	—	—	—
Total	1383	—	—

Source: Compiled from Death Penalty Information Center 2014, available at: [www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org) (last accessed 17 July 2014), NAACP 2014 available at [http://www.deathpenaltyinfo.org/documents/DRUSA\\_Winter\\_2014.pdf](http://www.deathpenaltyinfo.org/documents/DRUSA_Winter_2014.pdf) (Last Accessed 17 July 2013), and the U.S. Census.

Even more striking than the state-by-state differences, however, are the contrasts at county level (Baumgartner and Richardson 2010). The majority of executions take place in isolated counties within death penalty states. Since 1976, just 15 counties (of a total of 3,143 nationally) accounted for a third of all executions (Table IV). These counties are located in Texas (n=9), Oklahoma (n=2), Missouri (n=2), and Arizona (n=2). Harris County, Texas, alone has carried out 116 deaths by execution. If the murder *rate* is taken into account, however, only two of the 15—Harris County, Texas (ranked 3<sup>rd</sup>) and Dallas County, Texas (ranked 9<sup>th</sup>)—show up on the list of top ten counties by number of murders. Of the other eight, only the two counties in Arizona are located in states that have carried out even one execution in the last five years. The two counties with the highest murder rates, Los Angeles County and Cook County (Chicago), are located in California, which has a large death row population but has not had an execution since 2006, and Illinois, which has no death penalty. Indeed, on 16 July 2014, U.S. District Court Judge Cormac Carney held California’s death penalty to be unconstitutional in the case of *Jones v. Chappell*.<sup>5</sup> Again, a case cannot be made for a spatial correlation between murder rates and the death penalty at the county level. Research on other factors is needed to address that issue.

Recent work by Robert Smith (2012) based on mapping death sentences by county shows that they are clustered around a narrow group: 10 percent of counties nationally brought down even one death sentence, and just 1 percent returned more than one death sentence annually. To explain why these counties differ from the

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<sup>5</sup> *Jones v. Chappell* NO: CV 09-02158, U.S. dist. Ct. Central Dist. Of CA, available at <http://www.deathpenaltyinfo.org/documents/CarneyOrder.pdf> (last accessed 17 July 2014)

majority of the country, Smith suggests a number of factors, including uneven procedures and poor, insufficiently trained representatives, in states where the death sentence is unlikely to be repealed for political reasons. He suggests that advocacy needs to concentrate on those places where there is a higher percentage of minority persons at risk, and where the greatest risk of arbitrary sentencing occurs. His suggestion is a direct invitation to geographers to do more research in this important area of concern.

Cohen and Smith (2010) have conducted detailed county-level research in order to bring the disparate racial and location factors into perspective through a study of vicinage, the process of selecting jurors. They find not only that blacks are more adversely affected by death sentences, but that the effect is strongest in counties that are demographically different from their surrounding federal districts. That is, districts with the highest death sentencing rates tend to be comprised largely of a black-majority county surrounded by largely white counties, and county-level juries—as opposed to jury members drawn from the entire federal district—maintain the ideological link between community values and capital punishment, showing that juror race *does* matter—in particular places—in whether the death penalty is applied.

The overall picture suggests that the U.S. is increasingly isolated internationally over the death penalty issue. Public opinion in support of the death penalty is decreasing, at a 40-year low according to a recent Gallup poll (2011) and still declining. Cases of death by execution are decreasing except in a small number of counties concentrated in states that support the death penalty. Overall place-based statistics, however, only show the *results* of controversies based on decision made by those who hold the power to influence the outcomes: that is, lawmakers who elected to decide whether the death penalty applies in a particular jurisdiction; judges and juries elected or appointed to enforce the death penalty in particular cases. What such outcomes do not show is the extent to which citizens act *in place*, and at different scales, to influence conflicting “justice” outcomes. This situation calls for a place-based approach to understanding some of the complex factors that affect how the death penalty is debated and administered across the complex American geo-socio-political landscape.

### **Justice versus justice in the Troy Davis Case**

The statistical overview I have provided above represents the strikingly geographical, cumulative result of decisions over justice conceived, applied, and implied against over three thousand individuals with one life cut short. But as geographers who care about such things we should be deeply concerned about going beyond the maps to understand that justice is a particular form of human relationship conceived and acted out in place. The most difficult geographical task is to understand the human relations through which decisions are made over what constitutes justice, from the state that makes laws, to the counties that enact them, to the communities and families whose loved ones become the statistics of life and

death. I turn now, therefore, to look at the context surrounding the Troy Davis case, in an attempt to gain some understanding, albeit partial, over the justice discourses through which his life and death were decided.

The Troy Davis case was one of the most controversial in recent years, both because of questions over whether he was guilty of the crime and the nature of the evidence, but also because of the public attention it received through traditional media, the internet, and public demonstrations. A Google search on the case yields literally millions of hits of various degrees of relevance. Rather than count and classify the hits to provide what would inevitably be a methodologically flawed poll, I have selected examples here because they are representative of the controversy and its discursive strategies. I have attempted to draw from both the mainstream media and those organizations such as the NAACP and Amnesty International that have the highest public profile in addressing the issue.

The following are some key dates in the protest movement:

- 16 September 2011: Jasiri X (hip-hop band) releases song “I am Troy Davis”
- 17 September 2011: Free Troy Davis rally held on Wall Street , with protestors wearing blue “I am Troy Davis” T-shirts, in conjunction with the “Occupy” movement
- 17–22 September 2011: intense lobbying, last minute appeals, widespread internet appeals, and demonstrations outside the execution venue and elsewhere
- 22 September 2011: Following the execution, “Day of Outrage” marches stem from Occupy Movements in a number of locations, including Wall Street
- 7 October 2011: Occupy Atlanta renames Woodruff Park Troy Davis Park
- 4 November 2011: Jasiri X, singing “Occupy (We the 99)” is banned from performance at the University of Connecticut
- 5 November 2011: Jesse Jackson Jr. addresses Occupy Atlanta and speaks to the Troy Davis case

Media and BLOG coverage of these events is extensive. They report attempts at intervention to prevent the execution by Jimmy Carter, Bill Clinton, Pope Benedict XVI, the European Union, Amnesty International, the National Association for the Advancement of Colored People (NAACP), as well as many Hollywood celebrities. Reports estimate the number of street demonstrations at 300 in the U.S. and throughout the world. BLOG strings show thousands of comments on both sides of the issue.

### ***Anti-Death Penalty Protests***

The events of 21 September 2011 show not only that campaigns to overturn the death penalty are place-based, but that advocates strategically organize at a number of scales and in a range of places, including the internet. On the ground, groups mobilized in major cities across the U.S. (Clancy 2011). The *Huffington Post* (2011) posted photographs of prayer vigils around the world, including one in Rome. Meanwhile local organizers made every effort to bring people to the actual site of the execution, where several hundred gathered, some of them wearing Occupy masks, others “I am Troy Davis” t-shirts, or carrying “Stop the Execution” placards. The leader of the local protest movement was Martina Davis, Troy’s older sister, who at the time was battling breast cancer (she died in December 2011; see Marlowe and Davis-Correia 2013). Laura Moye (2012), Director of Amnesty International USA’s Death Penalty Abolition Campaign, based in Washington, DC, recounts:

Martina [Troy Davis’s sister] modeled for us what to do. She wasn’t crying. She wasn’t shouting. She was organizing, even from her wheelchair on the grassy grounds at death row. She never stopped organizing people in the struggle to help her brother and to end the death penalty. She introduced me to a law student from California who was going to school in North Carolina. This woman had driven a great distance to stand in solidarity with the family that day and to protest Troy’s scheduled execution. Martina wanted to make sure the young woman got connected to our network and could get involved in the work.

These examples and many others illustrate the spatial quality of the movement, emphasizing place, connection, and solidarity, and the combination of virtual web space and on-the-ground, in-person activism, intersecting scales of activism becoming a strategy emblematic of recent social movements such as Occupy. The objective is to transcend the *local* effects of death penalty support by appealing to national and international audiences through an extensive internet campaign, while at the same time maintaining a physical presence at the actual sites of struggle in which state killings occur so that what is portrayed electronically is not simply an abstract set of anti-death-penalty principles, but graphic evidence of what is actually *taking place*, emphasizing the very human side of all those involved. The young woman referred to above was strategically placed within the landscape by the organizers, but then included in the ongoing campaign through the connections on the internet, her body thus becoming part of the strategy of intersecting scales.

Those fighting the death penalty have continued their actions. On 21 September 2012, Amnesty International staged a one-year anniversary demonstration(<http://blog.amnestyusa.org/us/where-were-you-when-georgia-executed-troy-davis/>). Their BLOG page posts carefully arranged photographs showing Troy Davis’s sister, Martina, in a wheelchair, looking toward the prison in

which Davis was killed, as well as pictures of diverse crowds of people, in some cases being held on the ground and roughed up by police officers. The BLOG calls for supporters to “Keep Up the Fight” and lists things that people can do in support of the abolition of the death penalty. The web site is carefully and strategically composed to depict a landscape of struggle, resistance, and (in)justice.

### ***Pro-Death Penalty Protests***

There were also pro-death penalty demonstrations, although media evidence would indicate that they were few in number and low-key. CNN published a photograph of an individual man—in stark contrast to the pictures of large crowds of anti-death penalty protestors—wearing a baseball cap depicting the Stars and Stripes, and carrying a placard that read, “Protesting this Protest! Lying then or lying now? Recanted testimony PHOOEY” (CNN Justice 2012; referring to the fact that four individuals who had been called to testify against Troy Davis later recanted their testimony). There is also extensive Internet coverage of the reactions of the family of the off-duty police officer, Mark MacPhail, whom Troy Davis was convicted of killing in Savannah, Georgia in 1989. In striking contrast, the narrative presented by the media and BLOGS supporting the MacPhails focuses almost entirely on the *private* experience of the family that lost a husband, son, father, rather than on the public human rights issues surrounding the death penalty. It is a justice of retribution in which the human rights issues surrounding the larger questions over the death penalty—and even the guilt or innocence of Troy Davis—have no place. Below are two examples among the many such depictions of the family. The first comes from an interview on the morning of Troy Davis’s death between Megyn Kelly of Fox News (2011) and Mark MacPhail’s daughter, Madison, aired on YouTube under the banner “Convicted cop killer to be executed at 7 pm ET in Georgia”:

*MK: Madison, how are you feeling now less than five hours away from the time the lethal injection is scheduled?*

*MM: My family and I are feeling very hopeful. We have waited for this day for a long time. And we’re just ready to see finally the end of all this.*

*MK: Tell us what you think has been stolen from you in these past 22 years.*

*MM: ... not having him there while I’m growing up ... like I told the Pardons and Parole Board on Monday ... a future was taken from me ... he will never be there to walk me down the aisle on my wedding day and we won’t share that father–daughter dance and he won’t be there to see my brother [MacPhail’s wife was pregnant at the time of the shooting] and his grandchildren ...*

*MK: There was never any blood or DNA evidence ... the gun was never found ... should investigators do more homework before Troy Davis is put to death?*

*MM: The investigators did their homework. They interviewed those witnesses many times. They got the facts and they got them right ... it's been back and forth in the courts or 22 years and in all that time none of them has found anything different.*

*MK: If Troy Davis is put to death tonight ... what will your day be like tomorrow?*

*MM: It will be a day of relief ... it brings a closure that I know that I will not get a phone call in six months that says that we have to come back and re-live this circus ... all that does is to take those wounds and open them back up ... and leave them raw and bleeding.*

A year later, Tina Tyus-Shaw (2012) writes:

Today marked the one year since Troy Davis was executed for murdering Savannah Police Officer Mark MacPhail. Some say the only side of the story is the life lost. Over the years the family of Officer Mark MacPhail opened up to me sharing some of their deepest and painful thoughts about their loss. Officer Macphail's kids, Madison and Mark, asked me to join them in June of 2010 as they carried roses to their beloved father's gravesite. That day, like so many, was one of joy, pain, and heartache for the man they call their hero. MacPhail's widow, Joan, shared her thoughts with me after Davis' execution, and today, a year later, Joan says there will always be a hole in their hearts, but she's glad her family can look forward. Still she knows people will forever fight for what they believe in. "I just feel like that will be a never ending story. I feel like Amnesty International is using the Davis family, unfortunately, and they have used them throughout this period. And I feel bad for them. As far as our family is concerned, it's over. We can move on and peacefully we can move on. So I'm thankful for that."

In addition to family, an appeal to place is also a common pro-death penalty strategy, as this interview between Atlanta journalist Matthew Rigg (2011) and a local pro-death penalty coalition shows:

There have been no polls conducted over the Davis case, but Jerry Luquire of the Georgia Christian Coalition argued that the execution should proceed because Davis had failed to prove his innocence in the only forum that counts—a court.

Luquire said he guessed a majority of people in Georgia, and certainly in Columbus where members of MacPhail's family live, were quietly supportive of

the execution. Asked about the vocal campaign on Davis' behalf, he said: "Noise does not mean numbers."

The logic of the last quote cannot be assailed. No attempt is made in any of these reports to discuss the principle of state killing; the taken-for-granted normativity of the position is clear. But the accounts contain numerous references to "community," a vague term that carries connotations of safety, like-mindedness, and the qualities of place on a smaller scale: the courtroom as a place of legitimacy, the home as the intimate symbol of family values that trump those of state concerns. There is deep meaning in these places not only for their symbolic moral value but because they provide a touchstone for maintaining conservative social values.

So why, as a staunchly anti-death-penalty geographer, would I pay attention to the ways in which death penalty supporters justify a sense of justice that I find anathema? Does recounting the words of Mark McPhail's daughter not just cast one deeper into the folds of nausea? Yes, it does, but the point is to acknowledge, not to agree with, the sense of justice that Troy Davis's death invoked, in order to understand that fighting the death penalty requires shifting notions of justice, to search for ways in which the discourse of retribution might be linked to a broader notion of respect for life. That shift will not occur, of course, by intervening in the particular conversations through which notions of family, father, daughter, are constructed, but rather through understanding the place-based context in which such values trump opposing notions of justice. I believe that geographers can and indeed must not only understand opposing notions, but work toward the creation of place-based strategies that shift the justice discourse. This article represents a tentative step in that direction.

### **A Place-Based Understanding of Justice and State Killing**

The landscape of the death penalty in the United States is very uneven. Extensive research shows concentrated pockets of support at the county level, and that a very high proportion of African-American men have died by execution in a few states and counties. The Troy Davis case illustrates both the ways in which support for the death penalty is expressed as a private matter based on retributive justice and the need of families to obtain closure; and, in contrast, the emerging strategy of anti-death penalty activists to advocate for justice at intersecting scales, from the local to the global and in landscapes both on the ground and in virtual space. Those for and against appeal to a place-based understanding and a sense of community, but it is worth thinking about the different ways in which community is defined and the disparate places in which their appeals are acted out. In the Davis case, anti-death-penalty protestors strategically created a broad, like-minded community through a public forum spanning several scales and landscapes locally, nationally, and internationally, not only to protest over his possible innocence, but also to condemn the death penalty as unjust. Their spatial strategy rested on occupying the public landscape. In contrast, death penalty supporters used concepts

of private/family spatiality, a much more bounded notion of community, as a rationale for justice served. These observations are based on analysing the discursive strategies used by the various groups that sought to achieve justice in these fundamentally different forms. Both groups appealed to a concept of justice, both appeals expressed outrage, but the difference between justice as retribution and justice as a human right is profound and the scales at which those differences were expressed became an important strategic element for both groups. The contrasts show that human *presence* is manifest and measured in diverse ways.

In conclusion, I would point out briefly another case whose brief mention sheds a different light on the issues. On 21 September 2011, two individuals died by execution in the U.S: in the State of Georgia, Troy Davis, a black man, and three hours earlier, in the State of Texas, Lawrence Brewer, one of three white men with alleged White Supremacist ties convicted in the 1998 dragging death of James Byrd Jr., a black man. The two cases are different in virtually every respect except the finale, but one difference is that the Byrd family reacted by initiating a major challenge to death penalty that had profound impact upon the small town of Easton Texas. I shall not tell that story here, but the recognition that there are other stories, other places, in which the impact of the death penalty is different tells us that place matters. It matters who is placed in what circumstances. It matters that particular racialized bodies are positioned in specific ways in the discursive practices and politics of advocating for and against, showing that anti-death-penalty activism cannot be undertaken except in a broader context of anti-racism activism. It matters that individuals and groups in particular places make decisions to advocate for justice, and those decisions can be understood dialectically as the result of spatialized human relations. Understanding the place-based context of human relations and justice is one way in which geographers can contribute to *stop the killing*.

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