



Life and Death in the Racial State: Collateral Consequences and the Execution of Troy Davis

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Abstract

The execution of Troy Anthony Davis on 21 September 2011 highlights the intertwining of race and inequality in the US justice system, exposing the deeply privileged nature of this system and its white supremacist foundations. More specifically, for those groups that are caught up in its apparatuses, those that have been constructed as outside of its bounds and are the focus of its repressive tendencies, the execution of Troy Davis is a moment to begin understanding the processes that render justice in the United States unresponsive and unhinged from the workings of the public it purports to protect. Using the execution of Troy Davis as a starting point we explore his execution and illuminate the inhumanity of the US system of justice and ultimately show how capital punishment is co-constitutive with capital relations and the law. Specifically we build upon the idea of "collateral consequences" to argue that once racialization processes become established, racialization becomes a self-perpetuating system.



Introduction

Justice is often painted with bandaged eyes. She is described in forensic eloquence, as utterly blind to wealth or poverty, high or low, white or black, but a mask of iron, however thick, could never blind American justice, when a black man happens to be on trial.

Frederick Douglass, 16 April 1883.

On 18 August 1989, after completing his regular patrol shift, Savannah, Georgia Police Officer Mark MacPhail went to work as a night security officer for the local Southern Trails bus terminal. In the early morning hours, in the parking lot next door, an altercation broke out. Witnesses noted that as MacPhail ran to intervene, three shots rang out. One hit him in the face, and the other tore through his left lung. He was 27 years old, and he died on the way to the hospital (Basu and Jacobs, 2007). The subsequent criminal investigation was difficult for the Savannah Police Department. The murder happened at 1am in a darkened parking lot, and very little evidence existed which connected anyone to the crime. The only leads were the recollections of eyewitnesses who were present during the altercation. This testimony eventually led to Troy Davis' conviction for the murder of MacPhail, and he was sentenced to die by lethal injection by the State of Georgia in its "death row" complex.

In the years since his conviction, several revelations have emerged which cast doubt on Troy Davis' criminal trial and guilt. First, seven of the nine witnesses that connected Davis to the crime have recanted. Second, Sylvester Coles, a man who was also present in the parking lot that night, gave testimony that focused the early police investigation on Davis. However, other witnesses later implicated Coles for the murder. As a consequence, a diverse coalition of political and international figures, including US officials who support the death penalty, stepped forward to ask that the State of Georgia stop the execution. In addition, thousands of letters from around the world pleaded with the State of Georgia's parole board, which, in the weeks before the execution, had a chance to commute Troy Davis' sentence to life in prison with no chance of parole. Hundreds more protested at the prison where Troy Davis was scheduled to die in the weeks leading up to his execution date. Despite these efforts, and the frantic efforts of Mr. Davis' lawyers, who had pinned their hopes on a last minute stay of execution by the United States Supreme Court, at 11:08pm on 21 September, 2011, a lethal cocktail of drugs first rendered Mr. Davis unconscious, then paralyzed his diaphragm, halted his breath, and finally stopped his heart. His last words were directed to the MacPhail family: "The incident that night was not my fault, I did not have a gun...I did not personally kill your son, father, and brother. I am innocent" (Rankin et al., 2011, A1). Troy Davis was 42 years old and had spent more than half his life in the State of Georgia's death row facility.

For purposes of our argument, we first want to state that we feel uncomfortable using the death of Troy Davis and Mark MacPhail as an academic exercise. We cannot begin to fathom the outrage that both the MacPhail and Davis families must feel over the deaths of their brothers, sons, husbands and fathers. MacPhail's death was undeniably tragic. Yet, just as horrific is the inhumanity of the US justice system, where a coalition of citizens, politicians, public officials, and lawyers from across the political spectrum are powerless to stop what many consider the state-sanctioned murder of an innocent man. However, we are also cognizant of Dr. Martin Luther King Jr.'s admonition that "our lives begin to end the day we become silent about things that matter." The death of Troy Davis matters immensely for the way it results from broader cultural, economic, and political realities in twenty-first century US society. As our geographic understanding has changed from understanding racism as overt acts imbued with agency, to a more nuanced and thoughtful analysis that focuses on the "state-sanctioned extralegal production and exploitation of group differentiated vulnerability to premature death" (Gilmore, 2007, 28), it is incumbent on scholarship to implicate the state in the perpetuation of racism in an effort to show ways that white supremacy continues to frame and construct US society. The execution of Troy Davis illuminates the way violence has been codified and embedded in our legal system. It does so in such a way that reveals the legal system as both unresponsive and unhinged from the workings of the very public it purports to "protect." More than that, however, the execution of Troy Davis is a moment that exposes the collateral consequences of the U.S. justice system, privileging the lives of some while leaving dire repercussions for those groups that are caught up in its processes, leaving those that have been constructed as outside of its bounds to be the focus of its repressive tendencies. In order to make these arguments, we begin with a discussion of the US racial state that underpins the death penalty in US society. From there, we focus on the Troy Davis case, arguing that his execution crystallizes the contradictory and racialized nature of the US justice system.

The Modern US Racial State:

The US racial landscape is produced to meet particular economic, social and political needs via the extraction of surplus value from racialized bodies (Inwood forthcoming). Historically, this reality has seen the state take an active role in protecting and promoting chattel slavery, failing to stop terrorist-white supremacist violence, "get tough" on crime polices and the "war on drugs," which disproportionately impact black and brown communities, as well as through the use of surveillance and other intimidation tactics to monitor the activities of political activists (e.g. Inwood and Bonds 2013; McKittrick 2013; Alexander, 2012; Inwood 2012; 2011; Gilmore, 2007). During each of these periods, racism has functioned as a "technology of subjugation and agency and is enacted through the production and regimentation of bodily, social and epistemologies of spaces" (Medieta, 2004, 47). In other words, as the nation has moved from the realities of indentured

servitude and chattel slavery through periods of share-cropping and forced labor camps on through the present neoliberal order, the concept of race and the technologies of racism have been transformed to meet the needs of changing economic and political realities that ultimately have furthered the workings of the racial state (Goldberg, 2002; 2012). Though the shape and character of the state has changed, race none-the-less continues to shape the political, social and economic constitution of communities within the United States. This reality has implications both for the way we conceive of subjectivities within the US and also how those subjectivities operate and connect with power and concomitant social, political and economic systems that ultimately come to define who is a full member of society.

For example, Tyner and Houston (2000, 393) note that during the time of chattel slavery, social divisions of labor predicated on skin color demarcated access to the means of production, social status and power that profoundly influenced the development of political and social space in North America. In order to create and maintain white supremacy in US society, divisions in class-consciousness were created along racial lines. The process of maintaining group solidarity hinged on the way the "conflation between skin color and the status of 'servant' was slowly codified in legal norms that had the specific goal of buttressing the power of the land-owning class" (Mendieta, 2004, 51). The subsequent growth of a southern plantation and northern industrialist slave owning aristocracy served as an early unifying feature in the development of US legal traditions. Higginbotham (2010, 110) explains that the impetus for the US Constitutional Convention emerged from a coalition of northern industrialists who needed a strong federal state to "enforce better commercial arrangements with foreign nations and among the states" and southern slave owners who needed to strengthen institutions dedicated to "mutual defense, protection against external threats and strengthening of the institution of slavery." It is from this foundation that the modern US nation-state took root, and the law has been central to efforts at enacting racial classification schemes and enforcing subjective boundaries ever since (Goldberg, 2002).

The law has played a profound role in shaping different subjectivities and their status. Thus the legal system that developed around the production of race and racism is where "racial signs and meanings [were] established," and when attempts to move beyond those limits were made, new limits were drawn as "the law undertakes to contain and constrain, refine and order those meanings within law's logic and definition" (Goldberg, 2002, 146). For example, in the 1987 Supreme Court case *McCleskey v. Kemp*, the court ruled that even though racial bias could be statistically proven in sentencing, those realities could not be challenged. Racial bias, then, is simply a fact of human existence beyond the legal system's responsibility and control. Alexander (2010, 109-110) explains that the case was brought by Warren McCleskey, a black man facing execution for the murder of a white police officer. McCleskey's lawyers argued that there was bias in Georgia's criminal justice system. Analyzing over 2,000 murder cases in Georgia the study's

author, David Baldus, found "that defendants charged with killing white victims received the death penalty eleven times more often than defendants charged with killing black victims." The study went on to find that one factor was crucial in understanding disparity--state prosecutors. Baldus found that Georgia prosecutors "sought the death penalty in 70 percent of cases involving black defendants and white victims, but only 19 percent of cases involving white defendants and black victims" (Alexander 2010, 110). In a 5-4 decision the court rejected *McCleskey's* claim in a decision that would have far reaching consequences for the criminal justice system, particularly those on death row. Alexander (2010, 111) explains:

There is good reason to believe that, despite appearances, the *McCleskey* decision was not really about the death penalty at all; rather, the Court's opinion was driven by a desire to immunize the entire criminal justice system from claims of racial bias. The best evidence in support of this view can be found at the end of the majority opinion where the Court states that discretion plays a necessary role in the implementation of the criminal justice system, and that discrimination is an inevitable by-product of discretion. Racial discrimination, the Court seemed to suggest, was something that simply must be tolerated in the criminal justice system, provided no one admits to racial bias.

Alexander's explanation of the *McCleskey* decision is indicative of the way the US criminal justice system has changed to meet the needs of neoliberal modes of production, and the continuing significance racial politics plays within the US system of justice. Foundational to the growth of neoliberalism has been the growth of "free market" economic policies that work through a supposed level playing field. In order to achieve neoliberalism's free market-based ideal, all recognition of biases must be removed from the system, creating the illusion of equality. In order to meet the resultant contradictions inherent to neoliberalism's growth (including the growth of race and class hostilities), state actors engage in a politics that is typified by a "nominal commitment to liberty, individuals, market economies, private property and profit" so that they may deny others' "suffering and concerns" (Goldberg, 2009, 77). A system of equal opportunity must be maintained in order to further the goals of neoliberalism irrespective if that system has a real connection to reality. The Court's decision in the *McCleskey* case typifies this sentiment, admitting, as the decision does, that, on one hand, racial bias exists in the criminal justice system, but then shrugging their shoulders and simply noting that it is a social inevitability when individuals are in a position to practice "discretion", thus framing racial bias as outside the purview of law. Central to this transformation is geography (Inwood, forthcoming; Inwood and Bonds, 2013).

Delaney (1998, 9) argues that the connection between space and power is no more clearly illustrated than in the context of race and racism in the United States of America. Point-in-fact, history is replete with instances of the connection between geography, power and race--Jim Crow segregation, redlining, slavery, race "riots", amongst other examples--are all strongly linked to geographies of uneven development and exploitation. More central to understanding the link between

contemporary geography, power, race and the law, is the imposition of what Michelle Alexander has termed the "New Jim Crow." This term refers to the ways the contemporary US criminal justice system imposes a system of class and race stratification on poor and mostly communities of color through a whole host of technologies of subjugation that come to justify the unequal life chances and exposure to premature death (Gilmore, 2009) that is the heart of racism in 21st Century US society. As she argues, the contemporary US criminal justice system is designed in a way that does not remove racial subjugation, but *transforms* it. In this way the contemporary "War on Drugs", get tough on crime policies, mandatory sentencing, three-strikes laws, and aggressive police and prosecutorial tactics decimate communities of color, and function as forms of racial control no less insidious than the formal segregation policies of a half-century ago (Alexander, 2010). Critical to understanding the connection between the contemporary criminal justice system and geography is the way the US criminal justice system is "predicated on the notion that an extraordinary number of African Americans have freely chosen a life of crime and belong behind bars" (ibid, 248). This she argues, is compatible with neoliberal creeds of personal responsibility that argue "we have moved beyond race and race is no longer relevant," thus rendering black and brown men who find themselves in the criminal justice system personally responsible for their situation. Thus the blame shifts to 'their' "culture, poor work ethic, or even their families" and "society is thus absolved of responsibility to do anything about their condition" (ibid, 248). As a consequence, inner-city neighborhoods are portrayed as violent, dysfunctional, and dangerous, and those who live, work, and struggle to survive within this culture of unconcern must be housed, caged, and contained. In short, the geography of urban America and the service it provides to the US criminal justice system and the construction of racial otherness is similar to the role geography first played in North America; skin color continues to demarcate access to the means of production, social status and power that profoundly influences the development of political and social space in the United States. Thus those at the margins of society are vulnerable to death and the death penalty in the United States is a confluence of the intersectionality of the subjectivities or marginality.

The Death Penalty and the Racial State

At first glance, capital punishment in the United States is a form of punishment that appears out of place (Garland, 2007). First, as has been noted, the imposition of capital punishment is unevenly distributed across the nation with states like Texas executing many (Texas is responsible for 1/3 of all executions), while other states that allow the death penalty execute few. In addition, whereas most other liberal, western democracies have curtailed or eliminated capital punishment, the United States continues with the practice. While the larger cultural and political factors that contribute to the persistence of the death penalty in the US are outside the purview of this paper (see Garland 2005), it is useful to trace the

development of the death penalty in the US to draw some broad conclusions about how the death penalty operates within the US.

In the American colonial period, capital punishment was an accepted reality of life. In later decades, calls for its abolition grew. In the colonial and post-revolutionary years, states in the North handled capital cases differently than in the US South. While Northern states tended toward reducing crimes eligible for capital sentencing, during the antebellum period, the south retained the multitude of crimes that were considered "capital cases" (Powell, 2010, 204). Much of this variation connects to slavery and the perpetuation of slave labor systems in the US south. For example, in many southern states, the list of capital crimes was much longer for black people than for white people. "Slaves were subject to the death penalty for committing any offense for which the punishment would be three years or more if committed by a white person" (Powell, 2010, 204). Throughout the south, slaves could be put to death for myriad crimes, many of them focused on repressing and containing slave insurrections. The criminal proceedings differed for slaves as well, with states variously eliminating grand jury proceedings, allowing law enforcement officials to choose juries, or even eliminating trial by juries for blacks altogether (Powell, 2010, 204). Zimring (2003) argues that histories of race, slavery and later lynching lay a foundation for the continuation of capital punishment in the US. As evidence, he argues there is a strong correlation between states that allowed slavery and states that continue with the practice of executing prisoners.

This reality is also mirrored in the way executions were historically carried out. "By the 1920s, most state governments, except in the south, carried out executions rather than local governments" (Buenviaje, 2010, 221). As time went on public executions became less common as the idea that they serve as public deterrents to crime became less accepted and as societies tolerance for displays of death and disease waned (Buenviaje, 2010, 221). Buenviaje argues "Because of advancements in medicine during the nineteenth century, disease and death were moved [from the home] to hospitals, and people grew less exposed to the nature of dying (2010, 221)." Most northern states eliminated public executions by 1836, but the south retained them for many decades, the last legal public execution being in Kentucky in 1936 (Buenviaje, 2010).

Beginning in the 1930s, unlawful lynchings, common throughout the South and US west, were critiqued by human rights advocates, including Eleanor Roosevelt, leading to broad criticism of legal executions throughout the country. By the mid-1970s, there was a strong push to abolish the death penalty in the US and to move away from state sanctioned killing. For example, *Furman v. Georgia*, a 1972 case in which an attempted robbery by a black man resulted in the accidental death of a white homeowner, led to a national moratorium on the death penalty—the only abolitionist action taken by the United States Supreme Court in history. "The court found that inequities in the application of the law, and excessiveness in assigning the penalty to crimes other than murder, violated the

constitutional prohibition against ‘cruel and unusual punishment’ (Wilson, 2010, 92).” The main grievance with the system was that juries were allowed to impose the death penalty through their own discretion. There were no guidelines (Powell, 2010, 210), and Powell argues that the court’s concern for the “randomness” of juries’ decisions to execute was a response to public concern about racial disparities in death penalty convictions (2010, 210).

What connects the history of the death penalty with the racial state is the way capital punishment is co-constitutive with capital relations and the law. Colonialism, slavery, segregation, and the prison industrial complex are manifest through sovereign legal means that "operates under the imprimatur of law, both in the past and the present, and its violent assaults on land, liberty and life are regularly authorized and articulated through legal formularies" (Gregory 2007, 211; as quoted in Springer, 2012, 3). Thus capital punishment is both a reflection of the needs of US capital-racial relations and a process that continues processes of racialization and marginalization. Consequently, during the time of slavery and segregation, when it was necessary to impose order through white-supremacist terror logics, it is unsurprising that public executions and lynchings were public spectacles and were considered "normal" expressions of popular will and legal proceedings. As the United States has transformed itself economically, and as neoliberal economic processes--and the logic of personal responsibility that undergirds neoliberal discourse has taken root--it is also unsurprising that we no longer execute people in public. Instead, the process has become sanitized and sterilized. Instead of speaking of punishing prisoners, we speak about closure for the victim’s family and the execution as an opportunity for victims’ families to "put their pain behind them" and to move on with their lives (Garland 2007; Whitman 2003; Sarat 1999; Zimring and Hawkins 1986). In this sense, executions are personal experiences that play out through individual lives, mirroring individualized neoliberal discourse.²

By engaging with the death penalty and its uneven and geographically contingent outcomes, we can begin to see the way that executions in the US dialectically link diverse social, economic and political processes with the workings of the state. As a consequence we are not arguing that Troy Davis was executed because he was black, but instead focus on the way the death penalty in the US is co-constitutive with other relations to meet particular social, cultural and economic needs. This, we argue, is a central point and an area in which geographers could meaningfully contribute to the understanding of the death penalty in the US. The transformation of the death penalty in the US is not a linearly evolving or trans-historical concept, but instead our understanding of it and

² Myriad examples illustrate this point, but one that is particularly illuminating is a website dedicated to the last words of people who were executed in the State of Texas. The website, http://www.tdcj.state.tx.us/stat/dr_executed_offenders.html, is run by and through the Texas Department of Corrections.

the way that it is deployed emerges from embedded social and *spatial* relations and processes. As Lefebvre (1991, p. 46-47) argued, every "society to which history gave rise within a framework of a particular mode of production, and which bore the stamp of that mode of production's inherent characteristics, shaped its own space." Thus, 21st century US society, and its geographic variation, bears the stamp of the neoliberal mode of production and shapes the particular conditions for the rise, uneven perpetuation, and racialized nature of contemporary capital punishment systems. Thus, the role of executions in U.S. society and the specific mode of production known as neoliberalism are central to understanding how contemporary executions are conceived, understood and produced in 21st Century US society. By engaging more directly with the geographic reality of the death penalty and all of its subsequent contradictions, geographers could further contemporary academic debates about the death penalty and move them beyond the relatively apolitical question of the death penalty from culture v. politics (see: Garland, 2007; 2005; Zimring 2003; Whitman 2003) to the more critical, and potentially politically useful, how do executions reflect and further class, race and social exploitation in the US? While we are not suggesting that a straight line can be drawn from the auction block to the lynching tree and ultimately the death chamber, we do argue that these conditions arise at particular moments and are interrelated with broader racialized practices. Thus we should see these geographies as co-existing within a long history of "racial-sexual condemnation [that] reveals a system of knowledge that cannot bear to embrace the ways in which blackness has produced untidy historically present geographies that are predicated on difficult encounters and our entangled and common histories" (McKittrick, 2011, 950). Thus the reality of the death chamber in Georgia connects with plantation style economic relationships, and reminds us that racism is a subjectivity that gives power to claims of a right to kill in the name of defending the nation from threats about those who do not belong, or worse, through benign neglect that closes off life giving possibilities. This reality calls into question the very roots of American justice and ideally should force broader US society to confront its state supported violences and racist foundations.

Case Study: Troy Davis and the Politics of the Racial State

In the wake of Troy Davis' death, the prosecutor who led the team that convicted Davis wrote an editorial in the Savannah, GA newspaper defending the execution and his legal team's work. Spencer Lawton (2011) argued that those who tried to save Davis from the death chamber posed a threat to the US legal system, writing: "As lead prosecutor in the trial of Troy Davis, I can say that the case has been badly mismanaged by one of our most important institutions [the news media], one impressed with a profound public trust." He claims that there have been two Troy Davis' trials, one "decided on facts in courts of law, where he was fairly convicted and sentenced and his appeals were denied" and the other:

a public relations campaign where his innocence is proclaimed on the strength of a 'doubt' that is manufactured and false, the overarching purpose being to defeat the death penalty[...] Having lost on facts and law, Davis advocates launched a campaign of misinformation, outright lies, manipulation and appeals to passion which was to last for 15 years. What compounds its dishonesty is that they used the courts as its vehicle. If we have created our courts as a dispassionate forum for the discovery of truth and disposition of justice, this campaign has been a fraud upon those courts and, by extension, upon fundamental precepts of our civilization.

This passage grounds the execution of Troy Davis in a logic that constructs opposition to Davis' execution as a threat to the institutions of law and justice, and declares that the only valid truths are those constructed by officials in a court of law.

Carrying Lawton's logic further, Davis had to die in order to protect the legal system from being undermined, to breathe life into the broader body politic through the legitimation of legal death. Recall from the earlier discussion of the *McClesky* case that central to the Supreme Court's decision making process was a desire to place racial bias as outside of the purview of the law--to acknowledge its existence without having to deal with it. In this editorial, Lawton makes similar arguments to justify the execution of Davis. For example, Lawton explained near the end of the editorial that he "feared" that those who had tried to spare Troy Davis had undermined the "integrity and credibility of the criminal justice system" and that in the future the "name Troy Davis will be sufficient to cut off rational discussion" about the death penalty.

Within the United States, race is constituted through the dialectical interplay of "human and inhuman persons that in sum form the category of human being" (Gilmore fatal couplings, 16). McKittrick (2006, xv) explains, that it is the "displacement of difference" that undergirds social and spatial struggle *and* "practices of domination are necessarily caught up in a different way of knowing and writing the social world." In other words, "geographic domination is conceptually and materially bound up with racial-sexual displacement and the knowledge-power of a unitary vantage point" (ibid).

Thus the racism that manifests itself in Spencer Lawton's defense of Davis' murder is a kind of "racial branding" that marks a "group and its members as vulnerable and thereby disposing them guiltlessly to abject treatment and in the final analysis extermination" (Goldberg, 2009, 27). By tying Davis' execution to the health and wellbeing of the nation-state, Lawton masks the undercurrents of racial violence and discursively shifts the discussion to nourishing the criminal justice system through Davis' bodily sacrifice.

In this context, what would be a more provocative, and potentially damning, question for Lawton specifically, and for the legal system in general, is: how many innocent men and women have been executed in order to preserve the current system of US justice? According to the Innocence Project, a non-profit organization dedicated to freeing those wrongly convicted of crimes, since 1989 there have been 289 post-conviction exonerations (Innocence Project, 2012). Seventeen of those exonerations freed men from death row and an impending execution date. In describing the most common reasons persons were wrongly convicted, the Innocence Project found eyewitnesses misidentified the defendants (a factor in 75% of wrongful convictions), and unreliable informants contributed to wrongful convictions (Innocence Project, 2012). These facts alone call into question the fairness and integrity of the US criminal justice system. When placed within the scaled geographies of southern Georgia the situation becomes more precarious. Ben Jealous (2009) explains:

Davis was convicted in Chatham County, a place where genteel traditions and picturesque antebellum mansions mask the harsher truths about the history of slavery racism, and the Jim Crow era that is still imprinted on the region. Chatham County is home to about 250,000 of Georgia's 9.7 million residents but it has produced 40 percent of all death row exonerations in the state.

When you add the additional weight of histories of official misconduct, complicity with racist organizations and attempts to subvert the liberties of US citizens, the more provocative question is how can anyone justify the actions of the state in this context?

The answer, at least in part can be explained by "collateral damage." The notion of collateral damage, or "collateral consequences" is a burgeoning idea in legal circles that explains the way the criminal justice system perpetuates inequality in the US justice system as related to race (Pinard, 2010). While scholarship on the subject currently focuses on "various collateral consequences that attach to criminal convictions in the United States [including] ineligibility for public and government-assisted housing, public benefits and various forms of employment as well as civic exclusions" (Pinard, 2010, 457) we argue that the scope needs to be expanded to include the geographies of racism that transform brown and black bodies into collateral damage in the US criminal justice system. As Mendieta explains:

racism legitimates and normalizes the murderous and genocidal function of the state, while making quotidian and imperative that the killing of some, of the others, be pursued for the sake of the survival of the living, the race, the species, the population. Racism, as a form of biopower, biologizes the foe and makes total war on it indispensable and absolutely necessary. The more we exterminate the threat, the more secure and healthy the people become. Racism,

thus, is total war on the biological body of the people for the sake of its health (2004, 49; emphasis added).

As in any war, civilians, non-combatants, the innocent, are often caught up in the fighting and they must be sacrificed for the "broader good" of society. This "collateral damage" is necessary to protect the nation from threats of those deemed for various reasons not to belong. The fact that Troy Davis, and others, have been put to death while their innocence is still in question marks these bodies as collateral damage in a state-sanctioned war to perpetuate historic geographies of inequality. The execution of its own citizens becomes justified through the workings of the US justice system, discursively externalizing death and turning it into a necessary fact of life.

As Romero (2011) explains, racial formation in the 21st Century US society is dependent on transforming histories of colonialism, racism and exploitation that originally establish racial hierarchies and then translating and reforming them to make them palatable and functional in a global economy that works through neoliberalism and concomitant beliefs in free markets and "equality" of opportunity. In this formulation, Davis' life becomes collateral damage and Davis had to die in order to protect the US justice system from broader critique, at once preserving the system's status quo while creating a legal illusion of fairness, masking the deeply racist workings of the death penalty in the US. We find evidence of the racial state's violence in times of its own crisis, by examining its apologists' defenses in the "dehumanizing rationalizations, Sunday sermons and the state edicts" which justify death as a necessity of statecraft (Goldberg, 2009, 69). While the war's damages are manifest in the everyday lives and spaces of oppressed groups across the US as black and brown men fill prisons instead of communities, the damages are masked to society through the US legal system's supposedly colorblind approach to the law. This reality connects to contemporary understandings of racism that argue once racialization processes become established, racialization becomes a self-perpetuating system that impacts all facets of life (Bonilla-Silva 2001).

Consequently we can begin to see how racism is linked to and constructs the cultural, political, social, and economic organization of society (Bonilla-Silva, 2001, 45). Thus it becomes unsurprising that the US justice system remains fundamentally unresponsive to these inequities and continuously reinforces the workings of the racial state by denying the very racist foundations of US legal traditions in the first place. In so doing it is perpetuating and advancing its founding principles. As the social sciences have made clear, the production of carceral geographies is not an accident, but result from specific social, political and economic, and spatial realities in late 20th and early 21st century US society (e.g. Loyd et al. 2012; Alexander 2010; Gilmore 2007). Turning again to the realities of the death penalty and Troy Davis specifically, one of the refrains from those who sought to execute Davis was that the court system had convicted him and that federal and state courts had turned down every one of his appeals. Unfortunately

for Davis, this too is a reflection of the hidden geographies and collateral consequences of the US system of justice. In 2010 during his appeals process his lawyers "inexplicably failed to put on the witness stand the individual whom Troy Davis and others claimed was the murderer" (Wilkes, 2011, 11). Once the error became evident "the federal judge stubbornly refused to continue the hearing [...] which meant the federal judge decided the issue of whether Davis was guilty without ever hearing the testimony of that individual" (ibid). As a consequence of the court's actions, Davis' death is wrapped up in a veil of legitimacy that exonerates the state from the taking of innocent life--he had a chance to appeal, but because of the inadequacies of his defense team his guilt or innocence is none-the-less unresolved. Thus Davis once again becomes collateral damage to the broader political concerns about US justice and get tough on crime policies that have dominated US political discussions for decades.

In 1996, for example, in an effort to "get tough on crime" Congress passed, and President Bill Clinton signed, the Anti-Terrorism and Effective Death Penalty Act (EDP) that severely limited the number of habeas corpus petitions a defendant could file to try to stop and postpone their execution. In order to understand the passage of the EDP legislation it is important to place it within the context of US politics and the changing role of the state and social service provisioning. The EDP legislation was passed shortly after the "Republican Revolution" which saw the Republican Party take over the US House of Representatives for the first time in more than four decades. Almost immediately the Republican led Congress passed sweeping welfare and criminal justice reform that stripped social service benefits from the poor, while at the same time streamlining the "delivery" of justice (Schram et. al, 2011, 130). While it is true that most death row inmates spend several years, if not decades on death row, the point of the EDP legislation was to speed up the process making the delivery of justice more efficient. Schram et.al. (2011) argue that when taken together these laws [welfare reform and criminal justice reform] ushered in an era of "coercive authority" that is used "deliberately to transform human subjectivities" and is actually a return to "older forms of social control" (131). They go on to note:

This shift is exemplified by changes in the American criminal justice system beginning in the 1970s that have produced an era of mass incarceration unprecedented in world history. In this same period, welfare programs for poor families became more restrictive and demanding, and eligibility for aid became conditional on compliance with behavior modification efforts (ibid).

Specifically, it was the way efforts at welfare reform in the 1990s were galvanized through a politics rooted in images of "irresponsible minority underclass" (ibid). Returning to the Troy Davis case, one of the key factors in determining his fate was the fact that prosecutors made a big deal of him being "out late" and that he was "out of work" insinuating that if he had just been "responsible" this whole incident would have never happened. In this way Mr. Davis' execution is grounded in the

logic of race and processes of racialization that continue to perpetuate unequal and unjust outcomes.

Turning more specifically to the EDP legislation Bob Barr, a conservative former congressman and strong advocate for the death penalty, explained in a New York Times editorial that EDP was an effort to stop "the unfounded and abusive delays in capital cases that tend to undermine our criminal justice system"(2009, A21) . However, he goes on to explain that subsequent to the law's enactment, the federal courts have used EDP to "limit the number of habeas corpus petitions that a defendant could file, and set a time after which those petitions could no longer be filed." Thus once Davis' lawyers screwed up, they had no further recourse to present as a witness Sylvester Coles, the man many believe responsible for MacPhail's murder. This effectively precluded Troy Davis' attorneys from ever having the chance to challenge the evidence that was used to convict him because it was outside of the time frame set in the EDP legislation. The Kafkaesque irony is, that as currently put into practice, "our [US] legal system does not allow defendants the opportunity to present new evidence of their innocence after conviction" (Jealous, 2009). William Sessions, former director of the Federal Bureau of Investigation (FBI) and a death penalty supporter explains:

Police never found a murder weapon. Seven of the nine witnesses recanted or changed their original testimony. Some of these witnesses say police pressed them to implicate Davis. Some also point to another man, one of the two witnesses who continue to implicate Davis, as the real murderer. Because these revelations came after Davis was convicted, court rules have prevented a full hearing on Davis' claim of innocence. These rules bar appeals courts from hearing even the most important of claims if the defendant did not properly raise them at trial. This is true even if the failure to raise them was not caused by the defendant. This was the situation in Davis' case; his lawyers were public defenders who admit they were unable to investigate the facts and provide a comprehensive defense. These procedural rules mean that no court has ever held a hearing on the claims of innocence raised by Davis' current legal team (Sessions, 2008, A12).

Wilkes (2011, 11), building on Sessions' arguments, explains that a fundamental tenant of the legal system is for the "law enforcement community to close ranks and defend the sentence at all costs." As a consequence far from seeing the justice system work to ensure its impartiality, it instead is focused on reinforcing and perpetuating the system of justice that far too often marginalizes and excludes persons of color from taking part in the life giving functions of the nation state and instead treats their lives as collateral damage.

Conclusion

We focus on Troy Davis not only because of his potential innocence, but because his case illustrates the inhumanity of the US justice system and the continuing significance of continued inequality for the nation. Since Troy Davis' death at least 35 others have been executed and more are scheduled to die as we write these words--many under questionable circumstances. Take the case of Marvin Wilson, a man who killed a police informant and was executed by the State of Texas in August of 2012. According to court records Mr. Wilson "sucked his thumb into his adulthood, read at a second grade level, has an IQ of 61 [this places him in the lowest adult percentile] doesn't know the difference between right and left, and as a child couldn't wear a belt without cutting off his circulation" (as quoted in Murphy 2012, August 7). While the US Supreme Court ruled that executing someone with Mr. Wilson's IQ was unconstitutional, the State of Texas circumnavigated this ruling by coming up with its own standard. Ed Pilkington (2012) writes:

Instead of clinical or scientific approach, based on widely recognized tests set out by the American Association on Intellectual and Development Disabilities, Texas decided to go its own way [...] The determinants were posited around the character 'Lennie Small' in Steinbeck's 1937 novel *Of Mice and Men*. "Most Texas citizens," the argument ran, "might agree that Steinbeck's Lennie should, by virtue of his lack of reasoning ability and adaptive skills, be exempt" from execution. By implication anyone less impaired than Steinbeck's fictional migrant ranch worker should have no constitutional protection.

Such executions make plain the inequities in the US justice system, inequities that are the result of racism, economic and political needs of the state, and the continuing consequences for those at the margins of society and who are consequently exposed to death. For these reasons guilt and innocence have very little to do with executions in the United States, and arguably should not serve as the basis for opposition to the death penalty. Instead, opposition, in fact our opposition, rests on the realization that "death row" itself is a reflection of an immoral and bankrupt system of justice that places profit over people and has no regard for victims, perpetrators and the broader public. For these reasons the death of Troy Davis should become a rallying cry for a sustained opposition to the death penalty both in and outside of academia. Within geography as work on prisons grows we need to expand our focus to investigate and understanding the death penalty in the US, to expose the ethnoracial consequences for communities throughout the United States. Such an agenda must include a broader interrogation of executions that illuminate and expose the justice system to critical scrutiny. Geography can and should be central to this effort by expanding our understandings of the death penalty to focus on the ways the production of space is central to understanding the production of death row in the US.

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