



A Lingual Politic

Power and Resistance in Sacred, Secular, and Subaltern Narratives in an Age of Mass Incarceration

Nikia Smith Robert
Claremont School of Theology



Resumen

Este artículo sostiene que la convergencia de lenguaje y poder se multiplica en los estratos sociales y, en una era de encarcelamiento punitivo masivo, ejerce violencia sobre los cuerpos subalternos. Exploro las jerarquías sociales racializadas en los textos sagrados judeo-cristianos y su relación con aquellos textos seculares que marcan los cuerpos subalternos para el castigo. Sostengo que las economías escriturales hegemónicas perpetúan la violencia discursiva que es evidente en el uso imperial de jurisprudencia sobre los cuerpos negros destinados al depósito en complejos industriales carcelarios. A manera de respuesta, las proclamas de protesta se convierten en voz de vencedores que, como autores de narrativas subalternas de resistencia, nombran en primera persona, superan el silencio y reescriben historias.

Palabras claves: Textos sagrados, Textos jurídicos, Disciplinamiento social, Subalternidad, Racismo, Narrativa de resistencia.

Resumo

Este artigo sustenta que a convergência de linguagem e poder se multiplica nas camadas sociais e, numa época de encarceramento punitivo maciço, exerce violência sobre os corpos subalternos. Exploro as hierarquias sociais raciais nos textos sagrados judaico-cristãos e sua relação com aqueles textos seculares que marcam os corpos subalternos para o castigo. Sustento que as economias escriturais hegemônicas perpetuam a violência discursiva que é evidente no uso autoritário de jurisprudência sobre corpos presos destinados ao depósito em complexos industriais prisionais. Em resposta, proclamações de protesto tornam-se a voz de vencedores que, como autores de narrativas subalternas de resistência, superam o silêncio e reescrevem histórias.

Palavras-chave: Textos sagrados, Textos jurídicos, Disciplinamiento social, Subalternidade, Racismo, Narrativa de resistência.



Abstract

This article submits that the confluence of language and power proliferate social strata and exacts violence on subaltern bodies in a punitive age of mass incarceration. I explore racialized social hierarchies in Judeo-Christian sacred texts and its relationship to secular texts that mark subaltern bodies for punishment. I argue that hegemonic scriptural economies perpetuate discursive violence that is evident in the imperial use of jurisprudence to warehouse black bodies in a prison industrial complex. In response, proclamations of protest become the voice of victors to self-name, overcome silence and rewrite histories as authors of subaltern narratives of resistance.

Keywords: Sacred texts, Legal texts, Social regulation, Subalternity, Racism, Narrative of resistance, Punishment, Mass Incarceration.

About Nikia Smith Robert

PhD student in the Religion, Ethics and Society program at Claremont School of Theology, in California, U.S. She completed her Master of Divinity at Union Theological Seminary, in New York, U.S. Robert is an ordained Itinerant Elder in African Methodism and serves a local congregation. Her areas of research involve the intersectionality of race, gender, class, religion, and punishment. Her research focuses the framings of religious interpretations of punitive philosophies and public policy to explore the lived realities of poor black women in an age of mass incarceration. Robert self-identifies as an activist, theologian, and ethicist committed to social justice. She lives in California with her husband and two children.

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Introduction

Language is mundane. Yet, it is also extraordinary. Written texts and verbal orations are sportively spawn into spaces of hegemony while slothfully scripted into the margins of alterity. I recall sitting as the only African-American woman in a doctoral seminar at a prestigious seminary. Oddly, in a world religions course that studied methods of respecting particularities, I did not always feel affirmed in my particular lingual encounters. To raise my hand and speak often disrupted covert power dynamics. The classroom symbolized hegemonic space represented by a white male professor. In posing arguments or raising questions, my analyses were rarely taken at face value. Rather, they were often rephrased, paraphrased, or followed by inquiries for clarification. In other words, it was rarely *what* I said that took precedence over what I seemingly *meant* to say. In this instance, the occupation of dominant space authorized white privilege and institutional power to interpret and impose meaning that devalued voice from locations of alterity. I understood this phenomenological encounter as a lingual politic signifying the mundanity of language and the extraordinary dynamics of power as an expression of social hierarchy.

In *Language and Symbolic Power*, twentieth-century French sociologist, Pierre Bourdieu (1991) ascertained, «Every linguistic interaction, however, personal and insignificant it may seem, bears the traces of the social structure that it both expresses and helps to reproduce» (2, emphasis mine). Bourdieu's critique encompasses a relationship between linguistic interactions and social structures. What is particularly resonant about this statement is Bourdieu's emphasis on «every» linguistic interaction. This all-encompassing qualifier, «every,» suggests that a personal and insignificant linguistic interaction, such as raising a question in class, is not limited to an abyss of nothingness but



surfaces into a vast world of meaning. Seen this way, it matters when narratives are not recognized, validated or heard — particularly when encountering a colonial language as a person of the diaspora.

Thus, following Bourdieu (1991), my encounter, «however personal or insignificant» (2), revealed a lot about the peculiarity of language as an expression of power and social structures. It prompted the framing questions: What if lingual interactions signified something more than my personal experience but of larger social phenomena? What if language and power codified who is in and who is out, who is heard and who is silenced, who is defined and who is defining, who is oppressed and who is fully participating in the socially democratic project of freedom and liberty for all?

In a tradition of appropriating sacred texts for cultural and liberative meaning, African slaves translated scripture to impart meaning from their lived experiences. They lived long enough to tell how words labeled them as «non-being» and «nigger,» «slave» and «stupid,» «chattel,» and «convict». These labels were expressions of social constructs designed to reinforce systems of caste that bifurcated the privileged and the poor, the powerful and the proletariat, the oppressor and the oppressed. It invoked the atrocities of lynching, slavocracy, Jim Crow and criminality. In this regard, a lingual politic of naming, defining, labeling, sacralizing and legislating undergirded a discursive violence. Thus, «be careful what you speak...» —the church mother's admonished— for there is power in words. Power to oppress; and power to resist oppression. Here, discursive violence is an extension of Foucaultian logic that describes the coercive nature of language and power that exacts violence upon docile bodies. Through a production of knowledge, discourse



is formed in economies of power to discipline and punish (Foucault, 1972, 1982).¹

The African slaves resisted death-dealing circumstances by singing their pathway to escape. «Follow the drinking guard. For the old man is a waiting to carry you to freedom, follow the drinking guard». They resisted by singing directives for freedom: «When I fall on my knees with my face to the rising sun, oh Lord have mercy on me...». They resisted by singing the revolution: «Wade in the water. Wade in the water children. God's gonna trouble the water». These words were subversively sung and spoken as salvation and they pointed toward freedom. Thus, the oppressor's tongue had power to speak servitude and bondage; but the tongues of the oppressed had the prowess to resiliently and resoundingly invoke liberation. In this vein, white supremacy attempted to write-off the oppressed from historical accounts of human existence; but the oppressed could not be blotted out from the plot for freedom. Language, then, —mundane and extraordinary, however personal or insignificant— is both a modality of power *and* a means for protest.

¹ The term «Jim Crow» describes segregation, racial caste, and inequalities in the United States that most prominently affected poor communities of color in the South during the 1950s and 1960s. This bestial system of inequality was an extension of slavery where laws, such as *Plessy v. Ferguson* that legally sanctioned equal but separate systems of education, were constitutionally designed to disenfranchise blacks as second-class citizens and subhuman. More recently, Michelle Alexander, in her book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2012), argues that the prison industrial complex undergirds a new racial caste system where racialized social controls in the U.S. criminal system of justice is strikingly similar to the Jim Crow of the past. Consequently, black people disproportionately comprise an underclass who is grossly funneled into the criminal justice system as a result of systematic oppression.



Hence, pushing the framing questions further: What if the paradoxes of power and protest inherent to lingual politics signified not only social phenomena, broadly speaking; but, more specifically, of social resistance and even of social revolution? Considerations of this driving question is worth a critical analysis exploring lingual politics within sacred, secular and subaltern narratives in an age of mass incarceration.

In the first section, this article exposits the etiology of language as an oppressive tool of oppression within sacred Judeo-Christian texts. Stories such as the Curse of Ham, for example, constructed black bodies as a social aberration to be controlled and punished into docility and inferiority. This logic is extended further in the second section, which explores enlightenment thinkers' racialization of scripture to legitimize social hierarchy that effectively constituted spaces of alterity. In response, poststructuralist thinkers such as Antonio Gramsci (1971) and Gayatri Chakravorty Spivak (1988, 2005) provide the groundwork of resistance by unearthing the humanity and voice of the subaltern. The third section advances this analysis of racialized texts that undergird social hierarchy by exploring North-American law. Jurisprudence is as a product of scriptural economies and post-enlightenment imaginations where black and brown bodies are marked for punishment by discursive violence through unjust customs and laws. In the final section I argue for an overturning of scriptural economies of hegemony to counter discursive violence and to redeem subaltern flesh through a process of delinking by self-naming, overcoming silencing and rewriting history for a new humanity. Hence, to redact corporal oppressive scripts is to produce a teleological narrative of liberation.



Color Consciousness in Antiquity

Resistance emerges out of epochs of domination. Beginning with antiquity, writers have transcribed patriarchal and hegemonic tropes to reify the social hierarchies of their time. For example, the Curse of Ham (Gen 9.20-27).narrated «crime and punishment» that marked the nemesis of criminalizing an accursed «people of color.»² In an expository of Genesis 1-11, Cain Hope Felder (1991) references Claus Westermann who, in his book *Genesis 1-11: A Commentary*, posits that these passages have antecedents and parallels that draw a relationship between ancient African myths and biblical stories of crime and punishment.

Felder (1991) asserts that this is particularly evident in the crime of Ham allowing himself to see his naked and drunken father, Noah, without immediately covering him. This narrative of Ham exemplifies notions of crime and punishment in sacred text that implicates accursed brown flesh. Furthermore, the Exodus story's narration of Israel's plight through captivity normalized slavery and oppression. Sarah and Abraham's plot to secure the promise of progeny (Gen 16) justified rape, child neglect, and domestic abuse. Levitical codes justified heteropatriarchal norms for gendered social practices. Pauline theology justified sexuality norms. The crucifixion of Jesus (Mt 27.32-44; Mk 15.21-32; Lk 23.32-43; Jn 19.23-30) justified a state sanctioned execution; as well as the criminalization of brown bodies in a system of sacrifice. Thus, throughout antiquity Judeo-Christian sacred texts were interpreted to reinforce social hierarchies.

² Originated in the context of French colonialism in the Caribe to label free African slaves (Powers Jr., 1994), the term «people of color» passed to the United States and Canada in 1793 in order to designate primarily Afro-descendants (Safire, 1988) to later expand to include other non-White groups (Arboleda, 1998).



Paul Harvey (2003) supports this claim when he writes, «Christianity necessarily was central to the process of *racializing* peoples—to imposing categories of racial hierarchies upon groups of humanity or other societies» (14). In other words, colonial use of written texts precipitated the sacralizing of power to undergird racial differences. This is particularly evident in the interpretive practice of exegesis, which became an epistemological tool of the colonizer to engage written texts and substantiate social subordination through the invention of rules and grammar that canonized hierarchies. Although concepts of race were not yet constructed in antiquity, «Ancient authors of biblical texts did have a color consciousness of color/race (Harvey, 2003: 127)». Importantly, «color consciousness» was not politically or ideologically driven, but it served as a springboard for post-enlightenment thinkers to interpret sacred texts that justified white superiority and produced racial hierarchy. Shawn Kelley (2002) writes:

Europeans were fully civilized, the adults of the racial hierarchy; Orientals and/or Semites (including the Jews) were semi-civilized, the teenagers of the caste system; while the savages were incapable of civilization and were the children of the hierarchy. The racial hierarchical system defined the intellectual ability, moral sensibility, and cultural configuration of each racial group. Savages, for example, were thought to be sexually, intellectually, culturally, and morally primitive. African or indigenous people, and their descendants, are essentially and naturally primitive and are destined to stay that way forever. They are not now, nor can they ever be, civilized. The situation for the Orientals is not so bleak. They were able to create a society, albeit a backward one. If savages were thought to be without society and culture, Orientals were thought to be politically despotic and culturally atrophied. Jews were simultaneously enemies of the



gospel and an alien (i.e. Oriental) presence in the heart of Europe. As a result they came to represent that which corrupted and destroyed from within. It is only Europeans who are advanced enough to create societies that are free and cultures that are sophisticated and vibrant (30-31).

It is important to note that Africans along with people of color were perceived as «savage,» «backward,» and «alien.» A lingual politic conveys a global power struggle of validating the superiority of whiteness at the demonization of embodied «otherness». Furthermore, Kelley explains the racial logic that legitimized whiteness as superior and sophisticated while devaluing the rationality, and by extension the humanity, of non-Europeans. A simple word study will also prove this true. Namely, the etiology of «Ethiopian» means «burnt-face» in Semitic language, as Felder (1991) states:

The language of the ancient Ethiopians (“burnt-face” Africans), for example, is as Semitic as the language of early Hebrews (Jahwists), or of the Arabs. This reaffirms the contention that sophisticated theories about race and the phenomenon of racism are cultural trappings that appear well after the biblical period (128).

Ethiopians were considered a Hamitic race connected to the land of Cush, arguably located in Africa. Post-enlightenment thinkers associated Ethiopians who were «burnt-face» with black people who were effectively an accursed race, the descendants of Ham. Felder (1991) further posits: «Later Europeans adopted the so-called curse of Ham as a justification of slavery and stereotypical aspersions about blacks» (129). Accordingly, post enlightenment racial logic and the conceptualization of color-consciousness in sacred



text morphed into a genealogy of destruction that violently and vociferously victimized vulnerable people of color.

Any variation of the word black, then, became synonymous for social aberration. In other words, «black» became a trigger word to express negative attitudes toward people of color. In *The Merriam-Webster Dictionary* (2015), the word «black» is understood as «thoroughly sinister or evil»; «wicked»; «indicative of condemnation»; «marked by the occurrence of disaster»; and «characterized by hostility or angry discontent». These words are consonant with social stereotypes of black people as «deceptive, cheater and welfare queen»; «seditious and criminal»; «armed and dangerous»; «angry black woman and violent black man». In contrast, *The Merriam-Webster Dictionary* (2015) defines «white» as «free from spot or blemish»; «marked by the presence of snow (a *white* Christmas)»; «not intended to cause harm»; «favorable, fortunate»; «free from moral impurity (innocent)»; «marked by the wearing of white by the woman as a symbol of purity (a *white* wedding)».

Thus, the stark contrast of whiteness as normative against blackness as a social aberration makes people of color existentially and ontologically deviant from what is perfect, pristine and pure. In this light, it became critical to construct apparatuses of control through tropes of deviance to justify punitive correctives for the socially —and culturally—abhorred. Accordingly, language and power functioned as tools to reify social hierarchy through scriptural economies of hegemony from color consciousness in antiquity to racial reasoning post-enlightenment.



Racial Reasoning in Enlightenment

In his *Prison Notebooks* (1971), Gramsci introduced the term «Subaltern,» which referred to marginalized groups who were dominated by hegemony and excluded from political representation by ruling elites. Gramsci (1971) asserts, «Subaltern groups are always subject to the activity of ruling groups, even when they rebel and rise» (55). To his fault, however, Gramsci's ascertainment of the subaltern excludes any distinction of gender. Subsequently, in her essay titled «Can the subaltern speak?» (1988) Spivak critiques Gramscian assumptions of alterity. Spivak responds with a feminist construction of subalternity that effectively admonishes against the reproduction of cultural hegemony and essentialism that is easily reserved for privileged groups. Spivak's concern for the cultural, political and historical representation of the subaltern is to raise awareness of the inextricability of power and the problem of control in signifying the truths of the subaltern. She writes, «For the 'true' subaltern group, whose identity is its difference, there is no unrepresentable subaltern subject that can know and speak itself» (Spivak, 1988: 80). Spivak (1988) concludes that the subaltern cannot speak in as far as their narratives are not recognized with political authority. Until this occurs, the subaltern remain «removed from all lines of social mobility» (Spivak, 2005: 475). Consequently, in the context of colonial production the subaltern are rendered silent, ahistorical and nonexistent.

To presuppose, then, that the contribution of this article or another academic work in postcolonial theory will provide a platform to empower the subaltern to speak and to be heard, according to Spivak (2005), is a disservice. Rather, it is not the elite academic works of intellectuals produced in ivory towers alone, but the conjoining of grassroots activism that overhauls oppressive systems of power. Hence, it is not so



much as to whether or not the subaltern speaks, but more as to with what authority do they speak and are *heard*. In the end, Gramsci's and Spivak's articulation of alterity provide a framework of resistance by giving credence to the agency of active silence or the subaltern to counter racialized post-enlightenment machinations with political authority.

It is therefore significant to understand that though the Enlightenment project began as a quest for freedom, it unfolded as a narrative of enslavement that constituted subaltern identity (Córdova Quero, 2015). In this scheme, enlightenment thinkers used racial reasoning to normalize homogeneous scriptural economies that sacredly and secularly omitted subaltern people from human history. In his 1784 essay, «What is Enlightenment?» Immanuel Kant (2013 [1784]) identified the motto of enlightenment as, «Sapere aude!» [dare to be wise] (1).³ He further stated:

Laziness and cowardice are the reasons why so large proportion of men, even when nature has long emancipated them from alien guidance (naturaliter maiorenes [Those who have come of age by virtue of nature]), nevertheless gladly remain immature for life. For the same reasons, it is all too easy for other to set themselves up as their guardians. It is so convenient to be immature! (Kant, 2013 [1784]: 1).

For Kant, one must exhibit courage «to understand» and to assert one's mind to make rational choices. Otherwise, laziness and cowardice became impediments of freedom. This alienated non-Europeans. Among those disqualified, Africans —and their descendants in the Americas— were

³ Kant's essay «Beantwortung der Frage: Was ist Aufklärung?» [An answer to the question: What is Enlightenment?] was published in the November issue of the *Berlinische Monatschrift* [Berlin monthly] and edited by Friedrich Gedike and Johann Erich Biester.



considered lazy, uncivilized, savage, barbaric, immature, irrational and incapable of making responsible decisions to responsibly assert an enlightened mind toward freedom as their European counterparts (Córdova Quero, 2015). Thus, enlightenment set out as a project of liberation through rational pursuits of heightened intellectualism and moral responsibility but soon became a codified term to dismiss the history and humanity of the lower subaltern groups.

In the introduction to *Philosophy of History*, Georg Wilhelm Friedrich Hegel (1956 [1837]) writes: «At this point we leave Africa, not to mention it again. For it is no historical part of the World; it has no movement or development to exhibit» (843-844). Kelley (2002), quotes David Hume reporting:

I am apt to suspect the negroes, and in general all the other species of men (for there are four or five different kinds) to be naturally inferior to whites. There never was a civilized nation of any other complexion than white (2).

Kelly (2002) also recalls the works of Immanuel Kant when purporting, «Americans (i.e. Indians) and Blacks are lower in their mental capacities than all other races» (2). At the same time, Kelley (2002) bring the voice of Thomas Jefferson when he states, «I advance it therefore as a suspicion only, that the blacks, whether originally a distinct race, or made distinct by time and circumstances, are inferior to whites both in body and mind» (2). Finally, this author informs that *L'Encyclopédie* documents:

The natives are idolaters, superstitious, and live most filthily; they are lazy, drunken rascals, without thought for the future, insensitive to any happening, happy or sad, which gives pleasure to or afflicts them; they have no sense of modesty or restraint in the pleasures of



love, each sex plunging on the other like a brute from the earliest age (Kelley, 2002: 2).

The rational project of enlightenment proliferated racial reasoning that served as a tool to avow or disavow «othered» bodies from white spatiality. Scientific approaches to understand human relationality used lingual politics to differentiate the civilized and uncivilized, human and barbaric, sane and savage, rational and irrational. As a result, a post-modern society endeavored to sacredly and scientifically write-off subaltern people from the liberation project. In its purest intentions, enlightenment imagined freedom as the courage to make rational choices, but only a few were considered cognitively capable—a European elite, especially in religious terms (Masuzawa, 2012). Hence, enlightenment was not a quest of freedom for all. It was a reinforcement of racialized social hierarchies that reproduced discursive violence against non-European bodies. In response, poststructuralist thinkers—such as Michel Foucault (1972, 1982)—critiqued reproductions of discursive violence that reified an esoterically enlightened empire.

In *The Discourse on Language*, Foucault (1972) critiques language as a violent encounter. He writes: «We must conceive discourse as a violence that we do to things, or, at all events, as a practice we impose upon them; it is in this practice that the events of discourse find the principle of their regularity» (229). Foucault makes a trenchant point that is germane for this analysis. He underlines the importance of understanding discourse as a violence that we subjectively and regularly impose as a brute *tour de force*. The principle of regularity endemic to discursive violence bears a resemblance to the mundanity of language that has extraordinary implications for social phenomena. Domination is a practice of perpetuity and thereby habitual. Understood this way,



discursive violence perpetuates social hierarchies, Kelley (2002) elaborates:

It is the field of discourse that establishes the objects (i.e. antiblack racism, racial anti-Semitism) and that establishes the rules of expression (i.e. what is said about slaves or about Jews). What is said in the name of race takes a variety of forms and is expressed in a variety of modes (academic, legal, cultural, political, for example), but it is governed by and functions within a larger field of discourse. While the objects and the rules of expression change over time, the field of discourse that renders them possible remains stable (17).

Discursive violence objectifies and subjugates subaltern identity. This is achieved by the perpetual state of dominance that proliferates rules in a variety of forms and modes to normalize oppressive structures. Importantly, a mechanism of control takes on new forms over time, but its essence remains the same. This is to suggest that written texts in its various forms — scripture, philosophies, ideologies and jurisprudence — change over time but the essence of power that coercively exacts its force on «othered» bodies remains the same. In the words of historian, politician and moralist, John Emerich Edward Dalberg Acton, who wrote to a Roman Catholic Archbishop about the importance of historical accountability pens: «Power tends to corrupt, and absolute power corrupts absolutely» (Lewis, 2000: 1). Thus, the power to create, recognize and validate scriptural economies authoritatively and deterministically validates the relevance —and irrelevance— of particular histories that signifies social phenomena. Simply, economies of imperial power reproduce corruption. Albeit scripture written in antiquity or Kantian moral philosophy during the enlightenment, written texts and oral orations are functions of corruptible power that legitimizes social hierarchy.



This logic is the lynchpin to this article's argument. It moves a discussion of discursive violence in antiquity and the enlightenment to an exploration of lingual politics in postmodern society and jurisprudence. It germanely argues that interpretations of sacred texts created scriptural economies of homogeneity that sanctioned discursive violence as an expression of social phenomena, which reproduced new secular canons of control in contemporary contexts. Jurisprudence instantiates this contention. Law — understood as having the same power machinations of a lingual politic— is used as a tool of empire to signify social phenomena and reify social hierarchy. Thus, in the next section, I explore North-American law as an extension of discursive violence that perpetuates the practice and regularity of mass incarceration.

Mass Incarceration and Modernity

Similar to written texts of antiquity and enlightenment, jurisprudence emerges from the intersections of language and power. Laws are fundamentally anchored in imperial scriptural economies. There is undeniably a relationship between scripture's color consciousness, Enlightenment's racial reasoning *and* jurisprudence's punitive philosophies. This focal supposition leads to a series of relevant questions: How does the confluence of homogeneous scriptural economies and punitive philosophies promote social hierarchy? Furthermore, is the letter of the law an enfleshment of discursive violence brazed upon the backs of black and brown people in an age of mass incarceration? Finally, if lingual politics preempt modalities of power, then how does subaltern narratives become a means for protest? To this end, we turn to scripture, law, and the hyper-criminalization of brown bodies.



Antiquity writers portrayed an unarmed first century Palestinian Jew as seditious and criminal. Inconceivably, he had broken no laws and yet was guilty for challenging the norms of an oppressive Roman establishment. Indicted as an insurrectionist, he is recorded as saying bizarre things like «the last shall be first» (Mt 19.30),⁴ and «blessed are they who are poor in spirit for theirs is the kingdom of heaven» (Mt 5.3). Perhaps even more strange he told an outcast, «your faith shall make you whole» (Lk 17.19) and to the doubter he proclaimed, «I am the way, the truth and the life» (Jn 14.6). To the extortioners he demanded restitution and admonished that, «it is easier for a camel to go through the eye of a needle than for someone who is rich to enter the kingdom of God» (Mk 10.25), and to the criminal he extended restoration when he turned to a penitent thief declaring, «today, you shall be with me in paradise» (Lk 23.43). The list is long and did not serve Jesus well.

In fact, Jesus was considered a social aberration. He was defamed and demonized, but *de facto* he demanded a transvaluation of values —the overturning of oppressive structures.⁵ In this vein, Jesus was «burnt-face» and barbaric but no less benevolent. He was seditious and savage but —to some— Savior. Jesus was mistaken and the Messiah. Jesus embodied the paradox of power and protest. His body bore the brunt of discursive violence. He enfleshed a lingual politic. By virtue of brown flesh, Jesus' subaltern body endured state sanctioned violence with a spirit of resistance. Hence, Jesus was both victim and victor — he succeeded

⁴ All quotations have been taken from the New International Version.

⁵ In *The Antichrist*, Nietzsche (2010 [1895]) describes transvaluation of Christian values as an attempt to invert notions of falsity and truth by triumphing over opposing values. In a Christian context, this parallels Jesus' ministry where he sought to make the last first, where the fools shamed the wise, where the low placed were exalted, and where a man who died an ignoble criminal's death professed to be the Messiah.



against the power of the oppressor with the prowess of resistance. He was an aberration, but he is not alone.

Jesus is one among many who fell victim to elite policies, dominant cultural norms, and punitive rules that criminalized brown bodies as social aberrations — seditious, lazy, backward, alien and «other». Deductively, the color consciousness that undergirded the racializing of Jesus in antiquity plausibly mirrors the contemporary social practices of policing brown bodies in a modern age of mass incarceration. As argued, racial reasoning takes a variety of forms and is expressed in a variety of modes —scripture, philosophies, ideologies, jurisprudence— but its essence — control, domination, imperial power— remains the same. This is to suggest that methods of oppression are adaptable, transferrable and perpetual. Empire is fluid. There are traces of social hierarchy from Roman occupation in the first century to western culture's current millennia. Thus, the policing of brown bodies in the modern capitalist World-System is not new. The state sanctioned crucifixion of unarmed black men —and women— is not new. Lynching is not new. The New Jim and Jane Crows are not new. Oppressive scriptural economies of power exacted against the flesh of subaltern people is of the same essence. Lingual politics of discursive violence uses an old plot of domination in new forms. The old logic of control has new manifestations in an age of mass incarceration where the law is used to build prisons atop oppressed bodies.

This is evident in a retributive society with a booming prison industrial complex that disproportionately warehouses brown bodies. The United States has the highest incarceration rates in the global world. In fact, there are more African American men incarcerated in the U.S. than the total prison populations in India, Argentina, Canada, Lebanon, Japan, Germany, Finland, Israel and England combined (Walmsley, 2011). Moreover, while people of color make up



about 30 percent of the United States' population, they account for 60 percent of those imprisoned (Kerby, 2012). The prison population grew by 700 percent from 1970 to 2005 where 1 in every 15 African American men and 1 in every 36 Latino men are incarcerated in comparison to 1 in every 106 White men (Kerby, 2012). Comparably, African American women are among the fastest growing prison population, where the number of women incarcerated has increased by 800 percent over the last three decades (Kerby, 2012). African American women are three times more likely than White women to be incarcerated, while Latina women are 69 percent more likely than White women to be incarcerated (Kerby, 2012). Similarly to brazed cattle, it is as if laws were virtually written onto the backs of the oppressed as a mark of punishment to effectively slaughter the poor and vulnerable in a penal system of sacrifice.

In the *Practice of Every Day Life*, Michel de Certeau (1984) ascertains that society is a blank page seeking to coercively write itself by producing its own system of texts. Writing, de Certeau (1984) argues, is a violent and imperial encounter where the law marks bodies for punishment:

There is no law that is not inscribed on bodies. Every law has a hold on the body. The very idea of an individual that can be isolated from the group was established along with the necessity, in penal justice, of having a body that could be marked by punishment, and in matrimonial law, of having a body that could be marked with a price in transactions among collectivities. From birth to mourning after death, law «takes hold of» bodies in order to make them its text. Through all sorts of initiations (in rituals, at school, etc.), it transforms them into tables of the law, into living tableaux of rules and customs, into actors in the drama organized by a social order (135).



De Certeau explains law as something that forcefully happens from birth to mourning after death it takes hold of bodies and makes them its text. More aptly, the law takes hold of *brown* bodies with a mark of punishment both inscribed and enfleshed:

[...] It remains that the law constantly writes itself on bodies. It engraves itself on parchments made from the skin of its subjects. It articulates them in a juridical corpus. It makes its book out of them. These writings carry out two complementary operations: through them, living beings are «packed into a text» (in the sense that products are canned or packed), transformed into signifiers of rules (a sort of «intextuation») and, on the other hand, the reason or Logos of a society «becomes flesh» (an incarnation) (De Certeau, 1984: 135).

From skin to subjects, brown bodies become a juridical corpus—a body of laws—an enfleshment of lingual politics. Similarly to Logos, as in God violently entered into history to occupy human flesh, jurisprudences coercively disrupts embodied «otherness» to mark black bodies for punishment. The result is a bodily discursive violence that replaces paper for pigmented peripheral people. Moreover, de Certau (1984) asserts:

In times of crisis, paper is no longer enough for the law, and it writes itself again on the bodies themselves. The printed text refers to what is printed on our body, brands it with a red hot iron with the mark of the Name and of the Law, and ultimately affects it with pain and/or pleasure so as to turn it into a symbol of the Other, something said, called, named (140).



Taken together, the use of law as a mechanism of control exemplifies how written texts become punishment incarnate, punitive logos, enfolded trauma, an embodied discursive violence that symbolically —and materially— brands subaltern flesh as a subservient «other». Importantly to write the law on bodies, an apparatus is necessary. De Certeau (1984) posits,

[...] in order for the law to be written on bodies, an apparatus is required that can mediate the relation between the former and the latter. From the instruments of scarification, tattooing and primitive initiation to those of penal justice, tools work on the body. Formerly the tool was a flint knife or a needle. Today the instruments range from the policeman's billyclub to handcuffs and the box reserved for the accused in the courtroom. These tools compose a series of objects whose purpose is to inscribe the force of the law on its subjects, to tattoo him in order to make him demonstrate the rule, to produce a 'copy' that makes the norm legible. This series forms an in-between; it borders on the law (it is the law that provides it with weapons) and it aims at the body (in order to mark it). An offensive frontier, it organizes social space: it separates the text and the body, but it also links them, by permitting the acts that will make the textual 'fiction' of the model reproduced and realized by the body (141).

In prescient prose, de Certeau understands that laws are written on bodies in economies of power that scar and separate subaltern people from normative spatiality. The purpose of jurisprudence and corresponding punitive policies is to inscribe force to control black and brown bodies. To disqualify the oppressed from normative narratives. To brand them as a subservient «other». To alienate them, once again, from the post-Enlightenment project of liberation.



Consequently, in a culture of retributive punishment no one experiences discursive violence more than brown bodies.

To instantiate how law marks brown bodies for punishment and alienates them from normative space begins with an examination of the one drop rule. Dating back to the early 1600s, the «one drop» rule functioned as a legal principle that employed racial reasoning and the litmus test for racial purification (Kidd, 2006: 181). The rule, «Was the idea that anyone with any African ‘blood’ is legally black» (Sharfstein, 2005: 593). Adaptations of the rules across states mandated that, «Anyone with at least one-quarter, one-eighth, or one sixteenth ‘black blood’ was legally black» (Sharfstein, 2005: 604) and therefore susceptible to discrimination and dehumanization. Hence, the rule was designed to preserve racial purity, reenforce social hierarchy, and by extension to concretize North-American exceptionalism. In this vain, the one-drop rule became the impetus for later laws to reconstitute White supremacy and demonize subaltern identities. For example, in *People v. Dean* the Michigan Supreme Court ruled in 1866 that only white male citizens or inhabitants along with certain *civilized* male inhabitants of Indian descent could exercise the right to vote (Kidd, 2006: 188). William Dean, however, self-identified as Indian but was believed to have African blood. Thus, the courts relied on the methods of social scientists to determine Dean’s ancestry by conducting a series of tests during a court trial. A physician examined his skin, hair, and nose cartilages concluding that he had African blood in him. It is important to note that Dean’s blackness was on trial more than any other legal infractions. Hence, the relationship between racial reasoning and jurisprudence is critical to understanding how the law marks black and brown bodies for punishment as an extension of social hierarchy.



In the 1900s the «one drop» rule laid the foundation for racial logic in jurisprudence and became apparent in the punitive philosophies of the «black codes» in reconstruction. The main purpose of the codes was to find new methods of controlling freed slaves. William Edward Burghardt Dubois (1903), in *The Souls of Black Folk*, purports that this led to a «double system of justice» that:

[...] erred on the white side by undue leniency and the practical immunity of red-handed criminals, and erred on the black side by undue severity, injustice, and lack of discrimination. For as I have said, the police system of the South was originally designed to keep track of all Negroes, not simply of criminals; and when the Negroes were freed and the whole South was convinced of the impossibility of free Negro labor, the first and almost universal device was to use the courts as a means of reenslaving the blacks. It was not then a question of crime, but rather one of color, that settled a man's conviction on almost any charge. Thus Negroes came to look upon courts as instruments of injustice and oppression, and upon those convicted in them as martyrs and victims (145).

Here, Dubois purports that the universal device of control was the courts to reenslave black people in a backward double system of injustice. Police systems enforced laws that brazed brown bodies. Consequently, black people grew a distrust for the courts, which became a symbol of injustice and oppression that convicted the oppressed as martyrs and victims (Dubois, 1903: 145).

Principles such as the «one drop» rule perpetuated a social wedge that became detrimental, life threatening even, for subaltern people. As seen in *People v. Dean*, racial reasoning determined one's permissibility to exercise the fundamental right of suffrage. If the court of law determines who is in and



who is out of civic participation based on racialized logic, then a lot more is at stake than an argument about language and power. Rather it shows how empire is fluid and its logic of oppression is a perpetual threat to the humanity and agency of subaltern people. The confluence of race and law in economies of power engenders discursive violence that disenfranchises subaltern people from normative space.

In a study conducted by the Sentencing Project, in 2010 approximately 2.5 percent of the total US voting age population —1 of every 40 adults— is disenfranchised due to a current or previous felony conviction. Moreover, 1 of every 13 African Americans of voting age is disenfranchised, a rate more than four times greater than non-African Americans (Uggen *et al*, 2012). Different from *People v. Dean* in the 1800's, there is not a group of scientists biologically proving racial ancestry to disqualify black people from voting, but a new tool of control is in place: felony voter disenfranchisement. The racial logic, however, is the same. People of color are disproportionately warehoused to a prison industrial complex, and thus, to disqualify people based on punishment is essentially to disqualify them based on race — especially in a retributive society that punishes black and brown people differently than their white counterparts. Hence, an argument of language and power is more than an academic rhetorical tool limited to intellectual theory. It bears significant impact on understanding the tangible consequences of homogeneous scriptural economies that uses discursive violence to reproduce tools of control alienating subaltern people as social aberrations and disqualifying them from any real possibilities for freedom. In this sense, black bodies become enslaved to unjust laws that inhibit any reprieve from oppressive scriptural economies of power.



This is further instantiated in the United States Supreme Court ruling (1985) *Tennessee v. Garner* case. This case explored the constitutionality of Tennessee's «fleeing felon rule» that permitted law enforcement to use deadly force for a fleeing suspect seen as an imminent threat and reasonably believed to have committed a felony. The Supreme Court ruled that laws authorizing the police to use deadly force to subdue a fleeing, unarmed, nonviolent, felon suspect is unconstitutional and a violation of the individual's rights under the fourteenth amendment. The states were ordered to jettison any such laws upholding the «fleeing felon rule». However, here is how its elimination from the roll did not eliminate its reality: laws are written on bodies —from parchment to flesh. Hence, the «fleeing felon rule,» created a culture of discursive violence that continued to mark brown bodies for punishment long after the supreme court ruling. This is because as a result of cultural consciousness and racial reasoning there is a cultural memory in the gaze of the oppressor where blacks are still an accursed, lazy, irrational and seditious people. In this purview, subaltern people today are no more than a social aberration —a threat to normative space.

Laws like *Tennessee v. Garner*, then, essentially put people of color at risk. It institutionally justifies the control of subaltern bodies and sanctions discursive violence that marks black and brown bodies for punishment. In hegemonic discursive economies with a history of perpetuating social hierarchy through the confluence of language and power, the damage of *Tennessee v. Garner* was done regardless of the faded ink on parchment paper. Permission to shoot and kill was written on the juridical bodies of black and brown people, who are always seen as a threat to the establishment whether fleeing or just being. In fact, long after the elimination of the «fleeing felon rule,» in 2012 the Pasadena Police department killed Kendrick



McDade, an unarmed nineteen year old black boy fleeing from the police when he was reasonably believed to have committed a robbery but an investigation later revealed that he was falsely accused. McDade, however, did not receive the benefit of the doubt (Lovett, 2012). Arguably, the «fleeing felon rule» created a long lasting culture of «shoot and ask questions later.» What is for certain, however, is that the embodiment of blackness made McDade a moving target. He was perceived as an imminent threat and yet, like the historical Jesus he committed no crime. In both instances, McDade and Jesus occupied brown bodies that were marked for punishment and eventually by death.

Subaltern people are juridical corpus where the law takes hold of brown bodies differently than it does for their white counterparts. There is a racial logic inherent to the application of jurisprudence. For example, in Sanford, Florida, George Zimmerman, a white-Latino neighborhood watchman and son of a judicial magistrate, was acquitted of murdering an innocent unarmed black boy named Trayvon Martin in 2012. Martin was on his way home from buying iced tea and skittles (Blow, 2012). Marissa Alexander, however, also of Sanford, Florida, fired warning shots at an abusive husband around the same time period. She feared for her life. Where Zimmerman was acquitted of murdering an unarmed boy, Alexander was sentenced to twenty years in prison (Padilla, 2012). Instances like these reveal punitive disparities where the law seemingly employs a racial reasoning that impact subaltern people differently than privileged people at the center of power.

In drug sentencing this is also the case. Alexander (2012) purports, «Mass incarceration as we know it would not exist today but for the racialization of crime in the media and political discourse» (205). When the president signed the Anti-Drug Abuse Act of 1986 into law, Alexander (2012) continues, «the legislation included mandatory minimum



sentences for the distribution of cocaine, including far more severe punishment for distribution of crack —associated with blacks— than powder cocaine, associated with whites» (53). Thus, jurisprudence that emerges out of scriptural economies of power employ a racial reasoning that is an expression and reproduction of social hierarchy.

A punitive script of hyper-criminalization and racial reasoning continues to proliferate. In August 9, 2014, Officer Darren Wilson of the Ferguson Police shot and killed an unarmed 18-year-old college bound black boy named Michael Brown (Davey and Robles, 2014). The unfolding of this tragic story eerily paralleled the socio-historical underpinnings of a lingual politic and social hierarchy. Similar to European social scientists who performed biological tests to prove the bestiality of subhuman people, public opinion began to write a narrative of savagery to describe Mike Brown. To a Grand Jury, Officer Darren Wilson testified and shared his justifications for killing Brown, who he perceived as big, beastly and black. Wilson stated:

And when I grabbed him, the only way I can describe it is I felt like a five-year-old holding onto *Hulk Hogan* (...) That's just how *big* he felt and how small I felt just from grasping his arm (...) [Brown] had the most *intense aggressive face*. The only way I can describe it, it looks like a *demon*, that's how *angry* he looked» (Saddiqui, 2014; emphases added).

As seen in this quotation, «Hulk hogan,» «big,» «intense aggressive face,» «demon,» and «angry» were the adjectives Officer Wilson used to describe Mike Brown. It is almost as if he is referring to a monster, a mutant, or a barbaric savage, but certainly not a human being. Making the comparative description between Brown and Hulk Hogan portrayed Brown as extra-humanly and underlined differences in size, strength and skin. All of which was enough to influence the



jury of racialized differences that led to a decision *not* to indict Officer Wilson —regardless of witnesses and the plethora of viral social media videos showing Brown’s lifeless body lying in blood for four hours.

A staff journalist at Slate’s online magazine, Janelle Bouie (2014), applies a race critique to better understand this logic. He compares Mike Brown to the «black brute.» Bouie (2014) compelling asserts:

More troubling is Wilson’s physical description of Brown, which sits flush with a century of stereotypes and a bundle of recent research on implicit bias and racial perceptions of pain. In so many words, Wilson describes the «black brute» a stock figure of white supremacist rhetoric in the lynching era of the late 19th and early 20th centuries. The southern press was rife with articles attacking the «Negro Beast» and the «Big Black Brute», notes Philip Dray in *At the Hands of Persons Unknown: The Lynching of Black America*. To the white public, the «black brute» was a menacing, powerful creature who could withstand the worst punishment. Likewise, in northern papers, it was easy to find stories of «giant negroes» who «spread terror» and rampaged through urban centers. That image never went away; it lingers in crack-era stories of super powered addicts and teenaged super predators, as well as rhetoric around other victims of police brutality.

Bouie continues by providing other accounts with the same narrative of white supremacy and racialized epistemologies that mark brown bodies for punishment. For example, the Rodney King beating trial in March 29, 1993 wire story on jury deliberations states that King was «compared to a ‘monster,’ a ‘Tasmanian devil’ and a man with ‘Hulk-like strength’» (Bouie, 2014).



Eric Garner of New York died in police custody while screaming, «I can't breathe» because of an illegal choke hold. In the *New York Times*, journalist Benjamin Mueller (2014) writes:

In testimony to the grand jury, Officer Pantaleo described the fear he felt during the encounter with Mr. Garner. He said he had worried about crashing through a glass window, or being thrown off balance by the larger man, his lawyer said after the announcement that the grand jury had found no basis to charge Officer Pantaleo.

The media played down Garner's asthma and played up his obesity. Garner was over 300 pounds. If Mike Brown was Hulk, then Garner may have very well have been Godzilla. These examples underline the relationship between language and power from the white normative gaze that conceives of subaltern people as its alien «other» and subservient subject. There is a longer history of objectifying black bodies and making them hyper performative, aggressive and savage so that supremacists can hide behind fear to justify a violent response — discursively and physically. In essence, black and brown boys and girls, men and women are unduly punished and unjustly dying precisely because they are packed into the written texts of jurisprudence that marks them as a juridical body branded inferior and expendable to systems of sacrifice. This emerges from a trajectory of sacred and secular narratives that use language and power to subjugate subaltern people. In the end, constructions of race are imaginary but notwithstanding real and punitive consequences for subaltern people.



Power and Resistance

Saliently, language as contextualized by apparatuses of power undergirds a body politic that is an affront to the humanity of the subaltern. Thus, one question remains: How do subaltern people resist the punitive logos that is the enfleshment of systems of control and hyper-criminalization in an age of mass incarceration? In response, de Certeau (1984) adeptly ascertains revolutionary imaginations against scriptural hegemony:

Revolution itself, that «modern» idea, represents the scriptural project at the level of an entire society seeking to constitute itself as a blank page with respect to the past, to write itself by itself (that is, to produce itself as its own system) and to produce a new history (*refaire l'histoire*) on the model of what it fabricates (and this will be «progress») (135).

Hence, in response to the question at hand, one possible answer is to write new histories by «delinking» from false narratives.⁶ I propose that resistance begins with delinking from scriptural economies of hegemony. Delinking, in this context, requires a shift from Eurocentric enlightened fallacies regarding non-European alterity and moves toward collective and counter-cultural action that creates new particular histories. In this direction, a lingual politic of power is overturned by the prowess of resistance. It is a transvaluation of values where subaltern identities become authors of their own fate. In turn, by a process of delinking from false narratives, the marginalized refuse to be packed into texts of discursive violence and instead write their own history of agency and liberation.

⁶ I borrow from Walter D. Mignolo (2007) who uses the term «delinking» to delineate an epistemic shift from colonial rhetoric to a decolonizing of the mind.



This process of resistance begins with self-naming. The scholar and ethicist, Emily Townes (2010), poses the task this way: «How do we grasp a-hold of our identity and truly name ourselves?» (102). In a lingual politic that proliferates discursive violence through sacred and secular texts, it is ever more critical to counter notions that subaltern people, «can be owned by someone else, defined by someone else, created by someone else, shaped by someone else, and marketed by someone else» (Townes, 2010: 102). To do this, Townes (2010) declares:

We must name ourselves with precise righteousness and ornery love blending justice and truth relentless and moral sass to shape and name and create an identity that is forged on the hope found in those who are still here... regardless (103).

For those of us who «are still here» we must define our history through a process of self-naming in order to write the wrongs, sing the revolution and overturn oppressive structures through acts of love and justice. Hence, self-naming creates agency to redeem subaltern flesh and forge new identity.

The second step in the process of delinking is to overcome silence. Albeit in a bright classroom of a prestigious seminary or in the dark dungeons of a prison industrial complex, dominant narratives seek to erase subaltern scripts. Through mechanisms of control such as voter disenfranchisement, the political voice of the oppressed is muzzled. The oppressed, however, must not succumb to the pressure of silence. In a lingual politic that holds together in tension both power and resistance, it is necessary to speak truth to power to dismantle the master's house and overturn scriptural economies of empire. Hence, against laws designed to obliterate brown bodies, the voice of the multitude cry out: «Black lives matter!» We scream: «Don't Shoot!» We



wail: «I Can't Breath!» We exclaim: «Black Girl Magic!» We declare: «Black Joy!» We shout and make noise until politics change, laws are reformed and justice is won. We reassert the world as blank where the revolution is to produce a new history. A history that is not a-cultural or nihilistic of narratives but embraces the narratives of subaltern people as sacred and redeemed.

Finally, through self-naming and overcoming silence, the oppressed must endeavor to secure quality of life. This agency not only creates a new history but also a new humanity that is comprised of a people who refuse for their sacred bodies to be inscribed with punishment. This new humanity is free from punitive blemish. They exist in the synthesis of power and resistance. They no longer enflesh punishment incarnate but embody a transvaluation of values. Thus, quality of life is where a new humanity are not victims but victors. It is where the self-named overcome silence and write their own histories. In the end, a new humanity overwrites the mundanity of language with the extraordinary possibilities of a new history within a narrative of resistance that becomes the plot for revolution to secure liberation and quality of life for the oppressed.

Conclusion

There is an unmistakable relationship between hegemonic scriptural economies in antiquity and post-enlightenment racialization of written texts, such as jurisprudence, that adversely constructs subaltern identity as a social aberration. Consequently, the subaltern are violently assaulted by laws, rules and customs. This discursive violence disproportionately marks black and brown bodies for punishment. In response, a hermeneutic of suspicion is necessary to interrogate false characterizations of subalterity. Likewise, sacred truths, constitutional laws and normative



values that are designed to control black and brown bodies through modalities of absolute and corruptible power must be resisted and systemically overturned so that the counter-cultural voices of the subaltern are recognized and heard with political authority. Until this possibility of revolutionary resistance is realized, melanin pigmentation remains the parchment of the persecuted to the end of preserving racial purity and social hierarchy through discursive violence.

It is imperative that postcolonial theorists and activists critically consider the impact of linguistic interactions however personal or insignificant. This is because the confluence of language and power have life-staking implications for the personhood of subaltern identities. Without question, black and brown people are egregiously punished by scripture, law and customs in ways that do not compare to their privileged counterparts. This is apparent in the inequalities of slave law, drug policy, police militarization and hyper-criminalization. Albeit scripture that constituted slavery, or the one-drop rule, or vigilante laws such as *Tennessee v. Garner*, or racially driven felony voters disenfranchisement, or unequal drug sentencing policy, or the demonization of subalterity by the media, this article contended that language and power produces violence that disproportionately marks brown bodies for punishment to preserve social hierarchy.

Hence, a framing question is: «How do subaltern people resist the punitive logos that is the enfleshment of systems of control and hyper-criminalization in an age of mass incarceration?» In the words of de Certeau (1984), we must produce a new history as a blank page «to write itself by itself» (135). In this direction, a suggestive three step process of resistance begins with delinking from scriptural economies of hegemony to forge a new history of agency and liberation. This may mean delinking from a U.S. criminal system of injustice with a prison abolition movement that



affords the subaltern political authority to recast black and brown identity not as a social aberration deemed punishable but as a narrative of resilience that is humanely and salvifically redemptive. Second, overcoming silence is to stand in the tradition of the slaves and church mothers to sing, hum, rock, and proclaim freedom. It is not only to beg the question of whether or not the subaltern speaks, but to create a society where their voices are heard and where active silence is validated as political authority. It is to sit in a classroom, or a prison, or a church or in subaltern flesh within hegemonic spaces of privilege and not have power redefine one's identity, impose meaning or render one's being as existentially void. Rather, to overcome silence is to assert particular histories of subalterity as worthy within its own right and without need for control, correction and criminalization. Third, resistance must precipitate quality of life and human flourishing for a new history and a new humanity. In the end, subaltern identity embodies a power of protest.

Against racialized scriptural economies in secular and sacred texts, the subaltern creates a new history with the hope that each stroke will re-inscribe freedom on a blank bodily canvas of beautiful becomingness that fluidly and resiliently «writes itself by itself» (de Certeau, 1984: 135) with political authority in a drama of human flourishing and where the final word is «Freedom!»

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