

**TODAY'S STATE OF EXCEPTION:  
ABU-JAMAL, AGAMBEN, JANMOHAMED, AND  
THE DEMOCRATIC STATE OF EMERGENCY**

Mark Lewis Taylor

Princeton Theological Seminary  
P.O. Box 821  
64 Mercer Street  
Princeton, NJ 08542  
USA  
mark.taylor@ptsem.edu

**ABSTRACT**

This essay engages the political philosophy of Giorgio Agamben and the literary criticism of Abdul R. JanMohammed in critically exploring the contours of the present arrangement of democratic politics in the United States. Giorgio Agamben's exception theory of sovereignty and bare life are deployed in order to grasp the political meaning of surprisingly unprecedented and exceptional recent court rulings in the case of Mumia Abu-Jamal, who has been on Pennsylvania's death row since 1982. Abu-Jamal's experience of exceptional rulings also requires a critical elaboration of the racialized nature of American democracy. Thus, Agamben's theory finds a critical complement with the work of literary theorist Abdul R. JanMohammed, particularly JanMohammed's formulations of "social death" and the "dialectics of death" for "death-bound-subjects." The theories of Agamben and JanMohammed make clear the nature of Abu-Jamal's political struggle and the state of democratic politics that so often transforms the exception into the rule, specifically in the case of the marginal and dispossessed. The significance of Abu-Jamal's case thus becomes one of understanding the production and reproduction of the state of exception and the (im)possibilities of political transformation and liberation from the *arrested* state of democracy in the modern world.

**Keywords:** Abdul JanMohammed, bare life, Giorgio Agamben, Mumia Abu-Jamal, resistance, Richard Wright, state of exception.

The tradition of the oppressed teaches us that the "state of emergency" in which we live is not the exception but the rule. We must attain to a conception of history that is in keeping with this insight.

Walter Benjamin (8th Thesis, *Theses on the Philosophy of History*)

United States political prisoner, Mumia Abu-Jamal, was sent to death row in 1982 for the 1981 shooting of Philadelphia police officer, Daniel Faulkner. Abu-Jamal qualifies as a *political* prisoner because at the time of his arrest and trial he was an accomplished journalist in both print and radio media, with no established record of trouble with the law, and was well known for his heightened political consciousness and activism.<sup>1</sup> The trial that followed in 1982 suffered, according to an Amnesty International study, from extreme “politicization,” with prosecutors referencing his past political involvements as support for their argument for the imposition of the death penalty. “The interests of justice,” Amnesty International concluded, “would best be served by granting a new trial to Mumia Abu-Jamal.”<sup>2</sup> Joining calls for a new trial by Amnesty International and others is a recently published study that presents strong evidence that Abu-Jamal was framed and that others should be investigated for the killing of Officer Faulkner.<sup>3</sup>

For Abu-Jamal, living in a constant state of emergency is not just an exception but is part of what Marxist and Jewish literary critic and philosopher Walter Benjamin has termed “the tradition of the oppressed.” Quite literally, it has become the rule for an individual who has been in the exceptional situation of death row for over 26 years. This essay does not aim at adjudicating the guilt or innocence of Mumia Abu-Jamal, but instead interrogates the Abu-Jamal case in exposing the opportunities and limitations of forms of contemporary theory in wrestling with the operative contradictions that form and inform the multiple discourses on ethics, politics, and religion. This engagement with contemporary theory—particularly the work of noted philosopher Giorgio Agamben of the University of Verona and influential literary theorist and critic Abdul R. JanMohamed of the University of California, Berkeley—seeks to develop a critical perspective not only on Abu-Jamal’s case, but, more broadly, on the contemporary character of democratic politics in the United States and, by extension, the modern West.<sup>4</sup> Throughout the essay, my emphasis

1. On the concept of “political prisoner” and Abu-Jamal’s status as such, see Joy James, *Imprisoned Intellectuals: America’s Political Prisoners Write on Life, Liberation and Rebellion* (Boston, MA: Rowman & Littlefield, 2003).

2. *The Case of Mumia Abu-Jamal: A Life in the Balance*, Open Media Pamphlet Series (New York: Seventh Stories Press, 2000), 55–6.

3. Patrick O’Connor, *The Framing of Mumia Abu-Jamal* (Chicago, IL: Lawrence Hill Books, 2008), and see the recent review of O’Connor’s book by Linn Washington, Jr., *Philadelphia Tribune* columnist and journalism professor at Temple University, at <http://nyc.indymedia.org/en/2008/06/98332.shtml>. See also Educators for Mumia Abu-Jamal at <http://www.emajonline.com>.

4. For critical discussion of Agamben, see *Giorgio Agamben: Sovereignty and Life*, eds Matthew Calarco and Steven DeCaroli (Stanford, CA: Stanford University Press, 2007).

will fall on how key notions of these two thinkers enable us to clarify the theoretical and political significance of Abu-Jamal's struggle in these exceptional times.

Specifically, I advance the argument that the exceptional rulings that repeatedly deny relief to Abu-Jamal, even when that relief is given by the courts to others with similar legal claims, is an exceptional state of legal affairs fully congruent with the broader political "state of exception" that is the preferred mode of sovereignty exercised by the dominant American political class. In this context, Mumia's struggle, especially as embodied in his writings, provokes a "state of emergency" in the minds of the powerful that prompts their exceptional treatment of him and, by extension, those unruly elements within a democratic state. As Abu-Jamal provokes this emergency, however, he also partly redefines it, and thereby exercises a certain political agency, even while on death row. This agency constitutes a degree of empowerment for him and for those who utilize his plight to animate broader, collective political projects. For the marginalized and the poor, as Benjamin reminds us, the exception has almost always been the rule. Today the exception is becoming the rule for many more and Abu-Jamal's case of exceptional treatment serves as an exemplary expression of the politics of exception.

The argument in this essay is developed over the course of five sections. In the first section, I introduce what a recent March 2008 ruling makes ever more visible: "the Mumia exception," an exception that looks more and more to be a "Mumia rule," one that routinely is invoked against his interests.<sup>5</sup> The second section introduces Giorgio Agamben's interpretation of our times as increasingly a "state of exception." My use of Agamben provides a larger political context for the legal exception that continually seems to be the rule for Abu-Jamal and for hegemonic forms of democratic politics. The third section makes clear the violent character of the state of exception, the way it reduces large sectors of dominated peoples, especially the racially targeted victims of Western coloniality, to what Agamben calls a state of "bare life." Section four brings in the theories of JanMohamed, in exposing more fully the racialized character of the "state of exception" particularly as produced within the U.S. This reading provides an especially acute interpretation to the racial character of suf-

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On JanMohamed, see "Theory, Practice and the Intellectual: A Conversation with Abdul R. JanMohamed," in an interview by Sean Goudie, *Jourvert: A Journal of Postcolonial Studies* 1, no. 2 (Fall 1997) and Jeffrey Atteberry's review of Abdul R. Mohamed, *The Death-Bound-Subject: Richard Wright's Archaeology of Death*, in *MFS Modern Fiction Studies* 52, no. 3 (Fall 2006): 731-4.

5. Dave Lindorff, "The Mumia Exception: Third Circuit Court Rejects Abu-Jamal Appeal" at <http://www.buzzflash.com/articles/node/4760/print>.

fering in the modern world and the reduction of racialized subjects to bare life—a reduction more akin to “flesh” or even “meat” as suggested by JanMohamed. Finally, in the fifth section, I interpret Abu-Jamal’s struggle for personal and collective emancipation as a struggle amid the “dialectic of death” that JanMohamed discerns in Richard Wright’s life and work. Like Wright, but from a subject-position on death row for a quarter of a century, Abu-Jamal can be seen as one who crafts and conjures amid imposed “social death” a liberating political language that catalyzes action. He does this in a way that both provokes exceptional activity against him from leaders of the state of exception today, but also fosters resistance to the sovereign structures that craft the state of exception.

### 1. The Mumia Exception as the Rule

It is now clear that Mumia Abu-Jamal’s case exemplifies the exception as the rule in a quite striking way. Abu-Jamal has become especially visible as one for whom the *virtues* of U.S. law are regularly suspended. Indeed, exceptions in legal decision-making are enacted to keep him in prison for life and on death row. For example, in its ruling of March 27, 2008, the U.S. Third Circuit Court of Appeals heard evidence that Philadelphia prosecutors used racial discrimination against prospective black jurors in exercising their right to eliminate jurors during the selection of Abu-Jamal’s original jury. In other rulings, the U.S. legal system has an established precedent against racial discrimination in the jury selection process. That is, there is a near zero tolerance for this type of discrimination in the selection process and the legal threshold for proving discrimination in these matters is quite low. Even recently appointed conservative justice to the U.S. Supreme Court, Samuel Alito, who is known for being very strict on this matter, wrote the majority opinion in a Supreme Court ruling, *Snyder v. Louisiana*, providing relief for a death row inmate because of prosecutorial discrimination in juror selection. In 2005, when Alito served on the U.S. Third Circuit Court in Philadelphia, he argued that removing “any black juror” because of race was a violation of the Equal Protection Clause of the Constitution and thus warranted relief.<sup>6</sup> But in 2008, the logic of that opinion would not be extended to Abu-Jamal. In Abu-Jamal’s case, in spite of evidence that prosecutors were discriminatory—including the use of video training tapes in their office near the time of Abu-Jamal’s trial on “the art” of exercising their “preemptive strikes” so as to avoid black

6. Linn Washington, Jr. “This is No Victory’: An Analysis of Recent Court Decision regarding Mumia Abu-Jamal,” March 29, 2008, <http://www.phillyimc.org/en/node/66346>. Emphasis added.

jurors—the May 2008 ruling by the U.S. Third Circuit refused to grant Abu-Jamal relief on his claim of racial discrimination in the jury selection process.

Despite the majority opinion in the 2008 ruling, there was a dissenting opinion offered by Third Circuit Court Judge Thomas Ambro, who seemed scandalized by his colleagues' decision. He pointed out that the bar was being raised exceedingly high for Mr. Abu-Jamal, and he even excerpted lines showing blatant bias from the prosecutors' video training tapes ("...young black women, are very bad," says the tape's narrator while arguing they should be avoided when selecting juries).<sup>7</sup> After discussing additional ways that the bar was being set exceedingly high for Abu-Jamal, Ambro wrote: "...and I see no reason why we should not afford Abu-Jamal the courtesy of our precedents." The Court, in effect, admitted in its decision against Abu-Jamal that it was going against precedent when it marked its ruling with the label, "Precedential."

Analysts of the Abu-Jamal's case call this setting aside of precedents, or establishing of new precedents when dealing with Abu-Jamal, "the Mumia exception." From his small death row cell, where he has been living the exception as a 26-year-long rule, Abu-Jamal prefers to call the decision "the Mumia rule," and discusses it perceptively against the backdrop of other recent legal decisions.<sup>8</sup> Indeed, there are at least four previous occasions on which officials and legal authorities have set an exceptional provision for Mumia, which confirms the fact that the Mumia exception is, indeed, "the Mumia rule."<sup>9</sup>

## 2. The State of Exception Today: Notes from Agamben

The reason why "the courtesy of our precedents," as Judge Ambro puts it, is not being extended to Abu-Jamal, who has an especially strong case for receiving that "courtesy," has everything to do with the politics of law in the U.S. today. Benjamin's statements on the exception being the rule are especially important for understanding this politics. Benjamin's words that appear as the epigram for this essay were written as he reflected on the Nazis' 1933 declaration of a state of emergency, "Decree for the Protection of the People and the State," a decree that suspended protections of

7. *Mumia Abu-Jamal v. Martin Horn*. Brief of Appellee and Cross-Appellant, Mumia Abu-Jamal, March 27, 2008, 91.

8. Interview with Mumia Abu-Jamal, with JR and Fred Hampton, Jr., April 7, 2008, Block Report Radio, audio recording from SCI-Greene prison facility, [http://www.jerichony.org/images18/04-07-08\\_POCC\\_MAJ.mp3](http://www.jerichony.org/images18/04-07-08_POCC_MAJ.mp3).

9. These are discussed above in both Lindorff, "The Mumia Exception" and Washington, "This is No Victory'."

personal freedom.<sup>10</sup> The decree was justified by the Nazis, and accepted by others, because of a special “state of emergency.” But the Decree for protecting the people by suspending freedom was never repealed during the Third Reich. The state of emergency thus became an ongoing *state of exception*. In this state, the exception became the rule.

Philosophers today have been thinking anew what this view of state power from the Nazi past means in order to understand the present configuration of political power in our present world. The attacks on the World Trade Center and Pentagon on September 11, 2001 have been used by U.S. authorities, and by others in countries facing similar “states of emergency,” to justify suspending protections of freedoms, the expansion of powers of the U.S. president to invoke “executive privilege,”<sup>11</sup> and to create ever more permanent states of exception.

Philosophers such as Giorgio Agamben stress that this is a particularly heady and mesmerizing mode of state rule, and one that is difficult to reverse. This is because the sovereign in this paradigm not only accrues ever greater power, but also because the power of deciding the exception tends to charm and entrance a citizenry. Citizens and media are led to give a kind of reverence to a “force of law” when a state power decides the exception.<sup>12</sup> “Force of law” does not mean implementing the rules, enforcing them, but, quite to the contrary, deciding on their dramatic suspension. Thus, a “decisionism” arises along with a veritable cult of officials and observers who revere the one who decides. Agamben writes “law” in the phrase “force of law,” with a large “X” crossing over it, negating it, for it is not so much law that here has sovereign force, but a “mystical element” released by the *suspension* of law. The accent in the phrase thus falls on “force” rather than “law” since law is reduced to a kind of what Agamben terms “legal *mana*.”

This “force of law,” as deciding the exception amid announced states of emergency, is more fascinating and dramatic than the mere oversight of rules and procedures—with the latter’s concern with precedents and complex ways of organizing and balancing the competing freedoms and rights and responsibilities of social life. This kind of “force of law” helps to explain why many U.S. citizens have failed to challenge the suspensions of rights to privacy and due process for citizens, of rights to a fair trial and *habeas corpus* for those detained by the U.S., or of U.S. fealty to

10. Bruno Gulli, “The Ontology and Politics of Exception: Reflections on the Work of Giorgio Agamben,” in Calarco and DeCaroli, *Giorgio Agamben: Sovereignty and Life*, 233.

11. Eric Lichtblau, *Bush’s Law: The Remaking of American Justice* (New York: Pantheon, 2008), 134–5.

12. Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago, IL: University of Chicago Press, 2005), 37–8.

international law and conventions against torture. The failure to marshal a critical challenge may, in large part, be due to so many people being in thrall to daring decisions made amid public fear, duress and emergency, whether these are conjured or real.

Historically, Agamben and others trace this defective mode of rule and law as a disease of Western sovereignty. It is rooted, though, not in the West's absolutist tyrannies (e.g., Nazism) but, instead, in democratic revolutionary traditions themselves. In his *State of Exception*, Agamben begins the history of the state of exception (emerging from "states of emergency," "states of siege," and related forms) with the French revolution. At that time new constitutional forms allowed for their own suspension under a "state of siege" and Napoleon was just one of the first to exercise such a suspension with a decree of 1811.<sup>13</sup> To be sure, although beyond the purview of this essay, Agamben actually goes even further to view the state of exception as a way to theorize the imbrications of political rule and religion in the West, all the way into its Greek and Roman origins, suggestively developed in *Homo Sacer*, *The Time That Remains*, and elsewhere.<sup>14</sup> Agamben's main point for us here is that any rule of law that balances and relates the emancipatory needs of all humanity and creation is under great threat.

Maintaining the state of exception is increasingly the most prevalent mode of sovereignty in Western regimes, enabling powers to claim to be applying the law, but the law only as increasingly a "force of law"—a continual matter of deciding on the exception. This, then, evokes in residents a reverence for state power which substitutes for disciplined exercise of democratic citizenship. In our global media culture, people are often entranced, and then increasingly subject to an ever creeping government violence, whether this is inscribed by torture on the bodies of enemy combatants and civilians, by suspending civil liberties and due process, by carpet bombing of already poorly clothed and housed populations, or by structures of poverty maintained as necessary to global order.

Agamben sees these exercises of sovereignty—nurtured by and creating a cult of decision—as becoming the rule for the larger body politic of the U.S., and threatening to become an always already "machine that is leading the West toward global civil war."<sup>15</sup> The result, though, is not just the familiar conflict of war, horrific as that can be. More importantly the

13. Agamben, *State of Exception*, 11.

14. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1995), and *The Time That Remains: A Commentary on the Letter to the Romans* (Stanford, CA: Stanford University Press, 2005), 104–12.

15. Agamben, *State of Exception*, 87.

state of exception that defines Western sovereignty subjugates people to another state, what Agamben calls the state of “bare life.”<sup>16</sup> Sovereignty seizes upon conjured emergency to create a state of exception in which it rules by casting others into a state of bare life. This casting into a state of bare life is not to cast them outside the political order; instead it is a kind of inclusive exclusion, a consignment of some—often many—to a state of existence within the political order, but only as those ready to be, indeed often nearly, excluded from it.

“Bare life” is a stripping away of a person’s subjectivity, their humanity, such that they are barely existing beings; they are in fact those whose death can be ordered by the powerful and whose death would register neither as a homicide nor as a sacrifice valuable in some sense (for themselves or for the social order). Sovereign is the power that decides the state of exception *and* rules over a growing sphere of bare life. This is the state of exception today. This is a crucial trait of sovereign power in the political order today.

### 3. The State of Exception and the Violence of Racial Coloniality

The state of exception which was instantiated in the Nazi concentration camps, then, is seen by Agamben to be a generalized mode of rule that prepares a death camp for the entire West and its environs, creating zones of abandonment for those reduced to bare life, a domain of “the killable,” those whose lives are deemed so bare, they can be dispatched to death by sovereign power, routinely and sometimes *en masse* via massacre and holocaust. We should have learned from “the tradition of the oppressed,” Agamben suggests following Benjamin, that when power decides the exception under conditions of emergency and expands its powers, the exception becomes the rule and we all enter the sphere of violence, and as subject to that violence, we all enter the tradition of the oppressed, tasting the bitterness of bare life.

What Agamben does not highlight so much is the full meaning of the Benjamin quote, about the “traditions of the oppressed.” He too quickly assumes that “the oppressed” being referenced by Benjamin are only the sufferers of the death camp, and then all of us caught up in a coming “global civil war in the West.” He rarely treats as exception those specifically targeted and racialized populations that have been crucial to the very formation of the West. I think here especially of the sufferers of slavery and colonization, of indigenous peoples’ loss of life and land, as well as others who have long lived, and often still live, the exception as the rule. These

16. Agamben, *Homo Sacer*, 6–12.



communities, so crucial to the rise of the West, have lived the exception as the rule and are still being reduced to bare life.

To be sure, Agamben does make brief reference to some of the colonized on the underside of the Western modernity when he acknowledges a link between Western death camps and the “*campos de concentraciones* created by the Spanish in Cuba in 1896” to quell popular insurrection in that colony.<sup>17</sup> In this way, Agamben points to “colonial war” as the birthplace of the states of exception and of the martial law that are so destructive now, even for the West.<sup>18</sup> However, other scholars and theorists have made similar claims before Agamben and these claims have provided the central animating theoretical axis for understanding the development of modern political power. The Martinican poet, politician, and political theorist Aimé Césaire argued in his *Discourse on Colonialism* that Nazism and the “exceptional” holocaust were visitations upon European soil of the spirit and practice of slaughter and subjugation that Europe had long visited upon colonial “others.”<sup>19</sup> Similarly, W. E. B. Du Bois, in his *Darkwater*, pointed out at the conclusion of World War I that the slaughter of war on European soil was a complex legacy of Europe’s colonial subjugation of its colonies. “Little Belgium,” suffering slaughter in World War I, should have remembered, Du Bois intoned, the fate it meted out to peoples of the Congo during Belgium’s ruthless colonial rule over them.<sup>20</sup>

One need not posit any metaphysical payback (“what goes round comes around”) to explain the West’s suffering a state of exception as rule that it had meted out to the peoples it colonized, nor even a historical blowback (“they, the colonized, are coming back at us in the West to take their revenge”). Rather, in order to develop a better comprehension of the political organization of the contemporary world and its theoretical logics and legacies, the West’s own patterns and habits of sovereignty must be contextualized within the histories of racial slavery, colonial war

17. Agamben, *Homo Sacer*, 166.

18. In addition to this reference to colonized subjects, and not simply to death camp sufferers, Agamben has offered some discussion of certain categories of sufferers, such as the indefinitely detained of Guantánamo (Ulrich Raulff, “An Interview with Giorgio Agamben,” *German Law Review* 5, no. 5 [2004]: 609–14), those on death row (Agamben, *Homo Sacer*, 81, 159), “overcomatose” sufferers in hospitals (ibid., 186–7), science’s “human guinea pigs” (ibid., 154–9), or the “incurable mentally ill” (ibid., 136–43).

19. Aimé Césaire, *Discourse on Colonialism* (1955), trans. Joan Pinkham, with a new introduction by Robin D. G. Kelley (New York: Monthly Review Press, 2000), 35–7.

20. W. E. B. Du Bois, “The Souls of White Folk,” from *Darkwater: Voices from Within the Veil* (1920), in David Levering Lewis, ed., *W. E. B. Du Bois: A Reader* (New York: Henry Holt & Co., 1995), 458.

and administration, and capitalist imperialism so that these patterns are viewed as near reflex responses of sovereign rule *within* the West, as well as between the West and its Others.

#### 4. Exceptional Struggle and Emancipatory Hope: Notes from JanMohamed

What is the “state of emergency” invoked to justify the Mumia exception? There is no specific situation of emergency to which officials explicitly point to justify the Mumia exception, certainly not by the judges ruling against Abu-Jamal today. To understand how Mumia’s struggle relates to the state of exception today, we receive still more perspective by turning more fully to the work of JanMohamed.<sup>21</sup>

JanMohamed begins his most recent and important work, *The Death-Bound-Subject: Richard Wright’s Archaeology of Death*, with reflections on Agamben’s notion of “bare life.” Abu-Jamal’s situation on death row is a particularly intense form of bare life, especially as JanMohamed more critically develops Agamben’s conceptualization of it. To recall, those reduced to “bare life” are biologically alive, but “lacking almost all the rights and expectations that we customarily attribute to human existence.” They exist in “a limit zone between life and death, inside and outside, in which they [are] no longer anything but bare life.”<sup>22</sup> Regardless of the fact that there are significant legal issues that call into question the trial and verdict of the Abu-Jamal case, sovereign power keeps this human in a state of bare life on death row. He is killable and the state will not be guilty of homicide, nor will any established political order view Abu-Jamal’s death as a worthy sacrifice. Some advocates of Abu-Jamal’s execution hold the opinion that his death is legitimate and attribute a certain legal and moral value to his death. But the moral, and by extension, political value of his execution is attributable to the upholding of the rule of law than to him and his life. Abu-Jamal thus remains in the state of bare life—life to be dispatched.

JanMohamed advances Agamben’s notion of bare life further and in a way that focuses on the exemplary character of the struggle of Abu-Jamal. JanMohamed interprets bare life as a “social death”<sup>23</sup> created from a racial

21. For background on JanMohamed, see S. X. Goudie, “Theory, Practice and the Intellectual: A Conversation with Abdul R. JanMohamed,” *Jouvert: A Journal of Postcolonial Studies* 1, no. 2 (Fall 1997) available at <http://english.chass.ncsu.edu/jouvert/>.

22. Agamben, *Homo Sacer*, 159.

23. I retain here JanMohamed’s convention of hyphenating “social death,” “actual-death” and “symbolic-death.” This convention highlights the fact that all three are modes of death, slightly but significantly qualified by their being social, actual, or symbolic.

socio-politics of exclusion and degradation. In other words, he articulates a more historically nuanced, sociopolitically attuned reading of what was largely a static legal reading of bare life by Agamben.<sup>24</sup> Thus, Abu-Jamal's bare life status is transformed into a racialized "social death."<sup>25</sup> As such, the race-biased character of Philadelphia's and Pennsylvania's criminal justice system and what Judge Ambro sees as the racialized nature of recent rulings against him, all need to be considered.<sup>26</sup> When this is done, Abu-Jamal's status on death row takes on meanings set by the whole political backdrop of racialized violence that is an endemic component of democracy in America. This means that "bare life" is not just a place that suspends a person *between* life and death, creating a biological existence that lacks whatever we take our "humanity" to be. Bare life is, more acutely, a matter of being subject to a "life" that can "be raped, castrated, mutilated, abused, etc. at will," and knowing this so deeply down that violent death pervades the entire body: "*the bareness of bare life permeates its finest capillary structures.*"<sup>27</sup> Bare life, here, entails the body as threatened and permeated by this reduction to trembling flesh. JanMohamed drives home the brutal starkness of this social death by stressing that "trembling flesh" still does not quite get at the internalized threat suffered especially by African American "death-bound-subjects." For here, in the social death spun for the black subject, the subject knows that one's people and self might be reduced to something to be stacked, burnt, shoveled away. It is

24. Abdul R. JanMohamed, *The Death-Bound-Subject: Richard Wright's Archaeology of Death* (Durham, NC: Duke University Press, 2005), 11–12.

25. JanMohamed is, of course, heavily dependent here on Orlando Patterson's magisterial *Slavery and Social Death: A Comparative Study* (Cambridge, MA: Harvard University Press, 1982). Another entire essay could be written, comparing JanMohamed's notion of the "death-bound-subject" to the slave subject's social death as explicated by Patterson. On my reading, JanMohamed is dependent upon and assumes the veracity of Patterson's analysis, but then makes two moves beyond Patterson: first, by supplementing Patterson's analysis of the slave's powerlessness with Agamben's in order to show "the manner in which lynching and the threat of death operate in the process of subjection" (JanMohamed, *Death-Bound-Subject*, 8), and second, by proposing a "dialectic of death" (not to be confused with Patterson's "dialectics of slavery," *Slavery and Social Death*, 297–342) that gives greater specificity to the complex dialectics of human parasitism that Patterson acknowledges (*Slavery and Social Death*, 341, 458 n. 13) as lying outside the scope of his work. In so doing, JanMohamed's dialectic of death both clarifies key mechanisms of social death, and also explains how those mechanisms are exploited by death-bound-subjects for transformation and liberation.

26. M. Janovsky, "Under Siege: Philadelphia's Criminal Justice System Suffers Another Blow," *The New York Times*, April 10, 1997. <http://query.nytimes.com/gst/fullpage.html?res=9B06EFDC123CF933A25757C0A961958260>.

27. *Ibid.*, 9–10. Italics in the original.

to feel this threat so that the body knows itself not just as fearful trembling flesh, but also, as he says, “meat.”<sup>28</sup>

If there is a state of emergency that provokes authorities to create and intensify the practice of exception that pertains to Abu-Jamal, it is born of an emergency to which Abu-Jamal himself is heir as a racialized political subject in the racial democracy that *constitutes* the United States. Moreover, Abu-Jamal is not only an heir to this political regime, he also inaugurates a new political moment in the evolution of this formation by the way he has struggled with his bare life as social death in JanMohammed’s sense. That is, the way he has managed to resist this form of social and political reduction. To understand how Abu-Jamal both occasions but also provokes not only exceptional repression but also revolutionary dignity and hope—for him and for others—we need to work still further with JanMohamed.

For JanMohamed, the state of social death is nearly overwhelming, overpowering victims of bare life with a hopelessness born both of the external forces of racialized sociopolitics as well as of the internal forces within victims that are implanted in them, internal forces having to do with having received signals that one’s self and body are potentially “meat” in a racially violent society. An internal, psychological struggle is thus interlaced with the sociopolitical one. How, then, might the bearer of social death proceed?

JanMohamed develops his theoretical formulation relative to a close reading of the fictional and non-fictional writings and socio-political context of the life and work of Richard Wright, supplemented by a critical engagement with Frederick Douglass, Frantz Fanon, and others. In this way, JanMohamed develops a theory of a “dialectic of death,” a painful process, a journey of struggle which, though so painful many hesitate making the journey at all, is a route of revolutionary transformation amid social death. It is JanMohamed’s “dialectic of death” that can be seen in Abu-Jamal’s struggle amid bare life on death row, and which suggests why his struggle, especially amid the state of exception today, evokes such exceptional treatment from authorities.

There are two processes in this dialectic of death.<sup>29</sup> The first has the character of struggle and concerns the tensions between the “social death”

28. *Ibid.*, 10–11.

29. Again, JanMohamed’s “dialectic of death” should not be confused with Patterson’s “dialectics of slavery” (Patterson, *Slavery and Social Death*, 297–342). The former concerns how death-bound-subjects deploy the threat of actual death amid social death for a liberating symbolic death; the latter concerns a study of how slavery is a relation of parasitic domination. The two dialectics are of course related, with Patterson’s providing the broader context within which the more specific dialectic of death, explicated by JanMohamed, is played out. It is important to make this distinction within the relation.

of subjects of bare life and their “actual death.” Power expects subjects in the position of social death to cower before the specter of their actual death. This is, in fact, how the forces spinning social death maintain power, expecting dominated groups to live out their social death in fear of their actual death, and thus to accept their place in a system defined by white, and usually class power. JanMohamed shows this to occur whether concerning masters over slaves, white power-holders in Jim/Jane Crow society of Richard Wright’s time, or in the White *Herrenvolk* society of today.<sup>30</sup> This usually entails the subjects of social death retreating and running from his or her actual death, pretending it won’t happen, trying also to erase memories and histories of the past’s horrors that set the condition for the actual death and for the social death constructed for them.

The nature of this first process, moving between social death and actual death, is again one of struggle, as the subject of social death’s bare life summons courage for, or stumbles toward, sometimes is forced into, an acknowledgement of actual death and the forces that create it. Subjects of social death here decide, ideally, and as exemplified in Richard Wright’s life, to reject and defy the social death, even when this risks, as it usually must, their actual death. This risk begins in the simple acknowledgment of the socially intended *telos* toward death, and then by gesturing toward the actual death in a way that demonstrates a certain freedom from fear of it. As with Richard Wright, and his excavating meditations on the horrors of life amid social death, the subject’s “readiness to assert his will in order to actualize his death in effect says that he is no longer willing to live under the conditions defined by the master and that he is willing to die, *if necessary*, in the process of changing those conditions.”<sup>31</sup>

This is but the initial process in JanMohamed’s dialectic of death. As the subject struggles between social death and actual death, another process arises, that of forging from the first struggle what JanMohamed terms a “symbolic death,” one that displays the terror of one’s condition, but in a way that is enabling. This process, thus, has an emancipatory character. This “symbolic death” is a “death” not only because it heightens the risk of actual death, but also, and more importantly, it *works* the death of social death. It is “symbolic” in that it deploys artful and narrative modes of scrutiny in order to create a world of meaning that then spills over “mere” meaningfulness into the very “real” world where new

30. On the racist character of American democracy see, for example, Joe Feagin, *Racist America: Roots, Current Realities and Future Reparations* (New York: Routledge, 2001) and Charles W. Mills, *Blackness Visible: Essays on Philosophy and Race* (Ithaca, NY: Cornell University Press, 1998).

31. JanMohamed, *Death-Bound-Subject*, 292; italics in original.

freedom is forged.<sup>32</sup> For JanMohamed, Wright's autobiography, fiction, and other prose are exemplary. The subject of social death—whether a Bigger Thomas character in the novel *Native Son*, or Wright himself as a character acting in struggle across the pages of his own literary *oeuvre*—renegotiates the death contract spelled out for him, a contract that says, in effect, “live in accord with social death and in fear of your actual death.” The subject “renegotiates”—alters, redefines, and challenges—the death contract by daring to scrutinize the horrific details of actual death prepared for him and his people. Wright did so famously in his excruciatingly poignant and brutal portraits of lynching and burning rituals performed by white America as well as in his equally poignant portrayals of the way social death has often awakened in the breast of socially dead subjects an eros and life-drive that can be both deadened and destructive of self and others.<sup>33</sup> So effective is this meditative scrutiny on violent death and dying that Wright's narrative art can conjure a seeing and feeling in readers that is that of a skull having undergone lynching and burning.<sup>34</sup>

Wright's powerful artistic forms convey not only a symbolic horror, but also a symbolic empowerment with real political and emancipatory consequences in spite of the imposition of social death by a racialized political system. The political empowerment lies in Wright's accent upon the staring skull, a decimating testimony to the creation of community between the dead and the living. The art of Wright, in the case of the example above, brings even the lynched and burned back to the realm of the living, connoting not only a sense of death in the past, but also provoking desperate life in the present. The dead of a horrific past are never quite dead and so a vital, if desperate, resilience is honed in the present. The stone skull still stares; through the poet's art we in the present can feel like that skull staring from the ashes of the past.

The art of Wright's symbolic medium, then, is what JanMohamed terms a “suturing medium”; it binds up a wound between past and present, between death and life. As such, these artful re-presentations

32. JanMohamed's notion of “symbolic death” should not be mistaken for “the Symbolic” in Jacques Lacan, even though it shares some traits with that psychoanalytic theorist's notion, and even if JanMohamed cites Lacan with some frequency and has his own theoretical interests in psychoanalytic theory. JanMohamed's notion of the “symbolic” is linked more to the *political* work that literary art does in articulating and externalizing terror, power and death. See JanMohamed, *Death-Bound-Subject*, 37 and 174.

33. *Ibid.*, *Death-Bound-Subject*, 288–90.

34. For still one of the finest treatments of the lynching and burning rituals in U.S. history as they have shaped key literary texts, see Trudier Harris, *Exorcising Blackness: Historical and Literary Lynching and Burning Rituals* (Bloomington, IN: Indiana University Press, 1984).

make possible a passing, a “way out” of the social death. It is an emancipatory “symbolic death” that can not only fuel struggle in the present, but also create a certain real freedom. This excavating of the repressed “death-bound-subject,” through symbolic and literary form, was a way to renegotiate the death contract, deploy death to the advantage of the one suffering it and against those who impose it. It is a way to defy political masters who would try to block resistance by threatening to kill those who dared to dream and live beyond the social death.

### 5. Mumia Abu-Jamal Amid the “Dialectic of Death”

Mumia Abu-Jamal is a conjurer of the emancipatory dimensions of “symbolic death,” and he forges a new political imaginary amid the struggle of an imposed social death and amid his ever-near actual death. By 1981, Abu-Jamal already had taken up the “dialectic of death” before his trial and imprisonment through his journalistic writings and his representation of self in organizing work.<sup>35</sup> His engagement with the dialectic, though, has become especially clear over the 25 years of his time on death row. From death row, he has wielded the powers of symbolic death in challenging the finitude of life and the limit that death imposes on all humans. In his introduction to Abu-Jamal’s *Live from Death Row*, acclaimed novelist John Edgar Wideman critically observes, “Who isn’t on death row?”

Amid the social death of death row, Abu-Jamal has taken up both of the artful processes that JanMohamed proposes as essential to the defiantly provocative and emancipatory “symbolic death.” It is that taking in and reworking of actual death for a symbolic death that permits liberation from social death, a personal freedom for himself, but also a collective freedom for his people and others. Abu-Jamal’s writings, passed from hand to hand, from recording device to device—a taped cassette here, a typed and retyped email there—are re-presentations of his social death, steadily excavating that space, but also steadily forging a liberating political perspective and action from it. His position on death row, and his making death row visible in his writing, is a continual embrace of his actual death. Through the pages of the *Yale Law Review Journal*, *Forbes* magazine, his published books,<sup>36</sup> or in a homeless person’s newsletter sold for pennies

35. Terry Bisson, *On A Move: The Story of Mumia Abu-Jamal*, foreword by Chuck D (Farmington, PA: Litmus Books, 2000), 40–59.

36. Mumia Abu-Jamal, *Live from Death Row* (Reading, MA: Addison-Wesley Publishing Co., 1995); *Death Blossoms: Reflections from a Prisoner of Conscience*, foreword by Cornel West, preface by Julia Wright (Farmington, PA: Plough Publishing House, 1997); *All Things Censored*, foreword by Alice Walker, ed. Noelle J. Hanrahan (New York: Seven Stories Press, 2000); *Faith of Our Fathers: An Examination of the Spiritual Life of African and African-American*

on the street, he gestures toward, artfully depicts, and narrates, the *state* of death on death row. His artful and insightful depiction of the prison is also a poignant commentary on the arrested development of democracy in the United States:

Prison is a second-by-second assault on the soul, a day-to-day degradation of the self, an oppressive steel and brick umbrella that transforms seconds into hours and hours into days. The mind-numbing, soul-killing savage sameness that makes each day an echo of the day before, with neither thought nor hope of growth, makes prison the abode of spirit death that it is for over a million men and women now held in U.S. hellholes.<sup>37</sup>

This passage by Abu-Jamal exemplifies JanMohamed's main point in that such depictions of hellishness can become emancipatory moves, giving rise to the forming and depicting of a "symbolic death," one that works a release from social death. In finding the courage to depict hell, whether in Wright's work or in Abu-Jamal's, the subject no longer flees from his or her social death; instead it is owned, taken on. Artful discernment, exposure and defiance, all intertwine in a newly forming emancipated political subject.

In JanMohamed's terms, Abu-Jamal works to transform himself from a subject-commodity in society's death contract, into a subject who knows and articulates freedom. Just as it happened for Wright as a result of his lifelong "archaeology" of himself and others who journeyed with him as "death-bound-subjects," so too did it happen for Abu-Jamal as a result of the artful scrutiny he applies to his world of death, enabling an affirmation of self, a deconstruction of the hold that social death tries to keep upon him, negating the negation that his death row, anti-life subject-position might otherwise have over him.<sup>38</sup> As John Edgar Wideman has suggested, Abu-Jamal thereby can craft a freedom that is not dependent upon "being in the world beyond the bars his jailers enter from each day."<sup>39</sup> Cognizant that he must wrest a freedom within the social death world that is death row, Abu-Jamal nevertheless fights for a new experience of freedom to enter the world beyond the prison:

Just because your body is in prison doesn't mean your mind isn't free, and even though this thought might be trite, there is some truth in it, because we are our minds. In the deepest sense we are our minds and spirits... We reach beyond.<sup>40</sup>

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*People* (Trenton, NJ: Africa World Press, Inc., 2003); *We Want Freedom: A Life in the Black Panther Party*, introduction by Kathleen Cleaver (Cambridge, MA: South End Press, 2004).

37. Abu-Jamal, *Live from Death Row*, 64, 65.

38. On the role of "deconstructive, destructive scrutiny" in this liberating process, see JanMohamed, *Death-Bound-Subject*, 288.

39. John Edgar Wideman, "Introduction," in Abu-Jamal, *Live from Death Row*, xxxiv.

40. Mumia Abu-Jamal, "Imprisonment," in his *Death Blossoms*, 43.



The “reach beyond” and the freedom he wrests from the system have another distinctive trait. The forging of his personal liberation is inseparable from the larger “collective fate of black people” and of the many others he also writes about.<sup>41</sup> Abu-Jamal does not construct his narratives to gain ready acceptance and political legitimacy from anti-black racist and racist political systems nor does he pose as the hero who braves vicissitudes to gain his freedom from the “bad” system over there, and then, into a “good” system here and now. In contrast, Abu-Jamal like Richard Wright features what JanMohamed terms a “tendency to represent *collective* subject-positions.”<sup>42</sup> It was this tendency that enabled Wright through his symbolic work to articulate and externalize the terror, the power and the value of death, so that it could be overcome. In so doing there is a tendency to break down intersubjective barriers.<sup>43</sup> It is this collectivization, this way of making unity among those who know social death, that is particularly threatening. It is not just the resistance, it is the *unity in* resistance that is both provocative to oppressive power and effective for resisting it.

Abu-Jamal shows his tendency to represent “collective subject-positions” in three ways. First, there is the aforementioned tendency to link his personal liberation with others’ liberation, with those of his people and with all among exploited communities. Second, there is his address of the varieties of oppression, touching different communities in need of liberation. He writes not only of death row, and persons that share that space of social death with him; he writes also about the plights of the imprisoned, of the sufferers of police brutality, of the urban poor who face harassment of various sorts from authority, of the impoverished, of the poor on many continents. He remembers the victims of abusive systems in the Congo, in South Africa, in Indonesia, in Haiti, throughout Latin America, in Eastern Europe. Their concerns are addressed with prose, poetry and references to history and art across hundreds of essays in his books and online. The collective subject-position is spawned, in part, from this entry into a proliferating set of themes of concern to the world’s dispossessed. A third way of exhibiting his concern with “collective subject-positions” is evident in a distinctive pattern of analysis that brings to the proliferating themes he treats a pattern that seeks to discern the lines of collectively oppressive, complex forces. These forces usually concern various dynamics of the West’s enduring but always transforming, racialized empire, the consolidation

41. Ibid.

42. JanMohamed, *Death-Bound-Subject*, 33, 37; italics in original.

43. JanMohamed, *Death-Bound-Subject*, 33, 37.

of global empire, the white privilege of which is qualified only by those people of color ready to compromise with it so as to have some place of possible advantage within it. This focusing of the collectivity of empire, as a way to identify and mobilize collective resistance to it, is another way that in which Abu-Jamal attends to “collective subject-positions.”<sup>44</sup>

In sum, Abu-Jamal’s life and work on death row are occurring in a place and through a mode that cannot help but be threatening to the arrangement of political powers today. In a time when the powerful do ever more intensively what they have long done before—namely, construct sovereign rule as their power to decide the exception—Abu-Jamal provokes and invites sovereign powers to suspend their own laws to counter him and those like him and to treat him exceptionally.

As a black man on death row in the United States, Abu-Jamal is consigned to what Agamben termed “bare life” in a place where sovereign power appears to have definitive and absolute sway. In the state of exception today, the power to rule is, in fact, defined by this power to decide the exception, a power over those consigned to bare life (e.g., impoverished masses of the global South, the hundreds of thousands in Iraq dead and maimed, the indefinitely detained of Guantánamo and other U.S. detention centers worldwide, the interred of the 2.3 million in U.S. prisons, and more). In many cases in the U.S., innocence has been proved for death row inmates and thus agents of sovereign power have had to release them, admitting a horrific mistake.<sup>45</sup> One can still hope and work for such a release for Abu-Jamal himself; but it will be longer in coming because of his mode of struggle amid the social death of death row.

Abu-Jamal, in the bare life of death row, has not just waited for the system to find a mistake relative to his case. He has devoted himself to exposing the collective mistake of a fundamental component of the project of democracy in America—the politics and practices of the criminal justice system. In so doing, Abu-Jamal has placed himself at greater risk of actual death. The risk becomes greater because in articulating and exposing the structural terror of political power, he further provokes and galvanizes those already determined to execute him. But at the same time, this risk is a mode of liberation from his social death and from that “bare life” space where he was expected to remain on hold until the time of his final dispatch.

44. As just one example from his hundreds of columns, see “Inheriting an Imperial Nightmare,” *Educators for Mumia Abu-Jamal*, at [http://www.emajonline.com/index.php?action=4&content\\_id=98](http://www.emajonline.com/index.php?action=4&content_id=98).

45. “Innocence and the Death Penalty,” *Death Penalty Information Center*, <http://www.deathpenaltyinfo.org/article.php?did=412&scid=6>.

Steve Biko, the South African freedom fighter and anti-apartheid martyr wrote, “You’re either alive and proud, or dead, and when you’re dead you can’t care anyway.”<sup>46</sup> Amid sovereign rule in the state of exception today, the case of Mumia Abu-Jamal represents a new articulation of the long struggle for new forms of political community and human solidarity. The final verdict is still out, not only on Abu-Jamal’s case, but also on the struggle for collective life and liberation. The sovereign’s commitment to the state of exception, deciding unceasingly to shore up its rule over bare life, is not the final word or the final work. And the collective efforts of those creating new visions of freedom are still being born.

**Mark Lewis Taylor** is the Maxwell M. Upson Professor of Theology and Culture at Princeton Theological Seminary. A member of the Presbyterian Church, he frequently teaches and lectures in churches and supports church communities in their efforts to organize on justice and peace issues. Since 1987, he has studied regularly in Guatemala and Chiapas, Mexico, where he analyzes the cultural and political dynamics of the churches as they move closer to a contextualized Mayan theology that also facilitates resistance to military repression. He is also coordinator for Educators for Mumia Abu-Jamal. His regular teaching duties focus on the theologies of Paul Tillich and Gustavo Gutierrez, with full courses also on white racism as theological challenge, feminist and womanist theologies, empire and capital in theological perspective, and cultural-political hermeneutics. His most recent books include *Religion, Politics, and the Christian Right: Post-9/11 Politics and American Empire* (Fortress Press, 2005) and *The Executed God: The Way of the Cross in Lockdown America* (Fortress Press, 2001).

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