

## Thesis Prospectus

**Research Question:** *What does the abolition of the death penalty in France suggest about the likelihood of its abolition in Mississippi in light of a cultural comparison of their respective attitudes toward crime and punishment?*

### Introduction

The declining use of the death penalty in America, even in states like Mississippi in the Deep South, suggests its de facto abolition may be imminent, even if it remains de jure available. During my recent experience studying abroad in Angers, France, I began to consider how cultural similarities and differences between France and Mississippi might help to shed light on their approaches to punishing criminal offenders. For instance, I wondered how a French court might punish a criminal offender in Angers as compared to Mississippi court in Tupelo for a similar criminal act.

There is an obvious connection between the two countries in their common history of using brutal death penalties. The French used their infamous guillotine from 1792 to 1977, killing French citizens at a rate of up to 300 per day during the Reign of Terror after the French Revolution. Angers's prison hosted the execution of Germaine Leloy-Godefroy in 1949, the last woman guillotined in France. France abolished the death penalty in 1981.

Mississippi has its own infamous association with public executions, including many that were largely extrajudicial. The state had the highest number of recorded lynchings, and used hanging as its execution method until 1940. As in France, the use of the death penalty in Mississippi slowed with the move away from public executions after World War II, but it has weakly persisted, with 21 executions since the Supreme Court reinstated the death penalty forty

years ago. Only two of those individuals committed murders in Tupelo, with Mississippi executing Joseph Burns in 2010. Mississippi has not executed anyone since 2012.

At first glance, conservative Mississippi seems to embrace different values than progressive France, indicating divergent approaches to criminal justice. A closer examination of the actual use of the death penalty in both jurisdictions suggests that Mississippi might be following the same trajectory toward abolition, just at a slower pace. Part of this may relate to a disconnect between what people say and do. Despite the public rhetoric and opinion of Mississippians, the actions (or lack of action) with respect to the death penalty may suggest a deeper connection to French thoughts and attitudes than one might expect.

In this thesis, I plan to explore the connection between the cultures of Angers and Tupelo, and extrapolate information and data that will inform the question of whether death penalty abolition—de facto or de jure—will become a reality in Mississippi in the near future. It is possible that Mississippi is tracing the same path as France, or alternatively, possesses structural, governmental, cultural, or societal characteristics that make following France's footsteps less likely.

## **Framework**

The first part of the thesis will briefly summarize the histories of capital punishment in France and Mississippi, including each's flirtations with abolition. In addition, this part will explore the modern criminal justice approaches of the respective jurisdictions to a recent murder case. Also, this section will draw cultural comparisons between the two using current data including public opinion polls and criminal justice sentencing practices.

Part II of the thesis will conduct a literature review of the many recent books and articles that have considered why the death penalty persists in America when most Western nations have abolished it. In particular, the competing arguments of David Garland, James Whitman, Franklin Zimring, and Carol Steiker will provide the context to situate the central argument of the thesis. These scholars highlight important differences between the United States and Europe—the culture of violence, the culture of slavery, the system of federalism, conceptions of equality, preference for individualization, the development of populism, American exceptionalism—while also suggesting that each of these qualities can only serve as a partial explanation for the divergence. These alternative theories also offer insight into the future possibility of death penalty abolition.

In Part III, the thesis will combine quantitative and qualitative data to explore two recent murder trials, one from Angers and one from Tupelo. After examining the respective processes, the thesis will compare the length and severity of the sentences, and the justification behind them. On a sociological level, the thesis will consider (1) what cultural distinctions were present within the cases, (2) how they affect the cases, and (3) what that might show about the broader question of abolition.

Finally, Part IV will make an argument concerning the likelihood of death penalty abolition in Mississippi. The thesis endeavors to add to the developed literature on this topic by providing a more recent addition to the conversation, updating it in light of current developments. Further, the thesis will, unlike the literature, focus specifically on comparable cases to derive insights about the connection between cultural attitudes, governmental policy, legal procedure, economic health, and societal education to assess the future of the Mississippi death penalty.

## Methodology

This thesis will primarily rely on existing data and cases. This includes an analysis the laws of each country, beginning with Act 81-908 of 9 October 1981, Article 66-1 of the *Constitution de la République française*, Protocol nos. 6 and 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, *Gregg v. Georgia*, the Eighth Amendment to the U.S. Constitution, and Section 97-3-21 of the Mississippi Code. The study will also use national and state-level statistics about murder charges and their sentences from the Death Penalty Information Center, the Mississippi Department of Corrections, and the *Ministère de la Justice*.

With regard to public criminal records beyond a national level, little quantitative data is available in France. This lack of data may be a manifestation of cultural values surrounding privacy, and has altered the direction of my research. As such, the thesis will rely on two individual cases in the last 10 years in which similar crimes, both including murder, were committed: one in France, and one in Mississippi. The American case is a death penalty case, the French one is not. Comparing the sentencing outcomes and taking an in-depth look at two individual trials provides an opportunity to explore procedural differences that indicate broader cultural differences. An example of this and a potential challenge of my thesis is the absence of verbatim transcripts (or sometimes even summaries) in French *cours d'assises*, which handle murder offenses. Other shortcomings to my case studies will include the limited nature of its breadth. The thesis will only be comparing two trials, but will be using them as a sort of microcosm to substantiate the qualitative analysis conducted within my scholastic research, which is both legal and sociological in nature.

## Proposed Chapter Outline

Introduction (drawing connection between Angers and Tupelo)

I. The evolution of the death penalty, and criminal justice more generally in France and Mississippi

II. Literature Review of Persistence of American Death Penalty

III. Case studies

a. Angers murder case

b. State v. Burns

IV. Assessing the Persistence of the Mississippi Death Penalty (the central argument)

Conclusion

## Preliminary Bibliography

Alexander, Michelle, Cornel West. 2012. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. Rev. ed. New York, N.Y: New Press.

Alix, Erwan. 2019. "Crimes conjugaux: ce que révèle l'analyse des 149 morts l'année dernière."

*Ouest France*. <https://www.ouest-france.fr/faits-divers/violences/crimes-conjugaux-ce-que-revele-l-analyse-des-149-morts-l-annee-derniere-6484817>.

Ancel, Marc. 1966. *La Défense sociale nouvelle: (Un Mouvement de Politique Criminelle Humaniste)*. Paris: Cujas.

“Angers, France: A Cultural Guide.” *The Telegraph*.

<https://www.telegraph.co.uk/travel/destinations/europe/france/pays-de-la-loire/articles/Angers-France-A-cultural-guide/>.

“Angers: une femme de 50 ans tuée sous les coups de son concubin.” *Franceinfo*.

[https://www.francetvinfo.fr/societe/violences-faites-aux-femmes/angers-une-femme-de-50-ans-tuee-sous-les-coups-de-son-concubin\\_3606353.html](https://www.francetvinfo.fr/societe/violences-faites-aux-femmes/angers-une-femme-de-50-ans-tuee-sous-les-coups-de-son-concubin_3606353.html).

Banner, Stuart. 2009. *The Death Penalty: An American History*. Cambridge, Mass: Harvard University Press.

Barkow, Rachel Elise. *Prisoners of Politics: Breaking the Cycle of Mass Incarceration*.

Bazelon, Emily. *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration*.

Berry, William W. 2008. "American Procedural Exceptionalism: A Deterrent or Catalyst for Death Penalty Abolition?" *Cornell Journal of Law and Public Policy* 17 (3).

Berry, William W. 2011. "Book Review - The European Prescription for Ending the Death Penalty." *Wisconsin Law Review* 2011: 1103, 2011.

Brichard, Justine. 2019. “Angers. Une cérémonie d’hommage aux victimes de crimes racistes” *Ouest France*. <https://www.ouest-france.fr/pays-de-la-loire/angers-49000/angers-une-ceremonie-d-hommage-aux-victimes-de-crimes-racistes-6453466>.

Camus, Albert. 1960. *Reflexions sur la Guillotine*. Michigan City, Ind: Fridtjof-Karla Publications.

Chamoiseau, Patrick. 2016. *La Prison vue de l'intérieur: Regards et paroles de ceux qui travaillent derrière les murs*.

DuVernay, Ava. *13th* (film)

- El Basri, Aïcha. 1999. *L'imaginaire carcéral de Jean Genêt*. Paris, France: L'Harmattan.
- Fagot, Maurice. 2015. "Les Cours d'Assises de France." Accessed September 15, 2019.  
<http://www.fagot-avocat.fr>.
- Forman Jr., James. 2017. *Locking Up Our Own: Crime and Punishment in Black America*. First ed. New York; Farrar, Straus and Giroux.
- Foucault, Michel, and Elissa Mailänder. 1975. *Surveiller et Punir*. Vol. 225. na.
- Garland, David. 2005. "Capital Punishment and American Culture." *Punishment and Society* 7 (4): 347-376.
- Garland, David. 2012. *Peculiar Institution: America's Death Penalty in an Age of Abolition*. Belknap Press
- Garland, David. *The Culture of Control: Crime and Social Order in Contemporary Society*.
- Gouvernement de France. 2019. *Code de procédure pénale*. Art. 353.
- Harcourt, Bernard. June 7, 2011. "Dévoiler l'ordre punitif américain: une réponse à Corentin Durand, Fabien Jobard, Claire Lemerancier et David Spector." *La Vie des Idées*.
- James, Joy. 2000. *States of Confinement: Policing, Detention, and Prisons*. First ed. New York: St. Martin's Press.
- Lerner, Renée Lettow. 2012. "The Intersection of Two Systems: An American on Trial for an American Murder in the French Cour d'Assises." *University of Illinois Law Review* 2001 (3): 791-792.
- Mauer, Marc and Media Chesney-Lind. 2002. *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*. New York: New Press.
- Mauer, Marc. *The Meaning of Life: The Case for Abolishing Life Sentences*.

- McKillop, Bron. 1997. "Anatomy of a French Murder Case" *The American Journal of Comparative Law* 45 (3): 527-583.
- Ministère de la Justice. 2018. "La Cour d'assises du Maine-et-Loire." Accessed September 16, 2019. <https://www.cours-appel.justice.fr/angers/la-cour-dassises-du-maine-et-loire>.
- Ministère de la Justice. 2012. "The French Legal System." Accessed September 15, 2019. [http://www.justice.gouv.fr/art\\_pix/french\\_legal\\_system.pdf](http://www.justice.gouv.fr/art_pix/french_legal_system.pdf).
- Patillo, Western, & Weiman. *Imprisoning America: The Social Effects of Mass Incarceration*.
- Smith III, Clint and Josie Duffy Rice. *Justice in America* (podcast series)
- Stevenson, Bryan. 2014. *Just Mercy: A Story of Justice and redemption*. New York: Spiegel & Grau.
- Steiker, Jordan and Carol Steiker. 2016. *Courting Death: The Supreme Court and Capital Punishment*. Cambridge, MA: Belknap Press of Harvard University Press.
- Stevens, John Paul. 2010. "Peculiar Institution: America's Death Penalty in an Age of Abolition." *The New York Review of Books*. Accessed September 26, 2019. <https://www.nybooks.com/articles/2010/12/23/death-sentence/>.
- Toqueville, Alexis de. 1831. "Causes Mitigating Tyranny in the United States — Part 1." In *Democracy in America*. New York: G. Dearborn & Co.
- Whitman, James Q. 2012. *Harsh Justice: Criminal Punishment and the Widening Divide between America and Europe*. New York: Oxford University Press.
- Zimring, Franklin. *The Contradiction of American Capital Punishment*.