On 17 January 1977, Gary Gilmore was executed for double murder in Provo, Utah. As he was about to face the firing squad, he famously said, "Let's do it" (Nordheimer 1977, 65). Eleven years later, Nike launched its well-known "Just Do It" campaign. The campaign's tagline was putatively inspired by Gilmore's words as he went to his death (Fairs 2015; Sharkey 2015). Dan Wieden, the advertising executive who coined the "Just Do It"-slogan, seems to have interpreted Gilmore's utterance as an expression of bravery and empowerment. "How do you do that? How do you ask for an ultimate challenge that you are probably going to lose, but you call it in?" he rhetorically asked in an interview he gave to Dezeen magazine on 14 March 2015 (Fairs 2015). The fact that an execution certain to result in the condemned man's death is – absurdly – viewed and framed, by Wieden, as a "challenge" that one is only "probably" going to lose is symptomatic of a sensibility that views individuals as fundamentally autonomous and frames their actions as risks taken in pursuit of reward. A sensibility, in short, produced by biopolitics. In this paper, a two-pronged critical reading of the Gilmore case and of its appropriation by Nike will be performed. Firstly, Gilmore's execution was facilitated by his interpellation and interpretation as a rational subject, *homo oeconomicus*, as well as by his own, intermittent, performance of that role. His case therefore may be used to defamiliarise and critique the biopolitical apparatus that produces *homo oeconomicus*, and to uncover the ultimate reliance of biopolitics upon violence. By showing that confinement is not restricted to disciplinary institutions like prisons, and that in contemporary Western societies, power operates, to a large extent, by establishing choice architectures, thus turning agency into a means of confinement, the opposition between freedom and confinement will be problematised. Secondly, Gilmore's final words encapsulate the autonomy that was attributed to him and they thereby frame him as an exemplary biopolitical subject. Indeed, the very process of ascribing such significance to an isolated utterance is characteristic of the significant role assigned to choice by biopolitics: it considers lives and deaths as manifestations of individual character through personal choice. Actions are thus held to become decipherable by others like Dan Wieden; lives are constructed as 'readerly.' The mythologisation of Gilmore's purported heroism is based on assumptions concerning the causal relationship between character and choice that permeate contemporary culture; it contributes to the naturalisation of biopolitical structures of feeling that have since become hegemonic.


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Biopolitics and *Homo Oeconomicus* in Foucault's Lectures of the Late 1970s

Over the course of the late 1970s, Michel Foucault came to progressively elaborate upon the distinction between initially two, later three, forms of power. In his 1975-76 lectures, published in English as *Society Must Be Defended*, he characterises sovereignty and discipline as the two poles that delimit the exercise of power (Foucault 2003, 37). Later, during the same lecture course, he introduces the terms "biopower" and "biopolitics" (243), but he does not yet systematically think through the relationship between biopower/biopolitics, sovereignty, and discipline. In the first volume of his *History of Sexuality*, originally published in 1976, Foucault claims that biopower is focused on the species body, the body imbued with the mechanics of life and serving as the basis of the biological processes: propagation, births and mortality, the level of health, life expectancy and longevity, with all the conditions that can cause these to vary (1990, 139). His inclusion of "all the conditions" that can cause health, life expectancy etc. among conditions that vary implicitly negates the relevance of any putative boundary between the biological and the social to his definition of biopolitics.

To give a concrete example, between 2012 and 2014, the life expectancy at birth of English males born in the wealthiest areas of the United Kingdom outstripped that of males born in the most deprived areas by approximately nine years (83.2 versus 74.1), and the former could expect to spend 84.6 per cent of their lifespans in good health, as opposed to 69.7 per cent for those in the most deprived areas. Among females, those from the wealthiest areas only lived seven years longer than those from the most deprived areas (86.1 years as opposed to 79.1), but they could expect to be in good health for 82.9 per cent of their life span as opposed to 65.9 per cent – inequality in health expectancy is even greater among females than among males (Office of National Statistics 2015). Deprivation is a product of the unequal social distribution of goods and services; it is 'natural' only if viewed from within an ideological framework that naturalises social inequality.

Foucault's use of terminology is anything but consistent; in the lectures given between 1977 and 1978, published as *Security, Territory, Population*, he invokes three forms of government that he terms sovereignty, discipline, and "security," rather than biopower or biopolitics, yet it is clear from the characteristics he attributes to security that he is concerned with the same phenomena. Each of the three forms of government, he argues, exercises power by different means and over a specific object. Sovereignty takes as its object a particular territory and is primarily exercised through a judicial apparatus that establishes binary oppositions between what is legal and what is illegal (Foucault 2009, 4-11). Most areas of human life, however, are beyond its reach most of the time. Discipline, by contrast, takes as its object the individual body, and it is exercised through penal institutions, including, for instance, schools and the army as well as prisons; during the 17th and 18th centuries, it becomes more pervasive than sovereignty (5-6). Foucault repeatedly emphasises its distinctive temporality: the exercise of discipline is continuous while that of sovereignty is momentary (4). Lastly, calculating the probabilities and cost of certain occurrences within an entire population, and influencing these probabilities by manipulating different environmental variables are the fundamental mechanisms of what Foucault calls security (5). Its *modus operandi*
and its target, the population, are those Foucault had previously ascribed to biopower/biopolitics, yet his chosen illustrative example this time does not pertain to the realm of biology but to that of crime. In relation to theft, Foucault argues that

The general question [for the apparatuses of security] basically will be how to keep […]
theft, for instance, within socially and economically acceptable limits and around an
average that will be considered as optimal for a given social functioning. (5)¹

The form of power that Foucault had previously referred to as biopower or biopolitics is now conceived of in much broader terms that disarticulate any simple link it might have seemed to have with biology. Nevertheless, Foucault's choice of the term "security" is unfortunate, as it may be taken to imply the complete elimination of crime and other undesirable forms of behaviour. This is not the case: security relies and acts upon aggregates such as those captured by statistical surveys, rather than through individualised surveillance. Simply put, the goal of security is to lower the probability of crime occurring to an acceptable level, optimising the relationship between cost and benefit, rather than to prevent any or every individual crime. Risk management would, in a sense, be more apposite a term than security.

Foucault's usage shifts from security to government or governmental management (107-108) in Security, Territory, Population, and then, during the following year, he returns to "biopolitics" (Foucault 2008). In The Birth of Biopolitics, Foucault delineates the emergence of a self-limiting, (neo-)liberal form of government (2008, 16) which produces

a society in which there is an optimization of systems of difference, in which the field is left open to fluctuating processes, in which minority individuals and practices are tolerated, in which action is brought to bear on the rules of the game rather than on the players, and finally in which there is an environmental type of intervention instead of the internal subjugation of individuals. (259-260)

Its concomitant form of subjectivity is homo oeconomicus

who [in Becker's terms] accepts reality or who responds systematically to modifications in the variables of the environment, appears precisely as someone manageable, someone who responds systematically to systematic modifications artificially introduced into the environment. Homo oeconomicus is someone who is eminently governable. From being the intangible partner of laissez-faire, homo oeconomicus now becomes the correlate of a governmentality which will act on the environment and systematically modify its variables. (270-271)²

Homo oeconomicus thus forms the causal nexus between environmental conditions and agentic effects. Similarly to discipline, biopolitics operates continuously rather than momentarily; biopolitics is, however, even more pervasive than discipline.

¹ Foucault acknowledges that the distinction between the three types of government is an oversimplification, because "security" reactivates the juridical and disciplinary apparatuses for its own ends (2009, 11).

² Foucault's characterisation of homo oeconomicus is based on the oeuvre of the American economist Gary Becker, a member of the Chicago School and one of the central architects of neoliberal economic thought.
Biopolitics brought about "the entry of phenomena peculiar to the life of the human species into the order of knowledge and power" (Foucault 1990, 141-142). This latter phrase defines biopolitics as virtually all-encompassing: it is not primarily the biological fact of death that is peculiar to the human species, but its social constructedness, and birth and death are consequently to be considered objects of biopolitics in so far as they are social rather than biological phenomena. The entire tenor of Foucault's work, moreover, denies the possibility of delimiting the biological from the social and the political. The obvious example is sex, the politicisation of which occurs by positing a repressive hypothesis, according to which 'natural' sex is repressed by society and must therefore by unearthed laboriously through confession, whereas, Foucault insists, sex is in fact a product of those very mechanisms of repression and confession (141-142). The same logic could be applied to 'natural' processes of exchange, claimed to be 'natural' both to the population which conducts exchanges through the market, and to the individual whose true nature is to respond to their environment as homo oeconomicus. Both are posited as the locus of liberties that the state must not interfere with if it is to govern well. Yet by systematically structuring environments and inciting the individual to make choices in ever more realms of life, homo oeconomicus is produced rather than revealed. As the domain of economics is extended, the biopolitics that governs homo oeconomicus is coterminous with the complete economisation, which is at the same time an, albeit frequently unremarked, politicisation of human life.

Foucault constantly rewrites and revises his terms, and he does not provide a final, systematic formulation of the ways in which they relate to each other. While in Security, Territory, Population, Foucault uses "government" and "governmentality" as if they were interchangeable with "security," from The Birth of Biopolitics onwards, he uses "governmentality" as a more general term that comprises the different forms of government, as well as to describe the rationality that underlies them. In this paper, I use government as the most general term, to include all ways of conducting conduct, while governmentality denotes the rationalities that underlie these forms of government. Governmentality in the latter sense can be understood to stand in the same relationship to individual acts of government as discourse does to individual utterances. The third form of government will be called "biopolitics," for want of a better term in Foucault's work, yet this is not to be taken to imply that "biological processes" or even bodies are its primary object; rather, it alludes to the pervasiveness of a mode of government that affects individuals through their own actions and, therefore, affects every instant of every human life. Biopolitics is therefore closely linked to neoliberalism.

**Reading Homo Oeconomicus: Gary Gilmore's Execution**

In most contemporary Western societies, capital punishment has been abolished, and even in the United States, where it is still implemented, it is no longer performed as a spectacle but removed from the eyes of the public and carried out, in many cases, by methods that are at least theoretically calculated to avoid unnecessary suffering. Gary Gilmore's execution came unusually close to the "spectacular" character that Foucault ascribes to the execution of Damiens the regicide: Utah offered condemned criminals
the choice of being shot by a firing squad instead of being hanged, the standard method of execution before the introduction of lethal injection. Mailer's account, based upon details reported by eyewitness Lawrence Schiller, emphasises the violence of Gilmore's death, whose heart, after being hit by four bullets, "was pulverized. Not even half left. Jerry 3 didn't recognize it as a heart" (Mailer 2012, 981). Though there were few eye witnesses to the execution, inmates of "three nearby cellblocks" were able to hear the shots and "screamed obscenities" ("The Law" 1977).

By 1977, when Gilmore was executed, however, the "right of the sword" (Foucault 2003, 240) that defined sovereign power had become problematic. As Foucault puts it, for biopolitics as a form of power whose "main role was to ensure, sustain, and multiply life, to put this life in order [...] execution was at the same time a limit, a scandal, and a contradiction." It is justifiable only by the "biological danger" the condemned presents "to others" (Foucault 1990, 138). Yet the criminally insane, too, present such a danger and are not put to death. Foucault, here, omits to mention a second factor essential to the perceived legitimacy of the death penalty in a society where biopolitics is becoming hegemonic: the responsibility attributed to the criminal as an autonomous agent.

It is the interpellation and interpretation of Gilmore as a rationally acting, autonomous subject that facilitated his execution. The scholarly and judicial debates triggered by the Gilmore case centre upon three issues: the appropriate limits of state power are at stake when the constitutionality of the death penalty is contested (Bedau 1997), 4 the preconditions or even the very possibility of truly autonomous choice is at issue when Gilmore's competency to choose to waive his right to appeal is discussed (Strafer 1983), and the extent to which persons are either primarily autonomous individuals responsible for their actions, or embedded in interpersonal relationships that define their identities and significantly determine their well-being is in question when "standing" is problematised. Both the Utah Supreme Court and the United States Supreme Court denied Gilmore's mother the right to appeal in his stead on the grounds that no direct injury would result to her from her son's execution – therefore, she lacked standing and Gilmore's autonomous choice not to appeal must not be interfered with even by his mother (Althouse 1991; Brown 1991).

Albeit a perusal of the scholarly literature shows that there are no easy answers concerning any of the questions raised by the Gilmore case, the courts' rulings placed the responsibility for his fate squarely

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3 Jerry Scott, a policeman present during Gary Gilmore's autopsy.
4 The constitutionality of the death penalty had not, per se, been addressed by the United States Supreme Court at the time. It had, however, ruled that most states' existing death penalty statutes were unconstitutional in Furman v. Georgia, 408 U.S. 238 (1972). In Gregg v. Georgia, 428 US. 153 (1976), the United States Supreme Court was to accept the constitutionality of the death penalty, provided both aggravating and mitigating circumstances were taken into account and appellate review of all death penalty cases was undertaken.
5 The concept of standing implies that not all citizens may contest judicial decisions qua citizens interested in preventing miscarriages of justice; rather, they need to act as "next friends" to the person directly affected, in this case Gilmore, but this possibility is only given when the affected person themselves is deemed incompetent. Alternatively, they can argue that they are directly harmed by the decision they are going to challenge.
and solely with Gilmore; furthermore, they upheld the state's right to kill its citizen, and in doing so the state's action was framed as a mere response to the latter's crimes – a response that entailed no responsibility, one might even say that it was not truly an action at all but merely a re-action.

The courts were not alone in interpreting Gilmore as an autonomous, agentic individual. He was the first prisoner to be executed in the United States of America after a moratorium of nine and a half years, and his fate captured the public imagination. He had previously been incarcerated in a variety of penal institutions, the first among them a reformatory when he was only fourteen years old, for eighteen of the twenty-one years that preceded his death (Strafer 1983, 865). He had also twice attempted to commit suicide while on death row in Utah (866; Rothman 2015). Given that it is doubtful that even apparently rational choices made by death row inmates can be considered free and autonomous in any full sense, the heroicisation of Gilmore's "choice," not only by Mailer in his novel The Executioner's Song (Mailer 2012) or by Dan Wieden, the advertising executive working for Nike, is remarkable. Drawing upon Mailer's account, van Wormer and Odiah claim that Gilmore "fought his attorney for the right to be killed, and through extensive public attention managed to be immortalized in death as he could not be in life" (1999, 367). Gilmore is read as an agentic subject, and his utterance as he went to his death, "let's do it," encapsulates this view of him.

One of the state's representatives, the Assistant Attorney General of the State of Utah, Earl F. Dorius, later published his recollections of the Gilmore case. Albeit his published account does not contain direct expressions of personal animosity against Gilmore, Dorius experiences any attempt to appeal the death penalty or postpone Gilmore's execution as "frustrating" or "discouraging," terms that imply he is emotionally invested in the outcome of the case (1981, 52-53; 56). He even acknowledges to have felt "angry" when the Utah Supreme Court orders a stay of execution because "our office had had no opportunity to respond to the request for the stay of execution prior to the court's issuing its decision" (53). The application of Bessie Gilmore's attorneys to both the Utah Supreme Court and the United States Supreme Court for stay of execution causes him "dismay" (76), while he feels "elated" when first the Utah Supreme Court and later the United States Supreme Court, the latter on a 4-4 vote, deny Bessie Gilmore standing to appeal (86). He is "alarmed" by the proposition to have a final assessment of Gilmore's sanity conducted by "independent psychiatrists,  

6 "Inmates are put to the Hobson's choice of prolonged torture by incarceration or swift torture by execution. An inmate's 'choice' of the latter alternative over the former is no more voluntary than a confession beaten out of a police suspect during a custodial interrogation; only the method utilized to exact that 'choice' is unique" (Strafer 1983, 863). Cf. also van Wormer and Odiah, who argue that "punishment designed to curb violence may actually promote it" because "commission of a crime or crimes [serves] as a means toward the end of execution" and that "the revenge motive inherent in the death penalty may be thwarted by criminals who favor execution over life imprisonment" (1999, 365).

7 Dorius openly acknowledges having first heard of the case from a close friend who was, in turn, related to one of Gilmore's victims, yet he never considers that he might be biased against Gilmore and should have stood down from the case (1981, 49).
Possibly from out of state" (88). In these instances, Dorius certainly takes on the appearance of an agentic subject endeavouring to bring about, through his actions, a result that he considers desirable, another man's death. In this respect, he is not entirely dissimilar to Gilmore. Nevertheless, he was framed as an instrument of sovereign power rather than an agentic subject. His memoirs of the case, however, serve to problematise these tidy distinctions.

Conversely, the state's representatives persistently interpellate and interpret Gilmore as a subject freely able to choose his course of action. "[T]wo assistant attorneys general from the State of Oregon" report on Gilmore's attempts to resist the disciplinary regime of the prison. They

jokingly said that after Gilmore was executed, we should return his false teeth to the Oregon Department of Corrections because Gilmore had repeatedly flushed sets of teeth down the toilet expecting the prison to fashion him a new set each time. The prison had finally warned him that if he flushed down another set he would be gumming his food for the rest of his stay in the penitentiary. Thus, Gilmore still had the final set of false teeth made for him at the Oregon State Prison. (54)

Gilmore's "choice" to repeatedly destroy state property, rather than the circumstances that have caused a relatively young man in his early thirties to require dentures is deemed worthy of comment by the assistant attorneys general as well as by Dorius. The effectiveness of threatening to let him go without further replacements shows that he is – successfully – interpellated as _homo oeconomicus_, he rationally responds to the manipulation of environmental variables by the prison authorities in Oregon and decides that the cost of continuing his destructive behaviour is too great to incur. In Utah, Gilmore, who had attempted suicide twice in the previous two months, who repeatedly changed his mind on whether he wanted a possible further psychological assessment to be conducted, and who had filed a petition to be released under _habeas corpus_ because the state had failed to execute him during the legally specified time period of 60 days, then later asked for this petition to be withdrawn, was ultimately deemed sane and fit to be executed without a further psychiatric assessment.

To Dorius, it is a foregone conclusion that Gilmore deserves to be executed, and he even somewhat callously compares the stress that working the case has caused him and his family with the suffering of Gilmore's victims, while Gilmore's own suffering is unworthy of mention to him:

I really did not feel any sorrow or pity for him. The impact that he had not only on the lives of the survivors of the victims that he killed, but on the lives of my family and me during the last two months, was such that I did not feel much sorrow for him. I did feel a tremendous sorrow for the warden. (110)

Dorius and his colleagues are determined to do their utmost to create _a fait accompli_ if at all possible. Their acknowledged intention on the morning of Gilmore's execution is to ensure it will have taken place before the lawyers representing the ACLU have a chance of contacting the United States Supreme Court to challenge its legality. Yet Dorius's successful endeavour to bring about another man's death is considered by the state's judicial apparatus and by a majority of the American public to be acceptable, mere justified reaction rather than criminal action.
Legal, personal, and literary narratives of Gilmore's death thus represent his execution as an outcome of his own actions, rather than of those of the state. This is significant not as a misrepresentation of some underlying 'true' nature of Gilmore the subject, but because it exemplifies the operation of biopolitics that produces *homo oeconomicus* as its corollary. Indeed, Gilmore at least intermittently understood himself as a free agent, and his notorious utterance forms part of his performance of autonomous subjectivity. Timothy McVeigh, another prisoner condemned to death who "volunteered" for execution by waiving his right to appeal, also insisted upon his right to autonomously choose his fate: "I am the master of my fate: I am the captain of my soul" (Garnett 2002, 797; n. 10). Nevertheless, the violence of execution remains, and the death penalty poses a problem for our understanding of the relationship between sovereignty and biopolitics. The very effectiveness of constituting Gilmore as a biopolitical subject posits that the execution constitutes not an exercise of sovereignty, "actually the right to kill," "the right of the sword" (Foucault 2003, 240) but of biopolitics, "the power to 'make' live and 'let' die. The right of sovereignty was the right to take life or let live. And then this new right is established: the right to make live and let die" (241). If the state, indeed, merely 'let' Gilmore die, the operation of biopolitics would be a subversion of sovereign power, for one cannot take a life and put to death a man who in fact wills his own death. Yet, the relationship between biopolitics and sovereignty in the Gilmore execution is more complex than this would suggest: after his first attempt to commit suicide, Gilmore was banned from receiving visits by his girlfriend because it was suspected she had provided him with the drugs he used to try to kill himself. He entered upon a hunger strike in protest. The Assistant Attorney General, Dorius, informed the prison of their right to force-feed Gilmore on the grounds of the state's compelling interest in preserving Gilmore's life so that "its judicial processes be followed […]. The state also had a compelling interest not to be a party to any suicide attempt" (Dorius 1981, 65).

Far from encouraging suicide, those states that employ capital punishment keep convicts on death row under constant observation so that they will not commit suicide. […] Gilmore attempted suicide only to be rushed to the hospital to preserve his life so that it might later be taken by the state. […] Cases of prisoners slashing their throats seem fairly common. In one case a prisoner who had cut his throat with a razor blade was granted a brief reprieve in order that his wound might heal sufficiently to insure that his head would not be torn off when he was hanged. In another case, a prisoner slashed his throat moments before he was to be taken into the gas chamber. He was quickly dragged into the gas chamber, blood spraying from his neck, and executed. (Gardner 1978, 110; n. 109)

If the fact that Gilmore, at least intermittently (for one must not forget that he petitioned to be released from prison under *habeas corpus* too), wished to die were solely decisive, then the state would indeed merely "let" him die. Yet it did not let him die at the time or in the manner of his own choosing, albeit the outcome, Gilmore's death, would have been the same whether Gilmore had died by his own hand in prison or by firing squad. Neither would it have made a difference to the outcome whether he had been shot standing up and without a blindfold, as he had requested, or seated in "an

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8 See below and Dorius (1981, 83).
old mahogany office chair with a black vinyl seat and back” (“The Law” 1977) with "a black corduroy hood" on "a makeshift platform raised one foot off the floor" (Nordheimer 1977, 65). These differences in the manner of execution reassert the state's sovereign power and expose the effective reliance even of biopolitics, in the last instance, upon violence and the right of the sword, a reliance that is, however, ostensibly disavowed by narratives that insist upon Gilmore's agency and responsibility.⁹

Indices of Subjectivity

Despite the complex and contradictory operation of sovereign power and biopower upon Gary Gilmore, he is narrated as an overwhelmingly autonomous, rational subject, homo oeconomicus. He waives his right of appeal, on this account, due to his determination to die "with grace and dignity" (Dorius 1981, 55). Though Gilmore's death wish does not appear to be the consequence of the rational, maximising behaviour (governed by Jeremy Bentham's pleasure-pain-calculus) attributed to homo oeconomicus,¹⁰ it may be recuperated as such by narratives that are invested in affirming Gilmore's rationality and autonomy in a variety of ways. Gilmore's attorney Ronald Stanger "filed a complaint seeking Gilmore's release on a writ of habeas corpus" on 8 December 1976 (Dorius 1981, 83). Dorius speculates that Gilmore's strategy may have been to push the system to its limits by demanding a prompt execution and if, for any reason, the date set for the execution was not met he would file a complaint.

⁹ Gardner notes that "The involvement [sic] of ordinary citizens in the execution process allows the firing squad to be a vehicle of public vengeance, stripping the execution process of whatever dignity it might otherwise have" (1978, 124). Gardner here uses the concept of dignity to criticise methods of execution; the notion of agentic subjectivity that a putatively possible "dignity" avows, however, may be considered to be at odds with his overall aim. See also Garland's account of the death penalty in the United States as a product of a distinctive tension between a sovereign power that is increasingly reticent, as Foucault suggests, and a popular support for vengeance that would previously have expressed itself in torture and lynching of black people. In Garland's (2007) account, the death penalty had to "humanise" itself to expunge the traces of the racialised violence of the lynchings, but its continued existence is an expression of the lack of equality and solidarity that characterises the American nation.

¹⁰ Explicitly, Foucault primarily invokes Bentham as the inventor of the panopticon; however, he locates the roots of neoliberalism and its paradigmatic subject, homo oeconomicus, in liberalism and utilitarianism throughout The Birth of Biopolitics. He also refers to "Beccaria's and Bentham's idea that the utilitarian calculus could be given an adequate form within a legal structure," which he describes as "one of the stakes or dreams of all political criticism and all the projects of the end of the eighteenth century" (Foucault 2008, 251). The utilitarian calculus Foucault refers to here is sometimes described as a pleasure-pain-calculus, and the maximising individual, homo oeconomicus, is driven by the desire to avoid pain and maximise pleasure. This is what makes their behaviour predictable and subject to manipulation.
request for release on a writ of habeas corpus on the theory that his only commitment was for a death sentence, not prison time. (83-84)\textsuperscript{11}

Furthermore, even if Gilmore's decision to waive his right to appeal should have been solely motivated by a wish to escape life in prison by seeking death, this, in itself, is a rational preference that, all the more, marks him out to be sane, rational, and eligible for execution. And, lastly, Dennis Boaz, an attorney and writer who briefly acted as Gilmore's legal counsel, claims that Gilmore acted in expectation of atonement or good karma in the afterlife (Nordheimer 1976, 24).

Justice Marshall, in a dissenting opinion concerning Bessie Gilmore's right to appeal her son's execution, argued that Gary Gilmore's waiver of his right to appeal should not have been considered legally binding.

Less than five months have passed since the commission of the crime; just over two months have elapsed since sentence was imposed. That is hardly sufficient time for mature consideration of the question, nor does Gilmore's erratic behaviour – from his suicide attempt to his state habeas petition – evidence such deliberation. No adversary hearing has been held to examine the experts, all employed by the State of Utah, who have pronounced Gilmore sane. The decision of the Utah Supreme Court finding a valid waiver can be given little weight. (Dorius 1981, 123)

Scholarly and journalistic as well as literary narratives partake in the assumption of autonomy that is so central to the court rulings that led to Gilmore's death, an assumption symptomatic of biopolitics. Van Wormer and Odiah interpret Gilmore's choice to leave Oregon, a non-death penalty jurisdiction, for Utah as an indication of his intention to commit suicide by means of the death penalty (van Wormer and Odiah 1999). Jon Nordheimer, writing for The New York Times, also argues that

Death may be his last choice, but for a brief period last spring after his release from prison, Gary Gilmore had been confronted with other choices. […] He was a model parolee for the first month, electing to settle in Utah with distant relatives instead of returning to Oregon. An interesting component of this choice was that Oregon has no death penalty, while Utah has the firing squad, the only means of execution in the United States that sheds blood. (Nordheimer 1976, 24)

These accounts omit some of the facts that are likely to have influenced, if not determined, Gilmore's "choice:" in Utah, he was offered employment by his cousin Brenda Nicol, into whose custody he was released. Given his criminal record, it would, most likely, have been difficult for him to find a job elsewhere. Yet van Wormer and Odiah as well as Nordheimer emphasise Gilmore's responsibility for the events that led to his execution. Because Gilmore's life is represented as a concatenation of choices, it becomes eminently readable. The most well-known narrative of the Gilmore case, Norman Mailer's novel The Executioner's Song, suggests that "everyone – from Gilmore to the priest to whom he utters his last words – thinks that Gilmore must mean something, that he must be a sign of the design of a totalized cultural order" (O'Donnell 1992, 188).

\textsuperscript{11} Later, in passing, Dorius mentions that Gilmore "had wanted the petition withdrawn" (1981, 91).
Those in favour of Gilmore's execution thus seem to be convinced not only of the agentic, but also of the readily quality of Gilmore's 'choice,' while Justice Marshall draws attention to its "erratic" nature. The 'readerliness' of life stories is a corollary of the responsibilisation of the subject: if the subject is considered to be free to shape his or her own life through choices, the subject's true nature and intentions can be read off from the events those choices have set in motion. Even details, like Gilmore's words "let's do it," become significant as an index of Gilmore's attitude. Conversely, in a culture where "choice" has come to be viewed as the primary means of self-expression, biopolitics, i.e. government of entire populations by structuring environmental variables in such a way that individuals are more likely to choose one alternative over another, is rendered invisible qua politics, it is naturalised. The discourse of advertising, with the association it establishes between choice and self-expression is therefore central to the operation of biopolitics; by focusing on the expressive power of choice, the social, political and economic structures upon which the availability of options to be chosen depends is rendered invisible.

The success of Nike's 'Just Do It'-slogan is symptomatic of the fact that the structure of feeling that underlies narratives of Gilmore's execution has become hegemonic a decade later. Albeit biopolitics was on the ascent at the time of Gilmore's execution, his performance of agentic subjectivity in extremis, faced with a firing squad, was heroised and, hence, perceived as distinct from everyday life by the media and the public. As it has achieved hegemony, "just do it" is an attitude that biopolitical subjects are expected to cultivate and perform continuously. "Just Do It" interpellates the (consuming) subject as empowered and agentic; the slogan's suggestion is that anything is possible provided the subject has enough willpower to begin. The Nike campaign downplayed the correlation between socio-economic status and participation in sports, which is at odds with their message of general empowerment, by focusing on "ordinary" people like Walter Stack alongside high-profile athletes like Michael Jordan. It was groundbreaking in that it made relatively little reference to the products it was actually trying to sell. As Wieden puts it, "it wasn't just trying to peddle products; it was trying to peddle ideas and the mental and physical options you can take" (Fairs 2015). The empowerment implied by the "Just Do It"-slogan is the "spirit of the product," something that Wieden considers to be of vital significance (2015). By implication, the consuming subject's choice of the product expresses their allegiance to this spirit, the

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12 "Let's do it" made history, while Gilmore's actual last words, addressed to the prison chaplain, Father Thomas Meersman, "Dominus vobiscum" ("The Law" 1977; Schiller 2010), are not usually considered worthy of mentioning. Gilmore seems to have used the iconic phrase "Let's do it" in several of his written communications with the Utah Supreme Court, the Board of Pardons, and possibly other institutions. According to Dorius, on 8 November, the Supreme Court received a letter that contained the phrase "Let's do it and to hell with all the bullshit" (1981, 55). On 30 November, the Board of Pardons purportedly received a further handwritten note saying "Let's do it you cowards" (69). How does this repetitiveness and the lack of spontaneity that it indicates inflect the meaning of Gilmore's final utterance? It is surely symptomatic that these occurrences are not usually invoked – once "let's do it" is read as a kind of verbal tic, it becomes much more difficult to read Gilmore as an autonomous agent.
ideas associated with it. Thus, the Nike campaign, like the Gilmore case, articulates an interpellation of subjects as agentic, autonomous, and responsible, with the suggestion that individual choices are expressive of the subject's true self. This articulation is characteristic of advanced capitalist societies where, as Nikolas Rose puts it, "choices are [...] seen as realizations of the attributes of the choosing person – expressions of personality – and reflect back upon the person who has made them" (1999, 87).

**Reading against the Grain**

In conjunction with the belief in the existence of meritocratic structures that reward correct choices with success, the equation of choice with self-expression has intensely damaging effects. In a qualitative study based on semi-structured interviews with young working-class adults in the USA,

all black respondents shared experiences of blatant and vicious discrimination, yet have developed powerful images of themselves as masters of their own fates, resilient in the face of those who would make them victims. Rather than view racism as a structural force, black men in particular viewed it as a challenge, one which they had a moral imperative to conquer on their own. (Silva 2015, 106)

Racism is moralised and de-politicised by biopolitical interpellations of disadvantaged individuals as autonomous and responsible for their fates. To counteract these effects of constructing lives as readerly, it is necessary to read "against the grain." The courts' decision to consider Gary Gilmore sane renders Gilmore's life legible as the outcome of a series of rational choices. Yet, if his choices are, indeed, rationally predicated upon environmental variables, we can read them with attention to those variables, rather than to his character, bringing back into focus the totality rather than the individual. Even the essentially hostile narrative of Earl F. Dorius contains traces that may serve as starting points for a resistant reading, such as Gary Gilmore's toothlessness. Reading narratives of responsibilisation as well as of empowerment against the grain is an important emancipatory practice, lest we become complacent about, and complicit with, biopolitics.

**Works Cited**


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13 Biopolitical structures of feeling are not, however, confined to the discourse of advertising in the cultural realm. To the extent that plot emerges primarily from character in psychologically realist fiction, literature, too, constructs subjects as biopolitical subjects.

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