A Global History of Execution and the Criminal Corpse

Edited by

Richard Ward

A Global History of Execution and the Criminal Corpse

This page intentionally left blank

A Global History of Execution and the Criminal Corpse

Edited by

Richard Ward
University of Sheffield, UK

palgrave
macmillan

Softcover reprint of the hardcover 1st edition 2015 978-1-137-44399-1

First published 2015 by
PALGRAVE MACMILLAN

Palgrave Macmillan in the UK is an imprint of Macmillan Publishers Limited, registered in England, company number 785998, of Houndmills, Basingstoke, Hampshire RG21 6XS.

Palgrave Macmillan in the US is a division of St Martin's Press LLC, 175 Fifth Avenue, New York, NY 10010.

Palgrave Macmillan is the global academic imprint of the above companies and has companies and representatives throughout the world.

ISBN 978-1-349-55234-4 ISBN 978-1-137-44401-1 (eBook)
DOI 10.1057/9781137444011

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources. Logging, pulping and manufacturing processes are expected to conform to the environmental regulations of the country of origin.

A catalogue record for this book is available from the British Library.

Library of Congress Cataloging-in-Publication Data

A global history of execution and the criminal corpse / edited by Richard Ward.
pages cm
Summary: 'Across many different times and places the criminal corpse has been harnessed for the ends of state power, medical science, criminal justice, and political subversion, amongst other things. This collection of essays for the first time examines execution practice and the punishment of the criminal corpse across a wide chronological and geographical span, ranging from eighteenth-century England to nineteenth-century India and twentieth-century Africa. Through studies of beheaded Irish traitors, smugglers hung in chains on the English coast, suicides subjected to the surgeon's knife in Dresden and the burial of executed Nazi war criminals, this volume provides a fresh perspective on the history of capital punishment which forces us to rethink current metanarratives of penal practice and change'—Provided by publisher.

1. Executions and executioners—History. 2. Criminals—Death—History. 3. Capital punishment—History. I. Ward, Richard, 1984–

HV8551.G56 2015
364.6609—dc23 2015001320

Typeset by MPS Limited, Chennai, India.

Contents

List of Figures and Tables

Figures

Tables

Foreword

Can we learn something new about the subject of executions? With this volume in hand, I would definitely say yes. To begin with, there are the often surprising or intriguing details. We hear about the playing of bagpipes during a procession with heads upon the points of swords; about surgeons entering a house where a murder took place in order to dissect, not the victim, but the perpetrator; about the precision and workmanship required for the production of a cage for hanging a body in chains; about an English scholar recommending parts of the *Qing Code* to European nations; about the impracticality of putting human corpses on display in a country where they would attract leopards and lions; and about a British lieutenant colonel hesitatingly removing flowers from a German gravesite. To remain in Germany, the third of these cases reminds me of perhaps the most notorious person in history to be gibbeted: Joseph Oppenheimer, the original *Jud Süss*. As the Jewish financial advisor to the Catholic Duke of Württemberg, he fell victim to his Protestant opponents after the Duke's demise, which resulted in a death sentence in 1738. For the exposure of Oppenheimer's executed body, which turned out to last for 6 years, his judges had a special construction made with a cage on top of the gallows, to belie his statement that 'they cannot hang me higher than the gallows'.

As I was writing this foreword, the emotions generated by the spectacle of disintegrated bodies, this time of innocent persons, forced themselves upon me in connection with the downing of flight MH17 in Eastern Ukraine. Even though the media sensibly refrained from showing too explicit pictures, the stories – about the possessions of passengers lying scattered in the fields or about bodies in a train waiting to be transported – were horrific enough. Of course, most of us are unaccustomed to the sight of anything other than a deceased person dear to us, nicely visaged, before or during a funeral. About the emotions of spectators in the past, with few exceptions, we can only make inferences. Yet, it is likely that the occasional instances of hanging in chains or crime-scene executions in early nineteenth-century England generated mixed feelings at least. Even as early as the beginning of the sixteenth century the custom of preserving the dead hand of a murder victim was said to be offensive to the relatives and therefore abolished. Some manifestations of uneasiness in the presence of (parts of) corpses, then, date back a long time.

The coverage of this volume, however, extends beyond the British Isles. One of its major assets is the view from outside Europe offered in several chapters. This tunes in to a new trend in the historiography of crime and criminal justice. Increasingly, this sub-discipline adopts a global perspective, examining the differences and similarities with respect to various developments throughout the world. The trend is visible in new themes such as colonial policing, for example. This theme allows for comparing the initiatives taken by various colonial powers as well as the interactions with the local population in each of the areas concerned. The history of imprisonment and labour camps, too, is being studied now from a global perspective. This applies with equal force to various forms of violence. Take, for example, the murders, prosecuted in several colonial African countries, that were associated with local beliefs about the healing powers of corpses or body parts. Violence is equally a subject of study when it comes to independent non-Western states such as China, where the history of banditry and rebellion have come under scrutiny. Latin America, too, constitutes a particularly promising area for the study of all kinds of bloodshed, from political murder to gangs and the 'disappeared'.[1] Finally, the comparative history of genocidal episodes forms part of this global endeavour. As a result, scholars have come to realise that massacres occur in all periods of history and that, moreover, they demanded at least as many lives, relative to the total population, in the more distant past than during the last 150 years or so.

Three chapters of this volume apply crime and justice history's global perspective to the study of executions and post-execution practices. They take us to all corners of the British Empire in the nineteenth century, to pre- as well as post-colonial Africa and to late-Imperial China. Thus, we hear about Western dismay when around 1800 Chinese Emperors occasionally sanctioned a sentence of strangulation for a European offender. This prompted European scholars at the time to develop the theory of legal despotism reigning in China. Whereas Chinese executions were carried out without much ceremony, capital punishment in the Ashanti kingdom was accompanied by elaborate rituals that served to underline the power of the state.[2] Under colonialism the intertwinement of punishment and slavery was conspicuous. Slaves usually received harsher penalties than free persons for the same crimes. Interestingly, British colonial authorities often based the punishments they meted out on their knowledge of local beliefs and fears. In Mauritius they decided to keep the guillotine that their French predecessors had used, because it instilled a heightened fear in the native population due to their belief

that a worse fate awaited you in the hereafter without your head. In India, too, colonial authorities were keen to execute rebellious Hindus and Muslims in ways that were particularly dreadful according to their respective religions. On the other hand, some offenders who for various reasons desired to die, were deliberately spared a death sentence. It is tempting to link these practices to Michel Foucault's notion of *pouvoir-savoir* (power-knowledge). As I have argued, this theorem can be interpreted to mean that if you know something you can also do something and vice-versa. Here it would apply, not so much to imprisonment and disciplinary techniques, as to the *supplices* that Foucault considers characteristic of the early modern period.

Indeed, one of the major things which this volume demonstrates is that the classic scenario of penal privatisation in European countries did not simply repeat itself in the colonies they established. Notably, these colonies, with some exceptions, witnessed an extended life of public physical punishment. Earlier historians already reported this; in Belgian Congo, for example, public hangings were common in the 1920s and 1930s.[3] Here, however, the process is documented more systematically. In order to highlight the differences, let me sum up the intra-European scenario, studied by myself and other scholars.

Originally, a situation of indifference prevailed, in which spectators from all social groups were almost always at ease watching the infliction of suffering on others. Exceptions occurred when a lower-class audience resented the execution of rebels or, even more occasionally, when elites were shocked to see one of their own appear on a scaffold. Even in the second half of the seventeenth century, when most Dutch courts replaced permanent scaffolds with removable ones, conservatives opposed the winds of change. The father of the brothers De Witt insisted that the Court of Holland's gallows should be visible all the time for the ends of justice, little suspecting that two years after his death a crowd would mutilate his sons there. Identification across social classes gradually increased during the eighteenth century and toward its end persons from the upper and middle classes began to consider the suffering of lower-class people as distasteful. Rather than pity, this produced vague feelings of unease in the former. Subsequently, they came to see physical punishment for what it is, as a form of violence. At the same time they saw that the lower-class spectators themselves were still eager to watch whippings and hangings. From this they drew the conclusion that the show of state violence was counter-productive; it fostered the crowd's violent inclinations instead of making them more obedient. Whereas earlier generations of ruling groups had believed

that the spectacle of suffering contributed to crime prevention, their nineteenth-century successors argued that it fostered crime. And at this point their minds were ready for the abolition of the spectacle.

Why didn't colonial administrators draw a similar conclusion, at least not at first? For some of us the answer may be obvious. We have become accustomed to seeing colonialism as evil, so the idea is that bad institutions produce bad habits. By contrast, I would like to treat the question just posed as one of historical enquiry. Then the answer ultimately may lead to a refinement of our theoretical understanding of criminal justice. At the moment, it is difficult to choose from among several possibilities. Did colonialism throw back Europeans to the age of the older De Witt, convinced that effective criminal justice depended on toughness and deterrence? Perhaps, but nineteenth-century Europeans also believed that they had a civilising mission toward the 'backward' natives in the empires they established. Apparently, this mission did not include spreading the principle of non-spectacular punishment. Was it because, whereas cross-class identification at home had increased, inter-ethnic and inter-faith identification with the non-Western others hardly existed? Or did colonial hegemony reduce civilised inhibitions in Europeans? Or was it something else still? It should be realised, moreover, that to consider oneself civilised, both in the sense of being convinced of one's superiority and displaying a certain habitus, is also a source of power. It increased the internal cohesion of colonial elites as an established group.

This brings me to my final point. I am convinced, despite a few critical remarks about Norbert Elias further on in this volume, that an extended use of his theoretical insights is needed in this enquiry. Too often, scholars cite Elias only in connection with the theory of civilising processes. However, he has much more to offer. For analysing the long-term development of punishment, the theory of diminishing power differentials between social groups and the conceptual pair of the established and the outsiders are equally relevant. I made a modest beginning in applying these notions to the penal history of Europe and the United States. Others may extend this effort to the analysis of punishment in the non-Western world.

To conclude, this volume entails a number of questions for future research. They are here for scholars to pick up.

Pieter Spierenburg
Erasmus School of History, Culture and Communication
The Netherlands

Notes

1. Compare Eric Johnson et al. (eds), *Murder and Violence in Modern Latin America* (Chichester, 2013).
2. For China, see Jérôme Bourgon, 'Chinese Executions: Visualizing their Differences with European *Supplices*', *European Journal of East Asian Studies* 2 (2003), 151–82.
3. See David van Reybrouck, *Congo: Een Geschiedenis* (Amsterdam, 2010).

Acknowledgments

This volume emerged out of a conference on 'International Perspectives on the History of Execution and Post-Execution Practices', held at the University of Leicester in May 2013. I am grateful to Pete King for organising the conference and recruiting the speakers, and to all of the conference participants for making it such an engaging and thought-provoking event. The conference (and this book) form part of a wider research project, *Harnessing the Power of the Criminal Corpse*, which is generously funded by the Wellcome Trust (grant number 095904/Z/11/Z). Thanks go to my colleagues on that project — Rachel Bennett, Owen Davies, Zoe Dyndor, Elizabeth Hurren, Pete King, Francesca Matteoni, Shane McCorristine, Sarah Tarlow and Floris Tomasini — for their advice, enthusiasm and support. Especial thanks to Pete King for his comments on earlier drafts of the work and for helpful discussions about the project. I would also like to thank Simon Devereaux for his extremely helpful remarks on earlier drafts of the essays.

The University of Leicester has provided fantastic support for the project, and I am particularly grateful to Lucy Byrne, Rachel Godfrey and Sharon North for their hard work and patience in the face of my constant requests. Many thanks to Sarah Scheffler for compiling the index. Thanks too to Angharad Bishop, Clare Mence, Emily Russell and all of the team at Palgrave Macmillan for their patience and guidance in the production of this volume. The images included in the book are reproduced by kind permission of the Yale Center for British Art, the Trustees of the British Museum and Corbis.

Finally, my thanks to all of the contributors to this volume for their efforts and prompt responses to my queries. Song-Chuan Chen kindly stepped in at a late stage in the project, and we are delighted to include a Foreword by Pieter Spierenburg, one of the leading scholars in the field.

Notes on the Contributors

Clare Anderson is Professor of History at the University of Leicester. Her research to date has centred on the history of penal settlements and colonies in the Indian Ocean, and she has published widely in this field, including *Convicts in The Indian Ocean* (Palgrave Macmillan, 2000), *Legible Bodies* (2004) and *Subaltern Lives* (2008). She is currently principal investigator of the European Research Council funded project *The Carceral Archipelago: Penal Circulations in Transnational Perspective, 1415–1960*. You can follow her on Twitter @sysgak.

Pascal Bastien is Director of the Research Group on the History of Sociabilities (RGHS) at the Université du Québec à Montréal and an associated researcher at the Institut d'histoire de la Révolution française (Paris I – La Sorbonne). He is the author of two books on the social and cultural history of public executions in early modern Europe: *L'Exécution Publique à Paris au XVIIIe Siècle: Une Histoire des Rituels Judiciaires* (2006) and *Une Histoire de la Peine de Mort, Paris et Londres, 1500–1800* (2011). He is currently working on a history of the guillotine, and is also editing a 12-volume edition of the journal (1753–89) of the Parisian bookseller Siméon-Prosper Hardy.

Song-Chuan Chen completed a PhD in East Asian Studies at Cambridge University and is currently Assistant Professor in History at Nanyang Technological University, Singapore. His research focuses on historical interactions between China and the West from the sixteenth to the twentieth century. He is interested in how transnational structures of interaction have conditioned cultural exchange, the flow of ideas and historical globalisation. His next project focuses on the history of unnatural death during interactions between the Chinese and Europeans in the port of Canton before 1842.

Zoe Dyndor is an Honorary Research Fellow at the University of Leicester, and has been a Research Assistant on the Wellcome-Trust funded project, *Harnessing the Power of the Criminal Corpse*. Her publications include 'Death Recorded: Capital Punishment and the Press in Northampton, 1780–1834', *Midland History* (2008) and 'Widows, Wives and Witnesses: The Role of Women in the 1768 Northampton Borough Election', *Parliamentary History* (2011).

Stacey Hynd gained her DPhil in History from the University of Oxford in 2008. She lectured at the University of Cambridge, and is now Senior Lecturer in African History at the University of Exeter, where she is completing her monograph, *Imperial Gallows: Capital Punishment, Violence and Colonial Rule in British Africa, c.1908–68*. Her current funded research is on the history of child soldiering in Africa. Her other research focuses on histories of law and punishment, state violence, childhood and gender in British colonial Africa, and histories of humanitarianism and human rights in Ghana.

Alexander Kästner is a post-doctoral Research Assistant in Early Modern History at Technical University Dresden. His research and publications cover the history of criminality, anatomy, death, suicide and lifesaving as well as cinematic representations of history. His current project considers the early modern experience, perception and knowledge of intense cold and frost and its impact on human life and culture. He has published articles in numerous journals, including the *Journal of Social History*, and several books, including a prize-winning study of the history of suicide in early modern Saxony, *Tödliche Geschichte(n)* (UVK, 2012).

James Kelly is Cregan Professor of History and head of the History Department at St Patrick's College, Dublin City University. He has written extensively on eighteenth-century Irish history. His publications include *Poynings' Law and the Making of Law in Ireland, 1660–1800* (2007), *Sport in Ireland 1600–1840* (2014) and *The Proclamations of Ireland, 1660–1820* (2014). He is currently president of the Irish Economic and Social History Society.

Evelyne Luef is a doctoral student in History at the University of Vienna. She studied History and Scandinavian Studies in Vienna, Umeå and Gothenburg, and received her Magister degrees from the University of Vienna. Her research interests include early modern cultural, legal and criminal history. In her dissertation she focuses on suicide in early modern Austria and Sweden. She has published widely on the history of suicide, including a recent article, 'Low Morals at High Latitude? Suicide in Nineteenth-Century Scandinavia', *Journal of Social History* 46 (2013), 668–83. She currently serves as editor of the journal *Frühneuzeit-Info*.

Steve Poole is Professor of History and Heritage at the University of the West of England, Bristol. Recent publications include *John Thelwall: Radical Romantic and Acquitted Felon* (2009), *A City Built upon the Water: Maritime Bristol 1750–1890* (2013) and essays on Jacobin physiognomy

and eighteenth-century street graffiti. He is currently working with Nick Rogers on a study of the crowd in Hanoverian Bristol.

Caroline Sharples is Lecturer in Modern European History at the University of Central Lancashire. Her research interests encompass memories of National Socialism, the popular impact of war crimes trials and representations of the Holocaust. She is currently working on two research projects: the remembrance of deceased Nazi perpetrators in Germany, and student responses to Holocaust education in England. She is the author of *West Germans and the Nazi Legacy* (2012) and co-editor, with Olaf Jensen, of *Britain and the Holocaust: Remembering and Representing War and Genocide* (Palgrave Macmillan, 2013).

Richard Ward is Research Associate in History at the University of Sheffield. He is the author of *Print Culture, Crime and Justice in Eighteenth-Century London* (2014) and two forthcoming articles on the history of capital punishment in eighteenth- and nineteenth-century Britain. He is currently working on a major, interdisciplinary research project, *The Digital Panopticon: The Global Impact of London Punishments, 1780–1925*, funded by the AHRC, and is undertaking a study of the criminal side of the High Court of Admiralty in the long eighteenth century.

Introduction

A Global History of Execution and the Criminal Corpse

Richard Ward

Capital punishment is a historical universal – it has been practised at some point in the history of virtually all known societies and places. That is not to say, however, that it is a historical constant – the use, form, function and meaning of execution has varied greatly across different historical contexts.[1] This is likewise true for an important – although relatively neglected – aspect of capital punishment: the fate of the criminal body after execution. The treatment and understanding of the criminal corpse has differed across time and place, but it has always been a potent force and throughout its history it has been harnessed for the ends of state power, medical science and criminal justice, amongst many other things. By examining execution and the executed body across a wide temporal and geographical span, this collection of essays provides a fresh perspective on the history of capital punishment, and in the process it seeks to add considerable detail to our knowledge of penal practice in early modern Europe, and to allow us to rethink some of the most commonly cited drivers of penal practice and change.

In setting out this line of thought, this introductory chapter is divided into three main sections. First, it begins by sketching out the practice and meaning of execution and the executed body in early modern Europe as essential background context for the chapters that follow, particularly Chapters 1–5, which focus on capital punishment and the criminal corpse in a selection of European nations in the long eighteenth century. Between the sixteenth and nineteenth centuries a whole host of desecrations were enacted on the criminal body (both dead and alive) in capital punishment's role as an elementary particle of state power and crime control. The rise and fall of aggravated forms of execution which attacked the dead criminal body thus formed an important part of the wider history of capital punishment in early modern and

modern Europe. Secondly, the introduction moves on to consider a number of overarching theories which have been put forward to explain the nature and development of capital punishment in Europe across the early modern and modern eras, namely: as a shift in the technologies of power; as a 'civilising process' impacting on sensibilities; and as a transformation in the social experience and cultural meaning of death. Together these theories have highlighted social control, feelings to the sight of violence and attitudes to the body, death and the afterlife as key motors of penal practice and change. But, we might ask, how (if at all) have these drivers operated within historical contexts far removed from early modern Europe, and what does this suggest, by extension, about the wider applicability of our current overarching explanations of change? Chapters 6–9, which range beyond the bounds of early modern Europe, offer some fascinating insights on this subject. The introduction then concludes by introducing each chapter individually and highlighting some of the interconnections and insights which they together provide.

Execution and the Criminal Corpse in Early Modern Europe

A comprehensive account of execution and the executed body in Europe between the late Middle Ages and the nineteenth century is beyond the scope of this Introduction. What I intend to do, rather, is to broadly sketch out the extent to which capital punishment and the desecration of the criminal corpse was put into practice, the various forms that it took, the functions that it was intended to fulfil, the cultural meaning that it held for contemporaries, and how this changed over time, paying particular attention to England, the Netherlands, Germany and France. My aim is to provide essential background context for Chapters 1–5 in this volume, by placing the eighteenth and early nineteenth centuries within the wider perspective of capital punishment in the early modern period as a whole, and to draw out some of the major themes explored in the chapters that follow. A number of distinctive features mark out executions and the treatment of the criminal corpse in the long eighteenth century from the centuries immediately preceding it, and these need to be highlighted.

Extent

How frequently was capital punishment carried out in early modern Europe, and how did this change over time? Whilst the evidence is

patchy, a broad pattern can be identified across much of Western Europe. Levels of execution fluctuated greatly, but not in any simple or linear way. Most notably, in relation to Chapters 1–5 in this volume, the eighteenth century witnessed something of a resurgence in execution rates. By no means did this reach the astronomical levels of the later sixteenth century, when numbers appear to have peaked, but the frequency with which offenders were being put to death in Western Europe in the eighteenth century was greater than the later seventeenth century.

In the later medieval period, so far as we can tell, given the lack of available sources and detailed research so far undertaken, levels of capital punishment appear to have been relatively low. Just thirteen people were hanged for felony in Warwickshire between 1377 and 1397, a situation which seems to be indicative of the pattern in England more widely, marked as it was by extremely low rates of conviction for capital offences.[2] In France too, whilst executions were no doubt becoming increasingly spectacular in the later Middle Ages, nevertheless they seem to have been relatively infrequent compared with subsequent centuries.[3] Indeed, there appears to have been a sharp increase in levels of capital punishment in the sixteenth century, followed by a subsequently large and rapid decline in executions from the second quarter of the seventeenth century onwards, such that by c. 1700 capital punishment was running at a relatively low level, a pattern that was followed across much of Western Europe. It is in evidence for several English counties, including the palatinate jurisdictions of Chester and Lancaster, for which the court records are relatively intact. In Chester, about nine offenders were being put to death each year in the 1580s, rising to an annual average of nearly seventeen in the 1620s. Thereafter, however, execution levels fell precipitously, halving in the 1630s and falling to a total of just ten executions in the first decade of the eighteenth century, a pattern that was, according to J. A. Sharpe, 'a very marked example of a national trend'.[4] Whilst aggregate figures are not available for the territories of the Holy Roman Empire now encompassed within present-day Germany, studies of individual towns have nonetheless revealed remarkably similar patterns of capital punishment to those found in England.[5] In both Nuremberg and Frankfurt, absolute numbers of executions reached a peak in the second half of the sixteenth century, falling thereafter, particularly from the second quarter of the seventeenth century onwards. By the end of the seventeenth century levels of execution in both territories were about 15 per cent of what they had been a hundred years earlier.[6]

At the beginning of the eighteenth century then, levels of execution were running at historically low levels, certainly compared with recent previous centuries. Yet in many parts of Western Europe, execution levels and the severity of the capital sanctions meted out to offenders witnessed something of a resurgence in the course of the eighteenth and early nineteenth centuries, particularly at times of concern about social disorder, political insurgency or criminality. In London, levels of execution increased significantly during post-war panics about crime, such as in the 1750s, 1780s and 1810s.[7] To be sure, in the 1780s and on the eve of criminal law reform in the 1820s and 1830s, executions were taking place in London more frequently than at any time since the reign of the early Stuarts.[8] Executions similarly increased in Nuremberg in the second quarter of the eighteenth century, and the relative severity of the executions enacted was on the rise. Aggravations to decapitation by the sword continued in significant numbers in Nuremberg throughout the period, but they made up a greater percentage of all the executions actually carried out in the early eighteenth century than in the later sixteenth century.[9] The most significant increase in judicial severity in the eighteenth century appears to have been in the Netherlands. The years 1650 to 1750 saw a substantial increase in the number of executions carried out in Amsterdam. Nearly twice as many offenders were put to death there in the years 1701–50 (281) as against the previous fifty years (151).[10]

Form

The late Middle Ages to the nineteenth century also witnessed significant changes in the form of executions and the punishments that were inflicted upon the criminal corpse. The seventeenth and eighteenth centuries in particular saw a conspicuous shift towards aggravated forms of execution which attacked the dead, rather than the live, criminal body. In short, if the ruling authorities of eighteenth-century Europe were increasingly unwilling to publicly inflict the kinds of pre-mortem, physical torments which had come to prominence in the sixteenth century, they were, however, willing to impose similar (and other) sanctions upon the criminal corpse. Post-mortem punishments continued to be enacted, and in some respects were even extended, throughout the course of the eighteenth and early nineteenth centuries.

Brutal forms of execution which inflicted physical pain and attacked the dead criminal body had long existed, and were further extended in the sixteenth century. In the thirteenth and fourteenth centuries, treason was increasingly legislated against, punished with forms of post-mortem mutilation such as the spiking of severed heads and the

exposure of dismembered body parts.[11] As Katherine Royer argues, the difference between the execution ritual of the late medieval period and its early modern counterpart was not so much therefore the brutality of the event as the spectacle.[12] Executions in the thirteenth and fourteenth centuries showed little of the ostentatious ceremony and religious overtones that would come to be a hallmark of those carried out in subsequent centuries.[13] Indeed, the sixteenth century saw extensive changes in the form of executions, ushering in what David Garland has termed the 'early modern' mode of capital punishment, characterised by elaborate, spectacular executions which involved multiple forms of violent death – a greater level of cruelty, intensity and display than ever before.[14] Most such methods were intended to extend the physical, pre-mortem torments of execution, and the particular penalties inflicted on individuals were closely calibrated according to the nature of the offence as well as the rank and status of the offender.

The 'purifying' powers of earth, fire and water were employed in three punishments which were put to their most extensive use in the sixteenth and seventeenth centuries – namely burial, burning and drowning alive.[15] For non-elite criminals convicted of relatively minor capital crimes, hanging might be the most severe form of execution applied (especially in England). For nobles, decapitation (either by the sword or the axe) was the norm, since this was believed to be the most honourable and mildest form of execution. But for crimes of a more serious nature, such as murder and robbery, common offenders were subjected (in Germany, France, the Netherlands and Italy, although not in England) to the horrors of breaking on/with the wheel. The specific means by which this penalty was inflicted varied from place to place, but broadly speaking it involved tying the condemned to a wheel or cross, whereupon the hangman would strike them with a wooden wheel or an iron bar, either 'from below' (from the legs upwards, resulting in an agonisingly slow and painful death) or 'from above' (from the neck down, a relatively merciful form which brought death more quickly). Stipulations regarding the number of blows to inflict or the length of time between the crushing hits and the final *coup de grâce* might be made in order to finely tune the level of pain. Finally, those convicted of high treason were drawn to the place of execution on a hurdle, and there to be hung by the neck, cut down alive and subjected to a brutal evisceration, beheading and quartering.

This extensive range of pre-mortem torments, put to their greatest use in the sixteenth and seventeenth centuries, were also often followed by practices which exposed the executed body to further ignominious and

terrifying forms of punishment. In Germany and the Netherlands, those hanged were more often than not left on the gibbet to rot and to act as prey for the birds in 'gallows fields' or on 'gallows mountains'.[16] In England, particularly heinous offenders had, on an ad hoc basis, been subjected to the punishment of hanging in chains (or 'gibbeting') since at least the late fourteenth century.[17] And in France the *fourches partibulaires* were similarly used for exposing the corpses of hanged offenders.[18] Nor with the more severe physical torments of breaking on the wheel and hanging, drawing and quartering did the penalties stop at the point of death. The English traveller John Taylor noted that after an execution by breaking with the wheel in Hamburg in 1616 (and typical of the practice more widely), the executioner proceeded to take 'the broken mangled corpse, and spread it on the wheel, and thrust a great post or pile into the nave or hole of the wheel, and then fixed the post into the earth some six foot deep, being in height above the ground, some ten or twelve foot, and there the carcass must lie till it be consumed by all-consuming time, or ravening fowls'.[19] Across early modern Europe severed heads were regularly spiked in prominent, urban spaces, and the dismembered body parts of those hung, drawn and quartered might be sent to various locations for exposure.[20]

In the course of the seventeenth century, many of the pre-mortem, physical torments of capital punishment (particularly in their most aggravated forms) were largely abandoned or at least mitigated. Burning at the stake was enacted for the last time in Amsterdam in 1696, whilst in Germany hanging, drowning and burial alive were gradually dropped, such that decapitation by the sword had become the overwhelmingly predominant form of execution there by the beginning of the eighteenth century.[21] Even where the more extreme forms of capital punishment (such as burning at the stake, breaking on the wheel and hanging, drawing and quartering) continued to be inflicted, it became the usual practice for the executioner to kill the offender beforehand to spare them the full torments that they might otherwise endure.[22] In England, from the mid-seventeenth century onwards females burned at the stake were almost without exception first strangled by the executioner (and the vast majority of exceptions being cases in which the executioner failed to properly effect this 'mercy').[23] Breaking on/with the wheel was now more often conducted from 'above' rather than 'below', and there are many recorded instances of executioners attempting to dispatch offenders with the first blow.[24] Further steps in this direction were taken by Friedrich II of Prussia in 1749. Concerned about the pain inflicted on offenders subjected to breaking with the wheel,

but evidently still placing stock in the practice as a theatrical spectacle of deterrence by terror, he ordered that henceforth 'the criminal should be strangled by the hangman before being broken with the wheel, but secretly, and without it coming to the special attention of the assembled spectators, and then his execution with the wheel can proceed'.[25] The same measure was later introduced in France and Brussels.[26] Similarly (although without the element of secrecy), in the seventeenth century it appears to have become commonplace for executioners to keep traitors hanging until they were dead before subjecting their lifeless bodies to the further ferocities of disembowelment and dismemberment.[27] In effect, therefore, by the eighteenth century many of these aggravated forms of capital punishment had been transformed from pre- to post-mortem penalties. In the eighteenth and nineteenth centuries the burnings, breakings and dismemberments came to fall with few exceptions upon the dead, rather than the live, criminal body.

Indeed, the seventeenth-century mitigations of the pain inflicted at the gallows by no means entailed an end to the post-mortem violation of the dead criminal body. Judicial penalties which attacked the criminal corpse continued, and were in some respects extended, in the eighteenth and early nineteenth centuries. In the first instance, long-practised forms of execution which aimed to heap further ignominy on the condemned continued to be put in force. Crime-scene executions, as Steve Poole demonstrates in Chapter 2, continued to be used on an ad hoc basis in England throughout the period.[28] Likewise hanging in chains, particularly at moments of concern about crime and disorder, was used not just in England but also in eighteenth-century Ireland and England's American colonies.[29] Slaves convicted of rape or arson in colonial North America were, for example, often hung in chains in what amounted to 'a show of force to other slaves in the community', a fate which might befall Native Americans for the same reason, or white offenders whose crimes were considered especially grave.[30] In Amsterdam, exposure of the criminal corpse on the gallows field formed a clause in 214 (55 per cent) of the 390 death sentences pronounced between 1650 and 1750.[31] The virtual abandonment of hanging as a method of execution in Germany in the latter half of the seventeenth century (whereby the bodies of offenders were left hanging on the gallows to rot away) certainly did not bring an end to attacks on the criminal corpse, for other forms of execution continued to run beyond the point of death. In the early nineteenth century, regulations were still being issued in Bavaria for the executioner's assistant to display the heads of decapitated felons to the crowd on all four sides of the stage,

while in Walddürn heads were spiked and left on public view for 24 hours. In the eighteenth and nineteenth centuries it was still 'deemed a special mercy if a delinquent could be buried by his or her friends and family immediately after the beheading'.[32] Other executions carried out in parts of the Holy Roman Empire in the eighteenth century included punishments of the offender's corpse which echoed the sanctions that had been inflicted upon live bodies in the sixteenth century, such as driving a stake through, or quartering, the corpse.[33] As Richard van Dülmen concludes, 'the idea that a person and his or her criminal activities could still be punished by inflicting torture upon the corpse lasted up to the nineteenth century'.[34] Nor were such practices confined to executed offenders – across eighteenth- and early nineteenth-century Europe the bodies of premeditated suicides (particularly capitally convicted offenders who committed suicide before the infliction of their sentence) were also regularly hung in chains and subjected to dishonourable forms of burial, a theme explored in detail by Alexander Kästner and Evelyne Luef in this volume.[35]

The early eighteenth century in particular saw calls for, and moves towards, greater severity in the penal system. Frequent calls were made in England in the first half of the eighteenth century for more fearsome deterrents, including an extension to the use of burning, gibbeting and whipping before execution.[36] In both England and Ireland, as James Kelly and Zoe Dyndor note in this volume, hanging the corpses of executed offenders in chains appears to have been used with increasing frequency in the middle decades of the eighteenth century (c. 1740s–70s). The Netherlands too saw a notable increase in judicial severity in the early eighteenth century. As noted above, the total number of executions performed in Amsterdam was nearly twice as high in the period 1701–50 compared to the previous 50 years, and of these, prolonged forms of the death penalty became far more frequent. Four offenders were executed by breaking on the wheel in the years 1650–1700, compared to some 36 offenders in the period 1701–50, a nine-fold increase.[37] In eighteenth-century North America the colonial authorities were not above heightening the severity of capital punishment when circumstances seemed to demand it. Alarmed in 1729 by an apparent increase in murder and petty treasons committed by slaves, the Maryland legislature therefore concluded that the ordinary manner of execution was not sufficient to deter such people 'from committing the greatest cruelties, who only consider the rigour and severity of punishment'. Maryland accordingly authorised its judges in cases of murder or arson 'to have the right hand cut off, to be hanged in the

usual manner, the head severed from the body, the body divided into four quarters, and the head and quarters set up in the most publick [sic] places of the county where such fact was committed'.[38]

A further and final example of the wider shift towards post-mortem penalties in eighteenth-century Europe is the rise of punitive dissection. Indeed, the eighteenth century represents *the* era of post-execution dissection in Europe. The anatomisation of executed offenders was embraced most emphatically in England, although it was also practised in several other Western nations.[39] The ad-hoc dissection of executed offenders had a long history in England, but it was with the introduction of the 'Murder Act' in 1752 – which for the first time established dissection as a legally mandated, systematic form of punishment for crime, in this case murder – that dissection was formally incorporated into the penal system.[40] Between the introduction of the Act in 1752 and its repeal 80 years later, some 1,000 offenders in England and Wales were sentenced to be hung by the neck until dead, followed by dissection at the hands of the surgeons.[41] Two separate efforts were in fact made in Parliament in the later eighteenth century (motivated in large part, it should be said, by the needs of anatomy rather than criminal justice) to extend the practice of post-execution dissection to include some of the most common capital offences, such as burglary and robbery.[42] Punitive dissection likewise came to prominence in North America in the later eighteenth and nineteenth centuries. The 1752 Murder Act was adopted in colonial America, but here dissection remained the exception rather than the rule for executed murderers. After independence, many states passed statutes giving judges the discretionary power to include dissection in sentences for murder (including New York in 1789, New Jersey in 1796 and Maine in 1821).[43] As Steven Wilf has noted in his study of the passage of the 1789 New York Anatomy Act, even when not directly expressed (or perhaps even intended) as a form of judicial retribution, such laws no doubt appeared that way to contemporaries.[44] Post-execution dissection was also carried out in eighteenth-century Ireland, as discussed by James Kelly in Chapter 1, as well as other parts of Europe, although in precisely what form, to what extent and with what aims in mind has yet to be seen given the lack of research.[45]

Function

What did the states of early modern Europe aim to achieve through executions and attacks on the executed body? As Garland argues, the distinctive political and penological context of early modern Europe meant that capital punishment was absolutely central to the emergent

states with respect to two functions in particular – state power and crime control. Politically, the early modern European state was weak, faced by 'the perennial threat of rebellion by internal enemies or war waged by hostile neighbouring states'.[46] The emerging sovereign states of the late medieval and early modern periods thus turned to capital punishment as a means by which to assert their dominance and legitimate their claims to a monopoly of violence. Through brutally violent and spectacular executions, emergent sovereign states physically inscribed their power on to the bodies of those put to death. The intense pain inflicted on the criminal body (particularly those condemned for high and petty treason, riot, sedition or heresy) was of course intended to cower the population into submission through ruthless examples; a shock-and-awe assertion of the state's might. Yet the punishment of the body and the pain inflicted was also intended to convey wider messages beyond the state's ability to crush its enemies.[47] Early modern executions were highly ceremonious, ritualised and symbolic events which sought to display the natural authority of the state.

The death penalty moreover constituted an elementary particle in the early modern state's efforts at crime control and the meting out of justice in respect to a wide range of offences. Indeed, in the course of the early modern period the emphasis shifted from capital punishment's role in marking out state authority to punishing and preventing crime. Europe's rulers undoubtedly still had recourse in the eighteenth and nineteenth centuries to spectacular and brutal executions in the interests of state security at times of serious social and political unrest, as several of the chapters in this volume reveal. But on the whole, Garland writes, 'authorities increasingly represented themselves as serving the broader ends of crime control, criminal justice and public safety'.[48] This reliance upon capital punishment as one of, if not *the*, key means of crime control and dispensing justice resulted in large part from the lack of any well-developed police force or system of secondary punishments. But it was also the product of a strongly held belief in the efficacy of making examples and of deterrence by terror.[49] To this end, then, the punishment of the criminal corpse was above all else designed to be terrifying, exemplary and shameful.

The deterrent capacity of post-mortem punishment was frequently expressed throughout the early modern period and into the nineteenth century. It had been the practice in Strasbourg up until 1461 for executed offenders to be cut down shortly after their execution, such that, in the words of the city council, 'the gallows has stood entirely empty, as if no thief were punished here in Strasbourg'. Henceforth, the council

decided, 'if those executed remained hanging there, the sight of misery would produce anxiety and fear, so that many a person would refrain from stealing because of it, from fear of being hanged too'.[50] When the corpse of the condemned was annihilated or left to rot in public, 'the explicit intent to "terrorise" would-be-malefactors', as Paul Friedland explains, 'took precedence over any kind of [social] reintegration'.[51] In colonial North America, hanging in chains was regularly described 'as a spectacle to deter all persons from the like felonies for the future'.[52] According to one of its American congressional proponents, speaking in 1790, dissection was likewise 'attended with salutary effects, as it certainly increased the dread of punishment'.[53] Indeed, if European states in the later eighteenth century were beginning to question the infliction of pre-mortem, physical pain in executions, they nevertheless showed a continued belief in the efficacy of post-mortem punishments as a means of terrifying displays. The orders made by various rulers in the eighteenth century for offenders to be secretly strangled before being broken on the wheel demonstrated the growing conception that whilst capital punishment should not inflict undue physical suffering, it should nonetheless still be a terrifying spectacle.[54] The same intent to deter is evident in the punishment and exposure of the corpses of suicides, a subject further explored by Alexander Kästner and Evelyne Luef in this volume. The Prussian *Allgemeines Landrecht* of 1794 explicitly stated, for instance, that if an offender committed suicide before the execution of their sentence, then that same sentence 'must be executed, as far as possible, on the dead body, serving as a deterrent to others'.[55] In an earlier example of this practice, a convicted robber who took his life in a Frankfurt prison in 1690 was dragged past his house to the place of execution, and there his head was struck off with an axe, stuck onto a pole and his body exposed on the wheel as a monument of terror and abhorrence.[56]

If exemplarity was a 'matter of course' in early modern capital punishment, it was, as Pieter Spierenburg notes, most clearly a purpose in actions performed on dead bodies; 'a way of securing permanence to the example'.[57] This was as true for the punishment and exposure of the corpses of suicides (including convicted offenders who committed suicide before their execution) as it was for the corpses of executed felons. Even after the apparent decriminalisation of suicide in 1658, individuals who took their own lives in Amsterdam continued to be dragged to the gallows and there hung up with their chins resting on a fork-shaped stake.[58] This drive for exemplarity consisted of two key strands: the exposure and punishment of the criminal corpse was emphatically designed to be *seen* and to *last*.

In the first instance, executed bodies were displayed in prominent parts of the landscape which might also, as Zoe Dyndor explains in Chapter 3, be associated with the crime, the offender or liminal and 'criminalised' spaces.[59] It would be wrong to see the exposure of criminal corpses away from inhabited areas – such as in the gallows fields of Holland, the gallows mountains of Germany and the gibbeting of offenders in out-of-town locations in England – as in contradiction to their exemplary function. According to Spierenburg, the exposure of executed bodies in remote locations in fact 'formed part of a dual system which maximized display'. Executions, which normally took place in towns, were primarily meant as an example to the inhabitants. The subsequent exposure of the corpse on hilltops or along major roads, so Spierenburg argues, was by contrast aimed at non-residents coming in, demonstrating the area as a 'city of law'.[60] Amsterdam's gallows field was, for example, located on a stretch of land called the Volewijk, along the water Y which formed the city's northern border, a major shipping route into the city.[61] Sites of exposure were chosen with great care, and throughout the seventeenth and eighteenth centuries many places renovated their standing gallows, including Amsterdam in the 1760s.[62]

Efforts were also made to ensure that such spectacles lasted as long as possible, in stark contrast (particularly from the late eighteenth century onwards) to the far more common practice of 'simple' hanging, in which the speed of dispatch and a swift removal of the gallows became the desired norm. In fifteenth-century Strasbourg, walls were built around the gallows to prevent dogs from taking away the condemned's falling bones. Corpses blown off the gallows by the wind were regularly re-hung, and in various places harnesses were used to fasten a corpse which had been broken on the wheel in an upright position.[63] Significant sums of money were laid out by the sheriffs of eighteenth-century England to ensure that the gibbet posts and cages used to hang offenders in chains would withstand the elements and possible attacks from the friends and family of the malefactor.[64] Such was the concern for permanency in eighteenth-century Hanover that the authorities there complained about the unauthorised practice of executioners taking down exposed corpses on their own initiative, to make room for new bodies and to save on materials.[65] Creating lasting examples was often also a clear motivation behind the dissection of executed offenders. After her execution in 1635, the corpse of the murderer Elizabeth Evans was conveyed to Barber-Surgeons' Hall 'for a skeleton having her bones reserved in a perfect forme [sic] of her body which is to be seene [sic], and now remaines [sic] in the aforesaid Hall'.

Elizabeth Brownrigg's body followed a similar fate in the eighteenth century, along with numerous other criminal skeletons exhibited at Surgeons' Hall.[66]

Another key function of execution and punishment of the executed body was the attempt to shame, dishonour and socially outcast the offender. In the words of Richard Evans, the more severe variants of capital punishment that required the display of the head and body of the offender after death were intended 'not so much as a simple means of advertising the majesty of the law, as an additional, final form of degradation and dishonouring of the malefactor'.[67] According to one writer in 1745, although the exposure of the corpse on the scaffold after execution did not inflict any more bodily pain on the offender, 'yet the shame done to the body by the denial of burial is accounted an increase in the punishment'.[68] Even the relatively simple practice of holding up the decapitated head of an offender to the on-looking crowd heaped further dishonour on the remains.[69] Exposure of the body shamed the family of the offender as well as the felon themselves. In an attempt to remove the shameful sight and to grant their relative a decent burial, families resorted to petitioning the authorities for taking down the body hanging in chains, or even stealing the corpse away without authorisation to do so.[70] Exposure and punishment of the criminal corpse served not only to shame the offender (and by extension their family), but also to socially ostracise the malefactor in both a literal and symbolic sense. Exposing the body in liminal or 'criminalised' spaces (often at administrative boundaries) and denying customary burial signified the expulsion of the offender from the community, as an outcast even in death.[71] A key purpose of capital punishment, either at the pre-mortem (as discussed by Pascal Bastien in Chapter 4) or post-mortem stage (as discussed by Dyndor) was thus to bring about the social, as well as the biological, death of the offender.[72]

Finally, utility emerges as an additional function of the punishment of the criminal corpse, particularly with the rise of punitive dissection in the eighteenth century. The cadavers of executed offenders proved to be a useful – although certainly limited – source of bodies for anatomists.[73] The value of executed offenders as a source of bodies (and particularly when compared to the problems associated with other methods of acquiring bodies, such as grave robbery) is evident by the lengths which surgeons went to in securing bodies at the foot of the gallows, and in the comments made by William Hey, a provincial English surgeon of the later eighteenth century. It seemed self-evident to Hey that the bodies of all executed criminals should be delivered over to

the teachers of anatomy, such bodies being 'the most fit for anatomical investigation as the subjects generally die in health, the bodies are sound, and the parts distinct'.[74] Nor was this growing sense of the medical utility of the criminal corpse limited to the dissection theatre – for a brief period at the end of the eighteenth century and the beginning of the nineteenth, experiments were made on the scaffold by medical men to see if the brain was still working inside the severed head of the executed offender.[75] And nor was it limited to the bodies of executed offenders – as Alexander Kästner and Evelyne Luef reveal in their contribution to this volume, the bodies of self-killers were also frequently transferred to the dissection theatre in the later eighteenth century for the purpose of medical utility, as well as deterrence. In sum, therefore, executions and the punishment of the executed body served a range of functions. The dead criminal body was harnessed for a variety of sometimes competing, but at other times complementary, ends.

Meaning

Why was the punishment of the executed body believed to be a terrifying and shameful fate that could serve the ends of state authority and crime control? In order to address this question we need to unravel some of the social and cultural meanings which were attached to the criminal corpse and to the body, death and the afterlife more generally in early modern Europe. A note of caution is needed here. For although we have a detailed knowledge of the practice of capital punishment in this period, uncovering the underlying attitudes to execution and the executed body presents a much more difficult task. Our evidence is overwhelmingly of what the ruling elite thought of popular beliefs towards post-mortem punishment, much less popular belief itself, or the views of those who actually suffered such punishment. The voices of the criminals who suffered and of the crowd who witnessed such spectacles are almost always at one remove. Consequently, our understanding of *how* and *why* (indeed, even *if*) the punishment of the criminal corpse fulfilled its intended functions is fragmentary at best.[76] Yet, however problematic, it is important that we pay attention to meanings, since social practice was undoubtedly shaped by contemporary understandings of the body, death and the afterlife, and at the very least by the ruling elite's understanding of popular beliefs about such matters. Well into the eighteenth and nineteenth centuries, the ruling elite of Europe and North America certainly did believe in the efficacy of post-execution punishments as methods of crime control and the maintenance of state authority, by playing on popular religious

and cultural beliefs, not least by violating what Bernard Mandeville in the early eighteenth century deemed to be the 'superstitious reverence of the vulgar for a corpse, even a malefactor'.[77] From the little evidence that we have, it moreover seems that the crowd and those capitally convicted did indeed consider the exposure and desecration of the dead body to be a terrifying and shameful fate (although such a view was by no means universal).

For the most part, of course, the terror of post-mortem punishments worked through feelings other than physical pain. Yet there was one important exception to this: a widespread popular belief in the early modern period – especially in England and North America, where hanging was the primary method of execution – that one might survive the execution and thus experience the torments of being hung in chains, dissected or dismembered whilst still alive. Regular instances of offenders who revived on the scaffold, or even on the anatomist's slab (such as the famous case of the Londoner William Duell in 1740) must surely have contributed to such a belief.[78] This also formed part of the crowd's opposition to post-mortem punishments, for such acts effectively prevented any possibility that an offender (whom the crowd did not consider deserving of execution) might be revived after the hanging.[79] The visceral, mental image of dissection – the sharpened knives and lacerated flesh – in itself moreover seems to have raised terror in the breasts of offenders and the public at large.[80] Some offenders were certainly terrified by the prospect of post-mortem punishment. 'I have kill'd the best wife that ever man lay by,' Vincent Davis told a London constable during his arrest in 1725. 'I know I shall be hang'd,' Davis pleaded, 'but, for God's sake, don't let me be anatomized.'[81] Shortly before the highwayman John Taylor was hanged in Boston in 1788, he was visited in jail by an unnamed doctor, who wished to 'bargain' for his body. Taylor likewise recalled that the prospect of selling himself for dissection put him 'in a cold sweat [,] my knees smote together and my tongue seemed to cleave to the roof of my mouth'.[82]

The fear elicited by post-mortem punishments was therefore at least in part that it might in fact involve a physically painful end. But the fear and dishonour also resulted from popular understandings of death and the afterlife – a belief that torments could indeed extend beyond the final breath of life. As Stuart Banner comments, the terror of post-mortem punishments arose 'from the common concern for the integrity of the body, from the felt need for a proper burial'.[83] 'The deprivation of life is a sufficient punishment for my crimes, even in the rigorous eyes of offended justice', the convicted forger William Smith declared

in 1750. 'Why should inhumanity lay her butchering hands on an inoffensive carcase?' he went on, finally pleading that he might be given 'the satisfaction of thinking I shall return to my parent dust, within the confines of a grave'.[84] In some respects this might be attributed to an innate human concern about the disposal of dead bodies, a feature of all eras of recorded history.[85] But in the early modern period and up to the nineteenth century at least this had a particularly strong cultural purchase due to prevailing notions about the body, death and the afterlife. Significant importance was placed on customary forms of burial, as it was too on bodily integrity after death.[86] In North America this was seen to be particularly terrifying for the black slave population, by depriving them, as one traveller to the USA commented in 1806, 'of the mental consolation arising from the hope that they will after death return to their own country'.[87] Hanging in chains specifically appears to have signified the disruption which degradations to the criminal corpse caused to the redemption of the offender's soul and their transition to paradise, by locking them in a transitional state between heaven and earth, 'as undeserving of both'. And in terms of shaming and dishonouring the offender, much of this worked through the denial of customary burial and (as described above) the exposure of the corpse in liminal and 'criminal' spaces which were both symbolically and literally outside of the community.

But none of this is to suggest, of course, that the message which the authorities intended offenders or the crowd to take from the punishment of the criminal corpse was inevitably internalised. Indeed, there has been some debate amongst historians about the behaviour of execution crowds and the extent to which capital punishment successfully imparted its intended messages more generally.[88] In relation to aggravated forms of capital punishment in particular, the crowd might simply rescue the corpse from its intended punishment. According to one newspaper report of the execution of Isaac Darkin in Oxfordshire in 1761, for instance, his body was ordered to be conveyed away for dissection, 'but he declaring that he valued not death, but only the thoughts of being anatomized, a large gang of bargemen arose, took him away in triumph, carried him to the next parish church' and there buried the body while ringing the church bells in joy.[89] As James Kelly explains in the opening chapter of this volume, the crowd might go even further in order to convey messages about the 'justice' of the death sentence imposed on the offender. In late eighteenth-century New York, moreover, the discovered remains of an executed offender dissected by anatomists were put on show in order to arouse popular indignation.

Indeed, Steven Wilf argues that the 1789 New York Anatomy Act, which was meant to signal the end of anti-dissection agitation, in fact 'gave rise to a new round of protests. Ironically, the Act reawakened popular repugnance towards dissection by coupling it with the dramaturgy of eighteenth-century punishment.'[90] Nor is it the case that offenders were always terrified by the prospect of their corpse being denied burial and subjected to further degradation. Thomas Roberts was apparently unmoved by the sentence of hanging and dissection pronounced on him at the Gloucester assizes in 1758, and shortly before his death in 1772, the Massachusetts rapist Bryan Sheehen actually sold his body to a Dr Kast of Salem for dissection.[91]

Abandonment of the Punishment of the Criminal Corpse in Europe

The public exposure and punishment of the executed body had thus been a prominent feature of capital punishment in Europe since at least the later Middle Ages. Yet such practices were abruptly abandoned across Western Europe (and North America too) in the first half of the nineteenth century, presaging the later abandonment of public execution as a whole, and forming part of the wider transition from an 'early modern' to 'modern' mode of capital punishment, now characterised by (amongst other things): narrowed use, fewer varieties and greater restraint; speed not ceremony; private not public; secular not religious; and restricted symbolic communication.[92] In England, the passage of the Anatomy Act in 1832 brought to an end the punitive dissection of executed offenders as a formal arm of penal policy, and two years later Parliament legislated for the abolition of hanging in chains.[93] This had been preceded in 1830 by the last ever scene of crime execution in England.[94] The full post-mortem rigours of executions in cases of high treason had moreover been softened in the later eighteenth and early nineteenth centuries, certainly in practice if not in law.[95] Comparable developments took place elsewhere at a similar time. Exposure of the criminal corpse was abolished in the Netherlands in 1795 following complaints from inhabitants living within the sight and smell of the gallows fields, and complaints from magistrates that corpses exposed at standing gallows 'cannot be but horrible for travelling persons'.[96] Richard Evans notes that 'judicial authorities all over Germany moved in the early nineteenth century to end the exposure of criminals' corpses on the gallows'.[97] In 1811, for instance, King Friedrich of Württemberg ordered that the permanent gallows and ravenstones be dismantled and that the exposure of dead criminal bodies should be abandoned. Instead,

malefactors' bodies would be transferred to the anatomy schools or buried in a special graveyard. A declaration of the Prussian Ministry of Justice in 1811 likewise ceased the practice of exposing the bodies of the condemned, an order that was shortly followed in most other German states, such that by the 1820s the post-mortem exhibiting of executed cadavers had effectively been abandoned.[98] In the USA, burning, gibbeting and dismemberment all dwindled away toward the end of the eighteenth century, and whilst anatomists continued up to the twentieth century to hold the legal right to take the bodies of executed offenders, if criminals were dissected it was usually because their possessors were poor, not because the individuals were convicted offenders.[99] In France, the radical shift in capital punishment brought about in the 1790s by the Revolutionary adoption of the guillotine did not bring a complete end to the public exposure of severed heads, but likewise in the nineteenth century such practices were very largely abandoned.[100] By the mid-nineteenth century, then, the punishment of the criminal corpse had disappeared from Western Europe and North America. A number of explanations have been put forward to explain these changes in the punishment of the criminal corpse and the wider changes in execution practice that took place in the later eighteenth and nineteenth centuries. It is to such explanations – including the factors most commonly identified as drivers of penal practice – that we now turn.

Explanations of Penal Practice and Change

The explanations put forward have formed part of wider, overarching metanarratives which have sought to provide reasons for the nature of penal practice in early modern Europe and for the radical changes which took place in the transition to modern, Western penal systems, not least the disappearance of public executions and the rise of imprisonment. Such metanarratives have thus been established on the penal history of Europe, but more broadly they offer explanations which might be applied to other historical contexts. My aim in this section is not to weigh up the respective merits or limitations of these competing grand theories, nor to give a definitive conclusion as to the cause(s) of change.[101] Instead, I simply want to describe the core principles of these prominent metanarratives, and to draw out some of the seemingly most important drivers of penal practice and change; drivers that will be explored and assessed in the chapters that follow.

Following in the footsteps of Michel Foucault and his influential work *Discipline and Punish* (first published in French in 1975, and translated

into English in 1977), we might first of all see the abandonment of the punishment of the criminal corpse and the wider movement away from public execution in the nineteenth century as part of a shift in the exercise of power and technologies of social control.[102] Thus, in the early modern period and the context of relatively weak states which lacked an effective system of police, sovereign rulers asserted their might by physically inscribing it upon the offender's body. But by the mid-eighteenth century, and demonstrated most emphatically by reactions to the brutal execution of Damiens in 1757 for attempted regicide, the authorities no longer believed that such spectacles of unbearable suffering were effective as a deterrent. The crowd no longer took the correct message from the public infliction of pain on the body. Public executions had become 'carnivals', 'in which rules were inverted, authority mocked and criminals turned into heroes'.[103] The shift in the later eighteenth and nineteenth centuries from a system of violent repression enacted in fits and starts to a system of subtle and constant control, effected by centralisation, bureaucratisation and the rise of 'total' institutions such as the prison, asylum and workhouse, thus represented an effort to make punishment more effective. In this strategic shift in the exercise of state power, the intention was now for the effective *concealment* and *management* of death – 'an arrangement that gains more by concealing bodies and violence than by showing them'. In stark contrast to just a hundred years earlier, then, and representing a radical epistemic shift, by the nineteenth century the punished body was now made to disappear 'in order to sustain state authority and fend off unwanted challenges to the law's legitimacy'.[104]

For Foucault, the expressions of horror made by eighteenth- and nineteenth-century penal reformers about punishments which inflicted pain and exposed the criminal corpse to prying eyes were at best merely the surface effects of a more profound development in notions of social control, and at worst the fig leaves for the establishment of an invidious 'carceral society'. Others have, however, taken a more positive view of such sentiments, seeing them as representative of a genuine, long-term development in sensibilities which was as much the cause (and, contrary to Foucault, not just the consequence) of penal change. In this interpretation, the decline in penal suffering and the publicity of punishment was the product of a growing aversion to the sight of pain and death amongst those who held power. This did not necessarily involve a fundamental opposition to the judicial infliction of suffering or death per se, only that this should be removed behind closed doors. And, contrary to Whiggish narratives of 'progress', these new-found sensibilities

were not adopted simply because they were self-evidently 'right', but rather because of a specific developmental pattern; a pattern identified by the historian-sociologist Norbert Elias as a 'Civilizing Process'. Put very simply, Elias suggested that Europe's emotional development could be explained by the process of state formation which had taken place since the later Middle Ages, and the social relations which this gave rise to. As emergent states began to assume a monopoly of violence in the later medieval and early modern period, so ruling elites had to restrain and control their emotions, formalising their feelings and behaviour. And as an aspirational bourgeois class in the seventeenth and eighteenth centuries sought to ape the manners of the ruling elite, so the uppermost echelons of society developed ever-more refined modes of conduct. In this process of 'conscience formation', physical and emotional restraints were internalised, producing a growing distaste for the sight of 'base urges', violence and bodily functions, amongst other things.[105]

Elias had relatively little to say on the subject of punishment, and it was Pieter Spierenburg in his *The Spectacle of Suffering* (1984) who first set out the civilising process as an explanation for the nature and development of penal practice in early modern Europe. The evolution of repression can be explained, he suggests, by the process of state formation and the concomitant changes in sensitivities to the sight of suffering that this brought about, which by the later eighteenth and nineteenth centuries could no longer support a penal system which publicly inflicted physical attacks upon the criminal body, either dead or alive. Others likewise have examined the relationship between sensibilities and capital punishment.[106] In particular, Spierenburg explains the early nineteenth-century abandonment of the exposure of executed offenders in Dutch gallows fields in part as a result of the development of the nation-state which undermined the punishment's function as part of a 'dual system of exemplarity' which sought to discourage travellers coming into a town or district from offending. With the early beginnings of the nation-state, he argues, so the idea of a *city* of law lost its meaning and thus the purpose of displaying executed bodies along highways and at town boundaries.[107] Increased sensitivities too played a role, with abandonment of the exposure of criminal corpses motivated by objections to the practice as a relic 'of the barbarity of former times' and as an 'offensive and horrible spectacle'. This was not so much a shift in attitudes towards the infliction of pain and suffering as a greater sensitivity to the sight of death, exemplified, Spierenburg argues, by the parallel disappearance after 1750 of dead bodies from the realms of art, punishment and public anatomical lessons.[108]

Others have also pointed to the importance of attitudes to death in explaining the nature and development of capital punishment in early modern Europe. But whereas Spierenburg identified this increasing sensitivity to the sight of death as a product of the civilising process, others have laid more stress on secularisation, individualism and the social experience of death as drivers behind the privatisation of death in the eighteenth and nineteenth centuries. In Revolutionary France, for instance, it was urged that the death penalty should as much as possible resemble a natural death. According to Paul Friedland, it was widely exhorted in the wake of the Revolution 'that the taint of execution not follow the condemned into the afterlife'. The third estate of Paris thus suggested that '"the cadaver receive an ordinary sepulchre and that there be no mention in the death certificate of the cause of death"'.[109] Secularisation served to undermine many of the traditional understandings which underpinned the punishment of the criminal corpse. As Garland notes, 'in a secular world, the finality of death meant that additional, post-mortem punishments were harmful superstitions'.[110] Thus a German appeal court in 1853 could state that 'death expiates all guilt here on earth; the human judge's hand should not stretch out beyond it'.[111] With secularisation and individualism, capital punishment no longer signified the sanctification of the community but instead the 'death of the individual'. Evans has also emphasised the social experience of death as an essential component of its gradual removal from the public domain: 'as death and suffering became less frequent, so they were removed to the anonymous invisibility of the hospital, becoming sources of embarrassment and shame … death had now become wild and untamed, something people feared or ignored as much as they could'.[112] It was within this context that the punishment and exposure of the criminal corpse became so objectionable.

To briefly summarise, then, if metanarratives have pointed to the stability of the state, alternative means of social control, attitudes to public suffering and understandings of death, the body and the afterlife as crucial for explaining penal practice, then how did these drivers play out in the case-studies of eighteenth-century Europe and the other historical contexts examined in this volume? How might very different understandings of the body, death and the afterlife, for instance, have shaped execution and the treatment of the executed body at other times and places beyond early modern Europe? The chapters in this volume provide some fresh perspectives on such questions. But before going on to introduce the chapters and highlighting some of the insights they offer, a note is first needed on the volume's parameters and some issues of definition.

Execution and the Criminal Corpse in Global Historical Perspective

Chapters 1–5 examine executions and the criminal corpse in eighteenth-century Europe and add valuable detail to our knowledge of its extent, form, function and meaning in this period. Chapters 6–9 spread the net wider, examining capital punishment and the executed body in the respective historical contexts of the nineteenth-century British Empire; nineteenth-century China; pre-colonial, colonial and post-colonial Africa; and twentieth-century Germany, allowing us to rethink some of the key motors of penal practice and change in the past. Whilst it is therefore in no way comprehensive, this volume does nevertheless provide a good balance of depth and breadth, spanning three centuries and four continents, thereby adding to a number of studies which have examined capital punishment in times and places not covered here.[113] A number of works in particular have provided interesting and valuable studies of capital punishment in an international comparative perspective, primarily for the twentieth and twenty-first centuries, studies which have for the most part revolved around the issue of abolition.[114]

Post-mortem attacks on the criminal corpse were never isolated acts. Instead they formed but one aspect of the wider execution ritual, and it is important that we consider the executed body within this broader context. The chapters in this volume are not therefore confined solely to the moments after the convict's death, but instead cover the entire execution process from sentencing through to execution and the dissolution of the corpse. Nor are they confined to an analysis of the criminal corpse in terms of its tangible, physical remains – as the chapters by both Song-Chuan Chen and Stacey Hynd show, similar issues were raised even in the *absence* of the executed body. The remembrance of executed offenders and their figurative embodiment in popular memory and historiography could be as powerful as any physical remnants of the bodies.[115]

There are also obviously questions about how we might define a 'post-execution/post-mortem' punishment. Does this include, for instance, bodies left hanging from the gallows for a few hours after execution, or the brief holding up of severed heads to the watching crowd before interment? Should any form of execution which prevented the customary burial of the condemned be considered a post-mortem punishment? Do we need to draw a distinction between the pains of intention and the pains of neglect? No simple answer can be

given to such questions, and any definition would of course be specific to the particular historical context in consideration. Contributors have thus been free to examine the penal practices which they feel fit within the remit of execution and the criminal corpse, including (where appropriate) extrajudicial forms of execution. The chapters in the volume moreover employ a wide definition of the 'criminal' corpse to include not just convicted law-breakers, but also those summarily executed without trial and suicides, since the 'crime' of suicide (even after formal decriminalisation) often led to desecrations of the bodies of self-killers which mirrored those imposed on executed offenders.

In the opening substantive chapter of this volume, James Kelly provides a welcome addition to the limited number of studies we have of Ireland's penal history, through a survey of execution and the executed body over the course of the eighteenth century. The practice of capital punishment in this period followed no simple linear pattern, nor the kind of dramatic, wholesale shift suggested by Foucault. On the contrary it fluctuated back and forth, applied with greater or lesser force in response to outbreaks of criminality and political subversion. The recourse to exemplary sanctions (particularly the use of hanging in chains) actually increased over the middle decades of the eighteenth century in the face of serial killers and agrarian disorder. And the direct threats to ruling Protestant authority in the 1790s prompted an even greater resort to aggravated executions, not least the display of severed heads in public places. Yet as Kelly also argues, the application of capital punishment in eighteenth-century Ireland cannot be reduced to any simple 'pseudo-colonial' paradigm which we might expect from the context of a ruling ethnic and religious minority; an issue also explored in the chapters by Clare Anderson and Stacey Hynd. For one thing, per-capita levels of execution for property offences were much lower in Ireland (as they also were in Wales, Scotland and on the far western and northern peripheries of England) than in South East England.[116] Nor should we assume, as Kelly's fascinating vignettes of crowd reactions to executed bodies show, that the intended messages of post-mortem punishments were automatically accepted or internalised. In fact, the offender's corpse could be seized upon by the crowd to express its belief in the innocence of the felon or the injustice of the penalty meted out.[117] Each execution was judged on its own terms, and crowd responses to the criminal corpse could form an essential element in the negotiation of justice between rulers and ruled.

The ability of the crowd to take hold of the body in this way was to some extent curtailed in Dublin in the 1780s with the relocation of

executions from the fringes of the city to outside Newgate Prison, close to the more private arena of Surgeons' Hall, where increasing numbers of executed bodies were being received for dissection. Dublin was not unique in this regard: in 1783, executions in London were likewise relocated from Tyburn to outside its own Newgate Prison, at the urban heart of the metropolis, and a number of other assize towns followed suit.[118] In Chapter 2, Steve Poole examines a practice seemingly at odds with this decline in processional culture in the later eighteenth and early nineteenth centuries: executions conducted at the scene of the crime. Through a detailed study of the practice, purpose and longevity of crime-scene hangings in England in the long eighteenth century, Poole challenges the traditional narrative of change and suggests that we need to think about these apparent 'anachronisms' in a very different way. In the first instance, change was long-drawn out and uneven, illustrated by the protracted and patchy retreat from crime-scene executions. And far from being the final, dying groans of older penal theories and hardened attitudes to the sight of suffering which were apparently being put to the sword by the relentless onslaught of centralisation and the 'civilising process', crime-scene hangings were in fact valued and promoted right up to their quiet abandonment in 1830. The political economy of crime-scene executions was such that they continued to be put in practice in spite of their considerable costs in terms of time, money, potential disorder and the opposition of local inhabitants. Crime-scene hangings were powerful and continued to hold cultural purchase well into the later eighteenth and early nineteenth centuries precisely because they were *not* conducted at the 'usual' place (i.e. at the liminal fringes of the assize town or at the anonymous surroundings of the prison). The personal, local and deeply emotional nature of executions conducted at the scene of the crime affected the offender and the crowd in ways which could not be matched at regular sites of execution.

Most crime-scene executions ended with the corpse being hung in chains on the same spot, the gallows doubling as a gibbet. As in the case of Ireland described by James Kelly, so too in England the middle decades of the eighteenth century (c. 1740s–70s) saw a substantial increase in the use of hanging in chains, for murderers and robbers in particular. Hanging in chains had been practised in England since the late fourteenth century upon a common understanding – *not* enshrined in law – that the bodies of executed felons were at the disposal of the king. The passage of the Murder Act in 1752, which for the first time put hanging in chains onto the statute books, might then be seen as the formal coming of age of gibbeting. But as Zoe Dyndor notes in

Chapter 3, as a result of the prosecution and exemplary punishment of several members of the notorious Hawkhurst gang of smugglers in the late 1740s, hanging in chains was carried out with greater frequency on the eve of the Murder Act than in the decades which followed its introduction. Through a detailed case-study of the smugglers hung in chains in the 1740s, Dyndor highlights the ways in which the location of the crime, the background of the offender and the particulars of landscape, space and place dictated the choice of gibbet locations in different contexts. She reveals the specific messages and functions that the exposure of the criminal corpse was designed to convey and fulfil within each particular gibbet location typology. Issues of landscape, space and place, it becomes clear, were important not just in terms of the pragmatics of punishment (making the gibbet as visible as possible or avoiding the possibility of disorder within urban environments, for instance), but also – and just importantly – because they had a deep cultural significance which judicial authorities harnessed for the ends of justice (not least in the gibbeting of offenders at 'criminalised' spaces). And just as spaces and places gave meaning to instances of hanging in chains, so in turn the gibbet made its mark through place names, folklore and memorials.

Pascal Bastien (Chapter 4) shifts the focus back to the moments before the condemned malefactor's last breath, with an illuminating comparison of gallows speeches in eighteenth-century London, Paris and Palermo, thereby demonstrating the very different legal and social status of judicially inflicted death in those places. By following the bodies and voices of the condemned as they were mediated through the staging of capital punishment, he seeks to understand how the death penalty changed, even before physical death, the very nature of the offender and their reinvention under the ceremony of justice. The bodies and voices of the condemned, it becomes apparent, were conceptualised in very different ways in London, Paris and Palermo. In France, unlike in England (to which could be added Ireland), the criminal hauled onto the scaffold moments before execution was in an important and very meaningful sense already dead. As Bastien notes, in eighteenth-century Europe civic life and biological life were two distinct realities, and the staging of capital punishment in Paris sought to end the offender's life socially as well as biologically. The voice of French felons was 'confiscated'; fragmented and then re-scripted by the court clerk. Penitents spoke for offenders in Palermo, a 'doubled' speech which might either support or challenge the condemned's social exclusion. In England, by contrast, felons were expected to speak for themselves on the gallows,

to make their peace with God and the injured community. Many admitted their guilt and accepted the justice of their sentence, but some did not – in either case, the Tyburn speech was 'free'.

Clearly the infliction of 'social' death was a motivation behind the widespread practice in early modern Europe of the ceremonial procession, symbolic execution and desecration of offenders who were already biologically dead, especially those who had committed suicide. But as Alexander Kästner and Evelyne Luef argue in their chapter in this volume (Chapter 5), the treatment of the suicide corpse (both of criminals and those not suspected of any crime) also served a number of other specific purposes, ranging from deterrence to the 'resolution' of the offence and medical progress. With sources drawn from seventeenth- and eighteenth-century Germany, Austria and Sweden, Kästner and Luef are able to reveal local variations in practice and disentangle the cultural meaning of practices around suicide corpses. Developments in the treatment of suicide corpses were crucially mediated through local customs and traditions, making it difficult to speak of a single process of change throughout early modern Europe. And by utilising the detailed records of eighteenth-century Dresden's anatomical institute, Kästner and Luef add to the already sizeable field of historical suicide studies through a valuable discussion of the burgeoning (although historiographically neglected) practice of handing over the corpses of suicides for dissection.

With Clare Anderson's chapter (6) we move beyond the narrow geographical and temporal confines of eighteenth-century Europe to a study of execution and its aftermath across the nineteenth-century British Empire which takes in an astonishing range of contexts, including Britain's Indian Empire as well as its colonies in the Caribbean, Africa, South and South East Asia and Australia. We are treated to a pan-imperial history of judicial killing which reveals the relationship between capital punishment and the broader culture of empire. The parallels with penal practice in early modern Europe are clear, not least in the physical inscription of sovereign power upon subjected bodies. The symbolic messages conveyed by execution and attacks on the dead criminal body were as central to nineteenth-century colonial executions as they were in Britain in the seventeenth and eighteenth centuries. If symbolism was one important element then so too was the spectacle of raw power which could be enforced on slave bodies at times of revolt and challenges to ruling authority – gruesome forms of mutilation, as Anderson notes, formed a part of capital sentences for much longer in the colonies than in Great Britain. Moreover, the very 'logic' of capital punishment

and the treatment of the criminal corpse in the colonies was bound up with British understandings of the impact of execution upon specific cultures and religions, particularly local beliefs about the body, death and the afterlife. Executions and the methods of executing were thus in many instances intended as direct violations of local beliefs in order to enhance capital punishment's value as a deterrent and to strike terror into the hearts and minds of colonised subjects. In this way, then, given the influence of local contexts (including the British inheritance of Dutch, Spanish and French legal practice in some places), it is impossible to speak of 'colonial' practices and ideas as any kind of single entity.

Anderson concludes her chapter with a word on the remarkable shortness of British imperial memory and its sense of moral superiority. By the start of the twentieth century, as she notes, British imperialists regularly condemned the apparently barbaric punishments practised by other nations, particularly China, and in the process made implicit claims to their own humanity as well as attempting to distance contemporary Empire from the barbarities of its own recent past. An essential element of this 'politics of imperial separation and superiority' was thus a discourse of Chinese legal despotism, a notion of a cruel 'other' created and nurtured by the British and its fellow civilising imperial powers. It is to the origins of this Western discourse of Chinese legal despotism – which can be found in the infamous execution (by strangulation) of two Western sailors at the hands of the Chinese in the later eighteenth and nineteenth centuries – that Song-Chuan Chen turns in Chapter 7. When placed within the larger historical context of the punishments meted out to other foreigners similarly convicted of murder on Chinese soil; the nature of the Chinese legal system in general; and the struggle between the interests of state security and local trading interests in Canton, it becomes clear that these two executions were exceptional events which did not accurately reflect the judicial treatment of foreigners in China. Yet this was far from the view taken by the British at the time, who, shocked by the manner of the executions, set the tone for a narrative that was sorrowful and distrustful of Chinese law. Ensuing, and highly sensationalised, representations of the two cases in the British press in the 1830s cemented the idea of Chinese legal despotism even in the face of voices to the contrary, such as that of the Chinese legal expert George Thomas Staunton. Indeed, this was a selective and sensationalised memory which in an important sense kept the two executed sailors 'alive' and out of context.

The intersection of popular memory and capital punishment also features heavily in Stacey Hynd's (Chapter 8) temporally wide-raging study

of execution and post-execution display in pre-colonial, colonial and post-colonial Africa, again reinforcing the point that the 're-membering' of the condemned body through printed and spoken retellings could invest executions with a powerful legacy even in the absence of the physical corpse. Hynd also picks up a number of the threads raised by Clare Anderson in Chapter 6. Drawing upon nineteenth-century travelogues, early ethnographic texts and subsequent historical research, Hynd reveals the ways in which pre-colonial conceptions of the body, death and the afterlife influenced capital punishment and the treatment of the criminal body amongst the Ashanti of the Gold Coast (Ghana). The parallels and contrasts with the practice and meaning of execution in eighteenth-century Europe and Britain's nineteenth-century colonies are fascinating and striking, reminding us that capital punishment is never only about taking a life, but equally as importantly, the manner in which it is carried out. Tensions in colonial execution practice are as evident in Africa as they are in the nineteenth-century British colonies studied by Anderson, not least the conflict between a desire to carry out 'civilised' norms of governance on the one hand and the reliance on violence to enforce local control on the other. Colonial justice in Africa was thus marked, as Hynd says, by a tension between the messages which needed to be conveyed to global and local audiences: between 'civilising' imperial rule and the strict punishment of challenges to authority. In the political struggles of the post-colonial period too, tensions arose between the need on the one hand for post-mortem display of the bodies of executed political opponents to dispel rumours of escapes from justice, and on the other the danger that such bodies might become relics for a cult of martyrdom. Those who held the reins of power tried without success to eradicate the threat of political opponents by physically destroying the body, for even in the absence of the physical corpse the continuing purchase of traditional conceptions of the body in Africa was such that images, stories and artefacts might create a simulacra of the dead, an '(im)material afterlife'.

As Caroline Sharples shows in the final chapter of this volume (Chapter 9), British occupying forces in post-war Germany likewise struggled over the disposal of the material remains and consequent immaterial legacy of their enemies, in this case the bodies of executed Nazi war criminals. Focusing on the prison precinct of Hameln, the centre for executions in the British zone of occupation after 1945, Sharples traces the burial and reburial of executed war criminals and the petitions of grieving relatives demanding to know the post-mortem state of their loved ones. Even before the first convictions had been reached, the

British were clearly in a state of uncertainty about how to proceed, torn between the need to show justice done and the desire to eradicate all physical reminders of the Third Reich. In the end they opted for secrecy; burying the executed in unmarked graves, first within the grounds of the prison, and later in an annexe of the local cemetery, refusing to disclose the location of the graves to relatives. But the desire of next-of-kin to know the final resting place of their loved ones prevented any possibility that the Nazi past would be so easily buried. The British wall of silence and rejection of local burial customs opened the way for widespread criticism, spearheaded by the German press in the 1950s. The burial of the executed at the hands of the British would thus come to play a part in competing narratives of the Nazi past, including notions of German 'victimhood'. Later reburials of the remains in more respectable locations by the Federal German Republic attempted, again, to bury the past and allow the nation to move on. The corpses of executed Nazi war criminals as such formed a key element of an almost cyclical process of remembrance and forgetting of Germany's recently turbulent past. The post-execution history of these perpetrators, as Sharples concludes, continues to resonate.

Conclusion: Metanarratives and Models

The criminal corpse has been – and, in some contexts, continues to be – a significant site of state power, criminal justice, scientific anatomy and popular medicine. As the chapters in this volume show, various factors were at work in the practice of execution and the treatment of the executed body in the past, assuming different forms at different times and places. Common themes certainly emerge. Across many of the historical contexts studied here, attacks on the dead criminal body were a key means by which states sought to convey messages about, and shore up, their authority in the absence of alternative (more subtle but no less powerful) forms of social control. On many occasions this came into conflict with ruling-elite sensibilities about the sight of pain, suffering and death. The influence of popular beliefs about the body, death and the afterlife (and of the ruling authority's understandings of such beliefs) on the forms of execution and post-mortem punishment put in practice likewise comes through in several of the chapters. So too, finally, does the agentive power of the criminal corpse; its ability to resist or even invert the intentions of those who try to claim a monopoly over it, either though the subversion of the execution crowd or through popular memory. These common themes of course mirror

the several metanarratives described above which have each sought to provide overarching explanations for penal practice and change in Europe and wider afield. But the chapters in this volume suggest that technologies of social control, sensibilities and religious and cultural attitudes have acted in distinctive ways within different historical contexts. They open up the possibility, therefore, by way of conclusion, that it might be better to think in terms of models of common themes and interrelated factors, which assume unique forms at different times and places, rather than thinking of continuity and change within the confines of a single process.

Acknowledgement

The author would like to acknowledge that this chapter forms part of a wider research project, Harnessing the Power of the Criminal Corpse, which is generously funded and made available open access by the Wellcome Trust (grant number 095904/Z/11/Z).

Notes

1. Randall McGowen and Daniel Gordon, 'Introduction', *Historical Reflexions/ Réflexions Historiques* 29 (2003), 190.
2. J. A. Sharpe, *Judicial Punishment in England* (London, 1990), p. 28; Barbara A. Hanawalt, *Crime and Conflict in English Communities* (London, 1979).
3. Esther Cohen, '"To Die a Criminal for the Public Good": The Execution Ritual in Late Medieval Paris', in Bernard S. Bachrach and David Nicholas (eds), *Law, Custom and the Social Fabric in Medieval Europe: Essays in Honor of Bruce Lyon* (Kalamazoo, 1990), p. 299; Esther Cohen, *The Crossroads of Justice: Law and Culture in Late Medieval France* (Leiden, 1993), pp. 181–201.
4. J. A. Sharpe, *Crime in Early Modern England 1550–1750* (2nd edn, London, 1999), pp. 90–2. A similar pattern is identified by Philip Jenkins, 'From Gallows to Prison? The Execution Rate in Early Modern England', *Criminal Justice History* 7 (1986), 52, 56, 61.
5. Richard J. Evans, *Rituals of Retribution: Capital Punishment in Germany 1600–1987* (Oxford, 1996), p. 42.
6. Richard van Dülmen, *Theatre of Horror: Crime and Punishment in Early Modern Germany* (translated by Elisabeth Neu, Oxford, 1990), Appendix, Tables 1 and 2.
7. Simon Devereaux, 'England's "Bloody Code" in Crisis and Transition: Executions at the Old Bailey, 1760–1837', (unpublished research paper, 2014). I am very grateful to Simon Devereaux for sharing his unpublished paper with me.
8. Simon Devereaux, 'Imposing the Royal Pardon: Execution, Transportation, and Convict Resistance in London, 1789', *Law and History Review* 25 (2007), 123; V. A. C. Gatrell, *The Hanging Tree: Execution and the English People 1770–1868* (Oxford, 1994), p. 7; Peter King and Richard Ward, 'Rethinking

the Bloody Code in Eighteenth-Century Britain: Capital Punishment at the Centre and on the Periphery', *Past and Present* (forthcoming, 2016).
9. Van Dülmen, *Theatre of Horror*, Appendix, Table 2.
10. Pieter Spierenburg, *The Spectacle of Suffering. Executions and the Evolution of Repression: From a Preindustrial Metropolis to the European Experience* (Cambridge, 1984), pp. 149–52.
11. Katherine Royer, 'The Body in Parts: Reading the Execution Ritual in Late Medieval England', *Historical Reflexions/Réflexions Historiques* 29 (2003), 319–39; Danielle Westerhof, 'Amputating the Traitor: Healing the Social Body in Public Executions for Treason in Late Medieval England', in Suzanne Conklin Akbari and Jill Ross (eds), *The Ends of the Body: Identity and Community in Medieval Culture* (Toronto, 2013), pp. 177–92.
12. Katherine Royer, *The English Execution Narrative, 1200–1700* (London, 2014), Ch. 1.
13. Sharpe, *Judicial Punishment in England*, p. 31. However, the rituals seem to have been particularly well developed in France by the late fourteenth century: see Esther Cohen, 'Symbols of Culpability and the Universal Language of Justice: The Ritual of Public Executions in Late Medieval Europe', *History of European Ideas* 11 (1989), 407–16.
14. David Garland, 'Modes of Capital Punishment: The Death Penalty in Historical Perspective', in David Garland, Michael Meranze and Randall McGowen (eds), *America's Death Penalty: Between Past and Present* (New York, 2011), p. 36.
15. Van Dülmen, *Theatre of Horror*, pp. 88–92.
16. Pieter Spierenburg, 'The Body and the State: Early Modern Europe', in Norval Morris and David J. Rothman (eds), *The Oxford History of the Prison: The Practice of Punishment in Western Society* (Oxford, 1995), p. 50.
17. Albert Hartshorne, *Hanging in Chains* (London, 1891).
18. Paul Friedland, *Seeing Justice Done: The Age of Spectacular Capital Punishment in France* (Oxford, 2012), pp. 60–5, 89, 102, 109.
19. Cited in Evans, *Rituals of Retribution*, p. 28.
20. For such practices in England, see Gregory Durston, *Crime and Justice in Early Modern England: 1500–1750* (Chichester, 2004), pp. 676–82. For Germany, see Evans, *Rituals of Retribution*, pp. 27–40; van Dülmen, *Theatre of Horror*, Ch. 6; Karl Wegert, 'The Social Context of State Terror in Early Modern Germany', *Canadian Journal of History* 26 (1991), 1–21. For the Netherlands, see Spierenburg, *The Spectacle of Suffering*, pp. 70–7. And for France, see Friedland, *Seeing Justice Done*, Ch. 4, 6.
21. Spierenburg, *The Spectacle of Suffering*, p. 71; Evans, *Rituals of Retribution*, pp. 47–50; van Dülmen, *Theatre of Horror*, p. 101.
22. Evans, *Rituals of Retribution*, p. 48; Spierenburg, *The Spectacle of Suffering*, p. 71; van Dülmen, *Theatre of Horror*, pp. 91, 95.
23. Durston, *Crime and Justice in Early Modern England*, p. 686; Simon Devereaux, 'The Abolition of the Burning of Women in England Reconsidered', *Crime, History and Societies* 9 (2005), 89–90, who also points out that in the most infamous example of the 'failure' of the executioner to dispatch the condemned mercifully – Catherine Hayes in 1726 – the decision was in fact taken explicitly by the Secretary of State, the Duke of Newcastle, who ordered the Sheriffs of London and Middlesex to make this the case.

24. Spierenburg, *The Spectacle of Suffering*, p. 72.
25. Providing, however, that the offender's crime was not of 'such enormity' that 'a completely abhorrent example' was necessary, in which case the malefactor was, in the traditional manner, to be broken alive: Evans, *Rituals of Retribution*, p. 122; van Dülmen, *Theatre of Horror*, p. 95.
26. John McManners, *Death and the Enlightenment: Changing Attitudes to Death among Christians and Unbelievers in Eighteenth-Century France* (Oxford, 1981), p. 372; Spierenburg, *The Spectacle of Suffering*, p. 73.
27. Durston, *Crime and Justice in Early Modern England*, pp. 680–1.
28. For crime-scene executions in the Netherlands, see Spierenburg, *The Spectacle of Suffering*, pp. 45, 50.
29. For the increased use of hanging in chains in eighteenth-century England and Wales, see J. S. Cockburn, 'Punishment and Brutalisation in the English Enlightenment', *Law and History Review* 12 (1994), 167; Peter King, *'Hanging not Punishment Enough': The Criminal Corpse, the Criminal Justice System and Aggravated Forms of the Death Penalty in England, 1700–1840* (Palgrave Macmillan, forthcoming); Sarah Tarlow, *Hung in Chains: The Golden and Ghoulish Age of the Gibbet in Britain* (Palgrave Macmillan, forthcoming). For its increased use in eighteenth-century Ireland, see James Kelly in this volume.
30. Stuart Banner, *The Death Penalty: An American History* (Harvard, 2002), p. 72.
31. Spierenburg, *The Spectacle of Suffering*, p. 58.
32. Van Dülmen, *Theatre of Horror*, p. 101.
33. Evans, *Rituals of Retribution*, pp. 86–7.
34. Van Dülmen, *Theatre of Horror*, p. 106.
35. For Britain, see R. A. Houston, *Punishing the Dead? Suicide, Lordship, and Community in Britain, 1500–1830* (Oxford, 2010), Ch. 4; Robert Halliday, 'The Roadside Burial of Suicides: An East Anglian Study', *Folk-Lore* 121 (2010), 81–93; Donna T. Andrew, *Aristocratic Vice: The Attack on Duelling, Suicide, Adultery and Gambling in Eighteenth-Century England* (Yale, 2013), pp. 106–7. For the Netherlands, see Spierenburg, *The Spectacle of Suffering*, pp. 56–7, 79. For Germany, van Dülmen, *Theatre of Horror*, p. 103.
36. Cockburn, 'Punishment and Brutalisation', 171–2; King, *'Hanging no Punishment Enough'*; Randall McGowen, 'The Problem of Punishment in Eighteenth-Century England', in Simon Devereaux and Paul Griffiths (eds), *Penal Practice and Culture, 1500–1900: Punishing the English* (Basingstoke, 2004), pp. 210–31; Richard Ward, *Print Culture, Crime and Justice in Eighteenth-Century London* (London, 2014), pp. 190–1.
37. Spierenburg, *The Spectacle of Suffering*, p. 74.
38. Banner, *The Death Penalty*, p. 75.
39. Gatrell speaks only briefly about post-execution dissection in England: *The Hanging Tree*, pp. 255–8. For a much fuller discussion, see Elizabeth T. Hurren, *Dissecting the Criminal Corpse: Post-Mortem Punishment from the Murder Act to the Anatomy Act* (Palgrave Macmillan, forthcoming).
40. J. M. Beattie, *Crime and the Courts in England 1660–1800* (Oxford, 1986), pp. 528–9; King, *'Hanging not Punishment Enough'*; Ward, *Print Culture, Crime and Justice*, p. 158.
41. King, *'Hanging not Punishment Enough'*.

42. On these two schemes, see Richard Ward, 'The Criminal Corpse, Anatomists and the Criminal Law: Parliamentary Attempts to Extend the Dissection of Offenders in Late Eighteenth-Century England', *Journal of British Studies* 54 (2015).
43. Banner, *The Death Penalty*, pp. 76–8.
44. Steven Wilf, 'Anatomy and Punishment in Late Eighteenth-Century New York', *Journal of Social History* 22 (1989), 515–6.
45. Post-execution dissection is briefly discussed in Spierenburg, *Spectacle of Suffering*, pp. 89–90, and Evans, *Rituals of Retribution*, pp. 57, 89, 416–7, 656–7, 714–17. Van Dülmen, *Theatre of Horror*, p. 101, simply states that the handing of criminal corpses over to the anatomists was 'frequently documented in later times' (i.e. the later eighteenth century), but does not expand upon this.
46. Garland, 'Modes of Capital Punishment', p. 36.
47. Cohen, 'Symbols of Culpability'; Randall McGowen, 'Punishing Violence, Sentencing Crime', in N. Armstrong and L. Tennenhouse (eds), *The Violence of Representation: Literature and the History of Violence* (New York, 1989), pp. 140–56; Randall McGowen, 'The Body and Punishment in Eighteenth-Century England', *Journal of Modern History* 59 (1987), 651–79.
48. Garland, 'Modes of Capital Punishment', p. 41.
49. Randall McGowen, '"Making Examples" and the Crisis of Punishment in Mid-Eighteenth-Century England', in David Lemmings (ed.), *The British and their Laws in the Eighteenth Century* (London, 2005), pp. 182–205.
50. Quoted in Spierenburg, *The Spectacle of Suffering*, p. 58.
51. Friedland, *Seeing Justice Done*, p. 104.
52. Quoted in Banner, *The Death Penalty*, p. 72.
53. Quoted in *ibid.*, p. 79.
54. Evans, *Rituals of Retribution*, p. 122.
55. Cited in van Dülmen, *Theatre of Horror*, p. 105.
56. *Ibid.*, p. 104.
57. Spierenburg, *The Spectacle of Suffering*, pp. 55–7.
58. *Ibid.*, p. 56.
59. For more on the locations of exposure, see Joris Coolen, 'Places of Justice and Awe: The Topography of Gibbets and Gallows in Medieval and Early Modern North-Western and Central Europe', *World Archaeology* 45 (2013), 762–79; L. Meurkens, 'The Late Medieval/Early Modern Reuse of Prehistoric Barrows as Execution Sites in the Southern Part of the Netherlands', *Journal of Archaeology in the Low Countries* 2 (2010), 5–29; Sarah Tarlow and Zoe Dyndor, 'The Landscape of the Gibbet', *Landscape History* (forthcoming); Nicola Whyte, 'The Deviant Dead in the Norfolk Landscape', *Landscapes* 4 (2003), 24–39.
60. Spierenburg, *The Spectacle of Suffering*, pp. 57–8. This was also the intended function of spiking the heads of traitors. See Simon Webb, *Execution: A History of Capital Punishment in Britain* (Stroud, 2011), p. 37.
61. Spierenburg, *The Spectacle of Suffering*, p. 57.
62. *Ibid.*, p. 58.
63. *Ibid.*, p. 58.
64. Sarah Tarlow, 'The Technology of the Gibbet', *International Journal of Historical Archaeology* (forthcoming). My thanks to Sarah Tarlow for allowing me to read the manuscript of her forthcoming article.

65. Evans, *Rituals of Retribution*, p. 88.
66. Durston, *Crime and Justice in Early Modern England*, p. 667. For more on this see Hurren, *Dissecting the Criminal Corpse*.
67. Evans, *Rituals of Retribution*, p. 87.
68. Quoted in *ibid.*, p. 56.
69. *Ibid.*, p. 87.
70. Tarlow, *Hung in Chains*; van Dülmen, *Theatre of Horror*, p. 99. For similar events in eighteenth-century Ireland, see James Kelly's chapter in this volume.
71. Evans, *Rituals of Retribution*, p. 89; Spierenburg, *The Spectacle of Suffering*, p. 90.
72. See also van Dülmen, *Theatre of Horror*, p. 134.
73. Ruth Richardson, *Death, Dissection and the Destitute* (London, 1988).
74. Quoted in Ward, 'The Criminal Corpse, Anatomists and the Criminal Law'.
75. Evans, *Rituals of Retribution*, p. 89.
76. For the difficulties in reconstructing popular attitudes to anatomy and punitive dissection in the eighteenth century, see Wilf, 'Anatomy and Punishment', p. 525.
77. B. Mandeville, *An Enquiry into the Causes of the Frequent Executions at Tyburn* (London, 1725), p. 26. For more on the popular beliefs about the therapeutic and medicinal powers of the criminal corpse in early modern Europe see Evans, *Rituals of Retribution*, pp. 86–98, and Owen Davies and Francesca Matteoni, *Executing Magic: The Power of Criminal Bodies* (Palgrave Macmillan, forthcoming).
78. On these cases see, for example, Andrea McKenzie, *Tyburn's Martyrs: Execution in England, 1675–1775* (London, 2007), pp. 19–20. And more widely, Elizabeth T. Hurren, 'The Dangerous Dead: Dissecting the Criminal Corpse', *The Lancet* 382 (2013), 302–3.
79. Peter Linebaugh, 'The Tyburn Riot against the Surgeons', in Douglas Hay et al. (eds), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York, 1975), pp. 102–6.
80. Wilf, 'Anatomy and Punishment', 510, and more widely, Steven Wilf, 'Imagining Justice: Aesthetics and Public Executions in Late Eighteenth-Century England', *Yale Journal of Law and the Humanities* 5 (1993), 57–78.
81. Quoted in Ward, *Print Culture, Crime and Justice*, p. 198.
82. Quoted in Banner, *The Death Penalty*, p. 84.
83. *Ibid.*, p. 81.
84. Quoted in Ward, *Print Culture, Crime and Justice*, p. 199.
85. Banner, *The Death Penalty*, p. 81.
86. See, in particular, Philippe Ariès, *The Hour of our Death* (Harmondsworth, 1983); Clare Gittings, *Death, Burial and the Individual in Early Modern England* (London, 1984); Vanessa Harding, *The Dead and the Living in Paris and London, 1500–1670* (Cambridge, 2002); Peter C. Jupp and Clare Gittings (eds), *Death in England: An Illustrated History* (Manchester, 1999), Ch. 6–8; McManners, *Death and the Enlightenment*; Sarah Tarlow, *Ritual, Belief and the Dead in Early Modern Britain and Ireland* (Cambridge, 2011).
87. Quoted in Banner, *The Death Penalty*, p. 83.
88. For an excellent review of this debate in relation to English executions, see McKenzie, *Tyburn's Martyrs*, pp. 21–5.

89. *London Evening Post*, 21 March 1761.
90. Wilf, 'Anatomy and Punishment', 517, 522.
91. *Evening Advertiser*, 16 March 1758; Banner, *The Death Penalty*, p. 80.
92. Garland, 'Modes of Capital Punishment'.
93. King, *'Hanging not Punishment Enough'*.
94. See Steve Poole's chapter in this volume and idem, '"A Lasting and Salutary Warning": Incendiarism, Rural Order and England's Last Scene of Crime Execution', *Rural History* 19 (2008), 163–77.
95. Gatrell, *The Hanging Tree*, pp. 315–21.
96. Spierenburg, *The Spectacle of Suffering*, pp. 190–1.
97. Evans, *Rituals of Retribution*, p. 225.
98. *Ibid.*, pp. 225–8.
99. Wilf, 'Anatomy and Punishment', 523.
100. Friedland, *Seeing Justice Done*, pp. 266–74.
101. For a thought-provoking critique of a number of the theories discussed here, see David Garland, *Punishment and Modern Society: A Study in Social Theory* (Oxford, 1990), especially Ch. 6, 7, 10.
102. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (London, 1977).
103. *Ibid.*, p. 61. An argument also made by Thomas Laqueur, 'Crowds, Carnival and the State in English Executions, 1604–1868', in A. L. Beier, David Cannadine and James Rosenheim (eds), *The First Modern Society: Essays in Honour of Lawrence Stone* (Cambridge, 1989), pp. 305–56.
104. David Garland, 'The Problem of the Body in Modern State Punishment', *Social Research: An International Quarterly* 78 (2011), 779–80.
105. Norbert Elias, *The Civilizing Process: The History of Manners and State Formation and Civilization* (translated by Edmund Jephcott, Oxford, 1994).
106. Especially noteworthy are Gatrell, *The Hanging Tree*; Randall McGowen, 'Revisiting *The Hanging Tree*: Gatrell on Emotion and History', *British Journal of Criminology* 40 (2000), 1–13; J. A. Sharpe, 'Civility, Civilizing Processes, and the End of Public Punishment in England', in Peter Burke, Brian Harrison and Paul Slack (eds), *Civil Histories: Essays Presented to Sir Keith Thomas* (Oxford, 2000), 215–30.
107. Spierenburg, *The Spectacle of Suffering*, pp. 192–3.
108. *Ibid.*, pp. 190–2.
109. Friedland, *Seeing Justice Done*, p. 219.
110. Garland, 'Modes of Capital Punishment', p. 55.
111. Quoted in *ibid.*, p. 55.
112. Evans, *Rituals of Retribution*, p. 20.
113. For North America, see Banner, *The Death Penalty*; Louis Masur, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776–1865* (Oxford, 1989). For Spain, see Ruth Pike, 'Capital Punishment in Eighteenth-Century Spain', *Social History* 18 (1985), 375–86.
114. For instance, Roger Hood, *The Death Penalty: A Worldwide Perspective* (3rd edn, Oxford, 2002); Austin Sarat and Christian Boulanger (eds), *The Cultural Lives of Capital Punishment: Comparative Perspectives* (Stanford, 2005).
115. On the continuing social presence of individuals long after their biological death, see Elizabeth Hallam, Jenny Hockey and Glennys Howarth, *Beyond the Body: Death and Social Identity* (London, 1999).

116. King and Ward, 'Rethinking the Bloody Code'.
117. On this theme, for executions in eighteenth-century England, see Linebaugh, 'The Tyburn Riot against the Surgeons', pp. 79–88, 106–9.
118. Simon Devereaux, 'Recasting the Theatre of Execution: The Abolition of the Tyburn Ritual', *Past and Present* 202 (2009), 127–74.

1

Punishing the Dead: Execution and the Executed Body in Eighteenth-Century Ireland

James Kelly

Death by execution was the standard punishment for treasonable and felonious crime in eighteenth-century Ireland. Women who were guilty either of *petit treason*, of which viricide and murdering one's master were prime examples, or 'barbarous murder' (a serious felony, which embraced infanticide) were liable to be sentenced to death by burning.[1] Persons of either gender who refused to plea ('standing mute' in contemporary parlance) in cases of felony could be subjected to the sanction of *peine forte et dure*, or pressing to death. But the usual mode of administering a capital sentence was by hanging. In this respect Ireland conformed to the pattern of early modern Europe, where, in the words of Pieter Spierenburg, hanging was 'the standard non-honourable form of the death penalty'.[2] Moreover, there was no acknowledged alternative since, unlike jurisdictions that practised decapitation or, as in revolutionary France, where decapitation (by guillotine) was normative, deprivation of life by decapitation was not available to the judges who handed down the punishments administered to those found guilty of a capital offence in Ireland.[3] This is not to imply that the decapitation of offenders (and the time-honoured practice of displaying heads) was no more: judges were authorised to direct that heads should be struck off post-mortem and publicly displayed in respect of offenders deemed guilty of 'barbarous murder', and this sanction was appealed to across the century in cases of this kind.[4] It was, as this suggests, resorted to in a minority of instances only. Death by simple hanging was the means by which capital punishment was imposed upon the male murderers, burglars, rapists, thieves, rioters, insurgents and others who comprised the bulk of the offenders who forfeited their lives in early eighteenth-century Ireland.[5]

Though the comparable severity with which the authorities responded to Toryism in the 1710s and to insurgency in the 1790s is evidence that

reliance on the death penalty was as firm at the end of the century as it was at the beginning, neither the criminal law, the system of criminal justice, nor the means by which capital sentences were applied was unchanging. There are many features to which reference might be made to demonstrate this mutability and the distinctiveness of the Irish system. One can, for example, point to the fact that the printed 'gallows speech', which was an earnest of the authorities' belief in the merits of public execution and of offenders dying a 'good death', disappeared as a category of cheap print in the 1740s.[6] More indicatively perhaps, Irish peers and MPs were less willing than their British equivalents to populate the statute book with capital offences. Twenty-nine capital statutes were enacted in Ireland compared with 67 at Westminster between 1690 and 1760.[7] Others were added thereafter, but even when it was at its maximum in the 1790s, Ireland did not emulate the 'more than two-hundred distinctly-defined capital offenses' provided for by Westminster.[8] Yet in many other respects, Irish lawmakers were content to echo the attitudes of their British peers. It was not coincidental that the Irish parliament authorised the abolition of the punishment of *peine forte et dure* in 1774 (two years after the Westminster parliament), and in 1791 followed Westminster in rescinding the punishment of death by burning in favour of death by hanging in the case of female offenders found guilty of *petit treason* or 'barbarous murder'. [9]

Changing public attitudes had a bearing also on the manner in which executions were administered. It would be misleading to suggest that many of those who ventured forth with criticism of the sanctions provided for by the criminal justice system from the 1770s were opposed in principle to the death penalty. But just as unease at the frequency to which recourse was made to the gallows in the early eighteenth century prompted greater recourse to benefit of clergy and to transportation, which meant that many convicted of felonious conduct were spared the gallows, the articulation of similar reservations during the 1770s contributed to the decision in the 1780s to embark on a programme of prison construction, and, momentarily, to seem to favour incarceration over transportation and (in certain instances) over execution as a punishment.[10] More significantly for present purposes, it encouraged the abandonment in the early 1780s in both Dublin and London of the execution procession and the relocation of the place of execution from near St Stephen's Green and Tyburn to the main city prison.[11] If, as has been suggested, this signalled the beginnings of an approach to penal sanction centred on the prison, its appeal and embrace was more limited and contingent than Foucault's schematic approach to the subject

of punishment suggests. Neither incarceration nor 'increasingly private forms of retribution', of which the relocation of capital punishment at or close to a major prison has been identified as an example, achieved the necessary moral, political or practical ascendancy at this time to effect the fundamental shift in direction Foucault hypothesised. On the contrary, as in England, they were soon put on the back foot by the demand for condign sanction that greeted the crime wave that seized both islands in the aftermath of the conclusion of the American War of Independence.[12] Furthermore, this disposition was reinforced, first, by a demand for a vigorous response to the renewal of agrarian unrest in the mid-1780s, and, second, by the outbreak of still more general insurgency in the 1790s, which encouraged recourse to traditional and exemplary forms of capital punishment borne out of the long-established belief that this was necessary to combat the perceived atavistic lawlessness and rebellious disposition of the (Catholic) masses.

There was, as the latter observation suggests, a tangible ethnico-religious and linguistic character to the manner in which the law was applied in Ireland deriving from the fact that the Protestant elite, whose language was English, ruled an expropriated Catholic majority, most of whom conversed through the medium of Irish.[13] As a consequence, the law that was enacted by the exclusively Protestant Irish legislature mirrored its vision of what was appropriate, and took little cognisance of other perspectives. Furthermore, its application and administration by officials derived disproportionately from the ranks of that elite, and by a like-minded judiciary, whose ranks were periodically restocked by recruits from the English regional bench, who brought their own prejudices and partialities to bear, ensured that the chasm in understanding that existed between the ruling and the ruled may well have been wider in Ireland than in England.[14] In any event, the full implications of this for any account of how the law was applied (by the authorities) and perceived (by the population at large) are complex, multi-layered and resistant to simple summary.[15] They are also beyond the scope of this paper, but it is important to note, consistent with the number of capital offences on the statute book, that both the absolute and relative rate of capital convictions in Ireland was below the English norm.[16] This is not in keeping with the pattern of capital punishment that has been assumed to apply by those who have perceived the Anglo-Irish nexus as stereotypically colonial.[17] But, it may also be observed, it was not consistent either with the implicitly more consensual composite monarchy model that has recently been suggested.[18] This notwithstanding, it is clear from the manner in which the Irish and English common law

traditions evolved over many centuries, their shared reliance on the great legal texts of Coke, Littleton and Blackstone, the requirement that practitioners in both jurisdictions attend the London Inns of Court, and, not least, the scrutiny given Irish legislation at the British Privy Council board ensured a degree of consistency in the law and in its administration, application and interpretation that echoed to similarity rather than difference.[19]

Yet if the comparability in the manner in which capital punishment was applied and administered in eighteenth-century Ireland and England is an obvious consequence of the kingdoms' shared histories, it did not inhibit the Irish system from evolving its own distinct features, of which the variation in the number of capital offences (referred to above), the manner in which recourse was made to capital sanction, and the way in which capital punishment was applied are pertinent here. It was, of course, sufficient in the vast majority of capital cases simply to expunge life consistent with the judicial instruction in such cases that an offender should be 'hanged by the neck until dead' within a defined time (a few days or a week was commonplace) after the pronouncement of sentence. In most such instances, the offender's body was claimed by family or friends, committed to a coffin, waked and sent for Christian burial. However, since the offences for which one might forfeit one's life ranged from high treason through *petit treason* to felony, and the sanctions available to judges varied according to the categorisation of the offence, offenders who perpetrated the more egregious offences were likely to forfeit their life in a more overtly painful, and ritualistic, way than those ordered 'to be hanged by the neck 'till dead'. The most serious offence of all was high treason, which was an offence against the state. In such cases, the object was not just to deprive of life, but to do so in a manner that involved the degradation of the culprit's body since the sanction provided for stipulated that offenders were hanged, drawn and quartered, and the body, or parts thereof, publicly displayed. The account of the sentence included in a legal *vade mecum* published in Dublin in 1755 provides a vivid, pithy, description:

> The judgment in all cases of high treason … is that the offender shall be drawn on a hurdle or sledge to the place of execution, and there be hanged by the neck, to be cut down alive, his privy members cut off, his bowels ript up, taken out and burnt before his face, his head severed from his body, and his body divided into four quarters, which are to be disposed of as the king shall think fit.[20]

In keeping with the fact that high treason was the most serious offence of which one might be found guilty, and Ireland was not in a state of rebellion for most of the eighteenth century, the proportion of malefactors sent to be hanged, drawn and quartered, and of individuals who had their body displayed, in whole or in part, was a small proportion of the whole. Yet there is no evading the fact that the criminal justice system placed a premium on punishment, and since, as well as high treason, capital sanctions were provided for in respect of *petit treason*, which encompassed serious offences against the subject, felony (which embraced murder), and larceny above 12d., judges were empowered to respond with appropriate severity. Death by hanging was the standard sentence handed down when an accused was found guilty of ordinary murder, but in 'extraordinary cases' more penal sanctions were called for and (generally) ordered. Thus in cases of the felony of 'barbarous murder', it was not uncommon for judges to direct that the offender be taken from the court and hanged immediately, but judges were empowered to direct in cases of especial heinousness that the convicted person should be hanged and gibbeted (hanged in chains); hanged, drawn and quartered and gibbeted. There was, in other words, an appreciating range of sanctions to which judges were required to appeal depending on the order of the offence, and which survived the efforts of the system's critics to suggest that since capital punishment was a replication in 'cold blood' of the 'horrible crime' it was designed to penalise, alternative, useful punishments were preferable.[21]

The reservations influentially articulated by Cesare Beccaria, and his disciples across Europe, from the 1760s at the palpable failure of the extensive menu of capital punishments to inhibit criminality mirrored popular unease at a minority of capital verdicts and, more broadly, at the extension of punishment to the executed body. The public was, as this suggests, neither neutral participants in the execution process nor passive recipients of the reformative homilies issued from the bench as to how they ought to behave. Those who constituted what was pejoratively denominated the 'mob', and who assembled frequently in large numbers to view an execution, were disposed to assess every capital sentence on its merits, and to be guided in their response by a more instinctive sense of what was proper and just than that provided for in law. They also possessed firm ideas, shaped by a complex of religious and customary practices, as to how the body of the deceased should be treated. Guided by the conviction that the prospect of an afterlife was, if not predicated on, at the least assisted by interment intact in consecrated ground, families and friends sought to take prompt possession

of the executed body, and though some did so in the hope that they might achieve resuscitation, the priority of a majority was to ensure the deceased was afforded a Christian burial. This is why there was so much emphasis on the possession of the corpse, and why the attempt by the Irish authorities, from the 1780s, to extend the existing sanction of sending the bodies of a small number of capital offenders for dissection to all was a source of significant public disquiet. As a consequence, any attempt to analyse execution as it was practised in Ireland must engage not only with the law, the judgements visited upon offenders by the courts and the messages the sanctions handed down conveyed but also with the reception accorded these messages. Moreover, one must do so in the absence of either a contemporary statistical series or reliable raw data upon which one might be permitted to embark on a quantitative reconstruction. This is not optimal to be sure. It is still less satisfactory methodologically than the sample approach previously employed which assisted in the identification of patterns in the cases of the crimes of infanticide, abduction, sexual assault and suicide, because the sample, of capital offences is less amenable to sampling.[22] Be that as it may, the intrinsically qualitative approach employed in this instance provides a variety of perspectives and insights that are both evidentially sustainable and in keeping with the ongoing reconstruction of late early modern Irish society.

The Practice of Execution in the Early Eighteenth Century

Most executions were conducted in Ireland after a standard fashion. What this meant in practice was that male capital convicts were conveyed to the gallows from prison on an appointed day, within a short period, usually a week or so, after the delivery of sentence. In the early eighteenth century it was common practice, in Dublin at least, for the offender, attended by municipal officials, to be ferried in an open cart, upon a 'sled', or, as happened in at least one instance, in a 'mourning coach', from Newgate Prison to the city gallows, which was located close to Stephen's Green. Recourse to a 'mourning coach' was uncommon, but it was hardly inappropriate since some condemned men travelled with the coffin in which they were to be buried. Having reached the gallows, the condemned was provided with an opportunity to utter a few 'final' words prior to the placement of a noose round his neck, and the removal of the support on which he depended, as a result of which they died of asphyxiation. Once it was judged that death had taken place, the body was cut down, and, depending on circumstances,

either placed in a coffin for interment or, as happened in a high proportion of cases, handed over to friends or family to be waked and buried at their convenience.[23]

Inevitably, the pattern just described was subject to variation, even in cases of ordinary hangings, to suit the needs and conditions of different locations, different officials and the frequency with which recourse was made to the gallows. Moreover, in the early eighteenth century there were a number of other, still more significant, variables at play arising out of the fact that the ruling Protestant elite was coming to terms with their recent providential escape from the prospect of a Catholic Stuart dynasty.[24] As far as most Protestants were concerned, the military victories achieved in 1690 and 1691 were not complete, not only because an estimated 19,000 Jacobites were permitted to withdraw to France where they aspired, albeit in the teeth of a deteriorating international environment and appreciating obstacles, to sustain the Jacobite standard, but also because there was a residuum of quasi-political bandits, known as Tories, who waged a low intensity guerrilla campaign, targeted primarily at Protestants, from a variety of isolated rural redoubts.[25] The likelihood of the Tories inflicting a serious, or even embarrassing, reversal on the Protestant interest and its military establishment was remote, but they were regarded as a potentially dangerous fifth column in the event of a French invasion, and so demanding of a condign response.[26] This was seldom given expression in the invocation of the stern penalties provided for in cases of high and *petit* treason, but the reliance of regional landowners and local officials on the gallows was well in evidence in county Clare in 1694 when Sir Donat O'Brien oversaw the hanging of 13 'raperies' (Tories) at once.[27] It was more frequently in evidence following the ratification in 1696 of legislation 'for … better suppressing tories, robbers and rapparees', as on foot of this enactment the authorities regularly issued proclamations for the apprehension 'dead or alive' of various named Tories and other malefactors. Moreover, they did so with the full support of the Protestant population, which remained disposed to favour measures of exemplary severity. Indicatively, when in 1704 a local posse struck off the heads of three Tories in county Limerick, they celebrated their achievement by fixing the heads of those they had killed 'upon points of swords', and by bringing them to the town of Askeaton 'in great triumph, with bag pipes playing before them'.[28] Though manhunts, such as occurred in this instance, were countenanced by the 1696 Act, the decapitation and triumphal processing with the three heads provides a better illustration of the conviction of the Protestant population that publicly administered

condign sanctions were necessary to combat the Tory menace. This was the implication certainly of the request to a judge on assize from the Protestants of county Tyrone in 1707 that a captured local Tory should be gibbeted in order that he should serve as 'an example of long standing' rather than 'of half an hour's continuance', which must be the case if he was hanged in the ordinary way.[29]

Despite the welcome it would have been afforded, the fact that the authorities did not respond positively as a matter of course to the request of the Protestants of county Tyrone for a still more draconian action indicates that they were disposed to adhere to the sanctions provided for by law in the 1690s and early eighteenth century. This did not mean that they were disinclined to countenance punishments that exceeded the standard penalty of death by hanging; rather they required good legal reason to do so. Like the Protestant population at large, they regarded the Tories as a menace and it is a measure of the importance they attached to their extirpation that they issued a veritable ream of proclamations targeted at their eradication once they were empowered to do so by law.[30] They took a comparably dim view of the agrarian protestors, known as Houghers, whose opposition to the spread of livestock farming at the expense of smallholders was a cause of disturbance in south Connaught in 1712–13, but their response was equally measured in this instance. Indicatively, they suspended recourse to the gallows in 1713 having executed three leaders of the protesting smallholders, and extended an amnesty to embrace those who had been taken into custody when disturbances ceased.[31]

A similar pattern was manifest in the manner of the response to the activities of Jacobite agents whether they were embarked on the treasonable activity of recruiting young men for service abroad or engaged in the general promotion of Jacobitism in Ireland. As a result, Jacobite recruiters such as Moses Nowland, who was found guilty in Dublin in 1726 of the treasonable offence of enlisting men in the army of the Pretender was ordered to be hanged, drawn and quartered at Stephen's Green.[32] However, other lesser manifestations of Jacobitism, including raising toasts to the Pretender's health, were not pursued in an equivalently rigorous manner.

As the example of Moses Nowland attests, the menu of draconian sanctions available to the authorities was not held in reserve *in terrorem*. They had been approved in the expectation that they would be used, and their invocation in the response to private criminality (in contradistinction to Toryism, Jacobitism and agrarian protest) provides a clearer window on to the sanctions to which the authorities appealed both to

penalise those who transgressed and the manner of their application. As previously observed, most of those sentenced to death died simply from asphyxiation, in keeping with the sentence that they should 'be hanged by the neck 'till dead'. However, in a proportion of instances in which this sentence was directed, judges instructed that an offender should be conveyed from the court to the gallows for the immediate administration of sentence. Accompanied, if need be, 'by a detachment of soldiers' in order to deter those who might be tempted to effect a rescue, the object in such instances was to manifest the court's particular disapproval of the offence for which the guilty party was convicted.[33] Few examples of immediate execution have been identified from the early decades of the eighteenth century, but the execution of Timothy Croneen at Cork in January 1731 for the murder of his employers, the elderly Andrew St Leger and his wife, and of John Leadwell, who wielded the knife when Lieutenant John Hume was slashed to death in a Roscrea tavern in 1738, set an example that had many imitators.[34] The object in these, and other, instances was to make clear the depth of the court's revulsion at the offences. It cannot be demonstrated that this was part of a broader judicial (or political) initiative to get tough on particular crimes, but the fact that there were at least three cases in the 1740s in which footpads and highwaymen were sent for immediate execution is suggestive. Moreover, it is hardly a coincidence that it virtually coincides with the Murder Act ratified at Westminster in 1752, which stipulated that all convicted murderers should be executed on the next day but one after sentencing – in order that the horror of the crime be fresh in the minds of the public. The fact that the authorities chose at this time also to respond forcefully to abuses in the manner in which gentlemen abused the privileges they possessed by reason of the law's indulgence of the code of honour is further evidence that it was part of a concerted response *pour encourager les autres*.[35]

Though it was pursued with the specific purpose of depriving specific capital offenders of the opportunity to prepare, either alone or with the assistance of a clergyman, for a 'good death', which was a matter of transcending importance, immediate execution was a palpably less punitive sanction than the sentence to be hanged, drawn and quartered.[36] Since the latter sanction was explicitly provided for only in cases of high treason, the judiciary had limited opportunity to order its implementation, but the desire to make clear the depth of the court's disapproval was also strong, and it may have been invoked in a proportion of cases that were less than obviously treasonable. This was not so, to be sure, when Tulley Slevin, John Dempsy and Patrick Murphy were

sentenced to die in Dublin in 1727 for coining since this was a treasonable offence in Ireland as well as in Britain.[37] However, the extension of this sentence to Nathaniel Gunning, who was hung, drawn and quartered for aggravated murder in Dublin in 1704, and to Timothy Croneen, for murdering his employers in 1731, was more doubtful.[38] It suggests that the authorities contrived, on occasion, to impose the sentences that the crime was deemed popularly to deserve. This tendency, and the criminal activity to which it was a response was revealed more vividly by the case of Charles Carragher, alias Captain Collmore, a 'proclaim'd tory', who was found guilty of murder (by his own acknowledgement he killed four men), rape and robbery at the county Louth assizes in 1719. Significantly, Carragher was brought to the gallows at Dundalk on the day following his sentence when he was hanged for 'a small time [and]... cut down while alive'. If (as one may reasonably surmise) this was a consequence of the wish of the authorities to repay Carragher in kind for the pain and suffering he had inflicted on others, it achieved its purpose, but what happened next exceeded what either they, or most of society deemed acceptable. As it was his first time to administer such a sanction, the local executioner was not only unsure how best to proceed but also evidently unskilled in the delicate art of evisceration, as the report of proceedings graphically revealed: 'when the hangman was cutting off his privities, he [Carragher] cry'd out; then the sheriff ordered his throat to be cut, [but] the hangman could not do it readily, for he [Carragher] struggled very much'. This task effected, Carragher's 'head was afterwards cut off ... his carcass was divided into four parts and set up in four severall parts of the country', with his head 'set on the [county] goal two yards higher than any of the rest, with his hat and wigg on'. In addition, 'his harts [sic], livers, lights and members were burned' at the gallows in an explicit affirmation of the determination of the authorities to manifest their antipathy to Carragher's activities, and to wreak vengeance on malefactors of his notoriety.[39]

The exposure of Charles Carragher's body to public display and the spiking of his head demonstrated that the authorities were quite prepared, when circumstances were seen to warrant it, to invoke the sanction explicitly available to them in cases of 'barbarous murder' of extending capital punishment beyond that of simply taking life to embrace the punishment of the executed body. The gibbeting or hanging of the body (or body parts) was a sanction reserved for the most hardened offenders.[40] Indicatively, the earliest identifiable eighteenth-century example was Dick Bauf, who was executed in 1702 for murdering his parents, and hung in chains on Barnsmoor Mount in north-west

Ulster.[41] This case apart, the small sample of known cases implies that gibbeting was not only not commonly resorted to, but also further attests to the commitment of the authorities at this point to resist the efforts of local and sectional interests who advocated still greater severity when the law did not clearly permit it. Yet then as now, the assumption that the greater the sanction the less likely are people to misbehave proved irresistible, and it is hardly coincidental that the authorities were more receptive to a request from the grand jury of county Meath a decade after the exemplary punishment visited on Charles Carragher (than they had been in 1707 to a comparable request from county Tyrone) for permission to display the body of a local murderer.[42] Inevitably, other requests followed, and within two years there were routine newspaper reports of the bodies of murderers being hung up in chains at or near to the place where they perpetrated the offence for which they forfeited their lives.[43] This was a significant moment in the history of capital punishment in Ireland, and the sanction imposed on those who were found guilty of heinous offences, though it took a further two decades, and a number of high profile murders, to normalise this practice, and that of spiking of the head and hanging quartered bodies in chains.

One of the earliest and most infamous of the as-yet-unexplained propensity for multiple murder that one can identify in Ireland in the eighteenth and early nineteenth centuries concerned the improvident John Bodkin of Tuam, county Galway. He responded to the refusal of his father Oliver to grant him with the enhanced allowance he believed was his entitlement by embarking in the autumn of 1741 with his cousin Dominick, and two others (John Bodkin Fitzoliver and James Hogan), on a murderous attack on his father's home in the course of which his father, stepmother, 4-year-old stepbrother, a family guest, and the household staff of seven were killed. It was an outrageous crime, and both the authorities and local gentry were determined that those responsible should be punished appropriately. However, because John Bodkin steadfastly protested his innocence and informed on his accomplices, officials were obliged in the first instance to proceed against the three lesser principals. They made it easy for the court by pleading guilty and they were sentenced to be hanged, drawn and quartered near to the scene of the crime. This was still uncommon, but such was the anger and revulsion of the local gentry that they formed a guard on 6 October when the three were executed, and their presence was rewarded when, in his gallows' speech, John Bodkin Fitzoliver implicated John Bodkin, who had been brought along to witness the executions in the hope that it would induce him to own up to his own role

in the affair. The manner of the execution of the three participants underlined the determination of the court to demonstrate that the perpetrators of such outrages would be severely dealt with as both Dominick Bodkin and John Bodkin Fitzoliver were taken down after hanging for only a few minutes, decapitated and their remains hung on a gibbet on the Galway road; John Hogan was half-hanged, disembowelled while still alive, and his head cut off in order that it might be put on a spike on Tuam Courthouse. John Bodkin experienced worse when his moment came. He was half-hanged, castrated, disembowelled and decapitated following a trial at Galway assizes in the spring of 1742, following which his body was gibbeted.[44]

Such was the heinousness of John Bodkin's offence that no voices were raised in protest when his body was put on display, though this was correctly identified as a severe penalty by a population that attached great significance to how the body of the deceased was treated. However, they were obliged to come to terms with the sanction as in the course of little more than a decade the authorities were faced with a number of only slightly less disturbing cases demanding a similar response. These included Patrick Lawler who confessed in 1749 to multiple murders following his detention for cutting the throat of James Dowdal near Trim in county Meath; Patrick Sheil who was 'hung in chains' in 1753 on Windmill Hill, Rathcoole, county Dublin facing 'towards the house where he committed' the murder of a woman and her grandchild; Philip Walsh who was sentenced to be executed at Newport, county Mayo, and 'hung in chains' in 1753 for 'the murder and robbery' of a Roman Catholic priest; and James Hughes and Francis Geraghty, who were sentenced at Mullingar assizes in April 1757 to be 'directly taken to the gallows, hanged for a short time, then cut down, quartered, their bowels cut out and thrown on their faces', and their bodies gibbeted on a local hill close to the site where they murdered Hayacinth Nangle, his pregnant wife, 4-year-old son and three servants at Streamstown, county Westmeath on 20 March 1757.[45]

The galvanising regional impact of the Nangle case can be measured by the exceptional effort made by the local gentry, headed by the 'indefatigable' Lord Longford, to detect and apprehend those who were responsible. Yet this was less important in the national context than the normalisation of the practice of gibbeting to which it contributed. This was underlined, and the potential sanitary and health implications of exposing the executed highlighted, when the bodies of four men who were hanged in Dublin for the murder of a ship's captain, his wife, daughter and an unspecified number of crew members were brought

in March 1766 from Newgate Prison (which was then the traditional location in Dublin to which the bodies of executed felons were taken once they were removed from the gallows) to the South Wall (2) and the Pigeon House (2) to be hung in chains. Since this was no longer exceptional, it may be assumed that the officials anticipated no problems. However, the display of bodies so close to the metropolis, and the sea, had not previously been attempted, and before the month was out the authorities were obliged by public discomfort at the smell and sight of decaying human flesh at a location that some used as a promenade to commission a set of 'complete irons' to contain the decaying bodies on the South Wall. This instruction was issued in order that the cadavers might be relocated at a more appropriate site on Dalkey Island, and the urgency of the task was highlighted by the fact that before this could be completed one of the bodies fell from the gibbet onto the pathway. The two bodies gibbeted 'at a little distance from the North Wall' proved somewhat more robust, but only for a few weeks, since they too disintegrated, and had fallen down onto the piles at which they were located by mid-May when it was reported that they constituted 'a most shocking spectacle'.[46]

Though the public health issues that could be generated by the gibbeting of the bodies of executed felons at, or close to the place where they committed crimes were vividly demonstrated by this Dublin case, it did little to inhibit the practice. Indeed, if anything gibbeting was pursued with greater frequency across the country (examples may be cited from county Dublin, county Mayo, county Wexford and county Sligo) during the 1760s and 1770s. An alternative, more suited to a built up environment and opted for in Cork in 1775 when a particular malefactor was sentenced to be hanged, drawn and quartered, was to affix the head to a spike on the roof or rampart of the local jail.[47] Spiking in this manner posed fewer health and olfactory issues than hanging in chains, though it did little to diminish public unease at the penalising and display of the executed dead.

The first identifiable example of public unease at the gibbeting of the bodies of executed offenders was manifested by the persons unknown (but possibly family members) who removed the body of Patrick Lawler, which was hung in chains in county Meath, in 1749.[48] It was not a unique intervention. Some 20 years later, the body of Joseph Daw was cut down and 'buried under the gibbet where he was hung in chains' at Turvey in north county Dublin, while the gibbet on which Robert Jameson was suspended on Gallows Hill in Kilmainham in 1786 was subjected to a number of assaults; it was first 'sawed down'

purportedly in protest at the 'exceedingly disagreeable smell' emanating from Jameson's 'putrifying carcase', and, following its restoration, a subsequent attack resulted in the gibbet being uprooted and thrown in the river and Jameson's body stripped of its irons and covered with earth.[49] Though it was surmised at the time that the latter intervention was motivated by 'the expectation of making money of the iron', this is belied by the pattern of such events. Be that as it may, the 'public notice' issued in 1799 to warn that if anybody removed the body of John O'Brien, who was left hanging overnight on a gallows at Cork, a fine of £500 would be levied on the parish indicated that the public continued to harbour serious reservations with the practice of exposing bodies however it was done.[50]

Chains, irons or the threat of a major fine were required to discourage the public from intervening because of the conviction that it reflected badly on the family of the deceased to leave a body exposed to the elements. However, there were also powerful ethical and religious forces at work with respect to the predominantly Catholic population of Ireland. These ordained that it was not only the duty of family and friends to ensure interment, but also that the prospects of the deceased negotiating the Day of Judgement and embarking, following the resurrection, on eternal life were improved if the body was buried whole and in consecrated ground, which was almost impossible to ensure when an offender was quartered and his body parts hung either in chains or in irons.[51]

The attempts to interrupt the cycle of exposure which was integral to the extended punishment inherent in the hanging of offenders in chains indicate that despite the general societal acceptance of capital punishment, the public was much more ambivalent when it came to punishing the executed body. Their preference was that the body of the deceased should be handed over within as short a time as possible of the completion of the execution. It was customary then to wake the body in time-honoured fashion, prior to interment at an appropriate location. This was not the sole motivation to acquire possession of the body, however. Encouraged by a number of instances in which offenders were cut down ostensibly dead but subsequently resumed breathing, it was common practice to bleed the body (with medical assistance, where this was available) in an attempt to induce resuscitation.[52] The number of cases in which this was pursued successfully was small, but the fact that it was perceived as a possibility meant it was persisted with, and that it sustained the seed of hope that it was possible to cheat the gallows. This was certainly a hope to which sections of the public clung grimly in

those instances in which they were persuaded either that an individual was innocent of the charges for which he was sentenced to death, or that the punishment did not fit the crime.

There is insufficient information in respect of most contested eighteenth-century crimes even to attempt to establish what proportion of allegations of miscarriage of justice were soundly based, but there is no gainsaying that the populace believed (almost certainly correctly) this to be the case in a sufficient proportion of cases to generate a sense of congenital doubt.[53] Moreover, they were disposed in those instances in which they believed that the punishment exceeded the crime or in which a prosecution was inappropriate, and the individual responsible (usually an employer) was within reach to attempt to confront them with the body, and, failing that, to take out their resentment on the property of the prosecutor. This can be illustrated by the case of Oliver Deacon. He was executed at St Stephen's Green in Dublin in 1747 having been found guilty of robbing the desk of 'his master'. Following the removal of Deacon's body from the gallows, 'his corpse was brought by the mob to his master's house, which was broke open, and [entered, and the mob] there continued to commit several outrages till dispersed by a detachment from the main guard'.[54] A still more striking example from Cork concerned Jeremiah Twomey, who was executed at Gallows Green in the city in 1767 for robbing a dwelling house. Locals were convinced that the punishment was disproportionate, and they responded in time-honoured fashion by venting their anger at the person responsible:

> The general opinion was that he [Twomey] died innocent, in consequence of which the mob brought him from the gallows, in his coffin, to the prosecutor's door, where they bled him, took the rope off his neck, threw it in the window, besmeared the door and window-shutters with blood, whilst showers of stones were pelted at the windows from every quarter.[55]

Such incidents, and the subsequent fatal assault 'by the populace' upon the executioner who had presided over Twomey's execution and helped himself to the victim's shoes, 'claiming them as a perquisite of his reputable profession', indicated that if capital punishment was to serve successfully as a deterrent it was essential that it was seen to penalise only the guilty, and that sanctions were proportionate.[56] As a result, the populace rarely, if ever, protested when it was demonstrable that the person executed was guilty of the crime for which he was sentenced to death: they were even prepared to countenance sanctions against

the executed body when it was merited. It is notable, for example, that there was no protest when William Fanning, a disreputable Dublin constable, who was executed before 'an uncommon multitude of unlamenting spectators' in Dublin in 1753, was buried 'on the sea shore', though this ignominious fate was normally reserved for suicides.[57]

The Merits of Capital Punishment Debated, 1760–90

Though the preparedness of the populace to vent their disquiet with aspects of the criminal justice system mirrored the augmented readiness of the authorities to resort to sanctions that embraced the punishment of the executed body, which was a response in turn to the increased propensity for murderous violence in the middle decades of the eighteenth century, there is little to suggest that the public at large was fundamentally alienated from the criminal justice system. Even if they were, those with their hands on the levers of power in government, parliament and the judiciary were convinced that the intensification of sanctions was the only legitimate response to outrage. Their belief in the merits of a forceful response was explicit in their response to the rise in agrarian outrage, which recommenced with the Whiteboys in the early 1760s after nearly four decades of comparative quietude. Persuaded that exemplary punishment was the only way to make it plain to the rural populace that riotous protest would not be endured, the most immediate manifestation of the authorities' resolution was an increase in the number of those sentenced to death that were ordered to be executed 'at or near the places, where the outrages have been committed'.[58] Thus, it was decreed at Cork in June 1762 that Robert Stackpoole, Pierce Baily and Pierce Moran, who were sentenced to death for theft and killing a gelding while engaged in Whiteboy activity should be executed 'at or near the several places in this county where these outrages have been committed'.[59] In addition, offenders were executed on occasion in their Whiteboy robes in an attempt to emphasise the link between membership of that organisation and the offences for which they were to forfeit their lives, while in a further manifestation of societal disapproval, the condemned were routinely escorted to the gallows by a party of soldiers accompanied by an array of local gentry.[60]

But the most explicit demonstration of the seriousness with which the authorities regarded Whiteboyism is provided by the fact that some activists were charged with high treason and rebellion, and that arising out of this a number of individuals were sent to be hanged and quartered at Waterford assizes in 1762 and Clonmel in 1763.[61] This was, it

may reasonably be argued, a disproportionate response to economically motivated protest, but it mirrored the alarm to which the Protestant population succumbed all too readily when confronted with large scale and organised Catholic dissent.[62] The fact that as many as 10,000 gathered on occasion to witness such executions, that the breasts of six men hanged at Kilkenny in 1765 were scored with knives (in a ritualised echo of drawing) prior to decapitation was a further earnest of the authorities' determination to demonstrate the coercive power of the law, though it is noteworthy in these instances that they declined to take the final step and set the decapitated heads on public display.[63] This fate was reserved for the person Protestants perceived epitomised the link between agrarian disorder and sedition, and by extension with Jacobitism – Fr Nicholas Sheehy. Fr Sheehy, who was executed for high treason in 1766, may (as some commentators have suggested) have fallen victim to the unalterable belief of the 'red hot Protestants' of county Tipperary that Whiteboyism was a politically inspired protest targeted at undermining their ascendancy, and, as a result, that he was deserving of his ultimate fate, which was to have his head displayed on the roof of the session house at Clonmel. However, the population of the locality thought otherwise, and while they did not openly protest the verdict, they made their feelings vividly known at Phillipstown four years later when they 'stoned the hangman to death, and the body lay for two days under the gallows' before it was deemed safe to remove for burial.[64]

While it would be an exaggeration, in light of the view of the response to primarily domestic outrages, to describe the 1760s as a watershed in the history of capital punishment in Ireland, the recourse to punishments (previously reserved for cases of aggravated murder) to deter agrarian protest not only survived the conclusion of the first phase of Whiteboyism in 1765, it quickly became normative as organised rural protest took up nearly permanent occupancy on the Irish rural landscape.[65] This was facilitated, nay encouraged, by the ratification in 1765 and in 1776 of the Whiteboy Acts, which added six new capital offences to the statute book.[66] With these additional powers, and the active backing of the Irish administration, which was determined to disrupt the pattern of rural disorder, judges were encouraged to send still more offenders to 'be hanged in different parts of the county' in which they were tried, and to order that this should be done, when necessary, by torchlight for additional impact. They had recourse to these and other 'exemplary punishments', to hanging and quartering, and on occasion instructed that the guilty should be 'allowed no clergyman' in order not

only to deprive the offenders of the opportunity to prepare for a 'good death' but also to emphasise their resolve to the population at large. The aim, one commentator observed, was 'to show what these deluded insurgents may expect for a continuance of such lawless practice'. It was a risky strategy, but it was perceived in official circles to serve the purpose for which it was devised. In 1776, the then chief secretary John Blaquiere observed with satisfaction that the policy of execution had 'struck such a universal terror' that the country was tranquil for the first time in 16 years.[67]

Since a majority of politicians, officials and judges had no hesitation in trading short-term results for long-term solutions when it came to dealing with agrarian unrest, they took little or no notice of the fact that, based on reported cases, the number of offenders that were denied the privileges generally afforded those sentenced to hang not only continued to rise but also accounted for an increasing proportion of those who forfeited their life for what might have been encompassed within the parameters of ordinary criminal behaviour.[68] There were, to be sure, a sufficiency of cases of patricide, uxoricide, viricide, of individuals perpetrating multiple murders, and of outrageous conduct to justify recourse to hanging and quartering, but such was the eagerness of those responsible for the administration of justice, and those in political office to be seen to display the depth of their disapproval that hanging on its own seemed an inadequate response.[69] This certainly was the case, many believed, during the early 1770s when the capital witnessed a spate of knife assaults (chalking) that elicited a chorus of calls for additional legislation, and more decisive intervention.[70]

Yet there was another perspective, guided and informed by the realisation that capital punishment had done little to deter either crime or protest. Indeed, in the 1770s for the first time, opinion was divided, albeit unevenly, on the merits of this strategy. On the one side there were those, inspired by the writings of Cesare Beccaria, who had concluded that the increased numbers of people being sent to the gallows, and the increased disposition to order that offenders were violently executed or had their bodies mangled or displayed demonstrated the futility of such an approach when criminal behaviour showed no signed of decreasing.[71] And, on the other, there were those – instinctive believers in the merit of meeting violence with violence – who were wholly persuaded of the efficacy of execution and encouraged by reports of celebrated examples of judicial ferocity from France, Portugal, Holland, Sweden and Russia to conclude that still greater severity would produce the desired results.[72] The solutions proffered by the advocates of a new

approach included 'useful punishment' such as hard labour (to which many were drawn when transportation had to be suspended during the American War of Independence), corporal punishment and terms in the galleys, but though the publication of English language editions of Beccaria and notable interventions by William Eden, among others, gave such sentiment respectability, the authorities found it easier to add new capital offences by means of the Chalking Act (1773) and Whiteboy Act (1776) to the statute book than to engage in a fundamental shift in policy direction.[73]

They did, to be sure, embark from the late 1770s on an active programme of prison construction and prison refurbishment, but the capacity of the new institutions was small, and while the establishment of an Inspector of Prisons in 1786 was an earnest of the wish to target abuse, such changes as were made did not amount to a radical shift in policy or approach.[74] This is not to imply that the import of what was undertaken was not significant, or that it might, had it been persisted with and taken further, have hastened a dramatic rethink in the attitudes towards and in the manner in which capital punishment was administered. Significantly, the construction of a new Newgate gaol on the north side of Dublin city permitted the cessation of the long-established practice of processing with offenders from the old Newgate to the city gallows at Stephen's Green, and the inauguration, beginning in 1783, of the practice of dispatching those sentenced to death in the capital from a 'hanging scaffold' attached to the wall of the prison.[75] Introduced pursuant to an order made by the lord lieutenant, Earl Temple, in December 1782, it was welcomed as an important change that would, *inter alia*, restore the faltering confidence in the efficacy of capital punishment by reinforcing the gravity of the occasion and mitigating the carnivalesque mood that often characterised execution days. Indeed, optimists pronounced rhapsodically, the removal of execution from the streets of the capital to the new prison 'will be a more effectual means of deterring the practices of murder and robbery than any other made hitherto' because the simple act of ending 'the parade of bringing unhappy wretches through a city, amid the sighs, and too often the commendation, pity and tears of the common people, mitigated the horrors of such an untimely end'.[76]

This was not to be the case, of course, not least because the circumstances that sustained capital punishment at its then high level were many and had evolved over a long time frame. Yet, Temple's action was significant because as well as ending the execution procession, and initiating the process that was to see execution move from the public

square to prison (albeit to a limited extent since it was still performed before the public), it suggested that there would inevitably be less resort to immediate execution, to hanging and quartering and to the displays of bodies on gibbets in chains or in irons. While the absence of any official reference to these matters meant it would only become clear in time if this would be the result, Temple's instruction that the bodies of those who died on the drop gallows at Newgate should, after an interval, be cut down and 'delivered over to the surgeons for dissection and to be anatomized', certainly suggested that the authorities had no intention of ceasing the punishment of the executed body. Indeed, they seemed to prefer to extend it by adopting the English practice of making as many bodies available as the medical profession could utilise.[77]

The allocation of the bodies of those who were executed for anatomical purposes possessed a long, and controversial, history by this point. It was initially provided for in the remodelled charter granted to the College of Physicians in 1692, but while the College agreed subsequently to receive six bodies per annum, the arrangement soon fell by the wayside.[78] The case in favour of reviving this scheme, and placing it on a statutory foundation was reanimated by the adoption of a comparable scheme in England in 1752, and it was further encouraged in the 1770s by public revulsion at the escalation of knife crime in the city, and by the failure of the Chalking Act of 1773 to put a prompt end to that practice and the allied practice of houghing soldiers.[79] Convinced that the custom of returning the bodies of capital offenders to their families, which all but assured offenders of a proper burial, dovetailed with the near universal belief in an afterlife to diminish the impact of execution, the authorities took advantage in 1782 of a proposal to amend the Chalking Act to introduce a provision which provided that henceforth the bodies of those sentenced to die on the gallows 'for wounding etc. with a knife, pistol or other offensive weapons' would be delivered to the surgeons for anatomisation. Taken together with the clause which stipulated that chalkers must be executed 'forty-eight hours after conviction', the authorities believed that they now possessed a full suite of sanctions to discourage all but the most depraved from engaging in knife assault, and a suitable alternative to the once prevalent practice of hanging in chains, which sat increasingly ill with the growing ranks of the respectable.[80]

Though these additional provisions were approved in the full expectation that they would prove an effective deterrent, it is a measure of the enduring sensitivity of the population to their post-mortem fate

that attention focused disproportionately on the anatomisation clause, which was regarded by the populace as no less disagreeable than hanging in chains. For those for whom the priority was the disruption of the ongoing cycle of violent crime, the belief that their body would be sent for dissection 'would strike great terror in the minds of villains' was recommendation enough, though there were some who perceived that it would be still better if it combined the deterrent effect of both sanctions.[81] Indeed, one commentator, who clearly perceived merit in gibbeting, proposed that once the surgeons were finished with the body it should be 'hung up in some public place for 48 hours' on the grounds that 'the shocking spectacle might still have a greater effect in deterring the vicious and profligate from a further pursuit of their wicked practices'.[82] More prudent counsels prevailed, though it was soon apparent, as the city and country was seized by a crime wave that lasted into the mid-1780s that neither the drop gallows deployed at Newgate, whose propensity to malfunction belied earlier optimism as to its efficacy, multiple hangings there and at Kilmainham, county Dublin, nor the extension island-wide of the arrangement whereby the bodies of certain capital offenders were automatically conveyed to the nearest medical school or infirmary for dissection had the impact on serious crime that its advocates had confidently forecast.[83]

If this was disappointing for those who believed firmly in the merits of punishment, it revitalised the on-off debate about capital punishment. It was claimed by one commentator in 1785 that 'the whole continent of Europe does not execute as many criminals in four years, as England and Ireland do in one', but the fact that Jeremiah Fitzpatrick, the inspector of prisons, was prepared to suggest in his report on the state of the country's prisons in 1786 that the adoption of the practice of executing criminals 'without caps would … tend to render the punishment more exemplary' indicated that the debate was less about the merits of capital punishment than with establishing the most effective manner in which it was pursued.[84] This was hardly surprising, perhaps, given the crime wave that gripped the capital, and other parts of the country in the mid-1780s, and the frequency with which even rural assize sessions produced multiple capital verdicts.[85] There were, to be sure, jurisdictions such as Waterford city, which was proud of the fact that its city court had not sentenced an individual to death in a quarter century prior to the hanging of Denis Brien in April 1791, but these were exceptional.[86] Such voices heartened those who continued to query the wisdom of execution, of penalising the bodies of malefactors, and the premises and practices of a criminal justice system that was so

reliant on capital punishment, but the authorities were unresponsive. Faced with the reality of renewed rural protest, of individual instances of heinous criminality, as well as ordinary murder, the authorities did not restrict the sanctions they applied to the gallows and the anatomy theatre. They continued to have recourse to immediate execution and to direct that bodies were sent to Surgeons' Hall for dissection; they sent individuals to be hanged, drawn and quartered, and, on occasion, ordered the spiking of heads.[87] Moreover, as both George Robert Fitzgerald of county Mayo and Robert Keon of county Leitrim learned to their cost they did so regardless of social status.[88] The one sanction, previously popular, that continued to decline was gibbeting. Yet the gibbeting of Peter Murphy for a brutal assault on the family of Alexander Berkley at Forkhill, county Armagh, in 1791 indicates that the sanction was still resorted to on occasions.[89] Moreover it had its champions. One may instance the commentator who commended in 1789 that if 'every villain who adds cruelty to robbery' was 'hung in chains' it must have a dissuasive impact. However, in common with their English equivalents, Ireland's authorities in the 1780s were disposed to conclude that the extension of the practice of sending the bodies of offenders for dissection (to the Surgeons' Hall in Dublin, and county infirmaries elsewhere) had all but eliminated the need for the prolonged display of the executed body.[90]

As this suggests, though the advocates of reform had by no means vanquished their critics, there was a willingness in the 1780s to reimagine the way in which capital offenders were treated, and to amend the way in which capital punishment was applied. The changes made to the regulations appertaining to dissection were obviously crucial in this context, not least because they affected so many individuals, though they were arguably less consequential symbolically as well as in reality than the replacement in 1791 of the practice of burning women with death by hanging.[91] Yet what the changes to the application of capital punishment, the reforms that were made to the prison system, and the initiation, following the closure of the North American option, of transportation to Australia demonstrate is that though the political and administrative elites were neither inflexible nor opposed to incremental reform, they were loath to engage in fundamental change.[92] There were obviously good administrative reasons for this, and it was probably as well that the disposition to reform and to restructure had peaked before the effects of the French Revolution began to lap the kingdom's shores, as the reformist impulse was not to flourish in the more ideologically and politically confrontational environment of the 1790s.

Capital Punishment in the 1790s

The 1790s was one of the most violent decades in Irish history. Moreover, whereas the challenge presented by the various manifestations of agrarian protest that had arisen since the 1760s were erroneously perceived within the ruling elite as a *bone fide* threat to the security of the state, and problematical cases of treason pursued against some on that basis, the Defenders, who emerged in county Armagh in the 1780s and who had spread across south Ulster and north Leinster by the early 1790s constituted a genuine revolutionary threat. They espoused a potent ideology that combined militant Catholicism, millennial utopianism and French republicanism and pursued a still more violent approach than their less overtly politicised antecedents.[93] The authorities responded in kind, with the result that, beginning in the early 1790s record numbers of Defenders were brought to trial. Faced with full charge sheets, and as convinced as ever that the threat to law and order could be prosecuted out of existence, the judiciary responded in characteristic fashion with the full menu of sanctions available to them. As a result, unprecedented numbers of individuals were sentenced to hang, and significant numbers were ordered for instant execution.[94]

Immediate execution did not prove the anticipated deterrent, however, with the inevitable result that as recruitment into the ranks of insurgency expanded, and the threat to the political order assumed a more coherent shape following the embrace of the Defenders within the revolutionary structure adopted by the United Irishmen in 1795, the authorities inevitably sought to apply still more forceful sanctions. One of these was to order that the body was left hanging on the gallows for several days as a caution to others.[95] Another, which possessed greater appeal from the summer of 1795 when the Defenders and the United Irishmen joined forces and embraced a revolutionary strategy aimed at undermining the Protestant ascendancy and making Ireland a republic, involved recourse to the law of treason. Though appeal to this law was not unprecedented, it was rarely resorted to in the eighteenth century until this point, but once it was determined, beginning in the autumn of 1795, to invoke the law of treason and to sentence those found guilty not only to hang until dead but also to have their head struck off and presented to the crowd that attended their execution as 'the head of a traitor', it was appealed to routinely. Many individuals experienced this fate in 1795, 1796 and 1797, but only a minority were subject to the indignity experienced by the county Kildare schoolmaster, Lawrence O'Connor, whose head was displayed 'on the top of [Naas] jail upon

an iron spike seven feet high'.[96] A number of municipal corporations, such as Trim, deemed the placement of the heads of Defenders and others on spikes on their prison roofs as offensive, but the tide of official opinion was so strongly supportive of a security driven response to sedition, believing it was clearly 'for the good', that no concession was made to their reservations.[97] The conservative junto that dominated the corridors of power was convinced that this was the only appropriate response, though there is good evidence to suggest that it was counter-productive, as it provided their radical-minded opponents with a long list of martyrs whom they deployed to good effect to attract and to inspire new recruits.[98] Be that as it may, capital punishment was a staple feature of the counter-insurgency strategy pursued by the Irish administration in 1796, 1797 and early 1798, for while the soldiers, who were tasked with its implementation, bowed to military sensibilities by employing a firing squad to terminate those soldiers who succumbed to the subversive impulse, death by hanging, whether on a gallows or the shafts of an upended cart, remained the primary means of disposing of insurgents.[99]

The relentless manner in which record numbers were sent to their death contributed to the disruption of the insurgents' plans, but it could not prevent a Rebellion in the summer of 1798. This was put down with relative efficiency, but the scare it gave the authorities and the Protestant population at large ensured that the demand for retribution was strong. It has been calculated that 378 (out of 1,358 who were convicted by a variety of military and civil tribunals) were hanged, but the number summarily executed was far larger.[100] Many of these were dealt with expeditiously, and consigned quickly to the ground, but the resistance to the use of the bodies of the dead and the display of the head of 'traitors' for exemplary purposes was in full retreat. This was evident in the frequency with which those who had led the Rebellion not only had their heads struck off and held up as 'the head of a traitor', many, particularly in the rebellion-torn south east, were subject to the further indignity of being displayed on spikes. It is a measure of the extent of the reversion to older, harsher ways that took place that when in May 1799 Walter Devereux of county Wexford was found guilty of 'being a leader of rebellion, and concerned in the murder of different persons that were made prisoner by the rebels who acted under his authority', it was the judgment of the court 'that his head should be severed from his body, and exposed as the head of a traitor, his heart burned, and his body either quartered or given for dissection'.[101] Others, such as Matthew Keugh, governor of Wexford during the Rebellion, Bagenal

Harvey and Cornelius Grogan had their heads displayed on pikes outside Wexford courthouse for weeks.[102] It might have been still longer. When R. R. Madden came to write in the 1840s of the treatment of those tried for the murder of Colonel Robert Hutchison of Macroom in 1799 his starting point was 'the horrid sight of several skulls stuck on spikes on the roof of the bridewell' in the town some thirty to forty years after the event for which six men were executed, and five heads were impaled on spikes.[103] Elizabeth Ham recorded a similar sighting of 'rebel' heads on a visit to Carlow in 1804.[104] Both Ham and Madden provide a vivid illustration of the disagreeable visual legacy of the 1798 Rebellion, and a practical illustration of the implications of the argument advanced by *Freeman's Journal* at the height of the post-rebellion clean-up that the policy of mass execution then at its height must have positive consequences since it would 'operate *in terrorem*' to discourage others from following the same path, which would inevitably contribute to the restoration of permanent order in the country.[105]

Conclusion

The exemplary punishments resorted to in the aftermath of the 1798 Rebellion gave renewed confidence to those who believed that capital punishment was a necessary bulwark to the maintenance of an orderly society. It is hardly surprising as a result that its short-term legacy was an increased recourse to the display of the executed body whether whole on the gallows or only of the head on the roof of jails, bridewells and barracks. References to gibbeting are more elusive, which suggests it was less commonly resorted to, but its deployment in the aftermath of the outrage perpetrated at Wildgoose Lodge, county Louth in 1816 when eight members of a family were murdered for failing to show solidarity with the Ribbonmen – an agrarian movement then a force in this area – indicated that it had not been abandoned.[106] One ought not to conclude from this that the genie of severe punishment that had been resorted to in response to insurgency and sedition in the 1790s had not been contained. The Irish countryside was not a stranger to atrocity or outrage in the early nineteenth century, but a majority of those who were sent to the gallows were executed in a standard fashion, and few were tried for treason.[107] And in a further indication that the kingdom was returning to normality, a number of prominent voices, such as Sir Thomas Bond of Coolamber, county Longford, persuaded that 'our laws are much too sanguinary', were raised in protest at what they perceived as the unnecessary severity of the sentences that

continued to be handed down.[108] One of their favourite targets was the denomination of theft as a capital offence, but the bishop of Clonfert, Christopher Butson, went further. He challenged the very basis of the criminal justice system when he contended in a sermon preached in 1807 before the lord lieutenant that any attempt 'to subdue crime with the severity of punishment' was bound to fail.[109] Butson and Bond were minority voices at this point, but it was significant that they were raised. Moreover, they had the tide of history on their side even if at that moment the flow was where it had been throughout most of the eighteenth century with those who perceived that capital punishment was not only legitimate but also necessary if those whom Butson termed the 'quiet subjects of the state' were not to be overrun by those for whom murder was merely a way to an end.[110]

Notes

1. See James Kelly, 'Responding to Infanticide in Ireland, 1680–1820', in Elaine Farrell (ed.), '*She said she was in the Family Way': Pregnancy and Infancy in Modern Ireland* (London, 2012), pp. 189–204, for a consideration of the application of the sanction of death by burning to women responsible for infanticide; *Everyman his own Lawyer, or a Summary of the Laws now in Force in Ireland* (Dublin, 1755), pp. 346–7; Taylor to Perceval, 20 January 1731, Egmont papers, British Library (BL), Add. MS 46982 f. 1. It is pertinent also to mention that it was confidently maintained in England that it was the practice in Ireland to strangle female offenders before burning. There is evidence in the contemporary Irish record from the 1770s and 1780s to support this claim, but not the additional assertion that it was only clothing that was burned since the bodies of female offenders were spirited away for burial 'before the blaze touches the body': *Finn's Leinster Journal*, 18 September 1773; *Hibernian Journal*, 23 October 1776, 23 August 1784; *Dublin Evening Post*, 22 March 1783; *Freeman's Journal*, 22 March 1783; Simon Devereaux, 'The Abolition of the Burning of Women in England Reconsidered', *Crime, History and Societies* 9 (2005), 73.
2. Pieter Spierenburg, 'The Body and the State: Early Modern Europe', in Norval Morris and D. J. Rothman (eds), *The Oxford History of the Prison: The Practice of Punishment in Western Society* (Oxford, 1995), p. 54.
3. Peers of the realm, found guilty of high treason, were alone eligible to be beheaded.
4. For example, in 1666 the authorities ordered that the heads of three conspirators (Warren, Tomson and Jephson) should be 'set upon poles in two of the [Dublin] Castle towers', and the conveyance to Dublin of the head of Edmund Nangle, a Tory, from county Longford where he was killed so it could be 'set upon a pole on St James Gate': Diary of James Ware, BL, Add. MS 4784 ff. 245. I wish to thank Dr Mark Empey for bringing the latter source to my notice.
5. James Kelly, 'Capital Punishment in Early Eighteenth-Century Ireland', in Serge Soupel (ed.), *Crime et Chatiment dans les Isles Britanniques au Dix-Huitieme Siecle* (Moscow and Paris, 2001), pp. 155–72.

6. James Kelly, *Gallows Speeches from Eighteenth-Century Ireland* (Dublin, 2001). It must be added that the practice of delivering last speeches was not abandoned. Some of those sentenced to die at the gallows continued to deliver formal speeches, and that a handful were published in the press: see *Ennis Chronicle*, 27 September 1792, 8 October 1792, and *Cork Advertiser*, 24 March 1812 for examples.
7. Neal Garnham, *The Courts, Crime and the Criminal Law in Ireland, 1692–1760* (Dublin, 1996), p. 25.
8. The quote is from Devereaux, 'The Abolition of the Burning of Women in England Reconsidered', 73.
9. For the abolition of *peine forte et dure*, see *An Act for the More Effectual Proceedings against Persons Standing Mute on their Arraignment for Murder, Felony or Piracy*, 13 and 14 George III, Ch. 16; *Hibernian Journal*, 9 February 1774; *Finn's Leinster Journal*, 23 February 1774. For a fine analysis of the sanction of '*peine forte et dure*' see Andrea McKenzie, '"This Death some Strong and Stout Hearted Man doth Choose": The Practice of *Peine Forte et Dure* in Seventeenth- and Eighteenth-Century England', *Law and History Review* 23 (2005), 279–313. For the abolition of the burning of women, see 30 George III, Ch. 48 (GB); Kelly, 'Responding to Infanticide in Ireland, 1680–1820', 202; Devereaux, 'The Abolition of the Burning of Women in England Reconsidered', 73–98.
10. For transportation see James Kelly, 'Transportation from Eighteenth-Century Ireland', in David Dickson and Cormac Ó Grada (eds), *Reconfiguring Ireland: Essays in Honour of Louis Cullen* (Dublin, 2003), pp. 112–35, and for the debate on capital punishment versus imprisonment in the 1770s, see the following discussion in this chapter.
11. For London, see Simon Devereaux, 'Recasting the Theatre of Execution: The Abolition of the Tyburn Ritual', *Past and Present* 202 (2009), 128–74.
12. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (London, 1977); Devereaux, 'Recasting the Theatre of Execution', 31; Brian Henry, *The Dublin Hanged: Crime, Law Enforcement and Punishment in Late Eighteenth-Century Dublin* (Dublin, 1994); Devereaux, 'The Abolition of the Burning of Women in England Reconsidered', fn. 20.
13. See James Kelly, 'Irish Protestants and the Irish Language in the Eighteenth Century', in James Kelly and Ciarán MacMurchaidh (eds), *Irish and English: Essays on the Irish Linguistic and Cultural Frontier, 1600–1900* (Dublin, 2012), pp. 189–217.
14. The absence of a modern study of the Irish bench in the eighteenth century diminishes one's capacity to pronounce more authoritatively: for insights see F. E. Ball, *The Judges of Ireland, 1221–1921* (2 vols, London, 1926).
15. For the most recent, and comprehensive, engagement with the latter subject see Lesa Ní Mhunghaile, 'The Legal System in Ireland and the Irish Language, 1700–c.1843', in Michael Brown and S. P. Donlon (eds), *The Laws and other Legalities of Ireland, 1689–1850* (Farnham, 2011), pp. 325–58.
16. This observation, proffered by Revd John Milner in 1808 – *An Inquiry into Certain Vulgar Opinions concerning the Catholic Inhabitants of Ireland* (London, 1808), p. 74 – receives modern corroboration from V. A. C. Gatrell, *The Hanging Tree: Execution and the English People 1770–1868* (Oxford, 1994), p. 8; and S. J. Connolly, *Religion, Law and Power: The Making of Protestant*

Ireland 1660–1760 (Oxford, 1992), pp. 224–5; S. J. Connolly, 'Albion's Fatal Twigs: Justice and Law in the Eighteenth Century', in Rosalind Mitchison and Peter Roebuck (eds), *Economy and Society in Ireland and Scotland 1500–1939* (Edinburgh, 1988), pp. 118–19. See also J. M. Beattie, *Crime and the Courts in England 1660–1800* (Oxford, 1986), pp. 410–11, and Garnham, *Crime, Courts and the Law*, pp. 158–64.

17. This is not to suggest that uniformly severe punishment was an invariable colonial pattern, but rather to question the assumption – long embraced – that the pattern of criminal justice in pre-independence Ireland was draconian in absolute and relative terms. Further, it is pertinent to note that the number executed in Scotland and Wales was considerably in arrear of that in England – on this see Peter King and Richard Ward, 'Rethinking the Bloody Code in Eighteenth-Century Britain: Capital Punishment at the Centre and on the Periphery', *Past and Present* (forthcoming).
18. D. W. Hayton and James Kelly, 'The Irish Parliament in European Context: A Representative Institution in a Composite State', in D. W. Hayton, James Kelly and John Bergin (eds), *The Eighteenth-Century Composite State: Representative Institutions in Ireland and Europe, 1689–1800* (Basingstoke, 2010), pp. 3–20.
19. James Kelly, *Poynings' Law and the Making of Law in Ireland, 1660–1800* (Dublin, 2007), offers a detailed examination of the role of the British Privy Council in the making of Irish law.
20. *Everyman his own Lawyer*, p. 346.
21. Cesare Beccaria, *An Essay on Crimes and Punishment* (Dublin, 1777). The original work was published in Italian in 1764.
22. James Kelly, 'Infanticide in Eighteenth Century Ireland', *Irish Economic and Social History*, 18 (1992), 5–26; idem, 'The Abduction of Women of Fortune in Eighteenth-century Ireland', *Eighteenth-Century Ireland*, 9 (1994), 7–43; idem, 'A Most Inhuman and Barbarous Piece of Villainy': An Exploration of the Crime of Rape in Eighteenth-century Ireland', *Eighteenth-Century Ireland*, 10 (1995), 78–107; idem, 'Suicide in Eighteenth-century Ireland', in James Kelly and Mary Ann Lyons (eds), *Death and Dying in Ireland, Britain and Europe* (Dublin, 2013), pp. 95–142.
23. A wait of 20 minutes was standard, but it was not always observed. Indeed, stories, possibly apocryphal, abounded that some offenders who were cut down sooner, were brought back to life after bleeding: see *Dublin Gazette*, 24 April 1730; *Pue's Occurrences*, 2 May 1741; *Dublin Newsletter*, 14 March, 25 April 1741; *Hibernian Journal*, 13 April 1774; Kelly, *Gallows Speeches*; Sir John Gilbert, *History of Dublin*, vol. 1, pp. 271–2; *Dublin Intelligence*, 29 April, 2 May 1727, 8 June 1728; *Dublin Weekly Journal*, 30 May 1730.
24. See J. G. Simms, *Jacobite Ireland, 1686–91* (London, 1969); James Kelly, 'Commemoration and Protestant Identity, 1680–1800', *Royal Irish Academy Proceedings*, 94 (1994), 29–34.
25. Colm Ó Conaill, 'The Irish Regiments in France: An Overview of the Presence of Irish Soldiers in French Service, 1716–91', in Eamon Maher and Grace Neville (eds), *France and Ireland: Anatomy of a Relationship* (Frankfurt, 2004), pp. 327–42; Eamonn Ó Ciardha, *Ireland and the Jacobite Cause, 1685–1766* (Dublin, 2000), Ch. 2.
26. James Kelly, 'Disappointing the Boundless Ambitions of France': Irish Protestants and the Fear of Invasion, 1661–1815', *Studia Hibernica* 37 (2011), 39–50.

27. John Ainsworth (ed.), *Inchiquin MSS* (Dublin, 1963), pp. 39–40.
28. *An Act for the Better Suppressing Tories, Robbers and Rapparees; and for Preventing Robberies, Burglaries and other Heinous Crimes*, 7 William III, Ch. 21; James Kelly and Mary Ann Lyons (eds), *The Proclamations of Ireland, 1660–1820* (5 vols, Dublin, 2014), Vol. 2, passim; *Flying Post*, 16 May 1704, printed in W. B. Ewald (ed.), *The Newsmen of Queen Anne* (Oxford, 1956), p. 142.
29. Johnson to Ormond, 5 April 1707, Ormond papers, National Library of Ireland (NLI), MS 2472 ff. 51–55. Gibbeting was not unknown in Ireland: when the 'highwayman' Patrick Flemming was executed in Dublin in 1650, his body was 'hanged in chains on the high road without the city' to serve as a caution to others: see J. L. Rayner and G. T. Cooke, *The Complete Newgate Calendar* (6 vols, London, 1926), Vol. 1, pp. 80–4.
30. Kelly and Lyons (eds), *The Proclamations of Ireland*, Vols 1 and 2.
31. Connolly, 'Albion's Fatal Twigs', 118; S. J. Connolly, 'Law, Order and Popular Protest in Early Eighteenth-Century Ireland: The Case of the Houghers', in P. J. Corish (ed.), *Radicals, Rebels and Establishments* (Belfast, 1985), pp. 51–68.
32. *The Last Speech, Confession and Dying Words of Moses Nowland … on 6th of July 1706* (Dublin, 1726); Kelly, *Gallows Speeches*, pp. 208–11.
33. *Dublin Courant*, 21 February 1747.
34. The murder of Andrew St Leger and his wife created a sensation. Croneen was the subject of a proclamation which was posted throughout Munster, and which contributed to his capture in November at Limerick, where he was identified by a customs officer seeking to board ship bound for Spain. Taken to Cork, Croneen was tried in January 1731 at a special commission of oyer and terminer, found guilty and hanged, drawn and quartered on 15 January: see *Daily Post*, 16 June 1730; *Universal Spectator and Weekly Journal*, 9 January 1731; *Daily Courant*, 21 January 1731; *London Evening Post*, 4 February 1731; Taylor to Perceval, 20 January 1731, Egmont papers, BL, Add. MS 46982 f. 1; *Dublin Newsletter*, 25 March 1740; James Kelly, *'That Damn'd thing called Honour': Duelling in Ireland 1570–1860* (Cork, 1995), pp. 61–2; Connolly, *Religion, Law and Power*, p. 69.
35. *Dublin Gazette*, 8 November 1740; *Dublin Courant*, 21 February 1747; F. H. Tuckey, *The County and City of Cork Remembrancer* (Cork, 1837), p. 132; Kelly, *Duelling*, p. 60; *An Act for Preventing the Horrid Crime of Murder*, 25 George II, Ch. 37 (GB).
36. For a discussion of a 'good death' in the Irish context see Kelly, *Gallows Speeches*, pp. 41–5.
37. *The Last Speeches and Dying Words of Tully Slevin, John Dempsey and Patrick Murphy … the 3rd of May 1727* (Dublin, 1727). See also *Dublin Intelligence*, 9 July 1726; John Brady, *Catholics and Catholicism in the Eighteenth-Century Press* (Maynooth, 1966), p. 312.
38. Gunning was sentenced to 'be half hang'd, and then cut down, his vitals burnt before his face, and his quarters disposed of': *Tryal and examination of Nathaniel Gunning…* (Dublin, [1704]), p. 2; as note 34.
39. *The Last Speech and Dying Words of Charles Calaher, alias Collmore who was Tried on the 17th February 1719* (Dublin, 1719); *The Last Speeches of Patrick Carragher, Nephew to the Great Collmore… 21 February 1719* (Dublin, 1719); Kelly, *Gallows Speeches*, pp. 14–16.

40. *Everyman his own Lawyer*, p. 347. As the *OED* indicates, though the noun 'gibbet' was originally synonymous with gallows, it evolved to signify an upright post with projecting arm from which the bodies of criminals were hung in chains or irons after execution. By the eighteenth century the verb 'to gibbet' referred to the practice of hanging a body on 'a gibbet by way of infamous exposure'.
41. Rayner and Cook, *The Complete Newgate Calendar*, Vol. 3, pp. 157–61.
42. Representation by county Meath Grand Jury, 5 August 1730, National Archives of Ireland (NAI), Calendar of Presentments, ff. 221–222.
43. *Pue's Occurrences*, 23 October 1731, 18 April 1732.
44. *Pue's Occurrences*, 13 October 1741, 27 March 1742; *Faulkner's Dublin Journal*, 13 October 1741; *Dublin Newsletter,* 13 October 1741. There is a misleading account of the episode in Rayner and Cook, *The Complete Newgate Calendar*, Vol. 3, pp. 121–2. Steps were subsequently taken to seize John Bodkin's estate: NAI, Calendar of Miscellaneous Letters and Papers prior to 1760, f. 244.
45. Arch Elias (ed.), *Memoirs of Laetitia Pilkington* (London, 1997), p. 716; *Universal Advertiser*, 12 May, 2 June, 11 September 1753, 2, 5, 19 April 1757; *Pue's Occurrences*, 26 March, 19 April 1757.
46. *Freeman's Journal*, 4, 8, 29 March 1788; *Public Gazetteer*, 4, 29 March, 5, 12 April, 17 May 1766.
47. *Public Gazetteer*, 15 November 1763, 23 August 1766; *Dublin Mercury*, 19 August 1766; *Hibernian Journal*, 13 September 1773; *Finn's Leinster Journal*, 13 April 1774, 19 April, 6 May 1775.
48. Elias, *Memoirs of Laetitia Pilkington*, p. 716.
49. *Hoey's Publick Journal*, 17 May 1771; *Hibernian Journal*, 31 March, 28 April 1786; *Saunders Newsletter*, 15 March, 12 April 1786; *Dublin Evening Post*, 9, 14, 30 March, 11 April 1786.
50. *Freeman's Journal*, 18 April 1799.
51. See Patrick Corish, *The Irish Catholic Experience: A Historical Survey* (Dublin, 1985); S. J. Connolly, *Priests and People in Pre-Famine Ireland* (Dublin, 1982); A. E. McGrath, *Christian Theology: An Introduction* (Oxford, 1994), pp. 337–68.
52. *Hibernian Journal*, 25 July 1777; C. B. Gibson, *History of the County of the City of Cork* (2 vols, Cork, 1861), Vol. 2, p. 204; *Freeman's Journal*, 12 April 1774; *Dublin Chronicle*, 9 October 1787.
53. See *Hoey's Public Journal*, 15 June 1772, which advertised a British publication appertaining to cases of individuals who were tried and executed for crimes for which they were innocent. See also *Hibernian Journal*, 12 March 1777.
54. *Dublin Courant*, 26 December 1747.
55. Gibson, *History of the County of the City of Cork*, Vol. 2, pp. 204–5.
56. *Ibid.*, Vol. 2, p. 204.
57. *Universal Advertiser*, 14 August 1753; James Kelly, 'Suicide in Eighteenth-Century Ireland', in James Kelly and Mary Ann Lyons (eds), *Death and Dying in Ireland, Britain and Europe: Historical Perspectives* (Dublin, 2013), pp. 128–31. By way of contrast, when the infamous Dorcas Kelly's body was sent to be 'buried under the gallows' in 1761, her body was 'forcibly taken' and brought to a more acceptable location: *Public Gazetteer*, 10 January 1761.
58. J. S. Donnelly, 'The Whiteboy Movement, 1761–5', *Irish Historical Studies 22* (1978–9), 20–55.
59. *Public Gazetteer*, 15 June 1762, 2, 5 April 1763.

60. *Public Gazetteer*, 3 July 1762, 2, 5 April 1763.
61. *Public Gazetteer*, 29 June 1762, 4 June 1763.
62. Donnelly, 'The Whiteboy Movement', 20–55; James Kelly (ed.), 'The Whiteboys in 1762: A Contemporary Account', *Journal of the Cork Archaeological and Historical Society* 94 (1989), 19–26.
63. *Public Gazetteer*, 29 June, 3 July 1762, 4 June 1763; W. G. Neely, *Kilcooley: Land and People in County Tipperary* ([place unknown], 1983), p. 74; *Dublin Gazette*, 6 April 1765.
64. Brady (ed.), *Catholics in the Press*, pp. 121, 140; T. P. Power, 'Fr Nicholas Sheehy', in Gerard Moran (ed.), *Radical Irish Priests 1660–1970* (Dublin, 1998), pp. 62–78; *Freeman's Journal*, 18 March 1766.
65. See T. M. Devine, 'Unrest and Stability in Rural Ireland and Scotland, 1760–1840', in Peter Roebuck and Rosalind Mitchison (eds), *Economy and Society in Scotland and Ireland, 1500–1939* (Edinburgh, [1988]), pp. 126–39; J. S. Donnelly, 'The Whiteboys of 1769–76', *Proceedings of the Royal Irish Academy* 83 (1983), 293–331; J. S. Donnelly, 'The Whiteboy Movement, 1785–88', *Studia Hibernica* 17 and 18 (1977–8), 120–202.
66. The 1765 Act (5 George III, Ch. 8) made it a capital offence to assemble in order to perpetrate an assault and to destroy goods and property, to rescue prisoners and to administer an oath with a threat of violence. The 1776 Act (15 and 16 George III, Ch. 21; *Finn's Leinster Journal*, 10 April 1776) added aiding and succouring Whiteboyism, sending threatening letters demanding money, arms and ammunition, and assault and violence conducted in the Whiteboy cause at night to the list of capital offences.
67. R. E. Burns, 'Ireland and British Military Preparations for War in America in 1775', *Cithara* 2 (1963), 53–9; Patrick Power, 'A Bundle of Old Waterford Newspaper', *Journal of the Waterford and South-East of Ireland Archaeological Society* 12 (1909), 131; *Finn's Leinster Journal*, 6 April,1 May 1776; *Hibernian Journal*, 11 September 1775.
68. *Pue's Occurrences*, 5 August 1755; *Freeman's Journal*, 25 September 1764, 9 November 1765; *Dublin Gazette*, 9 November 1765; *Finn's Leinster Journal*, 21 September 1768, 22 February, 28 June 1769, 4 September, 12 October 1776, 8 April 1778.
69. *Hibernian Journal*, 6 May 1772, 13 September 1773, 11 September 1780; *Finn's Leinster Journal*, 6 April 1774, 19 April, 6 May 1775, 22 August, 12, 16 September 1779.
70. *Hibernian Journal*, 14 July 1773, 25 October 1775; *Finn's Leinster Journal*, 2 October, 24 December 1773.
71. *Hibernian Journal*, 26 June 1771, 26 March 1777; *Hoey's Public Journal*, 22 September 1773; *Finn's Leinster Journal*, 9 March 1774, 15 April 1775.
72. *Finn's Leinster Journal*, 14 August 1773; *Hoey's Public Journal*, 18 September 1772; *Public Gazetteer*, 13, 17 March 1759 (reporting on the severity of sanctions in France); *Hoey's Public Journal*, 3 February 1772 (Sweden); *Public Gazetteer*, 6, 10 February 1759, *Hoey's Publick Journal*, 19 August 1772 (Portugal); *Hibernian Journal*, 19 May (Holland); *Hibernian Journal*, 20 September 1782 (Russia).
73. *Hibernian Journal*, 4 October 1776, 29 March, 30 July, 8 August 1777, 20 November 1780, 8 August, 5 October 1781; 5 and 6 George III, Ch. 8; 13 and 14 George III, Ch. 45; 15 and 16 George III, Ch. 21.

74. The best available account is Oliver MacDonagh, *The Inspector General: Sir Jeremiah Fitzpatrick and the Politics of Social Reform 1783–1801* (London, 1981), pp. 43–61.
75. Henry, *Dublin Hanged*, pp. 16, 23–5; John Carr, *The Stranger in Ireland* (London, 1806), pp. 116–19. For the same process, which was pursued with the same purpose shortly afterwards in London, see Devereaux, 'Recasting the Theatre of Execution', 128–74.
76. *Hibernian Journal*, 30 December 1782; *Dublin Evening Post*, 4 January 1783.
77. *Dublin Evening Post*, 4 January 1783.
78. J. D. H. Widdess, *A History of the Royal College of Physicians of Ireland 1654–1963* (Edinburgh, 1963), pp. 38–9; A. C. B. Hooper, 'Dublin Anatomy in the Seventeenth and Eighteenth Centuries', *Dublin Historical Record* 40 (1987), 126, 130–1.
79. Vincent Morley, *Irish Opinion and the American Revolution 1760–83* (Cambridge, 2002), pp. 90–5, 127–9, 181–3, 252–7; M. J. Powell, 'Ireland's Urban Houghers: Moral Economy and Popular Politics in the Late Eighteenth Century', in Michael Brown and S. P. Donlon (eds), *The Laws and other Legalities of Ireland, 1689–1850* (Farnham, 2011), pp. 231–53.
80. *Ennis Chronicle*, 12 July 1790.
81. *Hibernian Journal*, 30 December 1782; *Dublin Evening Post*, 4 January, 15 March 1783.
82. *Dublin Evening Post*, 21 January 1783.
83. *Dublin Evening Post*, 5, 7, 9 August 1783, 6, 15 October 1785, 13 April, 4 May 1786; *Volunteer Evening Post*, 12 February, 25 March,18 May, 15 June 1784, 28 July, 15 October, 8 November, 22 December 1785; *Hibernian Journal*, 21 May 1784, 28 April 1790, 6 May 1791, 29 October 1792; *Freeman's Journal*, 6 May 1786, 1 April 1794; *Dublin Chronicle*, 8 July 1790, 28 April 1792; *Ennis Chronicle*, 12 July 1790.
84. *Freeman's Journal*, 13 September 1785, 29 June 1786, 12 April 1788; *Dublin Evening Post*, 19 September 1785; *Hibernian Journal*, 3 August 1789, 7 July 1790; *Volunteer Journal (Cork),* 24 April 1786; S[ackville] H[amilton], 'Thoughts on the Police of Ireland', 13 February 1786, NLI, Bolton Papers, MS 15928.
85. *Dublin Chronicle*, 24 January 1788; *Dublin Evening Post*, 13 April 1786, 1 May 1787.
86. *Dublin Chronicle*, 23 September 1788, 4 January, 25 April 1791. It may be noted that William Brett was executed in the same city on 31 May 1791.
87. *Ennis Chronicle*, 9, 23 May, 25 September 1791. In 1788, Pat Donnolly, the leader of a gang that killed two members of a family, and would have killed two more but for the fact that they were interrupted, was hanged, and his head displayed on top of Omagh jail: *Dublin Chronicle*, 29 March 1788.
88. *Dublin Evening Post*, 13 April, 15 June 1786; *Dublin Chronicle*, 23 February, 31 July, 7 August 1788, 7 August 1790, 3 September 1791; Desmond McCabe, '"A Small Expense of Blood": Denis Browne and the Politics of Westport House, 1782 to 1809', in Sheila Mulloy (ed.), *Victory or Glorious Defeat: Biographies of Participants in the Mayo Rebellion of 1798* (Westport, 2010), pp. 40–1; George Joseph Browne, *A Report of the Proceedings of the Whole Proceedings … on the Trial of Robert Keon, Gent., for the Murder of George Nugent Reynolds* (Dublin, 1788), pp. 161–2.

89. Kyla Madden, *Forkhill Protestants, Forkhill Catholics* (Liverpool, 2005), pp. 1–3.
90. *Dublin Chronicle*, 26 November 1789; *Ennis Chronicle*, 30 April 1792; *Cork Advertiser*, 11 August 1801. For debates about the post-execution dissection of criminals in England in the 1780s and 1790s see Richard Ward, 'The Criminal Corpse, Anatomists and the Criminal Law: Parliamentary Attempts to Extend the Dissection of Offenders in Late Eighteenth-Century England', *Journal of British Studies* 54 (2015).
91. Kelly, 'Responding to Infanticide in Ireland, 1680–1820', p. 202.
92. MacDonagh, *The Inspector General: Sir Jeremiah Fitzpatrick*, pp. 42–148; Kelly, 'Transportation from Eighteenth-Century Ireland', p. 125; Bob Reece, *The Origins of Irish Convict Transportation to New South Wales* (Basingstoke, 2001).
93. David Miller, *Peep O'Day Boys and Defenders: Selected Documents on the Disturbances in County Armagh, 1784–1796* (Belfast, 1990); Thomas Bartlett, 'Defenders and Defenderism in 1795', *Irish Historical Studies* 24 (1984–5), 373–81; Jim Smyth, *The Men of No Property: Irish Radicals and Popular Politics in the Late Eighteenth Century* (London, 1992).
94. *Dublin Chronicle*, 8 September 1791; *Hibernian Journal*, 11 March 1793; *Freeman's Journal*, 9, 26 March, 30 July 1793.
95. This was the fortune of Charles Gorman who was executed for the murder of Caleb Harman, MP, in county Longford: *Walkers Hibernian Magazine* 3 (1796), 287; James Kelly, 'The Politics of the Protestant Ascendancy in County Longford, 1630–1840', in Fergus O'Ferrall and Martin Morris (eds), *Longford: History and Society* (Dublin, 2010), pp. 192–3. For other, later, instances see *Walkers Hibernian Magazine* 4 (1787), 381.
96. Liam Chambers, *Rebellion in Kildare 1790–1803* (Dublin, 1998), p. 37; *Walkers Hibernian Magazine* 2 (1795), 354. By contrast, Patrick Hart, who was executed in front of Newgate Gaol, Dublin, was interred in the inner yard of the prison: *Freeman's Journal*, 22 March 1796.
97. *Dublin Evening Post*, 10, 12 March 1796; Arthur Wolfe to Edward Cooke, 17 September 1797, NAI, Rebellion papers, 620/32/132.
98. Thomas Bartlett, *The Fall and Rise of the Irish Nation: The Catholic Question 1690–1830* (Dublin, 1992), p. 226; Nancy Curtin, *The United Irishmen: Popular Politics in Ulster and Dublin, 1791–98* (Oxford, 1994), p. 147.
99. A. T. Q. Stewart, *The Summer Soldier: The 1798 Rebellion in Antrim and Down* (Belfast, 1998), pp. 39–43; *Walkers Hibernian Magazine* 4 (1787), 467; P. Power, 'A Carrickman's Diary, 1787–1809', *Journal of the Waterford and South-East of Ireland Archaeological Society* 15 (1912), 127–8.
100. R. B. McDowell, *Ireland in the Age of Imperialism and Revolution, 1760–1801* (Oxford, 1979), pp. 675–7; Michael Duffy, 'War, Revolution and the Crisis of the British Empire', in Mark Philip (ed.), *The French Revolution and British Popular Politics* (Cambridge, 1991), p. 140; McCabe, 'A Small Expense of Blood', pp. 67–9, 74, 319.
101. *Freeman's Journal*, 25 May 1799.
102. Daniel Gahan, *The People's Rising: Wexford 1798* (Dublin, 1995), pp. 241–2.
103. R. R. Madden, *Revelations of Ireland in the Past Generation* (Dublin, 1848), p. 126.
104. E. Gillet (ed.), *Elizabeth Ham by Herself, 1783–1820* (London, 1945), p. 75.

105. *Freeman's Journal*, 9 November 1799.
106. Terry Dooley, *The Murders at Wildgoose Lodge: Agrarian Crime and Punishment in Pre-Famine Ireland* (Dublin, 2008). According to William Carleton, the landscape of county Louth was 'studded with gibbets': see D. J. O'Donoghue (ed.), *The Life of William Carleton, being his Autobiography and Letters* (Dublin, 1894), p. 134. I wish to thank Professor Sarah Tarlow for the latter reference.
107. See, for example, the executions performed in 1818 at different locations reported in the *Ennis Chronicle*, 28 March, 1 April, 18 July 1818; *Cork Advertiser*, 8 December 1818.
108. Sir Thomas Bond, *Hints tending to Increase the Wealth and Promote the Peace and Welfare of the Irish Nation* (Dublin, 1803), p. 19.
109. *A Sermon Preached before his Grace John, Duke of Bedford … and the Members of the Association for Discountenancing Vice and Promoting the Knowledge of the Christian Religion in St Peter's Church on 9 April 1807 by the Bishop of Clonfert* (Dublin, 1807), pp. 9–10.
110. *Ibid.*, p. 10.

2

‘For the Benefit of Example’: Crime-Scene Executions in England, 1720–1830

Steve Poole

In the summer of 1818, two young men, John Chennel and William Chalcraft, were bundled onto a cart and taken in procession to Godalming meadows on the banks of the Thames to be hanged for the murder of Chennel’s father and his elderly housekeeper. Although it was less than four miles from the prison, the road was congested with people making their way to the field and the journey took nearly four hours to accomplish. Crowds ‘lined the road as far as the eye could see’, it was reported, ‘in the narrower places they were pressed together so closely as to be endangered by the horses, which raised clouds of dust that literally enveloped them. All the heights on the road were crowned with multitudes and where an open space occurred, they spread out so as to cover it. The greatest part consisted of farm servants in their usual costume and we never observed so many smock frocks and white straw hats in our lifetime.’[1]

The cavalcade was led on horseback by the high constable of Surrey and six ceremonially dressed javelin men, followed by the undersheriff with two flanking officers and a party of constables on foot. Then came Chennel and Chalcraft, accompanied in the cart by a clergyman and the executioner, and behind them the prison gaoler with three more officers, another six javelin men and a second party of constables. The spot was purposefully chosen, an arena ‘surrounded by hills’, and a gallows ‘of extraordinary elevation’ within sight of Chennel’s rented farm and the town where his father was murdered.[2] ‘A spectacle so unusual could not fail to attract universal attention’, noted the *Morning Post* as it recited the names of hamlets presumed unfamiliar to its readers but from which a crowd 15,000 strong had surely been attracted: ‘Merrow, Klandon, Sheere, Aldbury... ’ An encircling rope barrier kept people at a respectable distance from the gallows but the condemned men nevertheless asked for hoods to cover their faces in a vain attempt to preserve

their anonymity from all those who knew them. The prison chaplain, the gaoler and a county officer each attempted without success to persuade Chennel and Chalcraft to make a dramatic public confession, then the ropes were fixed and both men allowed to fall from the back of the cart. The drop was not sufficient to break their necks so both men struggled, but the executioner obligingly stepped forward to pull on their heels until they were still.[3]

The performance was not yet over. After hanging for the customary hour, the bodies were cut down, placed back on the cart, and 'conveyed in slow and awful silence through the town of Godalming to the house of the late Mr Chennel'. There 'the bodies were removed from the waggon into the kitchen of the house, one of them being placed on the very spot where the housekeeper was found murdered', and dissected by surgeons. 'The bodies in this state were left exposed to the view of thousands who, throughout the day, eagerly rushed in to see them.'[4]

These events took place some thirty-five years after the abandonment of execution processions in London, and the replacement of rough strangulation at Tyburn with relatively faster hangings on a drop mechanism at Newgate Gaol. By this time, Surrey hangings at Horsemonger Lane had become so regularised that executioners might be expected to officiate at one hanging outside Newgate, then cross the river to Southwark for another in a single morning. Sarah Fletcher, a 19-year-old woman convicted of child murder at the Surrey assize in 1813 and brought up onto the gaol roof to be executed, remained 'only a few minutes' in prayer with the ordinary before being launched; the business conducted quickly and at a distance from the crowd.[5] Hanging people from beams at the scene of their crime, by contrast, is a practice most often associated by historians with pre-modern England, and it is certainly true that Chennel and Chalcraft's grisly demise in 1818 constituted an exception rather than the rule. It was by no means the last of its kind, however, for crime-scene hangings continued in England until at least 1830 and may be traced in Scotland as late as 1841.[6] This chapter represents an attempt to understand the purpose and longevity of a practice seemingly at odds with modern concerns for uniformity, efficiency and economy, and even 'the civilising process'.

Centralisation and Modernity: The End of Processional Culture?

Processing the condemned across a mile or two of country between county gaol and a customary gallows site on the edge of town at the

conclusion of every assize was a commonplace practice in most counties of eighteenth-century England. Whereas medieval and early modern hangings had tended to cohere at more scattered locations on parish boundaries and intersections a short distance from the manorial courts that ordered them, matters were much simplified over subsequent centuries.[7] As Pieter Spierenburg has noted, by the end of the 'pre-industrial era ... a regular location prevailed', albeit one that, in its attraction to peripheries and boundary lines, retained traditional emphases on topographical and administrative liminality. For the majority of counties, the adherence in practice to processional culture and customary place remained largely unchanged until a quarter of the way into the nineteenth century. This 'step towards uni-locality', Spierenburg has written, 'marks the routinizing of public punishment' in Europe.[8] The central concern with executing capital convicts at 'the usual place', as it was commonly known to sentencing justices, just beyond the physical and moral boundaries of the county town, was a time-honoured tradition. As one polemic put it in 1770, 'in holy writ we find that all executions were commanded to be done without the camp before the Israelites were settled, and without the town afterwards'. In fact, to consign a hanging to the inside of a gaol would compromise its public nature, 'no less necessary to the satisfaction and security of the subject than public trial'. In the London of the 1770s, it meant preserving the execution of felons at Tyburn, because retreating them 'to Newgate Street or even to Newgate itself, may make way for private execution and for all those dreadful consequences with which private executions are attended in every country where they have been introduced'.[9]

And yet, within thirteen years of these words being written, Tyburn hangings and processions were in fact brought to an abrupt end. They were replaced in 1783 by a shorter and simpler ceremony on a platform attached to the exterior of Newgate, a trapdoor and drop replacing the customary ladder or cart. Historians have tended to read the abandonment of Tyburn as a signifier of modernity; nothing less, in Greg Smith's estimation, than 'a paradigm shift in the way public executions were managed'. According to this interpretation, the Tyburn procession and ritual was inconvenient to traffic, commerce and urban development, and encouraged attempts at rescue, while the unedifying behaviour of the crowd negated the intended 'great moral lesson'.[10] This neat consensus has been challenged by Simon Devereaux. Centralising the ritual was not so much a 'departure towards more modern practices', he argues, but 'one of the last stages of substantial innovation in an older

system of thinking'. It was not a retreat from traditional practices, then, but an attempt to preserve and improve an established and still 'repugnant' practice.[11] It is widely agreed, nevertheless, that once London had led the way, provincial England followed suit, first in the abandonment of processions to out-of-town hanging grounds, and then in the introduction of drop systems.[12]

However, there was no discernible geographical pattern to the process of change, nor did it happen very speedily and it was often left to the initiative of individuals in the county administration to bring it about. In Somerset, for example, execution processions were brought to a halt by William Bridle, the reforming governor of the county gaol at Ilchester, but not until 1813. 'Many a time has the riot and disorder of the mob disturbed the unhappy criminal in his last moments, on his way in a cart to the place of execution', he noted, so,

> after great difficulty and much opposition, it was ordered that the walls of the front lodge should be raised, the roof made flat, a drop erected (the model of which I had been at great pains to procure) and that all executions in future should take place thereon. This was quickly effected and the unhappy culprits, instead of being dragged in a cart through a drunken and riotous populace, instead of having their last moments of devotion disturbed by the sounds of intoxicated blasphemy or unfeeling bursts of laughter, are now removed from the chapel to the place of execution without annoyance, without hindrance, and without any extraneous addition to that agony which the sense of their awful situation alone must sufficiently inflict.[13]

In Devon and in Berkshire, on the other hand, where the Sheriff had frequently lamented the three-mile distance between Reading Gaol and the hanging place on Earley Common, a new drop was installed outside the gaol during the early 1790s.[14] Processions out of Lancaster and York were abandoned, respectively in 1800 and 1801, but closer to London, executions ordered at the Sussex assize continued by procession to Horsham Common until 1820, and in Bristol, somewhat inconveniently given the steep climb up St Michael's Hill, until 1822. The illogicality of persisting with executions at traditional sites in an era of modern gaol building, especially where new gaols were sited further than before from the 'usual place', was inexplicable to some. 'Formerly it was absolutely necessary to convey criminals a considerable distance

from their place of confinement', admitted a correspondent of the local newspaper at Bury St Edmunds in 1814,

> but when the county, at a great expense, erected the present gaol, it was reasonably expected that this evil would be done away with or at least greatly diminished. The distance, however, has been augmented four-fold, and the criminal, already sufficiently weighted down with the horrors of his situation, has to endure a public procession for nearly two miles from one extremity of the town to the other. We do not live in times which require such spectacles, and indeed there are crimes for which so great an exposure does infinite harm to the public mind.[15]

Nor was a county's move towards centralisation and its embrace of the drop necessarily synonymous. In Kent, processions to Penenden Heath continued until 1830 and in Northumberland to Newcastle Town Moor, some two miles from the city gaol, until 1850, their usefulness prolonged by the installation of out of town drop platforms.[16] The modernity of the mechanism, then, could clearly be dissociated from the exemplary requirements of processional removal and public exposure. Clearly therefore, if as Greg Smith argues, paradigms were shifting in the 1780s, they were not always in evidence in the provinces, and it was not just counties geographically remote from the capital that failed to shift.[17]

The uneven nature of change away from the historiographical centrality of Tyburn can be further illustrated by the protracted and patchy nature of the retreat from the sort of exceptional performance staged for Chalcraft and Chennel, the crime-scene hanging. Andrea McKenzie's Tyburn study understands crime-scene processions chiefly as seventeenth-century phenomena, 'largely fallen into desuetude by the early eighteenth century, but revived in the 1770s'.[18] However, they were to prove rather more enduring than that (Figure 2.1).

Although a decline may be traced after about 1790, sporadic decisions to hang some felons at the scene of their crime rather than at 'the usual place', continued in some English regions into the first third of the nineteenth century without any overt reference to the presumed rationale of modernisation or its economies of scale, expense and efficiency. A number of apparent anomalies are worth highlighting here. First, crime scene hangings sit somewhat awkwardly with any assumption that the drop was adopted after 1783 because it was considered

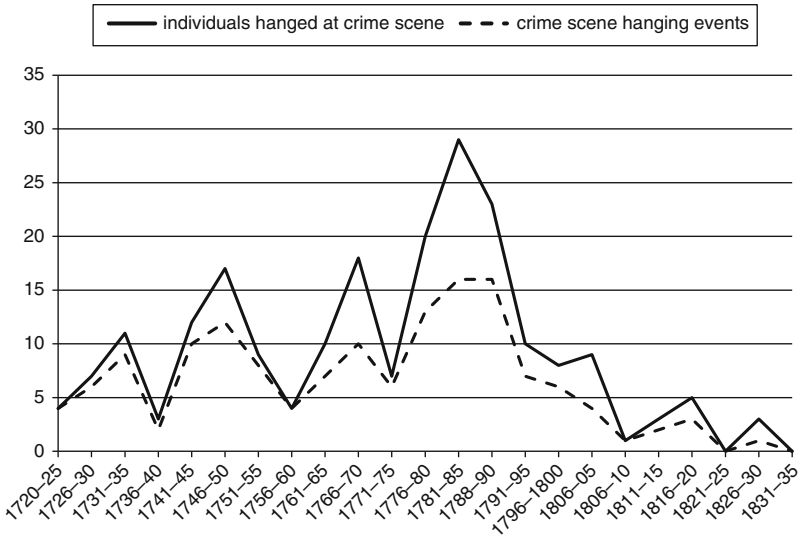

Figure 2.1 Crime-scene executions in England, 1720–1830 (five-year moving average)

more humane. By their very nature, crime-scene executions, most often performed in rural locations that had never hosted a hanging before, were rarely accomplished with a drop mechanism. Secondly, in stark contrast to the scaling down of ceremonial parades in many urban centres, crime-scene executions preserved and *exaggerated* the practice of expensive and lengthy processions. Thirdly, if Tyburn's processions were abandoned in part because they were disruptive to traffic, crime-scene processions were scarcely more practical. Crime-scene processions did not stop in London in 1783 and the use of unfamiliar routes to untried spaces had always presented at least as great a challenge to decorum as those to Tyburn.

Even in 1741, James Hall's procession by sledge from Newgate to Catherine Street was impeded by traffic in Fleet Street, and then by insufficient space for spectators at the crime scene, requiring the sheriffs to order the gallows' ad hoc removal to the Strand. Four decades later, some of the local street hangings ordered after the Gordon riots, on the very eve of Tyburn's demise, took over nine hours to accomplish, and a crowd of 5,000 blocked the street at Smarts Buildings, Holborn, to see Cox, Walker and Payne hanged in 1786. In fact, between 1786 and 1795, at least thirteen men tried at the Old Bailey were processed

to execution at their crime scenes in the traditional manner, and executions ordered by the Admiralty courts may be found processing through the London streets to Wapping, however irregularly, until 1830. The survival of these cavalcades to the low water mark at Execution Dock is perhaps particularly surprising, since crowds were often left waiting in the streets for processions delayed by obstinate tides, causing disruption for several hours. Although some processions may have been conducted by water for the sake of convenience, the murderer Hogan was 'conveyed from Newgate in a cart' in 1814, and Captain Codlin, condemned by the High Court of Admiralty in 1802, spent an hour and a half in a cart to Wapping via Cheapside, Cornhill, Leadenhall Street and Whitechapel.[19] If the rationale for driving executions to county gaols was one of approval for non-associative anonymity in an institutional setting, the crime-scene execution was one in which, on the contrary, personal association and spatial specificity remained central components. For McKenzie, the Newgate drop was introduced to 'detract attention away from individualized gallows gestures and behaviour', but in that case, the continued use of crime-scene processions in London seems perverse.[20] As Devereaux has pointed out, London processions, contrary to the traditional view, were actually policed tolerably well after about 1740, and it was the inefficiency and underperformance of authority at the gallows, rather than processional disorder, that prompted relocation to Newgate.[21]

But if amateurish displays by executioners were a problem in London where hangings were a regular occurrence, the situation was understandably worse in those parts of provincial England, such as the North East, where they were comparatively rare. Here, ropes cut by inexperienced hands were sometimes found too short or too long, grounds inappropriate, apparatus poorly constructed and hangmen untried. The execution of several smugglers on a Sussex sea front in 1749, for example, was hampered by the inexperience of a local hangman who brought halters too short for the condemned men to reach once they were fixed to the cross beam and there was an awkward delay while he lengthened them by tying two together. The further from the 'usual place' a procession was obliged to make for, the more opportunities there were for things to go awry. A hanging in rural Oxfordshire in 1785 was held up because local men charged with erecting the gallows complained that the ground was too hard, and another in Berkshire two years later because the gallows had not been completed and a ladder had eventually to be found to serve as a crossbeam. 'The Executioner behaved very unskilfully', noted the *Covent-Garden Journal* after the hanging of Elizabeth

Jefferies and John Swann above Walthamstow in 1752, 'and is said ... to be one who had never practised the trade before'.[22]

Devereaux is the only historian ever to put a number on eighteenth-century crime-scene executions, but like most detailed work on hanging procedures, his study is confined to the streets of the capital.[23] Consequently, the number as well as the spatial diffusion of instances in the provinces has remained unexplored, despite the fact that 80 per cent of English executions took place outside London.[24] Public declarations of approval for them are not difficult to find, even in the early nineteenth century. Thomas Watt, hanged near Dundee in 1801 for example, may have suffered under Scottish rather than English law, but the salutary nature of his death was not lost on contemporary commentators. 'A scene like this, at all times and all places awful and impressive, must be peculiarly so at Dundee, which has not witnessed anything of a similar nature for perhaps a century', suggested the *Aberdeen Journal*. 'We understand it is the determination of the Lords of the Judiciary that in future, all criminals who are sentenced to die are to be executed at the places where they committed the crimes for which their life is forfeited. This is certainly a wise and salutary measure, and we have no doubt will be followed by the most beneficial consequences.'[25] This proved something of an exaggeration, but the suggestion that crime-scene hangings might continue to serve a useful purpose is clear enough.

Counting and Mapping the Hanged: Logistics and Rationale in Crime-Scene Executions

In England between 1720 and 1830, at least 211 people were taken in procession to the scene of their crime to be hanged. All but 15 were men and, although by far the greatest number of 'regular' English hangings in this period were for property offences, more than two-thirds of crime-scene executions were for murder, the remaining 70 being accounted for by 28 non-fatal robberies, and an assortment of fraud, rape, sodomy, aggravated assault and property offences, including arson and riot. Riot-related offences made up nearly half of this remainder (33), but the number is inflated by the 20 hangings ordered after the Gordon Riots (19 in London and one at Bath).[26] Many were gibbeted after execution. Of the 96 cases where the disposal of the body is recorded, roughly two-thirds (65) were hung in chains at the scene, the gallows doubling as a gibbet. A further 5 were taken away to be hung in chains elsewhere but most of these were London cases where gibbeting in busy public streets was impractical and certain to raise local objections. Only 9 appear to

have been sent to the surgeons while a further 16 were returned to their families for burial, including all of those hanged for riot. More than half of the total hanged (128) were sentenced by the courts of South East England (Home Circuit and Old Bailey), 31 by the Western Circuit, and 19 by the Oxford Circuit. The relatively scattered nature of the remainder indicates that, notwithstanding three at sites close to Carlisle, four in Yorkshire and just one in Lancashire, crime-scene hangings were essentially a southern English phenomena.

Moreover, there were no executions of this kind at all in the Northern Circuit counties after the solitary Lancashire case of 1786. This hanging, ordered for a man on Bolton Moor by the assize judge, was so unusual that it left the undersheriff uncertain whether or not he could legitimately claim the added expense back through his annual cravings.[27] The last of Yorkshire's four, on a hill overlooking Halifax, was ordered for two food rioters in 1783, the year of Tyburn's reform, but to all intents and purposes the county had abandoned processions to any place other than York's own Tyburn just south of the city's southern gate, as far back as the 1730s.[28] In the West they were unknown in Cornwall, extremely scarce in Devon, where two murderers and a food rioter were selected, yet relatively popular in Somerset and Gloucestershire which hosted 19 between them.[29] The largest number in a single county, 26, were carried out in Surrey, a good proportion of them in urban locations as London expanded to the south of the Thames. Not all counties closer to London made use of this kind of execution, however. In Essex, Peter King has calculated, only 2 per cent of those hanged between 1740 and 1820 were put to death in places other than Chelmsford where the county gaol was sited.[30] As might be expected, spatial distribution within individual counties suggests some correlation between the selection of cases and administrative peripheries, although distance from the centre was never explicitly offered as a rationale by contemporaries (see Figure 2.2).[31]

The selection of the site for any public hanging was technically a matter for the sheriff, unless specifically directed by the judge. The order to hang Elizabeth Jefferies and John Swan on a hill overlooking Walthamstow in 1752 appears to have been made by the assize judge, Sir Martin Wright, but only after lobbying from a number of gentlemen in the locality. The order to hang John Walford on a hill overlooking his cottage in rural Somerset was made by request of the grand jury.[32] As Blackstone confirmed, 'the time and place of execution are by law no part of the judgement', and although it was usual in London for the Recorder to direct the sheriffs with a 'solemn and becoming exactness',

Figure 2.2 Recorded crime-scene executions in England, 1720–1830

it was customary in the provinces for judges to leave a list of those to be hanged with the sheriff 'to do execution within a convenient time which, in the country, is also left at large'.[33] The process was not always clear. It was publicly understood that York and Millard, two men condemned for a robbery on Bedminster Down in 1740, were to be brought up from Ilchester, lodged overnight in Bedminster bridewell and then hanged on the Down in the morning but in the event they

were executed at Ilchester and then hung in chains at Bedminster, 'to the great disappointment of all the country round this city (Bristol) who expected to have them executed here'. An equally disappointed crowd gathered at Islington in 1797 following the conviction of two London murderers, 'in expectation that the execution would take place on that spot', but the hanging took place on the Newgate drop.[34]

Clearly-stated rationales for any decision to abandon 'the usual place' have not always survived but occasionally a direct instruction may be found in the court record, in the Ordinary of Newgate's *Account*, or in the press. The notorious London murderer Sarah Malcolm was selected in 1733 'because of the atrociousness of her crimes, by a special order, and for terror to other wickedly disposed people'. In Patrick McCarty's case, for the murder of a bailiff in 1760, 'it was judged expedient, in order to deter other desperate debtors, or offenders, especially in that part of the town, where it is said to be too prevailing, from offering any violence to the officer of law and justice, in the discharge of their duty'.[35] Henry Simmonds and Martha Baker were hanged at Croydon in 1783 'by way of terror to those desperate women who live in that neighbourhood and who, not content with the wages of prostitution, generally rob those who are so weak as to be led into their company'.[36] Although the desire to ensure everyone in a 'criminal community' collectively witnessed an execution will have played some part in the decision to relocate in cases like this, their greatest impact lay in the targeted enactment of judicial due process to symbolically reorder dysfunctional space. Nine years after the end of the Tyburn ritual, Francis Hubbard was 'drawn through the streets where the murder was committed and his confederates reside', from Newgate to Hatton Garden and there hanged for killing an Irish bricklayer. 'The sheriffs', it was noted with approval, 'with that zealous attention to their duties which has distinguished them in the discharge of their high office, had determined to give to the execution of Hubbard, all the awful ceremonies which could make it operate on depraved minds, as an example of terror'.[37]

We can identify similar concerns in provincial England with, at times, the additional necessity of reiterating legal authority in 'lawless' rural districts some distance from 'the usual place'. Matthew Gardiner and John Wheeler, capitally convicted for armed robbery in Wiltshire in 1783, for instance, were ordered for execution at the crime site on Sutton Veny Common because a string of thefts featuring rural gangs in and around the market town of Warminster had previously gone unpunished. 'It is to be hoped', remarked the *Oxford Journal,* 'that this shocking spectacle, so unusual in this neighbourhood, will be a warning

to the rest of the gang, who have continued to infest and terrify the inhabitants of Warminster ever since the apprehension of their confederates'.[38] In 1788, Samuel Yendall was hanged on a spot close to Pyrland Hall a few miles north of Taunton in Somerset. He was a tenant farmer of the hall's owner, the JP Sir William Yea, and condemned for breaking into the house one night and treating Yea to a severe beating after a row over gaming rights. Yendall's poaching associates had placed 'the whole country in an uproar', for some months according to the *Bath Chronicle*, and so an extraordinary execution was organised.[39] Equally, the more remote location chosen for John Walford's execution, on a hill top overlooking his own cottage near Nether Stowey in 1789, was 'rendered necessary by the circumstance of there having been no less than three similar offences committed in the same parish (and that a small one) within the memory of man'. Walford, a poor, illiterate charcoal burner and seasonal labourer had murdered his wife on the nearby hillside. He was convicted at the assize and two days later taken under heavy guard to be hanged, fettered to a cart and leaning on his own gibbet cage.[40]

Sometimes, however, the motivation was purely practical. In 1795, William Bennington and Stephen Watson were condemned to death at the Norfolk assize in Thetford for separate murders, both of which were committed in parishes not far from the town. The usual place of execution in Norfolk was Castle Hill in Norwich, but the sheriff ordered Bennington and Watson for hanging in Thetford because the two days permitted under the Murder Act between sentencing and execution was felt insufficient to get them moved without undignified hurry. Although 'an execution had not taken place at Thetford for many years', remarked the *Morning Post*, 'the propriety of it in the present instance is obvious. The interval allowed in cases of murder between sentence and execution is only 48 hours, which time, had the unhappy men been conveyed to Norwich would have been consumed in festivity on the road instead of being dedicated to penitence and supplication.'[41]

As already noted, a disproportionate number of crime-scene executions were ordered in response to outbreaks of riot when sheriffs might find themselves under considerable pressure from local property owners to stage them. However, taking an execution procession into the heart of a disaffected community in the tense aftermath of riot could be risky and crowd reactions unpredictable. Sheriffs were not always enthusiastic. In London in 1768, sheriffs Townsend and Sawbridge acquiesced in the collective execution of seven striking coal heavers at Wapping; a government initiative designed, in Peter Linebaugh's estimation, 'to terrify the poor and working people of the river parishes'. This objective

was accomplished but not without drafting in 600 soldiers and two divisions of constables to keep a hostile crowd of 50,000 in order. A year later, Parliament, backed by the 'principal inhabitants', required two silk weavers, convicted for cutting cloth from frames during further industrial unrest, to be hanged in their home parish of Bethnal Green. But fearing disorder if they went ahead, the sheriffs this time resisted, arguing that the Recorder had ordered execution 'at the usual place' when passing sentence, and that it was not the business of government to interfere. The Recorder reluctantly agreed but then advised them that the King had since taken the highly unusual step of intervening personally to sanction the order of his ministers and that they must therefore carry it out. The sheriffs prevaricated, objecting that the Royal prerogative was limited to the extension of mercy, and that the use of it to aggravate a sentence was unknown in jurisprudence, but their protests were ultimately ineffective. Undermined and overruled, they were unable to prevent either the cumbersome three-hour procession across town to the gallows, or the serious rioting that followed.[42]

Warwickshire JPs were similarly jittery when ministers hinted that at least one crime-scene hanging would be salutary after the Birmingham Church and King riots in 1791, but here their fears that such an exhibition 'would be likely to create fresh tumult', persuaded the government to withdraw the request.[43] The issue was raised yet again over the execution of three Yorkshire Luddites for murder in 1813. The military commander, Major Acland, favoured a crime-scene hanging in Huddersfield, but the Home Office overruled him. Since gibbeting was 'out of the question', decided Undersecretary John Becket, and no local surgeon was likely to risk his neck by taking the bodies for dissection, the only possible course was to hang them at the usual place in York.[44]

The last crime-scene hanging ever ordered in London, for the sailor John Cashman, was riot-related and, as an exemplary lesson, it did not go well. Cashman was the only man capitally convicted and left for hanging following the Spencean Spa Fields Rising of 1816 in which gun shops had been raided, arms seized and the Exchange attacked. He had joined a crowd raiding Andrew Beckwith's gun shop in Skinner Street, been convicted for theft and ordered for hanging outside the shop as a measure intended to subjugate the unruly Minories. At least one city alderman and even Beckwith himself, who 'naturally felt desirous to remove the scene of death from his own door' protested the decision but were told it could not be reversed. As feared, an immense crowd of 'inferior' type gathered in the street, exhibiting 'symptoms of discontent ... groans and hisses burst from all quarters and attempts were

made to rush forward'. Cashman, widely regarded by the crowd as a scapegoat, used the occasion for bravado, shouting 'Hurrah my hearties in the cause! Success! Cheer up!' There were cries of 'Shame!' and 'Murder!' as the drop fell and a number of unseemly scuffles broke out between constables and sections of the crowd. Little wonder perhaps that this was the final attempt of the civil authorities in London to stage an execution anywhere but Newgate.[45]

Usually then, on those rare occasions when local authorities seemed ready to favour crime-scene hangings for riot, the crucial requirement was an acquiescent crowd or, in the case of two Halifax food rioters in 1783, an irrepressible magistrate. Justice Buller's insistence that Thomas Spencer and Mark Saltonstall's execution be staged on Beacon Hill above the town led an 'apprehensive' undersheriff to apply immediately for military back-up, but, thanks to the exertions of Henry Wood, JP, their assistance was unnecessary. Wood saw every advantage in hanging them 'near the spot where the offence was committed instead of York, before Constant Place, tho' the culprits lived fifty or sixty miles off, and, for example might as well not have been hanged at all', and marshalled an augmented civil power (80 tradesmen, 40 special constables, 20 sheriff's officers 'and five and twenty psalm singers') to keep 30,000 spectators in order 'without the least attempt to rescue or a single incident happening', despite being 'in the centre of the culprits' relations and connections'.[46]

The decision to hang 19 of London's Gordon rioters at scattered locations was made in the belief that it might keep crowd numbers lower and so more manageable. When a case was built against a single defendant for Gordon rioting at Bath in 1780, the town clerk lobbied hard for a special commission to arraign and hang him locally. Bath's courts were not ordinarily empowered to try felonies and the town was never a venue either for the county quarter session or the assize. Moreover, the 'usual place' for Somerset's hangings was 35 miles distant at Ilchester. 'Nothing seems to me a more likely means of restoring confidence than the delinquents being speedily tried and punished, if convicted, at the place where the offence arose', argued the town clerk. The Attorney General baulked at the expense of a Commission but conceded that 'it may be proper for the sake of example' to bring the man to Bath for execution. The assize judge obliged and a young Royal Crescent footman named John Butler earned himself the distinction of being the first (and last) person to be hanged at Bath since the Monmouth Rebellion.[47]

The irregularity of crime-scene hangings was partly an effect of economic necessity. On poor rural roads, processions across country might

take considerably longer than the three hours endured by Townsend and Sawbridge in 1769, and the expense of guarding the cart and equipping and policing the gallows was often considerable. In 1757, Jacob Houblon, Sheriff of Hertfordshire, was obliged to hang and gibbet the mail robber John Gatwood on a spot 'near Puckeridge', as close to the crime scene as possible and some sixteen miles from the gaol, by order of the assize judge, Baron Smyth. Houblon spent a day looking for the place, and consequently added three guineas to his annual cravings, 'for a journey on the road where the said robbery was committed to fix on a proper place for the purpose, which I was in much difficulty to find out, for the road being for the most part very narrow'. Having located the site, Houblon's next concern was its remoteness. Executing a felon in his own country would require 'a strong guard as well to prevent a rescue, he being hang'd in the midst of his relations and acquaintances'. By the time he had paid for the gibbet frame, the gallows, cart hire, horse hire and a sufficient force of guards to keep 'many thousands of spectators' in order, Houblon was 23 guineas out of pocket.[48]

Conveying prisoners between county gaols and assize or quarter session courts, sending them to be whipped or pilloried in distant towns or indeed conveying them out of county to stand trial elsewhere were regular expenses borne and accepted by sheriffs in every county. But costs like these could be kept relatively low where processions were not deliberately designed to move slowly and to attract public attention. In mid-eighteenth-century Gloucestershire, the average cost claimed for dieting and guarding capital convicts and then hanging them in the usual place a short distance from the gaol was five guineas, while in Wiltshire and Lincolnshire, it was just three. But the cost to the county of Warwickshire of hanging three men for murder on Stoneleigh Common in 1765, some five miles from the gaol, was £55 10s. Higher still was the £56 bill to the county of Essex for carting and sledging Elizabeth Jefferies and John Swan to Walthamstow in 1752.[49]

There were also the logistical difficulties of travel to consider, the security of the prisoners in transit and the negotiation of potentially hostile communities and non-compliant land owners. An expedition from Gloucester to Durdham Down near Bristol in 1744 for example, called for the organisation of a processional cavalcade across 45 miles of country, through Cirencester, Tetbury, Didmarton, Petty France, Chipping Sodbury and Bristol with a constant military escort, and at least one overnight stop.[50] Another, from St Albans to Gubblecut Cross near Tring six years later, required more than a hundred horse and foot soldiers to deter villagers from making rescue attempts on arrival.[51]

Landowners sometimes obstructed the selection of appropriate sites. John Webb, High Sheriff of Warwickshire antagonised a number of wealthy figures at Saltley in 1781 by sending a lowly bailiff to pick a spot on Washwood Heath for hanging and gibbeting two soldiers, without first negotiating approval from neighbouring landowners. Vociferous objectors included the lord of the manor, Charles Adderley, Sir Charles Holte of Erdington Hall and the Lady Dowager Holte of Aston Hall, all three of whom possessed estates and houses close to the chosen site. Despite their protests, Webb pressed ahead and hanged the duo on the Heath after a 6-hour, 25-mile procession from Warwick. In response, Adderley spent the following weeks harassing Webb with petitions demanding the removal of the gibbet from his land and then pressed a humiliating claim for £100 in compensation for his warrener, a poor man whose rabbits had allegedly been disturbed by the trampling feet of the execution's spectators.[52]

Wiser sheriffs took the trouble to ensure that landowners were not unduly inconvenienced. The 'gentlemen of Walthamstow' who had persuaded the assize judge to order Swan and Jefferies' execution to take place just outside the village used their influence once again a few days later to have Swan's gibbet moved. Consequently, the undersheriff received instructions from a county magistrate 'that the body of Swan should not be hung in chains at the place where the execution was done, it being in the full view of some gentlemen's houses on the forest', but left it to the same gentlemen to 'consult with the undersheriff to fix a proper place to erect the gibbet on'. This they did, but it had to be moved again (twice) within a week after complaints from other sets of gentlemen.[53]

Difficulties like these aside, however, contemporaries clearly believed crime-scene executions worth the trouble. Their exceptional nature attracted unusually large crowds, and in quiet rural areas, sheriffs were often able to manage them well enough. Both judge and sheriff were agreed that for logistical reasons, the most appropriate site for Swan's and Jefferies' hanging in 1752 was not Walthamstow itself, where the murder had been committed, but on a hill overlooking the village. Here the murdered man had been in the habit of walking, and here too a large crowd could be easily accommodated. However, 'without any order from the sheriff to do so', villagers built the scaffold at their own expense directly adjoining the victim's house and consequently, 'there were thousands of people assembled in Wood Street, occasioned by the lucrative view of some persons who had hired houses and built scaffolds

to let out to persons that came to be spectators'. To their disappointment, the sheriff refused to permit the execution in such a confined space and 'to prevent the mischief which probably would have happened', ordered the procession not to enter the town but to head for the hilltop instead.[54]

Given open landscapes that presented none of the congestion intrinsic to London executions, rural vantage points could be carefully chosen for their spatial and topographical significance, and temporary gallows of unusual height constructed to ensure uninterrupted views from a distance. John Grimslade, convicted for murdering a clergyman in a wood near Kingsteignton, Devon, in 1783, for example, was ordered for execution and gibbeting on Haldon, a hillside commanding extensive views a short distance to the north-east of the crime scene.[55] Abnormally tall gallows like Abraham Durrill's at Great Bedwin, Wiltshire (22 feet high) or William Kelly's at Chipping Camden (30 feet high), carried the economic advantage of making it possible to gibbet them on the same device.[56] As noted earlier, most crime-scene hangings ended with a gibbeting, an additional performance ensuring and embedding the impact of the execution in long-term local memory. Theatrical flourishes were not uncommon. In 1736, for example, the murderers Marsh and Marshall were exhibited after execution at High Wycombe, one 'with an iron hat cocked up in the same manner as he wore when he came into West Wickham in a most audacious manner', and the other with 'an iron hat strapped over his face as he wore his'.[57]

High vantage points had more than one purpose. The selection of an 'almost perpendicular' hill 500 feet above the Wiltshire town of Warminster for the execution of two men for murder in 1813, allowed '10,000 persons to see it without pressure', but additionally offered a view of the churchyard in which their victim was buried 'and nearly a view of the house where the murderous deed was perpetrated'.[58] Ten thousand is also the figure claimed for much earlier hangings at Mitcheldean, Gloucestershire in 1732, and at the tiny hamlet of Stanton St Quintin, north of Chippenham in Wiltshire in 1764.[59] Such large gatherings offered county authorities unparalleled opportunities to parade in full regalia before audiences for whom pageantry of any kind was a novelty. For a hanging on Farleigh Down, Sussex, in 1741, an immense crowd 'from all parts of the county' braved severe snow and driving rain to witness an impressively dressed high sheriff, flanked by a party of dragoons and 'his officers and attendants', progress with a prisoner across 50 miles of country from Horsham.[60]

The sheer scale of such events may be judged from the arrangements for the execution of George Ruddock and George Carpenter on Arn Hill, Warminster in 1813. Making sure it 'drove slowly through the villages on the road so that the inhabitants might have a view of the prisoners', the procession snaked along for 6 hours to cover the 21 miles from Salisbury, headed by a detachment of mounted yeomanry and 200 walking constables carrying white wands. A further 100 mounted gentlemen came next, the sheriff's javelin men, assorted clerics and county officials in ceremonial garb, the prison cart and then further parties of officers, javelin men and yeomanry to the rear with mounted patrols in a line on both flanks. It is not difficult to believe that the estimated crowd of 40,000 who hurried to the scene were 'properly impressed with the solemnity of the occasion', as the *Salisbury Journal* put it.[61] Provided they were well managed, crime-scene executions invariably had the desired impact. Looking back on his exertions at Halifax, 6 years after the hilltop hanging of the food rioters Spencer and Saltonstall, the JP, Henry Wood, proudly recalled that

> not a spectator had his hatt [sic] on for near three hours, and tho, above five thousand *women* were supposed to be present you might have heard a shilling fall to the ground during the fatal ceremony … I found the people wanted to know the nature of the law they had broken and I turned field preacher upon the occasion and explained it in the midst of their coal pitts [sic]. In return I found them grateful and attentive to every request I made them.[62]

Crime-scene hangings were qualitatively different from the increasingly impersonal procedures common to regular locations like Tyburn or Newgate in other ways too. While regular hangings tended to be conducted as speedily as possible, deliberately unhurried ceremonies at crime scenes tended to confirm the paternal nature of decentralised authority. 'Our sheriff acted with great humanity', it was noted after an unexpected execution at Windmill Point, Poole, in 1752, 'indulging the prisoner in his own time which was near two hours and though there was a vast concourse of people (it being here an extraordinary sight), everybody behaved with decent silence, suitable to the occasion'.[63] Richard Randall, hanged at Totterdown in North Somerset in 1784 was permitted to stand for 'two or three hours' with the rope around his neck before finally signalling to the hangman that he was ready.[64] Familiar environments and local associations encouraged a very site-specific and interactive public dialogue. A man, taken to the green fields

of Islington to be hanged in 1762, used the backdrop for his execution to make an illustrated declaration, for

> the place of execution brought to his mind some facts which he had never before mentioned ... He loudly spoke a confession of the fact for which he suffered, and two other facts, all committed within sight of the spot where he suffered. There, said he, in that field (pointing to the place), I robbed the gentleman, myself alone, for which I die. And there (pointing to Goswell Street Road), I robbed a woman of a trifle of money but did not hurt her. This was the first I ever did. And there (pointing near the same place) I robbed a man of a small sum but did not abuse or ill-treat him.[65]

The encouragement of performative and associative declarations of this kind was an essential part of the ritual and a justification in itself for prolonging the drama.

In much the same way, if the anonymous confines of the gaol and the courtroom had failed to induce either confession or contrition, a more appropriate outcome might be anticipated at the crime scene. Here, locale and community became vital elements and, in contrast to hangings 'at the usual place', spatial recognition and association conferred a peculiarly personal meaning upon the ceremony. In 1761, the Ordinary of Newgate even did his best to wring a confession from a man beneath the gallows at Tyburn on the grounds that the scene of his crime in Hyde Park was visible from there. 'I reminded [him] that he was now in sight of the place where the fact was committed', the Ordinary wrote in his *Account*, 'and bid him recollect whether he had not used threats and violence to the prosecutor. He declared he had not.'[66] But confrontations with familiar landscape sometimes *did* induce confession where all else had failed. William Kelly was led through the streets of Chipping Campden in 1772 before being taken onto a nearby hill to be hanged. 'He persisted in denying the fact in the most solemn manner', it was reported, 'until he came within sight of the spot where he committed the murder. He could then hold out no longer, but confessed.'[67]

In 1789 John Walford was obliged to wait for an hour at a Nether Stowey inn while his gallows was completed on a hill above the village. There he ate a last meal and held audience with various acquaintances, including the principal prosecution witness. Then, according to an account recalling these events eight years later, 'on the way to the gallows they drove to the very spot where he committed the murder. The horses stopped. He looked over the side of the cart and said, drive a

little further. Now, said he, I see it.' The drama continued at the gallows where Walford asked for his sweetheart to be brought to him. She was some distance away and reluctant but,

> They went for her and she was dragged up almost lifeless to the cart – the multitude making way. She was lifted up into the cart and, as she knelt on the straw, he bent down his head over her shoulder. They talked together nearly ten minutes, or rather he talked to her ... The people, intensely interested had their eyes fixed upon them. He raised up his head for a moment, and then bent down, endeavouring to kiss her. The officer, who was by, held his arm and said, 'You had better not – it can be of no use.' He then snatched her hand, and as she was drawn back, kissed it; some tears for the first time rolling down his cheeks. She was removed and he, after recollecting himself for a few minutes, wiped his face and said, 'I am now ready.'

But there were still a number of prayers to be recited with the prison Ordinary and a brief confessional speech to the crowd from Walford before the executioner finally invited him to drop a handkerchief as a signal for the cart to be pulled away.[68]

Tempting though it is to conceptualise penal policy in the final quarter of the eighteenth century moving broadly towards a swift and perfunctory disposal of the criminal body, where the county gaol became central and the procession an anachronistic inconvenience, it would be wrong to overlook the parallel survival of sentimental, lengthy, emotive and personalised rituals at crime scenes like this. Sentimental dramas like this were sometimes encouraged as part of the procession. So, when two teenagers, William Hawkins and Abraham Tull were executed for murder on Mortimer Common, Berkshire, in 1787, Tull was publicly comforted for the entire journey from the gaol by his father, sister, brother-in-law and even a cousin, who were permitted to travel with him in the cart, before a long and 'truly distressing' farewell was played out on the Common between Hawkins and his sorrowing parents.[69] John Butler, the Bath Gordon rioter, was also supported in the cart by his family, a sight that produced 'many thousands of weeping spectators ... The whole scene was beyond measure affecting', insisted the *Bath Chronicle*, 'a solemn stillness prevailed and quite everyone felt a sympathising horror at the view of its infliction'.[70] Clearly, spatial and domestic association had a powerful effect on the feelings of those who witnessed it. Even in 1830, after the last crime-scene hanging ever to take place in England (of three men for arson at Kenn in Somerset), the

Methodist minister John Leifchild was impressed by the tragedy that unfolded before him. 'What occasion had these men for deep sorrow and regret when brought for the last time to witness scenes familiar to them from their infancy', he wondered, 'how often may they have paced this very spot in the innocence of childhood!'[71]

The idea of the crime-scene hanging as a continuous exhibition of public sympathy, somewhat out of step with the development of narratives of moral failure and regressive behaviour at Tyburn and its provincial counterparts, is well illustrated by contemporary commentary on the execution of John Swan and Elizabeth Jefferies at Walthamstow in 1752. Unusually for a provincial execution, Swan's and Jefferies' hanging was reported and discussed not only in written commentaries but in an elaborate two-foot wide, hand-coloured and competitively priced print commissioned by the London publisher, Bispham Dickenson (see Figure 2.3). In its representational strategies, Dickenson's print offers an intriguing counterweight to William Hogarth's much better known engraving of a fictitious Tyburn procession in the eleventh plate of his *Industry and Idleness* series (1747) and with which it is a very near contemporary. As a visual impression of a crime-scene hanging, indeed almost of any hanging, the print is a close match for press and pamphlet reportage and meticulous in its attention to recorded detail. This, according to Dickenson's advertisement at least, was his intention, for 'in order to gratify the public's curiosity', the print seller, 'did engage and send down an ingenious artist to draw, on the spot, an accurate perspective view of the procession'.[72]

It records the arrival of a cavalcade that had made its way for 9 hours 'in slow and solemn pomp' for 32 miles from Chelmsford, through Ingatestone, Brentford, Romford and Ilford, to the hill above Walthamstow on the edge of Epping Forest. Progress had been slow by necessity because Swan's petty treason required he be pulled on a rough wooden sledge by six horses the entire way, but also by design, to ensure they 'be made as public example as possible', as the undersheriff put it.[73] Swan was pinioned and in leg irons but able to read a prayer book, and wore his hat 'flapped, so no person could see his face till he came to the gallows'. Jefferies, equally distressed by being publicly paraded for such a distance, 'fell into a fit and was in great agonies, declaring, when she came to herself, that she did not mind dying but thought it was cruel to carry her so far exposed'. She travelled in an open cart, seated on an upright chair beside her coffin and accompanied by her nurse, who read consoling literature to her as they went. She hid her face with the hood of her gown for the journey, and when ordered to

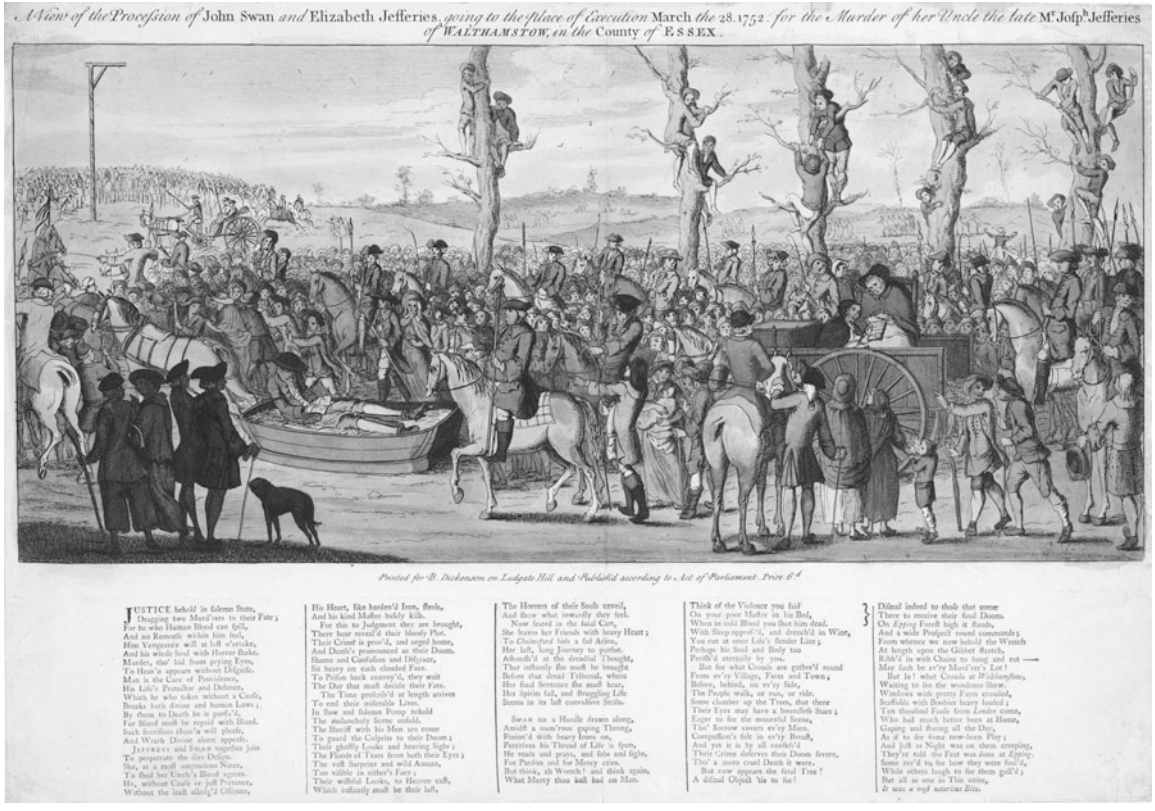

Figure 2.3 *A View of the Procession of John Swan and Elizabeth Jefferies Going to the Place of Execution* (London, 1752), © The Trustees of the British Museum

take it off as the procession arrived, she tied two handkerchiefs around her head instead.[74]

Contemporary commentary made much of the unprecedented size of the crowd, its broad social composition and its orderly behaviour. 'There never was perhaps so great a number of people assembled together on both horse and foot upon any occasion whatever', it was claimed in one account. 'All the way from Chelmsford to the Gibbet the road was covered; the hedges and the trees by the roadside were filled with spectators as were the windows and houses all along the road.'[75] A lengthy doggerel verse appended to Dickenson's print repeated the theme, complemented the visual evidence of the picture and emphasised the pathos of the occasion:

> But see what crouds are gather'd round / From ev'ry village, farm and town / Before, behind, on ev'ry side / The people walk or run or ride. / Some clamber up the trees that there / Their eyes may have a boundless stare / Eager to see the mournful scene / Tho' sorrow covers ev'ry mein / Compassion's felt in ev'ry breast / And yet it is by all confess'd / Their crime deserves their doom severe...

Despite the crowds, disorder was confined to a few incidents on the streets of Walthamstow itself, where some of those who had travelled in from out of county and paid exorbitant sums for viewing places close to the unused gallows adjoining the murdered man's house began angrily demanding their money back. On the hill by contrast, constables and javelin men maintained decorum without difficulty. Dickenson's artist carefully recorded the orderly behaviour of the crowd's broad social mix, the well dressed and the ragged mingling politely and easily, shoulder to shoulder in the act of witness, quietly conversing or craning their necks to gaze upon the condemned pair. In contrast to the unruly and distracted scene presented by Hogarth in *Industry and Idleness*, Dickenson's print makes no allusion to opportunistic economic activity, to fighting or to drinking. Here, even the stock figure of the poor woman clutching a baby has been placed in the foreground without a basket of ballads to sell. Such sentiments were echoed in the language of the newspaper press, *Read's Weekly Journal*, reporting that,

> Besides the prodigious crowd of low people that assembled on that occasion, there were some persons of eminence and distinction, and the whole scene was so solemn and moving, particularly the distress of Miss Jeffryes, that the rabble not only behaved with greater decency

than might have been expected, but seemed much afflicted, while more polished and compassionate natures were melted into tears.[76]

The End of Crime-Scene Executions

As we have seen, the standardisation of execution practices in England after 1783 was by no means a uniform process and it was clearly not driven along as 'policy'. Processional culture persisted for decades on the very doorstep of the capital, and localised hangings, often assumed to have been left behind at the beginning of the 'modern' era in Europe, continued across southern Britain without serious diminution for half a century. In some ways this is not so surprising. The journey to modernity is not always a linear or straightforward one and, as Pieter Spierenburg has put it, 'the grand narrative of the evolution of punishment in early modern and modern Europe may be somewhat more complex than the story presented in *Surveiller et Punir*'. Indeed, if, by Foucault's own dictum, public execution has always been less about the performance of justice than the 'reactivation of power', there seems little reason to consider crime-scene hangings, in particular circumstances, incompatible with the requirements of modernity. If the final third of the eighteenth century was, at least notionally, an age in which cultures of sensibility, feeling and affect were increasingly prescient, collective exhibitions of sympathy, horror and community reaffirmation like these were not as anachronistic as they might at first appear, nor out of step with the 'civilising process'. The apparent passivity and acquiescence of most crime-scene hanging crowds would suggest, in fact, that these were performances with the power to reinvigorate the principle of public execution as a moral deterrent. Rather than regard penal practice in this period in wholesale retreat from the principle of public exposure and close scrutiny, we would do well to recognise its nuances and regional variations. As Spierenburg has put it in other words, the challenge is not to show that the civilising process, either of Foucault or Elias, influenced the practice of public execution, but that changes and continuities in execution practices may help us to understand the complex nature of the civilising process.[77]

This is particularly apparent when we try to account for the decline and eventual abandonment of crime-scene execution in England after 1830. The simplest explanation would perhaps be that hanging people in extraordinary and individualised ways was incompatible with the uniform systems of both capital punishment and incarceration that dominated utilitarian thinking in the years following the Great

Reform Act. Yet England's last recorded crime-scene execution took place in 1830 without causing any controversy and, indeed, there were unheeded calls for a repeat performance as the most effective means of countering the spread of the Swing rebellion in the agricultural districts of southern England later that same year.

Colonel J. M. Muir, charged by Lord Melbourne in December with assisting local authorities to deter any resumption of Swing outbreaks, issued unequivocal advice to the Home Secretary on the running of the Special Commissions:

> As to the number of expected convictions, it would appear some examples will be necessary. I trust I shall be pardoned for mentioning how much more effective such would be were they to be executed in two or three instances on the spot where the offences were committed. Executions at a county gaol are unfortunately too frequent to strike terror, but such an occurrence witnessed in an agricultural district would never be forgotten and prove a lasting and salutary warning.[78]

These arguments surfaced again five years later during debates over the rights of the sheriffs of Chester to maintain control over the city's executions after the abolition of the Palatinate by demanding their return from the new county court to the city gaol some distance away. Anxious as he was to prevent the revival of the procession, 'a ceremony repugnant to the feelings of humanity', the Attorney General 'would be sorry to see the judges of assize deprived of the power of ordering, in a very large county, a person to be executed near the place where the crime for which he was to suffer was committed'.[79]

The exercise of such exceptional concerns as these may seem odd in years marking the culmination of Robert Peel's single-minded efforts to consolidate the chaotic build-up of individualised capital statutes into a unified legal code.[80] Nevertheless, Peel's creation of a more uniform judicial system may be said to have played a large part in the demise of crime-scene executions, although there is no suggestion that this was his intention. Quite simply, in the years following the close of the Napoleonic Wars, central government became increasingly unwilling to foot the bill for unorthodox and individualised provincial initiatives bearing extraordinary costs. One effect of the adoption of uniform execution practices at or close to county gaols was that it allowed the crown to create a uniform allowance to sheriffs of £2 per hanging, a sum only 10s greater than the amount usually granted in Somerset as far

back as 1724. This small allowance was still in place in 1830. When the high sheriff of Devon tried to claim £25 for the execution of four men on a new platform in 1827, he was rebuffed and offered only the statutory minimum, and the sheriff of Sussex was no more successful when he complained that the average actual cost of hanging any felon in that county was not £2 but £9. Ministers took the view that higher cravings had been tolerated in the previous century because 'government was not yet thought stable and the times were perilous'.[81] Variable cravings on this account were certainly common enough in the eighteenth century. The sheriff of Berkshire had charged the government £15 15s for executing four burglars in 1754 for instance, a requirement of the 'extraordinary strong guard ... at the gallows near 3 miles from the gaol on account of the danger of a rescue as the number executed was more than usual'.[82]

Relative domestic security in the nineteenth century persuaded ministers that cravings in excess of £2 were permissible only in genuine expectation of disorder and rescue, and never solely because the numbers due to be hanged were unusually high, or the distance between gaol and gallows too great. Given such a framework, the extraordinary expense of policing the hanging of the Spa Fields rioter William Cashman at the scene of his crime in 1817 might be tolerated, but the £50 10s claimed by the sheriff of Suffolk for security at the execution of the infamous Red Barn murderer, William Corder in 1827, could not. As the Exchequer Office insisted, 'Corder, in his cowardly and prodigious guilt, in his human and more than barbarous cruelty, became an object of unmixed and intense abhorrence everywhere; cast off as it were from the whole human species, and awakening no commiseration in any bosom; it was not within the range of possibility seriously to apprehend a rescue at his execution'. The sheriff was accordingly offered £2 to cover it. Corder's execution was carried out at the usual place. If it had been arranged at the crime scene, the expense would presumably have been greater still.

The signal was clear; exemplary crime-scene executions carried out at extra expense in normally orderly rural communities, would no longer be paid for. By 1830, some sheriffs had begun to object that the financial burdens they were left with 'render the office of high sheriff painfully burdensome to many gentlemen whose station and rank qualify them for the dignity', but, they were reminded by Parliament, the position of sheriff conferred the highest honour upon them. 'In a free country, the highest privileges have their correlative burdens', they were told, and the costs and inconveniences of office must be measured against 'the

general good' each office imparts. It would be over-simplistic to ascribe the decline of crime-scene executions entirely to economic factors. The murderer's clause of the 1832 Anatomy Act, for instance, put a stop to the use of anatomisation and dissection as part of the punishment for homicide, and this was followed by the Bodies of Criminals Bill in 1834, which put a stop to gibbeting. The 1834 Act fully repealed the clauses of the Murder Act which forbade burial by requiring the bodies of all murderers to be interred within the confines of the last prison in which they had been confined. The Act did not materially dictate the place of execution, but an implicit assumption behind it was that execution and disposal should take place in a single central and institutional location. In the rational and utilitarian world of mid-nineteenth century England, the performative and theatrical politics of crime-scene execution may certainly have begun to look at least as jarringly anachronistic as gibbeting and as likely, perhaps, to provoke dissent as acquiescence. The Exchequer's denial of excessive cravings after about 1815 should therefore be seen as one of several related factors in the decline of the practice.[83]

Conclusion

Crime-scene hangings were never specifically outlawed. Indeed, unlike the pillory, they were never publicly objected to, and their utility never questioned in the same way. Sheriffs and the communities in which they served understood very well the capacity of performances like these to leave their mark in the theatre of collective memory and this is sometimes reflected in the material culture of local folklore and in the survival of odd pieces of memorabilia. Before Ruddock and Carpenter could be delivered to Salisbury's surgeons for disposal in 1813, Charles Kindersley, a Warminster surgeon, was permitted to take Carpenter's right arm as a souvenir. The mummified and specially boxed trophy re-emerged a century later at Marlborough Police Museum and was subsequently donated to Cribb's National Funeral Museum where it still remains.[84] Commemorative brass buttons, distributed by the sheriff of Somerset to his loyal tenantry after witnessing England's final crime-scene hanging in 1830, reappeared at a Clevedon auction house in 1941.[85] Memorabilia like this suggests that in places where spatial context retained the power to alter the rules of association, crime-scene executions remained useful for as long as they were economically viable. Crowds at crime-scene hangings were less easily regarded as 'dysfunctional' because their very presence actively changed the spatial

politics of the place, confronting and suspending its customary reading as social, domestic and familial, and turning it, temporarily but horribly, into a place of judgment, community reformation and retribution. Crime-scene execution, despite or perhaps because of its disregard for the modernising politics of spatial distance and the economies of the 'new drop', continued to serve its purpose for the very reason that it was not an associative liminal space; because, indeed, it was not, 'the usual place' of execution.

Notes

1. *The Times*, 15 August 1818.
2. *Morning Chronicle*, 15 August 1818.
3. *Morning Post*, 15 August 1818.
4. *The Last Words, Dying Speech, Confession and Behaviour of John Chennel and William Chalcraft* (Bristol, 1818).
5. *Sussex Advertiser*, 12 April 1813.
6. Steve Poole, '"A Lasting and Salutary Warning": Incendiarism, Rural Order and England's Last Scene of Crime Execution', *Rural History* 19 (2008), 163–77.
7. Nicola Whyte, *Inhabiting the Landscape: Place, Custom and Memory, 1500–1800* (Oxford, 2009), pp. 155–61. For a comparative local study see also Adam Jones, 'Gallows in the Landscape: Execution Sites in Devon', *Proceedings of the Devon Archaeological Society* 66 (2008), 69–84.
8. Pieter Spierenburg, *The Spectacle of Suffering. Executions and the Evolution of Repression: from a Pre-Industrial Metropolis to the European Experience* (Cambridge, 1984), p. 45.
9. *Genuine Copies of all the Letters… relative to the Execution of Doyle and Valine* (London, 1770).
10. Greg T. Smith, 'Civilised People Don't Want to See that Kind of Thing: The Decline of Public Physical Punishment in London, 1760–1840', in Carolyn Strange (ed.), *Qualities of Mercy: Justice, Punishment and Discretion* (Vancouver, 1996), pp. 21, 29. See also Gwenda Morgan and Peter Rushton, *Rogues, Thieves and the Rule of Law: The Problem of Law Enforcement in North East England, 1718–1800* (London, 1998), p. 148.
11. Simon Devereaux, 'Recasting the Theatre of Execution: The Abolition of the Tyburn Ritual', *Past and Present* 202 (2009), 172.
12. V. A. C. Gatrell, *The Hanging Tree: Execution and the English People, 1770–1868* (Oxford, 1994), pp. 37, 53, n. 82.
13. William Bridle, *A Narrative of the Rise and Progress of the Improvements Effected in His Majesty's Gaol at Ilchester…* (Bath, 1822).
14. The National Archives, London, UK (hereafter TNA), Sheriffs' Cravings, T 90/149, Berkshire, 1754.
15. *Bury Post*, 10 August 1814.
16. David Bentley, *Capital Punishment in Northern England, 1750–1900* (Sheffield, 2008), pp. 98–103; Morgan and Rushton, *Rogues,* pp. 138–51.
17. Peter King, *Crime and Law in England, 1750–1840: Remaking Justice from the Margins* (Cambridge, 2006), pp. 64–9. For Nicholson, *The Times,* 25 August 1813; for Hussey, *Caledonian Mercury,* 6 August 1818.

18. Andrea McKenzie, *Tyburn's Martyrs: Execution in England, 1675–1775* (London, 2007), p. 7.
19. *Daily Gazetteer,* 9, 15, 18 September 1741; *The True Account of the Behaviour, Confession, and Dying Words of James Hall … for the Barbarous Murder of his Master, John Penny, Esq*. (Dublin, 1741). For Codlin and Hogan see *Morning Post*, 29 November 1802 and *Jackson's Oxford Journal*, 29 January 1814. The carted route to Wapping is also set out in *The Trial and Execution of J. Bruce for Murdering a Boy in a Boat off Milford Haven* (London, 1813). For the London Gordon riots hangings, see Matthew White, 'For the Safety of the City: The Geography and Social Politics of Public Execution after the Gordon Riots', in I. Haywood and J. Seed (eds), *The Gordon Riots: Politics, Culture and Insurrection in Late Eighteenth Century Britain* (Cambridge, 2012). Between 1783 and 1830 there were 48 execution processions to Wapping Dock, half of them between 1800 and 1820. There were none during the 1820s but for accounts of the final two see *Morning Post*, 17 December 1830.
20. McKenzie, *Tyburn's Martyrs*, p. 256.
21. Devereaux, 'Recasting the Theatre of Execution', 140, 142.
22. *Morning Chronicle*, 14 March 1785; *General Advertiser*, 25 January 1749; *Oxford Journal*, 17 March 1787; *The Covent-Garden Journal*, 4 April 1752.
23. Devereaux, 'Recasting the Theatre of Execution', 168.
24. Gatrell, *The Hanging Tree,* pp. 31–2.
25. *Aberdeen Journal*, 22 June 1801.
26. These categories are imprecise, of course. Riot-related cases include the seven coalheavers hanged at Wapping in 1768 for shooting and wounding their employers: *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, accessed 24 November 2014), July 1768, trial of John Grainger and others (t17680706-46).
27. For the cravings see TNA, T 90/165, Lancashire 1786, and for the hanging, *Newcastle Courant*, 9 September 1786.
28. For the Halifax hanging see *Leeds Intelligencer*, 19 August 1783; for older Yorkshire hangings see William Knipe, *Criminal Chronology of York Castle* (York, 1867), pp. 45–6.
29. Thomas Campion was hanged for pulling down a mill on Bovey Heath after a food riot in 1795, *Bath Chronicle,* 13 August 1795. For Haldon Hill hangings, *Bath Chronicle,* 28 August 1783.
30. Peter King, *Crime, Justice and Discretion in England, 1740–1820* (Oxford, 2000), p. 342.
31. The overall distribution of crime-scene hangings correlates fairly closely with the spatial geography of all English executions in the latter part of the eighteenth century. See Peter King and Richard Ward, 'Rethinking the Bloody Code in Eighteenth Century Britain: Capital Punishment at the Centre and on the Periphery', *Past and Present* (forthcoming, 2016).
32. *Daily Advertiser*, 30 March 1752; David Worthy, *A Quantock Tragedy: The Walford Murder of 1789* (Somerset, 1998), p. 47.
33. Sir William Blackstone, *The Commentaries of Sir William Blackstone, on the Laws and Constitution of England* (London, 1796) pp. 549–50.
34. *London Evening Post,* 6 September 1740; *Lloyds Evening Post*, 2 June 1797.
35. *The Ordinary of Newgate; His Account … Of the Malefactors Executed on 5 March 1733*; *and His Account… Of the Dying Words of Patrick McCarty … on 25 October 1760*.

36. *Oxford Journal*, 30 August 1783.
37. *The Star*, 2 April 1792.
38. *Bath Chronicle*, 5 June 1783; *Oxford Journal*, 16 August 1783.
39. *Felix Farley's Bristol Journal*, 19 April 1788.
40. *English Chronicle,* 3 September 1789.
41. *Morning Post*, 27 March 1795; Albert Hartshorne, *Hanging in Chains* (London, 1891), p. 111.
42. *Gazetteer*, 6, 8 December 1769; *Genuine Copies of all the Letters … relative to the Execution of Doyle and Valine* (London, 1770); Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (London, 1991), pp. 280–1.
43. TNA, HO 42/19, Joseph Carles to William Chamberlayne, 9 August 1791; Chamberlayne to Evan Nepean, 11 August 1791.
44. TNA, HO 42/132, J. Hobhouse to J. Becket, 7 December 1812; HO 40/2/4, J. Hobhouse to J. Acland, 14 December 1812.
45. *Morning Chronicle,* 18 March 1817; *The Times,* 18 March 1817; *The Dying Speech and Confession of Cashman the Sailor who was Executed … for Rioting* (York, 1817).
46. TNA, WO1/1019, f. 857, J. Lee to Secretary of State, 8 August 1783; PRO 30/8/191, H. Wood to W. Pitt, 18 May 1789. My thanks to Joe Cozens for sharing this reference.
47. TNA, SP 37/21, f. 155*;* Jefferys to Lord Hillsborough, 18 June 1780*;* TNA, SP 37/21, f. 257 Report on the Mode of Trying the Rioters at Bath, 15 July 1780; *Bath Journal*, 31 August 1780.
48. TNA, Sheriffs' Cravings, T 90/150, Hertfordshire, December 1757.
49. For costs in 1752–3 see Sheriffs' Cravings, TNA T 90/148, and for 1765, T 90/155.
50. *Gloucester Journal,* 20, 27 March 1744.
51. *General Evening Post*, 17, 20 August 1751; *Old England*, 31 August 1751; *London Morning Penny Post*, 28 August 1751; *Read's Weekly Journal*, 31 August 1751.
52. Nottinghamshire Archives; Edge of Strelley Papers, DD/E/208/15–18, Petition of Charles Bowyer Adderley, Esq., Sir Charles Holte, Lady Dowager Holte, Samuel Galton, Rev. Hinton, and Rev. Benjamin Spencer, March 1781; Charles Adderley to John Webb, 12 April 1781; Edward Sadler to John Webb, 14 April 1781; William Hutton, *An History of Birmingham with Considerable Additions …* (Birmingham, 1783), pp. 343–5.
53. *Authentick Memoirs of the Wicked Life and Transactions of Elizabeth Jeffryes, Spinster …* (London, 1752), p. 14; *London Daily Advertiser,* 2 April 1752; *London Evening Post,* 2 May 1752.
54. *Read's Weekly Journal,* 4 April 1752; *Wicked Life and Transactions*, pp. 14–15.
55. *Bath Chronicle,* 28 August 1783.
56. *London Evening Post*, 25 April 1748, 1 September 1772.
57. *London Evening Post*, 23 March 1736.
58. *Morning Post,* 16, 20 March 1813.
59. *Gloucester Journal*, 12 September 1732*; St James' Chronicle*, 11 August 1764; *Lloyd's Evening Post*, 20 August 1764; *Public Advertiser*, 30 April 1767.
60. *London Daily Post,* 6 April 1741.
61. *Salisbury Journal,* 22 March 1813.

62. TNA, PRO 30/8/191, H. Wood to W. Pitt, 18 May 1789.
63. *London Daily Advertiser,* 6 August 1752.
64. *Felix Farley's Bristol Journal,* 10 April 1784.
65. *God's Revenge against Murder; or, the Genuine History of the Life, Trial, and last Dying Words of … John Plackett* (London, 1762).
66. *The Ordinary's Account of the Behaviour, Confession and Dying Words of … John Irvine* (London, 1761).
67. *London Evening Post*, 1 September 1772.
68. Tom Poole's account, written in 1797 and later published in the *Bath and Bristol Magazine*, February 1833.
69. *Oxford Journal,* 17 March 1787.
70. Jonas Hanway, *The Defects of Police the Cause of Immorality … in Twenty Nine Letters to a Member of Parliament* (London, 1775), pp. 242–6; *Morning Chronicle,* 1 September 1780; *Bath Chronicle,* 31 August 1780.
71. Revd J. Leifchild, DD., *Remarkable Facts Illustrative and Confirmatory of Different Portions of Holy Scripture* (London, 1867), p. 222; Poole, 'A Lasting and Salutary Warning'.
72. *A View of the Procession of John Swan and Elizabeth Jefferies Going to the Place of Execution* (London, 1752); *Daily Advertiser,* 3 April 1752.
73. *Reed's Weekly Journal,* 28 March 1752; TNA, Sheriffs' Cravings, T 90/148, Essex, 1752.
74. *London Evening Post,* 26 March 1752.
75. *Wicked Life and Transactions of Elizabeth Jefferies,* p. 14.
76. *Read's Weekly Journal*, 4 April 1752.
77. Michel Foucault, *Discipline and Punish: the Birth of the Prison* (London, 1977), p. 34; Pieter Spierenburg, *Violence and Punishment: Civilising the Body through Time* (Cambridge, 2013), p. 77 and especially Ch. 4, 'Punishment, Power and History'.
78. TNA, HO 40/27, Col J. M. Muir to Lord Melbourne, 23 December 1830.
79. *Chester Chronicle*, 8, 15, 22 August 1834.
80. For Peel, see Gatrell, *Hanging Tree*, pp. 566–85.
81. *Returns from the Sheriffs of England and Wales of Fees paid by them and the Manner in which they are Appropriated* (London, 1816); *A Return of all Fees paid in One Year by the High Sheriff of Each County* (London, 1830).
82. TNA, Sheriffs' Cravings, T 90/149, Berkshire, 1754.
83. *Returns from the Sheriffs; Return of all Fees paid in One Year* (1830)*; Return of the Exchequer Seal Office of the amount of Monies demanded by … the High Sheriff of every County in England …* (1830).
84. http://news.bbc.co.uk/1/hi/england/wiltshire/4354596.stm: BBC News Channel, 'Museum Gets Felon's Mummified Arm', 18 October 2005 (accessed 15 November 2013).
85. *Clevedon Mercury,* 13 December 1941. My thanks to Ken Crowhurst of the Gordano Society for this reference.

3

The Gibbet in the Landscape: Locating the Criminal Corpse in Mid-Eighteenth-Century England

Zoe Dyndor

In the late 1740s a group of smugglers known as the Hawkhurst gang committed a number of violent crimes that included several brutal murders. At least 75 of the gang were subsequently hung or transported for smuggling, robbery and murder. Of those in receipt of the death sentence, 14 were subjected to the further punishment of hanging in chains (or gibbeting), thereby inflicting further ignominy on the offenders.[1] Hanging in chains was usually reserved for murderers, and occasionally mail robbers. However, between 1747 and 1750 members of the Hawkhurst gang were also gibbeted for crimes including smuggling and robbery. Gibbeting was an infrequently used punishment, but the violent circumstances of the Hawkhurst gang's crimes coupled with the authorities' desire to punish smugglers on the south coast led to the large number of gibbetings, and consequently a peak in the use of the punishment in the 1740s. These gibbetings reflected the increasingly severe measures taken to eradicate the crime of smuggling. They were temporally and spatially specific, reflecting the nature of the crimes and the circumstances that led to the hanging in chains. This study provides an insight into the extreme use of a particular punishment, showing that judicial penalties were adapted to fit the circumstances of the crimes and reflect how the offences were perceived.

Hanging a body in chains was a post-execution punishment used to subject further humiliation and ignominy on criminals who were to be made an example of, or were deemed to have committed especially heinous crimes. The Murder Act of 1752 stipulated that criminals convicted of murder should not be buried, but instead hung in chains or anatomised and dissected. The practice of hanging in chains, however, pre-dates this Act by hundreds of years, with bodies gibbeted in the

early-modern and medieval periods. More bodies were gibbeted on the eve of the passage of the Murder Act than in any of the decades that followed, though not all of those gibbeted were convicted of murder.[2] The location of many of these gibbets has been recorded in maps, documents and in folklore. The purpose of this chapter is to examine the ways in which the authorities used one of the most severe punishments available to them in the eighteenth century, and the logic and rationale behind their decision to use the punishment.

This will be achieved through a case study of the Hawkhurst gang and the locations in which they were hung in chains. Gibbeting was a costly procedure that involved the production of a gibbet cage and post that were designed to be viewed by as many people as possible. The spectacle of hanging the body in chains was in a sense an extension of the hanging ritual: public, exemplary and a deterrent. As well as inflicting further punishment and humiliation on the body, the practice allowed for even greater numbers to witness the spectacle. As Steve Poole showed in Chapter 2, the selection of the location of crime-scene hangings was purposeful and integral to the hanging ritual. Likewise, the location of the gibbet was as significant an aspect of the punishment as was the cage and post itself. The gibbetings of the Hawkhurst gang suggest that there were many considerations that led to the selection of gibbet locations. This chapter will assess how far the considerations used in choosing the gibbet sites of the smugglers in the 1740s were used more widely across the eighteenth century in deciding where exactly criminals should be hung in chains.

This chapter will focus on the three geographical areas in which the smugglers were hung in chains: London, West Sussex in the area surrounding Chichester and the East Sussex/Kent border near Hawkhurst. Gibbet locations were selected for different reasons in each of the locations. It will be considered why there were these differences and how the choices related to the criminals, the crimes committed and the places themselves. It will be argued that while the gibbeting of criminals in London was in some ways unique, the differences in the crimes committed by those gibbeted in West and East Sussex were different and this was reflected in the locations at which the criminals were hung in chains. To begin with the chapter will briefly set out who the smugglers were and the process of gibbeting, before assessing the typology and landscape of the gibbets in London, West Sussex and East Sussex. It will finally consider how far the reasons used for selecting the gibbet sites of the Hawkhurst gang were applied more widely.

The Smugglers

All of the men considered in this chapter were members of the Hawkhust Gang, a notorious band of smugglers that operated on the Sussex and Kent coast. The prosecution of these smugglers for a series of crimes, including murder and robbery, led to a peak in the use of hanging in chains in the late 1740s and early 1750s. This section will examine the offenders who were tried for smuggling from the Kent/Sussex area between 1747 and 1750. It has been argued elsewhere that an escalation of violence between smugglers and the authorities resulted in the increasingly harsh punishment of smugglers that normalised hanging in chains for this particular group of offenders.[3] What is of interest in this chapter is not the crimes or the criminals themselves – about which much has already been written – but how these relate to the locations in which their bodies were subsequently gibbeted.

These men were part of a larger group of smugglers hanged between 1747 and 1751 (see Tables 3.1 and 3.2). As well as smuggling, the offenders were convicted of murder (several brutal murders were committed by the smugglers), robbing the customs house at Poole and a series of property crimes. Nicholas Rogers has demonstrated that at least 35 smugglers from the south coast were hanged in the years 1749–50 alone.[4] In Sussex and Kent a total of 50 smugglers were sentenced to be hanged or transported in the years 1747 to 1752. The majority of these were convicted at the Old Bailey, with 18 men convicted of smuggling and 3 of robbing the customs house at Poole; 6 smugglers were sentenced to hang in Kent while 14 were tried in Sussex.

Only one of the convicted smugglers was pardoned (Richard Glover), one was acquitted (Thomas Lillywhite), and three turned king's evidence to avoid the gallows.[5] The high number of convictions of the smugglers provides some context for the high number of bodies hung in chains: along with high numbers of death sentences went unusually large numbers of post-mortem punishments. It is notable that there were 23 smugglers from East Anglia sentenced to death in this period, however none of them received a post-mortem punishment.[6] This was not due to the fact that hanging in chains was not utilised in East Anglia – offenders certainly were hung in chains in the area; but the practice was not used as a punishment for smugglers. This suggests that the relationship between the smugglers, their crimes and the authorities was unique in Sussex and Kent.

Of the 16 smugglers hung in chains in the late 1740s and early 1750s, seven were convicted at the Old Bailey, eight in Sussex and one in Kent.

Table 3.1 Numbers of smugglers convicted at the Old Bailey, Sussex and Kent Assizes, and the punishments they received, 1747–51

Year	Convicted	Punishment					Hung in chains
		Transportation	Hanging	Pardoned	Died	Total	
1747	5	–	5	–	–	5	3
1748	11	–	11	–	–	11	2
1749	32	5	24	1	2	32	11
1750	1	–	1	–	–	1	–
1751	–	–	–	–	–	–	–
1752	1	–	1	–	–	1	–
Total	50	5	42	1	2	50	16

Sources: TNA, T 64/262, ASSI 23/6, ASSI 31/2; *Old Bailey Online*.

Table 3.2 Smugglers hung in chains, 1747–9

Area	Name	Crime	Gibbet location	Date
London	John Cook	Smuggling	Shepherd's Bush	29.07.1747
	Richard Ashcroft	Smuggling	Shepherd's Bush	29.07.1747
	Samuel Austin	Smuggling	Shepherd's Bush	21.12.1747
	Arthur Gray	Smuggling	Stamford Hill	11.05.1748
West Sussex	Benjamin Tapner	Murder	Rooks Hill, Chichester	19.01.1749
	William Carter	Murder	Portsmouth Road, Rake	19.01.1749
	John Cobby	Murder	Selsey Isle	19.01.1749
	John Hammond	Murder	Selsey Isle	19.01.1749
	John Mills	Murder	Slindon Common	20.03.1749
	Henry Sheerman	Murder	Rake	21.03.1749
	William Fairall	Robbing Customs House	Horsmonden	26.04.1749
East Sussex	William Hartnup	Smuggling	Goudhurst Gore	14.04.1748
	Thomas Kingsmill	Robbing Customs House	Goudhurst Gore	26.04.1749
	Richard Mapesden	Smuggling	Lamberhurst	04.08.1749
	Edmund Richards	Murder	Hambrook Common	09.08.1749
	George Chapman	Murder	Hurst Common	19.08.1749

Sources: TNA, T 64/262; ASSI 23/6, ASSI 31/2; West Sussex Record Office (WSRO), Goodwood MSS 154; *Old Bailey Online*.

One other man, William Jackson, was sentenced to hang in chains but died before execution. He was convicted of murder along with six others at a Special Assize in Chichester.[7] This had been carried out to try those who had participated in the torture and murder of William Galley and Daniel Chater. The Duke of Richmond had petitioned for the Special

Assize to be held at Chichester, local to the murders, due to the severity of the crimes.[8] As a result of his death, Jackson's body was thrown in a hole where the gallows was located, along with Richard Mills, senior, and Richard Mills, junior, two of his accomplices. Mills junior and senior, however, were not sentenced to hang in chains as they were not considered to be principals in the murder. Incidentally, the sentence of hanging in chains was cited as the reason for Jackson's death in contemporary accounts. According to the pseudonymous writer, 'Gentleman at Chichester', upon hearing he was to be hung in chains, Jackson was so overcome he dropped down dead.[9] Jackson had been ill throughout the trial and did indeed die prior to his execution.[10] Though the account that his death was a consequence of his sentencing to the post-mortem punishment is implausible, it does suggest the way in which this punishment was viewed by those in receipt of it and how it was portrayed by those by whom it was administered. The gibbet was designed as a fate worse than death and this is how it was presented.

The Technology of the Gibbet

The process of hanging in chains involved hanging an executed body in an iron cage on a high gibbet post. This was a costly, time consuming process and the utilisation of this form of punishment is suggestive of the lengths that the authorities were willing to go in the quest to make an example of this group of smugglers. After execution, a body would 'hang for the usual time' (usually thirty minutes to an hour) before being cut down to be prepared for its post-mortem punishment. The body was then encased in an iron cage that had been made specially. The cage would then be hung from a gibbet post, usually between twenty and thirty feet high, and strengthened with iron. Nails would often be placed into the post to deter people from climbing up and taking the body. Sarah Tarlow has shown that sets of irons were usually made on a bespoke basis – each individual was measured up for their chains prior to execution by the local blacksmith. Sets of chains varied considerably in style, as often the smith would have had no experience or precedence for making them. Some were more elaborate than others as designs varied from a simple chain round the whole body to iron bands moulded around the arms and legs. Often they were adjustable. The joint between the post and the gibbet was often constructed so that the body could turn around in the wind. There is no surviving evidence as to what the gibbets or cages of the Hawkhurst gang were like, indeed few gibbet cages survive.[11]

The workmanship that went into the gibbeting is shown in the sheriff's cravings, a source that details the expenses the county sheriff claimed from the treasury in organising the execution and hanging in chains of offenders. The sheriff's cravings for Sussex in 1749 detail the costs of the execution and gibbeting of several of the Hawkhurst gang. Expenses ranged from paying attendants at the execution, to transportation to the place of gibbeting, to irons for the bodies. The cravings show that the carpenter Richard Goodman charged £17 14s for three gibbet posts for Richard Mills, Henry Sheerman and Edmund Richards. Goodman filed several bills of expense, including fixing the gallows and providing materials. The gibbet for George Chapman was not made at Hurst Green as the carpenter 'did not care to make gibbets for smugglers'.[12] This indicates that there were those who did not believe in hanging smugglers in chains. As a result the gibbet post was made in Lewes at a cost of £5 15s 6d. It was then transported to Hurst Green from Lewes at the cost of £3 3s. Additional expense was thus incurred to find a carpenter who would make the gibbet post. The cages for the smugglers ranged in cost from £4 to £6. Providing the iron to strengthen the post was even more costly: James Beeding junior was paid £8 9s for ironwork for the chains, cage and gibbet post of John Mills. William Fairall and Thomas Kingsmill were both executed at Tyburn and transported to Kent to be hung in chains. The cost of gibbeting these men was £24 1s each, including posts, 'strong iron riveting to prevent smugglers from cutting them down', chains and transporting the bodies.[13]

Hanging a body in chains was thus a costly procedure. This goes some way to explaining why the punishment was administered less frequently than dissection in the years after the introduction of the Murder Act in 1752 – over 80 per cent of the offenders sentenced under the Murder Act between 1752 and 1832 were sent to be dissected and anatomised rather than hung in chains.[14] Gibbets were expensive structures that would need to produce the largest possible impact to make the punishment worthwhile. Given that the authorities went to such effort and expense to make the gibbets, the choice of a suitable gibbet location was essential in ensuring that the bodies would be seen by as many people as possible. Gibbets were designed to have a powerful visual and sensory impact: their height would make them visible from great distances and a large proportion of the body itself would be seen in the iron cage. The body in the gibbet cage swivelling round on a pivot attached to the post would have produced sounds and smells that meant that even if the gibbet could not be seen, its presence would be known. Reinforcing the gibbet with iron and adding nails to prevent

people climbing up the post to steal the body suggests that these structures were made to last. Given that there was no time limit on how long the gibbet would remain standing, gibbets were in many ways semi-permanent features of the landscape and a long-term symbol of the spectacle of punishment. Using this punishment in spite of the cost and workmanship that went into the production of the gibbet is indicative of the lengths the authorities were willing to go to in order to deter the crimes committed by smugglers, and make a lasting example of this particular group of men.

Typography of Hanging in Chains Locations

There were a variety of reasons for choosing where gibbets would be located. This section will consider the locations at which the bodies of the smugglers were hung in chains and how these can be categorised. It has been suggested that gibbets were located at parish boundaries, as Nicola Whyte has argued in her examination of gibbets in Norfolk in the late eighteenth century. She has shown that there was a spatial pattern in which gibbets were placed on common land near parish boundaries.[15] However, this pattern has yet to be found elsewhere. In fact, in most counties spaces as close to the crime location as was convenient were chosen.[16] The positioning of the gibbets of this group of smugglers has shown that there was a more extensive range of gibbet location typologies. There were numerous reasons why gibbet locations were selected: proximity to the location of the crime, the place where the victim came from, the place where the criminal came from, on a major travel route, a prominent location where large numbers could view the gibbet, a place where a specific audience would view the gibbet, and a space where gibbeting was common. Finding a suitable location for the gibbet was thus important and could be a subject of some debate. In 1752, for example, there was some controversy as to where the body of John Swan should be hung in chains. Swan had been hanged for murder in Walthamstow and his body was directed to be hung in chains on the same gibbet. However, it was decided by Mr Justice Wright that this location was not suitable as it was 'in full view of some Gentlemen's houses on the Forest' and it should be 'left to the Gentlemen of Walthamstow to consult with the under-sheriff, and fix a proper place to erect a gibbet on'. The location eventually decided upon was Buckets Hill, near the Bald Faced Stag as being both a suitable location for a gibbet and one that was associated with Swan.[17] This location did not prove satisfactory as some gentlemen from the area complained,

so the body was later moved to Hagen Lane in Walthamstow near to where the murder had been committed.[18] This shows that the judge, sheriff and local gentlemen were all involved in deciding where the body should be hung in chains. The following section will assess some of the most significant reasons for placing the gibbets of the Hawkhurst smugglers through an examination of the geography, landscape and context of the locations to determine what gibbet location says about the perception of the smugglers, their crimes and how they were to be presented to the public.

London and the Generic Gibbet Location

Gibbet locations in London followed a somewhat unique pattern to the rest of the country: rather than being selected for their proximity to the crime, gibbets were placed on frequently used roads or on common land. These 'gibbet areas' were generally located outside of London and were sites commonly associated with judicial punishment. The first of the Hawkhurst gang to be hung in chains were John Cook and Richard Ashcroft. The two men were tried at the Old Bailey for smuggling and executed on 29 July 1747. Cook and Ashcroft had both been ordered to give themselves up or face execution as part of the Offences against Customs or Excises Act of 1745. This Act named over 200 smugglers and gave them 40 days to hand themselves into the authorities, after which time they would be hanged if caught. A reward of £500 was offered for the apprehension of any of the smugglers. Cook and Ashcroft were the first to be hanged as part of this legislation and were eventually hung in chains in Shepherd's Bush, London. As the *General Evening Post* announced:

> Yesterday morning about eight o'clock Richard Ashcraft [sic] and John Cook, the two smugglers, were carried under a strong detachment of the guards, from Newgate to Tyburn, and executed pursuant to their sentence; after which their bodies were hung on a gibbet at Shepherd's Bush, in the Acton Road, near James Hall, who was executed some time since for the murder of his master, Counsellor Penny.[19]

Shepherd's Bush (or Beggars Bush as it was sometimes known) was usually described as 'on the road to Acton', and no further description of the location was given. Historically the land was used by shepherds as pasture for their sheep on the way to Smithfield's market. The landmark that the bodies were placed near was another gibbeted body – that

of James Hall, hanged for murder in 1741. The gibbets were placed on a triangle of land on the main road west towards Oxford. Running north of Kensington Gardens and Hyde Park, this would have been a well-used road that enabled many to view the bodies on the way to and from the city. It was also three miles along the road to Tyburn and stood at the edge of London, making the bodies easily transportable from the place of execution to the site of the gibbet. As such, the location of their gibbeting was not significant in relation to their crime, and was of no significance to smuggling. There were, however, four other bodies hung in chains at this location between 1747 and 1751. One of these was another smuggler, Samuel Austin – his body was gibbeted in December 1747, a few months after Ashcroft and Cook. The *Morning Advertiser* reported that 'the body of Samuel Austin the smuggler, who was executed on Monday last at Tyburn, was afterwards hung in chains at Shepherd's Bush, on the same gibbet with the two lately executed'.[20] The significance of the spot was not related to the criminal or their crime, but instead that it was deemed to be a suitable area outside the capital on which bodies could be hung.

There were several locations in London that were used for gibbeting in this way, including Kennington Common and along the Edgware Road. Kennington Common was the location at which hangings occurred for those tried at the Surrey assizes. This large, open space associated with hangings would have been an ideal place to gibbet bodies. The Edgware Road ran north out of London from Tyburn, a key route for travellers and again associated with executions. Bodies were often hung in these places rather than near to where the crime was committed. Significantly, these places were near to where executions took place for the Sussex assize and at Tyburn respectively. Gill Smith was gibbeted on Kennington Common in 1738 following conviction for the murder of his wife. There were reports that Smith was to be hung in chains in St George's Fields, near to where he committed the murder.[21] Smith was eventually hung in chains on the same gibbet on which John James and Jack Emerson had hung two years earlier. All three of these men had been hanged on Kennington Common, and in all likelihood this was the reason why they were gibbeted there. In 1735 Samuel Gregory was hung in chains on the Edgware Road in 1735. He was a member of Dick Turpin's gang and was convicted of robbery and rape. Gregory's body, like Gill Smith's, was hung on a pre-existing gibbet. He was hung alongside Joseph Rose, William Bush, Humphry Walker and John Field, other members of the Turpin gang. Placing bodies on pre-existing gibbets appears to have occurred only in the London area.

Proximity to the gallows seems to have been a consideration in choosing these sites. Arthur Gray, perhaps the most notorious of all the mid-century smugglers, was hung in chains in 1748, on Stamford Common, another regular location for gibbets. Stamford Hill was, like Shepherd's Bush, located outside of the metropolitan boundary. Situated at Stoke Newington to the north of London, the gibbet was located on the Kingsland Road, a major northerly route from London. Significantly, both the roads through Shepherd's Bush and Stoke Newington were territories of highwaymen and associated with crime. In addition, both roads were used for the transportation of bodies into London for dissection. The placing of the gibbets at Shepherd's Bush and Stoke Newington therefore served to provide deterrence in an area associated with both crime and punishment. The *General Evening Post* stated that Gray's body was hung near Stamford Hill Turnpike, on the periphery of London.[22] Gray's body was hung on a pre-existing gibbet, a double gibbet erected for Ferdinando Shrimpton and Robert Drummond in 1730. He was gibbeted next to the body of Samuel Hullock, a murderer who had been hung in chains on Stamford Hill in 1747. Reports from 1752 suggest that Grays's body was cut down from the gibbet in that year. Samuel Hullock's was reportedly also stolen from the gibbet.[23]

London therefore seems to be unique as gibbet locations followed a different pattern to elsewhere, focusing not on the relationship between the gibbet location, crime, criminal or victim, but in choosing sites associated with criminalised spaces, the gallows and post-mortem punishment itself. London had established sites of execution and gibbeting that were, unlike at other places, fixed: Execution Dock at Wapping was used for cases tried at the Admiralty Sessions, and until 1783 Tyburn staged the executions of those tried at the Old Bailey. As Simon Devereaux has shown, there were concerns over executions staged at Tyburn long before it was abolished; indeed there were frequent complaints made about the number of public punishments that were carried out in the heart of the city.[24] Gibbeting in London reflected the wider use of the city as a stage on which punishments were carried out on regular basis. The 'gibbet areas' were selected for their proximity to the town, just outside the city boundaries and the fact that they were on a major travel route. This would allow for the maximum possible number of people to view the gibbet, without having it too near the city itself. It would have also meant that the bodies acted as a warning to highway robbers who frequented the roads. The gibbets of the smugglers in West Sussex applied some of the same principles, but were not concentrated in one particular area; furthermore there was no precedence for gibbeting bodies in the locality.

West Sussex and Prominent Locations

The majority of the gibbets located in West Sussex were all erected for men convicted of murder at the Special Assizes held in Chichester in January 1749. These offenders were all gibbeted in prominent locations surrounding Chichester, reflecting the outrage at the crimes committed and the desire to make an example of the smugglers. These Assizes were commissioned by the Duke of Richmond to try the men who had brutally tortured and murdered William Galley and Daniel Chater. The Galley and Chater murders have been well documented by both contemporaries and historians, and the crime is one of the most infamous cases of the period.[25] As Table 3.1 shows, John Cobby, John Hammond, William Carter and Benjamin Tapner were all hung in chains after the Chichester Assizes. John Mills was also gibbeted in West Sussex for another horrific murder: he had whipped Richard Carswell to death in 1747. Mills was not apprehended at the time and efforts to capture him were heightened in the wake of the Galley and Chater murders. He was eventually tried in March 1749 at the Sussex Assizes. Mills was sentenced to be hanged and afterwards to be hung in chains, like four of the men tried at Chichester in January. Part of a smuggling family, his father and brother, Richard Mills senior and Richard Mills junior, were tried at the Special Assizes. Their gibbets were placed at prominent locations surrounding Chichester.[26]

Usually one of the key factors in selecting a gibbet location outside of the capital was proximity to the crime.[27] However, none of these bodies were situated near any of the places associated with the murders, despite there being several locations at which the victims were tortured and the fact that the bodies were dumped in two different places. The locations associated with the crimes bore no relation to the places where the bodies were gibbeted. Galley and Chater were apprehended by members of the gang at the White Hart in Rowland's Castle, a village just over the Hampshire border. William Galley's body was found in a well in Lady Holt Park and Daniel Chater's body was buried in a fox hole in Coombe Hastings near Rake. Though it is not possible to discern the exact whereabouts of the places Galley and Chater were left, it is worth noting that the general locations would not have been suitable for hosting a gibbet as they are secluded. The only body placed near to a location significant to the crime was that of William Carter, who was gibbeted on the Portsmouth Road near Rake, fairly close to the Red Lion Inn where the men were tortured and Chater's burial place. Benjamin Tapner was ordered to be hung in chains at Rooks Hill (St Roches Hill) near Chichester, and John Cobby and John Hammond on Selsey Bill.

These locations were selected as they were at prominent features in the local landscape in the area surrounding Chichester.

Though it has been known as the trundle for over 100 years, the 1726 county map of Sussex marks the hill as 'Rook's Hill'. Rooks Hill is a prominent location in West Sussex, now known as the trundle, a viewing point over Goodwood Racetrack. Given that the bodies were positioned at prominent locations in the county, the gibbeting of Benjamin Tapner there is logical. The high point of a natural hilly landscape, a body would have been visible for miles around. The exact location of the gibbet on the hill has not been recorded, though the spectacular view from the trundle across the county suggests how visible the gibbet would have been. The gibbet location here seems to have been based solely on the topography which allowed many to view the body and act as a warning to as many people as possible.

The Portsmouth Road, near Rake, where William Carter was gibbeted, is the road that runs north from Portsmouth, through Petersfield on to Liphook and eventually to London. This road was the main route from Portsmouth into London and would have sustained a high amount of traffic. The body would therefore have been viewed by travellers coming into the county. As at the trundle, the views from the road are far-reaching and overlook much of the Sussex landscape. Again, the exact location of the gibbet cannot be ascertained, but views from the road near Rake are uniform. This gibbet location had the dual benefit of being on a road and at a high point in the landscape. As noted previously, Carter's was the only body to be placed near to a location associated with the crime; however, given that the other bodies were not situated close to any of the crime locations, it is probable that this was not the reasoning behind placing the gibbet of Carter there.

The bodies of John Hammond and John Cobby were placed on Selsey Bill to act as a warning to other smugglers. Their gibbet was designed to be visible to this specific group, not just to act as a deterrent to people in general, but to deter those whom Hammond and Cobby had worked alongside. Unlike the previous two gibbets, there are several sources that suggest where Cobby and Hammond were gibbeted. A 1778 county map marks the gibbet at the very edge of the bill, showing the spot with a small gibbet icon. A tithe map of 1830, however, marks a 'gibbet field' further inland. It is not possible to narrow down where the exact location of the gibbet was, indeed it is likely that the coast has been eroded and the gibbet site has been lost to the sea.[28] A blue plaque on Selesy Bill notes that 'as a warning to others the bodies of two smugglers executed in 1749 were hung in chains from the gibbet that stood

in this field, much of which is now under the sea'. Unlike the previous rural locations, it is difficult to imagine the now built-up bill in the mid-eighteenth century. The uninterrupted views out to sea, however, give an idea of how the bodies would have been viewed by those on the surrounding seas. The fact that the gibbet was marked on maps indicates that it was considered a landmark, part of the fabric of the landscape.

The locations of the gibbets of the four murderers were all placed at prominent locations near Chichester and to act as a deterrent, and be viewed by as many people as possible. The exposed nature of the gibbets would also have enabled further sensory experiences of the gibbet: the squeaking and creaking as the body turned on the gibbet post and swung in the wind, and the smells of the decaying body. This would have allowed the gibbet to be experienced even when it was not visible. The bodies of Hammond and Cobby on Selsey Bill could be seen for miles along the coast and would act as a warning to smugglers, therefore also fulfilling the purpose of being gibbeted for a specific audience. The Galley and Chater murderers were hung in chains at carefully chosen locations to reinforce the image of justice. Like in London, the gibbets were located in the peripheries in places that many people could view them; however, unlike in London the gibbets would have been visible to other smugglers and people associated with the Hawkhurst gang. The location where the men were executed is marked by the smugglers' stone on the Broyle Road. The location of the gallows was a hill to the north of Chichester, again a site on the outskirts of the town. The weathered stone remains and is flanked by an information board that has a map showing the gibbet locations at Rake, Rooks Hill and Selsey Bill. It also details the original inscription on the stone:

> Near this place was buried the body of William Jackson, a prescribed smuggler, who upon a special commission of Oyer and Terminer held at Chichester on the 16th day of January 1748–9 was, with William Carter, attained for the murder of William Galley, a custom house officer and who likewise was together with Benjamin Tapner, John Cobby, John Hammond, Richard Mills the elder and Richard Mills the younger, his son, attained for the murder of Daniel Chater. But dying in a few hours after sentence of death was pronounced upon him he thereby escaped the punishment which the heinousness of his complicated crimes deserved and which was the next day most justly inflicted upon his accomplices. As a memorial to posterity and a warning to this and succeeding generations this stone is erected A.D. 1749.

The perpetrators of the Galley and Chater murders have thus retained their place in local history, and the reminder of the horrific crimes they committed still acts as a memorial to the men they killed and as a warning to others.

Although hung in West Sussex, the landscape of the places in which John Mills and Edmund Richards were gibbeted was very different to Rake, Rooks Hill and Selsey Bill.[29] John Mills and Richards were also hung in chains for committing murder, though not at the same assizes as the other men. The locations of their gibbets were chosen for different reasons. Mills was hung and gibbeted at Slindon Common as this was where he came from while Richards was hung in chains on Hambrook Common for the same reason. Both men were transported long distances from the county gaol at Horsham in order to be executed and subsequently hung in chains near where they lived. According to the sheriff's craving, Mills was transported over 20 miles to the place of execution and Sheerman over 30 miles. Unlike the men tried at the Chichester assizes, these men were executed and gibbeted at the same place. Crime-scene executions were not common, and usually reserved for crimes for which a specific example needed to be set.[30] It was, however, common for murderers to be hung in chains following a crime-scene execution. Given that a gibbet post would have to be erected for the execution, the same post was used for hanging the body in chains. What is not clear is whether the bodies were executed at the scene of crime because they were due to be hung in chains, because there was a crime-scene hanging, or whether the two decisions were made independently of each other.

Slindon Common was a huge area in the mid-eighteenth century, so it is difficult to determine exactly where the gibbet would have been placed. The area of the common is comprised of very flat land in comparison to the contours of the previous locations. It is also likely that much of the area was wooded as maps from the period show a large area of woodland around Slindon. Hambrook Common retains the place name 'gibbet field' in a field along the West Ashling Road. Like Slindon, the area is flat and surrounded by hills. The gibbet was located in a field between Hambrook and the road from Portsmouth to Chichester, to the west of Cheesmans Lane. The positioning of the gibbets at the side of roads also shows that as well as putting the gibbet close to a significant place it was still important for the gibbet to be visible. This was usually the case when selecting a gibbet location, as more than one purpose was fulfilled.

Locating gibbets where the criminal came from or near to where the family lived was not uncommon in the eighteenth century – there

were several gibbets removed as they caused distress to relatives who lived within sight of the gibbet.[31] One such case was that of Richard Benstead. Hanged for murder in 1792, Benstead was ordered to be hung in chains on Lakenheath Common near where the crime had been committed. This was also near where his family lived. A few years after the gibbet had been erected his family were successful in getting the gibbet taken down.[32] All of the smugglers who were convicted after the Special Assizes at Chichester and sentenced to hang in chains were gibbeted where they had lived or originated from. As noted above, John Mills was hung at Slindon Common and Edmund Richards at Hambrook Common. The other men were all gibbeted in East Sussex: Henry Sheerman at Rake; Richard Mapesden at Lewes; and George Chapman at Hurst Common. Thomas Kingsmill and William Fairall were both executed at Tyburn, but their bodies were sent to Goudhurst Gore and Horsmonden respectively.

East Sussex and Local Connection

Moving into East Sussex, the gibbets were concentrated in a smaller area than those in the west of the county. This is because they were all located near to where the criminals came from, the area surrounding Hawkhurst where the gang was centred. The gibbets of four smugglers were all located within ten miles of one another. Though the gibbets were close to one another, they were not close to where the men were executed. Unlike in West Sussex, none of these men were gibbeted near to their place of execution. All of the bodies travelled long distances to the site of the post-mortem punishment. William Hartnup was taken from Penenden Heath, and Thomas Kingsmill, William Fairall and Richard Mapesden from Tyburn. These were distances of fifteen miles for Hartnup from Penenden to Goudhurst and fifty miles for the other men from Tyburn to where they were hung in chains.

The only man convicted for the Galley/Chater murders and hung in chains in East Sussex was George Chapman, the other men were convicted of smuggling or robbing the custom house at Poole. William Hartnup was the first to be hung in chains in the area for 'being assembled in order to be aiding and carrying away unaccustomed goods'.[33] Hartnup was part of a group of smugglers who had terrorised the people of Goudhurst in the 1740s. The tensions between the villagers and locals finally came to a head when a group of local militia defeated the gang when they rode armed into the village. This became known as the Goudhurst Affray of 1747 and has been cited, somewhat inaccurately, as the defeat of the Hawkhurst gang. Hartnup was hung in

chains on Goudhurst Gore the following year. The gore is shown on a contemporary map of the area, just to the north of Goudhurst, on the road leading to Horsmonden. Part of the gore can now be identified by Gore Lane, where houses now sit. Almost exactly a year after Hartnup was hung in chains there, Thomas Kingsmill's body was hung on the gore. Kingsmill had associations with Goudhurst; he was born there and like Hartnup he was involved in the affray of 1747. It is possible that the bodies would have been there at the same time, though Hartnup's would have decomposed considerably by the time Kingsmill's was gibbeted. Although placed within the village, the gibbet was removed from the centre, at the village boundary, keeping the gibbets away from the space of the living.

William Fairall was hung in chains at Horsmonden, his gibbet has been immortalised in the street named 'Gibbet Lane'. Gibbet Lane follows a west-bound road out of the village and is near the village green and public house. Fairall was ordered to be hung in chains where he had lived, specifically on Horsmonden Green. Fairall was brought up in Horsmonden and according to accounts of his life he had been born to no trade and brought up smuggling.[34] Unlike the gibbets at Goudhurst, this would have been in the centre of the village. This shows that gibbets were not always placed away from inhabited spaces, indeed bodies could often be viewed from people's houses. In London there were reports in the press that the body of highwayman John Haines was blown into somebody's private garden during a violent storm.[35] It was alleged that upon hearing his sentence Fairall remarked to Richard Perrin, who was not sentenced to hang in chains and lamented the fate of his fellow smugglers, 'we [Fairall and Kingsmill] shall be hanging in the sweet air while you are rotting in your grave'.[36] These remarks allegedly made by Fairall suggest that not all criminals viewed hanging in chains with the same horror as did William Jackson.

Richard Mapesden's gibbet was erected a few miles from Goudhurst at Lamberhurst. As with George Chapman's gibbet, the post was made at Lewes and transported to Lamberhurst as the carpenter would not make a gibbet for smugglers to be exposed on.[37] Lamberhurst is a large village, and there is nothing to suggest where the gibbet would have been located. Much the same can be said for George Chapman's gibbet. Located at Hurst Green, Chapman's body was ordered to be hung in chains on the common. Both Lamberhurst and Hurst Green are now redeveloped, and there is no common, again making it difficult to determine exactly where the gibbet would have been located. The village does sit on the main route from Hastings, so it is probable that

the gibbet was placed to be viewed by travellers using the road. Like the gibbet at Horsmonden these gibbets would have been much closer to residences than those in the west of the county.

The relationship between the town and the gibbet was therefore different in East Sussex to elsewhere, the space between the living and dead was closer and the dead were not so marginalised. As there is no record of who chose where the gibbets were to be located, there are a number of possibilities as to why this was the case. The men were ordered to be hung in chains at the judge's discretion; however, the sheriff and local magistrate also had a role in deciding the fate of the body, as with John Swan's body at Walthamstow. For example, the sheriff could choose which surgeon to give the body to when sentenced to dissection. The community could also put pressure on where the body would be placed, such as in Windsor in 1764 when the gibbeted body of Thomas Watkins was moved to a different location. Watkins had been executed in the Market Place in Windsor in March 1764, and his body gibbeted in Gallows Lane. Following complaints that the gibbet was a nuisance to passengers travelling along the adjacent road, in May the body was removed to the banks of the river. The body was evidently causing problems on local transport routes, leading to the body being relocated to a more suitable site. It is possible that the bodies in Sussex were placed in the local area to reclaim the land from the smugglers (as the people of Goudhurst did in the affray of 1747), and to act as a warning to those smuggling in the area or to act as an expression of public anger. Any or all of these could have been at the desire of the people of Goudhurst, the authorities acting to reflect real or perceived public opinion, or simply the wishes of the judge or sheriff. In Windsor, in the case of Thomas Watkins, the judge ordered the body to be hung in chains, but due to the body being deemed a nuisance by locals it was moved to a different location. In Walthamstow, the judge initially decided upon a location for the gibbet of John Swan, but subsequently decided the location was unsuitable and left the decision to the undersheriff and the gentlemen of the parish. The bodies of Joseph Guyant and Joseph Allpress were hung in chains on Finchley Common, but later the bodies were removed 'through the interest of Edward Allen Esq.' to a different spot on the same common.[38] These cases show that there was some discussion as to where the body went, by those deemed to have an interest in the gibbet location and who held some authority in the area. Bodies may have been directed to a location by the judge initially, but if the location was not deemed suitable by locals, pressure could be applied for the selection of a new site for the gibbet.

The Gibbet Typography and its Wider Application

This final section will consider how far the reasons used for selecting the gibbet locations of the smugglers in the 1740s and 1750s were applied more widely in the eighteenth century. Ultimately, it can be argued, proximity to the scene of the crime was the most significant factor in the choice of location, but there was also a variety of other factors considered that were dependent on the circumstances of the crime committed. The circumstances in Sussex in the 1740s led to gibbets of smugglers being placed either where the criminal came from, or at prominent locations in the county. There is a marked difference between the gibbet locations in the East and West of the county: in East Sussex the bodies were invariably hung in chains where the criminal was from, and in West Sussex gibbet locations were less to do with the associations that that specific place had than the fact they afforded a good vantage point for viewing the gibbets. In East Sussex the gibbets were concentrated in a small area around Hawkhurst; significantly the gibbets were placed in the area associated with smuggling and the Hawkhurst gang. Those criminals convicted of smuggling and robbing of the customs house at Poole were placed to act as a warning to those who lived in the area and were associated with the Hawkhurst gang. Gibbets in West Sussex were designed to be viewed by the largest possible number of people, placed at prominent locations around Chichester. These gibbetings for brutal murders were to act as an example to the populace as a whole, not just those associated with smuggling. Although there were different motivations behind the positioning of the gibbets, they were all designed to act as a very public deterrent, and were to be viewed by as many as possible.

The gibbets in both London and West Sussex were situated away from inhabited spaces, at prominent locations and along major travel routes, while in East Sussex the gibbets were positioned near to where local residents lived, reinforcing the purpose of the gibbet as being where the criminal came from. In general both of these practices were used when gibbeting bodies; however, bodies were generally gibbeted as close to the location in which the crime had taken place as possible. Newspapers and assize records provide evidence that in the 1740s over half of gibbet locations were selected for their proximity to the crime scene: this was the case for 27 per cent of sentences to hanging in chains. A further 28 per cent can be linked to the crime scene location, though it was not directly specified that this was the reason the location was selected. Aside from the reasons noted for the smugglers (topography, generic location, local connection) were a number of other explanations

providing for the location of the gibbet: these were the location from which the victim came, the place the criminal was 'taken', and the proximity to the gallows on which the offender was hung. There were four bodies that cannot be linked to a crime scene, and for which no reason was given for the choice of gibbet location.[39]

The figures from the 1740s suggest that it was usual for gibbets to be placed near crime locations, except in London where suitable areas were selected for gibbets, such as in Shepherd's Bush or on the Edgware Road. This continued to be the case in London for the period in which the Murder Act was enforced. Numbers were smaller, however, and there were only 17 gibbets used between 1752 and 1834 to hang 21 offenders in chains. These gibbets were primarily situated on Finchley Common and Hounslow Heath. The first gibbet placed on Hounslow Heath was notably near to the location of the crime. Immediately prior to the enactment of the Murder Act, John Salisbury was sentenced to hang in chains there for mail robbery. This appears to have led to the site being used as a generic gibbet location in the mid- to late eighteenth century. The Edgware Road, Stamford Hill and Kennington Common were also used for gibbets as they had been prior to the Murder Act, though not as frequently as they had been in the 1730s and 1740s.

In 49 per cent of the cases of hanging in chains in England and Wales between 1752 and 1834, the gibbet was noted as being situated 'near to where the crime was committed'. The exact positioning of the gibbet was dependent upon a number of factors, including where the gibbet would be most visible, where it would not be a nuisance to people, and the amount of traffic that would go past the gibbet. Whilst being near to the crime scene was the over-riding reason for choosing the area in which the gibbet would be placed, the exact positioning of the gibbet had to be practical.[40] As in the 1740s, there are a number of gibbets for which it has not been possible to find an exact location, or a reason for the selection of the gibbet location. At present, 5 per cent of the gibbet locations are unknown and in 32 per cent of the cases there has been no reason given for the selection of gibbet location. In all likelihood, many of these locations would have been near the crime scene. Given that in the 1740s, 27 per cent of places could be linked to the crime scene, it is probable that well over half of all gibbets during the Murder Act years were erected at a place close to where the crime was committed.

As in the 1740s, there were other reasons cited as the reason for selecting the gibbet location, and these were specific to the offender or the circumstances of the crime. John Clay, executed for the murder of his apprentice in 1783, was hung in chains on the common in his native

town of Chilvers Coton, Warwickshire. Similarly, Roger Benstead from Suffolk was hung in chains on Undley Common, within view of the house in which he had lived. Benstead had shot one of his farm workers when he came to feed the cows. In March 1766 William Whittle was executed for murder. He was hung in chains at Cliff Lane Ends in Farington and the location was significant for more than one reason. This was 40 yards away from Whittle's father-in-law's house and 100 yards from his own house, on the road to Liverpool. Whittle was convicted of the murder of his wife and children, and had been ordered to be hung in chains near where the murder had been committed. Like in East Sussex, the gibbets were placed in inhabited areas, and the gibbets were in view of homes. Richard Benstead's gibbet was in fact removed a few years after it had been put up as a concession to Benstead's family, who lived near the gibbet.[41] These gibbet locations all had links to the offender, but also the crime. This was different to the smugglers in East Sussex as the gibbet locations were selected because the offenders were from the area, but the crime for which the offender was hanged had not occurred there.

In Hampshire there were a number of offenders who were gibbeted on the coast in Portsmouth between 1766 and 1781; and these were men with naval connections. The first of these was Francis Arsine, a naval seaman who had murdered another seaman, Peter Varley, by stabbing him at 'the point' in Portsmouth in 1766. Arsine was ordered to be hung in chains at Blockhouse Point in Portsmouth dock. Two years later, James Williams was convicted for murder and ordered to be hanged at Southsea beach, Portsmouth and then gibbeted from the same post. He had been a sergeant of the marines, and at his execution 'the whole body of marines were drawn up close to the gibbet without arms for example'.[42] In 1777 one of the most infamous criminals of the area was hung in chains at Blockhouse Point: James Hill, otherwise known as 'Jack the Painter'. Hill was convicted of arson following his attempt in 1776 to burn down the Portsmouth dockyard in protest against the American War. This spot became associated with 'Jack the Painter', and the disposal of bodies. In 1779 it was reported that a midshipman was executed on board the Culloden as a court martial for mutiny on the ship. Following his execution he was 'buried under the gibbet on which Jack the Painter hangs in chains'.[43] In 1781 John Bryan was convicted of murder and hanged in Winchester, his body was subsequently hung in chains near to where James Hill had been gibbeted. Blockhouse Point in Portsmouth became a space associated with hanging in chains, and of the punishment of sailors. The connection with the sea and navy

at Portsmouth docks meant that this location was used for a particular type of offender, much like the smugglers in the 1740s.

Mail robbers were a particular group of offenders who were subjected to hanging in chains with some frequency in the eighteenth century. There were 17 men hung in chains for mail robbery between 1752 and 1834 across the country, and attempts from the Postmaster General to gibbet more. These offenders were invariably hung in chains along the road where they had committed the robbery. In 1755 George Davies was convicted of robbing the Cirencester mail along the road from Beaconsfield to High Wycombe in Buckinghamshire. He was ordered to be hung in chains 'as near as was convenient' to the place where the crime was committed, which was an area notorious for highway robbery.[44] Henry Lowndes (aka Clarke) was convicted for robbing the Warrington mail in 1791; it was reported that his prosecution cost thousands of pounds.[45] Lowndes was gibbeted on the top of Helsby Tor, described as a lofty hill, 7 miles from Chester, allegedly on a gibbet 50 foot high.[46] This location was selected for its topographical features, much like the gibbet on Rooks Hill, the gibbet would have been viewed by many thanks to its location. The gibbet did not remain in situ for very long, however, for soon after the gibbet was erected it was cut down and not replaced. Offenders convicted of highway robbery were treated in a similar way to mail robbers, and although those convicted or either highway robbery or mail robbery were not bound by law to receive a post-mortem punishment as murderers were, hanging the body in chains along the road where the crime had been committed was believed to deter others from committing such crimes.

For the smugglers in the 1740s, hung in chains over a short period of time, the reasons behind the selection of gibbet locations were temporally and spatially specific. In certain circumstances, other offenders were also gibbeted in locations deemed suitable, such as when seamen were gibbeted in Portsmouth docks. In general, however, gibbet locations were selected for their proximity to the crime location, coupled with practicality in positioning the gibbet by a road on suitable land. The positioning of the gibbets of the smugglers was therefore not typical, but neither were the crimes or the circumstances of their hanging in chains. They became a specific target of the government, and a special example was to be made of them. Those gibbets in West Sussex were designed to make the bodies viewable to as many people as possible, a reminder of the shocking murders committed. This was reinforced by the erection of the smugglers stone at Broyle, a reminder of where the men were executed. Those in East Sussex were gibbeted at locations

with Hawkhurst at the centre. These were to act as a warning to those close to the smugglers and the community in which the smugglers operated. The Hawkhurst smugglers therefore provide a unique insight into the processes of punishment, showing that even an extreme punishment could be adapted to fit particular circumstances.

Acknowledgement

The author would like to acknowledge that this chapter forms part of a wider research project, 'Harnessing the Power of the Criminal Corpse', which is generously funded and made available open access by the Wellcome Trust (grant number 095904/Z/11/Z).

Notes

1. Figures compiled from the Sheriffs' Cravings: The National Archives, London, UK (hereafter TNA), Sheriffs' Cravings, T 64/262; TNA, Sussex and Kent Assizes files, ASSI 23/6, ASSI 31/2; *The Proceedings of the Old Bailey, 1674–1913* (hereafter *Old Bailey Online*), http://www.oldbaileyonline.org/ (accessed 29 May 2014).
2. Figures from the 'Harnessing the Power of the Criminal Corpse' database, 1752–1834. The data was compiled from a variety of sources, including newspapers and periodicals, and Assize Records (ASSI) at TNA. The most significant source of information was the Sheriffs' Cravings (T 90 and T 64) at TNA.
3. Z. Dyndor, 'The Government and the Gibbet: Fighting the War on Smuggling in Eighteenth-Century Sussex' (unpublished research paper).
4. N. Rogers, *Mayhem: Post-War Crime and Violence in Britain, 1748–1753* (New Haven, 2003), p. 120.
5. See the sources cited in note 1.
6. There were three men hung in chains in Suffolk and Norfolk between 1748 and 1750: TNA, ASSI 33/2.
7. TNA, Chichester Special Commission, KB 8/72.
8. The Duke of Richmond's files relating to this can be found in West Sussex Record Office (hereafter WSRO), Goodwood MSS 155; TNA, Chichester Special Commission, KB 8/72.
9. 'Gentleman at Chichester', *Smuggling and Smugglers in Sussex: a Genuine History of the Unparalleled Murders of Mr William Galley and Daniel Chater* (Brighton, 1749).
10. *Ibid*.
11. Sarah Tarlow, 'The Technology of the Gibbet', *International Journal of Historical Archaeology* (forthcoming). I am very grateful to Professor Tarlow for providing me with a manuscript copy of her article.
12. TNA, Sheriffs' Cravings, T 64/262.
13. TNA, Sheriffs' Cravings, T 64/262.
14. Figures from the 'Harnessing the Power of the Criminal Corpse' database (see note 2).

15. N. Whyte, 'The Deviant Dead in the Norfolk Landscape', *Landscapes* 4 (2003), 24–39.
16. Sarah Tarlow and Zoe Dyndor, 'The Landscape of the Gibbet', *Landscape History* (forthcoming).
17. *General* Advertiser, 5 May 1752.4
18. *Covent-Garden Journal*, 1752, Issue 27; *Read's Weekly Journal or British Gazetteer*, 9 May 1752.
19. *General Evening Post*, 28 July 1747.
20. *Penny London Post or the Morning Advertiser*, 23 December 1747.
21. *Weekly Miscellany*, 31 March 1738.
22. *General Evening Post*, 28 May 1748.
23. *General Evening Post*, 10 May 1748.
24. G. Smith, 'Violent Crime and the Public Weal in England, 1700–1900', in Richard McMahon (ed.), *Crime, Law and Popular Culture in Europe, 1500–1900* (Cullompton, 2008), pp. 190–218; S. Devereaux, 'Recasting the Theatre of Execution: the Abolition of the Tyburn Ritual', *Past and Present* 202 (2009), 127–74.
25. Rogers, *Mayhem;* F. F. Nichols, *Honest Thieves* (Birkenhead, 1973); F. Mclynn, *Crime and Punishment in Eighteenth-Century England*, (Oxford, 1989); C. McCooey, *Smuggling on the South Coast* (Stroud, 2012); J. Rule, 'Social Crime in the Rural South in the Eighteenth and Nineteenth Centuries', in J. Rule and R. Wells (eds), *Crime, Protest and Popular Politics in Southern England 1740–1850* (London, 1997), pp. 135–53; Cal Winslow, 'Sussex Smugglers', in Douglas Hay et al. (eds), *Albion's Fatal Tree* (New York, 1975), pp. 119–66.
26. Locations of gibbets are referred to by the Duke of Richmond: WSRO, Goodwood MSS 155/ H132.
27. Tarlow and Dyndor, 'The Landscape of the Gibbet'.
28. Thomas Yeakell and William Gardner, *Sussex Great Survey Map* (1778), WSRO, PM/48. The 1778 county map as annotated by Cavis-Brown in 1906 indicates that the coastline had changed and that the gibbet was now under sea level.
29. Richard Budgen's map of West Sussex (1724), showing Rake, Rook's Hill, Slindon Common, Hambrook Common and Selsey Bill, the gibbet locations of members of the Hawkhurst gang, WSRO, PM/608.
30. See the chapter by Steve Poole in this volume.
31. Tarlow and Dyndor, 'The Landscape of the Gibbet'.
32. *The Morning Post*, 19 October 1824.
33. TNA, Lent Assizes for Kent 1747/8, Home Circuit Gaol books, ASSI 31/2.
34. *The Ordinary of Newgate's Account of the Behaviour, Confession, and Dying Words of the Nine Malefactors Who were executed at Tyburn on Wednesday the 26th of April 1749*.
35. *Morning Chronicle*, 19 March 1799.
36. *The Malefactor's Register; or, the Newgate and Tyburn Calendar* (London, 1779), p. 221.
37. TNA, Sheriffs' Cravings, T 64/262.
38. *Middlesex Journal or Universal Evening Post*, 14–16 July 1772.
39. Of 60 gibbet locations selected in the 1740s, reasons given for the selection were as follows: 16 where the crime was committed; 7 in a London 'gibbet area' (5 of these were smugglers); 7 where the criminal was from (6 of these

smugglers); 4 for the topography (all smugglers); 3 by the gallows; 1 where the victim was from; 1 where the criminal was taken. The remaining 21 had no reason given, although 17 of these can be linked to the place of crime.

40. The various factors that went into choosing the exact site of the gibbet are discussed in more detail in Tarlow and Dyndor, 'The Landscape of the Gibbet'.
41. *The Morning Post*, 19 October 1824.
42. *Public Advertiser*, 1 August 1768.
43. *General Evening Post*, 22 June 1799.
44. *Whitehall Evening Post or London Intelligencer*, 2 March 1755.
45. *Diary or Woodfall's Register*, 3 May 1791; J. Hemmingway, *History of the City of Chester* (Chester, 1831), vol. 2, p. 297.
46. *Diary or Woodfall's Register*, 3 May 1791.

4

Never Equal before Death: Three Experiences of Dying as Seen Through Eighteenth-Century French Executions

Pascal Bastien

Criminal justice and public executions have been an important subject of research for historians over the last 50 years, as the history of mentalities met historical anthropology and the figures proposed by social history were joined to the concepts of ceremony, rituals and rites of passage. The important studies of Richard Evans and Richard van Dülmen for Germany, and Pieter Spierenburg for the Netherlands, have paved the way for a comprehensive analysis of the phenomenon of capital punishment, its rituals, their audiences and most of the actors concerned with its staging.[1] Usually, when the abolition of the death penalty is not the focus, studies are elaborated with the development of the modern state, the civilising process and the refinement of sensibilities in mind. Numerous studies have radicalised the views of Max Weber and Norbert Elias, presenting the development of an industrial and rational civilisation as an almost continuous progress of the pressure maintained by a moral and religious civilising project.[2] Between prohibition and transgression, between the city and the countryside, a few minor exceptions were part of a relatively linear history. We might then ask to what extent it is possible to write a history of capital punishment without considering its future abolition or the numerous forms of opposition to it. Is it possible to investigate the capacity to act of the criminals put to death by justice? Is it pertinent to study their experience as the starting point of a new cultural history of criminal justice?

The stories of the criminals sentenced to death could be, in itself, the heart of another history of public executions. This chapter intends to reflect on the bodies and voices of those sentenced to death in three specific areas, but with the eyes of a specific spectator: London, Paris and Palermo (in Sicily) will be observed, described and analysed during

the eighteenth century by French or Francophone contemporaries. In hoping to understand their own criminal justice system, eighteenth-century lawyers, writers or philosophers regularly looked elsewhere, to the other side of the mirror. As we will see, numerous individuals were trying to understand the different cultures surrounding the death penalty through the rituals of execution and the treatment of the convicts, before and after their sentence. The three cities that we have chosen will allow us to demonstrate, through the prism of speech, that the legal and social status of death was vastly different and carried a special weight depending on legal traditions, religious practices and urban space. It is by following the sounds of the voices in the staging of capital punishment that this article seeks to understand how the death penalty changed, before death, the nature of an individual, reinvented by justice. The urgency to radically transform the criminal law in France must be understood, it seems, through the eyes – and voices – of the individuals condemned to death and socially transformed by the rituals of public execution.

Looking at Tyburn from the Continent

In 1775, the *Derniers sentiments des plus illustres personnages condamnés à mort* was published in Paris. In their preface, Antoine Sabatier de Castres and Joseph Donzé de Verteuil explained their project: to present to the public a genuinely philosophical reflection by gathering examples of 'heroic force', 'intrepidity that Heaven gifts to great souls', of 'virtue and courage' so unusual and so contrary to human nature when seen on the infamous spectacle of the scaffold. The book contains approximately 50 speeches, in which 50 different men convicted to death addressed with firmness and resolution the crowd that had assembled to watch them die. In leafing through the table of contents, though, an interesting item catches the eye. De Castres and de Verteuil had foreseen such a surprise and briefly explained themselves in a footnote. 'We are aware that we have assembled the speeches of more Englishmen than those of other nations; in this area, however, our searches proved most fruitful.'[3] It is true that historians such as James Sharpe, Thomas Laqueur, Michael Questier and Andrea McKenzie have demonstrated the importance of the 'last dying speeches' and the *Ordinary's Account* in the construction and development of understandings of crime, law, state and obedience in early modern England. And it is also true, as evidenced by de Castres and Verteuil, that if the harvest was aristocratic and noble in the sixteenth

and seventeenth centuries, the effrontery and impudence of petty thieves in the eighteenth century did not fascinate readers as much and, in fact, hastened the decline of the publication of the *Accounts*. But beyond this, contemporaries from the continent – French, Swiss and Italian for the most part – were stunned by the confidence with which English convicts accepted their punishment. 'Callousness and contempt for their punishment usually followed criminals until their final moments. A wrongdoer, who was to be hanged with his friend, upon seeing the other crying said, "Coward, you are not worthy of being hanged."'[4] Simon-Prosper Hardy also bore witness, in his *Loisirs*, to this strange English tradition of embracing death on the scaffold. Discussing an Irish gentleman who was hanged at the Croix du Trahoir for counterfeiting in January 1767, Hardy remarked that 'he died in the English fashion'; this expression can be better understood when considering that, almost three years later, he reported the punishment of an English gentleman who was beheaded for espionage. 'This young gentleman showed until his final moments the most heroic courage; he sermonised for a long time.'[5] There were multiple incidences in which English convicts stunned crowds with their firm voices and assured bearing. For their contemporaries, death was already understood as a profoundly cultural phenomenon.[6]

Though written down and disseminated in the *Ordinary's Accounts* and the Old Bailey *Proceedings*, the speeches were not always clear and the lessons therein, if there were any, sometimes seemed confused. Sheriffs allowed the convicts to speak largely without limitations. Each convict was allowed to make a speech. When the Benedictine John Roberts began to preach on the scaffold before his execution in 1610, the sheriff reproached certain disruptive Protestants who wished to silence him.[7] Execution was, in a way, the last right, the final liberty of a London convict. Richard James, hanged for murder on 23 October 1721, confessed his crime without hesitation to remind the crowd that the scenes at Tyburn could not provide a useful moral lesson.

> If I may judge of others by my self, I believe that the execution of malefactors has but little effect upon their old companions or others who have incur'd themselves to the like vicious course of life. For I have been often present at such a time, without feeling the least concern or uneasiness, or being any ways alarm'd at the sight of death.[8]

Such offhand remarks in the face of death were frequently made by condemned prisoners; without generalising, this became a characteristic

of English convicts in the eighteenth century and, in a certain manner, was one of the conditions of successful execution.

> We see the criminals travelling across town in carts, wearing their best clothing, with white gloves and bouquets, if flowers are in season; those who allow themselves to be hanged joyfully, or at least who do not show any anxiety, are spoken of as men who died as gentlemen, and in order to deserve this praise most have died as beasts, without showing any sentiment, or as madmen, thinking only of diverting the crowd. There are few executions where something of this sort does not happen and where five or six thieves are ennobled with praise.[9]

Even declarations of innocence, which are numerous, were written down for publishing. In the eighteenth century, one in three accused criminals maintained their innocence on the scaffold, a far cry from the discourse of obedience proposed by Sharpe.[10]

Hanging was not considered shameful, not in the way of French law, that is. The confiscation of the convict's body, however, was feared by criminals: 'gibbeted' indicated an exposition on a gallows or gibbet post, in which the body was suspended by chains, sometimes in an iron cage. After the Murder Act of 1752, the bodies of the executed were delivered to surgeons to be stripped and dissected publicly in the Surgeon's Hall; the confiscation of the body by the justice system signified the seizure of one's last and ultimate property. Peter Linebaugh has examined the riots and violent outbursts that occurred around the scaffold when a corpse was taken away for dissection. This hostility against the surgeons who went in search of remains demonstrates that the crowd was sensitive and attached to the unfortunate criminals who had not been completely marginalised by their punishment.[11]

Peter King has evoked 'the counter-theatre of the condemned' to argue for the immense responsibility of the English in the staging of capital punishment.[12] King argues that the entire spectacle rested in the hands of the people, the condemned as well as the spectators. The convict was the master speaker, not the sheriff or the chaplain, while the spectators became the masters of the spectacle. The penitence was not at the core of the drama; the condemned had an almost complete freedom in their speech, without censorship. The agony of the condemned was long, lasting up to 15 minutes at times before finally succumbing to asphyxiation: it was in the hands of the public, and not the executioner, to have the execution accelerated and parents and friends of the criminal pulled

on their legs to quicken death. The 'cult of Tyburn' was nourished by the speeches of the convicts, sometimes converted into ballads.[13] Death at Tyburn was divided between pious death and brazenness, but whichever took place was generally firmly accepted. 'To die in the English fashion' meant to die without apparent fear.

> I sometimes wondered where this indifference could come from, which seemed to me to be completely singular; I could never content myself with an answer. I believe that frequent executions, the number of people dying one after another, and the applause of the spectators must have an impact; the brandy, given to them before beginning the journey to the scaffold, could also contribute to their boldness, but this would not do with other people and there must be other and stronger reasons relating to one's temperament.[14]

For the Calvinist François Lacombe, this 'temperament', a cultural peculiarity, found its origin in the tradition of religious confession:

> The English go to the scaffold with an indifference that approaches heroism. On 11 December 1776, eight criminals were hanged and neither young nor old seemed to be shaken: they spoke in a calm manner and recited a prayer with a resolution that stunned foreigners in the crowd, especially the poor papists, who were accustomed to seeing tears as the capuchin approached and exhorted them to prepare for death.[15]

The philosophical virtue of the attitude displayed by the convicts of London stood in stark contrast to the religious application of consolation seen in the Catholic mechanism. The Catholic Reform set aside the neo-stoic attitude derived from the heritage of the death of Socrates and Seneca, in favour of a sensitive death, based on a fear of God and the indispensable support of the confessor.

Religious sensibility had its importance in the institution of speeches from the scaffold. It is true that Protestants insisted on the spoken word rather than the visual image, which was considered more susceptible to seduction and vulnerable to the temptations of the Devil. It is unclear, however, if the speeches transformed Tyburn into a supernatural forum or a prefiguration of the tribunal of God, as suggested by Andrea McKenzie.[16] Throughout the sixteenth century, the freedom of speech accorded to convicts revealed their spiritual condition; in a period of religious tension, the force and assurance displayed on the scaffold

presented a good death as a victory of one confession over another. Beginning in the 1580s, however, to avoid creating Catholic martyrs, those convicted of religious crimes became progressively levelled with other criminals under common law and were carted to Tyburn with thieves and murderers. Neither the justice system nor the crowd seem to have conferred the power of determining the conditions of the eternal life of the condemned to capital punishment itself. Confession and contrition, however desirable, were not indispensable to justice, at least not before the 1770s when English religious discourse transformed capital punishment into an instrument of moral reform.[17] The speeches of the condemned at Tyburn did not represent the moment of salvation, but instead the final act of autonomy over one's self-ownership.

The speeches from the scaffold were completely fused into the spectacle, constituting an integral element of the publicity of the criminal process followed at the Old Bailey, and was the last oral joust of those who hoped to win the debate several minutes before death. Rarely improvised, the last dying speeches were first a written text and then a speech read aloud and heard to finally become the object of criminal literature. But from the beginning of the eighteenth century, as Andrea Mckenzie has shown, ordinary criminals were able to use the framework of mixed religious and secular authority which governed execution rituals to present regular public critiques on the actual organisation and functioning of the English criminal justice system. The speech of the condemned was alive.

The Place de Grève and Confiscated Speech

While the chaplain of Newgate or a group of reporters (for the Old Bailey *Proceedings*) took on the role of scribe in the last days of the convict in London, the clerk of the court in Paris was without exception the closest witness to the public execution of the Ancien Régime. It was the clerk of the court who organised the proceedings of capital punishment and who, as scribe, also regulated speeches: either the imperious speech (by which I mean the speech that arranged, made and unmade judicial statutes), or confiscated speech (the secretive and foul voice of the culprit, the speech of the undead before their execution).

The clerk of the criminal court has almost always been reduced by historians of early modern Europe to the role of assistant to the magistrate: updating files, transcribing the testimony of witnesses and the accused, and preparing the judgment statements. Yet the clerk also ensured that executions were carried out in an orderly fashion and, in many

ways, safeguarded the rhythm of the ritualistic speeches. Clerks set in motion the march of the convict, 'made all young children approach the scaffold', supervised and prepared the royal grace that interrupted the executions. He or his assistants daily encountered the witnesses, the accused and the convict whose statements, both autonomous and guided by the judge, were recorded for the archives. The clerk was a tremendous reservoir of statements and, in the framing of an inquisitorial procedure founded on secretiveness and the written word, constituted a laboratory for the judicial memory of his time. Through the 'proceedings of execution' (*procès-verbaux d'exécution*), systematic for all forms of public punishment, and the 'testament of death' (*testament de mort*), exclusive to capital punishment, the clerk created, step-by-step and word-for-word, the organisational structure of punishment.[18]

Judicial writing is, by definition, highly stylised – the judicial treatises (*stiles juridiques*) and comments on rulings collected a series of formulas setting out the linguistic and judicial limits that the act of judging had to respect. This writing was, in itself, a ritual of legitimacy, a form of constructing statements used to recognise actions as true, just and legal. Through these documents written in one's final hour, the devices of the text alternated between legal formalism and tragic narration, description and justification, account and confession, returning to certain constant formulas: confession in the form of obsessive repetition of one's blame, and the work of the clerk that reflected the tone and rhetoric used (or those of the priest who habitually collaborated in these endeavours). The clerk acted as 'author' of the speeches of convicts. At the end of the sixteenth century in England, techniques for rapid writing, or stenography, emerged as a means of recording the sermons of preachers, the lines of plays that one wished to copy, or the debates in criminal courts.[19] France did not show signs of these techniques until the nineteenth century. The court clerk heard, fragmented, transcribed and completed the speech of the criminal.[20]

In the official reports of executions, clerks contented themselves with noting the ritual phases of the march to punishment: the placing of the main actors, the triggering of the cries of the crowd, and the call to silence ordered by the executioner, followed by the *legitima verba*, a death sentence read aloud by the clerk from the heights of the prison and informing the crowd of the name, crime and fate of the criminal. The reading of the death sentence could be quite long, especially in the eighteenth century when the text of judgments tended to indulge in a detailed description of the crimes of the condemned. In some cases, reading the sentence was a long and arduous affair: as with pastoral letters, rulings

and other official publications read by the judicial-crier, it is no wonder the crowds often became impatient and rowdy. In the interests of the execution ritual, the executioner had to impose silence several times to allow the sentence to be read by the clerk in its entirety.[21] Two voices were heard: the cry of the executioner and the reading of the sentence by the court clerk. Parisians then understood that an execution was to take place. Pedlars and judicial-criers could not sell or announce a judgment before it had been pronounced to the crowd by royal officers; often, they could not obtain permission to do so until after the criminal had been executed.

Capital punishment in Paris can be characterised by two specific traits. The first is the strict structure of the execution ritual. Each step was a moment designed by the statement made by the court clerk. The execution was triggered by the reading of the death sentence. After several exchanges with the condemned, the ritual was suspended; it became an exchange of words with God, through the exhortations of the confessor (the judicial archives do not include notes of this dialogue). From the exit from the prison, the cry of the executioner demanded the silence needed so that the court clerk could mark the execution with the voice of justice by the rereading of the sentence. Each interruption required the reading to start over again and each disruption demanded that the ritual restart through the use of speech.

The verbal proceedings of the execution did not transcribe the text of the sentence; at most, the documents focus on the physical and verbal reactions of the condemned as they listened to their sentence. The ritual modelled the execution with a series of statements pronounced by justice. It was the *Salve Regina* that concluded the succession of official and imperious speeches. These speeches could not endure any competition. The truth contained therein could not be jostled. The second trait of the Parisian capital punishment, therefore, from what we can derive from the verbal proceedings of the execution, is that the voices of justice confiscated, or destroyed, the voice of the condemned. At the Place de Grève the criminal could not address the crowd.

There was in France, judicially and culturally, a death without a corpse. Civic life and biological life were two distinct realities.[22] Since the end of the Middle Ages, French jurists had set the principles of the 'the body without speech', of the body bereft of its civic substance, which had long been a staple of Roman law. In the ritual of capital punishment, Parisians understood this infamy as the loud voice of the executioner suffocating that of the condemned. Performed in the courtyard of Notre Dame or in front of a few other churches, the *amende*

honorable, or the public request for pardon, could make the crowd hear the voice of the criminal: but it was the voice of infamy, precisely and exactly written by the judges, read by the court clerk and repeated by the criminal. Montesquieu adamantly argued on the subject of honour, the social ties that it guaranteed, and the rupture of these ties by the king's justice: 'in monarchies, where society is governed by honour, disgrace is an equivalent to physical pain; the formalities of judgments themselves are a sort of punishment. That is where shame comes from all sides to create particular forms of pain.'[23] Brissot de Warville also spoke of civil death and infamy as 'a kind of civil excommunication that eliminates the victim from all considerations and ruptures the ties that attached them to their fellow citizens, which isolates them even in the midst of death.'[24]

England at the end of the Anglo-Saxon period and the beginning of the Norman age employed a practice similar to shunning. Outlawing was a pain imposed on a runaway criminal, being radically dispossessed, based on a ritual strictly founded on speech and the rights of one subject to the law. In London, when the accused felon did not appear in court after being solemnly summoned three times over a period of 15 days, his shunning from the community of men was pronounced by an open-air popular assembly (the 'folkmoot'), reunited in the forecourt of St Paul's Cathedral.[25] The townspeople had been assembled by the ringing of the church bells. The fugitive was therefore publicly declared 'to carry the head of a wolf', (*caput great lupinum*) – the association between animals and the banished, largely practised in Indo-European cultures, was clearly present in the structure of the English ritual of shunning.[26] The outlaw was no longer a man and all social contact had been cut off by his banishment. While carrying the head of the wolf, nobody could offer the outlaw shelter nor support on pain of being outlawed in turn. They became monsters to keep at bay, reducing them to social commodities. Written in London at the turn of the thirteenth and fourteenth centuries, the common law treatise, *Le Miroir des Justices*, explained the relationship between the outlaw and the wolf as enemies of men, following the arguments of jurist Henri Bracton in his *De legibus et consuetudinibus*.

Carrying the head of the wolf, becoming an outlaw, was to be placed outside of the application of the law. The statement of the folkmoot had negated those of the runaway felon. But from the beginning of the fourteenth century, the banishment of outlaws no longer had the same significance; the outlaw was now a hunted man, not a banished one. It was necessary to seize their bodies and reintegrate them into the judicial

process, not to exclude them and keep them outside of the community of men. The outlawing of criminals was an infamous punishment and became an instrument of the judicial process, an obligation reserved for tribunal justice. The man with the wolf's head and the social destruction implied therein disappeared from penal practice at the beginning of the fourteenth century, when the royal justice system expanded its itinerant courts and enlarged its spheres of action.[27] In France, the inverse process manifested itself and the social existence of the criminal was the main target of the evolution of the penal system throughout the Ancien Régime.

In France the process used against an accused criminal was interrupted and cancelled in case of death: the matter was closed. The regulation, however, had three exceptions: rebels killed during their revolt against the king's men; regicides; and those who committed suicide. The Criminal Ordinance of 1670 regulated the steps of the process that the judges had to undertake between the corpse and popular memory of it.[28]

It is important to recall, at least summarily, the procedure against the dead. The judge would assign a trustee to defend the corpse. This trustee could be a parent or, more often – because they knew how to read – an officer at the Palais de Justice, even an archer or a warden at the prison. The trial was pursued against the trustee; their name was used throughout the judicial process and they responded to the pronounced accusations against the deceased. The trustee had to prove their innocence if they were accused of rebellion or of treason, or piece together evidence of madness, in cases of a 'self-homicide'. At the end of the investigation, the judgment was necessarily rendered by complete guilt or complete absolution. If the result was a condemnation, the case was brought into appeal of the Parliament because the sentence could only be capital. The guilty corpse would be hanged by his feet, head facing downwards, for 24 hours. More uncommon in the second half of the eighteenth century, judges almost always ruled in agreement of the insanity of the suicide, so that this kind of punishment eventually disappeared from practice. But judicially, it was still important to kill the dead.

There were, in fact and in law, different kinds of deaths. Not all deaths were differentiated in the same way. Those who passed away by natural or 'normal' death were not excluded from the church or civic life. The cadaver to whom the process was being applied was still an ordinary deceased person; it was considered as a deaf-mute for whom the trustee interpreted. When a capital sentence was pronounced upon him, however, the nature and the status of the deceased changed. It was no longer an ordinary death, but a death that separated one, not simply

from the world of the living, but from the communities of the living and the dead.

Condemnation to civic death was a capital punishment, even if it had not been brought about by the pain of a natural death. It cancelled the inheritance of the individual and what can be called the 'living word' of the accused; it could no longer bear witness, contract marriages or administer nor deny the slightest property. Those who suffered civic death lost their paternalist power and, if they were of the nobility, their title. The Parisian lawyer François Richer published a *Traité de la mort civile* in 1755. He collected the records of jurists who had preceded him, compiling sentences that had, for three centuries, defined the limits of such a condemnation and proposed conclusions when judicial and legal opinions differed on a certain matter. 'It is important to note,' he wrote,

> what is the nature of civic death. It is the absolute proscription of a citizen; it is the fragmentation that is made of a civil society; it is a member that is torn from the body; it is the state of a man on whom is placed the mark of public infamy; it is the state of a citizen with whom all commerce, engagement, and alliance is forbidden; it is the state of a man who has been erased from the catalogue of the living; finally, it is the state of a man whom society has refused to recognize as such, regarding him as already belonging to the realm of the dead, and who has been reduced to being without inheritance or family.[29]

Before physical death was brought on by capital punishment, the royal justice had in essence to *kill* the social existence of the condemned. Justice had to produce a dead man to the executioner, so that the hangman could not act as a murderer and the king viewed as a tyrant. Whether it be a galley slave, a perpetual exile or one condemned to death, these individuals had ceased to exist; they had no speech, but that of infamy and death. 'Society regards those who find themselves in such a situation as not being living beings', continued Richer. 'They are but a being without life, in the eyes of society, who cannot communicate with others, nor be communicated with.' The notion of infamy, which Richer argued for, was strictly connected to opinion, but it was also closely tied to language. The Latin *fama*, designating opinion and reputation, is evidently the origin of the term *infamy*. Derived from *for*, or 'to speak', *fama* can be translated by renown, or 're-noun', which forms the basis of infamy in old French law: a legal act of nomination, here a *sacer esto*, that deprived the condemned of all attributes subject to the law.[30] One must understand that the death sentence in this case was not

directed to the executioner, who would have found the order to act, but the condemned, who ceased to exist and conferred to the executioner the *possibility* of acting. Civic death disintegrated social ties and constructed, through this rupture of speech, an exit from the law. Someone killed by infamy was even less than a dead man, since the burial was forbidden for such convicts. The society of men is one of speech, of connection, of culture, and it was imperative to isolate the condemned so that the law could legitimate its use of force through the executioner. The criminal who heard his death sentence from the mouth of the court clerk became, in law, a living dead caught between two worlds. The condemned no longer existed, except as an example. He no longer spoke, except with his confessor. Between these two natures as a body without speech and speech without a body, between the king's justice and that of God, death could nevertheless help the living (*le bien public*, the common weal) through the testament of death, that is to say, the testament of a dead person:

> The law has judged him worthy of death, in full knowledge: it can no longer know him as a living man. If it were otherwise, it would make one dependent on the negligence of the executioner, or other more criminal motives, the *merum imperium*, the law of the sword hat the sovereign has bestowed on justice for the punishment, proscription and civic death of the guilty.[31]

We can hear the deceased through the testament of death written in between two worlds. Less elaborate than the letters of pardon analysed by Natalie Zemon Davis, the testament of death remains a novella of a life of criminal guilt.[32] We find therein regrets and accusations, the adventures of a young person that the convict suddenly accepted to relate, the story of a temptation that had been succumbed to, the detailed history of a criminal friendship and romances told by those who explained the situation to the judge and the court clerk. But 'it cannot be called a testament of death', wrote the jurist Ferrière, 'until after the condemned has been civilly killed by the pronouncement of his sentence and has been delivered to the executioner'.[33] The speeches of infamy could not be considered evidence since civil death invalidated the words spoken by the condemned criminal. They were statements from beyond the grave, which the law did not know how to handle and towards which it felt suspicious:

> Those whose wrongdoings had reduced them to end their lives by a deserved punishment often felt rage, despair, fury, and a macabre

> desire to see others fall into similar misfortunes. Therefore their testament of death could never be considered absolute proof, rendering them untestable, because they are in a position of impotence neither rejoined, nor confronted, which are the essential forms for legitimate and complete testimony in criminal matters.[34]

These statements were never made public and the crowd could not hear them. Parisians could occasionally read a transcription because it was believed that some could be particularly edifying; they were sometimes read as a fiction, through the literature offered by pedlars. But the condemned they watched on the scaffold was generally a mute one. Occasionally, an insolent criminal made a statement on the scaffold, but much was done to silence them. Certain exemplary convicts could quickly address the spectators in the first rows to recommend prudence and firm Christian education for their children but, by the end of the seventeenth century, however, deaths in Paris were considered private. 'The patient, as the custom of the empire dictates, does not address the public, as is often done in England; they do not obtain the permission required to do so.'[35] Only the pains of passing into the other-world – the blasphemies and prayers – produced a voice that the audience could remember. This voice can be read in the correspondences and journals of those present; it was this voice that Mercier discovered as he commented on and became angered by the punishments held in the capital. But more commonly, the speech that was hidden and kept secret in the testament of death only circulated in the halls of the Palais de Justice. The Place de Grève staged, in essence, a double death: civic death, through the process of confiscating one's right to speak, and natural death, by the punishment that destroyed the body of the condemned. All that was left after confiscated speech was penitential speech, the one offered to God through the confessor.

The practice of Catholic confession in early modern Europe derived from schools of theology that were often profoundly different: it is pointless, therefore, to hunt for a single sensibility and rhetoric used by France's priests as a whole (nor for the Catholic Church as a whole), since the space for various penitential practices is vast and difficult to define. Only a priest chosen by the Sorbonne could minister to criminals executed inside the walls of Paris. The Sorbonne entrusted the task to two priests for a salary of 300 livres a year; but they never acted together (except in 1757 for the regicide Damiens). Three priests were also paid an annual wage of 30 livres to preach to prisoners in Paris's three main jails; their work consisted of devotional exercises in the Conciergerie

and sermons in the Petit and Grand Châtelets, but they never left the prisons and their work ended on the day of the execution. On the day of the execution, the criminal could count on only one priest.

This official handling of convicts and culprits by a single ecclesiastical institution replaced, in a way, the confraternities of penitents that historians from southern French and Italian cities have analysed. Indeed, Paris during the first half of the seventeenth century boasted close to 345 confraternities, including those centred on mutual aid at the time of death, aid to the sick and solidarity in interceding for the repose of souls. However, the statute of each of those confraternities prohibited assistance to prisoners and convicts, because those sinners were 'infamous', ignominious. Only the Sorbonne priests were authorised to approach, accompany and exhort prisoners and convicts.

In Paris, then, we have a spectacle organised as follows: there is a non-religious procession through the city supported by tradition, but not fixed by ritual; spectators gather at random rather than by invitation, since the punishment is unscheduled and unannounced (not officially in any case) and the itinerary was subject to various changes; spiritual accompaniment is discrete and involves a verbal exchange between the court-authorised confessor and the culprit; no confraternity of penitents is admitted in Paris; the condemned person had no right to speak publicly; and only exchanges between the confessor and the Parliament clerk or the judges were allowed. The body no longer existed, socially; it was an object with no rights and was confiscated by justice. Death was total, both physically and socially. Salvation was not entirely absent from the horizon and hopes of the condemned, but royal justice played no role in it.

An example is the following ruling of the Parlement de Bordeaux dated 3 April 1743, which subordinates the spiritual support of convicts to the necessity of maintaining law and order. It will serve as an introduction for the last section of this paper:

> On this day, the Royal Attorney-General entered and stated: that he is informed that, through established custom in many cities and member localities of the court, certain types of confraternity known as penitents, some of whom distinguish themselves as white penitents, and others as grey, red, blue or other-coloured penitents, attend, as members of the confraternity, the execution of those condemned to death, under the pretext of subsequently taking responsibility for the burial of the corpse and of having prayers said. This custom, seemingly motivated by piety, is the source of very great inconvenience,

> since, under the habit which these so-called penitents are careful to wear on these occasions, and which makes them unrecognizable, it is easy to bring together and conceal armed persons of malicious intent, who aim to remove by force from the law those who have been deemed deserving of the ultimate punishment. It is up to the prudence and wisdom of the court to prevent this by prohibiting all red or other-coloured penitents in all cities and member localities of the court, to attend executions of convicted persons either in the garb of a penitent or as a confraternity unit.[36]

Palermo and Double-Speech

The penitents formed confraternities of men distinguished by the different styles and colours of their clothing; each had its own statutes and regulations, churches and cemeteries. Based on the model of the confraternities of St John the Beheaded, created in the fifteenth century in Rome and Florence, these lay associations have certain common features, at least until the nineteenth century. Penitents refused to bury incomplete bodies, since they bore the marks of infamy; some confraternities had the right of pardon for, usually, one convict a year. They took complete charge of the prisoner, from the confession (by a particular chaplain) to the recitation of prayers, through the collection in the city to fund the celebration of Masses. Their actions were part of a belief in Purgatory where every engagement was intended to reduce pains in the afterlife. Rituals staged by the confraternities of penitents reveal a true Christian reinterpretation of public execution: through their efforts public executions became integrated into an economy of salvation.[37] Although there were confraternities in Valenciennes, as well as in Limoges and a few other cities in central and northern France, they were mainly concentrated in southern France (Lyon, Marseille, Montpellier, Toulouse, Aix, Avignon, Toulon, etc.) and Italy (Rome, Florence, Naples, etc.).

Covered head to toe in a coloured dress and a pointy hat, driven by a sociability masterfully analysed by Maurice Agulhon, penitents brought another voice, another speech, to the organisation and staging of capital punishment. The previous judgment of 1743 was directed to the purple penitents from Limoges. Blue, grey and green penitents dealt mainly with the poor and the sick, whereas the purple, red, black and white could exhort, pray for and bury the criminals condemned to death. Competing against the speech of the clerk, the penitents doubled the voice of the condemned man. They sought to reintegrate the culprit into the spiritual community, as if they could exorcise the infamy in

order to bring back the criminal into the community of the living and the dead.

A distinction must be made between penitents and consolers or comforters (*consolateurs* in French, *consolatore* in Italian). Penitents were responsible for the fate and salvation of the condemned; comforters, on the other hand, exhorted, accompanied and guided the criminal, but did not pray publicly for him and did not take responsibility for the burial of the corpse. In other words, they performed a function, but it was not their vocation. Penitents were laymen who acted as a group, and their actions were public through prayers and burial; comforters were priests who worked alone with the condemned. There were comforters of every faith, Catholic and Protestant, but penitents were Catholic only. In Paris, the priests from the Sorbonne were comforters and the core of their action was absolution through confession. The chief purpose of the red penitents of Rome, and their purple counterparts in Limoges, was to pray for those condemned to death. On the day of execution, the penitents exposed the Blessed Sacrament in their church where they had a large number of masses said for the condemned criminal, and it was for the sake of the criminal that the Blessed Sacrament remained exposed until the execution.

Historians of early modern France have recently taken a strong interest in issues of cultural exchange: to understand the nature of these relays and connections, they scrutinise institutions of every kind. Thanks to the archives they have produced, it is these institutions, through their officers and other actors, which are the subject of the most recent studies on criminal justice. In a way, if historians have left behind the battle between popular and elite culture, they now are working on lawyers, judges, clerks or hangmen to understand the world of justice made of connections, influences and negotiations. Italian historiography, however, focuses more on narration, historical anthropology and the description of rituals, is more astute in its analyses and dares to grasp the significance of silences. Even Italian legal history now focuses on trials instead of laws.

Essentially, Italian historians interested in rituals of public executions studied or are studying Renaissance Italy.[38] In the fifteenth and sixteenth centuries, punishment had to fit both the crime and the criminal, in both its form and its location. Many of the rituals aimed deliberately at expanding the crowd of witnesses, since it was important that the completion of justice was seen. At the same time, the drama of the execution ritual had to conceal the tragicomedy of some prosecutions, for it was well known that justice was anything but blind. Apart from

partisan judicial vendettas, the ones who mounted the scaffold were a fraction of those condemned to do so, and an even smaller fraction had committed crimes worthy of execution. State rituals aimed to create an aura of judicial power and legitimacy, while religious rituals aimed to shift attention from the criminal's action and prosecution to his eternal fate. The overwhelming majority of those executed in Florence, Bologna and Palermo died by hanging (during the Renaissance, as well as the *Illuminismo*). Only a tenth of that number suffered beheading, which was the second most common form of execution. There are divergences between cities, but mainly the ritual of execution began and ended at the very centre of the city.

For the eighteenth century, the interest of Italian historiography lies more with Beccaria and the Enlightenment, where public executions and the confraternities of penitents are quite forgotten. The city of Palermo, however, can provide us with another insight. In *La Pura verita,* Maria Pia di Bella studies the 'art of executing well' in the largest city of Sicily.[39] The company of the *Bianchi* ('the Whites') was responsible for the reconciliation of convicted criminals condemned in Palermo, Sicily; between 1541 and 1820, 2,127 convicts were thus accompanied, consoled and prepared by these white penitents. The responsibility assumed by the penitents of Palermo involved writing an institutional memoir of conversion and salvation, and it is these 'paper conversions' that Di Bella has examined while studying the complex ritual surrounding the reconciliation of the condemned, a ritual conceived in a *mise-en-scène* behind closed doors and public spaces, where the very nature of the accused was reversed: the offender became the afflicted; he ceased to be a criminal and became an innocent and, in fact, the victim of the moment. The Bianchi were in charge of convicted criminals three days preceding their execution. The production and conservation of these 'paper conversions' may be exceptional, but the ritual and words that they repeat are very similar to those used by other confraternities, as the historian Regis Bertrand has shown in his own work about black and purple penitents of the south of France.

Penitents began their work in prisons in teams of four. When the time came to lead the criminal to the scaffold, the other penitents arrived to accompany him or her. They marched in a procession, preceded by a cross covered in a black cloth; near them walked two members carrying large yellow wax torches. As they marched, they chanted litanies and the seven psalms of penitence in mournful tones; afterwards, they retired to the church to pray for the soul of the criminal. A few hours later, the penitents returned to the scaffold with their torches, removed

the body from the gallows, placed it in a coffin and carried it to the church. Thence they sang the 'Office for the Dead' during the night, conducted a funeral service the next day and buried the body. The companionship they provided took place mainly in the chapel of the local prison and continued during the journey to the scaffold on the day of execution. Maria Pia Di Bella has focused on the material dealing with the three days spent in prison; these days involved words and gestures repeated until they were integrated, internalised and retained by the condemned and the Bianchi were satisfied only if the penitent understood, believed and accepted those words. Because the Bianchi wanted to avoid surprises of any kind, the day was divided into parts, with each part devoted to specific exhortations, prayers and recommendations. According to the documents presented and studied by the author, penitents were made to repeat the same words over and over.

These words were uttered and repeated to the criminal in his cell and then taken into another form, in songs and psalms recited in public, throughout the execution. No different than in France, the condemned had no right to speak on the scaffold and address the crowd; it was the penitents who took over this speech to double, or to compete, the elimination and exclusion prepared by the justice of the city. On the one hand, civic death was so quick that it did not wait for the corpse but, on the other, penitents maintained a corpse that died for the longest time, until its burial.

Conclusion

Justice is an institution based on speech and cannot exist unless spoken. Only the performative virtue of a speech could transform the status, identity and nature of the accused to make them a convict. Because speech is at the foundation of justice, it was profoundly integrated into execution rituals. In London, through sentencing, the personal statement of the condemned was at the heart of the preoccupations of the spectators and was perfectly integrated into a judicial culture of debate. Speech was free. In Paris, confiscated speech was the logical conclusion of a penal law that could not suffer any contradiction. Infamy was death before the killing. In Paris, there was no place for penitential confraternities; one priest of the Sorbonne was there to provide assistance, usually in private dialogue with the criminal. They denied the prisoner a chance to speak to the public and deliberately impeded their sight and hearing while en route to the scaffold: the prisoner had to be quiet and acquiescent. In the cities of Italy and the south of France, as we briefly

could see through the Bianchi of Palermo, penitential confraternities controlled the speech of the condemned, overtaking it with a statement of reconciliation that elaborated and maintained a process particular to the domestication of capital punishment.

Working on capital punishment through the history of its abolition confines us to follow the path of the civilising process, which is prompt to ignore differences, except when those differences are explained as rhythms. History is not a matter of rhythm, however, far from it; it is formed by projects, hopes, cultures and, most importantly, meanings, that can be profoundly different. It should not be assumed that the civilising process is the cause of the changes in sensibilities, rather it should be seen as a framework in which these changes take place. Elias interpreted these changes in sensibilities as a manner of conceiving the forms of civilisation, which do not contrast with barbarism, but with civilisation – a civilisation that, in truth, defines itself by the practices of its participants, the relations formed and unformed and the diverse experiences of coexistence.

Notes

1. Richard J. Evans, *Rituals of Retribution: Capital Punishment in Germany, 1600–1987* (Oxford, 1996); Richard van Dülmen, *Theatre of Horror: Crime and Punishment in Early Modern Germany* (Cambridge, 1991); Pieter Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression, from a Preindustrial Metropolis to the European Experience* (Cambridge, 1984).
2. Robert Muchembled, *A History of Violence, from the End of the Middle Ages to the Present* (Cambridge, 2011); Pieter Spierenburg, *A History of Murder: Personal Violence in Europe from the Middle Ages to the Present* (Cambridge, 2008); Pieter Spierenburg, *Violence and Punishment: Civilizing the Body through Time* (Cambridge, 2012); Karen Halttunen, 'Humanitarianism and the Pornography of Pain in Anglo-American Culture', *The American Historical Review* 100 (1995), 303–34.
3. Antoine Sabatier de Castres and Joseph Donzé de Verteuil, *Derniers sentiments des plus illustres personnages condamnés à mort, ou Recueil des lettres qu'ils ont écrites dans les prisons, des discours qu'ils ont prononcés sur l'échafaud; avec un précis historique de leur vie, de leurs procédures et des circonstances les plus intéressantes de leur mort* (Paris, 1775), Vol. 1, p. x.
4. Pierre-Jean-Baptiste Nougaret, *Londres, la cour et les provinces d'Angleterre, d'Écosse et d'Irlande, ou Esprit, mœurs, coutumes, habitudes privées des habitans de la Grande-Bretagne* (Paris, 1816), Vol. 2, p. 292.
5. Siméon Prosper Hardy, *Mes Loisirs, ou Journal d'événemens tels qu'ils parviennent à ma connoissance (1753–1789)*, ed. Pascal Bastien, Sabine Juratic and Daniel Roche (Paris, 2011), Vol. 1, pp. 203, 546.
6. The cold-blooded attitude facing death, the stoical composure regarding the end of life, seems to have been characteristic of English culture. In February 1772, reporting the suicide of a young Parisian goldsmith, Hardy complained

that 'the examples of suicide were increasing daily in our capital, where we seem to adopt in this respect the character and genius of the English Nation from whom we take to task to copy their vices and defects, while neglecting all that was good and praiseworthy': *Ibid*., Vol. 2, p. 485.

7. Peter Lake and Michael Questier, 'Agency, Appropriation and Rhetoric under the Gallows: Puritans, Romanists and the State in Early Modern England', *Past and Present* 153 (1996), 74.
8. *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 14 August 2014), Ordinary of Newgate's Account, October 1721 (OA17211023).
9. Louis Béat de Muralt, *Lettres sur les Anglais et les Français* (1725), ed. Eugène Ritter, (Paris, 1897), p. 51.
10. Peter King, *Crime, Justice and Discretion in England, 1740–1820* (Oxford, 2000), p. 345.
11. Peter Linebaugh, 'The Tyburn Riot against the Surgeons', in Douglas Hay et al. (eds), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York, 1975), pp. 65–119.
12. King, *Crime, Justice and Discretion*, p. 350.
13. John Rule, *Albion's People: English Society, 1714–1815* (Harlow, 1992), p. 239.
14. Béat de Muralt, *Lettres sur les Anglais et les Français*, p. 53.
15. François Lacombe, *Observations sur Londres et ses Environs* (Leyden, 1777), pp. 186–7.
16. Andrea McKenzie, *Tyburn's Martyrs: Execution in England, 1675–1775* (London, 2007).
17. Randall McGowen, 'The Changing Face of God's Justice: The Debates over Divine and Human Punishment in Eighteenth-Century England', *Criminal Justice History* 9 (1986), 312–34, and his 'The Body and Punishment in Eighteenth-Century England', *Journal of Modern History* 59 (1987), 651–79.
18. Pascal Bastien, 'Héros de la Grève: Les Derniers instants des Condamnés à Mort dans le Paris du XVIII^{e} Siècle', *Histoire et Archives* 18 (2005), 103–18.
19. Roger Chartier, '"Copied onely by the Eare": Le Texte de Théâtre entre la Scène et la Page au XVII^{e} Siècle', in Larry F. Norman, Philippe Desan and Richard Strier (eds), *Du Spectateur au Lecteur: Imprimer la Scène aux XVI^{e} et XVII^{e} Siècles* (Paris, 2002), pp. 31–53.
20. Daniel Jousse, *Traité de la Justice Criminelle de France* (Paris, 1771), Vol. 2, p. 270.
21. Pascal Bastien, 'Private Crimes and Public Executions: Discourses on Guilt in the Arrêts Criminels of the Eighteenth-Century Parliament of Paris', in René Lévy and Amy Gilman Srebnick (eds), *Texts and Contexts: International Essays on the History of Crime and Culture* (New York, 2005), pp. 141–62.
22. Civic death was abolished in France during the Second French Empire, in 1854.
23. Montesquieu, *The Spirit of the Laws,* Book VI, 21.
24. Jacques Pierre Brissot de Warville, *Théories des lois Criminelles* (Berlin, 1781), Vol. 1, p. 188.
25. James Tait, *The Medieval English Borough: Studies on its Origins and Constitutional History* (Manchester, 1936), pp. 41–2.
26. Hanna Zaremska, *Les Bannis au Moyen Âge* (Paris, 1996), pp. 40–2.
27. Susan Stewart, 'Outlawry as an Instrument of Justice in the Thirteenth Century', in John C. Appleby and Paul Dalton (eds), *Outlaws in Medieval and*

Early Modern England: Crime, Government and Society, c. 1066–c. 1600 (Surrey, 2009), pp. 37–54; Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I* (Cambridge, 1968), Vol. 1, pp. 476–8 and Vol. 2, pp. 578–82.

28. Jeffrey Merrick, 'Patterns and Prosecution of Suicide in Eighteenth-Century Paris', *Historical Reflections* 16 (1990), 1–53; Paul Friedland, 'Beyond Deterrence: Cadavers, Effigies, Animals and the Logic of Executions in Pre-Modern France', *Historical Reflections* 29 (2003), 295–317.
29. François Richer, *Traité de la Mort Civile* (Paris, 1755), p. 159.
30. Robert Jacob, 'La Question Romaine du Sacer: Ambivalence du Sacré ou Construction Symbolique de la Sortie du Droit', *Revue Historique* 639 (2006), 523–88.
31. Richer, *Traité de la Mort Civile*, pp. 155–6.
32. Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford, 1987).
33. Claude-Joseph de Ferrière, *Dictionnaire de Droit et de Pratique* (3rd edn, Paris, 1749), Vol. 2, p. 1031.
34. Ferrière, *Dictionnaire*, Vol. 2, p. 374. See also Antoine Bruneau, *Observations et Maximes sur les Matières Criminelles* (Paris, 1715), p. 202.
35. Mercier, *Tableau de Paris*, Ch. 280, 'Place de Grève'.
36. Bibliothèque de Limoges, LIM B6145/21.
37. Pierre Desplanches, 'Condamnés à Mort et Pénitents à Limoges et à Aix-en-Provence', *Ethnologia* 3–4 (1977), 59–67; Régis Bertrand, 'L'Exécution et L'Inhumation des Condamnés en Provence d'après les Archives des Compagnies de Pénitents', in B. Garnot (ed.), *Histoire et Criminalité de l'Antiquité au XXe Siècle: Nouvelles Approches* (Dijon, 1992), pp. 75–84.
38. Eugenio Capelli, *La Compagnia dei Neri: L'Archiconfraternita dei Battuti di Santa Maria della Croce al Tempio* (Firenze, 1927); Adriano Prosperi, *Tribunali della Coscienza: Inquisitio, Confessori, Missionari* (Torino, 1996); Nicholas Terpstra (ed.), *The Art of Executing Well: Rituals of Execution in Renaissance Italy* (Kirksville, 2008).
39. Maria Pia Di Bella, *La Pura Verità: Discarichi di Coscienza Intesi Dai 'Bianchi' (Palermo 1541–1820)* (Palermo, 1999).

5

The Ill-Treated Body: Punishing and Utilising the Early Modern Suicide Corpse

Alexander Kästner and Evelyne Luef

The history of suicide in the Western world is in many ways the history of an obsession with the suicide corpse. The suicide's dead body was a fiercely contested object, for intentional self-murder was considered to be both an atrocious crime and a heinous sin. But since not every suicide was deemed an intentional self-murder, disputes arose about the treatment of the corpse, resulting in an ambiguous practice of handling the suicide body and a wide range of customs (from hammering stakes through the suicide's heart as in South East England to floating away the suicide in barrels as in southern Germany). The variability of, and the shift in, these customs as well as the changing interpretations of suicide has fascinated historians in a steadily expanding field of historical research on suicide for several decades.[1]

Reports of the severe punishment of suicides in early modern Europe can sound to the modern reader like cries from a distant past that we consider to have been overcome. Present Western societies describe themselves in terms of modernity bound by long-standing traditions of Enlightenment; traditions and trends that led to a scientification of suicide and the rejection of public displays of state violence against the suicide corpse.[2] In the long run, shifts in treating and assessing both suicidal people and suicide victims, paralleled by enlightened penal law reforms as well as changing perceptions of the individual's autonomy, led to a significant depenalisation and medicalisation of suicide in nineteenth- and twentieth-century Western societies.[3] These enlightened traditions, however, should not be prematurely confused either with secularisation or humanisation – ambiguous terms that cannot be discussed in detail here.[4]

It is interesting and striking that the decriminalisation of suicide did not also produce or coincide with a total destigmatisation. As one can

see, for instance, in discussions over suicide pacts, as well as attempted or assisted suicide, to this day self-killing is a highly contested act.[5] For example, the modern discourse on voluntary euthanasia is closely linked to the issue that the right of committing suicide can still be denied on both religious and moral grounds.[6] In a historical perspective it was a complex interaction between religious and secular authorities that led to a rigid criminalisation of intentional suicide, rather than Christian morals or the claims of the Church alone. Not forgetting of course that ecclesiastical laws had long included sophisticated typologies of different suicides and the attendant punishments which should be visited upon the individual.

Given this background of interest and current state of research, it is the objective of the following essay to depict and analyse the wide range of punishment practices in cases of suicide in selected parts of the Holy Roman Empire and early modern Sweden. Instead of describing the underlying variety of laws and legal procedures in detail, about which we know a great deal from other studies, we will here focus on the meanings of diverse punishment practices to improve our understanding of its functions.[7] Thus, it is another central concern in this chapter to discuss the use of suicide corpses in different contexts, and particularly within the context of early modern anatomical institutes, which still is an insufficiently studied issue, as David Lederer has pointed out quite recently.[8]

Blaming the Local Mayor

In November 1803 a tailor's suicide made a great stir in Jüterbog, a small town on the northern border of the Electorate of Saxony.[9] Seeking justice but only finding rejection and desperation, the dressmaker Lindemann had hanged himself in the local mayor's yard. The scene was highly symbolic, since both the mayor and the municipal council had recently decided not to support Lindemann's request for a divorce. This background was well known in the Jüterbog community, and it later served to intensify speculations over the local authority's involvement in the post-suicide investigations as well as the verdict over the treatment of the corpse. According to some claims, the mayor and council tried to manage both the dispute with the tailor and its eventual outcome – the outrage of a suicide corpse hanging in a public place – through an illegal verdict which rejected the usual practice of dishonourable interment. However we might want to interpret this verdict, there is no doubt that it was against the law, and more precisely against several mandates that

ensured the delivery of felonious suicides from Jüterbog to Wittenberg's anatomical department. Hence it is likely that at least the mayor had recognised the symbolic power of the suicide. As a blamed official he imposed an equally effective symbolic punishment for the suicide, thus condemning the tailor and purifying himself.

Instead of notifying the incident to the nearby Wittenberg anatomy institute, the Jüterbog authorities told the local hangman to drag the tailor's dead body through the streets and bury it under the gallows. This infamous interment (*sepultura asina vel canina*) could be seen as a sign for the eternal punishment of the suicide's soul.[10] Unfortunately for the local dignitaries, one of the local physicians felt responsible to announce Lindemann's suicide to the university's anatomy theatre in Wittenberg as this was happening. Such notifications had been stipulated since 1723, and were a common practice.[11] Moreover, the physician suggested that the corpse should be laid down in the executioner's barn until the anatomists could come to collect it. After the gallows, this ranked amongst the Jüterbog community as one of the most dishonourable and infamous locations for the body to reside.[12] But it appeared that the executioner considered this suggestion inappropriate, and the corpse was consequently left out on the public street. Following this, all the involved parties unanimously agreed that this was a serious defilement of the town's public space, prompting an accelerated attempt to find a final legal and legitimate decision against the body.

This significant occurrence proves that even as late as the beginning of the nineteenth century in Western Europe, suicides could be punished by the desecration of the corpse. Moreover, the power of the suicide in this particular case resulted not only from traditional prejudices, fears and taboos about physical contact with the body, but also from its symbolic condemnation of the mayor – through the act of suicide the tailor had symbolically blamed the mayor for his miserable fate and untimely death.[13] This was, at the very least, how the mayor himself perceived it, since he in turn had attempted to incriminate the tailor of a malicious and wicked life. Hence, he considered the tailor's suicide a capital crime due to a sore conscience. The Latin judicial construction *ob conscientiam criminis ac metu poenae* (by reason of a guilty conscience and fear of punishment), to which the mayor referenced, was usually applied only to suicides of prisoners and meant killing oneself because one was conscious of a crime and dreaded corporal or capital punishment. In Electoral Saxony such a verdict allowed the secular authorities to impose a post-mortem punishment beyond Roman law's principle of *crimen morte finitur* (the crime ends with death).[14] It was also the

criminalisation of intentional suicide that served as the essential precondition for transferring the corpse to Wittenberg's anatomy institute.

These observations raise two issues, which we sketch in the following. First, in what different ways could suicides in early modern Europe be punished? Second, did early modern contemporaries regard the dissection and anatomisation of suicides as a penal practice, a 'second execution'?

Punishing the Suicide Corpse

Analysing the different ways in which individuals who committed suicide were punished in early modern Europe is a challenging task.[15] Scholarly research of recent decades has shown that an equal treatment of all suicides never existed. In a European perspective the legal procedures and sanctions for suicide differed with regard to their spatial and temporal context.[16] This already multifaceted picture gets even more diverse when we (apart from the normative level) consider the numerous local customs surrounding the handling of the suicide corpse. Unlike scheduled and highly ritualised executions, in which the disposal of the body was part of the formal punishment meted out against offenders, suicides were unexpected events and required relatively flexible and quick actions. Thus, the following analysis is an attempt to sketch out the different post-mortem treatments of the suicide corpse in order to give a broad overview and to understand the meaning and the function of these different practices within a European perspective.

The empirical material these considerations are based upon stem from different regions of early modern Europe. By discussing suicide cases from the Electorate of Saxony, the Austrian Archduchies above and below the river Enns, and the southern part of the so-called Norrland in the Swedish Kingdom, cultural and denominational boundaries are inevitably crossed.[17] As mentioned above, the normative provisions concerning suicide and the practical handling of the suicide corpse differed in all of these territories. However, despite such differences, some important commonalities seem to have been in place that can serve as a common denominator and vantage point and these relate to the three main arguments against suicide outlined by Thomas Aquinas in the thirteenth century – namely, that suicide was perceived as a felony, a sinful deed and a crime against God, nature and society in all territories.[18] Suicides and suicide attempts were formally criminalised up until the mid-nineteenth century, and socially stigmatised long thereafter. By committing suicide one not only committed a crime according to the legal codes of

the time – through the act of self-killing the individual positioned themselves outside of the Christian community, since the secular criminal law and religious ideology were intrinsically interwoven.[19] Therefore the handling of the corpse and the choice of the last resting place carried significant meaning: a burial outside the churchyard, for instance, or at the place of execution, symbolically denied the post-mortem reintegration of the deceased into the Christian fold.[20] The penalisation of suicide thus denoted the idea of an eternal punishment for the felonious 'self-murderer' that transcended the worldly sphere.

Another important feature to note is that the authorities – implicitly or explicitly – distinguished two kinds of suicide, so to speak. A distinction was made between premeditated suicide (*felo de se*) on the one hand, and suicide committed out of an infirmity of mind (*non compos mentis*) on the other. The recognition of two kinds of suicide for which the mental state of the suicidal person was decisive opened up scope for construction, interpretation and negotiation not only in the courtrooms but also in the local communities in which the suicide had taken place. Usually the consequences for *non compos mentis* cases were less harsh and often consisted of a so-called 'silent funeral' – a burial without any ceremonial rites and in a secluded spot of the cemetery. In these cases 'honourable' people, often family members, were allowed to take care of the deceased. However, the special treatment of the 'insane' suicides marked the extraordinary circumstances of death and differed from regular funerals with the knell of the bell and prayers of priests and mourners. Thus, the distinctions made in the funeral ceremony can be regarded as a stigmatisation and a milder form of punishment.

More obvious, however, is the punitive character of the treatment of self-killing in the handling of premeditated suicides. Amongst the most heinous forms of premeditated suicide in the eyes of contemporaries was the self-killing of accused and condemned murderers. In 1704 the *Wienerische Diarium*, a Viennese newspaper, reported the case of an alleged murderer of his wife who had committed suicide. For this outrageous act, the offender was dragged to the place of execution on an animal skin, and there the executioner severed the head from the body with a shovel.[21] An anonymous script from as late as 1781 mentions a presumed murderer and thief who after committing suicide in his arrest cell was ordered to be brought to the place of execution and lashed to the breaking wheel above which a gallows was erected.[22] The Austrian criminal codes explicitly stipulated that such aggravated measures which included mutilation of the corpse were applicable only in cases in which a culprit had committed suicide while under arrest in order to

escape punishment.[23] In Sweden, until 1736, according to the letter of the law, those who took their own lives should be burnt at the stake in the woods.[24] In practice, however, since the mid-seventeenth century it had been usual for suicides to be buried instead of burned in the woods.[25] Thus, the case studies described in the following suggest that the cremation of the suicide was not the ordinary punishment but an increase in the penalty. For instance, an alleged thief referred to as 'Store Jöns' was burned together with the holding cell in which he had taken his life. According to surviving sources, the parish and the local jury had requested to burn him with the cell and promised to build a new one.[26] A Swedish woman, Karin Mickelsdotter, who committed suicide in 1664, was also taken to the woods by the executioner and burned at the stake.[27] Besides her bad reputation and accusations of stealing, the decisive factor for the aggravated punishment in her case was most likely that she had repeatedly hit her mother – in Sweden, violence against one's parents was condemned as a capital crime.[28]

Machiel Bosman has shown that as late as at the end of the eighteenth century, criminals who committed suicide were exposed to post-mortem punishment in Amsterdam, while suicides without a 'criminal past' had not been so convicted since 1668.[29] Similar practices can be detected in other territories as well. In April 1647 a murder-suicide shook the city of Budißin (Upper Lusatia, nowadays Bautzen). As a local chronicle reports, a servant-girl had strangled her master's 3-year-old child and had hanged herself afterwards, dressed in the clothes of her mistress. The 'freeman' ('Freymann', synonymous for executioner) cut her down, threw the body through the lodging's window and dragged the corpse on his tumbrel to the gallows. There he decapitated her with a shovel and buried the body parts under the gallows.[30] As in the Viennese example mentioned above, an ordinary shovel was used for the post-mortem decapitation. It seems as if these suicides were treated with even more contempt than other criminals.

These examples show that it is without doubt justified to speak about post-mortem punishments in the context of suicide, even though they suggest that such individuals were not punished for their 'self-murder' but for their previous crimes. The concept of *crimen morte finitur* was apparently not followed, as was customarily and legally approved by influential legal scholars like Benedict Carpzov (1595–1666) in cases of the most atrocious crimes (*crimina atrocissima*).[31] On the contrary, the message of such actions appears to have been that one could not escape justice – and the public spectacle of execution – by choosing a shameful death like suicide.

But alleged criminals who committed suicide were not the only ones who were subjected to degrading treatment. All individuals who intentionally took their own lives had committed a crime and thus were considered criminals. Hence, until the motive for the suicide had been established, and the *felo de se* versus *non compos mentis* decision had been made, every suicide was a potential felon. Consequently, the place where the self-killing took place was a 'crime scene' which should not be disturbed. The source material suggests that in general the corpse was left untouched upon discovery. Corpses found in water were usually left in place or dragged to the shore and individuals who had hanged themselves were often left untouched at least until the scene and the body had been inspected, sometimes even until the ruling regarding the last resting place had been delivered. Thus, at least for a certain amount of time the corpse interfered with the everyday routine of a community. This was especially the case when the suicide had been accomplished by jumping into the well, had occurred in an important place for village life or simply at home. Presumably the body left in place and in wait for the sentence evoked various strong emotional reactions from family members, neighbours or passers-by. Not least due to sanitary reasons it could also cause practical problems. Depending on different administrative procedures and individual circumstances of the suicide, the time span between the discovery of the body and the interment varied considerably, stretching from a few hours to several months. Especially in cases when no quick resolution was in sight, suicides were moved and stored in barns or shelters, or were buried in a provisional place until a final decision was reached.

Generally, the touching of the suicide corpse was a sensitive topic since it interfered with the criminal investigation. Only 'signs of life' justified an intervention in order to save the person's life. Wolfen Gräbmer, for instance, a small holder (Kleinhäusler) in Schalchham (nowadays Upper Austria), explained that he grabbed his hanged wife under the armpits and called out to her thinking she might still be alive since her eyes were open.[32] A Swedish lower court protocol ('dombok') from 1734 notes that a man called Samuel Person was not to be punished for cutting his 24-year-old son from the rope since he did so thinking he could save the young man's life.[33] While for a long time touching the suicide body was forbidden if not punished, intervention in order to save lives was encouraged and even decreed by the second half of the eighteenth century.[34] Many people, however, would have refrained from touching a suicide in any case due to popular beliefs that associated self-killing with supernatural forces and diabolical

temptations. It was the executioner's task and prerogative to handle intentional suicides while *non compos mentis* suicides were granted to be taken care of in most cases by 'honourable people'. Thus, the punitive character of intentional suicide is underlined once more by the executioner's responsibility for disposing of the body. The sources mention that the corpse should be dragged through the streets or carried on the executioner's tumbrel.

The disrespectful handling of the corpse by the executioner can be seen as a form of post-mortem public humiliation and display. Also the derogatory language used in the sources for this procedure, stating for example that the corpse should be handled like 'unreasoning brutes' ('unvernünftiges Vieh'), suggests that at this point the body was deprived of all human dignity and regarded as a soulless shell.[35] Occasionally, in suicide cases where the further course of action was unclear or disputes over the last resting place arose, the corpse simply remained in its finding place and was left to animals and the ravages of time until the matter was settled.[36] Local places of execution, swamps or other secluded sites usually served as the last resting place. Highly symbolic in this regard were also burials on district borders, understood as areas or interspaces that did not belong to either of the adjacent districts, as well as the so-called 'running' ('Rinnen'). The latter practice, known from southern Germany, involved putting the suicide corpse into a barrel and floating it away down a river. Unsurprisingly, this kind of treatment could cause trouble in neighbouring territories when those barrels washed ashore.[37]

Mapping the places of interment is extremely difficult. As with the forms of degradation of the corpse, the precise practices of disposing intentional suicides varied according to location. Certain areas show specific characteristics such as 'running'. Yet in most cases the last resting place for intentional suicides was adapted to local conditions and customs, and to the individual circumstances of the self-killing. Often it turned out to be a place that no-one objected to or that arose little resistance in the community. What all sites had in common, however, is that they made it difficult – if not impossible – to serve as dignified places to remember the deceased. Some can be virtually described as 'non-places' that not only allowed the body to disappear, but also obliterated the suicide's memory.[38]

Sometimes the burial places for *non compos mentis* suicides were contested. Those thought to have committed suicide out of an infirmity of mind were regularly granted a silent burial at a secluded site of the cemetery by the authorities. Occasionally, however, these suicides were

exposed to an expulsion from the 'hallowed ground' by local parish members. Such 'cemetery revolts', whereby people prevented the burial of suicides in the churchyard, occurred both in Electoral Saxony and the Archduchy Austria, but hardly ever in the Swedish Empire.[39] Sometimes these conflicts express underlying conflicts within the local community that culminated in a battle over a dead body.[40] At the same time, they inform us about different views regarding a suicide's last resting place and suggest that the criminalisation and punishment of suicide was not only imposed by the authorities but was also supported and sometimes even requested by the populace.[41] Again, other conflicts arose when people asked for an equal treatment of suicides.[42] Apart from these aims, 'cemetery revolts' could furthermore refer to deep-rooted fears and superstitions, for instance fear for bad harvests or severe weather, associated not only with the act of suicide but explicitly with the suicide corpse.[43]

There is, however, no rule without exception. When going through the source material one can find many examples that show a handling of the suicide corpse that differs from that described above, particularly when noblemen committed suicide.[44] In practice, a wide range of reactions, requests and individual solutions were applied. For instance, in all territories the authorities would occasionally grant that premeditated suicides were allowed to be taken care of and buried outside the cemetery by family members or other 'honourable' people instead of the executioner. Yet the suicide's body did not receive the same respect as the corpse of a good Christian: the felonious and sinful death still had to be marked in some way.

Various ways of how to treat suicides existed. The punitive character of these treatments – in different degrees – is evident in all of them. Without question there existed ways in which a suicide could be punished after death, even in the symbolic form of a 'second execution'. A dishonourable interment was just one aspect of the sentence. The examples above, taken from different parts of early modern Europe, show a broad variation in the handling of the suicide corpse. Interestingly, no determining differences can be observed between Catholic and Lutheran regions. It seems that the different practices in treating suicides can be first and foremost attributed to diverse local customs and traditions. By committing suicide the individual itself, the corpse, had become an infamous object that was punished, shunned and feared. While some penal measures became less frequent or even disappeared in the course of time, others emerged. In the eighteenth century, for instance, the spectrum of handling the suicide corpse was

expanded for yet another treatment that so far had played only a minor role and that opened up new possibilities – the transfer of the body to the theatre of anatomy.

Dissecting the Suicide Corpse

The previous section of this essay has shown how shameful and disreputable punishment practices marked intentional 'self-murder' as the 'dishonourable dead' and the self-murderer's corpse as an infamous object. Given the wide-ranging use of suicide corpses for the purpose of academic dissection and lectures on anatomy in certain German territories, the following debate emerges: whether harnessing the corpses of suicides by anatomists in the eighteenth century could be interpreted as a perpetuation of pre-existing punishment practices or not. In the first place, therefore, the role of anatomy within early modern European penal systems needs to be briefly addressed.

The history of pre-modern anatomical science has recently been revised by a number of detailed studies, demonstrating that the manifold opportunities and varied experiences of *anatomiae* in Renaissance Europe included a plethora of private autopsies and dissections.[45] According to Katherine Park, even private autopsies became public events in late medieval Italy when exercised for medical use.[46] Even though academic dissections of the bodies of criminals were not simply intended to be additional punishments, from very early on executed felons were a primary source of bodies delivered to anatomical institutes. As a consequence, since the late Middle Ages there had been a close intersection between the field of professional medical training (including semi-public dissections) on the one hand, and the theatre of state-sanctioned ritualised punishment (as the 'main supplier of body material') on the other.[47] Such alliance continues to raise moral and ethical issues to this day.[48]

Little resistance arose when bodies of executed criminals were used, and dissection was not officially declared a post-mortem punishment. Hence, until the sixteenth century it was mandated all over Europe that usually one to six corpses of executed felons had to be delivered to anatomical departments or companies of barbers and surgeons annually.[49] Even if no corresponding intentions can be clearly detected, these regulations made dissection an integral part of the ritual of suffering and punishment, because dismembering was widely considered an outstanding aggravation of capital punishment. Dissecting a human being was associated with the horrors of unimaginable violence and

cruelty.[50] As Otto Ulbricht has argued, it was these imaginations of a horrible breach of the taboo to preserve the bodily integrity of a human being that called for a deeply solemn and sociable ritual of public dissections.[51] At once, those anatomies can also be interpreted as special cases of public spectacles and thus suitable extensions of public execution practices.

Fears of displaying and violating one's naked body in public and in so doing infringing one's integrity prevailed all over Europe. In spite of these trepidations regarding anatomical departments, there were notable variations in time and space, when faced with a chronic shortage in legitimate supply with sufficient 'body material' at least as early as the first corpses were dissected. Certainly, popular concerns and common opposition against dismembering practices endured throughout the centuries.[52] Spatial proximity and close relationships between medical institutes and authorities could, however, apparently help to enhance cadaver supply.[53]

It fell to the eighteenth century, witnessing professionalisation and an expansion of anatomical science, as well as its gaining importance in medical education and medical practice, to exacerbate tensions between the needs of the states and common misgivings against dissections. Anatomy and dissection became highly contentious topics. In spite of this, disturbing body-snatching practices to supply anatomical institutes with corpses seem to have been uncommon in continental Europe compared to late eighteenth- and nineteenth-century Britain and the early American Republic.[54] On the one hand there was an increasing demand for corpses from anatomists, on the other hand growing resistance against the delivery of corpses related to common perceptions of honourable burials to include bodily integrity and the sanctity of the grave. Hence it is doubtful whether dissection became simply less threatening in the age of Enlightenment, as Josef Pauser has argued.[55]

Yet in eighteenth-century continental Europe, territorial authorities were powered by a symbolic struggle over precedence and progress. That is why they were open to the arguments of anatomy lecturers, claiming that improving the medical education of physicians, surgeons and midwives and thereby improving medical care for all subjects by enhancing anatomical qualification could raise and grant glory for country and lordship.[56] For that purpose and since the training of medical staff indeed was in bad order, anatomy regulations were expanded to those who died in houses of correction or gaols, or just within certain judicial districts surrounding anatomy theatres.[57] Furthermore, unclaimed bodies of foundlings, deceased poor hospital inmates or unwed mothers

should also be transferred to anatomists. Such instructions not merely denied such individual's propriety rights over their bodies but in fact also resulted in a reticent quasi-criminalisation, for their corpses came to be treated like felonious convicts.

There is striking evidence in documents addressed to the authorities, such as petitions, that inmates as well as administrators deemed the possibility of being dissected as an unjustified and horrible fate burdening people with tribulations and despair. In a remarkable report to the Dresden city council hospital official Ehregott Friedrich Heinrich Richter showed himself touched by the woes and afflictions of those miserable poor, seeking help and medical care in the communal hospital. He criticised the almost daily delivery of deceased hospital inmates' bodies to the local anatomical institute for a post-mortem at best or a complete anatomy at worst: 'the mere thought of being treated in this way after death', he wrote, 'exacerbates the hospital's blessings and both scares and horrifies sick people and augments their suffering. Certainly, several people have already died prematurely due to these afflictions, which are indubitably contrary to the philanthropic purpose of this institution.'[58] We don't know the specific background of this petition. Maybe we might assume the hospital inmates to have asked the official for such a petition, a practice we know from similar incidents from the state hospitals in Hesse-Kassel. Overall, hospital inmates unsurprisingly tried to elude and dodge the surgeon's knife in many ways, requesting Christian and honourable burials or trying to pay for their treatment afterwards, because for instance in Hesse-Kassel most of all free of charge treated inmates were delivered to the anatomy.[59]

However, those self-defined enlightened elites and medical fraternity who claimed the bodies of the destitute for the purposes of medical progress and the commonweal did everything conceivable to prevent an extension of the range of corpses to the higher ranks of society. Occasionally, disturbances like in Königsberg in 1744 and in Göttingen in 1774 arose when anatomists tried to expand their activities.[60] Apart from some 'enlightened enthusiasts' donating their bodies to the anatomy theatres voluntarily – such as, most famously, Jeremy Bentham (1748–1832) – members of the social elite were, in essence, excluded from transfers to the anatomy theatre by law. As Ruth Richardson has pointed out, 'it should be recognised that it took courage for a man [i.e. Jeremy Bentham] born in the mid-eighteenth century to leave his aged body for public dissection at a time when much public anguish and fear surrounded the operation on all but the worst criminals'.[61] But, it should also be recognised, now and then it was not so much

enlightened enthusiasm as poor men's mere desperation over their family's economic situation that led to the donation of bodies to the anatomists, in return for life annuities or other forms of financial aid.[62]

Since the second half of the seventeenth century in Edinburgh and in Halle (Electoral Brandenburg), among others, the unclaimed corpses of sinful and malicious self-murderers (which at the very least could expect a dishonourable interment), could be delivered to anatomy theatres or surgeons companies as well.[63] In this way, as the according specifications justified it, suicide corpses should be utilised for the commonweal. Subsequently some eighteenth-century German regulations on anatomy corpses stipulated that those wilful self-murderers who committed suicide in prison, especially before their executions, should be delivered to the anatomists without exception. In these regulations the persistent criminalisation of intentional suicide was a legal precondition to treat self-murderers like executed felons, even though this practice went against legal scholars' notions that 'even corpses of executed felons required integrity'.[64]

Still the most striking evidence to construe the early modern anatomy as a second execution is given by the provisions of England's 1752 Murder Act and the regulations of a 1789 New York statute (and thereafter some more American statutes) that mandated the dissection of convicted felons. Notably, in England as well as in New York, violent riots against dissections, that mirrored traditional resistance against anatomy, only occurred when these practices were either explicitly declared as a punishment (as in England) or took this meaning for granted and by implication inverted a practice that should help medical progress and thus human life into a horrible and deterrent punishment (as in the case of New York).[65] Apparently, this situation differed not so much from the situation in the Holy Roman Empire. Admittedly, there was no law comparable to the 1752 Murder Act that would have proclaimed anatomy as a legal punishment and a pivotal element in the spectacle of suffering. But as in New York, territorial policy regulations on corpse supply for the anatomists both required and were premised either on the capital punishment of severe crimes or the persistent criminalisation of wilful suicide or at least on the extreme marginalisation of several social groups like poor hospital inmates.

In order to answer the question precisely, of whether or not dissection was deemed an additional penalty for suicides, sources from eighteenth-century Electoral Saxony provide intriguing evidence.[66] From the founding of an anatomical theatre as an integral part of the *Collegium medico-chirurgicum*, located in the residential capital Dresden, in 1748,

to the college's re-foundation after the Napoleonic wars in 1815, approximately 2,000 corpses were delivered to its anatomists. In this college first and foremost military surgeons and midwives were trained. Gradually, more and more medical students, surgeons and physicians were obliged to attend courses in practical anatomy there. This situation helps to explain why in the college corpses were anatomised not only to learn the innards, viscera, to dissect body parts and so forth but also simply to practise with scalpels. Afterwards the body parts were buried either in the hospital's cemetery for the poor or a separate anatomy cemetery, whose location next to the communal pleasure grounds at the Black Gate of the Dresden fortress caused lasting disturbance to the townsfolk.[67]

A unique and fascinating source provides systematic entries for almost every corpse notified and delivered to Dresden's anatomical institute between 1754 and 1817. Unfortunately, this source does not describe what the anatomist actually did with the corpses delivered to them.[68] According to this register, besides hospital inmates (especially lonesome and elderly people to include three noble men as well as unwed mothers), foundlings, prisoners from Dresden's fortress, unknown accident victims (most of them drowned in the Elbe river), and at last some miserable poor who had died from apoplexy or other sudden causes in the city's streets, also roughly 450 suicide corpses were examined or dissected in that period. As has been argued in another study, the sheer quantity underlines the importance of suicide corpses for the anatomical business in Dresden, which differs remarkably from the situation in England and other European countries.

In 281 cases we know the social status of the suicides that illustrate a profile specific for a residential city: a striking number of 115 craftsmen, merchants, and tradesmen as well as 34 soldiers and 28 farmers reveal the special status of the suicide corpse compared to other corpses delivered to the anatomy. Whereas the 'ordinary anatomy corpse' was a body already on the fringe of society as described above, suicide corpses often stem from the heart of urban society.[69] Furthermore, the male to female gender ratio in suicide corpses delivered to Dresden's anatomy is 4:1, which differs slightly from the generally expectable gender ratio of 3:1 or 2:1. This suggests that – at least around the Saxon capital – male suicides first were delivered more frequently and second were less often buried in a silent or dishonourable way.[70] Between 1763 and 1779 by law also every melancholic suicide should be delivered, and even after 1779 melancholic suicides continued to end up as anatomy corpses. Moreover, the committal of suicide corpses to the anatomy theatre

substituted the dishonourable burial within the borders of the judicial district of Dresden's anatomy. As a matter of fact, that worked only because intentional suicide continued to be considered a crime that had to be punished either with a lesser or dishonourable burial or with anatomisation and dissection.

Nevertheless, the situation was more ambiguous than this outline suggests, for a number of reasons. First of all, anatomists did not want to see their business as a form of punishment, because they recognised that such a perception would undermine the status and legitimacy of their profession. Second, parts of the ruling elite did not deem such dissections as penal. In 1777 the Saxon government contended that an appropriate punishment of suicide would be a dishonourable burial instead of a dissection whereas the Saxon Privy Council argued the opposite.[71] For the latter group, the potential suicide's fear of violating their bodily integrity was a substantial argument to continue dissections as a method of deterrence and thus using dissections as an equivalent to traditional forms of punishment. Sometimes people endorsed this point by claiming punishment by dissection, clearly seen as a form of cheap 'disposal' of the suicide's body too. In this way, even the dead bodies of social elites could be delivered to anatomical institutes. In 1766 the Sebnitz (Saxony) mayor's corpse was passed to the Dresden anatomical institute after he had hanged himself. Evidently, his family tried to avoid unnecessary popular unrest through any kind of burial and argued that a suitable treatment of the corpse would be to deliver it to the anatomists, although the church authorities had already allowed the family to inter the body in silence in the cemetery.[72]

In a few instances also, acts of resistance against the concept of anatomy as punishment appear in the sources. Rather, subtle forms of reticence and protest, particularly a delay in the delivery of corpses resulting in a regular interment due to specific hygiene rules or accelerated procedures for proper funerals, are usually elusive. Nonetheless, such occurrences are known from several German territories.[73] In 1783, 17-year-old Anne Döringin, who had hanged herself in her family house's attic near Dresden, was buried in secret but with the consent of local officials. A happy coincidence in the sources sheds light on this exceptional case.[74] While the Dresden anatomy register conveys the impression that her body was delivered to the theatre, other sources reveal a local conspiracy between Anne's father, the local pastor and judge against the anatomical institute. As a matter of fact, they paid the anatomy theatre's servant for his service, when he came to fetch the corpse but left the village without it. The contrary anatomy register

entry disguises this act of resistance.[75] In another case, the Dresden Jewish community paid the amazing total of more than 50 Talers to save the corpse of a Jewish suicide from dissection in 1771.[76]

Astonishingly, penal reforms during the 1770s, leading for instance to an abolition of legal torture in Saxony, had no significant influence on the 1779 Saxon suicide mandate that included regulations for the anatomists' supply of corpses.[77] Although famous enlightened legal scholar Karl Ferdinand von Hommel (1722–81), an adherent of Cesare Beccaria's (1738–94) reformed penology and law professor in Leipzig, tried his very best to achieve a full decriminalisation of suicide in his 1778 expert report for the new suicide mandate, traditional views and customs prevailed. As a consequence the punishment of suicide in Saxony continued long into the nineteenth century and by association the method of punishing suicides with dissection.

Conclusion

In contrast to former arguments, recent studies in the field of historical research on suicide emphasise that changes in the perception and treatment of suicide cannot be regarded as a linear shift from harsh punishment to leniency in general.[78] Apparently, early modern justice found ways and means to chastise individuals who had ended their own lives voluntarily which prolonged until the nineteenth century. In this paper we have focused on the punishment of the suicide corpse in order to understand the meaning and function of such practices. It has become clear that the punitive character of post-mortem treatment of suicide corpses served several purposes. As was the case with other forms of execution, the disrespectful handling of the body and the shameful interment was intended to have a deterrent effect in order to keep subjects from committing suicide. While post-mortem mutilation and maiming practices were inflicted almost exclusively on a certain subset of suicides, namely alleged delinquents, milder forms of punishments afflicted all individuals who took their own lives. At the same time, the symbolism surrounding certain disposal practices and places or 'non-places' suggest that it was not only the suicide's body that should be obliterated but also its memory.

The growing importance of anatomy and medical education in eighteenth-century Europe and the subsequent increasing demand for corpses added yet another aspect to this already multifaceted picture. The example of Electoral Saxony shows that transferring suicide corpses to the anatomical institutes became an important issue in this regard.

Although not necessarily intended to have a punitive character per se, the dissection of felons – amongst them suicides – fostered the widespread connection between anatomy and punishment and equated suicide and crime. As has been shown, it was a contested topic amongst the elites and the authorities as to what role the dismembering of the suicide's body should have in this context.

This article illustrates that the eighteenth and early nineteenth centuries in particular are marked by a fascinating mixture of both continuity and change in the treatment of suicide. Long-practised punishment rituals lingered on while at the same time the suicide corpse served a new purpose in the anatomical institutes. Thus, by the end of the early modern period the suicide corpse was not only corporally punished, exposed to shame, shunned and feared but also utilised for the greater good of society.

Acknowledgments

We would like to thank Riikka Miettinen and Aaron Quinn as well as the participants of the conference on 'International Perspectives on the History of Execution and Post-Execution Practices' (Leicester, May 2013) for their comments on early drafts of this paper.

Notes

1. An overview on recent research is given in several review articles: Rósín Healy, 'Suicide in Early Modern and Modern Europe', *The Historical Journal* 49 (2006), 903–19; David Lederer, 'Suicide in Early Modern Central Europe. A Historiographical Review', *German Historical Institute London Bulletin* 38 (2006), 33–46; Terri L. Snyder, 'What Historians Talk about When They Talk about Suicide: The View from Early Modern British North America', *History Compass* 5 (2007), 658–74. And most recently Alexander Kästner, *Tödliche Geschichte(n). Selbsttötungen in Kursachsen im Spannungsfeld von Normen und Praktiken (1547–1815)* (Konstanz, 2012); Riikka Miettinen and Evelyne Luef, 'Fear and Loathing? Suicide and the Treatment of the Corpse in Early Modern Austria and Sweden', *Frühneuzeit-Info* 23 (2012), 105–18.
2. According to recent scholarship in the steadily expanding field of historical research on suicide, it 'fell to the Enlightenment to turn the [formerly criminalised and punished] activity of self-killing into a subject for scientific analysis: suicide. Suicide became a moral affliction that was to be attended to not just by the police, but also by physicians and, subsequently, mental health care professionals.' Quote in Maria Teresa Brancaccio, Eric J. Engstrom and David Lederer, 'The Politics of Suicide: Historical Perspectives on Suicidology before Durkheim. An Introduction', *Journal of Social History* 46 (2013), 1.

3. However, suicide was not legally decriminalised in England until 1961 (Suicide Act) and in Ireland until 1993, while in both cases assisted suicide remains a crime as in many other European countries.
4. Among others, Karl Härter has shown that the development of criminal laws around 1800 should not be misinterpreted as a progress in 'humanisation'; Karl Härter, 'Praxis, Formen, Zwecke und Intentionen des Strafens zwischen Aufklärung und Rheinbundreformen (1770–1815): das Beispiel Kurmainz/Großherzogtum Frankfurt', in Reiner Schulze et al. (eds), *Strafzweck und Strafform zwischen religiöser und weltlicher Wertevermittlung* (Münster, 2008), pp. 213–31. See also Sonja Deschrijver, 'From Sin to Insanity? Suicide Trials in the Spanish Netherlands, Sixteenth and Seventeenth Centuries', *Sixteenth Century Journal* 42 (2011), 981–1002 on overlapping discourses of insanity, madness and evil temptation, who shows that even by the sixteenth century, suicides could be interpreted as signs of insanity, thus questioning the traditional history of suicide as a history of secularisation and medicalisation.
5. In England and Wales survivors of suicide pacts were found guilty of murder until the 1957 Homicide Act. In 1941 a pathetic scene shook the English public, when Irene Coffee should have been punished by death for the crime of murder, for she had survived a suicide pact with her mother. Irene Coffee was a German Jew from Dresden, who together with her mother had escaped from the terror in Nazi Germany and had sought refuge in London. There she and her mother despaired of 'the Blitz' and decided to die together. Irene Coffee survived, was charged with murder and found guilty. She was ultimately pardoned by King George VI. See Heidrun Hannusch, *Todesstrafe für die Selbstmörderin: Ein Historischer Kriminalfall* (Berlin, 2011) on this fascinating case.
6. On nineteenth- and twentieth-century discussions see Ursula Baumann, *Vom Recht auf den eigenen Tod: Die Geschichte des Suizids vom 18. bis zum 20. Jahrhundert* (Weimar, 2001), pp. 305–22.
7. See especially, R. A. Houston, *Punishing the Dead? Suicide, Lordship, and Community in Britain 1500–1830* (Oxford, 2010); Vera Lind, *Selbstmord in der Frühen Neuzeit. Diskurs, Lebenswelt und kultureller Wandel am Beispiel der Herzogtümer Schleswig und Holstein* (Göttingen, 1999); Miettinen and Luef, 'Fear and Loathing?', 105–18; Karsten Pfannkuchen, *Selbstmord und Sanktionen. Eine rechtshistorische Betrachtung unter besonderer Berücksichtigung ostpreußischer Bestimmungen* (Berlin, 2008). Still important is Jürgen Dieselhorst, 'Die Bestrafung der Selbstmörder im Territorium der Reichsstadt Nürnberg', *Mitteilungen des Vereins für Geschichte der Stadt Nürnberg* 44 (1953), 58–230.
8. See his overview on the historiography of suicide in terms of the use of suicide statistics since the nineteenth century: David Lederer, 'Suicide Statistics as Moral Statistics: Suicide, Sociology and the State', in James Kelly and Mary Ann Lyons (eds), *Death and Dying in Ireland, Britain and Europe: Historical Perspectives* (Dublin, 2013), pp. 221–48.
9. Kästner, *Tödliche Geschichte(n)*, pp. 334–7. Sächsisches Hauptstaatsarchiv Dresden (hereafter SächsHStA), 10079: Landesregierung, Loc. 31059 'Die Verabfolgung derer Corporum facinorosorum zur Anatomie an die Medicinischen Facultäten zu Leipzig u. Wittenberg betr. Und die deßhalber an die Beambten im Chur- und Leipzigischen Creiße, wie auch an den Rath zu Leipzig unterm 6ten. Julii ao. 1716 ergangenen Verordnungen d. a. 1716 sequ. usq. 1824 Vol. 1', ff. 123–137.

10. In German *Esels-* or *Hundsbegräbnis*. See Mary Lindemann, 'Armen- und Eselsbegräbnis in der europäischen Frühneuzeit: Eine Methode sozialer Kontrolle', in Paul Richard Blum (ed.), *Studien zur Thematik des Todes im 16. Jahrhundert* (Wolfenbüttel, 1983), pp. 125–39.
11. Alexander Kästner, '"Über Leichen und akademischenLobbyismus": Die Frage der Versorgung der sächsischen Anatomien mit "Körpermaterial" auf den Landtagen 1716 und 1718', in Josef Matzerath (ed.), *Aspekte sächsischer Landtagsgeschichte. Die Ständeversammlungen des 17. und frühen 18. Jahrhunderts* (Dresden, 2013), pp. 63–7; Kästner, *Tödliche Geschichte(n)*, pp. 287–327.
12. Although executioners had been made honourable persons by imperial laws in 1731–2, their social status remained fragile and dishonourable in the eyes of many people. On the history of early modern executioners in German territories see Gisela Wilbertz, 'Scharfrichter', *Enzyklopädie der Neuzeit* 11 (2010), 658–62; Jutta Nowosadtko, *Scharfrichter und Abdecker: Der Alltag zweier 'unehrlicher Berufe' in der Frühen Neuzeit* (Paderborn, 1994); Petra Pechaček, *Scharfrichter und Wasenmeister in der Landgrafschaft Hessen-Kassel in der Frühen Neuzeit* (Frankfurt am Main, 2003); Kathy Stuart, *Defiled Trades and Social Outcasts: Honor and Ritual Pollution in Early Modern Germany* (Cambridge, 1999); Gisela Wilbertz, *Scharfrichter und Abdecker im Hochstift Osnabrück: Untersuchungen zur Sozialgeschichte zweier 'unehrlicher' Berufe im nordwestdeutschen Raum vom 16. bis zum 19. Jahrhundert* (Osnabrück, 1979) and the literature cited there.
13. The motive of *exsecratio* was already well known in ancient Europe and meant revenge of the poor; see Anton van Hooff, 'Vom "willentlichen Tod" zum "Selbstmord": Suizid in der Antike', in Andreas Bähr and Hans Medick (eds), *Sterben von eigener Hand: Selbsttötung als kulturelle Praxis* (Köln, 2005), pp. 31–2.
14. Kästner, *Tödliche Geschichte(n)*, pp. 519–25.
15. For this section see Miettinen and Luef, 'Fear and Loathing?', 105–18.
16. Alexander Kästner, 'Selbsttötung', *Enzyklopädie der Neuzeit* 11 (2010), 1072–5; Houston, *Punishing the Dead*; Pfannkuchen, *Selbstmord und Sanktionen*.
17. Kästner, *Tödliche Geschichten,* pp. 40–50; Miettinen and Luef, 'Fear and Loathing?', 105–7.
18. Summa Theologica, Part II, Question 64, Article 5 in Thomas Aquinas, *Summa Theologiae*. Vol. 38. Injustice. Latin text and English translation, Introductions, Notes, Appendices and Glossaries (London and New York, 1975), p. 33.
19. See, amongst others, Susanne Hehenberger, 'Religion, Sin, and Criminal Law in Early Modern Austria', *Frühneuzeit-Info* 23 (2012), 92–8.
20. Houston, *Punishing the Dead*, p. 269.
21. See the online database *Kriminalität in und um Wien 1703–1803. Eine Datenbank,* http://www.univie.ac.at/iefn (accessed 8 May 2014).
22. Anonymous, *Der sträfliche Selbstmord, oder die unmenschliche Mordthat von Johann S. verübet* (Wien, 1781). Evelyne Luef, 'Punishment Post Mortem: The Crime of Suicide in Early Modern Austria and Sweden', in Albrecht Classen and Connie Scarborough (eds), *Crime and Punishment in the Middle Ages and Early Modern Age. Mental-Historical Investigations of Basic Human Problems and Social Responses* (Berlin, 2012), p. 573.

23. *Constitutio Criminalis Theresiana. Peinliche Gerichtsordnung*. Vollständiger Nachdruck der Trattnerschen Erstausgabe (Graz, 1993 [Wien, 1769]). The subsequent Austrian law book of 1787 (*Josephina*) stipulated that in such cases the actual body should not be violated, instead a note with the name of the suicide and his or her committed crimes should be attached to the gallows and thus made public. Thus, the post-mortem punishment was not performed on the actual body of the suicide but was elevated to a symbolic level.
24. *Kristofers landslag* (1608): *Swerikes rijkes lands-lag, som af rijksens råd blef öfwersedd och förbättrat...*, ed. Petter Abrahamsson (Stockholm, 1726), Högmålsbalken, Section 4.
25. Miettinen and Luef, 'Fear and Loathing?', 102.
26. Riksarkivet, Riksarkivets ämnesamlingar Juridika I: Becchius-Palmcrantz samlingar (BP), Vol. 5, f. 9.
27. Riksarkivet, Riksarkivets ämnesamlingar Juridika I: Becchius-Palmcrantz samlingar (BP), Vol. 5, f. 2.
28. Åsa Bergenheim and Jonas Liliequist, '"Visa aktning för din far och din mor": ett historiskt perspektiv på vuxna barns våld mot sina föräldrar', *Nordisk Tidsskrift for Kriminalvidenskab* 2 (2010), 179–90.
29. Machiel Bosman, 'The Judicial Treatment of Suicide in Amsterdam', in Jeffrey R. Watt (ed.), *From Sin to Insanity. Suicide in Early Modern Europe* (Ithaca, 2004), pp. 9–24.
30. Stadtarchiv Bautzen, 68002, U III.188/3, f. 263.
31. Pfannkuchen, *Selbstmord und Sanktionen*, pp. 123–4.
32. Oberösterreichisches Landesarchiv (OÖLA), HA Puchheim, Schachtel 49 Bd. 67 Nr. 72.
33. Forskningsarkivet Umeå Universitetsbibliotek (FOARK UmU), Norra Ång. A I a:15 Mk D57433 4/9.
34. For details see Kästner, *Tödliche Geschichte(n)*, pp. 372–456; Alexander Kästner, 'Der Wert der Nächstenliebe. Idee und Umsetzung von Lebensrettungsprojekten im 18. Jahrhundert', *Jahrbuch für Regionalgeschichte* 31 (2013), 45–64.
35. Theresiana, 1769, Article 93.
36. See the examples given in Miettinen and Luef, 'Fear and Loathing?', 104–5.
37. David Lederer, '"Wieder ein Faß aus Augsburg": Suizid in der frühneuzeitlichen Lechmetropole', *Mitteilungen des Instituts für Europäische Kulturgeschichte* 15 (2005), 47–72.
38. Houston, *Punishing the Dead*, p. 364.
39. Examples in Luef, 'Punishment Post Mortem', p. 570; Kästner, *Tödliche Geschichte(n)*, pp. 515–19. For further examples see Michael Frank, 'Die fehlende Geduld Hiobs. Suizid und Gesellschaft in der Grafschaft Lippe (1600–1800)', in Gabriela Signori (ed.), *Trauer, Verzweiflung und Anfechtung. Selbstmord und Selbstmordversuche in mittelalterlichen und frühneuzeitlichen Gesellschaften* (Tübingen, 1994), pp. 152–88, and, in the same volume, David Lederer, 'Aufruhr auf dem Friedhof. Pfarrer, Gemeinde und Selbstmord im frühneuzeitlichen Bayern', pp. 189–209.
40. As in the case described by Lederer, 'Aufruhr auf dem Friedhof'.
41. Houston, *Punishing the Dead*, p. 241.
42. Example in Kästner, *Tödliche Geschichte(n)*, pp. 517–18.

43. See the cases of Stephan Pühringer, 1686, OÖLA, HA Ebenzweier, Schachtel 2, Nr. 12; Johann Wadauer, 1769, OÖLA, HA Ort, Bd. 33, Nr. 12; female tailor, 1754, OÖLA, HA Puchheim, Schachtel 43, Bund 60, Nr. 29.
44. On 16 April 1643 a noble man shot himself in Budißin (Upper Lusatia) out of melancholy. His body was buried with ceremonies to include a funeral sermon; Stadtarchiv Bautzen, 62008, U III.188, f. 202. A further example is given in Kästner, *Tödliche Geschichte(n)*, p. 196. On suicides of nobles see Florian Kühnel, *Kranke Ehre? Adlige Selbsttötung im Übergang zur Moderne* (München, 2013).
45. Recent studies were discussed briefly by Tatjana Buklijas, '(Review Essay) Cultures of Dissection and Anatomies of Generation', *Annals of Science* 65 (2008), 439–44. On archaeological evidence for early modern anatomies see Piers D. Mitchell et al., '(Review) The Study of Anatomy in England from 1700 to the early Twentieth Century', *Journal of Anatomy* 219 (2011), 92–4.
46. In contrast simply dismembering corpses for religious purposes was uncommon south of the Alps: Katherine Park, 'The Life of the Corpse: Division and Dissection in Late Medieval Europe', *Journal of the History of Medicine and Allied Sciences* 50 (1995), 111–32.
47. Be it either through academic lectures on the human body or through anatomies in private anatomy schools, hospitals, surgeons' companies and military medical schools, respectively. In some German territories sometimes bodies of convicts were even passed to dishonourable and infamous hangmen, who used these corpses for their own anatomical studies or, according to some historians, occasionally to produce remedies from human body parts, for instance so-called 'poor sinner's fat'. Stuart, *Defiled Trades*, pp. 157–60. On the well-known Nuremburg executioner Franz Schmidt see Joel F. Harrington, *The Faithful Executioner: Life and Death, Honour and Shame in the Turbulent Sixteenth Century* (New York, 2013), pp. 197–202. More nuanced and sceptical towards the use of corpses by executioners Gisela Wilbertz, 'Scharfrichter, Medizin und Strafvollzug in der frühen Neuzeit', *Zeitschrift für Historische Forschung* 26 (1999), 515–55.
48. Sabine Hildebrandt, 'Capital Punishment and Anatomy. History and Ethics of an Ongoing Association', *Clinical Anatomy* 21 (2008), 5–14. On the delivery of Nazi victims to the Jena anatomical institute see Christoph Redies et al., 'Über die Herkunft der Leichname für das Anatomische Institut der Universität Jena in der NS-Zeit', in Rüdiger Schultka et al. (eds), *Anatomie und Anatomische Sammlungen im 18. Jahrhundert. Anlässlich der 250. Wiederkehr des Geburtstages von Philipp Friedrich Theodor Meckel (1755–1803)* (Berlin, 2007), pp. 495–507.
49. Jonathan Sawday, *The Body Emblazoned: Dissection and the Human Body in Renaissance Culture* (London, 1995), pp. 55–6.
50. See Richard Sugg, *Murder after Death: Literature and Anatomy in Early Modern England* (Ithaca, 2007), pp. 166–77 on the ambiguity and intricacy of anatomy imaginations.
51. Otto Ulbricht, 'Die Sektion des menschlichen Körpers als Feier: Anatomie und Geselligkeit im Barockzeitalter', in Wolfgang Adam (ed.), *Geselligkeit und Gesellschaft im Barockzeitalter* (Wiesbaden, 1997), p. 375.
52. Elizabeth Hurren has shown, for instance, that even in the late nineteenth century Oxford's anatomists could not convince the poor to legally sell the bodies of deceased relatives to the university's anatomy school. See Elizabeth T. Hurren, 'Whose Body Is It Anyway? Trading the Dead Poor, Coroner's

Disputes, and the Business of Anatomy at Oxford University, 1885–1929', *Bulletin of the History of Medicine* 82 (2008), 775–819. On the contrary, in the case of Vienna lesser resistances can be observed; see Tatjana Buklijas, 'Cultures of Death and Politics of the Corpse Supply: Anatomy in Vienna, 1848–1914', *Bulletin of the History of Medicine* 82 (2008), 570–607.

53. On eighteenth-century Paris see Toby Gelfand, 'The "Paris Manner" of Dissection: Student Anatomical Dissection in Early Eighteenth-Century Paris', *Bulletin of the History of Medicine* 46 (1972), 99–130. On eighteenth-century Dresden see Kästner, *Tödliche Geschichte(n)*, pp. 304–43.
54. On Britain and nineteenth-century America see Ruth Richardson, *Death, Dissection and the Destitute* (London, 1988); Michael Sappol, *A Traffic of Dead Bodies: Anatomy and Embodied Social Identity in Nineteenth-Century America* (Princeton, 2002); Suzanne M. Shultz, *Body Snatching: The Robbing of Graves for the Education of Physicians in Early Nineteenth Century America* (Jefferson, NC, 2005). For one famous German case of grave robbing (anatomist Friedrich Schlemm in 1816) see Andreas Winkelmann, 'Schlemm, the Body Snatcher?', *Annals of Anatomy* 190 (2008), 223–9.
55. Josef Pauser, 'Sektion als Strafe?', in Norbert Stefenelli (ed.), *Körper ohne Leben. Begegnung und Umgang mit Toten* (Wien, 1998), pp. 527–35.
56. Karin Stukenbrock, 'Die Rolle der Höfe bei der Beschaffung der Leichen für die anatomischen Sektionen an den Universitäten im 18. Jahrhundert', in Ulf Christian Ewert and Stephan Selzer (eds), *Ordnungsformen des Hofes. Ergebnisse eines Forschungskolloquiums der Studienstiftung des deutschen Volkes* (Kiel, 1997), pp. 87–95; Karin Stukenbrock, 'Unter dem Primat der Ökonomie? Soziale und wirtschaftliche Aspekte der Leichenbeschaffung für die Anatomie', in Jürgen Helm and Karin Stukenbrock (eds), *Anatomie. Sektionen einer medizinischen Wissenschaft im 18. Jahrhundert* (Stuttgart, 2003), pp. 227–39. Further discussion of background in Karin Stukenbrock, *'Der zerstückte Cörper': Zur Sozialgeschichte der anatomischen Sektionen in der Frühen Neuzeit (1650–1800)* (Stuttgart, 2001), pp. 26–37, 171–210. For Electoral Saxony see Kästner, 'Über Leichen'.
57. For instance in Edinburgh in 1694: see Houston, *Punishing the Dead?*, p. 247. For several German territories see Stukenbrock, *Der zerstückte Cörper*, pp. 26–78.
58. StA Dresden, B.XV.64, f. 11: 'weil der gedancke, nach dem tode auf diese art behandelt zu werden, den meisten armen diese wohltat gar sehr verbittert; die krancken beunruhiget und ängstet, und deshalb ihr uibel vermehret, ja gewiß schon manche selbst das leben gekostet hat, mithin dem wohltätigen zwecke dieser milden stiftung auf allen seiten entgegen würcket, und also mit demselben auf keine weise zu bestehen scheint.' Similarly Irmtraud Sahmland, 'Fordern und verweigern. Der Körper als Zankapfel, Ein Beitrag zur Sozialgeschichte der Anatomie', in Kornelia Grundmann and Irmtraud Sahmland (eds), *Concertino. Ensemble aus Kultur- und Medizingeschichte, Festschrift zum 65. Geburtstag von Gerhard Aumüller* (Marburg, 2008), p. 48.
59. Sahmland, 'Fordern und verweigern', pp. 48–52; Imtraud Sahmland, 'Verordnete Körperspende. Das Hospital Haina als Bezugsquelle für Anatomieleichen (1786–1855)', in Arnd Friedrich et al. (eds), *An der Wende zur Moderne. Die hessischen Hohen Hospitäler im 18. und 19. Jahrhundert, Festschrift zum 475. Stiftungsjahr* (Petersberg, 2008), pp. 65–105.

60. Silke Wagener, '"… wenigstens im Tode der Welt noch nützlich und brauchbar…": Die Göttinger Anatomie und ihre Leichen', *Göttinger Jahrbuch* 43 (1995), p. 78; Stukenbrock, *Der zerstückte Cörper*, pp. 207, 264–5.
61. Richardson, *Death*, p. 160.
62. Examples are given in Stukenbrock, *Der zerstückte Cörper*, pp. 207–8.
63. Houston, *Punishing the Dead?*, p. 247; Stukenbrock, *Der zerstückte Cörper*, pp. 41–2.
64. Stukenbrock, *Der zerstückte Cörper*, pp. 42–6. Klaus Bergdolt, *Das Gewissen der Medizin. Ärztliche Moral von der Antike bis heute* (München, 2004), p. 106: 'daß selbst Verbrecherleichen Anspruch auf Integrität hätten'.
65. Peter Linebaugh, 'The Tyburn Riot against the Surgeons', in Douglas Hay et al. (eds), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (London, 1975), pp. 65–117; Steven Wilf, 'Anatomy and Punishment in Late Eighteenth-Century New York', *Journal of Social History* 22 (1989), 507–30.
66. Kästner, *Tödliche Geschichte(n)*, Ch. 8. For a detailed discussion of eighteenth-century perceptions of anatomies as punishments see pp. 297–304.
67. Stadtarchiv Dresden, 2.1.5-F.XVI.101.n, 'Der anatomische Kirchhof beim schwarzen Thore betr. 1794'.
68. SächsHStA Dresden, 10114: Collegium medico-chirurgicum, Sanitätskorps, Loc. 2086 'Nachrichten über die an das Theatrum anatomicum abgelieferten Cadaver in den Jahren von 1754–1817'. This source is described in more detail in Alexander Kästner, '"Nachrichten über die an das Theatrum anatomicum abgelieferten Cadaver". Das Leichenbuch der Dresdner Anatomie im 18. Jahrhundert', *Frühneuzeit-Info* 21 (2010), 202–8.
69. Kästner, *Tödliche Geschichte(n)*, pp. 357–63.
70. Kästner, *Tödliche Geschichte(n)*, pp. 343–6 with a discussion of recent research on the early modern gender ratio in suicides.
71. SächsHStA Dresden, 10025: Geheimes Konsilium, Loc. 6555 'Acta Die zu Verhütung des Selbst Mords vorzukehrenden Veranstaltungen bet: d. a. 1774', ff. 21, 65.
72. Ephoralarchiv Pirna, Nr. 5422, 'Acta, Die Selbstmörde nebst anderer verunglückten Personen in dem Kirchspiele zu Sebnitz betr. Superintendentur Pirna 1765–1787', ff. 2–5; SächsHStA Dresden, 10114, Loc. 2086, *Nachrichten*, Nr. 327.
73. Stukenbrock, *Der zerstückte Cörper*, pp. 265–8; Wagener, *Die Göttinger Anatomie*, p. 74.
74. SächsHStA Dresden,10079: Landesregierung, Loc. 30736 'Unglücks und andere außerordentliche Vorfälle bt. Vol. 3, d. a. 1772–1784', 30 October 1783, Ottendorf local court's report.
75. SächsHStA Dresden, 10114, Loc. 2086, *Nachrichten*, Nr. 916; SächsHStA Dresden 10114, Loc. 2086, 'Acta, Anmeldung derer Cadaver von 5ten November 1777 bis utto Decembr. 1787. Vol. 1.', f. 133.
76. Claudia Pawlowitsch and Alexander Kästner, 'Vor dem Zerstückeln bewahrt. Die außergewöhnliche Geschichte des Leichnams von Judas Pollack', *Medaon – Magazin für jüdisches Leben in Forschung und Bildung* 5 (2011), 1–5, available at http://medaon.de/pdf/M_Pawlowitsch+Kaestner-8-2011.pdf (accessed 25 June 2013).
77. Kästner, *Tödliche Geschichte(n)*, pp. 481–510.
78. For instance Houston, *Punishing the Dead?*; Kästner, *Tödliche Geschichte(n)*.

6

Execution and its Aftermath in the Nineteenth-Century British Empire

Clare Anderson

This chapter will explore the history of execution and its aftermath across the nineteenth-century British Empire. It will bring together in a single frame of analysis a diversity of ideas about and different practices of capital punishment, in order to reflect upon the relationship between metropolitan and imperial understandings of the meaning and value of execution as a deterrent punishment; the various modes of effecting judicial sentences of death, on the scaffold, guillotine and cannon; and variegations in post-execution practices, including the display of severed heads, hanging in chains, anatomisation, dissection and the burial or burning of bodies. In elaborating and analysing for the first time a pan-imperial history of judicial killing, the chapter centres on the relationship between capital punishment and broader cultures of Empire, in particular ideas of colonial difference and distinction; and between capital punishment and enslavement, and the governance of Indigenous and migrant peoples. In so doing, it ranges across contexts, including Britain's Indian Empire and Britain's colonies in the Caribbean, Africa, South and South East Asia and Australia, and raises further issues around the British inheritance of Dutch, Spanish and French legal practice in some places. In its theoretical scope, geographical scale and imperial reach, the chapter offers an original interpretation that places and gives fresh meaning to regional specificities, metropolitan and colonial, by situating each in relation to each other and within the context of a much larger imperial world.

In offering this wide-ranging analysis, it is impossible to write meaningfully of *colonial* ideas about judicial killing, *colonial* executions, or *colonial* post-execution practices. Rather, capital punishment took various forms across Empire, was highly dependent on local contexts, was frequently at variance with metropolitan penal norms, and was the

subject of fierce dispute. Two key points must be made at the outset. First, its form was the product of particular, local understandings of the impact of execution on specific cultures and religions, and thus its relative value as a penal deterrent. As we will see, the choice of execution as a punishment, the choice of particular modes of executing, were not only bound up with understandings of the relationship between colonial bodies and souls, but cannot be separated from the larger context in which 'race' and, in the Indian context, 'caste' were made and understood as pertinent categories of rule. The deliberate non-choice of execution was important in some contexts, too, for it was entwined with imperial ideas about overseas transportation as peculiarly suitable and therefore deterrent for 'Asiatics' – Indians, Malays and Chinese. In many British colonies, one cannot talk about execution and its aftermath without setting it against this important, and usually alternative, form of secondary punishment, and the social if not physical death that it was believed to produce.

Second, colonial penal distinctiveness was connected to the politics of imperial domination. Across Empire, though execution was used for the punishment of ordinary criminal offenders, it was also used to consolidate imperial rule and to eradicate resistance against it. Its reach stretched to the punishment of people born free, to slaves and ex-slaves in the sugar colonies of Jamaica, Barbados and Mauritius, to *sepoys* (soldiers) and peasants in India, to the indigenous people of Australia, to transported convicts in the penal colonies and settlements of Australia and the Indian Ocean, and to migrants indentured to labour contracts in British Guiana and Trinidad. There are important comparisons to be drawn between colonies and metropole with respect to the relationship between capital punishment, culture and religion, and the crushing of political opposition. However, in the colonies, gruesome forms of mutilation constituted an element of capital sentences for much longer than in Great Britain.[1] Furthermore, because ideas about execution were founded on ideas of colonial difference, a notion developed that subject peoples thought in particular and different ways about death, compared to Europeans, and this produced distinct and dramatic methods of execution. Most significantly, though, it was the scale of judicial reprisals seen in Empire, including mass executions under martial law, which had no parallel in nineteenth-century Britain.

Towards the middle of the nineteenth century, in the context of wide-ranging metropolitan discussions about penal reform, the Home Office became aware of the diversity of execution and post-execution practices in Britain and the colonies. It instituted an enquiry through the colonial

office, with the aim of bringing overseas practices into line with metropolitan ones, with respect to both the crimes for which capital punishment was awarded and how it was carried out. The political geography of imperialism was such that these discussions did not include the Indian Empire, however, which at the time incorporated large populations across South and South East Asia, which were administered by the India Office. Metropolitan criminal justice was not, then, imposed across Empire, but might rather be viewed as part of a geographically partial 'Empire project', the binding together of diverse places and practices within a loose global system.[2] However, this was not an Empire that radiated unidirectionally outwards from London. In the colonies where Colonial Office enquiries into capital punishment did have purchase, it was revealed that it was not necessarily Britain that was leading reform. For instance, some colonies led the move to take execution out of public and into private view. An appreciation of the character of metropolitan and imperial circuits and networks in this respect is of enormous relevance to historians of nineteenth-century British criminal justice.[3] Beyond the chapter's desire to articulate and to make sense of the distinctiveness of execution and its aftermath in British colonies during this period, is my more general contention that metropole and colony were mutually constituted.[4] Therefore, it is only through an appreciation of imperial practices that this aspect of the reform of capital punishment in nineteenth-century Britain can be properly understood.

Execution and Corporeal Display in British Colonies

I open my discussion with an example from the western Indian Ocean. During the eighteenth century, the Île de France was a French colony, but having been captured by the British during the Napoleonic Wars, the island was ceded to Britain as Mauritius through the Treaty of Paris (1814). The terms of the capitulation were generous, and for some years afterwards the British used the French legal and penal system, including at least initially the employment of the guillotine in preference to the standard British gallows. In 1822 the guillotine was put to spectacular effect when a military general, who had been exiled to Mauritius from Madagascar, Ratsitatanina, was condemned to death for the crime of rebellion. It was alleged that he had led a slave revolt, intending to set the capital, Port Louis, on fire and to massacre the island's white inhabitants. On the morning of the execution, Ratsitatanina and two other condemned men – Cotte Voude alias Prospere and Latulipe – were marched by troops from the *bagne* (jail) in Port Louis to Plaine Vert, the

usual site of public executions. Accompanying them were 13 other slaves and ex-slaves, sentenced to imprisonment and hard labour for associated offences. Part of their sentence was to watch the beheading. The Clerk of the Criminal Court met the condemned party, and read the sentence out loud, in front of the judge and acting *procureur-général* (public prosecutor). The men were guillotined, after which the executioner removed the three heads and put them on pikes on Champ de Lort, the mountain which towered over Port Louis. This dramatic penal display had also constituted part of their sentence.[5]

We learn from a detailed account of the execution, written by chief of police Edward Byam, that Ratsitatanina watched the first two deaths, the second of which was 'mangled' by the executioner who took 'three or four blows' to get the head off. Byam recorded that Ratsitatanina had trembled as he walked onto the block, protesting his innocence. I am especially interested in his associated note: that the British chose to keep the guillotine in Mauritius in preference to the gallows because it was 'preferred for the blacks, as going to deprive them of the hope in their superstition fondly cherished, of after death, returning to their own country if the head be not severed from the last'.[6] As we will see, colonial administrators across the Caribbean and in India echoed this sentiment, that the severing of heads was an important punishment because of its impact on religious beliefs.

The dramatic penal response to Ratsitatanina's alleged treachery had antecedents elsewhere in the British Empire, and such theatricality and display were repeatedly used in the colonies. Slave court punishments in eighteenth-century Jamaica included burning alive, burning after strangling, the slitting of nostrils, decapitation and the mounting of heads on poles. Slaves could also be gibbeted, and body parts, including ears, could be removed and nailed to trees – including cotton trees, which seem to have had significance as a resting place for the spirits of the dead.[7] In detailing the continued use of mutilation long after its abolition in Europe for crimes other than treason, historian Diana Paton is persuasive in arguing that slave crime was 'conceptualized as treacherous by definition'.[8] But there were also offences that were specifically associated with enslavement. One of the most infamous cases of execution and mutilation in the Caribbean was that inflicted on a group of free blacks and slaves in Trinidad sentenced for sorcery, divination and poisoning at the turn of the nineteenth century. Some were hanged and then burnt; others were condemned to assist at the executions with a rope around the neck, to have their ears cut off, be branded on the cheeks, and then be banished from the island.[9] Wholly

dependent on enslaved domestic labour, planters were terrified of poisoning, and in other islands like Grenada slaves were decapitated and their heads displayed for the same offence, or for 'crimes' related to spiritual healing and Obeah.[10]

In considering such cases, it is important to underline the depth of penal distinction between the enslaved and the free in the award of sentences of death. In some colonies like Barbados, in the years before the abolition of slavery in 1832, as well as being tried in separate 'slave courts', capital punishment was awarded to slaves without benefit of clergy. Free people, in contrast, tried in ordinary criminal courts, could claim it and routinely had their sentence commuted to penal transportation.[11] Readers should also appreciate that slaves were property; and that when passing sentence slave courts valued them, and paid their owners financial compensation from the colonial treasury. Though standard practice across the British Empire, in British Demerara (later part of British Guiana), this was also a remnant of the Dutch law under which the colony formerly had been administered.[12]

Between the abolition of the slave trade in 1807 and the abolition of slavery in 1833 there were three slave revolts in the Caribbean: in Barbados (1816); Demerara (1823); and Jamaica (1831). In each case dozens of rebels were executed. During Bussa's Rebellion (the Barbados revolt), the British declared martial law and hanged 144 men.[13] Emilia de Viotta da Costa has written that the Demerara executions were accompanied 'with all the pomp and ceremony of a public spectacle'. The first group of condemned slaves to be hanged were taken to the gallows, led by a guard, followed by bearers of empty coffins, and accompanied by a band playing a funeral march, and the militia. At the moment of their hanging, a gunshot rang out. In subsequent executions, the dead men were hung in chains, or were decapitated and their heads displayed in the colony's fort.[14] Although mass executions and the display of corpses appeared necessary to slave owners in the colonies (many of whom were magistrates), there were limits to judicial violence. In the aftermath of what was known as Jamaica's Baptist War, Governor the Second Earl Belmore complained that the magistrates had refused to comply with his request to refer all capital cases to him, and had instead ordered summary executions.[15] The quarter sessions had, meantime, itself directed the execution of almost 150 men, followed by hanging in chains, decapitation, and the mounting of severed heads on poles on rebellious plantations.[16] If the governor was critical of the magistrates, the secretary of state for war and the colonies, First Viscount Goderich, was critical of the governor. He wrote Belmore that there should be no

further executions, for they would 'exasperate' slaves.[17] Moreover, decapitated heads should be removed from public display. The new governor, Henry Philips, ordered the 'exhibitions' to be taken down, later reporting to the colonial office that he had only done so after persuading the magistrates that this would not give slaves the false impression that the government had not taken the rebellion seriously.[18] In the ordering and then suppression of such brutal colonial violence, we see the tensions that could erupt around judicial killing: between governors, slave owners and the colonial office.

In 1865, almost 40 years after the abolition of slavery, the British implemented martial law in the immediate aftermath of a further rebellion in Jamaica: the Morant Bay Rebellion. They executed about 200 rebels, mainly ex-slaves and their descendants, hanging or shooting them, forcing other rebels to watch the executions, leaving the bodies overnight, and then making the remaining prisoners bury the bodies. The summary nature of much of this brutal violence led to the establishment of a parliamentary commission of enquiry, where it was reported that on makeshift gallows, sailors had tightened nooses, and pulled on necks and legs as the condemned men struggled and kicked. In at least two cases, and despite the sheen of the existence of due judicial process through martial law, some men were executed without trial. By this time the rebellion had already been quelled, and so there was a clear political dimension to the reprisals.[19] Its evidently penal, public, deterrent yet also vengeful purpose echoes that of earlier slave executions, and opens up questions around colonial distinction, the use of judicial killing to reinscribe the legitimacy of imperial authority in the face of resistance against it, and as in the case of Jamaica's Baptist War the oftenbiting criticism of the metropolitan authorities to near out of control colonial violence.

The sugar colonies were certainly no imperial anomaly, and in British India there were similar execution spectacles. Most famous was the blowing of mutinous Indian *sepoys* from cannons, first after a native regiment refused to undertake overseas service in Burma (1825), and again and most dramatically during the Indian Revolt of 1857. A contemporary eye witness account of the latter, by captain of the 61st regiment, Charles J. Griffiths, noted that execution by cannon was dreaded by high-caste Hindus and Muslims, because it prevented the former's cremation and the latter's burial, which were necessary rituals for the respective religions. But the executions were also demonstrations of colonial power. Griffiths wrote: 'It was found necessary to strike terror into the hearts of the rebels, to prove to them that we were resolved at

all hazards to crush the revolt, and to give warning that to those who were taken fighting against us no mercy would be shown.' He described how the condemned men were marched to the site, where the entire regiment was gathered, and the courts martial sentences were read out. A considerable crowd of onlookers watched from the fringes. Two low caste men were taken to the gallows and had nooses placed around their necks. Meantime, six of the remaining dozen were bound to the cannons with ropes. They shouted 'oaths and yells', some even watching as the artillerymen loaded the powder. The guns were fired at the same moment that the men were hanged. The remaining six prisoners were then executed in the same way. Griffiths wrote that the guns had no backboards and so the artillerymen were splattered with flesh and blood. There was, he added, a 'sickening, pervasive smell'. Once the men were dead, as was usual after military executions, the band struck up and the witnesses were marched back to the barracks.[20]

I have already noted that after the British captured Mauritius in 1810, they continued to use the French guillotine in preference to the institution of the gallows. The blowing from cannons technique in India was also said to derive from earlier forms of judicial killing: the Mughal Empire's established mode of execution.[21] In the Caribbean, Mauritian and Indian contexts, then, we see interesting continuities between pre-colonial, British and French colonial practices, as well as modes of execution and post-execution practices. These were chosen both to punish and to inspire terror through their impact on the bodies and beliefs of colonised peoples. It is also clear that exceptional forms of mutilation, long since abandoned in Britain, continued well into the 1850s and 1860s for the punishment of colonised people of Asian and African descent.

I would also like to note that after Caribbean slave rebellions like Jamaica's Baptist War, women were flogged or imprisoned, rather than executed.[22] Penal practice was more gendered than raced in that free women tried for capital sentences in the colonies were not put to death either. Two examples will suffice here. In Trinidad, 1816, the white woman Margaret Dunn, convicted of murder, was reprieved at the scaffold, having been taken for execution 'for the sake of example'. The governor sought pardon on the grounds that it would have been the first execution of a white woman in the colony.[23] In 1837 in Sierra Leone, 'Liberated African' Rebecca Johnson was found guilty of murder, but the governor remitted her sentence. The colonial office approved the pardon, pointing to 'the ignorance of the prisoner and the barbarous habits in which she had been trained', and the potential for community 'outrage' if she were hanged.[24]

No less dramatic were public executions for capital crimes of other kinds. In these cases, executions were not always responses to sedition, revolt or rebellion, but to other offences that were either liable to capital punishment in Britain at the time, or in the peculiar colonial contexts in which they were committed, for social and economic reasons were met with the full penalty of the law. One interesting example of the specificity of the colonies in this respect is the execution of slave traders in the colony of Sierra Leone, which was the principal site of settlement for illegally trafficked and then liberated African slaves in the early nineteenth century, and thus an easy target for kidnapping and re-enslavement. In 1831, after commuting several capital sentences for the same offence, the governor reported: 'I found myself lately and reluctantly compelled to have recourse to so severe an example; but when I found that all the milder measures which I had hitherto adopted had proved utterly inefficient in checking this abominable crime … I felt that the time for forbearance was past.'[25] Execution was also used as a deterrent spectacle for Aboriginal people, European and Asian transportation convicts, and for Asians indentured to sugar plantations. Here, I will draw on further examples from Australia, South East Asia and the Andaman Islands, as well as from Mauritius and the Caribbean.

The rates of execution in the penal colony of New South Wales were the highest in the whole of Britain and its Empire, and this bears analysis. Commissioner John Bigge reported in 1822 that one out of every 7,000 convicts in the colony were hanged each week, compared to one in 2.5 million across the whole of England and Wales. This staggering figure was not lost on continental penologists.[26] Public executions were a regular occurrence in early colonial Sydney. Between 1826 and 1837, there were 377 hangings. Witnessed by convicts and other condemned men gathered as spectators by the authorities, what Tim Castle usefully describes as 'execution ceremonies' were an important means through which the sovereign power of the penal colony could be consolidated. As in contemporary Britain, part of the theatre of the gallows was the confession of the convict, accompanied by prayers and other expressions of religious devotion.[27]

As the frontiers of the Australian penal colonies expanded and free settlements were established and developed, there was more of the conflict between indigenous people and settlers that had characterised the early years of European colonisation including, in effect, the use of summary execution. After cases where Aborigines killed setters, and were sentenced to death, there were debates in Parliament about the propriety of executing them judicially, for it was said that they had no

understanding of either judicial process or the purpose of their punishment. But the colonial administration held firm to the idea of using capital punishment to assert sovereignty. After the hanging of two men, Do-jib and Barra-bang, for the murder of a female settler in 1840 (the first such execution in Western Australia), the Protector of Natives in Perth reported that in every such case, execution was necessary: 'not so much for the purpose of depriving a desperado of life, as of striking a wholesome terror into the breast of the native population'. It was for this reason also that the men were hung in chains at the scene of the crime, where their bodies remained for 9 months. The Protector of Aborigines then noted: 'the severe punishment inflicted upon these two men will prove of lasting benefit to the colony'.[28]

If public execution was used as a means of disciplining convicts and subduing indigenous people in the Australian colonies, hanging – and the threat of hanging – was also employed as a means of governance in other locations. This included in Indian penal settlements and colonies.[29] Two examples serve to illustrate this point. First, in 1805, a transported Indian convict named Connye Tackoor was sentenced to hang in the East India Company's South-east Asian penal settlement of Bencoolen. He was taken to the place of execution where the settlement convicts were gathered, and only then told that his sentence had been commuted.[30] Two years later, Resident Thomas Parr wrote that this commutation had resulted in increased crime, and so ordered the execution of three other transportation convicts for offences against property.[31] He noted the effects of the hanging thus: 'the submissive and peaceable behaviour of the convicts has exhibited a remarkable contrast to the contumacious and refractory spirit which they manifested previously to that event'.[32] He repeated this sentiment after 30 men made their escape in 1809, again requesting permission to execute all recaptured convicts as a lesson to the remainder.[33]

Second, famously, was the hanging of convict Shere Ali on 11 March 1872, at Viper Island in the Andaman Islands. He had assassinated the Viceroy of India who was on a visit to the penal colony. Shere Ali was said to have prayed for execution, and to have become irritated when it did not come quickly enough. The case caused a sensation, and there were widespread press reports of both the murder and the execution. The *Englishman* claimed that he had given a native officer a piece of cloth which he anticipated would be placed in a tomb erected to his memory, but as he climbed the ladder of the gallows to his absolute horror a British officer showed it to him.[34] The *Madras Athenaeum* reported that he had tried to speak on his way to the gallows, was prevented from so

doing, but showed no fear as he ascended. It noted further that convict superintendent F. L. Playfair refused Shere Ali's request to have his corpse given over to Muslim convicts, but did allow him to die facing Mecca. His body was reported to have turned when the drop fell, and he was apparently praying 'fervently' at the time.[35] I have been unable to find out what happened to Shere Ali's body, though the *Englishman* reported that Viper Island had a standing gibbet; the presumption being that it was put on display.[36] In some ways, the theatricality of Shere Ali's hanging was anticipated in the execution of the Nawab Shams-ud-din, who had hired an assassin to murder the Commissioner of Delhi a few decades earlier. Though he was made to remove his green clothing (green being the colour martyrs wear), when he appeared for the hanging, afterwards it was claimed that his body had turned to face Mecca, and so he had died a martyr.[37] In contradistinction, during this period it was also said that the British *refused* to award death sentences to Muslim 'fanatics' who had deliberately courted them as a route to martyrdom. British judges' ordering of jail in lieu of hanging was thus a significant form of colonial revenge as well as a form of punishment in itself.[38]

From the middle of the nineteenth century, execution was also used as a punishment for the growing numbers of indentured labourers from India and China, employed on plantations in the Caribbean. As for the execution of slaves, ex-slaves and transportation convicts, other Asian workers were gathered to watch. In one 1865 case in British Guiana, when two Indian immigrants Bundhoo and Sundhoo were hanged for the murder of their wives, the colonial authorities hoped their deaths would 'be productive of a good effect'.[39] They expressed the same view the following year, when a Chinese labourer called Wong-a-June was executed for the murder of another Chinese labourer. He was described as 'most penitent prior to his execution'.[40] The public character of capital punishment meant that particular execution spots could be fixed, and related explicitly to penal deterrence. Matthew Holgan, for instance, a private in the 25th Regiment, was executed in Barbados in 1830, for the murder of his corporal. The governor reported that it took place, for the sake of example, 'as close as it was possible to the spot where he had so deliberately taken away the life of the late corporal of his company'. He reported with evident satisfaction that the man had 'died penitent'.[41]

Despite my elaboration of these cases here, and with the exception of the mass executions in India and the Caribbean described above, it is important to appreciate that outside the Australian penal colonies it does not appear that the execution of ordinary criminal offenders was more common in the colonies than in Great Britain. In the Caribbean,

witnesses to parliamentary commissions and enquiries in the 1820s and 1830s reported that capital punishment was not routinely awarded, and that executions were rarely carried out even once per year.[42] In one Calcutta press article of 1848, it was noted that the hanging of a murderer called Rooslum was the first such execution in the city for 11 years – and for this reason perhaps it took place in front of 'an immense crowd'.[43] The governor of British Guiana, Henry Barkly, noted the following year that because there had been no executions for the previous five years, rumours had started to circulate that he had outlawed it, rendering a 'salutary warning imperatively requisite to prevent future mischief,' in the case of the murderer Pompey Face.[44] The point was, of course, that even if they were not frequent occurrences, these executions were ordered by an occupying colonial power; they were public; they were staged carefully as deterrent punishments; and many people were taken to the site and made to witness them. And, moreover, as Governor Barkly stressed, contemporary metropolitan arguments against capital punishment, gathering force in the 1840s, and of which he was aware, did not hold in former slave colonies, where ex-slaves lived side by side with Indian indentured labourers: '[O]rder has to be preserved by means barely adequate to the purpose, among a population nurtured amid the vices of slavery and recruited from the savages of Africa or the violators of Hindostan', he wrote in 1849.[45]

With the respect to its infrequency, execution was often blended or substituted with other kinds of punishment. Numbers of enslaved defendants tried for the Caribbean revolts in the aftermath of abolition were either pardoned or awarded sentences of imprisonment or penal transportation. Secretary of state for war and the colonies the Earl Bathurst wrote in 1817 that the number of executions that had been ordered for Barbadian slave rebels was 'fully adequate for any purpose of punishment or public example', and directed that the capitally convicted remainder should be transported overseas.[46] In a further case of 'riotous and seditious' meetings of black apprentices, in Essequibo in British Guiana in 1834, one man (Damon) was hanged, and four others (Frederick, Fothergill, Bob and William) were shipped to the British hulks in London, for onward transportation to the Australian colonies.[47] It seems that mass execution, even for rebellion, had its limits; once 'order' was restored, the British authorities worried that hangings might be counter-productive, and stimulate rather than put an end to unrest. In other cases, colonial authorities thought that capital punishment might draw attention to the existence of particular kinds of crime, and so was best avoided. This can be seen in a case dating from 1835, when an apprenticed labourer called John was sentenced to death for sodomy

in British Guiana, but was given a free pardon on condition that he quit the colony. This decision was reached, Governor J. Carmichael-Smyth explained, in order to avoid public discussion of the offence ('unknown amongst negroes') and thus the infliction of 'a greater evil on the morality of young people in this colony'.[48] A further issue and point of colonial distinction was raised in the colony of Trinidad, which was administered under Spanish law, and where there were legal distinctions between 'degrees' of murder, not all of which were awarded capital sentences.[49]

The admixture of execution with penal transportation had valuable cultural usage. In British India there was an idea that Indians feared overseas transportation more than capital punishment. This was partly because of the stress the British laid on Hindu beliefs in reincarnation, which they thought removed fears about the afterlife. It was also because transportation necessitated a voyage overseas, and the British believed that the sharing of water pumps, cooking pots and latrines would pollute and thus outcaste Indians. Thus it was a form of social death that prevented the performance of funeral rites many years later.[50] In some instances, when considering Indian cases, British judicial officials deliberately commuted capital sentences to the apparently harsher punishment of transportation. We have some good examples of this from sites of indentured labour in the Caribbean. In one 1849 case of murder by a high-caste Indian Brahmin, indentured in British Guiana, the governor noted that Indians were not afraid of death, and worrying that he might be considered 'a martyr to European prejudices', recommended his removal to the colony's penal settlement upriver at Mazaruni, under a sentence of imprisonment with hard labour for life.[51]

With respect to Indians' apparent lack of trepidation on the gallows – so necessary if the script of judicial killing was to be closely followed – Sheriff of Demerara Henry Kirke wrote in his memoirs of having presided over the execution of Indian labourer Seecharam:

> He was quite calm, walked quietly on to the fat drop, and, as his legs were strapped and the cord and cap adjusted, not a tremor could be seen to pass over his frame; life or death seemed to him a matter of perfect indifference. I gave the signal, the drop fell down with a loud clanging noise, and Seecharam had solved the great mystery, and would soon know whether his belief in the transmigration of souls was founded on truth or falsehood.[52]

The authorities in Trinidad agreed that hanging lacked deterrence as a punishment for Hindus.[53] Officials in the Straits Settlements (Singapore,

Penang, Malacca) and Hong Kong thought similarly; that Chinese and Malays feared transportation more than capital punishment, because it would prevent them from carrying out the burial rites necessary for their support in the afterlife. And so, in preference to executing them, they sent them to various jails in India as well as to a penal settlement on the island of Labuan, just off Borneo.[54]

Hanging specifically was seen as lacking deterrence, because it did not result in the severing of the head from the body. In 1865, the *Procureur Général* of Mauritius echoed Sheriff Kirke's views, writing:

> The indifference to a mode of death so much loathed by most Europeans is explained in the report referred to, on the ground that most of the Indian races believe in the transmigration of the soul, incidental to which is a notion that if one dies tranquilly, without any severing of one part of the body from another, the passage of the soul after death into another animal takes place easily; whereas if any member, and especially the head, is separated, the transmigration is impeded, and the disunited portions of the body may search for each other for hundreds of years in another world.

He referred to long-sentenced prisoners' desire to be hanged, and argued that hanging was entirely inappropriate for Mauritius. Noting Indians' fear of decapitation, and with the support of the island's Supreme Court judges, he urged without success the reintroduction of the guillotine, which had been done away with as part of a more general shift from French to English law in 1851.[55] It was perhaps out of a desire to render hanging more deterrent that, as in the Caribbean, gibbets were used in India. Until its prohibition in 1835, executed criminals were put on display in their home villages, a practice that was compared later on in the nineteenth century with the Caribbean, and which was said to have continued locally for some years afterwards.[56]

Thousands of miles away in Australia, officials argued that a sentence of hard labour had more of a salutary effect on indigenous people than hanging. Citing Justice Burton, the *Australian* newspaper expressed the view that 'the removal [of Aboriginal convicts] from their tribe forever … [and] the dim uncertainty of their fate' created a stronger impression on their kin than the production of a body following a judicial execution. Resident Judge A. Beckett in Melbourne thought likewise, claiming in 1847 that Aboriginal prisoners, once convicted, ought to be given an 'exemplary' sentence that would 'instil terror' into their kin. Exiling Aboriginal men through sentencing them to

transportation provided a mechanism through which this could be achieved.[57]

In the context of this desire to control the form and aftermath of capital punishment, nothing irritated the British more than the condemned going fearlessly to the gallows, or taking their execution into their own hands. In one hanging of six convicted thugs (supposed ritual stranglers) in 1832, Bengal medical surgeon Henry Spry reported that instead of showing fear, admitting their guilt or, still better, showing repentance, the thugs had taken over the carefully managed scene:

> Considering it an everlasting disgrace to their names to die by the hands of the common hangman, the condemned thugs no sooner take hold of the halter, than they push their heads into the noose, and, with loud shouts and cheers, adjust the knot behind the ear, jump off, and launch themselves into eternity! The beam against which the ladders are resting, is the platform on which they stand, and which is withdrawn; but the men are all swinging before this can be done.[58]

There were cases in Australia of condemned men kissing the hangman's rope, kicking off their shoes or making final statements of protest.[59] Worse still, as the surgeon of Van Diemen Land's isolated Macquarie Harbour penal station reported of one hanging:

> [S]o buoyant were the feelings of the men who were about to be executed, and so little did they seem to care about it, that they absolutely kicked their shoes off among the crowd as they were about to be executed, in order, as the term expressed by them was, that they might die game; it seemed, as the sheriff described it, more like a parting of friends who were going a distant journey on land, than of individuals who were about to separate from each other for ever; the expressions that were used on that occasion were, 'Good bye, Bob', and 'Good bye, Jack', and expressions of that kind, among those in the crowd, who were about to be executed.[60]

Another man, murderer Muan Khan, hanged in the Northwest Provinces of India in 1849, apparently taunted the attending medical officer for not being able to find out precisely which poison he had used. He was offered a last minute reprieve if he turned approver, but drew up his legs and swung on the rope in order to accelerate his death.[61]

From the 1830s the East India Company attempted to standardise capital punishment in the Bengal Presidency, following its condemnation

of diverse practice across the districts.[62] In some places, the gallows were composed of little more than a bar suspended across two poles. The condemned man and the executioner mounted a ladder; the executioner tied a noose around the former's neck, and then descended and took the ladder away. The magistrate of Midnapore wrote in 1829: 'The scene is altogether most shocking; the trembling ascent of the poor wretch, and the slow withdrawing of the ladder enhance and prolong his suffering, and horrify the humane feelings.' He wrote of 'revolting and cruel' incidents including the breaking of ropes, and the executioner's strangling of the prisoner on the ground or his hamstringing (cutting the backs of the ankles), the latter in the belief that this would prevent the dead man's spirit returning to haunt him.[63] In this context, the Company circulated instructions for the better construction of the gallows, at the time concerned that botched executions upset 'the solemn impression … the operation of the spectacle as moral example'.[64] Nevertheless, the drop was often too short, and criminals were on occasion hanged weighed down with heavy fetters on their legs. The heaving of chests and agonised struggles of men on the gallows remained subject to remark in the Indian press into the 1870s.[65]

In 1844 the Company also banned the gifting of money and clothes to the condemned as they were led to the gallows, a circular order of the *Nizamat Adalat* (higher court) recording: 'such donations and indulgences are calculated to detract from the force and effect of the solemn warning which the adjudgment [sic] of the last penalty of the law is designed and intended to convey'. British judicial administrators were especially concerned that capitally convicted men 'offered themselves, if Hindus, as victims to [goddess] Kali, and thus turned the last penalty of the law into a religious ceremony'.[66] There appears to have been a common belief that a man about to be hanged, in the words of one colonial spectator, 'imparts a sanctity to all he touches'.[67] In trying to prevent these intimate interactions, the Company sought to challenge ordinary people's transformation of criminal law into something with a different kind of meaning, which stretched far beyond punishment and into the realms of beliefs that the British found hard to understand.

It is difficult to glean insights into what colonised people thought about execution, except through the representations of literate European elites like Edward Byam in Mauritius or Henry Spry in Bengal – or in descriptions of their mounting the block or scaffold and their final words, as detailed in newspaper reports. We know from the European context that the latter are deeply problematic, and could be exaggerated or untruthful and have a political agenda. However, I would like to

dwell for a moment here on a newspaper description of the execution of a Santal rebel, in the Bengal Presidency of India, in 1856. Apparently drawn from 'a private letter', it was published in the *Edinburgh Evening Courant*. The Santal *Hul* (Revolt) had spread across Chota Nagpur in 1855, when India's largest tribal community expressed resistance to colonial timber extraction, low wages, landlessness, bonded labour and the sexual exploitation of women by railway workers; in what is now understood as a significant precursor to the Great Indian Rebellion of 1857. The British responded with great brutality, killing hundreds of Santals in combat, and imprisoning, transporting and executing many more.

The account described the execution of the two principal Santal leaders, Sidhu and Kanhu. In order to produce 'a beneficial effect', the men were hanged in the village where they first rebelled. Kanhu's village was a week's march from the courthouse, and he was taken there in irons, in a cart, accompanied by 'a large party of horse and foot' led by two European officers. Kanhu was, the witness reported, initially 'indifferent', but on the last day 'he grew uneasy' and laid himself out 'and covered up his face with his manacled arms'. The night before the hanging, Kanhu feasted on mutton, poultry, rice and peas, and drank rice liquor. On the morning of his execution, he ate sweetmeats and drank more liquor. As he was carried to the gallows, he became 'talkative and noisy', bursting out in 'hysterical laughter'. He went to the spot on the other side of the gallows, where he and Sidhu claimed to have seen the god (Thakur) who had ordered them to fight. He performed *puja* (worship), and then said he was ready. His arms were tied, still holding the water vessel with which he had poured water onto the holy place, and then whispered some information on the whereabouts of some papers encouraging the rebellion that he had received from Nepal. He repeated a speech made earlier on the march: that the Santals would rise again after 6 years, when he would appear again as a leader: 'the moneylenders and the troops would be swept out, and the Santals hold the country undisturbed, and Kannoo's kingdom begin'. He climbed the ladder, and two low-caste men performed the duty of hangmen. They pulled the drop, Kanhu fell, and was left for half an hour. His body was taken down and burned at the place of the Thakur.[68]

The use of low-caste men performing Santal rebel Kanhu's execution seems to mirror the use of men of inferior status as hangmen across the Empire. For all that we do not know about popular attitudes to execution, we do know that executioners were difficult to recruit, and loathed by the general population. A few months after the East India Company established its first settlements in Burma in 1824, a British commissioner

reported: 'These men were always some bad characters, condemned for former crimes to act in this capacity. They are always marked in a particular manner, generally with a red ring round the eye, representing a pair of spectacles.'[69] An Indian medical officer noted in 1845 that the public expressed 'contempt and indignation' towards executioners, and felt pity for the condemned. This added to his broader opinion, that capital punishment was an ineffective punishment.[70] The Mauritian authorities found it difficult to employ men to undertake what one district prison committee described as a 'very objectionable office'. Until the 1860s, they employed prisoners – paying them a retainer (£1 per month, plus a £2 bonus per execution) and then pardoning them. If they were immigrants indentured from India, they were allowed to leave the colony afterwards. Across the island, executioners were targets of public abuse. So great was the threat of violence against one executioner – a man named Alcide – that in 1850 he was taken in to one of the island's district prisons.[71] The threats against others were so real that hangmen remained *de facto* prisoners, for they could not walk freely outside the jail without being abused and pelted with stones. Neither could they be otherwise employed, not even as jail warders. The Port Louis prison committee concluded in 1858: 'there is in the Colony so strong a dislike to the hangman that any attempts to place him over prisoners would be almost sure to produce insubordination'.[72] Ten years later, it is far from surprising to find that a European sailor had the job. He was otherwise an odd job man in Port Louis harbour and, in the words of the inspector general of police, 'by the nature of his calling precluded from more general employment'.[73] By the last date detailed prison committee archives exist in Mauritius (1880), he had been replaced by another socially excluded man, a misdemeanant Creole from the nearby Seychelles.[74]

Dissection and Scientific Research

It does not seem that dissection formed a part of capital sentences in India, as it did in the metropole until 1832, although there is scattered evidence that in practice bodies were anatomised (to confirm death) and dissected (for medical research). They were examined closely for physical evidence of the effects of judicial hanging – which was valued as useful for investigating apparent cases of suicide suspected to be murder. Surgeons concluded that the mark left by the hanging cord was remarkably similar in cases of judicial hanging and murder followed by suspension, but the former could be distinguished by the knowledge that executed criminals commonly dribbled saliva 'out of the mouth, down the chin,

and straight down the chest'. Another difference was that a 'pinkish or brownish froth' could be found in the trachea of those judicially hanged, 'due to a few spasmodic efforts to carry on respiration'. Both were useful knowledge for police investigations. Norman Chevers noted:

> If the tube [trachea] be slit up at the back and carefully opened, while any fluid that it may contain is allowed to flow downwards, the position of every follicle will be observed to be marked by a semi-globule, nearly as large as the head of a small pin … I have remarked it five or six times, in unmistakeable cases of hanging …[75]

Executed prisoners' bodies were also used in discussions about whether it was possible to discern distinct criminal physiognomy for the 'criminals' of the Empire. In the early nineteenth century, the Edinburgh Phrenological Society was regularly sent skulls for examination, and used them to develop ideas about the relationship between cranial measurements and racial hierarchies. Henry Spry, mentioned above, donated the skulls of executed thugs to the society, and cranial observations were said to show their combativeness, destructiveness and lack of caution, amongst other traits.[76] The society also held skulls of executed Australian convict bushrangers, Edward Tattersdale and John Jenkins, which were said to display self-esteem and hope, but a deficiency of cautiousness.[77] Its collections also incorporated the skulls of men hanged during the 1822 Ceylon insurrection.[78]

Some of the grievances of the rebels of the most serious threat to Empire in the nineteenth century, the Great Indian Rebellion of 1857, were bound up with colonial post-mortems, which were routinely performed on dead prisoners. Some were even conducted outdoors and were quite open to public view.[79] In one Calcutta jail (Hughli), a prisoner named Kally who had formerly been a student at the medical college, even opened the body up for the civil assistant surgeon. Though under the regulations prisoners' families could refuse to allow dissection, in practice many lived too far away to do so.[80] The lieutenant-governor of Bengal ordered the enforcement of this rule, but inspector-general of prisons F. J. Mouat was reluctant to comply, writing that dissections were an important penal deterrent.[81] 'Were it known in jails that a wish on the subject would in all cases be attended to,' Mouat wrote, 'every convict capable of uttering such a wish would undoubtedly do so.' He advised the government neither to draw attention to the issue nor to legislate on it too closely. Rather, he stated that he would ensure that discreet professionals did not conduct post-mortems on 'respectable'

prisoners.[82] Mouat's objections were ultimately overruled.[83] In another more extreme disciplinary context, the Andaman Islands penal colony in the Bay of Bengal, deceased convicts were dissected in order that scientists might observe anatomical variations across the peoples and castes of South Asia, who, given the reach of the punishment of transportation across the subcontinent, were all represented in the islands.[84]

Executed bodies were also dissected in territories under the administration of the colonial office. Australia, for instance, followed British practice, with the condemned sentenced to execution and dissection, which was often open to public view.[85] One convict memoir of the penal station of Port Arthur in colonial Van Diemen's Land noted the dissection of convicts before they were placed in coffins and buried on the Isle of the Dead.[86] Just as mutilation accompanied capital punishment in the Caribbean colonies for much longer than it had in Britain, in the Straits Settlements (incorporated into East India Company territories at the time) criminal dissection appears to have lingered on for some years after its abolition in Britain. In 1843, for instance, after the hanging of seven Malay transportation convict pirates in Penang, their bodies were taken down, put into carts and conveyed to the Pauper Hospital for dissection.[87] In 1846, a man sentenced to death for running *amok* in Singapore was also dissected, with the further order that instead of having his body restored to his relatives for a decent burial, he was to be 'cast into the sea, thrown into a ditch, or scattered on the earth at the discretion of the sheriff'. In 1901, re-reporting this case in the context of another apparent outbreak of *amok*, the editor of the *Singapore Free Press* lamented the decline of punitive dissection, writing in support of a different form of deterrent punishment: the burial of executed criminals with a pig tied to the body. 'With Oriental phases of crime we must apply Oriental remedies', he wrote. 'Let us have "the pig, the pig, and nothing but the pig."'[88] And, in a third case of 1847, the press reported that following a visit from his wife and mother, a few minutes before he was executed in Penang, a Siamese man, though apparently resigned to his fate on the scaffold, 'urgently and repeatedly begged that his body might not afterwards be cut up'. The day before, he had called for a Roman Catholic priest, and promised to convert to Christianity if the sentence of dissection could be commuted.[89] It is likely that dissections were ordered in these cases because the crimes of piracy and *amok* were viewed as so serious. Indian transportation convicts who died of disease or old age were, however, routinely dissected. In one such case we know that even the brain was removed.[90]

Metropolitan and Imperial Reform

In 1837, the Colonial Office ordered that prisoners should only be sentenced to death if their crimes were subject to capital punishment in England. There had been, it was reported, many discrepancies in practice.[91] In 1849, a Colonial Office circular sought reassurance that execution was not being used to punish additional crimes in the colonies compared to Britain, in the context of a broader desire for uniformity in metropolitan and colonial penal practice. Responses to the circular reveal great diversity across the colonies. Some, like New Zealand, Gibraltar, Gambia, the Gold Coast, Sierra Leone, Mauritius, Hong Kong, the Falklands, Antigua, St Kitt's and the Virgin Islands, reported that they had long since assimilated their laws to those of Britain, which awarded execution for murder and treason only. Others including the North American colonies of Nova Scotia, New Brunswick, Newfoundland and Bermuda, and Ceylon, Jamaica and Van Diemen's Land, responded that they still retained the death penalty for crimes like piracy, forgery, arson, Obeah, sodomy, rape, carnal knowledge with girls under the age of ten, poisoning, cutting and maiming, and procuring abortion. It seems to have been fairly routine, however, to commute such sentences to imprisonment or exile.[92] In a subsequent colonial office circular of 1855, issued by secretary of state for foreign affairs Lord John Russell, most but not all colonies reported that capital punishment had been abolished in all cases where it had been abolished in England.[93]

This move to uniformity should not be read as a simple narrative of the colonies following in the wake of metropolitan initiatives, for some colonies were ahead of Britain with respect to the reform of capital punishment. In the aftermath of the abolition of slavery, a system of labour extraction founded on and maintained through extreme violence, it should not surprise us that it was widely reported that the public in the Caribbean was generally opposed to capital sentences. In one 1851 case in Barbados, for instance, over 600 people signed a petition against a sentence of death passed on a soldier, for murder.[94] Otherwise, Penang's taking of execution into the walls of the prison in 1847 predated reform in England by two decades (1868). The 1847 execution of the Siamese man described above was the first such private execution. At the time, it was said that 'the conduct of criminals generally on the scaffold and the apparently easy and speedy death suffered on it, have … a bad tendency upon the mind of those who witnessed them'. It was hoped that private executions would be surrounded by mystery, and thus be more of a deterrent. Contemporary newspapers made reference to the execution of the

seven Malay pirates discussed above, remembering their 'disgraceful conduct', their demands for seree and betel nut, their 'salaams and blessings to the natives, and more especially to the convicts present'. 'Such scenes', it was concluded, 'were not likely to produce a good effect'.[95]

A number of other colonies introduced private execution before the metropole did so: the Australian colonies of New South Wales (1852), Victoria (1853), and Van Diemen's Land (1856), and the island of Mauritius (1858).[96] The 1866 Royal Commission on Capital Punishment was mindful of such divergent practice, and in its enquiries and minutes of evidence drew attention to and sought advice on the effect of this change in the colonies.[97] As the Australian newspaper *The Advertiser* put it in 1866, in the context of larger political discussions such laws furnished 'another example of the influence of the South Australian legislation upon the mother country'.[98] When it came into force in 1868, the Capital Punishment Amendment Act was sent to all colonies. It legislated for the execution and burial of criminals within the walls of jails though, as Stacey Hynd shows in this volume, not all colonies in Africa conformed. Equally, with the Indian Empire falling entirely outside the authority of the Colonial Office, practices remained uneven across the British world. In Singapore, for example, hangings were still being conducted in public into the 1890s. In one botched event, the hangman fell through the trap door with the condemned man, and grabbed the rope, interrupting the drop and causing great suffering.[99]

A further effort to standardise execution across the Empire came in the immediate aftermath of the Prisons Act (1877) and unspecified 'revolting circumstances'. This was perhaps a reference to two botched executions in British Guiana. During the first, the prisoner's feet touched the ground after he fell through the drop, leading some of the spectators to pick him up and allow the executioner to wind the slack of the rope around the crossbeam of the gallows. His cap fell off, and his death contortions were said to have been 'utterly indescribable'. During the second, the knot of the rope partly gave way; and after the man was cut down he was found to be still alive. He was given brandy, and then hanged a second time.[100] In 1880, the colonial office circulated instructions, with accompanying diagrams, on a common form of execution, including the weight of the rope, the length of the drop, the trap doors (double, not single), the constitution of the accompanying party, the pulling of the lever and the cutting down of the body – as well as the initial pinioning of the prisoner ('to prevent his getting his hands up to his throat') the binding of his neck, the strapping of his legs, his positioning on the scaffold, his cap, and the placement of the rope.[101] When Mauritius

responded to the circular, and reported on island practice, it noted that the only necessary change was that in future the warders would accompany the prisoner to the scaffold.[102]

Conclusion

In this chapter, I have described and analysed execution and post-execution practices across the British Empire. I have attempted to draw out points of both colonial distinction and metropolitan/imperial convergence, with respect to the scale, scope and method of judicial killing, and post-execution practices. I have argued for an appreciation of variegated and often disputed, yet distinct, colonial practices, related to the politics of colonial difference and imperial domination, and at the same time for the need to bring metropolitan and imperial understandings of capital punishment into the same frame of analysis. I have shown that colonial practices were inflected by the politics of imperial punishment and the desire to control indigenous people, rebels, slaves and migrant labourers. I have revealed that reform was sometimes colonially led. My overall contention is that in disaggregating the administration of execution in Britain and the colonies, historians have not appreciated precisely how the practice was mutually constituted, and how important imperial connections and metropolitan/colonial understandings were. Clearly, there is a need for further connected histories of judicial killing.

I close this chapter with the comment that with respect to execution and its aftermath, imperial memory was remarkably short and its politics of comparison remarkably selective. By the start of the twentieth century, implicitly making a claim to its own benevolence and humanity in punishment, and despite its widespread use of judicial execution in its new colonies in Africa in an age of high imperialism, the British repeatedly drew attention to the apparently barbaric practices of other polities and Empires, particularly China. A newspaper report in a 1907 issue of the *Eastern Daily Mail and Straits Morning Advertiser* is quite typical in this respect. It detailed 'a ghastly story of the execution of a Chinese pirate', drawn, it was claimed, from Chinese newspapers. The pirate had been publicly executed, it noted, before an executioner's sword, in front of between 3,000–5,000 people. The executioner disembowelled him, presenting his heart and head to watching officials. The crowd then 'proceeded to make a rush for the dead body', dissecting it and dividing up strips of the body 'with fiendish glee'. Street hawkers then sold it, 'extolling the virtues that would derive from eating it, alleging that anyone who partook of this would be imbued with

miraculous courage, etc.'[103] In this we see a politics of imperial separation and superiority; a desire to distance contemporary Empire from the dramatic displays of one hundred years before. British administrators then led the way in mounting a theatre of execution, using native beliefs about the spiritual meaning of judicial killing, and appropriate execution, to spectacular effect. This was forgotten as Britain sought a place in the world as a civilising imperial power.

Acknowledgments

The research leading to these results has received funding from the European Research Council under the European Union's Seventh Framework Programme (FP/2007–2013) / ERC Grant Agreement 312542.

Notes

1. D. Paton, 'Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica', *Journal of Social History* 34 (2001), 923–54.
2. J. Darwin, *The Empire Project: the Rise and Fall of the British World System* (Cambridge, 2009).
3. A. Lester, 'Imperial Circuits and Networks: Geographies of the British Empire', *History Compass* 4 (2006), 124–41.
4. C. Hall, *Civilising Subjects: Metropole and Colony in the English Imagination, 1830–1867* (London, 2002).
5. National Archives of Mauritius (henceforth NAM) JB140: Court of Appeal, Execution of Rassitatane, Cotte Voude alias Prospere and Latulipe, 15 April 1822. The case is discussed in detail by P. M. Larson, *Ocean of Letters: Languages and Creolization in an Indian Ocean Diaspora* (Cambridge, 2009), pp. 196–219.
6. Quoted in Larson, *Ocean of Letters*, pp. 206–7.
7. Paton, 'Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica', 931, 939–41. See also V. Brown, *The Reaper's Garden: Death and Power in the World of Atlantic Slavery* (Cambridge, MA, 2008).
8. Paton, 'Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica', 941.
9. The National Archives, London, UK (henceforth TNA), CO295/6: William Fullarton, first commissioner Trinidad, to Lord Hobart, secretary of state for war and the colonies, 21 December 1803. For a wonderful analysis of this case, see J. Epstein, 'Politics of Colonial Sensation: The Trial of Thomas Picton and the Cause of Louise Calderon', *American Historical Review* 112 (2007), 712–41.
10. TNA, CO101/44: Governor Frederick Maitland to William Windham, secretary of state for war and the colonies, 7 December 1806. See also D. Paton, 'Witchcraft, Poison, Law, and Atlantic Slavery', *William and Mary Quarterly* 69 (2012), 235–64.
11. TNA, CO28/102/36: President J. B. Skeete to Sir George Murray, secretary of state for war and the colonies, 21 August 1828, enclosing petition of J. B. Skeete Jr., Chief Justice, and ten others [members of the last Court of Grand Sessions].

In contradistinction, the 1798 Slavery Amelioration Act (Leeward Islands) permitted governors to commute capital sentences imposed without benefit of clergy to penal transportation. TNA, CO37/93/18 ff. 54–61, Governor S. R. Chapman to Edward Stanley, secretary of state for war and the colonies, 19 June 1833.

12. *British Parliamentary Papers* (henceforth *PP*), 1829 (334), 'Criminal and Civil Justice in the West Indies and South America. Second series. Third Report of the Commissioners of Inquiry into the Administration of Criminal and Civil Justice in the West Indies and South American Colonies. Honduras and the Bahama Islands', 43; *PP*, 1828 (577), 'Criminal and Civil Justice in the West Indies and South America. (Second series.) Second Report of the Commissioners of Enquiry into the Administration of Criminal and Civil Justice in the West Indies and South American Colonies. United colony of Demerara and Essequebo, and Colony of Berbice', 29.
13. TNA, CO28/85: Governor James Leith to Third Earl Bathurst, secretary of state for war and the colonies, 21 September 1816. See also H. McD. Beckles, 'The Slave-Drivers War: Bussa and the 1816 Barbados Slave Rebellion', *Boletín de Estudios Latinoamericanos y del Caribe* 39 (1985), 85–110.
14. E. V. da Costa, *Crowns of Glory, Tears of Blood: the Demerara Slave Rebellion of 1823* (New York, 1997), pp. 242–3.
15. TNA, CO137/182: Governor Somerset Lowry-Corry, Second Earl Belmore, to First Viscount Goderich, Secretary of State for War and the Colonies, 9 April 1832.
16. TNA, CO137/182: Belmore to Goderich, 1 May 1832, enclosing Proceedings of a General Court of Quarter Sessions, 24 April 1832.
17. TNA, CO137/182: Goderich to Belmore, 21 July 1832.
18. TNA, CO137/183: Governor Constantine Henry Philips, Earl of Mulgrave, to Goderich, 7 October 1832.
19. There are extensive records of the aftermath of the Morant Bay Rebellion in *PP*, 1866 [3683], 'Jamaica. Report of the Jamaica Royal Commission, 1866. Part I. Report'. See also G. Heuman, *'The Killing Time': The Morant Bay Rebellion in Jamaica* (London, 1994), pp. 137–9, 142, 143.
20. C. J. Griffiths, *A Narrative of the Siege of Delhi with an Account of the Mutiny at Ferozepore in 1857* (London, 1910), pp. 42–50 (quotes at pp. 43, 46, 48). Though it has been dismissed as post-Revolt propaganda, it was reported that following the massacre of Europeans, including women and children, at Cawnpore, Brigadier-General James Neill sought revenge by sewing Muslims into pigskins before being hanged, and making Brahmins (high-caste Hindus) lick blood from the floors, before being hanged by low-caste men: see A. Ward, *Our Bones Are Scattered: The Cawnpore Massacres and the Indian Mutiny of 1857* (London, 2004), pp. 454–5.
21. The British claimed that the Mughal Empire and Princely States also used death by elephant or snake, which were used to drag and crush or to inject deadly venom into the body of the condemned: see N. Chevers, *A Manual of Medical Jurisprudence for India, Including the Outline of a History of Crime against the Person in India* (Calcutta, 1856), pp. 367–8, 381–2.
22. M. Craton, *Testing the Chains: Resistance to Slavery in the British West Indies* (Ithaca, NY, 1982), p. 315.
23. TNA, CO295/37: Governor Ralph Woodford to Bathurst, 29 August 1816.

24. 'Liberated Africans' were illegally trafficked slaves 'freed' into apprenticeship in Sierra Leone and other colonies after the abolition of the slave trade in 1807. TNA, CO267/140: Lieutenant Governor Henry Dundas Campbell to Baron Glenelg, Secretary of State for War and the Colonies, 12 September 1837; TNA, CO267/141: Glenelg to Governor Richard Doherty, 28 September 1837.
25. TNA, CO267/110: Lieutenant Governor Alexander Findlay to Goderich, 24 December 1831.
26. R. Evans, '19 June 1822: Creating "An Object of Real Terror": The Tabling of the First Bigge Report' in M. Crotty and D. A. Roberts (eds), *Turning Points in Australian History* (Sydney, 2009), p. 59; G. de Beaumont and A. de Tocqueville, *On the Penitentiary System in the United States, and its Application in France; with an Appendix on Penal Colonies, and also, Statistical Notes* (trans.) F. Lieber (Philadelphia, 1833), p. 144. See also 'Abstract of Returns as to Trials, New South Wales, 1819–1824', in *Historical Records of Australia, Series I, Volume XI* (Sydney, 1917), pp. 478–9.
27. T. Castle, 'Constructing Death: Newspaper Reports of Executions in Colonial New South Wales, 1826–1837,' *Journal of Australian Colonial History* 9 (2007), 51–68 (quote at 51).
28. *PP*, 1844 (627), 'Aborigines (Australian Colonies). Return to an Address of the Honourable the House of Commons, dated 5 August 1844; for, Copies or Extracts from the Dispatches of the Governors of the Australian Colonies, with the Reports of the Protectors of Aborigines, and any other Correspondence to Illustrate the Condition of the Aboriginal Population of the said Colonies, from the Date of the Last Papers laid before Parliament on the Subject' (papers ordered by the House of Commons to be printed, 12 August 1839, no. 526), *Quarterly Report of the Protector of Natives,* 31 December 1840, p. 388; *Annual Report of the Protector of Aborigines,* 31 March 1841, p. 391. See also Castle, 'Constructing Death', 64–5.
29. C. Anderson, 'The Execution of Rughobursing: The Political Economy of Convict Transportation and Penal Labour in Early Colonial Mauritius', *Studies in History* 19 (2003), 185–97.
30. British Library, India Office Records (henceforth IOR) P/129/22: Resident Thomas Parr to G. Udny, secretary to government Bengal, 20 November 1805. The East India Company managed jurisdiction in areas under British control until the assumption of British Crown control in 1858.
31. IOR, P/129/32: Parr to Udny, 15 August 1806.
32. IOR, P/129/42: Parr to G. Dowdeswell, secretary to government Bengal, 7 November 1807.
33. IOR, P/132/2: Parr to Dowdeswell, 4 February 1809.
34. *The Englishman*, 18 March 1872.
35. *Madras Athenaeum*, 23 March 1872; *Wanganui Herald* (New Zealand), 10 July 1872 (reporting *India Daily News*); *The Englishman*, 18 March 1872. In a somewhat embellished memoir, convict contemporary, Mulana Jafer Thanesari later wrote that Ali had addressed the watching convicts thus: 'Brothers! I have killed your enemy and you are a witness that I am a Muslim', and died citing verses from the Qur'an: *In Exile, A Strange Story*, p. 29. I thank Satadru Sen for sharing his English translation of this memoir.
36. *The Englishman*, 18 March 1872.

37. R. Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (New Delhi, 1998), p. 244.
38. W. W. Hunter, *The Indian Mussalmans: Are They Bound in Conscience to Rebel against the Queen?* (London, 1871).
39. TNA, CO111/348: Governor Francis Hincks to First Viscount Cardwell, Secretary of State for the Colonies, 7 December 1865.
40. TNA, CO111/358: Hincks to Cardwell, 22 May 1866.
41. TNA, CO28/105: Governor James Lyon to Murray, 27 December 1830.
42. *PP*, 1826–7 (551), 'Trinidad. Report of His Majesty's commissioners of Legal Inquiry on the Colony of Trinidad, Appendix A', 11; *PP*, 1828, 'Second Report of Commissioners', 28, 171, 193, 201–2; *PP*, 1830–1 (334), 'Gaols, West Indies. Copies of Correspondence relative to the State of the Gaols in the West Indies and the British Colonies in South America', 21, 28, 31.
43. *Bengal Hurkaru and India Gazette*, 25 April 1848. Note also that in common with practices in the metropole, pregnant women were not to be executed until forty days after their delivery, though given the acknowledged difficulty of establishing pregnancy medically in its very early stages, in practice it is likely that women were rarely hanged: see Chevers, *A Manual of Medical Jurisprudence for India,* pp. 710–11.
44. TNA, CO111/264: Governor Henry Barkly to Earl Grey, Secretary of State for the Colonies, 19 March 1849.
45. TNA, CO111/264: Barkly to Grey, 19 March 1849.
46. TNA, CO267/49: Bathurst to Leith, 7 November 1816.
47. TNA, CO111/133: Governor J. Carmichael-Smyth to Thomas Spring Rice, Secretary of State for War and the Colonies, 12 October 1834. Apprentices were slaves 'freed' into their master's service in 1834, before final emancipation in 1838.
48. TNA, CO111/136: Carmichael-Smyth to the Earl of Aberdeen, Secretary of State for War and the Colonies, 4 March 1835.
49. TNA, CO295/121: Governor G. F. Hill to Glenelg, 26 May 1838.
50. C. Anderson, 'The Politics of Convict Space: Indian Penal Settlements and the Andamans', in A. Bashford and C. Strange (eds), *Isolation: Places and Practices of Exclusion* (London, 2003), pp. 41–5. For a flavour of contemporary discussions, see *Report of the Committee on Prison Discipline, 8 January 1838* (Calcutta, 1838), p. 61 and Paper C.
51. TNA, CO111/268: Opinion of Governor Barkly, 5 September 1849.
52. H. Kirke, *Twenty-Five Years in British Guiana* (London, 1898), p. 225.
53. *PP*, 1876 [c.1517], 'Further Papers Relating to the Improvement of Prison Discipline in the Colonies'; Harrison and Sons, Report, Henry Ludlow, Attorney-General Trinidad, 12 July 1875, 37.
54. C. Munn, 'The Transportation of Chinese Convicts from Hong Kong', *Journal of the Canadian Historical Association* 8 (1997), 122; IOR, P/142/38: J. Davis, Secretary to the Government of Hong Kong, to Lord Stanley, Secretary of State for the Colonies, 29 January 1845.
55. *PP*, 1867–8 [3961] [3961–I], 'Prison Discipline in the Colonies. Digest and Summary of Information Respecting Prison in the Colonies, supplied by the Governors of Her Majesty's Colonial Possessions, in answer to Mr Secretary Cardwell's Circular Despatches of the 16 and 17 January 1865, Appendix K: Report of the Procureur Général of Mauritius on Crime (1865)'.

56. Chevers, *A Manual of Medical Jurisprudence for India*, pp. 566–7; IOR, P/146/42 Norman Chevers, officiating inspector general of jails, to J. D. Gordon, junior secretary to government Bengal, 24 July 1861.
57. K. Harman and H. Maxwell-Stewart 'Aboriginal Deaths in Custody in Colonial Australia, 1805–1860,' *Journal of Colonialism and Colonial History* 13 (2012).
58. H. H. Spry, 'Some Account of the Gang-Murderers of India Commonly Called Thugs; Accompanying the Skulls of Seven of Them', *Phrenological Journal and Miscellany* 8 (1832–4), 517. The seventh man had died in jail prior to his planned execution.
59. Castle, 'Constructing Death,' pp. 61–2.
60. *PP*, 1837 (518), 'Report from the Select Committee on Transportation; together with the Minutes of Evidence, Appendix, and Index', 14 July 1837, evidence of John Barnes, surgeon of Macquarie Harbour, 12 February 1838, p. 43.
61. Chevers, *A Manual of Medical Jurisprudence in India*, p. 172.
62. Singha, *A Despotism of Law*, p. 239–45.
63. Cited in 'Criminal Law in Bengal', *The Calcutta Review* (1849), 560.
64. Singha, *A Despotism of Law*, p. 240.
65. *The Times of India*, 3 April 1871.
66. 'Criminal Law in Bengal', 560–1.
67. Lieutenant Colonel Fitzclarence (1819), cited in Singha, *A Despotism of Law*, p. 242.
68. The article was reprinted in *The Sydney Morning Herald*, 22 July 1856, as 'Execution of a Santal Rebel'. On the rebellion, see also R. Guha, *Elementary Aspects of Peasant Insurgency in Colonial India* (New Delhi, 1983), quote at pp. 97–8. See also pp. 142–3.
69. IOR, W4037: *Selected Correspondence of Letters issued from and received in the Office of the Commissioner, Tenasserim Division for the years 1825–26 and 1842–43* (Rangoon, 1916), A. D. Maingy, Commissioner for the Provinces of Mergui and Tavoy, to Captain Briggs, 12 October 1825.
70. J. Hutchinson, *Observations on the General and Medical Management of Indian Jails; And on the Treatment of Some of the Principal Diseases which Infest Them* (Calcutta, 1845), p. 84.
71. NAM, RA1078 Powder Mills Prison Committee, 16 November 1850; NAM, RA1459: Procureur Général to Colonial Secretary, 2 December 1858.
72. NAM, RA1459: Port Louis Prison Committee, 28 October 1858.
73. NAM, RA1955: Inspector General of Police O'Brien, to Colonial Secretary, 14 April 1868.
74. NAM, RA2544: Col Sec, to the Inspector General of Prisons W. Bell, 27 September 1880; W. Bell, report on execution, n.d.
75. Chevers, *A Manual of Medical Jurisprudence for India*, pp. 607–9, quotes at pp. 608, 609.
76. Spry, 'Some Account of the Gang-Murderers of India Commonly Called Thugs'; R. Cox, 'Remarks on the Skulls and Characters of Thugs', *Phrenological Journal and Miscellany*, 8 (1832–4), 524. The skulls are now held in the University of Edinburgh Henderson Trust Collection.
77. 'Case of John Jenkins, convict executed at Sydney for murder', *Phrenological Journal and Miscellany* 10 (1836–7), 485–9.

78. Edinburgh University Library Gen 608/2: Minute Book of the Phrenological Society, vol. 1; Gen 608/4: Catalogue of the Phrenological Society, n.d.
79. IOR, P/145/39: Weekly sanitary report on the state of the prisoners in the Beerbhoom Jail, week ending 26, 27 April 1856.
80. IOR, P/146/4: Memorandum on Hooghly Jail, 30 September 1857.
81. IOR, P/146/1: E. H. Lushington, Officiating Assistant Secretary to Government Bengal, to F. J. Mouat, inspector general of jails Bengal, 4 August 1857; C. J. Buckland, secretary to government Bengal, to Mouat, 22 September 1857.
82. IOR, P/146/1: Mouat to Buckland, 30 September 1857.
83. IOR, P/146/1: Buckland to Mouat, 19 October 1857. On post-mortems in jails, see also D. Arnold, *Colonizing the Body: State Medicine and Epidemic Disease in Nineteenth-Century India* (Berkeley, 1993), pp. 5–6.
84. G. Fritsch, *Ueber Bau und Bedeutung der Area Centralis des Menschen* (Reimer, 1908), pp. 133–4.
85. H. MacDonald, *Human Remains: Episodes in Human Dissection* (Melbourne, 2005). For examples of the reporting of such cases see *The Courier* [Hobart], 1 September 1853, 21 June 1855.
86. L. Miller, 'Notes of An Exile to Van Diemen's Land' (1946), cited in R. Tuffin, 'The Post-Mortem Treatment of Convicts in Van Diemen's Land, 1814–1874', *Journal of Australian Colonial History* 9 (2007), 102.
87. *The Bombay Courier*, 6 March 1844 (reproducing extract from the *Penang Gazette*, 16 December 1843).
88. F. Swettenham, *The Real Malay: Pen Pictures* (London, 1900), p. 245; 'Correspondences', *The Singapore Free Press and Mercantile Advertiser*, 7 June 1901.
89. Reported in the *South Australian Register*, 14 July 1847.
90. IOR, P/144/20: A. P. Phayre, Commissioner of Arakan, to J. P. Grant, Secretary to Government Bengal, 18 February 1852, enclosing 'History of the Case of a Prison named Mohcum Sing who died from the Effects of Flogging', J. Kearney, Sub Assistant Surgeon, 28 January 1852.
91. TNA, CO295/47: Governor William Colebrooke to Glenelg, 31 October 1836.
92. *PP*, 1850 (69) (738), 'Capital Punishment (Colonies). Return showing how far Crimes, for which Capital Punishments have been abolished in this Country, are still Capitally Punishable in the Colonies and Dependencies of Great Britain'; *PP*, 1851 (11), 'Capital Punishment (Colonies). Further Return, showing how far Crimes, for which Capital Punishments have been abolished in this Country, are still Capitally Punishable in the Colonies and Dependencies of Great Britain'.
93. *PP*, 1856 (255), 'Capital Punishment (Colonies). Return showing how far Crimes for which Capital Punishment has been abolished in England are still Capitally Punishable in the Colonies and Dependencies of Great Britain'.
94. TNA, CO28/174: Colebrooke to Grey, 8 January 1851.
95. *South Australian Register*, 14 July 1847.
96. NAM, RA1459: Port Louis Prison Committee, 28 Oct 1858.
97. *PP*, 1866 [3590], 'Report of the Capital Punishment Commission; together with the Minutes of Evidence and Appendix', 219–20.
98. *The South Australian Advertiser*, 26 May 1866.
99. 'The Execution', *The Straits Times*, 8 April 1890.

100. Kirke, *Twenty-Five Years in British Guiana*, pp. 305–6.
101. NAM, SB21 Kimberly, 27 June 1880, enclosing 'Memorandum upon the Execution of Prisoners by Hanging with a Long Drop'.
102. NAM, RA2544 PG's report no. 1150; NAM, SB21 Departmental instructions for the carrying out of capital sentences in Mauritius, 10 February 1881.
103. 'The End of a Chinese Pirate; Death by a Thousand Cuts', *Eastern Daily Mail and Straits Morning Advertiser* 4 May 1907.

7

Strangled by the Chinese and Kept 'Alive' by the British: Two Infamous Executions and the Discourse of Chinese Legal Despotism

Song-Chuan Chen

In 1784, the supercargoes of the English East India Company (EIC) – those who travelled with the ships to manage the Company's trade in China – sent the following report to the Court of Directors of the Company in London: 'It is with great concern we inform the Honble [honourable] Court that in consequence of an order received from the Emperor on the 8th instant [January], the Chinese strangled the Gunner of the *Lady Hughes*, who was in confinement on account of the unfortunate accident which happened the 24th of November.'[1]

What happened on 24 November 1784 was that while the British private ship, *Lady Hughes*, was in Canton's sea port, Whampoa, the gunner fired a salute to a departing Danish ship, the captain of which had just dined on board. The shots seriously injured three Chinese nationals on board a Chinese boat lying alongside the *Lady Hughes*. Two of them, Wu Yake and Wang Yunfa, consequently died. British trade in the port was suspended and the supercargo of the *Lady Hughes*, George Smith, was taken into custody. Smith was only released after the gunner was handed over to the Canton officials, who judged that it was an accident and recommended to the court in Beijing to let the British punish the gunner according to their own laws. But the Emperor overturned this decision and ordered the gunner to be strangled. The strangulation was carried out on 8 January 1785.[2] The death of the gunner was a significant moment in the history of China–Western relations.

So too was the strangulation of Francis Terranova, an Italian sailor of an American ship, the *Emily*, on 28 October 1821. The supercargoes of the EIC entered in their diary that day:

> Our feelings have been greatly shocked this morning by the intelligence of the execution of the wretched man whose trial terminated yesterday, but little thought the government would have proceeded to such a summary measure, it seems however that at five o'clock this morning he was led to the usual place of executions, where some years ago several Chinese criminals suffered for an outrageous attack upon the American ship *Wabash*, and there, underwent his execution by strangulation.
>
> This has terminated an affair which since the history of the Gunner in 1784 stands without a parallel in the annals of European intercourse with this people.[3]

Little more than a month earlier, in Whampoa, on 23 September 1821, around one o'clock in the afternoon, Francis Terranova was buying fruit (some documents say Chinese rice wine, *samsoo*) from a local Tanka woman (people who lived in boats), Ko Leang-she, by lowering an olive jar with money in it from his ship to the woman's boat. Terranova was not satisfied with the amount of goods he received in the jar coming up. There was a quarrel between them. Later, the woman was found dead in the water with a head wound. American trade was suspended. Terranova was tried, first on board the American ship, and then again in Canton. He was strangled the day after the second trial.[4]

These two are the most infamous deaths of foreigners in the history of China–Western interactions before the First Opium War (1839–42), and the incidents were retold in historiography time and again, very often together.[5] Recent studies by Li Chen and Joseph Benjamin Askew, using archival research, have produced new understandings of the cases. Li argues from a postcolonial perspective that a 'clash of sovereign thinking' led to the construction of a discourse surrounding the *Lady Hughes* incident about the differences between British and Chinese legal cultures. Li contends, along with other scholars, that the Qing legal system was not as 'primitive' and 'backward' as the representation of the case shows, while the British legal system at the time was not as 'progressive' in comparison.[6] Askew revisited the evidence used in the trial of the Terranova case and contemporary records. He believed that Terranova most likely killed the woman by either throwing or accidentally dropping the jar onto her head. Terranova was not innocent as the

many retellings of the case by generations of historians have indicated. Neither was he a substitute for the real killer as some believed.[7] Both Li and Askew have touched on the question of how these two incidents have become the central pieces of a representation of Chinese legal despotism. Teemu Ruskola named this type of representation 'legal orientalism' and argues that it was in global circulation and played a crucial role in the development of the discourse of legal modernisation in Western legal history.[8]

This chapter continues this line of enquiry by bringing attention to the role of the two deaths – the gunner's and Terranova's – in the development of a narrative of Chinese legal despotism. The executions of the two seamen were evoked from the very beginning in the representation of the two incidents, as the two EIC records quoted above show. Death has the power to shock. Subsequent retelling of the two cases has rarely failed to bring attention to the manner and the moment of their deaths, if not grossly exaggerating them. In dealing with the issue of death, this chapter addresses the question of the 'technique' used in representing Chinese legal despotism. Without claiming this to be the sole factor, it argues that the retelling of these two cases, with a focus on the process of their deaths brought about by Chinese jurisprudence, was a narrative force that empowered a representation of Chinese legal despotism. Moreover, by reading the two cases in the historical context of the Chinese legal system, and the struggle between the Qing court's state security concerns and Canton's local trading interests, this paper demonstrates how the idea of Chinese legal despotism was formed in historiographical selective memory.

Kill the Chicken to Warn the Monkey

The two strangulations need to be studied in a larger historical context. In total there were 21 cases in the Canton area in this period that fall into the same category as those of the *Lady Hughes* and Terranova, namely cases of Chinese nationals killed by foreign sailors.[9] The other nineteen cases have scarcely been mentioned in the general history of China–Western relations. For instance, the Qing government never punished anyone in a 1736 case in which a Frenchmen shot dead a Chinese boy after mistaking him for an animal in a paddy field. In 1807 the sailors of the *Neptune* were lined up for trial over the death of a Chinese man in a street fight. One was found guilty and was only required to pay a fine of 12.42 taels.[10] In an 1800 case, two Chinese men were killed by sailors from the HMS *Providence*. The navy ship

sailed away and the EIC supercargoes argued that they could not be held responsible for the actions of the Royal Navy. The case was dropped.[11] In the 1821 HMS *Topaze* case, the same story was repeated, but this time the mandarins for 7 years kept pressing the EIC staff in Canton to produce the suspect, to no avail.[12] Most notably, the 19 cases involved no deaths of Europeans. Without that to shock readers, the incidents were rarely retold. They have been ignored in the subsequent historiography because they do not fit into the discourse of Chinese legal despotism, which was constructed around the deaths of the two infamous incidents.

In the *Lady Hughes* case, the Qianlong Emperor (reign, 1735–96) wanted the gunner to die. He intentionally initiated the death. The court historian summarised Qianlong's comment on the memorial of the incident sent in from Canton by Governor of Guangdong Sun Shiyi (1720–92):

> The administration of the case is ridiculous! Even ordinary fatal cases that happened during affrays are sentenced according to the principle of life for life, let alone a case such as this in which the gunner fired cannon and caused two deaths. Besides, the investigation of western missionaries is on-going right now. It is especially necessary to mete out harsh punishment in appropriate cases to demonstrate the strictness [of Chinese law]. Also, the supercargo George Smith was probably not handcuffed and seized in the city; the gunner jailed might not be the actual offender. Nevertheless, given that Smith had made his testimony, [the Canton authorities] should have gathered the said nationals and strangled the offender in vindication, to give them all a warning. How come [Sun Shiyi] has recommended allowing the offender to be [punished] back in his own country? Think! How would Sun Shiyi know whether the said nation has meted out punishment?[13]

The emperor reprimanded Sun for not dealing with the case properly, namely not administering the strangulation to make the death of the gunner an example. Qianlong intended to use this death to shock the British in order to inspire awe of imperial power, and in turn to maintain order in the port. He wanted, as the Chinese idiom goes, 'to kill the chicken as a warning to the monkey'. The emperor knew what kind of power a display of death can entail and he used it to his advantage in ruling. This was a typical Legalist (*fajia*) method of governing that centred on principles of harsh punishment (*fa*), techniques of ruling

(*shu*) and the awe factor (*shi*). Since the Han dynasty (206 BC–220 AD), the Legalist philosophy of governing had ruled side by side with Confucianism. Qianlong was a great fan of the school's ways.[14]

As the emperor made clear, the court was closely supervising missionary-related cases at this time. This added another reason for the gunner to die. The ban on Christianity had started in the 1720s and the persecution of missionaries during the Qianlong reign was severe. Four Catholic missionaries were uncovered in September 1784, two months before the *Lady Hughes* incident. The discovery triggered another wave of arrests of both European missionaries and Chinese converts, and a manhunt for Cai Boduolu, the key Chinese convert who arranged the four missionaries' journeys.[15] The strangulation of the gunner was a strategy of killing two birds with one stone: as a warning to the British in Canton to behave properly, and to set a precedent for the handling of missionary affairs. The message was that harsh punishments could be used on Europeans in China and on Chinese nationals who helped foreigners, both of whom were regarded as potential threats to state security.

While the emperor was reading and commenting on the memorial, Governor Sun Shiyi was on his way to Beijing to attend the 'Banquet for a Thousand Elderlies' (*qiansouyan*), an event organised by the court as a ceremony to show respect to the elderly and a celebration of the ageing emperor, now in his seventies. It was an honour for Sun to attend the banquet and an opportunity for him to socialise and network with his metropolitan colleagues and those gathered from the provinces. Qianlong ordered the imperial messenger to meet Sun en route and they found him in Jiangxi, having travelled one-third of his journey to Beijing. The messenger delivered the emperor's order that Sun was to go back to Canton to properly handle the case. He turned back 'with trembling', as he stated, and arrived in Canton on the night of 7 January 1785. The next morning he ordered the provincial judge to gather the foreigners in the city. The strangulation of the gunner was carried out that day.[16]

In contrast, the Daoguang Emperor (reign, 1820–50) was not involved in the decision to strangle Francis Terranova. Governor General Ruan Yuan (1764–1849) was the person in charge and he only reported the case to the court on 8 November 1821, eleven days after the strangulation was performed. Ruan justified his decision by quoting two articles of the Qing Code.[17] Article 34: 'In the case of all those who are outside Chinese civilization entered [China] and submitted who commit offences, the matter is to be decided in accordance with the law.' This was the only reference in the Code to foreigners. The other

article Ruan quoted was Article 290: 'Anyone who, during an affray, strikes and kills another, regardless of whether he has struck with the hand, or the feet, or with another object, or with a metal knife, will be punished with strangulation (with delay).'[18] This meant that Terranova should be strangled, but the case was not supposed to be carried out so quickly. 'With delay' meant that Ruan should have waited for the 'autumn assizes', which acted as the highest court of the land and which would review all cases of death penalties before the winter. It was common that sentences would be reduced if mitigating circumstances were found. In the cases of accidental killing, the punishment was often reduced to permanent exile.[19]

But Ruan further quoted the regulation of 1743, a regulation which was proposed by the former governor general of Guangdong and Guangxi, Celeng (Dzereng, ?–1756), for handling legal disputes related to foreigners in China, later approved by the Qianlong Emperor:

> If case of murder occur between natives and foreigners, whether from previous conspiracy, wilfully, or fighting affrays, and the case requires the foreigner to be decapitated or strangled, the local magistrates shall, when they examine the body make full and faithful interrogatories, and shall report to the *Fouyuen* and governor, who shall carefully examine the case; and if the facts are really as stated, they shall order the local officers and the respective foreign head person, to take the criminal and punish him according to law, and dispense with his being delivered over to imprisonment, and removal for examination in the interior courts [autumn assizes]. And that at the same time a faithful report be made to the emperor, and a copy of the evidences sent to the appropriate board in Peking.[20]

This was what Qianlong had in mind when reproaching Sun's mishandling of the *Lady Hughes* case in 1784. The 1743 regulation had the effect of putting foreigners in Canton in the same category as those potential rebels who according to the Code could be executed immediately by provincial authorities without going through the autumn assizes (Articles 254 and 255). But foreigners still had the opportunity to undergo a trial and their cases were to be reviewed by the highest provincial authorities. This meant that foreigners were still subject to Chinese law, but their cases were deprived of the opportunity of being reviewed by the court, with a chance of lighter punishment or even of the case being overturned altogether, and of any general amnesty that might occur while waiting for the autumn assizes.

Ruan Yuan was not alone in sticking to the law book in handling criminal cases. Studies have shown that most Qing magistrates followed rulebooks and handed out sentences according to the Code.[21] But in the context of the interactions in Canton, Ruan's decision was rather harsh. Among the fifteen cases of Chinese killed by foreigners in China after the *Lady Hughes* incident, this was the only one that led to a death sentence. Ruan was a hardliner. In his 1818 memorial to the Jiaqing Emperor (reign 1793–1820), he reasoned:

> The British barbarians are arrogant and greedy. Judging by their current behaviour, we should display strength rather than kindness towards them. Were they allowed to continue to believe that they could extract from us everything they wanted, they would increase their demands even more. Their greed will become completely insatiable.[22]

Ruan was a believer in Legalism just like Qianlong. He also had to be harsh in handling the Terranova case because he was at this time carrying out the Daoguang Emperor's opium elimination campaign in Canton. On the same day as he submitted the memorial on the Terranova incident, he also submitted a memorial recommending stripping the leading Hong merchant Wu Bingjian (1769–1843) of his honorary third-rank official title as a punishment for not preventing the British and Americans smuggling opium into Canton during his term as head merchant.[23] The desire to bring Europeans in Canton under control was strong in the years leading up to the Terranova case – 1821 was not another year of trade but a year of a severe crackdown on the opium trade, the largest between the 1729 opium prohibition and the 1839 campaign that led to the First Opium War.[24] Terranova was executed in the context of a campaign to bring foreigners under tighter control. The case, like the *Lady Hughes* case, was used to set an example.

Homicide cases in Canton were not merely legal cases, but part of state security operations. Political considerations, that is, the management of foreigners in China to prevent them becoming a source of unrest, was the reason for the severe punishment. In the management of both cases, the Legalist idea of ruling by harsh punishment was the guiding principle. Using executions to instil awe was an option in the Qing Empire's governing toolbox.

Shocked by the Manner of Death

The manner of delivery of the Qianlong emperor's message through the death of the gunner in Canton was nothing like the emperor envisaged.

On the morning of 8 January 1785, after Sun had arrived back in Canton the night before, foreigners in the Thirteen Factories – where they lived and traded while in China – were told to send two representatives of each nation to go into the city. When they had all gathered, the provincial judge came to address the Europeans. The interpreter was one of the Hong merchants, Puankhequa I (Pan Wanyan, 1714–88). There were 12 supercargoes of the EIC in the port that year, and Henry Brown and William Fitzhugh were sent as representatives. They recollected the exchange:

> That he [the emperor] was now greatly displeased because we had delayed for five days to deliver up the gunner who had killed his subjects, and the Mandareen asked us why we had so long delayed. To which it was answered, that the Man was really not to be found. He then told us that whatever the Emperor's decision might be, we must, when it was known, submit to it with respect and that the government had been extremely moderate in demanding one for the lives of two of its subjects, who had been lost by this accident.[25]

The provincial judge did not follow the emperor's instruction that Sun was ordered to come all the way back to deliver. The emperor asked only that 'the said nation', that is the British merchants, be present rather than representatives of each nation. The gathered foreigners were not taken to the execution ground to witness the strangulation as instructed in order to get the desired effect. The judge did not even tell the foreigners that the gunner was to be strangled. The message of death was vaguely put: 'when it was known'. The Europeans were not overawed by the strangulation, but were instead given two pieces of silk when they took leave.[26]

Brown and Fitzhugh further wrote: 'we were afterwards informed that this unhappy man had been strangled at about the time, we were receiving the above recited admonition'.[27] It was likely that Puankhequa I, knowing the foreigners well, concealed the information.

Earlier, after George Smith was arrested and before the gunner was delivered to the Qing officials, the English, French, Dutch, Danish and Americans sent armed boats to Canton to demand Smith's release. Emotions ran high. Puankhequa I knew too well what a stir translating the news of the execution would create with two representatives of each nation present. Being a Hong merchant and in the business for more than four decades, he was too smart to be the messenger bearing the bad news. It was also possible that the Hong merchants and the provincial

officials worked together to arrange the separation of the strangulation and the gathering. This wilful misinformation to avoid direct confrontation exacerbated the fury of the British, who felt they had been deceived.

Before the strangulation on 8 January, the British had not articulated opinions about the Chinese legal system as such. Throughout the process, the Canton local officials made clear on several occasions that this was an accident and the gunner would not be punished. This was not a trick to make them hand over the gunner: Sun did recommend to the court that the British should be left to punish the gunner themselves. And he did not expect the case to be overruled by the emperor; otherwise he would not have departed to Beijing for the banquet. The Hong merchants who had the monopoly of the major trade items and acted as go-betweens for the officials and foreigners read this point well, and conveyed the information precisely to the supercargoes of the EIC.[28] Thus when the EIC staff sent the report to the Court of Directors (before the emperor's order was received), their language gave the impression that the gunner's life was not in danger. The report expressed a distrust in the Qing officials properly handling the case, but there was no direct criticism of the Chinese legal system. It described at the end how Smith was treated while in custody: 'Mr. Smith arrived at the Factory and gave a very satisfactory account of the treatment he met with and the civilities received from the several Mandareenes, most of whom visited him and sent him presents.'[29]

When the supercargoes received the news of the strangulation, they were infuriated. In the 'general letter' (served as a public record and copied to relevant persons) signed by the 12 supercargoes, the accusations against the Chinese legal system were uncompromising and the death of the gunner played a crucial role in shaping their opinion:

> The story of the Gunner has been too circumstantially related to need any repetition, we shall only remark that the Chinese believe him, as we understand, to be a substitute and that allowing him to be the real Gunner, they agreed with us that he was innocent of any ill intention; and the whole to be an accident; yet this Man too, tho' innocent, they have executed. We think it fair, therefore, to consider these facts as proofs that the Government exercises over us the same absolute and Tyrannical power as towards its own subjects – that in the case of death a man must be given up to them – that it do not admit of a culprit's having escaped, for in that case a substitute must suffer; or if he be refused the Supra Cargo of the Ship or Chief of the Nation must answer for his crime; and to complete the rigor of

> this Law, it does not allow of Manslaughter and Life only can atone, for what in Europe is thought rather a Man's misfortune, than his crime.[30]

The emotional narrative summed up how the 12 supercargoes felt about the strangulation of the gunner. This document set the tone of a narrative that was sorrowful and distrustful of Chinese law. It became the seminal narrative subsequently retold time and again in the history of China–Western relations. The discourse of Chinese legal despotism which characterises the historiography can be traced back to this document as one major source, which as a general letter was widely circulated to other merchants in the port and to London. This was the source used by *The Daily Universal Register* (*Time*s) which repeated that the gunner was 'innocent' yet 'was strangled'.[31] A partisan account of the Chinese legal system spread from here. The mistaken claim that China's legal system stipulated 'life for life', with no distinguishing between manslaughter and murder, also originated in this document and the gunner's execution was quoted as evidence.[32]

The emperor may have known well how to use death to instil fear and obedience, but he could not know how far this deadly warning would travel. The 12 supercargoes sent a letter to the captains of British ships telling them: 'do not salute in the River'. They exchanged letters with the Swedish consul in Canton saying that they agreed that there would be absolutely no saluting shots in the future.[33] They asked the EIC's Court of Directors for advice on their power of control over the private merchant ships, of which the *Lady Hughes* was one, and were told that they did indeed have such power.[34] As they were enraged and believed their lives were in imminent danger after the strangulation, they also told the Court of Directors that under this condition, the trade would have to be abandoned sooner or later.[35] The Court of Directors took this warning seriously. When Lord Macartney was sent to China in 1793 as an emissary to establish formal diplomatic relations with China, he was instructed to obtain extraterritorial judiciary rights and an agreement with China on legal matters:

> Should a new establishment be conceded, you will take it in the name of the King of Great Britain … with a power of regulating the police and exercising jurisdiction over our own dependant … [where] British Subjects can be exempted from the Chinese jurisdiction for Crimes, and that the British Chief or those under him be not held responsible, if any culprit should escape the pursuit of justice, after

> search has been made by British and Chinese Officers acting in conjunction.[36]

The emperor's message of death, even though not properly delivered, was a shock enough and was unmistakably received by the British. His favour for Legalist methods created *an example* of Chinese legal despotism. After the strangulation of the gunner, this idea of Chinese legal despotism became the mode of British perception of the Chinese legal system.

The outrage of the 12 supercargoes came alive in the British narrative of the Terranova case in the 1820s. Six months after Terranova was strangled, that is, as soon as the information reached London, *The Times* published a sensational account of the process of strangulation:

> Soon after, some Chinese soldiers entered and took him out at another door, and the first intimation he had of his cruel fate, was the executioner and implements of death before him, and the heads of decapitated Chinese hung round a kind of square crowded with spectators. He uttered a yell of despair, raised his hands to Heaven and was understood to protest his innocence, and to implore the sight of a European or American [perhaps the priest, as he was a Roman Catholic, and had previously, when on board ship, seen the Chaplain of the Imperial freight, then laying in Whampoa reach].
>
> The executioner paid no attention to his cries, but immediately proceeded to strangle him according to the usual horrid way directed by the Chinese law.
>
> Ropes were first tied round his ankles and wrists, and then gradually round the more vital and sensible parts; and finally round the neck, until he expired by a languishing and cruel death.[37]

Records show that there was no European present during the strangulation. The report of *The Times* was a fabrication built on the general perception of, and interest in, the Chinese legal system that was created after the *Lady Hughes* incident. The report prompted the China expert George Thomas Staunton (1781–1859) to write a refutation. Staunton had translated the *Qing Code* in 1818 and had first-hand experience in dealing with the Canton authorities on legal cases. He quoted the complete edict that Ruan issued to the Hong merchants and the whole of the memorial Ruan presented to the court, as a true narrative of the incident. Staunton went out of his way to defend the Chinese legal system, arguing that it was not the case that Chinese law 'invariably requires

blood for blood'. He reasoned that 'when there are no circumstances of peculiar aggravation, the sentence is usually mitigated in practice one degree' – the autumn assize.[38] In countering *The Times'* passage on the moment of strangulation, Staunton stated what he believed to be the real situation:

> The author is inclined to believe, that the picture here drawn of the suffering of a criminal under this mode of execution is considerably over drawn – and that he [Terranova] is merely confined in the first instance, and that the actual execution by strangling is as expeditious, and as limited in point of suffering, as our mode of executing criminals, by hanging, in England.[39]

Staunton was fair minded in presenting the humane side of the Chinese legal system. When he translated the *Qing Code*, he believed parts of the Code 'are perhaps not unworthy of imitation, even among the fortunate and enlightened nations of the West'.[40] His opinion afforded an alternative viewpoint that did not view China's legal system in the hostile manner that most EIC Canton staff did after 1784.[41] But Staunton was not able to stand against the trend of imagining Chinese injustice, which hinged on the strangulations of first the gunner and now Terranova. Even more sensational imaginations of Terranova's death were to come in the 1830s.

Imagining the Moment of Strangulation

The representations of the two incidents in the 1830s, particularly the process of Terranova's strangulation, in the English print media of both Canton and London in the decade before the First Opium War cemented the idea of Chinese legal despotism. In contrast, the Americans were rather disinterested in the death of Terranova in the 1820s and 1830s, and they disliked the way the case was used by the British.

A pamphlet entitled *Facts Relating to Chinese Commerce in a Letter from a British Resident in China to his Friends in England*, published in London in 1829, states that the boat woman Ko Leang-she was drowned because of 'attempting to avoid a piece of wood, which had been thrown to keep the boat from the side of the Ship'. An American who was in Canton when the incident happened rebutted this in the Canton English newspaper the *Canton Register* (1827–46) with the pen-name 'An American', arguing: 'Terranova did knock the woman overboard with a sharp pointed Spanish olive jar'. He quoted as evidence the examination of Ko

Leang-she's corpse by the Qing officials in the presence of Americans. 'An American' gave the understanding that the British should leave Americans alone and not use the Terranova case in their campaign against the Chinese.[42]

But the British did. In a recount of 1830, they called the Terranova incident 'that mournful transaction'. And when British merchants were invited to the Hong merchants' guild house, the *Consoo*, for a meeting in August 1834, they stated: 'what benefit ever arose from an attendance at the Consoo house? Was it not there that the unfortunate Terranova signed his own death warrant?'[43] John Slade, another old China hand, in his book published in 1830, called the death of the gunner and Terranova 'stains both upon the British and American nations'. Slade also produced a sensational account of the moment of Terranova's death:

> He was hurried to the place of execution, surrounded by a crowd of lictors. His eyes were cast around, seeking help and pity. He met the triumphant glance of his murderers; there was no countryman – no American – no European there to exchange a glance of protection or commiseration with the unfortunate wretch. He made the sign of the cross, and threw up his arms in appeal to heaven; but he was seized and bound to the post, and the wrenched cord round his neck was the satisfaction of Chinese law for the death of the drowned woman, and the signal for the restoration of the American trade.[44]

The imaginary account of Terranova's death culminated in the *Canton Register*, where he was presented as a martyr but not without a trace of farce:

> He breakfasted and was joked with by the demons who surrounded him – he went to the Governor's [for the final confirmation of execution] and from thence to the cross on which he was to be strangled. Being a Catholic he mistook it for the cross of Christ, and made external indications of respect. But anon to his unutterable horror, he was seized, and struggling in vain, by force bound to it, with cords, by neck, and wrists, and ankles.[45]

The farcical comparison to Christ hinged on the idea of sacrifice. As the British understood it, Terranova was sacrificed for the sake of reopening American trade.

The British kept up their attacks on the Americans over the death of Terranova. The *London Quarterly Review* in January 1834 claimed that

the 'innocent Italian was given up to be strangled, to save the life (*it has never been denied*) of a guilty American' and called it a 'disgraceful compromise'. *The North American Review* in December that year repudiated this publication and called it 'insinuation', and 'highly offensive and discreditable'. In response, it printed two American accounts of Terranova's death as authentic versions.[46] In addition, it also printed an American record of the *Lady Hughes* incident by the first American ship, the *Empress*, which happened to arrive in Canton in the year 1784.[47] The publication of the *Lady Hughes* case, in turn, prompted the London-based *Asiatic Journal and Monthly Register* to question the American records. It threw doubts on this sentence in particular: 'The English were obliged to submit; the gunner was given up; Mr. Smith was released; and the English, after being forced to ask pardon of the magistracy of Canton, in the presence of the other nations, had their commerce restored.' The *Asiatic Journal* called this account an 'embellishment' for it made the British appear submissive, and argued that the British did not 'ask pardon' and the gunner was not 'given up'.[48] National pride was at issue on both sides.

The wild imagination of the moment of Terranova's strangulation had the effect of transforming the incident into yet another example of Chinese legal despotism. In the first British account of the Terranova case by the EIC on the day after his death – quoted in the introductory section of this chapter – the case was linked to that of the gunner of the *Lady Hughes*. The two cases from then on were often put together as examples of Chinese legal despotism. In the 1830s, a portion of the Canton British community made the two cases part of their justification for a war against China. One reader of the *Canton Register* in responding to the disputes surrounding the pamphlet of 1829 commented:

> 'An American' has in your pages advocated implicit submission; and an Englishman has pleaded for prudent resistance. My opinion Mr. Editor is that the foreign merchants of all nations in China ought to petition their respective Governments, to come and help them, to put the intercourse with this great, but proud insolent nation, on a more respectable footing.[49]

Another reader, 'Viator', after discussing the Chinese jurisdiction, then quoted the two cases, exclaiming: 'Depend on it, that the subject of Great Britain would not long remain as now, in this country, despised and unprotected; nor would one of the most powerful nations of the world have to bend the knee to the most arrogant as the most powerless.'[50]

The British representation of the two cases contributed to the making of a war discourse that prevailed in both Canton and London in the 1830s, although it may not have been as crucial as one scholar claims when he writes that this was 'the most decisive factor in bringing about the conflicts in 1839'.[51] Extraterritorial rights were, nonetheless, one reason for waging the war. The American statesman John Quincy Adams (1767–1848) quoted the Terranova case as a reason for America to join the British expedition of the First Opium War, though without success.[52] In the treaties signed after the war in 1842, the British government acquired jurisdictional rights over British subjects residing in China. From then until the end of British extraterritoriality in 1943, British subjects who committed crimes in China would be punished by British law alone. Wishes for a British territory in China governed according to British law, which had been envisioned by the Macartney embassy, were fulfilled. In Hong Kong and in concessions in the treaty ports, a British legal regime was established.[53] The representation of the gunner and Terranova cases that centred on the circumstances of their deaths was a narrative foundation that helped enable the establishment of British legal regimes in China.

The Context of Canton

The British were shocked by the deaths of both the gunner and Terranova. Yet to the Qing officials, strangulation was the most humane of the three death sentences that could have been applied. The other two were 'decapitation' and the 'tormented execution' (*lingchi*) – commonly known as 'death by a thousand cuts'.[54] They differed in the degree of 'somatic integrity'. Strangulation was the lightest as the dead body was kept intact, while tormented execution involved a greater degree of destruction to the body. In late imperial China's legal system, decapitation and tormented execution were considered punishments worse than death alone. *Lingchi* as a form of punishment was handed out on major crimes such as killing a paternal parent or grandparent, killing three persons from one household and plotting rebellion or great sedition. No foreigners who committed crimes in Canton suffered these worse-than-death penalties. But there was at least one case of tormented execution carried out on a British soldier who was captured by the Chinese and charged with plotting against the Chinese sovereign during the First Opium War. In this occasion, the cruel execution was performed as a way of boosting the morale of the Chinese troops.[55] At least one foreign witness account in the nineteenth century argued

that the *lingchi* were 'not administered as atrociously as foreign fantasy claimed'. In general, it was not a penalty handed out readily.[56]

Decapitation, in contrast, was rather common for the Chinese nationals, especially for those who rebelled against the Manchu regime, or for bandits who disrupted the order of a local area. The law was clearly stipulated on the point that rebels could be executed on the spot. Provincial and local governments carried this out rigorously, for this was a state security issue and the court was watching them over their shoulders.[57] For the same reason, the court was concerned with foreigners' activities in China and compared them to rebels. This was the origin of the 1743 regulation that gave provincial authorities in Canton the power to carry out the death penalty on foreigners without autumn assize.

Also for the reason of state security, foreign trade was confined to Canton for easy management and a ban was imposed on Christianity, which being a religion was suspicious to the court. But Canton rather too often slipped out of the court's control, without the court even realising. The letter of the law and the regulation on foreigners involved in homicide cases was only carried out twice, in the *Lady Hughes* and Terranova cases, among the total 21 cases, and the *Lady Hughes* gunner was strangled only after the Qianlong Emperor's intervention. The desire of Canton locals for smooth trade relations and friendly intercourse with the foreigners coming to their port often overrode the court's state security concerns. This was achieved by manipulating their reports to the court, such as in the 1807 *Neptune* case, which they represented as an incident that qualified for a fine, rather than a death penalty. At other times, the provincial officials simply covered up the cases without notifying the court at all. The only official to employ the 1743 regulation that foreigners be punished severely was Ruan Yuan in the Terranova case.

Moreover, when it came to Chinese who committed crimes against foreigners in Canton, both the court and Canton authorities were unforgiving against the perpetrators. They went out of their way to reassure foreigners. In the case of a seaman of the *Earl Fitzwilliam* killed by a Chinese national with an earthen jar during an affray in 1787, for instance, the local authorities recommended the Chinese to be executed.[58] The same fate befell the Chinese street stall owner who in a quarrel killed a lascar buying vegetables from him. The supercargo of the *Hornby*, to which the lascar belonged, was asked by the local magistrate 'if he would be satisfied if the Prisoner was put to Death'.[59] The 1817 *Wabash* case in which five foreign sailors were killed in a robbery by pirates, and of the 1828 *Navigateur* case in which 12 foreigners were

killed by pirates, were both swiftly solved within two months. The two groups of pirates, who numbered more than 20 in total, were executed immediately after trial. Part of the stolen goods and money was recovered and returned. Compensation in both cases was paid by the local government for the loss.[60] These cases show that the Qing authorities demonstrated a degree of care towards foreigners coming to trade. This provides another context to read the two cases, showing that foreigners were protected by Chinese laws.

Conclusion

The strangulation of the two sailors was, nevertheless, enough for the British to form a representation of Chinese legal despotism. The emotional response of the 12 supercargoes to Qianlong's order for execution travelled far. The gunner and Terranova did suffer more severe punishment than a Chinese would have in the same case. But that does not mean that Europeans were always treated badly. Foreigners' legal status in China after 1743 was in theory lower than that of ordinary Chinese and just a degree higher than rebels. But in its enforcement, the *Lady Hughes* and Terranova cases were the only 2 out of 21 cases in Canton in which sentences were passed according to the letter of the law.[61] The concentration of the narrative on the two deaths made possible the representation of the Chinese legal system as despotic. The other 19 cases showed that the Canton authorities were most of the time relatively flexible and pragmatic. The 1743 regulation was by no means the mode of legal administration; neither was the harsh punishment of the Legalist model. The deaths of local coastal people at the hands of Europeans could be atoned for by compensating the victims' families and there was a great amount of negotiation and bargaining without the court's knowledge or involvement. The provincial authorities acted most of the time in favour of local commercial interests and they enjoyed a good share of the profits from the Canton trade, which exceeded what was allowed by the court. The decision of Ruan Yuan to execute Terranova was a rare moment in legal interaction in Canton that a provincial head initiated punishment according to the letter of the law to please the court, instead of working together with the local forces, both of Canton and foreign. In the competition between the court's state security concerns and local commercial interests, the overall situation in Canton was in favour of foreigners. Not only were they spared punishment in most cases but smooth trade was also ensured. The two cases were exceptional rather than the norm in Canton, which

was to negotiate peaceful interaction that would allow trade to carry on as normal.

But the cases other than the two strangulations have been largely ignored. The narrative of Chinese legal despotism relied on a selective memory that only told the two cases that resulted in the deaths of Europeans. The gunner and Terranova were relatively obscure individuals who made a big difference to history, not by their lives but by their deaths in a setting that was far larger. Little attention has been paid to the deaths of the three Chinese at the hands of the gunner and Terranova. The shocks to the victims' families and the local community were just as powerful as those of the two seamen were to the foreign communities. The accounts of the three deaths were necessarily marginalised in Anglophone narratives of the two cases and their names have rarely appeared. The narrow focus of the narrative on the British side empowered the representation of Chinese legal despotism. By keeping the deaths of Terranova and the gunner 'alive' and out of context, the narrative of Chinese legal despotism continued. Yet, with all the detailed accounts of the gunner's fate and of the transactions throughout the case, it never occurred to the EIC supercargoes to write down the gunner's name. The only record in which the gunner's name can be found is Governor Sun's memorial and the confession paper that Sun made him sign. The Chinese documents reveal that the gunner was a 35-year-old white Englishman named 'Dexiehua'.[62]

Notes

1. India Office Records (hereafter IOR), British Library, G/12/79, ff. 156. Wu Yake 吳亞科 and Wang Yunfa 王運發
2. IOR, G/12/18, ff. 49–84
3. IOR, G/12/224, f. 81
4. *The North American Review*, 40 (1835), 58–68; Ko Leang-she 郭梁氏; Tanka (*Danmin* 蜑民)
5. Examples of recent historiography on the *Lady Hughes* incident include: James Bromley Eames, *The English in China* (London, 1974), p. 96; Frederic E. Wakeman, *The Fall of Imperial China* (New York, 1975), p. 134; Philip Chadwick Foster Smith, *The Empress of China* (Philadelphia, 1984), p. 195; Immanuel Chung-yueh Hsü, *The Rise of Modern China* (Oxford, 2000), p. 154; James Z. Gao, *Historical Dictionary of Modern China (1800–1949)* (Lanham, 2009), pp. 184–5; Harold Miles Tanner, *China: A History* (Indianapolis, 2009), pp. 373–4; Matthew J. Flynn, *China Contested* (New York, 2009), pp. 37, 107; Fa-ti Fan, *British Naturalists in Qing China* (Harvard, 2009), pp. 175–6, n. 39; William T. Rowe, *China's Last Empire* (Harvard, 2010), p. 144; John E. Wills (ed.), *China and Maritime Europe, 1500–1800* (Cambridge, 2011), p. 240; Morris Rossabi, *A History of China* (Chichester, 2013), p. 291. Examples

on the Terranova incident include: John King Fairbank, *China Watch* (Harvard, 1971), p. 1; Hong Zhang, *America Perceived* (London, 2002), pp. 33–4; Jerald A. Combs, *The History of American Foreign Policy* (London, 2008), p. 123; Flynn, *China Contested*, p. 37; Gao, *Historical Dictionary of Modern China*, p. 106; James M. Zimmerman, *China Law Deskbook,* (Chicago, 2010), vol. 1, pp. 43–4; Yufan Hao and Jianwei Wang (eds), *Macao and US-China Relations* (Plymouth, 2010), p. 115; Paul A. van Dyke, *Americans and Macao* (Hong Kong, 2012), p. 164; Warren I. Cohen, *America's Response to China* (Chichester, 2013), p. 4.

6. Chen Li, 'Law, Empire, and Historiography of Modern Sino-Western Relations: A Case Study of the Lady Hughes Controversy in 1784', *Law & History Review*, 27 (2009), 1–53.
7. Joseph Askew, 'Re-Visiting New Territory: The Terranova Incident Re-Examined', *Asian Studies Review*, 28 (2004), 351–71.
8. Teemu Rusola, *Legal Orientalism: China, the United States, and Modern Law* (Harvard, 2013).
9. The nineteen cases are: 1689, the *Defence*; 1721, *the Bonitta*; 1722, the *King George*; 1736, a shooting case involving Frenchmen; 1756, a case involving a French baker; 1782, the *Hastings*; 1787, the *Belvedere*; 1800, the HMS *Providence*; 1807, the *Neptune*; 1810, the *Royal Charlott*; 1820, the *London*; 1820, the *Lady Melville*; 1821, HMS *Topaze*; 1827, the *Golconda*; 1831, the Lindin case; 1833, the Kumsingmoon case; 1833, the Keeow case; 1839, the Lin Weixi case; and 1839, the Li Xianxian case. H. B. Morse recorded most cases in his *Chronicles of the East India Company*, five volumes (5 vols, Oxford, 1929); but Morse is very much influenced by colonial discourse and only gives the British side of the history. G. W. Keeton, *The Development of Extraterritoriality in China* (London, 1969), pp. 27–72 also covers most of the cases. He saw these cases as the justification for extraterritoriality. I am working on a book on legal interactions in Canton and Macao that includes these cases.
10. IOR, G/12/154, ff. 268–302; G/12/156, ff. 4–194. This case has been examined by Patrick Tuck, 'Law and Disorder on the China Coast: The Sailors of the Neptune and an Affray at Canton, 180', in Richard Harding, Adrian Jarvis and Alston Kennerley (eds), *British Ships in the China Seas: 1700 to the Present Day*, (Liverpool, 2004), pp. 83–97. Tuck's work is limited to representing the British side of the argument and he sees the negotiation as evidence of corruption.
11. Foreign Office Records (hereafter FO), The National Archives (hereafter TNA), London, UK, 233/189, ff. 36–41.
12. IOR, G/12/20, ff. 665–668; G/12/224, ff. 143–144, f. 191, 199–209; G/12/226, ff. 17–18, 30, 47–49, 92, 97–106, 131–138; G/12/227, ff. 18–21, 65–70.
13. *Qing Shilu* 清實錄 (*Veritable Records*), vol. 24 (juan 1214) (Zhonghua shuju, 1986), p. 340; Sun Shiyi 孫士毅.
14. For an introduction to the Legalism in English see Zhengyuan Fu, *China's Legalists: The Earliest Totalitarians and Their Art of Ruling* (London, 1996).
15. *Qing Shilu*, pp. 267–8, 277, 281–2, 284–5; 291–2, 294, 303–4, 340; Cai Boduolu 蔡伯多祿.
16. *Qinggong yuegang'ao shangmao dang'an quanji* 清宮粵港澳商貿檔案全集 (*A Complete Collection of the Qing Palace's Archives on Canton, Hong Kong and Macao*; Zhongguo shudian, 2002), vol. 5, p. 2,819.

17. FO 1048/21/8.
18. William C. Jones, *The Great Qing Code* (Oxford, 1994), pp. 67, 276.
19. For the autumn assizes, see Arnd Helmut Hafner, 'Shilun qing gainian de falü hanyi' 試論情概念的法律含義 ('"Circumstances" in the Chinese Legal Tradition: A New Perspective on the Autumn Assizes') in Lao Nap-yin (ed.), *Chuantong zhongguo falü de lilun yu shijian* 傳統中國法律的理論與實踐 (*Legal Concepts and Practice in Traditional China*, Academia Sinica, 2008), pp. 465–509.
20. The translation is by George Thomas Staunton, *Miscellaneous Notices Relating to China and our Commercial Intercourse with that Country* (2nd edn, London, 1850), pp. 425–6; Celeng 策愣 (Dzereng); for the 1743 regulation see R. Randle Edwards, 'Ching Legal Jurisdiction over Foreigners', in Jerome Alan Cohen, R. Randle Edwards and Ru-mei Chang Chen (eds), *Essays on China's Legal Tradition* (Princeton, 1980), pp. 227–8.
21. Philip Huang, *Civil Justice in China: Representation and Practice* (Stanford, 1998), p. 235.
22. 'Draft biography of Ruan Yuan', quoted from Betty Peh-T'i Wei, *Ruan Yuan, 1764–1849* (Hong Kong, 2006), p. 138.
23. *Qingdai Waijiao Shiliao: Daoguan Chao* 清代外交史料:道光朝 (*Historical Source Materials of Qing Diplomacy: Daoguang's reign*, Beijing,1932), juan 1, 10a–11a; see also Wei, *Ruan Yuan*, p. 146.
24. For the anti-opium campaign of 1821 see Michael Greenberg, *British Trade and the Opening of China, 1800–42* (Cambridge, 1969), p. 121.
25. IOR, G/12/79, f. 154. Pan Wenyan 潘文岩
26. 'Diplomatic Correspondence', *The North American Review*, 39 (1834), p. 326.
27. IOR, G/12/79, f. 154.
28. IOR, G/12/18, ff. 49–50, 57, 69–70.
29. IOR, G/12/18, f. 80.
30. IOR, G/12/79, ff. 169–170.
31. 'Riot at China', *The Times*, 8 July 1785; this was reprinted in *The New Annual Register or General Repository of History for 1785* (London, 1786), pp. 40, 47–8. *The Times* report was mostly on the foreigners taking an armed boat to Canton, rather than on the gunner.
32. This kind of misinformation is still rather common in historiography, as seen in the books and articles cited in note 5.
33. IOR, G/12/79, ff. 176, 178–179.
34. IOR, G/12/18, ff. 82–83.
35. IOR, G/12/79, ff. 170–171.
36. 'Instructions to Lord Macartney, Sept, 8, 1792', quoted from Morse, *Chronicles*, vol. 2, p. 238.
37. 'Americans in China', *The Times*, 6 May 1822.
38. Staunton, *Miscellaneous Notices*, p. 410.
39. *Ibid.*, p. 432.
40. George Thomas Staunton, *Ta Tsing Leu Lee; Being the Fundamental Laws, and a Selection from the Supplementary Statutes, of the Penal Code of China* (London, 1810), p. xxiv. S. P. Ong has argued well on Staunton's perception of Chinese legal system: see 'Jurisdictional Politics in Canton and the First English Translation of the Qing Penal Code', *Journal of the Royal Asiatic Society of Great Britain and Ireland* 20 (2010), 141–65.

41. Staunton was not alone in giving a favourable comparison for part of China's legal system. H. B. Morse after going through the major cases in Canton and comparing the legal systems of the British and Chinese before the 1860s, concluded that the British in Canton knew that 'their own law of homicide was more harsh than the Chinese': see his *The International Relations of the Chinese Empire*, vol. 1, pp. 110, 117. The context of Morse's argument is that Chinese legal procedure was weak, while the punishment for homicide was less severe than in Britain. A proper comparison between Chinese and British legal texts and enforcement in the early nineteenth century is beyond this paper and more research is needed to have a better understanding.
42. 'Case of Terranova', *The Canton Register* 3 (1830).
43. 'Minutes of Evidences Etc.', *The Canton Register* 3 (1830).
44. John Slade, *Notices on the British Trade to the Port of Canton* (London, 1830), pp. 36–7.
45. 'Minutes of Evidences Etc.', *The Canton Register* 3 (1830).
46. *The North American Review*, 39 (1834), 323–8, 511, and 40 (1835), 58–68.
47. For American account of the *Lady Hughes* incident see 'Samuel Shaw Papers: Letters and Papers of Samuel Shaw', MS N–49.47, in Massachusetts Historical Society.
48. *Asiatic Journal and Monthly Register*, 15 (1834), 319–21.
49. 'Commercial Persecution', *The Canton Register* 4 (1831).
50. 'To the Editor of the Canton Register', *The Canton Register*, 8 (1835).
51. Chang Hsin-pao, *Commissioner Lin and the Opium War* (Harvard, 1964), p. 13; E. H. Pritchard, *The Crucial Years of Early Anglo-Chinese Relations, 1750–1800* (1936), pp.106–11 also argued the different attitude towards justice as a reason of war.
52. Peter Fay, *The Opium War 1840–1842* (Chapel Hill, 1997), pp. 336–7.
53. See Article II of the 'Treaty of Nanjing 1842' (p. 352); and Articles XII and XIII of 'General Regulations' (p. 388), in *Treaties, Conventions, ETC., between China and Foreign States* (1917).
54. Timothy Brook, Jérôme Bourgon and Gregory Blue, *Death by a Thousand Cuts* (Harvard, 2008), pp. 55–61.
55. The First Historical Archive: *Yapian zhanzheng zai zhoushan shiliao xunbian* 鸦片战争在舟山史料选编 (*Selective Archives on the First Opium War in Zhoushan*, hejiang renmin chubanshe, 1992), pp. 274–5, 277–8.
56. Brook et al., *Death by a Thousand Cuts*, p. 67.
57. Jones, *The Great Qing Code,* Articles 254 and 255, pp. 237–9.
58. Morse, *Chronicles*, vol. 2, p. 148.
59. *Ibid*., p. 289.
60. For the 1817 Wabash case see FO 1048/17/38, 39, 42, 44, 45, 66; For the 1828 *Navigateur* case see FO 1048/33/58 and 1048/34/6; *The Chinese Repository*, (1836–1837), vol. 5, p. 133; *The Canton Register* 1 (1828) and 2 (1829).
61. This chapter does not take into consideration cases in Macao, which was an altogether different setting and had three cases of foreigners given capital punishment by the Qing.
62. *Qinggong yuegang'ao*, vol. 5, p. 2,819 and 2,822. Dexiehua 的些華 with mouth radical (口) which indicates this is a transliteration.

8

Dismembering and Remembering the Body: Execution and Post-Execution Display in Africa, c. 1870–2000

Stacey Hynd

The Political and Sacred Symbolism of the Executed Corpse

There are a number of tensions which have shaped the evolution of capital punishment and the treatment of executed bodies in Africa from the nineteenth to the late twentieth centuries. First, there are the differences between African and colonial or Western attitudes to death and the body.[1] The human body is not a historically static entity.[2] In many African cultures, the human body is not conceptualised as a single biological entity but as a 'multiple and fragmented entity that retained power beyond death and dismemberment'.[3] Among the Anlo of south-western Ghana, as with many other African cultures, the body was a sacred site, understood as a material entity but also as a complex spiritual entity that existed separately from the corporeal body and which could directly influence human affairs.[4] Many communities believed that if correct funerary rites were performed after death, a person could be reborn into a new body within the kin group. The human body was, and is, infused with both political and sacred symbolism. Moreover, local cosmologies do not draw an impermeable divide between the physical or material reality, and the supernatural or immaterial reality; rather the two overlap and each acts upon the other to create multivalent landscapes of power.

Secondly, whilst penal reform in modern Europe had seen the displacement of corporeal violence from direct participation in political authority, as indicated by the gradual abolition of public execution and post-mortem punishment, in nineteenth-century Africa there remained a more direct, unmediated relationship between the body and power.[5] This meant that tensions between the different audiences and messages

which were intended to be conveyed by the hortatory rituals of execution must be considered, particularly for the colonial period where local concerns about order could be tempered by international humanitarian and legal concerns about the infliction of extreme violence on colonised peoples.

Thirdly, in the twentieth century tensions emerged between the perceived necessity of violence in governing Africa and a desire for 'civilised' governance which strongly shaped legal and discursive practices surrounding executions. The use of the body, dead or alive, has historically been a key site of political, moral and economic conflict between Africans and their rulers, whether colonial or indigenous.[6] Constructions of the human body and the protections that it deserves, however, shift between cultures and from times of peace to times of war, and cultures of violence vary markedly between military and civilian systems of 'justice'. Whilst the spread of Christianity, Islam, and greater interaction with global scientific rationalities have altered African conceptions of the body and spirit, the body remains a potent site of physical and symbolic power in political and penal discourses. As many colonial and postcolonial rulers found, popular and global readings of the 'theatre of death' can contest and subvert intended official narratives.[7] The symbolic power of the executed body is strong, but difficult to control, particularly with the proliferation of global media and technology across the continent. Whilst states once hung the bodies of those whom they killed from gibbets or displayed their dismembered bodies in a spectacle of terror, now physical displays can be supplemented or replaced with visual or virtual images circulated globally and locally. Drawing on African conceptions of the body as a multiple and fragmented entity consisting of corporeal and spiritual elements, and a soul that could be reborn into this world, this chapter will argue that photographs, videos, posters, films, poems, statues, rumours and memories of executions and the executed can coalesce to produce a simulacrum of the deceased, granting them another incorporeal, symbolic self and afterlife. Material effigies have historically been punished by the state or community in the stead of a condemned man: now these virtual, immaterial effigies can emerge from an execution to empower and aid remembrance of the person.

This chapter will investigate pre-colonial usages of capital punishment and conceptions of the criminal body and its treatment, with a particular focus on the Ashanti of the Gold Coast (Ghana). It will then outline colonial practices of execution and the impact that European laws, conceptions of the body, changing sensibilities and humanitarian

sentiments had on the practice and performativity of executions. Finally, it will look at the display and alternately the concealment of executed bodies in post-colonial Africa, and how new media combined with popular memories to create local and global afterlives for prominent executed men. The chapter will include examples of extrajudicial as well as judicial executions due to the high discursive impact of many such killings and the light they shed on the relationship between political, military and legal authority in Africa. More systematic analysis of the death penalty in post-independence Africa is required to properly elucidate the relationship between the exceptional cases highlighted here and normative rituals of execution, and to investigate in greater detail local understandings of such events and their memory, but this chapter hopes to provide an initial investigation into the general trends in capital punishment and the post-mortem treatment of executed bodies.

Sacrificial Bodies: Im/materiality in Pre-Colonial Executions

Our knowledge of capital punishment in pre-colonial polities and African communities is fragmentary at best. African polities were geared towards the control of people rather than space, and were often strongly patrimonial with political and ritual authority being combined in the person of the chief or ruler. The body of the chief would literally and figuratively embody the power of the community. Most communities had restorative systems of justice, whereby murder was normally atoned for through the payment of compensation and recourse to the appropriate supernatural sanctions or reconciliation rituals, although corporeal punishment and vengeance were also widely applied.[8] The death penalty was reserved for the most serious violations of customary norms or taboos – such as threats to the chief's person, adultery with the chief's wives, desertion of duty or cowardice in war, repeated witchcraft or theft, or murder.[9] In deciding whether to apply such punishment, though, the sentence was often determined not by the crime itself but by the level of threat posed to the community by the offender. Punishment was also moderated by social standing, as in many areas elite males would not be executed but allowed to supply a slave to the bereaved family, either in compensation or for execution in their stead.[10] In pre-colonial eastern Africa the machinery of government available to the ruler of a more centralised state made it easier to impose a death penalty, as among the Baganda, but even acephalous communities employed execution on occasion.[11] In Kenya, Kikuyu custom dictated that homicide was

normally a matter for compensation, but habitual theft, causing death by poison, or witchcraft 'was looked upon as a crime against the whole community, and the penalty was death by burning'.[12] Such penal customs were common across central and southern Africa.[13]

Executions were also enacted under Islamic law in areas like northern Nigeria and northern Sudan. In West Africa, nineteenth-century travelogues and early ethnographic texts can give the historian a partial insight into pre-colonial attitudes toward murder and execution. In Nigeria 'customary' methods of execution included hanging, beheading, stoning, spearing, shooting, drowning, burying alive and killing by means identical to those used by the murderer.[14] The King of Dahomey [Benin] was said to 'own' the heads of his subjects, which European reporters understood to refer to his exclusive authority to impose capital punishment, decapitation being the preferred Dahomian method of execution as the *semedo* (soul) resided in the head. The heads of slain enemies, human sacrifices and probably also executed persons were retained and displayed as symbols of the king's ritual, martial and political authority.[15] In the Gold Coast, the Kingdom of Asante (or Ashanti) became infamous in British popular thought for its apparently widespread use of 'bloodthirsty' human sacrifices: Frederick Boyle wrote in his diary of the 1873–4 military expedition to pacify Asante that in the capital Kumasi 'the sight they love is severed necks, the spouting blood and corpses that line the road in a dead procession'.[16] It has been argued that this 'human sacrifice' was really capital punishment in practice.[17] Judging from the victim selection in incidences of mass human sacrifice, however, these cases cannot be accurately described as judicial executions.[18] The fact that slaves, servants and prisoners of war were ceremonially decapitated in elaborate rituals during certain festivals or after an Asantehene's (king's) death belies such an argument.[19] The Asante kingdom did otherwise have a carefully modulated range of capital offences, the *oman akyiwadie* (tribal sins and taboos), including reference to the death of its rulers, dereliction of duty, witchcraft, not running away from the presence of the Asantehene's wives, picking up dropped gold and suicide.[20] *Awudiei* (intentional murder) was regarded as a particularly serious capital crime by the Asante, not just because of the loss of life, but because it challenged the Asantehene's sovereign monopoly over the right to death.[21] By the late nineteenth century, all murder trials were heard at the 'national court' and could not be resolved through clan justice alone: only the Asantehene and the great Paramount Chiefs 'held the knife', *ono owo sekan,* and had the power to inflict capital punishment, which was ceremonially devolved onto the

royal executioners.[22] Crime was considered a communal rather than simply an individual responsibility, and something that could transcend the physical realm. It was said that 'an *otofo* (executed criminal), if he or she "come back", will "come back" as an *otofo*': criminal propensities could be inherited from lineage forbears, but children could also bear the guilt of parents.[23] For murder within a kin group, the perpetrator was expelled from the kin group and could either be killed or forced into slavery, whilst for murders between different clan groups, the offender could be killed by the deceased's clan.[24] Death sentences, however, could be commuted to mutilation or converted into *atitodie* (blood money) to be paid by the offender's kin, and there are suggestions that this practice of *atitodie* led to death sentences increasing at times of political and economic uncertainty – Asantehene Kwaku Dua (1834–74) in particular was said to have made frequent use of converted death sentences in order to raise revenue.[25]

R. S. Rattray's ethnographic research on the Asante in the 1910s–20s gives historians the most detailed available account of execution procedures.[26] According to Rattray the pre-colonial Asante kingdom had a well-regulated system of judicial execution, finely calibrated by the offence and the status differential between the offender/victim. Execution was normally by decapitation with a 'small knife', or by strangling, clubbing to death, drowning or burning for witches, progressing in severity up to the 'dance of death', *atɔperɛ-goru*.[27] Executions in Asante did not serve simply to reinforce sovereign power in a Foucauldian spectacle of sovereign power, but also to appease supernatural forces, including the murder victim's vengeful *sasa* (ghost), which would otherwise haunt the community.[28] Rattray's interviews with the Asantehene's former executioner about the *atɔperɛ-goru* – reserved to punish murder or adultery with royal wives, and apparently last enacted in the 1880s – reveal that in a visible spectacle of royal authority the condemned person would have his nasal septum threaded with a rope, cheeks pierced with a knife to prevent him cursing the Asantehene, and be led around the town having his shins scraped and ears cut off by senior figures, then be made to dance to the *atɔperɛ* drums all day before being taken before the Asantehene, where he was dismembered and decapitated. After death occurred, 'the pieces of the body were collected and cast away in the hollow near the spot formerly called Diakomfoase', one of four execution spaces for the city: again, here we find the *disjecta membra* thrown into the bush rather than being buried.[29] The *atɔperɛ* was a public theatre of death, but death was not the fundamental aim of the punishment: the systematic dissolution of the

corporeal body was instead its principal element. As McCaskie describes, 'apposite wholeness was a mark of the body's success – in death as in life'.[30] The exceptional violence of the *atɔperɛ* therefore represented the invasive ideological power of the state at an absolute level – the body, its wholeness, its integrity, simply disappeared, and literally vanished from history. The dismemberment of the body in the course of *atɔperɛ* was accomplished as a morphological analogue of the 'shape' of the state itself, conducted around a prescribed spatial and political route, with officials in ascending order of rank appropriating items from the body that equated to their position within the state, ending with the Asantehene 'taking' the offender's head. In *atɔperɛ* the offender's existence and body were appropriated by and liquidated within the framework of the state's morphological representation of itself, with the end result being 'an expulsion and vanishing from history in the shattering of the body'.[31] The dissolution and dismemberment of an offending body was a significant element of Ashanti penality. In another display of chiefly authority, offenders who committed adultery with senior stool chiefs' wives would have their penis or ears cut off and nailed to significant trees or drums before decapitation, and their blood would be used to 'blood' drums, which held strong ritual significance in Ashanti culture.[32] In times of war, a captured enemy general was killed after trial for *Epo* (high treason). Even if he had died in battle or committed suicide, his corpse would still be tried and decapitated. The body would then be cut up and apportioned, with the commander of the army taking the head to adorn the *odwira suman,* a powerful fetish, or the *fontonfrom* drum, thereby harnessing its ritual power.[33] The physical violence of execution and the treatment of the corpse served to physically inscribe royal authority onto the offending body in the material realm, but also to temper or harness the body's immaterial, supernatural power. The dissolution of their body did not entirely eradicate an offender from Asante cosmology, however. One of the key events in the Asante calendar was the *odwira*, also known as the 'Yam Custom', a 'festival that condensed and expressed defilement, and that then transacted a cathartic communal or societal purification' whilst reflecting the centralised authority of the state and the Asantehene.[34] As part of the ceremony, ritual preparations sought to summon and placate the ancestral *asamaŋfoɔ* (spirits) in order to secure their cooperation in the successful performance of *odwira*. Summoning these *asamaŋfoɔ* was a very perilous activity. Also summoned were the spirits, or ghosts, of those persons executed on royal authority, who were ritually induced to manifest themselves. On 15 December 1871, for example, some 200

royal executioners, with their characteristic leopard-skin headgear and bandoliers of knives, bodies daubed in red clay to symbolise their defiance and sorrow for their past actions, danced in a frenzied manner throughout the whole afternoon in Kumasi, brandishing their knives and with human skulls and jawbones clenched in their teeth. They cried out, using a mix of insults, flattery, mocking and coaxing, to attract the *asamaŋfoɔ* of those persons they had executed since the previous *odwira*.[35] After sunset, the executioners would travel to the sites of execution and places where executed bodies were discarded, still calling out to the spirits of the dead. These revenant spirits were called forth to give their forgiveness for the punishments enacted on their mortal bodies.

Outside of Asante, that most accounts of pre-colonial executions do not mention what happened to bodies after the sentence was carried out can be taken as an indication that post-mortem display did not routinely form a significant component of the punishment in many cultures. Across Africa the most common treatment of a corpse after execution was for it to be deposited in the 'bush': the bush being outside society, representing dark, untamed nature. This was a literal and symbolic casting of the condemned outside of the community, outside of civilisation. Instead of post-mortem display or desecration of the corpse, it was the denial of proper burial rights that intensified the punishment of death. Meek notes that among the Ibo of Nigeria the body of an executed murderer would be dumped in the bush 'to prevent reincarnation'.[36] Within many African cosmologies death is a process rather than an event; from physical death, to social death, then through funerary and burial rituals to another realm of life for the spirit/soul.[37] Funerary and burial rites varied widely across Africa, and were often replaced or amended by Christian and Muslim practices as those religions spread across the continent, but among the Ibo, for example, the physical death of an elder or chief would be followed by various sacrifices (often animal sacrifices) performed by his family to appease the spirit, protect the deceased on their journey to the underworld, and to guarantee the strength, health and prosperity of the soul once it is reborn.[38] The washing and preparation of the corpse was followed by grave burial, sometimes with the sacrifice of a slave, whose body would be placed in the grave first.[39] Across pre-colonial Africa funerary and burial rites varied according to the status of the deceased, and the form their death had taken: whilst the funerals of high-status persons would last many days and be accompanied by widespread mourning, sacrifices and celebrations, those who had died of disease or suffered 'dishonourable' deaths would not be buried with full rites or within burial spaces, their bodies

being cast into the bush or buried outside of the homestead.[40] Without proper funerary rites a condemned person's soul could neither be fully reborn within the lineage, nor become an ancestor. Executed corpses do not seem to have held special ritual or supernatural powers, beyond those naturally attributed to the human body. Where mutilation and the ritual use of corpses did occur, it was more frequently related to so-called 'medicine murders' or fetishes; murders committed to secure body parts for spells or fetishes which harnessed supernatural powers for personal or political gain.[41] The exception came in cases of witches killed to protect the community, whose powers – if they resided within their body – had to be neutralised effectively. In equatorial West Africa executed witches would be ritually autopsied by a *banganga* (spirit healer) to process the witch-substance into charms for the protection of the community or to destroy the corpse completely to get rid of its nefarious power.[42] Executions in pre-colonial Africa were part of procedures of retribution and reconciliation, and post-mortem treatment of those executed was geared towards re-establishing the material and immaterial boundaries of the community and social order within.

Public or Private, Civilised or Barbaric? Capital Punishment in Colonial Africa

Colonialism, with its new laws and proliferation of Christianity, disrupted accepted relationships between the material and the immaterial, the sacred and the profane. This created tensions between local conceptions of the body as a fetish (material entity with sacred power) and European notions of the body as a sign (which does not hold but merely signals power).[43] As practices of forced labour, corporal punishment and the seizing of African bodies for entertainment and scientific investigation reveal, the control and exploitation of African bodies was key to both the moral and political economies of European colonialism.[44] With Africans constructed by colonialism as being innately 'other' and outside of modern 'civilisation', they did not need to be criminalised for their bodies to be appropriated and exploited. As a symbol of sovereign authority and terror, the exceptional violence of execution consequently played a subsidiary role to the near ubiquitous *kiboko* (whip) and the labour gang. This, combined with new global humanitarian sensibilities and legal reforms meant that the treatment of the condemned criminal and his body fell increasingly into line with modern European norms – at least, until colonial control was threatened.

With the colonisation of Africa by European powers and their imposition of European criminal justice systems, the death penalty became increasingly secularised and institutionalised across the continent, as well as progressively restricted in its focus to murder and treason.[45] Executions quickly became central to colonial iconographies, with a focus on control and deterrence more than individual retribution.[46] Colonial justice in Africa, however, was marked by tensions between the messages which needed to be conveyed to local and imperial audiences: between the need for effective deterrence and 'civilising' rule. The strategies of punishment deployed revolved around corporeal violence and spectacle rather than modern discipline.[47] Some colonisers even argued that violence itself was a 'civilising force' and the only language 'savage' Africans could understand. The exigencies of governing the colonised sometimes produced chilling homologies between the so-called 'barbarism' of native practices and the acts of terror used to rule them.[48] Albie Sachs recounts how in the Cape Colony (today part of South Africa), colonised in the seventeenth and eighteenth centuries by Dutch settlers, judicial procedures were adopted from the Dutch trading empire. This included public executions by hanging, strangling, breaking on the wheel or cross, or burning. With the Colony's political economy based on plantations and slave labour, the most severe sentences were unsurprisingly reserved for runaway slaves or those who threatened their masters: one man, convicted of 'two frightful murders … in a land where justice and righteousness are maintained as pillars of public peace' was tied to the wheel, flesh pinched and broken alive by eight blows of a club.[49] Another slave was bound naked to a cross, had ten pieces of flesh ripped from him by red hot pincers at lengthy intervals, his right hand hacked off and thrown into a face, his body quartered and dragged in portions throughout the town, and his head secured to a pole as prey to the birds.[50]

Such spectacles served the double purpose of inscribing the power and authority of white minority rule on its human property, and of attempting to secure the compliance of the black African population through terror. In line with the 'sanitisation' of punishment in Europe, however, these extreme punishments were dying out by the late eighteenth century and ended with the onset of British rule.[51] A tension between modernised governance and penal archaism, however, continued to mark criminal justice systems across the continent into the twentieth century. During the colonisation and 'pacification' of sub-Saharan Africa in the late nineteenth century, as penal economies witnessed intensification of punishments, executions of those who challenged

colonial power were not uncommon. The death penalty was abolished in Portugal in 1869, but practised in Angola until 1932.[52] In the Congo Free State (Democratic Republic of Congo), the law allowed capital punishment and public execution in 1898, thirty years after they had been abandoned in Belgium.[53] The death penalty was widely used in French West Africa, under both native courts and French jurisdictions, for political offences, banditry and witchcraft activities. Public executions in these territories were commonplace, frequently conducted in market places using other prisoners or local inhabitants as executioners. Executions could be 'carried out in accordance with local custom' or by firing squad, before the guillotine was introduced in the 1930s.[54] Again, the archive reveals few details about the treatment of the bodies of executed criminals. In the case of the murderers of Abdel Jeanet, a colonial agent in Senegal, 'the assassins of Jeanet and two princes, former Lamtooro Sidiki Sal and Mammadu Yero, were decapitated in public, their bodies put into bags and thrown into the Senegal River'.[55] Such a disposal of the corpses was presumably intended to contravene local and Muslim burial practices, intensifying the opprobrium of the punishment, but it is not clear whether this was a frequent occurrence.

In British Africa, public executions were usually conducted by hanging, although occasionally by firing squad.[56] Hanging was not a traditional method of execution in Africa, being more commonly associated with suicide.[57] Among the Igbo of south-eastern Nigeria, hanging was considered a particularly shameful method of death as the body lies vertical, not horizontally in alignment with the earth goddess. Spirits of people who died by hanging were not allowed to be buried with their kinsmen or enter into cycles of reincarnation.[58] It is unclear whether colonial authorities were aware of such local beliefs and intended this to intensify the punishment: mostly likely, hangings were uncritically adopted from metropolitan practice. There is little mention in the archives of bodies being left on display for extended periods, perhaps because this was regarded as 'primitive' practice more in line with 'barbaric' African custom than the 'civilising mission' which supposedly justified imperial conquest.[59] More practically, tropical climates ensured rapid decomposition and the presence of human flesh could encourage the presence of carnivorous scavengers, including lions and leopards. Where corpses were left on display, it was usually as a result of military executions during pacification campaigns, as during the Bushiri bin Salim's campaign against German colonialism in Tanganyika (Tanzania), the Chilembwe uprising in Nyasaland (Malawi), or extrajudicial killings by settlers or colonial agents, where the restoration

of white authority and 'monopoly' of violence was paramount.[60] The imagery of such executed corpses could resonate on an imperial and global stage, inverting the intended signification of the execution, from an assertion of state power to a threat to that power. Most infamously, in the aftermath of the Herero genocide and German campaigns during the First World War, when the League of Nations was debating awarding German colonies to other powers as mandates, the British produced a report denigrating German imperialism using images seized from German stores during fighting in Namibia.[61] These detailed German strategies of violence against their indigenous subjects:

> Executions were carried out in a very crude and cruel manner. The condemned prisoner was conducted to the nearest tree and placed on ammunition, biscuit, soap, or other box or convenient object, and the rope, after being run around his neck and though a fork of the tree, was fixed to the trunk. The box was then removed and death resulted from asphyxiation … There was no privacy about the proceedings, nor except in towns or their immediate vicinity, was the body taken down and immediately buried.[62]

Of course, Germany responded with its own diplomatic assault on the barbaric violence of British imperialism, selecting as one of its main examples the hangings in Denshawai in Egypt, 1906, where four *fellahin* (peasants) were executed for the 'murder' of Captain Bull (Figure 8.1).[63] Captain Bull, however, had died of heatstroke after an altercation between his unit and the villagers in Denshawai occasioned by the British soldiers shooting the villagers' pigeons. The convictions and executions were furiously condemned, provoking nationalist uproar and international condemnation, and became memorialised in Egyptian art, literature and popular culture.[64]

Such scandals provoked reform, occurring as they did against a background of international humanitarianism and emerging human rights sentiments which read the colonised body as a site of pain and violence in need of salvation. Under imperial pressure to 'modernise' criminal justice and conform to metropolitan legal and penal standards, the Colonial Office sent out repeated circulars between the 1890s and the 1950s insisting that public executions be ended in British colonies and that hangings take place inside prison walls.[65] The opening decades of the twentieth century also saw a widespread privatisation, centralisation and sanitisation of hangings.[66] Hangings were to conform to Home Office standards on a long-drop gallows, with the condemned person

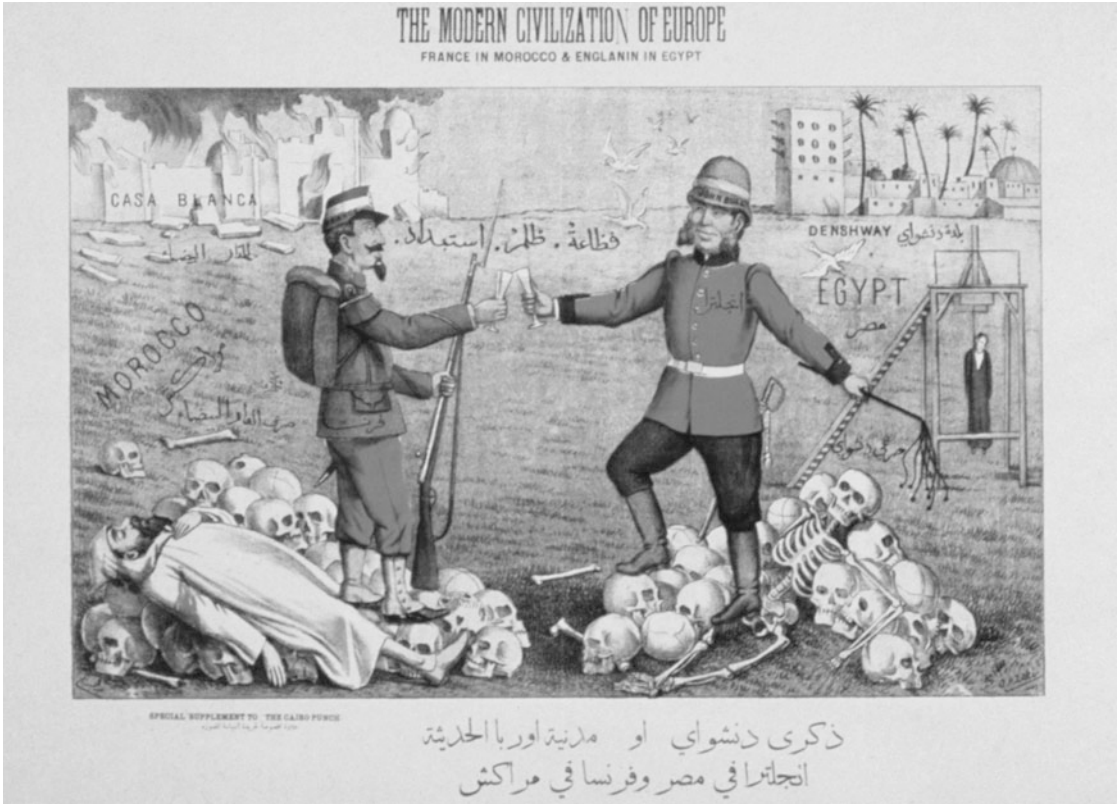

Figure 8.1 A. H. Zaki, *The Modern Civilization of Europe* (1908–14), © Corbis

taken down promptly after execution, examined by a medical officer to confirm death, and then quickly buried in the prison grounds or a nearby cemetery under the appropriate religious rites.[67] However, scaffold crowds had unique functions that were not easily disavowed.[68] There was therefore no unilinear abolition of public executions in Africa: the symbolic power of the executed body was too great for colonial governments to be so easily relinquished. Authorities did, however, become increasingly aware of the negative images conveyed to an international audience by 'botched' or 'excessive' executions, particularly as new technologies like telegraphy and photography speeded and widened transmission of accounts and images from hangings. In early 1919, the British colonial government in Calabar, Nigeria resorted to mass public hangings to combat the *esiere* poison bean ordeals which had killed many people as communities sought explanations for the widespread deaths following the Spanish influenza epidemic. Officials felt that such hangings were necessary to maintain colonial authority in the face of the alternative locus of supernatural power, but were keenly aware of the potential for scandal if news of the executions spread abroad or back to London. Assistant District Officer Jeffreys, attending one execution, angrily confiscated photographic negatives to prevent news of the executions spreading after 'a Native photographer took several large snapshots of the hangings, showing the prisoners being led up, on the drop, and actually suspended' and began selling them.[69]

Even where hangings had been moved behind prison walls, when colonial rule was felt to come under threat from local 'disorder' authorities reverted to public execution, as in the face of intertribal affrays in Kenya, spates of robbery and violence in Uganda and 'leopard-men' killings in Nigeria.[70] Colonial executions saw the criminal body punished but not disempowered in African cosmologies. Escaping local procedures of retribution and reconciliation, it was instead transformed into a key resource for white power.[71] In Kenya, the government minuted in 1933 that many Africans did not believe executions were carried out and that the condemned men were rather 'being sent to England or otherwise disposed of'. This disbelief from Africans in the reality of executions was particularly prevalent in cases where magical or ritual powers were attributed to the condemned man.[72] To combat such sentiments, in Kenya a semi-private system of execution was introduced, whereby two witnesses from the condemned man's community were brought to view him before and after execution.[73] The imputation was that justice must be 'seen' to be done, even if state violence itself was to be hidden. This viewing of the executed body shows that whilst

changing sensibilities regarding acceptable violence and the treatment of Africans were encouraging more ostensibly 'humane' punishments, the perceived need for effective deterrence and firm discipline necessitated retaining the symbolic violence of the execution, if in a moderated form.[74]

In the decolonisation era, colonies were expected to follow metropolitan reforms of criminal justice. British colonies faced considerable pressure from London to adopt the 1948 Homicide Bill and subsequent moratorium on capital punishment. However, against a backdrop of rising nationalist agitation, colonial governments refused to accede to London's demands, believing that relinquishing the extreme penalty of the law would be taken as an indication of weakness by anti-colonial forces.[75] All colonial states determined to retain the extreme penalty of the law to shore up their fragile rule, but it was in Kenya during the Mau Mau State of Emergency that capital punishment reached its zenith. Between 1952 and 1957 an almost unprecedented 1,090 Kikuyu were executed on State of Emergency charges, ranging from murder to associating with known terrorists.[76] Although calls from settlers for the reintroduction of public execution were rejected for fear of creating martyrs and arousing international opprobrium, it is not clear just how 'private' some executions actually were in practice as in some cases the gallows could be ominously viewed from the courthouses, such as with the 1953 Lari Massacre trials. Notices of execution were published across Kenya, but the dead were quietly buried in unmarked graves to avoid memorialisation.[77] It is perhaps surprising that there was no greater official recourse to the post-mortem display or punishment of hanged Mau Mau rebels. Perhaps the sheer number of executions was considered a sufficient deterrent and the fear of humanitarian outcry too great. Any interference with the bodies certainly would have shattered the judicial façade of legitimacy and 'civilised' governance that the convictions were meant to convey. More significantly, capital punishment formed only one aspect of the state's strategy of exceptional violence. Mass internment in detention camps sought to 'rehabilitate' Kikuyu minds and bodies whilst the systematic use of torture to extract information punished them.[78] Extra-judicial killings heightened the terror of colonial counterinsurgency. Within such a regime of violence, the display or mutilation of executed bodies lacked symbolic force and became almost redundant. A similar positioning of the executed 'terrorist' can be found in Algeria, where during the liberation war over 1,500 death sentences were pronounced and 222 FLN militants were executed, most by guillotine, as part of the wider French counter-insurgency strategy which

deployed systematic torture, mass reprisal killings, summary executions and death flights to try to destroy Algerian nationalism.[79]

Global and Local Deaths: Methods and Meanings of Post-Colonial Executions

In the aftermath of Mau Mau and Algeria, international audiences increasingly came to regard the widespread use of the death penalty and calls for public executions as a marker of a lack of 'civilisation' and fitness to rule. Early independence-era Southern Rhodesia (Zimbabwe) and Malawi were both internationally condemned for their use of the death penalty against political opponents, whilst in 1964 Nelson Mandela narrowly avoided being sentenced to death by the apartheid regime in South Africa after international protests.[80] During the post-colonial era many parts of Africa fell into military and authoritarian rule in the wake of political and economic crisis. Although most countries formally retained legal systems inherited from colonialism, standards of justice weakened and penal severity increased. Data are difficult to obtain but, particularly in areas under military rule, the death penalty was expanded to encompass economic threats to the state, including embezzlement and smuggling, violent crime and political offences, where both judicial and extra-judicial killings were widely used.[81] South Africa under the apartheid regime notoriously had one of the world's highest confirmed rates of execution.[82] Nigeria was also prolific in its use of the death penalty under military rule in the 1970s–80s, with some 1,110 recorded executions between 1979 and 1985.[83] Part of the reason for this was the extension of capital punishment in an attempt to combat the wave of armed robberies which were wracking the country, with mandatory death sentences for armed robbery established. Public executions by firing squad were introduced as a deterrent, but when even that did not seem to work, it was decided in 1971 to televise the execution of one particularly notorious armed robber, 'Dr Oyenusi', live on state television, a precedent then adopted in other cases. As one Nigerian recalled:

> These executions were shown on NBC [state television] back then. Some of the criminals would shout out (only saw their mouth action). Probably, shouting obscenes [sic] of abuse at the executors. Some refused the religious priest blessing, some looked dead terrified before shots were fired. The camera would pan on every one of them. Then there is a command, the rambles of shot fired and to slumped

> bodies tied to the stake in front of the drums. It was a family viewing show. Everyone gathered around to watch the telly while there were also live viewing [sic]. Some of these accused were defiant vocally until you see them slump.[84]

Televisual and front page newspaper coverage spread the message far wider than the tens of thousands of people who were reported to have watched Oyenusi's and other armed robbers' executions in situ. Such images, indexical to the bodies they represent, fed popular memories of armed robbers which have subsequently been reworked into filmic and literary representations, granting the likes of 'Dr Oyenusi' and Lawrence 'The Law' Anini an afterlife as folk heroes or symbols of the ills then facing Nigeria, depending on a person's perspective.[85]

Legacies of colonial violence combined with autocratic politics have led in some parts of Africa to the emergence of a form of what Mbembe has called 'necropolitics', the subjugation of life to the power of death in political authority, particularly in those areas affected by conflict. Finding Foucault's conception of 'biopower' insufficient to account for modern forms of sovereign power in the postcolony, Mbembe develops the concept of necropower, which goes beyond inscribing power on bodies through disciplinary apparatuses to the creation of 'deathscapes, new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of living dead'.[86] Necro-political formations can be traced in state or armed faction's deployment of execution against political opponents, both judicially and extra-judicially. In contemporary Nigeria, for example, the police have been widely condemned by human rights organisations for the mass killing of suspected criminals, terrorists and armed robbers.[87] The bodies of those killed by police are often unidentified or unclaimed by their families, who fear arrest.[88] These 'bodies without narrative', corpses without an identity, highlight the pervasiveness of the 'deathscapes' that can reduce individuals to 'bare life' where they can be killed without punishment.[89]

At the other end of the scale are the targeted and sometimes almost ritualistic killings of those who pose a direct threat to the state or armed faction. Public executions of high-profile political opponents appear to have become a recurring theme from the 1970s to 1990s, often from military courts or in extra-judicial killings by armed factions during Africa's civil wars. In Liberia, after Samuel Doe's coup of 12 April 1980, the incumbent cabinet of William Tolbert were paraded virtually naked throughout Monrovia and then executed on the main beach to mark

Doe's seizure of power. A new form of 'public' audience emerged with the spread of mass media across Africa, as became apparent when ten years later Doe himself was tortured, mutilated and then murdered by Prince Johnson's forces during the Liberian civil war. These acts were recorded on a video made by a Palestinian journalist: the video was later shown to journalists by Johnson to prove Doe's death to a global audience and bolster Johnson's power, copies were sold across West Africa, and it was subsequently uploaded onto the Internet for global consumption. During the video, Johnson's men appear anxious to prevent the tightly bound Doe escaping 'by the power of some voodoo'. Doe's body was subsequently paraded through Monrovia and put on display for two to three days to convince the populace that he was really dead, and had not used supernatural powers to miraculously fly away or disappear.[90] Ellis highlights that events during Liberia's war, need to be 'read at two levels, both as descriptions of visible events and as possible evidence of moral arcane forces'.[91] Here we can see the continued need to counteract and contain both the material and immaterial force of the body. Rumours abound within Liberia and on the Internet as to what happened to Doe's body: was it dismembered and eaten by Johnson's men? Rumours, and apparently the practice, of cannibalism periodically surface in Africa, with autocrats like Idi Amin and Jean-Bédel Bokassa notably accused, alongside armed groups during the Congo, Sierra Leone and Liberian civil wars. Such rumours play into global racial stereotypes of African 'savagery', but read from within local moral economies and spiritual discourses, the physical and/or symbolic consumption of a defeated opponent's flesh was a recognised (if reprehensible) symbolic means to consume and appropriate their power. From ritual murder to vampirism, post-colonial Africa is replete with tales of how the rich and powerful use monstrous means to appropriate the physical bodies and life force of their lesser compatriots to strengthen themselves.[92] In his testimony to the Liberian Truth and Reconciliation Commission in 2009, Prince Johnson denied having eaten Doe, however, claiming those rumours were spread by his political opponents to defame him, and asserted that Doe had instead been embalmed and secretly buried to prevent his grave becoming a site of opposition, before later being dug up, cremated and his ashes thrown in a river whilst Johnson retained his skull.[93]

It was not just sovereign authority that invoked the 'theatre of death' to inscribe its authority on subject bodies. The power and symbolism of human bodies has long formed an important element in cultures of protest and authority across Africa, as in the display of women's naked

bodies in the Ibo 'Women's War' and beer hall protests in South Africa in 1929.[94] Public displays of the bodies of those killed extra-judicially by state officials or vigilantes have formed important symbols of power, and been constituent elements of attempts to re/build a moral community. In South Africa, necklacing, which involves placing a tyre soaked in petrol around the victim's neck and setting it alight, became infamous after its use by black township protestors against those suspected of collaboration with the apartheid regime. The symbolic horror and graphic potency of these burnings was frequently compounded by the denial of burial or decapitation of the corpse.[95] As in the pre-colonial period, the denial of burial continued to be an intensifier of punishment: during Zimbabwe's liberation struggles and post-independence political violence, the bodies of slain 'dissidents' or 'sell-outs' would be denied burial, symbolically and spirituality rejecting them from the social order.[96]

Post-mortem displays of bodies were most common where states or factions sought to establish and legitimise their political control, and needed to prove the death of their enemies against rumours of their mystical ability to escape justice, as in the display of guerrillas' bodies by Rhodesian forces during Zimbabwe's war of liberation, or the 2002 televised display of UNITA leader Jonas Savimbi's corpse by the MPLA government in Angola after his death in battle.[97] But in some cases, the bodies of executed opponents became icons that assaulted the legitimacy of a regime even in their desecration and absence. Patrice Lumumba, the first Prime Minister of the Republic of the Congo, became a popular hero after helping the former Belgian colony win its independence in June 1960. However, as the country spiralled into crisis, Lumumba's nationalism and alleged communist leanings drew the ire of the United States and Belgium, who conspired with Joseph Mobutu and Katangan forces to have Lumumba assassinated. Infamously, Lumumba was captured and sent under arrest to Elizabethville (Lubumbashi) where he was killed by firing squad alongside two colleagues on the evening of 17 January 1961 in the presence of Belgian and Katangan authorities. Their corpses were disinterred twice before being dismembered and thrown into a barrel of sulphuric acid, the bones subsequently being scattered. According to Gerard Soete, the former Belgian Police Commissioner who later confessed to involvement in Lumumba's killing and the desecration of his corpse:

> Here is the only material proof of the Prophet's [Lumumba's] death. If a cult of martyrdom ever appeared, he could provide it

> with relics … He picks up the torso, puts it in the barrel on top of the limbs and lays the head over it. He opens one of the demijohns and pours the contents on the dismembered body. A column of gas, white and whistling rises to the sky. The acids turn the Prophet into a mass of mucous.[98]

Lumumba's body was destroyed in an attempt to prevent identification and to obfuscate his murder, but also to prevent his body providing 'relics' for a cult to 'Lumumba the martyr'. Even without such physical relics, however, the rumours and conspiracy theories surrounding Lumumba's scandalous death, the children, roads and universities named after him, the statues and stamps that bear his image, and the films and plays that depict his death – all these images, narratives and artefacts have combined together to form a simulacrum of the man, granting Lumumba an (im)material afterlife.[99] Whilst orientalist narratives have often spoken about colonised people's fears of cameras 'stealing souls', photography has become a site of resistance as well as appropriation. Photographs of the condemned can function as a 'magical summons rather than an icon of death', particularly where there are no physical images of their death, preserving the 'spirit' of these vanished subjects.[100] In a similar vein, popular narratives and rumours, in retelling and recasting the lives and deaths of the executed man, create an ongoing, disembodied but not fully disempowered, version of the dead. The naming of children after the departed man recalls the rebirth of a soul back into an ancestral lineage, whilst ascribing his name to streets, buildings and institutions stamps a physical presence onto the globe. The texts, images and narratives are indexical of Lumumba's person, and when read together they form a simulacrum redolent at once of anti-colonialism, rebellion and nationalism. Without a physical body, without a gravesite, the memories and representations of heroes/victims/martyrs like Lumumba become more amorphous, harder to contain, and perhaps even more powerful, particularly in the era of the Internet. The emergent simulacrum functions almost as a form of modern global socio-political phantasmagoria, an imaginative enterprise which haunts states and governments, reflecting both the nightmarish landscapes of power and popular cries for 'justice' and representation.[101]

Thirty-four years after Lumumba's death, in Nigeria, the Ogoni intellectual and activist Ken Saro-Wiwa was arrested alongside eight fellow activists for his opposition to the Nigerian government and Shell's exploitation of the Ogoni peoples, land and oil in the Niger Delta. The 'Ogoni Nine' as they became known were convicted by military

authorities in May 1994 for incitement to murder, allegedly with Shell's collusion, and sentenced to death.[102] In the face of widespread criticism by human rights organisations, the 'Ogoni Nine' were quietly executed at Port Harcourt on 10 November 1995, but such was the concern about Saro-Wiwa's treatment that news of the execution leaked out quickly, provoking international outrage and Nigeria's suspension from the Commonwealth of Nations, with the executions condemned as a travesty and a 'judicial murder'.[103] Unlike Nigeria's armed robbers, the Ogoni Nine were hanged, perhaps because the Abacha regime were aware of the stigma attached to hanging in Igbo culture and, wanting to shame their political opponents, felt that this stigma would also have resonance within Ogoni cultures, or perhaps because they felt that hanging conveyed a greater judicial legitimacy. Any claims to popular or international legitimacy, however, were decried by the manner of execution and the treatment of the condemned men's bodies. After his colleagues had been sent to their deaths, it allegedly took five attempts to hang Saro-Wiwa. Whilst the military administrator in Port Harcourt claimed that the 'criminals' were buried 'each one in a coffin in his own grave', other accounts contradict this official narrative, suggesting that the 'Ogoni Nine' were dumped in a mass grave in downtown Port Harcourt without burial rites and their families denied access. To erase their identities their bodies were supposedly doused in acid or lime. A private videotape was sent to General Abacha as confirmation that Saro-Wiwa was dead: a privatised image rather than spectacle of sovereign authority.[104]

Despite the state's attempts to publicly elide the killing of a political opponent, ending his life and destroying his body, Ken Saro-Wiwa's image and spirit live on in the struggle of local activism, and international humanitarian campaigning to protect the Ogoni peoples, a local 'hero' becoming a global icon of resistance to capitalism and authoritarian injustice.[105] As Bastian suggests, the invisibility of Saro-Wiwa's corpse 'because of the lack of fixity that visibility offers, [would gain] a certain power over death'. In the absence of a body, images of Ken Saro-Wiwa protesting whilst alive dominated media discussions, whilst his writings continue to be widely read.[106] In Nigerian popular rhetoric, the spilling of Saro-Wiwa and the other 'Ogoni Nine' men's blood was conflated with the flow of oil out of Ogoniland. On the Nigerian online forum, Naijanet, it was said that

> as if, in dying and dissolving into the land without a proper, lineage-based burial, Saro-Wiwa and the other activists had taken

> on ancestral responsibilities for all of Nigeria. There were prayers addressed to them on Naijanet and ominous statements made about the efficacy of their martyred bodies; they were referred to as sacrifices and powerful political medicines.[107]

As one protestor later stated, 'Ken Saro-Wiwa's blood won't dry up … It will keep working.'[108]

Conclusions

The dismembering and remembering of executed bodies in Africa shifted in practice, audience and signification from the mid-nineteenth to the late twentieth century, moulded by changing forms of politics, punishment and tensions between differing conceptions of the human body. Whilst executions in pre-colonial Ashanti acted upon both the materiality and the sacrality of the human body, in some instances dismembering the body to enact royal authority and to appease spirits, colonial executions had to balance 'civilised' norms of governance against their reliance on violence to control their African subjects. Despite the influence of monotheistic religion, colonialism and modern medicine, traditional conceptions of the body retained significance among large sectors of the populace in the postcolonial period. Attempts in the twentieth century to physically eradicate political opponents suggest that there was still a concern with the physical symbolism and supernatural power of the body. The use of material effigies appears to be relatively rare in political protests or punishment in Africa, perhaps because the physical body and its immaterial spirit have remained so prominent.[109] The instrumentalisation of the death penalty and executed bodies by colonial and postcolonial armies reveals the more direct relationship between the body and power conceived within military discourses of authority, and the continued importance of execution as a spectacle of citizenship. One area that lies beyond the scope of the current chapter and requires greater research is what the differing treatments of executed bodies can tell the historian about the shifting relationship between law, violence and the social contract between rulers and the ruled.[110]

The symbolism of the executed body varies, from the 'bodies without narrative' of the postcolonial massacre, to the 'narratives without bodies' where states physically destroy those who threaten their power, as with the Asante *atɔperɛ* and the disappearance of Lumumba and Saro-Wiwa. In high-profile contemporary executions in Africa, rather

than a physical effigy being executed in the condemned man's stead as occurred in early modern Europe, an immaterial effigy can emerge from the execution to re-member the body and spirit of the condemned.[111] Ken Saro-Wiwa and Patrice Lumumba's persons both became pervasive in the absence of their bodies; ghostly simulacra that haunt political landscapes and popular memories. If we think of their bodies as containing both material and immaterial elements, however, the dissolution of the physical corpse is not the end of the person. Without proper burial, their gravesites were conduits, rather than containers, for their spiritual force and political legacies, and the executed men became icons of opposition to authoritarianism and (neo-)colonialism. In many ways Africa has witnessed a recasting of the public theatre of execution during the previous century, from local, to imperial, to global, with multiple audiences witnessing and re/interpreting events. Whilst the ancient Egyptians believed that to speak the name of the dead was to make them live again, today we show their image, remembering the suffering of the human body alongside the ideals (or crimes) of the spirit. Modern mass media allow executions to form a powerful new spectacle of global/local citizenship and protest.

Notes

1. See Philippe Ariès, *Western Attitudes towards Death: From the Middle Ages to the Present* (Baltimore, 1974); Christopher E. Forth and Ivan Crozier (eds), *Body Parts: Critical Explorations in Corporeality* (Lexington, 2005); Linda Kalof and William Bynum (eds), *A Cultural History of the Human Body* (6 vols, London, 2012).
2. See Roy Porter, *The Greatest Benefit to Mankind: A Medical History of Humanity from Antiquity to the Present* (London, 1999).
3. Florence Bernault, 'Body, Power and Sacrifice in Equatorial Africa', *Journal of African History* 47 (2006), 207–39.
4. Sandra E. Greene, *Sacred Sites and the Colonial Encounter: A History of Meaning and Memory in Ghana* (Bloomington, 2002).
5. Michel Foucault, *Punishment and Surveillance: The Birth of the Prison* (London, 1977); Pieter Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression from a Preindustrial Metropolis to the European Experience* (Cambridge, 1984); V. A. C. Gatrell, *The Hanging Tree: Execution and the English People, 1770–1868* (Oxford, 1994).
6. Megan Vaughan, *Curing their Ills: Colonial Power and African Illness* (Stanford, 1991); Anne McClintock, *Imperial Leather: Race, Gender and Sexuality in the Colonial Encounter* (New York, 1995); Frederick Cooper and Ann Laura Stoler (eds), *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley, 1997); Florence Bernault (ed.), *Enfermement, Prison et Châtiments en Afrique: Du 19eme Siècle à Nos Jours* (Paris, 1999); Tony Ballantine and Antoinette Burton (eds), *Bodies in Contact: Rethinking Colonial Encounters in World History* (Durham, NC, 2005).

7. Dwight Conquergood, 'Lethal Theatre: Performance, Punishment and the Death Penalty', *Theatre Journal* 54 (2002), 339–67.
8. See J. S. Read, 'Kenya, Tanzania and Uganda', in Alan Milner (ed.), *African Penal Systems* (London, 1969), pp. 104–6.
9. *Ibid.*, p. 104; Alan Milner, *The Nigerian Penal System* (London, 1972), pp. 315–16; T. O. Elias, *The Nature of African Customary Law* (Manchester, 1956), p. 260.
10. Paul Bohannan (ed), *Justice and Judgement among the Tiv* (Princeton, 1960), p. 39.
11. David Killingray, 'Punishment to Fit the Crime? Penal Policy and Practice in British Colonial Africa', in Bernault, *Enfermement, Prison et Châtiments*, p. 199.
12. Jomo Kenyatta, *Facing Mount Kenya: the Tribal Life of the Kikuyu* (London, 1957 [c. 1938]), p. 230.
13. See Jan Vansina, 'L'Enfermement dans l'Angola Ancien' in Bernault, *Enfermement, Prison et Châtiments*, pp. 83–97; Robert Turrell, *White Mercy: A Study of the Death Penalty in South Africa* (Westport, 2004), pp. 19–21; Martin Chanock, *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia* (Cambridge, 1985), pp. 6–7, 125–7; L. J. Chimango, 'Traditional Criminal Law in Malawi', *Society of Malawi Journal* 38 (1975), 25–39.
14. Milner, *Nigerian Penal System,* p. 335.
15. Robin Law, '"My Head Belongs to the King": On the Political and Ritual Significance of Decapitation in Pre-Colonial Dahomey', *Journal of African History* 30 (1989), 399–415.
16. Frederick Boyle, *Through Fanteeland to Coomassie: A Diary of the Ashantee Expedition* (London, 1874), pp. 342–4. Such knowledge became significant in shaping colonial criminal justice and executions, as Ashanti had a far higher rate of execution that the coastal Gold Coast Colony. See National Archives of Ghana (GNA), Accra, Ghana, CSO 15/3 series.
17. Clifford Williams, 'Asante: Human Sacrifice or Capital Punishment? An Assessment of the Period 1807–84', *International Journal of African Historical Studies* 21 (1988), 433–41.
18. Ivor Wilks, 'Human Sacrifice or Capital Punishment? A Rejoinder', *The International Journal of African Historical Studies* 21 (1988), 443–52.
19. Williams, 'Asante: Human Sacrifice or Capital Punishment'. See R. S. Rattray, *Ashanti: Religion and Art* (London, 1927) and *Ashanti Law and Constitution* (Oxford, 1929); K. A. Busia, *The Position of the Chief in Modern Political System of Ashanti: A Study of the Influence of Contemporary Social Changes on Ashanti Political Institutions* (London, 1951); E. L. R. Meyerowitz, *The Sacred State of the Akan* (London, 1951).
20. Williams, 'Asante: Human Sacrifice or Capital Punishment', 440. Suicide was considered a capital offence as only the Asantehene had the power to take life but many offenders chose suicide to escape from executions. Suicides' bodies would therefore be publicly decapitated, their estate confiscated by their chief and their family disinherited, and their corpses could not be buried in the clan burial ground. Rattray, *Ashanti Law,* pp. 301–2; E. A. Hoebel, *The Law of Primitive Man: A Study in Comparative Legal Dynamics* (Cambridge, 1954), p. 327.

21. *Ibid*., pp. 219, 235; Rattray, *Ashanti Law*, pp. 295–6. The definition of *awudiei*, however, was wider than English legal definitions as it included heinous sexual offences including intercourse with a pregnant woman or with a prepubescent girl. Women and children could be executed for murder.
22. Hoebel, *The Law of Primitive Man*, p. 235.
23. Rattray, *Ashanti Law*, p. 43.
24. *Ibid*., pp. 219, 375.
25. Tom C. McCaskie, 'Accumulation, Wealth and Belief in Asante History, I: To the Close of the Nineteenth Century', *Africa* 53 (1983), 35.
26. Rattray, *Religion and Art*, pp. 88–90; Rattray, *Ashanti Law*, pp. 294–303.
27. In contrast to eighteenth- and nineteenth-century Western European notions of strangling as a dishonourable death, strangling was usually reserved for elites as it avoided distasteful mutilation and the spilling of blood.
28. Michel Foucault, *Surveiller et Punir: Naissance de la Prison* (Paris, 1975); Rattray, *Ashanti Law*, p. 295.
29. Rattray, *Religion and Art*, p. 89. It is difficult to determine how visible this space was due to the rapid expansion of Kumasi during the colonial period, and at the time of Rattray's investigations the space had become a liquor store. See also T. E. Bowdich, *Mission from the Cape Coast to Ashantee with a Statistical Account of that Kingdom and Geographical Notices of Other Parts of the Interior of Africa* (London, 1819), p. 293.
30. T. C. McCaskie, *State and Society in Pre-Colonial Asante* (Cambridge, 1995), p. 254.
31. *Ibid*., p. 255.
32. Decapitation was held as necessary to ensure the spirit of the deceased was unable to pass into the spirit world and eventually be reborn.
33. Rattray, *Ashanti Law,* p. 125. When the Governor of the Gold Coast, Sir Charles McCarthy, was killed during the 1823–4 Ashanti war, his body was decapitated and the skull retained as a drinking cup by the Asantehene, which would be displayed during the *odwira*. See H. I. Ricketts, *Narrative of the Ashantee War, With a View of the Present State of the Colony of Sierra Leone* (London, 1831), p. 83. Colonial accounts also state that his heart was consumed by the Asante chiefs to imbibe his bravery, and his bones were distributed as charms.
34. McCaskie, *State and Society*, p. 144.
35. Bonnat MSS, Cahier 7, entry dd. Kumase, 15 December 1871, cited in McCaskie, *State and Society,* p. 202.
36. C. K. Meek, *Law and Authority in a Nigerian Tribe* (London, 1937), pp. 208–12.
37. See Michael Jindra and Joel Noret (eds), *Funerals in Africa: Explorations of a Social Phenomenon* (London, 2011).
38. Meek, *Law and Authority in a Nigerian Tribe*, pp. 303–10. Burials and funerary rites could be contested as tensions between 'customary' law and modern, westernised life grew in many parts of Africa. See David William Cohen and E. S. Atieno Odhiambo, *Burying SM: The Politics of Knowledge and the Sociology of Power in Africa* (London, 1992).
39. This custom was gradually replaced by the placing of money, of equivalent value to the purchase of a slave, in the grave.

40. In some cultures, the bodies of women who had died without giving birth to any children would be denied proper burial and thrown into the bush, as they were considered to have failed in their duty to continue the lineage and procreative immortality.
41. Roger Gocking, 'A Chieftaincy Dispute and Ritual Murder in Elmina, Ghana, 1945–6', *Journal of African History* 41 (2000), 197–219; Richard Rathbone, *Murder and Politics in Colonial Ghana* (New Haven, 1993); Colin Murray and Peter Sanders, *Medicine Murder in Colonial Lesotho: An Anatomy of a Moral Crisis* (Edinburgh, 2006).
42. Bernault, 'Body, Power and Sacrifice'. During the colonial era these ritual autopsies were interpreted as profanation of corpse by colonial authorities and carried a death sentence.
43. *Ibid.*, 211.
44. Andrew Bank, '"Of Native Skulls" and "Noble Caucasians": Phrenology in Colonial South Africa', *Journal of Southern African Studies* 22 (1996), 387–403; Stephen Pierce and Anupama Rao (eds), *Discipline and the Other Body: Correction, Corporeality and Colonialism* (Durham, NC, 2006); Clifton Crais and Pamela Scully, *Sara Baartman and the Hottentot Venus: A Ghost Story and a Biography* (Princeton, 2009).
45. Chanock, *Law, Custom and Social Order*; Kristin Mann and Richard Roberts (eds), *Law in Colonial Africa* (London, 1991); Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton, 1996), pp. 109–37; Simon Coldham, 'Crime and Punishment in British Colonial Africa', *Recueils de la Société Jean Bodin* 58 (1991), 57–66.
46. Stacey Hynd, 'Killing the Condemned: The Practice and Process of Capital Punishment in British Colonial Africa, c.1900–58', *Journal of African History* 49 (2008), 403–18.
47. Florence Bernault, 'The Shadow of Rule: Colonial Power and Modern Punishment in Africa', in Frank Dikötter and Ian Brown (eds), *Cultures of Confinement: A History of the Prison in Africa, Asia and Latin America* (New York, 2007), pp. 55–94.
48. Pierce and Rao, *Discipline and the Other Body*, p. 2.
49. Albie Sachs, *Justice in South Africa* (Berkeley, 1973), pp. 26–7.
50. *Ibid.*
51. Spierenburg, *The Spectacle of Suffering*.
52. Vansina, 'L'Enfermement dans l'Angola Ancien', in Bernault, *Enfermement, Prison et Châtiments*, p. 56.
53. J. L. Vellut, 'Une Exécution Publique à Elizabethville (20 Septembre 1922). Notes sur la Pratique de la Peine Capital dans l'Histoire Colonial du Congo', article MS, Louvain-la-Neuve, 21 April 1989, cited in F. Bernault, 'De l'Afrique Ouverte à l'Afrique Fermée: Comprendre l'Histoire des Réclusions Continentales', in Bernault, *Enfermement, Prison et Châtiments*, pp. 40–1.
54. Dior Konate, 'On Colonial State Violence: A History of the Death Penalty in Senegal c.1892–1960', (unpublished research paper); Odile Georg, 'Urbanism Colonial et Prison en Afrique: Quelques Elements de Reflexion à Propos de Conakry et Freetown, 1903–1960', in Bernault, *Enfermement, Prison et Châtiments*, p. 171.
55. Moustapha Kane, 'A History of Fuuta Tooro, 1890s–1920s: Senegal under Colonial Rule: The Protectorate', (unpublished PhD thesis, Michigan State University, 1987), p. 15.

56. 'Central Africa: Papers relating to the Execution of Mr Stokes in the Congo State', Rhodes House Library (RHL), Oxford, UK, 730.17 s.1/1896.
57. On suicide, see Megan Vaughan, 'Suicide in Late Colonial Africa: Evidence from Inquests in Nyasaland', *American Historical Review* 115 (2010), 365–404.
58. Misty L. Bastian, 'Buried beneath Six Feet of Crude Oil: State Sponsored Death and the Absent Body of Ken Saro-Wiwa', in Craig W. McLuckie and Aubrey McPhail (eds), *Ken Saro-Wiwa: Writer and Political Activist* (Boulder, CO, 1999), p. 136.
59. David Killingray, 'The Maintenance of Law and Order in British Colonial Africa', *African Affairs* 85 (1986), 411–37.
60. Jonathon Glassman, *Feasts and Riot: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888* (London, 1995), p. 258; Sir George Smith, 'The Empire at War: Nyasaland', p. 8, National Archives of Malawi, Zomba, Malawi (hereafter MNA), S1/496/19; David N. Beach, 'An Innocent Woman, Unjustly Accused: Charwe, Medium of the Nehanda Mhondoro Spirit, and the 1896–7 Central Shona Rising in Zimbabwe', *History in Africa* 25 (1998), 27–54.
61. Jeremy Silvester and Jan-Bart Gewald, *Words Cannot Be Found: An Annotated Reprint of the 1918 Blue Book* (Leiden, 2003).
62. 'Observations on Capital Punishment as Practised by Germans in South Africa, 19 January 1918', L. Fourie, Captain SAMC/District Surgeon, Windhuk, cited in Union of South Africa, *Report on the Natives of South-West Africa and their Treatment by Germany: Prepared in the Administrator's Office, Windhuk, South-West Africa, January 1918* (London, 1918), Cd 9146.
63. German Colonial Office, *The Treatment of Native and other Populations in the Colonial Possessions of Germany and England* (Berlin, 1919); Kimberley Luke, 'Order or Justice: The Denshawai Incident and British Imperialism', *History Compass* 5 (2007), 278–81.
64. See George Bernard Shaw, 'John Bull's Other Island', and Abdel-Sabour, 'The Hanging of Zahran'. In 1999 a museum was opened at Al-Minufiyah commemorating the Denshawai victims.
65. Cited in 'Capital Punishment: Procedures and Equipment 1952–3', Circular 288/53, The National Archives (TNA), UK, CO 859/445.
66. See 'Murder Trial – Rex v. Jim and Makoshonga', MNA, S1/2664/23.
67. The corpse could be returned to the condemned person's family for burial, but transportation and burial would then be at the family's expense. See 'Prison Rules 1919–29', MNA, S1/1328/19.
68. Gatrell, *The Hanging Tree*, p. 601.
69. 'Nigeria: Calabar Executions [Oron] 1923', British & Foreign Anti-Slavery and Aborigines Protection Society, RHL, MSS.Brit.Emp.s.22 G241.
70. Martin Mahony, 'Barsaloi Diaries', 21 June 1922, RHL, MSS.Afr.s.487; 'Public Executions – Uganda 1932', TNA, CO 536/172/14. It is significant that these late public executions occurred under the authority of deputy governors and colonial secretaries, indicating that more politically experienced governors were less likely to adopt such practices.
71. See Bernault, 'Body, Power and Sacrifice', 211–13.
72. 'Execution of Murderers', 1925, Kenya National Archives and Documentation Services (KNA), Nairobi, Kenya, DC/LDW/2/21/18.
73. Note by W. Bottomley, 21 March 1918, TNA, CO 533/193. The execution was also announced in the condemned man's locality. This system subsequently spread to other colonies.

74. Hynd, 'Killing the Condemned', 403–18.
75. 'Capital Punishment 1957–9', TNA, CO 859/985–90; 'Capital Punishment for Political Offences in Peace Time', 1966, TNA, CO 1032/512.
76. David M. Anderson, *Histories of the Hanged: The Dirty War in Kenya and the End of Empire* (London, 2005).
77. *Ibid.*, pp. 155, 174, 342.
78. Caroline Elkins, *Britain's Gulag: The Brutal End of Empire in Kenya* (London, 2005); David M. Anderson, 'British Abuse and Torture in Kenya's Counter-Insurgency, 1952–60', *Small Wars & Insurgencies* 23 (2012), 700–19.
79. See Sylvie Thénault, *Une drôle de Justice. Les Magistrats dans la Guerre d'Algérie* (Paris, 2001); Raphaëlle Branche, *La Torture et l'Armée Pendant la Guerre d'Algerie, 1954–62* (Paris, 2002).
80. Stacey Hynd, 'Decorum or Deterrence: The Politics of Executions in Malawi, 1915–66', *Cultural and Social History* 5 (2008), 440–46; 'Southern Rhodesia: Law and Order Maintenance Act', TNA, DO 154/79.
81. Roger Hood, *The Death Penalty: A Worldwide Perspective* (3rd edn, Oxford, 2002), pp. 73–82.
82. David Welsh, 'Capital Punishment in South Africa', in Milner (ed.), *African Penal Systems*, pp. 397–427.
83. A. A. Adeyemi, 'Death Penalty: Criminological Perspectives – The Nigerian Solution', *Revue Internationale de Droit Penale* 58 (1987), 485.
84. Cited in 'Nigerian Nostalgia', posted in Colin Plantall's blog on 1 February 2012, http://colinpantall.blogspot.co.uk/2012/02/previous-post-on-narrators-photo-led-me.html (accessed 20 August 2013).
85. Otwin Marenini, 'The Anini Saga: Armed Robbery and the Reproduction of Ideology in Nigeria', *The Journal of Modern African Studies* 25 (1987), 259–281.
86. Achille Mbembe, 'Necropolitics', *Political Culture* 15 (2003), 11–40; Christian Höller, 'Africa in Motion: An Interview with the Postcolonialism Theoretician Achille Mbembe', *Springerin* 3 (2002), http://www.springerin.at/dyn/heft_text.php?textid=1195&lang=en (accessed 15 October 2014). For Mbembe, the contemporary colonial occupation of Palestine is the most accomplished form of necropolitics.
87. Amnesty International, 'Killing at Will: Extrajudicial Executions and Other Unlawful Killings by the Police in Nigeria', http://www.amnesty.org/en/library/info/AFR44/038/2009 (accessed 15 October 2014).
88. Many thanks to Oliver Owen for this information.
89. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (translated by Daniel Heller-Roazen, Stanford, 1998).
90. Nkem Agetua, *Operation Liberty: The story of Major General Joshua Nimyel Dogonyaro*, (Lagos, 1992), pp. 51–2. In many parts of Africa, the transition to authoritarian rule was marked by the emergence of 'cults of personality' surrounding political leaders, which built on traditions of patrimonial, or 'Big Man' politics, in the continent. In some cultures, significant ritual and supernatural power was accorded to such 'Big Men', many of whom appropriated such narratives to bolster their authority.
91. Stephen Ellis, *The Mask of Anarchy: The Destruction of Liberia and the Religious Dimensions of an African Civil War* (London, 1999), p. 16.

92. Jean Comaroff and John L. Comaroff, 'Occult Economies and the Violence of Abstraction: Notes from the South African Postcolony', *American Ethnologist* 26 (1999), 279–303.
93. 'Prince Johnson Displayed Doe's Skull ... Commany Wesseh', posted on the website of the Truth and Reconciliation Commission of Liberia (date unknown), http://trcofliberia.org/press_releases/91 (accessed 20 August 2013). Johnson did not specify why the skull had been retained.
94. See Marc Matera, Misty Bastian and Susan Kinglsey Kent, *The Women's War of 1929: Gender and Violence in Colonial Nigeria* (London, 2011); Helen Bradford, '"We Are Now the Men": Women's Beer Hall Protests in the Natal Countryside, 1929', in Belinda Bozzoli (ed.), *Class, Community and Conflict: South African Perspectives* (Johannesburg, 1987), pp. 292–323. More widely, see Megan Vaughan and Wilima T. Kalusa, *Death, Belief and Politics in Central African History* (Lusaka, 2013).
95. See Joanne Ball, 'The Ritual of the Necklace' (unpublished paper for the Centre for the Study of Violence and Reconciliation, Johannesburg, March 1994). The practice of necklacing, specifically involving tyres around the neck, apparently emerged from wider practices of burning as a punishment against suspected witches, murderers or other serious offenders against the community.
96. Many thanks to Jocelyn Alexander for this information. On the politics of burials and remembrance more widely, see Richard Werbner, 'Smoke from the Barrel of the Gun: Postwars of the Dead, Memory and Reinscription in Zimbabwe', in Richard Werbner (ed.), *Memory and the Postcolony: African Anthropology and the Critique of Power* (London, 1998), pp. 71–102.
97. Many thanks to Jocelyn Alexander for this information. See Justin Pearce, *An Outbreak of Peace: Angola's Situation of Confusion* (Claremont, 2005), pp. 57–64.
98. Gerard Soete, *De Arena. Het Verhaal van de moord op Lumumba* (Bruges, 1978), pp. 156–68 cited in Ludo de Witte, *The Assassination of Lumumba* (translated by Ann Wright and Renée Fenby, London, 2002).
99. See, for example, Aimé Césaire, *Une Saison au Congo* (1966), Raoul Peck, *Lumumba* (2000), and Moscow's Patrice Lumumba People's Friendship University (1961–92).
100. Marina Warner, *Phantasmagoria: Spirit Visions, Metaphors and Media into the Twenty-First Century* (Oxford, 2006), p. 201.
101. *Ibid*.
102. Royal Dutch Shell denied culpability in the executions and other human rights abuses but settled out of court with Saro-Wiwa's family for $15.5 million.
103. Human Rights Watch/Africa, press statement 27 September 1996.
104. Tom Mbeke-Ekanem, *Beyond the Execution: Understanding Ethnic and Military Politics in Nigeria* (Lincoln, 2000).
105. See, for example, the website 'Remember Saro-Wira', http://remembersa-rowiwa.com/ (accessed 20 August 2013), and Glenn Ellis's documentary, *In Rememberance: Ken Saro-Wiwa* (1996).
106. In particular, see Ken Saro-Wiwa, *A Month and a Day: A Detention Diary* (New York, 1995) and more widely Onookome Okome (ed.), *Before I am*

Hanged: Ken Saro-Wiwa, Literature, Politics and Dissent (Trenton, NJ, 1999). Saro-Wiwa's family also continue his remembrance.

107. Bastian, 'Buried Beneath Six Feet of Crude Oil', pp. 138–40.
108. Wil Haygood, 'In Ogoniland: the Last Days and Legacy of Ken Saro-Wiwa', *The Boston Globe*, 7 April 1996. Protestors also held up banners stating 'Saro-Wiwa lives on': see the photo of Ken Saro-Wiwa supporters taken by Gopal and published in Notes from Nowhere (ed.), *We Are Everywhere* (London, 2003), http://artactivism.members.gn.apc.org/photos/ogoni.htm (accessed 6 November 2014).
109. Many thanks to David Pratten, Miles Larmer, Jocelyn Alexander, Oliver Owen and Sarah Jane Cooper-Knock for this information.
110. The wider role and significance of bodies in political protest is also a topic deserving of greater research.
111. On the 'execution' of effigies in early modern France, for example, see Paul Friedland, 'Beyond Deterrence: Cadavers, Effigies, Animals and the Logic of Executions in Premodern France', *Historical Reflections* 29 (2003), 295–317.

9

Burying the Past? The Post-Execution History of Nazi War Criminals

Caroline Sharples

In the aftermath of the Second World War, the Allies prosecuted several thousand former Nazis for war crimes and crimes against humanity. By 1949, 5,025 convictions had been secured in the Western occupation zones of Germany alone, with around 500 men and women subsequently executed by Britain, France and the United States.[1] Much of the existing literature on these cases has focused on the organisation of the trials, points of procedure and legal precedents; or the failure to prosecute even more war criminals.[2] There is also a growing canon of literature exploring the impact of war crimes trials on popular understanding of the Holocaust.[3] However, aside from graphic descriptions of the actual moment of execution within contemporaries' diaries and memoirs, the posthumous history of these war criminals has been hitherto neglected.[4]

Unlike most examples discussed in this volume, these executions were not public affairs; while notices of the sentence were disseminated via posters and the press, the criminals themselves were supposed to disappear from view without ceremony.[5] The fundamental aim was to prevent the formation of shrines for Nazi sympathisers. This logic was very much bound up in the broader tenets of the denazification programme whereby the Allies hoped that the obliteration of physical reminders of the Third Reich from the German landscape would help eradicate the last vestiges of National Socialism.[6] Monuments, historical sites and even street signs felt the effects of this process; likewise pre-1945 memorials to fallen soldiers and NSDAP comrades were 'cleansed' of Nazi insignia or destroyed altogether.[7] Yet the representation and remembrance of the Nazi dead could not be so easily controlled. The criminal corpse evoked a powerful resonance long after the point of execution, affecting cultural memories of the recent past and popular understandings of the murderous nature of the Nazi regime. As such, the aftermath

of the executions offers an important insight into the complexities of post-war memorial cultures. This chapter demonstrates this through an analysis of the precedent set by the Nuremberg Tribunal, before exploring the particularly turbulent post-execution history of war criminals hanged by the British in the small town of Hameln in Lower Saxony.[8]

Disposing of the Nazi Dead

The most well-known set of executed Nazi war criminals were those condemned by the 1945–6 International Military Tribunal (IMT) at Nuremberg. Twenty-two leading names of the Third Reich were prosecuted for crimes against peace, war crimes, crimes against humanity and conspiracy, among them Hermann Göring, Julius Streicher and Joachim von Ribbentrop. Of these, ten defendants were eventually hanged on 16 October 1946; Göring committed suicide the night before.[9] The results of the executions were photographed and relayed in graphic form in the American press to serve as witness to the demise of these men and, by extension, the total defeat of the Nazi regime; the majority of UK newspapers held to a 'gentleman's agreement' not to publish the pictures on grounds of taste although that did not prevent the *Sunday Pictorial* (the precursor to the *Sunday Mirror*) or the *Soviet Weekly* from disseminating them.[10] The images, taken by US Army photographer Edward F. McLaughlin, documented what had happened, attempted to dispel rumours that the hangings had been botched, and offered a moral lesson on the evils of fascism. While the precise manner of execution – and the time it took some of these men to die – nonetheless remained the subject of public interest in both Germany and the Allied nations, the corpses themselves were disposed of quietly. There was to be no opportunity for eulogising these figures. The bodies were cremated and their ashes scattered along the River Isar, theoretically rendering them untraceable.[11]

Exactly what to do with the mortal remains of Nazi perpetrators had been the subject of lengthy discussion among the Allies; indeed draft instructions for the 'imposition and execution of death sentences' had been circulated as early as September 1944, while the Second World War was still raging.[12] This initial document permitted the body of an executed war criminal to be buried by the next-of-kin. British responses to these instructions were positive, noting that such a procedure would be in accordance with German law. Indeed, the main points for concern at this stage focused on ensuring that the condemned individual would have access to a chaplain, and that a minimum period of time was set between the sentence and actual execution to avoid seeming too 'hasty'.[13]

However, by October 1945, just weeks before the opening of the IMT, it was evident that other measures were being contemplated. The Legal Division of the Control Commission for Germany in the British occupation zone charged the Special Legal Research Unit (SLRU) in London with investigating whether the burial of executed prisoners within prison grounds was prohibited under German law.[14] This shift, from quiet familial burials to disposal by prison staff, may owe much to the fact that the war was now over, the camps had been liberated and the Allies were struggling to come to terms with the horror of Nazi atrocities. Arguably, they now had a better idea of the sort of perpetrators they would be dealing with. At the same time, though – and despite the apparent reluctance to be seen as riding roughshod over existing German customs and sensibilities – it seems that the British were keen to extend domestic policies regarding the disposal of executed prisoners to their treatment of Nazi war criminals in Germany. Since the nineteenth century, those executed in Britain had been buried in the grounds of the relevant prison; adopting the same principle in occupied Germany thus offered consistency with English law.[15]

The SLRU findings confirmed that there was no specific provision in German law to prevent burials from taking place within prison grounds. However, it was also noted explicitly that 'pursuant to section 454 of the German Criminal Code of criminal procedure, the body of the executed prisoner *must be handed over to the next-of-kin at their request* for a simple burial without ceremony'.[16] In accordance with a decree of 22 October 1935, bodies left unclaimed by relatives would be handed over for medical research at the nearest university or, if this facility renounced its claim, to the police authorities who would then assume responsibility for burying the remains; 'presumably', noted the SLRU, this could take place within the prison precincts.[17]

This correspondence between the SLRU in London and the occupation authorities in Germany is significant for several reasons. First, it must be noted that the decrees that the researchers were citing were formulated during the Third Reich. Adhering to these laws after 1945 contradicted the wider Allied denazification programme and the efforts to discredit the entire Nazi system. It also equated Nazi war criminals with the remains of those executed by the Nazis themselves, blurring the distinction between victims and perpetrators. Ironically, the Minister of the Interior responsible for this existing legislation, Wilhelm Frick, was one of those about to stand trial at Nuremberg and who would himself be executed in October 1946.[18]

Secondly, for all these apparent efforts to understand the prevailing German legal situation, the contents of this report were ultimately

ignored by the British, perhaps as a result of the above issue. The first test of this was seen as early as November 1945 following the suicide of Dr Robert Ley, the former head of the German Labour Front. His daughter, Renate, appealed for the release of her father's body, requesting his remains be transferred from Nuremberg for internment in his birthplace of Nümbrecht, a town now under British control. Although Ley had died before the opening of the IMT, Renate's request was denied and Ley was not handed over to his relatives. The British argued that responsibility for his corpse rested with the international court that would have tried him.[19] The authority upon which the British based this decision is unclear; it may simply have been a means of evading responsibility for Ley's remains which, consequently, were cremated and the ashes scattered in an undisclosed location.[20]

By December 1945, the issue of disposal within the British occupation zone was becoming more urgent. While the IMT remained in its early stages, the trial of 45 former Bergen-Belsen personnel had already reached its conclusion in Lüneburg. Death sentences were confirmed on 11 of these defendants yet up until just two days before the executions were carried out, the occupation authorities continued to debate the best means of disposing of the remains.[21] Among the suggestions was 'Operation Overboard', committing the coffins to the sea, although the logistics of organising special transports and shipping eventually led to this being ruled out in favour of secret burial in prison grounds.[22] Throughout the discussions, there was a distinct tension between the desire for discretion, guarding against the formation of a 'martyrdom legend' or the 'possibility of graves becoming … places of national hero-worship'; and the need to show justice had been served.[23] Cremation (as would be used for those convicted by the IMT) was ruled out by the British 'as this would remove all means of identification and evidence of means of death'.[24] This line of argument, also seized upon by critics of 'Operation Overboard', is inherently contradictory given that the British authorities would, in any case, refuse to divulge either physical remains or burial information to relatives of the deceased.

The measures drawn up by the Allies to cover the death of any convicted war criminal in prison also contravened the findings of the SLRU regarding next-of-kin. Seven of the IMT defendants (Karl Dönitz, Walter Funk, Rudolf Hess, Konstantin von Neurath, Erich Raeder, Baldur von Schirach and Albert Speer) would eventually be imprisoned in Spandau to serve sentences ranging from 10 years to life. With two of these figures already aged 70 or over at the time of their sentencing,

the likelihood of their dying within prison was a very real prospect. An agreement reached between all four Allied powers at the end of 1947 stated that, in such an event,

> The prisoner will be cremated … The ashes will be secretly scattered by the four prison directors in the vicinity of, but not close to, the prison. No information will be given concerning the prisoner's death until after the final and secret disposition of the ashes. Relatives of the deceased will then be notified of the time and cause of death and of the fact of burial.[25]

This seeming disregard for relatives' sense of grief would prompt much German criticism of Allied behaviour and, by extension, enable the West German public to cast significant doubt on the validity of the war crimes convictions handed down by Allied tribunals. The executed corpse thus became another symbol of victors' justice. Looking beyond the IMT to other Allied war crimes tribunals confirms that the disposal of Nazi perpetrators was far from straightforward. Inter-allied agreement quickly broke down and the treatment of executed war criminals varied between occupation zones due to a combination of practical and ideological reasons. In the Soviet-controlled East, there were instances of executed war criminals being sent to the nearest university for medical research or being cremated.[26] Burial, meanwhile, remained the preferred disposal method in the West, although even here there were notable differences between the Americans who offered relatives the option of claiming the remains, and the British, who persisted in the notion of a discreet interment conducted by prison staff.[27] The latter's stance was confirmed in a directive from the Office of the Deputy Military Governor in December 1945 which stated:

> Bodies of executed war criminals shall be buried without publicity or ceremony and without any signs to indicate positions of their graves, in unconsecrated ground in the prison precincts.[28]

In practice, the remains of these individuals managed to attract a great deal of publicity throughout the post-war era. Indeed, far from curtailing discussion of the executed criminals, the Allies' handling of the corpses had the opposite effect, facilitating a victimhood mythology and leaving friends and relatives determined to know more about their loved ones' final moments. It quickly became clear that the Nazi past would not be easily buried.

The Executed of Hameln

One prison precinct that proved particularly controversial after 1945 was Hameln, which lay within the British zone of occupation. The region polled some of the highest NSDAP votes before 1933, and had been proud to be the birthplace of the parents of Horst Wessel, a Nazi party activist who was transformed into one of the movement's earliest martyrs following his death in 1930.[29] In August 1933, Hameln granted Wessel's mother, Margarete, honorary citizenship and, following a lengthy design process, the town dedicated an imposing monument to Wessel in February 1939.[30] A further propaganda spectacle was created when, between 1933 and 1937, the Nazis used nearby Bückeberg for their annual harvest festival celebrations.[31] Hameln prison, meanwhile, had already gained notoriety when it was used to detain political opponents, more than 200 of whom were murdered by the Nazis.[32]

From 1945, this prison became the centre for executions in the British zone of occupation. War criminals who had been sentenced to death by various military tribunals across northern Germany, including Lüneburg, Wuppertal, Essen and Hamburg, were transferred to Hameln in the final days before their execution. There, they were dispatched by the renowned British executioner, Albert Pierrepoint, who made special flights to Germany for each set of hangings. Just why Hameln was selected for these executions is unclear, although arguably its small size and position on the banks of the River Weser gave it an added layer of security over places like Werl prison which had a more central, urban location.[33]

Among the most notorious Nazi perpetrators to be executed here were Josef Kramer, former Commandant of Natzweiler-Stuthof and Bergen-Belsen concentration camps, and Irma Grese, a guard at Ravensbrück, Auschwitz and Belsen. Both were responsible for the murder of thousands of people during the Holocaust: Kramer was in charge of the gas chambers at Auschwitz for most of 1944, while Grese was renowned for issuing sadistic beatings and setting her dogs on prisoners. At 22, Grese was the youngest war criminal to be hanged by the British. She was also one of just nine women to be executed at Hameln, all of whom were found guilty of atrocities in Belsen or Ravensbrück. Among the men to be hanged were guards from other concentration camps (such as Natzweiler and Neuengamme), former Gestapo officers, medical personnel and, in the case of Bruno Tesch and Karl Weinbacher (executed in May 1946), two figures who were responsible for developing Zyklon B. In addition to these Holocaust perpetrators, the British also tried

and executed a number of people for crimes perpetrated against Allied military personnel, including those responsible for shooting British POWs following the 'Great Escape' from Stalag-Luft III. In all, a total of 155 convicted war criminals were hanged in Hameln, 90 of whom were buried in the prison grounds as directed.[34]

However, by the end of 1946 the available burial space was becoming full, even though corpses were buried three deep. The overcrowding was then exacerbated by a change in policy concerning the preferred manner of execution. Up until this point, executions of war criminals sentenced by British Military Courts could be carried out by judicial hanging or firing squad.[35] The British Army of the Rhine (BAOR) was responsible for organising 'shooting parties' to carry out the latter method. Army officials noted that, 'while this duty was naturally disliked, there were no real objections which could be raised to this procedure'.[36] In 1947, however, the imminent arrival of younger men on their National Service was deemed a different matter. Army officials were wary of the psychological effects such duties might have upon them, and the greater risk of shots going wide if inexperienced personnel were pulling the trigger.[37] Hanging, by a professional, experienced and discreet figure such as Pierrepoint was now considered the better method; indeed, Pierrepoint would have sole responsibility for dispatching condemned prisoners as it was felt no one else was suitably qualified for the role. Not only did Hameln already have an established and efficient system in place for this; it also offered the only set of hanging apparatus in the British zone.[38]

As Hameln prison consequently ran out of space, the decision was taken to bury the remaining executed war criminals in an annexe to a public cemetery, Friedhof am Wehl, two miles away.[39] This same cemetery already held bodies of the civilian war dead and, in an area known as Plot CI, those tortured and killed by the Nazis. With the war criminals interred in Plot CIII, the remains of victims and perpetrators were thus effectively laid side by side. From May 1947, the bodies of the executed were transported in covered trucks, usually at night, and accompanied by military police who had carefully removed their red caps. Again, the whole aim was to be as unobtrusive as possible but the British had failed to fully appreciate the effect that preparations for these executions (and burials) would have on public awareness of these events. In January 1948, for example, news of an imminent set of executions was leaked by a Hamburg newspaper. Officials within Legal Division blamed this on a number of factors, including the prison governor's 'sudden booking' of hotel rooms in Hameln for the mandatory witnesses and the 'necessity to open graves in a public place sometime

before the executions actually take place'.[40] Likewise, the authorities had not reckoned with the intense interest harboured by the friends, relatives and former comrades of the executed war criminals.

Over the next few years, the British received numerous petitions from these groups, who were anxious to learn more about their loved ones' final resting places and the circumstances in which they had been buried. A letter from a Herr Schmidt from Kiel, for example, inquired into the fate of his son, hanged in February 1947. Schmidt wrote:

> Being his father, I should like to know whether the hanged persons have been buried with or without a coffin and whether the graves can be recognised, and whether they are being looked after. And would you kindly let me know whether a parson performed the burial service and if possible his name and address?[41]

Similarly, a Frau Schneider from Munich enquired about the fate of her 'good husband', who had been executed in February 1948. She begged the Military Government to tell her the number of his coffin and whether she might buy and tend the grave.[42] Frau Lommes, meanwhile, made several requests over the course of a year to try and have the remains of her executed husband transferred to his hometown of Neuendorf, stating: 'both my children and myself have an innate desire for their father to be buried in Neuendorf and for him to have a Christian burial'.[43]

As Monica Black has illustrated in her study of twentieth-century Germany, there was a long-standing, popular attachment to the concept of a 'dignified' place of rest among German society.[44] Even at the height of Allied air raids during the Second World War, the Berlin authorities had remained committed to burying the civilian dead as individuals; mass graves were viewed not only as an ignominious breach of custom, but also a fate reserved for so-called 'racial enemies' of the Reich.[45] The eventual scarcity of coffins by spring 1945, notes Black, created 'a lasting moral shock' among the population.[46] Concerns over the fate of the Hameln executed can, therefore, be regarded as a continuance of these older sensibilities regarding 'decent' burial. Likewise, the letters penned by the Lommes, Schneider and Schmidt families echo efforts by Berliners to learn more about the fate of relatives killed in the final throes of the war. Black argues that the latter constituted an important means for 'individualizing' deaths and preserving the dead from the 'anonymity, horror and even shame of "mass" experience'.[47] Evidence of similar behaviour being applied to the executed war criminals suggests

a desire to present these characters too, as victims of the war, and to rescue them from apparent disgrace.

Each of these sources is highly emotive, conveying the authors' desperation and frustration at simply not knowing what has become of their loved ones, yet the British were steadfast in their refusal to release any information on the executed war criminals. Responses were usually curt, stating simply that no information could be divulged. For those, like Frau Lommes, who pointed to religious factors, a lengthier response could sometimes be forthcoming, offering the assurance that the deceased had received the last rites and been 'accorded a decent burial', although given that Lommes was buried in an unmarked prison grave along with two of his executed comrades, the 'decency' of his resting place can clearly be called into dispute.[48]

Undeterred, some Germans continued to write to the authorities, or they pressed German institutions to lobby on their behalf, clearly hoping this might carry more weight. The revived German War Graves Commission (a charitable organisation originally established in December 1919 to maintain First World War graves) ended up playing a significant part in this, and the Lower Saxony Ministry of Justice also got involved, insisting:

> Many of the dead buried in the prison yard at Hameln are unlikely to have been *mean* criminals. At the least, the acts of many of them would, at the present time, no longer be punished with the death penalty. They left relatives who desire to remember the dead at their graves. Their right to do so cannot be disputed all the less as, according to German customs of former times, the corpse of an executed person would, at their request, be handed to the relatives.[49]

The meaning of the phrase 'former times' in this statement is unclear, but there is scope for viewing this as an implicit comparison with practices under the Third Reich. As previously highlighted, the British were aware of the previous decrees on this issue; by proceeding to ignore those customs and refuse to divulge information on the disposal of the corpses, they opened the way for a host of West German criticism. An impression was thus being formed that the Nazis were more honourable in dealing with the dead than the Allied occupiers. Meanwhile, by questioning the criminal nature of these figures, this source betrays incomprehension, or perhaps even a wilful ignorance, of the nature of National Socialist atrocities. It is worth emphasising that around 45 per cent of war criminals executed in Hameln had been linked to concentration camps.[50] Some of them, then, were very 'mean' characters indeed.

It is therefore clear that an interesting discussion was taking place in Hameln. Written protests about the lack of information were accompanied by attempts at enacting physical memorials, particularly to those interred within Friedhof am Wehl, to which the West German population had ready access. As with the burials within the prison grounds, these graves were unmarked and, commenting on the visitors making their way to this site, the Office of the Legal Advisor in the British zone reassured Foreign Office staff that 'the Germans do not know which grave is which in the case of more than one execution being carried out on the same day ... In the case of single executions, they would know by the fact of there being one new grave.'[51] However, the lack of specific markers did not deter people from repeatedly laying flowers. In July 1950, for example, a routine inspection of the cemetery by the British Governor of Werl Prison, Lt Col. E. R. Vickers, reported the presence of three wreathes, some freshly cut flowers and planted geraniums. Vickers confessed that he 'felt a bit of a vandal and removed all these'.[52] His action was approved by the British Zonal authorities, although it was suggested he did this 'as quietly as possible'.[53] This was not the only time that Vickers found wreathes placed on the burial plot, and it seems that a particularly significant number of flowers were left during key points in the religious calendar such as All Soul's Day and the first Sunday of Advent, underscoring the persistence of Christian traditions for mourning the dead. The reports sent by Vickers to the Office of the Legal Advisor during this period reveal his continued discomfort at 'interfering' with these offerings. In 1948, there was a rumoured local proposal to place wooden crosses on the site; this too was quickly quashed by the British.[54]

By 1953, though, the matter of the Hameln graves reached new proportions. By this time, the Federal Republic had gained sovereignty, and control of Hameln prison was handed back to the Germans. A series of sensationalist articles then appeared in the West German press, all apparently 'exposing' the fact that German nationals had been executed and buried in this town. This coverage raises questions about the level of knowledge that had existed in West Germany regarding the war crimes trials. The proceedings were, of course, public affairs. They were reported in the press and people could go and observe the proceedings first-hand if they so wished; notices of the executions had also been routinely posted by the prison authorities. Likewise, the previous petitions orchestrated by relatives of the deceased, the German War Graves Commission and the Ministry of Justice had already underscored the layers of local interest in these war criminals. However, as the national

West German press now got hold of the story, it was treated as the discovery of a major scandal. Numerous articles stressed the clandestine nature of these burials, and the fact relatives had been denied the right to mourn the dead at a proper, marked graveside. The popular weekly, *Illustrierte Post*, for example, sensationalised the fact that the tending of these sites in any form had been strictly forbidden and described how any flowers that were delicately placed in the vicinity were cruelly thrown away by the British staff.[55]

While such articles repeatedly implied that the British had behaved in a cruel, callous or inhumane manner, the Nazi perpetrators were treated in a far more sympathetic manner. The press routinely used inverted commas around the term 'war criminal', implicitly casting doubt on their involvement in Nazi atrocities. The *Illustrierte Post* referred to the dead as 'political detainees', while both the tabloid *Bild Zeitung* and the *Hannoversche Allgemeine Zeitung* used the term 'survivors' to refer to those war criminals who had been transferred from Hameln to another prison.[56] The corpses, then, were portrayed as victims of defeat, occupation and victors' justice – a sentiment that fitted into wider currents of German victimhood that circulated in the immediate post-war era.[57] *Bild Zeitung* labelled the prison burial ground a 'Yard of Horror', while at the most extreme, 'news' of the Hameln bodies was presented as the equivalent of the discovery of the Katyn massacre, suggesting that the effects of Josef Goebbels's wartime propaganda still held some resonance for elements of the German population.[58] At no point in these articles was there any meaningful engagement with the crimes these former Nazis had committed. A memorandum within the UK High Commission in Germany noted:

> *Fortschritt* ... [a neo-Nazi publication] complains that the people buried in Hameln were denied a proper funeral such as is accorded to even a common murderer. It might be worthwhile pointing out that the people concerned were *extremely uncommon* murderers ...[59]

This message, though, did not appear to sink in.

Finally, in early 1954, the government of Lower Saxony announced the exhumation and reburial of the remains interred in the grounds of Hameln prison. *Bild Zeitung* was one of several newspapers to express its hope that this meant 'the dead will find ... that peace which has so long been denied them'.[60] The Finance Ministry of Lower Saxony pledged DM20,000 to cover the cost of providing individual coffins and burial plots for the remains, yet the Land government actually opted to

continue earlier Allied policy and rebury the corpses in mass rather than individual graves. Despite the recent blaze of publicity surrounding the executed war criminals, it was also decided to try and rebury them on an undisclosed date, away from the prying eyes of the press or potential demonstrators. In part, this move appears to have been successful; there is no report on the reburial of the remains in the local Hameln press, other than a brief piece announcing the town's intentions in March 1954.[61] At the same time, though, it appears that at least five of the criminal corpses were identified, and four of these were exhumed yet again and transferred to alternative cemeteries, presumably sites of familial significance.[62]

The reburial of convicted, executed war criminals also proved highly contentious within the international community. Foreign governments, Jewish organisations and Holocaust survivors' groups spoke of a 'posthumous whitewashing of Nazi killers' and took the reburial as evidence of a re-emerging fascism. Leicester MP Barnett Janner declared that the whole situation constituted a 'new myth of martyrdom' within the Federal Republic, while a statement from the World Jewish Congress declared that the reburial 'mocks the memory of Hitler's countless murdered victims' and questioned West Germany's place among civilised nations.[63] Addressing concerns in the House of Commons, Anthony Eden refused to bow to pressure to make an official protest to the Federal Republic, stating, 'I am not prepared to pursue hatred beyond the grave'.[64] Commentators within the British Foreign Office, however, privately dismissed the reburial as an act of 'extraordinary stupidity'.[65] Undiscouraged, German officials back in Lower Saxony insisted that they were only acting out of concern for the relatives, rather than any political motives. They also made it clear that by transferring the remains to a more accessible, public place they hoped to quickly put an end to local, 'undesirable agitation'.[66] Again, then, we see the expectation that the past can – quite literally – be buried once and for all, enabling the nation as a whole to move on.

The Significance of the Hameln Executed

The Hameln controversy reveals an almost cyclical process of silence or reticence about the past, followed by moments of highly emotive protest, and then a desire to draw a line under the whole Nazi legacy once and for all. This case study clearly highlights the limits of Holocaust engagement in post-war West Germany, and the continuing evasions and distortions that affected public retellings of the recent past. By examining

the reactions to the reburial of the Hameln corpses, we can identify the tension between the genuine grief of the war criminals' relatives, and a wider reluctance to countenance the fact that the perpetrators of the Holocaust could be devoted family men and women. The preferred West German image of National Socialism throughout the post-war period was one that depicted it as coming from 'somewhere else'. There was a retreat into local customs and traditions after 1945 in an attempt to present an alternative, healthier German history and portray Nazism as an alien force, an aberration.[67] The remains of executed war criminals under local soil, however, challenged these post-war community narratives.

When justifying the decision to rebury those interred in the prison grounds, the authorities in Lower Saxony spoke of the sympathy that had to be extended for the 'embarrassed' relatives of some of the 'less notorious criminals'.[68] It was a comment that again suggested a lack of understanding regarding the organisation of the Holocaust, and an unwillingness to accept the guilt of all of the executed. Here, then, was a means of trying to reconcile the image of weeping relatives to the Hameln bodies: distinguishing between the likes of Josef Kramer – 'the Beast of Belsen' – and the rest of the executed facilitated the belief that very few of these corpses belonged to major offenders. As a result, the blame for Nazi atrocities could, in turn, be placed on a just a radical, sadistic few. Such logic could, of course, only be facilitated by not asking awkward questions about the events of the Third Reich.

Examining the post-execution history of Nazi war criminals raises the issue as to whether there are perpetrators who have committed such heinous crimes that they have forsaken all right to have a 'decent' funeral. Certainly for many former victims of Nazism, even hanging was seen as 'too good' for the war criminals, let alone the prospect of a neatly tended, marked individual grave. Others, however, refuted this, arguing that showing respect for the dead, whoever they may have been in life, was a fundamental moral duty, regardless of religious faith. In the midst of the Hameln reburial controversy, for example, the Jewish publisher and humanitarian campaigner Victor Gollancz wrote: 'to object to the burying of anyone whomever in hallowed ground is unseemly and unreligious for it suggests that God is as unmerciful and unforgiving as man'.[69] Viewed in this light, proper burial of *all* the war dead, be they soldiers, civilians or perpetrators, could be seen as a necessary requisite for true post-conflict reconciliation. Gollancz, however, remained rather an isolated figure on this matter; the Hungarian-Jewish émigré publisher Paul Elek retorted that Gollancz was displaying a 'singular lack of imagination', and that the reburial process amounted to a 'symbolic

act of defiance' against the Allies and a 'negation of the verdicts of the Nuremberg and similar tribunals'.[70]

Regardless of the public and political protest, the reburial of the Hameln executed war criminals was carried out in 1954 and the cemetery subsequently became a focal point for neo-Nazi rallies and veterans' reunions. In September 1959, for example, a meeting of the HIAG (Mutual Help Association of Former Waffen-SS Members) attracted a crowd of 15,000 people including Josef 'Sepp' Dietrich, a highly decorated former Waffen-SS general who had previously been convicted by both US Military Tribunal and the Landgericht Munich for war crimes; the event concluded with comrades gathering around the tomb of Bernhard Siebken who, like Dietrich, had been a member of Hitler's personal bodyguard.[71] Further controversy ensued in 1985 when the site witnessed demonstrations by the neo-Nazi Free German Workers' Party (FAP).[72] Yet interest in the executed criminal corpses was not confined to Far-Right extremists. On the contrary, between 1975 and 1986, a voluntary *Bürgerinitiative* (literally, citizens' initiative) was established specifically to tend and maintain the graves, underscoring the persistence of competing, local memories of the war years.

Formed in response to a town council proposal to level the site, the *Bürgerinitiative* insisted it was 'not a political group or a circle of comrades or the bereaved', but a group keen to protect the graves of 'victims of war and the postwar era', regardless of their nationality.[73] In a peculiar turn of events, once people had come forward to assume responsibility for Plot CIII, the site was allowed to persist; CI, however, was levelled, creating a situation where perpetrators could be remembered while the graves of their victims were allowed to disappear. Furthermore, the *Bürgerinitiative*'s activities went beyond simply keeping the cemetery plot free from weeds. On the eve of *Volkstrauertag* (National Day of Mourning), 1975, it placed a series of wooden crosses and wreathes on the site, a move that again equated the executed war criminals with victims of war and tyranny.[74] Subsequent years saw attempts at producing individual memorial plaques for each of the executed war criminals and in 1978 there was even a short-lived proposal to erect a permanent memorial, complete with the inscription, 'crime and punishment – misery and death – victims and retribution'.[75]

Earlier post-war mythologies of German victimhood, Allied aggression and victors' justice thus continued to flourish in the late 1970s and beyond. It was not until 1986, in the wake of the FAP demonstrations and a related television documentary on the cemetery, that the town council finally took the decision to completely level Plot CIII as well.[76] It was a move that came a year after Ronald Reagan's inflammatory visit to Bitburg Military Cemetery (which contained SS graves), and in the midst

of the widely publicised *Historikerstreit* in which leading West German historians debated the very need to keep talking about the Nazi past.[77] By removing the crosses and levelling the burial site in Hameln, the notion re-emerged that destroying physical reminders of Nazism would render it truly dead, harking back to the Allies' original intentions.

Today, the public narrative of the Second World War in Hameln is reversed: Plot CIII is overgrown with stinging nettles and other weeds while memorial stones have been placed in both CI and outside the former Hameln prison to remember those killed by the Nazis; likewise, the noticeboard at the entrance to the cemetery highlights the location of CI while CIII is omitted altogether.[78] Yet the memory of the executed war criminals has not completely faded. The growing popularity of amateur genealogy reveals the layers of knowledge and competing patterns of remembrance within online resources. The website findagrave.com, for example, gives people around the world the opportunity to trace their ancestors' final resting places, as well as listing various famous graves. Their records for Hameln recall some of the Bergen-Belsen concentration camp personnel executed in December 1945, including Irma Grese. Public comments have been disabled for her page, suggesting that this function has previously been abused by Nazi sympathisers. However, the comments feature is still operational for two of her former comrades, Juanna Bormann and Elisabeth Volkenrath and has resulted in lines such as 'Germany is rising' and 'sleep softly'. Another comment on Volkenrath's page reads, 'the face of evil? No! The face of an innocent young girl'.[79] People can leave virtual flowers and commemorative notes for these individuals – and use this space to remember Grese too. A comment on Bormann's page, for instance, states, 'these flowers are for your beautiful comrade IRMA GRESE xx'.[80] While the comments are anonymous, it is a behaviour that echoes previous efforts to locate and individualise the war criminals' graves, be it the emotive search for more information by grieving relatives in the 1940s and 1950s, or the determined efforts to memorialise the cemetery space by volunteers in the 1970s and 1980s. In each case, it is evident that the post-execution history of these perpetrators continues to resonate. Eradicating physical traces of the dead is not sufficient to 'bury the past'; their memory continues to live on in other ways.

Acknowledgments

I would like to thank James Campbell and Richard Ward for their constructive comments on an earlier draft of this article.

Notes

1. Figures for the precise number of executions vary. The Jewish Virtual Library states 806 figures were sentenced to death, but that only 486 of these executions actually took place; the remaining war criminals had their sentences commuted to various periods of imprisonment or died within custody: http://www.jewishvirtuallibrary.org/jsource/judaica/ejud_0002_0020_0_20618.html (accessed 25 April 2013). Reliable figures for the number of convictions and executions in the Soviet zone of occupation are unavailable.
2. See, for example: Shlomo Aronson, 'Preparations for the Nuremberg Trial: The OSS, Charles Dwork and the Holocaust', *Holocaust and Genocide Studies* 12 (1998), 257–81; Donald Bloxham, 'British War Crimes Trial Policy in Germany, 1945–1957: Implementation and Collapse', *Journal of British Studies* 42 (2003), 91–118 and idem, '"The Trial that Never Was": Why There Was No Second International Trial of Major War Criminals at Nuremberg', *History* 87 (2002), 41–60; George Ginsburgs, *Moscow's Road to Nuremberg: The Soviet Background to the Trial* (The Hague, 1996); Erich Haberer, 'History and Justice: Paradigms of the Prosecution of Nazi Crimes', *Holocaust and Genocide* Studies 19 (2005), 487–519; Mark E. Spica, 'The Devil's Chemists on Trial: The American Prosecution of I. G. Farben at Nuremberg', *Historian* 61 (1999), 865–83; Paul Weindling, 'From International to Zonal Trials: The Origins of the Nuremberg Medical Trial', *Holocaust and Genocide Studies* 14 (2000), 367–89; Robert Wolfe, 'Flaws in the Nuremberg Legacy: An Impediment to International War Crimes Tribunals' Prosecution of Crimes Against Humanity', *Holocaust and Genocide Studies* 12 (1998), 434–53.
3. On the impact of the Nuremberg Tribunal, see Donald Bloxham, *Genocide on Trial: War Crimes Trials and the Formation of Holocaust History and Memory* (Oxford, 2001). On the resonance of subsequent Nazi war crimes trials, see Lawrence Douglas, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (New Haven, 2001); Devin O. Pendas, *The Frankfurt Auschwitz Trial 1963–1965: Genocide, History and the Limits of the Law* (Cambridge, MA, 2006); Rebecca Wittman, *Beyond Justice: The Auschwitz Trial* (Cambridge, MA, 2005); Caroline Sharples, *West Germans and the Nazi Legacy* (New York, 2012).
4. Accounts of the Nuremberg executions can be found in Airey Neave, *Nuremberg: A Personal Record of the Trial of the Major Nazi War Criminals in 1945–6* (London, 1978), pp. 348–9; Telford Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir* (London, 1993), pp. 609–11; Whitney Harris, *Tyranny on Trial* (1954), pp. 485–8.
5. There are distinctions between the treatment of Nazi war criminals in western and eastern Europe. High-ranking figures such as Rudolf Höss, the former Commandant of Auschwitz, and Arthur Greiser, former Gauleiter of the Reichsgau, were hanged publicly in Soviet-occupied Poland. On the subject of 'show trials' and public executions in the USSR, see Alexander Victor Prusin, '"Fascist Criminals to the Gallows!" The Holocaust and Soviet War Crimes Trials, December 1945–February 1946', *Holocaust and Genocide Studies* 17 (2003), 1–30.
6. On the denazification of German towns and cities, see Gavriel D. Rosenfeld and Paul Jaskot (eds), *Beyond Berlin: Twelve Cities Confront the Nazi Past* (Ann

Arbor, 2008); Rudy Koshar, *From Monuments to Traces: Artifacts of German Memory, 1870–1990* (Berkeley, 2000); Gavriel D. Rosenfeld, *Munich and Memory: Architecture, Monuments and the Legacy of the Third Reich* (Berkeley, 2000); Bill Niven and Chloe Paver (eds), *Memorialization in Germany since 1945* (Basingstoke, 2009); Brian Ladd, *The Ghosts of Berlin: Confronting German History in the Urban Landscape* (Chicago, 1997).

7. Control Council Directive No. 30, 'Liquidation of German Military and Nazi Memorials and Museums', 13 May 1946; revised 12 July 1946.
8. For consistency, the German spelling of Hameln is adopted throughout this article, rather than the Anglicised 'Hamelin'. The former is also generally used in British primary sources from this period.
9. The ten executed individuals comprised of Hans Frank, Wilhelm Frick, Alfred Jodl, Ernst Kaltenbrunner, Wilhelm Keitel, Joachim von Ribbentrop, Alfred Rosenberg, Fritz Sauckel, Arthur Seyss-Inquart and Julius Streicher. Martin Bormann was tried and sentenced to death in absentia. For a detailed overview of the Nuremberg tribunal see: Bloxham, *Genocide on Trial*; Michael Biddis, 'The Nuremberg Trial: Two Exercises in Judgement', *Journal of Contemporary History* 16 (1981), 597–615; Michael R. Marrus, 'The Holocaust at Nuremberg', *Yad Vashem Studies* 26 (1998), 5–41; Joseph E. Persico, *Nuremberg: Infamy on Trial* (London, 1995); Bradley F. Smith, *Reaching Judgement at Nuremberg* (London, 1977); Christian Tomuschat, 'The Legacy of Nuremberg', *Journal of International Criminal Justice* 4 (2006), 800–29; Ann Tusa, *The Nuremberg Trial* (London, 1983).
10. See, for example, *LIFE Magazine*, 'Executed Nazi Leaders', 28 October 1946. On the British response to the photographs, see The National Archives (hereafter TNA), FO 371/56935: Soviet Union 1946 and PCOM 9/635: Mr. Albert Pierrepoint declines to comment on official photographs of the Nuremberg hangings for the United Press Association.
11. Nonetheless, it should be noted that memorials do exist to three of those executed in the wake of the IMT. Alfred Jodl is recalled on an elaborate cenotaph in his family's burial plot at Fraueninsel Cemetery in Chiemsee, and Wilhelm Keitel has memorial stones in both Bad Gandersheim and Ohlsdorf Cemetery in Hamburg. Ribbentrop, meanwhile, has been memorialised in his wife's family's plot in Biebrich, a borough of Wiesbaden. Knowledge (and photographs) of these memorials persists today online – see, for example, findagrave.com, 'Alfred Jodl', http://www.findagrave.com/cgi-bin/fg.cgi?page=pv&GRid=7010&PIpi=2255578 (accessed 10 August 2013).
12. TNA, FO 1060/930: Execution of Death Sentences: Policy, 'Instructions for the Imposition and Execution of Death Sentences', September 1944.
13. TNA, FO 1060/930: Ministry of Justice Control Branch to Legal Division, 23 September 1944.
14. TNA, FO 1060/90: Burial of Executed Prisoners: Question by the Legal Advice and Drafting Branch, Legal Division, Control Commission for Germany (British Element), Lübeck, 19 October 1945.
15. In Britain, the burial of executed prisoners in unconsecrated prison grounds had been enshrined in the Anatomy Act of 1832. For details on this process see, for example, TNA, PCOM 8/220 and PCOM 8/221: Method of Burial (1903–25). Subsequent developments in the history of executions in the British zone also suggest a determination to ensure activities reflected

domestic practices. From March 1947, for example, condemned German war criminals were granted a period of 21 days between the promulgation of their sentence and actual execution. This echoed English law which allowed prisoners three Sundays after the final decision on their case to write any last letters and prepare themselves for their fate. See A. J. H. Dove, General Officer, HQ BAOR to Zonal Executive Offices, Lübeck, 30 July 1948, TNA, FO 1032/783: Procedure for Execution of Death Sentences, Vol. 2.

16. Author's emphasis. TNA, FO 1060/90, Report by the British Special Legal Research Unit, London, 19 October 1945.
17. *Ibid*. Subsequent memoranda within Legal Division noted that a 1940 German law allowed a 24-hour window for bodies to be handed over to the next of kin after an execution. See TNA, FO 1060/239: Executions Policy Vol. 1.
18. For further discussion of the use of executed corpses for medical research in Nazi Germany, see Michael Viebig, '"...the Cadaver can be Placed at your Disposition Here." Legal, Administrative Basis of the Transfer of Cadavers in the Third Reich, its Traces in Archival Sources', *Annals of Anatomy* 194 (2012), 267–73.
19. TNA, FO 1060/90, Letter from HQ Internal Affairs and Communications Division to Office of the Chief of Staff, Main HQ, Control Commission for Germany, Lübeck, 13 November 1945. The original request by Renate Ley was reported in Letter from Military Governor, Iserlohn, to Secretariat, Main HQ, Control Commission for Germany, 5 November 1945.
20. The Prussian Penal Code of 1851 had stated that 'the body of a criminal who commits suicide to escape the execution of a sentence pronounced against him is to be buried at night by the common executioner at the usual place of execution for criminals' – R. S. Guernsey, *Suicide: History of the Penal Laws relating to it in their Legal, Social, Moral and Religious Aspects in Ancient and Modern Times* (New York, 1875). However, by the time of Ley's death, this legislation would have been superseded by that of the Kaiserreich, Weimar Republic and, of course, the Third Reich, none of which directly addresses the fate of suicides in prison. In Britain, there had also been incidents of prison suicides being buried in the same manner as executed prisoners. See Trevor James, *Prisoners of War at Dartmoor: American and French Soldiers and Sailors in an English Prison during the Napoleonic Wars and the War of 1812* (Jefferson, NC, 2013), p. 221; 'Newgate Prison and Tyburn', Famous Outlaws, http://www.criminals.lt/page.php?al=newgate_prison_and_tyburn (accessed 28 February 2014).
21. The executed Belsen personnel comprised Juanna Bormann, Wilhelm Dörr, Karl Franzische, Irma Grese, Franz Hössler, Fritz Klein, Josef Kramer, Ansger Pinchen, Franz Stofel, Elisabeth Volkenrath and Peter Weingärtner. All were hanged in Hameln prison, 13 December 1945. For an overview of the Belsen trial, see John Cramer, *Belsen Trial 1945: Der Lüneberger Prozess gegen Wachpersonal der Konzentrationslager Auschwitz und Bergen-Belsen* (Göttingen, 2011); Raymond Phillips, *Trial of Josef Kramer and Forty-Four Others (The Belsen Trial),* (London, 1949); A. P. V. Rogers, 'War Crimes Trials under the Royal Warrant: British Practice, 1945–1949', *International and Comparative Law Quarterly* 39 (1990), 780–800.
22. TNA, FO 1060/239: Executions Policy Vol. 1. Legal Division to Secretariat, 'Burial of War Criminals', 6 December 1945.

23. Correspondence in TNA, FO 1060/239, Concomb to British War Crimes Executive, Nuremberg, Bercombe (Political Division) and Secretariat (undated); Bercomb to Concomb, 7 December 1945; Concomb to Bercomb, 8 December 1945; Exfor to Concomb, 11 December 1945.
24. TNA, FO 1060/239, I. A. and C. Division to Legal Division, 'Disposal of Bodies of War Criminals', 8 December 1945.
25. TNA, FO 1060/4122, Letter from Maxwell D. Taylor, US Commander, Berlin, to John McCloy, US High Commissioner for Germany, 11 January 1951 and Letter from the Office of the Legal Advisor, Wahneheide to GOC, British Troops, Berlin, 22 January 1951. By the start of the 1950s, McCloy was keen to amend what he viewed as an 'unfortunate' procedure. As it was, only Hess died within Spandau, committing suicide in 1987 at the age of 93. By this time, the procedure had been amended. He was buried first in secret but then, in accordance with his will, re-interred in his family's plot at Wunsiedel but exhumed in 2011 as his grave increasingly became a site of pilgrimage for Neo-Nazis. Spandau prison itself was also destroyed. See, for example, *Der Spiegel,* 'Wunsiedel: Grabstätte von Hitler-Stellvertreter Heß aufgelöst', 21 July 2011.
26. For example, the remains of the 21 war criminals executed in the wake of the 1947 Auschwitz trial in Poland were taken to the University of Krakow.
27. Corpses left unclaimed in the American zone were buried in Spöttingen cemetery, Landsberg am Lech. For further details see: Thomas Raithel, *Die Strafanstalt Landsberg am Lech und der Spöttinger Friedhof, 1944–1958* (Oldenbourg, 2009). In 1988, the cemetery was declared a protected historical site and the upkeep of the war criminals' graves is thus paid for by the taxpayer.
28. TNA, FO 1060/4122: Executed War Criminals – Burial Policy.
29. 'Kreis Hameln-Pyrmont Parlamentswahlen', Wahlen in der Weimarer Republik, http://www.gonschior.de/weimar/php/ausgabe_gebiet.php?gebiet=1357 (accessed 1 March 2014).
30. Daniel Siemens, *The Making of a Nazi Hero: The Murder and Myth of Horst Wessel* (London, 2013), pp. 155–63.
31. Mats Burström and Bernhard Gelderblom, 'Dealing with Difficult Heritage: The Case of Bückeberg, Site of the Third Reich Harvest Festival', *Journal of Social Archaeology* 11 (2011), 266–82.
32. On the history of Hameln prison during the Third Reich, see Bernhard Gelderblom, 'Der Zuchthaus Hameln in der NS-Zeit', http://www.gelderblom-hameln.de/zuchthaus/nszeit/zuchthausnszeit.html (accessed 1 July 2013). Hameln also witnessed anti-Semitic violence, especially between 1933 and 1935: 74 per cent of its Jewish population had perished by the end of the Third Reich – a total based on figures provided in Shmuel Spector and Geoffrey Wigoder (eds), *The Encyclopaedia of Jewish Life Before and After the Holocaust* (New York, 2001), p. 492.
33. This is certainly a suggestion put forward by local Hameln historian, Bernhard Gelderblom. Details on the arrangements for these executions can be seen in TNA, FO 1060/239–243: Executions Policy Vols. 1–5; FO 1060/244: Executions: Judicial Hangings Instructions. In a memorandum sent by Legal Division to 229 'P' Mil.Gov.Det., Hannover, 1 December 1945 (TNA, FO 1060/239), it was noted that the towpath running beside the prison would be closed to the public, although it is unclear whether this was to be a permanent move, or a measure implemented solely on days of executions.

34. Another 47 people were executed for crimes committed after the end of the war but buried in the same manner – see TNA, FO 1060/4122, Bonn Telegram No. 133, 6 March 1954. Precise details on all the individuals executed at Hameln can be found in TNA, FO 1060/239–243 and Peter Krone (ed.), *'Hingerichtetengräber' auf dem Friedhof Wehl, Hameln: Historische Dokumentation* (Hameln, 1987).
35. German nationals sentenced by German courts or Control Commission Courts for crimes against humanity faced the guillotine, as did Displaced Persons who were found guilty of crimes such as murder or armed robbery during the immediate post-war period. See TNA, FO 945/318: Death Sentences: Execution.
36. TNA, FO 945/318: Death Sentences: Execution, Simpson to Crawford, 1 March 1947; TNA, FO 1060/240: Executions Policy, Vol. 2, HQ BAOR to Legal Division, 13 June 1947.
37. *Ibid*.
38. On changes in execution policy, see TNA, FO 945/318: Death Sentences and TNA, FO 1060/240: Executions Policy, Vol. 2.
39. TNA, FO 1050/1488: Burials, 'Letter from the Secretariat, I. A. and C. Division to Public Safety Division', 23 November 1946. For logistical arrangements for these transports, see TNA, FO 1024/101.
40. TNA, FO 1060/242: Executions Policy, Vol. 4, L. H. Barnes to J. C. Piegrome, 'Executions', 24 February 1948.
41. TNA, FO 1060/4122, Letter to the Cemetery Administration, Hameln by Ernst Schmidt, Kiel, 26 November 1950. This is most likely to refer to Oskar Schmidt, who was involved in the summary execution of Allied prisoners of war who had tried to escape Stalag Luft III in March 1944. This would, of course, become the subject of the 1963 film *The Great Escape*. The trial, however, only began in July 1947; the executions were carried out in February 1948.
42. TNA, FO 1024/101, Letter to the Military Government by Therese Schneider, Munich, 10 May 1948. Johann Schneider was another of those convicted for the Stalag Luft III murders before a Hamburg tribunal.
43. TNA, FO 1060/240, Letter from Frau Berta Lommes to the British Liaison Det., 17 April 1947. Requests were also sent on her behalf by the local curate, 18 April 1947 and the family lawyer, 12 February 1948. Hermann Lommes was executed on 15 May 1946 for his role in the shooting of Allied airmen at Dreierwalde airfield in March 1945.
44. Monica Black, *Death in Berlin: From Weimar to Divided Germany* (New York, 2010). For more on post-war German attitudes to the dead, see Alon Confino, Paul Betts and Dirk Schumann (eds), *Between Mass Death and Individual Loss: The Place of the Dead in Twentieth-Century Germany* (New York, 2008).
45. *Ibid.*, pp. 121–2.
46. *Ibid.*, p. 131.
47. *Ibid.*, p. 173.
48. TNA, FO 1060/240, Penal Branch, Legal Division to Herr Kuratus R. Liebenstein, 7 June 1947.
49. Original emphasis. TNA, FO 1060/4122, Letter from Dr Meyer-Abich of the Ministry of Justice, Niedersachsen, to the Office of the Legal Advisor, Wahnerheide, 10 November 1952. The argument that many of these acts would 'no longer be punished with the death penalty' is somewhat

redundant given that the Basic Law of the newly constituted Federal Republic of Germany abolished capital punishment altogether; TNA, FO 1060/4122, Letter from Volksbund Deutsche Kriegsgräberfürsorge, Landesverband Niedersachsen (undated).

50. Data compiled by the author from TNA, FO 1060/239–243 and Krone, *'Hingerichtetengräber' auf dem Friedhof Wehl, Hameln*.
51. TNA, FO 371/104149, M.F.P. Herchenroder, Office of the Legal Advisor, Wahnerheide, to H. W. Evans, Foreign Office, 21 August 1953.
52. TNA, FO 1024/101, British Governor, Allied National Prison, Werl to Penal Branch, Legal Advisor's Zonal Office, 13 July 1950.
53. TNA, FO 1024/101, J. C. Piegrome to E. R. Vickers, 19 July 1950.
54. TNA, FO 1024/101, Letter from F. H. Rogers, British Governor Hameln Prison to Cemetery Director, 'Graves of Executed Prisoners', 2 February 1948. This document also noted the presence of wreathes and signs that at least one grave was being tended.
55. *Illustrierte Post*, 'Secret 202: Though the Grass Grew Above', 8 August 1953. On 26 November 1953, the *Illustrierte Post* also published a reader's letter from former *SS-Unterscharführer*, Horst Gaede, who had himself only recently been released from serving a prison sentence for war crimes. Gaede had not actually been held in Hameln, and his letter was full of factual errors yet the press appeared to have no qualms about printing his rhetoric on the 'terrible British war crime'.
56. *Bild Zeitung*, 'German Mass Grave in Hameln Penitentiary', 26 November 1953; *Hannoversche Allgemeine Zeitung*, 'Menschlicher Abschluss der Zuchthaustragoedie in Hameln: sämtliche Namen trotz Allierter Geheimhaltung ausfindig gemacht', 3 March 1954.
57. On the theme of German victimhood see: Bill Niven (ed.), *Germans as Victims: Remembering the Past in Contemporary Germany* (Basingstoke, 2006); Robert G. Moeller, *War Stories: the Search for a Usable Past in the Federal Republic of Germany* (Berkeley, 2003); Neil Gregor, '"Is He Still Alive, or Long Since Dead?": Loss, Absence and Remembrance in Nuremberg, 1945–1956', *German History* 21 (2003), 183–203; Michael L. Hughes, '"Through No Fault of our Own": West Germans Remember their War Losses', *German History* 18 (2000), 193–213.
58. *Bild Zeitung*, 'German Mass Grave in Hameln Penitentiary', 26 November 1953; *Der Fortschritt*, 'Katyn an der Weser', 4 December 1953.
59. TNA, FO 1060/4122, Memorandum by the Information Services Division, United Kingdom High Commission in Germany, 'Graveyard in Hameln Prison', 1 December 1953. Author's emphasis.
60. *Bild Zeitung*, 'German Mass Grave in Hameln Penitentiary', 26 November 1953.
61. *Dewezet*, 'Umbettung von Zuchthaus zum Wehlfriedhof', 3 March 1954.
62. The names of these individuals have been added to the cemetery records. Stadtarchiv Hameln, Best. 163 Nr. 68, *Bestattungsregister Friedhof 'am Wehl' v. 18.3.52–31.12.61*. The war criminals concerned include Willi Mackensen, executed in March 1946 for the ill-treatment of Allied prisoners of war during the 'evacuation march' from Thorn, Poland to Hannover in early 1945; and Friedrich Hollborn, former chief of the Hagen Gestapo executed for his role in the deaths of Canadian prisoners of war. In March 1955, Hollborn's remains were transferred to his birthplace of Osnabruck.

63. Hansard, Parliamentary Questions for 15 March 1954; TNA, FO 371/109722, Statement by the World Jewish Congress, 4 March 1954. Protests and petitions were also received by the Board of Deputies of British Jews, the Association of Jewish Ex-Servicemen and Women, the National Assembly of Women, the British Legion and various trade unions.
64. Hansard, Parliamentary Questions for 15 March 1954. Eden's response became the official line on the matter, with copies of his statement being sent out in response to every petition against the reburials.
65. TNA, FO 371/109722, Minute by H. W. Evans on the Reburial of War Criminals at Hameln, 8 March 1954.
66. *Ibid*. On German responses to international criticism, see also *Dewezet*, 'Umbettung vor dem Unterhaus', 15 March 1954 which argued that no one should be allowed to deny the bereaved the chance to mourn their losses.
67. On this theme, see: Alon Confino, *Germany as a Culture of Remembrance: Promises and Limits of Writing History* (Chapel Hill, 2006); Ceila Applegate, *A Nation of Provincials: The German Idea of Heimat* (Berkeley, 1992).
68. TNA, FO 371/109722, Memorandum from Hannover to the Foreign Office, 5 March 1954.
69. Victor Gollancz, 'Letter to *The Times*', 6 March 1954.
70. Paul Elek, 'Letter to *The Times*', 9 March 1954.
71. Siebken had been executed in Hameln in 1949 for the shooting of Canadian prisoners of war. Dietrich, meanwhile, had been released from prison on grounds of ill-health. He continued to be a figurehead for the HIAG and his funeral, in 1966, attracted thousands of mourners, including many of his former comrades. Another HIAG convention was planned for Hameln in 1963 but was cancelled on that occasion due to public pressure.
72. *Dewezet*, 'Besucher fassungslos: Schlägerei auf Friedhof am Wehl', 18 November 1985 and 'Friedhofstumult beschäftigt Landtag', 23 November 1985.
73. *Dewezet*, 'Bürgerinitiative zur Erhaltung der Hingerichteten-Gräber', 20 November 1975. On the proposal to level the site, see *Dewezet*, 'Die Hingerichteten-Gräber am Wehl sollen jetzt eingeebnet werden', 3 November 1975. On responses to this, see *Dewezet,* 'Die Hingerichteten-Gräber am Wehl sollen nicht einfach verschwinden', 12 December 1975 and readers' letters, 13 November 1975. A protest organised by the Bürgerinitiative against the levelling of the graves received 1500 signatures – see *Dewezet*, 'Um die Hingerichteten-Gräber am Wehl', 1 March 1976.
74. *Dewezet*, 'Bürgerinitiative zur Erhaltung der Hingerichteten-Gräber', 20 November 1975. During the 1970s, the Volksbund Deutsche Kriegsgräberfürsorge also held a series of youth camps in Hameln, encouraging young volunteers to respect and maintain war graves. On at least one occasion, Plot CIII was included in these efforts too. See *Dewezet*, 'Volkstrauertag Gedenkfeier nur für die "Offiziellen"?', 12 November 1977 and Stadtarchiv Hameln, Best. 67 Acc. 1995/27 Nr. 231.
75. Bernhard Gelderblom, 'Das Zuchthaus Hameln in der Nachkriegszeit: Der Umgang mit den Gräbern der Hingerichteten in Hameln. Die Jahre 1975 bis 1985', http://www.gelderblom-hameln.de/zuchthaus/nachkriegszeit/1019751985.html (accessed 19 July 2013).
76. See *Dewezet*, 'Antrag an den Stadtrat: SPD will Hingerichtetengräber einebnen', 27 November 1985; 'Die altern Gräber bergen Hinrichtungs-Schicksale',

4 December 1985; 'Emotionen belasteten Debatte um Hingerichtetengräber', 13 December 1985; 'Ratsbeschluß ein Skandal?', 17 December 1985; 'Nach TV-Besuch im Rat: Wehl weiter Nazi-Kultert?', 1 March 1986; 'Stadtverwaltung zog Schlußstrich unter Friedhofs-Affäre. Hingerichtetengräber eingeebnet', 6 March 1986. Given the unfavourable publicity that the FAP demonstration created for Hameln, it could be argued that the subsequent actions of the town council were motivated more by public relations concerns than a genuine engagement with the crimes of the Third Reich.

77. On these events, see, for example: Geoffrey Hartman (ed.), *Bitburg in Moral and Political Perspective* (Bloomington, 1986); Geoff Eley, 'Nazism, Politics and the Image of the Past: Thoughts on the West German *Historikerstreit*, 1986–1987', *Past and Present* 121 (1988), 171–208; Richard Evans, *In Hitler's Shadow: West German Historians and the Attempt to Escape from the Nazi Past* (London, 1989).
78. Author's observations, July 2013.
79. FindAGrave.com, 'Elisabeth Volkenrath', http://www.findagrave.com/cgi-bin/fg.cgi?page=gr&GRid=67286709 (accessed 25 April 2013).
80. FindAGrave.com, 'Juana Bormann', http://www.findagrave.com/cgi-bin/fg.cgi?page=gr&GScid=2394121&GRid=67494633& (accessed 25 April 2013).

Bibliography

Manuscript primary sources

Bibliothèque de Limoges, Limoges, France

LIM B6145/21

British Library (BL), London, UK

Diary of James Ware	Add. MS 4784 ff. 245
Egmont papers	Add. MS 46982
Foreign Office records (FO)	FO233, 1048
India Office records (IOR)	G/12
	P/129, 132, 142, 144, 145, 146
	W4037

Edinburgh University Library, Edinburgh, UK

Minute Book of the Phrenological Society	Gen 608/2
Catalogue of the Phrenological Society	Gen 608/4

Forskningsarkivet Umeå Universitetsbibliotek (FOARK UmU), Umeå, Sweden

D57433 4/9

Kenya National Archives and Documentation Services (KNA), Nairobi, Kenya, 'Execution of Murderers', 1925, DC/LDW/2/21/18

National Archives of Ghana (GNA), Accra, Ghana

CSO 15/3

National Archives of Ireland (NAI), Dublin, Ireland

Calendar of Miscellaneous Letters and Papers prior to 1760	
Calendar of Presentments	
Rebellion papers	620/32/132

National Archives of Malawi (MNA), Zomba, Malawi

'Murder Trial — Rex v. Jim and Makoshonga', S1/2664/23
'Prison Rules 1919–29', S1/1328/19
Sir George Smith, 'The Empire at War: Nyasaland', S1/496/19

National Archives of Mauritius (NAM), Coromandel, Mauritius

JB140
RA1078, 1459, 1955, 2544
SB21

National Library of Ireland (NLI), Dublin, Ireland

Bolton Papers	MS 15928
Ormond papers	MS 2472

Nottinghamshire Archives, Nottingham, UK

Records of the Colonial Office	CO
Edge of Strelley Papers	DD/E/208/15–18

Oberösterreichisches Landesarchiv (OÖLA), Linz, Austria

Schachtel 49 Bd. 67 Nr. 72

Rhodes House Library (RHL), Oxford, UK

'Central Africa: Papers relating to the Execution of Mr Stokes in the Congo State', 730.17 s.1/1896.
Martin Mahony, 'Barsaloi Diaries', 21 June 1922, MSS.Afr.s.487
'Nigeria: Calabar Executions [Oron] 1923', British & Foreign Anti-Slavery and Aborigines Protection Society, MSS.Brit.Emp.s.22 G241.

Stadtarchiv Bautzen, Bautzen, Germany

U III.188

Stadtarchiv Hameln, Hameln, Germany

Bestattungsregister Friedhof 'am Wehl' v. 18.3.52–31.12.61

Sächsisches Hauptstaatsarchiv Dresden (SächsHStA), Dresden, Germany

Collegium medico-chirurgicum, Sanitätskorps, Loc. 2086
Ephoralarchiv Pirna, Nr. 5422
Geheimes Konsilium, Loc. 6555
Landesregierung, Loc. 30736, 31059

The National Archives (TNA), London, UK

Assize files	ASSI
Colonial Office papers	CO
Dominions Office papers	DO
Foreign Office papers	FO
Home Office papers	HO
King's Bench papers	KB
Prison Commission papers	PCOM
Sheriffs' Cravings	T 90/148–170, T 64/262

State papers domestic SP
War Office papers WO
William Pitt papers PRO 30/8–

West Sussex Record Office (WSRO), Chichester, UK

Goodwood MSS 155

Printed primary sources

Books and pamphlets

A Return of all Fees paid in One Year by the High Sheriff of Each County (London, 1830).

A Sermon Preached before his Grace John, Duke of Bedford … and the Members of the Association for Discountenancing Vice and Promoting the Knowledge of the Christian Religion in St Peter's Church on 9 April 1807 by the Bishop of Clonfert (Dublin, 1807).

Authentick Memoirs of the Wicked Life and Transactions of Elizabeth Jeffryes, Spinster… (London, 1752).

Blackstone, William, *The Commentaries of Sir William Blackstone, on the Laws and Constitution of England* (London, 1796).

Bridle, William, *A Narrative of the Rise and Progress of the Improvements Effected in His Majesty's Gaol at Ilchester…* (Bath, 1822).

Browne, George Joseph, *A Report of the Proceedings of the Whole Proceedings … on the Trial of Robert Keon, Gent., for the Murder of George Nugent Reynolds* (Dublin, 1788).

Beccaria, Cesare, *An Essay on Crimes and Punishment* (Dublin, 1777).

Bergenheim, Åsa, and Liliequist, Jonas, '"Visa aktning för din far och din mor": ett historiskt perspektiv på vuxna barns våld mot sina föräldrar', *Nordisk Tidsskrift for Kriminalvidenskab* 2 (2010), 179–90.

Bond, Thomas, *Hints tending to Increase the Wealth and Promote the Peace and Welfare of the Irish Nation* (Dublin, 1803).

Bowdich, T. E., *Mission from the Cape Coast to Ashantee with a Statistical Account of that Kingdom and Geographical Notices of Other Parts of the Interior of Africa* (London, 1819).

Bruneau, Antoine, *Observations et Maximes sur les Matières Criminelles* (Paris, 1715).

Carr, John, *The Stranger in Ireland* (London, 1806).

Chevers, N., *A Manual of Medical Jurisprudence for India, Including the Outline of a History of Crime against the Person in India* (Calcutta, 1856).

Constitutio Criminalis Theresiana. Peinliche Gerichtsordnung. Vollständiger Nachdruck der Trattnerschen Erstausgabe (Graz, 1993 [Wien, 1769]).

de Beaumont, G., and de Tocqueville, A., *On the Penitentiary System in the United States, and its Application in France; with an Appendix on Penal Colonies, and also, Statistical Notes* (translated by F. Lieber, Philadelphia, 1833).

de Castres, Antoine Sabatier, and de Verteuil, Joseph Donzé, *Derniers sentiments des plus illustres personnages condamnés à mort, ou Recueil des lettres qu'ils ont écrites dans les prisons, des discours qu'ils ont prononcés sur l'échafaud; avec un précis historique de leur vie, de leurs procédures et des circonstances les plus intéressantes de leur mort* (Paris, 1775).

de Ferrière, Claude-Joseph, *Dictionnaire de Droit et de Pratique* (3rd edn, Paris, 1749).
Der sträfliche Selbstmord, oder die unmenschliche Mordthat von Johann S. verübet (Wien, 1781).
de Warville, Jacques Pierre Brissot, *Théories des lois Criminelles* (Berlin, 1781).
Everyman his own Lawyer, or a Summary of the Laws now in Force in Ireland (Dublin, 1755).
Fielding, Henry, *An Enquiry into the Causes of the Late Increase of Robbers* (1751), ed. Malvin R. Zirker (Middletown, 1988).
Genuine Copies of all the Letters … relative to the Execution of Doyle and Valine (London, 1770).
'Gentleman at Chichester', *Smuggling and Smugglers in Sussex: A Genuine History of the Unparalleled Murders of Mr William Galley and Daniel Chater* (Brighton, 1749).
German Colonial Office, *The Treatment of Native and other Populations in the Colonial Possessions of Germany and England* (Berlin, 1919).
God's Revenge against Murder; or, the Genuine History of the Life, Trial, and last Dying Words of … John Plackett (London, 1762).
Gother, John, *Instructions and Devotions for the Afflicted and Sick with some Help for Prisoners, such especially as are to be tried for Life* (London, 1697).
Hanway, Jonas, *The Defects of Police the Cause of Immorality … in Twenty Nine Letters to a Member of Parliament* (London, 1775).
Hunter, W. W., *The Indian Mussalmans: Are They Bound in Conscience to Rebel against the Queen?* (London, 1871).
Hutchinson, J., *Observations on the General and Medical Management of Indian Jails; And on the Treatment of Some of the Principal Diseases which Infest Them* (Calcutta, 1845).
Hutton, William, *An History of Birmingham with Considerable Additions...* (Birmingham, 1783).
Jousse, Daniel, *Traité de la Justice Criminelle de France* (Paris, 1771).
Kirke, H., *Twenty-Five Years in British Guiana* (London, 1898).
Kristofers landslag (1608): *Swerikes rijkes lands-lag, som af rijksens råd blef öfwersedd och förbättrat...*, ed. Petter Abrahamsson (Stockholm, 1726).
Lacombe, François, *Observations sur Londres et ses Environs* (Leyden, 1777).
Leifchild, J., *Remarkable Facts Illustrative and Confirmatory of Different Portions of Holy Scripture* (London, 1867).
Mandeville, B., *An Enquiry into the Causes of the Frequent Executions at Tyburn* (London, 1725).
Milner, John, *An Inquiry into Certain Vulgar Opinions concerning the Catholic Inhabitants of Ireland* (London, 1808).
Nougaret, Pierre-Jean-Baptiste, *Londres, la cour et les provinces d'Angleterre, d'Écosse et d'Irlande, ou Esprit, mœurs, coutumes, habitudes privées des habitans de la Grande-Bretagne* (Paris, 1816).
Report of the Committee on Prison Discipline, 8 January 1838 (Calcutta, 1838).
Return of the Exchequer Seal Office of the amount of Monies demanded by … the High Sheriff of every County in England... (1830).
Returns from the Sheriffs of England and Wales of Fees paid by them and the Manner in which they are Appropriated (London, 1816).
Richer, François, *Traité de la Mort Civile* (Paris, 1755).
Ricketts, H. I., *Narrative of the Ashantee War, With a View of the Present State of the Colony of Sierra Leone* (London, 1831).

Slade, John, *Notices on the British Trade to the Port of Canton* (London, 1830).
Staunton, George Thomas, *Miscellaneous Notices Relating to China and our Commercial Intercourse with that Country* (2nd edn, London, 1850).
——, *Ta Tsing Leu Lee; Being the Fundamental Laws, and a Selection from the Supplementary Statutes, of the Penal Code of China* (London, 1810).
Swettenham, F., *The Real Malay: Pen Pictures* (London, 1900).
The Dying Speech and Confession of Cashman the Sailor who was Executed … for Rioting (York, 1817).
The Last Dying Words, Speech, Confession and Behaviour of John Chennel and William Chalcraft (Bristol, 1818).
The Last Speech and Dying Words of Charles Calaher, alias Collmore who was Tried on the 17th February 1719 (Dublin, 1719).
The Last Speech, Confession and Dying Words of Moses Nowland … on 6th of July 1706 (Dublin, 1726).
The Last Speeches and Dying Words of Tully Slevin, John Dempsey and Patrick Murphy… the 3rd of May 1727 (Dublin, 1727).
The Last Speeches of Patrick Carragher, Nephew to the Great Collmore … 21 February 1719 (Dublin, 1719).
The Malefactor's Register; or, the Newgate and Tyburn Calendar (London, 1779).
The New Annual Register or General Repository of History for 1785 (London, 1786).
The Ordinary of Newgate; His Account … Of the Malefactors Executed on 5 March 1733; *and His Account … Of the Dying Words of Patrick McCarty … on 25 October 1760*.
The Ordinary of Newgate's Account of the Behaviour, Confession, and Dying Words of the Nine Malefactors Who were executed at Tyburn On Wednesday the 26th of April 1749.
The Ordinary's Account of the Behaviour, Confession and Dying Words of … John Irvine (London, 1761).
The True Account of the Behaviour, Confession, and Dying Words of James Hall … for the Barbarous Murder of his Master, John Penny, Esq. (Dublin, 1741).
Tryal and examination of Nathaniel Gunning … (Dublin, [1704]).
Tuckey, F. H., *The County and City of Cork Remembrancer* (Cork, 1837).
Union of South Africa, *Report on the Natives of South-West Africa and their Treatment by Germany: Prepared in the Administrator's Office, Windhuk, South-West Africa, January 1918* (London, 1918).

Diaries and correspondence

de Muralt, Louis Béat, *Lettres sur les Anglais et les Français* (1725), ed. Eugène Ritter, (Paris, 1897).
Elias, Arch, (ed.), *Memoirs of Laetitia Pilkington* (London, 1997).
Hardy, Siméon Prosper, *Mes Loisirs, ou Journal d'événemens tels qu'ils parviennent à ma connoissance (1753–1789)*, ed. Pascal Bastien, Sabine Juratic and Daniel Roche (Paris, 2011).
O'Donoghue, D. J., (ed.), *The Life of William Carleton, being his Autobiography and Letters* (Dublin, 1894).
Saro-Wiwa, Ken, *A Month and a Day: A Detention Diary* (New York, 1995).
Selected Correspondence of Letters issued from and received in the Office of the Commissioner, Tenasserim Division for the years 1825–26 and 1842–43 (Rangoon, 1916).

Newspapers and periodicals

Aberdeen Journal
Annual Report of the Protector of Aborigines
Asiatic Journal and Monthly Register
Bath and Bristol Magazine
Bath Chronicle
Bengal Hurkaru and India Gazette
Bild Zeitung
Bury Post
Caledonian Mercury
Chester Chronicle
Clevedon Mercury
Cork Advertiser
Daily Courant
Daily Post
Der Fortschritt
Der Spiegel
Dewezet
Diary or Woodfall's Register
Dublin Chronicle
Dublin Courant
Dublin Evening Post
Dublin Gazette
Dublin Intelligence
Dublin Mercury
Dublin Newsletter
Dublin Weekly Journal
Eastern Daily Mail and Straits Morning Advertiser
English Chronicle
Ennis Chronicle
Faulkner's Dublin Journal
Felix Farley's Bristol Journal
Finn's Leinster Journal
Freeman's Journal
General Advertiser
General Evening Post
Gloucester Journal
Hannoversche Allgemeine Zeitung
Hibernian Journal
Hoey's Publick Journal
Illustrierte Post
Leeds Intelligencer
LIFE Magazine
Lloyds Evening Post
London Daily Advertiser
London Evening Post
London Morning Penny Post
Madras Athenaeum

Middlesex Journal or Universal Evening Post
Morning Chronicle
Morning Post
Newcastle Courant
Old England
Oxford Journal
Penang Gazette
Penny London Post or the Morning Advertiser
Phrenological Journal and Miscellany
Public Advertiser
Public Gazetteer
Pue's Occurrences
Quarterly Report of the Protector of Natives
Read's Weekly Journal
Salisbury Journal
Saunders Newsletter
South Australian Register
St James' Chronicle
Sussex Advertiser
The Bombay Courier
The Boston Globe
The Calcutta Review
The Canton Register
The Chinese Repository
The Courier [Hobart]
The Covent-Garden Journal
The Englishman
The North American Review
The Singapore Free Press and Mercantile Advertiser
The Star
The Straits Times
The Sydney Morning Herald
The Times
The Times of India
Universal Advertiser
Universal Spectator and Weekly Journal
Volunteer Evening Post
Volunteer Journal (Cork)
Walkers Hibernian Magazine
Wanganui Herald
Weekly Miscellany
Whitehall Evening Post or London Intelligencer

Pictorial images

A View of the Procession of John Swan and Elizabeth Jefferies Going to the Place of Execution (London, 1752).

A New Topographical Map of the Country in the Vicinity of London describing all the New Improvements (London, 1810), London Metropolitan Archives, SC/GL/FLM/016/1815/K1281627.

Budgen, Richard, *Map of West Sussex* (1724), West Sussex Record Office, PM/608.
Yeakell, Thomas, and Gardner, William, *Sussex Great Survey Map* (1778), West Sussex Record Office, PM/48.
Zaki, A. H., *The Modern Civilization of Europe* (1908–14).

Statutes and parliamentary papers

5 and 6 George III, Ch. 8.
13 and 14 George III, Ch. 45.
15 and 16 George III, Ch. 21.
30 George III, Ch. 48 (GB).
An Act for Preventing the Horrid Crime of Murder, 25 George II, Ch. 37 (GB).
An Act for the Better Suppressing Tories, Robbers and Rapparees; and for Preventing Robberies, Burglaries and other Heinous Crimes, 7 William III, Ch. 21
An Act for the More Effectual Proceedings against Persons Standing Mute on their Arraignment for Murder, Felony or Piracy, 13 and 14 George III, Ch. 16.
British Parliamentary Papers (*PP*):
1826–7 (551), 'Trinidad. Report of His Majesty's commissioners of Legal Inquiry on the Colony of Trinidad, Appendix A'.
1828 (577), 'Criminal and Civil Justice in the West Indies and South America. (Second series.) Second Report of the Commissioners of Enquiry into the Administration of Criminal and Civil Justice in the West Indies and South American Colonies. United colony of Demerara and Essequebo, and Colony of Berbice'.
1829 (334), 'Criminal and Civil Justice in the West Indies and South America. Second series.
Third Report of the Commissioners of Inquiry into the Administration of Criminal and Civil Justice in the West Indies and South American Colonies. Honduras and the Bahama Islands'.
1830–1 (334), 'Gaols, West Indies. Copies of Correspondence relative to the State of the Gaols in the West Indies and the British Colonies in South America'.
1837 (518), 'Report from the Select Committee on Transportation; together with the Minutes of Evidence, Appendix, and Index'.
1844 (627), 'Aborigines (Australian Colonies). Return to an Address of the Honourable the House of Commons, dated 5 August 1844; for, Copies or Extracts from the Dispatches of the Governors of the Australian Colonies, with the Reports of the Protectors of Aborigines, and any other Correspondence to Illustrate the Condition of the Aboriginal Population of the said Colonies, from the Date of the Last Papers laid before Parliament on the Subject'.
1850 (69) (738), 'Capital Punishment (Colonies). Return showing how far Crimes, for which Capital Punishments have been abolished in this Country, are still Capitally Punishable in the Colonies and Dependencies of Great Britain'.
1851 (11), 'Capital Punishment (Colonies). Further Return, showing how far Crimes, for which Capital Punishments have been abolished in this Country, are still Capitally Punishable in the Colonies and Dependencies of Great Britain'.
1856 (255), 'Capital Punishment (Colonies). Return showing how far Crimes for which Capital Punishment has been abolished in England are still Capitally Punishable in the Colonies and Dependencies of Great Britain'.
1866 [3590], 'Report of the Capital Punishment Commission; together with the Minutes of Evidence and Appendix'.

1866 [3683], 'Jamaica. Report of the Jamaica Royal Commission, 1866. Part I. Report'.
1867–8 [3961] [3961–I], 'Prison Discipline in the Colonies. Digest and Summary of Information Respecting Prison in the Colonies, supplied by the Governors of Her Majesty's Colonial Possessions, in answer to Mr Secretary Cardwell's Circular Despatches of the 16 and 17 January 1865, Appendix K: Report of the Procureur Général of Mauritius on Crime (1865)'.
1876 [c.1517], 'Further Papers relating to the Improvement of Prison Discipline in the Colonies'.

Secondary sources: books

Agamben, Giorgio, *Homo Sacer: Sovereign Power and Bare Life* (translated by Daniel Heller-Roazen, Stanford, 1998).
Agetua, Nkem, *Operation Liberty: The story of Major General Joshua Nimyel Dogonyaro*, (Lagos, 1992).
Ainsworth, John, (ed.), *Inchiquin MSS* (Dublin, 1963).
Anderson, David M., *Histories of the Hanged: The Dirty War in Kenya and the End of Empire* (London, 2005).
Andrew, Donna T., *Aristocratic Vice: The Attack on Duelling, Suicide, Adultery and Gambling in Eighteenth-Century England* (Yale, 2013).
Applegate, Ceila, *A Nation of Provincials: The German Idea of Heimat* (Berkeley, 1992).
Ariès, Philippe, *The Hour of our Death* (Harmondsworth, 1983).
——, *Western Attitudes towards Death: From the Middle Ages to the Present* (Baltimore, 1974).
Arnold, D., *Colonizing the Body: State Medicine and Epidemic Disease in Nineteenth-Century India* (Berkeley, 1993).
Ball, F. E., *The Judges of Ireland, 1221–1921* (2 vols, London, 1926).
Ballantine, Tony, and Burton, Antoinette, (eds), *Bodies in Contact: Rethinking Colonial Encounters in World History* (Durham, NC, 2005).
Banner, Stuart, *The Death Penalty: An American History* (Harvard, 2002).
Bartlett, Thomas, *The Fall and Rise of the Irish Nation: The Catholic Question 1690–1830* (Dublin, 1992).
Baumann, Ursula, *Vom Recht auf den eigenen Tod: Die Geschichte des Suizids vom 18. bis zum 20. Jahrhundert* (Weimar, 2001).
Beattie, J. M., *Crime and the Courts in England 1660–1800* (Oxford, 1986).
Bentley, David, *Capital Punishment in Northern England, 1750–1900* (Sheffield, 2008).
Bergdolt, Klaus, *Das Gewissen der Medizin. Ärztliche Moral von der Antike bis heute* (München, 2004).
Bernault, Florence, (ed.), *Enfermement, Prison et Châtiments en Afrique: Du 19eme Siècle à Nos Jours* (Paris, 1999).
Black, Monica, *Death in Berlin: From Weimar to Divided Germany* (New York, 2010).
Bloxham, Donald, *Genocide on Trial: War Crimes Trials and the Formation of Holocaust History and Memory* (Oxford, 2001).
Bohannan, Paul, (ed.), *Justice and Judgement among the Tiv* (Princeton, 1960).
Boyle, Frederick, *Through Fanteeland to Coomassie: A Diary of the Ashantee Expedition* (London, 1874).

Brady, John, *Catholics and Catholicism in the Eighteenth-Century Press* (Maynooth, 1966).
Branche, Raphaëlle, *La Torture et l'Armée Pendant la Guerre d'Algerie, 1954–62* (Paris, 2002).
Brook, Timothy, Bourgon, Jérôme, and Blue, Gregory, *Death by a Thousand Cuts* (Harvard, 2008).
Brown, V., *The Reaper's Garden: Death and Power in the World of Atlantic Slavery* (Cambridge, MA, 2008).
Busia, K. A., *The Position of the Chief in Modern Political System of Ashanti: A Study of the Influence of Contemporary Social Changes on Ashanti Political Institutions* (London, 1951).
Capelli, Eugenio, *La Compagnia dei Neri: L'Archiconfraternita dei Battuti di Santa Maria della Croce al Tempio* (Firenze, 1927).
Césaire, Aimé, *Une Saison au Congo* (1966).
Chambers, Liam, *Rebellion in Kildare 1790–1803* (Dublin, 1998).
Chanock, Martin, *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia* (Cambridge, 1985).
Cohen, David William, and Odhiambo, E. S. Atieno, *Burying SM: The Politics of Knowledge and the Sociology of Power in Africa* (London, 1992).
Cohen, Esther, *The Crossroads of Justice: Law and Culture in Late Medieval France* (Leiden, 1993).
Cohen, Warren I., *America's Response to China* (Chichester, 2013).
Combs, Jerald A., *The History of American Foreign Policy* (London, 2008).
Confino, Alon, *Germany as a Culture of Remembrance: Promises and Limits of Writing History* (Chapel Hill, 2006).
——, Betts, Paul, and Schumann, Dirk, (eds), *Between Mass Death and Individual Loss: The Place of the Dead in Twentieth-Century Germany* (New York, 2008).
Connolly, S. J., *Priests and People in Pre-Famine Ireland* (Dublin, 1982).
——, *Religion, Law and Power: The Making of Protestant Ireland 1660–1760* (Oxford, 1992).
Cooper, Frederick, and Stoler, Ann Laura, (eds), *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley, 1997).
Corish, Patrick, *The Irish Catholic Experience: A Historical Survey* (Dublin, 1985).
Crais, Clifton, and Scully, Pamela, *Sara Baartman and the Hottentot Venus: A Ghost Story and a Biography* (Princeton, 2009).
Cramer, John, *Belsen Trial 1945: Der Lüneberger Prozess gegen Wachpersonal der Konzentrationslager Auschwitz und Bergen-Belsen* (Göttingen, 2011).
Craton, M., *Testing the Chains: Resistance to Slavery in the British West Indies* (Ithica, NY, 1982).
Curtin, Nancy, *The United Irishmen: Popular Politics in Ulster and Dublin, 1791–98* (Oxford, 1994).
da Costa, E. V., *Crowns of Glory, Tears of Blood: the Demerara Slave Rebellion of 1823* (New York, 1997).
Darwin, J., *The Empire Project: the Rise and Fall of the British World System* (Cambridge, 2009).
Davis, Natalie Zemon, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford, 1987).
de Witte, Ludo, *The Assassination of Lumumba* (translated by Ann Wright and Renée Fenby, London, 2002).

di Bella, Maria Pia, *La Pura Verità: Discarichi di Coscienza Intesi Dai 'Bianchi' (Palermo 1541–1820)* (Palermo, 1999).
Dooley, Terry, *The Murders at Wildgoose Lodge: Agrarian Crime and Punishment in Pre-Famine Ireland* (Dublin, 2008).
Douglas, Lawrence, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (New Haven, 2001).
Duerr, Hans Peter, *Der Mythos vom Zivilisationsprozess* (Frankfurt, 1988).
Duindam, Jeroen, *Myth of Power: Norbert Elias and the Early Modern European Court* (Amsterdam, 1995).
Durston, Gregory, *Crime and Justice in Early Modern England: 1500–1750* (Chichester, 2004).
Eames, James Bromley, *The English in China* (London, 1974).
Elias, Norbert, *The Civilizing Process: The History of Manners and State Formation and Civilization* (translated by Edmund Jephcott, Oxford, 1994).
Elias, T. O., *The Nature of African Customary Law* (Manchester, 1956).
Ellis, Stephen, *The Mask of Anarchy: The Destruction of Liberia and the Religious Dimensions of an African Civil War* (London, 1999).
Elkins, Caroline, *Britain's Gulag: The Brutal End of Empire in Kenya* (London, 2005).
Evans, Richard J., *In Hitler's Shadow: West German Historians and the Attempt to Escape from the Nazi Past* (London, 1989).
——, *Rituals of Retribution: Capital Punishment in Germany 1600–1987* (Oxford, 1996).
Ewald, W. B., (ed.), *The Newsmen of Queen Anne* (Oxford, 1956).
Fairbank, John King, *China Watch* (Harvard, 1971).
Fan, Fa-ti, *British Naturalists in Qing China* (Harvard, 2009).
Fay, Peter, *The Opium War 1840–1842* (Chapel Hill, 1997).
Flynn, Matthew J., *China Contested* (New York, 2009).
Forth, Christopher E., and Crozier, Ivan, (eds), *Body Parts: Critical Explorations in Corporeality* (Lexington, 2005).
Foucault, Michel, *Discipline and Punish: The Birth of the Prison* (London, 1977).
——, *The History of Sexuality* (3 vols, London, 1979).
Friedland, Paul, *Seeing Justice Done: The Age of Spectacular Capital Punishment in France* (Oxford, 2012).
Fritsch, G., *Ueber Bau und Bedeutung der Area Centralis des Menschen* (Reimer, 1908).
Fu, Zhengyuan, *China's Legalists: The Earliest Totalitarians and Their Art of Ruling* (London, 1996).
Gahan, Daniel, *The People's Rising: Wexford 1798* (Dublin, 1995).
Gao, James Z., *Historical Dictionary of Modern China (1800–1949)* (Lanham, 2009).
Garland, David, *Punishment and Modern Society: A Study in Social Theory* (Oxford, 1990).
Garnham, Neal, *The Courts, Crime and the Criminal Law in Ireland, 1692–1760* (Dublin, 1996).
Gatrell, V. A. C., *The Hanging Tree: Execution and the English People 1770–1868* (Oxford, 1994).
Gibson, C. B., *History of the County of the City of Cork* (2 vols, Cork, 1861).
Gillet, E., (ed.), *Elizabeth Ham by Herself, 1783–1820* (London, 1945).
Ginsburgs, George, *Moscow's Road to Nuremberg: The Soviet Background to the Trial* (The Hague, 1996).
Gittings, Clare, *Death, Burial and the Individual in Early Modern England* (London, 1984).

Glassman, Jonathon, *Feasts and Riot: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888* (London, 1995).
Gordon, Daniel, *Citizens without Sovereignty: Equality and Sociability in French Thought, 1670–1789* (Princeton, 1994).
Greenberg, Michael, *British Trade and the Opening of China, 1800–42* (Cambridge, 1969).
Greene, Sandra E., *Sacred Sites and the Colonial Encounter: a History of Meaning and Memory in Ghana* (Bloomington, 2002).
Griffiths, C. J., *A Narrative of the Siege of Delhi with an Account of the Mutiny at Ferozepore in 1857* (London, 1910).
Guernsey, R. S., *Suicide: History of the Penal Laws relating to it in their Legal, Social, Moral and Religious Aspects in Ancient and Modern Times* (New York, 1875).
Guha, R., *Elementary Aspects of Peasant Insurgency in Colonial India* (New Delhi, 1983).
Hall, C., *Civilising Subjects: Metropole and Colony in the English Imagination, 1830–1867* (London, 2002).
Hallam, Elizabeth, Hockey, Jenny, and Howarth, Glennys, *Beyond the Body: Death and Social Identity* (London, 1999).
Hanawalt, Barbara A., *Crime and Conflict in English Communities* (London, 1979).
Hannusch, Heidrun, *Todesstrafe für die Selbstmörderin: Ein Historischer Kriminalfall* (Berlin, 2011).
Hao, Yufan, and Wang, Jianwei, (eds), *Macao and US-China Relations* (Plymouth, 2010).
Harding, Vanessa, *The Dead and the Living in Paris and London, 1500–1670* (Cambridge, 2002).
Harris, Whitney, *Tyranny on Trial* (1954).
Hartman, Geoffrey, (ed.), *Bitburg in Moral and Political Perspective* (Bloomington, 1986).
Hartshorne, Albert, *Hanging in Chains* (London, 1891).
Hemmingway, J., *History of the City of Chester* (Chester, 1831).
Henry, Brian, *The Dublin Hanged: Crime, Law Enforcement and Punishment in Late Eighteenth-Century Dublin* (Dublin, 1994).
Heuman, G., *'The Killing Time': The Morant Bay Rebellion in Jamaica* (London, 1994).
Hoebel, E. A., *The Law of Primitive Man: A Study in Comparative Legal Dynamics* (Cambridge, 1954).
Hood, Roger, *The Death Penalty: A Worldwide Perspective* (3rd edn, Oxford, 2002).
Houston, R. A., *Punishing the Dead? Suicide, Lordship, and Community in Britain, 1500–1830* (Oxford, 2010).
Hsin-pao, Chang, *Commissioner Lin and the Opium War* (Harvard, 1964).
Hsü, Immanuel Chung-yueh, *The Rise of Modern China* (Oxford, 2000).
Huang, Philip, *Civil Justice in China: Representation and Practice* (Stanford, 1998).
James, Trevor, *Prisoners of War at Dartmoor: American and French Soldiers and Sailors in an English Prison during the Napoleonic Wars and the War of 1812* (Jefferson, NC, 2013).
Jindra, Michael, and Noret, Joel, (eds), *Funerals in Africa: Explorations of a Social Phenomenon* (London, 2011).
Johnson, Eric, Salvatore, Ricardo, and Spierenburg, Pieter, (eds), *Murder and Violence in Modern Latin America* (Chichester, 2013).
Jones, William C., *The Great Qing Code* (Oxford, 1994).

Jupp, Peter C., and Gittings, Clare, (eds), *Death in England: An Illustrated History* (Manchester, 1999).
Kalof, Linda, and Bynum, William, (eds), *A Cultural History of the Human Body* (6 vols, London, 2012).
Kästner, Alexander, *Tödliche Geschichte(n). Selbsttötungen in Kursachsen im Spannungsfeld von Normen und Praktiken (1547–1815)* (Konstanz, 2012).
Keeton, G. W., *The Development of Extraterritoriality in China* (London, 1969).
Kelly, James, *Gallows Speeches from Eighteenth-Century Ireland* (Dublin, 2001).
——, *Poynings' Law and the Making of Law in Ireland, 1660–1800* (Dublin, 2007).
——, '*That Damn'd thing called Honour': Duelling in Ireland 1570–1860* (Cork, 1995).
——, and Lyons, Mary Ann, (eds), *The Proclamations of Ireland, 1660–1820* (5 vols, Dublin, 2014).
Kenyatta, Jomo, *Facing Mount Kenya: the Tribal Life of the Kikuyu* (London, 1957 [c. 1938]).
King, Peter, *Crime and Law in England, 1750–1840: Remaking Justice from the Margins* (Cambridge, 2006).
——, *Crime, Justice and Discretion in England, 1740–1820* (Oxford, 2000).
Knipe, William, *Criminal Chronology of York Castle* (York, 1867).
Koshar, Rudy, *From Monuments to Traces: Artifacts of German Memory, 1870–1990* (Berkeley, 2000).
Krone, Peter, (ed.), *'Hingerichtetengräber' auf dem Friedhof Wehl, Hameln: Historische Dokumentation* (Hameln, 1987).
Kühnel, Florian, *Kranke Ehre? Adlige Selbsttötung im Übergang zur Moderne* (München, 2013).
Ladd, Brian, *The Ghosts of Berlin: Confronting German History in the Urban Landscape* (Chicago, 1997).
Lake, Peter, (with Michael Questier), *The Antichrist's Lewd Hat: Protestants, Papists and Players in Post-Reformation England* (Yale, 2002).
Langbein, John, *Prosecuting Crime in the Renaissance: England, Germany, France* (Harvard, 1974).
——, *Torture and the Law of Proof: Europe and England in the Ancien Regime* (Chicago, 1977).
Larson, P. M., *Ocean of Letters: Languages and Creolization in an Indian Ocean Diaspora* (Cambridge, 2009).
Lind, Vera, *Selbstmord in der Frühen Neuzeit. Diskurs, Lebenswelt und kultureller Wandel am Beispiel der Herzogtümer Schleswig und Holstein* (Göttingen, 1999).
Linebaugh, Peter, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (London, 1991).
MacDonagh, Oliver, *The Inspector General: Sir Jeremiah Fitzpatrick and the Politics of Social Reform 1783–1801* (London, 1981).
MacDonald, Helen, *Human Remains: Episodes in Human Dissection* (Melbourne, 2005).
Madden, Kyla, *Forkhill Protestants, Forkhill Catholics* (Liverpool, 2005).
Madden, R. R., *Revelations of Ireland in the Past Generation* (Dublin, 1848).
Mamdani, Mahmood, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton, 1996).
Mann, Kristin, and Roberts, Richard, (eds), *Law in Colonial Africa* (London, 1991).
Martschukat, Jürgen, *Inszeniertes Töten: Eine Geschichte der Todesstrafe vom 17. Bis zum 19. Jahrhundert* (Köln, 2000).

Masur, Louis, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776–1865* (Oxford, 1989).
Matera, Marc, Bastian, Misty, and Kent, Susan Kinglsey, *The Women's War of 1929: Gender and Violence in Colonial Nigeria* (London, 2011).
Mbeke-Ekanem, Tom, *Beyond the Execution: Understanding Ethnic and Military Politics in Nigeria* (Lincoln, 2000).
McCaskie, Tom C., *State and Society in Pre-Colonial Asante* (Cambridge, 1995).
McClintock, Anne, *Imperial Leather: Race, Gender and Sexuality in the Colonial Encounter* (New York, 1995).
McCooey, C., *Smuggling on the South Coast* (Stroud, 2012).
McGrath, A. E., *Chrisitain Theology: An Introduction* (Oxford, 1994).
McKenzie, Andrea, *Tyburn's Martyrs: Execution in England, 1675–1775* (London, 2007).
McLynn, F., *Crime and Punishment in Eighteenth-Century England* (Oxford, 1989).
McManners, John, *Death and the Enlightenment: Changing Attitudes to Death among Christians and Unbelievers in Eighteenth-Century France* (Oxford, 1981).
Meek, C. K., *Law and Authority in a Nigerian Tribe* (London, 1937).
Mercier, Louis Sébastien, *Neighbours and Rivals: Paris and London (c. 1780)* (translated and annotated by Jonathan Conlin and Laurent Turcot, Oxford, 2015).
Meyerowitz, E. L. R., *The Sacred State of the Akan* (London, 1951).
Miller, David, *Peep O'Day Boys and Defenders: Selected Documents on the Disturbances in County Armagh, 1784–1796* (Belfast, 1990).
Milner, Alan, (ed.), *African Penal Systems* (London, 1969).
——, *The Nigerian Penal System* (London, 1972).
Moeller, Robert G., *War Stories: The Search for a Usable Past in the Federal Republic of Germany* (Berkeley, 2003).
Morgan, Gwenda, and Rushton, Peter, *Rogues, Thieves and the Rule of Law: The Problem of Law Enforcement in North East England, 1718–1800* (London, 1998).
Morley, Vincent, *Irish Opinion and the American Revolution 1760–83* (Cambridge, 2002).
Morse, H. B., *Chronicles of the East India Company* (5 vols, Oxford, 1929).
Muchembled, Robert, *A History of Violence, from the End of the Middle Ages to the Present* (Cambridge, 2011).
Murray, Colin, and Sanders, Peter, *Medicine Murder in Colonial Lesotho: An Anatomy of a Moral Crisis* (Edinburgh, 2006).
Neave, Airey, *Nuremberg: A Personal Record of the Trial of the Major Nazi War Criminals in 1945–6* (London, 1978).
Niven, Bill, (ed.), *Germans as Victims: Remembering the Past in Contemporary Germany* (Basingstoke, 2006).
——, and Paver, Chloe, (eds), *Memorialization in Germany since 1945* (Basingstoke, 2009).
Nowosadtko, Jutta, *Scharfrichter und Abdecker: Der Alltag zweier 'unehrlicher Berufe' in der Frühen Neuzeit* (Paderborn, 1994).
Nichols, F. F., *Honest Thieves* (Birkenhead, 1973).
Okome, Onookome, (ed.), *Before I am Hanged: Ken Saro-Wiwa, Literature, Politics and Dissent* (Trenton, N.J., 1999).
Overath, Petra, *Tod und Gnade: Die Todesstrafe in Bayern im 19. Jahrhundert* (Köln, 2000).
Pearce, Justin, *An Outbreak of Peace: Angola's Situation of Confusion* (Claremont, 2005).

Pechaček, Petra, *Scharfrichter und Wasenmeister in der Landgrafschaft Hessen-Kassel in der Frühen Neuzeit* (Frankfurt am Main, 2003).
Pendas, Devin O., *The Frankfurt Auschwitz Trial 1963–1965: Genocide, History and the Limits of the Law* (Cambridge, MA, 2006).
Persico, Joseph E., *Nuremberg: Infamy on Trial* (London, 1995).
Pfannkuchen, Karsten, *Selbstmord und Sanktionen. Eine rechtshistorische Betrachtung unter besonderer Berücksichtigung ostpreußischer Bestimmungen* (Berlin, 2008).
Phillips, Raymond, *Trial of Josef Kramer and Forty-Four Others (The Belsen Trial),* (London, 1949).
Pierce, Stephen, and Rao, Anupama, (eds), *Discipline and the Other Body: Correction, Corporeality and Colonialism* (Durham, NC, 2006).
Porter, Roy, *The Greatest Benefit to Mankind: A Medical History of Humanity from Antiquity to the Present* (London, 1999).
Pritchard, E. H., *The Crucial Years of Early Anglo-Chinese Relations, 1750–1800* (1936).
Prosperi, Adriano, *Tribunali della Coscienza: Inquisitio, Confessori, Missionari* (Torino, 1996).
Raithel, Thomas, *Die Strafanstalt Landsberg am Lech und der Spöttinger Friedhof, 1944–1958* (Oldenbourg, 2009).
Rathbone, Richard, *Murder and Politics in Colonial Ghana* (New Haven, 1993).
Rattray, R. S., *Ashanti Law and Constitution* (Oxford, 1929).
——, *Ashanti: Religion and Art* (London, 1927).
Rayner, J. L., and Cooke, G. T., *The Complete Newgate Calendar* (6 vols, London, 1926).
Reece, Bob, *The Origins of Irish Convict Transportation to New South Wales* (Basingstoke, 2001).
Richardson, Ruth, *Death, Dissection and the Destitute* (London, 1988).
Rogers, N., *Mayhem: Post-War Crime and Violence in Britain, 1748–1753* (New Haven, 2003).
Rosenfeld, Gavriel D., *Munich and Memory: Architecture, Monuments and the Legacy of the Third Reich* (Berkeley, 2000).
——, and Jaskot, Paul B., (eds), *Beyond Berlin: Twelve Cities Confront the Nazi Past* (Ann Arbor, 2008).
Rossabi, Morris, *A History of China* (Chichester, 2013).
Rowe, William T., *China's Last Empire* (Harvard, 2010).
Royer, Katherine, *The English Execution Narrative, 1200–1700* (London, 2014).
Rule, John, *Albion's People: English Society, 1714–1815* (Harlow, 1992).
Rusola, Teemu, *Legal Orientalism: China, the United States, and Modern Law* (Harvard, 2013).
Sachs, Albie, *Justice in South Africa* (Berkeley, 1973).
Sappol, Michael, *A Traffic of Dead Bodies: Anatomy and Embodied Social Identity in Nineteenth-Century America* (Princeton, 2002).
Sarat, Austin, and Boulanger, Christian, (eds), *The Cultural Lives of Capital Punishment: Comparative Perspectives* (Stanford, 2005).
Sawday, Jonathan, *The Body Emblazoned: Dissection and the Human Body in Renaissance Culture* (London, 1995).
Sharpe, J. A., *Crime in Early Modern England 1550–1750* (2nd edn, London, 1999).
——, *Judicial Punishment in England* (London, 1990).
Sharples, Caroline, *West Germans and the Nazi Legacy* (New York, 2012).
Shultz, Suzanne M., *Body Snatching: The Robbing of Graves for the Education of Physicians in Early Nineteenth Century America* (Jefferson, NC, 2005).

Siemens, Daniel, *The Making of a Nazi Hero: The Murder and Myth of Horst Wessel* (London, 2013).
Silvester, Jeremy, and Gewald, Jan-Bart, *Words Cannot be Found: An Annotated Reprint of the 1918 Blue Book* (Leiden, 2003).
Simms, J. G., *Jacobite Ireland, 1686–91* (London, 1969).
Singha, R., *A Despotism of Law: Crime and Justice in Early Colonial India* (New Delhi, 1998).
Smith, Bradley F., *Reaching Judgement at Nuremberg* (London, 1977).
Smith, Philip Chadwick Foster, *The Empress of China* (Philadelphia, 1984).
Smyth, Jim, *The Men of No Property: Irish Radicals and Popular Politics in the Late Eighteenth Century* (London, 1992).
Soete, Gerard, *De Arena. Het Verhaal van de moord op Lumumba* (Bruges, 1978).
Spector, Shmuel, and Wigoder, Geoffrey, (eds), *The Encyclopaedia of Jewish Life Before and After the Holocaust* (New York, 2001).
Spierenburg, Pieter, *A History of Murder: Personal Violence in Europe from the Middle Ages to the Present* (Cambridge, 2008).
——, *The Spectacle of Suffering. Executions and the Evolution of Repression: From a Preindustrial Metropolis to the European Experience* (Cambridge, 1984).
——, *Violence and Punishment: Civilising the Body through Time* (Cambridge, 2013).
Stewart, A. T. Q., *The Summer Soldier: The 1798 Rebellion in Antrim and Down* (Belfast, 1998).
Stuart, Kathy, *Defiled Trades and Social Outcasts: Honor and Ritual Pollution in Early Modern Germany* (Cambridge, 1999).
Stukenbrock, Karin, *'Der zerstückte Cörper': Zur Sozialgeschichte der anatomischen Sektionen in der Frühen Neuzeit (1650–1800)* (Stuttgart, 2001).
Sugg, Richard, *Murder after Death: Literature and Anatomy in Early Modern England* (Ithaca, 2007).
Tait, James, *The Medieval English Borough: Studies on its Origins and Constitutional History* (Manchester, 1936).
Tanner, Harold Miles, *China: A History* (Indianapolis, 2009).
Tarlow, Sarah, *Ritual, Belief and the Dead in Early Modern Britain and Ireland* (Cambridge, 2011).
Taylor, Telford, *The Anatomy of the Nuremberg Trials: A Personal Memoir* (London, 1993).
Terpstra, Nicholas, (ed.), *The Art of Executing Well: Rituals of Execution in Renaissance Italy* (Kirksville, 2008).
The First Historical Archive, *Selective Archives on the First Opium War in Zhoushan* (1992).
Thénault, Sylvie, *Une drôle de Justice. Les Magistrats dans la Guerre d'Algérie* (Paris, 2001).
Turrell, Robert, *White Mercy: A Study of the Death Penalty in South Africa* (Westport, 2004).
Tusa, Ann, *The Nuremberg Trial* (London, 1983).
van Dülmen, Richard, *Theatre of Horror: Crime and Punishment in Early Modern Germany* (translated by Elisabeth Neu, Oxford, 1990).
van Dyke, Paul A., *Americans and Macao* (Hong Kong, 2012).
van Reybrouck, David, *Congo: Een Geschiedenis* (Amsterdam, 2010).
Vaughan, Megan, *Curing their Ills: Colonial Power and African Illness* (Stanford, 1991).
——, and Kalusa, Wilima T., *Death, Belief and Politics in Central African History* (Lusaka, 2013).

Wakeman, Frederic E., *The Fall of Imperial China* (New York, 1975).
Ward, A., *Our Bones are Scattered: the Cawnpore Massacres and the Indian Mutiny of 1857* (London, 2004).
Ward, Richard, *Print Culture, Crime and Justice in Eighteenth-Century London* (London, 2014).
Warner, Marina, *Phantasmagoria: Spirit Visions, Metaphors and Media into the Twenty-First Century* (Oxford, 2006).
Webb, Simon, *Execution: A History of Capital Punishment in Britain* (Stroud, 2011).
Wei, Betty Peh-T'I, *Ruan Yuan, 1764–1849* (Hong Kong, 2006).
Whyte, Nicola, *Inhabiting the Landscape: Place, Custom and Memory, 1500–1800* (Oxford, 2009).
Widdess, J. D. H., *A History of the Royal College of Physicians of Ireland 1654–1963* (Edinburgh, 1963).
Wilbertz, Gisela, *Scharfrichter und Abdecker im Hochstift Osnabrück: Untersuchungen zur Sozialgeschichte zweier 'unehrlicher' Berufe im nordwestdeutschen Raum vom 16. bis zum 19. Jahrhundert* (Osnabrück, 1979).
Wills, John E. (ed.), *China and Maritime Europe, 1500–1800* (Cambridge, 2011).
Wittman, Rebecca, *Beyond Justice: The Auschwitz Trial* (Cambridge, M.A., 2005).
Woodside, Alexander, *Lost Modernities: China, Vietnam, Korea, and the Hazard of World History* (Harvard, 2006).
Worthy, David, *A Quantock Tragedy: The Walford Murder of 1789* (Somerset, 1998).
Zaremska, Hanna, *Les Bannis au Moyen Âge* (Paris, 1996).
Zhang, Hong, *America Perceived* (London, 2002).
Zimmerman, James M., *China Law Deskbook* (Chicago, 2010).

Secondary sources: articles

'Abstract of Returns as to Trials, New South Wales, 1819–1824', in *Historical Records of Australia, Series I, Volume XI* (Sydney, 1917), pp. 478–9.
Adeyemi, A. A., 'Death Penalty: Criminological Perspectives – The Nigerian Solution', *Revue Internationale de Droit Penale* 58 (1987), 485–502.
Anderson, Clare, 'The Execution of Rughobursing: The Political Economy of Convict Transportation and Penal Labour in Early Colonial Mauritius', *Studies in History* 19 (2003), 185–97.
——, 'The Politics of Convict Space: Indian Penal Settlements and the Andamans', in A. Bashford and C. Strange (eds), *Isolation: Places and Practices of Exclusion* (London, 2003), pp. 40–55.
Anderson, David M., 'British Abuse and Torture in Kenya's Counter-Insurgency, 1952–60', *Small Wars & Insurgencies* 23 (2012), 700–19.
Aronson, Shlomo, 'Preparations for the Nuremberg Trial: The OSS, Charles Dwork and the Holocaust', *Holocaust and Genocide Studies* 12 (1998), 257–81.
Askew, Joseph, 'Re-Visiting New Territory: The Terranova Incident Re-Examined', *Asian Studies Review*, 28 (2004), 351–71.
Bank, Andrew, '"Of Native Skulls" and "Noble Caucasians": Phrenology in Colonial South Africa', *Journal of Southern African Studies* 22 (1996), 387–403.
Bartlett, Thomas, 'Defenders and Defenderism in 1795', *Irish Historical Studies* 24 (1984–5), 373–94.
Bastian, Misty L., 'Buried beneath Six Feet of Crude Oil: State Sponsored Death and the Absent Body of Ken Saro-Wiwa', in Craig W. McLuckie and Aubrey

McPhail (eds), *Ken Saro-Wiwa: Writer and Political Activist* (Boulder, CO, 1999), pp. 127–52.
Bastien, Pascal, 'Héros de la Grève: Les Derniers instants des Condamnés à Mort dans le Paris du XVIII[e] Siècle', *Histoire et Archives* 18 (2005), 103–18.
——, 'Private Crimes and Public Executions: Discourses on Guilt in the Arrêts Criminels of the Eighteenth-Century Parliament of Paris', in René Lévy and Amy Gilman Srebnick (eds), *Texts and Contexts: International Essays on the History of Crime and Culture* (New York, 2005), pp. 141–62.
Beach, David N., 'An Innocent Woman, Unjustly Accused: Charwe, Medium of the Nehanda Mhondoro Spirit, and the 1896–7 Central Shona Rising in Zimbabwe', *History in Africa* 25 (1998), 27–54.
Beckles, H. McD., 'The Slave-Drivers War: Bussa and the 1816 Barbados Slave Rebellion', *Boletín de Estudios Latinoamericanos y del Caribe* 39 (1985), 85–110.
Bernault, Florence, 'Body, Power and Sacrifice in Equatorial Africa', *Journal of African History* 47 (2006), 207–39.
——, 'De l'Afrique Ouverte à l'Afrique Fermée: Comprendre l'Histoire des Réclusions Continentales', in Florence Bernault (ed.), *Enfermement, Prison et Châtiments en Afrique: Du 19eme Siècle à Nos Jours* (Paris, 1999), pp. 15–66.
——, 'The Shadow of Rule: Colonial Power and Modern Punishment in Africa', in Frank Dikötter and Ian Brown (eds), *Cultures of Confinement: A History of the Prison in Africa, Asia and Latin America* (New York, 2007), pp. 55–94.
Bertrand, Régis, 'L'Exécution et L'Inhumation des Condamnés en Provence d'après les Archives des Compagnies de Pénitents', in B. Garnot (ed.), *Histoire et Criminalité de l'Antiquité au XXe Siècle: Nouvelles Approches* (Dijon, 1992), 75–84.
Biddis, Michael, 'The Nuremberg Trial: Two Exercises in Judgement', *Journal of Contemporary History* 16 (1981), 597–615.
Bloxham, Donald, 'British War Crimes Trial Policy in Germany, 1945–1957: Implementation and Collapse', *Journal of British Studies* 42 (2003), 91–118.
——, '"The Trial that Never Was": Why There Was No Second International Trial of Major War Criminals at Nuremberg', *History* 87 (2002), 41–60.
Bosman, Machiel, 'The Judicial Treatment of Suicide in Amsterdam', in Jeffrey R. Watt (ed.), *From Sin to Insanity. Suicide in Early Modern Europe* (Ithaca, 2004), pp. 9–24.
Bourgon, Jérôme, 'Chinese Executions: Visualizing their Differences with European *Supplices*', *European Journal of East Asian Studies* 2 (2003), 151–82.
Bradford, Helen, '"We Are Now the Men": Women's Beer Hall Protests in the Natal Countryside, 1929', in Belinda Bozzoli (ed.), *Class, Community and Conflict: South African Perspectives* (Johannesburg, 1987), pp. 292–323.
Brancaccio, Maria Teresa, Engstrom Eric J., and Lederer, David, 'The Politics of Suicide: Historical Perspectives on Suicidology before Durkheim. An Introduction', *Journal of Social History* 46 (2013), 1–13.
Buklijas, Tatjana, 'Cultures of Death and Politics of the Corpse Supply: Anatomy in Vienna, 1848–1914', *Bulletin of the History of Medicine* 82 (2008), 570–607.
——, '(Review Essay) Cultures of Dissection and Anatomies of Generation', *Annals of Science* 65 (2008), 439–44.
Burns, R. E., 'Ireland and British Military Preparations for War in America in 1775', *Cithara* 2 (1963), 42–61.
Burström, Mats, and Gelderblom, Bernhard, 'Dealing with Difficult Heritage: The Case of Bückeberg, Site of the Third Reich Harvest Festival', *Journal of Social Archaeology* 11 (2011), 266–82.

Castle, T., 'Constructing Death: Newspaper Reports of Executions in Colonial New South Wales, 1826–1837', *Journal of Australian Colonial History* 9 (2007), 51–68.

Cerutti, Simona, 'Microhistory: Social Relations versus Cultural Models? Some Reflections on Stereotypes and Historical Perspectives', in A. M. Castrén, M. Lonkila and M. Peltonen (eds), *Between Sociology and History: Essays on Microhistory, Collective Action and Nation-Building* (Helsinki, 2004), pp. 17–40.

Chartier, Roger, '"Copied onely by the Eare": Le Texte de Théâtre entre la Scène et la Page au XVII[e] Siècle', in Larry F. Norman, Philippe Desan and Richard Strier (eds), *Du Spectateur au Lecteur: Imprimer la Scène aux XVI[e] et XVII[e] Siècles* (Paris, 2002), pp. 31–53.

Chen, Li, 'Law, Empire, and Historiography of Modern Sino-Western Relations: A Case Study of the Lady Hughes Controversy in 1784', *Law & History Review*, 27 (2009), 1–53.

Chimango, L. J., 'Traditional Criminal Law in Malawi', *Society of Malawi Journal* 38 (1975), 25–39.

Cockburn, J. S., 'Punishment and Brutalisation in the English Enlightenment', *Law and History Review* 12 (1994), 155–79.

Cohen, Esther, 'Symbols of Culpability and the Universal Language of Justice: The Ritual of Public Executions in Late Medieval Europe', *History of European Ideas* 11 (1989), 407–16.

——, '"To Die a Criminal for the Public Good": The Execution Ritual in Late Medieval Paris', in Bernard S. Bachrach and David Nicholas (eds), *Law, Custom and the Social Fabric in Medieval Europe: Essays in Honor of Bruce Lyon* (Kalamazoo, 1990), pp. 285–304.

Coldham, Simon, 'Crime and Punishment in British Colonial Africa', *Recueils de la Société Jean Bodin* 58 (1991), 57–66.

Comaroff, Jean, and Comaroff, John L., 'Occult Economies and the Violence of Abstraction: Notes from the South African Postcolony', *American Ethnologist* 26 (1999), 279–303.

Connolly, S. J., 'Albion's Fatal Twigs: Justice and Law in the Eighteenth Century', in Rosalind Mitchison and Peter Roebuck (eds), *Economy and Society in Ireland and Scotland 1500–1939* (Edinburgh, 1988), pp. 117–39.

——, 'Law, Order and Popular Protest in Early Eighteenth-Century Ireland: The Case of the Houghers', in P. J. Corish (ed.), *Radicals, Rebels and Establishments* (Belfast, 1985), pp. 51–68.

Conquergood, Dwight, 'Lethal Theatre: Performance, Punishment and the Death Penalty', *Theatre Journal* 54 (2002), 339–67.

Coolen, Joris, 'Places of Justice and Awe: The Topography of Gibbets and Gallows in Medieval and Early Modern North-Western and Central Europe', *World Archaeology* 45 (2013), 762–79.

Deschrijver, Sonja, 'From Sin to Insanity? Suicide Trials in the Spanish Netherlands, Sixteenth and Seventeenth Centuries', *Sixteenth Century Journal* 42 (2011), 981–1002.

Desplanches, Pierre, 'Condamnés à Mort et Pénitents à Limoges et à Aix-en-Provence', *Ethnologia* 3–4 (1977), 59–67.

Devereaux, Simon, 'Imposing the Royal Pardon: Execution, Transportation, and Convict Resistance in London, 1789', *Law and History Review* 25 (2007), 101–38.

——, 'Recasting the Theatre of Execution: The Abolition of the Tyburn Ritual', *Past and Present* 202 (2009), 127–74.
——, 'The Abolition of the Burning of Women in England Reconsidered', *Crime, History and Societies* 9 (2005), 73–98.
Devine, T. M., 'Unrest and Stability in Rural Ireland and Scotland, 1760–1840', in Peter Roebuck and Rosalind Mitchison (eds), *Economy and Society in Scotland and Ireland, 1500–1939* (Edinburgh, [1988]), pp. 126–39.
Dieselhorst, Jürgen, 'Die Bestrafung der Selbstmörder im Territorium der Reichsstadt Nürnberg', *Mitteilungen des Vereins für Geschichte der Stadt Nürnberg* 44 (1953), 58–230.
Donnelly, J. S., 'The Whiteboy Movement, 1761–5', *Irish Historical Studies* 22 (1978–9), 20–55.
——, 'The Whiteboy Movement, 1785–88', *Studia Hibernica* 17 and 18 (1977–8), 120–202.
——, 'The Whiteboys of 1769–76', *Proceedings of the Royal Irish Academy* 83 (1983), 293–331.
Duffy, Michael, 'War, Revolution and the Crisis of the British Empire', in Mark Philip (ed.), *The French Revolution and British Popular Politics* (Cambridge, 1991), 118–45.
Edwards, R. Randle, 'Ching Legal Jurisdiction over Foreigners', in Jerome Alan Cohen, R. Randle Edwards and Ru-mei Chang Chen (eds), *Essays on China's Legal Tradition* (Princeton, 1980).
Eley, Geoff, 'Nazism, Politics and the Image of the Past: Thoughts on the West German *Historikerstreit*, 1986–1987', *Past and Present* 121 (1988), 171–208.
Epstein, J., 'Politics of Colonial Sensation: The Trial of Thomas Picton and the Cause of Louise Calderon', *American Historical Review* 112 (2007), 712–41.
Evans, R., '19 June 1822: Creating "An Object of Real Terror": The Tabling of the First Bigge Report', in M. Crotty and D. A. Roberts (eds), *Turning Points in Australian History* (Sydney, 2009).
Frank, Michael, 'Die fehlende Geduld Hiobs. Suizid und Gesellschaft in der Grafschaft Lippe (1600–1800)', in Gabriela Signori (ed.), *Trauer, Verzweiflung und Anfechtung. Selbstmord und Selbstmordversuche in mittelalterlichen und frühneuzeitlichen Gesellschaften* (Tübingen, 1994), pp. 152–88.
Friedland, Paul, 'Beyond Deterrence: Cadavers, Effigies, Animals and the Logic of Executions in Pre-Modern France', *Historical Reflections* 29 (2003), 295–317.
Garland, David, 'Modes of Capital Punishment: The Death Penalty in Historical Perspective', in David Garland, Michael Meranze and Randall McGowen (eds), *America's Death Penalty: Between Past and Present* (New York, 2011), pp. 30–71.
——, 'The Problem of the Body in Modern State Punishment', *Social Research: An International Quarterly* 78 (2011), 767–98.
Gelfand, Toby, 'The "Paris Manner" of Dissection: Student Anatomical Dissection in Early Eighteenth-Century Paris', *Bulletin of the History of Medicine* 46 (1972), 99–130.
Georg, Odile, 'Urbanism Colonial et Prison en Afrique: Quelques Elements de Reflexion à Propos de Conakry et Freetown, 1903–1960', in Florence Bernault (ed.), *Enfermement, Prison et Châtiments en Afrique: Du 19eme Siècle à Nos Jours* (Paris, 1999).
Gocking, Roger, 'A Chieftaincy Dispute and Ritual Murder in Elmina, Ghana, 1945–6', *Journal of African History* 41 (2000), 197–219.

Gregor, Neil, '"Is he still alive, or long since dead?": Loss, Absence and Remembrance in Nuremberg, 1945–1956', *German History* 21 (2003), 183–203.
Haberer, Erich, 'History and Justice: Paradigms of the Prosecution of Nazi Crimes', *Holocaust and Genocide* Studies 19 (2005), 487–519.
Hafner, Arnd Helmut, '"Circumstances" in the Chinese Legal Tradition: A New Perspective on the Autumn Assizes', in Lao Nap-yin (ed.), *Legal Concepts and Practice in Traditional China* (Academia Sinica, 2008), pp. 465–509.
Halliday, Robert, 'The Roadside Burial of Suicides: An East Anglian Study', *Folk-Lore* 121 (2010), 81–93.
Halttunen, Karen, 'Humanitarianism and the Pornography of Pain in Anglo-American Culture', *The American Historical Review* 100 (1995), 303–34.
Harman, K., and Maxwell-Stewart, H., 'Aboriginal Deaths in Custody in Colonial Australia, 1805–1860,' *Journal of Colonialism and Colonial History* 13 (2012).
Harrington, Joel F., *The Faithful Executioner: Life and Death, Honour and Shame in the Turbulent Sixteenth Century* (New York, 2013).
Härter, Karl, 'Praxis, Formen, Zwecke und Intentionen des Strafens zwischen Aufklärung und Rheinbundreformen (1770–1815): das Beispiel Kurmainz/Großherzogtum Frankfurt', in Reiner Schulze, Thomas Vormbaum, Christine D. Schmidt and Nicola Willenberg (eds), *Strafzweck und Strafform zwischen religiöser und weltlicher Wertevermittlung* (Münster, 2008), pp. 213–31.
Hayton, D. W., and Kelly, James, 'The Irish Parliament in European Context: A Representative Institution in a Composite State', in D. W. Hayton, James Kelly and John Bergin (eds), *The Eighteenth-Century Composite State: Representative Institutions in Ireland and Europe, 1689–1800* (Basingstoke, 2010), pp. 3–20.
Healy, Rósín, 'Suicide in Early Modern and Modern Europe', *The Historical Journal* 49 (2006), 903–19.
Hehenberger, Susanne, 'Religion, Sin, and Criminal Law in Early Modern Austria', *Frühneuzeit-Info* 23 (2012), 92–8.
Hildebrandt, Sabine, 'Capital Punishment and Anatomy: History and Ethics of an Ongoing Association', *Clinical Anatomy* 21 (2008), 5–14.
Hooper, A. C. B., 'Dublin Anatomy in the Seventeenth and Eighteenth Centuries', *Dublin Historical Record* 40 (1987), 122–32.
Hughes, Michael L., '"Through No Fault of our Own": West Germans Remember their War Losses', *German History* 18 (2000), 193–213.
Hurren, Elizabeth T., 'The Dangerous Dead: Dissecting the Criminal Corpse', *The Lancet* 382 (2013), 302–3.
——, 'Whose Body Is It Anyway? Trading the Dead Poor, Coroner's Disputes, and the Business of Anatomy at Oxford University, 1885–1929', *Bulletin of the History of Medicine* 82 (2008), 775–819.
Hynd, Stacey, 'Decorum or Deterrence: The Politics of Executions in Malawi, 1915–66', *Cultural and Social History* 5 (2008), 437–48.
——, 'Killing the Condemned: The Practice and Process of Capital Punishment in British Colonial Africa, c. 1900–58', *Journal of African History* 49 (2008), 403–18.
Jacob, Robert, 'La Question Romaine du Sacer: Ambivalence du Sacré ou Construction Symbolique de la Sortie du Droit', *Revue Historique* 639 (2006), 523–88.
James, Mervyn, 'English Politics and the Concept of Honour', *Past and Present Supplement* 3 (1978), 54–8.
Jenkins, Philip, 'From Gallows to Prison? The Execution Rate in Early Modern England', *Criminal Justice History* 7 (1986), 51–71.

Jones, Adam, 'Gallows in the Landscape: Execution Sites in Devon', *Proceedings of the Devon Archaeological Society* 66 (2008), 69–84.

Kästner, Alexander, 'Der Wert der Nächstenliebe. Idee und Umsetzung von Lebensrettungsprojekten im 18. Jahrhundert', *Jahrbuch für Regionalgeschichte* 31 (2013), 45–64.

——, '"Nachrichten über die an das Theatrum anatomicum abgelieferten Cadaver". Das Leichenbuch der Dresdner Anatomie im 18. Jahrhundert', *Frühneuzeit-Info* 21 (2010), 202–8.

——, 'Selbsttötung', *Enzyklopädie der Neuzeit* 11 (2010), 1072–5.

——,'"Über Leichen und akademischenLobbyismus": Die Frage der Versorgung der sächsischen Anatomien mit "Körpermaterial" auf den Landtagen 1716 und 1718', in Josef Matzerath (ed.), *Aspekte sächsischer Landtagsgeschichte. Die Ständeversammlungen des 17. und frühen 18. Jahrhunderts* (Dresden, 2013).

Kelly, James, 'Capital Punishment in Early Eighteenth-Century Ireland', in Serge Soupel (ed.), *Crime et Chatiment dans les Isles Britanniques au Dix-Huitieme Siecle* (Moscow and Paris, 2001), pp. 155–72.

——, 'Commemoration and Protestant Identity, 1680–1800', *Royal Irish Academy Proceedings*, 94 (1994), pp. 25–52.

——, 'Disappointing the Boundless Ambitions of France': Irish Protestants and the Fear of Invasion, 1661–1815', *Studia Hibernica* 37 (2011), 39–50.

——, 'Irish Protestants and the Irish Language in the Eighteenth Century' in James Kelly and Ciarán MacMurchaidh (eds), *Irish and English: Essays on the Irish Linguistic and Cultural Frontier, 1600–1900* (Dublin, 2012), pp. 189–217.

——, 'Responding to Infanticide in Ireland, 1680–1820', in Elaine Farrell (ed.), *'She Said She Was in the Family Way': Pregnancy and Infancy in Modern Ireland* (London, 2012), pp. 189–203.

——, 'Suicide in Eighteenth-Century Ireland', in James Kelly and Mary Ann Lyons (eds), *Death and Dying in Ireland, Britain and Europe: Historical Perspectives* (Dublin, 2013), pp. 95–142.

——, 'The Politics of the Protestant Ascendancy in County Longford, 1630–1840', in Fergus O'Ferrall and Martin Morris (eds), *Longford: History and Society* (Dublin, 2010).

——, 'Transportation from Eighteenth-Century Ireland', in David Dickson and Cormac Ó Grada (eds), *Reconfiguring Ireland: Essays in Honour of Louis Cullen* (Dublin, 2003), pp. 112–35.

—— (ed.), 'The Whiteboys in 1762: A Contemporary Account', *Journal of the Cork Archaeological and Historical Society* 94 (1989), 19–26.

Killingray, David, 'Punishment to Fit the Crime? Penal Policy and Practice in British Colonial Africa', in Florence Bernault (ed.), *Enfermement, Prison et Châtiments en Afrique: Du 19eme Siècle à Nos Jours* (Paris, 1999), pp. 97–118.

——, 'The Maintenance of Law and Order in British Colonial Africa', *African Affairs* 85 (1986), 411–37.

Lake, Peter, and Questier, Michael, 'Agency, Appropriation and Rhetoric under the Gallows: Puritans, Romanists and the State in Early Modern England', *Past and Present* 153 (1996), 64–107.

Laqueur, Thomas, 'Crowds, Carnival and the State in English Executions, 1604–1868', in A. L. Beier, David Cannadine and James Rosenheim (eds), *The First Modern Society: Essays in Honour of Lawrence Stone* (Cambridge, 1989), pp. 305–56.

Law, Robin, '"My Head Belongs to the King": On the Political and Ritual Significance of Decapitation in Pre-Colonial Dahomey', *Journal of African History* 30 (1989), 399–415.

Lederer, David, 'Aufruhr auf dem Friedhof. Pfarrer, Gemeinde und Selbstmord im frühneuzeitlichen Bayern', in Gabriela Signori (ed.), *Trauer, Verzweiflung und Anfechtung. Selbstmord und Selbstmordversuche in mittelalterlichen und frühneuzeitlichen Gesellschaften* (Tübingen, 1994), pp. 189–209.

——, 'Suicide in Early Modern Central Europe. A Historiographical Review', *German Historical Institute London Bulletin* 38 (2006), 33–46.

——, 'Suicide Statistics as Moral Statistics: Suicide, Sociology and the State', in James Kelly and Mary Ann Lyons (eds), *Death and Dying in Ireland, Britain and Europe: Historical Perspectives* (Dublin, 2013), pp. 221–48.

——, '"Wieder ein Faß aus Augsburg": Suizid in der frühneuzeitlichen Lechmetropole', *Mitteilungen des Instituts für Europäische Kulturgeschichte* 15 (2005), 47–72.

Lester, A., 'Imperial Circuits and Networks: Geographies of the British Empire', *History Compass* 4 (2006), 124–41.

Lindemann, Mary, 'Armen- und Eselsbegräbnis in der europäischen Frühneuzeit: Eine Methode sozialer Kontrolle', in Paul Richard Blum (ed.), *Studien zur Thematik des Todes im 16. Jahrhundert* (Wolfenbüttel, 1983), pp. 125–39.

Linebaugh, Peter, 'The Tyburn Riot against the Surgeons', in Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson and Cal Winslow (eds), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York, 1975), pp. 65–118.

Luef, Evelyne, 'Punishment Post Mortem: The Crime of Suicide in Early Modern Austria and Sweden', in Albrecht Classen and Connie Scarborough (eds), *Crime and Punishment in the Middle Ages and Early Modern Age. Mental-Historical Investigations of Basic Human Problems and Social Responses* (Berlin, 2012), pp. 555–76.

Luke, Kimberley, 'Order or Justice: The Denshawai Incident and British Imperialism', *History Compass* 5 (2007), 278–87.

Marenini, Otwin, 'The Anini Saga: Armed Robbery and the Reproduction of Ideology in Nigeria', *The Journal of Modern African Studies* 25 (1987), 259–281.

Marrus, Michael R., 'The Holocaust at Nuremberg', *Yad Vashem Studies* 26 (1998), 5–41.

Mbembe, Achille, 'Necropolitics', *Political Culture* 15 (2003), 11–40.

McCabe, Desmond, '"A Small Expense of Blood": Denis Browne and the Politics of Westport House, 1782 to 1809' in Sheila Mulloy (ed.), *Victory or Glorious Defeat: Biographies of Participants in the Mayo Rebellion of 1798* (Westport, 2010).

McCaskie, Tom C., 'Accumulation, Wealth and Belief in Asante History, I: To the Close of the Nineteenth Century', *Africa* 53 (1983), 23–43.

McDowell, R. B., *Ireland in the Age of Imperialism and Revolution, 1760–1801* (Oxford, 1979).

McGowen, Randall, '"Making Examples" and the Crisis of Punishment in Mid-Eighteenth-Century England', in David Lemmings (ed.), *The British and their Laws in the Eighteenth Century* (London, 2005), pp. 182–205.

——, 'Punishing Violence, Sentencing Crime', in N. Armstrong and L. Tennenhouse (eds), *The Violence of Representation: Literature and the History of Violence* (New York, 1989), pp. 140–56.

——, 'Revisiting *The Hanging Tree*: Gatrell on Emotion and History', *British Journal of Criminology* 40 (2000), 1–13.
——, 'The Body and Punishment in Eighteenth-Century England', *Journal of Modern History* 59 (1987), 651–79.
——, 'The Changing Face of God's Justice: The Debates over Divine and Human Punishment in Eighteenth-Century England', *Criminal Justice History* 9 (1986), 312–34.
——, 'The Problem of Punishment in Eighteenth-Century England', in Simon Devereaux and Paul Griffiths (eds), *Penal Practice and Culture, 1500–1900: Punishing the English* (Basingstoke, 2004), pp. 210–31.
——, and Gordon, Daniel, 'Introduction', *Historical Reflexions/Réflexions Historiques* 29 (2003), 189–90.
McKenzie, Andrea, '"This Death some Strong and Stout Hearted Man doth Choose": The Practice of *Peine Forte et Dure* in Seventeenth- and Eighteenth-Century England', *Law and History Review* 23 (2005), 279–313.
Merrick, Jeffrey, 'Patterns and Prosecution of Suicide in Eighteenth-Century Paris', *Historical Reflections* 16 (1990), 1–53.
Meurkens, L., 'The Late Medieval/Early Modern Reuse of Prehistoric Barrows as Execution Sites in the Southern Part of the Netherlands', *Journal of Archaeology in the Low Countries* 2 (2010), 5–29.
Mhunghaile, Lesa Ní, 'The Legal System in Ireland and the Irish Language, 1700–c.1843', in Michael Brown and S. P. Donlon (eds), *The Laws and other Legalities of Ireland, 1689–1850* (Farnham, 2011), pp. 325–58.
Miettinen, Riikka, and Luef, Evelyne, 'Fear and Loathing? Suicide and the Treatment of the Corpse in Early Modern Austria and Sweden', *Frühneuzeit-Info* 23 (2012), 105–18.
Mitchell, Piers D., et al., '(Review) The Study of Anatomy in England from 1700 to the Early Twentieth Century', *Journal of Anatomy* 219 (2011), 91–9.
Munn, C., 'The Transportation of Chinese Convicts from Hong Kong', *Journal of the Canadian Historical Association* 8 (1997), 113–45.
Neely, W. G., *Kilcooley: Land and People in County Tipperary* ([place unknown], 1983).
Ó Ciardha, Eamonn, *Ireland and the Jacobite Cause, 1685–1766* (Dublin, 2000).
Ó Conaill, Colm, 'The Irish Regiments in France: An Overview of the Presence of Irish Soldiers in French Service, 1716–91', in Eamon Maher and Grace Neville (eds), *France and Ireland: Anatomy of a Relationship* (Frankfurt, 2004), pp. 327–42.
Ong, S. P., 'Jurisdictional Politics in Canton and the First English Translation of the Qing Penal Code', *Journal of the Royal Asiatic Society of Great Britain and Ireland* 20 (2010), 141–65.
Park, Katherine, 'The Life of the Corpse: Division and Dissection in Late Medieval Europe', *Journal of the History of Medicine and Allied Sciences* 50 (1995), 111–32.
Paton, Diana, 'Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica', *Journal of Social History* 34 (2001), 923–54.
——, 'Witchcraft, Poison, Law, and Atlantic Slavery', *William and Mary Quarterly* 69 (2012), 235–64.
Pauser, Josef, 'Sektion als Strafe?', in Norbert Stefenelli (ed.), *Körper ohne Leben. Begegnung und Umgang mit Toten* (Wien, 1998), pp. 527–35.
Pike, Ruth, 'Capital Punishment in Eighteenth-Century Spain', *Social History* 18 (1985), 375–86.

Pollock, Frederick, and Maitland, Frederic William, *The History of English Law Before the Time of Edward I* (Cambridge, 1968).

Poole, Steve, '"A Lasting and Salutary Warning": Incendiarism, Rural Order and England's Last Scene of Crime Execution', *Rural History* 19 (2008), 163–77.

Powell, M. J., 'Ireland's Urban Houghers: Moral Economy and Popular Politics in the Late Eighteenth Century', in Michael Brown and S. P. Donlon (eds), *The Laws and other Legalities of Ireland, 1689–1850* (Farnham, 2011), pp. 231–53.

Power, Patrick, 'A Bundle of Old Waterford Newspaper', *Journal of the Waterford and South-East of Ireland Archaeological Society* 12 (1909), 1–4.

——, 'A Carrickman's Diary, 1787–1809', *Journal of the Waterford and South-East of Ireland Archaeological Society* 15 (1912), 127–8.

Power, T. P., 'Fr Nicholas Sheehy', in Gerard Moran (ed.), *Radical Irish Priests 1660–1970* (Dublin, 1998), pp. 62–78.

Prusin, Alexander Victor, '"Fascist Criminals to the Gallows!" The Holocaust and Soviet War Crimes Trials, December 1945—February 1946', *Holocaust and Genocide Studies* 17 (2003), 1–30.

Read, J. S., 'Kenya, Tanzania and Uganda', in Alan Milner (ed.), *African Penal Systems* (London, 1969), pp. 104–6.

Redies, Christoph, Viebig, M., Zimmermann, S. and Fröber, R., 'Über die Herkunft der Leichname für das Anatomische Institut der Universität Jena in der NS-Zeit', in Rüdiger Schultka and Joseph N. Neumann (eds), *Anatomie und Anatomische Sammlungen im 18. Jahrhundert. Anlässlich der 250. Wiederkehr des Geburtstages von Philipp Friedrich Theodor Meckel (1755–1803)* (Berlin, 2007), pp. 495–507.

Rogers, A. P. V., 'War Crimes Trials under the Royal Warrant: British Practice, 1945–1949', *International and Comparative Law Quarterly* 39 (1990), 780–800.

Royer, Katherine, 'The Body in Parts: Reading the Execution Ritual in Late Medieval England', *Historical Reflexions/Réflexions Historiques* 29 (2003), 319–39.

Rule, John, 'Social Crime in the Rural South in the Eighteenth and Nineteenth Centuries', in J. Rule and R. Wells (eds), *Crime, Protest and Popular Politics in Southern England 1740–1850* (London, 1997), pp. 135–53.

Sahmland, Irmtraud, 'Fordern und verweigern. Der Körper als Zankapfel, Ein Beitrag zur Sozialgeschichte der Anatomie', in Kornelia Grundmann and Irmtraud Sahmland (eds), *Concertino. Ensemble aus Kultur- und Medizingeschichte, Festschrift zum 65. Geburtstag von Gerhard Aumüller* (Marburg, 2008).

——, 'Verordnete Körperspende. Das Hospital Haina als Bezugsquelle für Anatomieleichen (1786–1855)', in Arnd Friedrich, Irmtraut Sahmland and Christina Vanja (eds), *An der Wende zur Moderne. Die hessischen Hohen Hospitäler im 18. und 19. Jahrhundert, Festschrift zum 475. Stiftungsjahr* (Petersberg, 2008), pp. 65–105.

Sharpe, J. A., 'Civility, Civilizing Processes, and the End of Public Punishment in England', in Peter Burke, Brian Harrison and Paul Slack (eds), *Civil Histories: Essays Presented to Sir Keith Thomas* (Oxford, 2000), 215–30.

——, 'Last Dying Speeches: Religion, Ideology and Public Execution in Seventeenth-Century England', *Past and Present* 107 (1985), 144–67.

Smith, Greg T., 'Civilised People Don't Want to See that Kind of Thing: The Decline of Public Physical Punishment in London, 1760–1840', in Carolyn Strange (ed.), *Qualities of Mercy: Justice, Punishment and Discretion* (Vancouver, 1996), pp. 21–51.

——, 'Violent Crime and the Public Weal in England, 1700–1900', in Richard McMahon (ed.), *Crime, Law and Popular Culture in Europe, 1500–1900* (Cullompton, 2008), pp. 190–218.

Snyder, Terri L., 'What Historians Talk about When They Talk about Suicide: The View from Early Modern British North America', *History Compass* 5 (2007), 658–74.

Spica, Mark E., 'The Devil's Chemists on Trial: The American Prosecution of I. G. Farben at Nuremberg', *Historian* 61 (1999), 865–83.

Spierenburg, Pieter, 'The Body and the State: Early Modern Europe', in Norval Morris and David J. Rothman (eds), *The Oxford History of the Prison: The Practice of Punishment in Western Society* (Oxford, 1995), pp. 44–70.

Stewart, Susan, 'Outlawry as an Instrument of Justice in the Thirteenth Century', in John C. Appleby and Paul Dalton (eds), *Outlaws in Medieval and Early Modern England: Crime, Government and Society, c.1066–c.1600* (Surrey, 2009), pp. 37–54.

Stukenbrock, Karin, 'Die Rolle der Höfe bei der Beschaffung der Leichen für die anatomischen Sektionen an den Universitäten im 18. Jahrhundert', in Ulf Christian Ewert and Stephan Selzer (eds), *Ordnungsformen des Hofes. Ergebnisse eines Forschungskolloquiums der Studienstiftung des deutschen Volkes* (Kiel, 1997), pp. 87–95.

——, 'Unter dem Primat der Ökonomie? Soziale und wirtschaftliche Aspekte der Leichenbeschaffung für die Anatomie', in Jürgen Helm and Karin Stukenbrock (eds), *Anatomie. Sektionen einer medizinischen Wissenschaft im 18. Jahrhundert* (Stuttgart, 2003), pp. 227–39.

Tomuschat, Christian, 'The Legacy of Nuremberg', *Journal of International Criminal Justice* 4 (2006), 800–29.

Tuck, Patrick, 'Law and Disorder on the China Coast: The Sailors of the Neptune and an Affray at Canton, 1807', in Richard Harding, Adrian Jarvis and Alston Kennerley (eds), *British Ships in the China Seas: 1700 to the Present Day*, (Liverpool, 2004), pp. 83–97.

Tuffin, R., 'The Post-Mortem Treatment of Convicts in Van Diemen's Land, 1814–1874', *Journal of Australian Colonial History* 9 (2007), 99–126.

Ulbricht, Otto, 'Die Sektion des menschlichen Körpers als Feier: Anatomie und Geselligkeit im Barockzeitalter', in Wolfgang Adam (ed.), *Geselligkeit und Gesellschaft im Barockzeitalter* (Wiesbaden, 1997).

van Hooff, Anton, 'Vom "willentlichen Tod" zum "Selbstmord": Suizid in der Antike', in Andreas Bähr and Hans Medick (eds), *Sterben von eigener Hand: Selbsttötung als kulturelle Praxis* (Köln, 2005).

Vansina, Jan, 'L'Enfermement dans l'Angola Ancien', in Florence Bernault (ed.), *Enfermement, Prison et Châtiments en Afrique: Du 19eme Siècle à Nos Jours* (Paris, 1999), pp. 83–97.

Vaughan, Megan, 'Suicide in Late Colonial Africa: Evidence from Inquests in Nyasaland', *American Historical Review* 115 (2010), 365–404.

Viebig, Michael. '"...the Cadaver Can Be Placed at your Disposition Here." Legal, Administrative Basis of the Transfer of Cadavers in the Third Reich, its Traces in Archival Sources', *Annals of Anatomy* 194 (2012), 267–73.

Wagener, Silke, '"... wenigstens im Tode der Welt noch nützlich und brauchbar...": Die Göttinger Anatomie und ihre Leichen', *Göttinger Jahrbuch* 43 (1995).

Ward, Richard, 'The Criminal Corpse, Anatomists and the Criminal Law: Parliamentary Attempts to Extend the Dissection of Offenders in Late Eighteenth-Century England', *Journal of British Studies* 54 (2015), 1–25.
Wegert, Karl, 'The Social Context of State Terror in Early Modern Germany', *Canadian Journal of History* 26 (1991), 1–21.
Weindling, Paul, 'From International to Zonal Trials: The Origins of the Nuremberg Medical Trial', *Holocaust and Genocide Studies* 14 (2000), 367–89.
Welsh, David, 'Capital Punishment in South Africa', in Alan Milner (ed.), *African Penal Systems*, (London, 1969), pp. 397–427.
Werbner, Richard, 'Smoke from the Barrel of the Gun: Postwars of the Dead, Memory and Reinscription in Zimbabwe', in Richard Werbner (ed.), *Memory and the Postcolony: African Anthropology and the Critique of Power* (London, 1998), pp. 71–102.
Westerhof, Danielle, 'Amputating the Traitor: Healing the Social Body in Public Executions for Treason in Late Medieval England', in Suzanne Conklin Akbari and Jill Ross (eds), *The Ends of the Body: Identity and Community in Medieval Culture* (Toronto, 2013), pp. 177–92.
White, Matthew, 'For the Safety of the City: The Geography and Social Politics of Public Execution after the Gordon Riots', in I. Haywood and J. Seed (eds), *The Gordon Riots: Politics, Culture and Insurrection in Late Eighteenth-Century Britain* (Cambridge, 2012).
Whyte, Nicola, 'The Deviant Dead in the Norfolk Landscape', *Landscapes* 4 (2003), 24–39.
Wilbertz, Gisela, 'Scharfrichter', *Enzyklopädie der Neuzeit* 11 (2010), 658–62.
——, 'Scharfrichter, Medizin und Strafvollzug in der frühen Neuzeit', *Zeitschrift für Historische Forschung* 26 (1999), 515–55.
Wilf, Steven, 'Anatomy and Punishment in Late Eighteenth-Century New York', *Journal of Social History* 22 (1989), 507–30.
——, 'Imagining Justice: Aesthetics and Public Executions in Late Eighteenth-Century England', *Yale Journal of Law and the Humanities* 5 (1993), 57–78.
Williams, Clifford, 'Asante: Human Sacrifice or Capital Punishment? An Assessment of the Period 1807–84', *International Journal of African Historical Studies* 21 (1988), 433–41.
Wilks, Ivor, 'Human Sacrifice or Capital Punishment? A Rejoinder', *The International Journal of African Historical Studies* 21 (1988), 443–52.
Winkelmann, Andreas, 'Schlemm, the Body Snatcher?', *Annals of Anatomy* 190 (2008), 223–9.
Winslow, Cal, 'Sussex Smugglers', in Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson and Cal Winslow (eds), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York, 1975), pp. 119–66.
Wolfe, Robert, 'Flaws in the Nuremberg Legacy: An Impediment to International War Crimes Tribunals' Prosecution of Crimes Against Humanity', *Holocaust and Genocide Studies* 12 (1998), 434–53.
Wunderli, Richard, and Broce, Gerald, 'The Final Moment before Death in Early Modern England', *Sixteenth Century Journal* 20 (1989), 529–75.

Unpublished research

Ball, Joanne, 'The Ritual of the Necklace', (unpublished paper for the Centre for the Study of Violence and Reconciliation, Johannesburg, March 1994).

Davies, Owen, and Matteoni, Francesca, *Executing Magic: The Power of Criminal Bodies* (Palgrave Macmillan, forthcoming).
Devereaux, Simon, 'England's "Bloody Code" in Crisis and Transition: Executions at the Old Bailey, 1760–1837', (unpublished research paper, 2014).
Dyndor, Z., 'The Government and the Gibbet: Fighting the War on Smuggling in Eighteenth-Century Sussex', (unpublished research paper, 2014).
Hurren, Elizabeth T., *Dissecting the Criminal Corpse: Post-Mortem Punishment from the Murder Act to the Anatomy Act* (Palgrave Macmillan, forthcoming, 2015).
Kane, Moustapha, 'A History of Fuuta Tooro, 1890s–1920s: Senegal under Colonial Rule: The Protectorate', (unpublished PhD thesis, Michigan State University, 1987).
King, Peter, *'Hanging not Punishment Enough': The Criminal Corpse, the Criminal Justice System and Aggravated Forms of the Death Penalty in England, 1700–1840* (Palgrave Macmillan, forthcoming, 2015).
——, and Ward, Richard, 'Rethinking the Bloody Code in Eighteenth-Century Britain: Capital Punishment at the Centre and on the Periphery', *Past and Present* (forthcoming, 2016).
Konate, Dior, 'On Colonial State Violence: A History of the Death Penalty in Senegal c.1892–1960', (unpublished research paper).
Tarlow, Sarah, *Hung in Chains: The Golden and Ghoulish Age of the Gibbet in Britain* (Palgrave Macmillan, forthcoming 2015).
——, 'The Technology of the Gibbet', *International Journal of Historical Archaeology* (forthcoming 2015).
——, and Dyndor, Zoe, 'The Landscape of the Gibbet', *Landscape History* (forthcoming, 2015).

Online sources

'Alfred Jodl', http://www.findagrave.com/cgi-bin/fg.cgi?page=pv&GRid=7010&PIpi=2255578 (accessed 10 August 2013).
Amnesty International, 'Killing at Will: Extrajudicial Executions and Other Unlawful Killings by the Police in Nigeria', http://www.amnesty.org/en/library/info/AFR44/038/2009 (accessed 15 October 2014).
'Capital Punishment Amendment Act', 29 May 1868, http://www.legislation.gov.uk/ukpga/Vict/31–32/24 (accessed 24 February 2014).
'Elisabeth Volkenrath', http://www.findagrave.com/cgi-bin/fg.cgi?page=gr&GRid=67286709 (accessed 25 April 2013).
Gelderblom, Bernhard, 'Das Zuchthaus Hameln in der Nachkriegszeit: Der Umgang mit den Gräbern der Hingerichteten in Hameln. Die Jahre 1975 bis 1985', http://www.gelderblom-hameln.de/zuchthaus/nachkriegszeit/1019751985.html (accessed 19 July 2013).
——, 'Der Zuchthaus Hameln in der NS-Zeit', http://www.gelderblom-hameln.de/zuchthaus/nszeit/zuchthausnszeit.html (accessed 1 July 2013).
Höller, Christian, 'Africa in Motion: An Interview with the Postcolonialism Theoretician Achille Mbembe', *Springerin* 3 (2002), http://www.springerin.at/dyn/heft_text.php?textid=1195&lang=en (accessed 15 October 2014).
Jewish Virtual Library, http://www.jewishvirtuallibrary.org/jsource/judaica/ejud_0002_0020_0_20618.html (accessed 25 April 2013).
'Juana Bormann', http://www.findagrave.com/cgi-bin/fg.cgi?page=gr&GScid=2394121&GRid=67494633& (accessed 25 April 2013).

'Kreis Hameln-Pyrmont Parlamentswahlen', Wahlen in der Weimarer Republik, http://www.gonschior.de/weimar/php/ausgabe_gebiet.php?gebiet=1357 (accessed 1 March 2014).

Kriminalität in und um Wien 1703–1803. Eine Datenbank, http://www.univie.ac.at/iefn (accessed 8 May 2014).

'Museum gets Felon's Mummified Arm', 18 October 2005, http://news.bbc.co.uk/1/hi/england/wiltshire/4354596.stm: BBC News Channel (accessed 15 November 2013).

'Newgate Prison and Tyburn', Famous Outlaws, http://www.criminals.lt/page.php?al=newgate_prison_and_tyburn (accessed 28 February 2014).

'Nigerian Nostalgia', posted in Colin Plantall's blog on 1 February 2012, http://colinpantall.blogspot.co.uk/2012/02/previous-post-on-narrators-photo-led-me.html (accessed 20 August 2013).

Pawlowitsch, Claudia, and Kästner, Alexander, 'Vor dem Zerstückeln bewahrt. Die außergewöhnliche Geschichte des Leichnams von Judas Pollack', *Medaon – Magazin für jüdisches Leben in Forschung und Bildung* 5 (2011), 1–5, available at http://medaon.de/pdf/M_Pawlowitsch+Kaestner-8-2011.pdf (accessed 25 June 2013).

'Prince Johnson Displayed Doe's Skull... Commany Wesseh', posted on the website of the Truth and Reconciliation Commission of Liberia (date unknown), http://trcofliberia.org/press_releases/91 (accessed 20 August 2013).

'Remember Saro-Wira', http://remembersarowiwa.com/ (accessed 20 August 2013).

The Proceedings of the Old Bailey, 1674–1913 (*Old Bailey Online*), http://www.oldbaileyonline.org/ (accessed 29 May 2014).

Name Index

Subject Index