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# 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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’.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> 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).<sup>10</sup>

### **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.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> 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 visceration, 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'.<sup>16</sup> 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.<sup>17</sup> And in France the *fourches partibulaires* were similarly used for exposing the corpses of hanged offenders.<sup>18</sup> 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'.<sup>19</sup> 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.<sup>20</sup>

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.<sup>21</sup> 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.<sup>22</sup> 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').<sup>23</sup> 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.<sup>24</sup> 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'.<sup>25</sup> The same measure was later introduced in France and Brussels.<sup>26</sup> 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.<sup>27</sup> 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.<sup>28</sup> 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.<sup>29</sup> 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.<sup>30</sup> 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.<sup>31</sup> 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'.<sup>32</sup> 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.<sup>33</sup> 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'.<sup>34</sup> 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.<sup>35</sup>

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.<sup>36</sup> 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.<sup>37</sup> 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'.<sup>38</sup>

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.<sup>39</sup> 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.<sup>40</sup> 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.<sup>41</sup> 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.<sup>42</sup> 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).<sup>43</sup> 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.<sup>44</sup> 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.<sup>45</sup>

## 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’.<sup>46</sup> 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.<sup>47</sup> 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’.<sup>48</sup> 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.<sup>49</sup> 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'.<sup>50</sup> 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'.<sup>51</sup> In colonial North America, hanging in chains was regularly described 'as a spectacle to deter all persons from the like felonies for the future'.<sup>52</sup> 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'.<sup>53</sup> 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.<sup>54</sup> 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'.<sup>55</sup> 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.<sup>56</sup>

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'.<sup>57</sup> 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.<sup>58</sup> 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.<sup>59</sup> 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'.<sup>60</sup> 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.<sup>61</sup> 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.<sup>62</sup>

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.<sup>63</sup> 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.<sup>64</sup> 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.<sup>65</sup> 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 remains [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.<sup>66</sup>

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'.<sup>67</sup> 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'.<sup>68</sup> 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.<sup>69</sup> 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.<sup>70</sup> 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.<sup>71</sup> 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.<sup>72</sup>

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.<sup>73</sup> 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’.<sup>74</sup> 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.<sup>75</sup> 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.<sup>76</sup> 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'.<sup>77</sup> 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.<sup>78</sup> 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.<sup>79</sup> 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.<sup>80</sup> 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.'<sup>81</sup> 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'.<sup>82</sup>

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'.<sup>83</sup> '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'.<sup>84</sup> 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.<sup>85</sup> 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.<sup>86</sup> 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'.<sup>87</sup> 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.<sup>88</sup> 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.<sup>89</sup> 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.'<sup>90</sup> 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.<sup>91</sup>

### **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.<sup>92</sup> 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.<sup>93</sup> This had been preceded in 1830 by the last ever scene of crime execution in England.<sup>94</sup> 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.<sup>95</sup> 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'.<sup>96</sup> 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'.<sup>97</sup> 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.<sup>98</sup> 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.<sup>99</sup> 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.<sup>100</sup> 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.<sup>101</sup> 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.<sup>102</sup> 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'.<sup>103</sup> 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'.<sup>104</sup>

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.<sup>105</sup>

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 sensitivities and capital punishment.<sup>106</sup> 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.<sup>107</sup> 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.<sup>108</sup>

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’”.<sup>109</sup> 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’.<sup>110</sup> 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’.<sup>111</sup> 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’.<sup>112</sup> 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.<sup>113</sup> 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.<sup>114</sup>

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.<sup>115</sup>

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.<sup>116</sup> 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.<sup>117</sup> 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.<sup>118</sup> 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-ranging 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 through 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.

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## Notes

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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.
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  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.
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  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.
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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.
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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).
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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.
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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.
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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.
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57. Spierenburg, *The Spectacle of Suffering*, pp. 55–7.
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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.

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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).
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83. *Ibid.*, p. 81.
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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'.
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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.
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