

Execution and its Aftermath in the Nineteenth-Century British Empire¹

Clare Anderson
University of Leicester

Introduction

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 Southeast 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.² 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.

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² D. Paton (2001) 'Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica', *Journal of Social History*, 34.4, 923-54.

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 Southeast 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.³ 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.⁴ 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.⁵ 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 Ile 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, Ratsitanina, 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, Ratsitanina 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.⁶

We learn from a detailed account of the execution, written by chief of police Edward Byam, that Ratsitanina 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 Ratsitanina 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'.⁷ 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.

³ J. Darwin (2009) *The Empire Project: The Rise and Fall of the British World System* (Cambridge: Cambridge University Press).

⁴ A. Lester (2006) 'Imperial Circuits and Networks: Geographies of the British Empire', *History Compass*, 4.1, 124-41.

⁵ C. Hall (2002) *Civilising Subjects: Metropole and Colony in the English Imagination, 1830-1867* (London: Polity Press).

⁶ National Archives of Mauritius (henceforth NAM) JB140: Court of Appeal, Execution of Ratsitanine, Cotte Voude *alias* Prospere and Latulipe, 15 April 1822. The case is discussed in detail by P.M. Larson (2009) *Ocean of Letters: Languages and Creolization in an Indian Ocean Diaspora* (Cambridge: Cambridge University Press), pp. 196-219.

⁷ Quoted in Larson, *Ocean of Letters*, pp. 206-7.

The dramatic penal response to Ratsitatinina'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.⁸ 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.'⁹ 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.¹⁰ 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.¹¹

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.¹² 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.¹³

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

⁸ Paton, 'Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica', pp. 931, 939-41. See also V. Brown (2008) *The Reaper's Garden: Death and Power in the World of Atlantic Slavery* (Cambridge, MA: Harvard University Press).

⁹ Paton, 'Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica', p. 941.

¹⁰ The National Archives, Kew (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 (2007) 'Politics of Colonial Sensation: The Trial of Thomas Picton and the Cause of Louise Calderon', *American Historical Review*, 112.3, 712-41.

¹¹ TNA CO101/44: Governor Frederick Maitland to William Windham, secretary of state for war and the colonies, 7 December 1806. See also D. Paton (2012) 'Witchcraft, Poison, Law, and Atlantic Slavery', *William and Mary Quarterly*, 69.2, 235-64.

¹² TNA CO28/102/36: President J.B. Skeete to Sir George Murray, secretary of state for war and the colonies, 21 August 1828, enc. 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 folios 54-61 Governor S.R. Chapman to Edward Stanley, secretary of state for war and the colonies, 19 June 1833.

¹³ 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 Essequibo, and colony of Berbice, p. 29.

martial law and hanged 144 men.¹⁴ 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.¹⁵ 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 2nd 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.¹⁶ 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.¹⁷ If the governor was critical of the magistrates, the secretary of state for war and the colonies, 1st Viscount Goderich, was critical of the governor. He wrote Belmore that there should be no further executions, for they would 'exasperate' slaves.¹⁸ 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 government had not taken the rebellion seriously.¹⁹ 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.

Four decades later, in 1865, almost forty 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.²⁰ 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 re-inscribe the legitimacy of imperial authority in the face of resistance against it, and as in the case of Jamaica's Baptist War the often-biting 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

¹⁴ TNA CO28/85: Governor James Leith to 3rd Earl Bathurst, secretary of state for war and the colonies, 21 September 1816. See also H. McD. Beckles (1985) 'The Slave-Drivers War: Bussa and the 1816 Barbados Slave Rebellion', *Boletín de Estudios Latinoamericanos y del Caribe*, 39, 85-110.

¹⁵ E.V. da Costa (1997) *Crowns of Glory, Tears of Blood: the Demerara Slave Rebellion of 1823* (New York: Oxford University Press), pp. 242-3.

¹⁶ TNA CO137/182: Governor Somerset Lowry-Corry, 2nd Earl Belmore, to 1st Viscount Goderich, secretary of state for war and the colonies, 9 April 1832.

¹⁷ TNA CO137/182: Belmore to Goderich, 1 May 1832, enc. Proceedings of a General Court of Quarter Sessions, 24 April 1832.

¹⁸ TNA CO137/182: Goderich to Belmore, 21 July 1832.

¹⁹ TNA CO137/183: Governor Constantine Henry Philips, Earl of Mulgrave, to Goderich, 7 October 1832.

²⁰ 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 (1994) *"The Killing Time": The Morant Bay Rebellion in Jamaica* (London: Macmillan), pp. 137-9, 142, 143.

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 simultaneous 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.²¹

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.²² 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 colonized 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 colonized 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.²³ 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 1816 Trinidad, 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.²⁴ In 1837 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.²⁵

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

²¹ C.J. Griffiths (1910) *A Narrative Of The Siege Of Delhi With An Account Of The Mutiny At Ferozepore In 1857* (London: John Murray), pp.42-50 (quotes 43, 46, 48). Though it is 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. A. Ward (2004) *Our Bones Are Scattered: The Cawnpore Massacres and the Indian Mutiny of 1857* (London: John Murray), pp.454-5.

²² 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. N. Chevers (1856) *A Manual of Medical Jurisprudence for India, Including the Outline of a History of Crime Against the Person in India* (Calcutta: F. Carbery, Bengal Military Orphan Press), pp. 367-8, 381-2.

²³ M. Craton (1982) *Testing the Chains: Resistance to Slavery in the British West Indies* (Ithica, NY: Cornell University Press), p. 315.

²⁴ TNA CO295/37: Governor Ralph Woodford to Bathurst, 29 August 1816.

²⁵ '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.

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.'²⁶ 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, Southeast 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 seven thousand 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.²⁷ 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.²⁸

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 colonization including, in effect, the use of summary execution. After cases where Aborigines killed settlers, 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 nine months. The Protector of Aborigines then noted: 'the severe punishment inflicted upon these two men will prove of lasting benefit to the colony.'²⁹

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.³⁰ 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 Southeast 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

²⁶ TNA C0267/110: Lieutenant Governor Alexander Findlay to Goderich, 24 December 1831.

²⁷ R. Evans (2009) '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: UNSW Press), p. 59; G. De Beaumont and A. De Tocqueville (1833) *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: Carey, Lea and Blanchard), p. 144. See also 'Abstract of Returns as to Trials', New South Wales, 1819-1824 (1917) in *Historical Records of Australia, Series I, Volume XI* (Sydney: Library Committee of the Commonwealth Parliament), pp. 478-9.

²⁸ T. Castle (2007) 'Constructing Death: Newspaper Reports of Executions in Colonial New South Wales, 1826-1837,' *Journal of Australian Colonial History*, 9, 51-68 (quote p. 51).

²⁹ 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 despatches 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,' pp. 64-5.

³⁰ C. Anderson (2003) 'The Execution of Rughobursing: The Political Economy of Convict Transportation and Penal Labour in Early Colonial Mauritius', *Studies in History*, 19, 2, 185-97.

commuted.³¹ 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.³² 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.'³³ 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.³⁴

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.³⁵ 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.³⁶ 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.³⁷ 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.³⁸ 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.³⁹

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.'⁴⁰ 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.'⁴¹ 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

³¹ 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.

³² IOR P/129/32: Parr to Udny, 15 August 1806.

³³ IOR P/129/42: Parr to G. Dowdeswell, secretary to government Bengal, 7 November 1807.

³⁴ IOR P/132/2: Parr to Dowdeswell, 4 February 1809.

³⁵ *The Englishman*, 18 March 1872.

³⁶ *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 Thanasari 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.

³⁷ *The Englishman*, 18 March 1872.

³⁸ R. Singha (1998) *A Despotism of Law: Crime and Justice in Early Colonial India* (New Delhi: Oxford University Press), p. 244.

³⁹ W.W. Hunter (1871) *The Indian Mussalmans: Are They Bound in Conscience to Rebel against the Queen?* (London, Trübner).

⁴⁰ TNA CO111/348: Governor Francis Hincks to 1st Viscount Cardwell, secretary of state for the colonies, 7 December 1865.

⁴¹ TNA CO111/358: Hincks to Cardwell, 22 May 1866.

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'.⁴²

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.⁴³ 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'.⁴⁴ 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 murderer Pompey Face.⁴⁵ 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 1849.⁴⁶

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.⁴⁷ 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.⁴⁸ 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

⁴² TNA CO28/105: Governor James Lyon to Murray, 27 December 1830.

⁴³ PP 1826-7 (551) Trinidad. Report of His Majesty's commissioners of legal inquiry on the colony of Trinidad, Appendix A, p. 11; PP 1828 Second Report of Commissioners, 1828, pp. 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, pp. 21, 28, 31.

⁴⁴ *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. Chevers, *A Manual of Medical Jurisprudence for India*, pp. 710-1.

⁴⁵ TNA CO111/264: Governor Henry Barkly to Earl Grey, secretary of state for the colonies, 19 March 1849.

⁴⁶ TNA CO111/264: Barkly to Grey, 19 March 1849.

⁴⁷ TNA CO267/49: Bathurst to Leith, 7 November 1816.

⁴⁸ 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.

the infliction of 'a greater evil on the morality of young people in this colony'.⁴⁹ 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.⁵⁰

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.⁵¹ 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.⁵²

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 leg 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 down fell 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.⁵³

The authorities in Trinidad agreed that hanging lacked deterrence as a punishment for Hindus.⁵⁴ 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.⁵⁵

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

⁴⁹ TNA CO111/136: Carmichael-Smyth to the Earl of Aberdeen, secretary of state for war and the colonies, 4 March 1835.

⁵⁰ TNA CO295/121: Governor G.F. Hill to Glenelg, 26 May 1838.

⁵¹ C. Anderson (2003) "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: Routledge), pp. 41-5. For a flavour of contemporary discussions, see *Report of the Committee on Prison Discipline, 8 January 1838* (Calcutta, Baptist Mission Press: 1838) p. 61 and Paper C.

⁵² TNA CO111/268: *Opinion of Governor Barkly*, 5 September 1849.

⁵³ H. Kirke (1898) *Twenty-Five Years in British Guiana* (London:) Sampson Low, Marston and Company), p. 225.

⁵⁴ PP 1876 [c.1517] Further papers relating to the improvement of prison discipline in the colonies, Harrison and Sons, 1876: Report, Henry Ludlow, Attorney-General Trinidad, 12 July 1875, 37.

⁵⁵ C.Munn, (1997) 'The Transportation of Chinese Convicts from Hong Kong', *Journal of the Canadian Historical Association*, 8, 113-145, p. 122; IOR P/142/38: J. Davis, secretary to government Hong Kong, to Lord Stanley, secretary of state for the colonies, 29 January 1845.

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 re-introduction of the guillotine, which had been done away with as part of a more general shift from French to English law in 1851.⁵⁶ 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.⁵⁷

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 à Beckett in Melbourne thought likewise, claiming in 1847 that Aboriginal prisoners, once convicted, ought to be given an 'exemplary' sentence that would 'instill terror' into their kin. Exiling Aboriginal men through sentencing them to transportation provided a mechanism through which this could be achieved.⁵⁸

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.⁵⁹

There were cases in Australia of condemned men kissing the hangman's rope, kicking off their shoes or making final statements of protest.⁶⁰ 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

⁵⁶ PP 1867-68 [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 16th and 17th January 1865, Appendix K: Report of the Procureur Général of Mauritius on Crime (1865).

⁵⁷ 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.

⁵⁸ K. Harman and H. Maxwell-Stewart (2012) 'Aboriginal Deaths in Custody in Colonial Australia, 1805-1860,' *Journal of Colonialism and Colonial History* 13, 2.

⁵⁹ H. H. Spry (December 1832-June 1834) 'Some Account of the Gang-Murderers of India Commonly Called Thugs; Accompanying the Skulls of Seven of Them', *Phrenological Journal and Miscellany*, 8, 511-24, p. 517 (the seventh man had died in jail prior to his planned execution).

⁶⁰ Castle, 'Constructing Death,' pp. 61-2.

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.⁶¹

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.⁶²

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.⁶³ 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.⁶⁴ 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’.⁶⁵ 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.⁶⁶

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 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’.⁶⁷ 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’.⁶⁸ 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 colonized 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.

⁶¹ 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.

⁶² Chevers, *A Manual of Medical Jurisprudence in India*, p. 172.

⁶³ Singha, *A Despotism of Law*, p. 239-45.

⁶⁴ Cited in ‘Criminal Law in Bengal,’ *The Calcutta Review* (July – December 1849), p. 560.

⁶⁵ Singha, *A Despotism of Law*, p. 240.

⁶⁶ *The Times of India*, 3 April 1871.

⁶⁷ ‘Criminal Law in Bengal,’ pp. 560-1.

⁶⁸ Lieutenant Colonel Fitzclarence (1819), cited in Singha, *A Despotism of Law*, p. 242.

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 six years, when he would appear again as a leader: 'the money-lenders 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.⁶⁹

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 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.'⁷⁰ 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.⁷¹ 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 p.m. 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.⁷² 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.'⁷³ 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'.⁷⁴ By the last date detailed prison committee archives exist in

⁶⁹ 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 (1983) *Elementary Aspects of Peasant Insurgency in Colonial India* (New Delhi: Oxford University Press), quote p. 97-8, see also pp. 142-3.

⁷⁰ 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* (1916) (Rangoon: Office of the Superintendent of Government Printing, Burma), A.D. Maingy, Commissioner for the Provinces of Mergui and Tavoy, to Captain Briggs, 12 October 1825.

⁷¹ J. Hutchinson (1845) *Observations on the General and Medical Management of Indian Jails; And on the Treatment of Some of the Principal Diseases which Infest Them* (Calcutta: Bengal Military Orphan Press), p. 84.

⁷² NAM RA1078 Powder Mills Prison Committee, 16 November 1850; NAM RA1459: Procureur Général to Colonial Secretary, 2 December 1858.

⁷³ NAM RA1459: Port Louis Prison Committee, 28 October 1858.

⁷⁴ NAM RA1955: Inspector General of Police O'Brien, to Colonial Secretary, 14 April 1868.

Mauritius (1880) he had been replaced by another socially excluded man, a misdemeanant Creole from the nearby Seychelles.⁷⁵

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 1834, although there is scattered evidence that in practice bodies were anatomized (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 unmistakable cases of hanging ...⁷⁶

Executed prisoners’ bodies were also used in discussions about whether it was possible to discern distinct criminal physiognomy for the ‘criminals’ of 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.⁷⁷ 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.⁷⁸ Its collections also incorporated the skulls of men hanged during the 1822 Ceylon insurrection.⁷⁹

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.⁸⁰ 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.⁸¹ The lieutenant-governor of Bengal ordered the enforcement of this rule,⁸² but inspector-general of prisons F.J. Mouat was reluctant to comply, writing that dissections were an important penal deterrent. ‘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

⁷⁵ NAM RA2544: Col Sec, to the Inspector General of Prisons W. Bell, 27 September 1880; W. Bell, report on execution, n.d.

⁷⁶ Chevers, *A Manual of Medical Jurisprudence for India*, pp. 607-9, quotes p. 608, p. 609.

⁷⁷ Spry, ‘Some Account of the Gang-Murderers of India Commonly Called Thugs’; R. Cox (Dec. 1832 - June 1834) ‘Remarks on the Skulls and Characters of Thugs’, *Phrenological Journal and Miscellany*, 8, 524. The skulls are now held in the University of Edinburgh Henderson Trust Collection.

⁷⁸ ‘Case of John Jenkins, convict executed at Sydney for murder’ (June 1836 - Sept. 1837) *Phrenological Journal and Miscellany*, 10, 485-9.

⁷⁹ Edinburgh University Library Gen 608/2: Minute Book of the Phrenological Society, vol. I; Gen 608/4: Catalogue of the Phrenological Society, n.d.

⁸⁰ IOR P/145/39: Weekly sanitary report on the state of the prisoners in the Beerbhoom Jail, week ending 26, 27 April 1856.

⁸¹ IOR P/146/4: Memorandum on Hooghly Jail, 30 September 1857.

⁸² 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.

professionals did not conduct post-mortems on 'respectable' prisoners.⁸³ Mouat's objections were ultimately overruled.⁸⁴ 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.⁸⁵

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.⁸⁶ 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.⁸⁷ 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.⁸⁸ 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 dissection punishment, 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".'⁸⁹ 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.⁹⁰ 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.⁹¹

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.⁹² 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 of 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

⁸³ IOR P/146/1: Mouat to Buckland, 30 Sept. 1857.

⁸⁴ IOR P/146/1: Buckland to Mouat, 19 Oct. 1857. On post-mortems in jails, see also D. Arnold (1993) *Colonizing the Body: State Medicine and Epidemic Disease in Nineteenth-Century India* (Berkeley: University of California Press), pp. 5-6.

⁸⁵ G. Fritsch (1908) *Ueber Bau und Bedeutung der Area Centralis des Menschen* (Reimer), pp. 133-4.

⁸⁶ H. MacDonald (2005) *Human Remains: Episodes in Human Dissection* (Melbourne: Melbourne University Press). For examples of the reporting of such cases see *The Courier* [Hobart], 1 September 1853, 21 June 1855.

⁸⁷ L. Miller (1946) 'Notes of An Exile to Van Diemen's Land' cited in R. Tuffin (2007) 'The Post Mortem Treatment of Convicts in Van Diemen's Land, 1814-1874', *Journal of Australian Colonial History*, 9, p. 102.

⁸⁸ *The Bombay Courier*, 6 March 1844 (reproducing extract from the *Penang Gazette*, 16 December 1843).

⁸⁹ F. Swettenham (1900) *The Real Malay: Pen Pictures* (London: John Lane), p. 245; 'Correspondences,' *The Singapore Free Press and Mercantile Advertiser*, 7 June 1901.

⁹⁰ Reported in the *South Australian Register*, 14 July 1847.

⁹¹ IOR P/144/20: A.P. Phayre, Commissioner of Arakan, to J.P. Grant, Secretary to Government Bengal, 18 February 1852, enc. 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.

⁹² TNA CO295/47: Governor William Colebrooke to Glenelg, 31 October 1836.

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.⁹³ 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.⁹⁴

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 six hundred people signed a petition against a sentence of death passed on a soldier, for murder.⁹⁵ 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 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'.⁹⁶

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.)⁹⁷ 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.⁹⁸ 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'.⁹⁹ 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.¹⁰⁰

A further effort to standardize execution across 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

⁹³ 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; 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.

⁹⁴ 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.

⁹⁵ TNA CO28/174: Colebrooke to Grey, 8 January 1851.

⁹⁶ *South Australian Register*, 14 July 1847.

⁹⁷ NAM RA1459: Port Louis Prison Committee, 28 Oct 1858.

⁹⁸ PP 1866 [3590] Report of the Capital Punishment Commission; together with the minutes of evidence and appendix, 219-20.

⁹⁹ *The South Australian Advertiser*, 26 May 1866.

¹⁰⁰ 'The Execution,' *The Straits Times*, 8 April 1890.

was cut down he was found to be still alive. He was given brandy, and then hanged a second time.¹⁰¹ In 1880, the colonial office circulated instructions, with accompanying diagrams, on a common form of execution, including on 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, the placement of the rope.¹⁰² 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.¹⁰³

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 3-5,000 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 any one who partook of this would be imbued with miraculous courage, etc.'¹⁰⁴ 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.

¹⁰¹ Kirke, *Twenty-Five Years in British Guiana*, pp.305-6.

¹⁰² NAM SB21 Kimberly, 27 June 1880, enc. Memorandum upon the execution of prisoners by hanging with a long drop.

¹⁰³ NAM RA2544 PG's report no. 1150; NAM SB21 Departmental instructions for the carrying out of capital sentences in Mauritius, 10 February 1881.

¹⁰⁴ *Eastern Daily Mail and Straits Morning Advertiser*, 4 May 1907: The End of a Chinese Pirate; Death By A Thousand Cuts.