The Death of the Scaffold:  
Exploring the reasons for public executions end in England, the United States, and France

Zachary Shemtob

Introduction

Although it may seem extraordinary to modern sensibilities, public executions were widely practiced and heavily attended throughout both Western European and American history. Indeed, it is only until relatively recently that such events have become construed as barbaric and brutalizing, and been separated entirely from the public sphere. Contemporary scholars have proposed a number of reasons for this momentous change; while some have cited an alteration in general sensibilities towards cruelty, others have ascribed this shift to advanced methods of social control. It is my opinion that both positions contain some truth, but are ultimately historically reductionist and theoretically simplistic. The only major shift in sensibilities was among a growing “civilized” class, who began to gradually fear and deplore the tumultuous scaffold crowd. Acting upon this central concern, such elites aligned with political abolitionists and scientific rationalists, eventually concealing executions entirely from public view. This privatization was neither universally popular nor temporally instantaneous, however; while Britain’s first non-public execution were held in the 1860s, the United States and France did not shield executions from popular gaze until well into the twentieth century.

Although public executions have been practiced throughout much of the world (and are still carried out today in some countries), my paper will focus exclusively on the United States, England, and France. This is for three primary reasons. Firstly, the vast
majority of scholarship has been done on these particular nations; while other countries are certainly worthy of attention, such analyses lie outside the current scope of this project. Secondly, all three countries contain similar cultures, and therefore have comparable historical narratives and intellectual traditions. Finally, and inter-connectedly, each nation contained nearly identical movements against public executions, composed of stringent abolitionists, scientific rationalists and a “civilized class” fearful of the gathering mob. While these groups faced different times and reasons for success within each respective country, their motives and methods of argumentation proved strikingly similar throughout.

My paper will be centered around the prominent debate between advocates of Michel Foucault and Pieter Spierenburg. Whereas Foucault attributed public executions’ end to advanced methods of crime control, Spierenburg used Norbit Elias’s “civilizing process” to stress the emergence of a so-called “inter-human identification”. I will then test both men’s theories using the countries under review, analyzing the practices and debates that led to public execution’s end within each nation. This in-depth examination should not only help to contextualize Foucault and Spierenburg’s arguments, but also cast greater light upon their historical and regional accuracies. My methodology is neither meant to be all encompassing nor provide the “final word” on this long-standing debate; I rather hope to highlight those issues of most important concern, and offer a tentative conclusion in which to ground them.

The Grand Debate
Contemporary debates regarding the end of public executions generally pivot around Michelle Foucault’s seminal 1975 work *Discipline and Punish*. As the French philosopher famously declared, the scaffold’s end was not predicated upon punishing less, but punishing better (82). Originally begun in order to demonstrate the sovereign’s right to punish, public executions also allowed the crowd to disrupt seemingly “unjust” punitive power and “sometimes” even “revolt” (59). Fearing the chaos that such events engendered, ruling officials thus decided to execute behind prison walls. As Foucault remarks, the act of public punishment contained its own undoing, as its very functioning led to a potential state of “perpetual disorder” (57).

Perhaps the most vociferous critic of Foucault’s conclusions has been Pieter Spierenburg. Using the research of Norbit Elias, Spierenburg has declared Foucault’s research to be both empirically hollow and theoretically problematic (108). While Spierenburg agrees that fear of a disorderly mob was an important factor, he ultimately attributes public execution’s end to a major shift in what he calls “inter-human identification” (193). In this view, certain members of the scaffold crowd increasingly perceived the death and suffering of any human being as offensive and painful. Although the Ancien Regime had largely relied on such displays to demonstrate its retributive power, gradual state transformation helped to both weaken the monarch’s authority and create a mutual dependence between different social groups (205). While once dismissed as an ontological other, the condemned therefore became recognized as a fellow human being, whose suffering should neither be openly publicized nor popularly celebrated.

Michel Foucault’s account thus proposes public execution’s end to be purely based upon notions of control; fearing a disorderly scaffold mob, the ruling powers
sought to forcefully eliminate this political threat. According to Spierenburg, however, it was a newfound empathy, and not merely a novel methodology of control, that motivated public execution’s privatization. Keeping these two theoretical frameworks in mind, I shall now explore the relevant historical accounts of England, America, and France.

**National Twists and Turns**

**Great Britain**

As a point of comparison, it should be noted that Prussia was actually the first Western European nation to formally abolish public executions. This immediately preceded the Revolutions of 1848, in which a series of massive uprisings temporarily deposed the ruling monarchy (Evans, 265). Sensing the possibility of a large-scale rebellion, the sovereign viewed public executions as especially flammable. According to the historian Richard J. Evans, it was therefore “fear of disorder…that proved the major impulse for the abolition of public executions in the middle of the nineteenth century” (903). Believing an execution could potentially stir a crowd of radical agitators (lending great support to the Foucaultian paradigm) the ruling class felt little choice but to privatize capital punishment.

Prussia’s situation differed substantially with the relative stability of Great Britain, led at the time by a (generally) popular Queen and a comparatively powerful Parliament (Atholl, 174). Regarding the issue of public executions, the House of Lords originally found itself torn between penal traditionalists and empowered abolitionists (Gatrell, 593).
Public executions were eventually abolished by the Capital Punishment Within Prisons Bill of 1868, but only after having inspired a series of fierce debates and sweeping compromises (589).

Traditional abolitionists, motivated by Enlightenment values against the infliction and perpetuation of cruelty, were fundamentally torn; while many believed public executions were a step in the right direction, privatization could also potentially prolong the death sentence by merely moving capital punishment behind closed doorsiv (Cooper, 149-150). Perhaps the greatest influence on such reformers was the reason-based writings of Cesare Beccaria. Rejecting capital punishment as the “ultimate deterrence”, the Italian theorist believed such a scene left only “a terrible momentary impression without the sought after affect” (30). Jeremy Bentham further backed Beccaria’s position, viewing the death penalty as both needlessly cruel and empirically inefficacious. A number of intellectual “celebrities” such as John Stuart Mill and William Thackeray followed both earlier reformers’ leads, writing popular polemics regarding the condemned's suffering and the state’s absolute and fundamentally egregious power over life and death (Gatrell, 591).

While the abolitionists were widely circulated, they had little influence or pull on larger public policy. A considerably more popular concern regarded public executions so-called “brutalization effect”, wherein normally peaceful people supposedly became dangerously excited by the enactment of public violence (Cooper, 100). In this scenario, rather than deterring crime, public executions were said to actually result in even more criminal behavior. Such a belief was often perpetuated by the popular press, which told grim tales of people witnessing a hanging and then immediately committing a series of
brutal murders. This phenomenon was often considered during parliamentary debates, and even held up as a “known fact” by many witnesses speaking before the Lords (101).

While theories of brutalization were well known throughout Britain, this aspect of crowd behavior failed to provide the pivotal concern. As Randall McGowen’s “Civilizing Punishment” and V.A.C Gatrell’s *The Hanging Tree* excessively detail, it was not fear of potential murderers but mounting anxiety towards the crowd itself that led to public execution’s eventual end in England (Gatrell, 602; McGowen, 266). Countless Victorian accounts describe the crowd as a degenerate class, utterly bereft of any moral character or ethical fortitude (Gatrell, 601-611; Atholl, 75; Cooper, 67; McGowen, 263-271; Faulk, 81). Indeed, even abolitions such as Charles Dickens rarely focused upon the condemned’s suffering, but instead excessively detailed the scaffold crowd’s lack of “refinement” and “uncivilized” behavior (Cooper, 78; Schwarzbach, 106). Records disclose that parliamentary debates also showed little sense of “inter-human identification”, predominantly fixated on the “dirty” and “thoughtless” mob (Cooper, 102-122; Gatrell, 592-594). Perhaps most revealingly, in first introducing the Bill of 1868 the Home Secretary expressly cited execution watchers to be an “objectionable and horrible crowd” of the very “worst classes” (Gatrell, 610). As Gatrell convincingly concludes, “abolition may be said to have been achieved *chiefly* by reference to that adverse image of the scaffold crowd which had taken shape over the previous century”.

Most interestingly of all, there appears no external evidence that crowds were ever truly socially uncontrollable or overly contentious (McGowan, 271). The upper classes were not principally concerned with controlling potential mob violence then, but imposing their own Victorian values on an undifferentiated and “uncivilized” Other.
The United States

Although it took considerably longer for public executions to recede in the United States than in England, debate focused around a variety of similar concerns. Due to America’s strong federalist tradition, the privatization of capital punishment proved a somewhat more complex affair than in Britain. While states such as New York had bills privatizing executions as early as 1835, the “last truly public hanging” did not occur until 1936 in Owensboro, Kentucky (Bessler, 47). While these arguments took longest to gain legitimacy within the South, there were four primary, nation-wide reasons for public execution’s eventual end.

The first (and likely weakest) reason involved religious arguments against public executions. In the mid eighteenth century, many religious reformers began to believe public confessions from the condemned were often forced and disingenuous (Masur, 105-106). Preachers argued that criminals could only be more honest if able to personally consult a priest, and repent privately rather than through fear of public hostility.

Secondly, the possibility of a “brutalization effect”, similar to that in Great Britain, became increasingly popular within United State’s discourse (Banner, 149; Bessler, 70). Interestingly, this theory appeared in considerably more sophisticated form than it ever had in England. Following the growth and popularization of phrenology, scientists began to argue that people’s minds were highly impressionable and those with a “weak mental caliber” could potentially adopt violent behavior upon witnessing an execution (Bessler, 70). Newspaper accounts further sensationalized this possibility, speculating the scaffold crowd to already contain a number of members from the criminal “class” (Linders, 619).
While the exact mechanisms that “brutalized” witnesses were never fully explained, contemporary phrenologists thus fervently lobbied legislatures to remove executions from the general public’s view.

Thirdly, some abolitionists saw ending public executions as an important “stepping stone” towards the death penalty’s larger eradication. Like in Great Britain, this group was split between those who believed private executions were a move in the right direction and those who thought “privatizing death” would only perpetuate state-sanctioned killing behind closed doors (71). Unlike in Great Britain, however, American penal conservatives were able to adeptly recognize and manipulate this inter-liberal conflict. As one scholar remarks, conservatives preferred having private executions over no death penalty at all, and therefore often willingly agreed to end open hangings.

Of course, such conservative compromises would only make sense if there already existed a larger movement against public executions. Although religious advocates, popular phrenologists and enlightened abolitionists undoubtedly held some influence, hostility towards the “uncivilized mob” ultimately had the greatest impact upon privatizing the American death penaltyvi. As the scholar Stuart Banner remarks, newspapers almost obsessively detailed the crowd’s “low character”, and published numerous editorials and opinion pieces on the mob’s utter lack of proper “refinement” (152). The newly formed middle class desperately hoped to separate themselves from the common people, and in doing so thus especially vilified public gatherings and events (Bessler, 68; Masur, 103; Banner, 160; Linders, 617). As one historian details, “the ascendancy” of this new sensibility fundamentally “altered attitudes toward public rituals…and made certain events in the public realm, such as executions” simply
"intolerable" (Bessler, 67 quoting Masur). This was further reflected in many of the bills formally abolishing public hangings, which explicitly described them as both “uncivilized” and “sadistic”, or akin to a “Roman holiday” or lower-class “carnival” (67-68). Similarly to Britain, it was neither a rise in “inter-human identification” nor pure notions of crowd repression that motivated public execution’s end, but an open and “enlightened” hostility towards the scaffold crowd itself.

France

While “civilized” France may seem an unlikely advocate of the scaffold, it was this nation in which public executions actually took the longest to die out. Similarly to Britain and the United States, French concerns centered on abolitionist reformers and growing notions of an undisciplined mob mentality (Wright, 169). Conservatives claimed public execution’s end would lead to an egregious denial of the public’s “need for vengeance”, whereas many mainstream abolitionists were willing to take this step in their larger quest. Further, the guillotine itself was periodically moved to a number of different locations, to both better promote crowd control and diffuse the supposed “savagery” of the thousands of witnesses. Unlike Great Britain and the United States, however, one cannot pinpoint a single or principal factor for public execution’s end. This is due to both France’s continuous political chaos and its constant transformations in social discourse. The following section is therefore not an exploration of different causal factors (as in the previous two passages), but primarily a historical and political narrative of the guillotine’s eventual privatization.
Public executions were almost banned in France as early as 1870, predicated upon the belief that such events caused massive crowd disorder and publicized unnecessary cruelty (Wright, 170). Before any larger compromise could be reached, however, this debate was suddenly and sensationally postponed by the Republic’s dissolution. What followed was an intriguing blend of historical contingency and legislative incompetence. While mainstream abolitionists were able to regroup and demand an end to the guillotine, these actors were ardently blocked by a bizarre alliance of conservatives, socialists and radicals (171). Although conservatives continued to support public executions for their supposed deterrence effect, newly empowered socialists and radicals believed that private executions would merely perpetuate capital punishment behind closed doors.

While a sort of compromise was reached in 1898, moving the mobile guillotine to the prison walls, executions nevertheless remained a well-attended spectacle (172). Further, when abolitionists finally secured enough votes to privatize the death penalty in 1907, public support turned dramatically against them (173). Newspapers sensationalized a massive increase in crime, and conservatives were thus able to rally the populace behind a desire for “public justice”. Noting this popular shift in mood, several formerly abolitionist ministers hastily changed their vote, and the bill was left to languish and eventually die in chamber.

Caught up in the fires of World War I, France’s concerns over public executions were not readdressed until 1939 (Abbott, 142). This saw the arousal of a new Leftist alliance under the Popular Front, and a conveniently brutal execution viii. Seizing on notions of crowd disturbance and photographs of the supposedly horrid public spectacle, French authorities were thus able to finally move the guillotine behind closed doors (Bulman).
At this point public executions were treated more as an anachronism than anything else, and there was therefore scant public protest or displeasure from a public far more concerned with oncoming Nazi encroachment. France’s end to public executions likely had little to do with larger notions of humaneness, however, as the very same guillotine continued to be operated until the late 1970s (Gerould, 6).

Three primary reasons can be ascertained regarding why France took such a comparatively long time to end the practice of public executions. Firstly, unlike within Great Britain and the United States, the nation’s political instability (represented by the constant threat of popular uprisings) did not allow sentimental abolitionists and “civilized” middle classers to fully flex their political muscles. This was seen in both the Republic’s 1870 dissolution, and ministers’ 1907 reversal in votes following signs of public agitation. Secondly, France’s more radical leftists were uniquely able to block mainstream attempts to end the public guillotine. In Great Britain and the United States, the socialists and radicals never had the political clout or physical numbers to significantly affect the major parties, and could therefore have little impact on the nations’ larger agenda. Thirdly, before any more relevant bills could be passed, France became deeply embroiled within World War I, and had considerably graver concerns than ending “the spectacle of suffering” (to quote Spierenburg).

Revisiting the Debate

The competing frameworks of Michel Foucault and Pieter Spierenburg bear some similarities with the preceding analyses, but ultimately prove conceptually simplistic and
historically incomplete. Foucault was correct in his assertion that public executions’ end had little to do with growing feelings of humaneness; none of the countries’ reviewed revealed any large-scale movements of empathy for the condemned. Regarding Great Britain and the United States, Foucault is also accurate in his recognition of upper and middle class derision towards the public spectacle. He entirely misses the manner, however, in which this hostility actually took shape. It was emotional disgust towards supposedly lower-class values that ended the scaffold crowd, rather than the more structural, rationalist notion of advancing crime control. Perhaps most egregiously, Foucault fails entirely to explore the political and historical complexity of France’s comparatively late public abolition, even though *Discipline and Punish* revolves around this very country!

Spierenburg’s analysis is even more problematic. While the scholar correctly perceives a “civilizing process” to have separated middle and lower class mentalities, there seems little evidence that this resulted in any greater sense of “inter-human identification”. As mentioned previously, virtually no records reveal any substantial feeling for the executed, and issues of “humaneness” were rarely discussed in either editorial or legislative forums. Indeed, such class “enlightenment” often resulted in even greater derision towards other human beings, as individuals from the “inferior” classes became construed as disgusting masses rather than fellow persons. Finally, Spierenburg offers little explanation for why the United States and France took so long to end public executions. How was “Inter-human identification” so much weaker in these countries than in Prussia or Great Britain? Even Spierenburg admits that his study provides an inadequate picture of France, with the United States ignored entirely.
Conclusion

The present study not only probes the sources of public execution’s demise in three distinct Western countries, but also attempts to offer a historical counterpoint to the prevailing explanations for this phenomenon. While Foucault’s theory seems based upon a faulty and simplistic understanding of the ruling class, Spierenburg’s conjectures are both rationally and historically deficient. Despite both mens’ contentions, it was the gradual arousal of elite disgust towards the scaffold crowd, and not any advanced method of crime control or growing “inter-human identification” that supplied the primary motivation for public execution’s end. Even this assertion is somewhat simplistic, however: In all three countries reviewed, fears of a “brutalization effect”xxi, actual abolitionist empathyxii, and unique political events helped cement and legitimate the larger discourse in place. Of course, we have left the biggest question of all entirely unresolved: What were the origins of this “civilizing process” that drove middle and upper class elites to so fervently separate themselves from the “undisciplined” mob? Or in the more succinct words of Louis Masur, what created this middle-class culture that so fervently “dreaded vice, craved order, advocated self-control, and valued social privacy” (67)?
Endnotes

i When I refer to abolitionists, I mean those individuals who were not simply against public executions but capital punishment altogether. As I will detail, such individuals were genuinely moved by empathy for the condemned, believing the death penalty itself to be inherently immoral.

ii Of course, one must always be cautious to avoid constructing false analogies (especially when dealing with France!).

iii Of course, a fundamental issue (addressed only indirectly in this paper) concerns why public executions were carried out in the first place. Although there are a variety of historical motives, most center around an attempt at deterrence through “moral education”. While the methods of execution also likely arose through a crude form of retributivism (which would explain why animals were occasionally hanged and displayed) (Abbott), public execution advocates ultimately wanted subjects to see the consequences of violating the Sovereign’s law or prevailing State values, and thus become inspired to “sin no more” (Spierenburg, 10-12; Foucault, p. 93).

iv A fear that was to prove quite well founded

v The italics are his own

vi Bessler also cites a fifth reason, that public executions were ended for fear of “rioting and public disorder” (69). He supplies relatively few sources for this Foucaultian claim, however, and somewhat confusingly ties this issue into the larger “brutalization” argument. Regardless, he clearly cites hostility towards the ill-mannered mob as the first and principal reason for public execution’s end in the United States (68).

vii The 1791 commissioning of the guillotine was actually a humane move against more barbaric forms of execution (Abbot, 125). That being said, the guillotine also made it much easier to execute great quantities of dissidents during the horrific reign of Robespierre.

viii Paper’s reported that the guillotine blade’s impact not only created “a horrific gasp from the headless corpse as the last breath of air was expelled from its lungs”, but the “blood squirted across the pavement, women pushing forward to soak their handkerchiefs in it” (Abbott, 142).

ix Except perhaps in Prussia, which had been destabilized following the Revolutions of 1848. Of course, an interesting question would be why France (which was also deeply affected by the 1848 revolutions) did not follow a similar route to abolish public executions after the insurrection’s end. One could argue that the Second Empire (led by Napoleon III) was considerably more stable and thus had less to fear from the crowds than Prussia’s restored monarchy, or that public executions were simply more ingrained within French culture and therefore more resistant to change. The relative brevity of this paper only allows me to detail why public execution’s came to an end, however, rather than comprehensively explore their larger historical and cultural meanings within each nation reviewed (a topic which I hope to write upon in the future).

x It may be possible (though still problematic) to argue that the “civilized class” was transferring its sentimentality for the condemned into hatred for the crowd. Indeed, McGowen even hints at such a transference in “Civilizing Punishment” (263). This of course begs the question of how and why such classes had come to see themselves as
separate in the first place, an issue that is unfortunately above and beyond the scope of this paper (see Conclusion).
x i In this regard Foucault’s argument holds some truth.
x ii In this regard Spierenburg’s theory holds some truth.
References


