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**EXECUTING WHITENESS:
POPULAR REPRESENTATIONS OF CAPITAL PUNISHMENT IN THE UNITED STATES,
1915-1940**

Daniel LaChance¹

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A hush falls over the death house. The witnesses assemble in the death chamber. The final curtain in this drama, where human life plays the leading role, is about to rise.²

Whitner Cary, *The Atlanta Constitution*, 1928

Over the course of the nineteenth century, elites in the United States increasingly sought to privatize executions and standardize execution protocols. The source of this change is well known to historians of punishment: a fear that public executions had become unwieldy spectacles drove state actors to move these events into jail yards, at first, and then, with the advent of new technologies like the electric chair (1890) and the gas chamber (1924), into the interior of centralized prisons that were often far from the county in which the crime had occurred.³ Access to executions was dramatically curtailed—limited, in most places, to professionals whose restraint and solemnity would reinforce the emerging technocratic ethos of the punishment.⁴ In some states, newspapers were unsuccessfully banned from reporting details beyond the fact that the execution had been carried out.⁵ Indeed, the desire to bring an end to the

¹ Assistant Professor of History, Emory University (dlachance@emory.edu). My thanks to Princeton University students Julie Chen, Ghita Guessous, Lawrence Liu, and Jessica Zou for their excellent research assistance on this project. Thanks also to Rebecca McLennan and Peter Brooks, who provided helpful commentary on earlier versions of this essay at the 2013 Annual Meetings of the American Society for Legal History and the April 21, 2014 Seminar in Law and Public Affairs at Princeton University, respectively.

² Whitner Cary, “With Plea for Life of Wife, Thompson Goes to His Death,” *The Atlanta Constitution*, August 4, 1928.

³ See Louis Masur, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776-1865* (New York: Oxford University Press, 1989); Stuart Banner, *The Death Penalty: An American History* (Cambridge: Harvard University Press, 2002); and Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Paris: Editions Gallimard, 1975). Trans. Alan Sheridan (New York: Vintage Books, 1995). Citations refer to the Vintage edition. Banner notes that, in the United States, pity for the condemned by members of the crowd was just as often a source of concern for elites as sadistic, voyeuristic pleasure or unruly behavior.

⁴ Annulla Linders, “The Execution Spectacle and State Legitimacy: The Changing Nature of the American Execution Audience, 1833-1937,” *Law and Society Review* 36(2002), 607-656.

⁵ Banner, *The Death Penalty*. For a compelling account of the backlash this law created in Minnesota, and the role it played in that state’s abolition of the death penalty, see John D. Bessler, *Legacy of Violence: Lynch Mobs and Executions in Minnesota* (Minneapolis: University of Minnesota Press, 2003).

execution spectacle was so strong that some legislatures considered abolishing a place for witnesses altogether.⁶

This dramatic transformation of executions reflected and reinforced an emerging image of the state as an abstract entity run by professionals operating in rule-bound roles rather than a set of particular actors governing in an unsystematic way.⁷ Indeed, so strong was the desire to mask the particular person operating the instruments of death that reformers in Nevada fantasized about doing away with the executioner altogether. One proposed innovation was “execution by suicide,” wherein a condemned person would self-administer a deadly poison. Advocates noted that “there will be no morbid crowd in waiting to watch the death agonies of the prisoner, nor will anyone be directly charged with having aided in ending a person’s existence.”⁸ That plan never came to pass, but the imperative underlying it—the depersonalization of state power—found other forms of expression as executions became more technically involved and routinized. Stuart Banner has argued that the end of public executions distanced everyday Americans from the killing state, making the latter seem distant and detached: “[W]ith executions conducted behind closed doors, before a small group of the well connected, out of the public eye, the people were no longer punishing the criminal,” he writes. “Now the government was doing the punishing, and the people were reading about it later.”⁹

After this period of change, the aesthetics of the execution ceremony had so thoroughly changed that abolitionist critics were beginning, by the late 1950s, to cite their hyper-rationality as evidence of their inhumanity. Reflecting on his years as San Quentin’s death row chaplain in a 1962 memoir, Byron

⁶ Linders, “The Execution Spectacle and State Legitimacy.”

⁷ This reflects the legal-rational ideal form of domination that Max Weber identified and traced the emergence of in *Economy and Society*. Max Weber, *Economy and Society* (Berkeley: University of California Press, 1968). It also reflects one kind of consciousness about law that Americans presently hold that Patricia Ewick and Susan Silbey have termed, following Kafka, “before the law.” In this popular mental representation of law, law is indifferent to the particularities of biography or personality; it is instead a “powerful, apparently autonomous place of ordered rationality whose capacity transcends particular human actions.” A kind of cosmic distance from the law inheres in this first vision of law, wherein we “apprehend the consequences produced by it without identifying the mechanisms that accomplish those effects.” Law here is reified, rationalized, and bureaucratized. Legal decision makers are the vessels through which rules pass rather than the source of their application. Patricia Ewick and Susan Silbey, *The Common Place of the Law: Stories from Everyday Life* (Chicago: University of Chicago Press, 1998), 75.

⁸ Qtd. In Linders, “The Execution Spectacle,” 621.

⁹ Banner, *The Death Penalty*, 168.

Eshelman told readers, “The death penalty is routine, ritualistic, even-tempered, assembly-line annihilation. The state becomes a legal ‘Murder, Inc.’ serving respectable citizens who pay taxes to get the job done.”¹⁰ Coming fast on the heels of Nazi Adolf Eichmann’s conviction in Israel, a year earlier, for superintending a bureaucratic machinery of death that was as horrifying as the ends it served, Eshelman’s words tapped into the most extreme sorts of anxieties about modern forms of statecraft.

But while abolitionists argued that the modes, protocols, and settings of state killing were turning the nation’s execution chambers into Fordist death factories, they were up against the existence (and, with the birth of film, the expansion) of popular renderings of the death penalty aimed at maintaining the execution ceremony as a sacred event that took into account the uniqueness of the offender. As the means and ends of punishment changed in ways that would convince theorists like Michel Foucault that punishment was losing its dramatic qualities, that it was instead “really about power and not poetics,” fictional and nonfictional execution stories, disproportionately centered around the execution of white men, offered evidence to the contrary.¹¹ The punitive meaning those stories generated has gone under-examined. Previous scholarship has argued that newspaper coverage compensated for the loss of the opportunities public executions provided for “dramatic community condemnation.” Indeed, elites had hoped that newspaper coverage of private executions would continue to provide “all the deterrence of a public hanging without the unseemly aspects of public spectacles.”¹² Journalists would provide the titillating details of an execution—the comportment of the condemned, the words of the condemned and his executioners, the response of his body to the technology of death—that had long drawn members of the public to executions. But kept safely away from the actual site of execution, the public would no longer fall prey to the pity or sadism that could sweep through crowds on execution days and undermine

¹⁰ Byron K. Eshelman with Frank Riley, *Death Row Chaplain* (Prentice Hall: New York, 1962), 220.

¹¹ I borrow the quoted phrase from Philip Smith, *Punishment and Culture* (Chicago: University of Chicago Press, 2008), 5.

¹² Banner, *The Death Penalty*, 164, 162. Others, Banner notes, were worried that newspapers would so cater to the prurient desires of readers that they attempted, unsuccessfully, to ban newspaper coverage of executions altogether. They were unsuccessful, and, as Lawrence Friedman notes, executions may have been brought into jail yards, “but millions could read all about it in the daily press. The newspapers of the late nineteenth century adored executions; they described the major executions in lip-smacking detail.... In a sense, then, the death penalty was perhaps as public as ever.” Lawrence Friedman, *Crime and Punishment in American History* (New York: Basic Books, 1993), 170.

the intended purpose of the execution. Seeing executions through the eyes of responsible journalists, they would be more likely to experience an ideal balance of fear and righteous indignation that made for obedient citizens.¹³

But while they have shown how newspaper coverage often aimed to generate a social solidarity rooted in a collective disidentification with a criminal other, historians of capital punishment have paid less attention to a pattern of racial difference that made the reporting of some executions much less about condemnation and much more about salvation.¹⁴ When journalists covered the executions of white men, they often constructed their punishments not as ritual degradations of a criminal scapegoat, but as opportunities for readers to contemplate the meaning of death in a modern industrialized and secularized world.¹⁵ Writing stories about white men on death row, journalists, playwrights, and screenwriters sometimes produced melodramatic narratives about what it meant to be human—how one coped the inevitability of death, how one managed the vagaries of fate, how ephemeral or transcendent one's ties to

¹³ Ibid., 167.

¹⁴ Histories of capital punishment have identified racial differences in penal severity, but they have been comparatively silent on racial differences in penal meaning. The literature on the period is dotted with evidence suggesting that executions had qualitatively different meanings for communities when the condemned were white. Banner notes, for instance, that, conscious of the way his execution would be represented in the press, “William Delaney of Long Island [declared] that he would go to the gallows ‘like a man, and not like a nigger with his mouth open.’” Amy Louise Wood, as I note elsewhere in the article, points to a lynching crowd that used a chain rather than a rope, as a rope was a “white man’s death.” And Seth Kotch and Robert P. Mosteller have noted that in North Carolina, “[r]ather than ascribing white perpetrators’ crimes to innate animal impulse, newspaper coverage of the executions of white criminals who committed similarly horrendous crimes against similar victims was characterized by a good deal more sobriety and even sympathy.” Banner, *The Death Penalty*, 159; Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940* (Chapel Hill: University of North Carolina Press, 2009), 42; and Seth Kotch and Robert P. Mosteller, “The Racial Justice Act and the Long Struggle with Race and the Death Penalty in North Carolina,” *North Carolina Law Review* 88(2009-10), 2031-2131, 2069.

¹⁵ Banner, for instance, details the way that capital punishment was used in a more aggravated form against African Americans before the Civil War, and he notes that it was disproportionately used, before and after the Civil War, against blacks for a wider array of offenses (notably rape). But if histories of capital punishment have identified racial differences in penal severity, they have been comparatively silent on the differences in the racialized meaning of capital punishment. The literature on the period is dotted with evidence suggesting that executions had qualitatively different meanings for communities when the condemned were white. Banner notes, for instance, that, conscious of the way his execution would be represented in the press, “William Delaney of Long Island [declared] that he would go to the gallows ‘like a man, and not like a nigger with his mouth open.’” Amy Louise Wood, as I note elsewhere in the article, points to a lynching crowd that used a chain rather than a rope, as a rope was a “white man’s death.” And Seth Kotch and Robert P. Mosteller have noted that in North Carolina, “[r]ather than ascribing white perpetrators’ crimes to innate animal impulse, newspaper coverage of the executions of white criminals who committed similarly horrendous crimes against similar victims was characterized by a good deal more sobriety and even sympathy.” Banner, *The Death Penalty*, 159; Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940* (Chapel Hill: University of North Carolina Press, 2009), 42; and Seth Kotch and Robert P. Mosteller, “The Racial Justice Act and the Long Struggle with Race and the Death Penalty in North Carolina,” *North Carolina Law Review* 88(2009-10), 2031-2131, 2069.

loved ones were.¹⁶ Their accounts surrounded the institution of capital punishment with a melodramatic buffer that maintained executions as events in which the humanity of the state that killed and the condemned who died was constantly foregrounded, even as the methods of extinguishing life became rationalized and machine-like.¹⁷

Capital Punishment, Lynching, and Race

The demise of spectacle executions happened slowly and unevenly in the United States; it began in the North in the 1830s and eventually spread South and West. The lag in the South can be explained in large part by the role that lethal punishment played in maintaining the South's racial caste system before and after the Civil War. Stuart Banner explains that until the War, black Americans (both free and enslaved) were executed for crimes that were legally not capital crimes when whites committed them. What's more, a kind of "aggravated capital punishment" was applied to slaves until the early nineteenth century. Those guilty of "petit treason," the killing of their masters, were subjected to more painful modes of death, like burning alive, and more degrading consequences, such as the post-mortem dismemberment and public display of their bodies as warnings to others like them.¹⁸ Public executions there were so centered around the affirmation of the racial caste system that the 1858 execution of a white man in

¹⁶ Indeed, the electric chair was, as Jürgen Martschukat notes, a sublime source of "delightful horror," for many. The harnessing of electricity may have symbolized humans' potential mastery of the forces of nature, but the electric chair—and contemplation of its lethal power—testified to the ultimate lack of control over nature, a recognition of human limits. Jürgen Martschukat, "The Art of Killing by Electricity: The Sublime and the Electric Chair," *The Journal of American History*, 89(2002), 900-921, 902.

¹⁷ Arguing against scholarship that suggests that the rationalization of executions dramatically diminished the agency of condemned inmates, Ethan Blue writes that inmates in the 1930s had found "subtle and supple" ways of resisting and personalizing their own deaths in the aftermath of the bureaucratization and routinization of executions. Such an approach underplays the degree to which the state itself and, as we'll see, mass media renderings of execution also worked to assert the persistence of inmates making and finding meaning in their executions. Indeed, to explicate some of their strategies, Blue sometimes turned to mediated sources: widely-circulating memoirs of wardens who, though abolitionist, seemed intent on presenting an image of their death rows as humane. Ethan Blue, "The Culture of the Condemned: Pastoral Execution and Life on Death Row in the 1930s," *Law, Culture, and the Humanities* 9(2013): 114-132, 117.

¹⁸ Stuart Banner, "Traces of Slavery: Race and the Death Penalty in Historical Perspective," in Charles Ogletree, Jr., and Austin Sarat, *From Lynch Mobs to the Killing State: Race and the Death Penalty in America* (New York: NYU Press, 2006), 106.

Charleston, Virginia, was noted as strange: “It was the first occurrence of the kind ever known to have taken place within the county,” an observer remarked to a reporter for *The New York Times*.¹⁹

In the aftermath of reconstruction, public executions became a crucial expression of southern states’ commitment to white supremacy. A rising tide of anti-black lynching, which crested in the 1890s, demonstrated just how anxious white Southerners had become about the state’s capacity to maintain racial hierarchies.²⁰ Capital punishment was, like lynching, disproportionately used against African Americans, but in these peak years, the number of lynchings in the South exceeded the number of executions (See Figure One).²¹ The result was significant pressure on elites to demonstrate the state’s responsiveness to whites’ fear of black criminality. A number of Southern states retained public executions through the end of the nineteenth century, and sheriffs in others routinely ignored laws banning public executions.²² By keeping executions public, officials had perhaps hoped to deter mob violence; executions were opportunities for spectators to “establish a visceral identification between white spectators and the power of the state” and, in doing so, satisfy their vigilante desires vicariously.²³

The death penalty’s capacity to express African Americans’ racial inferiority was limited, though, by the constraints the law placed on the kind of lethal violence that could be applied to the condemned and the manner in which it would be applied.²⁴ Amy Louise Wood notes that when they were subjected to the death penalty, African Americans were treated more humanely than when they were lynched: they were sometimes given a new suit to wear and a cigar to smoke on their way to the gallows, and their

¹⁹“Execution of the Rev. Preston S. Turley for the Murder of His Wife,” *The New York Times*, October 2, 1958. Qtd. in *Ibid.*, 99.

²⁰ Until the early twentieth century, the region’s small Native American population was the most likely, on a per capita basis, to be subject to the death penalty than former slaves; from 1885-1894, 32 of the region’s nearly 71,000 Native Americans were put to death—an execution rate of 44.5 per 100,000, a number which dramatically eclipses the rate for African Americans (6.39 per 100,000) and whites (0.88 per 100,000). And yet much more commonplace over time, given their large numbers in the population, was the execution of African Americans. This calculation was made based on execution data found in M. Watt Espy and John Ortiz Smykla, *Executions in the United States, 1608-2002: The Espy File*. [Computer file]. 4th ICPSR ed. Compiled by M. Watt Espy and John Ortiz Smykla (Ann Arbor, MI: Inter-University Consortium for Political and Social Research, 2004) and the U.S. Census Bureau. “South Region - Race and Hispanic Origin: 1790 to 1990,” available at <http://www.census.gov/population/www/documentation/twps0056/tab04.pdf>.

²¹ Banner, “Traces of Slavery.”

²² Wood, *Lynching and Spectacle*.

²³ *Ibid.*, 38.

²⁴ Wood, *Lynching and Spectacle*.

bodies were treated, before and after death, in a more dignified way.²⁵ White Southerners took notice. One lynching crowd in Kentucky in 1893 chose to use a chain, rather than a rope, to hang its black victim because they considered the rope “a white man’s death.”²⁶ Indeed, those who lynched often went out of their way to degrade their victims in ways that were off limits to officials conducting legal executions: burning some alive, cutting of others’ tongues and genitals, mobs mutilated black bodies in ways that denied African Americans the appearance of possessing the autonomy, self-determination, dignity, and rights that had, under the system of chattel slavery, only been ascribed to white men.²⁷

With degradation at the heart of a public torture lynching, public executions could become very different sorts of events—especially when the condemned were white. Occasional indications appear in newspapers that the public executions of white Southerners attracted attention for more than just their novelty. An article previewing the execution of two white men in Carrollton, Georgia, explained to readers that the punishment would “be witnessed by a large crowd, and as both men are white, the manner in which they meet their death will be watched with interest.”²⁸ The appeal was not just in the novelty of a “white execution,” but in the broader opportunities it provided for the contemplation of the integrity of the self, the finitude of life, and the relationship between the citizen and sovereign power in a democratic political order—opportunities that were perhaps not created for white observers when black men were publically executed. As a result of the decades of coexistence of these two forms of lethal punishment in the South and the national awareness and popularization of the South’s lynching problem created by anti-lynching campaigns, the meaning of capital punishment had changed. The death penalty had become, if not “a white man’s punishment,” a punishment that, as a foil to lynching, perversely seemed to recognize the humanity of its victims.

That shift was artistically and journalistically constructed as much it was the inevitable byproduct of the lynching epidemic. With the expanded production and dissemination of fictional and nonfictional

²⁵ Ibid., 35.

²⁶ Ibid., 42.

²⁷ Timothy V. Kaufman-Osborn, “Capital Punishment as Legal Lynching?” in Charles Ogletree, Jr., and Austin Sarat, *From Lynch Mobs to the Killing State: Race and the Death Penalty in America* (New York: NYU Press, 2006).

²⁸ “Two White Men Will Hang Today at Carrollton,” *The Atlanta Constitution*, June 2, 1882.

execution narratives starring condemned white men in the 1910s, 1920s, and 1930s, public imaginings of the death penalty as a white man's punishment proliferated, even as state killing continued to function materially as a tool of white supremacy. And the decline of lynching and public executions over that same period meant that more than ever before, Americans were encountering executions solely through others'

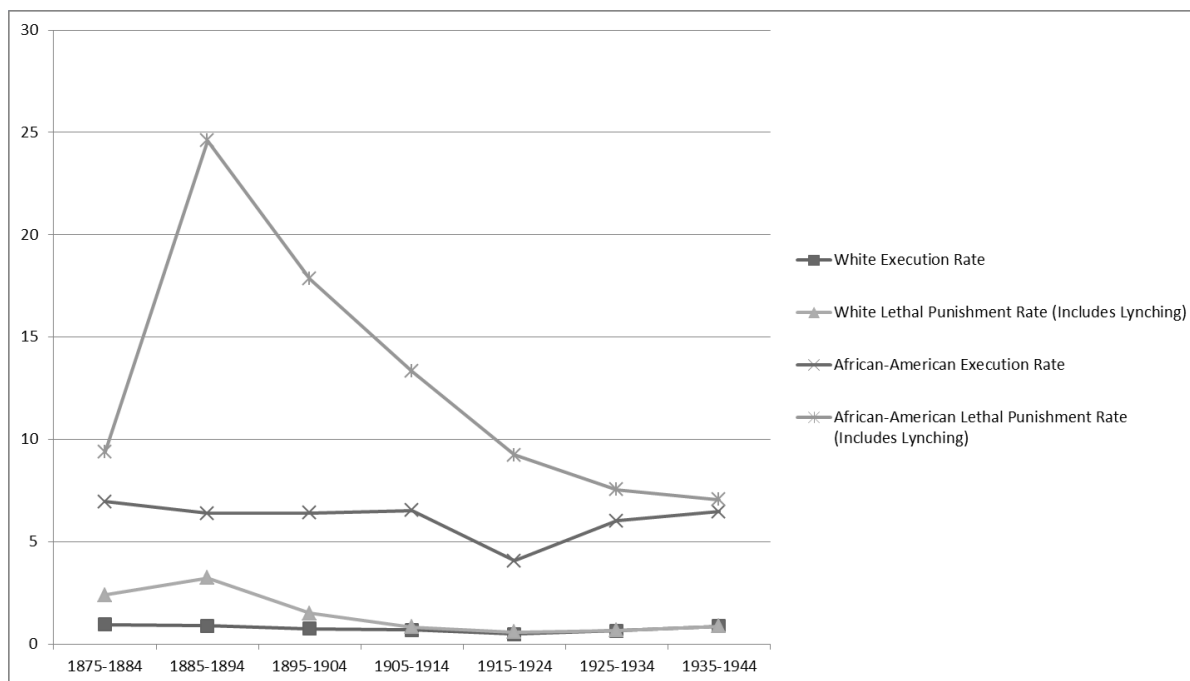


Figure One: Per Capita (X 100,000) Rates of Lethal Punishment in the South, 1875-1944²⁹

eyes.³⁰ In the 1920s, Broadway stages hosted a number of successful productions with plots that centered on the fate of condemned white men. Those plays were often produced in other cities, like Atlanta, Los

²⁹ Source of Execution Data: Watt and Smylka, *Executions in the United States*. Source of Population Data: Campbell Gibson and Kay Jung, U.S. Bureau of the Census, "Historical Census Statistics on Population Totals by Race, 1790 to 1990, and by Hispanic Origin, 1970 to 1990, for the United States, Regions, Divisions, and States." Available at <http://www.census.gov/population/www/documentation/twps0056/twps0056.html>. Accessed April 9, 2014. Source of Lynching Data: The Tuskegee Institute via The Charles Chesnut Digital Archive, Browner, ed., "Lynchings by Year and Race." The lynching data is available, on this site, in two configurations: (1) by race and year and (2) by race and state. There is no breakdown by year, state, and race. The per-decade lynching rate for the South is thus an estimate based on the assumption that a state's total number of lynchings of African Americans in a given year mirrored the national picture. (Thus, if 20% of all black lynchings nationally occurred between 1885 and 1895 and Louisiana had 300 lynchings from 1875-1945, I assumed that 60, or 20%, of those lynchings happened between 1885 and 1895.) In a future version of this paper, I hope to get the actual racial breakdown of executions by state and year. Because whites and African Americans constituted at least 93% of all executions in the South (and, after 1905, at least 98%), I have omitted data on Asian-American, Native American, and Latino/Chicano execution rates (lynching rates for these groups was not available in my source for lynchings). As I mentioned in footnote 15, however, Native Americans, while a small population in the South, had extraordinarily high per capita execution rates until 1905.

Angeles, and Chicago. Much more dramatically, the birth of film and its development into a story-telling medium led to the production of nationally-circulating, wide-reaching stories about capital punishment. Between World War I and World War II, at least 132 films with capital punishment were produced with plots that were set in the (then) present day United States.³¹ Of those films only three gave significant attention to the experience of condemned African Americans and only five depicted condemned women.³² The overwhelming majority presented the death penalty as a punishment that targeted white men.³³

Widely-circulating newspapers in major metropolitan areas also reinforced a vision of executions as sacred rituals in which the humanity of white men was affirmed.³⁴ White men's deaths at the hands of the state were often described in melodramatic detail and were occasionally the subject of long, elaborate narratives. While newspapers in Massachusetts, New York, Maryland, Georgia, Illinois, and California reported on white men's executions roughly in proportion to their presence in the population of executed inmates, the lengths of those articles tended to be much longer than those announcing the executions of men of color (See Appendix Table One), who were executed in every region of the country at much higher rates than whites (See Figure Two). Long accounts of executions were, to be sure, rare across all racial groups. Out of 354 execution stories collected from the period, only about 16 percent were longer

³⁰ After a peak of 230 in 1892, the annual number of people lynched in the United States dropped permanently below ten in 1936. "Lynchings by Year and Race," The Charles Chesnut Digital Archive, Stephanie Browner, ed. http://faculty.berea.edu/browners/chesnutt/classroom/lynching_table_year.html. Accessed October 9, 2013. That same year, Kentucky completed the last stage of the nation's century-long movement toward private executions by conducting the nation's last public execution. Banner, *The Death Penalty*.

³¹ To create a list of films in which the death penalty appeared, I compiled the names of all films in the American Film Institute Catalog that had "capital punishment" or "executions." I then excluded from the list films set on the frontier (most often, but not always, westerns), films set in the distant past (i.e., films about the civil war), and films set outside of the United States. The AFI Catalog is not a perfect source for films that depict capital punishment; for instance, *Angels With Dirty Faces* (1938), which ends with an execution, and D.W. Griffith's *Intolerance* (1916), which ends with a pardon, were not accompanied by any death penalty-related keywords, for instance. I have thus supplemented the list I created using the AFI catalogue with information found on The Internet Movie Database (www.imdb.com) and a death penalty filmography from the now defunct website of the Prison Film Project, formerly at www.theprisonfilmproject.com.

³² The films that gave significant attention to the plight of an African American on death row were *Nobody's Children* (1920), *His Darker Self* (1924), and *Bargain With Bullets* (1936). Films that featured women as condemned inmates were *The Twinkler* (1916), *Cheating the Public* (1918), *Lilies of the Streets* (1926), *The Swan* (1927), and *The Picture Snatcher* (1933).

³³ Fictional plots with lynchings were rare until the 1930s, when Hollywood began producing anti-lynching films like *Fury* (1936). One crucial exception, of course, was D.W. Griffith's *Birth of a Nation* (1915).

³⁴ Being nominally white was necessary, but not sufficient, for earning lavish coverage in the newspapers we have studied. The executions of poor whites and immigrants from Southern and Eastern European countries were often covered journalistically in a similar manner as those of African Americans, Asian Americans, Native Americans, and Latinos: they received minimal coverage or none at all.

than 20 paragraphs. But when extravagant coverage of executions did appear, it was with few exceptions about the death of a white man.³⁵ While white men were the subject of 59% of articles, they were the

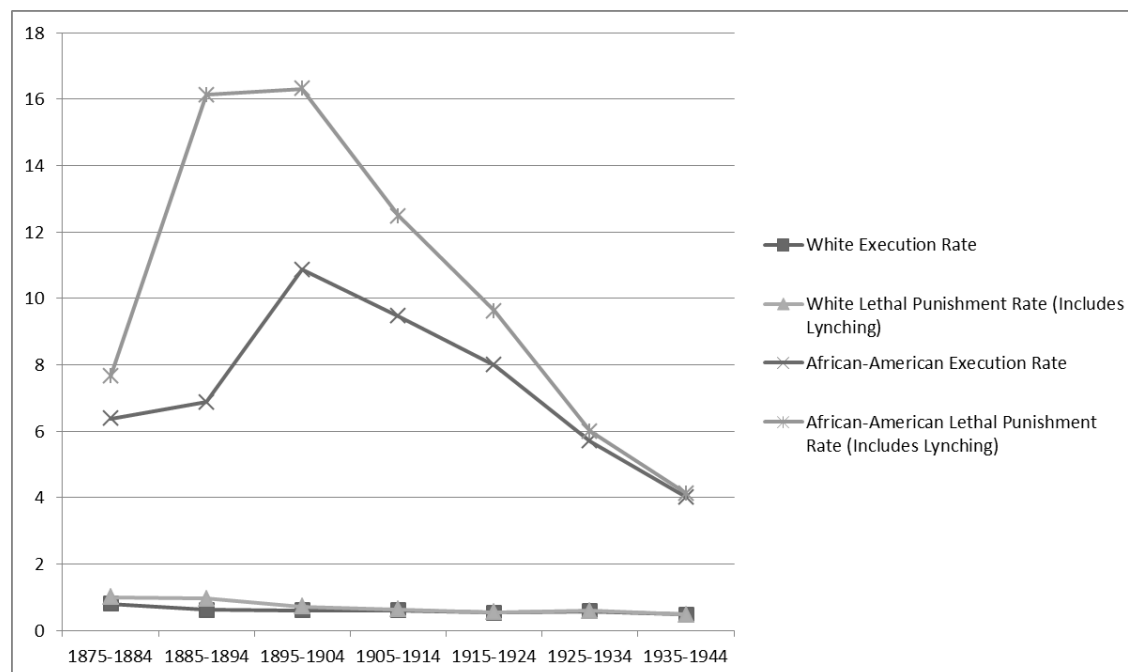


Figure Two: Per Capita (X 100,000) Rates of Lethal Punishment in the Northeast, Midwest, and West, 1875-1944³⁶

³⁵ At this stage in the project, we have reviewed all execution coverage in *The Atlanta Constitution* from 1915-1929, *The Baltimore Sun* from 1915-1937, *The Chicago Tribune* from 1925-1930, *The Boston Globe* from 1925-1930, *The New York Times* from 1915-1921, *The New York Tribune/New York Herald-Tribune*, *The Los Angeles Times* from 1915-1929, and *The San Francisco Chronicle* from 1915-1922. In all, we have searched for coverage of all 360 executions in the six states these newspapers covered during these periods and found 354 stories about 289 of these 360 executions (some executions were covered in multiple, same-day stories, and some in New York and California were covered by multiple newspapers in those states). For our purposes, an “execution story” was any story published in the days following an execution that announced that the execution had taken place or described what happened in the execution chamber. We counted as a discrete paragraph any piece of writing below the headline and sub-headlines that began with an indentation and ended with the last word prior to a new indentation in the text. The newspapers we used were selected because their availability on Proquest Historical Newspapers enabled us to find execution coverage quickly and thus survey a large number of records. Speed and efficiency motivated our decision not to read and analyze the oftentimes melodramatic coverage that could precede an execution. Indeed, we found some cases where a melodramatic story about an inmate’s last days on death row that appeared a few days before the execution would be followed, puzzlingly, by only a bare-bones, two paragraph report on his execution. The drawback of our approach, which aimed at casting a wide net to gain a larger perspective across a number of regions, is that it does not tell us anything about the coverage of executions in smaller newspapers and tabloids, where coverage may have differed. And it does not take into account those articles that preceded executions and would have, in many cases, allowed us to make a stronger case for the patterns we see here. Nonetheless, we think that our finding, that these newspapers showed a consistent bias toward covering executions of white men over their black counterparts and that they often used sentimental and melodramatic narrative frames, benefits from the national perspective we were able to establish by narrowing the scope of our sources and focusing, for the purpose of putting together the big picture, solely on execution stories. The database of executed offenders we used to identify those executed within the states covered by the newspapers we surveyed is M. Watt Espy and John Ortiz Smykla, *Executions in the United States*. <http://www.icpsr.umich.edu/cocoon/NACJD/STUDY/08451.xml>, downloaded December 7, 2010.

subject of 85% of those articles longer than 20 paragraphs. Indeed, the high standard deviation in the average length of articles covering white men speaks to the extreme lengths that reports of their executions sometimes took and that coverage of other executions only rarely took (See Figure Three).

In the disproportionate space carved out for the contemplation of white men's executions, filmmakers and journalists reinforced, as we shall see, positive, humanizing and sometimes heroic visions of both state officials involved in executions and, somewhat ironically, the condemned men whose executions they oversaw.

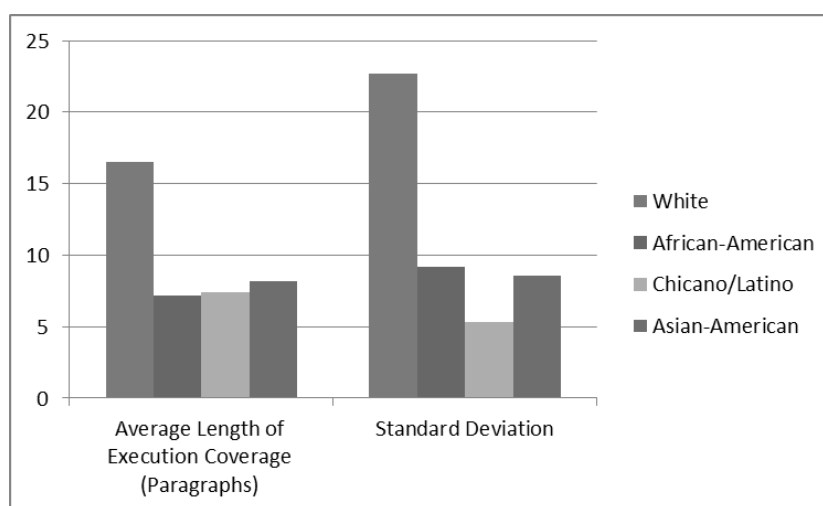


Figure Three: Execution News Articles in Six States, 1915-1940 (Sporadic Dates); n=354

Executions and the Melodramatic Imagination

Lavishly covered executions drew heavily upon melodramatic tropes, themes, plot structures, and rhetorical modes, constructing capital punishment as an event that could both express and alleviate modern fears. While the contents of “melodrama” as an analytical category have been the subject of scholarly debate for decades, scholars have tended to agree that melodramatic texts are narratives told in a

³⁶ Source of Execution Data: Watt and Smylka, *Executions in the United States*. Source of Population Data: Gibson and Jung, U.S. Bureau of the Census, “Historical Census Statistics.” Source of Lynching Data: The Tuskegee Institute via The Charles Chesnut Digital Archive, Browner, ed., “Lynchings by Year and Race.” I have omitted data on Asian-American, Native American, and Latino/Chicano execution rates (execution rates for Latinos/Chicanos are not calculable using census data because the census did not begin using the “Hispanic” classification until the 1940 census). Combined, these groups comprised between 6 and 12 percent of all executions in these three regions during the period). African Americans comprised between 12 and 24 percent of all executions, by contrast. In the West, Asian Americans and Native Americans sometimes had execution rates similar to (or, on several occasions, greater than) African Americans.

“mode of excess” in which a surfeit of sentimental detail infuses characters, settings, and events with a heightened emotionality. In a typical melodramatic plot, one-dimensional antagonists, who are wholly evil, plot to ruin equally one-dimensional heroes or heroines who are wholly good and innocent. Threats to a hero’s goodness and innocence come from entirely external forces, a crucial point of contrast to tragedies and their more psychologically nuanced depiction of internally conflicted protagonists. Likewise, happy endings, when they happen, depend not on some act of cleverness by the innocent heroine, but on an act of fate over which she has no control: a rescue or resolution made possible by a person or event that saves the day just in the nick of time. Indeed, an emphasis on providing thrills to audiences has meant that melodramatic texts are riddled with implausible scenarios and ridiculous coincidences that maximize audiences’ exposure to adrenaline-pumping anxiety.³⁷

The political revolutions from which melodrama emerged and the urbanizing and industrializing world in which it thrived over the course of the long nineteenth century shaped its aesthetic form and social function. The genre expressed anxieties about the political, psychological, social, and economic upheavals of the period had created: the “transcendental homelessness” of an atomizing and anonymizing urban existence, the threat that new industrial technologies posed to bodily and spiritual integrity, the replacement of traditional forms of authority centered in the family with commercially-driven values of the capitalist marketplace, the economic uncertainty of life as a wage laborer.³⁸ In the threats faced by the innocent in melodramatic texts—finding themselves trapped on railroad tracks in front of an oncoming train, destitute and unable to pay the rent, sexually exploited by cunning, cosmopolitan Lotharios—we can perceive, David Grimsted argues, distinctly modern concerns about the fate of the pre-modern self in

³⁷ Ben Singer, *Melodrama and Modernity: Early Sensational Cinema and Its Contexts* (New York: Columbia University Press, 2001), 47. Singer offers a helpful evaluation and synthesis of the literature on melodrama as a genre and proposes, in his own efforts to define the genre, the five central qualities that I’ve made central to my brief overview of it here: pathos, overwrought emotion, molar polarization, non-classical narrative structure, and sensationalism. On “the mode of excess” endemic to melodrama and its emergence in the aftermath of the French Revolution, see Peter Brooks, *The Melodramatic Imagination: Balzac, Henry James, and the Mode of Excess* (New Haven: Yale University Press, 1976). On the distinction between tragedy and melodrama, see James L. Smith, *Melodrama* (London: Methuen and Company, 1973).

³⁸ Georg Lukács, *The Theory of the Novel* (1920; Cambridge, MIT Press, 1971), 121. Qtd. in Singer, *Melodrama and Modernity*.

the modern world.³⁹ But in resolutions where the wicked were punished and the innocent saved, melodramas ultimately reassured audiences “that a higher cosmic moral force still looked down on the world and governed it with an ultimately just hand.”⁴⁰ They also reassured the undereducated that they still possessed what was most important in leading a spiritually fulfilling life. In aesthetically privileging an “epistemology of feeling,” suggesting that emotion and intuition mattered more than education and social stature in grasping fundamental, “self-evident” truths, the genre popularized the anti-intellectualism that has so often undergirded the democratic ethos of American political culture.⁴¹

Given the aesthetic qualities of melodrama and its popularity with audiences, it is not surprising that playwrights, screenwriters, and journalists were often drawn to stories set in the shadows of the gallows. The emotional devastation of a death sentence, the thrilling suspense and pathos generated by the preparations for an execution, the thoroughly external threat that execution devices posed to the living self, the guarantee of an outcome of enormous consequence—all of these elements were low hanging fruit to a melodramatically-minded author in search of a plot. But I want to suggest that, like the dangers of the oncoming train or the sheriff approaching with an eviction notice, the impending execution was more than just a vehicle for achieving cheap thrills but was, like its analogs, a manifestation of a uniquely modern anxiety. In melodramatic narratives of execution, it was not the economic, physical, or moral survival of innocence in a capitalist world (ridden, as it was, with relentless competition, finger-slicing machinery, or decadent materialism) that was principally embattled. It was, instead, the survival of a unique and spiritual self—a self that was more than simply a malleable object of governance—in the face of modern forms and technologies of governance that had emerged to regulate human behavior.

The rise of a bureaucratic state, the ultimate embodiment of modern governance, in the late nineteenth and early twentieth century reflected new depths of elites’ commitment to institutionalizing what Max Weber called “legal authority,” (sometimes referred to as rational-legal authority), a form of

³⁹ David Grimsted, “Melodrama as Echo of the Historically Voiceless,” in Tamara K. Hareven, ed., *Anonymous Americans: Explorations in Nineteenth-Century Social History* (Englewood Cliffs, N.J.: Prentice-Hall, 1971), 80-98.

⁴⁰ Singer, *Melodrama and Modernity*, 133.

⁴¹ Grimsted, “Melodrama as Echo,” 89. On anti-intellectualism as a constitutive element of Americans’ self-image, see Richard Hofstadter, *Anti-Intellectualism in American Life* (New York: Knopf, 1963).

political domination in which political authority is legitimated not by sacred tradition but by rules that vest authority in political offices (rather than particular persons), lay out the procedures for selecting persons to hold those offices, and define limits on the scope and nature of the power those persons have while occupying them.⁴² Such developments had intrinsic appeal for progressives of the late nineteenth and early twentieth centuries, as they promised to expand the capacity of the state to take on welfarist functions and curb the excesses of capitalism. But as we will see, melodramas of the period also revealed the dystopian fears that the development of the modern state inspired: dismay at the seemingly cosmic distance bureaucracies placed between ordinary people and those who governed them, on the one hand; a concern about the susceptibility of depersonalized state power to corruption and manipulation on the other. Like other melodramas, execution tales worked to mitigate these modern anxieties. Fictional and nonfictional narratives of state killing heaped attention on the soul of the state actors who carried out executions and the men they put to death. As a result, the technocratic ethos that was slowly transforming death work in the United States was symbolically countered by an ascendant cultural construction of capital punishment as a sanction that did not forget the humanity of those who were put to death—or of those who did the killing.⁴³

Big City Newspaper Coverage of Executions, 1915-1930

The unsentimental, fact-focused coverage of John Rounsaville's 1927 execution in *The Atlanta Constitution* was typical of the bare-bones approach to the coverage of African American men's

⁴² Weber, *Economy and Society*. On the expansion of bureaucracy in the United States during this period, see Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877-1920* (Cambridge: Cambridge University Press, 1982).

⁴³ That the condemned in these constructions were white men, those least likely to be punished with death in the nineteenth and twentieth centuries, reflects economic calculations on the part of their producers that their (majority-white) consumer base was drawn to stories about white men in harm's way. It also reflected a broader, long-standing, racist construction of democratic subjects as white men uniquely capable of exercising the self-control that was a prerequisite for political freedom, one that would become encoded in representations of whiteness in Hollywood film. See Richard Dyer, *White: Essays on Race and Culture* (New York: Routledge, 1997). But if the source of this racial imbalance is relatively simple, its consequences were profound: no longer witnesses to actual executions, Americans were, by the 1930s, disproportionately encountering representations of capital punishment as a white man's punishment. While many no doubt continued to think (critically or uncritically) of the death penalty as a tool that disproportionately targeted black men, the plays and movies they saw and many of the newspaper accounts they read told a different story.

executions in that paper and others during the late 1920s.⁴⁴ The Associated Press story, headlined “Negro Pays Penalty For Murder of Child,” read, in its entirety,

John Rounsaville, negro, paid the penalty today with his life for the murder of his infant stepson, George Rounsaville, in the latter part of September, 1925. The killing occurred at Summerville, Ga.

The negro was given only one shock after being securely strapped in the electric chair, the current being applied at 11:20 a.m., and he was pronounced dead by physicians in three minutes.

Judge B.H. Dunaway, superintendent of the prison farm, announced that he was still holding Marshall Reed, under sentence of death, the prisoner having been granted a 30-day respite. He said that no court order had yet been received setting the date for this execution.⁴⁵

Occasionally, newspaper accounts of black executions in *The Constitution* went beyond the basics and would mention that a defendant had asserted his innocence while being strapped into the chair or had words of advice to deter other young (and presumably black) men. But they rarely elaborated upon the emotional effect that being condemned to death had had on him or his family. They almost never included a photograph of the man. And headlines for these executions rarely referred to the defendant’s name, denoting him instead by his race (“Negro”), his crime, or some combination thereof (“Negro Slayer”).

The coverage of white men’s executions, by contrast, could be lavishly written, sometimes accompanied by photography, and often placed on the front page. Coverage of Mell Gore’s execution in Georgia’s electric chair was symptomatic of the rhetorical extremes to which that paper would sometimes go in its accounts of white executions. One of a number of men convicted of murdering an Atlanta grocer in December of 1925, Gore was sentenced to death for the crime. As his execution date neared, the newspaper worked overtime to help readers appreciate, yet also traverse, the cosmic distance between themselves and the soon-to-be-dead Gore. In an article previewing his execution titled “Doors of the

⁴⁴ In some places, newspaper coverage of black men’s executions in the mid-to-late 1920s could invoke incendiary stereotypes of criminality, savagery, and feeble-mindedness. Surveying the Raleigh, North Carolina *News and Observer*, Seth Kotch and Robert P. Mosteller found condemned African American inmates described as “gorilla-like,” possessing “the savage death-madness” of their “tribal ancestors,” or having lips that hid “huge white tusks.” Qtd. in Kotch and Mosteller, “The Racial Justice Act,” 2069 (note 188).

⁴⁵ “Negro Pays Penalty for Murder of Child,” *The Atlanta Constitution*, July 13, 1927.

Death House Shut Behind Mell Gore,” journalist Loy Warwick wrote, “The last watch has begun for Mell Gore.” He continued,

Alone and helpless in the dread silence of the death cell, he awaits the coming of that awful hour which will be his last upon this Earth . . . The heavy steel door of the cell of the condemned in the Milledgeville penitentiary clanged behind the youth Saturday afternoon, and he was left alone with the horrible realization that he had been brought here to await the hour of death, when the sizzling current charges through his veins and nerves, claiming payment of the debt which society says he must repay with his life.⁴⁶

Months later, after an unsuccessful set of appeals, the paper wrote that Gore would “see the sun light up the skies in the east for the last time and will see that sun cast before his eyes the sickening and sinister shadow of the electric chair in which near the hour of noon he will expiate with his life for his crime against the laws of his fellow men.” The paper’s writers melodramatically depicted the slow loss of hope in anticipation of an inexorable, annihilating force: “The implicit trust that ‘Something would turn up,’ has gone,” the paper said in its coverage of Gore’s last day. “There is a quake in his high, shrill voice and in his hunted eyes there is the mirrored question ‘Must I go?’”⁴⁷

The paper encouraged empathetic identification with Gore. His crime was described without sensationalism and with no mention of the family or friends his robbery victim had left behind. The paper uncritically presented his claim that he was not the shooter and did not know that a gun would be used during the robbery. Gore’s appearance, moreover, was praised: “he is still the same natty, sleek-haired youth when he entered [the victim’s] store. His carefully pressed blue trousers, his fancy hose, polished shoes, and general neatness has been kept up. There was nothing of the hang-dog about him . . . nor was there anything boastful.”⁴⁸ Gore looked, in these accounts, less like a hardened criminal and more like any average, sympathetic boy might. Readers, moreover, got an up close and personal glimpse into the anguish that these executions caused the members of his family. An entire article was dedicated to covering Gore’s mother’s request to the governor for clemency. “An elderly woman with a pencil in her

⁴⁶ Loy Warwick, “Doors of the Death House Shut Behind Mell Gore,” *The Atlanta Constitution*, September 12, 1926.

⁴⁷ “Gore’s Nerve Gone As Chair Beckons Him to Pay Today,” *The Atlanta Constitution*, June 3, 1927.

⁴⁸ “Gore’s Nerve Breaks on Eve of Execution for Creek Crime,” *The Atlanta Constitution*, September 26, 1926.

quivering hands and tears in her eyes,” the paper wrote, Mrs. J.B. Gore sat in the reception room of Fulton tower, “writing the words that she felt were wound around her very heart—pouring out her soul for her doomed son in an appeal for sympathy, prayer, and understanding.” The paper went on to reproduce, word for word, the mother’s plea.⁴⁹

State actors involved in the execution, meanwhile, were presented as sympathetic to the needs of the condemned. The warden, readers learned, “consented to hold off electrocution until the last possible moment with the view that something may turn up from Atlanta in Gore’s favor at a late hour.”⁵⁰ The condemned, meanwhile, spoke fondly of the state officials who were responsible for carrying out the death sentence: “From the sheriff’s office to the death cell, I have been treated with the utmost courtesy, kindness and consideration,” he said. “I have particularly kind feelings for Deputy Sheriffs R.T. Tolbert and Charles Griffin, who brought me from Atlanta and who have stood by me like princes since I have been here. They are good scouts. And as for Judge Dunaway, the superintendent, I have words only of the highest praise.” On the eve of his execution, the newspaper wrote that Gore “has been the recipient of many gifts since this morning. Friends from Atlanta have sent him special foods as also have a number of people from Milledgeville, including a chicken dinner which was presented him by an employee at the state sanitarium, who was a boyhood friend of the youth’s when they both lived in Villa Rica, Ga.” The paper went on to note that “singers and an orchestra sang and played for him for over two hours” in front of his holding cell.⁵¹ In Gore’s case, punishment, and the rituals followed in its anticipation, humanized him. Yet while it encouraged sympathetic identification with Gore, the paper did not advocate for a commutation of the sentence. In an editorial, the paper’s editors made clear their position that Gore should be executed. The legitimacy of the punishment itself was not called into question.⁵²

The description of Gore’s execution emphasized religious dimensions; in the paper’s telling, the horror of anticipating death gave way to a peaceful submission to its inevitability. The paper noted that Gore watched through the window of his holding cell the arrival of the hearse that was to carry his body

⁴⁹ “Mrs. Gore Pens Last Appeal to Save Son,” *The Atlanta Constitution*, June 1, 1927.

⁵⁰ “Gore’s Nerve Breaks.”

⁵¹ “Gore’s Nerve Gone.”

⁵² “Justice in the Net,” *The Atlanta Constitution*, September 15, 1926.

to Atlanta. In response, he “shifted his position and said, ‘Well, there it is.’” Every detail was labored over in the account of Gore’s final hours, from the sigh he made when the barber’s dull clippers began to shave his head to the drone of electricity that “wrote the receipt on Mell Gore’s debt to society” and announced that “[t]he account was closed.” The scientific mixed with the spiritual as readers were told that “servants of society had scientifically dispatched that soul on its last, long journey by applying 1,900 volts of harnessed electricity through a creation of science known as the electric chair.” Following his funeral services—and readers were told where and when the funeral would be held—Gore’s body was to be buried in “its final resting place in a little churchyard near the village.”⁵³ Death was, in the coverage, relief from a profane, modern world, a comforting return to an uncomplicated, pastoral landscape.

Gore’s lavish execution coverage was exceptional, but it brought together many of the melodramatic trappings that regularly appeared in newspapers’ coverage of white men’s executions during this period: an inquiry into the integrity of the self in the face of annihilation, over-the-top language aimed at amplifying and elongating the emotionality of each moment, opportunities for sympathetic identification with the condemned and state actors on the part of readers, an idealization of the spiritual connection to family and a pastoral landscape, and a non-classical narrative structure that circled back repeatedly to the moment of execution, as if to milk its thrill value repeatedly.

Over and over again in these stories, writers would test the theory that an execution was a moment of unraveling, a dissolution of the self and an end to its capacity to exert mind over matter. Across the country, they studied the moods of condemned inmates in the days leading up to their execution to predict whether or not they would pass the ultimate test and face their moment of death with courage. Yet they ultimately reveled in stories of courage mixed with vulnerability. Covering the retirement of Harry Stanton, who had overseen the operation of the gallows for over 60 executions at Cook County jail, *The Chicago Tribune* gave special attention to the question of how men meet death. “Discussing the prisoners he had seen hanged, Stanton asserted that Carl Wanderer, who killed his wife and a man he had lured to their home, was the most courageous,” the paper noted. “Wanderer used the

⁵³ McCusker, “Lithia Springs to Receive Gore.”

last moments of his life to sing a popular song entitled, ‘Old Pal, Why Don’t You Answer Me?’⁵⁴ That tidbit was symptomatic of the romanticized image of the condemned journalists aimed to present. By singing a song about vulnerability, rather than collapsing, Wanderer was an example of the perfect executable subject during the period: the song allowed readers to imagine vicariously the lonely horror of death. But as a pleasing alternative to vulnerability’s more emotionally incontinent manifestations—collapse, say, or rebellion—the song enabled journalists promulgate a fantasy of spiritual coherence and peace at the moment of death. In such accounts of courageous vulnerability on the gallows, the state’s terrible punishment was imagined as drawing out men’s humanity, even as it extinguished their physical being.

In similarly admiring coverage of James Satterfield, *The Atlanta Constitution* wrote in the present tense, taking readers with him on his march to the execution chamber (“eternity’s reception hall,” as the paper put when covering another execution⁵⁵). Satterfield moved “like a soldier on parade, chin up, back straight, hands swinging.” On the execution platform, he transcended the oppressiveness of an atmosphere “surcharged with horror, with nameless terror.” As “[d]eath, the invisible, glides in,” Satterfield’s eyes, readers were told, “seek the light of the window below him and he looks beyond the preacher. There is just one ray of sunshine piercing into that gloomy death chamber. Just one tiny ray from that great world bathed in light and freedom and that one ray holds Satterfield spellbound.” Contradictory imaginings of Satterfield as a causal agent and Satterfield as an object of divine grace mixed indistinguishably in the coverage: his “mighty frame shakes with a few sobs” as he spoke about his daughter in his very last moments, yet somehow he was held to have “met death unflinchingly without the slightest tremor.” In the end, *The Constitution* told readers triumphantly, “Satterfield died not below the scaffold. He died on top there. The law did not kill him. He willed his own death. In that moment when he said ‘I am ready,’ the spirit was already taking flight from his body.”⁵⁶

⁵⁴ “Builds Gallows for 65; Now He’s 60 and Through,” *The Chicago Tribune*, January 1, 1927.

⁵⁵ Cary, “With Plea for His Wife.”

⁵⁶ Pierre van Paassen, “Satterfield, on Gallows, Smiles Welcome to Death,” *The Atlanta Constitution*, May 24, 1924.

Satterfield's selfless tears were for his daughter, and journalists frequently made white men pitiable by introducing readers to their family members and describing the depths of love that they felt for their wives and mothers in their dying hours. A reporter eagerly told readers when prison staff discovered, after the execution, that Richard Whittemore had died with a photograph of his sweetheart attached to his undershirt (See Figures Four and Five).⁵⁷ And the papers often incited concern for the feelings of their family or the fate of their soon-to-be fatherless children. *The New York Tribune* amplified the emotionality of Howard Baker's final days by describing a visit from his wife and small children. "The patter of children's feet on the cold stone floor of the death house was heard late yesterday afternoon," the paper reported. Seeing him dressed in the state's standard black execution suit, Baker's wife cried, but his uncomprehending three and a half year-old son "turned to his mother and said: 'Oh, mamma, hasn't papa got on a funny suit?'"⁵⁸ The child's naiveté called attention to, and invited readers to contemplate, Baker as costumed and his fate as scripted. But beyond generating pathos for Baker and himself, the boy's words called attention to the execution suit as a part of the ritual of punishment that made the man's death not the mere extinction of life, but a ritual of sacrifice.

Such reporting was integral to the plot arcs of execution accounts, which often followed the narrative structures of what James L. Smith has called the "melodrama of defeat." Whereas the prototypical melodrama ended with rescue, an important variant of it depicted "a blameless hero" whose fight against external forces was ultimately unsuccessful. He instead "goes under, leaving the audience to pity his distresses or admire the fortitude with which he bears them."⁵⁹ The "heroes" in execution stories were, of course, convicted felons, but the papers often downplayed the import of the crime that had led them to their fate, usually summarizing it succinctly and un sentimentally. The lives of their victims were sketched in minimal detail, and mention of the victim's family members' reaction to the punishment was

⁵⁷ "75 See Bandit Die on Gallows as Murderer," *The Baltimore Sun*, August 13, 1926.

⁵⁸ "Oh What a Pal Was Mary,' Sings One of 5 Greeting Death in Chair," *The New York Tribune*, December 20, 1920.

⁵⁹ Smith, *Melodrama*, 56.

almost entirely absent. Indeed, in some melodramatic newspaper coverage of executions, it was easy to forget that the protagonist being executed had done anything wrong at all. The horror these stories



This is the picture Charles Becker wore pinned to his undershirt and over his heart when he was put to death yesterday in the electric chair. It will be buried with him, too, according to one of the last wishes he made. The picture of Mrs. Becker was taken two or three years ago, and does not show the lines of care and sorrow which have crept into her face during the last week.



Photo by George Cornett, Staff Photographer.

Mrs. Eula Thompson lying on a cot in Fulton tower Friday afternoon at the hour her husband was executed at Milledgeville for the murder of Coleman Osborne. Mrs. Thompson refused to add to her confession of Thursday night, and although she knew her husband was dying declined to talk. She appeared to be in a daze at the time.

Figure Four (left): In 1915, The New York Tribune reprinted the photograph of his wife that Charles Becker allegedly wore to his execution, telling readers that it would be buried with him and that it did not “show the lines of care and sorrow which have crept into her face during the last week.” Figure Five (right): In 1928, The Atlanta Constitution published a photograph of Clifford Thompson’s wife, Eula, “in a daze” in her jail cell (she was his co-conspirator) at the hour of his death.

depicted lay not in the crime being punished, but in the punishment being endured. By dedicating paragraphs to discussions of the condemned men’s families, by obfuscating the crime that occasioned their punishment, by reporting how vehemently they asserted their innocence while awaiting execution, these stories permitted readers to identify with the condemned, and, in so doing, manage their own

anxieties as discrete objects buffeted about by chance in a modern world that had been drained of the divine enchantment and patriarchal authority that once infused it.⁶⁰

And yet as melodramas of defeat, such stories did not simply acknowledge that anxiety; when these execution stories were successful, the emotions they elicited affirmed the existence and primacy of the very lifeblood that modernity threatened to drain from the body politic. In a world where God was no longer a given, readers could, like “true allies,” ride with the condemned part of the way “down that misty trail that leads to either oblivion or divine rest and happiness” (Hell, it seems, not being an option.) They could watch, “from the brink of the grave,” as those men “met death without fear and with a philosophy of the hereafter that was beautiful to behold.”⁶¹ When the condemned met their deaths courageously, the melodrama of defeat would become, in newspaper pages, one of triumph.⁶²

This kind of revisionism can be seen in those articles that compared the condemned to soldiers being forced to give their lives for the state in war. In its coverage of the double execution of Clifford Thompson and Jim Moss, *The Constitution* noted, “Not once during that brief space when they sat in the big oak chair on the brink of the grave did they show fear. Nor did either, through all these terrible hours of torture, waver one iota from a profession of innocence of the crime charged. They went to their dooms like soldiers are supposed to meet their maker, but without the satisfaction of a warrior’s reward.” Indeed, Thompson and Moss were celebrated for making their own meaning out of their demise rather than falling into panic and dissolution. Without the cause of war to bring meaning to their deaths, they heroically managed to achieve some other unspecified, yet no less transcendent “satisfaction” in their final moments. Subjected to the cruelty of a modern legal system that arbitrarily spared others but not them, about to be

⁶⁰ The melodrama emerged in “the epistemological moment that symbolically, and really, marks the final liquidation of the traditional Sacred and its representative institutions (Church and Monarch), the shattering of the myth of Christendom, the dissolution of an organic and hierarchically cohesive society.” Brooks, *The Melodramatic Imagination*, 14-15. The tyranny of chance in melodramas was in some ways an emblem of a world that had lost its legibility and cohesion. Singer, *Melodrama and Modernity*.

⁶¹ Cary, “With Plea for Life of Wife.”

⁶² Yet such endings undermined the way melodramas of triumph are happily resolved by the same forces of fate and chance that imperiled the protagonist. Here, it is the internal will of the protagonist that tames the psychologically debilitating forces of chance.

dispatched by a modern, electrical technology of death, Thompson and Moss courageously evinced, in the reporter's opinion, a warrior's sense of purpose.⁶³

These stories were not generic palliatives to the tyranny of chance that seemed to afflict modern life. In the melodramas of execution played out on newspaper pages, law was not simply a convenient vehicle through which chance operated to embattle innocents; it was, rather, often conceived of as an intrinsically menacing force—as a net that ensnared innocents.⁶⁴ Stories of men meeting their deaths in the nation's execution chambers captured a legal dimension to modern anxiety, one centered on the depersonalization of political power. Law was frequently reified, made into a supra-human “thing,” in newspaper reports of executions. For instance, *The Los Angeles Times* reported that one man's entreaties “fell on deaf ears. The law had entered the toll to be exacted. Nothing could swerve its mandate.”⁶⁵ And *The New York Tribune* reported that when Joseph Mullholland's mother tracked New York Governor Charles Whitman down in the lobby of the Saint Regis Hotel and begged him to spare her son's life, the governor's voice broke as he told her that the “last must take its course,” denying the very power he had to pardon.⁶⁶ Pardons during the period were common enough that surely some readers saw through Whitman's rhetoric and recognized that law didn't exist independent of those who interpreted and enforced it. This was, after all, the age of legal realism. But it was also the age that produced Kafka-like critique of legal bureaucracies that were so detached from the substantive values that underlay their construction that they had the potential to cause real injury to hapless innocents. Common folks'

⁶³ Cary, “With Plea for Life of Wife.” Jim Moss was African American, and the article was exceptional for its inclusion of an African American in a melodramatic newspaper story. It was also the only story we have found, thus far, to print an image of a condemned black man. The story approvingly suggests an odd moment of interracial solidarity in 1930s Georgia: “[I]t is a story of how two men, one white and the other black, met death without fear” and its author writes admirably about Moss's “remarkable” nerve. He and Thompson bore their fate with “Spartan courage, forgiveness for their enemies, a firm, bountiful belief that they were about to reap the fruits of salvation.” And yet racial hierarchy was nonetheless present. The story's headline, “With Plea for Life of Wife, Thompson Goes to His Death,” made no mention of Moss. And while it lauded his courage, it also indulged, at times, in the stereotype of the happy-go-lucky, blissfully ignorant African American man, noting that he “eats with a relish, remarking with quaint humor that ‘this is one more meal than I had expected to enjoy’” and “chats joyously with newspapermen, flashing his golden smile.”

⁶⁴ The image of law as a “net” is used by Patricia Ewick and Susan S. Silbey to describe a form of legal consciousness that sees law as an alien, malevolent force opposed to human interests and well-being. See *Before the Law*.

⁶⁵ “Murderers of Chapman Hang,” *The Los Angeles Times*, January 17, 1925.

⁶⁶ “Whitman in Tears as Mother Pleads for Her Son's Life,” *The New York Tribune*, August 31, 1917.

traditional alienation from political power took on a new dimension in this modern, bureaucratic world, as “the law” became not the sheriff one knew by sight, but the inner workings of opaque institutions.⁶⁷

But if the law could become a fearsome specter of the imagination, newspaper coverage of executions worked to represent those who occupied the roles of warden, sheriff, governor, or executioner as well-meaning people who could not stop the law’s lethal blows, but could soften them. After telling Mrs. Mulholland that the law had to take its course, Governor Whitman “eagerly” granted her permission, when she asked for it, to visit her son once last time (a request the Sing Sing authorities had denied to her). “He asked her if she had the money at hand for her railroad fare,” the newspaper reporter noted, “and seemed almost disappointed when she produced it,” so anxious was he to do something to ease her pain.⁶⁸

Journalists constructed a similar sort of dynamic in their depictions of the relationships the condemned had with their keepers in the days before their executions. At times, the papers showed how prison workers mitigated the mental anguish of condemned men. When John McLaughlin, John Devereaux, and Edward Heinlein were moved into the death house in Charleston, Massachusetts, to spend their final days, *The Boston Globe* reported that “[a]s soon as they were lodged in their cells, the warden had coffee and toast sent them, later making them a personal visit and expressing sympathy while telling them that there seemed to be no hope at this time. Their chief concern appeared to be whether their relatives could visit them there and whether they would be allowed to write as many letters as they wished, on both of which points they were reassured.”⁶⁹ Journalists reported the extension of small kindnesses by wardens and the making of minor exceptions to the rules with relish. In deference to Nathan Desatnick’s Orthodox Judaism, readers of the *Globe* learned, “[f]or the first time in the history of

⁶⁷ For instance, in urban areas, the coming of the automobile created new social distance between the police officer and the community he served. As Lawrence Friedman writes, “A cop on foot was a familiar cop, a neighborhood cop; he knew his beat, and the beat knew him. . . . But now a ton or more of steel separated the motorized officer from the community; police cruising in patrol cars were strangers to the dark, dangerous streets; these police tended to feel alien, beleaguered; the locals, for their part, thought of them as an outside, occupying force.” Lawrence Friedman, *Crime and Punishment*, 359.

⁶⁸ *Ibid.*

⁶⁹ “Slayers Likely to Die Tonight,” *The Boston Globe*, January 4, 1927.

electrocutions at the prison, the condemned was permitted to wear a hat until he reached the death chair.” Witnesses were asked to participate in “the ritual” as well, and “also kept their heads covered until Desatnick was placed in the electric chair.”⁷⁰

Covering Frank Minnick’s execution in the electric chair at Sing Sing, both *The New York Times* and *The New York Tribune* noted that the warden and his wife were hosting, in their home, Minnick’s wife and children. “As Minnick was led to his death, his two children, Mary, six years old, and John, four, were asleep on the third floor of the home of Warden Lewis E. Lawes,” *The New York Tribune* reported in a story with the headline, “Goes to Chair as Babies Sleep in Warden’s Home.”⁷¹ Their mother, meanwhile, was comforted by the warden’s wife, who took her for a car ride during the execution period. Minnick thanked the warden and his wife in his final statement, and Lawes, for his part, took up a collection among witnesses for the support of the wife and children. Even the District Attorney who was present contributed, *The New York Times* noted.⁷² When Charles Becker was electrocuted at Sing Sing several years earlier, *The Times* wrote that the warden had accorded him a privilege that was seldom granted: he was allowed a contact visit with his wife in the office of the principal keeper on the evening of his execution. “In a cell of the Death House he could have touched his wife’s hand, but he could not have embraced her, could not have kissed her,” the paper noted. “This morning he did all these, straining his wife to him as he bade her a last farewell.” And while guards had been told not to take their eyes off Becker during the meeting, we learn that, out of respect, they “looked away while the man who is to die embraced the woman.”⁷³ Each of these gestures by wardens was “unprecedented,” readers were told, a violation of protocol that served to rehumanize, temporarily, those facing the “inexorable penalty” of the law.⁷⁴

Sometimes coverage of the days leading up to an execution could suggest an almost familial atmosphere in the death house. On more than one occasion, *The Chicago Tribune* published photographs

⁷⁰ “Desatnick Executed in Killing of Child,” *The Boston Globe*, July 17 1928.

⁷¹ “Goes to Chair as Babies Sleep in Warden’s Home,” *New York Herald-Tribune*, March 13, 1925.

⁷² “Raise Fund For Family as Man Dies in Chair,” *The New York Times*, March 13, 1925.

⁷³ “Gets to Prison at 11.35 P.M.” *The New York Times*, July 30, 1915.

⁷⁴ W.G. Foster, “Baker Boy Pays Supreme Penalty in La Fayette Jail,” *The Atlanta Constitution*, April 28, 1923.

of condemned men alongside their jailers that appear, to a modern eye, painfully staged. In one photograph, Deputy Sherriff Paul Disso, is shown standing centered behind two condemned men scheduled to die on the same day, his arms extended outward behind the shoulders of the two. Disso and the two condemned inmates, Thomas McWane and James Gricius, are dressed semi-formally, with Disso in a bow tie. None of the trappings of jail are in the photos. Save for Gricius's look of fear, the photograph could almost be mistaken for that of a man with his sons.⁷⁵ (See Figure Six). In another, Sheriff Peter M. Hoffman is shown standing in front of Joe Holmes and Jack Woods, condemned for killing a clerk in a robbery of the Drake Hotel. Dressed like civilians, Woods has his arm around Holmes as they both look somewhat blankly at the sheriff. The sheriff, meanwhile, looks at the two with stern familiarity, almost like a father worried about his delinquent sons.⁷⁶ (See Figure Seven). Not all such photos were so intimate, but they worked to cultivate a sense of the execution as an event in which those who did the killing and those who were killed were known personally to one another. In these photos, the condemned do not appear in shackles or in prison garb, and they are photographed in close proximity to the warden. The violence that was announced in the captions was softened by the emotional connections the photos themselves suggested between the condemned and their keepers.

Just as newspapers implied familial intimacies or mentioned small, humane deviations in protocols in response to individual circumstances, they also sometimes named the actual executioners. One of the central tenets of the technocratic overhaul of death sentences was the maintenance of the executioner's anonymity. But newspapers sometimes reversed that tendency toward executioner invisibility. *The Boston Globe* identified, by name, the agent in charge of actually administering the lethal current to Herbert Gleason. "Warden Hendry gave a signal to executioner, Robert Elliott, standing behind a screen.... Elliott [had] arrived in Boston during the afternoon to perform his task."⁷⁷ The screen, partly in place to de-emphasize the ultimate agent of death, is rhetorically removed by the newspaper in its own coverage: what masked Elliott from the witnesses who were physically present for the execution

⁷⁵ "Gricius and M'Wane Hanged," *The Chicago Tribune*, December 31, 1926.

⁷⁶ "Two Drake Hotel Killers Hang This Morning," *The Chicago Tribune*, February 26, 1926.

⁷⁷ "Gleason Executed, Calm to the End," *The Boston Globe*, March 13, 1928.



Figure Six (left): *The Chicago Tribune's* 1926 photograph of Sheriff Paul Disso with two men condemned to die resembles a family portrait. Figure Seven (Right): As another photograph from 1926 illustrates, condemned inmates were numerous times presented in *The Tribune* with their keepers in settings that did not call attention, aesthetically, to their status as death row inmates.

was taken down, metaphorically, in the newspaper's account of the execution. In a 1915 execution story, *The New York Tribune* took great care in describing the idiosyncratic appearances of the prison's keepers: "McInerney, gray and round as a butter ball," Johnson, "a stiff new beard on his cheeks [making] him look the more wan," and "Dorner, a gaunt man, with snow-white hair and a face like a tragedian's." But it ironically described in the most elaborate detail the one actor it could not know by name, that

mysterious figure, the state executioner. He is a little dried-up man, maybe forty-five years old, with a head that's getting bald, and small hands and feet. For once yesterday he did not wear the grotesque rubber overshoes he usually dons to protect himself against the great electrical current he controls...he had left his diamond horseshoe scarfpin behind. His attitude was purely professional, a sort of detached, 'it's all in the day's work' pose. He's the cut-rate executioner who replaced Davis. Davis used to charge \$250 for killing a man. What the new man charges is not known, but it's less.

The executioner here is both embodied—his mortality derisively pointed out in details that highlight his own senescence—and profaned, his pecuniary interest in the work made the object of speculation. Yet he is also a “mysterious figure,” his “detached” and “purely professional” demeanor an allusion to the ideal relationship between the person and the now-bureaucratic office he occupies. He stands apart from the guards who “knew Becker well and were fond of him,” including Deputy Warden Johnson who, as Becker’s “closest lay friend in Sing Sing,” could not bear to look long at the electric chair Becker would soon occupy.⁷⁸ If the executioner embodied a botched effort to depersonalize the law, the guards were lethal social workers, whose care and compassion mitigated the law’s harshness for the condemned.

The language of theatricality frequently made its way into execution articles, pushing readers to recognize that they were watching a performance of state power, one in which the transcendent nature of the state could not exist without men to operate levers and pulleys behind the scenes. By pointing out the men behind the curtain while simultaneously noting its existence and by depicting state actors deviating from institutional protocols, execution stories resisted the bureaucratic trappings of state power. Those charged with carrying out executions could be pious, operating “solemnly and with scientific precision,”⁷⁹ or they could be profane, “dried up” little men with small hands and feet. But they were ultimately mortal men—and more often than not, they were good men whose small acts of kindness tempered the bureaucratic and technocratic coldness and objectification of the condemned endemic to the modern execution process.

In their coverage of white men’s executions in the 1910s, 1920s, and 1930s, journalists sometimes called attention to the bureaucratic transformation of executions while resisting its dehumanizing potential with stories that sympathetically portrayed the state actors and condemned men

⁷⁸ Wood, “Becker Kept Vow to ‘Die a Man.’” Ten years later, in its coverage of John Farina’s execution, *The New York Tribune* explicitly identified the executioner, whose identity was apparently no longer a secret, and commented on his demeanor: “Solemnly and with scientific precision executioner John Hulbert, a deep chested man with close cropped hair, shocked the three men to death serially. “Diamonds Die with Farina, Denying Guilt,” *New York Tribune*, May 1, 1925.

⁷⁹ “Diamonds Die with Farina.”

who played opposite one another in the deadly performances of punishment. No longer able to witness executions directly, readers were assured that they retained their sacred properties. Rather than stripping executions of meaning, the bureaucratic aesthetics of state killing actually could communicate a respect for the condemned person through its strict regulation of violence. When such a utopian balance was created, when executions were spiritual, yet regulated, writers generated a vision of capital punishment as an implicit mirror to lynching. And they did so in a racially polarizing manner. If lynching prominently punished blacks, capital punishment prominently punished whites; if accounts of spectacle lynching fueled identification with the vigilante punishers or the approving crowd of witnesses, accounts of capital punishment fueled identification with the condemned and their family members; if lynching dramatized a loss of manhood, accounts of capital punishment linked the experience of life on death row to ennobling and sometimes successful attempts to hold onto or preserve it; if lynching photography often depicted the lynched as successfully hunted animals,⁸⁰ posthumously-published newspaper photos of the executed depicted them before their deaths, interacting on seemingly equal terms with their keepers. And if those who were lynched died at the hands of “persons unknown,” those who were executed died at the hands of men who had forged a relationship with them.

Theatrical and Cinematic Depictions of the Death Penalty in the 1910s, 1920s, and 1930s

I have argued that the popular image of capital punishment in newspapers’ execution stories of the 1910s and 1920s implicitly distanced the punishment from the lawless lynching of African American men. Yet in their attention to the affective dimensions of putting someone to death and being put to death, newspaper stories also avoided making the state seem too cold and calculating. The rationalization of executions, these stories implicitly suggested, had not made them soulless and impersonal. Indeed, at times these news stories could revive a more pre-modern vision of execution, one in which the condemned was an embodiment of the innate sinfulness that potentially lay within everyone, his

⁸⁰ Wood, *Lynching and Spectacle*.

punishment a way of expiating sin and restoring his place in the moral community he had harmed.⁸¹ At other times, when the condemned man's crime was all but ignored by the author, they operated as allegories of emotional triumph over a modern world and a modern law that had been severed from traditional sources of meaning.

But if popular representations of the death penalty distinguished executions from lynchings by portraying the condemned sympathetically, they could evince, in their fictional iterations, the same kind of distrust of the law and suspicion of the modern that underlay the logic of vigilante violence. Most death penalty films between 1915 and 1940—83 out of 133—depicted sympathetic white men who were unjustly sent to death row and saved at the last minute by a revelation of their innocence or mitigating facts surrounding their crime, usually engineered by a female family member or romantic interest. The trope was first instantiated in D.W. Griffith's *Intolerance* (1916). While Griffith had, the year before, depicted the lynching of a black man as a prelude to the emotionally satisfying recuperation and resurgence of southern white manhood in the aftermath of radical reconstruction, in *Intolerance* he depicted the converse: the avoidance of lethal punishment by a Northern white man wrongly accused of murder. In one of that film's three storylines, a young man attempting to go straight is sentenced to death for a murder he didn't commit because his old boss, a crooked machine politician, has unduly influenced the judge against him. The film registered, as Lary May notes, the anxieties of the age: the young man and his pregnant wife ended up in the city after a labor strike against an industrial capitalist ruins their families financially. And after his conviction, elite progressives who deem the wife an unfit mother use the bureaucratic apparatus of the state to forcibly remove the child from her care. And yet, in a true melodramatic ending, innocence is vindicated. The wife gets a confession from the real murderer, secures a pardon from the governor, and then dashes to the prison with an army of his friends, and arrives just in time to save her husband from the noose. The state may be subject to paternalism and corruption, the film admitted, but hope was not lost. Ultimately, through the governor's pardoning power, "the democratic

⁸¹ On executions in colonial New England, see Karen Halttunen, *Murder Most Foul: The Killer and the American Gothic Imagination* (Cambridge, MA: Harvard University Press, 2002).

state serves as [a] just and benevolent ruler...by saving the virtuous individual.”⁸² The state would retain its democratic character and liberate, rather than ensnare, the belabored white citizen. Lawless vigilantism—white citizens successfully usurping the executive power to punish—saved imperiled white innocence in *Birth of a Nation*. But a kind of lawful vigilantism—the political mobilization of ordinary white citizens successfully appealing to the executive power to pardon—saved it in *Intolerance*.

The anxiety about circumstantial evidence that was at the heart of *Intolerance* would become common in many death penalty films. By the end of the long nineteenth century, migration patterns had concentrated thousands upon thousands of Americans in cities. The liberating anonymity of urban life, though, was also a potential liability. Death penalty films with mistaken identity themes expressed in symbolic terms the psychic costs of deindividualizing city life. A vast population could allow one to disappear from a constraining past, but it could also contain doppelgängers whose lawlessness could be fatal to one’s future. Wrongful conviction on the basis of circumstantial evidence highlighted a different dark side to modern life. These films indicted the modern, (Sherlock) Holmesian assumption that the truth of what happened at the scene of a crime could be reliably revealed by inductive reasoning.⁸³ Cases “logically” built on circumstantial evidence got the condemned men in these films into pickles, women’s moral intuition, a human response discounted in an age of rationalization, was usually necessary to get them out of them. Women did what the legal system, because of its objective detachment from context and insistence on role norms and procedure, could not: exonerate the innocent. A kind of salvation-oriented vigilantism was celebrated as private actors delivered justice that the state couldn’t or wouldn’t by finding the proof that exonerated a loved one. Many of the films in this period end, tellingly, with a pardon from the governor. As the clock approaches execution time, proof of innocence is rushed into the prison where, upon its revelation, the execution is stopped and the condemned freed by an act of executive clemency. Justice, audiences were reassured, could be effected instantaneously and decisively, and larger, humanist values (“the innocent should not be punished”) would not be replaced by an iron

⁸² Lary May, *Screening Out the Past: The Birth of Mass Culture and the Motion Picture Industry* (New York: Oxford University Press, 1980), 85.

⁸³ Films that expressed this anxiety included *Who Shall Take My Life* (1917), *Troublemakers* (1917), *A Game of Fate* (1918), *Confession* (1918), *The Victim* (1920), and *Love’s Battle* (1920), and *Circumstantial Evidence* (1935).

cage of legal procedure whose rigid faith in reason could make it insensitive to moral instincts or vulnerable to corruption. The modern state apparatus was legitimated, in the end, by an infusion of feminine intuition.

But in true melodramatic form, such benevolence was often hard won. *The Noose* was a hit Broadway play, based on a short story by H.H. Van Loan, that was made into a film twice in ten years: first as a silent film with the same name in 1928 and then as a talkie called *I'd Give My Life* in 1936. The plot is preposterous: the film's hero is Nickie, a young man who grew up without parents. As a young man, he learns that the gangster he's been working for is also his long-lost father and that his long-lost mother is now the wife of the state's anti-corruption governor.⁸⁴ The gangster-father plans to extort the governor by threatening to reveal his ex-wife's salacious past experience in the underworld. Upon hearing this plan, Nickie kills his father in order to protect his mother and is sentenced to death, partly because he refuses to tell anyone the circumstances surrounding the murder.

The governor's wife, meanwhile, is inexplicably drawn to the condemned Nickie and pleads for him on the eve of his execution, her moral intuition underlying an unprovable sense that he is morally innocent. The governor wants to grant clemency, but he is maddened by Nickie's refusal to provide a motive for the murder. He tries to adopt a paternalistic, rather than bureaucratic perspective, but finds it too difficult. In the 1936 film version, he begs Nickie to give him a reason to stay the execution. "I'm acting on your behalf... more as a father than as Governor of this state. Won't you help me?" he pleads. But protecting his mother's reputation, Nickie steadfastly refuses to articulate a motive.⁸⁵ And while the law of clemency may permit irrational, intuitive decision making, the governor is an anti-corruption progressive who has internalized a respect for rule-regulated sovereign power. He won't stop the execution without a reason. Intuition is not enough. The governor's wife watches in horror as he denies clemency to Nickie. The governor's mother, meanwhile, is disgusted. "The law says that it must happen,"

⁸⁴ The father had, improbably, abandoned the mother years earlier, taking the toddler Nickie and leaving him in a reform school. When Nickie was of age, he was plucked out of the reform school to go to work for his father in a bootlegging operation in a jazz hall.

⁸⁵ George O'Neil, *I'd Give My Life* (Release Dialogue Script), August 7, 1936, 5:5. Paramount Pictures Scripts Collection, Production Files—Produced, Series 1. Margaret Herrick Center for the Study of Film, Academy of Motion Picture Arts and Sciences, Los Angeles., 6:1.

he says in his own defense, echoing the statements of actual governors in newspaper reports of the period. “John, if I had you to raise again, I wouldn’t let you get within a mile of a law school,” is the mother’s frosty rejoinder.⁸⁶ A professionalized, legal-rational order, nobly embodied by the governor, was supposed to purge moral and financial corruption from government. But the cure could be as harmful as the disease, the film suggested to its audience as they watched a political order so governed by reason that it lacked the capacity to recognize Nickie’s goodness.

Nickie’s life is saved, in the end, by an act of feminine subversion. In the two film versions of *The Noose*, a woman inside the governor’s mansion—the governor’s wife in one film version, his mother in the other—calls the prison in the middle of the night and grants a reprieve. The reprieve is temporary, but it is enough to change the governor’s mind. These texts ultimately depicted a process of emotional verification. The law underlying a death sentence was initially presented as cold, insensitive to context, and incapable of recognizing or protecting moral innocence. Through extra-legal efforts on the part of private actors, agents of the law were made to recognize what the abstract law itself could not. By depicting a process of separation and then reattachment of the human with his role as an agent of the state—from governor to father to governor again—these films tamed the state’s excesses of reason.

Such plots ran counter to the larger process of rationalization and bureaucratization that was ongoing in law in the late nineteenth and early twentieth centuries, and elites on local censorship boards, responsible for licensing all films shown in a state’s or city’s public venues, recognized—and indicated discomfort with—the film’s efforts to humanize capital punishment by presenting the killing state as specific actors inflicting death on specific offenders. In the 1928 silent version of the film, the New York board objected to the warning a guard gives Nickie (shown to audiences on a title card) when he refuses to name accomplices: “If you are trying to protect someone, you’d better hurry up and speak – that scaffold is being built for you,” the interrogator says. The censorship board inserted another line in its

⁸⁶ *Ibid.*, 6:2-3.

place: “If you’re protecting someone – you’d better hurry up and talk – before it’s too late!”⁸⁷ And the Ohio censorship board deleted a different line suggesting the particularity of executions: “It’s criminal to hang this boy—no set of men anywhere have any right to penalize murder with murder,” one character says in the original version of the film. In its place, the board mandated the following subtitle, to be spoken by the governor: “ours is a government of law, and the majesty of the law must be carried out.”⁸⁸ These changes obscured of the role of persons in the practice of punishment, reflecting a tension between censors who were attempting to render power anonymous and cultural producers of capital punishment spectacles who sought to demystify and thus soften sovereign power, to locate it in particular actors with names, personalities, and targets.

Indeed, aesthetically the film invoked the specter of the reified, unknowable state, as, midway through the film, Nickie stands in a spotlight in an otherwise darkened courtroom and is sentenced to death by a judge who sits on an exaggeratedly high dais and is seen, initially, only in silhouette. And yet it refuses the abstraction, as the judge’s features eventually come into view and he raps his gavel hesitantly after pronouncing the sentence. A close-up of the rapping gavel segues into a close-up up of a hammer pounding nails into the scaffold being built at the prison. The film demystifies the “majesty of the law” by visually undermining the division of labor that normally masks the violence inherent in the issuing of a death sentence.⁸⁹ By connecting the gavel to the literal construction of the execution device, the film refuses to let the law “transcend its own violence.”⁹⁰ A decade earlier, in a similar move, *Intolerance*

⁸⁷ Eliminations Report of the Production Code Administration, January 14, 1928, *The Noose* Production Code Administration File, Margaret Herrick Center for the Study of Film, Academy of Motion Picture Arts and Sciences, Los Angeles.

⁸⁸ Eliminations Report of the Production Code Administration, January 28, 1928, *The Noose* Production Code Administration File, Margaret Herrick Center for the Study of Film, Academy of Motion Picture Arts and Sciences, Los Angeles.

⁸⁹ Richard A. Rowland, *The Noose*, directed by John Francis Dillon (First National Pictures: Los Angeles, 1928), 8 reels. Screened by author at the Modern Museum of Art, New York City, October 11, 2013.

⁹⁰ Bureaucratization is one way, as Austin Sarat has argued, “of trying to show that the state, though it comes into the world born of physical violence, or the violent disruptions of the existing order of things, can transcend the violence of its origins.” “Killing Me Softly,” in Austin Sarat, ed., *Pain Death and the Law* (Ann Arbor: University of Michigan Press, 2001), 43-70, 69. In modern states, legal theorists like Robert Cover have taught us, the violence that underlies law is carefully organized and deployed by many actors: “in order to do that violence safely and effectively, responsibility for that violence must be shared; law must operate as a system of cues and signals to many actors who would otherwise be unwilling, incapable or irresponsible in their violent acts. . . . no single mind and no

(1916) had contrasted the fear of the reified state with the wisdom of the democratically-elected governor. Just before the execution of the film's hero is called off, the film offers a dramatic close up of three disembodied hands hovering with knives over three strings, only one of which will spring the trap door on which the condemned stands (See Figure Eight). The obfuscation of individual human responsibility for the killing imagined the state as an impersonal agent of death. But the responsible governor, the film shows, has the ultimate power over life and death. With his wife at his side, grasping him insistently as he hears the evidence of innocence, the governor issues a last minute pardon (Figures Eight and Nine).

Sometimes in plays and film, condemned white men did die at the hands of the state, and in the creation of such narratives, writers generated a vision of the execution as a crucible that created martyrs and unsettled rather than recuperated law's legitimacy. Self-sacrifice was one of the more salient tropes that stage and screen audiences encountered in the 1920s and 1930s. True to melodrama's fantasies of morally pure innocents, writers portrayed condemned white men as martyrs to a set of traditional (and hence endangered) moral principles. *The Valiant*, a one act play published in *McClure's* in 1921 and later made into a film in 1929, is an important example of this sub-genre. On the eve of his execution, a mysterious man calling himself James Dyke still won't tell anyone who he is or why he shot a man to death and then immediately turned himself in. He merely explains to the warden of the prison, "The man deserved to be killed; he wasn't fit to live. It was my duty to kill him, and I did it....I haven't any excuse—that is, I haven't any excuse that satisfies the law."⁹¹ As the clock ticks down to execution time, the Warden delays the execution to allow a young woman who has traveled to the urbanized East from bucolic Ohio to visit the prison to find out if Dyke is her long-lost brother who disappeared ten years ago.

single will can generate the violent outcomes that follow from [legal decisions]." Robert M. Cover, "Violence and the Word," *The Yale Law Journal* 95(1986): 1628.

⁹¹ Holworthy Hall and Robert Middlemass, *The Valiant*, *McClure's Magazine* 53(March 1921), 9. Indeed, as the man explains to the warden, natural law, immune to modernization, will vindicate him if there is indeed an afterlife in which he'll be held accountable for his earthly actions: "And an hour from now, while my body is lying in there, if a couple of angel policemen grab my soul and haul it up before God—...I'm not afraid, because the other fellow will certainly be there, too, won't he? And when God hears the whole story and both sides of it, which you never heard and never will—and they never heard it in the court room either—why then, if he's any kind of God at all, I'm willing to take my chances." *Ibid.*, 10.



Figures Eight and Nine: D.W. Griffith's *Intolerance* (1916) balanced the specter of the soulless diffusion of sovereignty that was characteristic of the bureaucratic state (left) with the compassionate wisdom of the governor and his capacity to shut down, unilaterally, the machinery of death (right).

She arrives at the prison, a paragon of innocence. The stage directions describe her as the quintessential melodramatic heroine: “her manner betrays a certain spiritual aloofness from the ultra-modern world—a certain delicate reticence of the flesh—which immediately separates her from the metropolitan class... Her costume is not quite conservative enough to be literally old-fashioned, but it hints at the taste and repression of an old-fashioned home.”⁹² In a meeting between the girl and Dyke, the audience realizes that he is her brother, even as he successfully convinces her that he is not. He tells her that though he is not her brother, he fought beside him during the War and saw him die a noble death. He also bequeaths to her, on his behalf, a significant sum of money. She leaves, and the play ends with him repeating, as he’s marched to the execution chamber, a line from Shakespeare’s *Julius Caesar*, “The valiant never taste of death but once.”⁹³

The Valiant, then, showed how executions could become crucibles—tests of a man’s capacity to stand for and protect, in the face of enormous pressure, pre-modern duties that the law had usurped—namely, the duty to smite out certain displays of immorality and protect the innocence of vulnerable women by keeping from them knowledge of pain, and suffering. A symptom of modernity, the law

⁹² Ibid., 11.

⁹³ Ibid., 10.

forbids Dyke's vigilante enforcement of a masculine code of honor and then, through its harsh punishment for disobedience, threatens to unman him by damaging his reputation. The aptly-named Dyke will not, in the end, let law divert him from his chivalrous duty, nor will he permit his reputation to be sullied in the eyes of his female family members, even at the price of his own comfort. To confirm his kinship to his sister would be to push her into the alienating, soulless, ultra-modern world from which she has remained "spiritually aloof."⁹⁴ His valiant act, sacrificing his comfort for her innocence, posits capital punishment as a litmus test for the persistence of honor and courage in a world softened by commercialization, crass materialism, and cosmopolitan decadence.

Echoing newspaper accounts of kindly state actors, representatives of the law are portrayed here as simultaneously enamored with Dyke and beholden to the law's soulless demand that he be put to death. While they ultimately do their duty and lead Dyke to his execution, the warden and the chaplain are visibly moved by his valiance and wracked by guilt. "A throbbing drama of the law—just, merciless, and cruel," the film's press sheet read. And yet one reviewer at the Production Code Administration, Hollywood's internally-run censorship board, liked the film precisely because it was different from the routine portrayal, at the time, of sadistic state actors in prison films. In his estimation, the film deserved "salvos of applause:" "It's a real picture and interesting because there is no effort to save the man, no heroics about it, a kind of kindly sternness of the law, carried out by sympathetic, kindly officials," he wrote to colleagues.⁹⁵ "Kindly sternness" was the very ideal that was often imputed onto prison officials in newspaper accounts of executions. Like those depictions, it seemed to offer a pleasing alternative to the soul-chilling bureaucrat of the modern state. A balanced middle ground, mixing duty and compassion, was fantasized.⁹⁶

⁹⁴ Hall and Middlemass, *The Valiant*, 11.

⁹⁵ Fox Film Corporation Publicity Summary of *The Valiant*, undated. *The Valiant* Production Code Administration Record, Margaret Herrick Center for the Study of Film, Academy of Motion Picture Arts and Sciences, Los Angeles; Jason S. Joy to Carl E. Milliken and Lamar Trotti, 1929 [precise date cut off], *The Valiant* Production Code Administration Record. Margaret Herrick Center for the Study of Film, Academy of Motion Picture Arts and Sciences, Los Angeles.

⁹⁶ Many films of the era tackled the question of cases where a state actor—an executioner, a governor, a prosecutor, a judge—had a personal connection to the condemned man. They included *The Girl and The Crisis* (1917), *Love's*

In its nostalgia for a pre-modern world, *The Valiant*, written by a Northerner, set in a Northern state, and produced in New York as a stage play and then in Hollywood as a film starring Paul Muni, thus oddly adopted the ethos, if not the substance, of the code of honor that ruled the South in the nineteenth century and was invoked in the pro-lynching rhetoric at the turn of the century.⁹⁷ The law was an estranging, alienating force of modernization; the usurpation of its authority was sometimes a noble and acceptable way to maintain an endangered, hierarchical past.⁹⁸ Unlike pro-lynching rhetoric, however, it was a willingness to submit to lawful punishment that expressed the pre-modern values endangered by law's encroachment on human life. In this text, an execution, perhaps the state's most dramatic expression of its sovereignty, symbolized both the repression of moral purity and the unequalled opportunity for men to demonstrate it.

The birth of film, then, gave new opportunities to implicitly reinforce capital punishment as an institution that had the potential to become machine-like and horrifying, but whose annihilating power was ultimately checked by democratic triumph in stories that ended with a pardon and existential triumph in those that ended with an execution. The shots of ticking clocks that these films often showed were likely designed to enhance their thrill factor. But they also implicitly communicated the fact that an execution was governed by rules that forbade the use of lethal violence before an appointed time. That waiting time became a tool that journalists and cultural producers used to humanize the administration of the death penalty. In films that ended in exoneration or commutation, time gave their family members and friends the opportunity to remedy a potential injustice. Audiences saw that that white men would be the beneficiaries of discretion vested in good state actors, who would be responsive to proof of innocence and whose intuition and paternalistic goodness was a crucial bulwark against the soullessness of a legal-rational political order. In plots that ended with execution, time gave journalists and fiction writers a way

Battle (1920), *Every Woman's Problem* (1921), *Trail of the Lonesome Pine* (1923), *Going Crooked* (1926), *The Silent Power* (1926), *The Man in the Shadow* (1926), *The Night Patrol* (1926), *Lightning Speed* (1928), *Fast Life*, (1929), *The Lawyer's Secret* (1931), *I'd Give My Life* (1936), *The Accusing Finger* (1936), *Wives Under Suspicion* (1938), and *Buried Alive* (1939).

⁹⁷ Wood, *Lynching and Spectacle*.

⁹⁸ The tension between a code of honor and the law's monopoly on violence was a deeply Southern one that persisted well into the nineteenth century. See Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th Century American South* (New York: Oxford University Press, 1984).

to develop stories of spiritual triumph over a profane world that ultimately softened the violence and annihilating horror of state killing.

In either case, melodramatic productions dramatically distanced the lethal punishment of an execution from the lethal punishment of a lynching. If a lynching was a sudden, jarring abduction from a county jail, possibly a sham trial, and a summary death, the imposition of a death sentence was the opening of an often melodramatic journey on the part of the condemned, one that promised (though did not guarantee) the possibility of rhetorically undermining one's death by spiritually transcending it. And if vigilante lynching sometimes involved the victim losing his tongue or his genitals, capital punishment sometimes involved the condemned finding his voice or proving his manhood, as John Dyke did when he discovered the meaning of Shakespeare's romantic notion that "the valiant never taste of death but once." To be sure, cultural producers sometimes presented legal executions as tragic, unjust, and fearsome events. But because they were so dramatically different from spectacle lynching, legal executions demonstrated a modicum of respect for the "whiteness" of the condemned and, in so doing, suggested compatibility between support for capital punishment and a belief in the sanctity of condemned men's lives.

Resistance to the Killing State

Amid these popular constructions of capital punishment, John Wexley's 1929 play, *The Last Mile*, stood out as a voice of artistic dissent to the construction of executions as events in which hard-fought-for dignity could be achieved and appreciated. One of the most successful new plays of the 1929-30 Broadway season, *The Last Mile* was inspired by an article by condemned inmate Robert Baker, published in H.L. Menken's magazine, *American Mercury*, which was purportedly a transcription of death row conversations Baker had heard men have on an execution day in Texas. Wexley incorporated much of Baker's dialogue into his play's first act, which takes the audiences through a series of documentary vignettes illustrating what, exactly, happens to a condemned man in his final hours and how the men around him respond. The second two acts take place several weeks later when the play's

protagonist, a white death row inmate named Mears (played on Broadway by a young Spencer Tracy), leads a deadly rebellion against the prison authorities.

The Last Mile represented the experience of awaiting and being led to execution as one that was utterly destructive of an inmate's manhood. Audiences watching the 1931 film version were told on a title card at the beginning that they were watching a story of "men in barred cells, crushed physically and spiritually between unrelenting forces of man-made laws and man-fixed death." In the play, Wexley openly criticized the way that popular culture had imbued the final hours of condemned inmates' lives with false import and meaning. "I once saw a moving-picture," one death row inmate says to his neighbors. "Well, in this picture, this Duke or noble is supposed to go to the guillotine with his wife or sister, or some woman, and it showed how they began dancing and singing what they called the minuet. Now I don't believe that's true. I don't believe that about the dancin' and the singin' at all. Do you guys?" In response, one man insists that it is true and points to a fellow death row inmate who had joked and sang in the hours before his death. "That's nerve," the man says. But Mears quickly contradicts him.

MEARS: That's crap—that's what that is. That ain't nerve. He was so afraid he had to sing to be able to walk straight. I could hear his knees beatin' time on each other from over here. Nerve. Huh. Red, didn't you see guys vomit their guts walkin' to that door?

KIRBY: I did see that.

MEARS: Why, if they'd examine half the men even before the switch is pulled for the juice, they'd find they could save current.⁹⁹

An execution is so spiritually crushing, Mears suggests, that mere proximity to it, in space and time, creates a fear that kills men before the current does.

In contrast, the revolt Mears goes on to lead is an explicit assertion of manliness. "You're a man, Mears," one of the inmates says after Mears knocks out the sadistic guard, grabs his keys, and begins letting the other condemned men out of their cells. The play reversed the normal logic of journalistic and cinematic accounts of execution, where manliness and spiritual rebirth is achieved by submitting to the execution rather than resisting it. Mears ultimately recognizes that he is on a suicide mission. His aim,

⁹⁹ John Wexley, *The Last Mile* (New York: Samuel French, 1930), 70-71.

instead, is to spectacularly deny the myth of execution manhood. “We’re like animals, in a jungle. They hunt us down, they kill us. They don’t give us a chance,” he says at one point.¹⁰⁰ The only way to assert one’s humanity is to resist the killing state. When all hope is lost and the rebels’ barricade is about to fail, Mears walks out into the prison courtyard where he is promptly shot, dying on his own terms as a man in a war rather than a hapless animal in a cage.

Wexley’s play might be read, then, as a meta-critique of Hollywood’s tendency to romanticize executions. But even he proved unable to resist the trope. Nearly ten years after writing *The Last Mile*, Wexley helped to write the screenplay for another death penalty movie: *Angels with Dirty Faces* (1938). In that film, James Cagney played Rocky, a reformed gangster on death row who pretends to lose his manhood and “turn yellow” in his final moments in order to disgust the juvenile boys who idolize him and thereby deter them from following in his footsteps. He goes to his death kicking and screaming, a scared animal rather than a man. But this time Wexley’s effort at making the execution chamber a site of emasculation was deliberately subverted by the film’s dramatic irony: the fictional boys in the film may have seen Rocky as a coward, but to “the five or ten million real boys and girls” who saw the film, as one angry reformer at the time estimated it, his cowardice was interpreted as a performance that only confirmed his courage.¹⁰¹ The result was not just the glamorization of Rocky, but the glamorization of capital punishment that Wexley had pointedly avoided, a decade earlier, in *The Last Mile*. His use of the manhood-through-death trope that he had once critiqued was a testament to just how embedded it remained, in 1938, in American culture.

Conclusion

¹⁰⁰ *Ibid.*, 112.

¹⁰¹ That irony was not lost on Naomi White, chairwoman of the Motion Picture Committee for the Los Angeles District of the California Federation of Women’s Clubs at the time the film was released. The five boys in the film might have regarded Rocky as a coward, she wrote, “but in the eyes of the five or ten MILLION REAL boys and girls who may see this, the gangster is a glorious hero, even in his death. Undoubtedly, this picture began with a fine theme—to show the effects of different environment upon two boys, and as such it could have been a powerful picture, but this theme is lost sight of, and the bravery, cleverness, and success of the ruthless gangster is constantly before us.” Letter to Joseph Breen, 10 November 1938, *Angels with Dirty Faces* Production Code Administration File, Margaret Herrick Center for the Study of Film, Academy of Motion Picture Arts and Sciences, Los Angeles. Emphasis in original.

As states in the 1930s completed a century long transition from public, spectacle-like executions to private, technocratic ones, journalistic and fictional depictions of capital punishment became the only way for most Americans to witness executions. In this new, mediated context, they found a racial image of the death penalty that was at stark odds with its reality. It's not difficult to speculate why fictional or actual white executions got so much more attention from journalists and fiction writers. Newspapers, Broadway plays, mass-marketed films, and short fiction, aimed at predominantly white audiences, used white characters to create a point of entry for their imagined audiences. But while the motivations underlying the presentation of a racially distorted view of capital punishment might be straightforward, its consequences have been profound: the generation of a large body of folk knowledge about what it means to die at the hands of the state centered on the experiences of white men.

With white men at their center, these texts worked to create a balanced image of the death penalty. In the shadow of spectacle lynching, the death penalty's violence seemed regulated and civilized by the new execution protocols. A commitment to due process, combined with the development of more painless modes of execution and less publically humiliating execution ceremonies, distanced state killing from the threatening, unregulated passions of the mob. But if such changes kept the death penalty from seeming like a civilized alternative to lynching, they had the potential to cultivate a different kind of horror. Too much civilization, too much rationality could divest the death penalty of its sacred meaning and present an image of the state as indifferent to the individual souls its violence touched. Small acts of kindness by wardens and stories of spiritual rebirth or resolve on the part of condemned made sure that death at the hands of the state wasn't simply death in a one-size-fits-all machine. By humanizing the state while still distinguishing it from the lynch mob, journalists and popular artists ended up creating a death penalty befitting of a modern democratic republic.

The legacy of this sort of cultural construction has been profound. In the 1990s, as the number of annual executions grew rapidly with each passing year, a spate of new death penalty films, drawing upon tropes developed in these early twentieth century films and news stories, showed white men (and,

“progressively,” one white woman) finding previously-unrecognized goodness in themselves before enduring execution.¹⁰² Like the narratives of self-sacrifice that audiences encountered in the 1920s and 1930s, these films presented condemned inmates whose deaths generated pathos. But unlike their melodramatic predecessors, films in the 1990s made no effort to minimize or justify the crimes of the condemned in order to make them sympathetic. The condemned in the 1990s were no longer embodiments of public anxieties about the soulless misuse of government power or human vulnerability in a newly-modernized world. They were instead private tales of redemption in which the state’s violence did what rehabilitation programs could not by jump starting, with a death sentence, a process of moral and spiritual regeneration. The pathos generated at the end of these films was pity not for the condemned person’s plight, but for a past in which they were held hostage by their own hateful and destructive view of the world. And their punishments were not occasions for martyring the self to traditional values or of the value of individual life in spite of its eventual annihilation, but the ultimate catalyst for positive, internal change. In the “tough love” that capital punishment offered condemned inmates in the films of the 1990s, we can see echoes of the “sternly kindness” that made *The Valiant* so compelling for a Hollywood censor in the 1920s.

That legacy may help us to understand the meaning of punishment in a country that locks up one percent of its adult population, leading the world in incarceration.¹⁰³ In some provocative accounts of the role that criminal punishment has played in the recent history of the United States, criminal justice policy has been cast as a mechanism for maintaining the subordination of nonwhites to the benefit of whites. In a post-industrial economy, Loic Wacquant argues, mass incarceration has done what slavery, Jim Crow, and the urban ghetto all did in earlier periods: it has separated black bodies from white bodies while exploiting black labor.¹⁰⁴ And disproportionately used against those convicted of killing white people, the death penalty, meanwhile, has continued to reflect and reinforce, albeit in a more indirect way, racial

¹⁰² These films included *Last Light* (1993), *Dead Man Walking* (1996), *Last Dance* (1996), and *The Chamber* (1996).

¹⁰³ Jenifer Warren, *One in 100: Behind Bars in America 2008* (Washington, D.C.: Pew Charitable Trust, 2008), <http://www.pewcenteronthestates.org/uploadedFiles/One%20in%20100.pdf>, accessed December 7, 2010.

¹⁰⁴ Loic Wacquant, “The New ‘Peculiar Institution’: On the Prison as Surrogate Ghetto,” *Theoretical Criminology* 4(2000): 377-389

hierarchy.¹⁰⁵ But that material reality has been masked—then and now—by a cultural life of punishment that has received comparatively less attention. That our narratives about punishment in its most extreme form have, since the early twentieth century, focused on the experiences of white men should call our attention to the way that punishment has functioned as a signifier of dignity as well as degradation in the United States.¹⁰⁶ Harsh treatment, these texts remind us, has not only been a mechanism for maintaining nonwhite subordination. It has also been imagined as a mechanism that expresses, as conservative thinker Walter Berns has written, “that element of the soul that is connected with the view that there is responsibility in the world; and in holding particular men responsible, it pays them the respect which is due them as men. Anger recognizes that only men have the capacity to be moral beings and, in so doing, acknowledges the dignity of human beings.”¹⁰⁷ Writing in the 1970s, Berns did not recognize that the sentiment he articulated was as racialized as much as it was gendered. We, however, can. And in recognizing the gap between capital punishment’s symbolic life and its material effects, we might begin to conceive of the death penalty as a practice that has long been legitimated by appealing to our positive values as well as our repressive desires.

¹⁰⁵ The racism of capital punishment is now predominantly evident in the race of the victim in capital cases; capital murder cases with white victims are significantly more likely to be brought by prosecutors as death penalty cases and jurors in those cases are significantly more likely to sentence the defendant to death than in cases with non-white victims. David C. Baldus, Charles Pulaski, and George Woodworth, “Comparative Review of Death Sentences: An Empirical Study of the Georgia Experience,” *Journal of Criminal Law and Criminology* 74(1983), 661-753.

¹⁰⁶ In that sense, I write against the notion that Americans’ predilection for harsh punishment indicates a failure of dignity-centered discourse to gain traction in the United States the way it did in Europe. See James Whitman, *Harsh Justice: Criminal Punishment and the Widening Divide between America and Europe* (Oxford: Oxford University Press, 2005). In a racially revealing way, commitments to dignity have been manipulated and incorporated into, rather than simply ignored by, discourse legitimating harsh punishment.

¹⁰⁷ Walter Berns, *For Capital Punishment: Crime and the Morality of the Death Penalty* (New York: Basic Books, 1979), 154.

Appendix

Table One: Newspaper Coverage of Executions, 1915-1937 (Uneven Coverage and Preliminary Summary)

State	Race or Ethnicity	# Executed	% of All Executed	% with Execution Coverage	Avg. Length of Coverage (paragraphs)	Std. Deviation (paragraphs)
California (1915-1929)	White	64	60.4	85.9	7.1	6.3
	African-American	11	10.4	63.6	2.4	1.4
	Latino/Chicano	15	14.2	73.3	4.4	4.4
	Asian-American	10	9.4	40.0	2.8	2.4
	Total		106		77.4	4.5
Georgia (1915-1929)	White	19	25.0	100	22.6	16.9
	African-American	57	75.0	78.9	7.4	11.0
	Latino/Chicano	0				
	Asian-American	0				
	Total		76		84.2	11.9
Illinois (1925-1930)	White	22	50.0	77.3	11.8	7.4
	African-American	15	34.1	80.0	8.1	4.3
	Latino/Chicano	3	6.8	100.0	10.3	7.8
	Asian-American	0				
	Total		44		77.3	10.4
Maryland (1915-1937)	White	8	21.6	87.5	25.0	22.7
	African-American	29	78.4	82.8	6.5	8.0
	Chicano/Latino	0				
	Asian-American	0				
	Total		37		83.8	10.6

State	Race or Ethnicity	# Executed	% of All Executed	% with Execution Coverage	Avg. Length of Coverage (paragraphs)	Std. Deviation (paragraphs)
Massachusetts (1925-1930)	White	12	92.3	100.0	32.3	12.6
	African-American	1	7.7	100.0	19.0	0
	Chicano/Latino	0				
	Asian-American	0				
	Total	13		100.0	31.8	12.2
New York (1915-1922)	White	73	87.0	87.7	15.9	15.9
	African-American	6	5.5	66.7	5.6	4.9
	Chicano/Latino	3	4.1	100	6	0.9
	Asian-American	2	2.7	100	19	0
	Total	84		87.0	10.5	15.0
All States	White	198	55	87.9	16.5	22.7
	African-American	119	33.1	78.2	7.2	9.2
	Chicano/Latino	21	5.8	85.7	7.4	5.3
	Asian-American	12	3.3	50	8.2	8.6
	Total	360		82.7	12.7	18.8