GUISES OF POWER

Integration of society and legitimation of power in Sweden and the Southern Low Countries ca 1500-1900

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The Penalty of Death and Executions; the Tension between National Government, Local Authorities and Population

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When a poll is made of people's views on capital punishment in Europe today, a large percentage of the replies are in favour of it. In my opinion, the figures would be rather different if the questions were: Are you in favour of executions of capital punishment? Do you want executions to take place in your community? Do you want the executions to be public, for instance in the square of your town? Are you prepared to serve as an executioner, i.e. to kill another human being, albeit with the support of the law? These divergent outcomes would be the result of the distinction between the punishment as an idea and the concrete reality. Another distinction, between local and central, is of great importance in contemporary historical research. My aim is to discuss a connection between these two distinctions. On the national level the focus is on capital punishment. Executions are results of capital punishment conceived as a principle. At the local level, executions seem almost to have been unwelcome intrusions in the local community. Capital punishment was not unwelcome, at least not to everyone, but executions became increasingly difficult to arrange. In this paper I've chosen to concentrate on the reality, the executions, rather than on the idea, capital punishment. The period is mainly the 19th century and the paper is to a large extent based on Swedish and Belgian sources.

My own starting point is that the history of modern executions, on the basis of the example the state wants to put forward in the execution, could be seen in three phases. In the first phase dying itself served as example, the second phase is focused on concrete death, while in the third phase abstract death serves as example. The actuality of the execution, the transformation

of a living person into a corpse, the blood, the suffering, posed more and more of a problem. The pursuit of a method of execution in which death is instant and impossible to discern is a process without any visible end except abolition. This is one way to describe one part of a complicated process.

For some centuries the distance between punishment and especially the penalty of death and the local community has grown. Pillories, gallows and scaffolds have been removed from the city centres to the outskirts of the towns, to enclosed areas near castles and prisons, to the yards of these buildings, to closed rooms in the prisons, to closed rooms in special execution facilities. Executions have also been moved from broad daylight to dawn or midnight. Finally almost all methods of punishment have been altered. Just as every other sector of society goes through a very diversified process of change, so also have penalties. This is the result of a multitude of factors. That one part of this change the movement towards less public executions and their location behind the prisons walls, was an aspect of the general movement for the abolition of the death penalty has been a widespread view. According to David D. Cooper's study of the British debate on the forms of executions and the final introduction of intramural executions in 1868 this, however, was the product of an independent movement and evolution. Its only connection with abolitionism was their common humanitarian origin. Probably both views are right – and wrong. Some abolitionists and many retentionists have campaigned for intramural executions while other abolitionists have opposed them. Almost every aspect of the process can be analysed in a similar way.

The vast mass of research and interest concerning capital punishment has, apart from the legislation, been devoted to what I will call here “higher debates”. Almost every statement dealt with is in print. The authors are lawyers, politicians, princes, philosophers, etc. There was a mutual acknowledgement between the participants but there was not much general interest in or knowledge of this debate. Probably very few 19th century Europeans

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3 See for instance Lucas, Charles, De l'état anormal en France de la répression en matière de crime capitaux et des moyens d'y remédier in: Mémoires de l'Académie des sciences morales et politiques de l'Institut de France XVI, Paris 1888 p 220. Lucas' own abolitionist struggle also included his objections to the publicity of executions, Lucas, Charles, Pétition pour la suppression de l'exécution publique des condamnés à mort, Orléans 1867, Cf. Bessler, Death in the Dark p 44 sqq.

had any idea of what Beccaria, Kant, de Maistre or Mittermaier thought of capital punishment – but many of those with influence in society and government had. Many of the abolitionist participants in the higher debate during the 19th century had such close relations that we may describe them as a “network”. These participants in the higher debate, mainly lawyers, senior government officials and a few philosophers, did not take much notice of any local level opposition to the death penalty. This distance is shown in a petition in 1867 by Charles Lucas for the abolition of public executions, where he also noted that his petition of 1830 for the abolition of capital punishment found support in “l’élite du Barreau de Paris”. These petitions of Lucas are typical. Each of them has a purpose of a general character and it is important that there is support from some kind of elite, social, professional or academic; general and elitist – the opposite is popular and specific. Most typical are the mercy petitions, asking for the reprieve of a single condemned, a friend, a neighbour. Here we find the connection mentioned above also constituting a third distinction, between the higher debate where capital punishment is often attacked and sometimes defended, and the local opinions in favour of or against executions. Though significant work was often done to spread ideas to the public through newspapers, public meetings and a large number of books and pamphlets, this alienation between those involved and wide sections of the population and their points of view and discussion were probably a minor problem for the participants in the higher debate. The focus was on influencing governments, officials and legislators. The general public’s importance was in its role as an idealised “public opinion”, presumed to be liberal and in favour of reform.

There exists, however, a strong link between local communities and penal justice. It would often be appropriate to talk about a local origin of penal justice. The desire of the state to retain the link between executions and the local community was therefore not only motivated by the execution’s role in

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6 Lucas Pétition ... 1867 p 1.
being an example. The condemned, often taken out of his/her social situation and imprisoned during the trial, is now restored to his/her community for the last time, accompanied by the priest of the parish where the crime was committed. On the road stops were made for food, drink and services at inns and churches. This principle of local administration of punishment almost contradicts itself in the case of forgery of bank notes issued by the bank of the Swedish Estates (the national bank). All cases concerning the bank were tried by Svea Hovrätt and executions of those condemned to the pillory or the gallows for this crime took place in the square in front of the bank's office in Stockholm. In general, however, executions in the Swedish towns had already in the 18th century become a rarity. The site of execution was normally on the outskirts of the town.

The links between executions and local community were weakened during the 19th century. Central decisions coincided with the local society turning its back on executions. In Sweden a royal circular in 1859 ordered executions to be carried out only at the places of execution situated nearest to the gaols (generally one in each county). Intramural executions were introduced in 1877. The obvious reason was a botched execution in 1876 resulting in the introduction of four bills to the riksdag of 1877 asking for intramural execu-

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11 *Svensk Författningssamling* (SFS) 1859:53 p 2. The initiative came from the county officials in Stockholm and similar ideas had been proposed 15 years earlier by a minority of a royal committee, letter of the governor (KBh) of the county of Stockholm to the government (KM:t) 31/12 1838 in konsejakt in justitiedepartementets arkiv 30/8 1859 Riksarkivet (RA), Stockholm, *Förslag till Straff-Balk*, Stockholm 1844 reservations p 44, 56, 146.
tions – one of these also wanted to introduce the guillotine, but such details was considered to lie within the government's realm of decision. Botched executions were no novelty, there had for instance been several in the 1850's. But now they had become an intolerable problem, maybe as a result of the vivid debates on the death penalty in the 1860’s. Decapitation by means of the axe could also make the parliamentarians uneasy. The guillotine should be introduced for the sake of both the executioner and the condemned and the use of human force was in itself a source to a feeling of disgust. In 1901 the riksdag was ready to propose the introduction of the guillotine to the government. The reason stated was the experience of botched executions and that abolition did not seem to be drawing near. In 1903 a guillotine was bought in Paris and it was legally introduced in 1906. Only one execution in Sweden was carried out with the guillotine. This was the very last and it took place in 1910.

“Tout condamné à mort aura la tête tranchée” was the central regulation concerning capital punishment in Belgian penal law. Executions were to be public and carried out in the “lieu” (1810) or “commune” (1867) indicated in the sentence. As beheading was executed with a guillotine, no other possible means were discussed. The normal location of Belgian executions in squares in the town centres was also a legacy of the French period and revolution. A proposed introduction of intramural executions had been ruled out in the preparation of the penal code of 1867. In 1918 execution by

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12 SFS 1877:27 p l.
13 Riksdagshandlingar (RD) 1877 motion (mot) andra kammaren (AK) 6, 12, 13, 25, lagutskottet (LU) 8, riksdagskrivelse (Rskr) 6.
16 RD 1901 mot första kammaren (FK) 6:9, RD 1877 mot AK 25:19: “Oemotsägligt ligger det något högst vidrigt för den mänskliga känslan däruti, att den ena människan skall med handbila hugga huvudet av den andra”.
17 RD 1901 mot FK 6, Rskr 81.
firing squad was introduced also for civil crimes when judgement was passed by a military court in times of war.\(^{22}\) Could this statute be a result of the last execution using a guillotine, the first since 1863, a few months earlier? While there never seems to have been any legislation in Belgium restricting or forbidding the attendance of non-officials at executions, the last Belgian executions, carried out between 1944 and 1951 for crimes against the external security of the state, were intramural and attendance was restricted.\(^ {23}\)

These scanty regulations had to be interpreted at least on one point— the exact location of executions. Several groups might have reasons to interfere in these decisions, the administration of the communes, officials of the local courts, officials of the appellate courts and the Ministry of Justice. In at least one case it was asked whether the *procureur général* or the commune was to choose the site.\(^ {24}\) Although the Minister of Justice Victor Tesch in 1851 had stated his opinion that the power to designate the place of execution lies with the authorities of the “commune”,\(^ {25}\) the question does not seem to have been entirely resolved. The *procureur général* in Brussels in 1852 was of the opinion that theory and practice agreed that these decisions were to be made by local authorities in agreement “avec les chefs des parquets”.\(^ {26}\) At the local level at least three groups interact around the executions, the crowds attending, the official representatives of the local community and the state officials implementing the consequences of the state’s decision, symbolised by the monarch’s decision to deny a reprieve.

The crowds at the executions did not start to be problematic in the 19th century. Public executions had posed several problems also earlier in their history, but if we do not focus on what impression attending crowds was


\(^{21}\) Nypels, Guillaume,* Législation criminelle de la Belgique...I, Bruxelles 1867 p XVI, 51.


\(^{23}\) Screvens *La peine de mort en Belgique* p 242.

\(^{24}\) Letter from the parquet of Tournay to the secretary of the procureur général in Brussels 12/3 1848 vol 69 Exécution des arrêts criminels; 1811–1863, Parquet général de Bruxelles, Algemeen rijkarchief (AR), Brussels.


\(^{26}\) Draft of letter from the procureur général in Brussels to the Minister of Justice 18/9 1852, he thereby stuck to an earlier position of the Ministry of Justice, letter of the Minister of Justice to the procureur général in Brussels 10/6 1848 vol 69 Parquet générale de Bruxelles AR.
given, reactions to the performance of the executioner and the delinquent etc, but rather on the fact that these people were watching the death of a fellow human being the problem grew dramatically during the 19th century. Who attended the public executions and who was supposed to attend them?

The mixed character of the crowd at late 18th century French executions is emphasised by Michel Bée and Arlette Farge. All kinds of people were there, taking part in the executions just as they were involved in any aspect of ordinary life. However, Farge emphasises the emotional nature of the crowd’s reaction to the event. Terror, fascination, anger, fear – it is all there. Cooper, on the other hand, tends, faithful to his 19th century British sources, to view the crowd at the executions as a mob. Richard Evans dates the fear among Prussian officials of the execution crowd as a mob to around 1800 and the introduction of intramural executions in Germany followed fear of the mob. Swedish parliamentarians had a clear picture of those who attended public executions. Their presence, just for the sake of curiosity and superstition, tormented the condemned. They and their curiosity could be characterised by the word “rå” (brutal). It was not unusual for somebody who had attended an execution to commit murder later the same day. They were lazy and saw the execution as entertainment. But they were also easily convinced of the martyrdom of a condemned person who persisted in claiming his innocence to the end. Not to be neglected is the important social factor when a “mob” emerges in the eyes of governments and honourable citizens. The mob is often identified with the lower classes in society. The Amsterdam press of the 1830’s kept the execution of corporal and capital punishment at a distance. Often they were not even mentioned. The rich burghers who were the main subscribers did not want to read about

28 See for instance Cooper The Lesson of the Scaffold p 3, 10, 70.
29 Evans, Richard J, Rituals of Retribution, Capital punishment in Germany 1600–1987, Oxford 1996 p 200, 257 sqq, 305 sqq. In 1844 stones were thrown at an Italian hangman and his assistant, Boisaymé, J M J A, De la peine de mort, de la probabilité mathématique des jugements. De la justice criminelle en Toscane, Marseilles 1863 p 86 sq.
30 RD 1877 mot AK 6:3.
31 RD 1877 mot AK 12:4, RD 1901 FK 7:24.
32 RD 1901 mot AK 1105.
33 RD 1877 mot AK 13:5.
34 RD 1877 mot AK 12:4.
such vulgar and popular happenings.\textsuperscript{35} The higher classes were also hardly ever put in the pillory.\textsuperscript{36} Even though this “mob” was seen as a problem, advocates of private executions as well as rulers and politicians introducing them, were eager that the meaning of execution should reach them.\textsuperscript{37}

Introducing intramural executions was only one of many measures taken to separate executions from everyday life. Among the preparations on the night before an execution in Brussels 1847 the police evacuated nearby cabarets and bars “d’où s’élevaient des chants peu en harmonie avec les tristes apprêts qui se faisaient sur la place”.\textsuperscript{38} Generally, the authorities seem to be interested in the solemnity of the executions. But this interest becomes even more important during the 19th century, coinciding with a change in the solemnity – the great rituals and the divine services diminish in importance while such things as efficiency and keeping records become more important. This might be a reason that the crowds are less and less welcome to the scene. They should be there to learn – but they cannot behave. But what behaviour is expected? The crowds at the executions in the late 1840’s at the Grand Place in Brussels are said to have either behaved scandalously or just showed their righteous approval, depending on who was passing judgement.\textsuperscript{39} The direction is clear, no reaction is going to be the only acceptable reaction.

In a poem of Louis Schoonen where he expressed his repulsion for executions he also stressed the presence and misbehaviour of twenty-year-old women watching the execution.\textsuperscript{40} Young women can be interpreted as a symbol for two types of people contemporary debaters hardly welcomed to executions – women and children – both emerging from the crowd as problematic groups.

In the 18th century the presence of children at executions seems to have been welcomed rather than viewed as a problem. A gruesome, but not unu-

\textsuperscript{35} Franke, Herman, \textit{Over beschaving en de afschaffing van het schavot} in: Amsterdam sociologisch Tijdschrift 8, Amsterdam 1981 p 213 sqq.
\textsuperscript{36} Franke \textit{Over beschaving en de afschaffing...} p 223.
\textsuperscript{37} Cooper \textit{The lesson of the scaffold} p 84 (concerning Charles Dickens), 117 sqq, Evans \textit{Rituals of Retribution} p 258.
\textsuperscript{38} \textit{La Belgique judiciaire} 1847 col 191, Cf. \textit{La Belgique judiciaire} 1847 col 1319.
\textsuperscript{39} Nypels \textit{Législation criminelle...} p 49, 171.
\textsuperscript{40} Schoonen, Louis, \textit{Lambe. Contre l’application de la peine capitale et surtout contre l’application en public} in: \textit{La Belgique judiciaire}, Bruxelles 1843 col 655 sq, Cf. Evans \textit{Rituals of Retribution} p 308.
usual, example is told by the Swedish count Carl Axel Löwenhielm who as an eight-year old was sent to a pension in Strasbourg where the boys were taken to the hanging of a servant condemned for theft. This was to serve as a warning. Later he saw other executions among them a burning alive and someone “roué vif”. Richard Evans has noted as a “striking feature” of executions in Germany up to the mid-19th century the presence of school-boys, singing hymns or expected to watch the execution. The mayor of Antwerp in 1837, however, complained of children being allowed to play (for instance execution) on the scaffold before the execution as the guillotine was not guarded. When the first execution was to take place at the Esplanade in 1856 the mayor ordered that children were to be prevented from attending.

Schoonen’s disapproval of seeing women “avec un doux visage” eagerly waiting for the execution was not new. The presence of women was often commented on. At an execution in Brussels in 1847, it was noted that although the crowd consisted of many women they were only a minority, which was unusual. At an execution in Brugge 1851, a journalist saw it as honourable for the city that no other women were present than those of the working class. When intramural executions were introduced in various German states women were no longer allowed to attend executions, except their own. There is no record of any woman being permitted to witness any Swedish intramural execution. During the late 19th century and most of

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41 Löwenhielm, Carl Axel, Min lefwernes beskrifning, Stockholm 1923 p 24 sqq.
42 Evans Rituals of Retribution p 75 sq (his examples are from the 1680’s until 1843), Cf. Bessler Death in the Dark p 24.
43 Draft of letter from the mayor of Antwerp to the procureur du Roi 26/8 1837 fol 4 Placemant de l’échafaud 1796–1833, MA 460/2 Veiligheid F Rechterlijke Macht 1 Organisatie, Modern archief (MA), Stadsarchief Antwerpen (SAA) Antwerp. Cf. Boisaymé De la peine de mort… p 48 sq where he describes with disgust how, probably around 1820 in Grenoble he saw the executioner and his assistant preparing the guillotine. They jested and children and a few others gathered around the scaffolds laughed.
44 “Execution Col (sic). Police à l’école Gardienne Esplanade protéger l’entrée des enfants ce matin.” Telegram from the mayor of Antwerp Jean François Loos to alderman Jules de Vinck 8/5 1856 fol 2 Executions, MA 460/2 SAA.
45 Schoonen Iambe col 656, Farge La vie fragile p 218 sqq.
46 La Belgique judiciaire 1847 col 191, La Belgique judiciaire 1851 col 912: “Cependant, soit dit à l’honneur des Bruges, les dames au-dessus de la classe ouvrière n’assistentaient pas à l’horrible spectacle.”
the 20th century it has also been an (almost) male privilege in many countries to be executed.

Less discussed than those of the crowd but also of great importance are the actions and reactions of the local opinions and political authorities towards the executions.

A direct alteration of the place of punishment because of local criticism occurred in Stockholm in 1810. Some inhabitants of Packaretorget protested against the square being used for pillorying and corporal punishment. Even disregarding the nuisance, the square was avoided by people coming from the countryside – it was not suitable as a market square. The government moved these executions to Träsktorget. 48

Disapproval of the location of the executions in the centre of the cities was heard in Belgium. Auguste Kreglinger, a citizen of Antwerp, in 1847 complained to the Minister of Justice and wanted the place of execution moved from the Grote Markt to a more suitable spot such as the Esplanade. He referred to similar moves in Paris and other French cities as good examples. He also considered the Esplanade area a more suitable site for executions as the population there was in greater need of its educational influence than those living near the Grote Markt. 49 He was not alone, some inhabitants of the Grote Markt are said to have approached the minister. If these criticisms constituted all or only a part of the discontent the minister referred to later that year when he asked the procureur généraux for advice

47 Evans Rituals of Retribution p 396 sq., 400 sq. Cf. the similar development in USA, Bessler, Death in the Dark p 68 sq., 90.
48 Bergman Dödsstraffet, kyrkan och staten ... p 46. Cf. complaints about capital punishment as a nuisance in London Gatrell The Hanging Tree p 319 and in Berlin Evans, Richard J., Öffentlichkeit und Autorität, zur Geschichte der Hinrichtungen in Deutschland vom Allgemeinen Landrecht bis zum Dritten Reich in: Reif, Heinz (hrsg), Räuber, Volk und Obrigkeit, Studien zur Geschichte der Kriminalität in Deutschland seit dem 18. Jahrhundert, Frankfurt am Main 1984 p 217.
49 Copy of letter from Auguste Kreglinger to the Minister of Justice 20/5 1847 fol 4 MA 460/2 SAA, Cf., Cels, Jos, "Artikel 8", "Jeder ter dood veroordeelde wordt onthoofd", Deurne 1981, p 79 sq. Paris in 1832 had made the first of 4 subsequent removals of the place of execution from the city's centre, Cf. Chauveau et Hélie Théorie du code pénal p 276. The municipal council in 1898 (at the time between the second and third move) held that capital punishment should be abolished, and if not, executions should become intramural, and if not, they should be moved from Paris to somewhere at the prison of Fresnes-les-Rungis, Massoneau, A.-Henri, Devant l'Echafaud, Paris 1900 p 237 sqq. Cf. how in St. Paul, Minnesota an execution in 1854 was moved from the city centre to an uninhabited hill because of the behaviour of the crowd before the execution, Bessler Death in the Dark p 30 sq.
concerning the location of executions and who was to decide the location is not known.\textsuperscript{50}

In several cities executions were being moved to less central places. In Brussels the decision to move the executions from Grand Place to the Porte de Hal was made on February 17 1848.\textsuperscript{51} The Minister of Justice recommended in a circular letter to the \textit{procureur généraux} that similar measures should be taken in provincial centres after consultations between a \textit{procureur général} and the local authorities.\textsuperscript{52} In Gent the place for executions during the French period had been the Vrijdagsmarkt, a market place in the centre of the city. The move to the more remote Spanjardenkasteel must have been undertaken many years before 1851 when a representative of the city, Judocus Joseph Delehaye, said that this had always been the case and that executions never had taken place in the central market place.\textsuperscript{53} In Brugge the executions sometime before 1851 had been moved from Burg to Gentpoort.\textsuperscript{54} In Mons, however, in 1852 there were no plans to move the place of execution from the Grand Place, but the only possible alternative was a military training field called the Esplanade.\textsuperscript{55} The choice of a place for execution with a pronounced military connection, as in Antwerp (see below), Gent and Brussels, must be of some significance. Maybe it expresses the estrangement of civil society towards executions so that they were dumped at the feet of those whose profession should make them able to handle them, or maybe it reveals a fear of mob violence. At least at one occasion in Belgium soldiers were lined up between the scaffold and the crowd and at another execution civil militia were called upon to assist the gendarmes around the scaffold.\textsuperscript{56}

\textsuperscript{50} Letter from the governor of Antwerp to the Minister of Justice 12/9 1850 vol 69 Parquet générale de Bruxelles AR, circular letter 26/11 1847, \textit{Recueil des circulaires, instructions, et autres actes émanés du ministère de la justice ou relatifs à ce département, 1847–49}, Bruxelles 1850 p 188.

\textsuperscript{51} Copy of resolution by the mayor and aldermen of Brussels 17/2 1848 vol 69 Parquet générale de Bruxelles AR.

\textsuperscript{52} Circular letter 10/6 1848 \textit{Recueil des circulaires} p 188 sq.


\textsuperscript{54} \textit{La Belgique judiciaire} 1851 col 912, Cf. \textit{La Belgique judiciaire} 1852 col 94.

\textsuperscript{55} Letter from the procureur du Roi in Mons to the procureur général in Brussels 15/7 1848, draft of letter from the procureur général in Brussels to the Minister of Justice 18/9 1852 vol 69 Parquet générale de Bruxelles AR.
Moving of the place of execution at Antwerp would thus be expected. The city also initiated discussions with the military authorities in 1848 to move the executions to the Esplanade, just outside the citadel. As they could not get an unconditional permit to use the designed spot, in 1850 an execution had to take place at the Grote Markt. The demand for unconditional access was stressed by the procureur du Roi.\textsuperscript{57} Even if in 1851 the Mayor, Jean François Loos, put the above mentioned question to Victor Tesch, the Minister of Justice, receiving the answer that the city could make the decision, the problem was not solved. Inhabitants of the area around the Grote Markt petitioned the king in 1852 to move the executions somewhere else as in Brussels and Gent. This square was generally used for public feasts and occasions for joy and not for “ces monstrueuses exhibitions qui affligent le cœur de l’homme et révoltent la raison”. The Minister of Justice is said to have answered through a member of parliament that the executions were to be moved to another place, probably the Esplanande.\textsuperscript{58} A final decision to move the executions seems to have been taken sometime before October 25 1852 by the Ministers of Justice and War. The necessary work to make the Esplanande a suitable site for executions was then undertaken. It was, however, somewhat delayed by the colonel commanding the citadel who demanded a formal order from the Ministry of War.\textsuperscript{59}

There are also other indications that the city of Antwerp was not interested in being involved in the executions other than having them moved to some other place.

\textsuperscript{56} Bartels, Jules, \textit{Exécutions capitales} in: La Belgique judiciaire, Bruxelles 1851 col 691, letter from the Minister of Justice to the governor of the province of Antwerp 17/3 1857, letter from the mayor of Turnhout to the governor of the province of Antwerp 19/3 1857, copy of letter from the mayor of Turnhout to the governor of the province of Antwerp 18/3 1857 K 324B 6° Terechtstellingen jaar IV-1857 ioe storting Gerecht Provincenarchief 1794-ca 1865 Rijksarchief te Antwerpen (RAA) Antwerp.

\textsuperscript{57} Letter from procureur du roi in Antwerp to the procureur général in Brussels 4/7 1848, letter from procureur du roi in Antwerp to the procureur général in Brussels 15/10 1850, draft of letter from the procureur général in Brussels to the Minister of Justice 18/9 1852 vol 69 Parquet générale de Bruxelles AR.

\textsuperscript{58} La Belgique judiciaire 1852 col 976, La Belgique judiciaire 1853 col 40.

\textsuperscript{59} Copy of letter from the mayor and council of the city of Antwerp to the procureur du Roi 10/11 1852, draft of letter from the governor of Antwerp to the Minister of Justice 18/11 1852, letter from the Minister of Justice to the governor of Antwerp 21/11 1852 K 324B 6° RAA; copy of letter from the Minister of War to the Minister of Justice 31/12 1852 vol 69 Parquet générale de Bruxelles AR. In the Bavarian town of Zweibrücken, where a similar move was discussed, the military did not approve of it, Evans \textit{Rituals of Retribution} p 311.
On the day preceding the execution of François Kol in 1856 the procureur du roi reminded the mayor that it was customary for the city to deal with the body and arrange the burial.60 Despite this, the city administration was in doubt whether they should pay for the coffin and for transport to the cemetery. Upon the order of the mayor, however, the bill was paid.61

The guillotine at Antwerp seems to have been a victim of the city’s attitude to executions. In 1850 it was so damaged by moisture that it had to be repaired. The city was asked if they could not find a more suitable space than the dark, damp and small room to store the guillotine in, at least while it was being mended.62 The city had no better place but suggested that the citadel might have one as the proposed new site of execution was close to this military area.63 When the guillotine in 1855 once again had to be repaired the court yard of the city hall was the only available space for the work.64 The patience of the state authorities with the city’s treatment of the guillotine seems to have been exhausted by then. As the guillotine of Brugge was in a bad shape, the guillotine of Antwerp was moved to Brugge. Lacking a guillotine of its own did not cause any problems for Antwerp, the guillotine of Brussels was to be moved there when needed.65

When Sweden introduced intramural executions in 1877, the law also laid down regulations about who might attend. In addition to a number of functionaries, the local authority where the execution was to take place had the

60 Letter from procureur du Roi HFX Tarte to the mayor of Antwerp 7/5 1856 fol 2 Executions MA 460/2 SAA.
61 Copy of bill from J Vets 8/5 1856 and letter from F De Guisne to mayor Jean François Loos 15/5 1856 fol 1 Instruments de supplice MA 460/2 SAA.
62 Letter from procureur du Roi HFX Tarte to the mayor of Antwerp 10/10 1850, letter from procureur du Roi HFX Tarte to the mayor of Antwerp 30/11 1850 fol 1 MA 460/2 SAA.
63 Draft of letter from the mayor of Antwerp to procureur du roi HFX Tarte 11/12 1850 fol 1 MA 460/2 SAA.
64 Letter from substitut procureur des konings Charles Mesdach de ter Kiele to the mayor of Antwerp 4/9 1855, letter from substitut procureur des konings Charles Mesdach de ter Kiele to the mayor of Antwerp 6/9 1855, draft to letter from the council of mayor and aldermen of Antwerp to procureur du roi HFX Tarte 7/9 1855 fol 1 MA 460/2 SAA.
65 Letter from the Minister of Justice to the governor of Antwerp 8/12 1855, letter from the council of mayor and aldermen of Antwerp to the governor of Antwerp 17/12 1855, letter from the Minister of Justice to the governor of Antwerp 13/3 1856, letter from the governor of Antwerp to procureur du Roi HFX Tarte 15/3 1856 K 324B 6° RAA, letter from procureur du Roi HFX Tarte to the mayor of Antwerp 26/5 1856, letter from adjunct-commissaris Martens to the mayor 28/5 1856 fol 1 MA 460/2 SAA. The move was not effected until an execution in Antwerp had been carried out.
right to select up to twelve witnesses. For three of the following nine executions (in 1882 there was a double execution), that is for two of the three executions in 1900 and the one in 1910, no witnesses were selected. The other decisions made by city councils also show a declining tendency. In Västerås in 1879 and in Stockholm in 1882 ten witnesses were selected. Kristianstad nominated twelve witnesses in 1887 and thirteen in 1890, while Gävle selected two in 1893 and Västerås five in 1900. In two cases we know that the main reason for nomination was that some kind of application had been submitted. It is probable that this was at least of importance at the other three occasions. In Västerås in 1879 those nominated had sought out members of the city council to express their wish to be present. One of them was a policeman and one was an officer. The remaining eight were artisans or workers. Prior to the execution in Kristianstad in 1887, the city council decided to announce in the local paper that anybody who wanted to attend could apply to the council's chairman. Eighteen men wanted to attend, twelve of them were selected. The single worker applying was permitted to attend. So also were all three with literary professions, the veterinary surgeon and the city's prosecutor while one out of two accountants and five of ten officers or other military personnel were chosen. We do not know the basis for

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66 SFS 1877:27 p 1 (Strafflagen (SL) 2:2).
67 § 6 7/6 1900 AI:38 Protokoll med bilagor 1900 Stadsfullmäktige Karlskrona kommunarkiv Karlskrona, Stadsfullmäktige i Malmö protokoll med bihang 1900, Malmö 1901 nr 120 den 22/6 1900. Stockholm stadsfullmäktiges handlingar 1900 I-II, Stockholm 1911 1:259. In Karlskrona a member of the city council was present summoned by the governor, Protokoll, hållet å länsfängelsesets i Carlskrona gård, då, t f stationsskrivfaren Theodor Julius Sallroth...den 5 Juli 1900 derstädes afrättades, AIIa:i25 Utslags- och resolutionskoncept 1900 Blekinge läns landskanslis arkiv Landsarkivet i Lund (LLA) Lund.
68 § 2 20/11879 AI:i4 Stadsfullmäktige i Västerås originalprotokoll och handlingar 1879 Västerås stadsarkiv (VSA) Västerås, § 2 17/7 1882 Stockholms stadsfullmäktiges protokoll 1882, Stockholms stadsfullmäktiges beredningsutskottens protokoll 1882-83, Stockholms stadsfullmäktige i Christianstads protokoll 1887 Christianstads kommunarkiv (KriKa) Christianstad, Protokoll hållit...vid Straffången Anna Månsdotters afrättning å Länsfängelset i Christianstad den 7. Augusti 1890, AIiC:43 Allmänna protokoll Christianstad läns landskanslis arkiv LLA, Mars (N:ris 19–38) Vid Stadsfullmäktiges i Gefle sammanträde den 10 Mars 1893 förekomma till handläggning följande Beredningsutskottets utlåtanden och memorial, nemligen angående, Gefle 1893 p 6, § 33 10/3 1893 AIa:30 Gävle stadsfullmäktiges protokoll 1893 Gävle stadsarkiv (GSA) Gävle, § 1 8/12 1900 AIa:35 Stadsfullmäktige i Västerås originalprotokoll och handlingar 1900 VSA.
69 § 2 20/11879 AI:i4 VSA. Several individuals are difficult to classify.
selection in 1890 but of those chosen three were the same journalists as three years earlier, four were artisans and six were officers. When Stockholm decided in 1882 to send ten witnesses four of them were writers, two were physicians and one was an officer. One of the witnesses in 1893 was the city physician, the other a barber-surgeon. In Västerås 1900 two physicians, a veterinary surgeon, a clergyman and a newspaperman were chosen. As the numbers decline, the groups that might claim some degree of legitimate interest tend to dominate. Not only the state but also the local authorities nominate representatives not as private citizens but as professionals. That the state was already sending professionals might have been a reason for the cities to refrain from selecting witnesses. The decision was also related to attitudes to executions and to capital punishment. When the city council of Stockholm in 1910 decided not to send any representatives to the execution of Alfred Änder, the decision was preceded by a debate on capital punishment in general. The debate was quite ordinary, except for the heavy emphasis placed on the issue of whether capital punishment is consistent with Christianity and for the chairman's view that the city council was not the right place for such a debate. Nobody suggested that witnesses should be sent. This execution provide a fitting conclusion to the history of Swedish executions, a new machine, no local witnesses and a very swift and silent performance.

Permits to attend were issued not only by the local authorities. One particular group permitted to attend by the governor were the physicians planning to make an autopsy, but at least at some executions such permits were granted quite freely. At the execution in 1893, twenty-four men had been given permits apart from police officials present. Fourteen of them were either of the medical profession, or studying medicine or working for the physicians, ranging from professors to porters. Seven were newspapermen,

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70 § 15 10/3 1887 and § 19/3 1887, copy of letter from the city council to the governor 19/3 1887 litt E Al:25 KriKA, Protokoll hållit...vid Straffånken Anna Månsdotter...å Länsfängelset i Christianstad den 7. Augusti 1890, AIIc:43 Kristianstad läns landskanslis arkiv LLA.

71 § 2 17/7 1882 Stockholms stadsfullmäktiges protokoll 1882, Stockholms stadskansli SSA, § 2 19/7 1882 Stockholms stadsfullmäktiges beredningsutskotts protokoll 1882–83, Stockholms stadskansli SSA.

72 § 33 10/3 1893 AIA:30 GSA, Mars... 1893 p 6, § 1 8/12 1900 AIA:35 VSA; Cf. Pers, Anders, Lärare, bonde, tidningsman, minnen, Västerås 1948 p 234.

73 Cf. Bergman Dödsstraffet, kyrkan och staten... p 128.

74 Stockholms stadsfullmäktiges... I:259, II:837 sqq.
two clergymen and one member of the *riksdag* also attended.\textsuperscript{75} At the execution in 1887 thirty-four people were present, and in 1890 sixty. In 1887 four of them were professors of medicine, and in 1890 there was one. Our knowledge of the others is scanty, but at least one railway worker who had applied for an entrance card to the execution was allowed to be present.\textsuperscript{76} Newspaper reports describing the 1893 execution were the official reason for the government to inculcate the regulations of the law on to executions.\textsuperscript{77}

In the Swedish parliamentary debates on the subject in the early 20th century it was argued that the death penalty should be abolished out of consideration for those that were forced by their positions to attend or participate in executions. There had not earlier been any special connection between such a role and opposition to the death penalty, even if one county secretary, Curry Treffenberg, had in 1865 suggested the introduction of the guillotine to reduce the revolting impression made by executions.\textsuperscript{78} Another county secretary, Axel Schotte, and Ulrik Leander, a prison governor, described in 1909 how their own experience from attending executions in 1893 (Schotte) and 1900 (Leander) had increased their disapproval of and repugnance for the death penalty. In 1921, Leander not only described how a person who was in favour of capital punishment fainted but also that the executioner had tears in his eyes.\textsuperscript{79} In a bill introduced by a great number of members in 1912 to abolish capital punishment one argument was that it would liberate civil servants from a horrible duty.\textsuperscript{80}

Finally, even the condemned could seek to dissociate the execution from its local setting. Johanna Bermdtsdotter applied to be executed at another local court’s place of execution or in the fortress of Varberg out of concern

\textsuperscript{75} Statsrådsprotokoll över justitidepartementsärende 14/4 1893 RA.
\textsuperscript{76} Protokoll hållet...öfwer... Straffången Nils Peter Persson Hagströms afrättning å länsfängelsets i Christianstad gård den 29. Mars 1887, AIIc:37 Allmänna protokoll Kristianstad läns landskanslis arkiv LLA, Protokoll hållit...vid Straffången Anna Månsdotters afrättning å Länsfängelset i Christianstad den 7. Augusti 1890, AIIc:43 Kristianstad läns landskanslis arkiv LLA.
\textsuperscript{77} Statsrådsprotokoll över justitidepartementsärende 14/4 1893 RA.
\textsuperscript{78} RD 1865–66 mot Ridderskapet och Adeln 107.
\textsuperscript{79} RD 1909 AK 2:19:53 sqq, 57, RD 1921 AK 6:39:36.
for her relatives (husband, children, mother and siblings) living near the place of execution. Her application was granted and she was executed 1858 in the fortified area in Varberg, just outside the prison. Thus the execution had evolved into an intolerable problem, starting at the periphery and ending with the meeting between executioner and executed.

Is it possible to draw any conclusions from these scattered observations? An affirmative answer can be given because of striking similarities in the histories of capital punishment not only in Belgium and Sweden but in many other European countries as well. But the variations are also of great importance – by providing, for instance, clues to the causes of changes.

There is a cooperation in displacing executions from the local community. Several initiatives are taken at national level, but the removal of executions from city centres to their outskirts results from local initiatives.

The local community is no unity, it has to be divided into groups and individuals some more distinct than others. When admission to executions is regulated, the unwanted women and the problematic children disappeared. An emerging differentiation of social classes can also be seen. The executions should not be held in the central, presumably richer, parts of the town but in the areas where people needed the warning they provided. The lower classes should attend, but they also posed a threat when they formed a large group – which might well become a mob? Therefore after some decades of intramural executions they became rare visitors at them. The perception of public executions as a problem is also linked to the development of society and democracy. One reason is probably that the distance between and difference in influence of diverse social groups lessened, making it increasingly problematic to consider executions as something that happen to and instruct certain social groups. A connection also exists between abolitionism and social democracy in 20th century Europe.

The 19th century was a transitory stage for executions. A period of executions with pedagogical and liturgical traits – making the execution a demonstration of *Ars moriendi* – was at an end. Nor could expiation or *jus talionis*

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81 Letter from Johanna Berndtsdotter 19/2 1858 in utslagshandlingar Nedre Justitierevisionens arkiv (NJrA) RA, statsrådsprotokoll i justitieärende 26/2 1858 NJrA RA, note 9/4 1858 DIIc:1 Dagbok 1847-63 Varbergs kronhäktes arkiv LLA, brief account of Varbergs kronhäkte av A W Nordblom 5/2 1859 EVL7 Inkomna religionsberättelser Styrelsen över fängelser och arbetsinrättningar i rikets arkiv RA.

82 Cf. Evans *Rituals of Retribution* p 400 sqq.
continue to provide any tenable justification. Executions were left with one
raison d'ètre – they served a purpose, such as deterrence. This was however
an unstable foundation.

The biggest threat to capital punishment during the last centuries has
been the executions. There is ground to suggest that the executions them-
\emph{selves}, and especially their imperfection, in comparison with the pure and
ideal killings of the laws has been of greater importance in the decisions to
discontinue executions and, eventually, abolish the penalty of death than the
more theoretical arguments put forward by a multitude of philosophers,
lawyers, politicians etc since Beccaria. They have, however, succeeded to
disarm the final and most important line of defence for the penalty of death
– it can no longer be argued with any credibility that capital punishment is
necessary to reach an immanent purpose.