

Executions, Ideal and Real:
Nineteenth Century Perspectives on Public Executions in China

[DRAFT]

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In Europe at the beginning of the nineteenth century books on China were not rare. Earl Macartney's embassy had recently solidified official contact between England and the Qing empire, and a number of books for a general audience were published by men associated with this grand diplomatic mission. In 1801 George Mason offered readers of French and English the opportunity to expand their knowledge of China by reading his new illustrated book, *The Punishments of China*. Europeans perusing this new publication were treated to twenty-two color illustrations of Chinese criminals and officials engaged in various acts associated with corporal punishment. Perhaps a literate Englishman was appalled as he turned the newly cut pages and saw plate 11: Burning a Man's Eyes with Lime. Perhaps he turned away in disgust. Perhaps he read on.

Twenty-five years later, southeast across the vast Eurasian continent, a pair of executions were carried out by the Qing government's provincial agents in Anhui. An execution en masse was not uncommon, nor, presumably, were the crimes for which these men were punished. The executioners' mistake was, perhaps, less common: in the melee of the execution ground the two prisoners were switched and each given the punishment assigned to the other. Both convicts were killed, one strangled (illustrated in *The Punishments of China* plate 21 as The Capital Punishment of the Cord) and one decapitated (plate 22: The Manner of Beheading), but neither received the proper treatment.

What does considering an English text on Chinese punishment and an unfortunate mistake in the practice of Chinese punishment together offer the scholar? What should we make of the difference between a constructed (and commodified) European ideal and an unfortunate

mistake at the autumn assizes in Anhui? And what does the topic of punishment hold for us now beyond an academic form of voyeuristic delight at the punishment of historical others?

My answers to these questions center around differing conceptions of the crowd which witnessed Qing executions. By looking simultaneously at the ways in which an English author and Qing officials envisioned the exemplary spectators of a 19th century execution, we can see the role which the ‘public’ ideally played in public executions for both European observers and Chinese authorities. For any governmental system public punishment represents a moment when authorities and subjects collide, perform, communicate: public punishment is a clear articulation between authorities and subjects. By considering the ways in which the general public ideally fit into the event of punishment, we can begin to untangle the issues, both internal and international, surrounding public execution in the Qing.

This paper begins with Europe and moves to China. Along the way I rely on several bodies of literature including literature on Chinese legal documents and literature on punishment in Europe. Though much academic writing relates tangentially to punishment in China, there remains a dearth of literature specifically addressing the public aspect of executions in the late Qing. In this paper I want to preliminarily ask how the viewing public functioned in Qing punishment by attempting to access the ways in which both Westerners and Qing authorities envisioned the ideal crowd for public executions.

I. Legal documents applied to social history

It seems to be standard practice in historical writing to justify the application of legal documents to social history. Phillip Huang’s oft-expressed interest in teasing history out of legal

documents gets perhaps its most clear articulation his 1996 study, *Civil Justice in China*. This study of civil case histories in North China results in a tripartite description of Qing justice. Huang argues that we can use judicial documents to see beyond the legal system's formal elements to the way it functioned as formal justice, informal justice and a middle realm between formal and informal justice.

The analytical jump from case histories (official representation of cases), to the practice of justice (how justice was actually carried out), is not an obvious one, and Huang's discussion of the information a social historian can glean from legal documents is careful. Huang's belief that "It was the disjunctions between representation and practice that truly defined the nature of that system"¹ allows him to retain the official version of legal events as useful sources while continuing to claim that his analysis approaches the actual experience of Qing justice.

Historians must navigate the territory between representation and practice carefully, by maneuvering between many layers of representation. Huang argues that Chinese documents should be considered in light of both modern Western and historical Eastern representations of justice: "Our critical searchlight must be brought to bear not only on our own categories but also on those of the Qing. We need to differentiate not only between our own constructions and Chinese practice, but also between official Chinese constructions and actual Qing practice."² I take Huang's point that the path between Qing legal documents and Qing legal practice is blocked by both historical Chinese and contemporary Western obstacles, but I would like to broaden this insight to also include obstacles which are historical and Western or modern and Chinese in nature. As Mason's 1801 *The Punishments of China* reminds us, the layers of

¹ Philip C. C. Huang, *Civil Justice in China: Representation and Practice in the Qing* (Stanford: Stanford University Press, 1996) 3.

² Huang, *Civil justice in China*, 10.

representation are myriad and do not tend to remain within binaries like East / West or historical / contemporary.

Still, Huang believes that social historians have much to gain from Qing legal documents. Though Huang's methodology is tailored to his interest in showing the ways in which official and unofficial justice functioned in north China, his belief that legal documents can constitute sources for social history is heartening. If we accept Huang's proposal that carefully considered judicial sources offer information about Qing practice, we can extend his logic to justify the use of court cases as documents for social history beyond the realm of legal events. This move opens the field for Qing social historians and Qing legal historians alike: legal documents should not only be considered as clues to concrete *legal* practice, but also as information about the *social* practice of law. By expanding Huang's attempt to bring real legal practice to the study of Qing documents we can locate the practice of law within its proper social context. Huang's logic allows us to use legal documents to learn the extent to which legal institutions effected (and were effected by) the lives of men and women under Qing administration.

Zhou Guangyuan provides another concise articulation of the rich source material legal documents can provide for social history in his case study of a Sichuan tax revolt: "legal discourse and decisions should also be given adequate attention not only because they represented the workings of the law, but also because the arguments of legal actors revealed their deep assumptions and habitual ways of thinking."³ Zhou draws attention to the ways in which Qing authority censored itself and the "symbolic power"⁴ of this system of checks on local power. Though Zhou's move from legal documents surrounding a tax revolt all the way to the

³ Zhou Guangyuan, "Illusion and reality in the Law of the Late Qing: A Sihuan Case Study," *Modern China* 19 no. 4 (1993): 429.

⁴ Zhou, "Illusion and Reality," 453.

general public's opinions on Qing authority could be debated, the application of legal case history to social history is generally convincing.

II. A European Perspective on Public Punishment

The audience for literary depictions of executions is arguably universal.⁵ According to Charles Dickens, in late 18th century England “putting to death was a recipe much in vogue with all trades and professions... Death is Nature's remedy for all things, and why not Legislation's?”⁶ Dickens' 1859 criticism of the wide range of crimes which were subjected to the death penalty in the end of the century prior was a product of extensive legal debate over corporeal punishment in late eighteenth and early nineteenth century Europe.⁷

Less literary descriptions of execution likewise chronicled the world-wide use of public death and torture for 19th century readers. In the flurry of books on China published after the Macartney embassy of 1793⁸, George Mason published two collections of color prints: *The Costume of China* and *The Punishments of China*. These parallel publications both feature one page of text for each portrait.

The Punishments of China details in prose and illustrations the ways in which corporeal punishments were carried out in China in the end of the 18th century. Punishments illustrated include “twisting a Man's ears,” the “Punishment of the Swing,” and “The Rack.” Each portrait

⁵ One could claim that the descriptions of one particular public execution in the gospels of Matthew, Mark, Luke and Paul are the beginning of a lengthy tradition of depicting public execution in Western (or world) literature.

⁶ Charles Dickens, *A Tale of Two Cities* (London: Penguin Books, 1859, 1970) 84.

⁷ Pieter Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression, From a Preindustrial Metropolis to the European Experience* (Cambridge: Cambridge University Press, 1984) 195.

⁸ Including Aeneas Anderson, *A narrative of the British embassy to China in the years 1792, 1793, and 1794*; (London: J Debrett, 1795) and *A Complete View of the Chinese Empire* (London, G. Cawthorn, 1798).

is accompanied by a written description of the information included in the illustration (“from the top of the bar, there depends a little board, upon which the name and crime of the malefactor are inscribed”⁹) and additional information about the crimes for which the punishment is decreed (“It is frequently inflicted as a punishment upon disorderly women”¹⁰). In addition to illustrations of punishments themselves, Mason includes public scenes associated with punishment, such as “A Culprit conducted to Trial,” and “A Malefactor conducted to Execution.”¹¹

We do not know the extent to which Mason witnessed torture and executions or the extent to which his information was attained second hand. We do know that Mason considered his knowledge enough to write this magisterial book on the subject and publish it for an international audience¹². Clearly there was a demand in Europe for information on Chinese customs generally and punishment specifically, or Mason’s books would not have been published.¹³ Thanks to books like Mason’s, in the beginning of the 19th century learned Europeans could meditate on the experience of Chinese corporeal justice in their drawing rooms and libraries. As early as six years after the Macartney embassy, public executions in China had a larger audience (in both number and geographical distribution) than simply the immediate crowd pushing to get a glimpse of the condemned.

Although in an extended sense Europeans made up a portion of the audience for public executions in Qing China, this observation is to some degree the invention of the scholar: Mason’s European audience presumably did not consider themselves comparable on any level to

⁹ George Henry Mason, *The Punishments of China, Illustrated by Twenty-Two Engravings: with Explanations in English and French* (London: W. Bulmer and Co, 1801) plate 12.

¹⁰ Mason, *The Punishments of China*, plate 10.

¹¹ Mason, *The Punishments of China*, table of contents.

¹² The entirety of *The Punishments of China* is in English and French: it even includes both English and French cover pages.

the Chinese audience for Chinese executions. Indeed, Mason's readers needn't have considered Chinese punishment's immediate audience at all: the 22 color plates in *Punishments of China* offer no depictions of on-lookers. Mason's illustrations of punishment are, in fact, entirely devoid of visual context: each plate shows only the convict and the official enacting the punishment against a white background. Though Mason attends to details such as the characters written on the victim's signboards, background, both architectural and human, is entirely absent. This clinical presentation leaves the reader with a detailed understanding of the specific instruments and practices of corporal punishment but a total lack of visual information on the world in which they were carried out.

Mason's removal of punishment from the crowds which presumably witnessed it first hand suggests that his European readers were more interested in abstract information about Chinese customs and specific Chinese methods of discipline than they were in the actual event, the concrete experience of punishment in Qing China.¹⁴ Nowhere in *The Punishments of China* is the crowd even caricatured let alone described. A French audience in 1800 would have been all too familiar with the experience of a crowd bent on the public death of perceived enemies: Mason's readers could have understood direct comparisons. Mason could also have used *The Punishments of China* to comment on the "sensitivity toward public executions" which "became more outspoken and widespread in the first half of the nineteenth century"¹⁵ in Europe.

¹³ Mason's books are particularly expensive affairs: color prints every other page, high quality binding, etc. The quality of these books serves as a reminder that Europeans interested in Chinese culture were not only literate, but also had income to spend on books.

¹⁴ This interest in Chinese government and 'culture' but not the experience of China is mirrored in the travel literature of the 19th century. Though there are later exceptions such as Allen and Sachtleben, 1894, the majority of Western travel accounts of China display a tension between an interest in 'authentic' China and repulsion with the squalor of Chinese cities.

¹⁵ Spierenburg, *The Spectacle of Suffering*, 195.

Whatever his motivations, Mason does not depict *The Punishments of China* as events which occurred in front of an audience; Mason does not depict Chinese punishments as staged events.

Mason does directly refer to his motivations for the inclusion and exclusion of material.

According to its introduction, *The Punishments of China* differs from other publications on Chinese punishment in its restraint:

Various writers have mentioned other punishments, in addition to those represented in this publication, of a much severer nature, which have been inflicted by the Chinese upon criminals, convicted of regicide, parricide, rebellion, treason, or sedition; but drawings, or even verbal descriptions, of these would be committing an indecorous violence on the feelings.¹⁶

In deciding what color portraits will be included in *The Punishments of China*, Mason claims he has tried to avoid the “violence on the feelings” of Europeans which would naturally occur from the depiction of truly violent acts of punishment¹⁷.

This avoidance of sensationalism is explained through an interest in retaining the audience’s neutral responses toward the Chinese government. Mason worries that portraits of such violent acts would induce “us to arraign the temperance and wisdom so universally acknowledged in the government of China.”¹⁸ *The Punishments of China* is not a document meant to condemn the Qing, but rather a book which will offer a European audience a more complete picture of the Chinese government. Mason does not imagine his readers as high-class voyeurs, instead he hopes that his book will attract literate men and women with an interest in comparative government.

¹⁶ Mason, *The Punishments of China*, preface.

¹⁷ I believe the unmentionable punishment to which Mason refers here is the *ling chi*, or ‘death by slicing.’ Though I have not confirmed it with a thorough literature search, I believe this particular execution method was particularly well documented by Westerners interested in China: it appears extensively in the Peiking Gazette, an English translation of *Jingbao* that appeared daily in the Shanghai published North China Herald through the second half of the nineteenth century. Wang Ping also notes that the only extant photographs of this particular punishment were taken by a French photographer (Wang Ping, *Aching for Beauty: Footbinding in China* (New York: Anchor Books, 2000) 140). The place this particular form of capital punishment occupies in the Western imagination remains to be studied.

Although Mason initially claims to present Chinese punishments without unfairly biasing his readers against the Qing, he does consider these punishments exemplary of the Qing government. The text which accompanies Mason's sparse illustrations consistently attempts to extrapolate from specific punishments generalizations about Chinese justice. Alongside detailed explanations of the practice of each punishment ("from the top of the bar, there depends a little board, upon which the name and crime of the malefactor are inscribed"¹⁹) are bits of information about Chinese culture: "The general manners of people of every condition in China wear as modest a habit, as their persons. They discover no gratification in wresting their proper language into impure meanings; and grossly offensive phrases are only to be heard amongst the very dregs of the community, and at the risk of immediate and severe judicial correction"²⁰. Mason seems to have no qualms about making direct conceptual links between the methods of punishment he has chosen to include and greater Chinese society.

These links allow the readers of *The Punishments of China* opportunity to reflect upon (but not voyeuristically delight in) the difference between Chinese systems of governance and their own. Mason uses his illustrations of Chinese discipline to draw conclusions about both Chinese and European views of punishment. A lengthy preface concludes with a somewhat perplexing cultural comparison:

Exclusive of their novelty and information, the principal recommendations, possessed by representations of this nature, arise from the sensation of security, which they produce in those bosoms that heave upon a tract of the globe, where they are protected from being torn by lengthened agonies; where a person's innocence is not estimated by his mental or corporeal powers of enduring pain; where tyranny, fanaticism, or anarchy, cannot exercise their demoniacal propensities for cruelty; where capital punishment is only instituted and permitted as a necessary link in the chain of social order, to deter the evil-minded from

¹⁸ Mason, *The Punishments of China*, preface..

¹⁹ Mason, *The Punishments of China*, plate 12.

²⁰ Mason, *The Punishments of China*, plate 10.

committing outrages against their fellow-creatures, and to debar the offender from the power of perpetrating farther wrong. These intentions are fully answered by publicly depriving the malefactor of his existence, which is effected, in England, in a manner the most instantaneous and least sanguinary, that a compassionate people could adopt; and whose natural intrepidity is farther manifested by this attention to the pangs of suffering humanity.²¹

These two sentences suggest that the reader consider the difference between corporeal punishments in England and those in China. Mason believes that the performance of pain in China demonstrates a failure of English-style compassion, and suggests that his readers allow his text book to remind them of the benefits they enjoy under the English justice system.

When unpacked, these two sentences also show the extent to which Mason assumed the presence of an audience for the execution of sentences on both sides of the Eurasian continent. Mason's readers can rest easy, because in the European system "capital punishment is only instituted and permitted as a necessary link in the chain of social order, to deter the evil-minded from committing outrages against their fellow-creatures." Thus in Europe capital punishment's goals "are fully answered by *publicly* depriving the malefactor of his existence."²² As corporeal punishment's main goal is the maintenance of discipline by example, it must be carried out in public. Mason takes (and assumes his readers also take) the audience for European executions for granted.

In China, however, capital punishment is instituted both for different goals and through different means. In comparison to Europe, Mason claims that the Chinese government believes "a person's innocence" is "estimated by his mental or corporeal powers of enduring pain." In China, torture and execution are employed for cruelty, rather than for other, more virtuous ends such as maintaining public safety through deterrence by example. Does this comparison mean that Mason believes the public nature of Chinese punishment was not important? Does it mean

²¹ Mason, *The Punishments of China*, preface.

that he considers Chinese punishments to be fundamentally cruel rather than a fundamental part of the “social order”? I believe both impulses inform Mason’s book. *The Punishments of China*’s major instructive value for its readers is the demonstration of the cruelty of the Qing government, not, as Mason claims, a demonstration of its effectiveness. As such, Mason has no need to include descriptions or illustrations of the audience witnessing Chinese punishments (of which he may very well have been a member).

In Mason’s eyes, corporeal punishment in Europe and corporeal punishment in China are incommensurate. For Mason’s conclusions about Chinese government the ideal audience at Chinese executions is the lack of one. And more important, for Mason’s conclusions about *European* government the ideal audience is the lack of one. Onlookers are not simply overlooked in *The Punishments of China*, rather they are removed to solidify the incommensurability of ‘modern’ European and ‘ancient’ Chinese forms of discipline and governance.

But Mason’s illustrations and commentary are not the only documents we have to illustrate public execution in the late Qing. Though Mason’s ideal crowd is absent, the ideal crowd as seen through the eyes of the Qing authorities is present. I turn now to a case of mistaken execution that occurred in Anhui in order to more clearly understand how Qing authorities envisioned the ideal crowd and how real crowds failed to achieve this ideal.

III. Mistaken Execution (*duan zui bu dang*)

²² Mason, *The Punishments of China*, preface, emphasis added.

In the sixth year of the Daoguang Emperor (1826) Xu Siban and Li Tiangang, along with a handful of other criminals, were executed in Anhui. These executions were not carried out against the white background seen in *The Punishments of China*; had this been the case, an unfortunate mistake could have been avoided. Somehow, in the chaos of the execution ground, Xu Siban, sentenced to strangulation, was decapitated, while Li Tiangang, sentenced to decapitation, was strangled.

A series of actors were involved in this lamentable event: the provincial officials, guards and executioners; the prisoners; the crowd pushing into the execution ground; even, eventually, the emperor. Who was at fault for the mistake in Anhui and how can Qing law be modified such that similar incidents do not occur? These questions are at the heart of the discussion of this event in the *Xing'an huilan*, a Qing case book usually translated as “The Conspectus of Penal Cases.”²³

As with the documents Philip Huang analyses, the *Xing'an huilan* offers a more complete description of the way in which Qing authorities wanted the legal system to function than one of how it actually did function. But the treatment of a mistaken execution offers an insight into the ways in which ideal justice did not align with actual justice and Qing apparatus for correcting such mistakes.

In the imperial edict in the *Xing'an huilan*, the emperor faulted a large mass of observers for the mistaken execution in 1826 in Anhui. The situation at the execution ground resulted in prisoners being switched in line: too many people pressed in as prisoners were lead to the execution ground and this confusion resulted in two convicts changing position. The imperial

²³ In this paper I will refer to it in pinyin, or XAHL for short. Derk Bodde and Clarence Morris outline the compilation of three publications that make up the *Xing'an huilan* (XAHL, *Xuzeng Xing'an huilan* and *Xinzeng*

memorial describes the execution ground as being “noisy” (*caoza*) having “many people crowding around” (*ren duo yong*), and officials as “being crowded and confused” (*mangluan yongji*).²⁴ Though the guards succeeded in moving through this unruly crowd, they delivered the convicts to the executioners in the wrong order. Due to the unwanted participation of some mass of observers, this execution was “unsuccessful” (*bu chengshi*).²⁵

The entire chain of events at this execution could have been avoided were this mass of observers reduced or eliminated; clearly if there were no observers this particular mistake would not have occurred. But despite being directly at fault, the crowd at the execution ground is not the direct target of the imperial decree in the *Xing'an huilan*. Instead of outlining ways in which crowds could be reduced, official responses to the mistaken execution in Anhui focus on punishing the officials responsible for the execution. Disciplining the people who made up the unruly audience which directly caused the prisoners to be switched was not a priority in correcting this unfortunate incident. By punishing the officials instead of the crowd, the *Xing'an huilan* acknowledges that observers at executions are an inevitable element of punishment. Qing officials, from the magistrate at Anhui to the Daoguang emperor himself, saw the observers at this execution as an unavoidable element of punishment, one that should be treated with more care in the future, but not eliminated.

Though this crowd appears to have been treated by Qing officials as fundamentally benevolent, Qing law did not see all masses of people in such a favorable light. According to the Qing Code section entitled “Taking Away Prisoners by Force,” gathering a crowd itself is a

Xing'an huilan in Derk Bodde and Clarence Morris, *Law in Imperial China: Exemplified by 190 Ch'ing Dynasty Cases*, (Cambridge, Mass.: Harvard University Press, 1967), chapter 5.

²⁴ *Xing'an huilan* (Conspectus of Penal Cases, 1837? ed.), 60 *juan*, 15a. Unless otherwise noted all translations are my own.

²⁵ *Xing'an huilan*, 60 *juan*, 15a.

crime, and someone who gathers a crowd with the intention of seizing a prisoner could even receive capital punishment:

If they kill someone, or the crowd is as many as 10 (*for 9 persons and below*, [those who gather the crowd will] *merely be punished as in the former provision for gathering a crowd*), the principal will be beheaded (*with delay*).²⁶

Not all crowds at execution grounds were a benevolent but massive force: in some cases they represented a very real threat to the implementation of punishment and perhaps also a threat to the empire itself. The Qing code tells us that the government was (at some point²⁷) so threatened by groups of people attempting to liberate prisoners that they included a provision against this behavior in this fundamental document of Qing law. For malicious crowds, for crowds consciously gathered for the purpose of disrupting imperial business, there was a clear precedent for punishment.²⁸

For crowds that by their very mass caused mistakes in the process of punishment, there was not a specific law. According to the official assessment in the *Xing'an huilan*, the crowd at this execution in Anhui had no rebellious intentions; the members of this audience caused trouble by their physical presence alone. As they were judged not to be malignant, no official action was taken against this noisy crowd of onlookers, rather the provincial officials responsible for carrying out the execution were punished. It is to these officials that I now turn.

²⁶ William C. Jones, tr., *The Great Qing Code* (New York: Oxford University Press, 1994) 248.

²⁷ As the above cited statute is in the Qing code, this precedent could very well predate the Qing itself. Jones claims that “there is clear continuity [in the legal system] from the Tang dynasty (AD 618-906) to the end of the Qing (1911)” (Qing code, 1). Thus an analysis of the Qing is slightly different from an analysis of the *Xing'an huilan*: large parts of the Qing code may have been adopted wholesale from earlier empires while the *Xing'an huilan* offers a window into the evolving legal structure of the Qing itself.

²⁸In *Soulstealers*, Philip Kuhn illustrates that the entire Qing system “impeded zealotry of any sort, whether for good or for ill.” (Kuhn 232). Whether the queue-clipping incidents in *Soulstealers* constitute zealotry is a central focus of Kuhn’s inquiry. If we submit the reaction to the 1826 case to a similar logic, it is clear that this mistaken execution was not seen as the product of zealotry. The crowd that caused the execution in Anhui to go awry did not attract the attention of the Daoguang emperor: this crowd was not considered a threat to Qing bureaucratic control.

IV. The responsible authorities

The noisy crowd that was directly responsible for the improper execution was not punished, but the Qing authorities demanded that someone take responsibility. In his consideration of a sorcery incident a half a century earlier, Philip Kuhn refers to the Qing impulse to swiftly discipline provincial authorities. In *Soulstealers*, Kuhn characterizes the Qianlong emperor as suspicious of bureaucracy: Hongli's "vermilion jottings drip pique and petulance. His reactions to threats real or imagined seem obsessive and vindictive."²⁹ For this emperor, control over the bureaucracy was a personal affair, essential to the maintenance of Manchu power in a time where "methodical, and reliable control of the bureaucracy was by now very difficult for any monarch to sustain."³⁰

Though Kuhn's reading admittedly relies heavily on his interpretation of the Qianlong emperor's personal character, the idea that in the twilight years of the Qing an emperor personally weighed threats to the bureaucracy and selectively enforced laws according to his own opinion of the situation could be usefully applied to the treatment of the 1826 Anhui case. If we consider the Daoguang emperor's commentary on this case to be indicative of the state of his personal power, it further reminds us that the crowd gathered at the execution ground was not itself seen as an immediate threat to state power.

Instead, several levels of bureaucratic authority attracted the emperor's attention. The imperial decree in the *Xing'an huilan* implicates three separate sets of officials: the guards, the executioners and the magistrates. All these officials were responsible for overseeing the

²⁹ Phillip Kuhn, *Soulstealers: The Chinese Sorcery Scare of 1768* (Cambridge, Mass.: Harvard University Press, 1990) 227.

³⁰ Kuhn, *Soulstealers*, 227.

execution and thus are punished according to their positions and their proximity to the mistake. The punishment recommendations for these minor officials reveal internal political tensions over discipline similar to that which Kuhn highlights in *Soulstealers*. But beyond offering another glimpse into the workings of the Qing government, the rhetoric surrounding the punishment of these officials for an unsuccessful execution demonstrates more clearly the place the crowd should occupy at an ideal execution.

Guards

Two men were responsible for moving the prisoners to the execution ground. These guards, Pan Li and Pei Xian, are blamed in the *Xing'an huilan* for reversing the order in which the prisoners appeared in front of the executioners. While these guards are punished for their mistake, the imperial decree acknowledges that their actions were not malicious: “Although not intentional, reversing the prisoners is the result of Pan Li and Pei Xian taking the prisoners into custody wrongly.”³¹ The guards do not represent a serious threat to order, as their error was not carried out with seditious intentions.

Still, these guards were punished. Both Pan Li and Pei Xian were initially sentenced to 100 blows of the heavy bamboo and a year of penal servitude. Pan Li, however, was supporting his elderly mother and his sentence was commuted.³² The punishment itself is more descriptive of the way the Qing legal system dealt with local officials than of the way in which these guards should have acted. But the *Xing'an huilan* does not merely indicate the punishment such petty

³¹ *Xing'an huilan*, 60 *juan*, 15a.

officials should receive, it also records the ways in which guards must consistently enforce order on every execution ground. “In the future,” the edict states, “military officials must clean up the grounds and restrict crowds of people.”³³ This criticism of the way in which executions were carried out reminds the readers of the *Xing’an huilan* that guards had a responsibility to keep the viewing public from forcing them to make mistakes.

Executioners

The next set of officials that the *Xing’an huilan* identifies as responsible for this improper punishment is the executioners themselves. Though these men are not referred to by name, they receive a more severe punishment than the guards. The executioner figures prominently in studies on Western executions, but the treatment of the executioners in this case may indicate that studies of public executions that focus on the character of the executioner are either inappropriate for Qing China or a scholarly invention that obscures the routine nature of public punishment.

As with the guards, the imperial edict clearly points out that the executioners did not deliberately confuse the prisoners. The prisoners were not intentionally given the wrong punishments, rather the “executioners only knew that the first three prisoners were to be decapitated and the last four were to be strangled.”³⁴ The executioners were merely presented

³² Bodde and Morris explain this provision: “a criminal who is the only adult son of aged parents may have his sentence of penal servitude or more commuted in various ways so that he may stay at home to care for the parents” (Bodde and Morris, *Law in Imperial China*, 472).

³³ *Xing’an huilan*, 60 *juan*, 15a.

³⁴ *Xing’an huilan*, 60 *juan*, 15b.

with the prisoners in the wrong order, the result being that “Xu Siben was mistakenly executed by decapitation and Li Tiangang was mistakenly executed by strangulation.”³⁵

The executioners’ mistake, like that of the guards, was “also the result of neglect.”³⁶ And as with the guards, the *Xing’an huilan* demands that the executioners be punished: “Each should receive 80 blows of the heavy bamboo and 2 months of the cangue.”³⁷ According to Bodde and Morris, the difference between these punishments and the punishments for the guards is that the executioners’ punishments were based on the “the statute on doing what ought not to be done.”³⁸ In other words, the imperial enforcement in the *Xing’an huilan* was based not on a statute specifically tailored to Qing officers carrying out punishments, but on a general law governing the proper action of government officials.

In literature on Western torture and executions, the executioner himself plays a central role. Pieter Spierenburg organizes *The Spectacle of Suffering* to focus attention on the figure of the executioner in pre-modern European executions. As Spierenburg is interested in producing a “history of mentalities, rather than focusing on repression as a system of control,”³⁹ he considers the ways in which the executioner was seen by the punishment’s audience. In *The Spectacle of Suffering*, the figure of the executioner occupies a simultaneously (and as Spierenburg claims, contradictory) revered and abhorred place in the public’s imagination.

Spierenburg solves this contradiction by connecting the position of the executioner to the emergence of the modern European state: “The attitudes towards executioners were connected to

³⁵ *Xing’an huilan*, 60 juan, 15b.

³⁶ *Xing’an huilan*, 60 juan, 15b.

³⁷ *Xing’an huilan*, 60 juan, 15b.

³⁸ Bodde and Morris, *Law in Imperial China*, 472.

³⁹ Spierenburg, *Spectacle of Suffering*, vii.

processes of state formation.”⁴⁰ As this modern state formed, Spierenburg argues, class structure solidified around the notion of criminality: “the notion of infamy...became connected to being subjected to justice in general. And being subjected to justice was associated with the criminalized groups...For the middle classes and the ‘better’ workers, honor meant both not being associated with the marginal groups and not being subjected to justice.”⁴¹ Thus, the executioner began to be despised for his proximity to the criminal classes.

The case of mistaken execution in the *Xing’an huilan* offers no such contradiction: through the eyes of the emperor; the executioners are merely another set of local officials, negligent but not seditious. Though Spierenburg’s treatment of ‘pre-modern’ executions is more concerned with the spectators’ point of view than my treatment of legal documents allow me to be here⁴², I believe Spierenburg’s insistence on the contradiction inherent in the figure of the executioner blocks our view of the executioner as merely the last governmental official in a political and legal chain. Placing the executioner at the center of an analysis of public executions does not lend itself to a description of the execution which acknowledges the governmental apparatus responsible for carrying out the punishment.

Magistrates

There remains one set of officials that the imperial edict identifies as failing to insure the success of this execution. Two higher officials observed the 1826 execution in Anhui, and their

⁴⁰ Spierenburg, *Spectacle of Suffering*, 42.

⁴¹ Spierenburg, *Spectacle of Suffering*, 42.

⁴² In Spierenburg’s reading of executions, executioners are “the actors;” if not the most important player in the *Spectacle of Suffering* then certainly a pivotal one. Though any history of public punishment can not brush aside the

very presence at this mistaken execution condemned them to imperial punishment: “Li Fuqing [the district magistrate] and Xu Huaiqing [a military lieutenant] witnessed the execution but did not pay careful attention, resulting in this mistaken execution.”⁴³ Their lack of oversight cost these men their jobs: “this is not ordinary neglect... these officials have already been (strictly) removed from office so we need not write more.”⁴⁴ Though they were not, in the final judgement, submitted to corporeal punishment, these officials lost their posts, indicating to other provincial officials the serious nature of this particular kind of neglect.

The treatment of these higher officials reminds us again that the goal of the edicts in the *Xing'an huilan* and the punishment of responsible officials is to ensure that such a mix up does not occur again. Though Li Fuqing and Xu Huaiqing merely attended this execution, they were still held responsible for a mistake caused directly by the crowd. Presumably these officials were not as close to the punishments themselves as the executioners and they were probably not even as close as members of the general public. Presumably the emperor did not mean for every district magistrate to hold the crowd back or inspect every prisoner as he or she arrived at the executioner, but it was still his responsibility to make provisions to keep the crowd from pushing in and confusing his inferiors.

The punishments of the officials who failed to control the crowd illustrate the many levels of Qing bureaucracy responsible for maintaining order at the execution ground. Though the *Xing'an huilan* only allows us to access this execution from the government's point of view, we still come to understand that the crowd was a force requiring the control and oversight of at least three sets of provincial officials. Though the crowd at autumn assizes was not a force to be

executioner as merely an instrument of the state's bloody intentions, choosing to place the executioner as the “the actor” in the spectacle shows an interest in telling the story of executions from the spectator's point of view.

⁴³ *Xing'an huilan*, 60 juan, 15b.

blamed or punished, it was also not one to be ignored. And the crowd watching executions was a force demanding imperial control. That the imperial edict goes so far as to punish three separate sets of officials for this mistake shows clearly that the crowd was an undeniable, perhaps requisite part of late Qing executions.

V. The Passive Spectators

Though this crowd was not interested in interfering with the process of this execution, these onlookers must have been motivated by something. Why did so many people press in on the execution ground on that particular day in early summer? Several theoretical models offer explanations for these motivations,⁴⁵ though none offer the clarity that a first hand account would.

Though the public nature of executions before the 19th century provides the basis for his analysis, in *Discipline and Punish* Michel Foucault is not interested in considering spectators at the scaffold as anything other than subjects of state power. In *Discipline and Punish* pre-execution rituals are seen only through the eyes of the state: “Whatever the part played by feelings of humanity for the condemned ...there was, in any case, on the part of the state power, a political fear of the effects of these ambiguous rituals.”⁴⁶ There is no need for an inquiry into the motivations of the crowd in Foucault’s project of demonstrating the way state power shifted away from the body of the condemned,

⁴⁴ *Xing’an huilan*, 60 juan, 15b.

⁴⁵ The plural, motivations, is important: a crowd, though considered by authorities as a single entity, is, from other points of view, a collection of individuals.

⁴⁶ Michel Foucault, *Discipline and Punish: the Birth of the Prison* (New York: Vintage Books, 1975) 65.

Spierenburg adopts a blatantly anti-Foucaultian position in his own reading of executions. In contrast to Foucault's "defective" "structuralist"⁴⁷ study, he suggests a set of simple motivations for spectators at European executions: "A certain degree of identification may have existed in the sense that people felt pity for an unfortunate colleague. But they also experienced gladness at not being executed themselves."⁴⁸ Spierenburg shows that in Europe "preindustrial people were familiar with the existence of public executions. These were part of life for them"⁴⁹ and argues that many observers reacted to execution with ambivalence. Much of his chapter titled "The watchers: spectators at the scaffold" is descriptive, and the motivations of non-rebellious crowds are barely mentioned, much less analyzed.

A more satisfying but also problematic approach to explaining spectators' interests in attending executions centers, as Foucault's does, around the concept of execution as performance of state power. Wang Ping analyzes a specific kind of execution, the *ling chi* punishment, as "the most dramatic example of writing / inscribing on the male body."⁵⁰ This punishment, variously translated as 'death by slicing'⁵¹ and 'the lingering death,' bleeds the victim via numerous cuts. Wang claims that the corporeal part of this punishment was finalized linguistically: "But the physical mutilation and display were only the first step. The fetish of the male body was completed and finalized only through words and by words."⁵²

In Wang's literary assessment, certain words are missing from the tales of *ling chi*. While Wang uses the precision with which officials recorded the number of cuts to define this act as

⁴⁷ Spierenburg, *Spectacle of Suffering*, viii.

⁴⁸ Spierenburg, *Spectacle of Suffering*, 89.

⁴⁹ Spierenburg, *Spectacle of Suffering*, 87.

⁵⁰ Wang, *Aching for Beauty*, 137.

⁵¹ Bodde and Morris, *Law in Imperial China*, 78.

⁵² Wang, *Aching for Beauty*, 138. Wang does not address the obvious issue of illiteracy. It seems somewhat unfair to analyze the audience for executions in a literary way without considering what part of the audience did not have the ability to consider the act in such a literary manner.

fetishistic, she notes the “absence of the recording of pain suffered by the condemned.”⁵³ Wang suggests that this failure of compassion is likewise an element of the fetish of public punishment; perhaps these witnesses “experienced the vertigo of fetishism and writing...The violence was so horrifying that it became unspeakable, therefore, unwritable. Perhaps this was the same reason behind the lack of details on how the horror and pain affected the crowds.”⁵⁴ Along with the fetishization of gruesome public executions comes a silence on the part of spectators; an apparent lack of public compassion is an important part of the fetish of pain.

In this brief section of *Aching for Beauty*, Wang aims to make a comparison between the unspoken pain of footbinding and the unwritten or unacknowledged pain of *ling chi*. In Wang’s reading, both rituals of pain connect Chinese bodies to the state: “the body of a man, through the most violent, most painful festishization [sic], became connected with sovereignty. The body was gazed at with pity, terror, and awe, just like the gaze on the fetishized female body, only on a much grander [and more public] scale.”⁵⁵ The audience’s gaze of “pity, terror and awe” is not the gaze of compassion but the gaze of a mass of fetishists. Wang’s comparison between public *ling chi* executions and footbinding prompts her to emphasize the audience’s simultaneous “pity, terror, and awe” and silence. The silence of spectators should not be seen simply as a lack of compassion, but as “the vertigo of fetishism.”⁵⁶

Though I find none of these readings entirely satisfactory, I do not have the tools to offer my own for the case of mistaken execution in Anhui. As our information about this case must come for now from legal documents, we have little information about the composition or interests of the crowd that caused the Qing executioners to improperly execute two men in 1826

⁵³ Wang, *Aching for Beauty*, 139.

⁵⁴ Wang, *Aching for Beauty*, 139-140.

⁵⁵ Wang, *Aching for Beauty*, 141.

in Anhui. Beyond accepting that the crowd at the execution ground was not attempting a riot, little more can be said specifically about the spectators that summer day. Whether drawn by bloodthirsty interest or repulsed entertainment, sympathy with or antipathy toward the men in custody, whether seeking to ascertain the identity of the convicts or just receiving the state's most biting demonstration of its power, the vast majority of the members of this crowd will remain, for now, anonymous, as will their motivations.

VI. Conclusions

What, then, was the role of the audience from the point of view of the bureaucracy? This question may have no clear cut answer; so far I have used this case to determine that a) the bureaucracy did not consider moving executions away from the public view and b) the emperor was threatened enough by this case to strictly punish multiple levels of officials to ensure that crowds were not again allowed to interfere. What is the secret to understanding the role the crowd played in Qing executions? We know that the ideal crowd was only allowed to observe. We know that the crowd in Anhui was appropriate while governmental control of them was not.

Many scholars (including Wang Ping and Pieter Spierenburg) see executions as a performance of state power. My reading of this case of mistaken execution leads me to see the event of execution as something closer to a communication. While the metaphor of performance focuses on the performance itself and on the ritualized aspects of a pre-plotted event, the metaphor of communication allows for the interaction between the audience and the authorities Spierenburg calls "the stagers." As this case in Anhui shows, the performance of execution does

⁵⁶ Wang, *Aching for Beauty*, 139.

not occur in a vacuum like Mason's idealized *Punishments of China*, but rather is a site of interaction between empire and audience.

The Punishments of China allows us to begin to grasp what is at stake in understanding execution as a communication rather than as a ritualized performance. By eliminating the audience Mason depicts Chinese punishment out of context, thereby eliding the need to analyze corporeal punishment as anything other than cruelty. Interaction between government and governed can not take place when there is no audience.

The Qing authorities are similarly guilty of imagining execution as a clean event, as a one-way communication. Though they do not remove the crowd from the execution ground, they do construct the notion of an ideal crowd as one which is passive. Using the metaphor of communication, the Qing government considers its subjects to be silent members of the dialogue. To Qing authorities, an ideal punishment is a one-way missive to a silent audience.

But the audience was not silent, at least not in 1826 in Anhui, and presumably at other times as well. The crowd, even when not rioting, refused to silently accept the Qing's information of punishment. In *The Quality of Mercy* Bruce McKnight draws attention to a formal appeal process to show that ordinary citizens of Qing China had voices in their own legal system. From this case at Anhui we can add another, more informal way Chinese people in the nineteenth century pushed at and interacted with Qing authority.

On a larger scale, looking at this incident of mistaken execution from the *Xing'an huilan* and *The Punishments of China* in concert reminds us that public punishment needs to be understood both as a site of internal and international interaction and in their own particular social contexts. Maybe this unfortunate mistake would not have occurred if the Qing officials could have used Mason's text: *The Punishments of China* could have reminded the executioners

in Anhui that corporeal punishments were clean, cruel, clinical affairs that occurred against a background of pure white. But a Chinese executioner using an English book on China is only a curious thought experiment⁵⁷: the disjuncture between execution ideal and execution reality is, of course, large. Much as things are not always as they seem, events are not always as they are illustrated.

⁵⁷ But not merely a thought experiment of idle amusement: Lydia Liu draws attention to the ways in which European academic treatments of China are translated (both literally and figuratively) into Chinese. Liu asks “What happened when translation and translingual practice subjected the European theory of national character to the interpretation of an ‘unintended’ audience of Chinese speakers?” in an attempt to challenge the binary interaction between East and West conceptualized by Said’s *Orientalism*. Lydia Liu, *Translingual Practice: Literature, National Culture, and Translated Modernity—China, 1900-1937* (Stanford: Stanford University Press, 1995) 47.