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# 'This Relic of the Cities of the Plain':<sup>1</sup> Penal Flogging, Convict Morality and the Colonial Imagination

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In his 1949 *History of Torture Throughout the Ages*, George Ryley Scott made an intriguing observation on what, in a contentious topic, was generally left unspoken. He noted:

The use of corporal punishment, either in the case of juveniles or adults, represents ... a most dangerous procedure. Whatever safeguards one adopts there is inevitably a possibility of developing existent sadism or masochism, or awakening potential algolagnistic [sic] trends in either the whipper or the whipped. It is a risk that cannot be disregarded; and the fact that, in nearly every discussion of the case for or against flogging, this aspect is studiously ignored does not in any way detract from its major importance and significance.<sup>2</sup>

The punishment of flogging has been a central theme in historical considerations of the convict past. The idea that early colonial society was excessively brutal and exploitative was enshrined in the convict memoirs of Martin Cash and Thomas Cook.<sup>3</sup> 'Thrilling tales of almost incredible barbarity' later pervaded the literature of Marcus Clarke

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<sup>1</sup> George Bernard Shaw quoted in I. Gibson, *The English Vice: Beating Sex and Shame in Victorian England and After*, London, 1978, p. 164.

<sup>2</sup> G. R. Scott, *The History of Torture Throughout the Ages*, London, 1949, p. 305.

<sup>3</sup> M. Cash, *The Bushranger of Van Diemen's Land in 1843 and 1844: A Personal Narrative of his Exploits in the Bush and his Experiences at Port Arthur and Norfolk Island*, Hobart, 1981 [1870]; T. Cook, *The Exile's Lamentations or Biographical Sketch of Thomas Cook*, Sydney, 1978 [1840].

and Price Warung.<sup>4</sup> In most academic studies the punishment of flogging has been analysed to reveal the nature of the convict system and the wider colonial society. In many accounts violence and exploitation underscored all social relations in the colonies, especially in the early years. In 1973 Manning Clark suggested that 'terror' formed 'the nexus between master and servant' under the assignment system. Likewise, David Neal represented convict society as a harsh and repressive penal system that used 'legally degraded coerced labour' and capricious force to maintain order.<sup>5</sup> Some studies have focused on the 'network of draconian secondary punishment centres' that threatened convicts with further penal exile. They were established at Port Macquarie (1821), Moreton Bay, Maria Island and Norfolk Island (1825) and at Port Arthur in 1830. In these accounts punishment has been analysed as part of the repressive regime of the ruling colonial power.<sup>6</sup>

Other research has downplayed the excesses of the convict system.<sup>7</sup> Tamsin O'Connor has recently warned historians that 'a new historiographical trend seeks to minimize pain and punishment

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<sup>4</sup> *Hobart Town Gazette*, 25 June 1824; M. Clarke, *For the Term of his Natural Life*, Australia, 1973 [1874]; P. Warung, *Tales of the Early Days*, Sydney, 1894. See also L. T. Hergenhahn, 'The Contemporary Reception of His Natural Life', *Southerly*, Vol. 31, 1971, pp. 50-63; 'Price Waring and the Convicts: A view from and of the Nineties', *Southerly* Vol. 39, 1979, pp. 309-26.

<sup>5</sup> C. M. H. Clark, *A History of Australia*, Vol. 3, Melbourne, 1973, pp. 182-3; D. Neal, 'Free Society, Penal Colony, Slave Society, Prison?', *Historical Studies*, Vol. 22, No. 89, October 1987, p. 507.

<sup>6</sup> For example, T. O'Connor, 'A Zone of Silence: Queensland's Convicts and the Historiography of Moreton Bay', in I. Duffield and J. Bradley (eds), *Representing Convicts: New Perspectives on Forced Labour Migration*, Leicester, 1997; M. Hazzard, *Punishment Short of Death: A History of the Penal Settlement at Norfolk Island*, Melbourne, 1984; H. Maxwell-Stewart, 'Convict Workers, Penal Labour and Sarah Island: Life at Macquarie Harbour, 1822-1834', in Duffield and Bradley, *op. cit.*, p. 157.

<sup>7</sup> S. Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, Cambridge, 1988, posits the use of the lash as 'judicious'. This was criticised in R. Evans and B. Thorpe, 'Power, Punishment and Penal Labour: Convict Workers and Moreton Bay', *Australian Historical Studies*, Vol. 25, No. 98, April 1992, pp. 90-111.

in the convict experience'.<sup>8</sup> Dulcie Denholm's study of Port Arthur suggested that its infamous reputation as the 'abode of misery' was the product of 'myth makers'. Instead, she argued that 'it was part of the penal system which was a product of the time, created for purposes which it served well and without exceptional brutality'.<sup>9</sup> To be sure, the 'convict experience' involved many different possibilities and circumstances. Some men were assigned to private masters as convict servants. Others worked for the colonial government on public works, and some were sent off to remote labour-gangs. Men who quietly worked out their sentences had a different experience from convicts sent to a chain gang, or those who were sentenced to a secondary penal station. Many escaped flogging altogether, yet all were subject to stringent restrictions. In their daily lives, their behaviour and their freedom of movement were structured around the rules of 'convict discipline', and the threat of further punishment was ever present.

Rather than engage in a 'brutal or benign' analysis, in this article the punishment of flogging is analysed in terms of its symbolic, sexual, and cultural meanings. This is not to refute the reality of brutal repression and agonising pain, but moves the focus towards an understanding of how contemporaries negotiated the moral consequences of flogging. It follows Roger Chartier's insistence that cultural practices are not simply reflective of, or dependent on, their material determinations, but are themselves constitutive of social reality.<sup>10</sup> From this it becomes clear that what George Ryley Scott identified as having been 'studiously ignored' was in fact a deep and pervasive anxiety in colonial Australia.

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<sup>8</sup> O'Connor, *op. cit.*, p. 135. O'Connor argued for a more considered approach to secondary penal stations, one that is placed within the important discourse of domination and resistance.

<sup>9</sup> D. Denholm, 'Port Arthur: The Men and the Myth', *Historical Studies*, Vol. 14, No. 55, October 1970, p. 423.

<sup>10</sup> R. Chartier, *Cultural History: Between Practices and Representations*, (trans. L. G. Cochrane), Oxford, 1988, p. 44. See also P. Burke (ed.), *New Perspectives on Historical Writing*, Cambridge, 1991.

Pieter Spierenburg observes that the sort of repression that is 'advocated or tolerated in a particular society is an indication of the psychic make-up of its members'. This is a useful way of thinking about flogging in the nineteenth century.<sup>11</sup> Corporal punishment was a harsh fact of daily life for many children, criminals and men in the military forces. The politics and propriety of birching and whipping were sometimes debated in the press and in parliament, but the popular biblical injunction to 'spare the rod and spoil the child' informed most pedagogical, penal and military perceptions of discipline. At the élite private schools, very public and half naked floggings – or 'executions' as they were called – were routinely performed to discipline bodies and minds, and teach masculine self-control.<sup>12</sup> Corporal punishment was also administered elsewhere, in (some) homes of the middle classes, and in the workhouses, schools, and reformatories of the lower orders.

Modest and restrained corporal chastisement was generally tolerated; severe punishments that caused injury or death were not. Scandals involving over-zealous whipping schoolmasters and institutional brutality in the military surfaced from time to time. Public campaigns to reform and humanise military discipline were conducted throughout the nineteenth century and were closely allied with other reformatory movements of the day.<sup>13</sup> Yet reforms were slow and piecemeal because the 'men trained up in the flogging system were bound to continue it', and many members of parliament harked back to the lashings they had received at Eton to argue that 'it had done them no lasting harm'. The corporal punishment of female criminals was abolished in 1817, yet it would continue to be

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<sup>11</sup> P. Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression: From a Pre-industrial Metropolis to the European Experience*, Cambridge and New York, 1984, p. 200.

<sup>12</sup> J. Gathorne-Hardy, *The Public School Phenomenon, 597-1977*, London, 1977.

<sup>13</sup> D. Killingray, 'The "rod of empire": the debate over corporal punishment in the British African colonial forces, 1888-1946', *Journal of African History*, Vol. 35, No. 2, May, 1994, pp. 201-16; H. Strachan, *Wellington's Legacy: The Reform of the British Army, 1830-1854*, Manchester, 1984; I. Land, 'Customs of the Sea: Flogging, Empire and the "True British Seaman" 1770 to 1870', *Interventions*, Vol. 3, No. 2, 2001, pp. 169-85.

administered to men and boys in British schools, prisons and the military forces well into the twentieth century.<sup>14</sup>

The punishment of flogging was transported to many British colonies, because discipline formed an integral dynamic in the military and penal nature of the colonial enterprise itself. Like the rulers of nineteenth-century Britain, the male élites who administered and governed the colonial world were usually from the higher gentry and nobility. Others were military men, formed by the unremitting discipline and masculine culture of that 'total institution'.<sup>15</sup> Throughout the colonial world flogging both reflected and symbolised power relations between different ranks. In the settler colonies labour relations between white employers and employees were often regulated with the threat of the lash. This was usually delineated along racial lines and 'natives', rather than poor white colonists, were more often subject to its threat. Likewise, in slave societies flogging served to separate white and black, and free from bond. As a disciplinary practise it governed codes of behaviour and reinforced the hierarchical structure of colonial society.<sup>16</sup>

In the Australian penal colonies, flogging was considered to be an inevitable and necessary feature of the regulating forces of penal discipline. Certainly, under the Assignment System in New South Wales (NSW), convicts had many rights they would not have enjoyed as prisoners in Great Britain, such as the right to petition, bear witness, own property, and marry. Yet the threat of a judicial flogging ultimately served to remind convicts of their status as

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<sup>14</sup> Gibson, *op. cit.*, p. 313. Whipping juvenile offenders was replaced with probation in 1907 in England, yet continued in Scotland until 1948. See L. Mahood, "'Give Him a Doing!': The Birching of Young Offenders in Scotland", *Canadian Journal of History*, Vol. 37, No. 3, December 2002, pp. 439-57.

<sup>15</sup> See E. Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*, New York, 1961.

<sup>16</sup> See D. M. Peers, 'Sepoys, Soldiers and the Lash: Race, Caste and Army Discipline in India, 1820-1850', *Journal of Imperial and Commonwealth History*, Vol. 23, No. 2, pp. 211-47; Killingray, *op. cit.*, pp. 201-16; S. Pete and A. Devenish, 'Flogging, Fear and Food: Punishment and Race in Colonial Natal', *Journal of Southern African Studies*, Vol. 31, No. 1, March, 2005, pp. 3-21; A. Rao and S. D. Pierce, 'Discipline and the Other Body: Correction, Corporeality and Colonial Rule', *Interventions*, Vol. 3, No. 2, 2001, pp. 159-68.

bonded men, obliged to serve a master in this otherwise free society. Floggings might be administered for all sorts of petty misdemeanours from swearing or disobedience, to the more serious 'crimes' of theft or absconding, and colonial Australia was indeed what Dinesh Wadiwel has usefully termed a 'frictional community'.<sup>17</sup> As a relatively quick and cheap means of enforcing discipline, it was popular with masters who expected their convict servants to return to work immediately. In the barracks, government gangs and at the penal stations, flogging was administered for similar convict 'crimes'. Yet here it took on a further symbolic meaning in that it served to reinforce institutional hierarchies between the ruling authorities, the mass of prisoners who would be assembled to watch the spectacle, and the individual men subjected to its tortures. It also divided the convict rank, as scourgers were often prisoners themselves. In many ways the British Empire, as Ian Gibson has suggested, was indeed 'founded on the lash'.<sup>18</sup>

Yet it is equally important to understand that repressive, physical punishment also produced critical tensions and anxieties. Beneath the surface of the texts, debates and sermons dealing with corporal punishment was a quiet, yet insidious undercurrent of prurient moral anxiety that centred on what Karen Halttunen has described as a new 'pornography of pain'. In the cultural context of the bourgeois 'civilizing process' in the late-eighteenth and early-nineteenth centuries, the infliction of cruelty and suffering upon sentient beings – children, prisoners, sailors, slaves and animals – was in the process of being redefined as forbidden, taboo and therefore obscene. This redefinition created 'a heightened awareness of the close relationship between the revulsion and the excitement aroused by pain'. There was then a 'new shock value of pain' that explicitly forged a cultural bridge between pain, obscenity, and sexual transgression. Moreover, by the early-nineteenth century, the infliction of violence and sadistic suffering increasingly constituted 'the central convention of English pornography', and flagellation had

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<sup>17</sup> D. Wadiwel, 'The Sovereign Whip: Flogging, Biopolitics and the Frictional Community', *Journal of Australian Studies*, No. 76, 2003, pp. 117-25.

<sup>18</sup> Gibson, *op. cit.*, p. 64.

become known as 'the English Vice'.<sup>19</sup> And it was precisely the public school-educated men of the governing classes who constituted the premier audience, and main consumer, of nineteenth-century pornography. It was at this juncture where the cultural boundaries between flogging as disciplinary punishment, and flogging as a forbidden erotic act, were rendered fragile and tenuous.<sup>20</sup>

Flagellation as an erotic practise has been understood through a long, albeit covert, history, dating back at least to the early seventeenth century. In the nineteenth century, one particular explanation came to justify 'why strokes and stripes ... [were] incentives to lust'. The physiological theory of flagellation asserted that the increase of blood, heat and energy to the back was eventually 'communicated to the organs of generation, and the perverse and frenzical [sic] appetite is satisfied'.<sup>21</sup> This somatic explanation was firmly held to be a scientific and medical fact, and this tended to obscure the wider cultural meanings of power, masculinity and sexuality. This begs a difficult and awkward question. If violence, pain, and sexual arousal were somatically and erotically connected (and even men who did not indulge themselves were aware of this) why was it used, and so ardently defended, by many of the ruling establishment as a suitable disciplinary mechanism in other contexts? What was the relationship between penal flogging as discipline, and its wider association with the erotic and the pornographic?

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The violent imposition of flogging upon the helpless convict body, held powerful symbolic, sexualised meanings. Publicly stripping, spread-eagling, physically restraining, and whipping a man

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<sup>19</sup> K. Halttunen, 'Humanitarianism and the Pornography of Pain in Anglo-American Culture', *American Historical Review*, Vol. 100, No. 2, April 1995, pp. 4-5.

<sup>20</sup> L. Z. Sigel, *Governing Pleasures: Pornography and Social Change in England 1815-1914*, New Jersey and London, 2002; S. Marcus, *The Other Victorians: a study of sexuality and pornography in mid-nineteenth-century England*, New York, 1975 [1966]; Gibson, *op. cit.*, pp. 119-35.

<sup>21</sup> Fashionable Lectures: Composed and Delivered with Birch Discipline etc, quoted in Sigel, *op. cit.*, p. 75.



represented his complete physical subservience to another individual. According to Robert Hughes it was to be 'drowned in powerlessness'. Moreover, next to male rape, flogging 'was the most humiliating invasion of the body that could befall a prisoner'.<sup>22</sup> The analogy of rape is pertinent if we consider this penal punishment as a sexualised spectacle, where floggers performed officially sanctioned violence on the bodies of male convicts.<sup>23</sup> There was a perverse level of physical intimacy between the aggressor wielding the cat and the stripped, exposed body of the convict. And like rape, the infliction of pain and torture, the drawing of blood and the complete physical domination of one person over another, indeed amounted to a violent exertion of power.<sup>24</sup> Further, this intimacy was extended to the communal level because other convicts were assembled dutifully to watch the gruesome spectacle. They were to heed warning from this theatre of pain, and yet the ceremonial nature of the flogging event often underscored the voyeurism inherent in corporal punishment. For the flogged man, the very public nature of the punishment served to transform it from a personal, painful and degrading experience, into a communal form of violation and 'rape'.

The physical punishment of the body held similar symbolic meanings for the convict men who were mustered and forced to watch in passive silence. A common theme in convict memoirs was the sensory violation that the cruel iron-fist of overseers and floggers inflicted on all. In his memoirs Joseph Holt recounted the flogging of Maurice Fitzgerald, sentenced to 300 lashes at Toongabbe [sic]. 'I felt so disgusted and horrified', recalled Holt, at the first sight of blood from Fitzgerald's shoulders, 'that I turned my face away from the cruel sight'. As a convict, however, Holt was not

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<sup>22</sup> R. Hughes, *The Fatal Shore*, London, 1987, p. 429.

<sup>23</sup> See A. Schrader, *Languages of the Lash: Corporal Punishment and Identity in Imperial Russia*, DeKalb (Illinois), 2002, pp. 181-82. The public lynching of black men in the southern states of America has been analysed in similar ways. See G. E. Hale, *Making Whiteness: The Culture of Segregation in the South, 1890-1940*, New York, 1998, esp. pp. 199-239; R. Wiegman, 'The Anatomy of Lynching', *Journal of the History of Sexuality*, Vol. 3, No. 3, 1993, pp. 445-67.

<sup>24</sup> For different perspectives on rape see W. Pinar, *The Gender of Racial Politics and Violence in America: Lynching, Prison Rape, and the Crisis of Masculinity*, New York, 2001; S. Brownmiller, *Against Our Will: Men, Women and Rape*, Toronto, 1976.

permitted the right to look away and was instead ordered to 'look on, at my peril'.<sup>25</sup> Today, it is hard to imagine the sensory and psychological effects of being forced to watch a public flogging. Yet many penal administrators adhered to the 'educate by beating' dictum and regarded the punishment spectacle as a salutary warning and a deterring example to forewarn potential offenders. The intense physical pain that was inflicted by the nine thongs of the cat-o'-nine-tails, each with three knots that were often dragged through the sand for that extra sharp sting, is equally hard to imagine. According to many eyewitness accounts it was certainly a revolting, bloody spectacle. At Norfolk Island, the Reverend Thomas Rodgers noted that 'on several of the mornings, the ground on which the men stood at the triangles was saturated with human gore, as if a bucket of blood had been spilled on it, covering a space three feet in diameter, and running out in various directions in little streams of two, or three feet long'.<sup>26</sup> The convict Henry Beresford Garrett remembered that 'men's backs, ragged and bruised from the lash, were baked in the sun like crackling pork. They swarmed with flies and maggots, with not a drop of water to moisten them'.<sup>27</sup>

This was the physical aftermath. Yet some convict memoirs suggest that the psychological effects of violence were far more damaging. The American Patriot, Linus Miller, opposed the punishment of flogging on moral grounds, rather than its physical brutality. In *Notes of an Exile* he suggested that because he had 'the feelings of a man', it was the humiliation, degradation and complete disempowerment, rather than the blood and pain, that rendered flogging so horrific. At stake was a man's personal honour and self-respect. Miller was prepared 'to perish first by my own hand', than

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<sup>25</sup> T. C. Croker, (ed.), *Memoirs of Joseph Holt*, London, 2 Vols., 1838, Vol. 2, pp. 118-22, cited in H. Anderson (ed.), *Farewell to Judges and Juries: The Broadside Ballad and Convict Transportation to Australia, 1788-1868*, Hotham Hill (Vic), 2000, pp. 475-6.

<sup>26</sup> T. Rogers, *Correspondence relating to the Dismissal of the Reverend T. Rogers from his Chaplaincy at Norfolk Island*, Launceston, 1849, p. 144.

<sup>27</sup> H. B. Garrett, *The Demon*, quoted in J. V. Barry, *The Life and Death of John Price: A Study in the Exercise of Naked Power*, Melbourne, 1964, p. 154.

be subjected to such public degradation. He was not alone in his resolve. Many of his fellow Patriots expressed similar sentiments.<sup>28</sup>

It is difficult to judge how representative, or realistic, the determination in these accounts actually was. Certainly, the historical record suggests that some men willingly chose death over life in the penal system.<sup>29</sup> Moreover, in times of physical threat such as war, or capture by the enemy, ideas of masculine honour often mirrored the sentiments of 'death or liberty'.<sup>30</sup> It might be useful to draw comparisons with the cultural ideas surrounding death, honour, and the female rape victim in the eighteenth and nineteenth centuries. Suicide was both a sin against God and a crime against the state. Yet it was held to be more integral and honourable than to live with the moral and physical aftermath of rape. Placed in this context, we can see that for some convict men, the moral and physical violation of flogging held similar cultural meanings. In his memoirs, Thomas Cook remembered his desire for death during his voyage to 'that place of horror Norfolk Island':

The dreadful picture afforded me of the intensity of sufferings and torture to which every victim to this island was subjected was most appalling. So much terror had this produced on my mind, that during a faint squall on our passage, I most fervently prayed to the Almighty to suffer the vessel to sink, and mercifully receive the souls of all from a state of endurance worse than death in its most terrific shape.<sup>31</sup>

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<sup>28</sup> L. Miller, *Notes of an Exile to Van Diemen's Land*, New York, 1846, p. 331; C. Pybus and H. Maxwell-Stewart, *American Citizens, British Slaves; Yankee Political Prisoners in an Australian Penal Colony 1839-1850*, Melbourne, 2002, pp. 108-15.

<sup>29</sup> According to Reverend Thomas Atkins, chaplain on Norfolk Island in 1836, 'the severe and inhuman discipline of the settlement was in some cases insupportable, and therefore, influenced by despondency or disgust of life, several men committed suicide'. T. Atkins, *Reminiscences of Twelve Years Residence in Tasmania and New South Wales, Norfolk Island and Moreton Bay*, Edithwalk, 1869, p. 48.

<sup>30</sup> R. W. Connell, 'The Convict Rebellion of 1804', *Melbourne Historical Journal*, Vol. 5, 1965, pp. 27-37; L. F. Guttridge, *Mutiny: A History of Naval Insurrection*, New York, 1992.

<sup>31</sup> Cook, *op. cit.*, p. 44.

This 'worse than death' portrait of penal life at Norfolk Island reflected the intimate relationship connecting perceptions of honour and masculine identity with the physical male body. Flogging violated the physical self, and it was the body that was integral to a man's sense of his masculinity. Evans and Thorpe's seminal article, 'Commanding Men', located flogging within a hierarchical and gendered power dynamic that 'produced a vulnerable, indeed feminised masculinity in the convict male body'. They argued that flogging in colonial Australia formed part of a 'general militarisation of penal discipline'. This 'systematic' and 'orchestrated' ritual was a 'calibrated process of administering pain' that correspondingly served to enhance and reinforce the masculine power of the flogger. Their analysis concluded that the occasional 'iron man', who refused to cry out in agony, displayed resistance to this authority, yet in general the 'screams largely drowned out the silences'.<sup>32</sup>

Flogging indeed had a profound effect on a convict's sense of masculine identity. His submission, surrender and vulnerability rendered him weak, emasculated and feminised in both real and symbolic ways. Grown men publicly crying and screaming for mercy, sometimes vomiting or defecating, were said to have had 'their manhood' whipped out of them. If the punishment did not leave them unconscious, it certainly left them quiet and exhausted. Many contemporaries acknowledged the gendered power dynamics of the process. In one anti-flogging petition of 1834, the practise was described as 'a disreputable, cowardly, unmanly, unfeeling, brutal, inhuman and bloody mode of punishment'. The testimony of John Barnes (colonial surgeon at Macquarie Harbour) to Sir William Molesworth's Select Committee in 1837 suggested that penal flogging was indeed 'a most unmanly punishment'.<sup>33</sup>

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<sup>32</sup> R. Evans and B. Thorpe, 'Commanding Men: Masculinities and the Convict System', *Journal of Australian Studies*, No. 56, 1998, pp. 17, 19, 24, 26. Similarly, C. Moore, 'Colonial Manhood and Masculinities', *Journal of Australian Studies*, No. 56, 1998, p. 36, suggests 'flogging confirmed the state's authority, imposing a sense of submission, a feminisation of their masculinity'.

<sup>33</sup> Quoted in J. R. Dinwiddy, 'The early nineteenth-century campaign against flogging in the army', *English Historical Review*, Vol. 97, April 1982, p. 317; John Barnes' evidence, Report from the Select Committee on Transportation, *British Parliamentary Papers*, Vol. 3, Shannon, 1968, p. 38. For further discussion of this in the context of

Yet if the power dynamics of flogging fissured gender identities, we might consider how it simultaneously infantilised men. Some men who participated in flagellation for sexual pleasure delighted in playing the child and adopted a passive and helpless role. Of course, enforcing this role on the convict was not the same, but it is the cultural meanings of infantilisation that are relevant here. The punishment of flogging was designed to degrade men, as it forcefully placed them in 'the most humiliating of childlike positions'.<sup>34</sup> The loss of self-control over one's emotions and bodily functions during the infliction of the punishment was commonly associated with a lack of reason that characterised children (and also women). Moreover, the prevailing opinion held that criminal men were immature and infantile, and, like children, required severe training and strict physical discipline. This underscored the arguments of those who advocated the flogging of children and prisoners; without stringent discipline, both were vulnerable to regress into a 'natural' state of animal savagery.

Similar perceptions of 'natives' and subject races as childlike and savage often justified the use of the lash as a repressive tool of 'racist paternalism' elsewhere in the Empire.<sup>35</sup> In this context, the infantilisation of the 'other' – be it convicts, women or natives – was an integral disciplinary mechanism within the hegemonic masculine colonial ruling order. Conversely, playing the child in flagellation scenarios enabled ruling-class men temporarily to transgress this hegemonic ideal, and revert to the 'other' of their imaginations.<sup>36</sup> For men who represented the élite of British society

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flogging and naval reform in nineteenth-century America, see M. Glenn, *Campaigns Against Corporal Punishment: Prisoners, Sailors, Women and Children in Antebellum America*, Albany, 1984, pp. 116-21.

<sup>34</sup> K. Theweleit, *Male Fantasies*, Vol. 2, Cambridge, 1989, p. 294.

<sup>35</sup> Pete and Devenish, *op. cit.*, p. 7.

<sup>36</sup> A. Moore, 'The Painful Self: A History of the Perverse Other in Modernity and Post Modernity', PhD thesis, University of Sydney, Sydney, 2001, pp. 40-1, notes that 'The masculine self must not be spanked, must not be pleasurable dominated, must not be sodomised, because these things threaten to liken him to some other against whose silhouette he defines his own contours ... It is the slave, the colonial subject who is beaten; it is the degenerate races who are dominated; it is the woman who is penetrated'.

and her Imperial Empire, such secret, transgressive sexual behaviour was presumably part of its alluring appeal.

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Convict men were not alone in expressing their horror at the punishment of flogging. For many penal and humanitarian reformers, flogging was antithetical to the spirit of an enlightened age, and unworthy of a Christian nation. It was a feudal relic of an antiquated and cruel past, and was out of place in a civilised society. Instead, reformers recommended hard labour to keep busy idle hands and train men in new skills, while others advocated the deprivations of solitary confinement to effect mental and moral reform. It might well be argued that the later penal innovations of the treadmill and the separate system of prison discipline were merely more subtle forms of state sanctioned violence.<sup>37</sup> Neither produced much discipline, succeeding far better in making broken bodies or minds, or both. Yet most contemporary reformers were convinced that penal flogging was no discipline at all, but was instead instrumental in encouraging further crime, disorder and amoral behaviour. Rather than inspiring good behaviour and instilling order, the 'severity and inhumanity' of the lash, often merely 'brutalised and hardened the prisoners', so that they became 'insensible to degradation and incapable of feeling'.<sup>38</sup> This 'most reprehensible mode of punishment', remarked the colonial justice Roger Therry, was not only 'ineffectual for the reformation of the man, but in many instances it made him hardened and reckless'. Many men 'who might have been reclaimed by other and gentle means ... were maddened by the severity of the lash, into defiance

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<sup>37</sup> The separate system, which institutionalised the separation of criminal bodies through specific architectural design, came to inform the management of prison discipline in British and colonial gaols by the 1840s. It was characterised by cellular isolation where men worked alone, the strict enforcement of continual silence and the wearing of hoods. The system was implemented at Port Arthur in 1848. See R. Q. Henriques, 'The Rise and decline of the Separate System of Prison Discipline', *Past and Present*, No. 54, February 1972, pp. 61-93.

<sup>38</sup> Atkins, *op. cit.*, p. 56.

of the law'.<sup>39</sup> Alexander Maconochie, the visionary penal reformer, similarly suggested that 'the direct application of force to the human mind always deteriorates it ... it degrades, emasculates, and too often crushes altogether'.<sup>40</sup> The idea that flogging merely 'made bad men worse' was a common observation that united many minds in the nineteenth century. The dreaded cat o' nine tails was wielded to discipline and deter, yet experience suggested that degradation and deterioration were more often the forbidden fruits of its infliction, however measured and carefully calibrated 'the system' of administering pain.<sup>41</sup>

The punishment of flogging produced a tension between disciplinary penal ideas of taming the criminal beast, and moral fears of unleashing a worse monster. Opposition to the use of the lash was often conveyed through animalistic metaphors. In the nineteenth century, sex, savagery and animality were related fears that often reinforced one another. As James Tucker argued, 'sexual impulses reminded one of the beast inside. Mention of human animality brought to mind the banked fires of sex, threatening always to flame up out of control'.<sup>42</sup> Anti-flogging discourses often constructed flogged men as 'savage', 'de-humanised', 'demonic', and 'beastly'. Many penal reformers feared that treating men like animals (and campaigns against animal cruelty had their own reform movements at this time) would merely cultivate their 'animal passions', rather than their inner moral resolve. Convict accounts often confirmed these anxieties. In his description of William Westward, the leader of the 1844 mutiny on Norfolk Island, Martin Cash wrote of a man 'flogged, goaded and tantalized till he was reduced to a lunatic and a

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<sup>39</sup> R. Terry, *Reminiscences of Thirty Years' Residence in New South Wales and Victoria*, Sydney, 1974 [London, 1863], p. 43.

<sup>40</sup> A. Maconochie, *The Marks System*, quoted in J. C. Symons, *Tactics for the Times as Regards the Condition and Treatment of the Dangerous Classes*, London, 1849, p. 237. For a brief yet concise account of Maconochie and his penal ideas see S. O'Toole, *The History of Australian Corrections*, Sydney, 2006, pp. 36-42.

<sup>41</sup> According to the convict Martin Cash, the lash was 'unsparingly and indiscriminately administered' at Port Arthur during the 1830s and 1840s. Cash, *op. cit.*, p. 46.

<sup>42</sup> J. Turner, *Reckoning with the Beast: Animals, Pain and Humanity in the Victorian Mind*, Baltimore, 1980, p. 68.

savage'. With a similar flourish, and tinged with a racial discourse, the colonial historian James Bonwick suggested that men at the Island were 'far more degraded and bestial than the lowest idolaters of Africa or the isles'.<sup>43</sup> In these representations, the flogged man was not the reformed, disciplined prisoner beloved of penal theorists. Rather, through the infliction of state-sanctioned brutality, he was the wild, savage 'other'; inhuman, unchristian, and certainly amoral. This 'bestly' image has been traced to its most macabre conclusion in Paul Collins' recent study of Alexander Pearce. In the 1820s Pearce escaped from the brutal, flogging regime of Maria Island, only to become known as 'the cannibal' of Van Diemen's Land.<sup>44</sup>

Pearce's story is not representative of the 'convict experience', and cannibalism was indeed a rare occurrence. Yet cruel and barbaric treatment did drive some men to desperate and inhuman behavior. The penal settlements were meant to instill discipline and reform, yet they often engendered instead a loss of self-respect, hope and humanity. And men who lost their self-respect were perceived to be beyond any hope of moral reform. This was seen in convict memoirs where death is portrayed as preferable to flogging. For other observers, such as Thomas Cook, it explained why flogged men were likely to indulge their 'animal passions' in 'everything that is odious and execrable'. In the veiled discourses of the day, Cook was here alluding to immoral vice and 'unnatural crimes'.<sup>45</sup>

In the first half of the nineteenth century, the 'unspeakable crime' of sodomy was considered to be 'the worst of crimes'. According to Robert Willson, the Roman Catholic Bishop of Hobart, it was 'the most detestable crime that human beings can commit'.<sup>46</sup>

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<sup>43</sup> Cash, *op. cit.*, p. 151; J. Bonwick, *Curious Facts of Old Colonial Days*, London, 1870, p. 63.

<sup>44</sup> P. Collins, *Hell's Gates: The Terrible Journey of Alexander Pearce Van Diemen's Land Cannibal*, South Australia, 2002.

<sup>45</sup> Cook, *op. cit.*, p. 89.

<sup>46</sup> Robert William Willson, 7 June 1847, Select Committee of the House of Lords appointed to inquire into the execution of the criminal law, especially respecting juvenile offenders and transportation, in *British Parliamentary Papers, Juvenile Offenders and Transportation*, No. 1, (hereafter, BPP, JO & T, No. 1, 1847), p. 566.



Because it threatened to violate the natural, gendered, social order, horror and disgust were indissociable from its discursive representations. It was a subject 'the very mention of which is a disgrace to human nature'.<sup>47</sup> We must remember that these were the decades before modern sexual identities were divided into neat 'hetero' and 'homo' categories. Sexuality was a fluid and malleable concept and certain kinds of sexual acts were not seen as exclusive to a particular 'type' of person. Rather, sodomy and other 'unnatural' crimes, might be performed by any man with another man, woman, or beast. Like all other criminal and moral vices, it was believed that the first initiation was decisive, and once 'taught' it had the potential to spread and contaminate a much wider audience. There was widespread anxiety about the prevalence of 'unnatural' vice in colonial Australia. The pronounced gender imbalance was an obvious factor that fuelled these concerns. Yet convict men, already at the bottom of the ladder of social morality, generated deep sexual fears. More particularly, penal settlement men – hardened, degraded and de-humanised by the punishment of flogging – were imagined to indulge in such 'unspeakable' depravity because they had nowhere lower to fall. As the Reverend Thomas Atkins recalled, many men had 'no hope of mitigation of punishment' and under 'the influence of despair and rage ... lust in its most loathsome and unnatural forms ... characterized no small number of the prisoners'.<sup>48</sup>

Alexander Maconochie's experiences in colonial Australia led him to make a definitive connection between brutal penal conditions and moral and sexual degradation. He regarded the prevalence of 'unnatural vice' among male prisoners as the product of a system that methodically degraded self-respect and the obligations of social morality. Furthermore, he refuted the idea that male-to-male sex was inevitable within the homosocial penal environment; rather, it was a specific consequence of the brutal effects of the lash. Under more moral conditions, convicts on Norfolk Island 'would have risen above the gross sensual vices into which they actually fell – which

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<sup>47</sup> W. Blackstone, *Commentaries on the Laws of England*, London, 1765-69, 9<sup>th</sup> ed., (1783), Vol. 4, p. 215.

<sup>48</sup> Atkins, *op. cit.*, pp. 49-50.

were not so much kindred to the men, as to their deeply degraded state'.<sup>49</sup> In 1847, Maconochie reiterated these convictions in evidence to a parliamentary select committee. He explained that between 1840 and 1842, when the Marks System of penal discipline was administered at Norfolk Island, there had been little use made of physical corporal punishment. Yet the discontinuation of the system saw the re-introduction of chains and the lash at the settlement, and 'to the men's infinite loss ... the tendency to unnatural offence recurred with that change [because] the men had lost their self respect'.<sup>50</sup>

Whether the humiliation and degradation of penal flogging did lead to same sex practice – as a sexual preference, as a wilful means of resisting the castrating penal system, or as the expression of men consumed with hatred, aggression and brutalised sensibilities – is perhaps a moot point.<sup>51</sup> What is more revealing is the way that contemporaries negotiated the moral consequences of flogging. It has been suggested that penal reformers 'eroticised pain, constructing it as sexual in nature'.<sup>52</sup> Myra Glenn has argued that 'by associating whipping with uncontrolled emotion and bestiality, reformers tacitly explored the connection between corporal punishment and illicit sexuality'.<sup>53</sup> Certainly, the cruel infliction of pain and suffering was

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<sup>49</sup> A. Maconochie, *Norfolk Island 1840-1844*, Sullivan's Cove, Hobart, 1973 [London, 1847], p. 20.

<sup>50</sup> A. Maconochie, 17 March 1847, evidence to the Select Committee of the House of Lords, in *BPP*, JO & T, No. 1, 1847, p. 112.

<sup>51</sup> As Lynne Segal has argued, vinternally regulated societies ... need its symbolic deviants; actual deviants may be besides the point'. L. Segal, *Slow Motion; Changing Masculinities, Changing Men*, London, 1990, p. 142. There is a fairly substantial body of work on same-sex relations in Colonial Australia. See Moore, 'Colonial Manhood and Masculinities', pp. 35-49; R. Aldrich and G. Wotherspoon (eds), *Gay Perspectives: Essays in Australian Gay Culture*, Sydney, 1992.

<sup>52</sup> Halttunen, *op. cit.*, p. 6.

<sup>53</sup> Glenn, *op. cit.*, p. 46. She suggests the association of corporal punishment with 'sadistic and uncontrollable human passions' was one reason for the relative quietude of American reformers on the issue of wife beating in the first half of the nineteenth century. 'Since marital violence occurred within the context of a conjugal, essentially sexual relationship, the issue of wife beating threatened to make explicit the latent connection between violence and sexuality which most middle-class Americans either ignored or only obliquely acknowledged'. Glenn, *op. cit.*, p. 82.

described in remarkably similar, bowdlerized ways to other nineteenth-century 'unspeakables'. Like murder, violent crimes and sodomy, flogging scenes and their effects, were often reported as being 'too horrible for description', 'unutterable', or 'unmentionable'. In a letter written by the Reverend Rogers, the violence and brutality of Norfolk Island, under the Commandant John Price, was conveyed in this unspeakable lexicon. Rogers wrote to complain to the Archdeacon Marriott about Price's tyrannical rule, yet, as he explained, 'no language of mine can ever convey an adequate notion of his barbarous inhumanity ... towards the prisoners. It cannot be realised by description, it is sickening to think of'.<sup>54</sup> Price was indeed an authoritarian, disciplinarian with a sadistic, psychotic temperament. Yet the following questions beg to be asked; did the 'horror' and the 'unspeakable' nature of flogging reflect a humane concern for the convict? Or was it more a case of middle-class, moral sensibilities that were being imaginatively violated by the 'pornography of pain'?

Human motives are always mixed, and this discourse of horror did not stem exclusively from a humane concern for the criminal. Often, it served to gloss over the inequalities and cruelties of the criminal justice system through a discourse that was in fact saturated in moral concerns for the stability of the wider social order. This can be seen in microcosm if we turn our attention to the moral tensions that surrounded the practise of flogging upon the 'bureaucrats of torture' themselves.<sup>55</sup> Convict memoirs are (perhaps naturally) universal in their condemnation of the men who collaborated with the state and acted as overseers and floggers. The historical record is replete with tales of tyranny and cruel corruption, material bribery and the blatant exploitation that often ensued when convicts themselves attained a place in the administrative apparatus of penal Australia. Beyond the abuse of power, however, the physical and moral effects of flogging on the men who administered the cat were often anxiously analysed. Many contemporaries juxtaposed the degradation inflicted on the victim with a corresponding

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<sup>54</sup> Rogers, *op. cit.*, p. 196.

<sup>55</sup> Theweleit, *op. cit.*, p. 304.

brutalisation of the flogger. More alarmingly, the infliction of violence and pain was seen to cultivate a craving appetite for further sadistic cruelty. Joseph Holt was appalled by the sight of Maurice Fitzgerald's bloody whipping in 1838. Yet it was the perceived pleasure of the men inflicting the punishment that particularly captured his horrified attention. In his account he noted:

Two men were appointed to flog, namely, Richard Rice, a left-handed man, and John Johnson, the hangman from Sydney, who was right-handed. They stood on each side of Fitzgerald; and I never saw two threshers in a barn move their flails with more regularity than these two man killers did, unmoved by pity, and rather enjoying their horrid employment than otherwise.<sup>56</sup>

To be sure, not all floggers would have found their 'horrid employment' overtly pleasurable. Some refused to beat the sick or the young, or to continue to whip a man dangerously close to death, and this sometimes led floggers themselves to the triangles. However, Holt did not make his observations in a moral or cultural vacuum.<sup>57</sup> There was an insidious fear of the 'unwholesome connection between physical discipline and sexual excitement' that surrounded the men who administered the punishment of flogging.<sup>58</sup> On this topic, penal reformers again couched their concerns in a language of sexual alarm. 'Cruelty', warned one reformer, 'like all other vices, is progressive and ingenious; it calls continually for stronger gratifications, and is driven upon refined methods of satisfying its cravings'.<sup>59</sup> A century before George Ryley Scott, Alexander Maconochie had explicitly recognised the cultural linkage of violent punishment and its meanings for escalating sadistic

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<sup>56</sup> Croker, quoted in Anderson, *op. cit.*, pp. 475-6.

<sup>57</sup> In *David Copperfield* Charles Dickens noted that the brutal schoolmaster Mr. Creakle attained a peculiar sensual gratification in the use of the rod. In chapter seven readers were informed that 'there never can have been a man who enjoyed his profession more than Mr. Creakle did. He had a delight in cutting at the boys, which was like the satisfaction of a craving appetite'. C. Dickens, *David Copperfield*, N. Burgis (ed.), Oxford, 1997.

<sup>58</sup> E. Anthony, *Thy Rod and Staff*, London, 1996, p. 36.

<sup>59</sup> Quoted in Halttunen, *op. cit.*, p. 6.

tendencies. In his 1847 account of Norfolk Island, he observed that vindictive personal punishments 'appeal to the craven feelings of men, and they much more generally stimulate their ferocious and sensual ones'. He further suggested that the 'indifference to human life and morals which has long characterised our penal colonies, is more due to the character of their prevailing punishments, than of their prevailing population'.<sup>60</sup> In Australia, the debasing and deteriorating effects of flogging often served to exacerbate already existing cultural anxieties over the nature and morality of the wider social community. In this account, Maconochie explicitly highlighted the intricate relationship between the morality of flogging as a penal punishment, and the moral nature of the society that sanctioned it. He never liked what he saw in colonial Australia.

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I turn now to the collateral effects and consequences of penal flogging on the free community, considered through the prism of the colonial imagination. I suggest that flogging did much more than damage the flesh, the masculine pride and the moral integrity of individual male convicts. Rather, it had deeper collective meanings that threatened to expose the fragile boundary that lay between the moral consequences of inflicting pain as punishment for 'crime', and the wild beast that lurked just under the surface of every other member of civilised society. As Leo Tolstoy later remarked in 1903:

One could not return to society after being exposed to corporal punishment. Sexually perverse, the spectacle perverted its witnesses' sexual impulses. Socially sickening, it pathologised its beholder and made him unable to participate in communal life. Replete as it was with horrific meaning, flogging led not only to the convict's civil death, but to the death of civilization.<sup>61</sup>

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<sup>60</sup> Maconochie, *Norfolk Island*, p. 29.

<sup>61</sup> L. Tolstoy, *After the Ball*, 1903, quoted in Schrader, *op. cit.*, p. 182.

In many ways, transportation to the penal colonies sat awkward and squirming between the 'barbarities' of public, corporal punishment, and the modernities of new penal ideas that sought to reform the criminal mind behind the daunting facades and magisterial gates of the private prison.<sup>62</sup> The very public nature of the British criminal justice apparatus slowly disappeared as the stocks, the pillory and the hanging platforms retreated from the public sphere, becoming all but invisible by the middle of the nineteenth century. Removing the spectacle of suffering from public view reflected the domino theory of violence and progressive vice. If corporal punishment led to 'unnatural' and 'bestial' appetites in its victims, and those who administered the punishment, it was widely feared that it had similar, deleterious effects upon the spectator. Watching this obscene theatre of pain rendered all equally subject to moral degradation. In 1820 the public flogging of convicts, once a common daily feature of colonial life in Australia, ceased to be administered in public and instead 'went indoors' and behind walls. However, it was precisely from this date that penal discipline 'assumed an increasingly military, authoritarian, and anti-philanthropic character'. The cat-o-nine tails was now hidden from public view, though its 'whistle and dull crack' persisted in the sound-scapes of the colonies.<sup>63</sup> These sounds and the now unseen, yet imagined pain of the bloody, whipped body would continue to generate horrified comments. When Alexander Harris listened to a convict flogging from outside a prison yard, he was so sickened that he could not stay beyond the first few strokes. As he remembered in *Settlers and Convicts*:

I heard...the dull, heavy fall of the cat on the flesh, and the constable's count - ONE, TWO, THREE, FOUR, &c., mingling with the flogger's hiss each time, as he sent the

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<sup>62</sup> See R. McGowen, 'The Body and Punishment in Eighteenth-Century England', *Journal of Modern History*, Vol. 59, 1987, pp. 651-79; G. T. Smith, 'Civilised People Don't Want to See That Kind of Thing: The Decline of Physical Punishment in London, 1760-1840', in C. Strange (ed.), *Qualities of Mercy: Justice, Punishment and Discretion*, Vancouver, 1996; J. Pratt, 'The disappearance of the prison: An episode in the "civilising process"', in A. Bashford and C. Strange (eds), *Isolation: Places and practices of exclusion*, Routledge, 2003, pp. 23-39.

<sup>63</sup> Evans and Thorpe, 'Commanding Men', p. 21; Hughes, *op. cit.*, p. 427.

blows home, dallying between each to spin out the punishment to the utmost. But there was no cry, no groan, no prayer for mercy. It was not long I listened. My heart began to beat chokingly, and I got away from the legalised abomination as fast as I could.<sup>64</sup>

Harris was free to leave the sounds of this particular flogging scene behind. Yet the distance between moral horror and voyeuristic titillation was not far, and a morbid fascination with the 'appalling scenes' of penal punishment would continue to constitute a feature of colonial cultural life. By the closing decades of the nineteenth century, a flourishing tourist trade had emerged out of the old penal punishment stations. Likewise, literary representations of the convict era epitomised the enduring appeal of the horrific and the macabre.<sup>65</sup> In *For the Term of his Natural Life*, Reverend North's response to the spectacle of a flogging at Norfolk Island is particularly revealing. As 'the passions of hell raged around him', and with 'his hands to his ears' to avoid the sounds, North professed that he would have fled but 'a horrible fascination held him back'.<sup>66</sup> James Bonwick's colonial history of 1870 portrayed a similarly voyeuristic picture of penal Australia which 'resounded with the shrieks of bleeding victims, and the loud coarse laugh of the exulting murderer'.<sup>67</sup>

Brian Elliot has suggested that the mythical and the imaginary have long informed Australia's convict history. In his analysis of the impact of Marcus Clarke's novel in the late-nineteenth century, he noted 'on the entire subject of convictism, imagination not knowledge, determined what people thought ... and the authority of *His Natural Life* was sufficient'.<sup>68</sup> Elliott's suggestion that it was 'imagination not knowledge' which was decisive is certainly germane

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<sup>64</sup> A. Harris, *Settlers and Convicts Or Recollections of Sixteen Years' Labour in the Australian Backwoods*, Melbourne, 1995 [London, 1847], p. 69.

<sup>65</sup> D. Young, *Making Crime Pay: The Evolution of Convict Tourism in Tasmania*, Hobart, 1996; J. Davidson, 'Port Arthur: A Tourist History', *Australian Historical Studies*, Vol. 26, No. 105, October 1995, pp. 653-65; Halttunen, *op. cit.*, p. 4.

<sup>66</sup> Clarke, *op. cit.*, p. 277.

<sup>67</sup> Bonwick, *op. cit.*, p. 62.

<sup>68</sup> B. Elliot, 'The Convict Novel and Australian Literature - The Progress of a Myth', *Quadrant*, Vol. 29, 1988, pp. 116-18.

to the earlier colonial period. Flogging in Australia might have been removed from public sight, but it remained a part of the colonial psyche. The belief that it was often enforced with perverse ferocity haunted contemporary society. Most secondary penal settlements existed in isolation, and the free population was not permitted to visit them. This also served to exacerbate the unseen terrors of the convict system, enhancing 'the pornography of pain' because 'hidden pain was forbidden pain, and forbidden pain was increasingly represented ... as obscene'.<sup>69</sup> The imaginings of the lash at the secondary punishment stations likewise informed perceptions of the Australian colonies in the metropole. The *Chambers Edinburgh Journal* of 1832 described the colonial penal stations as 'places as would satisfy the most insatiate appetite for torturing and punishing'.<sup>70</sup>

Punishing the convict body with the lash was both intensely physical and deeply symbolic. The psychological effects extended to the wider colonial society because the flogged man was perceived as a particularly threatening figure. These anxieties were epitomised by the terror that penal settlement men, in particular ex-convicts from Port Arthur and Norfolk Island, produced upon colonial society. Their return from 'Dante's Hell' and the 'Abode of Misery' to the mainland was provocative and unsettling. Flogged men represented violence, obscenity and illicit sexuality, and the colonial community could never be sure which returned convict in their midst had been so violated. Their presence threatened to transgress moral and physical boundaries, and defile the respectable members of the community. In short, they endangered 'the colonial order of things'.<sup>71</sup>

In January 1844 the *Sydney Morning Herald* printed a leading article on Norfolk Island entitled 'The South Sea Abomination'. Of the moral state of the men on the island, 'neither the columns of a newspaper, nor the less accessible pages of a parliamentary report could record ... without outraging common decency'. And yet

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<sup>69</sup> Halttunen, *op. cit.*, p. 9.

<sup>70</sup> Quoted in J. Johnson and M. Anderson, *Australia Imagined; Views from the British Periodical Press, 1800-1900*, Crawley (WA), 2005, p. 24.

<sup>71</sup> A. L. Stoler, *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things*, Durham and London, 1995, p. 4.



'deeply as it implicates the national character', for 'the ends of justice, of morality and even the dignity of the human species', readers were informed of unspeakable crimes of 'the most revolting character' that the brutal, systematic flogging of men had there produced. According to this account, the vice of sodomy, that 'infernal practice which even the hardest of ordinary villains would blush to name, is there grown and nourished'. It was not regarded by the prisoners as 'unnatural' or repugnant, but had become 'a settled habit ... no longer the exception, but the rule. It is the custom of the place'. The paper demanded that the Legislative Council take immediate steps to 'protect our shores from the plague of its expirees' because 'we, as a community of free and virtuous Britons are exposed to its pestilential effluvia, and have the right to demand deliverance from the nuisance'.<sup>72</sup>

Sexual and criminal deviancy lay at the heart of anxieties that surrounded penal settlement men. There was little empathy with the subjects of this account, or the brutality administered at the Island. Rather, the *Herald* railed against the disgrace such circumstances brought to 'the British nation, to the Christian world', and warned that in allowing the penal settlement to remain the British government were 'calling aloud for that preternatural vengeance which descended in storms of fire upon the cities of the plain'.<sup>73</sup> Similar sentiments were expressed in Van Diemen's Land and testified to the depth of colonial anxieties over penal settlement men returning to 'civilized' society. According to the Bishop of Tasmania, 'we look with horror to the hour that shall bring these monsters to our shores, with the prospect of being gradually drafted into the mass of our moral population'.<sup>74</sup> Sir John Eardley-Wilmot conveyed the fears of the colonists in a despatch to Lord Stanley in September 1845, explaining that a 'very general feeling' prevailed in the colony against expirees from Norfolk Island, and that feeling had been

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<sup>72</sup> *Sydney Morning Herald*, 8 January 1844.

<sup>73</sup> *Ibid.*

<sup>74</sup> Bishop of Tasmania to Earl Grey, Notes on Transportation and Prison Discipline, 15 February 1847, *British Parliamentary Papers, Crime and Punishment, Transportation*, Vol. 7, 1843-47, Shannon, 1969, pp. 3-4 (443-4).

magnified by a 'particular offence [sodomy] unfortunately too prevalent' at that settlement.<sup>75</sup>

Wider political exigencies fed into these 'unspeakable' representations of convict men and their association with flogging and illicit sexuality. The 1840s marked the twilight years of the transportation system, and the legacies and remaining traces of convictism formed one of the many tensions of colonial society. Both NSW and Van Diemen's Land reached out for bourgeois respectability on the wider imperial stage, and a brighter, whiter future of free immigration and representative government. The remnants of convictism and the endurance of the lash were contrary to the construction of this desired image. At the same time, however, they were inescapably central to it. Flogging informed debates on the merits of free immigration, which was favourably contrasted with the economic limits and moral horrors of penal labour. It featured as a prominent theme in anti-British and anti-transportation rhetoric, as parallels were made between convictism and the now discredited colonial slave trade.<sup>76</sup> Narratives of brutality and criminal sexual danger informed the correspondence columns of the daily newspapers and regularly featured in petitions sent back to the colonial office in London. Beneath the political layers of discourse and rhetoric, male sexuality and its imaginings lay deep at the heart of colonial society. What was 'unspeakable' and 'unutterable' was yet everywhere as colonists, in contemplating their future, had to confront the legacy of the recent past.<sup>77</sup>

Political propaganda aside, these were deeply entrenched anxieties. Similar moral concerns littered the despatches that passed between the colonial office and the colonies over the administration

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<sup>75</sup> Eardley-Wilmot to Stanley, 2 September 1845, *British Parliamentary Papers, Convict Discipline, 1843-46*, Extracts of Correspondence between Secretary of State and Governors, pp. 7-8.

<sup>76</sup> K. McKenzie, 'Discourses of Scandal: Bourgeois Respectability and the End of Slavery and Transportation at the Cape and New South Wales 1830-1850', *Journal of Colonialism and Colonial History*, Vol. 4, Winter 2003, online.

<sup>77</sup> What Bruce Holsinger calls the 'semiotic inexhaustibility of sodomy'. B. Holsinger, 'Sodomy and Resurrection: The Homoerotic Subject of the Divine Comedy', in L. Fradenburg and C. Freccero (eds), *Premodern Sexualities*, New York, 1996, p. 245.

of the convict department. Throughout the 1840s the same moral rhetoric surrounded the men who were transported to Van Diemen's Land and subjected to the probation system of penal discipline. Under the weight of sexual scandal, this experiment collapsed in 1846 and Eardley-Wilmot carried the blame for the debacle.<sup>78</sup> In September 1846, Earl Grey ordered Lieutenant-Governor Sir William Denison to 'take measures at once to break up the establishment at Norfolk Island'. This order was issued from Downing Street after reports 'of evils so fearful' concerning the moral abyss of the penal settlement had reached London.<sup>79</sup>

The following year a Select Committee of the House of Lords was convened to enquire into juvenile delinquency, and to debate the continuation of transportation to the penal colonies. The Committee was particularly anxious to ascertain the nature and extent of 'unnatural crime' occurring at the secondary penal settlements. They interviewed a convict known only in the parliamentary papers as 'A.B.' His original sentence of seven years for larceny in 1817 had been augmented by five sentences of secondary transportation during his colonial exile, and he had finally returned to Britain in 1843. Following twenty-five questions about his perceptions of flogging and the extent of 'the crime' at Moreton Bay, Norfolk Island, Cockatoo Island, and at Port Arthur, the Committee (somewhat obsessively for any reader of the report) sought further confirmation. They asked him, 'Are the committee right in understanding that the cases to which you have adverted of the horrible crime prevailing in the colonies, were cases which occurred in the penal colonies of the penal colonies, viz places to which, persons convicted of crimes in the colonies themselves were sent?' According to the witness, sodomy and unnatural crimes were

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<sup>78</sup> C. Gilchrist, "'The Victim of His Own Temerity?'" Silence, Scandal and the Recall of Sir John Eardley Wilmot', *Journal of Australian Studies*, Vol. 84, April 2005, pp. 151-61.

<sup>79</sup> Earl Grey to Denison, 30 September 1846, in E. Fitzsymmonds (ed.), *Norfolk Island 1846: The Accounts of Robert Pringle Stuart and Thomas Beagley Naylor*, Sullivan's Cove, 1979, p. 29. Instructions to delay abandoning the Island were forwarded in a despatch of 7 November 1846, in *ibid.*, p. 76.

indeed rife, because men at the penal settlements 'with nothing before them but misery ... cared nothing about their lives'.<sup>80</sup>

Real or imagined, the effect of flogging British convicts in the Australian colonies held powerful cultural and moral meanings in the contemporary psyche. By the late 1840s the boundaries between flogging as penal discipline and flogging as an obscene, sexualised practise were indeed fragile. In both the British and the colonial imagination, violence, punishment and perversity were intimately and inextricably, connected.

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In the nineteenth century the infliction of flogging, brutality and pain had moral consequences that were both individual and collective. The flogged convict body was the symbolic site of violence, obscenity and 'unnatural' vice. And it was this body that projected back to contemporary society the antithesis of its own imagined revulsion at pain, suffering and illicit sexuality. The negative and degrading effects of flogging and cruelty reminded respectable, bourgeois civility of everything that it did not wish to see in itself. Violence, crime and sex obsessed and haunted the contemporary mind because they posed an intolerable yet ever present danger to the upward progress of the British race and her colonial Empire. By the final years of convict transportation, moral reform, rather than cruel punishment, lay at the heart of the British criminal justice system, as epitomised by the thinking of Alexander Maconochie.<sup>81</sup> It formed part of a greater belief in the idea of moral progress, evolution and the onward march of civilisation. It was a faith that would continue to characterise the British establishment in the second half of the nineteenth century, until the horrors of World War One shattered the myth.

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<sup>80</sup> Evidence of 'A.B.', 26 April 1847 in the first report of the Select Committee of the House of Lords in *BPP, JO & T*, No. 1, 1847, p. 450.

<sup>81</sup> A. Maconochie, *Thoughts on convict management and other subjects connected with the Australian penal colonies*, Hobart, 1838; *Secondary punishment: The mark system*, London, 1848; See also J. V. Barry, *Alexander Maconochie of Norfolk Island*, Melbourne, 1958.

That flogging produced such deep anxieties reveals a society aware of its own complicity in creating and perpetuating the very conditions that impeded the reformation of the criminal and the wider moral mission of the 'civilizing process'. The fragile line between promotion and repression – what George Bernard Shaw would later refer to as the 'final triumph of the vice it pretends to repress' – was explicitly revealed in the unholy trinity of violence, crime and sex.<sup>82</sup> It was a revelation contemporaries found to be both horrifying and yet fascinating. In the final analysis, the cultural fears that surrounded flogging in colonial Australia were in microcosm a stark reminder that beneath the thin veneer of civilised respectability lay the very dark side of human nature.

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<sup>82</sup> George Bernard Shaw, quoted in Gibson, *op. cit.*, p. 164.