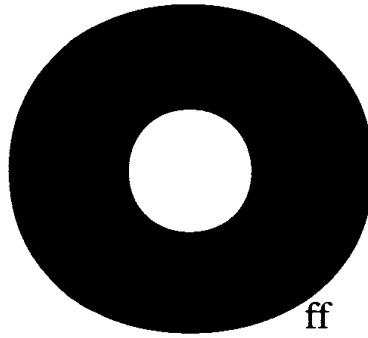




with their Heads

The Death Penalty in Belgium

On 26 July 1578 three Minorites were burned at the stake in Bruges. Three more friars were whipped and exiled. They were all convicted of sodomy. This illustration was included in the late 16th-century *Descriptio et Figuræ rerum Belgicæ*. Stadsarchief, Bruges (Collection G. Michiels).



When France annexed the Southern Netherlands at the end of the eighteenth century, the guillotine, *the* symbol of the French Revolution, became the universal machine of death in these parts too. Under the Ancien Régime there was an abundant variety of gruesome, theatrical methods of execution: decapitation by the sword, strangling, racking, burying alive, burning at the stake, drawing and quartering, drowning, boiling and finally, the most degrading punishment, hanging on the gallows. At the height of the French Revolution feudal power symbols that were seen as cruel and unjust implements of the old jurisdiction, including instruments of torture and punishment, were publicly and ritually burnt or destroyed in several large towns in what is now Belgium.

Between the two French invasions (the first in 1792-1793, the second in 1793-1794) some of the old-style punishments were carried out, as the dreadful case of Martin Pirard in Liège illustrates. On 22 November 1793

'Old-style' execution in Flanders: in 1694 Alexander Dellguerre was convicted for a sixfold murder and executed on the Grand' Place in Brussels. These 4 prints, taken from a set of 13 by Gaspar Bouttats, show his ordeal on the wheel. Afterwards he was eviscerated and beheaded. Koninklijke Bibliotheek Albert I, Brussels.



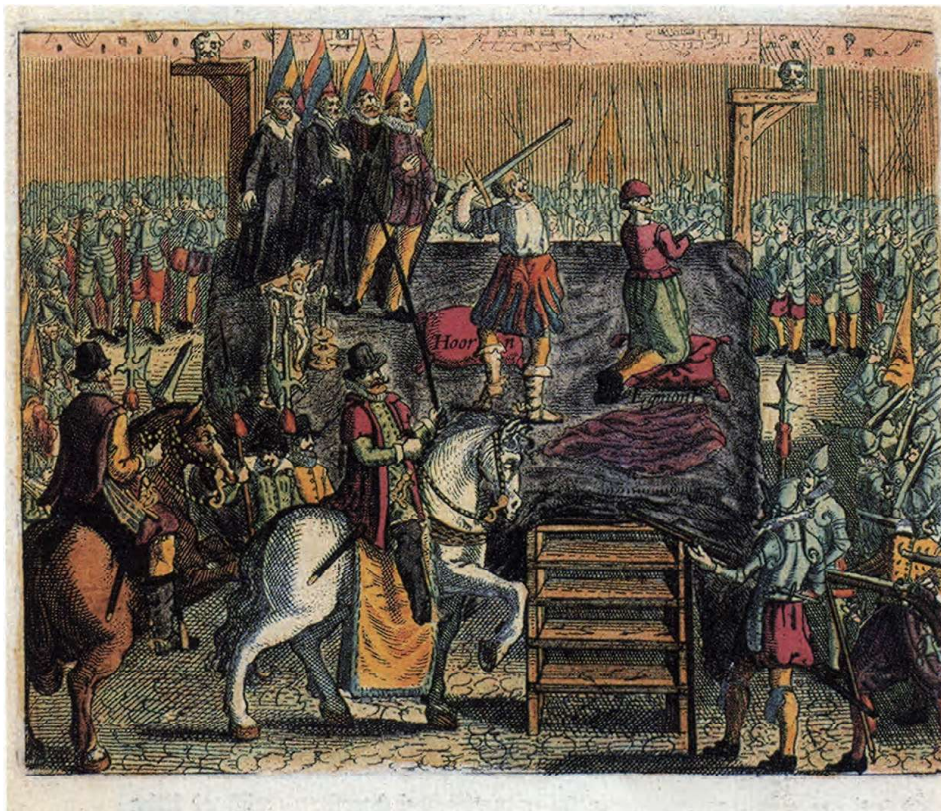
Pieter Bruegel the Elder, *The Road to Calvary* (detail). 1564. Panel, 124 x 170 cm. Kunsthistorisches Museum, Vienna.

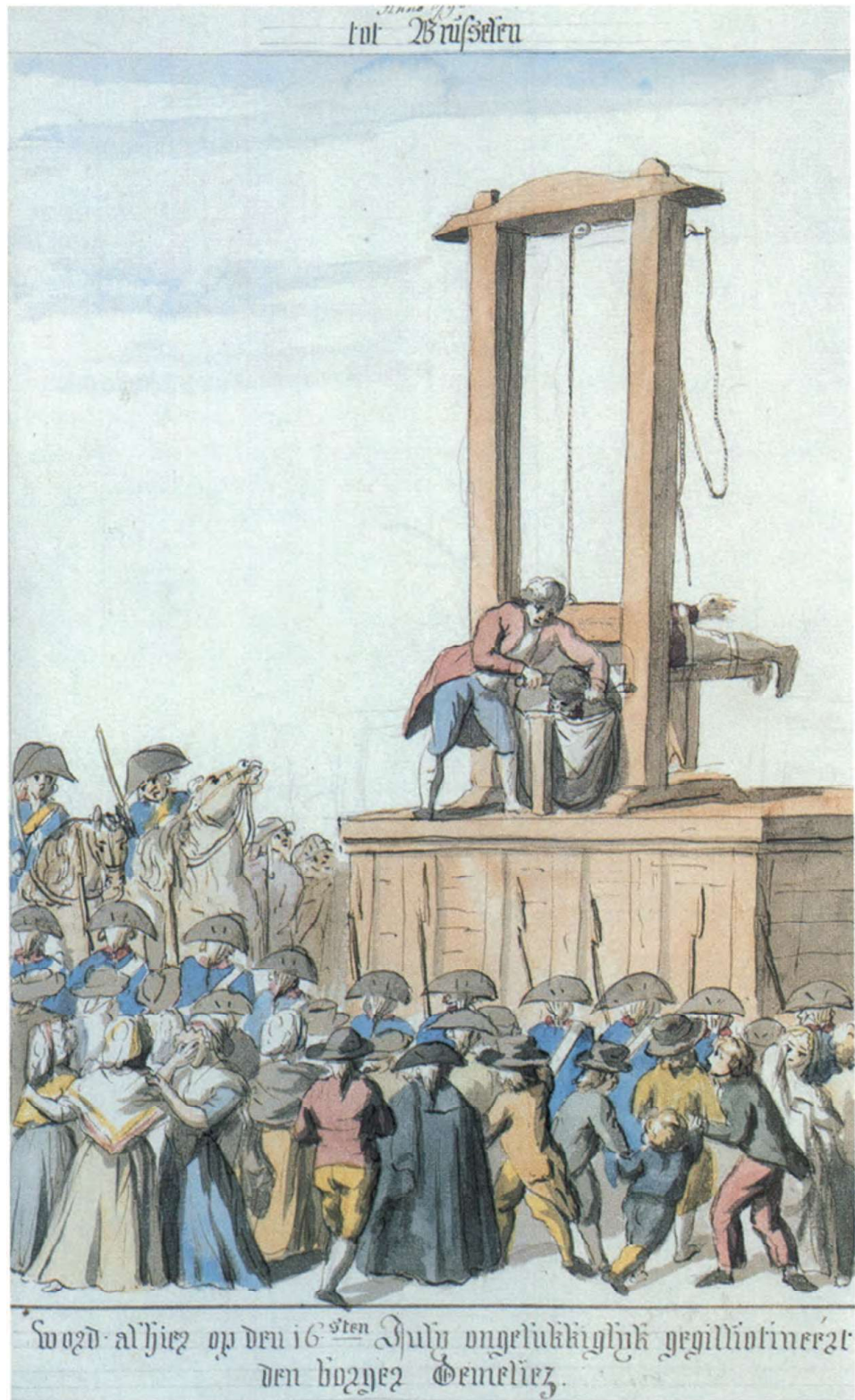
the man was bound to a cart and driven to the execution site whilst his executioners went to work on him with red-hot tongs. On reaching his destination he was tied to a St Andrew's cross and his limbs were broken one by one with an iron bar. His right fist was chopped off and nailed to the wheel, after which Pirard, badly battered, was himself put on display on the wheel for a couple of hours. Finally he was put out of his misery by strangling.

Equality in the face of death

The guillotine was, as its inventor Ignace-Joseph Guillotin described it in all seriousness, fast, painless and humane. This revolutionary machine combined the equality of all citizens before the law with equality in the face of death. Previously only the aristocracy had been honourably beheaded by the sword. The Counts Egmont and Hoorne, who were executed in 1568 by the Spanish Governor Alva, were amongst the 'privileged' individuals. With the guillotine the death penalty was carried out mechanically, in the same way every time. The long-drawn-out spectacles of retribution, in which the crowd was closely involved and revelled despite their horror and revulsion, were replaced by the efficient, rational, purely physical act of decapitation. The nature of the dramatic staging that was part of an execution changed. The symbolic and religious significance of public executions became blurred. But decapitation was still the culmination of a protracted ceremony which began with a procession along a prearranged route, with police escorting the condemned person(s), on foot or in a police vehicle, from the local prison to the scaffold on the market place. The public watched as the guillotine blade sliced mercilessly down. The severed head was taken from

Execution by the sword of the Counts Egmont and Hoorne on the Grand' Place in Brussels on 5 June 1568. Stichting Atlas van Stolk, Rotterdam.





the basket by the executioner and shown to the prosecutor. The eager crowds could air their various sentiments towards the condemned man verbally, ranging from compassion and disgust to indignation and hatred. It was no longer customary, either, to throw dirt, rotten eggs or stones. Nevertheless, the punishments that became fashionable with the French Revolution still contained certain highly demeaning elements, and humiliating punishments like branding and the pillory were by no means consigned to the past. The

The guillotine at work in Brussels on 16 July 1796. Water-colour drawing by P.A.J. Goetsbloets. Koninklijke Bibliotheek Albert I, Brussels.

death penalty was no longer preceded by a public display, though; it had to be carried out immediately, without additional torture, in the spirit of Guillotin.

The guillotine travelled from town to town. During the night of 1-2 November 1803 it was erected on the main square in Bruges. On All Souls' Day the 23 condemned members of the infamous Baekelandt gang, 19 men and 4 women, were executed. The eager onlookers, packed together in their thousands, were 'treated to' a horrifying bloodbath. The thirty-year-old gang leader, Lodewijk Baekelandt, was one of the last to be led to the scaffold. Along with Amandus Simpelaere, Isabella van Maele and Francisca Ameye he was tried for the only murder the gang had committed. Article 13 of the French penal code required that murderers should wear a red shirt and a black cloth over their heads. As a little extra the crowd could gape at three women who were put on display for six hours, tied to posts on the scaffold. On each post you could read the woman's name, age and birthplace in large letters.

The condemned men's greatest terror was that the blade of the guillotine would not be sharp enough. Fear of that cruel death was, after all, not completely unfounded. On 29 September 1807 Michel Lancelin from Liège, who had killed his brother and his housekeeper, was uneasy about it. Exactly one hour before the execution he took his own life. In order not to disappoint the thousands of curious onlookers gathered round the scaffold and, in particular, because Lancelin came from a prominent Liègeois family, the Public Prosecutor decided to carry on with the execution and the corpse was beheaded...

Whilst 'ordinary' condemned men were usually tied to the guillotine and beheaded without much more ado, the ceremonial for patricide was particularly humiliating in the French era. The condemned person was brought to the gallows, clad in a red shirt and a black headcloth, where he or she was first put on public display whilst the charges were read out. Just before the execution the murderer's right hand was chopped off on a special chopping block, immediately followed by decapitation by guillotine. This punishment was carried out in all its gruesomeness on the Friday Market in Ghent on 25 January 1822, when 24-year-old Livinus van Butsel was executed for patricide. After Belgian independence in 1830 this ceremonial was retained in the penal code, but in practice clemency was always extended as far as chopping off the hand was concerned.

The law and reality

The Napoleonic *Code Pénal* of 1810 continued in force under Dutch rule (1815-1830), and also after the Belgian Revolution until the new Belgian penal code, which is still in use, was introduced in 1867.

Under the influence of eighteenth century ideals of humanitarian enlightenment, the abolitionist movement in Belgium found its first Belgian spokesman in Eduard Ducpétiaux. Ducpétiaux obtained his doctorate in Roman and Contemporary Law from the University of Ghent on 11 July 1827 with a thesis on capital punishment. This was a Latin translation of chapter eight of his monumental study *De la peine de mort* (On the Death

Penalty), which had been published shortly before and been well received in both the Northern and Southern provinces of the Netherlands. As irony would have it, Ducpétiaux, who played a prominent role in the Belgian Revolution, was arrested by Dutch soldiers in October 1830 for incitement to unrest and condemned to death by firing squad. But his sojourn in the damp dungeons of Antwerp citadel did not last long. The Prince of Orange intervened, and he was soon released.

After Ducpétiaux, condemned men had to rely on the Belgian King's prerogative to grant them a reprieve. Despite several legislative initiatives the stipulation that every man condemned to death should be beheaded was upheld in Belgian criminal law until 1991. Nonetheless, from a historical point of view, Belgium led the whole of Europe in renouncing the death penalty for political offences when the Penal Code was amended in 1867. The death penalty for serious crimes in criminal law (robbery with murder, patricide, matricide, poisoning and arson) has a more complicated history. From early 1834 conservative parliamentarians increased their demands for the reintroduction of the guillotine, while successive liberal Ministers of Justice had in practice suspended its use on a trial basis. However, despite the fact that crime statistics showed a drop in the number of indictable offences from 1830-1834, 9 February 1835 again saw a beheading on the main square in Kortrijk, the first since Belgian independence. On the same day, Charles de Brouckère, the future burgomaster of Brussels, for the second time presented a bill to abolish the death penalty once and for all. It was narrowly defeated. The retentionists maintained numerical superiority in the Belgian Parliament.

The abolitionists wanted to finish with the past and were critical, as they were elsewhere in Europe, of the effectiveness of the death penalty as a deterrent, as much for serious criminals as for civilisation in general. According to them, instead of instilling fear and respect for authority, the barbarism of the death penalty roused feelings of disgust and sympathy and had a pernicious effect on the spectators. The debate was influenced not only by differing views about prison sentences as a means of correction, but also by the public nature of the executions. In the mid-nineteenth century, residents of the main square in Antwerp had had more than enough of the gruesome spectacle and requested that the scaffold be erected in a less central part of the city. Initially, partly because of pressure from the shopkeepers and tradespeople, the city authorities ignored their request. A public execution on the main square brought with it an atmosphere of festivity and increased consumption in the inns and shops. During the same period there were calls in Parliament for the death penalty to be carried out within the prison walls: *'In order not to draw the people's attention to a hideous punishment that terrifies some and inures others'*. But despite criticism executions retained their public nature, even in the new Penal Code of 1867.

As far as the death penalty was concerned, the law was one thing, reality another. Of 848 death sentences passed between 1835 and 1863, 'only' 55 were actually carried out. The other condemned persons were granted a reprieve by the King and their punishment commuted to lifelong forced labour. Certain cases, where the sentence was disproportionate to the offence or where guilt was not sufficiently proved, were grist to the abolitionists' mill. Their campaign was boosted, for example, by the 'scandal of Es-

Anonymous Flemish drawing (1542), showing a condemned man on his way to the scaffold. Médiathèque municipale, Cambrai (Ms. 124, Superius, fol. 53).



canaffles' in 1844 when Fernand Duret was beheaded for his – unproven – part in the night-time arson of a rapeseed field. The case of Frans van de Weghe from Dikkele, who had killed a friend accidentally in a drunken brawl in 1846 but received no mercy, also helped. Reactions in the press to this 'judicial murder' were unusually sharp, partly because around the same time a contemporary who had poisoned his young wife in cold blood did have his sentence commuted to lifelong forced labour. However, the refusal of a plea for mercy could also be perceived as an act of justice. Count Hippolyte de Visart de Bury de Bocarmé, condemned to death in 1850 for poisoning his brother-in-law with home-made nicotine, was convinced that King Leopold I would grant him a reprieve. But the ghastly nature of the minutely planned crime and the enormous furore that the case caused at the Assizes in Hainault actually cost the aristocrat his life. His execution was presented as proof of the incorruptibility of the highest political and legal authority.

The execution of Jan Coucke and Pieter Goethals was of great symbolic value not only to the Flemish Movement, but also in the struggle against the death penalty. Coucke and Goethals, two Flemish labourers who worked in Wallonia, were convicted of robbing and murdering the widow Dubois in

Couillet and beheaded on the main square in Charleroi on 16 November 1860. Public Prosecutor de Bavay wanted to see heads roll in the case of the so-called 'Black Gang' that had been terrorising the area between the Sambre and the Meuse for some time. A few months later fourteen members of the gang were arrested and one of them, Leopold Rabet, declared that the two Flemings had been unjustly executed. Coucke en Goethals had been unable to follow the trial properly as it was carried out in French, and had most probably been wrongly convicted due to poor translation. This gave rise to heated debates in Parliament about the shortcomings of a monolingual judiciary.

Death to the death penalty

The struggle against the death penalty, however, was not only concerned with the risk of this kind of irreparable judicial error. After nine genuine members of the 'Black Gang' had been condemned to death in January 1862, Victor Hugo, amongst others, reacted with an appeal to the Belgian nation to take a stand against capital punishment in the interests of greater humanity: '*Plus d'échafaud. Mort à la mort !*' ('No more gallows. Death to the death penalty!'). Leopold I spared the lives of seven condemned men. Nevertheless, in the Hainault case Victor Hugo's plea to the people to show their magnanimity did not stop a good 20,000 people crowding into Charleroi marketplace to see the two ringleaders executed. After that, two more criminals would be put to death by a Belgian executioner. From 1863 the death penalty would, in practice, be automatically commuted to forced labour for life.

That the Belgian King exercised the '*excellent prerogative*' of the constitutional right to grant mercy does not mean that he had sovereign power over life and death. Reprieves were always proposed by the Minister of Justice and had to be countersigned by him. Without Public Prosecutor Charles de

The Brussels executioner hangs out a notice board on the Grand' Place to announce an execution. Illustration from *L'Illustration*, 23 March 1892. Koninklijke Bibliotheek Albert I, Brussels.





Oostduinkerke, 1918:
Belgian volunteer Aloïs
Wulput, convicted of murder, is executed by a firing
squad. Stedelijke musea,
Ypres.

Bavay's exceptionally strong recommendation to Minister of Justice Tesch, the King might not have refused Coucke and Goethals' petition for mercy. On the other hand, it was due more to the liberal Minister of Justice, Jules Bara, than to King Leopold II that the death penalty began to be systematically commuted to life imprisonment. Nevertheless, Leopold was very proud that he had not signed a single death warrant since the beginning of his reign. Albert I, however, was not a priori opposed to the principle of the death penalty. On 26 March 1918 a soldier who had killed a young woman in a war situation was beheaded by a French executioner in Veurne prison. The King had refused to grant a reprieve. It was the last time that a criminal offence was punished by death in Belgium. After the First World War there were about fifteen executions by firing squad for crimes against state security. The delicate issue of whether or not to carry out the death sentence arose again, in an acute form, towards the end of 1944 when collaborators were being dealt with. The war tribunals sentenced 1,202 persons to death. Of these, 242 were executed between 1944 and 1950, 106 in Flanders, 122 in Wallonia and 14 in Brussels. The summary executions were carried out by firing squad. For opponents of the death penalty this was proof that they should not accept a policy of systematic reprieves. In confused circumstances such as those after the liberation the letter of the law could indeed be used again to satisfy the collective desire for revenge.

After 1950 the Belgian Government renounced the execution of capital punishment once and for all. But, just as in the nineteenth century, a variety of bills proposing the permanent abolition of the death penalty failed to achieve a parliamentary majority. Belgium had to wait until the Government took the initiative. That happened on 25 September 1991 when Minister of Justice Melchior Wathelet introduced a bill that finally removed capital punishment from the penal code.

GITA DENECKERE

Translated by Lindsay Edwards.