Exploring the History and Cultural Representation of Capital Punishment in Scotland

Simon McFadden

A thesis submitted in partial fulfilment of the requirements of Edinburgh Napier University, for the award of Master by Research.

September 2020

Table of Contents

Figures

Word Count: 30,980

Acknowledgements

I would like to thank everyone who has helped me in completing this research project.

In particular, I wish to express my gratitude to my three supervisors: Professor Anne Schwan, Dr. Katrina Morrison and Dr. Scott Lyall for their continued support and supervision whilst completing this study. Each of whom have taught me a great deal and have inspired me to work to the very best of my ability.

I would also like to directly acknowledge the cooperation and participation of Edinburgh tour providers (Merlin Entertainments, Mercat Tours and Sandeman's walking tours) for their valuable contribution to this study.

I wish to acknowledge the staff at the National Library of Scotland for their assistance in organising an event in January, for the presentation of my findings.

Abstract

Scotland's historic and contemporary representation of capital punishment remains relatively unexplored in existing scholarship. This study aims to determine how capital punishment was presented to Scots in eighteenth and nineteenth century press publications. This research explores the representation and function of execution broadsheets from the National Library of Scotland's collection through thematic analysis. Furthermore, in applying a case study approach this study analyses the press representation of two notorious capital convicts in the early nineteenth century, namely William Burke and Mary McKinnon. In addition, through analytical research this study aims to understand how Scotland's legacy of capital punishment is presented to contemporary audiences on Edinburgh walking tours.

This study supports existing scholarship which suggests that execution broadsides are complex representations, containing contradictory discourses. However, in adding to existing scholarship, this study finds that the degree of complexity in representation is subject to variation depending on the identity and crime of the convict in focus. Henceforth, this study posits that several factors relating to the convicts' identity and circumstances factored into representation, including: gender, nationality, age and offence. Findings demonstrate that whilst execution was generally reported on as an accepted consequence for committing crime, certain convicts were depicted more sympathetically and favourably than others.

In addition, findings establish that stories of execution are found to contribute significantly to the content presented on Edinburgh walking tours. Sensationalism is marked as a recurring theme in historic and contemporary representations of capital punishment in Scotland, indicating that stories of execution in Scotland have consistently served to entertain as well as to inform audiences. This study finds that cultural and societal shifts have impacted representations of capital punishment and presents an argument that factors such as time, scale and culpability impact contemporary representations of capital punishment, ultimately distinguishing sites of execution from other dark tourist sites.

Introduction

Existing scholarship signifies the importance of cultural representations of capital punishment in shaping public opinion on the matter and in serving several didactic functions. Scotland practiced capital punishment as a method of justice up until 1963. However, existing literature is predominantly focused on representations of capital punishment in England, as opposed to Scotland. Scotland maintained a degree of autonomy and a distinct legal system throughout the eighteenth and nineteenth centuries; therefore experiences of capital punishment were very different to that of the rest of Britain. Thus, Scotland's cultural representation of capital punishment has to be distinguished from the rest of Britain. This study aims to address this evident gap in scholarship.

This research considers the medium of execution broadsides, single, one penny sheets distributed in the eighteenth and nineteenth centuries, as a key source in keeping sections of the Scottish population informed about the events of execution in the eighteenth and nineteenth centuries. This thesis contains thematic analysis of the 147 Scottish execution broadsides which have been preserved by the National Library of Scotland (NLS), as a means of insight into historic representations of capital punishment in Scotland.

This study's findings support existing scholarship which indicates that execution broadsides are complex writings which contain contradictory discourses. However, adding to existing scholarship, this study puts forward an argument that the degree of complexity in representations varied depending on the identity and the crime of the convict. This varying degree of complexity is particularly apparent in the highly contrasting representations of Scotland's two most famous capital convicts, Mary McKinnon and William Burke. As will be discussed in Chapter 1, the eighteenth century was a period of transition from spiritualistic understandings of crime to naturalistic understandings of crime. Findings in Chapter 2 illustrate that this moment of transition is one of the reasons why contradictory discourses and lack of a clear general representation of crime and punishment are evident in broadside literature.

Considering the impact of societal and cultural shifts over time, this study also explores contemporary representations of Scotland's legacy of capital punishment.

This is achieved through analysis of five Edinburgh walking tours which cover stories and dark tourist sites relating to execution. Findings indicate that representations of capital punishment in Scotland have consistently contained a degree of fiction and humour, serving to entertain audiences – a key function of capital punishment which spans across centuries. This thesis highlights the impact of societal and cultural shifts over time in impacting representations of capital punishment, as certain past practices are now considered absurd in an enlightened, secular society and thus are represented with contempt. In addition, this study puts forward an argument that culpability is a key factor which impacts contemporary representations of capital punishment in enabling a lighter representation and distinguishes execution sites from "darker" dark tourist sites which mark the killing of innocent victims.

Chapter 1 of this study is subsequently dedicated to reviewing existing literature on the topic, in which it is identified that Scotland's representation of capital punishment remains unexplored in existing scholarship. Chapter 1 highlights key themes in existing literature concerning representations of capital punishment, including religion and identity. Subsequently, Chapter 2 and Chapter 3 are dedicated to outlining archival research findings, in the form of a thematic analysis of execution broadsides (Chapter 2) and a case study analysis concerning the representation of Mary McKinnon and the representation of William Burke (Chapter 3). Furthermore, Chapter 4 is dedicated to exploring contemporary representations of capital punishment on Edinburgh walking tours as a means to explore the impact of cultural and societal shifts on representations of capital punishment.

Chapter 1: Literature Review

This literature review outlines existing research in relation to the history and cultural representation of capital punishment in Scotland. This includes discussion of the history of capital punishment in Scotland and consideration of the importance of cultural representations of capital punishment. This chapter also explores existing scholarship concerning the representation of capital punishment in eighteenth and nineteenth century newspaper and broadside publications. This study identifies that scholarship in this area is largely focused on cultural representations of capital punishment in England, opposed to Scotland, and thus aims to address this gap in the research. In addition, sections of this chapter are dedicated to exploring existing scholarship concerning the impact of gender, religion and the evolution of attitudes towards criminal justice in Scotland. These are marked as prominent themes which impact representation and are considered throughout this study.

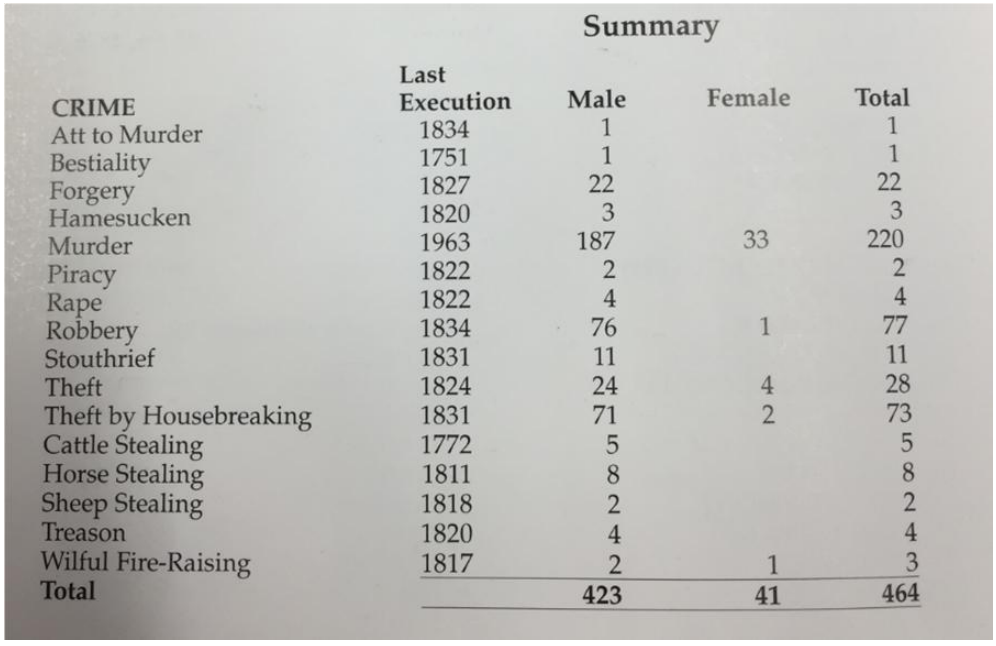
History of Capital Punishment in Great Britain

Capital punishment has been a global, historic method of punishment, practiced at various points in history across various societies (Ward, 2015). However, the form, functions, use and meaning of capital punishment have varied significantly throughout history through different contexts (Ward, 2015). Garland (2011) states that capital punishment was introduced in early modern Europe to serve two functions in particular: state power and crime control. In relation to state power, Ward (2015) elaborates on Garland's assertion by explaining that emerging sovereign states of the late medieval and early modern periods turned to capital punishment as a means by which to assert state dominance and legitimise their claims to a monopoly of violence. The other primary function of capital punishment, outlined by Garland, is crime control, under the belief that it would deter people from committing crimes.

During the eighteenth century, criminal law reform resulted in over 200 offences being considered as "capital crimes", including property crimes (Handler, 2005; King, 2017). The system which was in place from 1730 – 1837 become known as "The Bloody Code" – a system marked by unprecedentedly high levels of capital crimes (Handler, 2005; King, 2017). However, whilst the use of capital punishment was

prominent in England under the Bloody Code, this did not affect Scotland to nearly the same extent. Scotland maintained its own distinct legal and court systems following the 1707 Act of the Union and many of the capital statutes which formed the Bloody Code in England were not extended to Scotland (Bennett, 2017). Thus, whilst there were over 200 offences punishable by execution in England, there were less than 50 in Scotland – and more than half of these had their origins in British Parliament (Bennett, 2017). However, Young (1998) highlights that there were a "mere" 16 in practice, as outlined in table 1. Noticeably, murder and the wide range of property offences accounted for the vast majority of crimes punishable by execution.

Table 1: *Crimes Punishable by Execution in Scotland* (Young, 1998)



Summary

CRIME	Last Execution	Male	Female	Total
Att to Murder	1834	1		1
Bestiality	1751	1		1
Forgery	1827	22		22
Hamesucken	1820	3		3
Murder	1963	187	33	220
Piracy	1822	2		2
Rape	1822	4		4
Robbery	1834	76	1	77
Stouthrief	1831	11		11
Theft	1824	24	4	28
Theft by Housebreaking	1831	71	2	73
Cattle Stealing	1772	5		5
Horse Stealing	1811	8		8
Sheep Stealing	1818	2		2
Treason	1820	4		4
Wilful Fire-Raising	1817	2	1	3
Total		**423**	**41**	**464**

Changes in Method and Abolishment

Aside from the changes in offences punishable by death, the execution methods varied greatly throughout British history. Bailey (2000, p. 106) notes that in early modern Britain the punishments were public, physically brutal and were carried out in front of "large, ghoulish crowds". In line with this Garland (2011, p. 31) labels this era "the early modern mode" of capital punishment and notes that these tactics were used as a method to assert authority and to please the public. Public executions served additional governmental and social functions, such as allowing the convicted the opportunity to make a final speech, gave the state the chance to display its

power in front of those who fell under its jurisdiction and granted the public what was considered to be a great spectacle (Cawthorne, 2006).

However, in 1868 parliament passed "The Capital Punishment Amendment Act" (1868), which meant that executions would then be carried out in prisons as opposed to in public (Young, 1998). This decision was prompted by concerns regarding the atmosphere at public executions. Such events were considered to be becoming more like carnivals at which entertainment was to be had, as opposed to a spectacle likely to deter the public from crime (Newburn, 2017; Young, 1998). The belief was held that hidden executions would work upon "plebeian imaginations" more and thus instil fear, enhancing the deterrent effect (Gatrell, 1994, p. 23). The potential impact of this dynamic shift on press representations and public knowledge is discussed in the succeeding section of this literature review.

Scotland's last execution was in 1963 (Young, 2001), with capital punishment for murder in Britain being abolished in 1964 (Brown, 2015),[1] and fully abolished in 1998 (Knowles, 2015).[2] Thus, research regarding the representation of capital punishment in Scotland is limited to historic and contemporary representations of executions prior to 1964. The following section outlines scholarship relating to the significance of the cultural representation of capital punishment in a historical and contemporary setting.

The Significance of Cultural Representations of Capital Punishment

Cultural theorists such as Hall (1987) and Foucault (1980) have analysed the role of language in the production of meaning, and the relationship between "discourse" and power thus highlighting the importance of cultural representations. As this thesis is focused on the cultural representation of capital punishment, it is critical to note that a spectrum of perspectives on capital punishment exists. Firstly, the position that capital punishment is never morally justified in principle and should never be

[1] In 1964 "The Murder (Abolition of Death Penalty) Act 1965" received royal assent, suspending capital punishment until 1970. However, in 1969 MPs voted to make the Act permanent, effectively abolishing capital punishment in Great Britain (Brown, 2015).

[2] The death penalty for arson in dockyards was abolished in 1971 and was completely abolished in the UK in 1998 with the enactment of the The Crime and Disorder Act 1998 and the Human Rights Act 1998 (Knowles, 2015).

used is known as “capital punishment abolitionism” (Corlett, 2013, p. 150). Furthermore, “capital punishment retentionism” can be understood as the belief that capital punishment is a moral and just form of punishment and one that should continue to be practiced. However, various positions exist within these opposing views on capital punishment regarding the extent to which capital punishment is deemed appropriate.[3] Thus, similar to any politicised debate or issue that divides opinion, there are various ways to represent capital punishment and different ways for capital punishment to be perceived – this can vary from culture to culture, news source to news source or author to author. This will be discussed throughout this literature review.

The significance regarding the cultural representation of capital punishment historically

As noted previously, public executions historically served to please large “ghoulish” crowds who were seeking justice for crimes committed (Bailey, 2000). Foucault (1995, p. 48) explains “The public execution, however hasty and every day, belongs to a whole series of great rituals in which power is eclipsed and restored”. This emphasises that public executions were used as a method of communication to display power. However, as not everyone in the country attended the execution, the majority of citizens relied upon media reporting and/or eye witness accounts from people who had attended, to obtain knowledge of executions that had taken place. Henceforth, cultural representations in press publications played a key role in framing the events of execution for the majority of Scottish citizens in the eighteenth and nineteenth centuries.

It is important to acknowledge the significance and impact of cultural representations in influencing the public’s understanding of capital punishment. Brown (2009 – cited in Walby and Piché, 2011) argues that most people obtain knowledge and understanding of prison and punishment through cultural representations.[4] Seal (2014, p. 4) emphasises that “the popular press, both at national and local level, forms an important source for understanding everyday experiences of capital

[3] Retentionists still debate when it is an appropriate punishment. For example, Fulkerson (2017) argues for the need of the death penalty in certain aggravated murders but that reform is needed to outlaw the problematic practices of capital punishment.

[4] This sentiment is supported by numerous authors. For example, Carrabine (2011) argues that the power of representation should not be underestimated.

punishment". The power of cultural representations is evident as it has been found that knowledge of the administration of the death penalty is a factor which shapes public opinion (Bandes, 2004; Hood and Hoyle, 2008). This is evident in findings in a contemporary setting in countries, such as the United States of America, which still administers the death penalty.[5] However, the power of representation in shaping public opinion is also apparent in an historical setting, as Wiener (2007) notes that the press played a prominent role in Victorian Britain regarding decisions on whether or not to hang or reprieve the condemned. According to Wiener (2007) some newspapers were harsh in their representation of condemned offenders, subsequently promoting retentionist views among their readership. In contrast, certain other publications tended to appeal to the sympathy of the offenders' local community and thus promote abolitionist views among their readership (Wiener, 2007). However, this could be considered an overgeneralisation, as is discussed in subsequent sections of this literature review. Specific publications' depiction of capital punishment tended to vary, suggesting complete consistency was rare. In potential explanation of this, this study finds that representation varies, impacted by the convicts' identity and the nature of their offence, as outlined in Chapter 2 and Chapter 3. Moreover, aside from news publications, the real world politics and controversy of capital punishment extended into authors' fictional works of novels and poetry in history, which can be considered "fictional representation".[6]

[5] It is continually noted that the media is used in countries which still use the death penalty, such as USA, to maintain the status quo of retaining the death penalty. It is asserted that the American public is often given "an amazing amount of access" to superficial details that only serve to dehumanise capital defendants (Haney, 1995, p. 549). Additionally, it has been highlighted that the media over-report on sensationalised capital cases involving terrorists or serial killers and report little on more dubious capital cases. Subsequently, the public are conditioned to believe that capital punishment is only being used in the most horrific cases (Kudlac, 2007). It is inferred that if the public was given access to more information regarding capital punishment, retentionist support would decrease (Hood and Hoyle, 2008; Kudlac, 2007). This theory is known as "The Marshall hypotheses" (Lee et al, 2013). This hypothesis brings attention to the government's and the media's power and ability to manipulate the public's opinion on capital punishment.

[6] For example, Mayer (2007) argues that fictional works can offer different perspectives and insights in ways that factual pieces cannot, potentially enhancing understanding and shaping public opinion. Different authors throughout the eighteenth and nineteenth centuries have portrayed capital punishment very differently in their writings. For example, romantic poet, William Wordsworth, wrote a series of sonnets whereby he depicted capital punishment as a just form of punishment, effectively defending the state's right to carry out executions. In contrast, numerous other authors, including Victor Hugo, James Joyce and George Orwell presented capital punishment as a barbaric act and the condemned as a subject of sympathy (Mayer, 2007). However, it is unclear to what extent these fictional representations had an impact on the public opinion during the eighteenth, nineteenth and twentieth centuries.

However, the impact on press representations in determining public opinion should perhaps be treated with caution as there are additional factors which should be considered, including individual attitudes towards crime. Shoemaker (2017, p. 33) asserts that attitudes regarding crime were shaped by "such a complex combination of printed representations, oral discussions, and personal experiences, all reflected through the prism of individual personalities", thus ideas about crime could be considered a combination of personal and social factors. This resonates with King and Maruna's (2009, p. 148 – cited in Walby and Piché, 2011) assertion that "the execution of a Death Row prisoner can evoke cheers from one person and tears from his neighbour". This suggests that personal experiences, background, and personality can result in varied interpretations of press representations of capital punishment.

Furthermore, as previously discussed, public executions were abolished during the nineteenth century and subsequently carried out in private prisons (Gatrell, 1994). The shift from public executions to private executions changed the dynamics of representation. As discussed, the belief was held that private executions would serve as a better deterrent, through playing on "plebeian imaginations" (Gatrell, 1994). Sarat (2001, p. 227) notes that the more state discipline is hidden the more power it has to "colonise our imaginative life". Additionally, Foucault (1995, p. 9) offers his perspective regarding private executions, stating "As a result, justice no longer takes public responsibility for the violence that is bound up with its practice." Consequently, media representation played an even more crucial role in the public's understanding of private executions, as public knowledge regarding executions comes in the "most highly mediated way", via rumours, reports, images, and representations that are made available (Sarat, 1999, p.159). The literature presented in this section serves to contextualise the following sections of this literature review, which explore scholarship relating to the cultural representation of capital punishment in Britain in general and Scotland specifically in the eighteenth and nineteenth centuries.

The Cultural Representation of Capital Punishment in Eighteenth and Nineteenth Century Britain

It is clear from the scholarship outlined in the previous section that the cultural representation of capital punishment in the media plays a significant role in the general public's knowledge of the death penalty and in shaping public opinion on the issue. As this research relates to the cultural representation of capital punishment during the eighteenth and nineteenth centuries in Scotland, this section of the literature review is dedicated to exploring the existing scholarship regarding the representation of capital punishment in Britain. This includes scholarship regarding the representation of capital punishment in eighteenth and nineteenth century newspapers, broadsides and visuals.

Newspapers

In eighteenth and nineteenth century Britain "media" meant "newspapers" and research has highlighted that the press played an increasing role in publicising criminal acts and reporting sentencing (Shoemaker, 2004; Weiner, 2007). During this period cases which may have ended with an execution were considered newsworthy, attracting considerable media attention (King, 2009). Consequently, the press became an increasingly important factor in the decision on whether to hang or reprieve condemned convicts (Wiener, 2007). Different press publications during this era represented capital convicts in different ways. For example, "elite London papers" such as *The Times*[7] were generally severe on capitally convicted convicts, thus indirectly promoting pro capital punishment views among their readership (Gregory, 2012; Wiener, 2007). By contrast, local and more popular national newspapers, such as *The Daily News* and *Lloyds Weekly News* tended to present the convict sympathetically thus indirectly promoting abolitionist views (Wiener, 2007).[8] This was primarily due to class, with elite press outlets being in favour of more severe punishment on condemned murderers who were overwhelmingly from more disadvantaged classes (Wiener, 2007).

[7] *The Times* was noted as being the most prominent and influential Victorian newspaper, with the biggest circulation (Casey, 2010; Gregory, 2012).

[8] It is also noted that abolitionist newspapers frequently attacked *The Times* for "opposition to Mercy in capital cases and for supporting the gallows" hence *The Times* was often referred to as "The Bloody Times" by abolitionist news outlets (Gregory, 2012).

Knelman (2008) infers that this binary representation of convicts was typical of Victorian news publications, with fictional literature presenting more complex accounts. However, it could be argued that it is an overgeneralisation and oversimplification for these authors to claim that specific newspapers generally presented capital punishment exclusively from one perspective. This is further complicated when considering the importance of individual factors in determining how people respond to representations of capital punishment, as previously discussed. Literature outlined in "The Cultural Representation of Capital Punishment in Scotland in the eighteenth and nineteenth Centuries" section of this review suggests that specific news outlets' portrayal of capital punishment varied depending on the case. Moreover, the proclamation that *The Times* newspaper was consistently retentionist in representation can be questioned as in the past they gave a voice to those with critical views on capital punishment, in protest of their generally retentionist representations. For example, in November 1849, *The Times* published a number of letters sent by Charles Dickens whereby he expresses his disapproval of public hangings (Tambling, 1995). Additionally, Wiener (2007, p. 111) also acknowledges that there were times when sympathy for murderers "crossed social lines" and nearly all newspapers took a united stance in urging the state towards mercy. However, newspapers were not the only publications which reported on executions as broadsides served to inform sections of the population about the events of public execution and the convicts who were being executed.

Broadside Literature

According to Elkins (1980, p. 263) "broadsides" were "single unfolded sheets of paper with printing on one side". Initially they were used to serve several specific functions, such as the printing of royal proclamations and official notices, but later they served a political purpose and included content such as ballads, songs and scaffold speeches (National Library of Scotland, 2019).[9] Broadside literature was consumed mostly by the working class as newspapers were unaffordable for the working class until the 1860s,[10] therefore broadside literature was thought to be a

[9] Scaffold speech refers to speech's given by convicts upon the scaffold, prior to their execution.

[10] When public executions ended in 1868, broadsides were largely supplanted by the popular press (Knelman, 2008). This is perhaps due to the fact that newspaper tax was reduced which meant that subsequently masses could afford to buy a daily newspaper thus circulation figures rose.

"voice of the poor" (Elkins, 1980, p. 262) and could also be described as a forerunner of the popular press.

In specific relation to the reporting of capital punishment, many broadsides provided details of the events leading up the crime and conviction, followed by a stated admission of guilt or "last lamentation" (Schwan, 2014). As previously referenced, newspaper articles about executions were deemed to carry great news value (King, 2009). This was also the case with broadside/broadsheet[11] literature; the most popular broadsides were the execution broadsides; "the gallows literature". The sale of execution broadsides could run as high as 2,500,000 copies per hanging (Elkins, 1980). This further supports the supposition that content involving execution carried great news value.

However, numerous authors suggest broadsides served several other functions, aside from reporting details of execution. For example, convicts were encouraged to use their last speech to confess guilt to legitimise the integrity of the criminal justice system and capital punishment in general (O'Brien, 2001). O'Brien (2001) asserts that broadsides mimicked this through typically presenting the convicts as admittedly guilty in lamentations as a means to explore psychological guilt, which may disrupt the message of deterrence, as discussed in the following paragraph. However, what should also be considered is the fact that this representation (presenting the convict as admittedly guilty) would have arguably also reinforced the legitimacy of execution to the readership. In addition, Knelman (2008) argues that broadsides amplified the message of deterrence to a larger audience (to those who did not attend public executions) and also to encourage fellow citizens to keep within the accepted norms of behaviour. Echoing this sentiment, Gatrell (1994, p.163) notes that the language of "repentance, retribution, and warning was ubiquitous".

However, contrary to the theory that broadsides serve to convey the message of deterrence to a wider audience, O'Brien (2001) argues that the deterrent message of execution may be "disrupted" with the narrative told in execution broadsides. O'Brien (2001, p. 321) bases this argument on the fact that ballad anonymity secured the

[11] The words "broadsheet" and "broadside" are regarded by many as synonymous meaning "A large printed sheet of paper" but specialist opinion asserts "broadside" refers to a single sided sheet whereas "broadsheet" refers to a sheet where both sides contain printed text (Rickards and Twyman, 2001). In this study the terms will be used interchangeably.

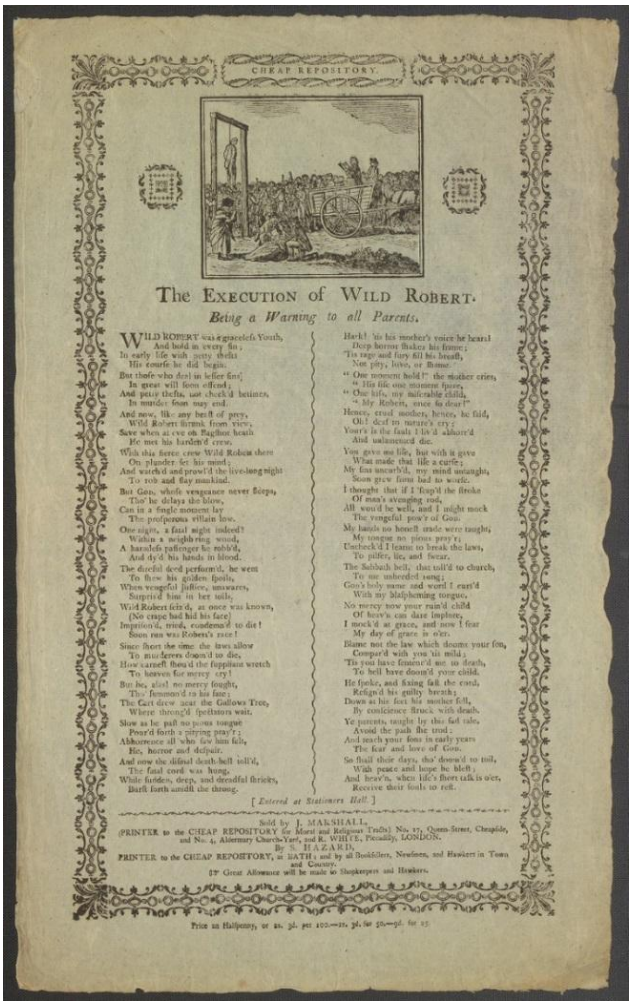
"literary illusion" of the condemned as an author who was not simply a "monstrous killer but an articulate victim whose lament often questioned the justice of the occasion". This aligns with opinions expressed by a nineteenth-century journalist and social commentator, who deplored broadside literature for "morbid sympathy and intended apology for the criminal" (Mayhew, 1968, p. 281). Lending sympathy to convicts in representation is effectively humanising them and implicitly suggests that those subjected to state discipline should be pitied. This is arguably presenting readerships with a critical (abolitionist) perspective of capital punishment and challenges state power, which, as previously discussed, is a primary function of capital punishment (Foucault, 1995; Garland, 2011). The idea of lending convicts sympathy in shaping representation is considered in Chapter 2 and Chapter 3.

Whilst newspapers presented the facts surrounding executions and often served to depict the capital offender negatively, via focusing on the horrific offence, broadside literature served to give the condemned capital offender a voice, prior to their execution. This was achieved by the printing of lamentations, presented as written by the offender prior to execution (O'Brien, 2001). These poems served to offer the condemned a platform to express their feelings on the eve of their death – often used to procure pity, express sorrow and admit guilt. O'Brien highlights that these poems "deflected from controversial wisdom about the barbarity and horror of their crime and moved toward emotion and sentimentality" (2001, pp. 319-320). For example, numerous poems presented in broadsides focus on the condemned expressing their self-inflicted grief and suffering (O'Brien, 2001).

Additionally, Gatrell (1994) echoes the sentiment that numerous broadsides presented the executed as subjects of sympathy. For example, one halfpenny broadside published by Hannah More presented the execution of 'Wild Robert' as his mother's fault and subsequently as a warning to all parents (Gatrell, 1994).[12] This example further illustrates the various (arguably contradictory) functions of execution broadsides: to serve a didactic function as well as to lend sympathy. An image of this execution is displayed below in Image 1 (Harvard Law School Library, 2019).

[12] In this broadside Robert is referred to as a "youth". The impact of youth in shaping the sympathetic representation of Robert is not considered by Gatrell (1994). However, findings in Chapter 2 illustrate that youth factorised into representation of convicts in broadsides.

Image 1: *Broadside "The Execution of Wild Robert"* (Harvard Law School Library, 2019)



CHEAP REPOSITORY.

The EXECUTION of WILD ROBERT.

Being a Warning to all Parents.

WILD ROBERT was a graceless Youth,
And bold in every sin;
In early life with petty theft
His course he did begin.
But those who deal in lesser sins
In time will soon offend;
And petty thefts, not check'd betimes,
In murder soon may end.
And now, like any bird of prey,
Wild Robert flirted from view,
Save when at eve on Bagshot heath
He met his harden'd crew.
With this fierce crew Wild Robin there
On plunder set his mind;
And watch'd and prowl'd the live-long night
To rob and slay mankind.
But Gon, whose vengeance never sleeps,
Tho' he delays the blow,
Can in a single moment lay
The prosperous villain low.
One night, a fatal night indeed!
Within a neighb'ring wood,
A hapless passenger he robb'd,
And dy'd his hands in blood.
The direful deed perform'd, he went
To shew his golden spoils,
When vengeful Justice, unaware,
Surpris'd him in her toils.
Wild Robert felt'd, as once was known,
(No crape had hid his face)
Imprison'd, tried, condemn'd to die!
Soon ran was Robert's race!
Since there the time the laws allow
To murderers doom'd to die,
How earnest they'd the fuppliant wretch
To heaven for mercy cry!
But he, alas! no mercy fought,
Tho' fummon'd to his fate;
The Cart drew near the Gallows Tree,
Where throng'd fpectators wait.
Slow as he paft no pious tongue
Pour'd forth a pitying pray'r;
Abhorrence all who faw him felt,
He, horror and defpair.
And now the difmal death-bell toll'd,
The fatal cord was hung,
While fudden, deep, and dreadful fhrieks,
Burft forth amidft the throng.

Hark! 'tis his mother's voice he hears!
Deep horror fhakes his frame;
'Tis rage and fury fill his breaft,
Not pity, love, or fhame.
"One moment hold!" the mother cries,
"In this life one moment fpare,
"One life, my unfortunate child,
"My Robert, once fo dear!"
Hence, cruel mother, hence, he faid,
Oh! deaf to nature's cry;
Yours is the fault I liv'd abhorr'd
And unlamented die.
You gave me life, but with it gave
What made that life a curfe;
My fins unearn'd, my mind untaught,
Soon grew firft bad to worfe.
I thought that if I fhun'd the ftroke
Of man's avenging rod,
All would be well, and I might mock
The vengeful pow'r of Gon.
My hands no honeft trade were taught,
My tongue no pious pray'r;
Unchecked I learnt to break the laws,
To pilfer, lie, and fwear.
The Sabbath bell, that toll'd to church,
To me unheeded rang;
Gon's holy name and word I curs'd
With my blafpheming tongue.
No mercy now your ruin'd child
Of how's can dare implore,
I mock'd at grace, and now I fear
My day of grace is o'er.
Blame not the law which dooms your fon,
Compar'd with you 'tis mild;
'Tis you have fentenc'd me to death,
To hell have doom'd your child.
He fpoke, and fixing faft the cord,
Refign'd his guilty breath;
Down at his feet his mother fell,
By confcience ftruck with death.
Ye parents, taught by this fad tale,
Avoid the path fhe trod;
And teach your fons in early years
The fear and love of Gon.
So fhall their days, tho' doom'd to toil,
With peace and hope be bleft;
And heav'n, when life's fhort talk is o'er,
Receive their fouls to reft.

[*Entered at Stationers Hall.*]

Sold by J. MARSHALL,
PRINTER to the CHEAP REPOSITORY for Moral and Religious Tracts, No. 17, Queen-ftreet, Cheapfide, and No. 4, Aldermary Church-Yard, and R. WHITE, Piccadilly, LONDON.
By S. HAZARD,
PRINTER to the CHEAP REPOSITORY, at BATH; and by all Bookfellers, Newfmen, and Hawkers in Town and Country.
☞ Great Allowance will be made to Shopkeepers and Hawkers.

Price an Halfpenny, or 2s. 3d. per 100.—2l. 3d. for 50.—9d. for 25

One criticism of broadside literature is that it often blurred the lines between fiction and reality. Knelman (2008) notes that newspapers did not take the same liberties with the truth as broadsides did. Newspaper writers were well educated, professional writers (Knelman, 2008), in contrast to broadside authors who were "anonymous male hacks who were typically paid a shilling for their work" (Schwan 2014, p. 23). As discussed, these lamentations were only purported to be written by the convict themselves (O'Brien, 2001). Foucault (1982, p. 208) in discussing last lamentations, acknowledges them as "fictitious". Taking the somewhat fictionalised accounts of convicts into consideration, it is difficult to consider broadsides as factual publications and it is unclear if the broadside readership correctly interpreted the reportings as being fictionalised.

The use of images/visuals in the media

Whilst text reports in newspapers and broadsides were one method of presenting information regarding executions, another tool was the use of images of executions. Visuals offer insight into the social and political conditions during the time they were published (Carrabine, 2011). In the case of eighteenth to nineteenth century Britain, execution visuals can inform us of what these events were like. One iconic Tyburn execution visual that has been analysed is William Hogarth's "*The IDLE 'PRENTICE Executed at Tyburn* (1747)", as displayed in image 2. In analysis, a few observations have been made, including the festive mayhem accompanying a public hanging, with people in attendance including prostitutes, drunks and thieves, whilst the rich look down on the spectacle from their seats high in the stands and the state authorities appearing as disinterested and unexcited by the event (Carrabine, 2011). Based on these observations the event has been described as appearing "carnivalesque".[13]

Image 2: *William Hogarth The Idle "PRENTICE" (*Carrabine*, 2011).*

As Scotland maintained a degree of autonomy and a distinct legal system (Bennett, 2017), this leads to the consideration of the historical depiction of capital punishment in Scotland specifically. Findings in existing scholarship are largely based on

[13] Laqueur (1989, p. 341) notes that this iconic photograph has parallels with Pieter Bruegel's Christ Carrying the Cross (1564), as "games and festivity" all but hide the death in their midst, in both images. "Carnivalesque" is a term associated with the work of Bakhtin, used to describe "the varied popular-festive life of the Middle Ages and the Renaissance" (Bakhtin 1984, p. 218 cited in Webb, 2005).

broadsides published in nineteenth century England (as opposed to Scotland), a gap in scholarship which this study addresses.

The Cultural Representation of Capital Punishment in Scotland in the Eighteenth and Nineteenth Centuries

Having outlined existing scholarship relating to the representation of capital punishment in eighteenth to nineteenth century Britain in general, this section of the literature review is concerned with Scotland specifically. Whilst Scotland has maintained its Union with the rest of Britain since 1707, it is still important to distinguish Scotland culturally and politically. Scotland has had its own distinct legal system (Bennett, 2017) and different national and regional media outlets to England. This section includes a discussion of scholarship relating to the cultural representation of capital punishment in Scotland in the eighteenth and nineteenth centuries in various regional news publications, as well as the impact on public opinion, with reference to key authors throughout.

As previously discussed, several authors hypothesised that specific newspapers in England had a tendency to consistently present capital punishment from one perspective. Similarly certain Scottish news outlets were used to promote a certain perspective of capital punishment. For example, the Whigs, a British political party which had more progressive views on capital punishment, consistently used *The Edinburgh Review* as a news outlet to express their views and present their perspective to the public (Smyth et al, 2011).[14] The young Whigs were not initially completely opposed to capital punishment but took issue with a botched hanging of a petty thief named Robert Johnston in 1818 (Smyth et al, 2011). However, arguments against capital punishment in general began to develop. In 1831 Henry Brougham, founder of *The Edinburgh Review*, who was involved with the Whig Party, was sympathetic to the argument that capital punishment was ineffective and defeated its

[14] Smyth et al (2011) noted that the Whigs of *The Edinburgh Review* were sympathetic to penal reformers, such as Samuel Romilly, a reformer who actively campaigned against statutes which made certain offences punishable by execution.

own ends, in an article published in *The Edinburgh Review* (Smyth et al, 2011).[15] This line of argument could therefore be perceived as being abolitionist in representation.

Gregory (2012) argues that media outlets that were developed by and for the working class population, such as Chartist newspapers, opposed capital punishment. *The Scottish Chartist Circular* was no exception.[16] Additionally, an abolitionists' magazine, entitled *The Magazine of Popular Information on Capital and Secondary Punishments* was first published in Scotland in 1845. The magazine was published monthly from March 1845 to June 1846 (Gregory, 2012).

In response to abolitionist propaganda, retentionist pamphlets began to be distributed. Retentionists, such as Thomas Mulock, criticised abolitionist arguments put forward by abolitionists such as Dickens and others (Gregory, 2012). This illustrates that Mulock was given a platform to directly respond to abolitionist sources and that there was an open debate between retentionists and abolitionists in newspaper publications. The Scottish public (or at least newspaper readerships) were exposed to retentionist and abolitionist views, including counter arguments and thus had access to a wide range of information in order to have an informed opinion on the issue. However, this may have depended on class because, as noted previously, newspapers were generally unaffordable for working class Scots who subsequently relied on execution broadsides to obtain knowledge regarding executions.

Bennett[17] (2017) asserts that crime related stories in newspapers, such as the *Caledonian Mercury*, the *Scots Magazine* and the *Glasgow Journal* was minimal until the late eighteenth century (Bennett, 2017). However, Bennett (2017) references

[15] The first argument Bougham discussed was opposition of the state's right to take any life. In discussion of this, Bougham did not fully endorse the idea that the state should not have power to take life in any circumstance.

[16] *The Scottish Chartist Circular* published the following in February 1840, promoting an abolitionist stance: "Magistrates must derive all their power from the people. In this delegation of their powers to the rulers, the people can give no more than they themselves possess. We now ask, have men power over their own lives? Are they at perfect liberty to dispose of them as they please? – Has the Almighty permitted any of the human race to extinguish the vital spark whenever they think proper or to delegate that power to another? … Let Chartists be consistent. Let them become the uncompromising advocates for the total abolition of capital punishment" (Gregory, 2012).

[17] One of the key authors in relation to the history of capital punishment in Scotland is Rachel Bennett. She published a book entitled "Capital Punishment and the Criminal Corpse in Scotland, 1740–1834". Throughout this book the representation of capital punishment in the Scottish newspapers is referenced and discussed.

details of various newspaper reportings regarding executions, mainly from the *Caledonian Mercury* and the *Scots Magazine* from this time period. The reporting in these outlets could be described at times as being sympathetic to the condemned. For example, in one case in which a 21-year-old man robbed a man of a silver watch, the jury had strongly recommended mercy, given the offender's age and the fact that the robbery did not involve much violence. In reporting on this, the *Caledonian Mercury* was very sympathetic to the offender by strongly endorsing the Jury's decision to show mercy, stating that they could not fail to mention "the honour of the magistrates and as an instance of real humanity, that the execution was delayed considerably beyond the usual time in hopes of a reprieve being received" (Bennett, 2017).[18] However, Bennett (2017) also references reports whereby the Scottish newspapers presented capital punishment more favourably – from a retentionist perspective.[19]

Public Opinion

Whilst published reports regarding capital punishment may give an insight into how capital punishment was depicted in the press within Scotland in the eighteenth and nineteenth centuries, this does not offer insight into how capital punishment was perceived by the public during this time period.[20] Historical public responses to execution have been described as "elusive" (Seal, 2014, p. 99), which is very apparent when reliant on second hand accounts published in the press. Scottish executions in the eighteenth and early nineteenth century attracted large crowds and were attended by people of various ages, gender and social classes. Scots attended

[18] Other examples of Scottish press publications reporting sympathetically on the condemned, include: in 1818, *The Scots Magazine* commented favourably to credit Aberdeen for having low execution numbers due to the low crime rate (Bennett, 2017). In addition, regarding one case whereby a woman named Agnes McCallum killed her five-month-old baby, the *Caledonian Mercury* reported sympathetically on Agnes, noting that prior to the murder she had shown all the tender feelings of a mother (Bennett, 2017). Furthermore, during a period when a lot of young people were receiving capital punishment, in October 1817, The Scots Magazine commented that it was a deep regret that in one month 11 people under the age of 30 had been executed (Bennett, 2017).

[19] For example, in a few particularly aggravating murder cases the *Scots Magazine* emphasised the aggravating details and in one report highlighted the evilness of the convict, describing the crime as so atrocious "that the devil could not have succeeded in such wanton cruelty". Other examples are outlined by Bennett (2017) of newspapers representing capital punishment from a retentionist perspective include: following the rise of robberies in Scotland in 1815, the *Scots Magazine* echoed the Lord Justice Clerk's view that passing the death sentence for robberies was necessary in order to combat this form of crime. Additionally, in 1761, following a number of cases whereby women were executed for infanticide, the Scots Magazine commented on the frequency of child murder and the subsequent necessity to put a stop to it.

[20] In "Capital Punishment and the Criminal Corpse in Scotland, 1740–1834" Chapter 5 is entitled "The Spectacle of The Scaffold" and includes discussion of the atmosphere at public executions (Bennett, 2017).

public hangings with the same enthusiasm as the English but on fewer occasions due to the lower number of executions in Scotland (Bennett, 2017).

However, some executions received negative responses from the crowd. For example, the hanging of Robert Johnston in 1818, as mentioned previously, received mass press attention due to the reaction of the crowd. In this incident the rope was too long which prolonged the suffering and the crowd responded with cries and throwing stones at the authority figures. Bennett (2017, p. 137) comments that this case demonstrates "the knife edge on which the crowd's reaction to public executions could sit at" as if this execution had not been prolonged the crowd were highly likely to react in an orderly way. This demonstrates the Scottish public's disproval of prolonged suffering and subsequently highlights the brutality of execution as a factor which can alter public opinion on capital punishment.[21]

Riggs (2012, p. 183) argues that evidence for a "revolution in sensibilities" regarding the public opinion of capital punishment in Scotland in the early nineteenth century exists. The revolution extended to media outlets. For example, the controversial, mismanaged execution of Robert Johnston in 1818, led to *The Scots Magazine* taking a strong stand against capital punishment, stating *"*It would seem, therefore, that whether we consider the matter as Christians, or merely with respect to the well-being of society, there are many strong reasons for reducing, as far as possible, the number of capital punishments" (Riggs, 2012, p.183).[22] Furthermore, a few months later the *Scots Magazine* reported that abolitionist attitudes were growing in Scotland and the belief that working to prevent crimes was more effective than severe punishment, was developing among the Scottish public (Riggs, 2012). This suggests that public opinion had great influence in determining how the media chose to report on capital punishment. This is interesting as the literature previously outlined strongly indicates that the media's depiction of capital punishment plays a key role in shaping public opinion. This can also work in reverse with public opinion influencing how the media represents capital punishment.

[21] Whilst these are details as to how some people in Scotland responded to public executions, Bennett (2017, p. 19) acknowledges that "no single account can provide a homogenous depiction of the scaffold scene".
[22] It is also noted by Riggs (2012) that other news outlets took a more progressive view on capital punishment in their reporting, including *Blackwood's Edinburgh Magazine*, a source known for being conservative in principle. The magazine posed the question to the public in 1830 ''Who is there whose own mind would suggest to him the wish that the man who passed on him ten counterfeit guineas or notes, or had forged a check for fifty pounds, should perish for it on the gallows?" (Riggs, 2012).

Whilst this section has outlined literature concerning general representations of capital punishment, the following section considers the impact of identity in shaping representations through outlining existing literature concerning the impact of gender on representation in execution broadsides and newspapers. The impact of gender in cases concerning the crimes and punishment of women has been a significant feature of public and theoretical debate.

Women and Capital Punishment

This section of the literature review is dedicated to outlining the significance of gender regarding capital punishment in eighteenth and nineteenth century Britain, with particular interest in Scotland. The rate of female capital conviction in Scotland during this period and the significance of gender as a factor in sentencing is discussed. In addition, literature relating to the representation of female capital convicts in newspapers and broadside publications will be explored.

Women, like men in Scotland during the eighteenth and nineteenth centuries, were subjected to the most serious forms of punishment, including banishment, prison sentences, corporal punishments and capital punishment (Bennett, 2017). Between 1740 and 1843, women accounted for around one in ten, 9.3% of the total number of people executed overall (Bennett, 2017).[23]

Whilst considerably fewer women than men were subject to execution, it is important to explore the potential reasons why this was the case. Wiener (2007, p. 112) asserts that "the easiest convicts to draw sympathy from were women" whilst noting that this was despite "or perhaps because" juries, bar and bench were all male. Specifically relating to Scotland, Bennett (2017) notes that the Scottish criminal justice system exercised a large degree of discretion with female offenders. Bennett supports this assertion through referencing that considerably fewer women capitally convicted of property offences were actually executed (39%) compared to the rate of

[23] Bennett (2017) highlights that 47 of the 505 people executed in this time period were women and notes that the figure of around 9-10% is comparable to the general rate of women executed in Britain during this time period and thus enforces the apparent reality that women accounted for quite a low number of people who faced execution in Britain. Unlike the rate of execution in general, the rate of female execution indicates a similarity between Scotland and the rest of Britain.

capitally convicted males who were executed (62%). However, feminists have questioned the motives for this perceived leniency in sentencing (Knelman, 2008).[24]

Bennett (2017) notes that there were often discernible factors which sealed women's fate to the scaffold, including: the importance of the victim, the motive and method for the crime, as well as the women's place in society. For example, Bennett (2017) asserts that in the case of Margaret Cunningham, it was her motive for killing her husband to continue her extra-marital relationship, which the court found most abhorrent. Furthermore, in the case of Mary McKinnon, it was her position in society as a brothel keeper which prompted the court to pass the death sentence, as opposed to the circumstances of her crime (Bennett, 2017).[25]

Representation in the Press

It is apparent that female executions attracted significant attention in Britain and specifically Scotland in the eighteenth and nineteenth centuries.[26] Public executions of female convicts generally attracted larger crowds than male executions, perhaps due to the fact that these events were rarer (Bennett, 2017). Additionally, during the eighteenth century in Scotland, broadside literature about infanticidal mothers outnumbered publications produced on other forms of crime by three to one (Nash and Kilday, 2010).[27] However, it is unclear whether this increased media attention results in a more positive or negative portrayal for female offenders.

Wiener's notion that women were easier subjects of sympathy is evident in press publications wherein condemned women were often depicted as the subject of

[24] Knelman (2008) acknowledges feminist arguments against the perceived leniency women were shown in nineteenth century courtrooms: This was perhaps because women were already considered to have been under the power of men who could discipline them or to obtain the notion that women were docile and domestic. In addition, offering a cynical view as to why women were shown discretion by courts in infanticide cases, Hager (2008) believes that compassion shown to women was only part of the story and states the belief that courts were directly condoning infanticide. This argument is made as it is noted that population growth was a concern during this time period. It was of particular concern of the middle class that the poor were over reproducing.

[25] The impact that Mary McKinnon's circumstances and identity had on her representation in the press is discussed in Chapter 3.

[26] This can also be said to apply to a contemporary context as Jewkes (2011) details that women account for 10 percent of violent offenders but those who do are of great news value due to their rarity.

[27] This is further apparent under the Bloody Code s as trials where no females were involved were more likely to be overlooked by the media (King, 2009).

sympathy. This is apparent in various reportings.[28] In the case of Amy Gregory in 1895, who was guilty of strangling her infant, the popular newspaper *The Star* presented the case by dwelling on the "heart-rending agonies" that Amy would have gone through and expressed the hope that she would not have to spend long in prison. However, taking a more conservative view on this particular case, *The Weekly Spectator* approved of reprieving Amy of execution but criticised those calling for her complete exemption from punishment (Wiener, 2007).[29] In addition, Wiener (2007) suggests that the public and media sympathy tended to be a contributing factor in favouring women in cases where they killed their husband and played a role in reprieving some women from execution. In relation to the portrayal of convicted women in Scottish media, as previously referenced, Bennett (2017) highlights that the *Caledonian Mercury* reported sympathetically on a woman who committed infanticide, reporting that prior to the murder she had shown all the tender feelings of a mother.

In spite of the fact that there is some evidence to support Wiener's (2007) generalised notion that female convicts were often the subject of sympathy and perhaps the easiest convicts to draw sympathy from in a British context, there is a significant degree of scholarship which indirectly contests this view and in fact suggests the opposite. The "double deviance" theory posits that women receive more severe treatment as they are judged to have transgressed two sets of laws: criminal laws and what were regarded as the laws of nature, which expected women to be nurturing. Thus, they are seen as doubly deviant and doubly damaged (Lloyd, 1995), a theoretical insight which Nash and Kilday (2010) argue applied historically to female convicts in Scotland. This harsh treatment of female convicts can also be argued to extend to the press representation. Jewkes (2011, p. 125) states "legal and media discourses construct and reflect negative public emotions (ranging from antipathy to downright hostility) toward female offenders". This can be supported by cases in which women were vilified in the press.

[28] For example, in 1879, in relation to the case of Emma Wade, an unmarried domestic servant who was clearly guilty of killing her baby, even the pro Tory newspaper, *The Lincolnshire Chronicle*, supported a mass petition for commutation of her death sentence (Wiener, 2007).

[29] Another example of a case whereby the press presented a condemned woman sympathetically is the case of Frances Kedder in 1867, who was guilty of killing her husband's eleven year old "bastard" daughter, the Lloyds Weekly newspaper attributed blame to Frances' husband for abusing her and for exposing her to public shame (Wiener, 2007).

It was not always the case that the media depicted condemned women as the subject of sympathy. Many convictions were approached by the media on a case by case basis, with the women guilty of the most aggravating crimes subject to vilification in the media, as evident in examples outlined by Wiener (2007).[30] In addition, following a case in 1830 in which a woman named Catherine Davidson poisoned her husband by mixing sulphuric acid with whiskey, the *Caledonian Mercury* article reported with great concern the method she had used to kill him (Bennett, 2017). Nagy (2015) asserts that women found guilty of poisoning received stricter sentences than men guilty of the same crime and infers that women using their domestic duties to poison their victims were a concern in mid nineteenth century Britain. This implies that this arguably sensationalised method of killing was taken into consideration, with such women being in receipt of harsher representations.

These conflicting findings resonate with Lightowler's (2018, p. 694) argument that "historically debates on gender and punishment have centred around two polarised standpoints: those suggesting women are treated with greater leniency (sometimes also referred to as 'chivalry') and those suggesting women receive more severe treatment as they are seen as 'doubly deviant.'" This is consistent with the findings in this literature review which indicate inconsistency and confliction regarding the treatment of female convicts during the eighteenth and nineteenth centuries in Britain.

The Representation of Female Capital Convicts in Broadside Publications

As discussed, broadside street literature was considered to give convicts a voice in expressing their lamentation (Elkins, 1980, p. 262). This can also be said to be the case for women as Schwan (2014, p. 20) notes that "street literature, including execution broadsides, provided one of the main textual spaces for representing the voices of female convicts up until the last third of the nineteenth century." Broadsides served to invoke sympathy, identification with female convicts and focused on addressing the causes of women's criminality, taking into account factors such as ill

[30] For example, in 1849 Rebecca Smith applied the method of arsenic poisoning to kill her baby and confessed to using similar methods to kill her other seven infants. In this case the press 'joined in a chorus of horror' with newspaper *The Globe*, labelling her "the annual and deliberate destroyer of her own offspring." (Wiener, 2007). In the case of Christiana Edmunds, a woman guilty of poisoning her husband's child, *The Times* reported it as an act of "cold blooded indifference" (Wiener, 2007).

mental health, betrayal by men and poverty (Schwan, 2014). This suggests that broadsides served to contextualise the female convicts' situation and perhaps somewhat explain their reasons for committing crime.

It was however not always the case that broadsides adequately contextualised female convicts' circumstances. Jones (2003) identifies the commodification of women's stories, highlighting that the individuality of female convicts' circumstances in infanticide cases were often completely disregarded by street literature, supporting this argument by referencing specific examples whereby cases were presented word by word in the same narrative, the only differences being the woman's name. This again highlights the formulaic nature of the genre, mentioned previously. Furthermore, it is contended that publications were produced to resonate with a female target audience. Schwan (2014) maintains that reported experiences of women in broadsides resonated with non-elite women. There is also evidence of more elite classes of women discussing capital punishment among their own circles through a number of manuscript magazines (Gregory, 2012).[31]

In addition, writing about how women were depicted in popular press in nineteenth century England, Knelman (2008) asserts the contrary to arguments that broadsides served to evoke sympathy towards female convicts, stating that female murderers were depicted as monsters in broadsides and newspapers as they were considered guilty of acting in an "extremely unnatural way". This form of representation resonates with the double deviance hypothesis, as previously referenced (Lloyd, 1995). Knelman (2008, p. 21) asserts that broadsides sold on the streets to "poke sticks through the cage at women accused of murder". Knelman (2008) notes that newspapers were more restrained by facts but still represented women harshly by expressing little or no interest in their circumstances. In line with this, Nash and Kilday (2010) assert that in Scotland, broadside material containing religious rhetoric repeatedly convinced the population that infanticide was a heinous crime and that

[31] Gregory (2012) references a number of female magazines which entailed representations of capital punishment. For example, *The Lady's Newspaper* proposed abolition of capital punishment in an editorial following the execution of an 18 year old named Catherine Foster in 1847. Another publication, namely *The Ladies Companion*, contained a pro abolition comment in an article in 1859. However, some female publications occasionally presented capital punishment favourably, such as the journal entitled *The Rose, The Shamrock and The Thistle* which advocated for capital punishment in 1864, despite being edited by a woman, printed by a woman and produced for the purpose of promoting female employment (Gregory, 2012). This signifies varied representations of capital punishment in female targeted publications.

women who are guilty of such crimes should receive harsh punishments. Knelman (2008) suggests that this "flat" portrayal of convicts is typical of Victorian news reporting.

However, it is suggested that fictional literature, in contrast to newspapers and broadsides, is more true to life, as representations of convicts have many "shades of grey" as "even when fictional murderesses are presented as bad they can be attractive, passionate, sympathetic figures" (Knelman, 2008, p. 20). By contrast, as referenced, Schwan (2014) argues that nineteenth century English broadside literature served to invoke sympathy and identification with female convicts. Adding to O'Brien's (2001) arguments,[32] this further complicates Knelman's (2008) assertion that representations in Victorian newspapers and broadsides were black or white and served to enforce capital punishment as a deterrent. It is possible that representations in execution broadsides had shades of grey, serving to deter crime, whilst still offering convicts a voice as a means of contextualisation (which arguably diminished the deterrent effect).

Theories of Crime in the Eighteenth and Nineteenth Centuries

Aside from the impact of factors concerning identity (such as gender), It is important to consider social and cultural contexts that shape our perspectives of capital punishment and in effect theorise how capital punishment is represented. When considering how capital punishment was depicted in publications, it is important to examine beliefs and attitudes of criminality and the root causes of crime in this time period (the eighteenth and nineteenth centuries). This can help frame attitudes towards crime in the eighteenth and nineteenth centuries and may offer explanation as to why crime and punishment was depicted in certain ways in broadside publications. This study finds that the period in focus sits between two distinct phases; spiritualistic and naturalistic understandings of crime. How this impacted representations of crime and executions is discussed in Chapter 2.

[32] As previously referenced, O'Brien (2001) argues that the deterrent message of execution may be "disrupted" with the narrative told in execution broadsides.

Spiritualistic Approaches

Prior to the period in focus, the "spiritualistic approach" in understanding crime dominated Europe for more than a thousand years (Bernard et al, 2010). The spiritualistic explanation attributes crime to the influence of otherworldly powers (Bernard et al, 2010) and emphasised the conflict between absolute good and absolute evil - people who committed crimes were believed to be possessed by evil spirits (Lilly et al, 2011).[33] Bernard et al (2010) notes that the spiritualistic explanation of crime formed the basis for criminal justice practice in Europe at this time; thus crime was believed to be associated with sin and the state claimed moral authority to administer horrible tortures on criminals, potentially explaining the use of capital punishment.

Classical Theory

In opposition to the spiritual explanation of crime, the age of Enlightenment[34] ushered in a range of intellectual developments which are now termed "classical criminology", associated with Beccaria (1738-94) and other Enlightenment thinkers who proposed that humans are rational actors and that human choice is based on the rational calculation of costs and benefits (Bernard et al, 2010; Melossi, 2008; Newburn, 2017). In relation to crime, Beccaria posited that punishments should be proportional to the seriousness of the offences so that the cost of crime always exceeds its reward; thus potential offenders would be deterred from committing crime through rational calculation (Newburn, 2017). This theory aligns with the belief that capital punishment deters crime, which as discussed previously was a primary reason why capital punishment was introduced in the UK (Garland, 2011). However, Beccaria opposed disproportionately severe punishments and believed that punishment should be no more than what is necessary to deter the offender and others from committing crime in the belief that excessive punishment not only fails to deter but is also likely to increase crime (Newburn, 2017). Whilst this classical

[33] Furthermore, breaking criminal law was considered to be breaking God's "natural law" thus criminals were considered to be committing sin (Bernard et al, 2010).

[34] Age of enlightenment: an eighteenth century movement of ideas and practices whereby society shifted in a secular direction (Jacob, 2019). The enlightenment was concerned with new ways of thinking and regarding intellectual and social reform (Withers, 2008).

approach and other naturalistic[35] approaches to understanding crime developed, extreme forms of punishment, including capital punishment, remained commonly practiced in Britain (Newburn, 2017). In potential explanation of this, Bernard et al (2010) note that by the mid eighteenth century naturalistic ideas were well received by intellectuals but they did not represent the views of the powerful groups who ruled Europe and held to the spiritual explanations of crime.[36]

Positivist Criminology

The methods which were used to punish offenders offer insight into attitudes towards crime and criminals, during the eighteenth and nineteenth centuries. Newburn (2017, p. 125) states "systems of punishment for much of the seventeenth and eighteenth centuries were bloody and cruel; they rested on ideas of revenge or retribution", noting that this was evident as banishment by transportation and the death penalty were two examples of the "barbaric" method of punishment used in this time period. Newburn (2017) asserts that more emphasis was placed on retribution, reflecting the belief that certain people were irredeemable and inherently bad.[37] This indirectly resonates with later theories in the second half of the nineteenth century that certain people are born with deviant tendencies and that crime is the product of their nature and contradicts classical thinking in which crime is considered as a result of rational calculation.[38] Lombroso's biological theories of crime draw association between criminal tendencies and certain, usually unflattering, physical features (Lilly et al, 2011).[39] Moreover, Lilly et al (2011) argue that the line of thinking connecting beauty and ugliness to good and evil behaviour pre-existed Lombroso and is also present in contemporary society. The notion that criminals are inherently "monsters" is reflected

[35] Bernard et al (2010) infers that "naturalistic" is a term used to distinguish spiritual theories of crime from theories of crime not attributed to spiritual, otherworldly powers.
[36] It is also noted by Bernard et al (2010) that the naturalistic approach of classic criminology subsequently became the basis for nearly all criminal justice systems in the world during the nineteenth century.
[37] Moreover, the fact that capital punishment was being used as a method of punishment suggests that the idea that all convicts can be rehabilitated was completely disregarded.
[38] For example, biological positivism developed in the nineteenth century, insinuating that crime was caused by biological features within the individual (mind and body), in sharp contrast to classical theory which as referenced suggests crime is free will and the inherent hedonism of individuals (Lilly et al, 2011). Biological positivism is usually attributed to Cesare Lombroso (Lilly et al, 2011).
[39] Lombroso claims that criminals exhibit certain physical features distinctly different than non-criminals, including: slopping foreheads, unusual ear size, receding chins and twisted noses (Lilly et al, 2011).

in broadside publications published in Victorian England, as outlined by Gatrell (1994, p. 163).[40]

A number of additional theories from this period are also reflected in broadside representations, as discussed in Chapter 2. For example, beliefs were held during the nineteenth century that criminality was a result of nurture, attributing criminality to sociological or economic factors. This was particularly the case with property crime as property offences were seen as a class problem.[41] In addition, the idea that someone could be criminally irresponsible as a result of insanity was a fairly new concept in the nineteenth century as it was only introduced in Scotland in 1814. The Scottish Law Commission (2003, p. 11) note that the starting point for consideration of the insanity plea was prompted by a passage in David Hume's commentaries, which was published in 1814.[42]

It is clear during the period of Enlightenment, in the early eighteenth century, that there was a shift in attitudes towards crime: with spiritualistic approaches becoming dated and ideas of naturalistic theory, including classical theory which infers that crime is a rational choice, becoming more prevalent and positivist theory attributing crime to biological factors. This marks an era of transition between different distinct phases. How this transition period impacted the representation of crime and punishment in Scotland remains empirically unexplored. Analysis of representations of crime in the eighteenth and nineteenth centuries thus enables opportunity to understand change and resistance in this period of transition, as discussed in Chapter 2 and Chapter 3.

[40] Gatrell (1994, p. 163) implies that this belief system was prevalent in broadsides published in Victorian England, via stating: "Executions were determinedly decorous. They always agreed that wickedness should meet its just deserts: that although lesser felons might be unfortunate they were invariably deluded and their punishment just: that murderers, rapists and sodomists were always monsters".

[41] As discussed, property crime was a crime which was punishable by execution during the eighteenth and nineteenth centuries. In regards to the early nineteenth century, Emsley (2010) notes that most thefts committed were petty as few involved large sums of money. However, it was the quantity of these crimes opposed to the quality that was causing concern to the upper classes. As most of the people guilty of committing property offences came from poorer sections of society consequently the discourse of class became more central to perception of crime (Emsley, 2010). In effect criminality became seen as a class problem. These theories generally reject individualistic approaches to crime.

[42] The passage states: "We may next attend to the case of those unfortunate persons, who have plead the miserable defence of idiocy or insanity. Which condition, if it is not an assumed or imperfect, but a genuine and thorough insanity, and is proved by the testimony of intelligent witnesses, makes the act like that of an infant, and equally bestows the privilege of an entire exemption from any manner of pain; "Cum alterum innocentia concilii tuetur, alterum fati infelicitas excusat". I say, where the insanity is absolute, and is duly proved: For if reason and humanity enforce the plea in these circumstances, it is no less necessary to observe a caution and reserve in applying the law …" (The Scottish Law Commission, 2003, p.11).

Religion and Capital Punishment

Another potential force which shapes representation is religion, particularly in an historical context. This section of the literature review will outline existing research relating to the relationship between religion and capital punishment. As is discussed in the preceding section of this literature review, religion has a key impact in dictating morals and attitudes towards criminality, through spiritualistic approaches to crime.

Religion has played a significant role in Scottish society. Offering an insight as to how religious Scotland was in the eighteenth and nineteenth century, Brown (2010, p. 116) claims that "nearly all nineteenth century Scots believed themselves to be Christian, and the large majority professed to be reformed, or Calvinist in their beliefs" and notes the vast majority of people, "probably 80 or 90 percent", adhered to the Presbyterian Church of Scotland (Brown, 2010, p. 116). However, in reading statistics from more modern times, Scotland has clearly become more secular in the twentieth and twenty-first centuries.[43]

Christianity and Capital Punishment

It is paramount to acknowledge the influence that numerous religions have played in shaping attitudes towards capital punishment throughout history globally.[44] Christianity has been the most predominant religion in Scotland historically and in modern times (Brown, 2010; Curtice et al, 2002), therefore this section will focus exclusively on the role of Christianity in shaping morals and subsequently attitudes towards capital punishment.

Murphy (2003) argues that there cannot be any one view that is considered the "Christian view" on capital punishment as Christianity is compatible with a variety of perspectives. This is evident as literature suggests that there are numerous ways for the Bible to be interpreted and various scripture verses used to warrant certain

[43] Notably religion has declined significantly from 'nearly all' Scots considering themselves as Christian in the nineteenth century (Brown, 2010) to 29% considering themselves as belonging to no religion in 1983 and an even further decline in religious Scots in 2000, with 41% seeing themselves as belonging to no religion (Curtice et al, 2002). However, as in other countries in modern times, religion still plays a significant role in Scotland regarding discussion on political debates, such as abortion and homosexuality (Curtice et al, 2002).

[44] For example, Schabas (2000) details that Islamic states view capital punishment according to the principles embodied in the Quran, thus explaining why capital punishment exists in domestic law within so many Islamic countries.

Christian perspectives on capital punishment. Winright (2017) maintains that most Christian denominations draw on "four authoritative sources" to formulate their position on the morality of capital punishment: the Bible, the Christian tradition, human reason, and experience which can each be used to support different perspectives. Numerous interpretations of the Bible exist that lead Christians to believe that capital punishment is just and moral.[45] In contrast, there are numerous Christian perspectives and interpretations of scripture which are used to support an abolitionist stance, endorsing the view that capital punishment is morally wrong.[46]

In the eighteenth century religious Christian rhetoric was used in broadside publications to present capital punishment as just and moral punishment for those guilty of serious crimes (Nash and Kilday, 2010), suggesting that capital punishment was considered to be in line with Christian morals at that time in Scotland. However, also previously referenced, following the botched public execution in 1818 *The Scots Magazine* stated "It would seem, therefore, that whether we consider the matter as Christians, or merely with respect to the well-being of society, there are many strong reasons for reducing, as far as possible, the number of capital punishments" (Riggs, 2012, p. 183). This places importance on considering capital punishment from a Christian viewpoint, to encourage an abolitionist perspective. It is thus clear that appealing to people's Christian morals has been used as a tactic to both promote and demote support for capital punishment in Scotland. This further demonstrates that Christianity can be considered compatible with both retentionist and abolitionist perspectives. This is relevant in an historic and contemporary setting. However, the Church of Scotland in modern times has taken a strong affirmative stance against

[45] Christians who are most likely to support the death penalty tend to rely primarily or solely on scripture and interpret the Bible in a literal and a fundamentalist way (Winright, 2017). Christian retentionists reference scripture to justify the use of capital punishment. For example, one justification is that capital punishment featured under the Law of Moses inflicted the death penalty for blasphemy and by BC 1179, murder was a capital crime among the Egyptians and Greeks (Walker, 1973). Additionally, retentionist Christians often quote Romans 13:4 to support their stance, with the interpretation that the verse endorses capital punishment: "But if you do what is wrong, you should be afraid, for the authority does not bear the sword in vain! It is the servant of God to execute wrath on the wrongdoer" (Winright, 2017).

[46] In contrast to Christians who interpret scripture in a literal way, Christians who draw from sources of moral wisdom are more likely to oppose the death penalty (Winright, 2017). Christian abolitionists often draw from the New Testament to support their stance, as the New Testament's core themes are mercy, forgiveness, love, reconciliation, and peace (Winright, 2017). Specifically Christian abolitionists refer to verses in the book of Matthew which details Jesus instructing his followers to forgive those who have wronged them and to pray for your enemies (Winright, 2017).

capital punishment (The Church of Scotland, 2009).[47] Similarly, the Roman Catholic Church's stance has varied throughout past centuries but in more recent times the Catholic Church has taken an abolitionist stance concerning capital punishment.[48] However, further research is necessary to explore how Christian rhetoric was used to depict capital punishment in eighteenth and nineteenth century Scotland. This study finds that Christian perspectives of capital punishment were frequently conveyed in execution broadside literature and more often to endorse retentionist views.

Moving beyond an historical setting, the subsequent section will consider the representation of capital punishment in contemporary Scotland in order to explore the impact societal and cultural shifts have in influencing representations of capital punishment.

The historical significance of capital punishment in contemporary Scotland

Whilst capital punishment has not been practiced in Scotland since 1963 (Brown, 2015; Knowles, 2015), the historical legacy of capital punishment is still present in contemporary Scotland. Seal (2014, p. 5) asserts that "The continued cultural life of the death penalty in post-abolition Britain has been sustained through news reporting, films, books and television documentaries and, as such, these are important sources". One equally relevant (particularly in a Scottish context) medium is the representation of capital punishment through dark tourist sites and walking tours. This is clear when considering the "dark tourist" sites in Scotland's capital city, Edinburgh, which attracts over 3 million visitors each year (Edinburgh Tourist Action Group, 2015). Dark tourism is defined by Lennon and Foley (1996, p. 200) as "the

[47] The Church of Scotland published the following statement clarifying their abolitionist stance: "Therefore the Church of Scotland affirms that capital punishment is always and wholly unacceptable and does not provide an answer even to the most heinous of crimes; and commits itself to work with other churches and agencies to advance this understanding, oppose death sentences and executions and promote the cause of abolition of the death penalty worldwide" (Church of Scotland, 2009).

[48] It is apparent that the Catholic Church's position on the morality of capital punishment has varied throughout the past centuries. St. Augustine's book "The City of God" was interpreted as legitimising capital punishment (Murphy, 2003). However, in more modern times the Catholic Church has taken the stance to oppose capital punishment. Pope John Paul II called for an end to capital punishment and during his visitation to Missouri, USA, he directly influenced the death sentence of one convicted criminal to be changed to a charge of life without parole (Alarid and Wang, 2001). This is similar to the Church of Scotland being abolitionist in their stance, perhaps insinuating a commonality in modern Christian churches.

phenomenon which encompasses the presentation and consumption (by visitors) of real and commodified death and disaster sites". Lennon and Foley (2010) note that dark tourism is a significant part of the tourist experience in many societies. This is the case in Scotland and particularly in the capital city, Edinburgh, as many notable sites in the city are sites of death or more specifically execution.[49]

Furthermore, various Edinburgh walking tours are marketed to tourists as covering sites relating to death and execution.[50] Subsequently, contemporary audiences are being presented with content related to Scotland's experience of capital punishment on a daily basis. However, how these sites and stories relating to execution are presented on walking tours remains unexplored in existing scholarship. Henceforth, the final part of this study considers the medium of walking tours as a form of contemporary representation of capital punishment and a means to explore how Scotland's past use of capital punishment is presented to contemporary audiences. This analysis thus enables direct comparison between the functions of representations of capital punishment in pre abolitionist Scotland and post abolitionist Scotland and subsequently highlights the impact that cultural and societal shifts have on representations of capital punishment. As outlined in Chapter 4, this study finds that like broadsides, contemporary representations of capital punishment on Edinburgh walking tours also contain a degree of fictionalisation and ultimately serve to entertain and inform.

Chapter Conclusion

Existing scholarship regarding broadsides focuses on execution broadsides published and distributed in England during the eighteenth and nineteenth centuries (Elkins, 1980; Gatrell, 1994; Knelman, 2008; Schwan, 2014). However, how capital punishment was represented to working class Scots, through the means of

[49] For example, Grassmarket, an area used for executions between 1660 and 1784, today is used to "commemorate" capital punishment's historical importance, with a pub being named "The Last Drop" (Bennett, 2017). Furthermore, various other tours and attractions in Edinburgh centre on the historical use of capital punishment. For example, the Edinburgh Dungeon Tour ends with a thrill ride named "Drop Dead Drop: The Grassmarket Gallows" which seeks to offer visitors the experience of "what it feels like to freefall drop at the gallows, how quickly one passes into the afterlife" (Edinburgh Dungeons, 2019). In addition, there is a pub named after Margaret Dixon, a female subject of a botched execution, "Maggie Dixons Pub", in Edinburgh's old town, effectively contributing to keeping her name alive (The Scotsman, 2016).

[50] Outlined in Chapter 4.

broadside literature, remains largely unexplored. Research analysing broadsides which have been preserved by the National Library of Scotland (NLS) is outlined in succeeding chapters and offers insight into the general representation of execution in eighteenth and nineteenth century Scottish broadside literature.

As discussed, existing scholarship marks the eighteenth and nineteenth centuries as a period in history where attitudes towards crime and criminal justice transitioned from spiritualistic understandings to naturalistic understandings. In addition, existing literature signifies that support for capital punishment in Scotland was being increasingly challenged following the botched execution of Robert Johnston in 1818. This research thus seeks to explore how this period of transition is reflected in the representations of capital punishment. Furthermore, this study also considers key themes which have been highlighted in existing literature, regarding representations of capital punishment, such as: the impact of gender, circumstances and offence, the use of religious rhetoric and abolitionist/retentionist perspectives.

Chapter 2: Analysis of Scottish Execution Broadsides

Chapter Introduction

This chapter is concerned with analysing broadside literature relating to executions conducted in Scotland during the eighteenth and nineteenth centuries, which as previously discussed is an area in need of additional research. This chapter applies a thematic approach in analysing broadsides in the NLS' "word on the street" collection, through considering the impact of key themes in existing literature (as discussed in Chapter 1), including; gender, religious attitudes and abolitionist/retentionist perspectives. This study identifies age and nationality as additional themes which impact representation – factors generally overlooked in existing scholarship.

Building on existing arguments made by Schwan (2014) and O'Brien (2001) suggesting that broadsides are complex writings, findings in this chapter indicate that the degree of complexity in representation varied, determined by the identity and crime of the convict. Findings in this chapter also indicate that the period of transition in the eighteenth century concerning attitudes towards criminality (from spiritualistic approaches to naturalistic approaches) is significant in explaining the generally complex representations of capital punishment in this time period. This chapter will argue that execution broadsides served to inform and entertain readerships in eighteenth and nineteenth century Scotland.

Broadsides in Scottish History: Theoretical and Methodological Frameworks

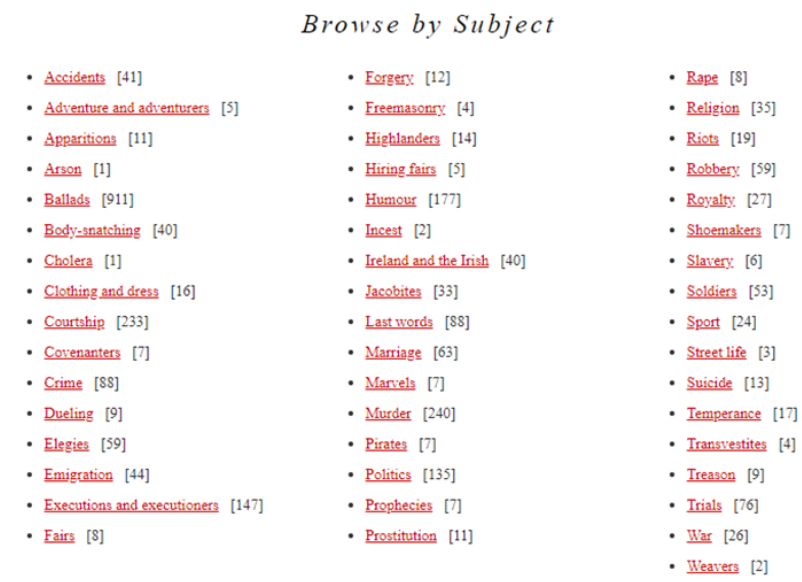
In the eighteenth and nineteenth centuries, prior to newspapers being commonly available in Scotland, the general public had to rely on street literature[51] to obtain information on current events (National Library of Scotland, 2019b). The most popular form of street literature for 300 years was "broadsides" and thus they can be considered as the tabloids of that time period (National Library of Scotland, 2019b). It is noted that initially broadsides were used for printing royal proclamations, acts and official notices in Scotland, but later they became known as a tool for political

[51] Street literature; referring to literature sold on the streets.

agitation and for what is now referred to as “popular culture” (National Library of Scotland, 2019c). Shepard (1978) notes that although broadsides were purposely printed for the day, somehow a number of these “precious sheets” have been miraculously preserved. Shepard (1978) also notes how these preserved broadsides can be used to give information about bygone days and throw light on history, folklore, religion, politics, economics and sociology. In relation to this analysis, broadsides offer an insight into how capital punishment was depicted in the eighteenth and nineteenth centuries and attitudes towards criminality and changing social sensibilities in this time period.

The primary exclusive source for the analysed broadsides is the National Library of Scotland’s (NLS) “word on the street” broadside collection. The NLS has made this collection public, in order to offer the current generation an insight into what “the word on the street” in Scotland between 1650 and 1910 was (National Library of Scotland, 2019b). There are broadsides in this collection relating to various areas including: crime, emigration, humour, tragedy, royalty and superstitions, as displayed in Image 3 (National Library of Scotland, 2019b). This collection contains 147 broadsides categorised under “execution and executioners”. Analysis of these 147 broadsides gives an insight into how capital punishment was portrayed in broadside literature during this era in Scotland. However, it should be acknowledged that this analysis is limited to the broadsides that have been preserved that are available in this collection. This study has undertaken thematic analysis, in order to explore key themes in representation, as outlined in Chapter 1.

Image 3: *NLS "word on the street" Collection Categories (National Library of Scotland, 2019f).*



The Format of Execution Broadsides

Whilst each execution broadside conveyed a message to the public concerning executions, the details and content varied. A number of broadsides in the collection were published to inform the public of a hangman's death; others were published as documented lists of executions within a certain period. However, the vast majority were accounts of specific executions. Of the 147 broadsides regarding executions and executioners, 9 (6.1%) relate to executioners and 5 (3.4%) were lists of executions. The other 133 were reporting on specific execution events. The 133 publications on executions can be distinguished by the nationality of the convict, the gender of the condemned, the offence committed resulting in execution and the location of execution. Of the 133 publications relating to specific executions, 24 (18%) reported on the execution of women, 13 (9.7%) reported on executions that occurred outside Scotland and in 47 (35.3%) the condemned was guilty of property crime. Furthermore, also excluding broadsides on executions that occurred outside Scotland, of the broadsides concerning the 120 executions that occurred within Scotland, 32 (26.6%) of the condemned convicts were from another country.

This research has found that execution broadsides in Scotland were generally published following the convict's execution. Therefore, broadsides contained detail of the convict, their crime and the events at their execution, including: an estimate of the number who attended, reaction of the spectators and details of the dying speech of the convict.[52] Schwan (2014, p. 23) highlights how such content thus means representation is "constructed at the intersection of different viewpoints: those of the authors (anonymous male hacks who were typically paid a shilling for their work), those of their sources, the voice of the law, the (alleged) voice of the convict herself, and the voice of the crowd as audience". Adding to this, this thesis highlights that the voice of God is also presented in broadsides through the use of religious language. This research illustrates that the voice of the law (serving didactic functions; to warn readers and deter crime) and the alleged voice of the convicts (serving to confess guilt, repent, explore psychological guilt and warn readers) remained consistent throughout broadsides. However, the voice of the author, the voice of God and the voice of the crowd were subject to change, depending on the identity of the convict and what they were being executed for. Subsequently, this study supports arguments suggesting that broadsides are complex writings (O'Brien, 2001; Schwan, 2014). However, this thesis argues that the degree of complexity varied, depending on who was being executed and what they were being executed for.

A number of the broadsides report on fictional cases. However, there was generally no significant difference in how fictional and non-fictional cases were presented. Broadsides regarding fictional executions would contain background details of the convict, the crime and the events at the imagined execution. This suggests that apart from the factual news value which stories of real executions contain, the entertainment function of broadsides reporting on fictional executions was similar to that of broadsides, based on real executions, as will be discussed throughout this chapter.

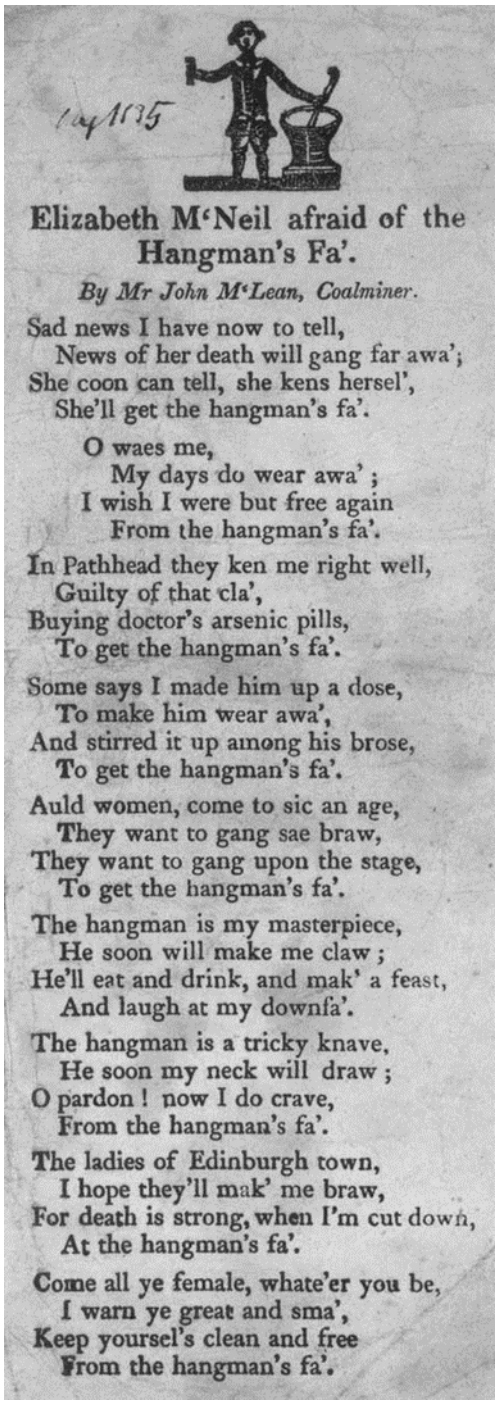
[52] However, a number of broadsides were published (or at least written) prior to the execution in focus. Such broadsides omitted details of the events of the public execution. These broadsides would thus exclusively focus on the details of the convict and their crime – all set within the context that the convict is scheduled to be executed.

Whilst execution broadsides contained this information, how this was conveyed to readerships varied across broadsides. Some broadsides presented information concerning the culprit and execution through poems. In addition, some broadsides communicated information regarding an execution through dramatic or humorous narrative songs. For example, one broadside publication, published in 1835, discloses a song based on the execution of Elizabeth McNeil as displayed in Image 4. Although the song is presented as being written by McNeil (the condemned), the author is clearly using poetic license to speculate on the thoughts of McNeil. As discussed in the literature review, broadsides often blurred the lines between fiction and reality. Lamentations were only purported to be written by the condemned (O'Brien, 2001) and were stylised and relatively formulaic representations as opposed to authentic accounts (Schwan, 2014). The humour instilled in some of these publications suggests that capital punishment was something that could at times be represented light heartedly to evoke amusement in the readership. This study has found that hangmen were often the subject of humorous publications,[53] supporting Young's (1998, p.146) inference that writings regarding hangmen served to "amaze or amuse".[54] This study also finds that competent hangmen (who never botched executions) were reported on fondly, whilst incompetent hangmen were represented in a more negative light. This is particularly apparent in a broadside published in 1835 (NLS Broadside, 120) and resonates with existing literature which suggests that Scots disapproved of prolonged suffering in execution. As discussed, Carrabine (2011) notes that spectacle was a key function of public executions. These findings illustrate that the spectacle aspect of public executions was also prevalent in broadsides and subsequently presented execution to a wider audience as a means of entertainment.

[53] Edinburgh hangman John Dagleish was the subject of a number of humorous publications. An example is a broadside publication entitled "The Last Speech and Dying Words of John Dalgleish, hangman of Edinburgh". This publication contains humour, reporting a speculative memoir of thoughts leading up to his death. Again, this is likely to have been fictionalised. A further humorous publication also concerns John Dalgleish. This broadside presents fictional dialogue between John Dalgleish and Mrs. McLeod, a woman executed for forgery in 1727. The publication is framed where Dalgleish is a doctor exchanging fictional dialogue with his patient (Mrs. McLeod); the insults increase in severity, climaxing with Dalgleish informing her that she will soon be hanging from the Scaffold (NLS Broadside 122, 2019).

[54] Young (1998, p. 146), writing about the Victorian period, notes that it is hard to obtain a true picture of hangmen, as the "apocryphal" writing in the period, writing to amaze or amuse, "often left truth behind". Of course, this argument is not exclusive to writings on hangmen and can be extended to all execution broadsides, as findings in this chapter illustrate.

Image 4: *Broadside Regarding Elizabeth McNeil 'Elizabeth McNeil afraid of the Hangman's Fa'* (NLS Broadside 11, 2019)[55]



Elizabeth M'Neil afraid of the Hangman's Fa'.

By Mr John M'Lean, Coalminer.

Sad news I have now to tell,
News of her death will gang far awa';
She coon can tell, she kens hersel',
She'll get the hangman's fa'.

O waes me,
My days do wear awa';
I wish I were but free again
From the hangman's fa'.

In Pathhead they ken me right well,
Guilty of that cla',
Buying doctor's arsenic pills,
To get the hangman's fa'.

Some says I made him up a dose,
To make him wear awa',
And stirred it up among his brose,
To get the hangman's fa'.

Auld women, come to sic an age,
They want to gang sae braw,
They want to gang upon the stage,
To get the hangman's fa'.

The hangman is my masterpiece,
He soon will make me claw;
He'll eat and drink, and mak' a feast,
And laugh at my downfa'.

The hangman is a tricky knave,
He soon my neck will draw;
O pardon! now I do crave,
From the hangman's fa'.

The ladies of Edinburgh town,
I hope they'll mak' me braw,
For death is strong, when I'm cut down,
At the hangman's fa'.

Come all ye female, whate'er you be,
I warn ye great and sma',
Keep yoursel's clean and free
From the hangman's fa'.

Whilst this section has established the general information which execution broadsides contained and the differing formats in how this information was presented, the following sections of this chapter are dedicated to exploring the

[55] For the purpose of this study, execution broadsides in NLS' "word on the street" collection have been manually numbered and cited accordingly.

representation of capital punishment in Scottish execution broadsides and their underlying messages. Findings illustrate that circumstances, offence and the identity of the convict factored into representation. One way this factored into representation was through the use of language to describe the convict and the events of their execution.

Language

The language which is used to describe executioners, the condemned, the victims, and the event in general, in execution broadsides in the eighteenth and nineteenth centuries, offers valuable insight into commercial concerns, attitudes of capital punishment held by authors, and perhaps the general public, during this time period.

The Occasion of Executions in General: Representing the Audience's Response

Aside from the language depicting the condemned and victims of crime, the language used to describe the event of an execution in general offers insight into the view of capital punishment in this era. In a vast number of broadsides (more than half), the word 'melancholy" is used to describe the occasion of an execution. It is referred to in a number of variations, including: "melancholy occasion", "melancholy precession", "melancholy exhibitions" or "melancholy scene". In a more specific context, in one broadside it was used to report that the spectators had appeared visibly affected by the event, stating it "attracted a great concourse of spectators, who appeared deeply affected at the melancholy occasion" (NLS Broadside 56, 2019). This asserts that the event evoked emotions of sadness among spectators. In another broadside "melancholy" was used accompanied with "awful" to describe executions as a lesson: "there has been in this town only one of these melancholy and awful lessons to erring humanity" (NLS Broadsides 68, 2019). "Melancholy" was also used in different contexts.[56] In addition, a particular broadside referred to the judge's decision to pass the sentence of death as "a melancholy duty" (NLS Broadside 97, 2019). Furthermore the word "awful" was used to similar effect as

[56] At times the word "melancholy" was also used to describe the situation of the condemned (NLS Broadside 64, 2019). In addition, a particular broadside referred to the judge's decision to the pass the sentence of death as "a melancholy duty" (NLS Broadside 97, 2019).

"melancholy".[57] This use of "melancholy" and "awful", with the explicit context of use, suggests that executions in eighteenth and nineteenth century Scotland were typically represented as gloomy, bleak events. This is in contrast to literature which infers that public executions in eighteenth and nineteenth century Britain were carnivalesque events (Carrabine, 2011) in which Charles Dickens was famously critical (Tambling, 1995). However, in cases where convicts were being executed for particularly aggravated crimes, broadside authors broke this trend, presenting the public execution of such convicts as a carnivalesque event. This signifies that the reported atmosphere at public executions was subject to change, depending on who was being executed and for what crime.[58] However, Mayhew (1968) suggests that representations in broadsides are partially at the discretion of the authors' imagination. This means that the reporting of public executions (including the reaction of the spectators) was also subjective to the perception of the author, which may or may not have been an accurate representation of the atmosphere at the event or the mood of the spectators.

Another term which sporadically appears in execution broadsides, is "heart-rending". A number of lamentations (presented as being written by the convict) are described as being "heart-rending". This adjective has been used on a few occasions to describe the scene at executions of convicts parting company with their friends and/or family for the last time. Although descriptions of these scenes are more often reserved for younger convicts (who are generally presented in a more sympathetic light, as discussed later), there are a select few prominent examples of this being included in representations of older convicts who were the subject of more negative portrayals.[59] The use of the adjective "heart-rending" further attributes to the "melancholic" picture of public executions, which is often being painted in execution broadsides. However, as illustrated later, this can result in a contradictory "grey"

[57] In broadsides, executions were frequently referred to as an "awful scene", "awful death" or "awful fate". Also, the sentence of death was frequently referred to as an "awful sentence". "Awful" was also used to describe the situation of the condemned, noting their "awful situation"

[58] This is discussed further in Chapter 3 in regards to the execution of Mary McKinnon and William Burke.

[59] An example of this is a broadside concerning the execution of David Dobie and John Thomson "The Gilmerton Murderers". Although this broadside emphasises the "barbarous cruelty" of the convicts' crimes, it is stated "the parting of Dobie with his wife and children was truly heart-rending, and for a moment we forgot the brutality of his crime, in pity for the agonising feelings of the unhappy wife" (NLS Broadside 21, 2019). This was published more to elicit sympathy for his grieving wife.

representation when the general tone of the broadside is one of demonising the convict in focus.

Furthermore, the word “ignominious” is used repeatedly in execution broadsides. Deaths in executions are frequently referred to as an “ignominious death” or an “ignominious exit”. Evidently, this reflects the inevitable shame that was directed towards the condemned.

The Accused

In analysis of the 147 broadsides provided by the National Library of Scotland, a few commonalities in language are apparent. For example, convicts were often noted as being dressed decently, not sleeping well the night before and receiving the clergymen with quiet humility. In addition, a few words were used repeatedly to describe the condemned. In the vast majority of broadsides, the condemned were referred to as “unfortunate” or “unhappy”. The frequent use of these words would suggest that these were default terms, used by broadside authors when referring to those condemned to execution.

In a number of single broadsides the condemned was referred to as both “unhappy” and “unfortunate”. Although “unhappy” and “unfortunate” are words that would rarely be used to describe people in such circumstances in the twenty-first century, the negative connotations and general meaning of these words would seem appropriate to describe someone who is about to be executed. Inclusion of such words effectively draws attention to the convict’s emotional state.

Execution broadsides often included a description of the behaviour and conduct of the condemned since being sentenced to death. The behaviour of the convict was most often described in a positive light. Words such as “penitent” or “resigned” were used frequently. This illustrates that the condemned were frequently depicted as exhibiting the behaviour of people who were aware that they had done wrong – usually expressed by confessing guilt or praying for forgiveness.[60]

[60] For example, in a broadside regarding the execution of Thomas Connor and Bell McMenemy it states “Ever since their sentence, they have been to all outward appearance extremely penitent, confessing their crimes, and praying for forgiveness” (NLS Broadside 92, 2019). The word “penitent” is also used to describe how the convict appears on the scaffold prior and during execution. For example, in one broadside, referring to the behaviour of a female who was about to be executed, it is noted “she was very Penitent upon the Scaffold, and

Furthermore, out of the 147 broadsides analysed, there was a tendency for the conduct of the condemned to be described as "exemplary" or as conducting themselves with "the greatest propriety". This language, used in this context, infers that there was a certain way the condemned were expected to behave that would be viewed positively, which was to confess guilt, repent to God and be accepting of the fate of their death. As discussed in Chapter 1, convicts were encouraged to confess guilt prior to execution (thus legitimising the criminal justice system and the actions of the state) which broadsides echoed to explore the psychological guilt of the convict. Thus, it is perhaps unsurprising that the majority of broadsides published in Scotland told the story of a convict who admitted their guilt. However, there are a number of notable exceptions in which convicts were criticised for their conduct.[61] This is particularly apparent in incidents where convicts claimed innocence and they were in fact demonised for not confessing guilt.[62] This form of representation would have subsequently reinforced the legitimacy and integrity of the criminal justice system and capital punishment to readerships by suggesting that only those who are guilty are executed.[63]

Abolitionist/Retentionist perspective

As discussed in the literature review, capital punishment varied in how it was portrayed in newspaper publications, ranging from a retentionist perspective to an abolitionist perspective. Thus, whether abolitionist or retentionist perspectives were presented should be considered when analysing execution broadsides. Most

---

own'd the justice of her sentence" (NLS Broadside 83, 2019). Another broadside, regarding a different case, describes a man as "dying very penitently" (NLS Broadside 82, 2019).

[61] For example, in one broadside regarding the execution of James Wilson, it is noted "Since his condemnation the prisoner behaved in a careless and reckless manner" (NLS Broadside 142, 2019). In another case, the author vaguely criticises the behaviour of the two condemned men describing them as "very rude and ill-behaved before and after their trial" (NLS Broadside 29, 2019).

[62] An execution notice concerned with the execution of William Divan contains a negative portrayal of his conduct for claiming innocence and denying guilt, the implication is that denying guilt should fill the readership "with horror", stating "and knowing himself to be actually guilty, fills us with horror, and makes us shudder at the idea of a man going to the just tribunal of God with a lie in his right hand" (NLS Broadside 45, 2019). Evidently, denying guilt was frowned upon. When the condemned did not abide by the supposedly acceptable protocol as to how they should behave (admitting guilt, seeking forgiveness and resignation to their fate) they were in receipt of harsh portrayal in broadsides.

[63] Notably, one of the very few broadsides in the "word on the Street" collection which suggests that people can be wrongfully convicted was published to push moral messages and warn those against the sin of bearing false witness.

broadsides reported on capital punishment as an accepted consequence for people who committed certain crimes and not often was capital punishment the subject of direct criticism or the morality of capital punishment directly criticised. This is further evident in the fact that presenting convicts as knowingly guilty subsequently reinforced the integrity of state authority, as discussed above. Whilst an unchallenged representation of capital punishment is not explicitly retentionist, an unchallenged representation is also not likely to prompt much critical thinking of capital punishment either. In addition, as discussed in succeeding sections of this Chapter, religious language, "the voice of God", and language of warning, "the voice of the law", is prevalent throughout execution broadsides published in Scotland, subsequently promoting the deterrent function of public executions to a wider audience.

However, this study illustrates that representations varied based on who convicts were and what they are guilty of, with some convicts being presented considerably more sympathetically than others. For some convicts the message was one of outright demonisation, as evident in Chapter 3's findings concerning the portrayal of William Burke, as was the portrayal of other convicts, guilty of what was considered the most heinous crimes. However, contrary to what Knelman (2008) suggests, this research has found that a significant number of execution broadsides did not present capital punishment clearly from a single "black or white" perspective (abolitionist or retentionist). Language of warning and deterrence, accompanied with a lamentation of a convict expressing sorrow and admitting guilt, alongside presenting executions as "melancholic spectacles", subsequently results in a contradictory representation containing shades of grey.

Warnings – The Voice of the Law

One consistent voice throughout Scottish execution broadsides is that of the law. Frequently broadsides conclude with a direct message to the public, warning them to avoid partaking in criminal actions or their fate will be the same as the condemned. A significant number of broadsides included a general warning, which was usually a sentence similar to "The above awful example should prove a warning to all" (NLS Broadside 61, 2019). In execution ballads, the publication would typically warn

against the crime that had been committed by the executed person in that instance. For example, in an execution ballad concerning the execution of two servant girls who murdered their mistress, with a financial incentive, the publication ends with a stern warning for servants, advising them against ill will and jealousy (NLS Broadside 12, 2019). In addition, an execution broadside regarding the execution of James Anderson and David Glen who were found guilty of murder, the broadside places blame on alcohol and warns others against the dangers of drinking (NLS Broadside 25, 2019).[64]

Aside from written warnings by the author, warnings were issued through the condemned's speech to the spectators who attended the execution. These speeches were often published in broadsides and thus served as a warning to the general public. Warnings in speeches were often accompanied with language of repentance and religious rhetoric.[65] Warnings against keeping bad company, Sabbath breaking, jealousy and alcohol were the most frequent. This is perhaps an indication as to what factors were believed to contribute to committing crime in the eighteenth and nineteenth century. The purpose of these warnings was ostensibly to deter people from committing crimes.[66] These particular types of warning effectively attribute crime to specific contexts and thus infer that crime is contextual, in contrast to spiritualistic and naturalistic theories, as discussed in Chapter 1.

[64] This broadside states "It is hoped that the solemnity of this awful scene, will make a lasting impression on the minds of the numerous assemblage that witnessed it, and refrain from drinking, as it was this alone that occasioned these two young men to commit the horrid crime for which they have this day justly suffered" (NLS Broadside 25, 2019).

[65] For example, in the broadside pertaining to the execution of John Wilson and Duncan Fraser, it is detailed that prior to execution Fraser made a speech on the scaffold, stating "Good People, take warning by our untimely end. Refrain from Sabbath-breaking, and the company of bad women, drinking and swearing, which have been ruin, God be with you all" (NLS Broadside 40, 2019). Additionally, it is reported that Patrick M'Nicol's scaffold speech contained warning against numerous things, stating "He admonished all young Men to keep good Company, and to keep holy the LORD's Day, which he, now to his great Grief had too often profaned; and to beware of Swearing, and taking GOD's holy Name in Vain; For the LORD will not bold them guiltless that taketh His Name in Vain. He desired all good Christians there present, to put up their petitions to GOD on his Behalf, as long as they saw Life in him" (NLS Broadside 88, 2019).

[66] A number of broadsides overtly highlight that one purpose of execution is to deter people from committing crimes. One execution broadside implies that deterrence is the reason for punishment in general, stating "To endeavour to amend the heart, and to deter others from crime, is the account of our chronology, the very end of punishments" (NLS Broadside 110, 2019). Another broadside, similarly emphasises the point that severe punishment is necessary to prevent other people from committing the same actions, ending with "To prevent such crimes and such rigid punishment as is by law awarded to offenders, let such a full example as is intended be the means of preventing and deterring others from entailing misery and disgrace on themselves and posterity" (NLS Broadside 80, 2019).

The didactic function was very apparent in broadsides concerning those who were executed for property crime. Scotland's low rate of capital punishment for property crimes was acknowledged in various broadside publications accompanied with the suggestion that at times an example had to be made with the use of capital punishment as a deterrent to property crime, through quotes from the judge.[67] Whilst these broadsides are merely reporting the words of judges in these cases, the publications do not offer any conflicting viewpoints. This indicates a tendency for courts to make examples out of a select few people guilty of property crime, with the aim to deter the rest of the population and to serve as a reminder that property crime can be punished by execution. This corresponds with classical criminological theories which suggest that humans are rational actors and will be deterred from committing crime through rational calculation and ultimately illustrates that broadsides partially served a didactic function – to deter people from committing crime. The following section explores how religious language was additionally used to convey the message of warning to a wider audience and capital punishment's didactic function of deterrence.

Religious Attitudes – The Voice of God

A voice which this thesis argues is equally present in execution broadsides is the voice of God. The quotation of Bible verses, religious rhetoric and Christian perspectives of capital punishment is prevalent in the vast majority of execution broadsides; consequently the perceived or understood voice of God speaks to readerships. However, this represented voice of God is subject to change based on the author's interpretation of the Bible, as is evident in this study's findings.

This heavy use of religious language accurately reflected religious practices in Scotland during this time period. Through an analysis of how religious rhetoric was used, a few common themes are apparent. Broadsides tended to focus heavily on

[67] For example, in one broadside publication, regarding the execution of William M'Intyre, it is stated "His Lordship said, the crime of housebreaking had become so extremely frequent, as to lead to the supposition that it was not regarded as a capital crime, but the example about to be made would prove the contrary" (NLS Broadside 97, 2019). Additionally, in a broadside concerning the execution of William Adams, there is also mention of the judge making an example, stating "The Lord Justice Clerk, in passing sentence, stated, that from the way and manner the crime was committed, committed in the very centre of the city, it was absolutely necessary for the public safety that an example should be made" (NLS Broadside 103, 2019).

the religious atonement of the condemned. Seeking forgiveness from God and achieving redemption are repeatedly described in convicts' lamentations. For example, an execution ballad regarding the execution of William Perrie states that he "Implores his God, his Saviour, his Friend, to grant support on this his awful end" (NLS Broadside 4, 2019).[68] This use of religious language was typical.

There is a significant degree of discussion regarding passing into the afterlife in broadside publications. In the final paragraph of execution broadsides, disclosing details of the execution, the euphemistic phrase of being "launched into eternity" is frequently used to describe the moment of death. In the vast majority of broadsides there is mention of the condemned being visited by clergymen in order to receive prayer and make preparation for the afterlife. Execution events entailed a prayer and a Psalm being sung which is generally described in broadsides.

God is generally acknowledged as a higher judge who is capable of forgiveness to even those who have committed the most aggravated crimes. In some publications, mention is made of God being the only one capable of forgiving the condemned, inferring that humans are not capable of forgiving such acts of crime.[69]

An overarching argument put forward in this study is that representation varied depending on who the convict was and what they were guilty of. This is clear when considering that some broadsides present a more optimistic view than others when speculating whether or not convicts are capable of having achieved salvation from God. A broadside presenting the execution of David Wylie, a young man guilty of property crime, provides an optimistic view that a better life could be waiting for him after death (NLS Broadside 131, 2019).[70]

[68] An additional example is at the execution of James Anderson and David Glen, when a prayer was reported to be read focusing on earning forgiveness from God: "O God pardon us, support and strengthen us; may the sting of death be taken away may all our past sins be taken away. Now unto thee we commit ourselves; O Lord hear, O Lord forgive; into thy hands we commit our spirits" (NLS Broadside 33, 2019).

[69] For example, in an execution broadside concerning the execution of John and David Dobie, whilst discussing who could forgive these men, it is stated that "and to see the absolute necessity of an immediate and most fervent appeal to the only quarter from which they could possibly expect mercy? to the great God of heaven and earth, through the death and sufferings of his only begotten Son, Jesus Christ" (NLS Broadhseet 29, 2019).

[70] This broadside states "but the gospel has a balm for every wound, a hope for every fear, an eternity of happiness for a dark day of adversity, and a change of earthly pursuits for heavenly joys; all-these, aided by the valuable instructions of several Ministers of the city, and the kind treatment of pious and benevolent friends, (especially of those under whose immediate care he was placed,) dispelled his doubts, animated his hopes, and enabled him to look forward with exultation to that change which awaited him" (NLS Broadside 131, 2019).

However, in stark contrast to this, a broadside concerning the execution of William Divan, a man who did not admit guilt but was executed for murdering his wife by cutting her throat, portrays an alternative position. Whilst in this broadside, God's potential for forgiveness is acknowledged, the view put forward is that the prospect of entering the afterlife, having failed to repent or confess guilt should "fill us with horror" (NLS Broadside 35, 2019).[71] In this broadside it is noted that "knowing himself to be actually guilty, fills us with horror, and makes us shudder at the idea of a man going to the just tribunal of God with a lie in his right hand." Of course, the circumstances of William Divan's crime are significantly more aggravating than that of David Wylie's (who as discussed was guilty of property crime), which undoubtedly contributed to this contrasting representation. In addition, the mitigating impact of youth (as David Wylie was described) is later discussed. However, this also suggests that there was a belief that God was more willing to forgive those who admitted their guilt and repented.[72] This on-going debate, regarding the religious atonement of convicts and focus on the afterlife, would also have encouraged their readership to contemplate their own mortality (or immortality, as convicts are at times referred to as "immortal souls" in broadsides) and religious attainment and subsequently encourage readers to prepare for the afterlife and improve their own moral conduct.

As inferred in the previous section of this chapter, language of warning was often accompanied with religious rhetoric. This suggests that the voice of the law and the voice of God served a similar didactic function: to deter readers from committing crime and to encourage readers to improve their moral conduct. For example, the belief that God is omniscient and will punish wrongdoers is often presented in broadside literature. In one broadside concerning the case of a woman called Margaret Davidson who pleaded not guilty to murdering her husband, it is suggested that it was God who brought the evidence to light, resulting in her being found clearly

[71] In this broadside it is noted that "he then baseeched him to lumble himself before God , whose laws he had so most grievously offended- mercy he had none ,and none he could expect on earth ,but may God have mercy upon his immortal soul" (NLS Broadside 35, 2019).

[72] In addition, the vilification of William Divan for not confessing guilt and the presumption that he was lying further reinforces the integrity of the criminal justice system, as previously discussed.

guilty and subsequently executed (NLS Broadside 128, 2019).[73] Furthermore, a broadside entitled “awful judgement” tells the supposedly factual, although probably fictional, story about the fate of a master who has his advances rejected by his female servant and then falsely incriminates her as a thief. On the day of her scheduled execution, the master is blinded by a bolt of lightning after refusing to confess that he had lied (NLS Broadside 1, 2019). This broadside was composed to encourage people to improve their moral character and to remind people that God is an omniscient judge who does not bear false witness and will punish wrongdoers. There is the message that the voice of God should instil greater fear than the voice of the law, as is also evident in a broadside concerning the botched execution of a woman named Maggie Dixon.[74] Thus, the voice of God could be considered a stronger voice of warning.

As discussed in the literature review there is no one Christian perspective on capital punishment. In the 147 broadsides that have been analysed, religious Christian rhetoric usually does not present capital punishment either from an abolitionist or retentionist perspective. However, there are a few broadsides which are using religion to justify capital punishment; thus the represented voice of God is enforcing a retentionist perspective. For example, in one broadside concerning the execution of James Campbell, the author of the publication states “Thus has one more been cut off in the mid-day of life, by the strong hand of justice. How true, even in a limited sense, is the Scripture, When it saith, ‘the wages of sin is death’. Reader, whatever be thy condition, the sad spectacle before you ought not to be without lesson” (NLS Broadside 73, 2019). The Bible verse quoted is Romans 6:23,[75] in which it is argued sin should result in the punishment of death.[76] In this broadside publication the

[73] The broadside states “At her trial she plead Not Guilty, with the greatest confidence that she would not be convicted, but God who saw all her transactions, brought it to light. The evidence clearly proved that she had murdered her husband” (NLS Broadside 128, 2019).

[74] A broadside reporting on the botched execution of Maggie Dixon (who subsequently survived) suggests that whilst Dixon may have escaped execution, she cannot escape the justice administered by God (NLS Broadside 146, 2019).

[75] Romans 6:23 is still interpreted as scripture mandating capital punishment by some Christians in the twenty-first century. This is evident in an opinion article published on website Patheos whereby Romans 6:23 is quoted in argument of biblical support of capital punishment and to dispute Pope Francis’ abolitionist stance on capital punishment (Veith, 2018).

[76] Similarly, in a broadside regarding the execution of James Wilson and John McDonald, Romans 6:23 is also quoted in the context of a warning to readers that their fate will be the same and is followed by the verse “For the wages of sin is death; but the gift of God is eternal life through Jesus Christ our Lord” (NLS Broadside 74, 2019).

author refers to the “reader” directly and asks the readers numerous rhetorical questions, pushing the narrative of warning that living an ungodly life and committing crime will lead to death (NLS Broadside 73, 2019). This suggests that whilst Christian perspectives on capital punishment varied, depending on interpretation of Biblical scripture, in eighteenth and nineteenth century Scottish broadside literature, Christian rhetoric was often used to justify the practice of execution.

The Voice of the Convict

Broadsides frequently create a space for the voice of the convict (Schwan, 2014). As discussed in Chapter 1, existing scholarship highlights that providing the convict with a voice as a means of contextualisation and to explore psychological guilt presents broadside readerships with conflicting perspectives. Building on arguments outlined by O’Brien (2001) and Schwan (2014), this study affirms that these contradictory discourses of warning, contextualisation and repentance are also prevalent in Scottish execution broadside lamentations. Lamentations further legitimise the integrity of the state and capital punishment in the sense that they often presented convicts as confessing guilt and acknowledging the justice of their punishment, as previously discussed. This didactic function of lamentations is further evident when considering the alleged convict’s voice is used to warn readers against the dangers of crime, in order to avoid a similar fate, thus promoting the deterrent function of capital punishment to broadside readerships. However, the language of repentance, appeals for forgiveness and insight into the inflicted psychological suffering of convicts, which is often accompanied with adjectives such as “penitent”, “resigned” and “exemplary”, presents the convicts to the readership in a favourable manner.

For example, the lamentation of a man named George Gilchrist, contains a confession and warning to readers. However, he is also praised for his behaviour and described as being “composed, penitent and in other respects becoming of his awful situation” (NLS Broadside 113, 2019). In addition, his lamentation offers poetic insight into his psychological guilt and regret (NLS Broadside 113, 2019). Furthermore, broadsides often serve to provide convicts with a voice as a means of contextualisation. One notable example is the alleged last dying speech of Catherine Davidson, who was executed in 1830 for murdering her husband. Her dying speech

contains the usual mantra of acknowledging the justice of the sentence but also attempts to convey the message that her crime of poisoning her husband was an unfortunate mistake (NLS Broadside 130, 2019).[77] Whilst the voice of the convict in confessing guilt arguably endorses the didactic function of capital punishment, presenting the convict's contextual detail as repentant effectively draws attention to their emotional state[78] and thus humanises their actions to readers, arguably creating a resistant cultural space, as suggested by O'Brien (2001).

This provides a complicated depiction of the condemned. In addition, this use of language of warning and repentance resonates with observations made by Gatrell (1994, p. 163) on broadside publications in England during the eighteenth and nineteenth centuries, who states "the language of repentance, retribution, and warning was ubiquitous" and notes that in regards to the representation of convicts in broadsides published in Victorian England "we have seldom met with one of a different character" (Gatrell, 1994, p. 164). Adding to this, this thesis argues that whilst the voice of the convict is consistent throughout Scottish execution broadsides, the discourses which are present mark the voice of the convict as being particularly contradictory and thus arguably the most complex.

Young Convicts

In analysing execution broadsides, it is important to consider how different profiles of people are portrayed in broadsides. As discussed in the literature review, broadsides published in England presented a young convict, namely "Wild Robert" as a subject of sympathy. In addition, the botched execution of a young man named Robert Johnston in Edinburgh in 1818 was a pivotal event which had a profound impact on representation of capital punishment in Scottish newspapers. However, existing literature fails to consider the potential impact of a convict's youth in how these cases were presented to the public. This thesis argues that the age of the convict was considered by broadside authors in representation. If the condemned was considered young, their youth was emphasised. Executions of young people were

[77] Catherine Davidson is presented as having said "as she states: "I acknowledge the justice of my sentence; but O, I did not buy the stuff to give him but misfortune took hold of me, and I gave it him but O, I did not think it would kill him but I did it, and I suffer justly'' (NLS Broadside 130, 2019).

[78] As previously discussed, adjectives such as "unfortunate" and "unhappy" are repeatedly used whilst referring to convicts in broadsides. Such words also draw attention to the emotional state of the convict.

often reported on as a sadder, more unfortunate event. The death of young people was frequently referred to as "premature death" and it was implied that they are a greater loss of life. At times they were even presented as subjects of sympathy.

The execution of a young man named Patrick Hamilton was presented as a poetic act of public mourning, commencing with "MY weeping Muse proceed with murnful Tone, and with great Floods of brekish Tears bemoan, the fatel End of this brave Hamilton, who might for Beauty equal Absolom: a stately Youth, of honour'd Birth and Blood, who like wife had an education good. But was by youthful passions led astray, and in a fit, rashly a man did slay, which tho' not out of Malice, or envy," (NLS Broadside 7, 2019). The broadside emphasises that his crime was not deliberate and praises him for his past achievements, with mention of his potential future achievements (NLS Broadside 7, 2019). This was to elicit sympathy for the young man and provide a critical perspective of capital punishment in this instance. However, this broadside still encouraged readers to take warning of this example.

More frequently young convicts were presented favourably, with their qualities being discussed. It was common that young men about to be executed were described as a "good looking young man"[79] or in certain publications "athletic young man".[80] Such descriptions (of physical attractiveness) are in significant contrast to other broadside representations which suggest an association with ugliness and criminality, as discussed in the "Theories of Crime and Broadsides" section of this chapter. In addition, in certain publications, concerning young convicts, their past achievements and previously good moral character were acknowledged, which was generally uncommon.[81] This challenges spiritualistic approaches which emphasise the distinction between absolute good and absolute evil and biological positivism (which later emerged) which infers that certain people are inherently bad. It is noteworthy that this publication implies the death sentence is still just despite speaking positively of him.

[79] In a number of broadside reports, young male capital convicts are referred to as a "good looking young man" (NLS Broadside 44, 2019; NLS Broadside 55, 2019; NLS Broadside 100, 2019; NLS Broadside 101, 2019).
[80] In a broadside concerning the execution of a young man named Alexander Milne, he is referred to as an "athletic young man" (NLS Broadside 36, 2019).
[81] For example, in an execution broadside regarding Alexander Gillian it is noted that "Gillian was a good looking young man, about 19 years of age, and always behaved himself in a becoming manner till the time he committed the shocking deed for which he so justly suffered an ignominious death". The publication notes that "He was a farmer's servant, and bore a good moral character wherever he was employed" (NLS Broadside 55, 2019).

A number of broadsides describe the young person's last moments with their family before they depart to be executed.[82] This was often referred to as a "heart rending" scene, illustrating the visible impact of having to say goodbye. In addition, a number of broadside publications acknowledged that there were calls for mercy to be shown on young people who were executed, based on their age serving as a mitigating factor.[83] Calls for mercy were otherwise rarely reported, at least within broadsides in NLS' "word on the street" collection. This indicates that the executions of young people elicited sympathy.

Broadsides Regarding Female Executions

As discussed in Chapter 1, the impact of the gender of the convict in press publications concerning execution remains ambiguous with certain sources suggesting that females were the subject of harsher representations, and other sources suggesting the opposite. This study considers the impact of gender and finds that representations of women in Scottish execution broadsides tended to elicit controversy and in some cases sympathy although expendable based on the nature of the offence. In the NLS execution broadside collection, 24 out of the 147 (16.3%) broadsides relate to women who were executed. Excluding broadsides which concern executioners and lists of executions, broadsides on female executions account for 18% of the 133 execution notices.[84] As discussed in Chapter 1, around one in ten of those executed in Scotland were female (Bennett, 2017) thus the fact that 18% of broadsides in "The word on the street" collection deal with women indicates a disproportionate higher frequency in which female executions were reported on.

[82] This point of interest was mostly included in cases involving young convicts. However, a few publications included this detail in other cases. This detail humanised the condemned and the impact execution has on the family, thus perhaps elicited more sympathy.

[83] For example, it is noted that the jury recommended mercy for Thomas Connor and Bell McMenemy on account of their youth (NLS Broadside 92, 2019). Additionally, in the case of John Hill and William Hill it is reported that some people went to considerable efforts to save them from execution on account of their youth: "In consequence of their youth, neither of them being above nineteen years of age, a number of humane individuals made considerable exertions in order to obtain a commutation of the sentence" (NLS Broadside 47, 2019).

[84] It is noteworthy that in some cases, there were numerous broadsides on the same execution and in some cases a female was executed alongside a male.

Firstly, the rarity of female executions is acknowledged in a number of broadsides as is the fact that female executions tended to attract larger crowds due to being rarer events.[85] Furthermore, in a number of publications describing a male and female being executed together, the impact of gender is clear, with more attention being offered to the female convict and inferences in one publication that there were gender specific expectations during this time period, suggesting that there was an expectation that women would behave more emotionally than men at their execution.[86]

In a broadside concerning the execution of a woman named Margaret Shuttleworth, who was executed in 1821 for murdering her husband, it is acknowledged that there were efforts for a commutation of her punishment. Furthermore, the event of public execution is described with words such as "horrible" and "appalling" - it being inferred that a female execution is an even more horrible event (NLS Broadside 6, 2019).[87] Whilst the general tone of this broadside does not challenge the punishment of death, it certainly suggests female executions were more controversial and considered as sadder events. In addition, in some publications women's circumstances were described to contextualise their reasons for crime and present women more sympathetically as is evident in a broadside concerning the execution of a married couple in 1829 (NLS Broadside 15, 2019).[88]

[85] This rarity is acknowledged in broadsides concerning the execution of females. For example, a broadside concerning the execution of Thomas Conner and Bell M'Menemy, it is stated "The crowd, as might have been expected, was much greater than usual, on account of the execution of a female, which is fortunately a very rare occurrence in Glasgow, as it is just 61 years since Agnes Dougal was executed at the Howgathead for murder, who is the first woman of whom there is any record of having been capitally punished here; and the last was Agnes White for murder, in 1793, so that it is 35 years since a woman was executed here before" (NLS Broadside 93, 2019). In addition, a broadside concerning the execution of a woman named Catherine Davidson notes that it was the first female execution in Aberdeen for 45 years (NLS Broadside 130, 2019).

[86] In a broadside concerning the execution of a man and woman, namely Thomas Connor and Bell M'Menemy, the interest in the woman is striking. The author of this publication focuses heavily on Bell and little on Thomas in comparison. Notably Bell is presented more positively than Connor, stating "Connor seemed much dejected, and had to be supported to the platform, while M'Menemy, though belonging to the more timid sex, appeared to meet her fate with greater resolution" (NLS Broadside 92, 2019). This represents the male (Connor) and the female (Bell) as having reversed stereotypical gender roles.

[87] As it is stated in this broadside publication: "The appalling apparatus of death was erected yesterday in front of the gaol a spectacle never before witnessed in this place. About the beginning of last week a petition was transmitted to his Majesty, signed by a number of respectable Gentlemen of the town, praying for a commutation of punishment, that the feelings of the inhabitants might be spared the horrible exhibition of a public execution and that too of a female" (NLS Broadside 6, 2019).

[88] In one broadside publication, regarding the execution of John Stuart and Catherine Wright, a married couple who murdered a man, the author presents Catherine sympathetically. It is detailed that she suffered abuse by her husband but she still served him faithfully and treated him with kindness and although while under law

However, sympathy based on gender was expendable as the execution of females was at times presented as being just and female convicts were subject of vilification. Similarly, to the broadside regarding Margaret Shuttleworth's execution, a broadside concerning the execution of a woman named Elizabeth Nicklson[89] who was executed in Glasgow for murder, acknowledges there was an unsuccessful appeal against the execution. Reporting of such appeals was rare and most common in cases concerning women and young people. However, unlike the broadside concerning Margaret Shuttleworth, the author directly criticises those who appealed Elizabeth Nicklson's execution, focusing on the plight of the victims and overtly presenting a retentionist perspective of capital punishment (NLS Broadside 13, 2019).[90] It is also noteworthy that condemned females could at times be subjected to extreme demonisation, as evident in the publication regarding the execution of Christian Sinclair, who was executed after she was found guilty of poisoning her brother's illegitimate infant (NLS Broadside 66, 2019). The general tone of the publication demonises her, referring to her as a "wicked woman" and stating: "the Devil is seldom baffled, when once he gets a firm hold of the human heart" (NLS Broadside 66, 2019). This suggests that the presentation of condemned females varied on a case by case basis, depending on the circumstances of the crime and the author of the broadside, with women guilty of what was considered the most heinous crimes subject of vilification in broadside literature. This resonates with theory discussed in Chapter 1, such as the double deviance theory which suggests that female criminals receive harsher treatment as they are considered to have transgressed two sets of laws and Nagy's (2015) inference that women who use their domestic duties to kill instead of nurture are subject to stricter punishment.

Aside from publications directly relating to women who were executed, much can be gathered based on how women were represented in execution broadsides regarding condemned males. In certain instances of male executions blame was placed on women. For example, in one execution broadside detailing the execution of two men for murdering their wives, namely James Gow and Thomas Beveridge, it is described

---

their sentence had to be the same the author acknowledges that unlike John, Catherine provoked a degree of compassion (NLS Broadside 15, 2019).

[89] Names are at times misspelt in broadsides. "Nicklson" could be a misspelling of the surname Nicholson.

[90] This broadside states "But we have no patience with them their maukish ravings are an outrage on nature and common sense, how humane, and kind, and charitable 'they are to the cold blooded murderer while not a sigh is given for the innocent butchered victims!" (NLS Broadside 13, 2019).

that in James' speech he blames his wife for prompting him to murder her, stating "none could regret his awful situation more than he, if wives were to keep home and make the houses of their husbands more agreeable, such things never could occur ; he hoped his honour would make this public, as a caution to all; the sure way to make a good husband, is to be a good wife" (NLS Broadside 136, 2019). Thus, in this speech the convict blames his crime on the victim for not adhering to his standard of gender roles for women. The sexist attitude by today's standards and the gender specific expectations exhibited by Gow may reflect the view some men had regarding the role of women during this time period. Although the publication was simply reporting Gow's speech, it does not offer any critical commentary on this and therefore is arguably implicitly endorsing Gow's view. However, the murder of his wife is acknowledged as "cruel and unnatural" (NLS Broadside 136, 2019). Moreover, using women as scapegoats in cases of male capital crime is prevalent in certain male infanticide cases.[91] The impact of gender in press representations of capital punishment in the nineteenth century is further explored in Chapter 3's case study analysis of Mary McKinnon, who was executed for murder in 1823.

Nationality and Religious Background of the Condemned

The majority of executions detailed in Scottish broadside publications related to Scottish convicts being executed in Scotland. However, a significant amount of broadsides detailed that the condemned was a native of another country. Excluding broadside publications on executioners (9), executions that occurred outside Scotland (13) and lists of executions (5), in 34 of the 120 (28.3%) execution broadsides on executions in Scotland, the condemned was a native of another country.[92]

Strikingly in 31 out of these 34 publications, Irish was the nationality of the condemned. Therefore, broadside publications relaying the execution of Irish natives

[91] For example, in a broadside detailing the execution of James Day, a man guilty of infanticide, blame is placed on his company with women, stating "James Day is a woeful example of the depravity of human nature, when further corrupted by the debauched company of loose women" and noting that "strange women led him astray from the paths of virtue" (NLS Broadside 137, 2019). This publication is thus attributing some blame of his crime to the influence of women whom were depicted negatively.

[92] It should be noted that some of these broadside publications reported the same execution. Also, in some cases a foreigner was executed alongside a Scottish native.

account for 31 out of 120 (25.8%) of the broadside publications which detailed executions in Scotland. Some of these publications are on executions where an Irish native was executed alongside someone else. Whilst this may seem like a high percentage it is important to note that Scotland has been a familiar destination for Irish migrants since early modern times (Vaughan, 2013). The rate of Irish migration to Scotland particularly accelerated around the time of the Great Irish famine, which occurred from 1845 to 1849 (Vaughan, 2013). The Irish born population accounted for 4.8% of the population in Scotland in 1841, which increased to 7.2% in 1851 (Vaughan, 2013) thus potentially explaining the high number of publications relating to Irish convicts being executed. It is also noteworthy that the execution of the notorious William Burke accounts for four of these publications.[93] However, nationality was not always acknowledged in broadside publications.[94]

Unlike the age, offence and gender of convicts, Irish identity did not factor into representation to the extent of dictating the level of public interest or the degree of sympathy which convicts were lent, as is evident in the contrasts between the two case studies outlined in Chapter 3 (where both convicts are from Ireland). However, what is apparent is that Irish nationality was a detail of interest and that religion (whether Protestant or Roman Catholic) was a distinguishable detail of importance if the convict was from Ireland. When reporting on the execution of Irish natives, the author would often disclose their religion – being either Roman Catholic or Protestant.[95] In one publication the author exhibited inclinations based on generalising Irish Catholics as being bigoted, noting that the Irish man who was to be executed was not bigoted despite being a Catholic, stating “M'Kana, the Irishman, was in every respect most exemplary for his situation, tho' professing the Roman Catholic creed. He was far from being bigoted” (NLS Broadside 80, 2019). The

[93] William Burke and William Hare, who were responsible for 16 murders and selling the bodies to anatomist Dr.John Knox (Dudley Edwards, 2014).

[94] Significantly, the nationality of the condemned is not mentioned in a number of publications. For example, the two broadsides concerning the execution of Mary McKinnon fail to mention that she was born in Ireland (NLS Broadside 85, 2019: NLS Broadside 87, 2019) – this detail is documented in a biographical account as discussed in chapter 3. Also, in broadsides regarding William Burke and William Hare, the fact that they are from Ireland is not mentioned in two of the four broadsides. Albeit this may have been general knowledge at this point in time as evidently they both received considerable press attention prior to Burke’s execution.

[95] For example, in a broadside publication regarding the execution of Andrew Stewart and Edward Kelly the author notes they are both from Ireland but distinguishes Kelly as a Catholic and Stewart as a Protestant (NLS Broadside 38, 2019).

suggestion was that Irish Catholics tend to be bigoted despite this not being the case with M'Kana.

There are a few potential explanations about why the religion of Irish natives was a detail of interest. Irish Protestants, usually from the northern nine counties of Ulster, "The Ulster Scots", had strong cultural ties with Scotland and naturally blended in a Protestant majority country (Vaughan, 2013). This is described as "the invisibility of Irish Protestants" (Vaughan, 2013, p. 25). Walls and Williams (2010) note that the influx of Irish Catholics in the nineteenth century cemented the Catholic religion as a marker of an alien Irish identity in a predominantly Protestant Scotland. Distinguishing Irish people based on their religion was perhaps natural for authors of broadside publications during this time period.

Moreover, amongst the distinction between Irish Catholics and Irish Protestants there existed a significant degree of anti-Catholic bigotry within Scotland during the nineteenth century (Bruce, 2004).[96] Whilst anti-Catholic bigotry was not generally apparent in broadside publications, the anti-Catholic sentiment that existed in Scotland during this time period may explain the referenced case where the author seemingly had prejudiced notions of Irish Catholics being bigoted, with the condemned man being an exception. This also may explain why the distinction between Irish Catholics and Protestants in reports was noteworthy in the first place.

Aside from broadsides on Irish being executed, there are an additional three broadsides in the NLS collection of executions in Scotland, describing foreign nationals being executed. Two relate to the execution of a French man, Francois Gautiez, who was executed along with an English man, Peter Haeman, in Leith (NLS Broadside 20, 2019: NLS Broadside 53, 2019). One broadside related to the execution of a Danish seaman, Hans Regelson, who was executed in Perth for raping a 17 year old female (NLS Broadside 57, 2019). In contrast to the representation of Irish convicts, Regelson is referred to as a "foreigner" and his foreign nationality is emphasised throughout the broadside (NLS Broadside 57, 2019).[97] Unlike the representation of Irish convicts, Ragelson's nationality served as

[96] Bruce (2004) states "Irish migration provided both the object and stimulus for anti-Catholicism", noting that Irish Catholics were often discriminately disadvantaged in the Scottish Labour market.

[97] This suggests that whilst Irish convicts may have been distinguishable as coming from a neighbouring island, they were not considered as "foreigners". This is perhaps due to the strong cultural ties, close geographical

a factor that elicited sympathy: a focus of the broadside concerning Ragelson was on the sympathy of the crowd for a "foreigner" dying abroad (NLS Broadside 57, 2019).[98] Hence, in this case there is no evidence of xenophobia and surprisingly Regelson's foreign nationality served as a factor which is presented as having elicited sympathy from the spectators.

The impact of religion in execution broadside representations is also apparent in other contexts. Three of the broadside publications regarding executions from outside Scotland relate to the Jacobite rising. Two of the three broadsides describe the execution of Coll Oxburgh, who was executed at Tyburn for being a Catholic Jacobite who fought at the Battle of Preston. It is noted that in his dying speech he stated that regardless of his Catholic faith, he believed it was his duty to support King James III, suggesting that even if he was not a Catholic, he would still support the Catholic King James III of Britain and Ireland (NLS Broadside 67, 2019: NLS Broadside 118, 2019). An additional broadside detailed the execution of five unnamed men in London for raising a pro Jacobite mob. This broadside publication is very anti-Jacobite in presentation.[99] Additionally, the five men are referred to as "rebellious wretches" and notably, a Protestant victim is named but the five Catholic men who were executed are not named. This further suggests that church affiliation factored into representation in execution broadsides in certain contexts. This is particularly apparent when church affiliation is aligned with political affiliations as is evidently the case here (regarding the Jacobite Rising), but also the case concerning Irish convicts, as Catholicism is associated with Irish republicanism and Protestantism is associated with Unionism.

---

distance and political union which Ireland maintained with Britain from 1801 until 1921 – when the partition of Ireland occurred.

[98] Despite this being an aggravated assault, Ragelson is reported to have elicited sympathy from the Scottish public, which is acknowledged in this broadside publication. It is stated that "The fate of this unhappy foreigner excited a very general sympathy and every attention was paid him during his confinement" and "The sympathy of the spectators for this unfortunate foreigner was very apparent and they expressed their feelings when he made his exit by a universal ejaculation of pity, in a low and mournful tone of voice" (NLS Broadside 57, 2019).

[99] King James is referred to as "the old pretender" and his son is referred to as "the young pretender". The author suggests that their crime can only be responded to with death, stating "Every honest man is sensible, how unjustly the Rebellious Faction complains of cruelty, when any of their number is punished according to law, for such crimes as in all civiliz'd nations are reckoned to be expiable no other ways than by Death" (NLS Broadside 111, 2019).

Theories of Crime and Execution Broadsides

Overall there is no one dominant view that has emerged regarding an explanation of criminal behaviour in broadside publications in the NLS collection. Generally, there was little discussion regarding the root causes of crime in NLS broadside publications. However, there are a few instances where direct inferences concerning the cause of crime were made. In other instances, attitudes towards the cause of crime were presented more implicitly.

As discussed in the literature review, in the early nineteenth century, crime was beginning to be considered a class problem, with poor people being deemed as responsible for the growing number of property crimes (Emsley, 2010). This aligns with the broadside concerning the execution of John M'Creevie, who was executed for housebreaking and theft, published in 1823. As mentioned, this broadside suggests that crime is caused by poverty and unemployment, asserting that if everyone had the opportunity to make a livelihood, a number of crimes would be prevented (NLS Broadside 34, 2019).

Moreover, as discussed in the literature review, Lombroso's theory emerging in the late nineteenth century attributed crime to biological factors and certain physical deformities. The connection between beauty and ugliness to good and evil behaviour both pre-exists and succeeds Lombroso (Lilly et al, 2011). The association with perceived ugliness and bad behaviour (which predated Lombroso) is reflected in sketches of the Gilmerton murderers, published in 1830 as displayed in Image 5. The NLS commentary notes that the sketches of David Dobie and John Thomas presented in this broadside are unflattering (NLS Broadside 48, 2019). This suggests that criminals were at times depicted as being ugly. Furthermore, language used such as "monster" to describe certain convicts, paints an ugly picture and suggests that these people are inherently bad. However, as discussed, this portrayal in broadsides did not often extend to young convicts, who were at times portrayed as exhibiting attractive physical features, thus, contributing to the generally more favourable depiction of younger convicts, as previously discussed.

Image 5*: Sketches of Gilmerton Murderers* (NLS Broadside 48, 2019)

As discussed in the literature review, Beccaria's ideas of crime being a rational choice based on the calculation of costs and benefits of actions was gaining prevalence in the eighteenth century (Bernard et al, 2010). This theory is reflected in broadsides through the use of warnings, as discussed in previous sections of this chapter, and the depiction of convicts as being foolish to commit such actions with the belief that they would not be punished. The use of warning as a method of deterrence suggests support of the idea that the general public would rationally weigh up the costs/benefits and not commit crime because the cost of death is too high, as discussed in Chapter 1.

The eighteenth century was a period between two phases of attitudes towards crime (the spiritualistic approach and the classical, naturalistic approach). Whilst the spiritualistic approach was becoming outdated during the eighteenth century, there were references made to the influence of the devil, suggesting otherworldly powers influenced people to commit crime in a number of broadsides.[100] Notably, two of these broadsides were published in the early nineteenth century when spiritualistic approaches would have been considered even more outdated than in the eighteenth century. It is noted that a number of the executed witches had meetings with the

[100] For example, in a broadside publication regarding the execution of Christian Sinclair, published in 1813, it is suggested that the devil got hold of her heart, stating "the devil is seldom baffled once he gets hold of the human heart" (NLS Broadside 66, 2019). Similarly, crime is attributed as works of the devil in a broadside regarding Margaret Davidson's execution, published in 1830 (NLS Broadside 128, 2019) and in a broadside regarding Margaret Dixon's execution, published in 1724 (NLS Broadside 146, 2019).

devil (NLS Broadside 143, 2019).[101] Given the context, it is not clear if these statements were metaphorical or not.

Furthermore, the idea that insanity could be a root cause of crime is inferred in one broadside published in 1832 concerning a man named John Howison[102] who was executed for murder.[103] As outlined in Chapter 1, the idea that someone could be criminally irresponsible as a result of insanity would have been a fairly new concept at this point in history as it was only introduced in Scotland in the early nineteenth century.

The fact that no one dominant view of the causes of crime in this period is apparent in broadside literature may be reflective of the fact that this was an era of transition in the attitudes towards crime. Naturalistic theories were emerging, such as classical theory and theories linking crime to class, in opposition to the pre-existing spiritualistic approaches. In addition, the idea that someone could be criminally irresponsible as a result of mental illness was emerging. However, it should be acknowledged that broadside literature is by and for working class people, as has been discussed in Chapter 1. Thus, representations in broadsides would have contributed to wider social debate concerning root causes of crime but may not reflect emerging theoretical ideas among experts at the time. As outlined in Chapter 1, Bernard et al (2011) asserts that classical thinking was well received among intellectuals by the mid eighteenth century but did not represent the views of the powerful groups who ruled Europe at the time. Thus, it would have been equally unlikely that classical thinking had entered the consciousness of street literature's

[101] One broadside, published in the early nineteenth century, lists executions and trials of people guilty of witchcraft, adultery and fornication (NLS Broadside 143. 2019). This publication details cases of witches who were tried and executed in the sixteenth, seventeenth and early eighteenth centuries. There is reference to some of the witches having meetings with the devil. This supports the theory that the spiritualistic approach to crime was more prevalent prior to the eighteenth century as evident in this publication.

[102] In one publication regarding the execution of John Howison, a man guilty of murdering an old woman "by cutting her face with a garden spade, down and across her face, which laid it fully open, in a shocking manner, even in broad day-light" it is detailed that a plea of insanity was put forward in defence but was rejected because of medical and other evidence.

[103] The broadside publication reports that people visited him in order to test his sanity, with the most prevalent opinion being by those who did that he was sane. It is stated "Several persons obtained permission to visit him since his condemnation, in order to satisfy themselves as to his sanity; of course, there were various opinions formed. The most prevalent opinion, however, by all those who had the best opportunities of forming any, correctly, was, that the more was seen of him, the more he seemed to be perfectly sane; and he even spurned the very idea of his being, in any manner whatever, considered insane" (NLS Broadside 78, 2019). This suggests that considerable lengths were reached to ensure that rejecting the insanity plea was the correct decision and also suggests that there was considerable discussion regarding the fact as to whether or not John was sane or insane.

writers and audiences. Resistance to or unawareness of classical theories could explain why spiritualistic understandings of crime were still prevalent in eighteenth and nineteenth century broadside literature.

Chapter Conclusion

This chapter has found that the voice of the law and the voice of the convict is consistent throughout execution broadsides. However, the voices of the author, the crowd and God in broadsides were subject to change, depending on who was being executed and what they were being executed for. Subsequently, Scottish execution broadsides contained contradictory discourses which can be interpreted as serving didactic functions, as well as offering the convict a voice as a means of contextualisation, which arguably creates a resistant cultural space, as suggested by O'Brien (2001). This indicates that arguments put forward by O'Brien (2001) and Schwan (2014) in relation to the complexity of execution broadsides in England, can be deemed valid in a Scottish context as well. These findings subsequently illustrate that the majority of execution broadsides were not "black or white" representations, in contrast to Knelman's (2008, p. 20) claim. However, adding to existing scholarship, my findings illustrate that the degree of complexity varied, dictated by the identity and offence of the convict. Findings in the succeeding chapter (Chapter 3) further illustrate the variant in this degree of complexity and further explore the impact of gender in representation through a case study analysis of the two most famous executions in Scottish history.

Chapter 3: Case Study Analysis of Mary McKinnon and William Burke

Chapter Introduction

This chapter contains a deeper analysis of the representation, extending analysis beyond broadside publications to newspaper publications, of two very famous executions from the early nineteenth century, that of Mary McKinnon in 1823 and William Burke in 1829. This includes analysis of the intersection of the five differing viewpoints, voices of; the convict, the audience, God, the author and the law, as discussed in Chapter 2. Consistency is apparent in the voice of the convict and the voice of the law. However, the voice of the audience, the voice of God and the voice of the author are found to be the subject of change, as evident in these two highly contrasting case studies. Further supporting arguments outlined in Chapter 2, this chapter illustrates that the representation of Mary McKinnon in broadside and press publications can be considered of greater complexity than that of William Burke. This chapter also explores other themes which impacted representation in these two case studies. Adding to findings relating to gender outlined in Chapter 2, the case study analysis of Mary McKinnon highlights that women were often the subject of sexual objectification in representation and prompted social debate regarding the role of gender and crime.

Case Study 1: The Life, Trial and Execution of Mary McKinnon

One case which attracted a great deal of attention was the crime and execution of Mary McKinnon. Groves (1988) described McKinnon's execution as "one of the most controversial events in the Romantic age in Britain".[104] On the evening of the 8th of February 1823, a group of young men visited a brothel run by McKinnon on the South Bridge, Edinburgh (Groves, 1998; Young, 1998). The men refused to pay the bill before leaving which initiated a drunken brawl. McKinnon returned during the

[104] Romanticism was an artistic and intellectual movement, which took place in Europe between the late eighteenth and mid-nineteenth centuries. This Romantic Movement emphasised the importance of individual subjectivity and emotional sensitivity (National Trust, 2019).

drunken brawl and attempted to force the men to leave the house, which prompted her to attack a man named William Howat[105] with a knife. A stab wound resulted in his death, and subsequently McKinnon was charged with murder and executed in Edinburgh in 1823 (Groves, 1987; Young, 1998). The controversy during the period of trial and execution arose from her being convicted on "flimsy evidence" and from her troublesome background (Groves, 1988). Groves (1987) highlights that Francis Jeffrey[106] presented a strong but unsuccessful defence for McKinnon in court, stressing that Howat was intoxicated and highlighting the inconsistencies in the recollection of the men who were present, asserting that there was no robust evidence to convict McKinnon. McKinnon is reported as a 32 year old woman from Ireland, although there is a lack of consistency in the reporting of these details.[107] As discussed in Chapter 1, Bennett (2017) suggests that it was her position in society as a brothel keeper which prompted the court to pass the death sentence, as opposed to the circumstances of her crime. Findings outlined in this chapter indicate that this also impacted her representation in the press as she was the subject of sexual objectification. The controversy of the case is also apparent in press representations as there was a mixed press response, which will be discussed in this chapter.

In the NLS "word on the street" collection, there are two broadside publications concerning the execution of McKinnon (NLS Broadside 85, 2019: NLS Broadside 87, 2019). However, Groves (1988) notes that at least eight ballads concerning McKinnon were published on the day of her execution.[108] Aside from broadside publications, McKinnon's trial and execution were reported in newspaper publications. *The Edinburgh Literary Gazette*[109] published a special twelve-page issue which was concerned solely with McKinnon's trial and execution (Groves,

[105] Young (1998) notes that William Howat was a solicitor's clerk.

[106] Referring to Lord Francis Jeffrey (1773 – 1850) who was a literary critic and a judge (National Records Scotland, 2019a).

[107] A report entitled "Execution" notes McKinnon as being 28 years old whereas *Edinburgh Observer's* (1823) biographical account describes her as being 32 years old, stating: "she was born in Ireland about 32 years since".

[108] This confirms the fact that NLS collection is limited and hence this study is only capable of providing a selective, partial insight into the culture of broadsides at the time.

[109] Furthermore, the *Edinburgh Literary Gazette* was concerned with publishing literature (Groves, 1988). Some of their well-known contributors were established novelists and poets, including: John Galt, Thomas Hood, Allan Cunningham, Thomas De Quincey and Rev. Andrew Crichton (Groves, 1991). Groves (1991) speculates that these authors remained anonymous in the *Edinburgh Literary Gazette* due to not wanting to jeopardise their position in more "lucrative" journals, such as *Blackwood's Magazine*.

1988), and the *Edinburgh Observer*[110] published a fifteen-page biographical account concerning McKinnon's life (Groves, 1978). Groves (1988) notes that it is "remarkable" that the *Edinburgh Literary Gazette* would make such a publication as it was occupied exclusively with literature. This therefore highlights the unusual press fascination with McKinnon's case.[111]

Representation in Broadsides – Voice of the Author

As discussed in Chapter 1, Schwan (2014) highlights that broadsides were written by anonymous authors, who were paid very little. However, as has been highlighted in Chapter 2, the voice of the author plays a key role in shaping representation of capital convicts. Groves (1987) highlights that McKinnon elicited a great deal of public sympathy from the time of her trial to execution.[112] This is apparent in the sympathetic representation of McKinnon in *Edinburgh Observer's* Biographical Account, which tells the story of McKinnon's troublesome background, including the early death of her mother, her lack of education, her "seduction"[113] at fifteen and the birth of her illegitimate child. Groves (1987) additionally notes extracts from the account which portrays her as a subject of sympathy and highlights her good moral character. The sympathetic tone is prevalent throughout *Edinburgh Observer's* (1823) biographical account, evident in additional extracts not quoted by Groves such as "Thus was Mary Mackinnon the victim of circumstances, rather than the votary of vice; and hence it must be evident that she did not sin through a natural depravity of disposition" (p. 9).

[110] In regards to target readership, the *Edinburgh Observer* was reported to have taken over from the *Edinburgh Correspondent*, which existed from 1818 to 1822 (*Glasgow Citizen*, 1845). The *Edinburgh Correspondent* was "ultra-Tory" in its politics (*Glasgow Citizen*, 1845). However, the *Edinburgh Observer*, which replaced the *Edinburgh Correspondent*, published three times a week but was described as not exactly the same in its character as the *Edinburgh Correspondent* (*Glasgow Citizen*, 1845). However, it is unclear what the political allegiance or target readership of the publication was in 1823, when McKinnon's biographical account was published.

[111] A number of additional broadsides (not in the "word on the street" collection), the *Edinburgh Observer* Biographical Account and *Edinburgh Literary Gazette's* issue, on Mary McKinnon, are available via the NLS special collections.

[112] This section outlines Groves' findings and subsequently adds to his insights through outlining how Mary McKinnon's execution was depicted in broadside literature to gain a wider insight into the representation of the case.

[113] Leneman (1999) notes that "seduction" in eighteenth and nineteenth century Scotland meant when an unmarried man and an unmarried woman had sex together as it was generally assumed that the man persuaded or "seduced" the woman into this, as it was the woman who ran the risk of pregnancy. This implies that women were not considered to have the same kind of sexual desires as men and that agency lies with men only.

Groves (1998) acknowledges that at least eight broadsides were published relating to McKinnon on the day of her execution but does not offer commentary as to how broadside publications depicted McKinnon. This section of the chapter is thus dedicated to adding to scholarship through analysing broadside material regarding McKinnon's execution and comparing broadside representations to newspaper representations. Similar to newspaper authors reporting on McKinnon's case, the voice of a number of broadside authors humanised McKinnon through the choice of language and details which were included. McKinnon is referred to in one broadside publication as a "victim of passion" (NLS Broadside 87, 2019), quite similar to the *Edinburgh Observer* referring to her as a "victim of circumstance".[114] This representation of her being a victim of circumstance resonates with theories which attribute crime to external factors, as opposed to theories which attribute crime to nature, as discussed in Chapter 1. Additionally, the other broadside in the NLS collection acknowledges some of her difficult circumstances, such as her having to raise an infant on her own,[115] being abandoned by her "seducer" and her problematic relationship with her father (NLS Broadside 85, 2019). Consequently, this publication notes, "There are few tender hearts but will feel for her at this juncture". This, in effect, humanised her and her circumstances more to the readership.

However, there was no united press response concerning the execution of McKinnon. Groves (1987) notes that McKinnon failed to elicit sympathy from certain newspaper publications as the main Tory newspaper in Edinburgh, the *Edinburgh Weekly Journal,* published an article expressing disbelief that a petition for mercy had been carried around the city for signatures on behalf of this "miserable woman" (referring to McKinnon).[116] This aligns with the general hypothesis inferred by numerous authors (Casey, 2010; Gregory, 2012; Wiener, 2007) that representation varied depending on the publication, as discussed in Chapter 1. The effect of this is that the public's perception of McKinnon and her circumstances would have been

[114] Whilst this phrase "victim of passion" is open to interpretation, it infers she is guilty of committing a "crime of passion", as having acted out of impulse and passion in a difficult scenario, opposed to it being a premeditated murder. This phrase thus may have served to distinguish her murder from premeditated homicides, which were considered as more aggravated.

[115] This broadside mentions her maternal love for her son "her little BEN ONI; on the charms of whose innocence, her mind always delighted to dwell, with the most enthusiastic affection. This child at the age of 8 years was sent to London, and there still remains. This is from her own mouth" (NLS Broadside 85, 2019).

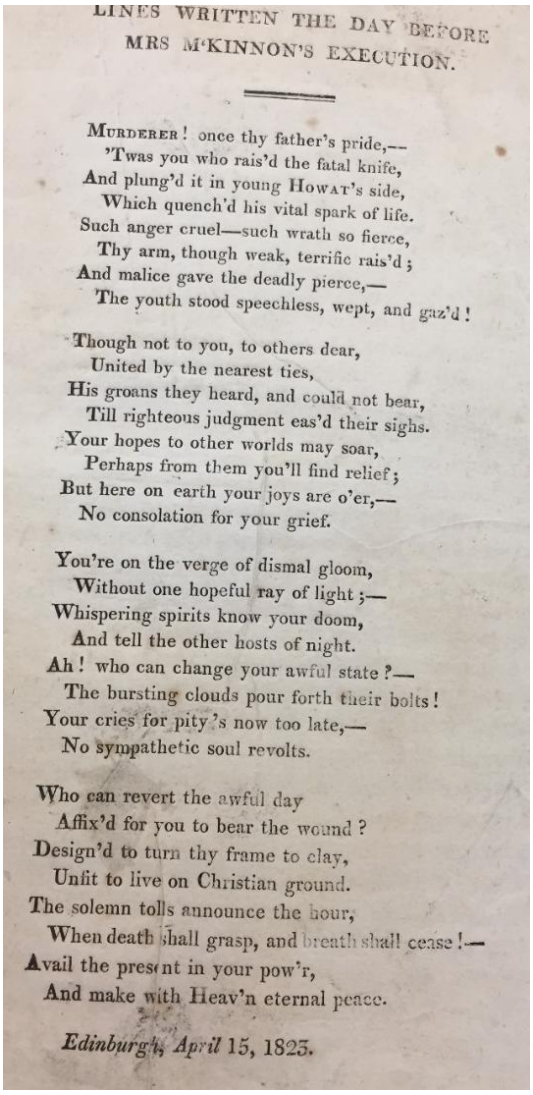
[116] This evident contrast in reporting in different publications resonates with literature outlined in Chapter 1 whereby as discussed, authors argue that certain elitist publications approach capital punishment from a conservative stance and are harsher on convicts who are typically from humbler backgrounds (Wiener, 2007).

influenced differently depending on which publication individuals chose to read (or which may have been determined by social status). This mixed press response is also apparent in broadside publications: One broadside entitled “Lines Written the Day before Miss. McKinnon’s Execution”[117] presents McKinnon’s case via a poem as displayed in Image 6. This poem portrays McKinnon negatively, emphasising the cruelty of her crime and suggests that she is not worthy of living, by stating she is “Unfit to live on Christian Ground”. This publication also infers that no one will feel sorry for her, stating “No sympathetic soul revolts”.[118] This is in significant contrast to how McKinnon was depicted in other publications such as the *Edinburgh Observer’*s Biographical Account. However, these contradictory discourses resonate with existing scholarship outlined in Chapter 1 and Chapter 2, further illustrating the complexity of broadside representations.

[117] In additional broadside publications made available via the National Library of Scotland special collections (not included in the “word on the street” collection) offers insight as to how she was depicted in other broadside publications.

[118] This broadside is written in second person as the writer is directing the poem at McKinnon. There is frequent use of the words “you”, “your” and “you’re” in direct reference to McKinnon. For example: “Twas you who rais’d the fatal knife” and “You’re on the verge of dismal gloom” (Special Collections Broadside 1, 1823). Broadsides written in the second person were more uncommon as most execution broadsides in the NLS “word on the street” collection were written in the first or the third person.

Image 6: *Broadside "Lines Written the Day before Mrs McKinnon's Execution"* (Special Collections Broadside 1, 1823)



LINES WRITTEN THE DAY BEFORE
MRS M'KINNON'S EXECUTION.

MURDERER! once thy father's pride,—
'Twas you who rais'd the fatal knife,
And plung'd it in young HOWAT's side,
Which quench'd his vital spark of life.
Such anger cruel—such wrath so fierce,
Thy arm, though weak, terrific rais'd;
And malice gave the deadly pierce,—
The youth stood speechless, wept, and gaz'd!

Though not to you, to others dear,
United by the nearest ties,
His groans they heard, and could not bear,
Till righteous judgment eas'd their sighs.
Your hopes to other worlds may soar,
Perhaps from them you'll find relief;
But here on earth your joys are o'er,—
No consolation for your grief.

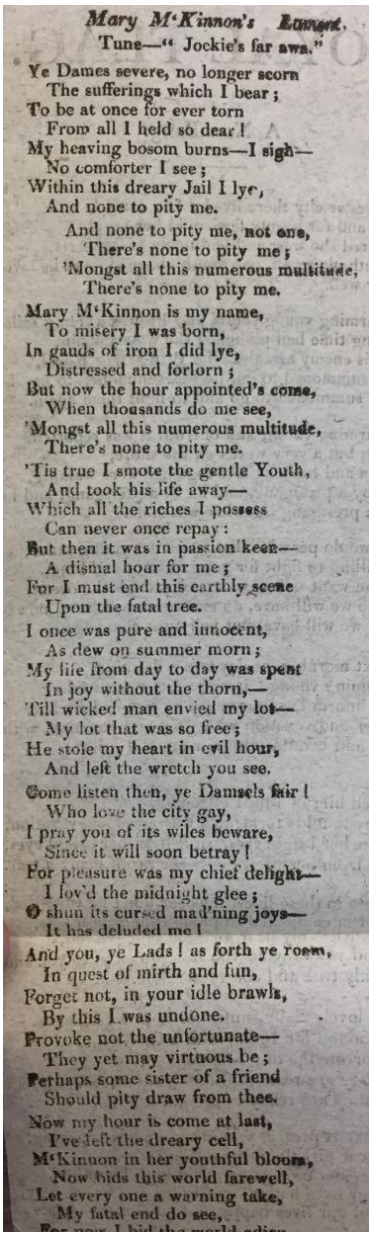
You're on the verge of dismal gloom,
Without one hopeful ray of light;—
Whispering spirits know your doom,
And tell the other hosts of night.
Ah! who can change your awful state?—
The bursting clouds pour forth their bolts!
Your cries for pity 's now too late,—
No sympathetic soul revolts.

Who can revert the awful day
Affix'd for you to bear the wound?
Design'd to turn thy frame to clay,
Unfit to live on Christian ground.
The solemn tolls announce the hour,
When death shall grasp, and breath shall cease!—
Avail the present in your pow'r,
And make with Heav'n eternal peace.

Edinburgh, April 15, 1823.

This broadside publication was not alone in portraying McKinnon in this manner. Another broadside publication entitled "Mary McKinnon's Lament. Tune: Jockies for Awa" presented the case in a song written from McKinnon's perspective as displayed in image 7. Whilst the broadside mentions McKinnon's difficult background, it is also directly inferred that no one would pity her.

Image 7: *Broadside entitled "Mary McKinnon's Lament"* (Special Collections Broadside 2, 1823)



Mary M'Kinnon's Lament.

Tune—"Jockie's far awa."

Ye Dames severe, no longer scorn
The sufferings which I bear;
To be at once for ever torn
From all I held so dear!
My heaving bosom burns—I sigh—
No comforter I see;
Within this dreary Jail I lye,
And none to pity me.

And none to pity me, not one,
There's none to pity me;
'Mongst all this numerous multitude,
There's none to pity me.

Mary M'Kinnon is my name,
To misery I was born,
In gauds of iron I did lye,
Distressed and forlorn;
But now the hour appointed's come,
When thousands do me see,
'Mongst all this numerous multitude,
There's none to pity me.

'Tis true I smote the gentle Youth,
And took his life away—
Which all the riches I possess
Can never once repay:
But then it was in passion keen—
A dismal hour for me;
For I must end this earthly scene
Upon the fatal tree.

I once was pure and innocent,
As dew on summer morn;
My life from day to day was spent
In joy without the thorn,—
Till wicked man envied my lot—
My lot that was so free;
He stole my heart in evil hour,
And left the wretch you see.

Come listen then, ye Damsels fair!
Who love the city gay,
I pray you of its wiles beware,
Since it will soon betray!
For pleasure was my chief delight—
I lov'd the midnight glee;
O shun its cursed mad'ning joys—
It has deluded me!

And you, ye Lads! as forth ye roam,
In quest of mirth and fun,
Forget not, in your idle brawls,
By this I was undone.
Provoke not the unfortunate—
They yet may virtuous be;
Perhaps some sister of a friend
Should pity draw from thee.

Now my hour is come at last,
I've left the dreary cell,
M'Kinnon in her youthful bloom,
Now bids this world farewell,
Let every one a warning take,
My fatal end do see,
For now I bid the world adieu

Voice of the Audience

It is consistently emphasised in broadside and newspaper publications that an unusually great number was present at McKinnon's execution, with estimates ranging from 20,000 to 30,000, thus further highlighting the public fascination in relation to McKinnon's execution.[119] The voice of the crowd was depicted as being

[119] For example, Groves (1987) notes an article in the *Glasgow Courier* published on the April 17th, 1823 reports "no execution since that of [Deacon] Broadie, in the 1788, has excited so powerful a sensation as that of Mrs. McKinnon". One broadside publication reports that "it is calculated that not less than 30,000" were in attendance (NLS Broadside 87, 2019). Whereas, the biographical accounts estimate is more conservative,

harmonious and “melancholic”, inferring that her execution was a sad spectacle. The sadness of the occasion and the crowd’s sympathy is emphasised in the *Edinburgh Observer*’s (1823) biographical account which stated: “there was no tumult or disorder: the utmost quiet and harmony prevailed throughout the whole scene, and after the handkerchief fell, the sympathy was expressive and universal” (p. 15). Such a description is in stark contrast to that of a carnivalesque atmosphere. It is also noted that a vast number of females were present in the large crowd, with the suggestion that many of them were prostitutes, stating “We remarked among the multitude a vast number of females, many of whom pursue the unhallowed trade of the deceased”. Whilst it is unclear how the author concluded that many of the females present were prostitutes, this infers that prostitution was considered an unholy occupation and that the execution of McKinnon was of particular interest to women, especially women who pursued the same trade and had similar life experiences. In addition, the voice of the audience in these broadsides is generally similar to that in the *Edinburgh Observer*’s biographical account in presenting McKinnon’s execution as a sad occurrence, through describing it as a “lamentable occasion” (NLS Broadside 87, 2019).[120]

Voice of the Law

The consistent voice of the law is present in broadsides concerning McKinnon’s execution, serving to warn readers against temptations of crime.[121] The voice of the law extended to newspaper representations of McKinnon’s execution. As discussed, a sympathetic tone was prevalent throughout *Edinburgh Observer*’s (1823) biographical account. However, the voice of the law is still present as the account closes suggesting that a severe example has to be made when crime is committed and the closing line states that whilst she is worthy of sympathy she should still not be forgiven for her offense (p. 15).

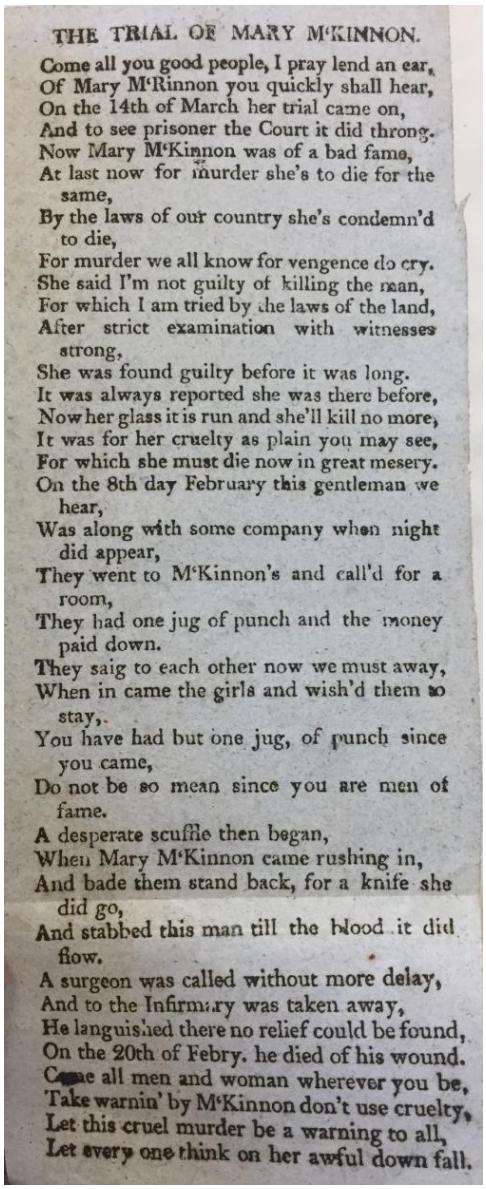
noting “the number cannot be estimated at less than 20,000” but emphasises that there was a considerably large “unbroken mass” (p. 15). This suggests that these figures were simply estimates, judged differently by different authors.

[120] Notably, the broadside entitled “Lines Written the day before Mrs. McKinnon’s execution” (displayed in Image 21) states “no sympathetic soul revolts”. However, as this was published prior to McKinnon’s execution cannot be considered a representative voice of the audience.

[121] One of the broadside publications notes her committing outrage on the laws of God and how her execution should serve as a warning: “the outrage which she had committed on the laws of God, and of her country, an awful warning to the dissipated of the one sex, and the vicious of the other” (NLS Broadside 87, 2019). In addition, in the broadside entitled “Mary McKinnon’s Lament” closes with a generic warning, stating “Now hide this world farewell, Let every one a warning take. My fatal end do see”.

In a number of publications concerning McKinnon, it is inferred that the victim (William Howat) played a key role, which contributed to initiating the brawl. Subsequently, publications concerning the case contain moral messages with the underlying message of encouraging young men (as well as young women) to improve their moral conduct. For example, the poem displayed above (Image 7) states: “And you, ye Lads as forth ye roam, in quest of mirth and fun,/ Forget not, in your idle brawls, by this I was undone”. This attributes some blame to men who initiated the brawl, advising young men to change their behaviour and is perhaps more implicitly a warning towards young men of the dangers of availing of prostitutes. This message of warning is also inferred in the closing lines of an additional broadside concerning McKinnon’s trial, displayed below in Image 8, which states: “Come all men and women, wherever you be. Take Warnin by McKinnon don’t use cruelty, let this cruel murder be a warning to all, let everyone think on her awful downfall”. This narrative extends beyond broadside reports as the *Edinburgh Observer* (1823) infers that the immoral actions of McKinnon and Howat (in McKinnon’s case being promiscuous and in Howat’s case being intoxicated) led to the execution of McKinnon, as it is stated “It was in the squabble occasioned by the intoxication of one party and the licentiousness of the other, that the crime was committed for which Mary Mackinnon [sic], has, this morning, paid” (p. 4). In addition, *The Edinburgh Literary Gazette* (1823) reported that Lord Meadowbank mentioned the role men play in causing women to commit such acts. This consistent voice of the law (which is generally present in broadside publications, as discussed in Chapter 2) is also present in publications concerning McKinnon. However, what is rare in this case is that the voice of the law is being used to criticise the behaviour of the victim as well as the convict. This signifies McKinnon’s case prompted wider discussion on the role of gender and crime.

Image 8: *Broadside entitled "The Trial of Mary McKinnon"* (Special Collections Broadside 3, 1823)



THE TRIAL OF MARY M'KINNON.

Come all you good people, I pray lend an ear,
Of Mary M'Rinnon you quickly shall hear,
On the 14th of March her trial came on,
And to see prisoner the Court it did throng.
Now Mary M'Kinnon was of a bad fame,
At last now for murder she's to die for the same,
By the laws of our country she's condemn'd to die,
For murder we all know for vengence do cry.
She said I'm not guilty of killing the man,
For which I am tried by the laws of the land,
After strict examination with witnesses strong,
She was found guilty before it was long.
It was always reported she was there before,
Now her glass it is run and she'll kill no more,
It was for her cruelty as plain you may see,
For which she must die now in great mesery.
On the 8th day February this gentleman we hear,
Was along with some company when night did appear,
They went to M'Kinnon's and call'd for a room,
They had one jug of punch and the money paid down.
They saig to each other now we must away,
When in came the girls and wish'd them to stay,.
You have had but one jug, of punch since you came,
Do not be so mean since you are men of fame.
A desperate scuffle then began,
When Mary M'Kinnon came rushing in,
And bade them stand back, for a knife she did go,
And stabbed this man till the blood it did flow.
A surgeon was called without more delay,
And to the Infirmary was taken away,
He languished there no relief could be found,
On the 20th of Febry. he died of his wound.
Come all men and woman wherever you be,
Take warnin' by M'Kinnon don't use cruelty,
Let this cruel murder be a warning to all,
Let every one think on her awful down fall.

Account/Voice of the Convict and their Salvation

An account of McKinnon's perceived thoughts, actions and conduct is portrayed in a number of broadside publications – presented through third person narratives. The account of her behaviour is consistent with that of other convicts; being presented as sorrowful and conducting herself with "greatest propriety" (NLS Broadside 87, 2019). Thus, the common contradictory discourses of broadsides are present in this representation – as discussed in Chapter 2 – serving didactic functions and lending sympathy. In addition, the voice of the convict (McKinnon) is also consistent with that of other convicts – in broadsides which present McKinnon's voice through first

person narrative, as in the broadside entitled “Mary McKinnon’s Lament” (displayed in Image 7). In contrast to documented details of the crime, this song presents the victim, Mr. Howat, as a gentle young man, stating “I smote the gentle youth”. Presenting this song as being written from the convict’s perspective in effect offers the audience ideas (although completely speculative and most likely inaccurate), context, reasons and justifications one may have had for committing murder and/or one’s feelings of being convicted. This specific publication takes this opportunity to present McKinnon as knowingly and deliberately having done wrong and thus confessing of being undeserving of public sympathy. This form of representation could have guided the audience towards believing that not even McKinnon believed she deserved mercy, and so people may have concluded that they too should not be sympathetic towards her, contrary to publications which suggest that she did appeal for mercy.

As discussed in Chapter 2, certain convicts are presented with pessimism when debating their prospect of achieving salvation and forgiveness from God. The voice of God in McKinnon’s case is represented as being one of forgiveness - suggesting that McKinnon is redeemable, as is stated “but she died in peace with all men; she trusted in Him who hath said, ‘He that sincerely repenteth shall be freely forgiven’" (NLS Broadside 87, 2019). The inference that McKinnon was forgivable in the eyes of God thus attributed to the generally sympathetic portrayal of her in press publications.

The Impact of Gender

The fact that McKinnon ran a brothel was commonly emphasised in press publications and a significant detail of the story. Bennett (2017) argues her identity as a brothel keeper impacted her treatment in court. Moreover, this thesis argues it impacted on how press publications presented her case. Indeed, based on findings a century after McKinnon’s trial and execution, Bland (2013) argues that female sexual transgression played a significant role in how female convicts were treated and represented in Britain. In analysing trials of women in the early twentieth century, Bland (2013, p. 217) finds that the moral message of trials was often that “women needed to curb their selfish sensation seeking and their transgressive sexual desires”. Women who were considered sexually transgressive were treated

considerably harsher by the courts and the press which resonates with the "double deviance" theory, as discussed in Chapter 1. For example, it is noted that Edith Thompson, a woman who was considered sexually transgressive, was executed in dubious circumstances for the murder of her husband and was widely considered culpable and problematic. However, other women involved in similar trials, such as Christabel Russell, who presented herself as asexual, were treated considerably more favourably than Edith Thompson by the courts and the press. This same type of attitude towards women may have contributed to McKinnon's sentence, similarly to Edith Thompson; she was executed on what is described as "flimsy evidence".

Furthermore, on top of inferences that McKinnon was promiscuous (as previously discussed), one striking point of interest that was consistently reported on regarding McKinnon's execution was that she wore a black silk dress. This detail was reported in one of the NLS execution broadsides, which states "Mrs, M'Kinnon was elegantly dressed in a black silk gown, trimmed with white lace at the bottom. Silk stockings, and white slippers". This detail is additionally reported in the *Edinburgh Observer's* (1823) Biographical Account, which states, "The unfortunate woman was plainly and genteelly dressed. She wore a black silk gown, with weepers- a coloured shawl and a black straw bonnet and black veil". Another broadside concerning McKinnon in the NLS special collections describe McKinnon as "a fine, stout looking woman rather lusty" (Special Collections Broadside 4, 1823). Broadsides concerning other executions at times made brief mention of what the condemned wore to their execution, usually just noting that they were "decently dressed". This level of detail into the clothes McKinnon wore and her physical appearance was very rare and only reserved for certain cases involving female convicts, as similar descriptive accounts concerning the clothing and physical appearance are apparent in broadsides concerning Bell McMenemy[122] and Margaret Shuttleworth.[123] Bland (2013) asserts that the popular press took great interest in reporting the details of clothes worn and physical appearance of women on trial in the early twentieth century, as was the

[122] Another exception being a broadside which comments on clothes worn by Bell McMenemy at her execution, stating "It may not be improper to notice, that this unfortunate female appeared at her execution dressed in a suit of clothes most generously bestowed by the female Benevolent society" (NLS Broadside 92, 2019).

[123] In a broadside concerning the execution of a woman named Margaret Shuttleworth, who was executed for murdering her husband in 1821, it is noted that "The criminal was neatly dressed in black: with a White apron, and altogether appeared in a clean and handsome manner" (NLS Broadside 6, 2019).

case with Edith Thompson, Marguerite Fahmy and Christabel Russel. This implies that the public during the nineteenth and twentieth centuries may have had an increased interest in the clothing and physical appearance of female convicts, contributing to sexual objectification.

Furthermore, it is inferred in the *Edinburgh Observer*'s (1823) biographical account that McKinnon hoped that being a woman would work to her advantage if the ladies of Edinburgh would support her claim for mercy.[124] This signifies the importance of gender in execution as there was clearly a belief that McKinnon's gender should serve as a mitigating factor which thus challenges the "double deviance" theory that posits that women are in receipt of harsher and stricter sentences due to their gender, as discussed in Chapter 1. The findings in this case study are compared with the findings of Case Study 2 in the concluding section of this chapter and illustrate the variant degree of complexity in publications concerning capital convicts.

Case Study 2: The Life, Trial and Execution of William Burke

Another sensationalised case which received substantial press attention is the execution of William Burke, who with his accomplice William Hare was responsible for 16 murders, having sold the bodies to anatomist Dr. Robert Knox (Dudley Edwards, 2014). They targeted those who could be lured by alcohol and often killed their victims by suffocating them with a pillow (Dudley Edwards, 2014). They tended to target the most vulnerable victims including the destitute, feeble and homeless (Knight, 2007). Emphasising the magnitude of Burke and Hare's offences, Knight (2007) highlights that in relation to serial killers, the number of victims killed by Burke and Hare is closest matched by twenty-first century serial killer Dr. Harold Shipman, who was responsible for 15 murders.[125] Burke was executed on Wednesday the 28th

[124] It is stated "One of her hopes was, that the ladies of Edinburgh would intercede for her, as a woman, as totally friendless, and as being the first female who had been condemned for a long series of years: and, at any rate, she being the first female condemned since his majesty's visit to Scotland, she thought on that account, that the royal mercy ought to be extended to her" (*Edinburgh Observer*, 1823).

[125] Dr Harold Shipman was found guilty in court for murdering 15 patients. However, it is believed he murdered up to 284 people (Whittle and Ritchie, 2003).

of January, 1829; Hare was released for providing evidence against Burke (Gordon, 2009; Knight, 2007).[126]

This case has remained notorious for numerous reasons aside from the particularly aggravated nature of the case as there was a great deal of controversy arising from the fact that others involved in the crime escaped punishment.[127] Additionally, this case marks a period in Scottish history when there was a demand for bodies to advance medical science. This case later prompted legal change in the form of the introduction of The Anatomy Act of 1832, which helped enable autonomists' access to dead bodies through legal means and put an end to the activities of body snatchers (Knight, 2007). McCracken-Flesher (2012) notes the story of Burke and Hare resonated widely in Scotland's popular culture, with many reports being published about the case, particularly concerning "daft Jamie"[128] and Burke's confession. The NLS "word on the street" collection contains four broadside publications concerning Burke and Hare. Moreover, newspaper articles published in Scotland regarding Burke and Hare's life and trial and the execution of Burke are made available through the British Newspaper Archives. This case study contains analysis of the four broadside publications and three newspaper articles. For the purpose of this analysis, three contrasting newspaper sources (in terms of geographical location of publication and target readership) have been selected, namely the *Caledonian Mercury*[129], the *Perthshire Courier*[130] and the *Aberdeen's People's Journal*[131] – each published an article concerning the execution of William

[126] However, the two names William Burke and William Hare are frequently accompanied with each other and both are the focal point of articles, despite the fact that only William Burke was executed.

[127] The fact that only William Burke was executed and not the several other contributors to the crimes (Dr. Knox, Helen McDougal and Margaret Hare) caused a great deal of controversy.

[128] He was a victim of Burke and Hare named James Wilson but also known as "Daft Jamie", an 18-year-old who was mentally disabled but loved on the streets of Edinburgh (Knight, 2007).

[129] The *Caledonian Mercury* was founded in 1720 and published three times a week in Edinburgh on news and local affairs. It is noted that during the 1820s The *Caledonian Mercury* reported on events relating to Burke and Hare, starting with the discovery of John Saunders' head in Hyde Park in 1820 up to the execution of Burke in 1829 (British Newspaper Archives, 2019a). As was the case with the broadside publications, the three selected articles published by each one of these newspapers varied in how they presented William Burke. This lengthy article published on the 29th of January 1829 by the *Caledonian Mercury* focuses heavily on the events on the day of the execution (The Caledonian Mercury, 1829).

[130] The *Perthshire Courier* was published by an unknown publisher in Perth and in circulation from 1809 to 1871 (British Newspaper Archives, 2019c). The article they published relating to Burke and Hare that is analysed was published on 29th of January 1829 and focuses on the life of William Burke and the impact of his crimes (The Perthshire Courier, 1829).

[131] *The Aberdeen People's Journal* was published in Aberdeen by D.C.Thomson & Co. Ltd. The paper was in circulation from 1863 to 1950 (British Newspaper Archives, 2019b). The article published by the *Aberdeen*

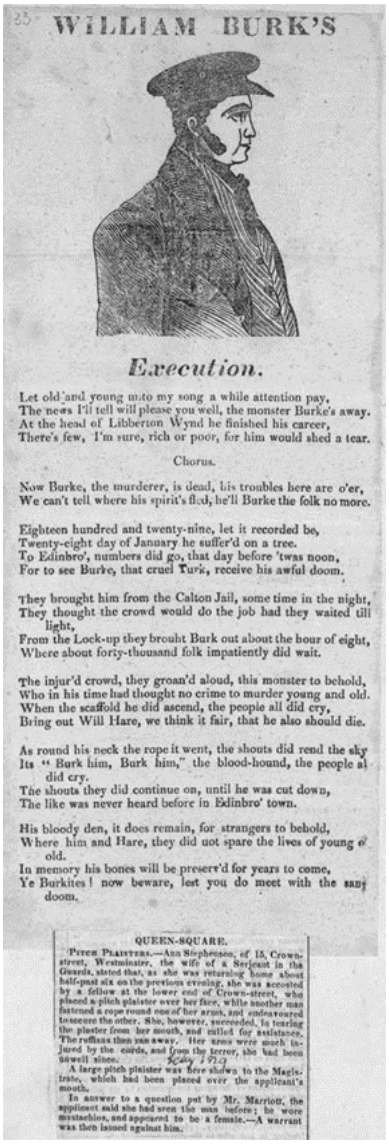
Burke, made available through British Newspaper Archives. The selection of these sources enables direct comparison between newspaper and broadside publications.

Broadside and Press Publications

The broadsides vary in terms of how the execution is reported. Two of the broadsides report on Burke's execution using the standard format of reporting, whereby the general details of the convict's background, crime, trial, behaviour at execution, etc. are reported (NLS Broadside 23, 2019: NLS Broadside 94, 2019). One other broadside reports the execution through a poem (NLS Broadside 147, 2019). Whilst this broadside's focus is on reporting the event of the execution, this is achieved by means of more poetic language. In contrast to the other broadsides on Burke's execution, this broadside contains a sketch of William Burke, as displayed below (NLS Broadside 147, 2019). Noticeably, in the publication William Burke's surname is misspelt as "Burk", further suggesting that broadsides contained factual inaccuracies and need to be read with caution.

People's Journal in 1864 (35 years after Burke's execution) is entitled "Mary Patterson or The Fatal Error. A Story of the Burke & Hare Murders". The story published in this article is based on Burke and Hare's murder of Mary Paterson, who was their first victim. The article, whilst based on real events, entails speculative dialogue.

Image 9: *Broadside entitled "William Burke's Execution" (NLS Broadside 147, 2019)*



WILLIAM BURK'S

Execution.

Let old and young unto my song a while attention pay,
The news I'll tell will please you well, the monster Burke's away.
At the head of Libberton Wynd he finished his career,
There's few, I'm sure, rich or poor, for him would shed a tear.

Chorus.

Now Burke, the murderer, is dead, his troubles here are o'er,
We can't tell where his spirit's fled, he'll Burke the folk no more.

Eighteen hundred and twenty-nine, let it recorded be,
Twenty-eight day of January he suffer'd on a tree.
To Edinbro', numbers did go, that day before 'twas noon,
For to see Burke, that cruel Turk, receive his awful doom.

They brought him from the Calton Jail, some time in the night,
They thought the crowd would do the job had they waited till light,
From the Lock-up they brouht Burk out about the hour of eight,
Where about forty-thousand folk impatiently did wait.

The injur'd crowd, they groan'd aloud, this monster to behold,
Who in his time had thought no crime to murder young and old.
When the scaffold he did ascend, the people all did cry,
Bring out Will Hare, we think it fair, that he also should die.

As round his neck the rope it went, the shouts did rend the sky
Its "Burk him, Burk him," the blood-hound, the people all did cry.
The shouts they did continue on, until he was cut down,
The like was never heard before in Edinbro' town.

His bloody den, it does remain, for strangers to behold,
Where him and Hare, they did not spare the lives of young & old.
In memory his bones will be preserv'd for years to come,
Ye Burkites! now beware, lest you do meet with the same doom.

QUEEN-SQUARE.

PITCH PLASTERS.—ANN STOPHENSON, of 15, Crown-street, Westminster, the wife of a Serjeant in the Guards, stated that, as she was returning home about half-past six on the previous evening, she was accosted by a fellow at the lower end of Crown-street, who placed a pitch plaister over her face, while another man fastened a rope round one of her arms, and endeavoured to secure the other. She, however, succeeded, in tearing the plaster from her mouth, and called for assistance. The ruffians then ran away. Her arms were much injured by the cords, and from the terror, she had been unwell since.

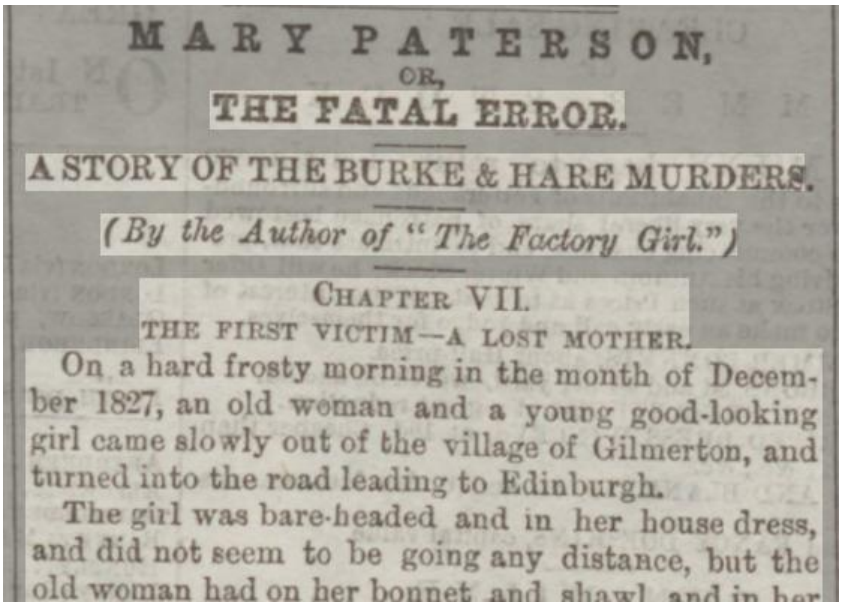
A large pitch plaister was here shown to the Magistrate, which had been placed over the applicant's mouth.

In answer to a question put by Mr. Marriott, the applicant said she had seen the man before; he wore mustachios, and appeared to be a female.—A warrant was then issued against him.

Furthermore, a number of publications present Burke's execution through fictional stories. For example, one broadside is entitled "Mansie Waugh's Dream concerning the execution of Burke, Parts First and Second" and was published prior to the execution. This publication reports a tale of a character, Mansie Waugh, having a dream of attending the execution of William Burke (NLS Broadside 127, 2019). In addition, the article published by the *Aberdeen People's Journal* in 1864 (35 years after Burke's execution) is entitled "Mary Patterson or The Fatal Error. A Story of the Burke & Hare Murders". This article, an abstract of which is displayed below in "Image 10", is noted as being written "by the author of The Factory Girl", presumably

in reference to David Pae's 1860 novel *Lucy the Factory Girl.*[132] The story published in this article is based on Burke and Hare's murder of Mary Paterson. The article, whilst based on real events, entails speculative dialogue. The story details how Burke lured Paterson with the offer of Whiskey and how Burke, Hare, Helen McDougal[133] and Mrs. Hare[134] carried out the murder and delivered the body to Dr. Knox (*Aberdeen's Peoples Journal*, 1864). This fictitious publication would have served as an additional means to engage the readership with imaginative and speculative thought, in addition to informing the readers about Burke. As discussed in Chapter 2, fictitious broadsides of this nature also often served to entertain the readership.

Image 10*: Aberdeen People's Journal (1864) Abstract*



MARY PATERSON,
OR,
THE FATAL ERROR.

A STORY OF THE BURKE & HARE MURDERS.

(By the Author of "The Factory Girl.")

CHAPTER VII.
THE FIRST VICTIM—A LOST MOTHER.

On a hard frosty morning in the month of December 1827, an old woman and a young good-looking girl came slowly out of the village of Gilmerton, and turned into the road leading to Edinburgh.

The girl was bare-headed and in her house dress, and did not seem to be going any distance, but the old woman had on her bonnet and shawl and in her

<u>The Use of Demonising Language - Voice of the Author</u>

Firstly, it is important to acknowledge that a number of academic sources assert that the press capitalised on the case as an opportunity to increase circulation by sensationalising and exaggerating details of the case (Gordon, 2009; Knight, 2007). This subsequently played a prominent role in increasing public consternation, anger

[132] *Lucy the Factory Girl* was a novel by David Pae. It was an evangelical melodrama about a kidnapped child, set in Glasgow (Morrison, 2018). Morrison (2018) notes that Lucy appeared anonymously in several British provincial newspapers, such as the *Edinburgh North Briton* and *Glasgow Times*.

[133] Helen McDougal, a woman who was in a relationship with William Burke and believed to be an accomplice in his crimes (Gordon, 2009).

[134] William Hare's wife, like Helen McDougal, is believed to have been an accomplice in the murders (Gordon, 2009).

and fear among Edinburgh citizens by offering sensational and exaggerated revelations including the number of murder victims (Knight, 2007). Eventually the panic extended beyond Edinburgh as the public nationwide were beginning to fear that all missing people could have been murder victims of Burke and Hare (Knight, 2007). In effect, on top of receiving public outrage for crimes they did commit, Burke and Hare were the subjects of public outrage for acts they did not commit. This prompted Scottish society to be the subject of what could be considered a period of "moral panic" (Cohen, 1982, p. 9).[135]

Moreover, a striking commonality in all of the publications concerning Burke is the voice of the author, using demonising language to describe Burke (and Hare). As discussed in Chapter 2, in broadside publications the word "monster" was used to refer to convicts found guilty of aggravated offences and is used repeatedly in reference to Burke. This use of language extended to newspaper reports (the *Caledonian Mercury*, 1829; the *Perthshire Courier*, 1829). This language ultimately serves to dehumanise and demonise Burke.

The negative portrayal of Burke and Hare extends beyond this label as the aggravating circumstances of their crimes mark them as exceptional cases, this being emphasised across newspaper and broadside publications. For example, the general tone in the *Perthshire Courier* (1829) is one of vilification of Burke. The severity of Burke's crimes is also emphasised, stating "The long and dark array of common thieves, burglars, robbers and homicides dwindle into absolute insignificance when brought in juxtaposition with this colossus in crime". Subsequently, there are references across publications which strongly suggest that capital punishment was a just form of punishment in this circumstance. For example, the *Caledonian Mercury* (1829) mentions the spirits of slain[136] rising up to demand a "just retribution".[137]

[135] Cohen (1982, p. 9) defines "moral panic" as "A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people; socially accredited experts pronounce their diagnosis and solutions; ways of coping are evolved or (more often) resorted to; the condition then disappears, submerges or deteriorates and becomes more visible".

[136] In reference to Burke and Hare's victims who passed into the afterlife.

[137] Additionally, the tale published in the *Aberdeen People's Journal* (1864) make reference to Burke and Hare as being "cruel" and "cowardly" and illustrate their lack of compassion. Also, in taking a different approach to highlight the impact of Burke and Hare's crimes, there is mention of the "anguish and despair" put upon their

The Voice of the Audience

The enormity of the occasion of Burke's execution is highlighted in publications with reportings of the numbers in attendance all to witness the "finale of a monster".[138] It is even acknowledged in the *Caledonian Mercury* (1829) that a crowd of such magnitude had not been seen in Edinburgh since the execution of McKinnon. However, the represented voice of the crowd in press publications concerning the execution of Burke is in stark contrast to sad spectacles portrayed in the case of McKinnon and the majority of execution broadsides. A number of broadsides in the "word on the street' collection report crowd satisfaction in seeing Burke executed, notably with one publication detailing that the crowd responded to Burke's hanging with a "loud cheer" (NLS Broadside 23, 2019). Accounts in other broadside and newspaper publications are consistent in describing Burke's execution as a carnivalesque celebration with no signs of pity from the crowd in attendance (the *Caledonian Mercury*, 1829; NLS Broadside 23, 2019). Additionally, it is reported in a number of publications (NLS Broadside 23, 2019; NLS Broadside 147, 2019; the *Caledonian Mercury*, 1829) that there were cries from the crowd for Hare to be executed.

The lack of mercy shown to McKinnon was a case of controversy in the press in the years following her execution, as evident in the *Caledonian Mercury* (1829) article concerning Burke's execution. The article states: "Never, we believe, was such an assemblage seen: not even upon the execution of Mary McKinnon, who as a contemporary observer, had not the advantage of so indulgent a Jury as that which acquitted Helen McDougal".[139] This suggests discontent with the fact that McDougal was acquitted and McKinnon was not and emphasises the magnitude of the two cases.

victim's daughter in losing her mother. This emphasises the impact the crimes not only had on the immediate victims but also the victims' families.

[138] NLS Broadside 23 (2019) states that Edinburgh was filled with people from all over the country to witness the execution of a "monster". Moreover, NLS Broadside 94 (2019) report "At an early hour the spacious street, where the scaffold was erected, was crowded to excess and all the windows which could command a view, were previously bespoke, and high, high prices given for them".

[139] Helen McDougal was a woman who was in a relationship with William Burke and was believed to be an accomplice in his crimes (Gordon, 2009). Following Burke's trial, the press were disappointed that Helen McDougal was acquitted and would not pay for her involvement (Gordon, 2009, p. 180).

The Voice of the Law

The voice of the law in broadsides concerning Burke's execution is consistent with that of other broadsides, serving to warn readers against the temptations of crime. One broadside closes with a specific warning, stating "Ye Burkites! now beware, lest you, do meet with the same doom" (NLS Broadside 147, 2019). As previously mentioned one broadside notes how "he'll Burke the folk no more" (NLS Broadside 147, 2019). This highlights the fact that Burke is no longer a risk to society and thus emphasises the function of incapacitation; reflecting the idea that execution is justified to prevent further violence, thus serving to protect society.[140] In addition, one broadside acknowledges the public outrage directed towards William Hare's wife but warns readers against committing acts of outrage towards her as it will be punishable by law (NLS Broadside 94, 2019).[141] This specific type of warning is rare but ultimately presents the law as a force which serves to protect all citizens and highlights the extreme public outrage which this case evoked.

Account/Voice of the Convict and their Salvation

Although the particularly aggravating circumstances of Burke's offences influenced the representation of his execution to a large extent, the account of his perceived conduct in broadsides is not dissimilar to that of the majority of convicts. Burke is presented as being admittedly guilty, accepting of his fate upon the scaffold and repentant of his actions. One broadside even suggests that he was happy he had been arrested and brought to justice (NLS Broadside 23, 2019). Another broadside describes how he was "diligent" in his preparation for execution, noting that he confessed to the "full horrors of his situation" and was frequently caught "weeping bitterly" (NLS Broadside 94, 2019). This further suggests that the voice of the convict was generally consistent throughout execution broadsides. However, Burke was not given a voice through a first person lamentation in any of the seven publications that have been analysed, in contrast to other representations in which many convicts

[140] For wider discussion on The Death Penalty as Incapacitation, see: McLeod (2018).
[141] The broadside states "but it is to be hoped, that the populace will not allow a commendable detestation of crime to lead to acts of outrage, which the law must punish with the same rigour in her case as in that of any other child of sin and misery that breathes under its protection" (NLS Broadside 94, 2019).

were given a voice, as discussed in Chapter 2.[142] Thus, arguments put forward by O'Brien (2001), suggesting that lamentations secure the literary illusion of the condemned as an articulate victim (as discussed in Chapter 1) are somewhat defunct and void (or at least less apparent) in the case of Burke. O'Brien's (2001, p. 323) assertion that "if every man who is hanged leaves a poem then every condemned murderer is a poet who sits in self-judgement" and her claim that such self-expression challenges "the symbolic laws of capital punishment which presumed a deviant and monstrous criminality" is inapplicable when the convict does not leave a poem, but is in fact the subject of demonisation through third person accounts. Therefore, the complexity which O'Brien (2001) infers applies to all broadside publications, can be challenged, as evident in these findings, where there is a variant degree of complexity in representations.

Furthermore, in a number of these publications, no clear suggestion is made in relation to whether or not he had achieved salvation from God. NLS Broadside 147 (2019) states "We can't tell where his spirit's fled". This suggests that his prospect of salvation is uncertain. This avoidance of speculation serves to acknowledge God as a higher judge. However, any speculation surrounding Burke's atonement is one of pessimism.[143]

Chapter Conclusion

It is conspicuous that McKinnon and Burke were subjects of the most notorious executions in Scottish history, marked by immense press attention and reported large crowd attendances. Both executions occurred in the 1820s and both convicts were charged with murder and reported to have come from Ireland. However, both cases attracted morbid public fascination for considerably different reasons. The story of McKinnon was often represented as one of sympathy and controversy for executing a woman with a troublesome upbringing on "flimsy evidence" of murdering one victim. However, certain publications depicted her negatively. Moreover, in

[142] However, the story published in *Aberdeen People's Journal* contains speculative dialogue of Burke engaging with Hare prior to and after killing victim Mary Paterson. Although speculative, this story presents Burke (and Hare) as being conniving and brutal through detailing their methods of allurement and killing.

[143] The *Caledonian Mercury's* (1829) article suggests that he was "too deeply sunk in crime to even hope in the infinite mercy of Heaven: his mind acknowledged the truth of the observation, while the guilty and perhaps awakened conscience bade him doubt of the mercy being extended to him".

sharp contrast, the story of Burke received a united press response in representing him as a “monster” who was guilty of the most heinous of crimes of brutally murdering 16 people and thus was rightfully executed.

Moreover, the voice of the author in reports relating to McKinnon frequently mentions her background as a method to elicit sympathy and offer contextualisation. This form of representation is possible for every convict condemned to death as every convict has a background and arguably a motive for committing crime. However, background and potential contextualisation is overlooked for those guilty of the most heinous crimes, such as Burke. Whilst there may be no viable way to explain or contextualise Burke and Hare’s murders, all press publications overlooked the fact that Burke and Hare came to Scotland as unskilled labourers “to whom Edinburgh beckoned as a paradise after the poverty and desolation they had abandoned” (Knight, 2007, p. 5). Burke and Hare belonged to the “wretched ghettos” in Edinburgh’s under town, where it was common for Irish labourers and other immigrants to take in sub tenants to subsidise bills (Knight, 2007). Inclusion of these details would certainly not have justified Burke and Hare’s actions but may have enabled potential for the story of Burke and Hare to be framed completely differently and may have offered the public a possible explanation as to why they may have felt compelled to commit murder as means of financial gain.

Having a low income and living in the “wretched” conditions described by Knight (2007) may well have been the reason Burke and Hare were willing to go to such lengths to make an income by providing bodies for Dr. Knox. This aligns with the theories discussed in Chapter 1, which attribute crime to social factors. For example, Emsley (2010) notes that in the early nineteenth century crime was beginning to be seen as a class problem as more and more poorer people were committing property crime. Whilst this theory mainly applies to property crime in the nineteenth century, it can be said to apply to Burke and Hare as they were obviously committing murder with a financial incentive. However, these factors were not taken into account in representations of Burke and Hare in newspaper and broadside publications. This view would thus attribute Burke and Hare’s actions to a wider social problem regarding income inequality and would have thus placed some responsibility on society.

Table 2 highlights some of the key contrasts and similarities of the two case studies. The impact of identity and offence evidently had a big impact in shaping the general representation of both convicts. The voice of the audience and the description of the atmosphere at both executions could not be more contrasting: McKinnon's execution generally was described as a harmonious, melancholic spectacle, which elicited universal sympathy, and Burke's execution was described as a carnivalesque event that was met with a "loud cheer". The contrasting representations extended to the voice of God, with McKinnon's prospect of salvation being the subject of optimism in representation, including the quotation of Bible verses to support such belief. In contrast, Burke was presented as being "too deeply sunk in crime" to hope for "the infinite mercy of heaven".

Table 2: *McKinnon vs. Burke Representations Comparison*

	Mary McKinnon	William Burke
Account/Voice of The Convict	Repentant, accepting of fate.	Repentant, accepting of fate.
Voice of the Audience	Melancholic scene	Carnivalesque Atmosphere
Voice of God	Forgiving (optimistic of forgiveness).	Pessimistic of forgiveness.
Voice of the Author	Generally sympathetic tone.	Subject of Demonising Language
Voice of the Law	Warning to Others	Warning to Others

However, as discussed there remained consistency in the voice of the law and the convict, which ultimately served to promote the deterrent function of capital punishment and present the convict as repentant. The consistent voice of the law in publications highlights that regardless of the identity and crime of the convict (factors that influenced other aspects of representation), broadsides consistently served the didactic function of warning readers against the dangers of crime. This representation, accompanied with presenting the public execution as a celebration of

the death of a “monster” (as was the case with Burke), contributes to a general representation which could be considered closer to a “black or white” representation, likely to increase retentionist support. However, when the consistent voice of the law and the voice of the convict is accompanied by the inclusion of humanising details of the convict and the description of a sad execution (as was the case with McKinnon), a significantly more complex representation is created, containing additional contradictory discourses. This arguably partially challenges state power and creates a resistant cultural space, as suggested by O’Brien (2001). These findings thus suggest that the degree of complexity in execution broadsides is determined by the identity of the convict and the circumstances of their offence.

Chapter 4: Analysing the Representation of Capital Punishment in Contemporary Scotland

Chapter Introduction

As the previous chapters are dedicated to exploring how capital punishment was depicted in the eighteenth and nineteenth centuries, this chapter is dedicated to exploring how Scotland's past use of capital punishment is portrayed to contemporary audiences in post abolitionist Scotland. This is achieved through analysis of how Edinburgh walking tours present aspects relating to execution. Findings indicate that Edinburgh walking tours' representation of capital punishment generally serves to entertain as well as to inform audiences, which ultimately diminishes the darkness of these "dark tourist" sites. Similarly to broadsides, this study finds that contemporary representations contain a high degree of fictionalisation and humour. This signifies that representations of capital punishment in Scotland have an entertainment component, spanning across centuries and various contexts.

In line with existing scholarship, this study supports the idea that the greater the time span between the event (of death) and the present, the more likely the site is to be presented in a lighter manner. In relation to execution sites in Edinburgh, this lighter representation can largely be attributed to reflecting on the past with enlightened minds, thus past methods of criminal justice are represented as being absurd and barbaric. In addition, adding to existing scholarship, this thesis argues that culpability is a prominent factor which enables certain sites (such as execution sites) to be presented in a lighter manner, in contrast to "darker" dark tourist sites.

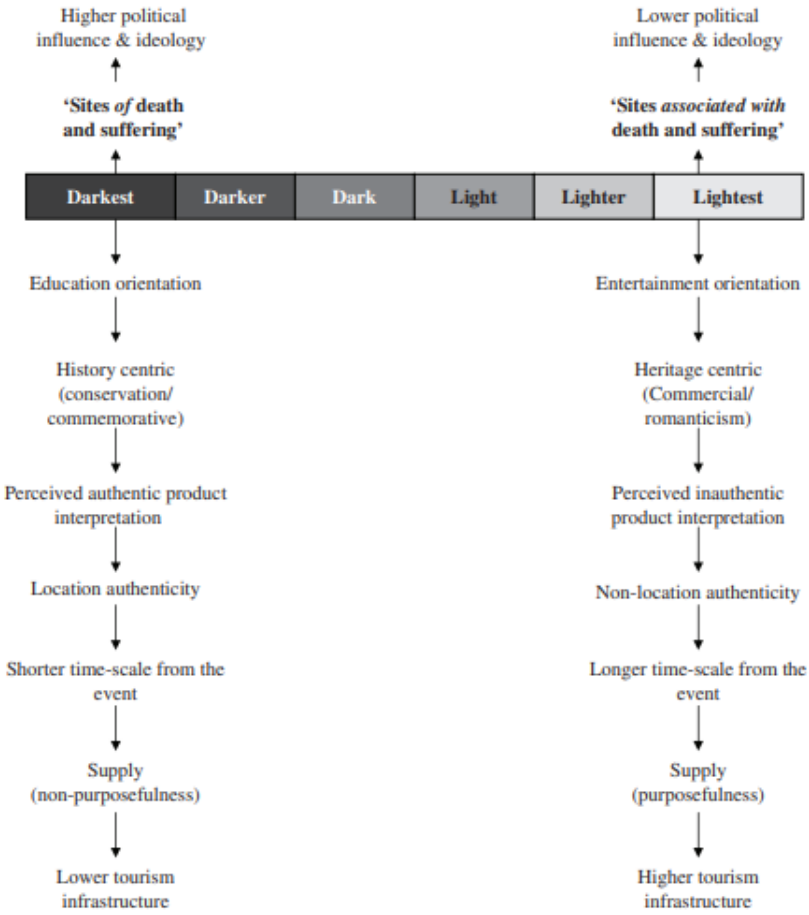
Edinburgh and Dark Tourism: Overview of Critical Approaches

As discussed in Chapter 1, the legacy of capital punishment is still very prevalent in twenty-first century Scotland through landmarks and venues, particularly in Scotland's capital city, Edinburgh. In Edinburgh these sites range from former

execution sites to pubs.[144] Such attractions can be classified as “dark tourist” sites. Sharpley (2009) asserts that people have long been attracted to sites associated with death, disaster and suffering. However, in the last half century dark tourism has grown and became more widespread (Sharpley, 2009). Lennon and Foley (2000 – cited in Wang et al, 2017) have identified a shift in this time period as the tourism industry has increasingly commercialised the dead and death in general. Echoing this view and effectively taking this argument a step further, Uzzel (1989) suggests that death is presented as “entertainment” (cited in Wang et al, 2017, p. 1603). In line with this theory, Stone (2009, p. 196) discusses what is considered “lighter dark tourism” which is “when narratives of fear and the taboo are extracted and packaged up as fun, amusement and entertainment and, ultimately, exploited for mercantile advantage”. Among notable examples of “dark fun factories” Stone (2009) mentions Edinburgh’s Ghost Tour and The Edinburgh Dungeon Tour. However, there is no discussion of how sites relating to execution in Edinburgh are marketed or presented on walking tours. Stone (2006) outlines a dark tourism spectrum ranging from “darkest” to “lightest” sites, determined by various factors and methods of representation, as displayed below (cited in Sharpley, 2009).

[144] See Chapter 1 for specific details.

Image 11*: Stone's (2006) Dark Tourism Spectrum* (cited in Sharpley, 2009, p. 33)



As displayed in image 11, Stone suggests dark tourist sites can be situated on the dark tourist spectrum based on: location, objectives (education or entertainment), perceptions of authenticity and shorter – longer time scale. Sights of death are also distinguished from sites associated with death.[145] However, this does not result in all sites of death and atrocity being placed on the darker end of the spectrum to sites only associated with death. This is evident in the findings of this chapter as sites of death (execution sites) are found to be located towards the lighter end of the spectrum. The reasons for this are discussed in succeeding sections of this chapter. Similar to Carrabine (2017),[146] Stone's dark tourism spectrum infers that sites which

[145] For example, Auschwitz-Birkenau, a place of death and atrocity, is distinguished as being darker than Washington's holocaust museum, a site only associated with death and atrocity (Sharpley, 2009). Other examples of sites associated with death (distinguished from sites of death) include: war museums and museums associated with other disasters, such as the Great Famine and the Titanic.

[146] Carrabine (2017) infers that there is a spectrum in dark tourism, with sites that are focused on entertainment at one end of the spectrum (London Dungeon being listed as an example) and sites which invoke grief, shock and horror at the other end of the spectrum (Holocaust museums being listed as an example).

exist for commercial and entertainment purposes belong on the lighter end of the spectrum, and sites which exist to commemorate and educate belong on the darker end of the spectrum. Some dark tourist sites may be similar in nature but highly contrasting in how they are presented to tourists and the functions that they serve, resulting in being situated differently on the dark tourism spectrum determined by factors such as the sites degree of political influence.[147] However, the findings of this research indicate that other contributing factors such as culpability and context, aside from political influence, may be at play in determining why it is socially acceptable to present some sites associated with death in lighter ways than others, as discussed in succeeding sections of this chapter.

Aside from literature discussing dark tourism's role in informing and entertaining audiences, Walby and Piché (2011) argue that the display of relics serves to mark practices of punishment as belonging to the past, which marks the present as being different – and often less punitive. This is evident in findings outlined by Walby and Piché (2011) on analysis of prisons and punishment museums in Ontario, which cover the site of Canada's last public hanging.[148] It is noted that this site is presented as distinguishing the past from the present, as the tour presents a narrative consisting of penal reform in the twentieth century and the story of abolishment of the death penalty in Canada. This chapter aims to apply the theory outlined in the introduction to test how dark tourist sites in Edinburgh are presented to the public and finds that factors such as time, scale and culpability all impact contemporary representations of capital punishment.

[147] A good example of this is provided by Strange and Kempa (2003 – cited in Sharpley, 2009) who compares two former penal institutions: Alcatraz in the United States of America and Robben Island in South Africa. Sharpley (2009) highlights findings which illustrate that the representations of both sites is highly contrasting, with Alcatraz placed on the lighter end of the dark tourism spectrum, with the site's dark past being "overshadowed" by entertainment and commercial purposes. In contrast, Robben Island (a prison in South Africa famous for holding political prisoners such as Nelson Mandela), possesses a higher degree of political resonance , is placed on the darker end of the dark tourism spectrum, promoting commemoration and education.

[148] Site of Canada's last public hanging in 1869 is "Old Carleton County Gaol", one of the sites covered in Walby and Piché's (2011) study.

Methodology

A narrative of Scotland's history of capital punishment and cases of notable convicts is presented to the public and to tourists in museums and through walking tours, which as discussed not only serves to present the past but also produces meanings that inform contemporary understandings of capital punishment. This chapter will address gaps in existing scholarship regarding Edinburgh's walking tours' representation of Scotland's legacy of capital punishment and how these representations foster certain prominent cultural narratives of capital punishment. This research also serves to explore questions raised concerning Scotland's representation of capital punishment, including: the suggestion that sites associated with death have become commercialised and are presented as entertainment to tourists (Lennon and Foley, 2000) and the assertion that sites of punishment are presented to mark a distinction between the past and present (Walby and Piché, 2011). This will also enable comparison between modern day representations of capital punishment and eighteenth and nineteenth century representations of capital punishment, drawing from the findings of Chapter 2 and Chapter 3.

A number of walking tours are advertised on TripAdvisor.[149] For the purpose of this research a number of the most relevant tours have been selected for analysis, namely:

1) Sandeman's Free Tour of Edinburgh
2) Sandeman's Edinburgh Dark Side Walking Tour: Mysteries, Murder and Legends
3) Mercat's "Doomed, Dead & Buried" Ghost Tour
4) Mercat's "Evening of Ghosts and Ghouls" Tour
5) The Edinburgh Dungeon Tour

Tours have been selected based on relevance to this research, which focuses on dark tourist sites relating to execution.[150]

[149] TripAdvisor: considered "the worlds largest travel platform" and is regarded as providing an overview of the most popular tourist experiences in destinations worldwide (TripAdvisor, 2019b).

[150] Therefore, tours of Edinburgh Castle and tours of the Palace of Holyroodhouse have been omitted along with specifically themed tours (such as the Harry Potter walking tour) and tours which depart Edinburgh to visit the Highlands and Loch Ness. Due to the scope of this study, this research is focusing on the representation of capital punishment in Edinburgh city walking tours, hence bus tours have been omitted. This includes the exclusion of The Ghost Bus tour which is marketed as offering tourists the opportunity to "thrill to

Guided by literature on similar studies,[151] this research intends to analyse the "narrative structure" on each of these tours. Mishler (1995) recommends that the process of examining narrative structure should be based on the three functions of language: meaning, structure and interactional context (Cited in Thurston, 2017b). This framework provides inspiration as a method of analysis in this chapter as this study considers the content covered by tour guides, as well as the language used in covering such content. Due to the study's scope, a limitation of this research is that interviews have not been conducted with tourists themselves. The following sections discuss the language and delivery of stories relating to execution on Edinburgh city walking tours.

Sandeman's Free Walking Tour

Sandeman's offer a number of free walking tours daily,[152] with an average duration of 2.5 hours.[153] A few points of interest in a number of these historic stories concern capital punishment or punishment in general. For example, Scottish medieval punishment is covered, with mention that during medieval times people found guilty of minor crimes, such as smuggling or not paying taxes, were punished by their hand being nailed to Mercat Cross[154] for 24 hours, giving the public opportunity to administer further punishment during this time by flogging and shaming. This emphasises the nature of punishment during the medieval period in Scotland to tourists. Additionally, Britain's past traditions of brutally executing wrongdoers is made known initially through the story of William Wallace's[155] execution in London, including details of how four parts of his body were sent to four different Scottish

gory anecdotes from the city's chilling past" and covers stories concerning criminals (including Burke and Hare), ghouls and ghosts (TripAdvisor, 2019c).

[151] For example, Walby and Piché's (2011) study on penal museums representation of punishment in Ontario and Thurston's (2017a) study on museums representations of punishment in Texas.

[152] Tours are gratuity based: participants pay what they choose.

[153] The tour consists of a guide covering landmarks in Edinburgh's Old Town, such as St Giles' Cathedral, the Scottish Writer's Museum, the Grassmarket and Greyfriars graveyard. Narratives of Edinburgh's past are told throughout the tour, such as stories regarding Scotland's Stone of Destiny, John Knox and Sir Walter Scott.

[154] Mercat Cross: the Scots name for Market Cross. The guide also acknowledges Mercat Cross as a site where markets were held regularly.

[155] William Wallace was captured near Glasgow and brought to London to be executed in August 1305 for rebelling against King Edward and being a key figure in the fight for Scottish independence (Fisher, 2007).

cities. In addition, it is noted that John Knox[156] was responsible for initiating witch hunts, which resulted in 4000 witches being burned to death.

The most detailed stories concerning capital punishment are covered in the Grassmarket, a marketplace and place for trading, also famous for being a former execution site in Edinburgh. In discussion of the Grassmarket the tour guide mentioned that on days of execution thousands would gather there to witness executions, as people in this time "loved to witness executions" as a form of entertainment.[157] This is consistent with broadside representation of public executions which frequently note the “immense multitude” which assembled to witness executions (NLS Broadside 80, 2019: NLS Broadside 92, 2019: NLS Broadside 94, 2019). In addition, the tour guide highlighted the names of several pubs relating to capital punishment, namely “The Last Drop” and “Maggie Dixons”. The Last Drop was the pub where convicts would have their last drink of whiskey before being executed. The name “The Last Drop” serves as a pun for the site where the condemned had their last drop of whiskey and the site where they were hanged and dropped to death.

Furthermore, the story of Maggie Dixon's execution in 1724 is covered in detail on the tour. The story includes her personal story of being abandoned by her husband, working in a pub and getting pregnant whilst having an affair with the son of the pub owner, giving birth to a stillborn baby and eventually getting charged with being guilty of adultery, concealing pregnancy and infanticide. In telling the story of her execution, the guide states that "the public did not care what Maggie had done, they just wanted to see her executed for entertainment". The guide describes how she was hanged but was discovered to have survived her execution. Upon detailing her survival and her return to Grassmarket, it is noted that a substantial portion of the crowd were excited to witness her being executed a second time, whilst others were concerned that her survival was a message from God and she should be allowed to live. This story was told with a relatively light hearted tone by the tour guide.

The repeated mention of the public finding “entertainment” in witnessing executions and the suggestion that crowds at executions did not care what convicts were guilty

[156] Scottish theologian who founded the Presbyterian Church of Scotland.
[157] It is also noted that residents of the Grassmarket charged a fee to rent seats which offered a good view of the execution.

of paints the picture to contemporary tourists that Scots in the eighteenth and nineteenth centuries were bloodthirsty and attended executions as a form of entertainment, similarly to how people would attend theatre in modern times. This portrayal of carnivalesque atmosphere at executions in this time period aligns with certain theories as discussed in Chapter 1 and Chapter 2.[158] However, it is an oversimplification to infer that this was the typical crowd reaction at public executions. As discussed in Chapter 2 and Chapter 3, findings demonstrate that crowd response was an ambiguous area in representation, determined by who was being executed and what they were being executed for. This suggests that tour guides generalise and simplify historic attitudes of capital punishment for easier audience consumption.

In contrast to other tours that have been analysed in this chapter, Sandeman's free walking tour of Edinburgh's old town is not solely concerned with Edinburgh's dark past – albeit stories of execution are prominently featured, as has been outlined. The representation of stories relating to execution presented on this tour is the most grounded in reality (in comparison to other tours) and although the general presentation contained a degree of light-hearted humour, this tour primarily served an educational function.

Edinburgh Dark side Walking Tour: Mysteries, Murder and Legends

Aside from offering a tour which covers the history of Edinburgh's Old Town, Sandeman's offer a tour which gives visitors the opportunity to explore Edinburgh's dark past.[159] The first story on the tour concerns the case of a man named Sir Godfrey McCulloch, a politician who was executed in 1697 for murder. The details of interest in this execution were that it took seven attempts to execute McCulloch and that people reported having seen his headless body running down the royal mile following the execution.[160] The latter detail illustrates that fictitious stories stemmed

[158] For example, Carrabine (2011) highlights that executions often appeared "carnivalesque", a description of the atmosphere at public executions, of which Charles Dickens was famously critical (Newburn, 2017).
[159] This tour also departs from the Royal Mile daily and lasts approximately 2 hours. The tour stops at Calton Graveyard, Calton Hill and Canongate Graveyard. Stories involving executions feature heavily in this "Dark Side Tour", which is marketed as a means to explore tales of murder and mystery.
[160] One of the 147 broadsides in the NLS collection concerns Sir Godfrey McCulloch. The broadside affirms that McCulloch was beheaded in 1697 (NLS Broadside 139, 2019). However, details of the execution were omitted

from executions. In addition, the fact that his execution was botched six times emphasises the brutality and flaw in the method of guillotine which was used during this time. The tour guide notes that the guillotine was referred to as "the maiden"[161] during this time period and uses the term throughout whilst covering the story.

During the stop at Calton Graveyard, the tour guide mentions executions of Scots which occurred during and following the Jacobite Rising. It is noted that when the English arrested a Jacobite soldier, they would also identify and arrest a close family member of the soldier and let them both decide which one should be executed. The guide recounts that in one scenario a younger brother pleads to be executed in place of his older brother who has a wife and children to look after. A point of interest discussed by the guide is the belief that this story inspired lyrics in the Scottish song "Loch Lomond".[162] This method of punishment was framed by the tour guide as being enforced by the English on the Scottish and described as being "vicious".

The tour guide notes that "superstition took a turn for the worse" in Scotland, whilst emphasising that Scotland executed a large number (1500) of witches in comparison with other countries. The tour focuses on King James' Witch Hunts which started in the late sixteenth century. The guide discusses how people were identified as being witches based on physical characteristics, such as: being left handed, having red hair, distinct birthmark and sinking (opposed to floating) in water. The tour guide describes how people accused were pressured into confession of being a witch through starvation, sleep deprivation and threats. Being burned alive was noted as being the method of executing witches. Overall, the representation was one which presented this period in Scottish history as being absurd and barbaric.

A lengthy story on the tour is that of Burke and Hare. The tour guide covers the general details of the case.[163] The guide linked the case with a story of boys, whilst

---

as the broadside focused on reporting McCulloch's last speech in which he was portrayed as being remorseful for his actions and religious rhetoric was prevalent (NLS Broadside 139, 2019). This is the only execution broadside published prior to the eighteenth century featured in the NLS "word on the street' collection.

[161] "The Maiden" in fact referred to a type of guillotine made in Scotland which was used from 1564 to 1708 (BBC History, 2019; National Museums Scotland, 2019)

[162] Referring to Loch Lomond's lyrics in the chorus ""You'll take the high road and I'll take the low road, and I'll be in Scotland afore you. Where me and my true love will never meet again".

[163] Namely that two Irish men murdered vulnerable victims (often after getting them drunk with whiskey) and supplied the bodies to Dr. Robert Knox for money, resulting in Burke being executed. The general misconception of the pair being "body snatchers" or "grave robbers" is vigorously disputed, as they murdered their victims and were never found to have robbed a grave. The guide discloses several versions of what is

playing at Arthur's Seat (seven years after Burke's execution), coming across 17 miniature coffins with dolls inside. Whilst it is unclear who put these dolls here and/or their significance, the genders of the dolls matched the 17 deaths involved in the Burke and Hare case (Burke and the 16 murder victims), thus giving rise to the belief that the dolls represent Burke and Hare murder victims and Burke himself. However, there are contested theories to the meaning of the miniature coffins.[164]

Furthermore, the concluding story of the tour concerned a rich landowner named John Chiesly who was executed in 1689 for murdering a judge named Sir George Lockhart for making an unfavourable ruling for Chiesly to pay his divorced wife and 11 children a considerable amount of money annually. The tour guide emphasises that John was subjected to a particularly barbaric execution as murdering a magistrate was considered an extremely aggravating factor in the seventeenth century. The guide described how Chiesly was subject to torture and having his right arm cut off (the arm he used to fire the gun which killed Lockhart) prior to execution. Following execution his body was left to rot. Chiesley's body is described as having mysteriously vanished days following his burial and there are reports of people seeing him roam Edinburgh as a one armed ghost in the 100 years following his execution, whereby he became known as "Johnny One Arm". The guide recounted how these sightings are reported to have stopped when his skeleton was found in a house in Dalry.

During this time period, attitudes towards ghosts in Britain were strikingly different than in modern Britain. Bennett (1985) asserts that in the late seventeenth century ghosts fulfilled a wide variety of roles in English culture, including: working as propaganda for religious laws, in evidence against witches and as evidence supporting the existence of God (cited in Bath and Newton, 2006). However, the fact that such stories are considered of interest in these walking tours suggests there is contemporary appetite for ghost stories. Considering why there is contemporary

---

reported to have happened to William Hare: one being that he escaped to London and the other being that he was killed by a mob. Academic sources such as Knight (2007) assert that Hare, with the aid of special constables, managed to escape from mobs attempting to lynch him in Dumfries, escaping across the border into England, where he was last reported to have been sighted in Carlisle.

[164] Eight of the miniature coffins are on display at the National Museum of Scotland. A number of the potential theories regarding the meaning of the coffins is outlined on the Museums official website, including theories that link the coffins to "satanic spells", "superstitious charm's" and the crimes of Burke and Hare (National Museums Scotland, 2020).

demand for ghost stories, Gentry (cited in Miles, 2015) found that people sign up to ghost tours for a range of motivations, including: wanting to learn history from a different angle, the desire for confirmation of a supernatural experience and to suspend rational beliefs and to imagine other realms of possibility.

Similarly to Sandeman's free walking tour of Edinburgh's old town, this tour's representation served an educational function to correct common misconceptions[165] and offer tourists insight into Edinburgh's history. In contrast to Sandeman's free walking tour, this "dark side" tour is exclusively focused on Edinburgh's dark past and thus the general content can be considered darker. However, the overall representation was not darker. The light-hearted humour was more prevalent on this tour and thus can be considered as serving an educational and entertainment function. However, unlike other tours which have been analysed (which are strictly managed), the delivery of content on Sandeman's tours are subject to change at the discretion of freelance tour guides.

Mercat's "Doomed, Dead and Buried" Ghost Tour

As previously mentioned, Mercat's is another tourist provider which offers a number of Edinburgh walking tours and thus plays a significant role in informing visitors about Scotland's historic use of capital punishment. Under the umbrella of dark tourism, Mercat's ghost tours can be said to constitute a "haunting tourism", which Blanco and Peeren (2010, p. 134) describe as "the travel to places for the purpose of encountering or investigating supernatural or paranormal phenomena, such as ghosts, monsters, zombies, spirits, vampires, and the like". Blanco and Peeren (2010, p. 134) also note that haunting tourism often fixates on violent events or legacies such as "slavery, colonisation, immigration, sexual assault or war". Findings in this chapter support this as ghost stories inspired by state sponsored punishment significantly contribute to the content presented on Mercat's ghost tours.

[165] Sandeman's dark side tour corrected the common misconception that Burke and Hare were body snatchers (as they murdered their victims). In addition, Sandeman's free walking tour corrected the common misconception of William Wallace's fate (as he was executed in stark contrast to the representation in 1995 Hollywood film "Braveheart").

Mercat's "Doomed, Dead and Buried" ghost tour is primarily concerned with the telling of stories of ghost sightings and the personal story behind each ghost.[166] As the marketing of the tour suggests, tourists are encouraged to have an open mind regarding the supernatural whilst participating. A significant proportion of these stories describe the consistent sighting of ghosts, as reported to have been seen by previous tourists on the "Doomed, Dead and Buried" tour. This tour is presented in a very theatrical manner by a cloaked tour guide, who can be described as performing throughout.

On a number of instances references are made to Scotland's past methods of punishment, including execution. The tour guide discusses Scotland's history of executing witches. Whilst maintaining character, the tour guide describes the torture and execution of witches as a form of entertainment during the seventeenth century, stating "It's a shame they banned it because it was an awful lot of fun" and noting "torturing witches was the Netflix of the day". This form of representation served to directly capture seventeenth century attitudes towards the torture of witches and undoubtedly was not the genuine opinion of the guide. This suggests that a function of contemporary walking tours is to convey public attitudes of torture and punishment in bygone centuries to contemporary audiences. In addition, this representation of capital punishment as a means of entertainment aligns with Sandeman's Walking Tour representation of execution in the eighteenth century.[167] As discussed, whilst this form of representation may align with certain literature which suggests that public executions were carnivalesque events (Carrabine, 2011), this representation is highly contrasting to the depiction of public executions in eighteenth and nineteenth broadside literature, which generally presented public executions as "melancholic spectacles". In addition, similarly to Sandeman's "Dark side" tour, this tour recounts the ways in which people were identified as witches.[168] It is noted by the guide that the majority of witches executed were female. This story was

[166] Mercat's "Doomed, Dead and Buried" ghost tour departs from Mercat Cross daily with the duration of approximately 1 hour and 45 minutes. Throughout this tour stops are made at: one of Edinburgh's Old Town closes, South Bridge, Blair Street Underground Vault, World's End Close, Chessels Court and Canongate Graveyard.

[167] As previously discussed, Sandeman's walking tour described execution as a form of entertainment as discussed by the guide through describing the execution of Maggie Dixon in the eighteenth century.

[168] Including: being left handed, having red hair, being an educated woman, being fluent in a second language and floating (as opposed to sinking). The guide also recounts how witches were pressured into confession through inhumane methods, such as sleep deprivation and starvation.

described by the guide as illustrating "just how horrible it was to live in Edinburgh" during the seventeenth century.

Edinburgh was continuously represented as a city with a dark history of death. This theme was present in the telling of the plague of 1645 which heavily impacted Scotland. The tour guide describes the measures which were taken to combat the plague, which included closing the city. As a result only the wealthy could afford to pay the required fee which enabled one to leave. The guide recounts that it was made illegal to conceal a family member having the plague and the punishment for doing so was death. However, the method of execution differed depending on gender: men were hanged and women were drowned. The guide does not explain why this was the case.

Mercat's "Evening of Ghosts and Ghouls" Tour

A further ghost tour offered by Mercat's is the "Evening of Ghosts and Ghouls" tour. This tour departs daily from Mercat Cross.[169] The tour guide presents the content of the tour in a very theatrical manner throughout. This tour encourages tourists to engage in the theatrics of the tour by acting as "an Edinburgh Mob". This tour includes hearing a number of stories regarding deaths and ghosts in Edinburgh's history. The guide emphasises that "none of these stories are made up" as all of the stories have been recorded in Edinburgh's city archives. However, whilst it may be the case that each of these stories have merit, as they are recorded as having been reported, given the farfetched nature and paranormal content in a number of these stories, it is difficult to consider them as fully authentic.

A number of the narratives told on this tour concern historic methods of punishment. During the first stop, Mercat Cross is marked as a former site of public execution and torture. The guide recounts that the Scottish public found great entertainment in witnessing people receive torture, stating "watching someone suffer more than you is entertainment" and describing public torture as being considered "family entertainment". The guide infers that this attitude towards acts of torture and

[169] The duration of this tour is approximately 2 hours. Throughout this tour stops are made at: Mercat Cross, St Giles' Cathedral, one of Edinburgh's Old Town closes, South Bridge, Blair Street Underground Vaults and a candlelit cellar where drinks of whiskey are on offer. As the case with other tours provided by Mercat's, this tour is presented by a "cloaked guide", as referred to on Mercat's official website.

punishment is still present in contemporary society, as evidenced in the fact that there is demand for tours covering such content. The guide describes the details of one particular act of torture whereby two English men were tortured for hailing the King of England at an Edinburgh pub in 1652 – an act which was considered treason in Scotland during this time period. The guide uses volunteers from the audience to theatrically illustrate how both men were tortured and encourages the rest of the audience to re-enact the reaction of the "Edinburgh Mob" by "vengefully howling". This further depicts Scots as being bloodthirsty and as having an appetite to witness extreme methods of punishment for entertainment purposes.

Furthermore, St Giles' Cathedral was also marked as being a former site of public execution. The guide recounts that methods of execution and public attitudes towards methods of execution changed over time in Scotland. The guide describes how until the late 1700s the "old style" method of execution was applied, which resulted in a slow death by strangulation. This was described as being unpleasant to watch and inefficient. It is disclosed that this was replaced by "a more humane" method of hanging in the 1800s – a method which killed convicts quicker. This method was described as being "efficient and humane if it worked", with "if" being emphasised as the key word as botched executions occurred. This distinction in time periods marked by differing methods of execution does not distinguish the past from the present, as was the case in findings outlined by Walby and Piché (2011). However, this representation does serve to present Scottish society as becoming more progressive through the abandoning of harsh prolonged methods of execution and in effect distinguishes the eighteenth century from the nineteenth century in relation to how methods of execution were perceived.

One story is told of a "young" man in his early 20s, named Robert Johnston, who was executed on the 30th of December, 1818 at St. Giles' Cathedral, following being found guilty of theft. The guide described the crowd that attended this execution as "not a typical mob", noting that they were more merciful than the usual mobs who attended executions. It is still noted that they supported him receiving the death penalty –but that they were more merciful in the sense that they felt sympathy for him and attended to bid him farewell. Johnston was initially subject of a botched execution which resulted in him visibly suffering. The crowd, who would have been used to witnessing quick executions at this point in history, is noted to have become

unruly upon the sight of Johnston suffering. Furthermore, the guide describes the details of the mob attempting to save Johnston only to surrender his body to guards who inevitably executed Johnston successfully on second attempt. The guide proceeds to describe instances of paranormal sightings of Johnston's ghost on the date of his execution (30th December) in following years.

The representation of Johnston's execution resonates with theory discussed in previous chapters. For example, noting his young age and describing the mob as being more sympathetic aligns with findings outlined in Chapter 2 which suggests that youth served as a mitigating factor, manifesting in a more sympathetic representation in eighteenth and nineteenth century broadside literature. The favourable representation of Johnston extends beyond his death. He is described as being a timid, unvengeful ghost by people who have apparently encountered his spirit, in contrast to other ghosts (such as John Chiesley) who are described as being vengeful spirits. This walking tour's representation thus further presents the Scottish public of the nineteenth century as viewing the execution of young convicts more sympathetically. In addition, the representation of the unruly crowd response to the botched execution further illustrates the Scottish public's disapproval of prolonged suffering and resonates with the documented details of Johnston's execution as discussed in Chapter 1 and findings outlined in Chapter 2 which illustrate that incompetent hangmen were the subject of criticism.

This tour includes stories featured on other tours, such as that of Burke and Hare and "Johnny One Arm". The general details of these stories are covered in similar representation as on other tours. The telling of John Chiesly "Johnny One Arm" features the paranormal aspect with reported accounts of people sighting his ghost, whereas, the telling of Burke and Hare is rooted in reality. Humour is frequently interjected into the telling of both stories.[170] This further suggests that the function of this tour is to entertain as well as inform. Thus both of Mercat's ghost tours that have been analysed can be placed on the lighter end of the dark tourism spectrum. This further supports assertions that ghost tours focus on the lighter side of death and are "frivolous, fun and silly" (Thompson cited in Miles 2015, p.10). This also signifies a

[170] The guide jokes that the moral of John Chiesly's story is "not to mess with your wife". In addition, among the jokes told in the telling of Burke and Hare is "the only person that can out drink an Irish man is an Irish woman" (a joke also told on Sandeman's "Dark Side tour") – in reference to Burke and Hare's final victim Margaret Docherty.

correlation between sites associated with death (particularly execution) and sites associated with the paranormal.

The Edinburgh Dungeon Tour

In contrast to other tours which have been analysed in this chapter, the Edinburgh Dungeon tour is not presented by the conventional solo tour guide. The tour through Edinburgh's underground is presented using a number of "live actors, theatrical sets and thrilling rides" (Edinburgh Dungeon, 2019a). The tour features exploration and engagement into stories of death, cannibalism, torture and execution. The tour is presented in a very theatrical manner through performance. The representation of content on this tour is closely managed in comparison to other tours and at the discretion of scriptwriters, as opposed to freelance tour guides. In addition, the use of sets, props and actors enables a greater degree of theatrics. Whilst the tour may contain educational aspects, as the stories presented are reality based, the primary function of this tour is to entertain.

The tour commences in the setting of a seventeenth century Scottish courtroom. During this act, an actor, playing a judge, emphasises execution as a potential means for punishment, encouraging participants to shout "Hang em' high". This drama infers that Scots in this time period could be hanged for quite trivial things, suggesting that acts such as spilling someone's drink of whiskey in a pub warranted punishment. During this act and the following two acts "witches judgment" and "the torture chamber",[171] the perceived seriousness of being accused of being a witch is theatrically portrayed, with mention that birth marks are identifiable characteristics of a witch and demonstration that confession of being a witch was often obtained through torture.[172]

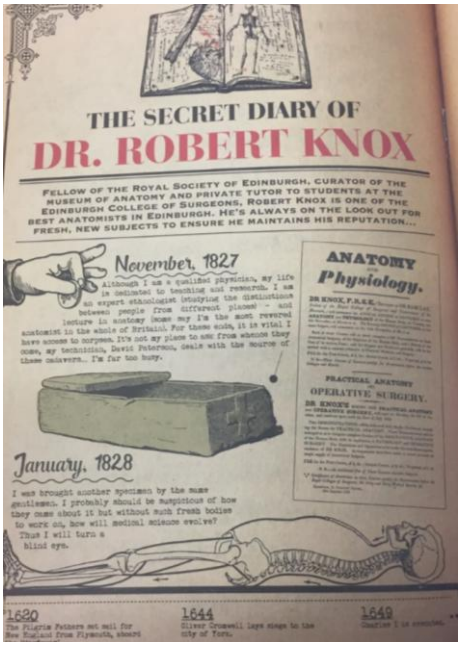
Throughout the duration of this tour, two acts/stops are dedicated to Burke and Hare. One of the acts is set in Dr. Knox's anatomy theatre, with an actor playing Dr. Knox (or an employee of Dr. Knox) presenting to the audience as medical students who

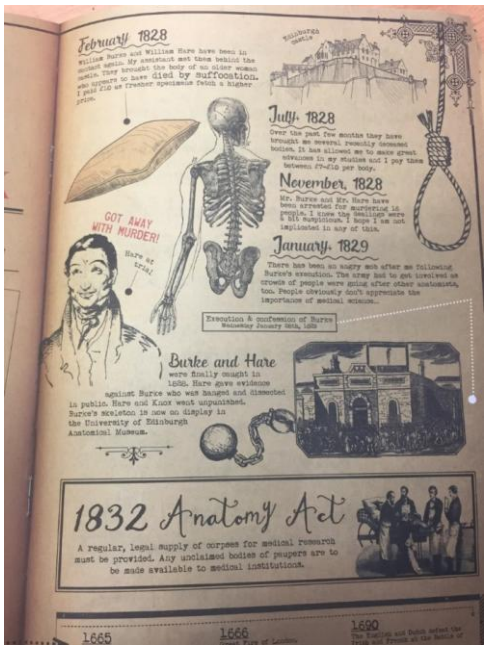
[171] The names of Acts are displayed on the Edinburgh Dungeon's official website.

[172] During the act in the seventeenth century court room, the actor playing a judge mentions a potential insanity plea as a factor for consideration. The inference that a plea of insanity would be considered in a seventeenth century courtroom is potentially inaccurate, as according to literature, outlined in Chapter 1, the insanity plea was not considered in Scotland until the early nineteenth century.

are present to witness an autopsy of one of Burke and Hare's victims. The actor (Dr. Knox) acknowledges the body as "Daft Jamie" but notes it is policy of Dr. Knox to cover the faces of victims so they cannot be identified. This representation is also prevalent in Edinburgh Dungeon's Souvenir Guidebook, which includes "the secret diary of Dr. Robert Knox" and remains consistent with the act. The Edinburgh Dungeon Souvenir Guidebook (2019) presents Dr. Knox as being deeply concerned with the advancement of medical science, causing him to turn a blind eye to what he can only suspect are murder victims.[173]

Image 12: *The Edinburgh Dungeon Souvenir Guidebook (2019)*





In addition, this tour provides a physical demonstration of how Burke killed his victims silently through the method of "Burking".[174] The second act concerning Burke and Hare theatrically presents an audio recording of voice actors (acting as Burke and Hare) discussing who their next victim should be. This act aims to theatrically place the audience in the position of a Burke and Hare victim, with the aid of a theatrical set.

[173] Presented as being written by Knox, the diary states: "I was brought another specimen by the same gentlemen. I probably should be suspicious of how they came about it but without such fresh bodies to work on, how will medical science evolve? Thus I will turn a blind eye" and "They brought the body of an older woman who appears to have died by suffocation. I paid £10 as fresher specimens fetch a higher price", as displayed below. This is a cynical representation of Dr. Knox and presents him as being fully aware that he is being supplied murder victims by Burke and Hare. As discussed in Chapter 2, this is a conflicting area of representation in broadside publications, newspapers and works of fiction.

[174] "Burking" is a term used to describe the method which Burke used to kill his victims. This term is used in other walking tours when covering the story of Burke and Hare.

One act displays the projection of an actress playing Maggie Dixon. In this act Dixon is preparing the audience for execution (in the form of the following stop: the "Drop Dead" thrill ride). Dixon informs the audience that the people of Edinburgh do not care what one is guilty of, they show up to witness a good show in the form of execution. This is similar to how execution was presented in the telling of Maggie Dixon's execution on Sandeman's walking tour.[175] This act is used to set the scene for the thrill ride the "Drop Dead Drop: The Grassmarket Gallows". The thrill ride is aimed to provide participants with an opportunity to learn "What it feels like to freefall drop at the gallows" and "How quickly one passes into the afterlife" (Edinburgh Dungeon, 2019b). This is effectively presenting execution through hanging in a thrilling, theatrical manner. This form of engagement is unlikely to offer participants insight into the reality of execution as it is completely detached from the psychological trauma and distress of preparing for execution, which convicts undoubtedly experienced.

In addition, the Edinburgh Dungeon tour brings a lot of notable convicts to life through actors, such as: Burke, Hare, Dr. Knox and Dixon. The theatrical, light hearted manner in which these figures are presented serves to entertain as opposed to horrify. Tourists ignorant of Scottish history may be forgiven in leaving the Edinburgh Dungeon tour, believing these figures are fictional characters as opposed to real historical figures. Thus participants are unlikely to consciously process the seriousness of the crimes committed by these figures as well as the punishment of execution. Therefore, whilst the Edinburgh Dungeon tour is dark in the sense that it presents content relating to punishment and death, the representation undermines and makes light of the experience of execution. This is similar to Walby and Piché's (2011) arguments regarding interactional content on prison tours in Ontario. Of the five tours that have been analysed, the Edinburgh Dungeon tour can be considered the "lightest" of them all, primarily serving to entertain audiences with only a vague educational aspect. This ultimately supports Stone's (2009) general positioning of Dungeon attractions (in the UK and Europe) on the dark tourist spectrum.

[175] As previously discussed, this representation presents execution as a means of entertainment for eighteenth century Scots.

Chapter Conclusion

Edinburgh walking tours, like press publications, are one form of consumption of representations of capital punishment. As the "dark side" tour guide notes and as is evident in various examples: a considerable number of stories and tales told in relation to Edinburgh's history have emerged from previous acts of extreme punishment. Given the sensationalised, farfetched details of ghost stories and other supernatural occurrences that often accompany these stories of historic executions, it is often difficult to discern when creative license ends and truth begins. As discussed, this was also the case of how execution was represented in eighteenth and nineteenth century broadside literature so that the lines between fiction and fact became blurred. This indicates that fictionalisation is an overarching theme which spans over centuries in the representation of capital punishment in Scotland and further exemplifies entertainment as an important "cultural use of capital punishment", as suggested by Seal (2014, p. 5).[176]

In addition, the humour that was often interjected into the telling of these stories, and the general light hearted tone that was prevalent throughout, indicates that narratives of execution serve the function of informing tourists of Scotland's legacy of capital punishment as well as to entertain. In connecting these findings to existing scholarship, it is clear that as is the case with other dark tourist sites, a number of Edinburgh walking tours' (such as tours provided by Sandeman's) representation of the past can be situated in the middle (serving to entertain and inform), a similar position to prison sites on Carrabine's (2017) suggested spectrum. Edinburgh ghost tours (provided by Mercat's) can be situated towards the lighter end of the spectrum, serving to inform and entertain in a theatrical manner. The Edinburgh Dungeon Tour can be situated at the "lightest" end of the dark tourism spectrum, predominantly serving to entertain audiences. None of the Edinburgh walking tours' representation of issues pertaining to death and punishment can be placed at the "darker" end of the spectrum (where sites such as Holocaust museums are situated) as a degree of entertainment, theatrics or at least light hearted humour is consistently present.

[176] Seal (2014, p. 5) argues that press portrayals of executions in twentieth century Britain exemplify entertainment as an important cultural use of the death penalty. Findings in this chapter illustrate that this cultural use of capital punishment as entertainment is exemplified in walking tours in post-abolition Scotland.

Capital punishment has maintained its cultural use of entertainment in post abolitionist Scotland in meeting conventional tourist functions through entertaining tourists on walking tours as a means of leisure. However, it remains unclear why sites of execution in Edinburgh are generally situated on the lighter end of the spectrum, compared to other dark tourist sites. There are a number of potential explanations, including: the time, the scale and the context (the culpability of who died). Contemporary audiences in the twenty-first century may feel a sense of detachment from stories of death in bygone centuries (sixteenth to early nineteenth century) in comparison to sites concerning the Holocaust, which ended in the mid twentieth century – potentially within the lifetime of a number of elderly contemporary tourists. In addition, the scale of death, based on the number of deaths associated with each site, may be a contributory factor. For context, Scotland executed 505 convicts between 1740 and 1834 (Bennett, 2017). This is in huge contrast to the scale of death of the Holocaust, whereby 11 million people[177] were killed (Schwartz, 2012). Therefore, sites of holocaust memorials mark the sites of large scale death. For example, more than 50 000 people died at Buchenwald[178] between 1937 and 1945 (Heartl, 1996 cited in Beech, 2000). This is in significant contrast to the number of deaths that occurred at any one former site of execution in Edinburgh.

In addition, whilst the time and the scale of political influence is acknowledged on Stone's dark tourism spectrum, the context of the death(s) which marks sites as being "dark" is not. Culpability is a factor which this thesis argues should be taken into account when considering why some sites are presented more lightly than others. Whilst dark tourist sites may mark the death of certain people or groups of people, the culpability of who died can be of significant contrast. For example, the context of executing the perceived wrongdoers as a method of punishment is highly contrasting to the killing of innocent people under a fascist political regime. Thus, sites of public execution in Scotland are undoubtedly represented as lighter than any site or museum associated with the Holocaust. This suggests that culpability

[177] Schwartz (2012) highlights that 6 million Holocaust victims were Jewish and five million were not Jewish. Schwartz's book is concerned with shedding light on non-Jewish victims of the Holocaust.
[178] Buchenwald a former concentration camp, now a memorial site.

overrides location and thus complicates Stone's[179] inference that sites associated with death are "lighter" than sites of death.

Moreover, in considering Stone's assertion that the anticipation of death will differ across social and cultural groups, it should be acknowledged that the interpretation of how capital punishment is presented might vary based on the nationality of guests. A number of tourists who participate on these tours are from countries that retain the death penalty (such as China and the United States of America). Thus, the emotions of shock and horror which the darkest tourist sites may provoke in visitors are absent when presenting execution sites to tourists who come from specific countries. Furthermore, undoubtedly a number of people who participate on Edinburgh walking tours (regardless of where they are from) have a favourable view of capital punishment and thus may view stories of execution as just punishment (and subjects of execution as culpable) as opposed to barbaric deaths, thus enabling a lighter representation.

Moreover, Scotland's past of witch-hunts (largely attributed to having been led by figures such as John Knox and King James) is highlighted on a number of walking tours and is presented as being an unenlightened period in Scottish history. As discussed, Walby and Piché (2011) note that tours in Ontario serve to distinguish the past from the less punitive present. Whilst there is no explicit mention of Scotland's modern day practices of punishment on Edinburgh walking tours, the nature of trials and executions in past centuries are presented as being shameful, barbaric and dated. This is often presented in a light hearted, theatrical manner with the aim of entertaining the audience, as the practices and attitudes towards crime of past generations (particularly spiritualistic approaches of crime in relation to witch-hunts) are presented as being absurd and inferior in comparison to modern enlightened practices.

This corresponds with findings outlined by Walby and Piché (2011, p. 463) in relation to penal museums in Ontario, which states "The cell can also be used at penal museums to represent differences between an imagined barbarous past and a civilised present." A number of these execution sites in Edinburgh similarly serve to create a distance between the imagined barbaric, outdated practices of the past and

[179] Stone's dark tourist spectrum - cited in Sharpley (2009).

the enlightened, civilised present. Thus, significant shifts in society have evidently impacted representations of capital punishment. As discussed in Chapter 1, Scotland was considered a very religious country in the eighteenth and nineteenth centuries (and prior). The strong religious practice once prevalent in Scottish society is reflected in historical representations of capital punishment, as discussed in Chapter 2. However, Scotland has become increasingly secular in modern times and thus perceptions and views of spiritualistic approaches are highly contrasting and are represented with contempt.

Based on a number of stories told on Edinburgh City walking tours, it is clear that stories of capital convicts and stories of ghosts are commonly interlinked. This further supports Blanco and Peeren's (2010) inference that haunting tourism and state sponsored death are often intertwined. Discussing why this might be, Blanco and Peeren (2010, p. 136) assert that "state sponsored death produces an eerie effect that sticks to the very materiality of the prison building" and when considering prisons' strong association with death and punishment suggest that if ghosts exist anywhere in the world they are likely to be found in prisons. Moreover, the same can be said to apply to former sites of public execution and torture in Edinburgh, as they are also marked as former sites of state sponsored punishment. Sites of public executions and prisons are sites associated with premature death and thus are associated with spirits and ghosts. Thus, an additional potential explanation as to why it is socially acceptable to present stories of execution in a light-hearted manner is that these stories have historically been framed in a humorous and often fictionalised manner. This is evident in numerous broadsides outlined in Chapter 2 which presented stories of death in a light-hearted, humorous manner.

Conclusion

Existing literature in relation to broadsides ranges from authors who suggest that broadsides primarily served didactic functions (Knelman, 2008) to sources which suggest that broadsides are complex writings and partially served to procure sympathy for the convict (O'Brien 2001; Schwan, 2014). Findings in this study illustrate that the didactic function is only one of the functions which execution broadsides serve (diminished by other numerous functions) and that broadsides only serve to elicit sympathy in certain cases, dependent on the convict's identity and crime. Findings in this study support arguments put forward by Schwan (2014) and O'Brien (2001) in suggesting that broadsides are generally complex writings, which serve several contradictory functions. However, building on these arguments, this study finds that the degree of complexity in representation varied, determined by the convict's identity and crime. As outlined in Chapter 2, factors such as age, nationality, gender and offence impact representation with some convicts deemed worthy of a more sympathetic representation than others. The variant degree of complexity is dictated by the voice of the author, the voice of the audience and the voice of God – all of which have been highlighted as subject to change, depending on the convict's identity and offence. This is most apparent in Chapter 3's findings concerning the analysis of two representations of two capital cases, that of McKinnon and Burke. These findings illustrate that capital convicts are the vocal point which dictates how capital punishment is presented.

This study's findings indicate that the generally complex representations of capital punishment in this time period can partly be attributed to the period of transition between spiritualistic and naturalistic understandings of crime. However, this study has found that the voice of the law was consistent in warning readers of the consequences of crime. Consistency in representation extended to the account/voice of the convict which generally presents a wide range of convicts as sorrowful and repentant.

Through analysis of five Edinburgh walking tours, this study has found that contemporary representations of capital punishment in Scotland are often accompanied with a degree of fictionalisation and humour – similar to representations in eighteenth and nineteenth century broadside literature. This

signifies that representations of capital punishment, spanning across centuries, have served to entertain, as well as to inform audiences. Adding to existing scholarship, this thesis argues that factors such as time, scale and culpability impact and shape contemporary representations of capital punishment.

This study has addressed gaps in research concerning representations of public executions in Scotland in the eighteenth and nineteenth centuries, as well as early twenty-first century representations of Scotland's legacy of capital punishment on Edinburgh walking tours. However, one further gap in research is representations of capital punishment in Scotland during the 95 years (1868 – 1963) in which execution was carried out in private prisons in Scotland. Seal (2014) focuses on representations of capital punishment in twentieth century Britain. However, more research is required in a Scottish specific context.

This gap in literature also extends to contemporary representations of executions that occurred in private from 1868 – 1963 in Scotland. This study has focused on contemporary representations of public executions from the seventeenth to the nineteenth centuries. However, contemporary representations of executions that occurred from 1868 – 1963 (in prisons) also remain unexplored. Such content is likely to be covered on prison tours - a medium which this study has not considered. As has been highlighted in Chapter 1, the privatisation of executions marks a key dynamic shift in representations. Thus, further research is necessary to explore the impact this shift had on cultural representations of capital punishment in Scotland. In addition, whilst this study has focused on contemporary representations of capital punishment, more research is required to understand how such representations are received by audiences.

Reference List

Aberdeen's Peoples Journal (1864). Register | *British Newspaper Archive*. [online] Available at: https://www.britishnewspaperarchive.co.uk/viewer/bl/0000772/18640820/064/0002 [Accessed Sep. 2019].

Alarid, L. and Wang, H. (2001). Mercy and Punishment: *Buddhism and the Death Penalty. Social Justice,* 28 (1 (83), 231-247. Retrieved from http://www.jstor.org/stable/29768067

Bailey, V. (2000). The Death Penalty in British History. *Punishment & Society, 2(1),* pp.106-113.

Bandes, S. (2004) , Fear Factor: The Role of Media in Covering and Shaping the Death Penalty (2004). *Ohio State Journal of Criminal Law*, Vol. 1, p. 585, 2004. Available at SSRN: https://ssrn.com/abstract=4133855

Bath, J. and Newton, J. (2006). "Sensible Proof of Spirits": *Ghost Belief during the Later Seventeenth Century. Folklore*, 117(1), pp.1-14.

BBC History (2019). *BBC - History - Scottish History.* [online] Available at: http://www.bbc.co.uk/history/scottishhistory/union/oddities_union.shtml [Accessed Nov. 2019].

Beech, J. (2000). The enigma of holocaust sites as tourist attractions - the case of Buchenwald. *Managing Leisure*, 5(1), pp.29-41.

Bennett, R. (2017) *Capital Punishment and the Criminal Corpse in Scotland, 1740-1834*. London: Palgrave Macmillan, 2017.

Bernard, T., Snipes, J. and Gerould, A. (2010). *Vold's theoretical criminology*. OUP Oxford.

Blanco, M. and Peeren, E. (2010). *Popular ghosts*. New York: Continuum.

Bland, L. (2013). *Modern women on trial*. Manchester University Press; 1 edition (October 8, 2013)

British Newspaper Archives (2019a). *Caledonian Mercury in British Newspaper Archive*. [online] Available at: https://www.britishnewspaperarchive.co.uk/titles/caledonian-mercury [Accessed Sep. 2019].

British Newspaper Archives (2019b). *Aberdeen People's Journal in British Newspaper Archive*. [online] Available at: https://www.britishnewspaperarchive.co.uk/titles/aberdeen-peoples-journal [Accessed Sep. 2019].

British Newspaper Archives (2019c). *Perthshire Courier in British Newspaper Archive*. [online] Available at: https://www.britishnewspaperarchive.co.uk/titles/perthshire-courier [Accessed Sep. 2019].

Brown, S.J. (2010) 'Beliefs and Religion' in Morton, G., Griffiths, T. (2010) *A history of everyday life in Scotland, 1800 to 1900*. Trevor Griffiths and Graeme Morton. Edinburgh: Edinburgh University Press.

Brown, T. (2015) *Murder (Abolition of Death Penalty) Act 1965: 50 Years*. House of Lords

Bruce, S., Glendinning, T and Rosie, M. (2004). *Sectarianism in Scotland*. Edinburgh: Edinburgh University Press.

Caledonian Mercury (1829). *Register | British Newspaper Archive*. [online] Available at: https://www.britishnewspaperarchive.co.uk/viewer/bl/0000045/18290129/008/0003 [Accessed Sep. 2019].

Carrabine, E (2011) 'The Iconography of Punishment: Execution Prints and the Death Penalty', *Howard Journal of Criminal Justice*, 50.5 (2011), 452-6

Carrabine, E (2017) Chapter 2: Iconic Power, Dark Tourism, and the Spectacle of Suffering in Wilson, J., Hodgkinson, S., Piché, J. and Walby, K. (n.d.). *The Palgrave handbook of prison tourism*. Palgrave Macmillan; 1st ed. 2017 edition (17 May 2017)

Casey, C. (2010). Common Misperceptions: The Press and Victorian Views of Crime. *Journal of Interdisciplinary History*, 41(3), pp.367-391.

Cawthorne, N. (2006). *Public executions*. Edison, N.J.: Chartwell Books.

Cohen, S. (1982) *Folk Devils And Moral Panics*

Corlett J.A. (2013) Capital Punishment. In: *Responsibility and Punishment. Library of Ethics and Applied Philosophy*, vol 34. Springer, Dordrecht

Curtice, J., McCrone, D, Park, A and Peterson, L (2002). *New Scotland, new society?.* Scotland: Polygon at Edinburgh

Dudley Edwards, O. (2014). *Burke and Hare*. New York: Birlinn.

Edinburgh Dungeons. (2019). *Drop Dead: The Grassmarket Gallows*. [online] Available at: https://www.thedungeons.com/edinburgh/en/whats-the-dungeon/drop-dead-the-grassmarket-gallows/ [Accessed Apr. 2019].

Edinburgh Dungeon (2019b) *Drop Dead: The Grassmarket Gallows*. [online] Available at: <https://www.thedungeons.com/edinburgh/en/whats-the-dungeon/drop-dead-the-grassmarket-gallows/> [Accessed Dec. 2019].

Edinburgh Tourist Action Group (2016). *Tourism in Edinburgh; Key Figures* [online] Available at: <https://www.etag.org.uk/wp-content/uploads/2016/11/Facts-and-Figures-Guide-2016-Final.pdf> [Accessed March 2019].

Elkins, C. (1980), 'The Voice of the Poor: The Broadside as a Medium of Popular Culture and Dissent in Victorian England', *Journal of Popular Culture*, 14(1980), 262-274

Emsley, C. (2010). *Crime and society in England, 1750-1900*. Routledge; 4 edition (11 Mar. 2010).

Fisher, A. (2007). *William Wallace*. Edinburgh: Birlinn.

Foucault, M. (1995). *Discipline and punish*. New York: Vintage Books.

Foucault, M. (1982). *I, Pierre Rivière, having slaughtered my mother, my sister, and my brother ....* Lincoln: University of Nebraska Press.

Foucault, M. (1980). *Power/Knowledge*. Brighton: Harvester.

Fulkerson, A. (2017) Why We Need The Death Penalty in Bohm, R. and Lee, G. (2015). *Routledge handbook on capital punishment*. Routledge; 1 edition (15 Dec. 2017)

Garland D. (2011). Modes of Capital Punishment: The Death Penalty in Historical Perspective. In: Garland D, Meranze, M McGowen, R (2011) editors. *America's Death Penalty: Between Past and Present*. New York: 2011

Gatrell, V. (1994). *The Hanging Tree*. Oxford: Oxford Univ. Press.

Glasgow Citizen (1845). *Register* | *British Newspaper Archive*. [online] Available at: https://www.britishnewspaperarchive.co.uk/viewer/bl/0001163/18450628/011/0001 [Accessed Oct. 2019].

Gordon, R. (2009). *The infamous Burke and Hare*. Jefferson, N.C.: McFarland & Co.

Gregory, J. (2012). *Victorians Against the Gallows: Capital Punishment and the Abolitionist Movement in Nineteenth Century Britain* (Library of Victorian Studies). I.B. Tauris.

Groves, D. (1991) Blake and the Edinburgh Literary Gazette—with a Note on Thomas De Quincey. *Blake/An Illustrated Quarterly*, Volume 25, Issue 3, Winter 1991/1992, pp. 133-135 [Online] Available at: http://bq.blakearchive.org/pdfs/25.3.groves.pdf

Groves, D. (1988). De Quincey's "Daughter of Lebanon" and the Execution of Mary McKinnon. *The Wordsworth Circle*, 19(2), 105-107. Retrieved from http://www.jstor.org/stable/24042864

Groves, D. (1987). James Hogg's "Confessions and Three Perils of Woman" and the Edinburgh Prostitution Scandal of 1823. *The Wordsworth Circle*, 18(3), 127-131. Retrieved from http://www.jstor.org/stable/24042771

Hager, T. (2008). Compassion and Indifference: The Attitude of the English Legal System Toward Ellen Harper and Selina Wadge, Who Killed Their Offspring in the

1870s. *Journal of Family History*, *33*(2), 173–194. https://doi.org/10.1177/0363199007313575

Hall, S. (1997). *Representation: Cultural representations and signifying practices*. Chapter 1: Representation, meaning and language. London Thousand Oaks, Calif: Sage in association with the Open University. pp. 15-64

Handler, P (2005) Forgery And The End Of The 'Bloody Code' In Early Nineteenth – Century England. *The Historical Journal*, 48, 3 (2005), pp. 683–702. Cambridge University Press

Haney, C (1995), Symposium, Social Context of Capital Murder: *Social Histories and the Logic of Mitigation*, 35 Santa Clara L. Rev. 547 (1995). Available at: http://digitalcommons.law.scu.edu/lawreview/vol35/iss2/7

Harvard Law School Library (2019). *Harvard Mirador Viewer*. [online] Available at: https://iiif.lib.harvard.edu/manifests/view/drs:460122916$1i [Accessed 3 Apr. 2019]

Hood, R. and Hoyle, C. (2008). *The death penalty; A Worldwide Perspective*. Oxford University Press, USA; 4 edition (2 Jun. 2008)

Jacob, M. (2019). *The Secular Enlightenment*. Princeton University Press (19 Feb. 2019)

Jewkes, Y. (2011). *Media & crime*. London: SAGE.

Jones, M (2003) *Fractured Narratives of Infanticide in the Crime and Execution Broadside in Britain, 1780-1850* in Thorn, J. (2003). *Writing British Infanticide*. Newark: University of Delaware Press.

King, P. (2017). *Punishing the Criminal Corpse, 1700-1840*. [S.l.]: Palgrave Macmillan UK.

Knelman, J. (2008). *Twisting in the wind*. Toronto: University of Toronto Press.

Knight, A. (2007). *Burke & Hare*. Kew, Richmond, Surrey: National Archives.

Knowles, J., (2015) *The Abolition Of The Death Penalty In The United Kingdom*. London: The Death Penalty Project.

Kudlac, C. (2007). *Public executions*. Westport, Conn.: Praeger.

Leneman, L. (1999). Seduction in Eighteenth and Early Nineteenth-Century Scotland. *The Scottish Historical Review*, 78(1), pp.39-59.

Laqueur, T. (1989) 'Crowds, carnival and the State in English executions, 1604–1868' in A. Beier, D. Cannadine and J. Roshenheim (1989.) T*he First Modern*

Society: Essaysin English History in Honour of Laurence Stone, Cambridge: Cambridge University Press

Lee, G., Bohm, R. and Pazzani, L. (2013). “Knowledge and Death Penalty Opinion: The Marshall Hypotheses Revisited.”. *American Journal of Criminal Justice*, 39(3), pp.642-659.

Lennon, J. and Foley, M. (2010). *Dark tourism*. Andover: Cengage Learning

Lennon, J. and Foley, M. (1996) JFK and dark tourism: a fascination with assassination. International *Journal of Heritage Studies*, 2 (4). 198-211.

Lightowler C (2018), Drunk and Doubly Deviant? the Role of Gender and Intoxication in Sentencing Assault Offences, *The British Journal of Criminology, Volume 59, Issue 3, May 2019, Pages 693–717*, https://doi.org/10.1093/bjc/azy041

Lilly, J., Ball, R. and Cullen, F. (2011). *Criminological theory*. Thousand Oaks: SAGE.

Mayer, G. (2007) "The Poet and Death: Literary Reflections on Capital Punishment Through the Sonnets of William Wordsworth," *Journal of Civil Rights and Economic Development*: Vol. 21 : Iss. 3 , Article 5. Available at: https://scholarship.law.stjohns.edu/jcred/vol21/iss3/

Mayhew, H. (1968). *London labour and the London poor*. New York: Dover.

McCracken-Flesher, C. (2012). *Doctor Dissected. A Cultural Autopsy of the Burke and Hare Murders*. OUP USA (16 Feb. 2012)

McLeod, M. (2018). The Death Penalty as Incapacitation. *SSRN Electronic Journal*.

Melossi, D. (2008). *Controlling crime, controlling society*. Cambridge: Polity.

Miles, T., (2015). *Tales From The Haunted South*. The University of North Carolina Press.

Morrison, K. (2018). *Companion to Victorian popular fiction*. McFarland & Company (October 15, 2018)

Murphy, J. G. (2003). Christianity and Criminal Punishment. *Punishment & Society*, 5(3), 261–277. https://doi.org/10.1177/1462474503005003002

Nagy, V. (2015). *Nineteenth-century female poisoners*. Basingstoke: Palgrave Macmillan.

Nash, D. and Kilday, A. (2014). *Cultures of shame.* [Place of publication not identified]: Palgrave Macmillan.

National Library of Scotland (2019). *Broadsides - Rare Book Collections - National Library of Scotland* - National Library of Scotland. [online] Available at: https://www.nls.uk/collections/rare-books/collections/broadsides [Accessed 8 May 2019].

National Library of Scotland (2019b). *The Word on the Street - Broadsides at the National Library of Scotland*. [Online] Available at: https://digital.nls.uk/broadsides/index.html [Accessed Jul. 2019].

National Library of Scotland (2019c). *Background - Broadsides at the National Library of Scotland*. [online] Available at: https://digital.nls.uk/broadsides/background.html [Accessed Jul. 2019].

National Library of Scotland (2019f). *Search - Broadsides at the National Library of Scotland*. [online] Available at: https://digital.nls.uk/broadsides/search.html [Accessed 31 Aug. 2019].

National Museums Scotland. (2019). *The Maiden*. [online] Available at: https://www.nms.ac.uk/explore-our-collections/stories/scottish-history-and-archaeology/the-maiden/ [Accessed Nov. 2019].

National Museums Scotland. (2020). *The mystery of the miniature coffins*. [online] Available at: https://www.nms.ac.uk/explore-our-collections/stories/scottish-history-and-archaeology/mystery-of-the-miniature-coffins/ [Accessed Mar. 2020].

National Records Scotland (2019a). *Francis Jeffrey (1773-1850)* | *National Records of Scotland.* [online] Available at: https://www.nrscotland.gov.uk/research/learning/hall-of-fame/hall-of-fame-a-z/jeffrey-francis [Accessed Oct. 2019].

National Trust. (2019). *What is Romanticism?.* [online] Available at: https://www.nationaltrust.org.uk/features/what-is-romanticism [Accessed 12 Oct. 2019].

Newburn, T. (2017). *Criminology*. London: Routledge.

NLS Broadside 1 (2019). *Broadside Entitled 'Awful Judgment'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15391> [Accessed July 2019].

NLS Broadside 3 (2019) *Broadside Entitled 'The Coblers' Tears!'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15933> [Accessed July 2019].

NLS Broadside 4 (2019) *Broadside Entitled 'The Condemned Or, The Last Moments Of William Perrie'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14741> [Accessed July 2019].

NLS Broadside 6 (2019). *Broadside Regarding The Dying Words And Execution Of Margaret Shuttleworth*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=16706> [Accessed July 2019].

NLS Broadside 7 (2019) *Broadside Entitled 'Elegy'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15597> [Accessed July 2019].

NLS Broadside 9 (2019) *Broadside Ballad Entitled 'Elegy On The Death Of The Late Executioner'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14658> [Accessed July 2019].

NLS Broadside 11 (2019) *Broadside Ballad Entitled 'Elizabeth M'neil Afraid Of The Hangman's Fa''*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15133> [Accessed July 2019].

NLS Broadside 12 (2019). *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14675> [Accessed July 2019].

NLS Broadside 13 (2019) *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=16594> [Accessed July 2019].

NLS Broadside 15 (2019) *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15499> [Accessed July 2019].

NLS Broadside 20 (2019). *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15321> [Accessed July 2019].

NLS Broadside 21 (2019) *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15352> [Accessed July 2019].

NLS Broadside 23 (2019) *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15368> [Accessed July 2019].

NLS Broadside 25 (2019). *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15372> [Accessed July 2019].

NLS Broadside 29 (2019) *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14569> [Accessed July 2019].

NLS Broadside 34 (2019). *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14709> [Accessed July 2019].

NLS Broadside 35 (2019). *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14712> [Accessed July 2019].

NLS Broadside 36 (2019). *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14713> [Accessed July 2019].

NLS Broadside 38 (2019) *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14723> [Accessed July 2019].

NLS Broadside 40 (2019) *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15170> [Accessed July 2019].

NLS Broadside 44 (2019) *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14728> [Accessed July 2019].

NLS Broadside 45 (2019) *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15160> [Accessed July 2019].

NLS Broadside 47 (2019) *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15199> [Accessed July 2019].

NLS Broadside 48 (2019). *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15213> [Accessed July 2019].

NLS Broadside 53 (2019). *Broadside Entitled 'Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15308> [Accessed July 2019].

NLS Broadside 55 (2019). *Broadside Entitled 'Execution At Elgin'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=16302> [Accessed July 2019].

NLS Broadside 56 (2019) *Broadside Entitled 'Execution At Inverness'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=16017> [Accessed July 2019].

NLS Broadside 57 (2019) *Broadside Entitled 'Execution At Perth'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=16303> [Accessed July 2019].

NLS Broadside 61 (2019) *Broadside Concerning The Execution Of Andrew Stewart And Edward Kelly*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=16581> [Accessed July 2019].

NLS Broadside 64 (2019). *Broadside Entitled 'Execution Of Charles Mcewen'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15182> [Accessed July 2019].

NLS Broadside 66 (2019) *Broadside Concerning The Execution Of Christian Sinclair For Commiting Murder*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15285> [Accessed July 2019].

NLS Broadside 67 (2019). *Broadside Regarding The Execution Of Coll Oxburgh*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15596> [Accessed July 2019].

NLS Broadside 68 (2019) *Broadside Entitled 'Execution Of Craig And Brown For Housebreaking'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14683> [Accessed July 2019].

NLS Broadside 73 (2019). *Broadside Entitled 'Execution Of James Campbell For Housebreaking And Theft'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14738> [Accessed July 2019].

NLS Broadside 74 (2019). *Broadside Concerning The Execution Of James Wilson And John Mcdonald*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=16572> [Accessed July 2019].

NLS Broadside 78 (2019) *Broadside Concerning The Execution Of John Howison*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14578> [Accessed July 2019].

NLS Broadside 80 (2019) *Broadside Regarding The Execution Of John Mckana And Joseph Richardson*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14699> [Accessed July 2019].

NLS Broadside 82 (2019) *Broadside Concerning The Execution Of John Thomas*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=16561> [Accessed July 2019].

NLS Broadside 83 (2019) *Broadside Regarding The Execution Of Margaret Crooks*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15608> [Accessed July 2019].

NLS Broadside 85 (2019) *Broadside Entitled 'Execution Of Mary M'kinnon'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14692> [Accessed July 2019].

NLS Broadside 87 (2019) *Broadside Entitled 'Execution Of Mrs M'kinnon'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14691> [Accessed July 2019].

NLS Broadside 88 (2019) *Broadside Regarding The Execution Of Patrick Mcnicol Or Campbell*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15611> [Accessed July 2019].

NLS Broadside 92 (2019) *Broadside Entitled 'Execution Of Thomas Connor And Bell Mcmenemy'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14732> [Accessed July 2019].

NLS Broadside 93 (2019) *Broadside Concerning The Execution Of Thomas Connor And Bell Mcmenemy*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14733> [Accessed July 2019].

NLS Broadside 94 (2019) *Broadside Concerning The Execution Of William Burke*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15364> [Accessed July 2019].

NLS Broadside 97 (2019) *Broadside Regarding The Execution Of William Mcintyre*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14689> [Accessed July 2019].

NLS Broadside 100 (2019). *Broadside Entitled 'Execution!'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15295> [Accessed July 2019].

NLS Broadside 101 (2019) *Broadside Entitled 'Execution!'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15296> [Accessed July 2019].

NLS Broadside 103 (2019). *Broadside Entitled 'Execution, Second Edition'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15550> [Accessed July 2019].

NLS Broadside 110 (2019). *Broadside Entitled 'Horrid Murder'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15167> [Accessed July 2019].

NLS Broadside 111 (2019). *Broadside Regarding The Jacobite Attack On Francis Hoar's House, London*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15605> [Accessed July 2019].

NLS Broadside 113 (2019). *Broadside Entitled 'Lamentation Of George Gilchrist'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15569> [Accessed July 2019].

NLS Broadside 117 (2019) *Broadside Entitled 'THE LAST SPEECH AND DYING WORDS OF JOHN DALGLEISH, HANGMAN OF EDINBURGH'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15309> [Accessed July 2019].

NLS Broadside 118 (2019). *Broadside Entitled 'The Last Speech Of Coll Oxburgh'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15257> [Accessed July 2019].

NLS Broadside 120 (2019) *Broadside Entitled 'Last Words And Dying Declaration Of Jock Heigh The Hangman'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15394> [Accessed July 2019].

NLS Broadside 122 (2019) *Broadside Ballad Entitled 'A Letter From Doctor Dalgeish To His Patient Mrs. M'leod, And Her Answer'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15816> [Accessed July 2019].

NLS Broadside 127 (2019) *Broadside Entitled 'Mansie Waugh's Dream Concerning The Execution Of Burke, Parts First And Second'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15225> [Accessed July 2019].

NLS Broadside 128 (2019). *Broadside Entitled 'Murder'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14605> [Accessed July 2019].

NLS Broadside 130 (2019) *Broadside Entitled 'The Only True Account'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14604> [Accessed July 2019].

NLS Broadside 131 (2019). *Broadside Entitled 'Particular Account Of The Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15155> [Accessed July 2019].

NLS Broadside 136 (2019) *Broadside Entitled 'Second Edition: Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14611> [Accessed July 2019].

NLS Broadside 137 (2019) *Broadside Entitled 'The Second Speech'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=16018> [Accessed July 2019].

NLS Broadside 143 (2019) *Broadside Account Concerning Trials And Executions For 'Witchcraft, Adultery, Fornication, &C. &C.'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=14724> [Accessed July 2019].

NLS Broadside 146 (2019). *Broadside Entitled 'A Warning To The Wicked, Or, Margaret Dickson's Welcome To The Gibbet'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15756> [Accessed July 2019].

NLS Broadside 147 (2019). *Broadside Ballad Entitled 'William Burk's Execution'*. [online] Available at: <https://digital.nls.uk/broadsides/view/?id=15232> [Accessed July 2019].

O'Brien, E. L. (2001). "Every Man Who Is Hanged Leaves a Poem": *Criminal Poets in Victorian Street Ballads. Victorian Poetry* 39(2), 319-339. West Virginia University Press. Retrieved March 6, 2019, from Project MUSE database.

Perthshire Courier (1829). *Register* | *British Newspaper Archive*. [online] Available at: https://www.britishnewspaperarchive.co.uk/viewer/bl/0001174/18290129/028/0003 [Accessed Sep. 2019].

Rickards, M. and Twyman, M., (2001). *The Encyclopedia Of Ephemera*. New York: Routledge.

Riggs, P. (2012). Prosecutors, Juries, Judges and Punishment in Early Nineteenth-Century Scotland. *Journal of Scottish Historical Studies*, 32(2), pp.166-189.

Sarat, A. (1999) "The Cultural Life of Capital Punishment: Responsibility and Representation in Dead Man Walking and Last Dance," *Yale Journal of Law & the Humanities*: Vol. 11: Iss. 1, Article 4. Available at: http://digitalcommons.law.yale.edu/yjlh/vol11/iss1/4

Sarat, A., (2001). *The Killing State*. New York: Oxford University Press, USA.

Schwan, A (2014), *Women's Voices in Nineteenth-Century Street Literature', in Convict Voices: Women, Class, and Writing About Prison in Nineteenth-Century England*. Durham, NH:University of New Hampshire Press, 2014.

Schwartz, T. (2012) *Holocaust Forgotten*. Westlake Village, California: [T. Schwartz].

Seal, L. (2014). *Capital punishment in twentieth-century Britain*. London: Routledge.

Sharpley, R. (2009) Chapter 1: Shedding Light on Dark Tourism: An Introduction In Sharpley, R. and Stone, P.(2009). *The Darker Side Of Travel*. Bristol, UK: Channel View Publications.

Shepard, L. (1978). *The broadside ballad*. Hatboro, Pa.: Legacy Books.

Shoemaker R. (2004) Streets of Shame? The Crowd and Public Punishments in London, 1700–1820. In: Devereaux S., Griffiths P. (eds) *Penal Practice and Culture, 1500–1900.* Palgrave Macmillan, London

Shoemaker, R.B. (2017) Worrying About Crime: Experience, Moral Panics and Public Opinion in London, 1660–1800. *Past and Present*, 234 (1). pp. 71-100.

Schabas, W. (2000) *Islam and the Death Penalty*, 9 Wm. & Mary Bill Rts. J. 223 (2000), https://scholarship.law.wm.edu/wmborj/vol9/iss1/13

Smyth, J. and McKinlay, A. (2011). Whigs, Tories and Scottish Legal Reform, c.1785-1832*. Crime, Histoire & Sociétés*, 15(1), pp.111-132.

Special Collections Broadside 1 (1823) Broadside entitled “Lines Written the Day before Mrs McKinnon’s Execution” Found in NLS Special Collections*; [Miscellaneous pamphlets, broadsides and newspaper cuttings relating to the crime, trial and execution of Mary Mackinnon.]. [Edinburgh].*

Special Collections Broadside 2 (1823) Broadside entitled “Mary McKinnon’s Lament” Found in NLS Special Collections*; [Miscellaneous pamphlets, broadsides and newspaper cuttings relating to the crime, trial and execution of Mary Mackinnon.]. [Edinburgh].*

Special Collections Broadside 3 (1823) Broadside entitled “The Trial of Mary McKinnon”. Found in *[Miscellaneous pamphlets, broadsides and newspaper cuttings relating to the crime, trial and execution of Mary Mackinnon.]. [Edinburgh].*

Special Collections Broadside 4 (1823) Broadside entitled “Execution” Found in *[Miscellaneous pamphlets, broadsides and newspaper cuttings relating to the crime, trial and execution of Mary Mackinnon.]. [Edinburgh].*

Stone, P. (2009) ‘It’s a Bloody Guide’: Fun, Fear and a Lighter Side of Dark Tourism at the Dungeon Visitor Attractions, UK. In Sharpley R. & Stone, P.R. (2019) *The Darker Side of Travel: The Theory and Practice of Dark Tourism. Aspects of Tourism Series*, Bristol: Channel View Publications..

Tambling J. (1995) Dickens and Dostoevsky: Capital Punishment in Barnaby Rudge, A Tale of Two Cities and The Idiot. In: *Dickens, Violence and the Modern State*. Palgrave Macmillan, London

The Church of Scotland (2009) *The Death Penalty.* Church and Society Council [Online] Available at: https://www.churchofscotland.org.uk/__data/assets/pdf_file/0006/3867/death_penalty_ga08.pdf

The Edinburgh Dungeon Souvenir Guidebook (2019)

The Edinburgh Literary Gazette (1823) Article entitled “Supplement to the Edinburgh Literary Gazette of Saturday March 15, 1983” Found in NLS Special Collections; *[Miscellaneous pamphlets, broadsides and newspaper cuttings relating to the crime, trial and execution of Mary Mackinnon.]. [Edinburgh].*

The Edinburgh Observer (1823) Article entitled “A Biographical Account Of Mary McKinnon, Who Was Executed At Edinburgh, the 10th of April 1823, For The Murder of William Howat. Found in NLS Special Collections*; [Miscellaneous pamphlets, broadsides and newspaper cuttings relating to the crime, trial and execution of Mary Mackinnon.]. [Edinburgh].*

The Scotsman (2016). Half-hangit Maggie: The Scots woman who survived hanging. [online] Available at: https://www.scotsman.com/lifestyle/half-hangit-maggie-the-scots-woman-who-survived-hanging-1-4092538 [Accessed 6 Apr. 2019].

The Scottish Law Commission (2003) *Discussion Paper on Insanity and Diminished Responsibility*. SCOTTISH LAW COMMISSION Discussion Paper No 122. Scotlawcom.gov.uk. (2019). [online] Available at: https://www.scotlawcom.gov.uk/files/1812/7892/7070/dp122_insanity.pdf [Accessed Sep. 2019].

Thurston H. (2017a) Don’t Mess with Texas: Stories of Punishment from Lone Star Museums. In: Wilson J., Hodgkinson S., Piché J., Walby K. (eds) The *Palgrave Handbook of Prison Tourism. Palgrave Studies in Prisons and Penology*. Palgrave Macmillan, London

Thurston, H. (2017b). *Museum ethnography: Researching punishment museums as environments of narrativity*. Methodological Innovations.

Tripadvisor.co.uk. (2019a). *TripAdvisor | Edinburgh Darkside Walking Tour: Mysteries, Murder and Legends provided by SANDEMANs NEW Europe - Edinburgh | Scotland*. [online] Available at: https://www.tripadvisor.co.uk/AttractionProductReview-g186525-d11454662-Edinburgh_Darkside_Walking_Tour_Mysteries_Murder_and_Legends-Edinburgh_Scotland.html [Accessed Nov. 2019].

TripAdvisor (2019b). UK *Press Center | About TripAdvisor*. [online] Available at: https://tripadvisor.mediaroom.com/UK-about-us [Accessed Nov. 2019].

TripAdvisor (2019c). TripAdvisor | *The Ghost Bus Tours - Edinburgh provided by The Ghost Bus Tours | Scotland*. [online] Available at: https://www.tripadvisor.co.uk/AttractionProductReview-g186525-d11454581-The_Ghost_Bus_Tours_Edinburgh-Edinburgh_Scotland.html [Accessed Nov. 2019].

Vaughan G. (2013) Tracking Down the Irish. In: *The 'Local' Irish in the West of Scotland*, 1851–1921. Palgrave Pivot, London

Veith, G. (2019). *Changing Church Teaching on Capital Punishment.* [online] Cranach. Available at: https://www.patheos.com/blogs/geneveith/2018/08/changing-church-teaching-on-capital-punishment/ [Accessed 30 Aug. 2019].

Walby, K., & Piché, J. (2011). The polysemy of punishment memorialization: Dark tourism and Ontario's penal history museums. *Punishment & Society*, 13(4), 451–472.

Walker, P. (1973) *Punishment: an illustrated history*. New York: Arco.

Walls, P. and Williams, R. (2003). Sectarianism at work: Accounts of employment discrimination against Irish Catholics in Scotland. *Ethnic and Racial Studies*, 26(4), pp.632-661.

Wang, S., Chen, S. and Xu, H. (2017). Resident attitudes towards dark tourism, a perspective of place-based identity motives. *Current Issues in Tourism*, 22(13), pp.1601-1616.

Ward, R. (2015). *A global history of execution and the criminal corpse.* Houndmills, Basingstoke, Hampshire: Palgrave Macmillan.

Webb, D. (2005). Bakhtin at the Seaside. *Theory, Culture & Society*, 22(3), pp.121-138.

Whittle, B. and Ritchie, J., (2003). *Prescription For Murder*. London: Time Warner Paperbacks.

Wiener, M.J. (2007) 'Convicted Murderers and the Victorian Press: Condemnation vs. Sympathy', Crimes and Misdemeanours: *Deviance and the Law in Historical Perspective*, 1(2), pp.110-125. Available at: https://pearl.plymouth.ac.uk/handle/10026.1/ http://hdl.handle.net/10026.1/8825

Winright , T. (2017) Christianity and the Death Penalty in *Routledge handbook on capital punishment*. Routledge; 1 edition (15 Dec. 2017).

Withers, C. (2008). *Placing the Enlightenment*. Chicago: University of Chicago Press.

Young, A. (1998). *The Encyclopaedia Of Scottish Executions, 1750-1963*. Orpington: Eric Dobby.