

The Expression of Fear: William Cecil's *The Execution of Justice*

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The walls of Marshalsea prison in Southwark echoed in 1591 the cries of one Eustace White, a Catholic priest, produced by the unbearable sessions of torture he had to undergo, and which he managed to describe to a friend and thus to posterity:

I was hanged at the wall from the ground, my manacles fast locked into a staple as high as I could reach the stool. The stool taken away, there I hanged from a little after 8 o'clock in the morning till after 4 in the afternoon, without any ease or comfort, saving that Topcliffe came in unto me, and told me that the Spaniards were come into Southwark by our means: For, lo, do you not hear the drums? For then the drums played in honour of my Lord Mayor.¹

White's case and its outcome, execution at Tyburn (December 10, 1591), were by no means unique on an English stage then surrounded by powerful enemies labouring to destroy a given order of things. And neither was, for that matter, the sarcasm of the torturer, heard in all ages, but then attributed to one of Elizabeth's most cruel creatures, the sadist Richard Topcliffe, a man specialised in what in his terms he described as scraping the conscience of prisoners, and who maintained a shockingly close relationship with the Queen, to whom he is said to have reported directly more than once:

He did not care for the Council, for that he had his authority from Her Majesty ... and when he pleaseth, he may take her away from any company²

Prisoners on given occasions had thus to suffer not only the physical pain inflicted but also the strangely overheated mood of Elizabeth's finest expert at the rack. Thomas Pormont, another Catholic priest and one of his victims in 1592, reported to the Council, though to no avail, the following:

that he was so great and familiar with Her Majesty that he many times putteth his hands between her breasts and paps, and in her neck; that he hath not only seen her legs and knees, but feeleth them with his hands above her knees; that he hath felt her belly, and said unto Her Majesty that she hath the softest belly of any womankind. (A copy of Certain Notes written by Mr Portmont. Nicholl, 1992: 112)

Whatever the degree of truth in his words, a disturbing fact inevitably crops up: the close connection between crown, standing as the supreme symbol of a threatened political system, and pain, a powerful means in the machinery of state security. In between, the intermediary presence of torturer and victim, embodying the struggle of superior structures, in the sordid arena of a dungeon; face to face they personally represent two masters who can thus fight from a distance, a fact that transforms them into two merely convenient tools and which in its turn depersonalises their unequal confrontation. A depersonalisation, furthermore, which lies at the bottom of one crucial element in

¹ Eustace White to Henry Garnet, November 23, 1591. In Caraman, P., 1984: *The Other Face: Catholic Life under Elizabeth I*, London, pp.235-6.

² Fr Henry Garnet to Richard Verstegan, July 26, 1592. In Nicholl, Ch., 1992: *The Reckoning*, London, p. 111.

the picture: legitimacy as applied to the means employed; for both, Torture and Suffering, have to be sufficiently and conveniently explained if they are to be made palatable, and presented as exemplary and legitimate modes of political conduct. The execution of one human being thus becomes, not an isolated episode in which one creature slays another, but a political event of national importance in which the State reaffirms its rules and right to existence against the very same enemy who seeks its destruction. A show, undeniably, worth watching; for to its dubious aesthetic values, which part of the audience seems to have regularly appreciated, it adds an educational dimension which emerges as essential for a system that finds in survival and self-preservation the reasons for being. Conceiving itself as a wholesome body, the latter finds in the extirpation of cancered members the most convenient remedy against the progress of an infectious and most dangerous disease, treason. A hand severed from a body and shown to the audience proves it, for the diseased member is thrown to the fire but the body is left intact; and only time may prove the physician right, for his cut has a double aim: stopping contagion and giving the remaining part a chance of recovery. That hand thus symbolises the price to pay for past mistakes, the admittance of guilt, but it also proves before the audience the mercy of a power that refuses to destroy the life of a subject who helplessly lies at its disposal.

We do not know whether John Stubbs considered that price high, but his words on November 3, 1579, before knife and mallet were applied to his guilty member, seem to stress the view that the degree of punishment could on many occasions depend on the capacity for regeneration power attached to the accused party:

If I am to suffer, grant me this grace, that the loss of my hand do not withdraw any part of my duty and affection toward Her Majesty³

The lost hand had been responsible that same year of a crime against the crown when on August 18 a pamphlet of its making was published, in total coincidence with Alenons arrival at the English court, entitled *The Discovery of a Gaping Gulf Whereinto England is like to be swallowed by Another French Marriage*⁴. Decision making, a prerogative of power, had been threatened, and it mattered little whether the opinions contained in the work coincided with the ones held by very prominent courtiers like Leicester or eminent intellectuals. What indeed really mattered was the subversion such a deed implied, a fact illustrated by the Queens refusal to soften the penalty, despite the popular mood against the Frenchman, the Crowns apparent policy of amity with France, and a sentence immediately denounced as un-English. An order, divinely appointed and in which each creature rightfully occupied a given position, could not be attacked with impunity:

Almighty God hath created and appoynted all things in heauen, earth and waters, in a most excellent and perfect order. In Heauen, hee hath appoynted distinct and severall orders and states of Archangels and Angels. In earth hee hath assigned and appointed kings, princes, with other gouernours under them, an all good and necessary order⁵

Stubbs, however, remained alive and with one single hand, sufficient, as time would show, to prove the duty and affection he on the scaffold had claimed to possess towards his Majesty. By 1583, this long process of regeneration was complete: a new work saw the light, this time signed by Lord Burghley, one of the Privy Councillors to have voted in favour of Stubbs savage punishment in 1579, but in which Stubbs left hand could be felt:

When the governments practice of imprisoning and executing Jesuit agents was challenged, Burghley replied in an elaborate defense, *The Execution of Justice*, a work drafted for him by Francis Walsinghams man, the attorney John Stubbs. (Berleth, 1978: 31)

³ Berleth, R., 1978: *The Twilight Lords*, London, p. 30.

⁴ William Page, editor of the work, was also sentenced to the same punishment.

⁵ An Exhortation concerning good order, and obedience to Rulers and Magistrates, *Certaine Sermons or Homilies appoynted to be read in Churches, in the time of the late Queene Elizabeth of famous memory*, (1633) London.

The once hunted hunt in turn for masters like Walsingham, whose motto at the head of the Intelligence service was that information is never too expensive, or Burghley, converted into the greatest guarantor of a system that feels threatened from many angles, but especially from an inside in which the real aggressors cannot be identified so easily. Information, therefore, becomes essential; and not only for a Power that desperately tries to defend itself by identifying the enemy, but also for men, like Topcliffe, who turn persecuting and torturing into a stable and profitable job. The fear that some feel becomes thus a vital element for the survival of others; men who if the right information is not available, will have no qualms in fabricating it. Anything, in fact, to maintain a tension which is as vital for them as it is for an enemy who is very conscious of the damage a fifth column can cause. The Duke of Alba undoubtedly knew it when as early as February 24, 1570, the day before the promulgation of the papal bull *Regnans in Excelsis*⁶, he advised his monarch not to join France in order to attack England, but rather to use those English or Scottish subjects who like willing moles would dig a hole inside the country.⁷ *The Execution of Justice* aims in this light at becoming a tool which a given power claims to use legitimately against aggressors who will obviously deny the charges it contains, but who will see themselves exposed before a world that rather sooner than later will have to admit that what some call cruelty England has reasons to define as self-defence. It claims in this sense to contain the same degree of truth of other works with similar characteristics:

There is in this short discourse delivered unto thee (gentle reader) a *true* report of the treasons and practises of Francis Throckmorton, and his complices against the Queenes Majestie and the Realme: which comming to my handes by chance from a gentleman, to whom it was sent into the Countrey, I have presumed to commit the same to the print, to the ende that such as in opinion and conceit are not satisfied, touching the matters proved against him, and the course of proceeding helde with him, might by the sight thereof (if *trueth* and *reason* may perswade them) bee resolved of all such doubttes and scruple as have risen by the variable reportes made of the qualitie of his offences, and the manner of dealing towards him.⁸

Truth and Reason conceived not only as values with which to fight such opposites as Falsehood and Wrong, but as attributes which define the legitimacy of a power. By the same token, Treason can only be the work of somebody who deliberately wanders along a mistaken track:

It hath been in all ages and in all countries a common usage of all offenders for the most part, both great and small, to make defense of their lewd and unlawful facts by *untruths* and by coloring and covering their deeds (were they never so vile) with pretenses of some other causes of contrary operations or effects, to the intent not only to avoid punishment or shame but to continue, uphold, and prosecute their wicked attempts to the full satisfaction of their disordered and malicious appetites.⁹

The aggressor is thus stigmatised from the very beginning as a being who lacks fundamental human qualities and who, as a consequence, is governed by a purely animal instinct. Only a beast would revolt against a generally accepted and reasonably instituted peace and order of things. Thus the enemy, but especially the enemy within, creeps, a verb William Cecil seems to have carefully chosen and which he attaches to the Jesuits caught in England: so warily they crept into the land as none brought the marks of their priesthood with them (Cecil, 1583: 6). An animalisation which in the case of Thomas Stukeley, a fugitive into Spain in 1570, and who occupies a privileged position in his

⁶ The Bull was promulgated by Pious V and declared Elizabeth I to be a heretic and an abettor of heretics, Wright, L. B. & Lamar, V. A., (eds), 1962: *Life and Letters in Tudor and Stuart England*, New York, p. 268.

⁷ Habiendo en Escocia o Inglaterra algunos sujetos a quien poder fomentar debajo de mano, y que estos abriesen camino y con ellos hacer tal agujero como V.M. con su gran prudencia lo apunta. Quoted by Marichalar, A., 1952: *Julin Romero*, Madrid, p. 213.

⁸ *A discoverie of the treasons practised and attempted against the Queenes Majestie and the Realme, by Francis Throckmorton*, in Kinney, A., 1975: *Elizabethan Backgrounds*, Hamden, Connecticut. My own shadowing.

⁹ Cecil, W., 1583: *The Execution of Justice in England for maintenance of public and Christian peace, against certain stirrers of sedition, and adherents to the traitors and enemies of the realm, without any persecution of them for questions of religion, as is falsely reported and published by the fautors and fosterers of their treasons*, Kingdon, R.M., (ed.), 1965: New York, p. 3.

criticism despite the fact that he had already been dead for more than five years when the work was published, is taken to the limit:

And out of Ireland ran away one Thomas Stukely, a defamed person almost through all Christendom and a faithless beast rather than a man, fleeing first out of England for notable piracies and out of Ireland for treacheries not pardonable. (Cecil, 1583: 5)

Cecil's arguments are therefore those of somebody who fights not only in favour of Reason but also against the evil practices of the serpent. God can only be on his side, for it is there where the wisdom of true reason lies. His is a quest in which religious tolerance is not at stake, but righteousness:

But Gods goodness, by whom kings do rule and by Whose blast traitors are commonly wasted and confounded, hath otherwise given to Her Majesty, as to His handmaid and dear servant ruling under Him, the spirit of wisdom and power, whereby she hath caused some of these seditious seedmen and sowers of rebellion to be discovered, for all their secrets lurkings, and to be taken and charged with these former points of high treason, not being dealt withal upon questions of religion, but justly [by order of laws openly] condemned as traitors. (Cecil, 1583: 7)

The struggle is therefore presented as an opposition between the forces of order against those of evil and chaos, the latter being represented precisely by figures notoriously inclined towards anarchy, debauchery and vagrancy. Charles Neville, Earl of Westmoreland, one of the leaders of the so-called Rising of the North¹⁰, thus becomes a person utterly wasted by looseness of life; a presentation which runs parallel with that employed to describe the whole bunch of those who have fled to Rome or Spain:

Whereas diveers of them before their rebellion lived so notoriously the most part of their lives out of all good rule, either for honest manners or for any sense in religion, as they might have been rather familiar with Catiline (or favorers to Sardanapalus (than accounted good subjects under any Christian princes. (Cecil, 1583: 4)

The argument is not new in 1583. In fact, Cecil beats a track already opened in 1571 by the very Queen, who had then sent Henry Cobham as ambassador to Spain to present a complaint before Philip II touching the welcome given to the above mentioned Thomas Stukeley. In the words of Elizabeth I the latter was but a fugitive, a rebel, a dissolute man, a rake and a spendthrift;¹¹ or, as she would also write to Walsingham, a man of no value, given to bestiality.¹² Somebody, in fact, who would surely be rendered useless by any king; an opinion which was obviously not shared by a monarch like Philip II who agreed with ambassadors ready to sustain the view that the real remedy is that with which Roberto Ridolfi is charged.¹³ Furthermore, in what was taken as an open declaration of enmity, Stukeley was knighted by Philip II on January 21, 1571; a piece of news that the same Henry Cobham would let Burghley know on April 18: On the 21st of January, Thomas Stukeley was created knight by the King, but now his prodigality has somewhat lessened the credit that he had at first. (*Calendar of State Papers, Foreign Series*: 432).

Burghley's justice and its execution become in his reasoning a Christian practice to be used against evil tools, like the Jesuits or the characters above mentioned, who embody all the wickedness and unchristian features the masters who have sent them against England possess. The Pope, or Philip II, are but mere Machiavellian tyrants ready to use any means at their disposal in order to reach a known end, the dethronement of Elizabeth, even if this implies using creatures who would have a well gained place in a gallery of monsters. Torture, in consequence, cannot and should not be

¹⁰ Charles Neville (1543-1601) took refuge in the Spanish Netherlands after the collapse in 1569 of the attempted revolt. Catiline: A Roman who conspired against his country in 63 B.C., a prototype of a conspirator. Sardanapalus: A Greek form of Assurbani-pal, King of Assyria, a prototype of luxurious effeminacy.

¹¹ Archivo General de Simancas, Estado, Legajo 823. My own translation.

¹² *Calendar of State Papers, Foreign Series, Reigns of Mary and Elizabeth I*, p.404.

¹³ Guerau de Spes to Philip II, March 1571, *Calendar of Letters and State Papers*, Vol. 2, p. 302.

understood as a cruel device, but as a fair punishment which the victim fully deserves, and which is applied with Gods benediction: yet by Gods power given unto Her Majesty they were so speedily vanquished as some few of them suffered by order of law according to their desserts (Cecil, 1583: 4). An argument, furthermore, which allows him to conclude in a satisfactory manner:

And therefore, all these things well considered, there is no doubt but all good subjects within the realm do manifestly see, and all wavering persons (not being led clean out of the way by the seditious) will hereafter perceive, how they have been abused to go astray. And all strangers, but specially all Christian potentates, as emperors, kings, princes, and suchlike, having their sovereign estates either in succession hereditary or by consent of their people, being acquainted with the very truth of these Her Majestys late just and necessary actions, only for defense of herself, her crown, and people, against open invaders and for eschewing of civil wars stirred up by rebellion, will allow in their own like cases for a truth and rule that it belongeth not to a Bishop of Rometo depose any sovereign mistress. (Cecil, 1583: 21)

And yet, there is a loophole in his apparently unobjectionable reasoning, for it takes the form of an *excusatio non petita*. His counterattack betrays him in the same way that Henry Cobhams mission to Spain betrayed his queen: an ambassador who complains about rabble before a foreign prince ultimately elevates in stature, as it indeed happened, his object of censure. Equally so, Burghleys work, conceived as a counterblast against practices deemed unchristian and wicked, and against deeds carried out by low creatures with the profile of animals, makes those same practices and creatures shine as if they were arranged on a stage for the purpose. By extension, the open and desperate claim to truth betrays the latent fear in the liar to being found out. The agent of power may publicly defend his view while secluding from the public eye the most sinister aspects of the mechanism, but he cannot silence the cries of pain. The torturer thus outwardly clears his conscience, though he is intimately aware that his weakness is proportionate to the degree of pain inflicted. Paradoxically, the enemy grows in pain.

He defends a unity which nobody, including himself, believes to be set on firm ground. Quite the contrary, if the aggressors pose a threat this is none other than the rupture of order a dethronement would involve. Queen Elizabeth is thus converted into a symbol upon which survival fully depends. The person, once again, does not count; a fact that in turn explains the so-called Bond of Association which her advisers devise a year after the publication of Burghleys work: It was a notable piece of political symbolism and propaganda, drafted just before the opening of the new parliament in November.¹⁴ The nation needs to be told that it really exists as a cohesive entity, for the message can work that ardently wished achievement. The message, and, of course, Walsinghams supply of information, which carefully and mechanically turns any private Catholic activity into a public betrayal against the State. Scraping the conscience of prisoners, Topcliffes very personal definition of Torture, thus becomes not only an accusation against a torturer, but the embodiment of a political assault against the realm of privacy: a citizen is privately guilty until his innocence can be publicly admitted. When the moment comes, however, it is as a rule too late, for the hangman waits. Public executioning, therefore, takes a new dimension: a confession of fear and internal weakness; undeniably, an advantage that Catholic powers on the Continent wished to exploit to the limit.

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¹⁴ Haynes, A., 1992: *Invisible Power. The Elizabethan Secret Services, 1570-1603*, Bath, p. 35.