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Introduction

Corporal punishment is an evocative, almost self-explanatory term. But like other concepts with powerful and immediate connotations, it is poorly understood and rarely interrogated. Outside academia, and often within it, corporal punishment is the subject of simplistic analyses and misinformed expositions. The concept itself is ill-defined, its comparative history (as traced by historians of punishment) neglected, and there is little insight into its functions and meaning in a given cultural context, that is, beyond the exigencies of a legal or physical event. There are several explanations for this state of affairs, some obvious, others less so, as I will try to show. Yet the main threat it poses for specialist and lay audiences alike is the perpetuation of a streamlined view of punishment in general and Western penology in particular, one that tends to reflect a defensive cultural identity rather than any plausible historical trajectory. As a corrective, this brief book challenges a number of pervasive myths and lingering misconceptions about corporal punishment from a combined historical and anthropological perspective, and establishes the outlines of its complex history.

To clarify, the following pages offer an introduction to corporal punishment, mainly from a Western perspective, not a full-blown history of the measure or its applications. My goal is to trace its general contours rather than delineate the specific process by which certain societies developed or abandoned corporal penal measures. Nonetheless, the underlying historical argument of this book is that corporal punishment's path deviates greatly from the gradual decline often attributed to it during the long transition from antiquity to the present day. This may be an unsettling proposition from a Western perspective, especially regarding the period known as the Middle Ages and that straddling the Enlightenment and modernity. For despite the common perception of them being antithetical, the former by no means endorsed corporal punishment as a matter of course, while the

latter's alleged birthing of the prison hardly announced the death of the rod. Indeed, far from an aberration of modernity, recourse to corporal punishment only expanded since the late eighteenth century, along with slavery, colonialism, penal incarceration, advanced science and medicine, and the nation-state. In the interim, whipping – as depicted in the Italian Renaissance image on the cover of this book – and brandishing a sword continued to be visually associated with the noblest forms of justice, thus augmenting the scepter – harking back also to a penal tool, it is often forgotten – as emblems of sovereignty, legitimate authority, and the common good.¹

Corporal punishment persisted throughout human history also thanks to its immediate impact and low implementation costs. Yet a broader explanation for the durability of such measures emerges from the cultural-anthropological perspective espoused here, and which provides the basis for this book's second argument: Corporal punishment's resilience, even in the face of continuous criticism, can be explained by its simultaneous operation on two registers, involved as it is in two distinct processes of selfing and othering alluded to in this book's title, *Flogging Others*.² The first register centers on the penal act itself: The severing of limbs, branding, flogging, raping, ducking, starving, and – as we shall see – a rather diverse range of further measures, which either do not have to involve physical pain, like chemical castration, or else challenge a modern understanding of pain's source as necessarily physical, as in public shaming. In each case, the corporal penal act, which is usually part of a longer penal sequence, primarily communicates to a reference group whose norms have been violated and whose social order it ostensibly protects. It is in this sense a political act since, whatever else they do, punishment in general and corporal punishment in particular buttress claims of legitimacy and cohesiveness by indexing social others. In employing corporal punishment this way myriad societies pursue what sociologist Philip Smith describes as a broader strategy of 'shutting down liminal possibilities',³ a process that unequivocally defines and

safeguards the normative boundaries of diverse groups, from football clubs to modern nations to world religions.⁴

A second and equally important register at work is cultural. It is geared towards identifying *flogging others*, that is, those whose legal and sanctioned use of corporal punishment situates them, especially from a Western viewpoint, on the periphery of humanity and as an aberration of its process of civilization. Past and present observers of corporal punishment – and they are many, as we shall see – routinely construe such acts as symptomatic of a society, or at times of a previous ruler or regime, that undid, delayed, or undermined human progress. This ubiquitous trope of atavism reflects a need common to many societies, namely to convince themselves that their own penal measures are, on the whole, constructive and not destructive, medicinal rather than lethal, more rather than less humane. Such arguments were and apparently remain easier to sustain by juxtaposing ‘our’ practices with those of temporal and cultural ‘others’ than by positioning them in a historical or moral vacuum. The arbitrary line of legitimacy is thus subjectively drawn, with penalties differing in degree presented as diverging in kind and placed on opposite sides of an imagined normative or even civilizational divide. The primary audience of this type of saming and othering thus supposedly shares the observer’s horizons, but it implicitly comprises those who do not think they are employing corporal punishment, are considering its use (or reintroduction), or are unaware of how common it actually is within their very own culture. What these groups share (or should share, according to those addressing them) is an appreciation of corporal punishment’s shock value, since it is at least assumed to be occupying a place on or beyond the legitimate boundaries of their penal practices.

Both registers, the internal (social) and the external (cultural and political), have spanned different periods and regions, rendering the invocation of corporal punishment a very effective tool for forming cultural identities. By exposing the ubiquity and longevity of these registers – as this book intends to do – it

is possible to spotlight the important, if hardly exclusive, role played by corporal punishment in such processes. Taken together, the negotiation of corporal punishment's meaning and its social, cultural, and political uses reveal two things. First, that there has seldom been a period, society, or polity that, figuratively and often literally, spared the rod. Secondly and perhaps paradoxically, that corporal punishment is rarely an uncontested measure, including among civilizations long perceived as hungry for or at best indifferent to pain in punishment. These two observations in turn complicate a common understanding of the pre/modern divide and challenge a prevalent view, most recently expressed by Steven Pinker, which identifies physical violence as a declining aspect of legal punishment.⁵

Why do such macro-corrections matter? There are several contexts in which current debates on corporal punishment unfold, and which tend to lack both historical insight and cultural-anthropological nuance. Among both liberal and conservative criminologists, especially in the US, a growing dissatisfaction with the prison as an effective institution for fighting crime and rehabilitating offenders has led to a reconsideration of diverse corporal-penal means, some relatively new, like non-lethal electrocution, others more traditional, namely flogging. The moral grounding as well as the short-, medium-, and long-term effects of corporal punishment are likewise at the heart of key debates among pediatricians, developmental psychologists, psychiatrists, parents, educators, and religious and community leaders concerning best practices in child rearing. To a large extent, the lines in these debates are drawn between or rather construed as separating progress from tradition, Western and non-Western cultures, modernity from premodernity, 'us' from 'them'. Advocates of various positions in such debates are thus either arguing explicitly over or making implicit assumptions about the history of corporal punishment and what kind of people and societies, past and present, employ it, be it under the aegis of official penal systems (state, church), in public and quasi-public institutions (armies, orphanages, schools), or in the

private or domestic sphere. The validity of such claims is surely a matter of both intellectual honesty and broad public interest, since they inform ongoing debates, justify individual actions, and shape policy-makers' decisions and the lives of many millions around the world, including massive vulnerable populations.

There is however an equally if not more important need to reassess present-day views of corporal punishment. To a high and consistent degree, comments on the legal affliction of bodily punishments engage in branding societies that use it as culturally deficient, and by implication irrational, violent, and dangerous.⁶ The most recent object of such ahistorical, narrow, and credulous treatments is the Islamic world, as seen in the common tendency to underscore or simply accept Muslims' and Sharia law's advocacy of corporal punishment as a matter of course, a timeless given and a unique trait. A recent *New Yorker* article on Syria, for instance, epitomized the advances of a local Al Qaeda affiliate, Al Nusra, by stating that 'In Aleppo, the group has replaced failed civil institutions: its members run the police force, the power station, and a Sharia court, which has sentenced people to lashings'.⁷ Surely the court's involvement in (re)creating order went beyond handing out these sentences. And yet the latter action is somehow emblematic of its recently acquired powers, both to its subjects and, perhaps especially, in Western eyes. As we shall see, however, the valorization of bodily integrity is quite explicit in Islamic thought, and there is no shortage of Muslim jurists and rulers who over the centuries have accordingly sought to reject or at least curb recourse to corporal punishment by various legal and procedural means. Their success has certainly varied; but so has that of numerous other civilizations, modern and premodern, Western and non-Western, religious and secular, which *currently* fare better in terms of their popular image in the West.

The double standard behind singling out Islamic practices today is instructive, since it owes much to the perception that other societies employing similar measures, to a greater or lesser degree, are not (or no longer, or not yet) considered threatening. In the early

twenty-first-century West there is no urgent need to demonize Singapore, for instance, for its routine and legal recourse to flogging,⁸ or to harp on the elaborate traditions of corporal punishment in Hinduism and Judaism, let alone among such stepping-stones to Western civilization as Ancient Greece and Rome. In 2014, it is the term 'Sharia law' that serves as code for a particularly repressive form of penal justice, and which conjures images of defaced Afghani women accused of sexual misconduct and of limbless Saudi thieves, however exceptional (and at times extra- or downright illegal) their fates might be. Small wonder that Peter Moskos, a criminologist and advocate of employing flogging *systematically* in the US penal system as an alternative to incarceration, anticipated some of his readers' concerns and preempted as follows:

Flogging is not a slippery step toward amputation, public stoning, or sharia law. This is not the first step on a path to hell. A lesser society might go down this road by *imposing* flogging on its citizens and then descending into mob rule and blood sport. But we are a stable democracy with a longstanding tradition of deference to the rule of law. As an alternative to prison, the option of flogging does not mark a shift toward some barbaric dark age.⁹

We: A stable, modern, law-abiding, discerning democratic society. They: An infernal, sadistic, thoughtless medieval mob. Leaving aside the pandering, the facile judgments, and the hurtful language, if 'we' expand our perspective ever so slightly we will see that this kind of essentialization is widely shared among corporal punishment's modern and premodern observers, and as such has a moving target. As recently as the 1980s, Graeme Newman, likewise a criminologist and proponent of introducing electrocution as a substitute penalty into the US criminal justice system, felt no need to distance himself from an Islamic other per se. But he certainly was at pains to set apart his solution from the wanton violence and excesses of earlier periods and depict electrocution as scientific, rational, efficient, and above all equitable.¹⁰ (In other

words, like Moskos, Newman argued that it is possible to Westernize corporal punishment.) And twenty years prior to that, in a near blanket rejection of corporal punishment, English historian Christopher Hibbert claimed that, while flogging may in theory contribute to fighting recidivism, 'this is not the experience of practically every other civilized country'.¹¹ Britain, according to this analysis, was about to become the exception to this rule.

Debates on the present-day uses of corporal punishment in the West or from a Western perspective, then, are intrinsically tied to a broader view of history and of historical change. Yet rather than reporting truthfully about the past, many such arguments stand on a narrow historical basis and often exhibit a tendentious compulsion to draw a clear line between (and thereby group) societies that do and societies that do not employ corporal punishment. However false the dichotomy, it does underscore how much certain phenomena (including cannibalism, incest, and bestiality) have come to characterize the imagined cultural sea surrounding Western civilization. In the case of corporal punishment specifically, more than fifty years have passed since anthropologist Mary Douglas articulated the by-now canonical observation regarding ritual behavior, that '[w]hat is being carved in human flesh is an image of society'.¹² And yet, outside the circles of anthropology and religious studies, the use of flogging and branding, piercing and mutilation, shaving and painting, is immediately and at best associated with an earlier stage in what Norbert Elias famously described as the process of civilization,¹³ or as aberrations of modernity. Conversely, past cultures that reputedly abolished corporal punishment are celebrated as semaphores of the Enlightenment. From an ameliorist perspective, which sees the decline of bodily punishment as both morally positive and in general a linear process corresponding to a society's degree of complexity,¹⁴ societies that 'still' employ or that used to employ corporal punishment are easy to image as a threatening cultural, religious, or political other.

To illustrate both the ubiquity and limitations of these assumptions, let us leave the recent past and examine a popular

book on corporal punishment composed in the mid-nineteenth century. *A History of the Rod in All Countries from the Earliest Periods to the Present Time* was originally published in 1840, and went through a second edition and several reprints, the latest of which appeared in 2002.¹⁵ Its author, James Glass Bertram, writing under the pseudonym (Rev.) William M. Cooper, amassed numerous anecdotes and images of bodily penalties from world history and in different milieus and civilizations. Putting aside its limited merits as a work of history, the book displays the same ambivalence about its subject matter as can be found among late-modern promoters of corporal punishment. Accordingly, on the one hand, the licit infliction of bodily pain indicates a country's low degree of civilization; on the other, under the right circumstances corporal punishment can be used with profit by a modern, rational civilization. Cooper saw the qualitative gap underlying the distinction as grounded in the rise of nationalism and secularization. To illustrate his point, he dedicated several chapters to demonstrating how the Catholic Church, far from curbing the use of bodily pain, was in fact one of its greatest proponents: First by espousing certain ascetic practices, and later by promoting them among laymen, a gradual process that culminated in 'the Middle Ages', when 'the oft-recurring administration of corporal punishment was a portion of the every-day life',¹⁶ at times driven by the clergy's need for sexual gratification.¹⁷ Thankfully Humanism, the Reformation, and eventually the nation state put an end to such practices.

So much for the chronological and religious other. But Cooper is as Eurocentric as he is a modernist, and more than half the text comprises an essentializing exposition on several cultures farther afield. The Chinese, for instance, 'are governed entirely by the whip and the bamboo', a pervasiveness of pain and brutality that can only be accounted for by that people's lack of honor, a code which Europeans developed through their exposure to – medieval, as it happens, – chivalry, 'and the refined system of manners that makes it worse than death for a gentleman to receive a blow, or be convicted of telling a falsehood'. Cooper,

in other words, seems to have had two Middle Ages in mind, one fomenting religious superstition and another that inspired valor and humanity, apparently without relation to Christian values. Indifference to corporal punishment, which in Europe epitomized Cooper's first version of the Middle Ages, becomes characteristic of non-Europeans generally according to his second version of the very same period. As he remarks:

In China they have no such delicacy [associated with chivalric manners]: a blow is thought a bad thing in so far as it is painful, but no further; and in a country where there seems to be absolutely no sense of honour, there is no punishment so equal [to] and manageable [as flogging].¹⁸

Understandably then, Cooper considers it 'strange that the bamboo is so little used in Japan, a nation having so much resemblance to China in its manners and customs'.¹⁹ But no matter, as Japan proves to be the exception to a fundamental rule. Readers are soon reassured that in 'India corporal punishment is one of the established institutions of the country', which explains why '[w]hipping excites no surprise [...] and hardly seems to provoke the indignation of the sufferer himself, much less of the onlooker';²⁰ and that '[f]lagellation in the form of the bastinado is in daily use among the Turks and Persians'.²¹ Sharia law is nowhere mentioned, perhaps because this nineteenth-century observer detected more imminent dangers. Indeed, some of his strongest words are reserved for Russia: 'despotic and semi-barbaric, [it] is *par excellence* the land of the Whip and the Rod, the Russians from time immemorial having been governed by the lash.'²²

So far the author used the rod to depict other cultures and construe them as backward and barbaric. But Cooper, like some of his late-modern successors, holds the stick at both ends, averring that it is quite possible to employ corporal punishment effectively and rationally in certain cases, or at least as a last resort, by those who are morally equipped to do so:

Although indiscriminate and injudicious flogging is bad, either in schools or in prisons, the lessons of past ages and all experience shew that a judicious administration of the Rod is calculated to further the interests of virtue and good behavior[,...for instance] in sentences for robbery with violence and similar crimes.²³

By creating an ambiguity between differences in degree and in kind Cooper was able to argue that when violence and brutality are inherent to a culture, flogging is merely symptomatic and emblematic. Yet choosing to apply corporal punishment moderately and rationally or 'judiciously' within the context of a modern penal system is something worth considering, even if as a last resort. And lest he be charged with precipitating the Russianization of the West or leading it down a slippery path toward Chinafication, Cooper stresses the danger of flogging becoming once more 'fashionable' in Britain. After centuries of struggle to break away from the pack, it would truly be a shame to slide back into the dubious company of 'various foreign countries [where] the Rod is still the badge of power'.²⁴

The transparent selectiveness of Cooper and his late-modern heirs is neither unique nor original. As we will see, employing corporal punishment as a cultural or political cudgel far predates the nineteenth, let alone the twentieth or the early twenty-first century. It is in fact a rather hackneyed technique, stretching back thousands of years and as such can be traced in a vast array of human records, from the oracle bones of Ancient China and Roman historiography, to medieval travel literature and Islamic jurisprudence, to Enlightenment-era social philosophy and modern images uploaded onto the internet. Indeed, there was scarcely a time when punishment in general and corporal punishment specifically was *not* used to other an earlier or contemporary regime or society, depicting the latter as profoundly different, brutal, and uncivilized. Thus, while corporal punishment, like many kinds of punishment, indexes social 'in's' and 'out's' within a given society, it has similarly acted throughout history

as a tool for constructing selves and others, be they religious, socioeconomic, sexual, cultural, or political, lending further support – albeit only rhetorically – to the view of punishment’s decreasing physicality.

Demonstrating the popularity of this mechanism across time and space is a major goal of this book. In doing so, however, I am also interested in promoting a specific corrective to the history of corporal punishment from a long-term and broad geographical perspective. In particular I wish to expose the intertwined myths of ameliorization and of premodern penal violence and repression. Regarding the former, I have already mentioned that there is a prevalent narrative of penal history as a gradual transition from repression to governance, understood in terms of abandoning actions targeting the body in favor of a rational regimen aimed at training the mind or soul. Contrary to this view, which has already been challenged by social philosopher Michel Foucault and that can be found in the writings of Émile Durkheim and Max Weber, this book marshals substantial evidence concerning the changing fortunes of corporal punishment and its supposed lack of reason. An abundance of records cast doubt on both the linearity of its decline and the presumed link between the use of corporal punishment and penal severity. As for premodern repression, there is a tendency, especially outside anthropological circles, to assume that corporal punishment is a crude form of atavism, a violent act lacking reason beyond a ruler’s desire to monger fear. Among premodern societies especially, beating and flogging continually led, in the words of one observer, to mutilation, excess, and violence, in lieu of a ‘clear concern with matching the numerical amount of whipping to the particular crime’.²⁵ Here too, diverse sources offer a fundamentally different picture, one that features not only careful regulation of such penal measures and the instruments with which to carry them out, a sustained attempt to apply it proportionately, and diverse mechanisms to opt out of it, but also a sophisticated social logic and a high degree of precision in its clandestine and public performance.

In developing these arguments, this book follows a chronological path, the better to complicate a supposed linearity in the history of corporal punishment. At the same time, it tends to work within cultures and legal traditions, which means that the unity of chronological progression is less than perfect. I begin, however, by pointing out the difficulties of defining corporal punishment, and propose to allow both history, as a provider of context, and anthropology, as a translator of social action, to be our guides. To repeat, this book is not a comprehensive history or an exhaustive anthropology of corporal punishment across time and space. Nor does it aim to explain what drove different societies at different times to reject corporal punishment or employ it instead of or alongside other penal measures. What it does offer is an exploration and illustration of attitudes towards corporal punishment cutting across the pre/modern divide, and working mostly (but not exclusively) from what is broadly accepted as a Western perspective. As such it seeks to challenge some entrenched ideas about this category of punishments and its history in present-day Western imaginations. To do so it draws on a wide range of sources, mostly textual, produced by a vast array of historical cultures. Trained as a historian of medieval Europe, my linguistic skills are limited to studying the primary sources belonging to that era and region. For most non-European cultures, I had to work with sources in translation and to rely upon a great deal of secondary literature. I tried to be discerning about the former and critical of the latter, but there are no guarantees that I have always used the best available edition or defused each and every bias shaping these texts, let alone their interpretations by modern scholars. I accept that some specialists might frown upon this, and yet hope that, despite the inevitable inaccuracies in detail, I have done these sources justice in terms of how I chose to employ them.