

# JUST REVENGE

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COSTS AND CONSEQUENCES  
OF THE DEATH PENALTY

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For my father,  
who disagrees with me about the death penalty  
and most other issues

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who were reluctant to confess to crimes they may or may not have committed. The prisoner was stripped naked and tied, face-up, to the floor of the prison cell while iron or stone weights were loaded on him. More weights were piled on each day, producing agony but not death. The execution procedure required that the prisoner "shall have no more sustenance but the worst bread and water," and that "he shall not eat the same day on which he drinks, nor drink the same day on which he eats; and he shall so continue until he dies."<sup>6</sup> Not surprisingly, this procedure was almost always successful in extracting the desired confession.

For more than a century capital punishment was not confined to humans. In several European countries, animals who killed humans might also find their way to the gallows. Of course, pigs, cows, and horses could not provide useful testimony on their own behalf, but humans could provide eyewitness or character testimony. Attorneys defended animals accused of murder in trials quite similar to those afforded human defendants. In 1396 a pig accused of fatally injuring a child was dressed in the suit of a man and publicly hanged.<sup>7</sup> In 1750 a man and a donkey accused of having sexual intercourse were scheduled to be burned together at the stake. In the end, the donkey was spared because a local priest and other leading citizens testified that the beast was of noble character and an unwilling participant in the depravity. The man, however, was not so lucky.

Method and style of execution depended not only on the gravity of the crime but also on the gender and social standing of the offender. Burning at the stake was typically reserved for women. Though burning is surely a hideous way to die, it was considered less excruciating than the disemboweling and quartering that men faced for similar crimes. A woman who was tarred and bound before the fire was lit could be "mercifully" strangled at the stake before the flames enveloped her body. There was also the question of decorum. As Sir William Blackstone explained, women

were granted the more dignified method of death because "the decency due to their sex forbids exposing and publicly mangling their bodies."<sup>8</sup> Blackstone adds that such small kindnesses reveal the "humanity of the English nation." In England, one final accommodation was made to women: pregnancy could postpone or prevent execution. If the condemned was known to be or suspected of being pregnant, a panel of twelve matrons was appointed to investigate the matter further. If the panel determined that the prisoner was with child, a stay was granted. But mercy had its limits—many women were hanged shortly after giving birth in their prison cell. In 1931, a law was passed forbidding the death sentence for pregnant women.

### Executions in the United States

Nearly four centuries have passed since the first documented lawful execution on American soil in 1608 (Captain George Kendall was killed for the crime of theft in Virginia).<sup>9</sup> Although early colonial laws were adapted from British law, capital punishment in the colonies was both more humane and more restricted than in seventeenth-century England. At a time when drawing and quartering, disemboweling, and burning at the stake were still commonplace in the civilized countries of Europe, hanging—at the time regarded as the most humane method—was almost always the means of execution in the colonies. However, just as in Europe, hangings were festive public spectacles. The condemned was forced to take a slow wagon ride to the gallows, often sitting atop the very coffin he or she would soon occupy. The rowdy crowds who witnessed the hangings often numbered in the thousands.

Under British law at the time, there were more than fifty capital offenses (including vagrancy, heresy, witchcraft, rape, murder, and treason)<sup>10</sup> while, on average, only about a dozen crimes were punishable by death in the colonies. But lists of capital crimes