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The deep roots of Albion's fatal tree: the Tudor state and the monopoly of violence

Andy Wood

I am grateful to Brendan Kane for inviting me to participate in the symposium from which this special edition emerged and to Keith Wrightson for his comments on this piece.

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Two monographs published in 2000 have rewritten historical understandings of the early modern English state. Although Steve Hindle's *The State and Social Change in early modern England, c.1550-1640* and Michael Braddick's *State formation in Early Modern England, c. 1550-1700* differ from one another in important respects, they share certain interpretive features. Both emphasize the Tudor-Stuart state's primary reliance upon persuasion; its bottom-up, organic characteristics; its legitimation through broadly-shared value systems (most importantly, the law); and its broad social basis, especially amongst village and town elites.¹ Thus, for Hindle, popular involvement in local office-holding, coupled with widespread popular litigation highlighted 'the participatory nature of English state formation'.² The involvement of village elites in the day-to-day administration of the criminal law was evidence of 'the incorporative character of the English state'.³ In Hindle's formulation, the widespread acceptance of the state's legitimacy drew upon a fund of shared values. Thus, 'order and authority did not merely "trickle down" but "welled up" within society itself'.⁴ Hindle's monograph provides clear empirical illustration of the willingness of the state to employ coercion in the assertion or defence of its authority: Hindle is far too good a historian, his work far too deeply immersed in legal records, not to recognize this blunt fact.⁵ But that empirical recognition of the importance of coercion is less than fully integrated into his theorization of the state, or his conceptualization of the early modern state formation.

If, while providing clear factual evidence of state violence, Hindle's theorization of the state understates coercion, the repressive habits of early modern governors are rendered virtually invisible in Michael Braddick's *State formation in early modern England*. For Braddick, the state essentially functioned through its dissemination of ruling ideas. As he puts it, 'The state was a coordinated network of agencies exercising political power. The precise form assumed

¹ S. Hindle, *The state and social change in early modern England, c.1550-1640* (Basingstoke, 2000); M. Braddick, *State formation in early modern England, c.1550-1700* (Cambridge, 2000).

² Hindle, *State and social change*, 89.

³ *ibid.*, 132.

⁴ *ibid.*, 115.

⁵ For historical evidence of the significance of state coercion, see *ibid.*, 116, 119, 124, 142, 161, 163. It is important that Hindle's monograph had its origins in a doctoral thesis concerned with the operation of the criminal law.

by these agencies was a product of their territorial and functional bounds, but also of the wider beliefs in terms of which their activities were justified'.⁶ Central to Braddick's theorization of the state is the concept of legitimacy: 'Agents of state power had to demonstrate that their actions fell within the formal limits of their office but also sought to justify these actions with reference to beliefs current in society at large'.⁷ The state was therefore enmeshed in broader patterns of social relations. Local officers were allowed a large degree of tactical flexibility, allowing them to negotiate their authority in terms which made sense both to rich and poor: 'In exercising political power early modern officeholders and officers were embroiled in negotiation, and built into the functioning of the state was a sensitivity to expectations outside the ranks of the formally empowered'.⁸ Thus, 'The process of legitimation, and the patterns in the effectiveness of particular forms of office, moulded the development of state forms. This was partly a matter of legal competence, but was also a matter of broader legitimating ideas'.⁹

If the fundamental contribution that Hindle makes is to locate state formation as a process occurring within changing social structures, Braddick's achievement is to present the state as a set of administrative arrangements which made real a body of ideals about governance, legitimacy and authority. Both books present us with a vision of the early modern English state which is as much about ideas and social relations as it is about administration and elite authority. As such, they are exemplars of the much-needed integration of social and political history, representing powerful interventions which have ramifications for the discipline as a whole.

Of course, Hindle and Braddick do not argue an identical line. Hindle gives more attention to ideological heterogeneity and to social conflict than does Braddick. He also has a sharper-edged sense of the coercive capacities of the early modern state. But they share certain assumptions: that the state is a dynamic entity; that state formation is a process; that the early modern state relied upon groups beyond the gentry in order effectively to function; that office-holding was a key integrative force; and that the embeddedness of office-holding in social structures and norms tied the state into local society. As Braddick puts it, 'Offices were part of a broader, organic, set of social roles. The priority was the preservation of a local interaction order – norms of interaction between neighbours, relations of deference and paternal responsibility – rather than an abstract legal and political order'.¹⁰ Braddick gets around the key problem with this formulation – that of the existence of conflicting norms and ideals within early modern society, expressive of wider social conflicts – by arguing for the negotiation of social relations and power between social groups, so exaggerating the

⁶ Braddick, State formation, 90. The formulation is repeated at pp. 9, 94.

⁷ ibid., 47.

⁸ ibid., 79.

⁹ ibid., 88.

¹⁰ ibid., 75. With this in mind, both works make much of the well-known 1596 articles governing the Wiltshire village of Swallowfield: see Braddick, State formation, 73-77; Hindle, State and social change, 27, 28, 204-5, 211, 212, 218, 220, 226, 228. For these articles, see S. Hindle, 'Hierarchy and community in the Elizabethan parish: the Swallowfield articles of 1596', Historical Journal, 42, 3 (1999), 835-51.

uniformity within and acceptance of basic ideas of governance.¹¹ For some ruling ideas were dominant (in that they formed the organizing ideas of the dominant social group – the gentry), but did not govern (in that they never won the active consent of the governed). The most obvious example of dominant ideas which failed to persuade was the authoritarian, patriarchal ideology spelt out by writers such as Sir Thomas Elyot.¹² Equally importantly, keywords within political discourse might be of considerable importance across the social order – commonwealth, law and custom, for instance – yet might also be given very different meanings by contending social groups.

There exists within the recent historiography a counterpoint to Hindle and Braddick's emphasis upon legitimation, incorporation, persuasion and consent. Because it has not explicitly addressed issues of state formation, the friction between this body of work and that of Braddick and Hindle has gone unnoticed. Paul Griffiths' work on petty crime (especially its urban context) has produced a much bleaker vision of the early modern state than that drawn by Braddick and, to a lesser extent, Hindle.¹³ Griffiths draws a picture of the early modern city in which the lives of the harried poor were monitored, scrutinized, controlled and sometimes crushed by repressive urban institutions. In my own work on the prosecution of seditious speech in Tudor England, I have emphasized the importance of fear and coercion in the assertion of state authority via the medium of the criminal legal system.¹⁴ Garthine Walker's readership of the Cheshire court archives has likewise led to a dark vision of the early modern state. Writing about the punishment of dissenting speech, for instance, Walker reminds us of the bodily disfigurement, humiliation and agony that the enforcement of the criminal law regularly inflicted upon errant subjects. She eloquently develops her point, drawing attention to the ugliness of corporal punishment: 'ears were nailed to the pillory and ripped, cropped or chopped off, nostrils were slit, the tongue bored through with a hot iron, cheeks or forehead branded with appropriate letters (such as 'F' and 'A' for 'false accuser' and 'B' for blasphemer').¹⁵

The contrast between the work of Braddick and Hindle with that of Griffiths, Walker and myself does not present the student of the subject with a stark choice between polar opposites. For the early modern English state was indeed (as Braddick and Hindle argue) flexible, inclusive and subtle, yet at the same time capable of employing focused, deliberate, everyday violence in the assertion of its rule. Hindle and Braddick's careful and sensitive reading of the subtleties of state formation need to be read alongside the everyday viciousness

¹¹ M.J. Braddick and J.D. Walter (eds), Negotiating power in early modern society: order, hierarchy and subordination in Britain and Ireland (Cambridge, 2001).

¹² For a fuller discussion, see A. Wood, Riot, rebellion and popular politics in early modern England (Basingstoke, 2002), 24-26.

¹³ P. Griffiths, 'Inhabitants', in C. Rawcliffe and R. Wilson (eds), Norwich since 1550 (London, 2004); P. Griffiths, Lost Londons: change, crime and control in the capital city, 1550-1660 (Cambridge, 2008), 275-90.

¹⁴ A. Wood, "'A lyttull worde ys tresson'": loyalty, denunciation and popular politics in Tudor England', Journal of British Studies, 48, 4 (2009), pp. 837-847.

¹⁵ G. Walker, Crime, gender and social order in early modern England (Cambridge, 2003), 100.

of the assertion of the criminal code. The Tudor state, in particular as experienced by the accused at criminal courts, routinely deployed violence – corporal and capital – in the physical, symbolic and ritual assertion of its authority. Hindle knows this: the statistical evidence he deploys is startling:

At least 2,928 individuals were sentenced to death on the home circuit between 1559 and 1624, a figure which represents some 41 per cent of all those convicted of (and 24 per cent of all those indicted for) capital crime. Extrapolation of these and similar figures suggests that some 75,000 felons went to the gallows in the century before 1630. Although this estimate is conjectural, it is arguable that more English men and women were hanged in the years 1580-1630 than between 1630 and the virtual abolition of capital punishment in 1967.¹⁶

A similar picture of the frequency with which sixteenth-century criminal courts were handing out capital sentences emerges from other sources. The records of the higher criminal court of the county Palatine of Lancashire are unusual in that they reach back to the early sixteenth century and so allow a more detailed view of the operation of a court dealing with major crime in the early Tudor period. Preliminary work on this material by J.A. Sharpe suggested that ‘a high proportion of those accused of felony, in some sessions maybe half of them, suffered capital punishment in the 1540s’. Sharpe’s work on the Home Circuit Assize circuit records show that, from the first decade for which records survive, the 1560s, some 27.4 per cent of felons were sentenced to death. A similar figure – 28.2 per cent - emerges from the succeeding decade. Likewise, the 41 per cent of the accused were given capital sentences by the Middlesex Sessions in the 1550s; that figure stood at 52 per cent in the 1570s. Both on the Home Assize Circuit and at the Middlesex Sessions, the early seventeenth century saw a substantial decline in the number of felons sentenced to death: 17.2 per cent at the former in the early 1620s, and 14.5 per cent at the latter.¹⁷ Sarah Covington’s gloss on the statistics produced by Philip Jenkin draws a similarly stark picture: ‘the period from 1530 through 1630 may have witnessed the execution of up to 75,000 individuals, with anywhere between 18,000 and 20,000 put to death between 1580 and 1610, a rate which, if applied proportionally to contemporary population rates in the United States, would add up to the equivalent of about 46,000 deaths every year.’¹⁸

All of this suggests that the Tudor state was considerably more willing to deploy judicial violence against its errant subjects than its Stuart and Georgian successors. It is therefore extremely frustrating that the criminal court records for the period before 1570 are so fragmentary. Equally frustrating is the absence of a substantial social history of crime, the law or state formation for the period before 1550. Hindle and Braddick’s chronological focus is characteristic of much of the social history of early modern England, which tends to concentrate on the period c.1560-1640. Deprived of the socially contextualized approach developed by Braddick and Hindle for the later period, the large bulk of what we know about the early Tudor state takes a top-down, administrative perspective.¹⁹

¹⁶ Hindle, State and social change, 119. See also his comments at p. 124.

¹⁷ J.A. Sharpe, Judicial punishment in England (London, 1990), 29.

¹⁸ S. Covington, The trail of martyrdom: persecution and resistance in sixteenth-century England (Notre Dame: Indiana, 2003), 158; C.B. Herrup, ‘Law and morality in seventeenth-century England’, Past and Present, 106 (1985), 102-23.

¹⁹ S.J. Gunn, Early Tudor government, 1485-1558 (Basingstoke, 1995) – a useful synthesis - gives little attention to village and town government (for which see pp. 58-62, 92-5) and,

It is worth, at this stage, revisiting a hoary old debate within early twentieth-century Marxism.²⁰ Lenin famously defined the state as a coercive force. In *The State and Revolution* (1917) he repeatedly used the term ‘special bodies of armed men ... placed above society and alienating themselves from it’. Thinking of the modern state, he cites the outstanding examples of such ‘special bodies of armed men’ as comprising ‘police and a standing army’. In a 1919 lecture, he went further, arguing that, historically, the state arose on the basis of the division of society into classes, and that it took the character of the dominant class; in the same lecture, he insisted repeatedly that ‘the essence of the state’ comprised an ‘apparatus of coercion, an apparatus of violence’. Thus, ‘the state is a machine for maintaining the rule of one class over another’. Unable or unwilling to conceive of civil society as a sphere of domination, negotiation and persuasion, Lenin saw social relations as underpinned by naked violence: ‘It is impossible to compel the greater part of society to work systematically for the other part of society without a permanent apparatus of coercion’.²¹ Lenin was an interested party: describing the state primarily in terms of coercion strengthened his hand in constructing a centralized, disciplined revolutionary party committed to violence in order to achieve its ends. But Vladimir Ilyich Lenin was no fool and his view, for all its bluntness, ought to command our attention.

In contrast to Lenin, in his prison writings in the 1920s and 1930s the Italian revolutionary Antonio Gramsci emphasized what he called the ‘educative and formative role’ of the state.²² Contrasting the divergent history of the modern state in eastern and western Europe, Gramsci implied that Lenin’s interpretation applied only to the local circumstances of Tsarist Russia:

In the East the State was everything, civil society was primordial and gelatinous; in the West, there was a proper relation between State and civil society, and when the State trembled a sturdy structure of civil society was at once revealed. The State was only an outer ditch, behind which there stood a powerful system of fortresses and earthworks.²³

For Gramsci, the state played the role of organizing cultural hegemony; but the roots of any successful hegemonic order lay deep within civil society. Thus, the state represented much more than an armed body of men and women: for Gramsci,

the State is the entire complex of practical and theoretical activities with which the ruling class not only justifies and maintains its dominance, but manages to win the active consent of those over whom it rules.²⁴

unlike Braddick and Hindle, displays no interest in the relationship between state formation, social change and power relations.

²⁰ It is notable that, for all the wide reading in social and political theory on which both Braddick and Hindle’s books are grounded, neither find any room to consider the extensive debates within Marxism over the nature and functions of the state.

²¹ V.I. Lenin, *Collected works*, 45 vols. (London, 1960-70), XXV, 389; XXIX, 475, 478.

²² Q. Hoare and G. Nowell Smith (eds), *Selections from the prison notebooks of Antonio Gramsci* (London, 1971), 242.

²³ *ibid.*, 238.

²⁴ *ibid.*, 244.

I revisit this now dusty debate within Marxism because it highlights the problem of drawing too sharp a dichotomy between coercion and hegemony. Gramsci's interpretation of the modern capitalist state, after all, is not a million miles away from Braddick and Hindle's conceptualization of the early modern state. Like Hindle, Gramsci was well aware of the reserve powers of the state: after all, he was penning his thoughts from behind the bars of Mussolini's prisons. The successful hegemonic state, Gramsci suggested, retains a reserve of armed force; but it only rarely needs to deploy that force. Rather, it relies upon legitimation, persuasion, incorporation – it shapes civil society and thereby wins 'the active consent of those over whom it rules'. Yet, all the time, the special armed bodies stand ready in the background. Classical social theory likewise recognized the central importance of organized violence to any definition of the state: thus, for Max Weber any definition of a state lies in its 'claim to the monopoly of the legitimate use of physical force in the enforcement of its order'.²⁵

What follows from this is that we need not be forced into a choice between a Leninist model of the state-as-coercion and the version which Braddick and (to a rather lesser extent) Hindle prefer, one based upon legitimation, incorporation and persuasion. For both Gramsci and Weber, it was commonsensical that any successful state possessed the reserve power of coercion. But, as Gramsci suggests, in its everyday operation, the state engaged within civil society in much the ways that Braddick and Hindle describe: winning over key social fractions amongst subaltern groups; exercising a never-complete ideological hegemony based on practical and symbolic exchange between ruler and ruled.

The remainder of this essay concentrates on two things. Firstly, it looks at the relationship, in the everyday functioning of the Tudor state, between coercion and consent. Secondly, it deals with the reaction of the Tudor state to moments of popular rebellion. Enough has already been said to suggest that in its everyday operation, the Tudor state was unembarrassed about its use, via the criminal courts, of organized violence. We have already seen how, at the first moment at which meaningful statistical evidence becomes available, the Tudor state was already to be found executing a greater proportion of its subject population than at any other subsequent point in English history. It is very important that J.A. Sharpe suggests that levels of capital punishment in the mid-Tudor period outstripped those that can be construed from the fragmentary evidence concerning capital punishment in the medieval period.²⁶ The statistics for the period c.1570-1600 point to a continuation in the Elizabethan period of that aspect of mid-Tudor rule. Thereafter, over the course of the seventeenth century, we see a gradual but sustained decrease in the per-capita use of capital punishment, running alongside a decrease in prosecutions.²⁷

The coercive powers of the Tudor state were substantial. The sixteenth century saw an expansion in the number of criminal statutes (in relation, for instance, to treason, sedition, witchcraft, prophesying, riot and sodomy) and the whittling away of ameliorative aspects of the criminal code, most notably the withdrawal of Benefit of Clergy from a number of offences. Impelled by anxieties over the spread of vagrancy, from 1589 to the end of the

²⁵ M. Weber, The theory of social and economic organization (London, 1964), 154.

²⁶ Sharpe, Punishment, 27-30.

²⁷ Ibid., 29-31.

century martial law was in operation.²⁸ Both town and village authorities in the later sixteenth century became increasingly punitive in their treatment of petty offences such as vagrancy, pilfering and hedge-breaking. The rich borough records of Norwich and Colchester, for instance, point to the regularity with which urban marketplaces became the location for whipping or pillorying petty offenders.²⁹ In London, something similar was going on: the diary of the mid-sixteenth century Londoner Henry Machyn is liberally scattered with references to men and women being pilloried, whipped or hanged.³⁰ At times of political or economic crisis such as the mid-1530s, late 1540s, mid-1580s and mid-1590s, the pillory was regularly used to punish poorer people who had been found criticizing their betters, spreading seditious rumours or giving voice to dangerous opinions. Just to give one example of the logic of corporal punishment: in 1537, the Berkshire fuller Edward Lyttelworke was set on the pillory at Wallingford for spreading the rumour that Henry VIII was dead. Thomas Cromwell, who took a special interest in these matters, was reassured that Lyttelworke was to be ‘set on the pillory there one hower in the myddest of the market day, his yaers fast nayled, and after to be cut of by the hard hed and then he to be tyed to a cartys ayrse and to be stripped naked to the wast of his body and so to be whipped ariound the towne’. Following this, Lyttelworke was to be delivered to the authorities at nearby Reading where he was again to be pilloried and whipped around the town.³¹ Frequent references in Cromwell’s correspondence show the ease with which both local and central authorities casually deployed torture in pursuit of political dissent: what they referred to as being ‘pinched with pain’.³²

When rebellion broke out, plans for its suppression were coldly logical. The notes left by Lord Grey in 19 July 1549 presumed the unembarrassed deployment of both retributive and punitive violence in suppression of plebeian insurrection. He had spent the preceding fortnight crushing popular protest in Oxfordshire and Buckinghamshire, and had latterly been ordered to move westwards with his force to join the royal army confronting the Devon and Cornish rebels. Entitled ‘The ordre devised and taken by the Lord Graie wth thadvices and consentes of the gentlemen of the countie of Oxford’, the letter of advice which Lord Grey left is a revealing document. He advised that leading rebels should be executed in the main towns on their market days ‘and after execucon done the heddes of every of them in the said Townes severally to be sett upp in the highest place in the same for the more terror of the said evell people’. Those priests who had provided rebel leadership were to be hanged from the towers of their churches. A supplementary note advised that, in anticipation of further trouble, ‘ev[er]y gentlema[n] [is] to put in a readynes his owne s[er]vants and ten[a]nts and to p[er]swade them That if any suche uprore chance Then they upon payne of forfeiture of their

²⁸ Hindle, State and social change, 54.

²⁹ P. Griffiths, ‘Bodies and souls in Norwich: punishing petty crime, 1540-1700’, in S. Devereux and P. Griffiths (eds), Penal practice and culture, 1500-1900: punishing the English (Basingstoke, 2004), 85-120. The Colchester borough records merit close attention.

³⁰ J.G. Nichols (ed.), The diary of Henry Machyn, citizen and merchant-taylor of London, from AD 1550 to AD 1563, Camden Society, 1st. ser., 42 (London, 1848).

³¹ The National Archives (hereafter TNA), SP1/127, fols. 123r-35r. See also TNA, SP1/127, fol. 170r.

³² TNA, SP1/106, fol. 213r. See also British Library (hereafter BL), Cotton Ms Cleopatra E.IV, fols. 122r-3r; BL, Cotton Ms Caligula B.I, fols. 130r-1r.

oulds to wayt upon their land lords'. Similarly, constables, bailiffs and mayors were to be set in readiness. A series of supporting arrangements were laid down for the maintenance of order, including the requirement that the gentry of each county were

to elect foure gentlemen of the shere to be in stede of m[ar]shalls in foure parts of the sayd shere to se[e] execucons done upon mutyneers or Rebels as occasion shall serve ... If any mutyn[ee]r or Rebell be taken he shalbe brought before two the next Justices and twoe gentilmen next adjoynyng unto them before whome they shalbe examined And so being found giltie these p[er]sones toget[er] with their examynacons shalbe sent to the Marshall of that quarter & execucon to be done ymmedyatly at the next m[ar]ket Towne upon the next market daye³³

Notably, Lord Grey envisaged the employment of extra-judicial violence. Although Grey anticipated that those gentlemen holding the Commission of the Peace would certainly be included in the suppression of any insurrection, his presumption was that they would enjoy the active support of the gentry as a whole, whether they held formal magisterial authority or not. Grey was dispensing martial law and he wished that each quarter of each county should have a gentleman appointed who would oversee the salutary dispensation of justice. What is really important here is that, whether magistrates or not, the gentry were expected to operate as a class. The normal functioning of the state having collapsed in the Thames Valley region in July 1549, reserve power was being deployed: precisely the armed bodies of men to whom Lenin referred. But whereas Lenin had in mind an administrative system comprising police, spies, soldiers and civil servants, Lord Grey had not such permanent apparatus on which to depend. Instead, the reserve power onto which the mid-Tudor state withdrew was the military and social power of the gentry.

One of the most important lessons which Braddick and Hindle have taught us is the importance of negotiation to the process of early modern government. The authority of the magistrate depended at least in part upon his being seen to act fairly, within a set of shared norms and expectations. Similarly, whether he held the Commission of the Peace or not, the gentleman was supposed to display benevolence, patronage, kindness and paternalism. Both in everyday social relations and in the administration of state power, the figure of the gentleman was central. Yet on the outbreak of rebellion, the networks of patronage and clientage on which gentle power depended very often collapsed. And yet, when faced with popular rebellion, the Tudor state looked to the gentry to activate their local networks in order to muster forces. Thus, a Crown warrant of early July 1549 ordered the recipient to raise infantry and cavalry from amongst 'yor owne ten[a]nts s[e]rvants and others w[i]t[h]in yor rules and office[e]s and of yor favorers'.³⁴ Sometimes, this worked well enough: in early October 1536 the earl of Shrewsbury wrote to Henry VIII to explain that he was assembling his 's[e]rvants ten[a]nts and frends' to form a host to be sent against the Lincolnshire rebels.³⁵ More often, it did not.³⁶ In 1525, the Dukes of Norfolk and Suffolk led out an army of their

³³ TNA, SP10/8/9; TNA, SP10/8/32. For further acknowledgement of the state's dependence in 1549 on the whole of the gentry, rather than just upon those holding the commission of the peace, see TNA, SP10/7/31.

³⁴ TNA SP10/8/1A. See also Calendar of the patent rolls preserved in the Public Record Office: Philip and Mary, 4 vols. (London, 1939.), III, 315.

³⁵ TNA, SP1/106, fol. 284r. See also TNA, SP1/107, fols. 100r-102v.

³⁶ S.J. Gunn, 'Peers, commons and gentry in the Lincolnshire Revolt of 1536', Past and Present, 123 (1989), 52-79.

armed tenants and servants to confront a crowd of rebels at Lavenham (Suffolk) who had gathered in protest against Cardinal Wolsey's excessive fiscal demands. As the courtier Ellis Griffiths described the scene, on encountering the rebels, the

duke of Suffolk wished to attack and destroy [the rebels], but the duke of Norfolk would not agree because, of a sooth, the serving-men and tenants [who made up their force] had let drop many words which showed their reluctance to fight against their kindred and companions who, they deemed, were suffering from utter injustice.³⁷

Those gentlemen who tried to activate their clientage networks in support of the regime in 1536 faced an identical problem: it was observed by one gentleman that 'skant wee may trust our hous[e]holde servants and they saie playnlye they wooll not fight againste [the rebels]'.³⁸ Another knew that he could not trust his 's[e]rv[a]nts, ten[a]nts ... Frenedes ... [and] neighbours' to confront the rebels.³⁹ A Yorkshire gentlemen reported to Henry VIII that 'for the repressing of the [rising] ... ther[e] is noe noble man nor gentilman in these p[ar]tes that canne as they ... have tried amongs[t] their ten[a]nts putte any truste to the commons but oonly to their houshoorde s[er]vants'.⁴⁰ The consensual, representative, flexible state described by Braddick and Hindle here seems to have collapsed. When faced with large-scale rebellion, it lacked the coercive capacities to respond on its own accord (in 1549, much of the fighting for the Crown was done by mercenaries who had initially been hired to confront the French and the Scots), and so was forced to fall back on the willingness of the gentry to deploy collective violence. State power, dependent upon clientage and patronage that ordinarily reached deep into Tudor society, threatened to melt away.

It was for this reason that such care was taken to ensure that the right lessons were learnt from public executions. On 21st of August 1549, anticipating success against the western rebels, the Council wrote to Lord Russell to advise him that, prior to granting a general pardon, he should 'pike owt the most sturdie & obstinate rebelles to make example of the[m] by their punishment to the terror of all other'.⁴¹ The following month, magistrates were told by the Council to be ready to act speedily and without mercy in the face of any popular grumbling: anyone found spreading rumours or raising rebellions was 'to be w[i]thout delaye hanged and executed openly to the terror of others'; anyone found as a vagabond, 'or Idle p[er]sons refusing to labor o[u]r pleasur[e] is you shall cause to be lyke wysely punnyshed as vagabonds according to the tenor of o[u]r laws provided in this behalfe' – a reference to the 1547 Vagrancy Act, which specified slavery as the punishment for such an offence.⁴² Over

³⁷ Historical Manuscripts Commission, Report on manuscripts in the Welsh language 3 vols. (London, 1898-1905), I, ii-v. For landlords' problems in raising their tenants against rebels in 1549 and 1554, see TNA, STAC4/8/3; W.K. Boyd, 'Star Chamber proceedings. Henry VIII and Edward VI', Collections for a history of Staffordshire, 37 (1912), 176.

³⁸ TNA, SP1/108, fol. 169r.

³⁹ TNA, SP1/108, fol. 58r.

⁴⁰ TNA, SP1/108, fol. 35r.

⁴¹ TNA, SP10/8/47.

⁴² TNA, SP10/8/66. This letter has been misread as sanctioning the execution of vagrants. See C.S. Knighton (ed.), Calendar of state papers domestic series of the reign of Edward VI, 1547-53 (London, 1992), 137 (no. 366). On the 1547 Act, see C.S.L. Davies, 'Slavery and

and again the term ‘terror’ recurs in the Council’s instructions for the suppression of rebellion: in 1536, for example, the execution of rebels was to be carried out ‘to th[e] example and ter[ro]r of all others her[e]after in what state and t[e]rmes soever’.⁴³ On 15 October 1536, Henry VIII ordered the Duke of Suffolk, responsible for crushing dissent in Lincolnshire, to maintain ‘a gode eye to all the cu[n]trey thereabouts that no ma[n] stirre agayne but he be strenght had by the hede and hanged upp’.⁴⁴ Three days later, the King wrote again to Suffolk, telling him to be careful not to execute rebels too swiftly, advising the Duke that interrogations needed first of all to be carried out. Henry warned that

you shall not well doo if you shall be over hasty in the execution of such of the meane sorte of the traitors as shuld have best knowledge of the [rebellion]. Willing you nev[er]theless in the meane season to do such execution of a nomb[er] of the comen traitors in lyncoln Horncastle lowth and other places for the utter repression of those traitors and the terrible example of all oothers offend[er]s⁴⁵

The geographical location of the capital punishment of rebels or dissidents was of some interest to state authorities. On 30 January 1537, the Duke of Norfolk wrote to Henry VIII to explain that he was about to interrogate two monks who were accused of plotting a new rising. If they proved to be guilty he wanted to know what was best done with them:

whether I may sende for them to be brought to york and theyre to be put to execucon whiche under yor high[ness] correction I think it more convenient there than in any other place and the soner be done the better to the dredefull example of others And if it shall chawnce me to cause to be apprehended xx xl lx or an C or moo wich hath gon aboute to make newe rebellion howe many yor pleasure shalbe I shall put execucon of theym

In the end, he hanged a number of individuals in chains at York, Watton, Scarborough and at other prominent locations near major roads.⁴⁶ The following month, Norfolk wrote again to explain that he had hanged 74 rebels, using chains until he ran out, at which point he had reverted to the use of ropes. The noble Duke noted that it was best to use martial law against the rebels, because under normal common law procedures trial juries could not be relied upon to bring in a guilty verdict.⁴⁷

The siting of hangings, burnings and quarterings was as important as the placement of the remains of those executed. The quartered body parts of those who had been executed for treason were typically conveyed to the main market towns of a given county.⁴⁸ In 1549, on his army entering Norwich, in an explicit statement of his intention to dominate the city, the

Protector Somerset: the Vagrancy Act of 1547’, *English Historical Review*, 19 (1966), 533-49.

⁴³ TNA, SP1/108, fols. 139r-143r.

⁴⁴ TNA, SP1/108, fol. 66r.

⁴⁵ TNA, SP1/108, fol. 174v.

⁴⁶ TNA, SP1/115, fol. 132r; TNA, SP1/116, fol. 22r.

⁴⁷ TNA, SP1/116, fol. 84r, 108r.

⁴⁸ For an example, see TNA, SP1/129, fol. 161r.

Earl of Warwick had 49 rebels hanged from the market cross. The following month, 30 men were hanged, drawn and quartered at Magdalen Gates, the prominent northern entry point into Norwich.⁴⁹ That summer, the main northern and southern roads into London were overlooked by the eviscerated bodies of hanged rebels. In Colchester in the same year, six leading rebels were executed ‘by law marshall’ in the town, wherof two was hanged by the pillory & one at ev[er]y of the foure gates. And for setting up the Tollhouse by the pillory for makyng a new pillory for women by the other pillory for makyng at ev[er]y of the other gates to hang one traytor for ther uprouns’.⁵⁰ Urban topography became a bearer of state authority: constructed on a Roman street-plan, with four gates meeting as a crucifix at the marketplace, the symbolic effect of the Colchester executions was to imprint repression upon the landscape. In a still more sensitive statement of the capacity of state repression to imprint itself in space, plebeian political dissidents were sometimes hanged at their own doorsteps, the threshold being a sensitive marker of the former household authority of the executed rebel.⁵¹

There was, then, a politics to the geographical logic of state retribution. It demonstrated the capacity of the state to transcend and dominate space: main roads, prominent hills, city gates and marketplaces all became bearers of the reestablishment of state power. The process of execution itself also assumed symbolic functions: marking out upon bodies and minds the coercive capacities of the Tudor state. Thomas Cromwell, always on the lookout for talented evangelical ministers whose careers he might advance, received a letter in 1538 from some members of the Worcestershire magistracy advising him of the names of the learned preachers who had delivered sermons at the recent assizes at which eight men and two women were executed. They explained how a Dr Taylor, chaplain to the Bishop of Worcester, had delivered a particularly effective sermon: he had

sett forthe the kyngs authoritye of supremacy & p[er]swadyd the prisoners to take ther deathe charitablye and to take the same deathe for the satisfaction of the worlde onely And Christ for the satisfaction of ther synes by reason of which s[er]monde the prisoners did And gave thanks to the kyng and his officers for ther just execucion and deathe And so dyed repentantlye

The next preacher delivered a similar message with equal effect, such that ‘the people were moche stirred to Christ’.⁵² The authorities were keen to exploit the moment of capital punishment to spell out the moral lessons of rebellion: so impressed were the Norwich authorities by the sermons preached at Worcester that the execution of a treasonable local friar was delayed for ten days because the magistrates felt that a ‘s[er]mon sholde be made’ by the Bishop of Norwich at the event. The services of the Bishop had been procured: he would, the magistrates assured the Council, ‘make sutch a s[er]mon as we truste shalbe to the

⁴⁹ A. Wood, The 1549 rebellions and the making of early modern England (Cambridge, 2007), 70-77.

⁵⁰ BL, Stowe MS 829, fols. 24r, 32r.

⁵¹ For an example, see TNA, SP1/114, fol. 169r. On the symbolism of thresholds, see F. Williamson, ‘Gender and social relations in seventeenth-century Norfolk’, Ph.D. thesis, University of East Anglia, 2009.

⁵² TNA, SP1/134, fols. 298v-9v.

kyngs highness contenaton and apparaunte to the people (whiche we thynke wolbe ther in great nombre) that this unhappy folysh fryer is well worthy to suffer'.⁵³

The capital punishment of rebels and dissidents contained two messages. Its negative message was that of what ministers and magistrates unambiguously called 'terror': the sword, the axe, the noose and the burning faggot. The positive message, if there was a good preacher and a compliant felon, lay in the sorrow and repentance of the condemned. Here, then, the blunt ugliness of state coercion connects with the subtleties of persuasion and negotiation emphasized by Braddick and Hindle. The rituals of capital punishment as they become historically visible from the records of the 1530s onwards point to the deployment of space, ritual and the broken, burnt or eviscerated body as powerful means of legitimating the social hierarchy.⁵⁴ The sword had been wielded; the capacity of the state to generate 'terror' had been shown. But equally apparent was the contrition of the condemned, the eloquence of the minister preaching on the sins of rebellion, the fascinated horror of the crowd who watched as the power of the state was made real before them. All the more powerful, then, were those moments – held back from the condemned until the very last moment – at which the state chose to exercise mercy, pardoning the condemned and so securing her or his grateful tears and submission.⁵⁵

And still more powerful were those moments when this script was defied. In May 1537, a group of men from the Norfolk town of Walsingham who had plotted the murder of the gentry were brought to the Norwich marketplace to be hanged, drawn and quartered.⁵⁶ They were taken from the Castle (the location of royal authority) and, as Sir Richard Southwell wrote to Thomas Cromwell,

dyd Confesse ther detestable attempts at that time exhorting the people to a dyew and humble obedience. So lyeing upon the herdles aswell towards execution as at the Self place humbling themselves unto godde and the kings majestie dyd to thend of the[i]r lyffs Call and harteleye (as should seme) p[er]swade the people w[h]ich by occasion of trenetye fayre that daye howlden at Norwiche were in great nowmbre to make example of theame and to imprint in ther harts the successes off all suche as att Anye tyme hath attempted lick entep[r]isses moveing them above all things to obbeye unto the kings sayd majestie his laws and mynestres of thos[e] same

But one of the leaders of the plotters, Raphe Rogerson, refused to play his part. As Southwell explained to Cromwell: 'Raff Rogerson ... according to his Cankrede Stomake beganne to entre matter wherin he was steyd moche after the infection of his hart.' Rogerson's words do not survive: only his defiance, roughly halted by the hangman's noose.⁵⁷

⁵³ BL, Cotton Ms Cleopatra E.IV, fols. 122r-3r.

⁵⁴ 'Confessions of guilt and expressions of repentance by condemned traitors probably first occurred on a regular basis in the early years of Henry VIII and were apparently little known before then.' J.A. Sharpe "'Last dying speeches": religion, ideology and public execution in seventeenth-century England', Past and Present, 107 (1985), 165.

⁵⁵ For an example, see Surrey History Centre, LM/COR/3/235.

⁵⁶ For the context, see C.E. Moreton, 'The Walsingham conspiracy of 1537', Historical Research, 63 (1990), 29-43.

⁵⁷ TNA, SP1/120, fol. 224r-v.

The special edition within which this essay appears has the aim of encouraging historical thinking about the nature of violence. A starting point for several essays in this edition lies in the things that the English state did to the Irish people in the late sixteenth century. What this essay shows is that the willingness of the Tudor state to deploy massive organized violence in Ireland in the 1580s and 1590s has to be understood alongside its use of judicial and extra-judicial violence against its English subjects. These were manifest in the legal cycles of the assize circuit and the quarter sessions as much as in the large-scale repression of popular rebellion. For all the emphasis by cultural historians of Tudor authority upon magnificence, pageantry, patronage and iconography, perhaps the most powerful of such symbols were the gallows. Certainly, the early modern state could be flexible, incorporative, consensual, and subtle in its operation. Perhaps, at least in England, it was all of those things for most of the time. But the roots of the Tudor state's actions in late sixteenth century Ireland need to be read within a history of early modern state formation that balances the evidence for consent against that for coercion. For, just as the Tudor state showed itself at its very worst in Ireland in the 1580s and 1590s, there was precious little negotiation going on as Raphe Rogerson's 'Cankrede' words were choked off in Norwich marketplace in May 1537.