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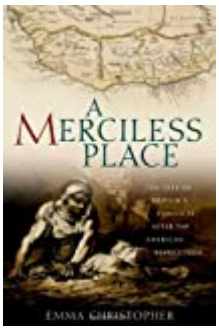

Emma Christopher. *A Merciless Place: The Fate of Britain's Convicts after the American Revolution.* Oxford: Oxford University Press, 2011. 448 pp. $29.95 (cloth), ISBN 978-0-19-978255-0.

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Justice Transported

It is a rare pleasure to review a book that will appeal not only to the specialist in the field, but also to the general reader. *A Merciless Place* is such a book, a work of original scholarship that clearly indicates years of hard labor in the archives, and also a beautifully crafted literary endeavor, one that should attract anyone who appreciates excellent writing.

For more than a century, England used its North American colonies as a dumping ground for its unwanted criminals. Societies without prisons generally rely on physical punishment and exile as punishment for all levels of crime. England had used branding, beating, mutilation, and the death penalty for centuries. On paper, British law relied heavily on the latter penalty for all sorts of crimes, from petty theft to the most heinous acts of violence. By the latter half of the eighteenth century, England had some 225 capital offenses on the books. However, as many historians have pointed out, juries hesitated to convict if they believed that a minor crime against property would result in the death penalty. The legal system relieved that stress through the ingenious mechanism of the kingâs pardon commuting the death penalty into transportation to the colonies. Few people objected to shipping common criminals off to North America, with more than fifty thousand having been transported to the American colonies by 1775. Transportation not only relieved the English of thousands of criminals, but it also allowed them to treat their American cousins with contempt, as when Samuel Johnson declared the Americans âa race of convicts, and ought to be thankful for anything we allow them short of hanging.â[1]

The Americans were not consulted on this creative legal structure, but they gave their opinion on many occasions, and it was decidedly negative. In 1759 Benjamin Franklin publicly complained that the policy was âan insult and contempt, the cruelest perhaps that ever one people offered anotherâ (p. 33). He suggested that it would only be fair for the colonies to ship rattlesnakes to Britain in exchange. The American Revolution created a crisis for the British legal system, which had a serious backlog of criminals sentenced to transportation

with nowhere to send them. Emma Christopher of the University of Sydney gets to the obvious but previously unstudied question: what did Britain do with its criminals when the United States came into existence? It is well known that eventually the British government decided to use Australia as a home for its undesirables, but I hate to admit that it never occurred to me to wonder what happened to its criminals between 1776 and 1788. Christopher provides the answer in fascinating detail.

Working on the assumption that they would quickly defeat the rebels, the government procrastinated on addressing the issue for several years, while the stockpile of convicts grew. To handle this overflow, the government deployed a number of ancient ships anchored in the Thames as prisons, much as they housed American prisoners of war in New York Harbor. And as with the prisoner of war (POW) ships, the prison ships in the Thames quickly became disease-ridden death traps–one-third of the prisoners dying on the festering hulks.

But the Revolution did not end quickly with victory for the empire, and the crisis facing the criminal justice system expanded. After the Gordon Riots of 1780, Londonâs jails bulged with men and women sentenced to death. Lacking America as an alternative punishment, the courts proceeded with executions in âan orgy of public slaughter,â the number of hangings in Middlesex doubling between 1780 and 1785 (p. 28). But Edmund Burke warned that the âcarnageâ of a long series of public executions would adversely affect the public and could discredit the British government; to put to death all those convicted of capital offenses would be âa massacre [rather] than a sober execution of the lawsâ (p. 77). It was the bad luck of many to be arrested âat this most unfortunate of moments,â and âto suffer the most extraordinary of penaltiesâ (p. 78). Hundreds of sleight-of-hand artists and petty criminals became caught up in a wild scheme of the government to dispose of its convicts in the unlikeliest of places.

One of the curious quirks of the British Empire in the seventeenth and eighteenth centuries was the way in which idealistic and/or conniving individuals with the right connections could direct imperial policy. The Crown never did have anything approximating a master plan or guiding principle for its empire, making it possible for the con artists of the Virginia Company who founded Jamestown to rip off the government with one ruse after another, leaving the empire with a charnel house in Virginia–and the beginnings of a major source of custom revenue for 150 years. More positively, the Quaker moralist William Penn founded a colony on the basis of religious tolerance and respect for the rights of the Native Americans. Even while granting him the right to proceed, Charles II apparently thought that Penn would end up being eaten by savages; over the next century Pennsylvania proved highly lucrative to the Crown. Other ventures did not end so well; one of these is the âpreposterous planâ to settle British criminals in Africa (p. 150). As Christopher notes, âThis story has been strangely ignored by history, but is no less epic for thatâ (p. 6).

Caught in a quandary, trying anything to avoid the overuse of the death penalty yet faced with overcrowded prisons, the government decided to try transporting their prisoners to some other remote location, though in a rather nonchalant fashion. The empire exploited patriotism and used men at its whim. Lord Hillsborough, the new secretary of state, compiled a list of those who could escape the hangman on condition that they enlisted in the army. He then manipulated âin a rather underhanded wayâ two young officers into fulfilling a longstanding plan by William Eden, the undersecretary of state, to solve Englandâs crime problem (p. 81). Back in 1771 Eden had written *Principles of Penal Law*, which had suggested that convicts could be used to man Britainâs African forts. In the âmeltdownâ of the penal system in 1780, the British government embraced Edenâs plan with an âoptimism worthy of foolsâ (p. 83). Sure, there were other proposals circulating, such as the prison reform ideas of John Howard and Jeremy Bentham; but they were based on the notion of rehabilitation, which to most English in the late eighteenth century appeared patently absurd for crime originated in the âcriminal class,â people who broke the law because they lacked morality rather than as a response to poverty. It was just easier and more sensible to ship the lot of them off somewhere–an attitude that would probably find many adherents in modern America.

Captains Kenneth Mackenzie and George Katenkamp sought to attain glory and position fighting His Majestyâs war against the American rebels. They gained permission from the War Office to raise two Independent Companies, reluctantly accepting the enlistment of more than one hundred convicted criminals. There were a few true scoundrels in the mix, most notoriously William Murray, a professional con artist and thief who had escaped the gallows on several occasions. But most of these ârecruitsâ had been incarcerated and often sentenced to death for minor offenses. For instance, John Plunkett, who had stolen three mirrors, thought serving in the army could not be worse than His Majestyâs prison ships,

especially if he would be doing that service in North America. But on the day they set sail, the members of the Independent Companies discovered that they had been tricked by their government and were bound for Africa.

With the collapse of Britainâs North American empire, Africa became the new focus of British greed and imperial schemes. But the British âdied in droves,â and the War Office quickly found it difficult to man their African outposts–thus the logic of sending convicts rather than regulars who would be better employed in safer climes (p. 86). One new avenue for gain opened up with Britainâs declaration of war on the Netherlands in 1780. The stated purpose of Mackenzie and Katenkampâs mission was to harass the enemy and capture Dutch forts along the African coast. Yet Lord George Germain also issued Mackenzie and Katenkamp secret orders stating the opposite: âFinances will not admit of offensive Measures against the Enemies of Great Britain,â so their operations would be entirely defensive (p. 133). Any hopes of glory and profit evaporated with these instructions.

Slaves remained the major source of British wealth in Africa, the slave trade under the control of the Royal African Company. The real purpose of the Independent Companies was to man the forts protecting slave trading stations. However, though the government hoped to use these less valuable Independent Companies to defend the African outposts, the Royal African Company absolutely did not want the convict soldiers. Racial attitudes complicated the effort to place criminals in positions of both authority and servility in major slave-trading centers; the Royal African Company warned that they would undermine the proclaimed racial superiority of Englishmen. Governor Richard Miles wrote from his headquarters at Cape Coast Castle that these convicts were a âDisgrace to the very Colourâ (p. 167). He knew full well that the African merchants and monarchs were not the powerless figures portrayed in imperial propaganda, but capable of crushing the English slave trade if they ceased fearing British troops. Reinforcing Milesâs concern, the convicts arrived at Cape Coast Castle on the *Brookes*, the slave ship made notorious by William Elfordâs much-reproduced diagram of the shipâs hold crammed with slaves. It was not an auspicious beginning to this latest experiment in criminal justice.

Much of Christopherâs book is devoted to telling the bizarre story of the fate of these two Independent Companies and the other convicts–men and women–who followed them to the coast of Africa. I hesitate to summarize the contours of that tale, for so much of the pleasure in reading *A Merciless Place* comes from following the twists and turns Christopher uncovers. The reader shares the researcherâs sense of wonder as she explores yet another outrageous aspect of Britainâs transportation policy. I am once more reminded of colonial Jamestown, of which Edmund S. Morgan so memorably said, they âmade nearly every possible mistake and some that seem almost impossible.â[2]

However, it is worth noting Christopherâs larger point, that the British government acted to solve a domestic problem by sending convicts overseas without any planning, lacking even a âspecific destinationâ (p. 217). After 1782 the government was no longer putting convicts in the army as the American Revolution drew to a close, though it continued to send them to Africa. No step of this operation seems to have been thought through, as the convicts were dropped off without food or supplies at remote imperial outposts. The result, as many contemporaries predicted, was a catastrophe for those involved, making Africa synonymous with death. The Lord Mayor of Plymouth, John Nicol, challenged the Home Office over its use of âso severe a Sentence as that of Transportation [to] the Coast of Africa,â which was tantamount to a death sentence (p. 264). Nor did England benefit from the practice; the Royal African Company persistently complained that these convicts did more harm than good, disrupting British control of the region and inflicting serious harm to their interests. It appears that no one in the ministry ever addressed directly the most obvious problem: criminals do not always make good soldiers–especially in the absence of any military training–and making them soldiers provided numerous opportunities for crime that could be committed under the guise of military necessity. âMurray was still the master criminal,â Christopher writes, âbut now he wore a British Army uniform. It would all end badlyâ (p. 185).

It is worth noting that a great many convicts took the first available opportunity to desert to the Dutch, who treated them far better than did the English, as they had no reason to remain loyal to the government that had sent them to a disease-ridden hell hole. âStanding on the battlements of Mori, half a world away from everything they knew, the British legal system must have seemed more bizarre, and less just, than everâ (p. 143). Many of those who remained–after they had exchanged their weapons for food and alcohol–used the uniform as a cover for crime. The convictsâ commander, Mackenzie, though not officially a criminal, was the worst of the bunch. In addition to stealing as much as he could and attempting to abandon his command for personal profit, he

twice committed acts of piracy by seizing neutral ships, and summarily executed his sergeant by tying him to a cannon and blowing him to pieces. The government called Mackenzie home in April 1783 and the whole enterprise collapsed into chaos as command of the fort at Mori devolved to the gardener. The ministry disbanded the Independent Companies shortly thereafter, the former convicts now finding themselves no longer soldiers but indentured servants.

Christopher takes a number of informative detours into other dark corners of the empire, such as the corrupt rule of Governor Joseph Wall on the island of GorÃ©e–another convict dumping ground on the coast of Africa that ended in a âreign of terrorâ (p. 220). After the failure of the Africa plan, the government tried America again, which led to two mutinies, an inability to find buyers of the criminalsâ indentures, and outrage from the new U.S. government. Britain then turned to Honduras Bay, once more without bothering to develop a coherent plan and also ending in disaster, as convicts were simply abandoned on the coast to fend for themselves. Returning to Africa in 1785, the transportation of criminals there again proved a debacle, as did the disastrous settlement of black Loyalists in Sierra Leone. A proposal to develop South Africa with convicts in order to make up for the loss of the American colonies also went pear shape.

Christopher writes beautifully and with wit, personalizing this tragic history with outstanding character sketches. There are also a number of evocative set pieces, such as her description of public executions, the hell of British prison ships, and the environment of west Africa. She concludes her book with Australia, the settlement of which takes on new meaning in the context of these previous efforts to deal with a deeply flawed legal system. After all, Australia was first suggested as an appropriate dumping ground before the Lemane Commission, which was looking into a harebrained scheme for convicts to grow wheat on an island in the Gambia River. By 1786 the government found itself with no real alternatives to New South Wales, only this time they would make a slightly better effort at planning.

Christopher moves beyond traditional legal studies to give us a vision of the lawâs impact on the individual lives of the powerless and marginalized. She asks us to imagine the consequences for a young man or woman who steals a handkerchief or loaf of bread and is sentenced to transportation to the coast of Africa. Thoroughly researched, brilliantly written, deeply humane, *A Merciless Place* is a model of modern legal scholarship.

Notes

[1]. James Boswell, *The Life of Samuel Johnson, LL.D.* (London: J. Richardson & Co., 1823), 3:316.

[2]. Edmund S. Morgan, *American Freedom, American Slavery: The Ordeal of Colonial Virginia* (New York: W. W. Norton, 2003), 72.

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