



History 223: Topics in European History – Felony and Society in Medieval England



Credits: 3-4

<https://canvas.wisc.edu/courses/240965>

MWF 11:00AM – 11:50AM

Online Only

Credit Hour requirements are met through one hour (i.e. 50 minutes) of classroom or direct faculty/instructor instruction and a minimum of two hours of out of class student work each week over approximately 15 weeks, or an equivalent amount of engagement over a different number of weeks.

Instructor: Charlotte Whatley

Office Hours: MW 1:00PM-2:00PM

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Course Description

At various times in medieval England, it was both legal and illegal to murder another person, depending on the circumstances of the killing. Punishment for assault or theft could mean the loss of a hand, or the loss of one's life. Medieval legal practices often look quite foreign at first glance; this class seeks to reorient the study of crime away from the margins, and instead center law and criminality at the core of making and unmaking of society. In this class, we will explore medieval English society by examining the legal processes and procedures surrounding felony acts and their prosecution. We will question definitions of felony to better define the social covenants governing medieval English culture: which acts were accepted? Which acts were condemned? What do the changing circumstances surrounding the prosecution of such acts say about the society in which they existed? We will explore medieval understandings of emotion and knowledge-making, as well as the complex relationship that medieval people had with ideas like justice, mercy, and legality. We will examine the impact of the growth of law on village relationships, community creation, and notions of the "other." Throughout, we will be reading original medieval court cases to identify both the changing trajectories of legal procedures and the ways in which ordinary people navigated the rule of law.

History Department

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For legal studies students, this course will help to historicize and contextualize legal procedures and their development. For students of history, this course will build your knowledge of why it matters to appreciate how law works in history: meanings that can be derived from close readings of legal texts, uses of and methods for legal sources, and ways of thinking about law and legal traditions and their role in making history.

Course Learning Outcomes

By the end of this course, students will have gained a foundational knowledge of medieval English society and the effects of major historical events on the English legal tradition. In addition to this knowledge, however, we will also be working to hone students' skills as historians and writers. As a class group, we will engage in lively discussion to strengthen speaking skills and increase students' confidence as historians, while encouraging active listening. Both together and individually, we will be reading and analyzing primary documents and texts to improve analytical skills. Most of all, however, we will be working to expand students' capacity for critical thinking, encourage students to question what they read, and teach them the skills to begin to discover their own answers.

Assignments

Your grade will be based on a combination of factors, including attendance, participation, a secondary source response paper, a primary source analysis, a midterm, and a final exam. Please see the percentage breakdown below.

- I. Participation: **20%** (this means that you not only attend class, but also that you make meaningful contribution to class discussion)
- II. Discussion Posts: **10%**
- III. Secondary Source Response Paper (3 pages): **15%**
- IV. Primary Source Analysis: **15%**
- V. Midterm Exam: **20%**
- VI. Final Exam: **20%**

Grading scale: A 94-100 AB 88-93 B 84-87 BC 78-83 C 70-77 D 60-69 F 0-59

Books

There are no books to buy for this class. All reading assignments will be provided for you in the form of PDF files on the Learn@UW Course page. The primary source materials will be provided to you in a printed course packet, in a transcribed and translated form (Latin and English) with references so that you can view the original documents online at the Anglo-American Legal Tradition website, www.aalt.uh.edu.

Course Evaluations

Students will be provided with an opportunity to evaluate this course and your learning experience. Student participation is an integral component of this course, and your feedback is important to me. I strongly encourage you to participate in the course evaluation.

Digital Course Evaluation (AEFIS)

For instructors using the campus digital course evaluation survey tool, [AEFIS](#).

UW-Madison now uses an online course evaluation survey tool, [AEFIS](#). In most instances, you will receive an official email two weeks prior to the end of the semester when your course evaluation is available. You will receive a link to log into the course evaluation with your NetID where you can complete the evaluation and submit it, anonymously. Your participation is an integral component of this course, and your feedback is important to me. I strongly encourage you to participate in the course evaluation.

Academic Calendar & Religious Observances

See: <https://secfac.wisc.edu/academic-calendar/#religious-observances>

Academic Integrity Statement

By virtue of enrollment, each student agrees to uphold the high academic standards of the University of Wisconsin-Madison; academic misconduct is behavior that negatively impacts the integrity of the institution. Cheating, fabrication, plagiarism, unauthorized collaboration, and helping others commit these previously listed acts are examples of misconduct which may result in disciplinary action. Examples of disciplinary action include, but is not limited to, failure on the assignment/course, written reprimand, disciplinary probation, suspension, or expulsion.

Accommodations for Students with Disabilities Statement

The University of Wisconsin-Madison supports the right of all enrolled students to a full and equal educational opportunity. The Americans with Disabilities Act (ADA), Wisconsin State Statute (36.12), and UW-Madison policy (Faculty Document 1071) require that students with disabilities be reasonably accommodated in instruction and campus life. Reasonable accommodations for students with disabilities is a shared faculty and student responsibility. Students are expected to inform me of their need for instructional accommodations by the end of the third week of the semester, or as soon as possible after a disability has been incurred or recognized. I will work either directly with you or in coordination with the McBurney Center to identify and provide reasonable instructional accommodations. Disability information, including instructional accommodations as part of a student's educational record, is confidential and protected under FERPA. (See: [McBurney Disability Resource Center](#))

Diversity & Inclusion Statement

[Diversity](#) is a source of strength, creativity, and innovation for UW-Madison. We value the contributions of each person and respect the profound ways their identity, culture, background, experience, status, abilities, and opinion enrich the university community. We commit ourselves to the pursuit of excellence in teaching, research, outreach, and diversity as inextricably linked goals.

The University of Wisconsin-Madison fulfills its public mission by creating a welcoming and inclusive community for people from every background – people who as students, faculty, and staff serve Wisconsin and the world.

A Word of Caution

The topics and readings that we discuss in this course will, by their very nature, be difficult for some students to deal with. Murder, violence, and rape will necessarily be topics of conversation, but if we treat each other with respect and kindness, I know that these conversations will be fruitful learning experiences. I will absolutely warn students ahead of the readings that discuss sexual assault, and if a student needs to make alternative arrangements to discuss specific readings, I am happy to do so.

Course Schedule

Week 1:

Monday, 1/25: Introductions, Course Expectations, Syllabus Discussion

Wednesday, 1/27: What Is a Felony? Felony Crime in the Earliest Germanic Traditions

Readings:

Lambert, T.B. "Theft, Homicide, and Crime in Late Anglo-Saxon Law." *Past & Present* 214 (2012): 3-43.

Week 2:

Monday 2/1: Blood Feud or Murder? Wrath and Vengeance in Early England

Wednesday 2/3: Crime and the Early Church: Trial by Ordeal

Readings:

Hyams, Paul R. "Social Emotions in a Culture of Vengeance." In *Rancor and Reconciliation in Medieval England*. Ithaca: Cornell University Press, 2003.

Moore, R.I. "Power and Reason." In *The Formation of a Persecuting Society: Power and Deviance in Western Society*. Oxford: Basil Blackwell, 1987; 124-153.

The Anglo-Saxon Dooms (Selections): <https://sourcebooks.fordham.edu/source/560-975dooms.asp>

Week 3:

Monday 2/8: Criminal Jurisdiction: Church vs State

Wednesday 2/10: The Norman Conquest: Violent Change or Surprising Consistency?

Readings:

Wormald, Patrick. "Giving God and King their Due: Conflict and its Regulation in the Early English State." In *Legal Culture in the Early Medieval West: Law as Text, Image, and Experience*, London: Hambledon, 1999; 333-42.

Hyams, Paul R. "Vengeance and Peacemaking in the Century After the Norman Conquest." In *Rancor and Reconciliation in Medieval England*. Ithaca: Cornell University Press, 2003.

Downer, L.J., ed. *Leges Henrici Primi*. Oxford: Clarendon Press, 1996. (Selections)

Week 4:

Monday 2/15: Community Liability in Crime Prosecution: Accusation and the Hue and Cry

Wednesday 2/17: Reading and Understanding Medieval Legal Documents Part I: In Translation

Assignment:

****Secondary Source Response Paper Due****

Readings:

Green, Thomas A. "Societal Concepts of Criminal Liability for Homicide in Medieval England." *Speculum* 47, no. 4 (1972): 669-695.

Shoemaker, Karl. "The Clerk William Tyssyngton and the Pursuit of Fugitives in the Late Thirteenth Century." In *Law and Society in Later Medieval England and Ireland: Essays in Honour of Paul Brand*, edited by Travis R. Baker 97-107. New York: Routledge, 2017.

Hall, G.D.G. and M.T. Clanchy, eds. "Book XIV." *The Treatise on the Laws and Customs of the Realm of England Commonly Called Glanvill*. Oxford: Clarendon Press, 2002.

Week 5:

Monday 2/22: Procedures for Medieval Felony Prosecution

Wednesday 2/24: Is Homicide Ever Excusable?

Readings:

Hurnard, Naomi D. "Procedure." In *The King's Pardon for Homicide Before A.D.1307*. Oxford: Clarendon Press, 1997; 31-67.

Hurnard, Naomi D. "Excusable Homicide." In *The King's Pardon for Homicide Before A.D.1307*. Oxford: Clarendon Press, 1997; 68-109.

Week 6:

Monday 3/1: To Stay or to Run: Options for the Accused

Wednesday 3/3: Sanctuary and Abjuration: What Is Justice?

Readings:

Hurnard, Naomi D. "*Meticulosi* and Fugitives for Excusable Homicide." In *The King's Pardon for Homicide Before A.D.1307*. Oxford: Clarendon Press, 1997; 132-152.

Shoemaker, Karl. "Sanctuary in the Century After the Norman Conquest." In *Sanctuary and Crime in the Middle Ages, 400-1500*. New York: Fordham University Press, 2011; 95-111.

Selected Sanctuary Cases from the English Eyre Rolls in Translation

Week 7:

Monday 3/8: *Ponitur super patria*: Community Memory and Criminal Litigation

Wednesday 3/10: Jury, Community, and the Other

Readings:

Green, Thomas A. "The Criminal Trial Jury: Origins and Early Development – An Interpretive Overview." In *Verdict According to Conscience: Perspectives on the English Criminal Trial Jury: 1200-1800*. Chicago: University of Chicago Press, 1988; 3-27.

Green, Thomas A. "Judge, Jury, and the Evolution of the Criminal Law in Medieval England." In *Verdict According to Conscience: Perspectives on the English Criminal Trial Jury: 1200-1800*. Chicago: University of Chicago Press, 1988; 65-102.

Selected Cases in Translation from the English Eyre Rolls (See course packet)

****Midterm Exam****

Week 8:

Monday 3/15: Crime and the Later Church: IV Lateran

Wednesday 3/17: Bureaucratization and Law: Record-Keeping and Its Effects on Prosecution

Readings:

Clanchy, Michael. "The Proliferation of Documents." In *From Memory to Written Record: England 1066-1307*. 3rd edition. Oxford: Wiley Blackwell, 2012, 46-80.

McSweeney, Thomas J. "The King's Courts and the King's Soul: Pardoning as Almsgiving in Medieval England." *Reading Medieval Studies* 40 (2014): 159-75.

Canons from Lateran IV (Selected) <https://sourcebooks.fordham.edu/source/lat4-select.asp>

Week 9:

Monday 3/22: What Did Medieval People Know about Law? Settlement and Extra-Legal Negotiation

Wednesday 3/24: Women in Late-Medieval Law

Readings:

Klerman, Daniel. "Settlement and the Decline of Private Prosecution in Thirteenth-Century England." *Law and History Review* 19, no. 1 (2001) 1-65.

Neville, Cynthia J. "Common Knowledge of the Common Law in Later Medieval England." *Canadian Journal of History/Annales canadiennes d'histoire* 29, no. 3 (1994): 461-478.

Chaucer, Geoffrey. "The Wife of Bath's Tale" In *The Canterbury Tales*. New York: Penguin, 2003.

Week 10:

Monday 3/29: Anger and Emotion in Felony Defense

Wednesday 3/31: Conscience in Medieval England

Assignment:

****Primary Source Analysis Due****

Readings:

Kamali, Elizabeth Papp. "The Devil's Daughter of Hell Fire: Anger's Role in Medieval English Felony Cases." *Law and History Review* 35, no. 1 (2017): 155-200.

King, Peter. "Emotions in Medieval Thought." In *Oxford Handbook on Emotion*. (Forthcoming) 1-27.

James H. Morey (ed.), *Prik of Conscience*, TEAMS Middle English Texts Series. Kalamazoo: Medieval Institute Publications, 2012; Part V, Lines 1366-1906.

Week 11:

Monday 4/5: Prosecution and Litigation as Ritual, Part I: Defining the Ritual

Wednesday 4/7: Prosecution and Litigation as Ritual, Part II: Rituals of Law and Social Order

Readings:

Bell, Catherine. "Ritual and Power." In *Ritual Theory, Ritual Practice*. Oxford: Oxford University Press, 1996; 171-224.

Hurnard, Naomi D. "The Right of Appeal." In *The King's Pardon for Homicide Before A.D. 1307*. Oxford: Clarendon Press, 1997; 171-194.

Selected Cases from the Coroner's Rolls and Rolls of Gaol Delivery

Week 12:

Monday 4/12: Crime, War-Making, and the Law

Wednesday 4/14: A Special Case: Treason in Medieval Law

Readings:

Kaeuper, Richard. "Royal Justice and Public Order." In *War, Justice, and Public Order*. Oxford: Clarendon, 1988; 134-183.

Skemer, Don C. "'No More but Hang and Drawe': Politics and Magic in the Execution of Sir Robert Tresilian, 1388." *Comparative Perspectives on History and Historians: Essays in Memory of Bryce Lyon (1920-2007)*, edited by David Nicholas and Bernard Bachrach. Kalamazoo: Medieval Institute Publications, 2012; 215-242.

Selected Cases from the Coroner's Rolls and Rolls of Gaol Delivery.

Week 13:

Monday 4/19: Crime, War-Making, and the Law

Wednesday 4/21: A Special Case: Treason in Medieval Law

Readings:

Kaeuper, Richard. "Royal Justice and Public Order." In *War, Justice, and Public Order*. Oxford: Clarendon, 1988; 134-183.

Skemer, Don C. "'No More but Hang and Drawe': Politics and Magic in the Execution of Sir Robert Tresilian, 1388." *Comparative Perspectives on History and Historians: Essays in Memory of Bryce Lyon (1920-2007)*, edited by David Nicholas and Bernard Bachrach. Kalamazoo: Medieval Institute Publications, 2012; 215-242.

Week 14:

Monday 4/26: The Body and Mind in Late Medieval English Law

Wednesday 4/28: Capital Offenses, Capital Punishments

Readings:

Royer, Katherine. "The Body in Parts: Reading the Execution Ritual in Late Medieval England." *Historical Reflections/Réflexions Historiques*. 29, no. 2 (2003): 319-339.

Turner, Wendy J. "Mental Health as a Foundation for Suit or an Excuse for Theft in Medieval English Legal Disputes." In *Medicine and the Law in the Middle Ages*, edited by Wendy J. Turner and Sara M. Butler, 157-74. Leiden: Brill, 2014.

Selected Cases from the Coroner's Rolls and Rolls of Gaol Delivery.

****Final Exam****