

History 476
Medieval Society and Law
Summer 2023



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Course Description:

Would you like to know why the US Supreme Court still relies on medieval law to decide modern cases? Would you like to know how medieval law played a role in the Court's recent overturning of *Roe v Wade*? Have you ever wondered what an ordeal by fire was actually like? Would you like to know more about the historical laws that permitted blood-feuds and honor killings? Should churches still provide sanctuary to fugitives?

This course is intended to introduce students to the central historical developments related to law and social transformations in the years between 500 and 1500. Chronologically, this course will cover the dissolution of the Roman Empire and the last gasps of Roman imperial codification in the fifth and sixth centuries until the late medieval appearance of the most influential European legal traditions, i.e. the common law of England and the so-called Roman-canonical tradition. Our primary focus will be on law as an aspect of political, cultural, and social organization. Hence, we will be concerned with substantive laws (e.g. whether you could marry your first cousin in thirteenth-century France, or the required number of days you had to wait before attacking your enemy in his home in ninth-century Britain) only as a secondary matter. Instead, we will be more concerned with the conditions of thought and forms of social organization that made these laws intelligible in their own age to those that practiced them, those that enforced them, and those that lived under them. At many points, we will

encounter legal practices that form the foundation for aspects of our own world, including representative government, the jury trial, as well as the frameworks of power that gave the color of law to conquest, colonization, and enslavement.

Course Credit:

The credit standard for this course is met by an expectation of a total of 135 hours (45 hours per credit) of student engagement with the course learning activities, which include asynchronous lectures, readings, written responses, exams, as well as other student work described in the syllabus. The asynchronous videos and the readings form the basis for the instructor-student interaction that binds this course together. Most instructor-student interaction will be fulfilled through feedback on written assignments, but also by office-hour zoom meetings.

Course Readings:

There is no required textbook for this course. All assigned reading materials are available through the course Canvas page or available digitally through the UW-Madison Library or other freely accessible websites. For those interested in acquiring or bolstering their background knowledge of medieval Europe, I recommend Edward Peter's *Europe and the Middle Ages* (4th ed. 2004).

Assignments: All assignments for this course will be found on Canvas and are to be submitted through the course's Canvas page. This includes all weekly assignments and reading responses, as well as the midterm and final examinations.

Learning Outcomes: A detailed description of learning outcomes and a course map for each day of this course is provided at the end of this syllabus, after the list of course themes.

Course Modality: This is an online, asynchronous summer session course.

Disability Statement: UW-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. If you need accommodations, please let me know 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 the Family Educational Rights and Privacy Act (FERPA).

Academic Integrity: UW-Madison takes academic integrity very seriously, and no academic misconduct will be tolerated in this course. Academic misconduct can assume many forms, so make sure you know what it is and how to avoid it. (See <https://www.students.wisc.edu/doso/academic-integrity/>)

Grading Scale: A (92.5+); AB (87.5-92.4); B (82.5-87.4); BC (77.5-82.4); C (69.5-77.4); D (60-69.4); F (Below 60)

Graded Assignments and Exams: The daily reading responses are worth 60% of the total. The midterm is worth 20% of your final grade. The final exam is worth 20% of your grade. Your cumulative grade will be factored on a scale of 0-100 according to the distribution in the **Grading Scale** above.

Schedule of Themes and Assignments

Week 1

Tuesday, May 23

- 1) Introduction to Course Themes and Instructions on Daily assignments**
- 2) Short Discussion of Modern Uses of Medieval Law**

Reading: Syllabus, video introduction,
Assignment: daily assignment on Canvas page

Wednesday, May 24

What kinds of law were there in the Middle Ages?

Reading: Asynchronous video
Assignment: daily reading response

Thursday, May 25

What did the first medieval laws look like?

Reading: Oliver, *The Laws of Aethelberht*
Assignment: daily reading responses

Friday, May 26

Violence, Feud, and Vengeance

Reading: Gregory of Tours, "A Tumult in Tours"
Assignment: daily reading response

Week 2

Tuesday, May 30

Proving Cases: The Divine Ordeal

Reading: Hyams, “The Ordeal;” Baldwin, “Intellectual Preparation”
Assignment: daily reading response

Wednesday, May 31

After the Ordeal: The Medieval Origins of the Jury Trial

Readings: “13th Century Criminal Juries”
Assignment: daily reading response

Thursday, June 1

Medieval Juries and the Origins of “Self-Defense”

Readings: Helmholz, “Verdict According to Conscience”
Assignments: daily reading response

Friday, June 2

Law Enforcement in the Middle Ages

Reading: Shoemaker, “William Tyssyngton”
Assignment: daily reading response (primary source analysis)

Sunday, June 4

MIDTERM EXAM DUE

Week 3

Tuesday, June 6

Sanctuary Rights

Reading: Shoemaker, “Sanctuary and Angevin Law Reforms”
Shannon McSheffrey, “Sanctuary”
Assignment: daily reading response

Wednesday, June 7

The End of Medieval Sanctuary; Sanctuary Today

Readings: Shoemaker, "Sanctuary and the Canon Law"
NPR All Things Considered segment
Assignment: daily reading response

Thursday, June 8

Judicial Torture and Medieval Law

Reading: Langbein, "Torture and the Law of Proof"; Scarry, "Pain"
Assignment: daily reading response

Friday, June 9

The Inquisition

Readings Moore, "The Persecuting Society"
Assignment: daily reading response

Week 4

Tuesday, June 13

The Medieval Prison

Reading: Ralph Pugh, "Jails"
Assignment: daily reading response

Wednesday, June 14

Women and the Inquisition

Reading: Sanctity, Heresy, Inquisition
Assignment: daily reading response

Thursday, June 15

The Legal Regulation of Demons

Reading: Shoemaker, The Devil at Law
Assignment: daily reading response

Friday, June 16

Medieval Law in the Modern World

Reading: TBD
 Assignment: daily reading response

Sunday, June 18

FINAL EXAM

Learning Outcomes with Course Map

History 476 (Medieval Law and Society) is a medium to high enrollment, upper-level, inter-disciplinary course that primarily serves History and Legal Studies Majors. This version of the course is offered during the online summer-session and it is reading intensive. This course leads students through the textual, translation, and interpretative issues that arise in the course material. In the online format, students give close readings to historical texts and then respond to them in asynchronous written responses through Canvas. In addition, students are given a series of short, asynchronous, instructor-produced videos that guide students through the readings and the larger questions raised in the readings.

Course Map and Learning Outcomes

Day	Unit/Topic	Learning outcomes	Learning Materials	
			Readings	Media
1	Introduction to Course	Understand the overall chronology and geographic reach of the course; understand critical Eurocentric problems with term “medieval”; understand expectations for weekly assignments.	(optional) Perry and Gabriel, “The Bright Ages” (selected chapters)	Recorded Lecture
2	The Dissolution of the Roman Empire; effects on the people; modes of law and law enforcement	Understand the historical issues around the question “did Rome fall?”; understand the mechanics of Roman imperial law and judicial institutions; understand the role of the Christian Church in regulating daily life in early medieval Europe	Instructor provided video	Short video segments (in each case below this denotes lectures recorded by the instructor for this particular summer session)

3	The origins of written law in England	Understand the role of royal legislation in political life, understand the impact of royal law on the daily life of “common” people	Plucknett, “The History of the Comon Law”	short recorded video segments
4	The “Divine Ordeal”	Understand the so-called “irrational” modes of establishing proof in early medieval Europe; understand the role of communities in establishing legal proof.	Bartlett, “Trial for Fire and Water; Baldwin, “Intellectual Preparation for the Canon Against Ordeals”	Short video lectures
5	The End of Divine Ordeal	Understand debates about whether legal change is the result of elite action or whether legal reform moves from the “bottom up;” Understanding how to assess evidence for legal change; understand the ramifications of ending use of the ordeal in trials; noting that the contemporary American trial jury is a direct consequence of these reforms.	Rebecca Coleman, “Reason and Unreason in Medieval Law”; Paul Hyams, “The Ordeal”	Short video segments
6	Introduction to Sanctuary Rights; midterm exam	Understanding the origins and scope of sanctuary rights in the ancient and medieval world; preparing for midterm exam.	Shoemaker, “Sanctuary and Crime in the European Middle Ages” (selected chapters)	Short video segments
7	Sanctuary Rights	Understand the integral role of sanctuary in daily life and law; understand the legal regulation of sanctuary rights,	Shoemaker, (selected chapters), Shannon McSheffrey (selected chapters)	Short video segments

8	The End of Sanctuary and Modern Remnants of Sanctuary	Understanding the legal debates around ending sanctuary protections; understanding the context of modern sanctuary movements	Shoemaker, selected chapters; Shannon McSheffrey, selected chapters	NPR segment on sanctuary on "All Things Considered;" Online Profile of recent undocumented sanctuary seekers
9	The Origins of the Criminal Jury	Understanding how royal power used juries to assert local control; understand how local juries resisted royal power; understand social control through the informal mechanisms of the jury	Helmholz, "Verdict According to Conscience" (selections)	Using Kyle Rittenhouse trial as a lens for understanding the medieval origins of modern self-defense law: short recorded lectures
10	The Inquisition	Understanding the use of legal process to enforce orthodoxy; understanding the growth of judicial authority in late medieval Europe; understanding the way inquisitions regulated medieval women.	R.I. Moore, "The Persecuting Society"	Short recorded lectures
11	Judicial torture; the origins of medieval law codes	Understanding the use of judicial torture in medieval law; understanding the emergence of legislation as a tool of governmental authority and its ramifications for the contemporary world	Langbein, "Torture and the Law of Proof"; Wormald, "Lex Scripta"	Short recorded lectures
12	Legislation as social control;	Understandings the birth of "positive law" in late medieval Europe; understandings how modern legal institutions are shaped by medieval transformations	McSweeney	Short recorded lectures

13	Law Enforcement in Medieval England; the Medieval Prison	Understand the formal and informal modes of enforcing medieval social control; understanding the historical origins of policing and prisons;	Pugh “Jails”; Shoemaker, “William Tyssyngton”	Short recorded lectures
14	Violent Priests; Dueling	Understanding the privileges and immunities attached to the church in the medieval period, understanding popular resistance to clerical privileges, understanding official attempts to constrain private violence, understanding the scope and intensity of private violence in medieval Europe.	Sarah Blanshie, “Italian Communes”; Langbein “Prosecuting Crime in the Renaissance”	Short recorded lectures
15	Medieval law and the Modern World	Understanding why features of medieval law continue to cast shadows on the modern world	Shoemaker, on capital punishment and mental insanity	Short recorded lectures