

1.4 Case study: the influence of the Church on crime and punishment

Learning outcomes

- Understand that the Church was influential in all areas of life, including crime and punishment.
- Know about Henry II's efforts to reduce the Church's influence.
- Know how criminals could avoid punishment by claiming 'Benefit of Clergy' or 'Sanctuary'.

The power of the Church in the Middle Ages

Throughout the period c1000–c1500, the Church was an extremely powerful institution, which controlled peoples' thoughts and actions. For this reason, the Church was an important factor influencing change and continuity in crime and punishment. The clergy were often the most educated members of a community. Churches and cathedrals were the largest buildings in most villages, towns and cities. Their impressive architecture dominated the landscape for miles around and reminded people of God's power on earth. They were a clear reminder that the Church had the power to judge – but also to protect. The medieval Church taught that angels and demons battled for human souls, and that Christian saints were companions who could directly influence everyday life. These teachings had a strong hold on the minds of almost all members of society.

Source A

At Exeter, this cathedral building replaced the original Norman structure during the 13th century.



The Church was also involved in areas outside religion. It owned one fifth of the country's wealth and collected one tenth of all earnings in Church taxes. It even exercised control over members of other faiths. In the early 13th century, the growth of Islam, in Asia and Africa, made the Christian Church more worried about other religions and less tolerant. In the 1290s, English Jews were forced to convert to Christianity or be banished*. The Church was also involved in deciding whether people accused of crimes were guilty or innocent, and what punishment they should receive.

Key term

Banished*

Ordered to leave the country.

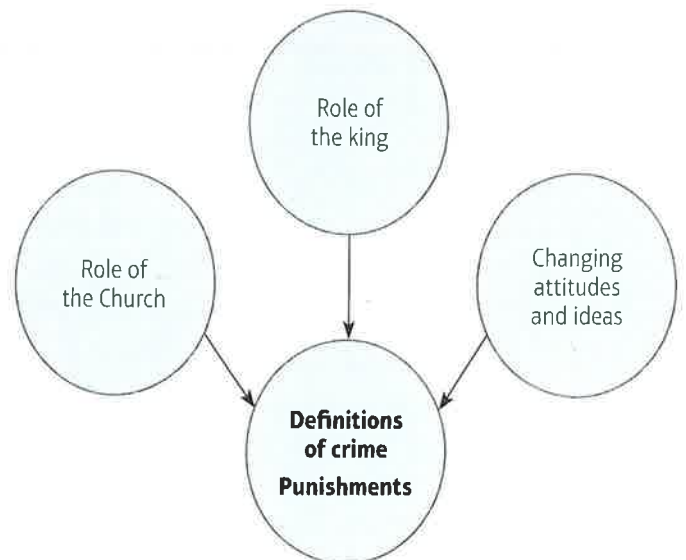


Figure 1.9 The main factors influencing change in crime and punishment during the later middle ages.

Extend your knowledge

Trial by consecrated bread

There was an additional form of trial by ordeal for priests. This was 'trial by consecrated* bread'. The priest had to pray, and ask that when he ate a piece of consecrated bread, the bread would choke him if he had lied about the crime of which he was accused. The theory was that a sinner would choke on the consecrated bread. This was a much less dangerous trial than those used for non-clergy – though it could still be frightening for a priest who genuinely believed in God's power.

Key term

Consecrated*

Blessed, holy. The bread used in 'trial by consecrated bread' was the same bread used in Holy Communion at church services. It was believed to be the body of Christ.

The end of trial by ordeal in the early 13th century

The different forms of trial by ordeal – trial by hot iron, trial by hot water and trial by cold water – were described on page 16. The Church's role in administering these trials demonstrates the important role it played in determining the guilt or innocence of ordinary people in the Middle Ages.

In 1215, the Pope, who was head of the Church in all of Western Europe, including England, ordered that priests should stop helping to organise trials by ordeal. Without priests to organise the trials, the system quickly came to an end. There was nothing the secular authorities could do about the Pope's decision. An alternative way of deciding if somebody was guilty or innocent had to be found.

In England, the solution was trial by jury. The jury was a group of twelve men who observed the trial and decided whether the accused was guilty or innocent at the end. This system is still used at many trials in the present day.

Church courts and the king

Although trial by ordeal ended in the early 13th century, other aspects of the Church's influence on crime and punishment continued throughout the medieval period and beyond.

In the 11th century, William I had encouraged the Church to set up courts to deal with 'moral crimes'. Church courts worked on the principle that punishments should offer criminals an opportunity to reform and save their souls. They also believed that punishments motivated by retribution alone were wrong. Punishments like maiming were seen as better than execution, as they offered criminals a chance to think about their crimes and feel regret for them.

In the late 12th century, Henry II tried to limit the power of the Church. He was concerned that the separate Church courts challenged his authority as king, and undermined the more standardised crime and punishment system that he wanted to create. The king and the bishops met at the Council of Clarendon to discuss the problem. Henry wanted them to agree to a clear statement of the relationship between Church laws and the king's laws, called the Constitutions of Clarendon.

By the early 13th century, kings were still looking for ways to increase their authority over crime and punishment.

Benefit of clergy

One aspect of Henry II's dispute with the Church was a power struggle over how far the king's authority could be imposed on members of the clergy who were being tried for a crime. Senior Church officials successfully argued that members of the clergy should only be tried in Church courts. This right was known as 'benefit of clergy'.

Source B

An illustration from the 14th century, showing a nun and monk in the stocks.



The Church courts only rarely used the death penalty as a sentence, so they were seen as more lenient. Punishments imposed by the Church courts included enforced pilgrimage, or confession and apology at mass.

The system was open to abuse, as it was easy for anyone to claim to be a member of the clergy. As the clergy tended to be more educated than other people – who often could not read – the test was the accused's ability to read Psalm 51 in the Bible. Criminals could easily memorise the psalm, and recite the words in court to claim benefit of clergy. Psalm 51 became known as the 'neck verse' because knowing it could 'save your neck'. Reformers criticised these practices, which they believed allowed people to escape punishment for their crimes.

Offering sanctuary

Some churches offered sanctuary* to people accused of crimes. Sanctuary was not offered in all churches, just some that were considered particularly important – perhaps because they were on a pilgrimage route, or linked with an important religious event.

A person who claimed sanctuary could go to one of these churches and ask for the help of the clergy. The clergy then reported the crime in the usual way, but if the clergy agreed that it was fair to do so, the accused person was given the chance to swear an oath agreeing to leave the country within 40 days instead of going to court. Anyone who did not leave the country within the time limit would be outlawed (see page 23).

Offering sanctuary continued throughout the medieval period and only ended in 1536, during the reign of Henry VIII.

Key term**Sanctuary***

Safe place, hiding place. In the Middle Ages some churches offered people accused of crimes protection from the law.

Exam-style question, Section B

Explain why 'trial by ordeal' was used c1000–c1200.

You may use the following in your answer:

- trial by hot iron
- Church courts.

You **must** also use information of your own. **12 marks**

Exam tip

The question tests your knowledge and understanding of causation. You need to focus on reasons why the Anglo-Saxons and Normans used this method. Don't forget to cover your own ideas as well as the suggested ones.

Summary

- The Church was an extremely powerful institution and so an important factor influencing approaches to crime and punishment.
- The Church courts provided members of the clergy with alternative trials and punishments.
- Sanctuary and trial by ordeal demonstrate that medieval justice relied heavily on God as an individual's ultimate judge.
- Changes in Church law could sometimes have a direct impact on English law enforcement: for example, the end of trial by ordeal and the introduction of juries.

Checkpoint

Strengthen

- S1** Explain the system of church sanctuary.
- S2** Explain why it was easy to claim benefit of clergy even if you were not a priest.

Challenge

- C1** List three ways the Church courts were different to secular courts. Think about the punishments they imposed and the thinking behind them.
- C2** Describe two different ways in which the Church was involved in administering justice in the early 13th century.
- C3** Why did the desire of medieval kings to establish more centralised control over the crime and punishment system lead to tension with the Church authorities?

How confident are you about your answers to these questions? Reread this section, then try answering them again.

Recap: c1000–c1500: Crime, punishment and law enforcement in medieval England

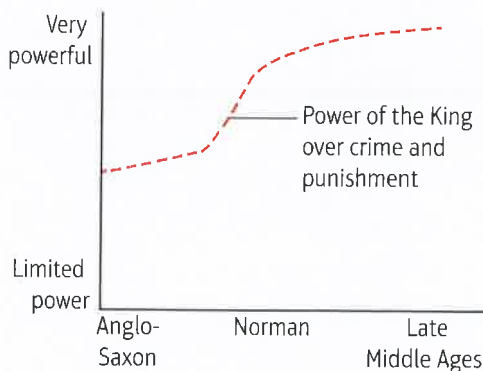
Recall quiz

- 1 Which three groups (apart from the king) made up the social structure of Anglo-Saxon England?
- 2 What were the groups of Anglo-Saxon villagers responsible for policing their communities known as?
- 3 Name two Anglo-Saxon methods for trial by ordeal.
- 4 What name is given to illegal hunting of wild animals?
- 5 Name one punishment that could be given for breaking the Forest Laws.
- 6 Define an 'outlaw'.
- 7 What law was introduced in 1351, restricting wages for peasant farmers?
- 8 What crime was punished by being hanged, drawn and quartered?
- 9 Whose decision brought an end to trial by ordeal in the 13th century?
- 10 What was the 'neck verse'?

Activity

Change over time

Make a large copy of the graph below on A3 paper.



The line shows the role of the king in crime and punishment.

Add two more lines to show:

- the influence of the Church in crime and punishment
- the role of local communities in law enforcement.

Once you have completed your lines, add notes naming **new laws, punishments and types of law enforcement** to explain change and continuity on each line of the graph.