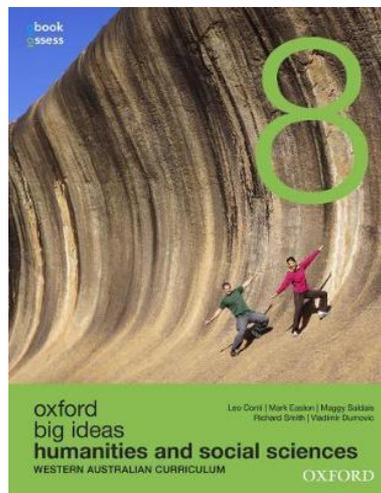


COMMONWEALTH OF AUSTRALIA
Copyright Regulations 1969
WARNING

This material has been reproduced and communicated to you by or on behalf of Methodist Ladies' College pursuant to Part VB of the Copyright Act 1968 (the Act).

The material in this communication may be subject to copyright under the Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice.



Conti, L., Easton, M., Saldais, M., Smith, R., & Dumovic, V. (2016). *Humanities and social sciences. 8: Western Australian curriculum*. South Melbourne: Oxford University Press.

9.14 Crime and punishment

Options

How different developments influenced life in medieval Europe is discussed in the context of the following topics:

- Crime and punishment
- Military and defence systems
- The growth of towns, cities and commerce.

Choose only ONE of these topics for study.

Throughout the medieval period in Europe, laws were extremely harsh and punishments were even harsher. Those in charge of law (kings and the nobility) believed that peasants and common people would only behave properly if they feared what would happen to them if they broke the law. Even the most minor offences had serious punishments.

Under feudalism, different courts dealt with different types of offences. Minor matters, such as a woman gossiping and nagging her husband, were heard by village courts. If found guilty, a woman like this (known as a scold) would be forced to wear a 'scold's bridle' (see Source 2). More serious matters, like a peasant's son being educated without the lord's permission, were heard by manor courts. If found guilty, a peasant might be fined or put in the stocks.

The most serious charges were dealt with in Church courts (for charges such as heresy and witchcraft) and the King's court (for charges of **treason**). Confessions for such crimes were often obtained under torture (with the use of thumbscrews and other devices). If found guilty, people could be executed by being burned or skinned alive. Traitors were frequently executed by being hung, drawn and quartered. This involved first hanging a person, cutting him down while still alive, then pulling out his intestines while he watched, and finally attaching each of his hands and legs to a horse and having the horses pull him apart.

Source 1 This painting from 1471 shows an ordeal by fire. The woman is trying to prove her dead husband's innocence of a crime against the king by holding a red-hot iron bar in one hand and her husband's head in the other.



Source 2 A medieval engraving of a woman wearing a 'scold's bridle' being paraded through the streets by her husband. While wearing the mask it was impossible to speak. Some scold's bridles had bells on top to draw even more attention to the woman wearing it, increasing her humiliation.

Trial by ordeal

The legal system of early medieval Europe required accused persons to prove their innocence. They did this by swearing an oath before God. Sometimes the oath of the accused was tested using trial by ordeal. There were two types of ordeal:

- Ordeal by fire – The accused held a red-hot iron for some time, put an arm in a fire or walked across burning coals. If, after three days, the burn was not healing, they were seen to be guilty (see Source 1).
- Ordeal by water – The accused placed an arm in boiling water, with the same test as above. They also could be bound and tossed into a river. If the body floated, they were seen to be guilty.

Trial by combat

Another trial commonly used for members of upper classes was trial by combat, where the accused fought the accuser. Sometimes a champion (such as a strong knight) fought on behalf of a weaker party. The winner (or whoever they represented) was innocent – God was believed to ensure this. Guilty people were punished or killed. They might have ears or hands cut off, or worse.

Changes to the medieval justice system

In 1154, Henry II became king of England. The various types of courts continued to exist during his reign, but Henry also wanted all his subjects to have access to royal justice. So he and his court (the king's court) travelled around the land, hearing cases. At this time, judges also began recording court decisions.

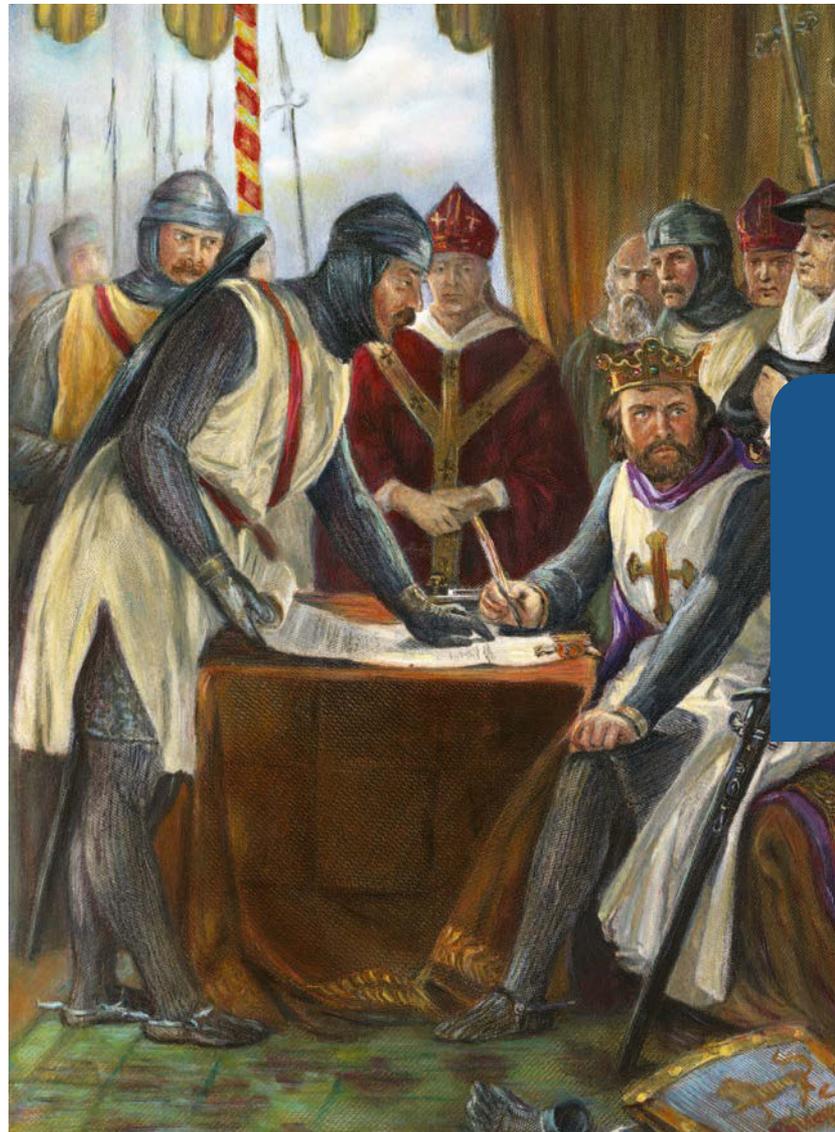
Over the centuries, this initiative continued to be refined. It set the basis for today's common law, as practised in England and in Australia – where judges' decisions, and the penalties for them, are based on similar examples from the past. Another initiative of Henry II was trial by jury. It, too, continues to this day as a key part of the Western justice system.

The Magna Carta

By the early 13th century, John was king of England. He was unpopular because he raised taxes, fought a series of unsuccessful wars and upset the Pope. The Pope was so angry that he banned religious services in English churches.

The nobles decided to act. They negotiated with King John, forcing him to sign a charter (legal agreement) known as the Magna Carta. The Magna Carta marked a significant legal development in England because it required the monarch to be subject to the will of others, not just God. No longer could he rule exactly as he saw fit. This is seen as one of the first steps towards the development of legal and political rights for 'the people' and the start of modern democracy.

The Magna Carta also abolished trial by ordeal. No more could people be condemned, tortured or killed on the grounds of suspicion or rumour.



Source 3 An artist's impression of King John of England reluctantly signing the Magna Carta

Check your learning 9.14

Remember and understand

- 1 What were some of the different courts in medieval Europe? What sort of cases were heard in each court?
- 2 How was the medieval practice of trial by ordeal changed by the Magna Carta?

Apply and analyse

- 3 The words 'Magna Carta' mean 'Great Charter' in Latin. Do you agree that it was 'great'? Discuss in pairs and present your ideas to the class.
- 4 Do you think that trial by ordeal was fair? Give reasons for your view.