



Blaming it on the past: Usages of the Middle Ages in contemporary discourses on the death penalty in England

Héléna D.M. Lagréou *

Introduction

The Middle Ages are a historical period traditionally situated between the fall of the Western Roman Empire in 476 and the end of the Granada War in 1492.¹ Due to its thousand-year length, this period is naturally plural and has a heterogeneous profile. However, today the Middle Ages are associated with a homogeneously narrow perception. This contemporary image is synonymous with excessive violence, blind religious beliefs and feudal oppression.² The Middle Ages have such a poor reputation that the term translates in contemporary times to a negative adjective. According to the Oxford Dictionary, the term *medieval* in its formal sense simply means related to the Middle Ages. However, informally the word means “resembling or likened to the Middle Ages, especially in being cruel, uncivilized, or primitive.”³

As such, our contemporary understanding of the medieval period is one of violence and brutality.

This representation of the Middle Ages crystallises in particular around the theme of public executions. Indeed, in popular culture, whenever an artist seeks to temporally set a narrative, the medieval will translate to violent forms of capital punishment, acting as a signifier of time. Such examples can be found in British classics, like the *Holy Grail* film by the Monty Python comedy troupe.⁴ In an infamous scene, villagers request an execution because they believe a woman is a witch, simply “because she looks like one.”⁵ The townspeople’s demands are met following an absurd scene of logical reasoning at the gallows. Similarly, in Japan, the author of the manga book *Berserk* sets his tale in medieval Europe. To present the backstory of the main character named “Guts”, the author reveals the tale of his horrific birth. The scene takes place under a

* PhD candidate in Medieval History at the University of Cambridge. Contact email: hdml2@cam.ac.uk

large hanging tree, where Guts is seen as a crying baby on the ground, after dropping from the womb of an executed woman.⁶ In the Umberto Eco novel *The Name of The Rose*, the narration takes a dramatic turn following an inquisitorial trial, where the lover of the narrator Adso is sentenced to the pyre for witchcraft.⁷ Such examples in popular culture are commonplace. The trope of the Middle Ages as the grand period of public executions also extends to political debates, or in news articles discussing capital punishment. Similarly, the descriptive “medieval” is particularly present in abolitionist essays. Namely, it is an essential point of discussion in the celebrated essays of Albert Camus in his fight against capital punishment.⁸ In such discourses, the perceived *medieval* nature of capital punishment is used as an argument against the practice.

Consequently, in popular, intellectual and political culture, the Middle Ages are intrinsically tied to violent images of public executions. This temporal attachment of the death penalty to a remote period is puzzling, especially since it is still widely enforced in the world today and was only relatively recently abolished in Europe. The United Kingdom abolished the death penalty for murder in 1969, but only fully abolished it for all crimes in 1998.⁹ Capital punishment is not only a part of history, but a modern-day reality. Why, therefore, do we pin this punishment to the Middle Ages?

As we will see below, this connection is confusing to the medievalist, as the death penalty was not a common judicial sentence. Consequently, this article aims to analyse the discourses surrounding the usage of the Middle Ages in modern discussions on the death penalty. Furthermore, it aims to clarify medieval practices of capital punishment and show how remote they are from our contemporary understanding. To do so, this article follows three

points of analysis. First, to understand the uses of the Middle Ages in contemporary discourses on the death penalty, this paper presents a systematic analysis of the words “medieval”, “sentence” and “death penalty” in five of the major written news outlets of the United Kingdom. These news outlets are *The Daily Mail*, *The Guardian*, *The Observer*, *The Telegraph* and *The Times*, with articles dating from 1913¹⁰ through to 2017.¹¹ Second, this paper compares these contemporary views to a short survey of the practices of capital punishment in Western Europe during the Middle Ages. Finally, it explores the dangers that are inherent in comparing practices in the Middle Ages with today’s executions.

1. “A brutalising exercise of medieval barbarism”:¹² Capital punishment as a medieval practice in British newspapers

From 1913 to 2017, journalists built two distinct narratives on the death penalty, which are dependent on geographical boundaries. If an article discusses matters within the United Kingdom, the narrative tied to the Middle Ages will be one of barbarism, whereas if the article is rooted outside of the United Kingdom, the narrative attached to the Middle Ages is one of ‘the Other’. Depending on a perceived cultural proximity, these narrative boundaries fluctuate. Although distinct, these two narratives are part of a coherent logic based on the perception of a country as either “civilised” or “uncivilised”.

The civilised United Kingdom and the narrative of barbarism

In the United Kingdom, the narrative of medieval barbarism is rooted in time, because three important dates sequence the coverage of the subject. In 1965, the death penalty was suspended

for murder and permanently abolished in 1969.¹³ Then, in 1998 it was abolished for all crimes, including piracy and treason.¹⁴ Although the death penalty in the United Kingdom is abolished, its re-introduction still occasionally crops up in political debates, and remains a matter of international importance.¹⁵

Within the scope of the review, the oldest news article within the dataset mentioning the death penalty as a medieval practice in the United Kingdom dates to 1913,¹⁶ and its latest occurrence is from 2010.¹⁷ Throughout the numerous policy changes on capital punishment in the United Kingdom, the narrative of barbarism remained stable. The meaning of medieval within this context is one of barbarism, because the United Kingdom presents itself as a particularly civilised country. Therefore, the discourse on capital punishment as *medieval* is one of a perceived dissociation between legal practices and national values. Hence, we can observe a dissonance between the moral values of the country and its criminal judicial system. This is particularly clear in an article in the *Daily Mail* written in 2000 which reflects a favourable sentiment towards the death penalty. This is a trend the author perceives in abolitionist discourse: “They will say Britain is now so civilised and 'modern' that it has become unthinkable to consider restoring a medieval practice such as the death penalty.”¹⁸ This sentiment is echoed in an abolitionist article from *The Guardian* of 1962 stating, “The gallows is a piece of medieval furniture completely out of place in a civilised modern society.”¹⁹

The narrative blending the United Kingdom and the Middle Ages is simple. The United Kingdom is a *civilised* country, namely a product of a sophisticated evolution over time. Thus, the fact that the country grew out of its *medieval* practices is portrayed as a sign of progress. This narrative

relies on two questionable notions: the United Kingdom is a nation with a *linear* history, and its evolution in time follows a civilising trajectory of societal betterment. Therefore, here the Middle Ages are a negative archetype for comparison.

Outside of the United Kingdom is the Other

The dissonance with the progress of the *civilised* United Kingdom is thought to be reflected in the rest of the world. Outside of the United Kingdom, the narrative of *medieval* capital punishment is of diminishing otherness. In the *civilised* nation, the practices of the death penalty are incoherent, whereas they are “rationalised” outside of its borders: the death penalty is explained away by arguments of civilisational differences, which ultimately fail to render the universal tragedy of capital punishment. This provides an explanation to turn a blind eye to the human suffering involved in capital punishment where the explicit purpose is to create a journalistic spectacle. The roots of such voyeuristic indifference are inherently tied to a false cultural relativism commonly found in colonialist rhetoric.²⁰

This perceived Otherness is gradual, depending on an idea of closeness to the country. On this scale of proximity, the most marginalised countries are within the African continent. In a 2004 *Daily Mail* article from Equatorial Guinea, the author offers an almost prurient description “... The scores of citizens with limps or missing limbs bear testimony to its medieval form of 'justice'. The death penalty is still enthusiastically enforced while the president himself is said – although it has never been proven – to devour the testicles of particularly clever or fearsome opponents in order to absorb their powers.”²¹ Here, the comparison to the Middle Ages is to augment a sense of Otherness, presenting a primitive culture with practices so

different from the United Kingdom that they are akin to their very distant and forgotten past. In this ranking, the following point on the scale of perceived civilisation is the Middle Eastern region. There, the Otherness lies in the link between the Middle Ages and religious beliefs as foundations for law. This sentiment is particularly clear within coverage of Iran. For example, in a 2010 article in *The Times*, the journalist describes his consternation about sentencing: “The regime exercises control by repression and resorts massively to capital punishment, including its most medieval form, stoning.”²² The coverage regarding the United States of America differs, as it is perceived as culturally closer. There, Otherness is almost absent from the reports. The writers are baffled that such a country still enforces the death penalty. In a 1996 article in *The Guardian*, the author deplores the horrors of a botched execution. This sentiment is shared by the local parties: “Bailey’s lawyer, Edmund Lyons, described the execution as ‘medieval and barbaric’.”²³ The use of the *medieval* comparison outside of the boundaries of the United Kingdom further shows that British journalists tend to align themselves with the highest point on a scale of civilisation. They present the country as most removed from barbarous practices, which are understood as medieval. Depending on perceived proximity to that grade of high civilisation, writers present capital punishment in an increasingly rationalised manner. In other words, journalists have drastically different approaches based on a distinction between “us” and “the Other”. The basis of such a distinction lies in a perception of inherent barbarism of *the Other*, characterised as medieval. There, the *medieval* argument serves to further distance the country under consideration, and its judicial system, from the United Kingdom, which accentuates the

geographical distance with a temporal one, all to underscore a cultural distinction.

The narratives of the Other and barbarism form a coherent logic. The notion of *medieval* capital punishment raises the contemporary United Kingdom on a pedestal of civilisation, whilst diminishing the severity of the death penalty overseas by justifying it as being a function of barbaric institutions. This overtly omits the functional power held in the retention of the death penalty often as a political imperative.²⁴ In the United Kingdom, the function of medieval references is as a contrast with contemporary times, whereas for example when discussing a Middle Eastern country, the function of the medieval references is to create a sense of Otherness and civilisational difference.

Yet, the negative perception of the judicial Middle Ages is not uniform. In political discourses, the medieval argument can highlight traditions. Seemingly contradictory, this nevertheless follows the logic of a linear progress of history, where legal practices written down during the Middle Ages are part of a legal culture. This attitude can be observed in a *Times* report in 1993 of the killing of two nesting swans “under a medieval law which deems the birds to be the property of the Queen.”²⁵ Although it is rare to have a positive stance on the Middle Ages, this highlights that it is not actually the period itself that matters, but the perceived distance from it.

2. “These old medieval laws”:²⁶ A brief survey of the death penalty during the Middle Ages in Western Europe

The death penalty is so frequently described as *medieval* that it inspires the idea that it must be *inherently* medieval. Yet, there is nothing of the

Middle Ages that is particularly tied to the practice. Public executions did not originate from the medieval period, they were a rare occurrence, and the violence was controlled and monitored. The following section aims to re-adjust such contemporary perspectives, whilst explaining the use of capital punishment in medieval Western Europe.

Capital punishment in Western Europe

The legal basis of the practice of the death penalty in Western Europe was generally uniform, except for the United Kingdom. Continental Europe shares a basis of Roman Law, crafted under the emperor Justinian during the sixth century,²⁷ whereas the United Kingdom operates under the system of Common Law.²⁸ The Common Law functions on the principle of judicial precedent, whereas the Roman Law functions on the principles of civil law.²⁹ Both in continental Europe and in the United Kingdom, most towns had a set of customs, which were a local tradition of law, working in tandem with the Roman or Common Law.³⁰ Alongside these texts, Canon Law was also applied.³¹ Importantly, the Common Law dates back to the medieval period. Therefore, there is a validity in pointing out that certain laws are medieval.³² However, this logic is generally applied to laws that are perceived as negative.

The practice of capital punishment did not begin in the Middle Ages. It would be difficult, if not futile, to look for its origin. But prior to the Middle Ages, public executions were practiced in Ancient Greece and Rome.³³ Furthermore, the criminalisation of interpersonal violence during the Middle Ages is surprising to the contemporary eye. Prior to the thirteenth century, and even after this date, interpersonal violence was mostly dealt with informally outside of criminal courts.³⁴ Hence, in

Anglo-Saxon law, murder was punishable by a fine rather than execution, because punishment was handled between the concerned parties and families,³⁵ whereas theft was punishable by death.³⁶ This difference in treatment of murder and theft does not mean that one was perceived as less grave than the other, but simply that a criminal procedure was not common practice.

Throughout Europe, the criminal law procedure was one of trial, not summary justice.³⁷ The format of the trial varied depending on the space and time.³⁸ The court of justice could be itinerant or set within a town.³⁹ However, the right to administer the death penalty was often considered a right of high justice and was therefore the privilege of kings or emperors.⁴⁰ That said, Italy did not follow such logics, because most cities functioned as independent urban communes. Therefore, they held the right to administer capital punishment within the jurisdiction of local criminal courts and their officials.⁴¹ Importantly, one cannot identify a precise set of crimes that would be met with capital punishment, as the hierarchy of crimes during the Middle Ages was not clear cut. Although murder and theft fell under such penalties, not all murders would be punished by capital punishment, with the punishment depending on the amount of blood drawn, the weapon used, the time of the day and the identity of the victim.⁴² Therefore, one can find general trends of felonies, but there was not a specific set of offences that always fell under capital punishment.

The low frequency of public executions

Public executions were not frequent during the Middle Ages but were a marginal practice. This does not align with our contemporary image of numerous bodies hanging at town gates, only to be replaced the next day by new criminals. On the

contrary, it was a rare occurrence in Western Europe to witness an execution. This derived in part from the low rate of convictions following trial. For example, in Norfolk from 1307 to 1316, only 23% of individuals prosecuted for homicide were convicted. Overall, only a third of the prosecuted criminals were ultimately convicted for their felony. By taking a closer look, the rates of convictions varied depending on the felony: rapists were convicted in 14% of prosecuted cases, whereas 50% of prosecuted robbers were convicted.⁴³ Furthermore, even if convicted, judges were reluctant to punish a crime with the death penalty.⁴⁴

The culture of Western Europe during the Middle Ages was highly religious. At the core of Christianity are the values of pardon and mercy. By extension, the practice of demanding the pardon of authorities was particularly common and often granted.⁴⁵ The research of Claude Gauvard on this subject is striking.⁴⁶ In France, pardons were more frequent than the carrying out of executions.⁴⁷ Central to this practice was the role of the judge and king within Christian thought, who are supposed to be merciful.⁴⁸

Ironically, while public executions are often associated with the Middle Ages, higher frequencies of public executions occurred much closer to contemporary times, such as during the eighteenth and nineteenth century. In the United Kingdom, the reformation of criminal law with the Bloody Code (1688-1815) saw a significant rise in convictions and executions throughout the country.⁴⁹ At the height of its enforcement, and in the spaces particularly touched by it, there was an immense rate of executions.⁵⁰ For example, in London, there were 3.85 executions per 100,000 people per year between 1750 and 1775. Furthermore, the Bloody Code met petty criminality with capital punishment. This was the case for

minor property offences such as thefts from shops valued at five shillings.⁵¹ In London between 1750 and 1775, a total of 590 individuals were sent to the gallows for property offences.⁵² The lack of proportionality between the crime and the punishment came also with a widening of types of individuals punished, with the inclusion of children, pregnant women and the elderly.⁵³ Interestingly, it is during this very period that the United Kingdom started to craft its identity as 'the most *civilised* nation'.⁵⁴ Yet, it used the death penalty to seek to rid the population of poverty and unwanted marginalised individuals that did not fit with the characteristics of progress.⁵⁵ In summary, the Middle Ages were not a period where public executions were frequent, and the rise in state violence would only come much later.

The violence of medieval public executions

Public executions are inherently violent events, whether it be during the Middle Ages or today. However, contemporary ideas of medieval executions consist of extreme, gratuitous violence and pure entertainment for a blood-thirsty public. The ritual of public executions across Western Europe was rather uniform. When an individual was sentenced to death, the information was spread to the population by a 'shouter'.⁵⁶ By this act, the population was informed of the forthcoming execution, which they were expected to attend.⁵⁷ The execution would happen during the day.⁵⁸ The criminal was led to the gallows through town, following a specific path known to the population.⁵⁹ Then the individual was executed. The most common methods of executions were hanging and beheading. In France, beheadings were reserved for criminals of a higher social position, whereas hanging was used for most of the population.⁶⁰

There was a similar dynamic in the United Kingdom. However, there was no such distinction in Italy where beheadings were more common and did not depend on social status.⁶¹ Throughout Europe, women were most often burnt at the stake,⁶² a practice which was dependent on an overarching Christian culture. However, it was uncommon to have women executed.⁶³ After the death of the individual, they could be left at the gallows, or buried.⁶⁴ The ritual of execution involved a strict set of rules to follow. However, there were rare cases of higher forms of violence. These cases represent extreme outliers, within an already marginal set of cases.

The contemporary understanding of public presence at medieval executions assumes public enjoyment of the violence. Yet, the participants at public executions during the Middle Age had a role in controlling procedure. The participants were considered as responsible for monitoring judicial practice by looking out for signs of unfair treatment, excessive violence, or lack of care for the spiritual rights of the criminal. This is visible through the study of public reactions at the gallows.⁶⁵ For example, in 1299 an execution was greatly contested by the population who started rioting because the individuals were not permitted to receive the eucharist.⁶⁶ The participants at the executions held a crucial role in controlling the violence towards and treatment of the criminals.

Importantly, tolerance for state violence was not high during the Middle Ages; a higher tolerance for state violence can be found only much later. Under the Bloody Code, there was a switch towards the perception of executions as entertainment.⁶⁷ Arguably, a greater frequency and normalisation of executions would be required to build up collectively a tolerance. This is notably one of the most recent hypotheses of the historian of the

guillotine Guillaume Debat, who observes that a sudden high rise in the frequency of executions during the French Revolution was insufficient to gain a higher social tolerance to institutional violence.⁶⁸

3. “Back to a medieval age”:⁶⁹ The dangers of concealing contemporary affairs in the past

The danger of a linear understanding of history

As explained above, describing the death penalty as medieval implies a linear understanding of time, because the association with the Middle Ages relies on two linear principles. First, that the Middle Ages represent an origin of the legal past of the United Kingdom, one that is more primitive. Secondly, it implies that the legal system of the Middle Ages was bound to give birth to the contemporary one through a coherent succession of events and decisions. These perceptions pose two dangers when understanding capital punishment. The primary assumption of the Middle Ages as an origin of the legal system of the United Kingdom only serves as a tool to evaluate, explain and more importantly judge the present. Indeed, placing an idea of *origins* on the Middle Ages creates a threshold to assess the past, present and future.⁷⁰ Consequently, it creates a dangerous stratification of periods of time, generating false assumptions. Such assumptions are particularly strong when attached to ideas of perceived *primitive* behaviours, therefore the violence of capital punishment is imagined to be greater in the past. Yet, as argued in this paper, this assumption is far from historical reality.

Second, the linear coherence of the Middle Ages as an origin of the legal system of the contemporary United Kingdom is illogical; situating the medieval

period as a starting point after which everything follows rationally is implausible. Medieval individuals did not act according to the future that was coming, because they had no knowledge of it, therefore the coherence that we bring to it is only artificially created through contemporary eyes. Furthermore, this idea of a coherent past with the present serves a narrative of a predestined 'British nation', which was always meant to be.⁷¹ In this narrative, the death penalty has no place, because it does not resonate with the self-representation of a *civilised* nation. Therefore, the practice of the death penalty and its horrors is pushed away to the Middle Ages. The comparison thus only serves to hide historical and contemporary realities. In other words, the use of capital punishment in the United Kingdom is understood as incoherent with modern times. The existence of such "modern times" is not afforded to countries outside of Europe, because they are thought of as being barbarous, and therefore stuck in the Middle Ages. Consequently, capital punishment is perceived as an extension of such medieval states, which normalises the practice. Yet, this suppresses the history of the legal system of such countries, which fluctuated and changed through time.

A hierarchy through time to hide contemporary geographical hierarchies

Newspaper coverage of countries outside of the United Kingdom depicts capital punishment as logical. In other words, capital punishment is excused as simply an extension of their medieval barbarous states, thereby minimising the gravity of the death penalty in such countries. This process stems from the prior conception of linear time, with the medieval as the origin. Indeed, the Middle Ages are only used here to create a hierarchy through time and extend it to space and cultures. Within the understanding of the history of the United

Kingdom, the Middle Ages would be the *primitive*, creating a hierarchy between the past and present. However, this idea of a primitive past is only afforded to the United Kingdom. The Middle Ages are perceived as the present time for countries like Iran, whose practice of capital punishment is well covered in British newspapers.⁷² This creates a hierarchy between countries, not through geography but through time. The further removed a country would be from the "civilisational scale" of the United Kingdom, the more remote in time it is situated. Hence, the geographical distance of a country associated with a cultural difference is accentuated by a temporal one.

In the case of the death penalty, the perceived *medieval* practices of the United Kingdom are left in the past, whereas they are a trivialised present for Iran. Indeed, the Middle East is perceived by British journalists as a geographically and culturally distant space, justifying a temporal separation demonstrated by comparisons to the Middle Ages. Consequently, it creates a system of superiority through time: the further detached the culture is from the 'civilised United Kingdom', the closer it gets to the Middle Ages. Furthermore, having an inherent hierarchy of cultures leads to the rationalising of current issues, because they are to be expected of such a *medieval* country. Importantly, temporal hierarchies annihilate the history of other countries. For example, in Iran, capital punishment was not used at current rates in the past. Indeed, during the Imperial State of Iran (1925-1979), public executions were much less frequent.⁷³ Yet, this idea of Iran as an uncivilised medieval state dulls and hides the dynamics of its legal system over time. This illusion stems from understanding history only through the lens and scope of the United Kingdom, or Europe. Thus, restricting perceptions of Iran to that of a medieval state deprives it of its own history. Consequently,

this distinction between medieval states and the *civilised* United Kingdom, conceals and essentialises practice of the death penalty.

Conclusion

The Middle Ages is of the past, yet its survival in media and entertainment makes it a compelling period through which we can think of the present. In the case of the death penalty, it is a particularly relevant point of conversation, as capital punishment is often defined as a *medieval* practice. This paper has argued that the practice has nothing particularly medieval inherent in it. However, the

contemporary belief that it does is more of a reflection on the present, rather than the past itself. Indeed, the comparison to the Middle Ages can serve as a ploy to either avoid confronting realities that occurred within the recent past and present of the United Kingdom, or to rationalise breaches of human rights in the world by distancing and lowering in time other countries and depriving them of their own legal history. In other words, it is a cultural dissociation disguised as a temporal one. Let's move our focus away from the Middle Ages to stop blaming the past for present actions as a means to avoid engagement with contemporary realities.

Hélène D.M. Lagréou is a PhD candidate in Medieval History at the University of Cambridge.

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- ²⁶ Martin Kettle, 'Let's find a role to set before the King: Commentary' *The Guardian* (London, 11 December 1993) 27.
- ²⁷ Charles M. Radding and Antonio Ciaralli, *The Corpus iuris civilis in the Middle Ages manuscripts and transmission from the sixth century to the juristic revival* (Brill 2007).
- ²⁸ Antonio Padoa-Schioppa and Caterina Fitzgerald (trs), *A History of Law in Europe, from the Early Middle Ages to the Twentieth Century* (Cambridge University Press 2017) 212–228.
- ²⁹ Egbert E. Koops and Willem Jans Zwolve, *Law & equity: approaches in Roman Law and Common Law* (Brill 2014) 1–13. The introduction helps to see the differences and similarities between the two legal traditions.
- ³⁰ Antonio Padoa-Schioppa and Caterina Fitzgerald (trs), *A History of Law in Europe, from the Early Middle Ages to the Twentieth Century* (Cambridge University Press 2017) 177–192.
- ³¹ *Ibid.*, 95–113.
- ³² Arthur MacGregor, 'Swan rolls and beak markings. Husbandry, exploitation and regulation of *Cygnus olor* in England, c. 1100–1900' [1995] 22(5) *Anthropozoologica* 39.
- ³³ Executions were practiced in Ancient Greece and Rome, with forms that are arguably more violent than the ones of the Middle Ages. Yet, the period is perceived as one of high refinement. On practices of stoning in Ancient Greece see: Michel Gras, 'Cité grecque et lapidation', in *Du châtement dans la cite. Supplice corporels et peine de mort dans le monde antique*. (Ecole Française de Rome 1984) 77–89. On practices of tortures leading to death in Ancient Rome: Denise Grodzynski, 'Tortures mortelles et catégories sociales. Les Summa Supplicia dans le droit romain aux IIIe et IVe siècles', in *Du châtement dans la cite. Supplice corporels et peine de mort dans le monde antique* (Ecole Française de Rome 1984) 361–403.
- ³⁴ So Nakaya, *Raising Claims: justice and commune in late medieval Italy* (Brepols 2022) 46–57. The author explains why individuals went to judicial courts, only as one strategy amongst others to resolve interpersonal issues.
- ³⁵ Tom B. Lambert, 'Theft, Homicide, and crime in late Anglo-Saxon Law' [2012] 214 *P&P* 3.
- ³⁶ *Ibid.*, 4.
- ³⁷ There is an extended legal scholarship on judicial procedures in medieval Europe, which is often rooted in comparative studies. Here are some examples: Henry Ansgar Kelly, *Inquisitions and other trial procedures in Medieval West* (Ashgate 2001). Wilfried Hartmann and Kenneth Pennington (eds), *The history of courts and procedure in medieval Canon law* (The Catholic University of American Press 2016). Maureen Mulholland and Brian Pullan and Anne Pullan (eds.), *Judicial tribunals in England and Europe, 1200–1700*, vol 1 (Manchester University Press 2003).
- ³⁸ Massimo Vallerani and Sarah Rubin Blanshei (trs), *Medieval public justice* (Catholic University of America Press 2012). The book shows the variety of legal procedures practiced during the Middle Ages.
- ³⁹ John G. Bellamy, *Criminal law and society in late medieval and Tudor England* (Sutton 1984) 8–9. Itinerary courts of law are present in England for example.
- ⁴⁰ See the privilege of high justice in England: Barbara Hanawalt, *Crime in East Anglia in the Fourteenth century, Norfolk Gaol Delivery Roll, 1307–1316* (Norfolk Record Society 1976) 5–6. See for a similar right of high justice given to the king in France: Claude Gauvard, *Condamner à mort au Moyen Âge: pratiques de la peine capitale en France, XIIIe–XVe siècle* (Presses Universitaires Françaises 2018) 12.
- ⁴¹ Mario Ascheri, *The laws of late medieval Italy (1000–1500) foundations for a European legal system* (Brill 2013) 229–235.
- ⁴² Claude Gauvard, *"De grace especial": Crime, État et société en France à la fin du Moyen Âge* (Editions de la Sorbonne 1991) 789–847.

- ⁴³ Barbara Hanawalt, *Crime in East Anglia in the Fourteenth century, Norfolk Gaol Delivery Roll, 1307-1316* (Norfolk Record Society 1976) 19-20.
- ⁴⁴ *Ibid.*, 20.
- ⁴⁵ This applies to more severe cases, such as the inquisition of heretics, where only a fraction of death penalties was given compared to sentences of penance. James Buchanan Given, *Inquisition and Medieval Society: Power, Discipline, and Resistance in Languedoc* (Cornell University Press 1997) 66-90.
- ⁴⁶ Claude Gauvard, *"De grace especial": Crime, État et société en France à la fin du Moyen Âge* (Editions de la Sorbonne 1991).
- ⁴⁷ *Ibid.*, 895-934.
- ⁴⁸ *Ibid.*
- ⁴⁹ Peter King and Richard Ward, 'Rethinking the Bloody Code in eighteenth-century Britain: Capital punishment at the centre and on the periphery' [2015] 228 P&P 159.
- ⁵⁰ *Ibid.*, 164-166.
- ⁵¹ Harry Potter, *Hanging in Judgment: Religion and the Death Penalty in England from the Bloody Code to Abolition* (SCM Press 1993) 35.
- ⁵² *Ibid.*, 165-166.
- ⁵³ *Ibid.*, 3-10.
- ⁵⁴ Benedikt Stuchtey, 'Literature, Liberty and life of the nation: British historiography from Macaulay to Trevelyan' in Stefan Berger and Mark Donovan and Kevin Passmore (eds.), *Writing national histories: Western Europe since 1800* (Routledge 1999) 30-46. In this example the author outlines the specific characteristics of historical writing of the time. Amongst these historical traits, Stuchtey denotes how British historians created a narrative of a 'British civilisation', coming to a peak during the 19th century as the most civilised nation of all. This point of analysis is particularly discussed in this chapter from page 33 to 34.
- ⁵⁵ Lizzie Seal, 'Criminalisation and the eighteenth century's 'Bloody Code'' [2008] 74(1) Criminal justice matters 16.
- ⁵⁶ Claude Gauvard, *Violence et Ordre public au Moyen Âge* (Picard 2005) 67-68.
- ⁵⁷ *Ibid.*, 67.
- ⁵⁸ *Ibid.*, 71-72.
- ⁵⁹ *Ibid.*, 67.
- ⁶⁰ Valérie Toureille, *Crime et châtement au Moyen Âge: Ve-XVe siècle* (Seuil 2013) 255-256.
- ⁶¹ Andrea Zorzi, 'Le esecuzioni delle condanne a morte a Firenze nel tardo Medioevo tra repression penale e cerimoniale pubblico' in Giuseppe Lombardi and Massimo Miglio (eds), *Simbolo e realtà della vita urbana nel tardo Medioevo* (Vecchiarelli 1993) 153-253.
- ⁶² Claude Gauvard, *"De grace especial": Crime, État et société en France à la fin du Moyen Âge* (Editions de la Sorbonne 1991) 299-346.
- ⁶³ *Ibid.*, 299-346.
- ⁶⁴ Such burial rights can be given in England. For example, in Norwich criminals had a specific burial site. Ann Stirland, *Criminals and paupers: the graveyard of St. Margaret Fyebriigate in combusto, Norwich* (Historic Environment, Norfolk Museums and Archaeology Service 2009).
- ⁶⁵ Lidia Luisa Zanetti Domingues, 'Foules émues au pied de l'échafaud dans l'Italie communale des XIIIe et XIVe siècles' in Piroska Nagy and Damien Boquet (eds), *Histoire des émotions collectives. Epistémologie, émergences, expériences* (Classiques Garnier 2022) 307-326.
- ⁶⁶ *Ibid.*, 312-313.
- ⁶⁷ Harry Potter, *Hanging in Judgment: Religion and the Death Penalty in England from the Bloody Code to Abolition* (SCM Press 1993) 64-79.
- ⁶⁸ Guillaume Debat, 'La guillotine révolutionnaire. Peine de mort, justice d'exception et sensibilités pendant la Révolution française (1789-1804)' (DPhil thesis, Toulouse Université Toulouse 2 2023) 599-606.
- ⁶⁹ Ruth Sherlock, 'Al-Qaeda-Linked Rebels Execute Regime 'Militia Men' in Front of Children' *Daily Telegraph* (London, 14 Septembre 2013) 24.
- ⁷⁰ Marc Bloch, *Apologie pour l'histoire ou métier d'historien* (Librairie Armand Colin 1949) 6-7.
- ⁷¹ Benedikt Stuchtey, 'Literature, Liberty and life of the nation: British historiography from Macaulay to Trevelyan' in Stefan Berger and Mark Donovan and Kevin Passmore (eds), *Writing national histories: Western Europe since 1800* (Routledge 1999) 30-46.
- ⁷² Nazanin Afshin-Jam, 'This is only a reprieve: Sakineh's life is still in danger' *The Times* (London, 17 July 2010) 22. Editorial, 'Contents' *The Daily Telegraph* (London, 31 July 1993) 3. Martin Fletcher, 'If Iran can stone her to death, it can get away with anything' *The Times* (London, 28 August 2010) 4.
- ⁷³ Ervand Abrahamian, *A history of modern Iran* (Cambridge University Press 2008) 88.