

# Primary and Secondary Sources on Justice in Medieval Europe

*Under feudal law in the Middle Ages, everyone, from the greatest baron to the poorest serfs, owed allegiance to the king. A criminal was someone who, by doing something wrong, “disturbed the king’s peace.” Great lords were responsible for punishing minor crimes in their local courts, but serious crimes were dealt with by justices appointed by the king from among his officials and trained lawyers. They based their decisions on customs because few laws were written down. In the early Middle Ages, crimes were addressed either through trial by ordeal—physical tests to determine an accused person’s guilt—or a trial by combat. But after 1215, these methods of justice were replaced by jury trials and less barbaric punishments, although these were still quite severe.*

- An appeal to arms was often made to settle questions of **justice**. If two men claimed the same piece of ground, for instance, they might decide the ownership by a contest. Even if a man was **accused of a crime**, he was sometimes allowed to **prove his innocence**—if he could—by showing himself or his chosen companion the victor in a **duel** (a fight with swords). (WKWB, p. 47)
- Under Charlemagne, a test of endurance was legally used when two men differed. They were made to take their stand before a cross with their arms stretched out. The one whose arms dropped first lost (the dispute). (WKWB, p. 47)
- In charges of **serious crime**... (one ordeal) was to bind the accused, hand and foot, and let him down by a rope into the water. It was believed that if he was guilty, the water would refuse to receive him and he would float; but that if he was innocent he would sink. (WKWB, p. 47)
- Far worse than this was the **ordeal** by boiling water. This was a matter of great ceremony. It took place in the church. First, a cross, a censer, and relics of the saints were borne (carried) into the building. The priest followed, carrying a copy of the gospels. He chanted a litany and the seven penitential psalms. He prayed that the truth might be revealed, and that if the accused had had recourse to herbs or magic, it might not save him. Holy water was sprinkled about, in order that any illusions of



the devil might be driven away. Then with many prayers the hand of the accused was thoroughly washed. He drank a cup of holy water and plunged his hand into the boiling kettle. The hand was sealed up, and at the end of three days it was formally examined. If it showed no sign of a burn, the man was declared innocent; but if there was a blister "half as large as a walnut," this was regarded a proof of his guilt. (WKWB, pp. 47–48)

- Another ordeal was that of the hot iron. This sometimes consisted of carrying redhot iron seven or nine paces; sometimes of **walking upon burning ploughshares**. (WKWB, p. 48)
- The theory of these trials was that **God would always save the guiltless**; but many explanations have been attempted of the reason why hot water and hot iron did not burn...it has been suggested that during the many prayers that seem to have been said after the irons were laid in place, ploughshares on a stone floor would cool very rapidly...all these trials were in the hands of the priests, the people were expecting miracles, and if the priests wished to save a man, they could easily arrange some deception. (WKWB, p. 49)
- In **trial by combat**, if the person accused of a crime was a knight, another knight would challenge the accused to battle. If the accused knight won the fight, he was considered innocent. If he lost, he was determined to be guilty.
- After 1166...the jury system was regularly employed to investigate crimes and settle civil cases...Judgments were severe: Thieves were hanged, traitors blinded, other offenders beheaded or mutilated. Sometimes a criminal was drawn and quartered. Prisoners might be confined in a castle tower or basement to await ransom or sentencing, but rarely as **punishment**. Prison as punishment was little known in the Middle Ages. (LMC, p. 41)
- Serious crimes included highway robbery, stealing valuables or livestock, treason, and murder. **Executions** were carried out in public and were often watched by large crowds. (MAEL, p. 35)
- The sheriff had the job of rounding up criminals and keeping them in "**gaol**" (jail) until the justices arrived. Conditions there were usually extremely dirty and crowded and prisoners often died of diseases they caught in gaol before they were brought to trial. While in gaol, prisoners relied on friends and relations to bring them food or money, otherwise they might starve. (MAEL, p. 34)



- Parliaments started to make laws to deal with particular problems of law and order, such as highway robbery in the 14th century. In England, the parliament asked lords to cut down all the trees and bushes for 30 feet on each side of the major roads, so that robbers would have nowhere to lie in wait for passing travellers. (MAEL, p. 34)