Crime and punishment

Introduction

Everyone is aware of the importance of crime and punishment. It matters to all of us.

We all have opinions about what should be defined as ‘crime’ and how it should be prevented – and punished when it happens. Ideas about crime affect what we can and cannot lawfully do. It affects how safe we are and how safe we feel. But ideas about what ‘crime’ is (and how to prevent it and punish it) change over time. And these changes are often linked to bigger changes going on in society, as well as to the impact of individual people.

In order to explore these changes we need to look at some of the key periods of British history since 1450. We need to see how crime and punishment has developed and changed in these periods of time. In this way we can then get a better idea of both why some things change and why some things remain the same. And why changes occur.

Aims and outcomes

By the end of this section you should be able to understand:
- why definitions of ‘crime’ change over time
- what the causes of crime are, and how these causes differ in different time periods
- why the ideas about appropriate levels of punishment change
- how and why crime, punishment and policing has changed since 1450, and what similarities and differences are there over time
- what experiences men, women and children have had of the law since 1450 and why do these experiences differ over time – and even during the same periods of time
- what role individuals play in causing change to happen and how their impact links with wider changes going on in their society
- what the key turning points are in changing experiences of crime, punishment and policing

Timeline:

- 1494
- 1536
- 1553–8
- 1547
- 1607
- 1649
- 1671 and 1675
- 1717
- 1739
- 1746
- 1749
- 1750
- 1780
- 1787

Vagrancy Act
Vagrancy Act
Gunpowder Plot
Jacobite rebellions
Transportation Act
Last hanging, drawing and quartering
Death Penalty for 160 offences
First transport to Australia

Pilgrimage of Grace
Execution of Protestants under Mary Tudor
Execution of Charles I
Jonathan Wild’s Act
Execution of Dick Turpin
Bow Street Runners
Gordon Riots
Source A: Hanging, drawing and quartering

A modern reconstruction of William Wallace (who resisted English efforts to conquer Scotland) being dragged to his execution in 1305. From the Middle Ages, until 1814, treason was punishable by hanging, drawing and quartering a living prisoner until they died. Why did rulers sometimes feel so under threat that they created such horrific punishments? And why, today, do we not execute any criminals?

Source B: 18th-century smugglers

18th-century smugglers were ‘criminals’ (avoiding paying new taxes) to the government but ‘local heroes’ to many people because they made cheap goods easier to get hold of. We will be exploring how changes in society sometimes create new crimes, or stimulate old ones. And why different groups in society do not always agree on what is a ‘crime’.

Source C. Modern riot (Bradford Riots, 2001)

The ‘Bradford Riots’ in 2001, in West Yorkshire. It occurred as a result of tension between the city’s ethnic and white communities. Violence on the streets is nothing new. In 1780 the Gordon Riots in London left 800 dead. One of the things we will be exploring is why violence such as this sometimes bursts onto the streets?

Activities

1. Look at the arguing heads. They disagree about the seriousness of crimes and how they should be dealt with. Why do people disagree in these ways? What does this tell you about attitudes towards crime and punishment?

2. Look at the ‘Fascinating fact’. Does this surprise you? Explain your answer.

Just a handful examples of ways in which people disagree about how serious crimes are.


Death Penalty for 288 offences
Death Penalty
Gaols Act
Game Laws
Start of Metropolitan Police force
Swing Riots
Transportation of Tolpuddle Martyrs
End of Transportation. End of public executions
Fingerprint Bureau of Scotland Yard set up
Jack the Ripper murders
Last use of death penalty in the UK
National Drugs Intelligence Unit set up
Poll tax riots
Brixton Riots
London tube and bus bombings

Combination Acts ban trade unions
National Freedom Act
Act to suppress Insurrection
Brixton Riots
End of Transportation
End of public executions
Jack the Ripper murders
Last use of death penalty in the UK
National Drugs Intelligence Unit set up
Poll tax riots
Brixton Riots
London tube and bus bombings
1.1 Medieval ideas about crime, punishment and policing: different types of crime and punishments

Learning Objectives
By the end of this topic you should be able to:
- show how (and why) different medieval crimes were ranked to show their seriousness
- explain how crime was punished.

Key terms: to come

Source A: Medieval hanging.

Many medieval crimes were punishable by the death penalty of hanging. The death penalty is also known as capital punishment.

Medieval ideas about crime
Our study of Crime and Punishment starts in about AD1450. This is towards the end of the Middle Ages or the medieval period of history. Medieval crimes were divided according to how serious they were thought to be. There are some surprises. Stealing was put in the same group of serious crimes as murder and rape. This was because medieval society was set up with different groups of people having a place in it above, or below, other groups. Those with the most money and property wanted to protect it from those who had less. So they hanged thieves who threatened those who owned more.
Crime and punishment c1450 – c1750

There were also courts dealing with different groups of people. Royal Courts dealt with any serious crimes and all types of people. Church Courts dealt with priests, monks and nuns and those breaking Church rules such as refusing to pay a tenth of their income to the Church. Manor Courts dealt with ordinary villagers in the countryside and made them keep to the rules set up by the local landowners (the lord of the manor).

**Ways in which crimes judged in Royal Courts were divided according to their seriousness**

- **Theft of goods worth more than 12 pence (about 2 day's wages)**
- **Murder**
- **Robbery (taking the property of another by force, or fear)**
- **Felonies (These crimes were punished by hanging)**
- **Arson**
- **Rape**
- **Selling goods for the wrong prices**
- **Trespasses (usually punished by fines of money)**
- **Assault**
- **Breaking legal agreements**
- **Paying too high a wage to attract away from other villages**
- **Treasure**

William Bunting was forced to pay Peter Gill two shillings for 'beating and ill treating him'. The people most likely to be fined and punished were un free farmers called villeins. They could be fined for breaking a large number of rules that controlled their lives. But they had rights too and the Manor Court protected them from being made to do too much work or being fined too much.

**Activities**

1. Look at the picture of a medieval execution and the spidergram of crimes dealt with by Royal Courts. Why was the death penalty used for medieval crimes such as theft?
2. Explain how the way in which medieval society was divided up affected the kinds of courts and punishments different people faced.

**But where are the prisons?**

Prison, as a form of punishment, is largely a modern invention dating from the later 18th and early 19th century. It was not until 1576 that local judges were required to build 'houses of correction' in which beggars could be kept. Medieval prisons were mostly just for holding people waiting trial. Then, those found guilty were either hanged, fined, or forced to leave the country (outlawed). Because medieval judges believed they had been given power by God to kill or set free, they were ready to use hanging in many cases of crime. And all people over the age of ten could be executed. The most usual method of execution was hanging, although a woman found guilty of murdering her husband could be burnt at the stake. And special forms of execution were used for people found guilty of treason.

**Summary**

- Medieval crimes were divided into those considered more, or less, serious.
- Different courts existed for different groups of people.
- Different groups of people had different rights under the law.
- Prison was rarely used. Execution was common, as were fines.
Activities

3 In what ways was the medieval system of imprisonment different from today? What differences does this reveal about medieval and modern attitudes towards life and the power of government?

4 In pairs make your own personal list of the arguments: (a) for and (b) against using prison as a type of punishment. We will return to this when we look at modern ideas about prison later in this book.

The limits of justice

Today we assume everyone is treated equally by the courts. But medieval courts were not organised in this way. Only free men could appear in the Royal Courts. Villeins could not. And women could only go to court to accuse someone who: (a) murdered her husband (but only if he died in her arms), (b) attacked her and this led to the loss of an unborn child or (c) raped her.

Source B

No one shall be arrested or imprisoned due to the evidence of a woman for the death of any person except her husband.

From the Magna Carta (written to control the king in 1215). Interestingly this document is often said to defend freedom!

Activities

5 ‘The medieval court system reflects just how unequal medieval society was!’ Using all the evidence from this topic, decide how far you agree with this statement.
Factors affecting rates of crime
At different times changing events make it more likely that the amount of crime taking place will increase, or decrease. This 'amount of crime' taking place we call the 'crime-rate'.

‘Crime prevention’ and ‘Crime detection’
Today we have crime prevention such as:

- Neighbourhood Watch schemes
- burglar alarms
- CCTV
- police and community support officers on patrol
- threat of fines and imprisonment.

Medieval authorities relied on:

- making groups of people responsible for each other’s actions
- deterring people by the threat of punishment
- Church teachings about right and wrong.

When it comes to detecting criminals today we have:

- a police force
- use of fingerprints
- DNA and other scientific evidence.
Medieval authorities relied on:

- catching a person as they committed a crime
- local people deciding if a neighbour was the kind of person likely to have committed a crime, based on past behaviour.

**Activities**

1. In small groups create a ‘spidergram’ of reasons why people might commit crimes today. Beside each reason make a note of the kind of crime(s) this might lead to.

2. Write definitions of ‘crime prevention’ and ‘crime detection’. What do these terms mean? For crime prevention and detection, write down some things that are available today, but that medieval authorities could not use? What did they use instead?

**Medieval crimewaves**

Evidence from the 14th and 15th centuries shows that more people were punished for stealing when unemployment increased. There was a close relationship between women punished for stealing food and clothing and years of poor harvests. War caused increased crime too. Taxes went up to pay for armies and forced some people into poverty. This made them more likely to steal. Fighting between rival members of the royal family in the 15th-century ‘Wars of the Roses’ weakened local government and gave opportunities for criminals to commit crimes and escape punishment.

If the government was weak this encouraged gangs of criminals to commit crimes because they could escape punishment.

**Medieval crime prevention**

Medieval governments tried to prevent crimes from happening in a number of ways. For example in 1285 it was ordered that a verge should be cleared of bushes for 200 feet (60 metres) on either side of a main road, in order to avoid providing cover for thieves.

All freemen (except for clergy and knights) were made to join a tithing of ten men, who were responsible for the behaviour of each other. If one of them was accused of a crime the other members of the tithing had the job of bringing that person to justice, or paying a fine to the victim of the crime. If a crime was committed they had to hunt for the criminal. This hunt was called the ‘hue and cry’.

**Medieval detectives?**

Medieval crime detection was almost impossible without modern science and usually only worked if a criminal was caught in the act, or was accused by someone who had witnessed the crime.

When a person was brought to court how could their guilt (or innocence) be decided? A number of ways were tried.

**Witness of neighbours**

The accused person found enough people who would be willing to swear on oath concerning their past good behaviour.

**Trial by jury**

This was the usual method by 1450. A group of local people looked at any evidence, listened to witnesses, discussed the character of the person accused of a crime – and made a decision.

**Activities**

3. Choose and explain two reasons why medieval crime rates increased at certain times.

4. In pairs, decide the strengths and weaknesses of the two main medieval ways used to decide an accused person’s guilt. Why do you think that, by 1450, Trial by Jury had become the main method used?

**Summary**

- Medieval crime rates were affected by a range of causes.
- Medieval crime prevention relied on local communities.
- Without a police force and scientific methods, medieval crime detection was very difficult.
Local crime catchers?
With no police force, law enforcement, from the 12th century, relied on groups of local people (called *juries of presentment*) bringing suspected criminals before a judge. By 1400 local landowners were appointed as *Justices of the Peace* to hold local courts at least four times a year (called *Quarter Sessions*) dealing with less serious offences. They also fixed wages and prices, and took care of roads and bridges.

After...
By the end of the Middle Ages problems in the economy of the country were leading to an increase in unemployed people begging and looking for work. They may have been associated with increased crime rates. These beggars were increasingly treated as criminals rather than as victims of problems in the economy.

Activities
5 Why was this medieval form of policing unlikely to be capable of dealing with serious crime?
1.3 Punishing the poor: victims of poverty, or criminal beggars?

Learning Objectives
By the end of this lesson you should be able to:
- understand ways in which social and economic changes can affect what is considered to be a crime
- explain why begging so concerned wealthy and powerful people by the 16th century.

Before
Changes in the economy in the late 14th century and in the 15th century had increased the numbers of people wandering and looking for work. At the same time local people in juries and local judges called Justices of the Peace had been given more powers to keep law and order.

Source A
A beggar is tied and whipped through the streets (1567).

Treating beggars as criminals
Some actions are treated as crimes across the whole of the period from 1450 to today. Examples include murder and theft. But there are times in which particular problems lead to actions being punished, which would not be treated this way in a different period of time. In Elizabethan England, in the 16th century, there was great concern about the growing numbers of beggars. These concerns led to these beggars being thought of as criminals – and punished.

Activities
1. In pairs one of you take the role of (a) an unemployed cloth worker, the other take the role of (b) an Elizabethan landowner. Explain to the other how you feel about the growing number of beggars and the extent of the threat you feel they are to law and order.
2. This kind of concern about the threat to law and order of a group in society is sometimes called a moral panic. As a class share any examples of modern ‘moral panics’ about groups in society. Example could include: asylum seekers, teenagers on street corners, etc…

Turning beggars into criminals
In 1388 a law tried to control the movements of all labourers and beggars. Labourers wishing to move out of their local area needed a letter of authority from a local judge – the Justice of the Peace. If they were caught elsewhere without it they could be put in the stocks. During the 15th century worries about growing numbers of beggars increased at the same time as problems in the economy caused an increase in poor people. This led to the government passing the Vagrancy Act of 1494.

People wondered why there were beggars if they were fit and able to work. In most cases the reason was because they could not find work. Some, though, were probably criminals. This made the situation more complicated. Different cities tried various experiments in dealing with beggars.
Crime and punishment c1450 – c1750

Who was driving these changes in the law?
Changes in the law and decisions about what should be regarded as criminal activity are sometimes led from the top (from government) and sometimes from below (from local communities putting pressure on government, or trying out ideas to combat crime).

Activities

3  What was the difference between a ‘sturdy beggar’ and one of the ‘deserving poor’? How did this affect how the law came to treat these different groups of people?

4  Create a table identifying which actions against beggars the following were responsible for:
   (a) parliament (who passed national laws),
   (b) local wealthy people (reacting to things in their local town/area that worried them)?

Summary

- Changes in society led to increased numbers of beggars and a ‘moral panic’.
- This led to the treatment of healthy beggars as criminals.
- Despite the laws against begging, it was impossible to stop it because it was caused by wider social causes.

Source B

‘Vagabonds, idle and suspected persons shall be set in the stocks for three days and three nights and have none other sustenance but bread and water and then shall be put out of Town. Every beggar suitable to work shall resort to the Hundred where he last dwelled, is best known, or was born and there remain.’

Vagabonds and Beggars Act (1494)

Some places, such as York, issued badges to sick or injured beggars, who were thought to deserve help (the deserving poor). This separated them from those considered lazy – called sturdy beggars. In 1531 in a law passed by parliament all beggars were to be classed as either deserving a license and badge, or punished. Justices of the Peace put the new law into effect.

Wealthy people in parliament were so worried by begging that in 1547 the Vagrancy Act became law, which promised to enslave beggars – forcing them to work. It also ordered they should be whipped and branded. This law though was impossible to enforce and was repealed but it show how worried people were.

There were actions to support the deserving poor and this increased over time leading to the Great Poor Law of 1601, which gave local authorities the power to collect local taxes to pay for workhouses and hospitals to house the poor. This system would last largely the same until 1834.

ResultsPlus

Build better answers

What can you learn from Sources A, and B about changes in how seriously begging was treated by the law?

Basic 1 marks
These answers often just describe the source and make just one inference about what can be learnt.

Good 2–3 marks
Good answers will identify what is going on in each source, and pick out details that show how seriously begging was treated.

Excellent 4 marks
Excellent answers will explain how the sources are showing how seriously begging was treated. They will also point out that although each source is different they do give a similar impression of how beggars were treated.

Who was driving these changes in the law?

Changes in the law and decisions about what should be regarded as criminal activity are sometimes led from the top (from government) and sometimes from below (from local communities putting pressure on government, or trying out ideas to combat crime).
Problems in the cloth industry increased the numbers of unemployed people.

Inflation caused prices to go up faster than wages.

Landowners changed from growing crops to keeping sheep and this employed fewer workers.

Closure of monasteries took away support for the poor.

End of wars in England led to soldiers being out of work.

Population increase put pressure on jobs and food.

There was no national system to help the unemployed and sick.

**Reasons why the numbers of Beggars increased during the 16th century.**

Large numbers of beggars travelling on the roads seemed to threaten a society where people were expected to know their place within their local community.

The cost of supporting beggars was resented by the communities they ended up in.

Acts of charity did not seem to be enough to meet the rising demand from the poor people.

Poor people were more likely to turn to other crimes such as theft.

**Reasons why Begging became regarded as a crime.**
1.4 Treason and plot! Why rulers felt under threat and the impact of this on the treatment of crime

Learning Objectives
By the end of this topic you should be able to:
- describe what the crime of treason involves
- explain why rulers in the 16th and 17th centuries felt particularly under threat
- account for how this had an impact on attitudes towards crime.

Before...
Before 1485 charges of treason were used against those who rebelled against the king but it was not until the reign of the Tudors that its use became frequent. This was because the Tudors had seized power at the end of a very unsettled time in English political history, the Wars of the Roses.

Executing traitors!
Below are the words of the sentence of ‘hanging, drawing and quartering’. These words were used for those convicted of treason and sentenced to this terrible death until 1870.

After 1814, the convict would be hanged until dead and the mutilation would be carried out on their dead body.

Activity
1. What information does this punishment give you about how treason was regarded by rulers from the Middle Ages until the 19th century?

A short history of mutilation for treason...
No-one is sure exactly when the sentence of hanging, drawing and quartering was first used. The best evidence suggests it began in the 13th century under King Edward I. He was attempting to impose English control on Wales and Scotland. His argument was that he was the rightful ruler of these countries and that anyone who opposed him was not a ‘freedom fighter’ but a ‘traitor’. As a result, Edward used very brutal methods to make his point to those he considered ‘traitors’. Hanging, drawing and quartering was one of the most obvious ways.
From this time onwards it was the official punishment for anyone who tried to overthrow the king or queen. It was deliberately designed to show how terrible a crime this was thought to be. Since it was believed that God had given power to the king, treason was thought of as a crime against God as well as the king. The full sentence was usually reserved for commoners. Noble traitors were usually beheaded.

**Treason, the Tudors and legal murder**

Treason is not a common crime. But the Tudors – who came to power in 1485 – were particularly concerned about it. This was because they had seized power by force and there were people who questioned their right to rule. As a result, the Tudors faced a number of rebellions and were very nervous of possible opponents. The political situation they had helped create meant that concerns about treason were very much on their minds.

This tension only increased when Henry VIII broke away from Roman Catholic Church. Now there were many people who were unhappy with the way the church was being changed and who opposed the new, Protestant, ideas. On the other side Henry felt that their support for the Pope instead of him was treasonable. Catholic revolts such as the Pilgrimage of Grace, in 1536, added to these fears.

The religious tensions continued and on 5 November 1605, Catholic opponents attempted to murder King James I in the Guy Fawkes ‘Gunpowder Plot’. You can see what happened to them in Source A! In the 18th century another change of royal family (from the Stuarts to the Hanoverians) led to yet more rebellions and charges of treason. Famous examples are failed Scots rebellions of 1715 and 1745.

**Gunpowder, treason and plot… rulers under threat**

The religious tensions continued and on 5 November 1605, Catholic opponents attempted to murder King James I in the Guy Fawkes ‘Gunpowder Plot’. You can see what happened to them in Source A! In the 18th century another change of royal family (from the Stuarts to the Hanoverians) led to yet more rebellions and charges of treason. Famous examples are failed Scots rebellions of 1715 and 1745.

**After…**

By the late 18th century the charge of treason became rare. Amazingly though, the official punishment for treason remained death until 1998. The last person executed for treason was William Joyce in 1946 for working for Nazi Germany during WW2.

**Activities**

2 Why did Edward I introduce a punishment as savage as hanging, drawing and quartering?

3 Why did the use of severe punishments for treason increase after 1485?

4 What does this tell you about the link between political events and use of the law?

**Challenge**

5 Henry VIII frightened judges and juries so much that they delivered the verdict he wanted. This is legal, but some people think it is “judicial murder” (legal but not right)? What do you think? You might want to research more about those executed by Henry before making your decision.

**Summary**

- Political changes, 1485–1750, caused rulers to feel under threat.
- This led to an increase in accusations of treason.
- Earlier punishments – designed to crush opposition to royal power – were increasingly used in this period of time.
- Lessening of political tension after 1750 reduced the use of such punishments.
1.5 Rulers and ruled: what beliefs affected attitudes towards crime and punishment, and who challenged the system?

Learning Objectives
By the end of this topic you should be able to:
- describe changing challenges to law and order
- explain how attitudes and beliefs in society affected definitions of ‘crime’
- understand how authorities responded to challenges to the law
- describe how different groups of people had different experiences of both crime and punishment

Before...
After a relatively stable period of time in the second half of the 15th century, population increase in the early 16th century coincided with growing demands for religious change and the start of Tudor rule, to cause many important social and religious changes at a time when rulers were feeling insecure.

Activities
1. Look at the causes of crime. Then look at the types of crime. Decide what would be the most likely cause of each type of crime and explain the connection between the two.
2. Which do you think was the most important of the Causes of Crime? Explain why you think this.

Attitudes and beliefs...
Divine right
It was believed that God gave power to kings and queens. People breaking the law were therefore challenging God and his representatives.

Hierarchy
There was a strong belief that society had a strict ordering with some groups of people above, or below, others in terms of power, wealth and

Causes of different types of crime

<table>
<thead>
<tr>
<th>Causes of crime</th>
<th>Types of crime</th>
</tr>
</thead>
<tbody>
<tr>
<td>Growth of towns</td>
<td>Refusal to follow official religious beliefs</td>
</tr>
<tr>
<td>Enclosure of land</td>
<td>Highwaymen</td>
</tr>
<tr>
<td>Changes in religious beliefs</td>
<td>Beggars</td>
</tr>
<tr>
<td>Increased unemployment</td>
<td>Footpads</td>
</tr>
<tr>
<td>Improved quality of roads</td>
<td>Hedge levelling</td>
</tr>
</tbody>
</table>
Crime and punishment c1450 – c1750

Rights. There was a sexual and age hierarchy too. Men were in charge of women. Adults had strict authority over children.

Property
The richest people owned the most property. Only wealthy people were represented in parliament, where laws were made. As a result these laws protected the rights and property of the wealthy. Because of the belief in divine right and hierarchy, rulers believed this was approved of by God and that anyone who challenged this should be strongly punished. As a result corporal punishment and capital punishment was commonly used.

Challenging the system
Population was increasing
In 1450 the population was 2 million. By 1551 it had risen to 3 million and by 1750 it had more than doubled, to 7 million. This led to...

Increased urban growth and unemployment
In growing towns people were harder to control. The old world, where rulers know the people they ruled, was harder to maintain. This situation was made more difficult as unemployed people left their local areas looking for work.

Crime of the poor
Most crimes committed by the poor were crimes against property not crimes against the person. Street criminals were known as footpads. Due to better roads, road travel improved from 1700 to 1750 and the numbers of highwaymen increased.

Dick Turpin – hanged in York in 1739 – was one of the most famous. Changes in the countryside led to other types of crime. The setting out of country parks around great houses in the 17th century led to increased concerns about poaching. This was a ‘social crime’ (an activity that was made illegal although in different circumstances it would have been allowed).

Early smugglers
Another social crime is smuggling. In 1614 exporting of wool was made illegal and in 1661 it was made punishable by death. The first law encouraged smugglers to illegally take wool out of the county. The second law made it more likely they would carry weapons to resist arrest. Increased taxes on tea and brandy made it profitable by the 1730s for smugglers to bring these items into the country. The profits to be made from this illegal trade led to the formation of well organised gangs. Between 1735 and 1749 the Hawkhurst Gang dominated smuggling from Kent to Dorset.

Activities
3 Explain how divine right, a hierarchical society, and belief in the importance of property impacted on attitudes towards crime and punishment.

4 Decide on what you think were the three main challenges to the way society was run in the period up to 1750. For each one explain (a) why it was a challenge and (b) the kinds of crimes that this challenge led to.

Summary
- To come

Activities
5 ‘Government action can sometimes lead to increases, instead of decreases, in crime!’ Explain to what extent this was true in the case of smuggling between 1614 and 1750.
1.6 Rulers and ruled: how did rulers meet the challenges they faced?

Learning Objectives
By the end of this topic you should be able to:

- Learning outcomes to come

Punishments to deter crime in different ways

Source A

James Naylor whipped, a hot iron bored though his tongue and his face branded with a 'B' for Blasphemy (1656) for claiming he was Jesus Christ.

Activities
1. Describe each of the punishments being used in Sources A–C.
2. Explain, for each, why magistrates and judges might have thought it was a useful form of punishment.

Criminalising beggars
Begging was regarded as a crime. Other wanderers were even more harshly punished. Gypsies were to be hanged by a law of 1554.

Different experiences of the law
Punishments varied according to a person’s social group. Commoners were hanged, drawn and quartered for treason but nobles were beheaded. Until the 18th century any first time offender who claimed benefit of clergy (able to read a passage from the Bible) was often acquitted. Originally this had been done so that a member of the
clergy (e.g. a priest) could prove they should be tried in a Church Court. Women who murdered their husband were burnt at the stake because a husband was thought to be the natural master of his wife. By the 18th century the woman was often strangled before being burnt.

The use of fear
Lacking a real prison system the punishment of criminals depended on either (a) removing them from society (by execution) (b) fining them, or (b) hurting or humiliating them. This was often done by putting someone in the stocks, or pillory. The aim was a mixture of retribution and deterrence.

The ‘Bloody Code’ and the start of transportation
Source D

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1688</td>
<td>50</td>
</tr>
<tr>
<td>1765</td>
<td>160</td>
</tr>
<tr>
<td>1815</td>
<td>225</td>
</tr>
</tbody>
</table>

Later historians used the phrase the ‘Bloody Code’ to describe the number of crimes carrying the death penalty from the late 17th to the early 18th century (including stealing sheep, damaging trees, stealing rabbits). These severe punishments were intended to deter people from committing crimes. In fact, the ‘Bloody Code’ failed in its aim. Many juries refused to find a person guilty if a death penalty would follow. Fewer people were hanged in the 18th century under the ‘Bloody Code’ that in the previous century. As a result, in 1823, Sir Robert Peel reduced the number of crimes punishable by capital punishment by over 100 offences.

From the 17th century, until American Independence in 1776, convicts were also transported to the Caribbean and to North America to be used as labourers on plantations. They could also be transported for political crimes such as those who took part in the Monmouth Rebellion against James II in 1685. (For more on transportation see 2.5.)

Modern people are usually very critical of 18th-century punishments. This is because 21st-century values and attitudes towards crime and punishment are very different from the 18th century. This reminds us that, while some ideas in history remain fairly constant, others vary according to the values of society.

Activities

3 Explain the difference between ‘retribution’ and ‘deterrence’.

4 Explain, with examples, how the law in the 18th century was applied differently to different groups in society. Does this suggest ‘change’ or ‘continuity’ from the medieval period?

5 How successful was the ‘Bloody Code’? Explain: (a) its aims, (b) its effect on the law and punishments, and c) your conclusion on whether it met its aims.

6 Why is it that many 21st-century people are shocked by 18th-century punishments?

After
In the 1820s, Sir Robert Peel abolished the death penalty for over 100 offences and reduced the severity of other sentences too.

Summary

- Attempting to protect property and keep people in ‘their places’ led to harsh treatment of those who threatened these areas of life.
- The period up to 1750 saw increasing changes to traditional society, which led to new crimes and treatment of these crimes.
- A range of public punishments were used to tackle crime, which became more severe during the 18th century.
- The ‘Bloody Code’ was less effective in meeting its aims that its supporters intended.
1.7 The career of Jonathan Wild
(The work of the historian)

Jonathan Wild (1683–1725) was the most famous criminal in 18th-century Britain. He ran a successful gang of thieves and at the same time seemed to be the most successful policeman in the country. Wild kept the goods his gang stole. He then waited for the newspapers to report the crime. Then he would claim that his ‘agents’ had recovered the stolen items. He would return these goods for a reward. As well as pretending to find stolen goods, he also ‘caught’ thieves. These were really rivals, or members of his own gang who had refused to obey him. In 1718, Wild gave himself the title: ‘Thief Taker General of Great Britain and Ireland’! He claimed to have had over sixty thieves hanged. He became a popular figure in the newspapers. This popularity collapsed when his criminal activities were finally exposed. He was hanged at Tyburn, London in 1725.

Source A

Jonathan Wild pelted with stones on the way to his execution, drawn in the mid-18th century.
An invitation to the execution of Jonathan Wild along with the title of ‘Thief-Catcher’ he had given himself. From the time of Wild’s death, in 1725.

Source C

‘He carried good nature to that wonderful and uncommon height, that he never did a single injury to man or woman, by which he himself did not expect to reap some advantage.’

‘We must not however omit one circumstance, as it serves to show the most admirable conservation of character in our hero, to his last moment… Wild, in the midst of the shower of stones etc., which played upon him, applied his hand to the parson’s pocket, and emptied it of his bottle screw, which he carried out of the world in his hand.’

From the novel, Jonathan Wild, written by Henry Fielding in 1743. Although based on the life of Wild, this writer turned this into a novel in which he criticised the state of London in the early 18th century and the kinds of people who were thought ‘great’ and ‘heroic’ by the public and newspapers.

Source D

‘When things are rightly compared, it will be found that he had a more difficult game to play; for he was to blind the eyes of the world, to find out tricks to evade the penalties of the law; and on the other side, to govern a body of people who were enemies to all government; and to bring those under obedience to him.’

From The Life of Jonathan Wild, From His Birth to His Death, by ‘H.D’, Clerk to ‘Justice R’. 1725. The writer disguised his name but suggested he had good information since he worked for a judge (whose name he partly hides – but readers at the time would easily have been able to identify the judge).

Activities

These questions are exam-style questions for those students studying Unit 3D The Work of the Historian.

1 Study Sources A and B.

What can you learn from Sources A and B about how Jonathan Wild’s execution was regarded at the time? (6)

2 Study Sources C and D.

How much of Fielding’s account in Source C do you think is reliable?

Explain your answer, using Sources C and D. (10)

3 Study Sources C and D

Which of Sources C and D would be more useful to an historian trying to explain why Wild made such an impact on the opinions of people living in the 1720s?

Explain your answer, using Sources C and D. (10)