HIST 4104
PUNISHMENT, CRIME & THE COURTS IN EARLY MODERN ENGLAND, c.1500-1850

Killam 3616, Wednesdays, 9:35-12:25

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Course Description and Objectives:

This class explores the nature and development of the English criminal justice system during a period of dramatic social, political, and economic change. It examines experiences and understandings of crime, punishment, and the law during years that saw religious reformation, population increases, civil war, and industrialisation. We will study patterns of change and continuity over time and interrogate the uses of the law: did it act in the interests of particular people or groups, and if so, how? Was ‘crime’ an entirely subjective category, or somehow intrinsic to an action? Why and how do societies punish particular types of offences? Some historians have argued that the law had both coercive and symbolic purposes – that it served to enforce and legitimize social and economic structures. We will examine these arguments and their implications. More generally, we’ll consider the ways in which the study of crime and criminal records can open up ‘otherwise invisible or opaque realms of human experience’. Classes will progress thematically rather than chronologically; some will be devoted to a particular type of crime or punishment, some to the different groups of people involved in the legal process, and others to historical debates.

Students should gain a critical understanding of the criminal justice system, its significance, functions, and evolution; a familiarity with various theoretical and methodological approaches to the topic; and improved research, writing, and critical thinking skills.

This is a seminar class, and thus your learning is almost entirely dependant on your own initiative. We meet once a week for three hours. I may spend part of the time lecturing, but most will be devoted to discussions of the readings. Expect these readings to take at least three hours per week.

Course Texts:

A Course Reader is available for purchase at Julia’s Photocopy shop on Coburg Road. Other assigned readings are available electronically, with links through the course OWL page.

Students are also expected to read J.A. Sharpe, Crime in Early Modern England, 1550-1750, 2nd edition (Longman, 1999) and V.A.C Gatrell, The Hanging Tree: Execution and the English People 1770-1868 (Oxford, 1994). Copies are available for purchase at the University Bookstore, and one of each is on reserve at the Killam Library.
Assignments and Grading:

I. Research Essay:
   - Version One (Oct. 26) 15%
   - Version Two (Nov. 23) 25%
II. Peer review 3%
III. Book Synopsis (Nov. 7) 5%
IV. Take-Home Exam (Dec. 10) 30%
V. Participation 22%

I. Research Essay:

This essay will be done in two stages:

i. Submit the first version of the paper on Friday, Oct 26. This should be roughly 15 pages, and should be treated as a proper assignment, not as a draft. I will grade this first version and return it with comments on style, suggestions for further reading, queries about issues that should be addressed, etc. This version should also have a properly formatted bibliography and citations. It will be posted on the course OWL page for classmates to read. Worth 15% of the final grade.

ii. Submit the final version of the paper on Friday, Nov. 23. This should be roughly 20 pages. This will be an improved and enlarged version of the preliminary paper, responding to my comments and incorporating your own further thoughts. It will be more detailed, and might in fact be very different in content and structure. This paper should also show the fruits of some research that was not completed for the first version. You will submit the marked version of the original paper with this final version. You must show progress and improvement to maintain or improve your initial mark. Worth 25%.

These essays must use a minimum of six secondary sources over and above any web sites used. The better essays will almost certainly make substantive use of primary sources. Grammar, style, and proper citations count.

Possible topics include the history of a particular crime, a particular set of laws (laws regulating gun ownership, employee/employer relations, slavery, free speech, etc.): changes in the types and purposes of punishment; proposals for law reform in the Civil Wars years or Enlightenment, etc. Please speak with me for help in identifying a topic and possible sources.

Remember: this must be an analytical rather than narrative paper. A thesis statement is not simply a statement of fact ("Many religious radicals of the Civil War years wanted an end to capital punishment.") but an argument that addresses "why," explaining the origins of a state of affairs, the causes of change, etc. ("Many religious radicals of the Civil Wars years wanted an end to capital punishment because their experience of persecution and formulation of apocalyptic beliefs led them to conclude that the Mosaic law no longer applied.")

II. Peer review: Students will be asked to read the first version of the essay of one other specified student and then one of their own choosing. They will be asked to provide a few informal comments on what they found interesting, what they think might be strengthened for the final version, etc.
(They can, of course, read and comment on as many of the papers as they'd like.) They will receive 3% for having done so.

III. Book Synopsis:

Students are asked to submit a 4-5 page synopsis of the book to be read for class on Nov. 7, V.A.C. Gatrell's *The Hanging Tree*. This should summarise the book’s main arguments, describe its methodology and approach, and comment on anything the reader found particularly interesting or problematic. This is a relatively informal assignment and will be graded simply for its evidence that the student has read and understood the book. While this is not due until Nov. 7, students are strongly encouraged to start reading the book at an early date. Value: 5%, due in class Nov. 7.

IV. Take-Home Exam

This will be a brief paper that reflects on the broad themes of the course. The question(s) will be distributed in the last class; the paper is due in the drop box by 4:30 on Dec. 10

V. Participation

Attendance in this course is mandatory. With only 11 real class sessions, missing even one means missing a substantial amount of the course content. Students **must attend a minimum of 7 full sessions** to qualify for a grade. If a student misses 5 classes because of illness, I will happily enter the note “ILL” on the grade sheet, but will not grade for mark.

Twenty-two percent of the final grade will be determined by the instructor’s assessment of the student’s participation in class discussion, including an evaluation of the student’s knowledge of the assigned material and the quality (not just the quantity) of contributions to discussion. No points will be given for attendance alone.

**Form and Style:**

For the conventions of form and presentation (notes, layout, bibliography) for the written assignments, see at minimum the History Department style guide, available at the History office and on the History webpage. Also highly recommended: Kate L. Turabian, *A Manual for Writers of Research Papers, Theses, and Dissertations*, 7th edn., revised by Wayne C. Booth *et al* (Chicago: University of Chicago Press, 2007).

Grammar, spelling, etc., count as they are necessary for the effective presentation of your ideas. A useful on-line writing and grammar guide can be found at: [http://web.uvic.ca/wguide/Pages/StartHere.html](http://web.uvic.ca/wguide/Pages/StartHere.html)

Also helpful for matters of style: W. Strunk and E.B. White, *The Elements of Style*, usually available at both the Library and book store, but also online at [www.bartleby.com/141/](http://www.bartleby.com/141/)

**Other Notices:**

To be fair to other students, **extensions** will only be granted to those with documented medical or family emergencies. Late papers will only be accepted for a grade up to one week past the deadline, and will lose 5% per business day.

Please refrain from using **electronic devices** in class in ways that might be considered disruptive or disrespectful. Please ensure that phones are set to silent or turned off, and refrain from texting,
emailing, or other such activities during class time. To protect others’ privacy, students may not do voice or video recordings of any activity that occurs within the classroom.

Students may request accommodation as a result of barriers related to disability, religious obligation, or any characteristic under the Nova Scotia Human Rights Act. Students who require academic accommodation for either classroom participation or the writing of tests and exams should make their request to the Advising and Access Services Center (AASC) prior to or at the outset of the regular academic year. Please visit www.dal.ca/access for more information and to obtain the Request for Accommodation – Form A.

All students in this class are to read and understand the policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the academicintegrity.dal.ca website. Ignorance of such policies is no excuse for violations. In brief, to quote from the policy, ‘academic integrity means that we are honest and accurate in creating and communicating all academic products. Acknowledgement of other people’s work must be done in a way that does not leave the reader in any doubt as to whose work it is. Academic integrity means trustworthy conduct such as not cheating on examinations and not misrepresenting information.’ Please note that as a matter of fairness to students who do their own work, I will check for plagiarism, and that by University regulations I am required to report suspected offences. Indicate your sources, don’t pass off the work of others as your own, and see me if you have any questions.

Class Schedule of Topics and Readings:

[Items marked with an * are in the course reader. Other than the Sharpe and Gatrell readings, the rest are available through links on the course OWL page.]

1. Sept. 12:   Introduction to the course and to library resources

2. Sept. 19:   The structure and personnel of the courts
               Sharpe, chs. 1, 2, 3, 7.

3. Sept. 26:   Defining and measuring crime and punishment
               Sharpe, chs. 3, 4, 5, 6, 8.

4. Oct. 3:     Criminal Law and Ideology
5. Oct. 10: **Case Study: Violence**


6. Oct. 17: **Case Study: Homicide**

Extract from William Blackstone, *Commentaries* (1765-9)


7. Oct. 24: **Case Study: Suicide**


“Allyson May, “‘She at first denied it’: Infanticide Trials at the Old Bailey,” from V. Frith, ed, *Women and History.*

9. Nov. 7: **Capital Punishment**


10. Nov. 14: **Secondary Punishments: Transportation and Imprisonment**


11. Nov. 21: **Theories of Punishment: Foucault and Garland**


12. Nov. 28: **Modern Policing/ Review**


**Some Suggested Supplementary Readings:**


Paul Griffiths and Simon Devereux, eds., *Penal Practice and Culture, 1500-1900: Punishing the English* (Basingstoke, 2004).


**If you’re looking for something on a particular topic (witchcraft, coining, sedition, etc.), let me know and I’ll try to point you in a helpful direction.**

**RESEARCH RESOURCES**

**Freely available on the Web:**

*OBO: Old Bailey Online:* [www.oldbaileyonline.org](http://www.oldbaileyonline.org) This is a searchable, online edition of the records of proceedings at London’s main criminal court from 1674-1913. The ‘research and study guides’ pages are useful, but the goldmine here are the records themselves. You can search by type of offence, of offender, or punishment…and so on and so forth. Do play around with this one a bit before deciding on your research project.

*London Lives, 1690-1800:* [www.londonlives.org](http://www.londonlives.org) The same team that produced OBO has sought to build on it by providing supplementary data drawn from eight different London archives. It’s a bit more haphazard, but has material from St. Thomas’s hospital, some tax and voting records, etc., and can be a useful supplement to any project involving Londoners.

*Convict Transportation Registers Database:* [http://www.slq.qld.gov.au/info/fh/convicts](http://www.slq.qld.gov.au/info/fh/convicts) For about 123,000 or the 160,000 convicts transported from Britain to Australia between 1787 and 1867, this provides information including the place of trial, duration of sentence, etc., based on the Home Office registers held at the National Archives in London.
Not freely available…but I’ll mention it anyway. Ancestry.co.uk has digitized a number of useful manuscript sources, including the England and Wales Criminal Registers from 1791 to 1892. This collection of about 279 manuscript volumes, held at the National Library, includes the offenders’ names, charges and punishments imposed from over a million criminal trials. For some trials, more voluminous documentation is included.

Available through Novanet:

EEBO: Early English Books Online. Essentially, this gives you access to the vast majority of all surviving publications printed in England or in English from the beginning of print in the late fifteenth century to c. 1700. Pamphlets reporting witchcraft cases, the texts of sermons given at executions and court sessions, lengthy legal treatises by judges such as Sir Edward Coke – these are just some of the things of relevance to this course that you might find on EEBO.

ECCO: Eighteenth Century Collections Online. Very similar to the above … but for the eighteenth century. Also, given the nature and scope of printing in the eighteenth century, it’s a much larger and more varied collection.

SPO: State Papers Online. This offers digital images of the manuscript collections of state papers from 1509-1714 held at the National Archives in London. Some are somewhat searchable: the main series of state papers were ‘calendared’, or summarized, in days gone by, and those calendars can be keyword searched, then linked through to a photo of the original, full document. These state papers contain everything from royal ‘to do’ lists, ambassadors’ and spies’ reports, routine government correspondence, draft bills for parliamentary consideration, petitions from poor prisoners, etc. The handwriting in the manuscripts can take a bit of getting used to, depending on the writer (and the reader). I am happy to provide pointers and help in deciphering early modern handwriting for anyone who wants to use this incredibly valuable resource.

HCPP: House of Commons Parliamentary Papers. This contains images and searchable full text for thousands of pages of material produced by and for the British parliament. Some of it dates back to about 1715, but it’s most complete and most useful for the nineteenth century. The nineteenth century saw the birth of massive parliamentary investigations and public commissions. Here you can find the results of investigations into the state of the prisons, laws relating to debtors and ‘lunatics’, the rights and wrongs of capital punishment, etc. These reports often contain appendices with transcriptions of interviews with people of various sorts. It’s potentially a much more ‘social’ – and certainly far more interesting - source than its name might first suggest.

Newspapers. We now have several databases that provide access to newspapers and periodicals of previous centuries. The Times Digital Archive offers searchable text and digital images of the complete run of this famous newspaper, from 1785 to 1985. Others can be accessed via the 17th-18th century Burney Collections Newspapers, Eighteenth Century Journals: A Portal to Newspapers and Periodicals, 1685-1819, and 19th century British Library Newspapers. (When using these databases, be sure to read the introductory or ‘about’ pages to get a sense of what is or is not included.)

ODNB: Oxford Dictionary of National Biography. Not a primary source, but very often a useful starting point and quick reference. The entries are generally quite full and often end with useful lists of references and suggestions for further reading.
**Journals: Indexing and Storage Databases:** I assume that by fourth year, all students are familiar with *Historical Abstracts*, probably the best database for locating journal articles of relevance to the history of all parts of the world, save for North America, from 1450 to the present. Depending on your topic, you may also find it useful to run a search on the *MLA International Bibliography*, which is the main database for articles by English Lit scholars. Another database that’s extremely useful but often overlooked is the *BBIH: Bibliography of British and Irish History* (formerly the Royal Historical Society Bibliography), also available via Novanet. This one is worth checking as it endeavours to include *everything* published about British and Irish history, whereas the other databases generally include only those items published after they were started (in the case of *Historical Abstracts*, for instance, from the 1950s onwards). It also seems to do a better job of indexing essays in published collections, not just in periodicals.

As an aside, one’s search for journal articles and other secondary sources of relevance to one’s project should start with these general indexing databases, not with the storage services such as *JSTOR*. *JSTOR* is a wonderful service, providing ready access to thousands of journal articles, but does not pretend to be comprehensive. For a good, senior research project, you don’t just want ‘something’ relevant to your topic, but want to be actively looking for the best and most relevant resources, so start with the indexing databases first. (And yes, a Google search can be a helpful supplement to these other resources, but do consider it a *supplement*, not a replacement for searches on these databases.)

**BOOKS!** While I’ve been listing here all the latest and greatest in databases that provide access to compendious resources such as the state papers and various newspapers, don’t overlook the wealth of great research resources still available between two hard covers and sitting in the Killam or Weldon libraries. As one example: the publications of various local history societies. From the nineteenth century forward, English counties have had local history societies that have published transcriptions of various documents of interest to their members. See, for example, *The Justicing Notebook of William Hunt, 1744-1749*, edited by Elizabeth Critall for the Wiltshire Record Society. Historical societies of more general interest often did the same: the Surtees Society, for example, devotes itself to the history of large swathes of northern England and includes among its publications a transcription of the *Durham Quarter Sessions Rolls, 1471-1625*, edited by C.M. Fraser. Then there’s the Camden and Harleian societies, with publications too numerous to list here, but including such things as transcriptions of Star Chamber records, records from the Court of Requests, etc. The Selden Society focuses its efforts on legal history; its publications, housed in the law library, contain a wealth of useful material. These sorts of publications have not yet made the move to digital, for the most part, but should not be ignored. We have many of these in our libraries; others yet can be ordered in via Document Delivery.