

## Module 2      Crime and Order Maintenance in Celtic & Roman Britain

### Objectives

- Understand and describe how order was maintained in Celtic Britain
- Understand and describe how order was maintained in Roman Britain
- Understand that the Celtic philosophy of punishment was based on fines, restitution, deterrence and rehabilitation
- Understand that the Roman Philosophy of punishment was based on imprisonment, hard labour and the death penalty.



Cohen (1885) is cited by Soothill, Peelo and Taylor (2003 p.2) as claiming that the scriptural history of criminology has two beginnings. Cohen argues that one beginning dates from the mid 18<sup>th</sup> century and the work of enlightenment thinkers such as Beccaria and Bentham, and the second from the latter part of the 19<sup>th</sup> century and the work of Lombroso (see image). However, the subject of criminology has existed as long as human kind. Long before criminology existed man has committed crime and society has had to deal with it. An examination of crime before the advent of criminology shows that not all our ideas about crime and how to deal with are entirely new.

Some of the perspectives on the causes of crime examined in later modules appear to have particular relevance to different periods in the history of crime.

Many authorities claim that the origins of British policing and order maintenance began with the growth of clan-tribal, kin police systems traceable to the written records of early Anglo Saxon and Danish communities in Britain. However, internal order in Britain was maintained by the Romans for over three hundred years. Until Roman citizenship was extended to all citizens of the Empire, the Romans were content to utilise the existing Celtic peace keeping arrangements, arrangements which existed long before written records are believed to have been produced.

The Celts had a highly developed sense of the rights and duties, familial and tribal, of every member of their society. The lowest caste in Celtic society were those who had transgressed against the law and as a result had lost the rights and privileges attendant upon acceptable behaviour in society. Lawbreakers were not prisoners, there were no prisons. The kin, which included extended family, was responsible for the acceptable behaviour of its members. In the small communities of Celtic Britain most members of the community would have differing degrees of kinship with each other. A crime committed by an individual affected everybody in the community. Normally an infraction of the law would result in a fine levied according to economic status and requiring guarantees of ability to pay. These guarantees would have been provided by a surety, a person of equal or higher caste. In effect he underwrote the defendant, and agreed to accept the debt in the event of default. If the defendant did default the guarantor had the right to seize property from the

defaulter. Members of the lowest caste would have been those who were unable to pay a fine or secure a guarantor. As a result they suffered a loss of civil rights, they were prohibited from practising a profession or being employed in any position of trust, they may also have been excluded from participation in religious rites. Although these individuals were not allowed to leave the tribal territory without permission they were not prevented from acquiring and working their own land. It was up to the non status individual to redeem himself by his own efforts and whilst he was punished by loss of his civil rights, Celtic society did not seek revenge by imposing unnecessary obstacles in the way of such redemption. Punishment within the community is not a new idea, together with fines; it was being practiced more than two thousand years ago.

An offender would have experienced a greater isolation than would be the case in a conventional prison and thus would have been reluctant to repeat the experience. Fear of reduction to the lowest caste in society would have acted as a general deterrence to the rest of society. Knowledge that redemption was not just possible but encouraged would have provided an impetus to reform. The maintenance of the law was not dependent upon any central authority but rather on ritual and popular acceptance. The threat of sanctions, such as loss of status and exclusion from religious rites was a potent factor in upholding the law.

Each person within Celtic society, with the possible exception of non status individuals, had an honour price directly related to his material wealth which gave a physical indication of his dignity. The honour price was directly related to compensation in respect of wrongs committed.

The Celts of Britain had been exposed to the influence of Rome and the Mediterranean for some considerable time as a result of trade. In 55BC they were to experience at first hand the influence of Rome's military power. This first military expedition under Julius Caesar penetrated scarcely ten miles inland from the straits of Dover.

It was the emperor Claudius who launched the invasion of Britain in 43AD. After conquest it was the aim of Rome to delegate the burdens of local government as soon as practicable to the native population. Subject states, like free states, retained their own laws as long as there was no conflict with the law codes of Rome. In the countryside of Britain there would probably have been little change in offending or the way offending was punished. The development of cities would have been a great change for the Celts leading to a breakdown of the social norms which hitherto had control their activities. Until individuals found their place in this new society and adapted to the new rules of their masters, opportunities for conflict, and deviance would have been ever present.

A reasonable picture of order maintenance in Roman Britain can be gleaned by an examination of the governorship of Julius Agricola. He was appointed governor of Britain in 78AD, a position he held for the unprecedented period of seven years. More is known of Agricola's governorship of Britain than any other, thanks to the biography written by his son in law Tacitus. Governors appointed to the provinces were the personal representatives of the Emperor. Having sound political and military experience, they also needed sufficient personal wealth to maintain a

powerful political influence. Not all officials wielded that influence with the impartiality that Tacitus claims for Agricola.

Whilst Agricola was willing and able to gain a psychological advantage over the Britons by the conscious use of terror to crush resistance, he also sought to capture hearts and minds by attempting to establish just government and enduring peace. Agricola showed that he was willing to enquire into corrupt practices even where this meant interfering in matters which were strictly speaking the responsibility of the Imperial Procurator.



A particular instance concerns the obligation on the local centres of population to provide grain for the army. This grain was purchased at a fixed price. There appear to have been two scams by which corrupt officials fraudulently extracted money from the local populace. If a community could not supply the required grain for some reason, they were forced to purchase grain from the Imperial granaries in order to sell it back at a much reduced price. If they could provide grain, they would be instructed to deliver it not to the local fortress, but to an encampment some considerable distance away. In order to avoid the exorbitant costs of transport they would be invited to make a cash payment. The profits from these fraudulent practices were pocketed by corrupt and high ranking officials. Agricola put a stop to these practices.

As governor he was the chief justice of the province with authority extending over both civil and criminal matters. Obviously he could not try all cases but rather he had an appellate function in relation to provincial law suits. He would have been responsible for the reconciliation of differences between local and Roman law, as well as arbitrating in disagreements between communities. He was expected to tour the province holding sessional courts at specified towns as well as holding court at the provincial capital. It was the governor's responsibility to try all serious criminal cases, particularly where it was necessary to exercise the power to sentence to death, or where condemnation to the mines might be expected. He would hear all cases involving Roman citizens, who could, should they so wish, demand to be tried at Rome.

The governor had a corps of *speculatores* at his disposal. These men drawn from each of the legions provided a body of police, jailers and executioners. Roman punishment was swift and brutal ranging from flogging, imprisonment, slavery in the mines, death in the arena or by crucifixion. The purpose of Roman punishment was to instil such fear that people would not offend or for those who did, to ensure that offending was a single incident.

Britain was considered a problem posting, instead of a single legion maintaining order, four were considered necessary. Only men of the greatest ability and experience were chosen as Governor of Britain. Considering the length of time Agricola held the post it can be reasonably inferred that he was successful in maintaining order.

After conquering and annexing foreign territory the Romans could impose a general overall control, enforcing military jurisdiction by means of the legions. Despite the fact that dispensation of justice would have been much easier within the framework of a developed legal system, two different law codes, native and Roman, existed in Britain until the early 3<sup>rd</sup> century. After this time, the grant of citizenship to all freeborn inhabitants of the Empire would have virtually eliminated the need for national laws. However, shortly after the Roman occupation transactions between the native population for the settlement of business or even disputes would increasingly have become a matter of discussion and legal redress rather than armed conflict.

The gradual depletion of the Roman army in the British province during the 5<sup>th</sup> century undoubtedly affected its civilian administration; it also engendered a feeling of insecurity which manifested itself in an accelerating drift away from the countryside into the defended towns. In 408AD the Germans invaded Gaul and a serious Saxon raid on Britain took place, there was practically nothing Rome could do to protect Britain. The rebellion against Constantine III which followed the Saxon invasion not only freed the country from invaders but also culminated in the expulsion of the remaining Roman administrators.



Having seized power the Britons wrote to the Emperor Honorius asking for formal and legal authority for their actions. They sought written confirmation from Rome that Britain had not unilaterally declared independence and that the former colony was now exempt from the "*lex Julia de vi publica*" which had forbidden civilians from bearing arms except when hunting or travelling.

### Key points

- The Romans were initially content to utilise existing Celtic peace keeping arrangements
- Lawbreakers were relegated to the lowest caste in Celtic society losing the rights and privileges attendant upon acceptable behaviour. They were not prisoners, there were no prisons
- Normally an infraction of the law would result in a fine levied according to economic status and requiring guarantees of ability to pay
- The Roman Governor was the chief justice of the province with authority extending over both civil and criminal matters
- The Governor held sessional courts at specified towns as well as holding court at the provincial capital
- It was the Governor's responsibility to try all serious criminal cases, particularly where it was necessary to exercise the power to sentence to death, or where condemnation to the mines might be expected

- He would hear all cases involving Roman citizens, who could, should they so wish, demand to be tried at Rome
- The governor had a corps of *speculatores* at his disposal, a body of soldiers responsible for policing, holding prisoner and executions
- Two different law codes native and Roman existed in Britain until the early 3<sup>rd</sup> century
- Britain did not unilaterally declare independence from Rome, but sought formal grant of independence from the Emperor.

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## Suggested reading

- Barrow R.H. (1990) *The Romans*. Harmondsworth: Penguin  
Chadwick N. (1997) *The Celts*. Harmondsworth:Penguin Books  
Cunliffe B. (1999) *The Ancient Celts*. Harmondsworth:Penguin Books  
Hanson W.S. (1991) *Agricola and the Conquest of the North*. London:B.T. Batsford Ltd.

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Todd M. (1985) *Roman Britain* London:Fontana Press

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