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New Studies in Medieval Law and Conflict Resolution

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REVIEW

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In lieu of an abstract, here is a brief excerpt of the content:

NEW STUDIES IN MEDIEVAL LAW AND CONFLICT RESOLUTION by John Eldevik Warren Brown & Piotr Gorecki, eds., *Conflict in Medieval Europe. Changing Perspectives on Society and Culture* (Aldershot and Burlington, VT: Ashgate 2003) x + 334 pp.; Paul Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca: Cornell University Press 2003) xxvi + 334 pp.; Chris Wickham, *Courts and Conflict in Twelfth-Century Tuscany* (Oxford: Oxford University Press 2003) xiii + 353 pp. The issue of law, order, and power in the world has acquired new urgency and focus in the years after September 11 and vigorous assertion of American military and political power in a “uni-polar” world to combat terror and the disorder that ostensibly breeds it. Medievalists might not initially think that they have much to contribute to this debate, but discussions about the resurgence of tribal justice in places like Iraq and Afghanistan, as well as arguments about the dynamics of geopolitical stability, the viability of international law like the Geneva Conventions, and discussions about judicial

torture and prisoner abuse frequently allude to the Middle Ages, either as an example of crude barbarism, or to evoke images of disorder and backwardness that are supposedly characteristic of societies that lack Weberian-style governmental and legal institutions. Arguments about the supposed primitivism of Dark Ages Europe are often trotted out to support the notion that a world without strong centralized authority is inevitably chaotic or violent, or that forms of justice which rely on informal agreements or the payment of blood-moneys should be uniformly combated. The British historian Niall Ferguson, for example, recently observed that the end of American hegemony in the world could result in a reversion to a kind of global “Dark Age” reminiscent of Europe in the ninth and tenth centuries: One feature of the age was that, in the absence of strong secular polities, religious questions often produced serious convulsions. Indeed, religious institutions often set the political agenda. In the eighth and ninth centuries, Byzantium was racked by controversy over the proper role of icons in worship. By the eleventh century, the pope felt confident enough to humble Holy Roman Emperor Henry IV during the battle over which of them should JOHN ELDEVIK 158 have the right to appoint bishops. The new monastic orders amassed considerable power in Christendom, particularly the Cluniacs, the first order to centralize monastic authority. In the Muslim world, it was the ulema (clerics) who truly ruled. This atmosphere helps explain why the period ended with the extraordinary holy wars known as the Crusades, the first of which was launched by European Christians in 1095. Yet, this apparent clash of civilizations was in many ways just another example of the apolar world’s susceptibility to long-distance military raids directed at urban centers by more backward peoples. The Vikings repeatedly attacked West European towns in the ninth century—Nantes in 842, Seville in 844, to name just two. One Frankish chronicler lamented “the endless flood of Vikings” sweeping southward. Byzantium, too, was sacked in 860 by raiders from Rus, the kernel of the future Russia. This “fierce and savage tribe” showed “no mercy,” lamented the Byzantine patriarch. It was like “the roaring sea ... destroying everything, sparing nothing.” Such were the conditions of an anarchic age.¹ Aside from quibbling with the fairly facile way supposed causes and effects are strung together here, most medievalists would probably concur with Ferguson’s view that early medieval Europe lacked major state-like apparatuses of political control that the modern age has come to think of as essential to both domestic or foreign relations. Most would also agree that it was a dangerous world in many respects. Yet many would also take exception to the notion that stability and order only come from the imposition of a centralized legal order and that the absence of strong, normative institutions equates to chaos, disorder or backwardness.² Over the past generation, the study of early European legal culture has shifted substantially away from a top-down, “rules oriented” approach that focused largely on the evolution of (written) normative legal codes and constitutions to embrace a more interdisciplinary, “processural” view of law, order and conflict. Medieval law was more than the formal application...

NEW STUDIES IN MEDIEVAL LAW AND CONFLICT
RESOLUTION

by John Eklevik

Warren Brown & Piotr Gorecki, eds., *Conflict in Medieval Europe. Changing Perspectives on Society and Culture* (Aldershot and Burlington, VT: Ashgate 2003) x + 334 pp.; Paul Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca: Cornell University Press 2003) xxvi + 334 pp.; Chris Wickham, *Courts and Conflict in Twelfth-Century Tuscany* (Oxford: Oxford University Press 2003) xiii + 353 pp.

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One feature of the age was that, in the absence of strong secular politics, religious questions often produced serious convulsions. Indeed, religious institutions often set the political agenda. In the eighth and ninth centuries, Byzantium was racked by controversy over the proper role of icons in worship. By the eleventh century, the pope felt confident enough to humble Holy Roman Emperor Henry IV during the battle over which of them should



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