

THE ART  
OF LAW

THREE CENTURIES OF JUSTICE DEPICTED

This book is published on the occasion of the exhibition

THE ART OF LAW  
Three Centuries of Justice Depicted  
in the Groeningemuseum, Bruges  
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# CONTENTS

9 FOREWORD

10 INTRODUCTION

## I

15 DIVINE JUDGEMENT, WORLDLY JUSTICE

29 CASE STUDY 1.1  
DIVINE JUDGEMENT, MORTAL JUDGES

31 CASE STUDY 1.2  
JUDGING BY EXAMPLE OF THE DIVINE JUDGE

## II

39 EXEMPLA IUSTITIAE:  
INSPIRING EXAMPLES

57 CASE STUDY 2.1  
THRONUS IUSTITIAE:  
DIVINE JUSTICE ON EARTH

61 CASE STUDY 2.2  
WILLIAM OF ORANGE  
AS CAPTAIN OF WISDOM

65 CASE STUDY 2.3  
TOMYRIS' BLOODY REVENGE

69 CASE STUDY 2.4  
AHASUERUS IN BRUGES

71 CASE STUDY 2.5  
TRANSLUCENT EXEMPLA

### III

- 81 THE SKIN OF THE JUDGE:  
THE JUDGEMENT OF CAMBYSES
- 93 CASE STUDY 3.1  
AN ILLUMINATED EXAMPLE
- 97 CASE STUDY 3.2  
THE POPULARITY OF THE FATHER'S SKIN:  
CAMBYSES AFTER GERARD DAVID

### IV

- 107 JOOS DE DAMHOUDER,  
AN INTERNATIONALLY INFLUENTIAL JURIST FROM BRUGES
- 121 CASE STUDY 4.1  
THE MAGISTRATES' CHAMBER  
IN THE LIBERTY OF BRUGES
- 125 CASE STUDY 4.2  
EXECUTION ON BURG SQUARE
- 127 CASE STUDY 4.3  
MAKING A GOOD FIST  
OF EARLY MODERN CRIMINAL LAW
- 133 CASE STUDY 4.4  
GREEDY LAWYERS AND  
COURTROOM MONSTERS

### V

- 139 JUSTITIA, THE CARDINAL VIRTUE  
THAT BECAME A POLITICAL IDEAL
- 154 CASE STUDY 5.1  
JUSTICE AND GOOD GOVERNANCE

159	CASE STUDY 5.2 BALANCED JUDGEMENT, JUDGEMENT IN THE BALANCE
163	CASE STUDY 5.3 THE SWORD, BETWEEN SYMBOL AND JUDICIAL PRACTICE
167	CASE STUDY 5.4 JUSTITIA VANQUISHES THE SEVEN DEADLY SINS
171	CASE STUDY 5.5 JUSTITIA BETWEEN CRITICISM AND PRACTICE
173	CASE STUDY 5.6 THE SEVEN VIRTUES AND SINS IN LILLE'S ALLEGORY OF TRUTH AND JUSTICE
179	CASE STUDY 5.7 DÜRER'S IMPACT ON THE ICONOGRAPHY OF JUSTICE
183	CASE STUDY 5.8 RHETORIC AS A VEHICLE FOR JUSTICE ON EARTH
187	CASE STUDY 5.9 A WORLD OFF BALANCE...
191	CASE STUDY 5.10 QUEEN JUSTITIA
194	ART WORKS IN THE EXHIBITION
202	REFERENCES



# FOREWORD

The Groeningemuseum regularly seeks to offer visitors new perspectives by way of its temporary exhibitions. The major exhibition slated for autumn 2016, *The Art of Law. Three centuries of justice depicted*, places well-known works of art such as Gerard David's *Het oordeel van Cambyses* ('Cambyses' Judgement') in a new cultural-historical context, alongside works that are perhaps lesser known. The paintings, prints and drawings, manuscripts and artefacts in this exhibition are not just approached from an art-historical perspective in that their original function is brought to the fore, by which they are to be seen within the context of law and justice.

The initial aim was to present to the general public an overview of the sheer amount and diversity of cultural heritage material reflecting the history of law in Bruges and environs, and to provide explanations of the function and significance of this material. Using Bruges' own collections as the point of departure, augmented with several items on loan from elsewhere, we originally envisaged an exhibition that would prove popular with the regional public thanks to its unusual perspective and depth. However, it soon grew into a much larger project. While preparing for the exhibition, curators Vanessa Paumen and Tine Van Poucke found that there was widespread, and international, interest in the theme, prompting them to decide to significantly increase the scale of the project. Loan requests yielded such positive responses that the curators' suspicions were confirmed — interest in the subject of law and justice in art was indeed widespread.

We are therefore enormously grateful to all those museums, local councils and private collectors who have lent us works from their collections, which include a number of major pieces. Each artwork was presented in a professional, carefully considered manner by PK Projects in order to do justice to each piece, while Lannoo Publishers,

who coordinated the compilation of the catalogue, showed great enthusiasm for the subject. A conscious choice was made not to 'sensationalise' the subject. As such, the exhibition seeks to highlight the history and development of the legal system within the Low Countries and some of its institutions, rather than emphasising medieval torture practices or the methods of the Inquisition, which were, in part, the subject of the major recent exhibition 'Bruegel's Witches'. It is worth mentioning in this context that our colleagues in Mechelen are planning a follow-up exhibition on related themes for 2018 (23 March–24 June), an indication of the level of interest in the subject.

Our legal system has come a long way. Not only does *The Art of Law* visualise this growth, it also demonstrates how vulnerable the system and its founding principles can be. The exhibition demonstrates how legal principles came under threat during extreme situations, as well as how throughout history it had its staunch defenders. In that sense, the exhibition may offer hope in difficult times. Justice is an art, and the title *The Art of Law* reflects the duality of this sentiment, namely justice as reflected in art, and justice itself functioning as an art.

Renaat Landuyt  
Mayor of Bruges

Till-Holger Borchert  
Director of Musea Brugge

# INTRODUCTION

One of the first paintings that visitors of the Groeningemuseum encounter is *Het Oordeel van Cambyses* or ‘The Judgement of Cambyses’, one of the most dramatic pieces in the museum’s collection. This impressive diptych was painted by Gerard David in the late 15th century. Its right panel in particular, a detailed depiction of a man being flayed alive, not only evokes a sense of astonishment and even repulsion for viewers, but certainly raises a few questions. For the museum’s permanent collection, the painting is presented within the context of pieces commissioned by the Bruges authorities, alongside other subjects such as the Last Judgement. The question that presents itself is: what else do these works have in common? Why did 15th- and 16th-century town magistrates consign such paintings? These days it is hard to imagine local authorities commissioning such scenes from contemporary artists to decorate town halls.

The exhibition *The Art of Law* aims to highlight these and other law and justice-related works of art, presenting an overview of depictions of the theme of justice in its many forms during the *ancien régime*. To this end, the museum has brought together artworks related to law and justice from collections across the Bruges museums (the Groeningemuseum, the Gruuthusemuseum, the Brugse Vrije or Liberty of Bruges, and the Public Library) as well as relevant pieces from collections inside and outside Belgium. The works display the rich variety in terms of themes and media used during the period between ca 1450 and 1750. Not only paintings, but also stained-glass windows and prints and drawings were used to depict scenes of justice, as well as illustrations in manuscripts and early-printed books, and objects made of copper, silver and wood.

For *The Art of Law*, some remarkable pieces have been brought to the Groeningemuseum, including ones that have never, or rarely, been displayed

in a museum setting. Thanks to the Maastricht authorities in the Netherlands, the *Last Judgement*, painted for the city at the end of the 15th century, is on display in a museum for this first time. A fascinating painting from Geraardsbergen town hall in Belgium, calling to mind the style of Hieronymus Bosch, will be taking pride of place alongside other works commissioned by town magistrates during the 15th and 16th centuries. The cities of Wesel (Germany) and Graz (Austria) each contributed important pieces from their collection, while from the Hanseatic city of Gdańsk in Poland comes one of seven pieces painted by Hans Vredeman de Vries for its city hall and which is still housed in its original location. Contributions from private collections consist of five fascinating stained-glass windows from Germany, several rare illustrated legal books, and a painting by Hans Vredeman de Vries. A work by Colijn de Coter, one of the so-called Flemish Primitives from the milieu of Rogier van der Weyden, briefly returns to the Low Countries from a semi-private collection in the United States. In addition, there are numerous valuable prints, drawings and objects from Dutch and Belgian collections, in particular from the Rijksmuseum in Amsterdam and the Royal Library of Belgium. The overwhelming positive response to loan requests clearly demonstrates a readiness to take a fresh look at works of art from a different perspective, and that the Groeningemuseum is filling a lacuna with this project.

The fact that law and justice-related art works were often created specifically for public, governmental settings means that many of them are still housed in their original locations. A prime local example is the monumental mantelpiece in the manor house of the Liberty of Bruges, in which the story of Susanna and the elders has been sculpted in alabaster. In addition, there are the paintings that are integrated into the walls of courtrooms as panels, or the statues of Justitia on the façades of governmental and court buildings.



Many such works were simply too large to be displayed in the Groeningemuseum, such as *Het oordeel van Cambyses*, painted in 1671 by Victor Bouquet for Nieuwpoort town hall. Other important works could not be moved for conservation reasons, and where relevant, these have been indicated in the catalogue.

The chapters of the catalogue present an introduction to the theme and offers background information on legal and art-historical aspects. The opening chapter by Professor Georges Martyn from the University of Ghent provides a brief overview of the history of law, with particular attention to its religious underpinning and legitimisation. Chapter 2 is about the stories that were used as *exempla iustitiae*, namely, examples to be followed by judges, during the period covered by the exhibition. Vanessa Paumen, the exhibition's curator and coordinator of the Flemish Research Centre for the Arts of the Burgundian Netherlands, delves into the fascinating work by Gerard David and how the story of King Cambyses was depicted during the 15th and 16th centuries. In his contribution, Emeritus Professor Jos Monballyu from the Catholic University of Leuven talks about the life and work of the Bruges lawyer and author Joos de Damhouder, famous for his lavishly illustrated publications on criminal law. Stefan Huygebaert from the University of Ghent explains how over time the image of a blindfolded Lady Justice with sword and scales developed into today's universal symbol of justice. In addition, the catalogue contains background information on several of the works in this exhibition. These 'case studies' were written by the scientific staff of the Bruges museums and by jurists. The Gdańsk painting, for example, is explained by Professor Alain Wijffels from the Catholic University of Leuven/ FNRS-Université de Lille 2.

While the seeds for the exhibition were sown at the Groeningemuseum, it was only when experts with different perspectives on the theme came together that it grew into a full-fledged project. The synergy between art history and the history of law was only possible thanks to the enthusiasm and dedication of Georges Martyn and Stefan Huygebaert. Equally, the dedication and motivation

shown by intern Elissa Watters from Williams College, Massachusetts, USA during her five-month internship, and intern Matthias Desmet from the University of Ghent have provided valuable contributions to exhibition, catalogue and publicity, while Valerie Ng from the University of Utrecht assisted during the last phase before the opening of the exhibition. Special thanks go out to Sarah Theerlynck of Lannoo Publishers and Cedric Verhelst for the design of this beautiful catalogue.

The exhibition will be complemented by a conference in January 2017, at which an international group of experts will present papers on their research into the theme of law and justice in art. We hope that the exhibition, the catalogue and the conference will stimulate research in the field of the iconography and iconology of law.

Vanessa Paumen  
*Curator Exhibition and Coordinator*

Tine Van Poucke  
*Curator Exhibition and Museum Education*







# DIVINE JUDGEMENT, WORLDLY JUSTICE

Georges Martyn

## CAN JUSTICE BE DISPENSED BY MERE MORTALS?

Throughout history, law and justice have been surrounded by an aura of sacredness. To judge is to exercise power. Therefore, it is crucial that the decisions made by a court of law be recognised by all parties involved. In 19th- and 20th-century courts of law, architecture played a vital role in legitimising authority. With their richly decorated rooms and the impressive robes of the *togati*, these ‘Temples of Themis’ inspired awe. Research into the sociology of law has shown that both the parties involved in a court case and the general public accept a judge’s verdict more readily if the judges and lawyers wear robes throughout the entire process and if it is carried out in a solemn ‘courtly’ setting than if the same arguments were employed by civilians in a plain-clothes office setting. The lavishly decorated architecture of court buildings is rooted in the historical period covered by this exhibition. Art depicting law and justice helped to legitimise the power of the courts, but it also held up a discerning mirror to judges.

According to the the German sociologist and historian Max Weber, in our modern society, power, particularly state power, is rooted in rationalism. Independent judicial power is determined by a Constitution and by laws. These are created by Parliament, which is elected by the people. In the late-medieval period, the legitimisation of judicial power was based on ‘tradition and ‘charisma’, the other two principles the model of state power, rather than on rationalism, and decor and decorum were important contributing factors to the charisma of judicial power. An arguably more important factor, however, was religion. Judges could only decide on the fate of fellow mortals because God allowed them to do so. A day in court was opened with a prayer or a mass and God was evoked in the oaths, for an oath is a promise to speak the truth and to act justly before God, who will condemn those who commit perjury to eternal damnation on Judgement Day (CASE STUDY 1.1). It is no coincidence that

ILL. 1

Jan van Brussel, *Dual Justice*

1477 or 1499, oil on panel, 211.5 × 158 cm, Town of Maastricht

the scene of choice depicting justice being done was the Last Judgement — pronouncing judgement was seen primarily as a divine prerogative. A secular judge merely acted out God's will and it is this divine mandate that constituted the charismatic foundations of judicial power.

#### AS IN THE OLD DAYS...

Aside from rationalism and charisma, the other historical foundation of judicial power, tradition, has to do with the main form of law of the *ancien régime*, that is customary law. Rules and institutions were accepted by society simply by virtue of them always having been there, or considered to have been there. If something has grown gradually over time its legitimacy is not questioned.

Both the rules by which society functions and the ways in which law is practised are passed on from generation to generation, and customary law is passed down through practice. In terms of procedures, the court is seen as having a style, or a 'customary' way of doing things. While this varies geographically, different courts share many characteristics. And although these traditions may not change perceptibly in the eyes of those practising them, they gradually adapt themselves to society as it evolves. The main thing to change in the *ancien régime* is that law becomes ever more professional.

#### FROM TREE TO CHURCH PORTICO TO COURT BUILDING

How was law practiced in the past? We know little about how law was practiced in the regions of modern-day Belgium during the first centuries of the Christian Era. Roman authors describe how in those regions the village elders assembled whenever there was a problem. There was no independent judiciary, nor an authority that could enforce a decision once made. It was the community as a whole, represented by the elders, who resolved the problem. The important role of the elders is typical of the traditional form of legitimisation: their long life experience made them wise in the eyes of the rest of the community. There were no written laws, and the rules of law were passed down orally.

Those passing judgement also sought legitimisation of their power through the means of charisma. The Roman observers noted how they would assemble on top of the tallest local hill or near a spring, both sacred places for societies whose religions were based upon the worship of nature. The most common gathering place was under a large ancient tree in the village — year after year it survived the winter, and while generations of people came and went, the millennium-old lime or oak tree endured.

The symbolic link between these trees and law and justice lived on after the arrival of Christianity. Even after the Germanic gods had been replaced by Christ, the significance of the ancient tree persisted in the

minds of people, with its canopy reaching up to heaven, where the Almighty God resides, and its trunk connecting heaven and earth. Both the open air and the tree continued to play a role in the practice of law. For, even after dedicated courtrooms had been created within town halls, the verdict was still often passed in the open air, and when, after hours of torture in a dark, confined space, a suspect confessed to a crime, this confession was not legally valid until it had been confirmed outside. It was only outside that it was deemed to have been made before God in heaven. Executions also took place in the open air.

The symbolic link between the tree and justice survived through the centuries; early-modern courtrooms in town halls were decorated with leaf, flower and tree motifs. The seat of the *baljuw* (in some places also called *meier* or *amman*), the presiding judge who brought a criminal to court and who was responsible for the execution of the punishment, often had a clothe canopy with visual references to a tree canopy. The attribute of this royal representative was a rod, symbol of his judicial power. Court officials often also carried a rod in the execution of their duties. Bailiffs summoning people to appear in court would use them to knock on their doors. It could be a smooth stick, sometimes decorated with a cross (Christian-charismatic legitimisation), a fleur-de-lis or a lion (royal legitimisation) or a hand with three raised fingers (a reference to the Holy Trinity), but often it was a straightforward rustic twig or stick.

A well-known example of a tree of justice in paintings is the representation of the sin of Greed (*Avaritia*) in *The Seven Deadly Sins and the Four Last Things* by Hieronymus Bosch (ILL. 2). A greedy judge, in a red robe and carrying a rod, shares a bench with two other robed judges with whom he forms a tribunal, in the open air and in front of a tree. The corrupt member of the tribunal, depicted with a bulging purse hanging from his belt, is turned towards the person appearing before him, pretending to listen while accepting a bribe from the other party with his left hand, behind his back. The corruption of judges makes frequent appearances in art and literature, such as in the *Laatste Oordeel van Maastricht* (ILL. 1 / CAT. 6) and in *Cambyses' Judgement* (ILL. 37 / CAT. 38 / CHAPTER 3).

The tree of justice was often a place for the execution of sentences as well, with its sturdy branches lending themselves to hangings while convicts could be tied to its trunk for flogging and public humiliation. The gibbet and the pillories in public spaces can therefore be seen as 'descendants' of the ancient tree of justice. Over the centuries, the association between trees and sentencing disappeared, especially in towns and cities. Once churches arose in the hearts of these communities, the process of passing judgement and sentencing took place in church porticoes. Not only did this offer protection from adverse weather conditions, it also reinforced the religious legitimisation of law and justice. Law enforcement now set up shop near or even inside the house of God.

This relocation extended to the execution of sentences, which were often carried out directly outside the church. They ranged from an *amende honorable*, a type of punishment in which one was stripped of one's honour and dignity and which usually involved lighting candles in a church (CASE STUDY 4.3), to corporal punishment. Church doors were painted red as a sign of the power to decide over life and death.

A scene that was often depicted in the tympanum over a church's main entrance is the Last Judgement. Originally purely religious in meaning, its symbolism of heaven and hell, virtue and vice, was perfectly suited to the secular role of the church portico as a venue for law enforcement. It is therefore not surprising that depictions of the Last Judgement were installed in magistrates' courts once proceedings were moved from the church to the town hall.

#### WEALTHY RULERS, LEARNED LAWYERS AND DEVOUT ARTISTS

The scenes of justice brought together for this exhibition are all masterpieces by prominent artists, and only wealthy judicial institutions could afford such art. There were two types.

Firstly, there were the councils of justice, which acted on behalf of the governing noble body and oversaw lower-level institutions. For Flanders, this was the Council of Flanders, the seat of which, barring a few short periods, was located in the medieval castle known as Gravensteen in Ghent. For civil cases this council functioned as court of appeal for the county courts; for criminal cases it passed judgement on such crimes as *lèse-majesté*, counterfeiting and witchcraft. After 1473, within the context of the unification of the Low Countries under the Dukes of Burgundy, an even higher-level institution was created, the Parliament, called *Grote Raad* from 1504. This 'Great Council', based in Mechelen, constituted the Low Countries' Supreme Court.

Lower-level institutions also commissioned paintings depicting scenes of law and justice. From the late-medieval period, the larger cities, having grown into commercial centres, were sufficiently wealthy enough to show off their sumptuous Gothic churches and fine town halls. In fact, there was a veritable competition as to who could sport the most impressive architectural decorations. Not only town councils were involved in this but also regional authorities, such as the Liberty of Bruges — the *Brugse Vrije* was the government of Bruges' rural surroundings — commissioned paintings from renowned artists.

Gradually, both types of institutions tightened their hold over the population. On the orders from the nobility, the highly fragmented ancient customary law with its oral tradition was written down from 1530 onwards, and the key urban centres pounced on the opportunity to impose their laws and regulations on the surrounding villages.

#### ILL. 2

**Detail of the vice *Avaritia* from Hieronymus Bosch, *The Seven Deadly Sins and the Four Last Things***  
Early 16th century, oil on panel, 120 × 150 cm, Madrid, Museo del Prado





Auzicio

Each institution not only strengthened its position of authority (for example, by means of taxes), it also drafted legislation and monitored the lower judiciary. The members of the Public Ministry, who were responsible for monitoring the lower judiciary, are an example of a new professional class arising with the advent of early-modern state formation. These new professionals were ‘learned lawyers’. In early-medieval customary law there were no royal representatives who tracked down, prosecuted and punished criminals. Customary law only had the so-called *taalman* (‘language man’), a specialist with a deep knowledge of customary law who could assist and advise the opposing parties in a case. From the 14th century, the judiciary became increasingly professionalised, with the development of professional classes such as barristers, solicitors, proctors and bailiffs. These were literate people, and for the higher-level offices, a university degree was required. The judiciary process involved more and more paperwork and became ever more expensive.

Who then were these learned men? They were learned by virtue of having acquired their knowledge at a university. Until the foundation of the University of Leuven (Louvain) by the Duke of Burgundy in 1425, men from Flanders and Brabant tended to study in Italy and France. In the Catholic part of the Low Countries, nearly all lawyers obtained their degree in Leuven as well as Douai. Like most universities these had two law faculties: one for *ius civile* or civil (Roman) law and one for *ius canonicum* or ecclesiastical (Canon) law. The teaching method consisted of explaining and critiquing the *Corpus Iuris Civilis* and the *Corpus Iuris Canonici* respectively. The former is the body of laws written down under the sixth-century Byzantine (East Roman) Emperor Justinian; the latter is a collection of texts by popes, councils and church fathers. Students could study for the degree of *licentiatus* or *doctor* in either or both. ‘*J.U.L.*’ and ‘*J.U.D.*’, as seen on the graves of some lawyers (and in their books), stands for ‘*Juris Utriusque Licentiatus*’ and ‘*...Doctor*’ respectively.

Lawyers worked in many different settings and became advisers to lords and other nobility. The discipline developed its own jargon, influenced by Latin, and as the same texts were studied across Europe, a common legal culture arose. Together, Roman and Canon Law formed the *ius commune* or common law of Continental Europe. The works of legal scholars could therefore have cross-border influence. Joos de Damhouder, a jurist from Bruges, for example, became a much-cited authority on the practice of criminal law (CHAPTER 4).

Roman, Justinian law and Canon law take the same view of how the state and the church should be organised: a centralised hierarchical structure in which civil servants (mainly lawyers) play an important role. Incidentally, in the days of Justinian, the Christian Church was the only accepted one. Justinian was a perfect example of the early modern ideal of a ruler striving for absolute sovereignty and using legislation in an attempt to rule ‘by the grace of God’ — a form of charismatic legitimisation.

To Catholic rulers, those who thought differently were perceived as a threat. The 16th century saw large-scale persecution of particularly Protestants and the persecution of witches was at its height around 1600. For these sorts of criminal proceedings, a method known as the Romano-Canonical procedure was employed, and developed by medieval jurists. In civil cases this involved such aspects as serving summons, exchanging arguments and pleading, aspects of the judicial process we are still familiar with today. Criminal cases had an inquisitorial phase, during which a royal representative actively tracked down crimes committed and summoned suspects to appear in court. In an inquisitorial process, the authorities pro-actively went in search of the truth, independent from the role of the victim. The investigations were mostly carried out in secret and the judge had far-reaching authority. As soon as there were any indications of guilt the court could decide to use torture to extract a confession. The rules of evidence of the Romano-Canonical procedure dictate that all forms of evidence (including suspicions, witness testimonies, oaths etc.) have value, but the ultimate form of evidence is the confession. In Flanders, this led to suspects being flogged, literally having the thumbscrews tightened or being fitted with a collar with sharp spikes.

Such bloody criminal law procedure was justified by erudite Christian jurists, although admittedly they stated that following a confession in the torture chamber a suspect should be left to rest for the night so that he or she could repeat the confession the next day without torture and in the open air, before the magistrate and before God.

Even the cruelest forms of execution did not trouble the scholars of the *ius commune*. A harsh sentence, preferably executed on a scaffold in the heart of the community, was considered of great importance. In times of absolute power, punishment was aimed not just at the perpetrator, but equally served as a deterrent for those who may be considering committing a crime. In other words, those who were punished were being made an example of. This deterrent aspect of cruel punishments particularly appealed to Roman law advocates, who based themselves on Books 47 and 48 of the *Digest of the Corpus Iuris Civilis*, which address Justinian criminal law. They are also known as the *libri terribiles*, or 'terrible books', and with good reason. Canon law advocates on the other hand emphasised that punishment should encourage the perpetrator to repent and should motivate him/her to become a more worthy citizen. It was their influence that led to the imposition of pilgrimages as a form of punishment.

At the time when the scenes in this exhibition were carried out, a form of criminal law that was imbued with religion and cruelty was the norm. It is therefore not surprising that these works of art are both manifestly religious and exemplary in nature. Commissioned by judicial institutions to decorate their offices, they were narrative and moralising artistic representations of law and justice, depicting examples of good or bad justice.

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Roselien van Wijngaarden  
Jelle Wils  
Moritz Wullen  
Beate Zumkley

And the lenders who wish to remain anonymous.