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Hung up on Judas: A Case Study on the Pragmatic Usage of Religious Iconography in Legal Manuscripts of the *Institutiones*

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Abstract. This article serves both as survey of illuminated manuscripts of the *Institutiones* and an analysis of the links between the iconography of criminal law and the model of Judas hanged. This investigation is based on the study of all digitalised manuscripts of the *Institutiones*. The corpus is composed of manuscripts ranging from the fifth to fifteenth century, produced all over Europe. The study elucidates how illuminated manuscript boomed during the thirteenth century, with Bologna at its heart. The production continued growing until the fourteenth century, to eventually die down during the fifteenth century. The world of legal manuscript's illumination was Bologna-centric, however, some competitors, namely France and Germany, offered a visual counterpoint to understand this great iconography. When developing iconographic cycles around criminal law, two approaches existed. The approach developed in Northern Italy incorporated the representation of either a decapitation or a presentation of a prisoner. These illuminators created a specific iconography to further a distinctive visual identity within the field of legal manuscripts, whereas the rest of Europe adopted uniformly the image of a hanged man. This form of depiction takes for its model the motif of Judas hanged, heavily linking criminality to religion.

Keywords: Judicial Iconography; Judas; Roman Law; Public Execution; Hanging; Medieval Illumination.

[es] 'Colgados' de Judas: un estudio de caso sobre el uso pragmático de la iconografía religiosa en los manuscritos jurídicos de las *Institutiones*

Resumen. Este artículo sirve a la vez de estudio de los manuscritos iluminados de las *Institutiones* y de análisis de los vínculos entre la iconografía del derecho penal y el modelo de Judas ahorcado. La investigación se basa en el estudio de todos los manuscritos digitalizados de las *Institutiones*. El corpus está compuesto por manuscritos que van del siglo V al XV, producidos en toda Europa. Este estudio ilustra como el manuscrito iluminado tuvo un gran auge durante el siglo XIII, teniendo como eje central Bolonia. La producción continuó creciendo hasta el siglo XIV, para acabar decayendo durante el siglo XV. El mundo de la iluminación de los manuscritos jurídicos estaba centrado en Bolonia, aunque algunos competidores, concretamente Francia y Alemania, ofrecieron un contrapunto visual para entender esta gran iconografía. A la hora de desarrollar los ciclos iconográficos en torno al derecho penal, existían dos enfoques. La visión desarrollada en el norte de Italia incorpora la representación de una decapitación o la presentación de un prisionero. Estos iluminadores crearon una iconografía específica para fomentar una identidad visual distintiva en el ámbito de los manuscritos jurídicos, mientras que el resto de Europa adoptó uniformemente la imagen de un ahorcado. Esta forma de representación toma como modelo el motivo de Judas ahorcado, vinculando fuertemente la criminalidad con la religión.

Palabras clave: Iconografía judicial; Judas; Derecho romano; ejecución pública; ahorcado; iluminación medieval.

Summary: 1. Introduction. 2. The rise of visuality in manuscripts of the *Institutiones*. 3. Competing visual strategies in Europe to create a new legal iconographic cycle. 4. Judas and the iconography of criminal law. 5. Conclusions. 6. Sources and bibliographic references.

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1. Introduction

In 1972, Gero Dolezalek and Hans van de Wouw made the unprecedented effort to catalogue all surviving manuscripts of Roman law produced during the Middle Ages[2]. The authors took great interest in chronology and geography, but they left out any analysis of the visual nature of these manuscripts. Unlike canon law, we lack any survey of the images in medieval manuscripts of Roman law[3]. However, even in studies on canon law, researchers mostly focused on image description rather than analysis. Only much later, the works of Susan L'Engle or Robert Jacob started to investigate what is now called 'judicial iconography'[4], resulting in a renewed interest in images of legal manuscripts[5]. Deemed as only legal, these images have been pigeonholed as part of lay iconography, thus excluding potential links with religious imagery. Such a dichotomy is misleading for the Middle Ages, where lay and religious cultures are often undistinguishable from one another[6]. Even outside of images, historians of medieval justice struggle to reconcile the religious with the judicial[7]. I aim to contribute to the recent academic efforts to bridge them together through legal manuscripts as part of my ongoing investigation in the *imaginaire* of public executions[8]. Thereby, this article provides a survey of the image production in manuscripts of the *Institutiones*, with an analytical focus on the iconography of criminal law and its ties to religion through the motif of Judas hanged.

As part of the *Corpus Iuris Civilis*, the *Institutiones* belong to the ensemble of Roman law. From the thirteenth century, the Roman law corpus served both as a standard for legal practice across Europe, and as the foundation of the law curriculum of medieval students[9]. I focus here on the *Institutiones*, which functioned as an introductory textbook, thus offering an inductive outlook into the relationship between the iconography of criminal law and Christianity. Ranging from the fifth to fifteenth century, I examined every digitalised manuscript of the *Institutiones*, with few consulted in person. This broad chronology serves two purposes. Firstly, it offers a dynamic survey of the presence of images in such manuscripts. In past studies, researchers focused only on illuminated manuscripts, whereas a chronological study encompassing those with and without images informs us about the usage and presence of miniatures[10]. Secondly, this broad chronology provides the necessary spectrum to grasp the rise of criminal law iconography in its visual context. Similarly for the geographic scope, I took the larger European region to appreciate the evolution of manuscript production towards an Italian-centric one by the thirteenth century. Therefore, this corpus comprises manuscripts from Austria, England, France, Germany, Italy, Spain, and Switzerland. I based my corpus on the catalogue of Gero Dolezalek and Hans van de Wouw, with its updated online version from *Manuscripta Juridica*[11].

Within this survey of manuscripts of the *Institutiones*, I demonstrate how non-Italian images representing criminal law are modelled on the motif of Judas hanged. I explore this hypothesis in three sections. First, I review the evolution of legal manuscripts with a focus on the rise of images within the wider visual apparatus mobilised to better the learning experience of law students. Second, I question the models employed by illuminators to create this new judicial iconographic cycle. Informed by these strategies, I take a closer look at the model of Judas in the iconography of criminal law. Plainly, the first section of this paper offers the larger panorama to appreciate the visual strategies made by illuminators who adopt religious models in manuscripts of the *Institutiones*.

2. The rise of visuality in manuscripts of the *Institutiones*

Susan L'Engle investigated Bolognese illuminated manuscripts from 1250 to 1350[12]. In her thesis, she hypothesised on the evolution of the production of those manuscripts, giving the predominance to Northern Italy since

2   Gero Dolezalek and Hans van de Wouw, *Verzeichnis der Handschriften zum römischen Recht bis 1600: Materialsammlung, System und Program für elektronische Datenverarbeitung* (Frankfurt am Main: Max-Planck-Institut für europäische Rechtsgeschichte, 1972).

3   Studies on the images of canon law started as early as 1975. Anthony Melnikas, *The corpus of miniatures in the Manuscripts of Decretum Gratiani* (Rome: Columbus, 1975).

4   This term could also be traced back to historical research of the 20th century in Germany. Although distant from the present research, these academics used the term *rechtsikonographie* to define the images found in legal manuscripts. Gernot Kocher, "Die Rechtsikonographie", in *Sachsenspiegel*, ed. Ruth Schmidt-Wiegand (Berlin: Akademie Verlag, 1995), 107-118.

5   Robert Jacob, *Images de la justice : essai sur l'iconographie judiciaire du Moyen Âge à l'âge classique* (Paris: Léopard d'Or, 1994); Robert Jacob, "Peindre le droit ou l'imaginaire du juriste", in *Le Moyen Âge en lumière: manuscrits enluminés des bibliothèques de France*, ed. Jacques Dalarun (Paris: Fayard, 2002), 223-226; Susan L'Engle, "The Illumination of Legal Manuscripts in Bologna, 1250-1350" (Ph.D., New York University, May 2000).

6   Anita Guerreau-Jalabert, "L'ecclesia médiévale, une institution totale", in *Les tendances actuelles de l'histoire du Moyen Âge en France et en Allemagne*, ed. Jean-Claude Schmitt and Otto Gerhard Oexle (Paris: Publications de la Sorbonne, 2003), 219-226, https://doi.org/10.4000/books.psorbonne.20623.

7   Only very recently historians started to make convincing efforts to understand justice within the religious frame of the Middle Ages. Lidia Luisa Zanetti Domingues, *Confession and Criminal Justice in Late Medieval Italy: Sienna, 1260-1330* (Oxford: Oxford University Press, 2021), https://doi.org/10.1093/oso/9780192844866.001.0001.

8   I use the French term of *imaginaire* to describe a mental landscape. In other words, the *imaginaire* defines the cultural representations that influence social practices. I take my usage of the term from the work of Alessia Trivellone on heresy. Alessia Trivellone, *L'hérétique imaginé : hétérodoxie et iconographie dans l'Occident médiéval de l'époque carolingienne à l'Inquisition* (Turnhout: Brepols, 2009).

9   Peter Clarke, "The Growth of Canon and Civil Law Studies, 1070-1535", in *Illuminating the law: legal manuscripts in Cambridge collections*, ed. Robert Gibbs and Susan L'Engle (London: Harvey Miller, 2001), 22-38.

10   Barbara Morel, *Une iconographie de la répression judiciaire: le châtiment dans l'enluminure en France du XIIIe au XVe siècle* (Paris: Editions du Comité des travaux historiques et scientifiques, 2007).

11   Gero Dolezalek, "Manuscripta Juridica", Max-Planck-Institut für Rechtsgeschichte und Rechtstheorie, July 2012, accessed 2 of May 2020, http://manuscripts.rg.mpg.de/.

12   L'Engle, "The Illumination of Legal Manuscripts".

Date	Place Austria	Belgium	Bohemia	Byzantium	England	France	France or Germany	Germany	Switzerland	Spain	Italy	Italy and England	Total
5th century				1							1		2
9th century								1			3		4
9th to 10th century					1								1
10th century									2				2
11th century											3		3
11th to 12th century											1		1
12th century					1	2					2		5
12th to 13th Century					2						2		4
13th century	1				2	14	1	1			18		37
13th to 14th century					1	2					6		9
14th century		1			1	15					42	1	60
14th to 15th century								1			4		5
15th century			1		1	7					2		11
16th century					2								2
17th century										3			3
Total	1	1	1	1	9	35	1	10	2	3	84	1	149

Table 1. Manuscripts with the production date and place identified.

she narrowed her subject to the climax of the Bolognese craft. Conversely in 2007, Barbara Morel offered a thematic study of images of public executions, in which she included some legal manuscripts. Unfortunately, she paid little attention to the codicological context, underestimating the importance of the manuscript production[13]. I aim to open these boundaries with the present survey of the corpus of the *Institutiones*. Among the two-hundred and eighty manuscripts consulted, only a hundred and forty-nine are dated and located (Tab. 1). Although the corpus comprises manuscripts from the fifth to fifteenth century, the production is not linearly expanding, but it follows three phases. From the fifth to the thirteenth century the production remains low, with a total of twenty-two surviving manuscripts produced all over Europe. But in the thirteenth century alone, thirty-seven known manuscripts were produced. The production almost doubled in the fourteenth century with sixty manuscripts recorded. However, after the fourteenth century the number of manuscripts decreased with eleven of them for the fifteenth century, and just two for the sixteenth century (Tab. 1). Thereby, the production flows discontinuously and correlates with the evolution of the practice and study of those manuscripts.

Date	Place						
	France	France and Britain	Germany	Italy	Italy or France	Unknown	Total
11th to 15th century			1				1
12th to 14th century				1			1
13th century	1		1	2		8	12
13th to 14th century	1			4	1	3	9
14th century	10	1		21		11	43
14th to 15th century				2		1	3
15th century						1	1
Total	12	1	2	30	1	24	70

Table 2. Number of manuscripts with miniatures with the date and place identified.

The twelfth century is marked by a growth of interest in law studies, accompanied by an increase in the professionalisation of teachers[14]. Subsequently, in 1219 Pope Honorius III forbade the study of Roman law in Paris, which caused them to neglect theological studies of which Paris was the capital[15]. With a certain monopoly, Bologna became the heart of civil legal education during the thirteenth century. Bologna standardised the study of Roman law, which then spread across Europe to emerging law universities over the fourteenth century[16]. Professors in Bologna settled on Roman law as the foundation of their curriculum, which greatly impacted its manuscript produc-

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[13] Morel, *Une iconographie de la répression judiciaire*, 17-19.

[14] Sara Menzinger, "Legal Profession", in *A Cultural History of Law in the Middle Ages*, ed. Emanuele Conte and Laurent Mayali (London: Bloomsbury, 2019), 125-139, https://doi.org/10.5040/9781474206617.ch-009.

[15] Jacques Verger, *Culture, enseignement et société en Occident aux XIIe et XIIIe siècles* (Rennes: Presses Universitaires de Rennes, 1999), 122-124.

[16] See this book on the revival of Roman Law: Ennio Cortese, *Il rinascimento giuridico medievale* (Rome: Bulzoni, 1992). See this book on the teaching of law in Bologna: Andrea Padovani, *L'insegnamento del diritto a Bologna nell'età di Dante* (Bologna: Il Mulino, 2021). See this thesis on the spread of law studies, notably here in France: Jacques Verger, "Les universités du Midi de la France à la fin du Moyen Age (vers 1300-vers 1450)" (Ph.D., Université Paris-Sorbonne [Paris IV], 1994).

tion as the demand steadily grew[17]. Furthermore, the *Libris Legales* became stable by the end of the twelfth century, when each text of the Roman law corpus gained an established gloss[18]. The settlement of the corpus furthered its growth in popularity, especially among law students.

Narrowing the analysis to manuscripts with images, the timeline differs slightly from the general one, as it magnifies its trends. Only seventy manuscripts have miniatures among the two-hundred and fifty-one consulted manuscripts (Tab. 2). Prior to the end of the twelfth cen-

tury, there are no manuscripts with miniatures. However, there is a jump during the thirteenth century, with twelve recorded manuscripts. But the fourteenth century has an even more significant rise: the number of illuminated manuscripts almost quadruples with forty-three manuscripts (Tab. 2). The decrease in production is also stronger, as there is only one illuminated manuscript from the fifteenth century, due to the arrival of printing (Tab. 2). Consequently, the fluctuation of the market of manuscripts is amplified for illuminated ones.

Date	Place								
	Bologna	France	France (Centre)	France (North)	France (South)	Italy	Italy Or France	Unknown	Total
13th century		1	1				1	1	4
13th to 14th century						1			1
14th century	4	4	1	1	1		1	1	13
Total	4	5	2	1	1	1	2	2	18

Table 3. Number of manuscripts with miniatures of executions.

Even in the absence of miniatures, most manuscripts still had a visual apparatus that grew in complexity over time. In the fifth century, there are no visual signals nor any gloss. However, by the ninth century, scribes start to include coloured rubrics to differentiate paragraphs, which afterwards became the norm for Roman law manuscripts. The alternance between dark and red ink

allows the reader to have a smoother non-linear reading experience[19]. Importantly, this adjustment in the layout hints at the reading practices: legal manuscripts are not intended for linear reading[20]. Moving towards the tenth century, flourished letters crop up at the beginning of each new book of the *Institutiones* to further enhance the differentiation between passages.

Date	Place				
	Bologna	Italy	France	Unknown	Total
13th century	1				1
13th to 14th century	1				1
14th century	5	1	1	1	8
Total	7	1	1	1	10

Table 4. Number of manuscripts with miniatures of presentation of prisoners.

The eleventh and twelfth century produced the greatest visual adjustments. The gloss starts to be incorporated with the text, reshaping the page layout. Yet, the most remarkable innovation is small drawings, both executed by the maker and the user of the manuscript[21]. The drawings by the user reshaped the manuscript for their personal learning benefit. Furthermore, the initials increased in size, saturating the visual space of the page.

Manicules appeared on the side of the text, along with the personal commentary of the user. Importantly, the commentary of the reader included many visual elements: bubbles to separate, lines to fashion logical links, or more complex analytical trees (Fig. 1).

Essentially, this visual switch roots the layout of the Roman Law manuscripts to facilitate learning, where the user modifies the manuscript by writing in it. This appropriation of the codex takes two forms: the owner writes notes or creates abstract visualisations of logical links between concepts. Therefore, the text changes in its visuality through abstract tools, but during the twelfth century, more figurative elements emerge[22].

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[17]   L'Engle, "The Illumination of Legal Manuscripts", 131-135.
[18]   Osvaldo Cavallar and Julius Krishner, *Jurists and Jurisprudence in Medieval Italy: Texts and Contexts* (Toronto: University of Toronto Press, 2020), 7, https://doi-org.ezp.lib.cam.ac.uk/10.3138/9781487536336.
[19]   L'Engle, "The Illumination of Legal Manuscripts", 62.
[20]   L'Engle, "The Illumination of Legal Manuscripts", 24.
[21]   By the maker and the user, I mean that the illuminators added drawings, but so did the owner of the manuscript who also drew in the margins.

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[22]   In this article, I use the term 'figurative' in the context of its history of art definition. Figurative thus means the intention of representing real things, in opposition to abstract images depicting shapes.

Both manuscript makers and owners add figurative characters in the margins. Consequently, during the twelfth century the visuality of manuscripts shifts. The new learning tools developed by owners and manuscript makers mostly use the abstract to represent concepts. This transition from the abstract to the figurative is fundamental because the abstract drawings inform the nature of the figurative ones. The figurative elements are not symbolic representations of knowledge, but visual cues to aid the reading experience by showing with immediacy the content of a section. Contrary to the text, the immediacy in the figurative nature of an image is essential to learners. When looking at the image, one must instantly comprehend the content of the section, where abstract representations are learning tools.

Figure 1. *Double page with annotations*, Bibliothèque Nationale de France, Paris, Lat. 18229, f. 29v-30r, 12th century. Source: ©Bibliothèque Nationale de France, Gallica. https://gallica.bnf.fr/ark:/12148/btv1b9068486b/f37.item.r=Latin%2018229

Figure 2. *Introductory figure of Justinian*, Amiens, Bibliothèque Municipale, Ms. 352, f. 98r, 13th century. Source: La Bibliothèque virtuelle des manuscrits médiévaux. https://bvmm.irht.cnrs.fr/consult/consult.php?reproductionId=15267

During the thirteenth century, the scarce figurative visuals flourish into miniatures with the development of full iconographic cycles. In early versions, there is only one introductory miniature at the beginning of the text, alluding to the authorship of the text through a depiction of Justinian (Fig. 2). By the middle of the thirteenth century, iconographic cycles expand and the themes for the images stabilise. The iconographic cycle includes four images, each corresponding to the four books of the *Institutiones*. Images signal a change of book by manifesting figuratively the content of the new one. It is in this context that images of criminal law arise, on top of the fourth book to represent the *De obligationibus quae ex delicto nascuntur*[23]. The fourth book tackles civil liabilities, offences, actions, and finally criminal law; it is illustrated sometimes by an image of public executions[24]. Following the development of visuality, the symbolic nature is subordinate to the value of immediacy in the images of manuscripts of the *Institutiones*. Plainly, the figurative miniatures are painted as such to offer a prompt rendering of the book content, rather than a symbolic message. Consequently, the evolution of the visual apparatus in these manuscripts is highly instructive because it reveals the role of both abstract and figurative elements. The importance of the learning experience has been previously explored by Susan L'Engle[25]. Yet, this distinction between the usage of the abstract and the figurative was forgotten. Similarly, Morel excluded the general visual context of images of public executions which prevented her from understanding their purpose and usage, resulting in over-analysis[26].

Looking at the geographic spread of manuscripts, the production changes to accommodate the local educational demand and echoes the chronology. Before the thirteenth century, manuscripts were produced everywhere. However, the revival of Roman law in Bologna shifted the paradigm, where most manuscripts either came from Bologna or France. The jump of the fourteenth century establishes Bologna as the hub of production, with forty-two manuscripts recorded, against a stagnant fourteen from France (Tab. 1). By the end of the fourteenth century, Bologna loses power following the expulsion of the Ghibelline Lambertazzi by the Guelph Geremei, after which the university fell into a series of revolts, running the risk of becoming depopulated[27]. Subsequently, the manuscripts scatter again geographically, with some from Germany, France, Bohemia, and Italy (Tab. 1). Production centres multiply along with the schools, particularly in France with Toulouse and Montpellier, reflecting the gained inde-

23 Joseph A.C. Thomas, *The Institutes of Justinian: text, translation, and commentary* (Cape Town: Juta, 1975), 258.

24 Criminal law is properly discussed in the last two books of the *Digestum Novum*. Andrew Linott, "15 Crime and Punishment", in *The Cambridge Companion to Roman Law*, ed. David Johnston (Cambridge: Cambridge University Press, 2015), 301-331, https://doi.org/10.1017/CCO9781139034401.020.

25 Susan L'Engle, "The Pro-Active Reader: Learning to Learn the Law", in *Medieval manuscripts, their makers and users: A special issue of Viator in Honor of Richard and Mary Rouse*, ed. Christopher Baswell, (Turnhout: Brepols, 2011), 51-65.

26 Morel, *Une iconographie de la répression judiciaire*, 13-31.

27 Padovani, *L'insegnamento del diritto*, 19-23.

pendence of legal universities from the Bolognese standards[28].

Like the chronology, the geography of manuscripts with miniatures reflects this trend. Between the thirteenth and fourteenth century, illuminated manuscripts are almost exclusively produced in either Italy or France. Bologna is the heart of the Italian production with eleven illuminated manuscripts. However, the wider Italian region is also prolific, with a total of thirty manuscripts (Tab. 2). In this fierce market, France is the only noticeable competitor, with a total of twelve manuscripts. Although less extensive, the manuscript production in France was more distributed among the North, the South, and the Centre. These regions stand out because of their respective universities. For example, the importance of the university of Montpellier created a need in the South for a local production[29].

Therefore, some manuscripts were locally produced, with help from local universities in accord with manuscript crafters. However, the popularity of Bolognese manuscripts manifested in the spread of their presence in European libraries. Stelling-Michaud researched this manuscript diaspora. Importantly, the movement was mostly from Bologna to the rest of Europe, rather than the contrary[30]. Nevertheless, there are few examples of manuscripts produced in France arriving in Bologna[31]. The balance remains, Bologna exported consequential amounts of manuscripts all over Europe. As Stelling-Michaud acutely remarks, these manuscripts remain today in European collections because their owners kept them, rather than reselling them[32].

3. Competing visual strategies in Europe to create a new legal iconographic cycle

As suggested before, the importance of a university impacts the local production of manuscripts, explaining the predominance of Bologna in the production of the *Institutiones*. The prevalence of the Bolognese school

justified the interest of L'Engle in its illuminations. Building on her research, I look also beyond the centre to better our understanding of the norm and margins of the production. Especially since outside of Bologna, religious iconography in legal manuscripts was more prevalent. Here, I take a closer look at the various visual strategies used in Europe to fashion the iconography of criminal law in the *Institutiones*.

Figure 3. *Allegory of justice*, Bibliothèque Municipale, Bordeaux, Ms. 355 (vol. 1), f. 1r, 1325-1343, Bologna. Source: Séléné, Bibliothèque Numérique de Bordeaux. https://selene.bordeaux.fr/notice?id=h%3A%3ABordeauxB NSA_1251&queryId=5c469442-6d5d-489b-9251-941cef

The great centre of manuscript production and illumination for the thirteenth and fourteenth century was Bologna. However, French universities were the second greatest producers of illuminated manuscripts of the *Institutiones*. Far from the dominance of Bologna, there are twelve French illuminated manuscripts, with nine containing full iconographic cycles (Tab. 2, 3, 4). A full iconographic cycle comprises four images, each placed above a book of the *Institutiones*[33]. The first image is a representation of Justinian practicing law, either at trial or talking with jurists. The second image depicts a hunting or fishing scene[34], or both, above the second book on the division of goods. The third image above the third book regarding successions shows a dying man in his bed surrounded by relatives, with sometimes a notary. The image above the fourth book is the essential one

[28] Gianluca Del Monaco, "Illuminated Bolognese legal manuscripts and angevin regnum siciliae: The advocates volumen parvum in Edinburgh (National library of Scotland, advocates Ms 10.1.4 [i])", *Convivium: exchanges and interactions in the arts of Medieval Europe, Byzantium, and the Mediterranean* 5, no. 1 (2018): 158-169, https://doi.org/10.1484/J.CONVI.4.2018031. See the following chapter for the circulation of French manuscripts in the Midi: Maria Alessandra Bilotta, "Nuovi elementi per la storia della produzione e della circolazione dei manoscritti giuridici miniate nel Midi della Francia tra XIII e XIV secolo: alcuni frammenti e manoscritti ritrovati", in *Medieval Europe in Motion. The Circulation of Artists, Images, Patterns and Ideas from the Mediterranean to the Atlantic Coast (6th-15th centuries)*, ed. Maria Alessandra Billotta (Palermo: Officina di Studi Medievali, 2018), 319-392.

[29] Peter Stein and Francis de Zulueta, *The teaching of Roman law in England around 1200* (London: Selden Society, 1900), XLVI.

[30] Sven Stelling-Michaud, "Le transport international des manuscrits juridiques bolonais entre 1265 et 1320", in *Mélanges d'histoire économique et sociale en hommage au professeur Anthony Babel* (Geneva: Université Presses de l'Imprimerie de la Tribune de Genève, 1963), I: 95-127.

[31] Stelling-Michaud, "Le transport international", 110-113.

[32] Sven Stelling-Michaud, *Catalogue des manuscrits juridiques (droit canon et droit romain), de la fin du XIIe au XIVe siècle conserves en Suisse avec 8 planches* (Geneva: Librairie Droz, 1954), 9.

[33] The title of the first book of the *Institutiones* is "*De iustitia et iure*", the second book is "*De rerum divisione*", the third is "*De haereditatibus quae ab intestato deferuntur*", and finally the fourth book is called "*De obligationibus qua ex delicto nascuntur*".

[34] Fishing and hunting iconography within the *Institutiones* is analysed by the following author: Viviana Persi, "L'acquisizione del dominio tramite occupazione. Il rapporto testo-immagine nelle illustrazioni del libro 41, tit. 1 del Digesto e del libro 2, tit. 1 delle Istituzioni di Giustiniano nei manoscritti della BnF (XIII-XIV secolo)", *Clio@ Themis* 21 (2021), https://doi.org/10.35562/cliothemis.1866.

regarding criminal justice. Among the images of the fourth book, almost all non-Italian manuscripts present an execution by hanging (Figs. 5, 6), whereas images from Bologna or Italy depict either an execution by decapitation or a prisoner in front of a judge (Figs. 3, 4)[35]. Non-Italian manuscripts can often be distinguished from Bolognese ones because of this difference in iconography.

Figure 4. *Beheading above 'De obligationibus quae ex delicto nascuntur'*, Bibliothèque Municipale, Bordeaux, Ms. 355 (vol. 1), f. 56r, 1325-1343, Bologna. Source: Séléné, Bibliothèque Numérique de Bordeaux. https://selene. bordeaux.fr/notice?id=h%3A%3ABordeauxBNSA_1251&q ueryId=5c469442-6d5d-489b-9251-941cef192f54&posInSet=3

The miniature of the Ms. 316 of Montpellier is a representative example of the composition of non-Bolognese images (Fig. 5). The composition is divided in three ensembles, the king-judge on the left, the executioner (sometimes with participants) in the centre, and on the right the executed individual. Although one can distinguish three sections, the executed individual is most isolated from the rest. The space he occupies is of a different colour than the other background, and the architectural element of the gallows creates a literal frame around him. Looking at the content itself, the judge on the left raises his hand, whereas the executioner is in the process of his deed. The criminal on the right hangs above the ground between life and death. All individuals are clothed, apart from the executed, who exposes varying levels of nudity (Figs. 5, 6). Most images of hanging in manuscripts of the *Institutiones* share this composition, hence this iconography is stable across codices.

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[35] Among the twelve French manuscripts, the only one that does not have an illumination of a hanging is the manuscript Ott. Lat. 3132, Biblioteca Apostolica Vaticana, Vatican, with an image of a beheading.

Figure 5. *Hanging above 'De obligationibus quae ex delicto nascuntur'*, Montpellier, Bibliothèque Universitaire de Médecine, Ms. 316, f. 51v, 1275-1299, France. © Médiathèque Centrale Emile Zola – Montpellier Méditerranée Métropole. Source: La Bibliothèque virtuelle des manuscrits médiévaux. https://bvmm.irht.cnrs.fr/consult/ consult.php?mode=ecran&reproductionId=8087&VUE_ ID=1263275&panier=false&carouselThere=false&nb Vignettes=4x3&page=2&angle=0&zoom=&tailleReelle=

Figure 6. *Hanging above '*De obligationibus quae ex delicto nascuntur*'*, Orléans, Médiathèque Patrimoine, Ms. 393, f. 68v, 1265-1295, Central France. © Médiathèque d'Orléans. Source: La Bibliothèque virtuelle des manuscrits médiévaux. https://bvmm.irht.cnrs.fr/consult/consult.php?mode= ecran&reproductionId=8985&VUE_ID=1273808&panier= false&carouselThere=false&nbVignettes=4x3&page= 1&angle=0&zoom=&tailleReelle=

As previously mentioned, France and the rest of Europe were not the centre for illuminated legal manuscripts. In early versions of illuminated manuscripts of *Institutiones*, artists were faced with the difficult task of creating a new iconographic cycle, on a subject they mostly did not know as the interest in Roman Law was only growing. Thus, the execution by hanging was chosen to represent criminal law for two reasons. Firstly, the hanging itself is easily integrated into a composition, as it is a motif and not a theme. I use the definition of Baschet to distinguish the two: a theme is a structural

unit with an internal coherence representing a specific scene, whereas a motif is an independent visual element and does not depend on a theme[36]. Namely, a public execution is a theme, where a hanged man is a motif. This contrast between a theme and a motif is the key to understand the iconography of these manuscripts. Because a motif is independent, it can be transferred from one iconographic cycle to another more easily. Furthermore, its versatility allows it to craft new images with pre-existing structures. In this case, the image of criminal law is an adaptation of the one above the first book with the judge enthroned for criminal law. Hence, by taking the base of the first image and adding an element of punishment they signified the criminal dimension.

Secondly, the nature of the motif itself comes from pre-existing iconography, adapted to a new one. Illuminators worked frequently with models to create iconographic cycles[37]. The model behind the hanged man is the suicide of Judas Iscariot[38]. Mathew's gospel dedicated few lines to Judas (27:5)[39], yet his story was the subject of a prolific gloss and iconography during the Middle Ages, with representations dating as early as the fourth century[40]. The iconographic cycle of Judas includes four sections: Judas betraying Jesus; the kiss; the restitution of the prize; and his suicide[41]. The hanging motif of his suicide appears in multiple compositions, from mosaics to illuminated manuscripts[42]. The motif remains fairly constant until the thirteenth century, when the hanging is paired with a disembowelment[43]. Since his hanging was a suicide, the motif usually encompasses elements of infamy. An example of the symbols to illustrate this sin is a tongue protruding out of the mouth, such as in a chapter of a column in the Basilica of Vézelay (Fig. 7). One of the earliest images of a French illumination of *Institutiones* depicts a man with his tongue similarly protruding (Fig. 5). The similarities are also in composition. Indeed, although Judas is recorded as hanging from a tree, he is often pictured as hanging from gallows. This can be

observed in the illumination of the Hungarian Anjou legendary with Judas on the right (Fig. 9). The main difference between these two iconographies resides in the nature of the punishment represented, one is self-inflicted, the second is not. Hence, the hands of Judas are always free (Figs. 7, 9), whereas the criminals of the *Institutiones* always have their hands tied behind their back (Figs. 5, 6).
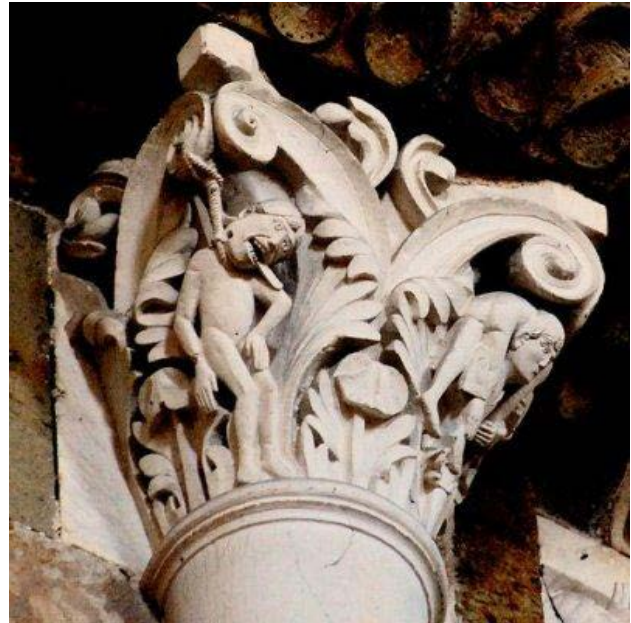

Figure 7. *Judas Hanged*, Vézelay, Basilique de la Madeleine, 1120-1140, France. Source: Utpictura 18. https://utpictura18.univ-amu.fr/notice/6538-chapiteau-suicide-judas-vezelay

The choice of the iconography of Judas is a practical one. Firstly, the hanging of Judas being a motif offers transferability from one iconographic cycle to another, especially since the motif shares visual necessities with the representation of an execution: in images Judas is hanged, often from gallows, with a structure that can be easily adapted since the characters around often ignore him (Fig. 9). I also argue that the choice of Judas grants an immediate understanding for the reader. As demonstrated earlier, the miniatures of the *Institutiones* signal a change of book by indicating the content of the new one. In such, the images had to offer an expressive message to the reader. Present in a diverse range of mediums, the iconography of Judas was popular during the Middle Ages, providing a familiarity to the motif. Therefore, by using a popular motif, the owner of the manuscript could quickly identify the content of the fourth book[44]. The iconographic cycle of French and non-Italian manuscripts is driven by pragmatic needs. Contrary to the Bolognese school, they were not innovators but relied on pre-existing iconographic cycles. Going back to Morel, images of executions can only be

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[36] Jérôme Baschet, "Corpus d'images et analyse sérielle", in *Les images dans l'Occident médiéval*, ed. Jérôme Baschet and Pierre-Olivier Dittmar (Turnhout: Brepols, 2015), 323-324.

[37] Jonathan J.G. Alexander, *Studies in Italian manuscript illumination* (London: The Pindar Press, 2002), 55-64.

[38] L'Engle, "The Illumination of Legal Manuscripts", 180. The author mentions this information only in passing.

[39] Hélène Aversemg, "Un nouveau regard sur la trahison de Judas au XIIe siècle: Li Romanz de Dieu et de sa Mere d'Herman de Valenciennes", *Acta Iassyensia Comparationis* 21, no. 1 (2018): 1-11. The author offers the verse of Matthew (27:5) in French page 2, which would translate in English to "Judas threw the silver coins in the temple, withdrew, and hung himself".

[40] According to Antonella Di Nino, one of the earliest occurrences of this iconographic motif can be found on an early Christian sarcophagus. Unknown, *Servanne Sarcophagus*, ca. 330-370, marble, 60x220x20 cm, Musée de l'Arles Antique, Arles, inv. FAN.92.00.2503. See: Antonella Di Nino, "Judas Iscariot (iconography)", in *Encyclopedia of Ancient Christianity*, ed. Angelo Di Berardino, Joel C. Elowsky, and Thomas C. Oden (Downers Grove: InterVarsity Press, 2014), II: 477

[41] Di Nino, "Judas Iscariot (iconography)", 477.

[42] Di Nino, "Judas Iscariot (iconography)", 477.

[43] Anne Lafran, "Entre ciel et terre : exégèse, symbolique et représentations de la pendaison de Judas Iscariote au Moyen-Age (XIIe-XIVe siècles)" (Ph.D., Université Paris-Sorbonne (Paris IV), 2006), 14.

[44] The identity of the owners of illuminated manuscripts is difficult to trace. However, heavily illuminated manuscripts would have been expensive and not available for most students, but for professors or practising jurists.

related to Christian images, since the illumination process of the Middle Ages functions on models[45].

Going back to Bologna, the imagery developed for the fourth book differs in two points from the rest. In Bolognese manuscripts, executions can be found not only above the fourth book, but also above the first one depicting an allegory of justice (Figs. 3, 4). Furthermore, the fourth book has two variations on the theme, displaying either a presentation of a prisoner or a beheading. The European context of illumination is fundamental to understand the Bolognese production, since it does not exist in a vacuum. A comparison of their production enlightens our comprehension of their iconography. The earliest record of an illuminated manuscript of *Institutiones* depicts both a hanging and a beheading (Fig. 8). Bolognese illuminators faced a similar issue as the rest: they had to create a new iconographic cycle, but they innovated[46]. Both the presentation of the prisoner and the beheading are creative challenges. Contrary to the static hanged man, Bolognese images represent the executioner in movement with their sword or axe above their head (Figs. 3, 4). Depicting a character in such motion is more demanding than an immobile man. Hence, the greater European context of production informs the iconographic choices of Bolognese illuminators. Their will to create a distinctive artistic identity is manifested through a voluntary differentiation from other cycles.

Figure 8. *Hanging and beheading above 'De obligationibus quae ex delicto nascuntur'*, Troyes, Médiathèque Jacques Chirac, Ms. 171, f. 44v, 1250-1274, France. Source: La Bibliothèque virtuelle des manuscrits médiévaux. https://bvmm.irht.cnrs.fr/consult/consult.php

4. Judas and the iconography of criminal law

Illuminators placed images of punishment above the fourth book of the *Institutiones: De obligationibus qua ex delicto nascuntur*[47]. The text itself needs to be evaluated to understand its relationship with images, and the *imagi-*

naire transmitted by them as units. The fourth book is composed of eighteen titles, divided into smaller sections, the book addresses delicts that would mostly fall under civil law[48]. There are descriptions of the responsibility of a judge, defences, or definition of various delicts. Only the final title, 'On public prosecutions', approaches crimes with penalties of capital punishment[49]. Although not mentioned clearly, it is stated that the common method of execution is 'by the sword', meaning by decapitation[50].

Figure 9. *Judas Hanged*, MS M.360.8. Pierpont Morgan Library. Manuscript. M.360.1-26. Hungarian Anjou legendary single leaves. Leaf M.360.8. Bologna, Italy, or Hungary, 1325-1335. Source: ©The Morgan Library & Museum. MS M.360.8. Purchased by J. Pierpont Morgan (1837-1913) in 1909.

The visual discourse has a different tone from the text. The first title of the book defines theft in its varied forms, and the penalties attached to it[51]. The Bolognese images directly reference this section with the presentation of the thief. Similarly, when they represent executions, they show decapitations which are also in accord with the text (Figs. 3, 4). Therefore, Bolognese illuminators differentiate themselves by taking inspiration from the book, whereas non-Italian iconography has nothing to do with the text itself. Although capital punishment is mentioned in the *Institutiones*, there is no discussion of hanging. These images of public executions are modelled after the suicide of Judas. Thus, the discourse presented by the images is not illustrative of the text, but to its broad connotations.

Although this imagery is driven by pragmatic needs, it still had an impact on the reader. The association of the criminal with the figure of Judas is not neutral. Judas was heavily portrayed and discussed during the Middle Ages[52]. Therefore, the users of these manuscripts knew the symbolic meaning attached to Judas. This

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[45] Morel, *Une iconographie de la répression judiciaire*, 13-14.

[46] Susan L'Engle, "Legal Iconography", in *Illuminating the law: legal manuscripts in Cambridge collections*, ed. Robert Gibbs and Susan L'Engle (London: Harvey Miller, 2001), 75-104.

[47] Thomas, *The Institutes of Justinian*, 258-338. One could as well consult an early printed version of the *Institutiones* with the gloss, which updates the Justinian text to the period in which the gloss and the illuminations were produced. See for this version: Jean Chappuis, ed., *Institutiones imperiales cum Casibus longis noviter emendatis in fine operis per ordinem appositis, et cum multis additionibus a precipuis et neothericis doctoribus extractis, et suis locis pro textuum*

et glosarum veritate enucleanda oportune appositis (Lyon: Jacques Huguetan, 1508).

[48] Most of the text discusses matters that would fall under civil law, criminal law is only discussed by the end of the book. Thomas, *The Institutes of Justinian*, 258-331.

[49] Thomas, *The Institutes of Justinian*, 331-338.

[50] Thomas, *The Institutes of Justinian*, 332.

[51] Thomas, *The Institutes of Justinian*, 258-267.

[52] Averseng, "Un nouveau regard sur la trahison de Judas", 1-11.

figure embodies specific sins in Christian thought that informs his infamy. He was a traitor, yet it is his suicide that garners the most attention. Suicide in Christian thought is a sin because it embodies despair. It is sinful to despair because it goes against the theological virtue of hope[53]. Suicide is the ultimate infamous form of death during the Middle Ages. Judas committed suicide by hanging, and by a trickling effect this informed the perception of executions by hanging as shamefully sinful. Almost tautologically, by being hanged or killing yourself you became an associate of Judas the traitor who sinfully despaired[54]. Furthermore, the iconography of Judas hanged developed as a symbol of the 'bad death'. In medieval images, the motif of Judas hanged often accompanies the Christ on the cross. By juxtaposition, a parallel is drawn between the good and the bad death[55]. French compositions of the *Institutiones* are strongly reminiscent of such parallels. The spatial division in these images create an analogy between the good judge and the infamous criminal (Fig 5, 6).

However, one needs to bear in mind that within the medieval frame of mind, suicide is not only a sin but a crime[56]. Thusly, Judas is the epitome of the criminal, as he committed a crime by betraying Jesus, and furthered his crime by another one when he hanged himself. This interpretation of the sins of Judas as crimes can be observed in the commentaries of Pope Gregory the First, "Judas augmented his crime by another one"[57]. Thereby, the usage of Judas as a model in non-Italian miniatures is not necessarily an exportation from purely religious images to a lay environment. Quite the contrary, the medieval iconography of Judas already took some inspiration from judicial practices. As mentioned before, some of the miniatures representing Judas did not show the tree from which he hung but gallows (Fig. 10), thereby appropriating a judicial visual grammar. Hence, it is not surprising to see Judas used as a model for the iconography of criminal justice, since for the Middle Ages he is the essence of the criminal. Importantly, the usage of the motif of Judas also reminds of the great porosity between lay and religious iconography during the Middle Ages, to the point of a false dichotomy. The illuminators express an *imaginaire* of justice proper to the late Middle Ages. By the

function of the immediacy of these images, they transmit to the reader the content discussed in the text. The theme chosen for criminality is punishment, directly correlated to Christian morals. The morality added by the images epitomises the complex interaction between the role of justice in the face of religion. In that regard, medieval manuscripts of the *Institutiones* put in dialogue the legal and religious through images and text.

5. Conclusions

The rise of images among the visual arsenal of the legal manuscripts with the example of the *Institutiones* informs the usage of such images. This survey confirms the importance of the visual context to understand miniatures. These images are not floating objects but belong to manuscripts, inserted as part of a larger visual apparatus. Similarly, the production of these images needs to be understood in a wider context. The iconographic logic of the Bolognese school become clearer in comparison to the European production of images in manuscripts of the *Institutiones*. This observation reinforces the need to have a wider approach to image production, especially since the creative process of medieval illuminators relies so heavily on circulating models. This wider context of analysis also enables us to identify more clearly the position and prevalence of religious discourses presented to and for legal practitioners. The emphasis on punishment itself in the iconography is essential to understand this religious dynamic, as it is largely absent from the text itself. Furthermore, the iconographic choices relate to the local practices of each space. Italian communes used decapitation as the most common method of capital punishment, whereas in France the default way of executing was hanging[58]. This correlation could open a future discussion on the potential usage of iconography to understand legal practices and how they relate to the practitioners themselves who are using the manuscripts. This case of the *Insistutiones* might be isolated, and thus would benefit from a comparative study, a fruitful one would be with the "Dark Book" of the Digest.

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[57] Lafran, "Entre ciel et terre", 211.

[58] For the Italian communes, Zorzi offers a clear typology of the practices from page 184 to 195. Andrea Zorzi, "Le esecuzioni delle condamne a morte a Firenze nel tardo medioevo tra repressione penale e ceremoniale publico", in *Simbolo e realtà della della vita urbana nel tardo medioevo*, ed. by Massimo Miglio and Giuseppe Lombardi (Rome: Vecchiarelli Editore, 1993), 153-253. Claude Gauvard outlines a different typology for France. Claude Gauvard, *Condamner à mort au Moyen Âge : pratiques de la peine capitale en France XIIIe – XVe siècle* (Paris: Presses universitaires de France, 2018).

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