Violence and Murder in Europe

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How Violent Were the Middle Ages?

Medieval Europe boasts a long-standing reputation for brutality and disorder. Nurtured by formative scholars such as Henry Charles Lea and Johan Huizinga, this vision of endemic violence and lawlessness is deeply entrenched in scholarly perceptions of the Middle Ages. In this narrative, violence was a normal part of everyday life in medieval Europe. The scope of that violence is illustrated by two now infamous anecdotes. Fulminating on the pervasive and unrestrained violence of medieval urban life, Barbara Hanawalt explained that a person had a better chance of being murdered in medieval Oxford or London than of dying in an accident.[1] James Given delivered an even more dire warning about life in medieval Europe, remarking that every person, 'if he did not personally witness a murder, knew or knew of someone who had been killed'.[2] This long heritage of hyperbole prompted Marcus Bull to observe that '[v]iolence was everywhere [in the Middle Ages], impinging on many aspects of daily life';[3] while Peter Hoppenbrouwers more recently coined the phrase a 'culture of violence'.[4]

Why medieval Europe was so violent is still a contentious subject. Appropriating theories from psychology, anthropology and sociology, historians have crafted a miscellany of incongruous answers to this question. At

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1 Barbara A. Hanawalt, 'Violent Death in Fourteenth- and Early Fifteenth-Century England', *Comparative Studies in Society and History* 18.3 (1976), 297–320, at 302.
2 J. B. Given, *Society and Homicide in Thirteenth-Century England* (Stanford: Stanford University Press, 1977), p. 40.
3 Marcus Bull, 'Origins', in Jonathan Riley-Smith (ed.), *The Oxford Illustrated History of the Crusades* (Oxford: Oxford University Press, 1995), p. 15.
4 Peter Hoppenbrouwers, 'Vengeance Is Ours? The Involvement of Kin in the Settlement of Cases of Vengeance in Later Medieval Holland', in Isabel Davis, Miriam Müller and Sarah Rees Jones (eds.), *Love, Marriage, and Family Ties in the Later Middle Ages* (Turnhout: Brepols, 2003), pp. 241–75.

one end of the spectrum, we have those who see medieval man as having been stunted in his intellectual growth, lacking basic emotional controls. For example, Marc Bloch described violence as the inexorable outcome of medieval human nature. Medieval man was an unstable creature whose decisions were irrational and impulsive, and 'emotionally insensitive to the spectacle of pain'. Homicide resulted from spontaneous heated exchanges in dense living conditions with no forethought or remorse.[5] J. B. Given's provocative assertion that medieval man was incapable of thinking about the future and thus could not comprehend the consequences of his actions falls much into the same category.[6] Norbert Elias's hypothesis of murder and torture as 'socially permitted pleasure(s)', ultimately forsaken by the elite in favour of more civilised (that is, restrained) behaviours, also ranks highly in its inflammatory analysis of medieval violence.[7]

At the other end of the spectrum, Michel Foucault's *Discipline and Punish* provides a more thoughtful yet narrowly political framework for the ideology that 'might makes right'. He sees violence as an integral part of the process of medieval state building. The growth of monarchy was predicated on a monopoly of violence, intended to subdue destabilising violence with the coercive violence of a centralised state. To this end, the state engaged in a policy of terror, sponsoring public spectacles of violence in which punishment was stamped on the bodies of those who affronted the state in order to foster loyalty and ultimately deter resistance. Even if built on somewhat faulty underpinnings, Foucault's theory continues to garner strong support among historians.[8] Only recently have historians begun chipping away at the foundations of Foucault's compelling proposition. Where Foucault imagined a murderous, tyrannical state whose authority feeds on its subjects' fear, study of extant records reveal instead a state heavily reliant on the voluntary cooperation of a broad base of energetic subjects, which favoured conciliation over compulsion, where violence was most likely to be enacted on purses rather than bodies. Before the fifteenth century, executions were rare and distinctly unspectacular, and subjects were more bloodthirsty than

5 Marc Bloch, *Feudal Society*, trans. L. A. Manyon (London: Routledge & Kegan Paul, 1961), vol. II, p. 411. Published originally in French in 1939.
6 Given, *Society and Homicide*, pp. 191–2. For criticism of this argument, see Trevor Dean, *Crime in Medieval Europe* (London: Longman, 2001), p. 22.
7 Norbert Elias, *The Civilizing Process*, vol. II, *State Formation and Civilization* (Oxford: Oxford University Press, 1982), p. 194. Published in German originally in 1939.
8 See Helen Carrell, 'The Ideology of Punishment in Late Medieval English Towns', *Social History* 34.3 (2009), 301–20, or Katherine Royer, 'The Body in Parts: Reading the Execution Ritual in Late Medieval England', *Historical Reflections* 29.2 (2003), 319–39.

were their kings, complaining loudly when the crown failed to command the violence justice seemingly demanded.

This vision of a callous and savage era is undermined further by the jarring realisation that the medieval records preclude us from accurately measuring rates of violence. Historians who employ the tools of modern criminology, measuring homicide rates as n per 100,000 persons per year in order to compare medieval and modern rates of violence, open themselves up to scathing criticism for a variety of reasons. First, the survival rate of records for the medieval era is spotty at best. Wars, fires and inadequate storage techniques can be blamed for some of the losses. However, at times it is clear that the bureaucrats who created the records saw them as personal possessions and did not deposit them in a central repository as one might expect. Second, we do not have suitably reliable population estimates for the Middle Ages to be able to utilise the statistical formula in any meaningful way.

Third, medieval states did not have the same objectives in mind when creating legal records as do modern authorities; often they do not contain sufficient data to provide appropriate comparisons. For example, medieval case records frequently omit sentencing. Can we comfortably compare medieval indictments with modern sentences? This is especially pertinent when we take into account the cavernous gulf between the theory and the practice of the law. While it was not the state's intention in devising the law, medieval communities regarded indictment as punishment: public pronouncement of one's crimes and time spent in prison awaiting trial was humiliating and financially debilitating, punishment enough for most crimes. Conviction was reserved for repeat offenders whose crimes were deemed egregious and highly antisocial. This distinctly medieval attitude led to a low number of actual convictions. Criminologists today would consider this a sign of systemic failure. In the Middle Ages, few convictions signalled a system functioning according to the needs of the people.

Finally, adding the final straw to our precarious heap, the works of Philippa Maddern and Claude Gauvard (among others) remind us that the legal records upon which these studies are founded cannot be read straightforwardly. Shrewd litigants regularly employed legal fictions, injecting force and arms (*vi et armis*) into indictments to bring a case into the king's jurisdiction, or inflating the number of violent acts to justify a death sentence. More confusing still, the terminology of crime has changed dramatically over time, so that 'rape' in the Middle Ages might better be termed 'elopement' today. Once again, changes of this magnitude make it difficult to compare like

entities. The unavoidable conclusion is that no meaningful statistics about overall levels of violence can be drawn from such dissimilar sources.

Christianity and Violence

Where does the historiography leave us? Thankfully, we do not need to measure violent acts in order to recognise that violence held significant meaning in medieval society and not all violent acts enjoyed equal value. Europeans judged some forms of violence as not only necessary, but also laudable, even pious. Despite Christ's stirring model of absolute pacifism, medieval Christian society preferred to dwell on God's wrath. His was the archetype of principled violence wielded by a righteous authority for the greater good. God's vengeance for a sinful life manifested itself through well-deserved physical suffering: the sexual sinner tormented by leprosy, the usurer afflicted with bubonic plague. Building on Old Testament conceptions of divine justice, sermon stories regularly depicted a ruthless God striking down the sinner with cruel punishments: being thrown into a furnace or incinerated in a house fire. The saints also punished vindictively those who disrespected their eminent status. A lame boy who sought healing from St Thomas Becket but fell asleep atop the martyr's tomb was rebuked with a visitation from the saint himself, cursing him for his insolent behaviour and rejecting his appeal for intercession.[9] A man who laid hands on St Carthach was punished with a ruptured eyeball and ensuing madness.[10] Prayers for intercession also sometimes included requests for violent action. A knight from Gascony praying at the monastery of Sorde around 1100 begged God to help him catch his brother's murderer. His prayers were answered; the fugitive was not only arrested, his face was mutilated, and his hands and feet were cut off, as were his genitals. In thanks for God's assistance, the knight presented his enemy's armour and weapons to the monks of Sorde who accepted them as evidence of a miracle.[11]

Christianity's earthly representatives mirrored the violence of the divine realm. Medieval monks fashioned an identity for themselves as soldiers of Christ engaged in spiritual warfare, fighting demons and the sins they incited.

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9 James C. Robertson, *Materials for the History of Thomas Becket, Archbishop of Canterbury*, Rolls Series 67 (London: Longman, 1876), vol. ii, pp. 61–9 and 74.

10 Máire Johnson, 'Medicine and Miracle: Law Enforcement in the *Lives* of Irish Saints', in Wendy J. Turner and Sara M. Butler (eds.), *Medicine and the Law in the Middle Ages* (Leiden: Brill, 2014), p. 297.

11 Bull, 'Origins', p. 15.

Crusaders were literally holy warriors, taking vows to slaughter the infidel in the name of Christ. Even the parish clergy participated in the violence of warfare when the need arose, as evidenced by the musters of clergy in northern England during the late fourteenth and fifteenth centuries. In compliance with the Fourth Lateran Council's ban on clerical participation in bloodshed, the clergy endeavoured to keep its hands clean. Yet prelates regularly ordered that sinners be whipped in procession around the parish church or marketplace, sentenced bigamous clerics to life in prison with little food or comfort, and sanctioned the torture and execution of recalcitrant heretics, even if the actual burnings at the stake were carried out by the state. The physical church itself was far from the peaceful refuge we might imagine it to be. Churches were prime locations for incarcerating the violent insane, chained in corners or near the tombs of saints in the hopes of a cure, or to await the return of lucidity. Churches also served as sanctuaries for felons who threw themselves upon the mercy of the church, keen to escape the lawful punishment their actions deserved. Indeed, permanent sanctuaries (such as St Martin Le Grand in London) were cities unto themselves, populated chiefly by confessed felons and their families. Given the violence sanctioned by the church, it is no surprise that the taboo against striking a priest, despite an automatic sentence of excommunication (*latae sententiae*), does not seem to have acted as much of a deterrent to angry parishioners.

Christian doctrine justified violence as both necessary and virtuous. The pains of hell and purgatory, celebrated widely in both popular art and literature as an incentive to Christians not to stray from the path, emphasised the cleansing value of violence. Justice in the form of execution, shaming ritual or torture, when enacted by the church or the state, fell neatly in line with this purgative view of violence, removing sin from self and society before it infected others and before redemption was beyond hope. The religious ascetic who tormented the body in order to master the soul perhaps best exemplifies the critical function of violence in pursuit of the ideal Christian kingdom. Renowned German mystic and doctor of the church Henry Suso raised holy self-violence to the level of an art form. For twenty-two years he engaged in ascetic practices, ranging from the proverbial hair-shirt to affixing a life-sized cross to his bare back, with nails hammered into the cross in such a way as to continuously prick his skin, transforming himself into a perpetual physical reminder of Christ's Passion, if somewhat bloodier. Church Fathers and theologians also adopted a militant Christianity. St Augustine composed a theory of just war, in which a legitimate authority, provoked by a just cause, and fighting with the right intent, might take solace

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that killing in war was righteous, not murder demanding atonement.[12] St Thomas Aquinas was even a staunch proponent of the death penalty, seeing the execution of a malefactor as an aid to communal tranquillity and as necessary for the Christian community as the amputation of a festering limb is to an ailing patient. The violence of the early church created a model that pervaded all ranks of society. If disobedience to God was best punished through shows of physical force, then what better way to correct other infractions of the medieval world's highly regimented social hierarchy?

Violence and the Family

St Augustine's formulation of just war theory set the standard for the medieval world's use of violence: violence was legitimate when it was carried out by a figure of authority against a social inferior for the purpose of moral correction. This vision of violence as a tool of the state was easily adaptable to the medieval family. Building on Aristotelian political philosophy, the medieval world understood the family as a microcosm of the state. The state's well-being was tied integrally to the family unit: thus, for the sake of the state, fathers and husbands, as kings in their households, were expected to govern their dependants with a firm hand. Unruly households might lead to a crumbling foundation for the state. With such high stakes, husbands who failed to govern appropriately needed to be publicly disgraced. Judges and juries alike blamed husbands for failing to chastise their wives sufficiently when their wives' behaviour landed them in court.

Homiletic *exempla*, once again, played a key role in the dissemination of a strong masculine ideal, teaching husbands to rely on coercion instead of reason. 'A Roper's False Wife' offers an instructive example of the threatening behaviour sermon stories permitted a husband in the name of moral correction. Fearing rightly that his wife was engaged in an adulterous affair, the roper hired a physician prior to breaking his wife's legs. His goal was to keep her housebound and thus prevent her from continuing to see her lover. When even her crippled state failed to stop the lecherous woman's immoral activities, the roper caught his wife and her lover *in flagrante*, stabbing them through with a knife so that they were fixed to the marriage bed they desecrated with their lust. Rather than arrest the roper for homicide, his

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12 See Chapter 20 in this volume.

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neighbours (and so, too, the priest recounting the story to his rapt parishioners) lauded the man for his swift action and moral integrity.[13]

Justification for violent resolution lay in scripture. As Aquinas instructed, since divine law sanctioned the stoning of an adulteress, a husband who slew his adulterous wife was not committing a sin; he was merely carrying out the dictates of divine law. Admittedly, most medieval states did not enshrine a husband's right to slay his disobedient wife in law. Yet some did. Because of the centrality of the honour code in Mediterranean culture, Italian states were most indulgent in this respect. The constitutions of Sicily, for example, establish a husband's impunity for slaying his wife and her lover if discovered in the act. If revealed by some other means, the law permitted him only to cut off her nose.[14] Elsewhere, even if the law still classified a husband's slaying of his wife as homicide, it was unlikely that judge or jury would convict him if his wife's depraved behaviour incited the killing(s). Moreover, popularly, violent punishments, such as cutting off an adulterous wife's nose, were not only excusable, but were the normal response.

Not only wives but also children needed to be governed vigorously. Youth was not a shield from violence. In the monastic environment, St Benedict argued that 'bold, hard, proud and disobedient characters' should be taught 'by stripes and other bodily punishments', citing the popular proverb 'Beat your son with the rod and you will deliver his soul from death.'[15] St Anselm also advocated the beating of children by parents and teachers as a necessary and pious endeavour, although he reserved the most rigorous discipline for the strongest souls, observing that violence benefits the soul only when one is spiritually ready for it. Given the endorsement of two influential church authorities, it should come as no surprise that historians looking for child abuse in the medieval records have had little success in finding it, implying that what passes for abuse today then was simply a matter of discipline. In the absence of child abuse, Richard Helmholz has found instead a multitude of instances of 'parent abuse', indicating just how deeply the medieval world respected the fourth commandment.

While both church and state recognised the value of a firm hand in maintaining an orderly household and state, violence was not without limits.

13 Joan Young Gregg (ed.), *Devils, Women, and Jews: Reflections of the Other in Medieval Sermon Stories* (Albany: State University of New York Press, 1997), pp. 127–30.

14 Eva Cantarella, 'Homicides of Honor: The Development of Italian Adultery Law over Two Millennia', in David I. Kertzer and Richard P. Saller (eds.), *The Family in Italy: From Antiquity to the Present* (New Haven: Yale University Press, 1991), p. 237.

15 Leonard J. Doyle (ed.), *St. Benedict's Rule for Monasteries* (Collegeville, PA: Liturgical Press, 1948), ch. 2.

While well-meaning discipline was laudatory, abuse fuelled by anger and revenge, especially when enacted in a public space, was evidence of failed masculinity, an inability to govern one's household appropriately. Informal arbitration and/or ritual shaming by family and friends were the two usual solutions to the problem, reminding us that marriage was a much more public institution in the Middle Ages than it is today. Jewish communities in the kingdom of France and the Holy Roman Empire imposed the most stringent limitations on a man's behaviour, advocating corporal punishment for abusive husbands. In Christian society, a woman's right to sue her husband for abuse was greatly constrained. In the north, where coverture held sway, a wife could not sue her husband because, once married, her legal personage merged with his: effectively, a suit against her husband was a suit against herself. More generally, Europeans viewed women as legal minors; as such, the law prohibited a woman from pursuing a suit without the permission and support of her husband as guardian.

At the very least, a husband's right to beat his wife was counterbalanced by a wife's right to seek a judicial separation (*divorcium a mensa et thoro*) from the church on the grounds of cruelty (*saevitia*). A judicial separation authorised a wife to live separately from her husband, although the marital union technically remained intact. The lawyer-pope Innocent III proffered useful advice for determining what constitutes documentable evidence of cruelty. He wrote, 'if a husband were so cruel to his wife that no security would permit her to live with him without fear, the wife would be justified in living separately from her spouse'.[16] Consequently, wives who sued their husbands for a separation typically alleged multiple unsuccessful attempts at homicide. Even so, the church rarely awarded judicial separations on these grounds. With the exception of those cases of adultery mentioned above, husbands did not hold the right to life over their wives. If a man participated in uxoricide, his actions were deemed felonious. Similarly, the Gregorian Decretals limited a father's right to discipline his children 'in a reasonable manner'. Homicide of one's children was not permissible. Even death resulting from parental negligence found its way into the church courts; while the state did not consider neglect a felonious act, the church and the communities in which those parents lived pursued a programme of public humiliation intended to prevent such abuses from recurring. Further, some parents were prepared to

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16 James A. Brundage, 'Domestic Violence in Classical Canon Law', in Richard W. Kaeuper (ed.), *Violence in Medieval Society* (Woodbridge: Boydell, 2000), pp. 183–95, at 189.

launch suits against teachers, priests and neighbours who exercised excessive violence against their children.

Women and Violence

If violence was laudable only when wielded by a figure of authority to preserve the social hierarchy, how did medieval society react when the tables were reversed? Stemming from the ideal that a man is king in his own household, English law categorised homicide of one's husband as petty treason. The same classification applied when a clergyman killed his prelate, or a servant his master. The *ius commune* did not employ this derogatory label. However, the elements of rebellion and betrayal intrinsic to the crime ensured that courts everywhere treated such transgressions as more egregious than mere homicides. Both the church and the medical community expounded a view of women as inherently passive creatures. A physically violent woman was thus unnatural. For that reason, the law punished aggressive women more harshly than it did men. While courts normally sentenced male felons to hanging or decapitation, they condemned female felons to death by fire, drowning or burial alive. Women's remarkably low rate of participation in violent crimes implies that medieval perceptions were sensitive to a reality in gendered behaviours. The records indicate a preponderance of men. Carl Hammer's study of medieval Oxford sees a 6 per cent participation rate by women in homicides.[17] Barbara Hanawalt's study of fourteenth-century England offers a marginally higher figure, with women taking part in 7 per cent of felonious crimes (including non-violent felonies).[18] In France, only 4 per cent of the petitions for royal pardons of serious crime originated with women.[19] Historians have provided two wholly incongruous explanations for the diminished involvement of women in violent crimes. First, the passivity expected of women worked to their benefit. Since medieval society deemed violence a masculine trait, homicide investigations regularly overlooked women associated with the victim as potential suspects. Accordingly, women's actual rates of participation in violent crime were probably much higher than is documented. Second, women are naturally less

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17 Carl I. Hammer, Jr, 'Patterns of Homicide in a Medieval University Town: Fourteenth-Century Oxford', *Past & Present* 78 (1978), 3–23, at 13.

18 Barbara A. Hanawalt, 'Women before the Law: Females as Felons and Prey in Fourteenth-Century England', in D. Kelly Weisberg (ed.), *Women and the Law* (Cambridge, MA: Harvard University Press, 1982), vol. 1, pp. 165–95, at 171.

19 N. Gonthier, 'Délinquantes ou victimes, les femmes dans la société lyonnaise du XVe siècle', *Revue Historique* 271 (1984), 25–46, at 25–6.

violent. Thus, violent crime in the Middle Ages, much as it is today, was primarily a masculine activity.

Expectations of passivity had implications also for sexual violence against women. As Ruth Mazo Karras has observed, the medieval world envisioned sex as an act that a man performed on a woman. Linguistic usage underscored this construction of sex. While today we use intransitive verbs to indicate an act that two people engage in equally ('to have sex', 'to make love'), the medieval world instead employed transitive verbs to express sex as an act that a man (subject) does to a woman (object).[20] Because women were not expected to be active participants in sexual encounters, it was difficult to draw a firm line between consensual and non-consensual sex. From the perspective of a court, the experience remained essentially the same for a woman regardless of her consent. The matter of rape was complicated further by its Roman legacy as a property crime in which the woman's father was the victim. Accordingly, it was not usually the woman's permission that the law required, but that of her male guardian. Law in practice narrowed the scope of the crime even further by placing restrictions on the victim's marital status. In many places, a woman had to be a virgin to cry rape; at the very least, she had to be a woman of honourable reputation. Because a woman's voice carried little weight in the medieval courtroom, the courts expected rape accusations to be sued with the support of a male family member. In Castile, for example, the law permitted only men to initiate a suit; women could not sue their own rapists. As all of these conditions and limitations imply, the medieval courts were not eager to try rapists. Few men stood trial for rape; even fewer were punished. Edward Powell's study of the English Midlands over a thirty-year period in the fifteenth century produced 280 indictments of rape: none of them resulted in a conviction.[21] The records for both Nuremberg and Venice reveal similar results.[22] Much ink has been spilt on the subject of why so few rapists were convicted for their crimes. The general consensus would seem to be that the penalties for rape were too strenuous. Medieval justice was founded on the premise of an 'eye for an

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20 Ruth Mazo Karras, *Sexuality in Medieval Europe: Doing unto Others* (New York: Routledge, 2005), p. 3.
21 Edward Powell, 'Jury Trial at Gaol Delivery in the Late Middle Ages: The Midland Circuit, 1400–1429', in J. S. Cockburn and T. A. Green (eds.), *Twelve Good Men and True: The Criminal Trial Jury in England, 1200–1800* (Princeton: Princeton University Press, 1988), pp. 78–116, at 101.
22 M. K. Schüssler, 'German Crime in the Later Middle Ages: A Statistical Analysis of the Nuremberg Outlawry Books, 1285–1400', *Criminal Justice History* 13 (1992), 1–60, at 22; G. Ruggiero, *The Boundaries of Eros: Sex Crime and Sexuality in Renaissance Venice* (Oxford: Oxford University Press, 1985), pp. 94–6.

eye', and quite simply, judges and jurors did not see death as a fitting punishment for sexual violation. The dismissiveness of a patriarchal society towards sexual violence is encapsulated best in Andreas Capellanus' treatise on courtly love. The cynical chaplain gently reminds his noble reader that true love can exist only between those close in rank. Thus, the nobleman's feelings for the buxom peasant woman are not love but lust, and he should purge his desires by indulging in them whenever a 'suitable spot' arises 'by rough embraces'.[23]

Homicide and Murder

The courts tended towards leniency also in cases of homicide. In late medieval England, acquittal was the norm. Conviction rates for homicide ranged between 12.5 per cent and 21 per cent.[24] On the continent, the figures were much higher. For example, fourteenth-century Milan boasted an 80 per cent conviction rate.[25] Despite the broad disparity in rates, the actual numbers of those punished remained roughly the same. The distinction lay in the law's approach to flight. The vast majority of murderers in the Middle Ages fled the scene immediately after the crime and were never heard from again.[26] The English reacted to flight by outlawing the accused. That is, rather than trying him in his absence, after a series of four unanswered summonses the accused was ousted from the protections of the law. Because of this process, English conviction rates do not include outlaws. Roman law, on the other hand, treated flight as a confession of guilt and proceeded to trial and conviction in the perpetrator's absence, inflating continental conviction rates.

The predominance of flight speaks to the nature of medieval law enforcement. Across Europe, law enforcement was typically communal and unpaid: only some of the Italian city-states enjoyed genuine police forces with salaried officers. For most of those who fled, evading the legal consequences for one's actions entailed moving outside one's home community, either permanently or until tempers cooled and memories faded. Further, a whole host of

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23 Andreas Capellanus, *Andreas Capellanus on Love*, ed. and trans. P. G. Walsh (London: Duckworth, 1982), vol. I, ix, pp. 222–3. See also Chapter 12 in this volume.

24 J. G. Bellamy, *The Criminal Trial in Later Medieval England* (Toronto: University of Toronto Press, 1998), p. 69.

25 Trevor Dean, *Crime in Medieval Europe 1200–1550* (Harlow: Longman, 2001), p. 11.

26 For example, between 1385 and 1429 in Milan, 2,000 of the 3,000 felony suspects fled and were convicted in their absence. Dean, *Crime in Medieval Europe*, p. 10.

'loopholes' existed to escape the death penalty. Throwing oneself on the mercy of the church, a confessed felon might claim sanctuary and then abjure the realm. Affluent felons might also pay their way out of trouble by applying for a pardon or letter of remission; while such an endeavour was costly, it resulted in royal protection from further prosecution. Compensation to the family of the victim, while formally abolished in most places after the thirteenth century, still existed informally and was tolerated by the courts across Europe. Indeed, in Siena, the offender could secure an instrument of peace (*instrumentum pacis*), a notarised document signed by the injured person and his heirs, in which they promise not to seek revenge. A felon might also convince the court that he was a member of a religious order by shaving a tonsure or reading a passage of the Bible. This permitted him to claim *privilegium fori* (in England, benefit of clergy), that is, the right to have his case transferred before an ecclesiastical tribunal where capital punishment was not an option. In England, a confessed felon might also turn approver, negotiating a lesser plea by abandoning his former accomplices. What is relevant here is the simple fact that most homicides in medieval Europe went unpunished. Presumably having murderers wandering freely about in medieval society did little to diminish rates of violence.

For those who stood trial, there was still a good chance of acquittal. In general, medieval men and women did not often see death as a fitting punishment for homicide. Far too many homicides resulted from a 'fair fight'. Such a death was better punished through indictment and time spent in prison awaiting trial than through the death penalty. Moreover, the legal definitions of 'self-defence' would have transformed most reasonable men into cowards; thus the popular imagination supported an expanded version. Conviction was significantly more likely to be the outcome when the crime was premeditated, marked in England by the use of the term 'murder' as opposed to 'homicide'. Homicide convictions in fourteenth-century Venice nicely document this trend: 49 per cent of homicides of passion ended in conviction, while 85 per cent of premeditated murders did.[27]

Most medieval killings were a product of hot blood and close living conditions. However, bloodfeud or vendetta also played a key role, especially in Scandinavian and Mediterranean cultures. The cycle of violence prompted by the obligation to defend one's family honour led to stringent regulation of vendetta by regional law codes. In Iceland, the law permitted licit revenge up

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27 Sarah Rubin Blanshei, 'Excusable Murder: Insanity and Reason in Early Renaissance Venice', *Journal of Social History* 16.1 (1982), 109–19, at 115.

until the time of the next Althing (the parliament). However, the law restricted the targets of revenge to those who actually carried out the offence. If an individual avenged a homicide within the family, he needed the evidence to prove in court that his actions were lawful; otherwise, the avenger would be charged with homicide.[28] The overall impact of rigorous legal control of blood-feud was meaningful. Despite the 'social legitimacy of violence' in Iceland, the ultraviolence of the saga literature does not seem to have been reflected in society.[29] Over the course of the thirteenth and fourteenth centuries, Italian city-states struggled with a variety of legislation in an effort to contain violence to the offender and the victim. A common approach was to pass laws penalising secondary vendetta, that is, the taking of revenge against anyone other than the original aggressor. For example, in Florence, those who engaged in second-ary vendetta, targeting the aggressor's brother or an uncle, found themselves sentenced to decapitation, their property forfeited to the family of the victim.[30] As Trevor Dean explains, penalties against secondary vendetta do not imply that primary vendetta was 'tolerated and sanctioned'. Statutes of Camerino and Spoleto, for example, make it clear that revenge killing of the principal aggressor was punished according to the ordinary penalty for the crime.[31]

In this climate, serial killings were an aberration. Yet, the exploits of Gilles de Rais, a Breton nobleman famed for being one of Joan of Arc's early compa-nions, reminds us that sociopaths are not exclusively a product of the modern world. His 1440 trial at Nantes revealed years of depraved criminal activity, in which he kidnapped and sexually abused over one hundred boys between the ages of 8 and 16, then ruthlessly murdered them, dismembered their corpses, and ordered his servants to bury the remains surreptitiously. Lia Ross has compared Gilles's perverse behaviour to that of Jeffrey Dahmer, one of twentieth-century America's most notorious serial killers, who raped, mur-dered and dismembered sixteen boys and men between 1987 and 1991. In a detailed psychological analysis of Gilles, she explains that '[f]or both killers the victim was a dehumanized, aesthetic object to be collected'.[32] At his trial, Gilles blamed his nature on his upbringing, warning fathers 'to bring children up

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28 William Ian Miller, 'In Defense of Revenge', in Barbara A. Hanawalt and David Wallace (eds.), *Medieval Crime and Social Control* (Minneapolis: University of Minnesota Press, 1999), pp. 70–89, at 77.

29 Hugh Firth, 'Coercion, Vengeance, Feud, and Accommodation: Homicide in Medieval Iceland', *Early Medieval Europe* 20.2 (2012), 139–75, at 154.

30 Trevor Dean, 'Marriage and Mutilation: Vendetta in Late Medieval Italy', *Past & Present* 157 (1997), 3–36, at 7.

31 Ibid., 8–9.

32 Lia B. Ross, 'Deviance in the Late Middle Ages: The Crimes and Punishment of Gilles de Rais', in Albrecht Classen and Connie Scarborough (eds.), *Crime and Punishment in*

strictly, not too delicately dressed or accustomed to idleness'.[33] The various historians who have endeavoured to make sense of Gilles's actions have pointed to the medieval world's rigid social hierarchy that both facilitated dehumanisation and led to abuses of power, particularly among the medieval knightly society where violence was a way of life.[34] Nevertheless, it seems clear that Gilles was in no way typical of medieval criminals.

Of all violent acts, self-killing was the most reprehensible. Stirred by biblical interpretations of Judas's hanging, medieval Christianity identified suicide as an act of despair, in itself a form of apostasy. As a result, the church denied church burial to those individuals who took their own lives. Traditional burial rites for suicides include the punishment and exorcism of the body, indicating that popular ideals linked self-killing to diabolical intervention. In thirteenth-century Lille, the law dictated the body of a female suicide should be burned, while the body of a male suicide was dragged to the gallows and hanged. In Zurich, the law punished the body according to the nature of the suicide's death. Those who died by stabbing had a wooden wedge driven into their skulls; those who drowned were buried in the sand 5 feet from the water's edge; those who leapt to their deaths were buried under a heap of stones with big stones on their head, stomach and feet.[35] In England, not law but custom encouraged the burial of a suicide at the crossroads, with a stake driven through the chest pinning the corpse to the ground. The intention behind this bizarre rite was to prevent the spirit of the dead from re-entering society and wreaking further havoc. If the stake did not imprison the spirit, the crossroads might encourage it to choose the wrong road and thus harass the inhabitants of some other town. While the justification for doing so varied, the property of the dead was typically confiscated into the king's treasury, depriving a suicide's family of future support. In Normandy, and perhaps also England, authorities took it a step further by destroying the property altogether: burning fields, cutting and uprooting vines, felling woods.[36] Normally reserved for treasonous acts, the destruction of the land ensured the utter devastation of the suicide's reputation, and also his family's.

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the Middle Ages and Early Modern Age: Mental-Historical Investigations of Basic Human Problems and Social Response (Berlin: De Gruyter, 2012), pp. 359–402, at 377.

33 Dean, *Crime in Medieval Europe*, p. 21.

34 For a discussion of knightly violence, see Chapter 21 in this volume.

35 Georges Minois, *History of Suicide: Voluntary Death in Western Culture*, trans. Lydia Cochrane (Baltimore: Johns Hopkins University Press, 1999).

36 Alexander Murray, *Suicide in the Middle Ages*, vol II, *The Curse of Self-Murder* (Oxford: Oxford University Press, 2000), p. 57.

Conclusion

While actual rates of violence in the Middle Ages are difficult to calculate, it is clear that fear of violence escalated over the course of the period. The reasons for this are manifold, including among others the entrenchment of a crusading mentality, the development of R. I. Moore's 'a persecuting society', the implementation of the Inquisition by the church and the fear mongering over heresy that accompanied it, as well as a sense of crisis heightened by the Black Death, environmental change, and an almost constant state of war. All of these factors led to a distinct sense that violence was on the rise. As K. B. MacFarlane has observed, in England escalating panic is registered in the 'preambles to statutes, the denunciations of moralists and reformers, and the *ex parte* statements of those engaged in litigation', painting an image of the Middle Ages as one of 'bloodshed and injustice'.[37] The benefits of widespread fear were not lost on late medieval government. Municipalities across Europe grasped the opportunity to expand their powers into the realm of social control, by criminalising a wide variety of social misbehaviours, such as gambling, eavesdropping, scolding and vagrancy, as well as a variety of sexual and moral offences. Monarchies, too, expanded their armoury of weapons to preserve the social order. In France, Claude Gauvard sees late medieval fear as an essential tool employed by ambitious monarchs to justify paternalistic and oppressive legislation, paving the way for the crisis in order of the early modern era.

Bibliographical Essay

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37 K. B. MacFarlane, *The Nobility of Later Medieval England* (Oxford: Oxford University Press, 1973), p. 115.

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