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Representing the Middle Ages: The Insanity Defense in Medieval England

Sara M. Butler

Despite the hard work of many scholars, the Middle Ages continue to be characterized as an era of brutality and irrationality, best characterized in pop culture by Marsellus Wallace’s now infamous statement in the movie *Pulp Fiction*: “I’m gonna git medieval on your ass.”\(^1\) Popular images of this sort are grounded in a long history of scholarly works and owe much to the formative work of Henry Charles Lea (1825-1909) and Johan Huizinga (1872-1945), both of whom imagined a world in which violence and cruelty were built into the very fabric of medieval life.\(^2\) Certainly, we have come a long way since this early historiography. Philippa Maddern’s work, among many others I could cite, reminds us that as violent as the Middle Ages were, medieval violence was not irrational. God’s earthly hierarchy established categories of violence; medieval society upheld righteous violence (that is, violence enacted by appropriate authorities and for the benefit of order), and punished those acts of violence that fell outside this category.

This renewing vision has, nevertheless, not permeated all areas of medieval history, and even legal historians fail to be fully convinced at times. In

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\(^1\) Quentin Tarantino and Roger Avary, “Pulp Fiction,” dir. Quentin Tarantino (USA, 1994).

particular, the historiography of the insanity defense reveals just how powerfully representations of the Middle Ages have tainted our perceptions of an otherwise recognizably coherent system of law. Although the medieval courts developed an insanity defense and provided practical guidance for its application, many today refuse to accept that the courts may have applied it in any rational manner consistent with legal precept. The legal treatises were quite pointed. In discussing the felony of suicide, a crime regularly associated with insanity, the thirteenth-century legal treatise Bracton asks:

And [what] of the deranged, delirious and the mentally retarded? or if one labouring under a high fever drowns himself or kills himself? Quaere whether such a one commits felony de se. It is submitted that he does not, nor do such persons forfeit their inheritance or their chattels, since they are without sense and reason and can no more commit an injuria or a felony than a brute animal, since they are not far removed from brutes... That a madman is not liable is true, unless he acts under pretense of madness while enjoying lucid intervals.³

Bracton is treated by historians to be the authoritative text on the practice of medieval law. Despite the clarity of the instructions in this significant text, in understanding the practice of the law, historians regularly disregard both the categories of the insane and the evidence of insanity, assuming instead that jurors based their decisions entirely on other factors. This is most evident among historians of suicide. Successful defenses of suicides have been chalked up to a wide variety of factors, from compassion for the feelings and fiscal stability of the

families of the dead to fears of the walking dead. Daniel Robinson, the leading historian on the insanity defense, blames instead the Church. He argues that medieval Christianity’s fascination with sin led the courts to adopt a “voluntarist theory of criminal liability” in which “mental disturbance [was] assumed to be of the sinner’s own making.” In Robinson’s outlook, a jury could not possibly declare a person “not guilty by reason of insanity”; even the “not guilty” are still guilty. Robinson’s perspective does not emerge from a vacuum; his thoughts accord well with some ecclesiastical literature from the period. Thomas Aquinas, for example, holds the insane responsible for their actions when insanity is inspired by sin. He “draws an analogy to the state of drunkenness which is willingly entered into, so that a drunken man is responsible for the sins he commits when drunk even though he did not directly and voluntarily approve those particular acts.” Regardless, one needs to recognize that the values and arguments of theologians do not always make their way into the practice of the law. What should be important here is that these moralizing tendencies do not appear in the reliable treatises written by medieval English jurists. The only English treatise to refer to the sinful nature of the mentally ill is The Mirror of Justices, attributed to Andrew Horne. The Mirror notes that only those who were born “fools” were exempt from the taint of sin. This is far from a trustworthy source of English law in practice, however. F.W. Maitland long ago described Th...
Mirror as “interesting but dangerous,” “written by one profoundly dissatisfied with the administration of the law by the king’s judges.”\(^8\) The Mirror makes no practical distinction between ecclesiastical and royal law and draws on mythology, the Bible, and theology to illustrate its points. Thus, as a guide to the practice of the law, The Mirror falls seriously short. At the base of these divergent conclusions lies the simple fact that most historians cannot fathom a medieval jury rationally weighing the same evidence that we today encounter in pleas of insanity and upholding the plea out of an underlying sense that the insane should not be held legally accountable for their actions.

Understanding how the insanity defense functioned in the medieval courts is important: the insanity defense is evidence of a sense of empathy, civility and tolerance that is closely associated with the modern era. Cases of insanity defenses judged according to the guidelines evidenced in legal treatises like Bracton, among others, would be an indication that even in a society characterized by the ubiquity of violence, where the governing powers fought violence with violence, there was room for empathy.\(^9\) With all of this in mind, a fresh look at medieval pleas of insanity is necessary in order to bring to light the modernity (rather than the irrationality) of its use in the medieval courts. This paper will analyze 192 cases of insanity drawn from criminal records, that is, roughly three eyre rolls from each county across England, as well as all extant coroners’ rolls, from the thirteenth and fourteenth centuries. For two counties, York and Essex, representative of both the north and south of England, all records

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\(^9\) See note 12.
of criminal indictment and trial were examined. The goal of this paper is to
demonstrate that medieval jurors, to some extent, seem to have applied many of
the same considerations, as do jurors in today’s courts. Nevertheless, as this
chapter will highlight, distinctions must be made between insane acts. Some
insane acts were viewed in a more modern light than others.

A word of caution, though: it is crucial not to set the bar too high. Even in
today’s courtrooms, much debate has focused on the accountability of criminals
whose mental stability remains questionable. As Janet Colaizzi has observed, “no
rational method exists to this day to discriminate insanity from crime.”

Nevertheless, jurors in modern courtrooms do have a defined sense of clearly
identifiable evidence of mental instability. Modern hallmarks of homicidal
insanity include delusional or paranoid behavior, morbid impulses, and lack of
remorse. How the courts distinguish crime from insanity is dependant upon time
and place. Michael MacDonald’s study of insanity in seventeenth-century
England, for example, observes that jurors recognized insanity by the inability to
name one’s mother and father, taking no pleasure in one’s family, and failing to
acknowledge one’s immediate superiors. In the American 1960s, these
characteristics were more fitting to describe adolescence than madness.

10 For this study the following manuscripts from The Public Record Office at The National
Archives, Kew, Surrey (hereafter, simply “TNA: PRO”) were examined. TNA: PRO JUST 1 (eyre
and assize rolls): Beds. (4, 24, 26), Berks. (36, 40, 44), Bucks. (55, 60, 63, 68B), Cambs. (85, 86,
87, 95), Cornwall (111, 115, 117A, 118), Cumberland (130A, 133, 135), Derby (148, 166), Devon
(175, 176, 181, 184), Dorset (202, 204, 210, 213), Co. Durham (223, 224, 227), Essex (in
entirety), Glocurs. (271, 274, 278), Hants. (775, 780, 784, 787), Hereford (300C, 302, 303), Herts.
(318, 320, 325), Hunts. (341, 343, 345), Kent (361, 369, 371, 374), Lancs. (404, 409), Lancaster
(436, 437, 439), Leics. (455, 457, 461, 464), Lincs. (480, 486, 488, 497), Middlesex (536, 538),
Norfolk (562, 568, 573), Northants. (614B, 623, 635), Northumberland (642, 645, 653), Notts.
(664, 676, 683, 686), Oxon. (700, 701, 705, 707), Rutland (722, 725), Shrops. (736, 737, 739,
748), Somerset (756, 759, 766), Staffs. (802, 803, 806), Suffolk (818, 827), Surrey (864, 872, 876,
878), Sussex (915, 930, 934), Warwick (950, 951A, 956), Westmorland (979, 981, 982, 986),
Wiltts. (996, 998A, 1001, 1005 Pt 2), Worcs. (1021, 1022, 1025), Yorks. (in entirety). TNA: PRO
JUST 2 (coroners’ rolls), in entirety. For Essex and Yorks., all indictment and trial records from

11 Janet Colaizzi, Homicidal Insanity, 1800-1985 (Tuscaloosa: The University of Alabama Press,

12 Colaizzi, “Introduction.”
Furthermore, insanity rarely is put forward today. The sensationalism of cases of homicidal insanity in the media today encourages an exaggerated perception of the frequency of such defenses. In reality, insanity defenses are uncommon: roughly 0.9% of criminal defendants plead insanity; these defenses are upheld even less frequently (0.23%). These statistics are meaningful; it should not be assumed that mercy dominates the modern courts today when, in practice, it is hardly ever sought and even less frequently granted.

*The Medieval Insane and their Jurors*

With only 192 cases drawn from thousands appearing before medieval justices in this sampling of records, it is clear that insanity defenses were not common in the medieval period. Nevertheless, those cases that do appear provide useful evidence for understanding how medieval juries understood mental illness and its relationship with crime. The language of insanity appearing in the records acts as a guide to popular perceptions. While medieval records of criminal indictment were often rigidly structured and formulaic, what is most intriguing about descriptions of criminal insanity in these records is that there was no formula. The absence of a set description implies that the language of insanity found in these records represents jurors attempting, to the best of their ability, to present their own perceptions of a defendant’s culpability.

An analysis of the terminology of insanity in this sampling confirms that modern scholarship has done a grave injustice to medieval awareness of mental disease by assuming that jurors routinely resorted to supernatural causes as an explanation for mental instability. The sources do not once mention God or the Holy Spirit, and even the devil seldom reared his ugly head. Fifteen of the 192 cases (roughly 0.8% of the cases) attributed insanity to diabolical incitement. Conspicuously: almost all devil-related cases are self-killings; thus, instances where royal officials had no opportunity to interrogate the madman and gain a

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better appreciation of his or her state of mind. As it has been suggested in a recent History Compass essay, the appearance of these charges may be best explained by both the nature of the crime and the records. These cases inevitably are found in coroners’ rolls and thus represent the beliefs of fellow villagers, at times even neighbors and family. Why would this group be most inclined to blame the devil? Fellow villagers and neighbors were those jurors most affected by a suicide; certainly, the trauma they felt at the death may well have left them confused and frightened. As we see today, in cases of suicide, family and friends frequently experience an over-riding sense of the incomprehensibility of the act, that it was somehow unpredictable and out of character, and thus not preventable. A common explanation today for these unexplainable acts is to suppose an imbalance in brain chemistry; without science, the medieval world turned instead to the devil.\footnote{14} Thus, the records emphasize the iniquitous and diabolical features of the death: the secretive nature of the crime, noting that it took place by night, when the defendant was all alone (an almost impossible feat for the medieval period),\footnote{15} when the defendant was “taken by demons”\footnote{16} or acting under the “instigation of the devil.”\footnote{17} Keeping with the seriousness of the allegations, there is no impression that determinations of diabolical temptation were made lightly. For example, in 1361, when Agnes of Gayton (Lincs.) hanged herself by a rope in her home, her jurors noted that she did so “not having stable faith, and vexed by a demon, not having memory of, nor faith in, the Lord.”\footnote{18} Given that royal records of felony tend to be somewhat pithy, this description is positively verbose, and speaks to the need to underscore the extreme nature of the circumstances.

\footnote{15} TNA: PRO JUST 2/64, m. 4 (Linc.).
\footnote{16} TNA: PRO JUST 1/683, m. 62d (Nott.).
\footnote{17} TNA: PRO JUST 2/57, m. 12 (Leics.)
\footnote{18} TNA: PRO JUST 2/67, m.23 (Lincs.).
More interesting still, allegations of diabolical intervention may mask a
degree of compassion, giving jurors an easy “out” in those cases where they
wished to exonerate a suicide. In one particularly tragic case, a daughter happened
upon her mother trying to drown herself in the River Severn and jumped in to
save her life. While the mother survived the attempt, the daughter lost her own
life trying to rescue her. Certainly, with the guilt Alice wife of John son of John of
Grenewy disc must have felt, the most compassionate way a jury of her fellow
villagers could have recorded the case was to note that the death of her daughter
occurred while she was acting under the temptation of the devil.¹⁹

These cases of diabolical incitement highlight that allegations of insane
suicides stand out from more typical insanity defenses. If fire and brimstone were
going to influence any jury, or be exploited by a jury, it was more likely going to
be in cases of suicide, deaths that the medieval world found both
incomprehensible and reprehensible. And yet it is worthy of note that even here
there were limits to the paranoia. Jurors might implicate the devil, but they did not
hold the insane accountable out of sin. While Aquinas might speak of the
voluntarily insane, none of the legal sources makes this point.²⁰

Folklore played an even less consequential role in judicial determinations
of insanity than did the devil. Only two cases would seem to have drawn on
folklore in order to explain madness. Semeine son of Henry Thodlef, taken for the
homicide of John son of Robert of Rollesby, is described as having been lunatic,
not of sane mind and “influenced by the crescent moon” when he tried to drown
himself. John son of Robert was one of several men who stepped in to prevent
Semeine from taking his own life; infuriated by his intervention, Semeine then
turned on John, apparently fatally biting him and tearing him to pieces.²¹ Once
again, this is an unusual case; medieval killers, even mad ones, usually fought
with weapons, not teeth. The abnormality of the situation may have led jurors to

¹⁹ TNA: PRO JUST 2/146, m. 5d (Shrops.).
²⁰ See note 13.
²¹ TNA: PRO JUST 3/48, m. 22d (Essex).
seek uncharacteristic means of explaining insanity. Likewise, in a rather unusual case, John of Kearsley’s jury reports that a witch entered John’s home around vespers one evening and attacked him by drawing on the powers of the devil. Apparently, John was driven mad while defending himself; he only recovered his senses after he had killed the witch, at which point he fled to the cathedral at Durham to claim sanctuary.\(^{22}\) It is hard to imagine a more compelling case certain to meet England’s stringent standards for self-defense.\(^{23}\) John was acquitted of the homicide, but his chattels were confiscated for the flight.

The vast majority of the records suggests that medieval jurors understood mental incapacity in a much more refined and thoughtful manner than previous studies have imagined. Jurors employed a wide variety of terms for the insane. Admittedly there is not always a strong sense of how they differentiated between terms, but it is obvious that the medieval criminally insane were manic, not depressed: 56 defendants were described as “frenetic,” “frenzied,” or “having frenzy”; 52 were described as “furious,” “in a fury” or “gripped by fury.” Both variants clearly speak to a manic state of mind and appear almost interchangeable (for example, Adam son of Henry de Wyndull is depicted as having been “frenetic in his fury”).\(^{24}\) Other terms are not as easy to pin down: “lunatic” or “lunacy” is used to describe 13 defendants; some form of “madness” or “insanity” appears 25 times; dementia (\textit{demens} or \textit{amens}) appears 16 times. \textit{Melancholy}, the medieval term for what we would call depression, does not appear even once. The absence of this term is meaningful. There are no medieval Andrea Yateses who calmly drown their children in a fit of depression.\(^{25}\) Medieval murdering mothers are

\(^{22}\) TNA: PRO JUST 1/645, m. 14d (Northumberland)
\(^{24}\) TNA: PRO JUST 1/409, m. 12 (Lancs.).
\(^{25}\) In June of 2001, Andrea Yates, resident of Houston, Texas and mother of five, drowned her children in the bathtub at her home. Although she was originally convicted and sentenced to life in prison, her verdict was overturned by appeal in 2002 on grounds of insanity.
frenzied and furious, not depressed. The absence of this term may well be explained by its implications. Because of the strong ties between melancholy and despair (and thus, rejection of God), a description of melancholy by a grand jury would have summarily condemned the defendant. Such a lack of empathy would seem to undermine the mercy inherent in the defense itself.

The characteristics of the insane described in the records draw attention to the distinctively manic character of medieval madness. Wandering aimlessly, delirium, and suicidal tendencies all appear to have been recognizable traits of the medieval insane. For example, Alice wife of Henry of Warrick was said to have been in a “wild state” in February of 1339 when she ran to the port of Dovegate and threw herself into the River Thames, drowning herself.\(^{26}\) Similarly, in the case of Goda wife of John Attebek, described as being out of her mind and furious, jurors noted that for some time before she slew her two children in 1330, she had been prone to wandering around and running in different directions. The record intimates that Goda’s suicidal urges, in particular, a feature shared with several other criminally insane, foreshadowed the violence later acted out upon her children.\(^{27}\) At least one woman, Leticia daughter of Adam Shank was, quite literally, raving mad. Her raging and scolding of Simon de Maydenbury led him to pluck a rock from the ground and fling it at her, hitting her in the forehead; the injury resulted in her death nine days later (thus, she was not an insane criminal; rather she was one whose insanity led to crime).\(^{28}\)

The disorderly and disruptive nature of the insane is an underlying theme running throughout the records, although only one case actually labels the insane as such. John Eme of Gedney is described as both a lunatic and a “disturber of the peace.” In John Eme’s case, it is entirely possible that jurors had little idea how


\(^{28}\) TNA: PRO JUST 1/635, m. 35d (Northants., 1329-30).
else to classify his inane actions. With ax and knife in hand, he appeared at the home of Robert Eme. In a moment reminiscent of Stephen King's *The Shining*, John hacked through the wall of the house with the ax. Once inside, he struck and killed a dog and then attacked a neighbor who attempted to restrain him. John injured himself in the process and died soon after. Like John, many other criminally insane presented a danger to themselves and others and needed to be restrained. Robert son of Elena of Normanby, who killed both his son and daughter while furious and out of his mind, had to be tied before he could be escorted to prison. William son of John of Chapel, whose furious state caused him to kill his wife while she was praying in the cathedral, also had to be tied by the hands and feet while still in the church in order to detain him. Regrettably, despite efforts to control the insane, several madmen escaped their restraints, only to lash out violently against the first person with whom they came into contact. Thomas Laxman of Fleet, who reportedly had been vexed with dementia for quite some time, broke his chains and pounced upon his sleeping custodian with a hammer, striking him in the head and killing him instantly. Roger Wry of Wainfleet chewed through the ropes tying his hands. Spying Thomas Attehill in the street, Roger struck him with a staff to the head; Thomas died ten days later. Those who did not manage to escape turned their anger inwards, harming themselves. A graphic case of prison death recounts the tale of John Rave imprisoned at the castle of Lincoln for having struck and wounded a man with furious. The injuries inflicted to his feet from thrashing about while in chains caused his feet to putrefy so that they emitted a great stench, eventually leading to

29 TNA: PRO JUST 1/82, m. 11 (Lincs.).
31 TNA: PRO JUST 1/930, m. 23d (Sussex).
32 TNA: PRO JUST 2/67, m. 31 (Lincs.).
33 TNA: PRO JUST 2/67, m. 38 (Lincs.).
his “natural death.” All these cases highlight the singularly manic face of medieval madness.

More important still, the records make it clear that jurors saw insanity as an illness. In 1329, when Walter Bunt struck his guardian Leticia Belaw with an iron candlestick in the head, killing her, he did so while suffering from the “infirmity of frenzy.” Isabel wife of William Sherm of Lincolnshire was said to have “an illness called frenzy” when she slew her stepson Thomas in the mid-fourteenth century. Jurors regularly associated insane acts with feverish states. In 1282, when John of Fleet, a cleric, killed one Robert de Hallyhok and wounded Margery Peris, we are told that he was first lying infirm with a fever that grew into the sickness of frenzy. The term “feverish” appears so recurrently as a description in these cases that it would seem to be synonymous with “frenzied” or “furious.” In other cases, poor health is thought to have driven the diseased mad. For example, Adam of Whitehall of Devonshire’s jurors observed that he had been rendered non compos mentis by a disease in 1281 when he stabbed a chaplain with a knife in the belly. These are not exceptional cases. At least 64 of the 192 cases report juries who linked mental instability overtly with illness.

It is significant also that the language of the legal treatises appears in the records. Adam of Whitehall is not the only defendant described as non compos mentis. There are at least 10 others. Another 35 were described as having been “out of their mind” or “not of sane mind.” Two cases, in particular, make it clear that jurors were heedful of the legal reasoning behind the insanity defense when drawing their conclusions. In 1365, when William son of Thomas de Below the elder took his own life by drowning himself in a well, he was said to have been sick with a disease called frenzy so that he had no discretion between good and

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34 TNA: PRO JUST 2/67, m. 49 (Lincs.).
35 TNA: PRO JUST 1/635, m. 38 (Northants.).
36 TNA: PRO JUST 2/69, m. 7d (Lincs.).
37 TNA: PRO JUST 2/107, m. 6 (Northants.).
38 TNA: PRO JUST 1/184, m. 11d (Devon).
Similarly, when Alice wife of Reginald of Tibthorpe strangled her daughter Agnes, she was said to have been vexed with the illness of dementia so that she was lacking all sense and human reason for some time before the act. She, too, had no sense of discretion between good and evil.

Jurors also demonstrate an awareness of the categories of insanity spelled out in the English legal treatises. Bracton, Britton, and Fleta all emphasize that accountability was tied to the chronology of the illness. The treatises differentiate between the defendant who was born senseless and one who became senseless later in life (distinguished usually by the terms “idiot” versus “lunatic”); and in the case of those who became senseless, whether or not that was a permanent state, or one broken up by lucid intervals. Obviously, a crime carried out during a moment of lucidity carried a different weight than the actions of a madman. Presumably, jurors had these directives in mind when they took it upon themselves to probe into the onset and duration of the defendant’s insanity. Most often, the records lack the kind of meticulousness preferred today. For example, Richard of Burton of Ricall in Yorkshire, was non compositus mentis for “a long time” before he hanged himself in 1370. So, too, was Robert Shepherd of Harlesthorpe before he took his own life. Reginald of Birtsmorton also was furious for a long time both before and after he struck and killed a nine-year old boy with a rock. Occasionally one finds a more precise chronology and a jury intent to describe a defendant who evidently was not acting during a moment of lucidity. A London case from the year 1300 observed that Isabella wife of Robert

39 TNA: PRO JUST 2/221, m. (Yorks.).
40 TNA: PRO KB 27/335, m. 17d (Yorks.).
42 TNA: PRO JUST 2/217, m. 41 (Yorks.).
43 TNA: PRO JUST 1/166, m. 32 (Derby).
44 TNA: PRO JUST 1/303, m. 60d (Hereford).
of Pampisford had suffered from frenzy for two years before she hanged herself in the solar.\textsuperscript{45} Philip Scatheman’s jury specifically noted that he was insane at the time he killed his wife Agnes, but also for a long time before and after, and that, before he committed the felony, he engaged in many and diverse insane acts by night and by day.\textsuperscript{46} Richard Sharpe of Maltby’s jury noted that for four years before he killed his wife he was of unsound mind, sometimes for much time at length, sometimes for less. But for the two months before he killed his wife he was lacking and deprived of his senses. This state continued during the deed and for a month after it so that he remained \textit{non compos mentis} the entire time.\textsuperscript{47} Particulars concerning the duration of a defendant’s insanity were not included only to build an argument for a pardon. Rather, these details were necessary in order to classify the nature of the offense (that is, whether it was a simple or excusable homicide). Cases like these illustrate a jury keenly aware of the responsibility set before them and determined to live up to the expectations of the law.

What is perhaps most puzzling are those cases where jurors declare a defendant both insane and felonious. For example, the Wiltshire eyre of 1281 describes Thomas Lok as having frenzy when he stabbed himself; and yet, jurors described his act as a felony.\textsuperscript{48} Alice of Wardington was ill with frenzy in 1329 when she hanged herself in her home at Coleworth in Norfolkshire; she, too, was a felon.\textsuperscript{49} These two are not alone. In fact, 40 per cent of insane self-killings were also described as felonious. This enigma is one that has been addressed elsewhere at some length in studies on self-killings.\textsuperscript{50} This current study adopts a broader definition of insanity, which reveals that this phenomenon applied strictly to cases of suicide. This seeming contradiction in sentencing is not evidence of an ill-

\textsuperscript{45} Sharpe, \textit{Calendar of Coroner’s Rolls of the City of London}, pp. 36-7.
\textsuperscript{46} TNA: PRO JUST 3/48, m. 20 (Yorks.).
\textsuperscript{47} TNA: PRO JUST 3/74/3, m. 13 (Yorks.); \textit{Calendar of Patent Rolls, Edward II}, vol. 1, p. 431.
\textsuperscript{48} TNA: PRO JUST 1/1005, PT. 2, m. 138d (Wilts.).
\textsuperscript{49} TNA: PRO JUST 1/635, m. 10 (Norf.).
\textsuperscript{50} See Butler, “Degrees of Culpability,” pp. 271-72.
informed or clueless jury. Rather, it mirrors a modern American trend that has witnessed escalating popularity. In 1975, the state of Michigan took the lead in enacting “guilty but mentally ill” (GBMI) provisions, setting an example that at least twenty states have since emulated. A verdict of GBMI is intended to acknowledge those situations when a defendant’s mental illness played a role in a crime without entirely causing it; thus, such a judgment would have been particularly apt for medieval judgments of suicide. Suicide was a crime with many religious, folkloric, economic and social implications. Certainly, for the medieval juror, a verdict of GBMI might have presented a compromise between the many conflicting emotions jurors dealt with when faced with a self-killing.

Despite jurors’ willingness to entertain insanity defenses and submit individual cases to scrutiny, the mad did not appear to receive special treatment while in prison. Of the 66 cases of the insane sent to English jails to await sentencing, the records note 20 deaths (thus, roughly 30 percent). Prisoners often died in medieval English jails. The conditions were damp, murky, and objectionable with little segregation and great expense for basic amenities. Nonetheless, this would still seem to be a high figure. Mental illness, at times, may have been linked also to physical illness, hastening death and raising the rates. It is equally probable that many insane criminals, whose behavior was unsettling and antagonistic, were neglected or maltreated.

Conclusion

Although there is frequently strong evidence for a gap between the theory and the practice of medieval English law, Bracton’s assessment of the culpability of the insane, mentioned above, would seem generally to reflect jurors’

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sentiments in dealing with cases of the insane. Jurors did not obsess on the sinful nature of the insane; nor were their verdicts predictably determined by religious or folkloric perceptions of madness. Rather, medieval jurors associated mental instability with illness. While the scope of madness was much narrower in the medieval courts than modern psychiatry understands it, with medieval jurors exclusively identifying manic behavior as madness, they did have a strong sense of the hallmarks of madness. The medieval mad were disoriented, confused, suicidal, and above all unruly and troublesome. Medieval jurors were also aware of the legal categories of the insane. While they did not frequently employ the language of the law, they were aware of it, and their investigations into the duration and onset of mental illness reveal the hard work of medieval juries attempting to comply with the expectations of the law. Even cases that would seem incongruous with the guidelines set out by Bracton, proclaiming a defendant both mad and guilty, may well be explained in a rational light. Certainly, medieval jurors cannot be faulted for recognizing that some insane were more ill than others. It is also clear that jurors distinguished insane suicides as a separate category of the mentally disturbed. Jurors were both more likely to allege diabolical incitement in cases of insane suicide, and also to hold the insane accountable for their actions.

These observations about the functioning of the insanity defense in medieval England act as a useful reminder to us. These records are not haunted by barbarity, irrationality, or superstition. More important still, while royal courts did employ violence as a deterrent in most felonies, their treatment of the insane suggests that mercy was not foreign to them. Although historians try to be above such popular sentiments, the modern world is swollen with pride over its accomplishments so that there is a tendency to inflate perceptions of “how far we’ve come.” Today’s medievalists must throw off the shackles of the imaginary Middle Ages, and accept that in the real Middle Ages, juries may have been much more enlightened than previously envisioned.
Sara Butler is an Associate Professor of Medieval History at Loyola University New Orleans. She is the author of *The Language of Abuse: Marital Violence in Later Medieval England* and has written extensively on the role of the jury in medieval English courts. Her works encompasses topics such as marital disputes, infanticide, abortion, suicide, and insanity. She was recently awarded the Sutherland Prize by the American Society of Legal Historians for the best article in English legal history.