

render his impact much more palpable. With this imaginative, careful and worthwhile study, Enrico Veneziani prompts us to consider the equal importance of quiet radicals, who work in the interstices of greater upheavals but provide the connective tissue.

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***Pain, Penance, and Protest: Peine Forte et Dure in Medieval England.* By Sara M. Butler. Cambridge: Cambridge University Press, 2022. xiv + 474 pp. \$135.00 cloth.**

The medieval English practice of *peine forte et dure*, imposed on criminal defendants who refused to submit to jury trial, has long presented a conundrum. Legal historians have generally viewed the rise of jury trial and other Angevin legal reforms as a sign of progress and modernity. By contrast, *peine forte et dure* (traditionally defined as the pressing to death by heavy weights), seems a barbaric practice, better suited to a less enlightened age than the thirteenth century. In this book, Sara M. Butler traces the development of *peine forte et dure* by combing through hundreds of plea roll entries and also looking beyond the law to literary and religious sources. The picture that Butler paints of *peine forte et dure* is of an institution that operated quite differently than has been conventionally understood, and that fit in well with medieval traditions of penance and protest.

Early in the book, Butler debunks an old story, dating back to Blackstone, that explained the practice of *peine forte et dure* as an unfortunate misreading of a 1275 statute that had prescribed “*prison forte et dure*” for notorious felons who declined to enter a plea, or “stood mute.” Butler demonstrates that not only was such a misreading unlikely, but that the concepts of “*peine forte et dure*” and “*prison forte et dure*” existed on a continuum, and judges and jailors applied different punishments to different defendants. A typical defendant who stood mute could expect an uncomfortable stay in jail – so-called “hard prison” – but would not necessarily be subjected to pressing of weights (18). Much depended on who the defendant was, how they comported themselves in court, and what they were accused of doing. In addition, it was not the case (as some have thought) that *peine forte et dure* evolved in a straight line from compulsion to capital punishment.

Butler methodically considers the various reasons why medieval Englishmen and women might have chosen to stand mute and suffer *peine forte et dure*. Addressing a common conception, Butler considers it unlikely that defendants stood mute because they were manifestly guilty and sought to avoid the hangman. An indefinite stay in jail under “hard prison” conditions generally meant a slow death by starvation, and death by hanging was quick and relatively painless by comparison. An alternative theory, offered by Blackstone and others, was that defendants stood mute to protect their family’s inheritance and good name. Butler does find some support for this motivation, particularly from the perspective of honor and reputation, but she notes that most defendants who stood mute did not own significant property.

In addition to considering older theories concerning the motivation of defendants, Butler offers a few rationales of her own. First, it is likely that some defendants chose to

stand mute as part of a broader strategy to delay trial, which could include claims of benefit of clergy, attempts to seek a pardon, juror challenges, offers to “turn approver” and testify against accomplices, or, in the case of women, “pleading the belly” (i.e., claiming pregnancy) (302). Standing mute was one way of buying time to explore these other strategies. Knowing that *peine forte et dure* was not necessarily a death sentence helps to clarify these rational strategies.

Perhaps the most interesting motivation offered by Butler, however, is that of protest. Citing to contemporary religious sources, including cycle plays and sermons, Butler shows that “standing mute” was clearly associated with *imitatio Christi* in the medieval English mind (305–306). Just as Christ denied the authority of the tribunals he faced by refusing to directly answer the charges against him, medieval Englishmen and women could use their silence as a form of protest against the expansion of royal jurisdiction. Violent peasant uprisings often failed to change the system, and so the peasantry expressed their dissatisfaction in other ways. Each defendant who chose to stand mute became a martyr of sorts, at least in his or her own mind, and perhaps in the eyes of others as well.

The practice of *peine forte et dure* shared another feature with Christ’s passion: it involved physical suffering. Butler explains how this suffering was viewed very differently at the time than it would be today. Physical pain could offer a path to salvation, one which some saintly minded individuals chose voluntarily. Penance on earth could shorten the hours of penance in Purgatory after death. At least some judges who sent defendants to *peine forte et dure* may have truly believed they were doing those men and women a favor by giving them a chance to atone on earth rather than in the hereafter. The link between pain and penance gives further weight to the argument that standing mute helped the family of the defendant maintain their reputation in the community. Since suffering was regarded as admirable, a defendant who chose the path of pain would earn some respect regardless of his or her crime.

Butler’s compelling book seems destined to become not only the definitive work on *peine forte et dure*, but also a classic of legal history more generally. It is highly recommended for anyone wishing to understand the development of English common law and its relationship with the culture and society that produced it.

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### *Byzantium to China: Religion, History and Culture on the Silk Roads. Studies in Honour of Samuel N. C. Lieu.*

By Gunner B. Mikkelsen and Ken Parry, editors. Texts and Studies in Eastern Christianity, vol. 25. Leiden/Boston: E.J. Brill, 2022. xlv + 650 pp. \$273.00 hardcover.

*Byzantium to China*, a Festschrift comprising thirty-two choice essays by established scholars specializing in the textual, culturo-historical, and religious traditions of the pre-modern Eurasian world, stands as a fitting tribute to Professor Samuel N.C. Lieu in