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The Consolation of Criminals: Clergy and State Dynamics in Eighteenth-Century Geneva

Jennifer Powell McNutt

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Few criminal cases have garnered as much enduring attention and scrutiny as the sixteenth-century execution of Michael Servetus and John Calvin's role in his demise [1]. Scholarly consensus now recognizes that past studies perpetuated interpretations that lacked careful contextualization of church and state jurisdictions in Geneva in 1553 [2] and propagated a fascination with the event beyond its early-modern significance [3]. In the eighteenth century, this fixation with Servetus endured in no small part due to the attention Voltaire drew to the incident with his inflammatory comments about Calvin [4]. Yet, overblown studies of

1 Bruce GORDON's recent biography offers clarifying insight into the Servetus event, Calvin's role, and the relationship between Calvin and Servetus: *Calvin*, 2009, pp. 217-232.

2 The tendency of past scholarship had been to use the Servetus incident as proof of the "theocratic" system of Geneva's government (i.e., clerical domination of the civil sphere), which is widely discounted today. As R. Ward HOLDER so aptly states, the Servetus case "is the single issue upon which many people fasten their dislike of Calvin, seeing in this event the tyranny of Calvin's theocracy in Geneva. To see it so is to fail to understand theology in the sixteenth century, Calvin's role in Geneva, and historical difference" (*Crisis and Renewal: The Era of the Reformations*, Louisville, 2009, p. 161). For the complexity of Calvin's reputation, see Karin MAAG, "Hero or Villain? Interpretations of John Calvin and His Legacy" in *Calvin Theological Journal*, 41 (2006), pp. 222-237.

3 In his critique of past historiography, William NAPHY writes: "Too often spectacular cases were treated outside their historical context and allowed to gain an importance and weight far beyond what they actually deserved; the Servetus case is the best example of this. Servetus is certainly of interest in studying Calvin's theology and later issues about freedom of conscience, but there is no basis for treating the case as though it were as important in the Genevan context as the Ameaux, Trolliet, Berthelier, or the Perrin-Meigret cases" (*Calvin and the Consolidation of the Genevan Reformation*, Louisville, 2003, p. 231). William MONTER was a rare exception to this critique: "[Servetus's] case was a serious one, but not critical in the same way as Bolsec's for the inner history of the Church of Geneva" (*Calvin's Geneva*, New York, London, 1967, p. 132). Additionally, Monter explains that it was Sebastian Castellio's treatise that was the cause for the "immediate notoriety" of the case in Protestant Europe (*ibid.*, p. 84).

4 Voltaire's reoccurring critique of Calvin as intolerant and hypocritical relates to this incident as seen in his *Essai sur les mœurs*. Graham GARGETT explains, "In Calvin's condemnation of Servetus, Voltaire sees the betrayal of all the values which a sincere reformer ought to have defended. The Roman Church was at least consistent in its policy of persecuting heretics, since it considered itself to be infallible, but the Protestant innovation of free examination surely implied that no man could lay claim to a primacy of truth, and that all sincere religious opinions should be tolerated. The affair revealed Calvin as an intolerant coward, lacking even the courage to do his own dirty work" (*Voltaire and Protestantism*, vol. 188, Oxford, 1980, pp. 59-60). This is the principal reason for Voltaire's frequent insistence that the Genevan clergy "n'êtes point calvinistes," which he offers as a compliment to Jacob Vernes (*Voltaire's Correspondence*, ed. Theodore BESTERMAN, vol. 31, 1965, no 6423). Similarly, he writes on 24 December 1757, "Ne soyons ny calvinistes ny papistes, mais frères, mais adorateurs d'un dieu clément et juste. Ce n'est point Calvin qui fit votre religion" (*ibid.*, vol. 32, 1965, no 6835). Voltaire's most inflammatory comment, however, was that Calvin had an "âme atroce" in a letter to N.C. Thieriot on 26 March 1757, which was published in the *Mercure*: Theodore BESTERMAN, *Voltaire*, 3rd ed., Chicago, 1976, p. 360. These comments were then diffused throughout Europe when Jean d'ALEMBERT repeated them in the 1757 publication of the "Genève" article in *L'Encyclopédie*.

the Servetus incident should not inhibit scholarship from exploring the valuable history of criminal care by Geneva's Company of Pastors in cases of civil execution. Such research can provide helpful insight not only into the ways in which the civil and ecclesiastical authorities interacted but also into the emergence and growth of humanitarian concerns within European penal systems. Moreover, evaluating this dynamic is critical for determining the role and function of the clergy in eighteenth-century Genevan society in order to engage effectively with the current historiographical reassessment of religious development in the age of Enlightenment.

Geneva in the Revised Enlightenment Metanarrative

Among Anglophone academics in particular, the history of the Enlightenment era is undergoing a multifaceted revision that relates to secularization theory and modernity. Broadly understood, the theory states that the entrance of modernity ushers in secularization, which is a disenchanting force or *Entzauberung* (i.e., the perception of the world void of divine reference) [5] that bifurcates religion from the public and political spheres (i.e., "privatization") and inevitably leads to the decline of religious authority, influence, and belief within society (i.e., the "autonomization" of the subsystems from religious control) [6]. However, greater attention to the complex and enduring nature of Christian beliefs, influence, and active presence in social and political affairs are being increasingly validated by historical studies [7]. Such work has raised questions of the historical simplicity and even viability of mainline secularization theory. Meanwhile, sociologists have also begun to critique the a-historical nature of the secularization theory [8]. As one study points out, while secularization

> implies historical description, *it is in fact based on almost no historical evidence*. Rather than systematic studies of the *past*, it draws from commonsense generalization about history related to systematic studies of the *present* [9].

This re-examination has had two notable effects. Firstly, revised definitions of secularity have become increasingly intricate, more historically sound, and aligned more closely with pluralism or even "dechristendomization" to better reflect the development

5 Books such as Jane SHAW's *Miracles in Enlightenment England* (New Haven, 2006), challenge this descriptive for the eighteenth century.

6 Karel DOBBELAERE, "Toward an Integrated Perspective of the Processes Related to the Descriptive Concept of Secularization" in *The Secularization Debate*, eds. William H. SWATOS, Jr. and Daniel V.A. OLSON (Lanham, 2000), p.24. Sean O'CATHESAIGH claims that just as the church experienced a "decline" in power within the public sphere, it was also "replaced as arbiter of morals by secular rationalists": "Enlightenment and the Inner Light" in *La vie intellectuelle aux refuges Protestants*, eds. Jens HÄSELER and Antony MCKENNA (Paris, 1999), p.174. Charles TAYLOR sums up the perspective of mainline secularization theory stating, "Modernity brings about secularity, in all its three forms. This causal connection is ineluctable, and mainline secularization theory is concerned to explain why it had to be. Modern civilization cannot but bring about a 'death of God'" (*A Secular Age*, Cambridge (Mass.), 2007, p.21).

7 For an excellent summary of the revisionist movement up until 2003, see Jonathan SHEEHAN's article, "Enlightenment, Religion, and the Enigma of Secularization: A Review Essay" in *The American Historical Review* 108/4 (2003), pp.1061-1080. See also Helena ROSENBLATT's 2006 narrative of the shift: "The Christian Enlightenment" in *Enlightenment, Reawakening and Revolution 1660-1815*, eds. Stewart BROWN and Timothy TACKETT, Cambridge, pp.283-301.

8 Sociologists like Rodney Stark and Peter Berger are among prominent Anglophone scholars today who are challenging secularization theory. Previously one of the primary advocates for the modernity-secularization link in the 1960s and 70s, BERGER now claims, "Most sociologists of religion now agree that this theory has been empirically falsified" ("Religion and the West", in *The National Interest* (Summer 2005), p.112). Sociologists like Steve BRUCE, however, continue to maintain secularization theory: *God is Dead: Secularization in the West*, Oxford, 2002.

9 William H. SWATOS, Jr. and Kevin J. CHRISTIANO, "Secularization Theory: The Course of a Concept", in *The Secularization Debate*, *op.cit.*, p.11. Italics are the authors'. Notably, C. John SOMMERVILLE does not necessarily agree with the *theory* but still insists that "secularization is also a historical fact" ("Stark's Age of Faith Argument and the Secularization of *Things*: A Commentary", in *Sociology of Religion*, 63/3 (2002), p.368).

of western affairs into the twenty-first century[10]. Secondly, with greater attention to the radical side of the Enlightenment, conversely, a de-radicalization of the Enlightenment metanarrative has occurred, which has created room for other types of Enlightenment proponents. Jonathan Israel's formidable work argues that the vocal minority of the "Radical Enlightenment" raised significant atheistic questions that had an impact that went far beyond its numbers. In making this argument, he created categories for distinctive groups within the Enlightenment era of those who offered divergent responses to the shared intellectual questions of the period[11]. Thus, there was also a "Moderate Enlightenment" with its Cartesian, Lockean-Newtonian, Leibnizian and Wolffian affirmations falling somewhere between materialism and orthodoxy[12]. Distinctions within Israel's categories have consequently granted space to Enlightenment thinkers *not* in "campaign against Christianity"[13]; however, Israel's work is still predominately focused on emphasizing the impact of philosophical materialism (i.e., Spinozism and pantheism). In response, David Sorkin's work introduced a third category of Enlightenment thinkers, "The Religious Enlightenment"[14], which has addressed the remaining lacuna of transnational and transconfessional individuals, who sought a harmony of faith and reason[15], toleration to a degree, and who engaged actively in the public sphere[16]. In the end, Sorkin convincingly argues,

> Contrary to the secular master narrative, the Enlightenment was not only compatible with religious belief but conducive to it...With the Enlightenment's advent, religion lost neither its place nor its authority in European society and culture[17].

Sorkin's analysis includes eighteenth-century Geneva in this category, and a critical aspect of his descriptive, as it pertains to this article, relates to how the church and state interacted. Rather than pushing religion outside the political sphere, religious enlighteners were closely allied with the state[18] and sought a balance between Erastian and theocratic rule while rejecting separation of church and

10 C. TAYLOR points out that secularism has often been understood as the "decline of Christian belief" in particular. In contrast, he defines his approach to the subject saying, "the change I want to define and trace is one which takes us from a society in which it was virtually impossible not to believe in God, to one in which faith, even for the staunchest believer, is one human possibility among others" (*A Secular Age, op. cit.*, p.3). Similarly, BERGER argues that "rather than being a catalyst for secularization, modernity in fact leads to pluralism" ("Religion and the West", *op. cit.*, p.114). This argument is also put forward in Berger's article "Orthodoxy and Global Pluralism" in *Demokratizatsiya* (Summer 2005), pp.437-447. Finally, see Timothy LARSEN, "Dechristendomization as an Alternative to Secularization: Theology, History, and sociology in Conversation", in *Pro Ecclesia*, 15/3 (Summer 2006), pp.320-337.

11 Jonathan ISRAEL, *Radical Enlightenment: Philosophy and the Making of Modernity, 1650-1750*, Oxford, 2001. Israel built upon this work to offer a general reassessment of the first half of the eighteenth century in his work, *Enlightenment Contested: Philosophy, Modernity, and the Emancipation of Man 1670-1752*, Oxford, 2006.

12 The term was first coined by Margaret JACOB (*The Radical Enlightenment: Pantheists, Freemasons and Republicans*, London, 1981). In Jacob's review of Israel's book *Radical Enlightenment* she points out that she was the first to introduce this argument: *The Journal of Modern History*, 75/2 (2003), p.387.

13 Descriptive used by Peter GAY in his famous work, *The Enlightenment: An Interpretation, The Science of Freedom*, reissued (New York, 1996), p.16. Paul HAZARD's *The Crisis of the European Mind* offers a similar perspective.

14 David SORKIN, *The Religious Enlightenment: Protestants, Jews, and Catholics from London to Vienna*, Princeton, 2009: "In a variety of philosophical idioms–Cartesian, Lockean, or Wolffian–religious enlighteners championed ideas of reasonableness and natural religion, toleration and natural law that aimed to inform, and in some cases reform, established religion. Religious enlighteners were theologians, clergy, and religious thinkers who were fully committed partisans and reformers of their own tradition...The Enlightenment consisted of its radical, moderate, and religious versions" (p.20).

15 D. SORKIN clarifies that "religious enlighteners endorsed the distinction that revelation could not contain truths contrary to reason (*contra rationem*) yet did include truths above reason (*supra rationem*), namely, the truths of revelation not accessible to, but in harmony with, reason" (*ibid.*, p.13).

16 My own doctoral dissertation, *Church and Society in Eighteenth-Century Geneva, 1700-1789*, completed at the University of St. Andrews in 2008, indicates substantial continuity with Sorkin's 2009 analysis of Geneva's clergy. This work, to be revised and titled *Calvin Meets Voltaire: The Clergy of Geneva in the Age of Enlightenment, 1685-1798*, is forthcoming within Ashgate's Eighteenth-Century Studies series.

17 D. SORKIN, *The Religious Enlightenment, op. cit.*, p.3.

18 H. ROSENBLATT also notes this characteristic: "Evidence shows that the Christian Enlightenment frequently allied

state [19]. As my own work has argued, the Genevan government was indeed bolstered by the clergy in their indefatigable work to bring order and irenicism during the many periods of civil unrest over the course of the century [20]. In return, the government treated religion as a key means for promoting and maintaining civil order and the political state of affairs. The fact that Genevan religion was inextricably linked to Genevan citizenship is well illustrated by a publication from 1769 wherein the Councils declared that

> Religion is the first source of all temporal and spiritual felicity...it is the principal link of society, the basis of all governments, the surest guarantee of the integrity of citizens, the conserver of morals...it is indispensable in a Republic such as ours, where the conduct of individuals can have the greatest influence on the happiness of the public [21].

For this reason, the government incited all "good Patriots" to be examples to others by honouring the Sabbath through church attendance [22]. Geneva's eighteenth-century mentality is made clear in this instance and many others throughout the century that being a "good citizen" was synonymous with being a "good Christian".

That being said, Sorkin argues that while Calvin and Beza had sought to ensure an independent clergy, "By the eighteenth century the clergy had become an appendage of the city-state that owned its property and paid its salaries" [23]. Sorkin's descriptive begs the question, to what extent were the clergy "an appendage" to the state? Did a joint and inseparable union degrade Reformation-era differentiation by the time of the Enlightenment? Because clerical salaries had been paid by the state since Calvin's time, salaries offer little clarity for determining the church and state dynamic. Rather than looking to salaries, punishment has been the litmus test for understanding the dynamic between church and state since the early days of Calvin fighting for the ecclesiastical right of excommunication [24]. In this regard, the eighteenth-century case of André Robert is instructive. In 1707, Robert admitted to grievous doubts about the truth of Christianity and failed to assent after scripture readings and clerical instruction. Consequently, his bourgeoisie status was suspended by the Council [25]. Robert was then asked to keep his dangerous views to himself while clergy instructed him until he relented to make "an open profession of the Christian and Reformed Religion" [26]. Since Robert's irreligious views were considered a threat to the state, particularly due to the popular unrest within the city in 1707, what one might regard solely as a religious matter was also treated as a matter of his citizenship. Distinction, however, was maintained in his punishment, which was political in nature since he could not be banned from communion or excommunicated by the Council. In this manner, irreligion was treated as subversive to the state [27]; nevertheless, separate jurisdictions of church and state were maintained in the form of punishment.

itself with the state, thereby providing a valuable buttress to the political status quo" (*Enlightenment, op. cit.*, p. 284).

19 In so far as Geneva is concerned, this structure of separate jurisdictions united in Christian purpose was well-established in the sixteenth century even if this dynamic waned in the years leading up to the Enlightement. Furthermore, Sorkin's argument that religious enlighteners sought to make matters of faith autonomous and that they "envisaged the state guaranteeing individual freedom of conscience" does not apply to eighteenth-century Geneva as neatly, if at all, when considering Geneva's prevalent, anti-Catholic sentiment and restrictions advanced by both church and state (*The Religious Enlightenment, op. cit.*, p. 18). Pietism was also treated as a danger to church and state, though a limited toleration was exhibited toward Pietists.

20 D. Sorkin cites how Jacob Vernet used natural law to argue for subordination and order according to God's providence (*The Religious Enlightenment, op. cit.*, pp. 85-87). Chapter 6 of my dissertation makes that argument in the study of clerical responses to periods of civil unrest.

21 *Archives d'Etat de Genève* (AEG), *Registres du Conseil* (RC) publ. 6, f. 127 (24 April 1769). A similar placard was posted again on 4 April 1788.

22 *Ibid.*

23 D. Sorkin, *The Religious Enlightenment, op. cit.*, p. 70.

24 B. Gordon, *Calvin, op. cit.*, pp. 79-81, 134.

25 AEG, RC 207, f. 300-301 (30 April 1707).

26 *Ibid.*, f. 301.

27 Conversely, subversion of the state was considered irreligious. Rather than acknowledging that the bourgeois may

The complexity of this dynamic emerges when recognizing that even in the distinct pronouncement of civil punishment the Company of Pastors had an ongoing involvement in the penal process. How did the clergy interact with convicted criminals, and what does their involvement say about their relationship to the state? This aspect of their work in relation to state jurisdiction will be explored in the final sections of the article by looking briefly at the European penal process during the Enlightenment and understanding the Company's actions in that wider context.

Enlightenment & the Penal Process

The European approach to crime and punishment was going through a time of transition in the age of Enlightenment according to penal historians. Randall McGowen's early work on penal reform has shown a shift in attitude toward penal punishment from the eighteenth to the nineteenth century. While eighteenth-century officials supported the gallows for inspiring terror that reinforced a citizen's duty to obey, by the early nineteenth century "the advocates of reform of the criminal law felt such terror was too powerful and diffuse; the lesson offered to the lower classes was contradictory and dangerous" [28]. Instead, terror was replaced with a developing humanitarian concern governed by the rule of "sympathy," and by 1868, England's public executions had ended, which contemporaries interpreted as progressively humane and considerate to the sentiments of the masses. Yet, there is evidence to support an emerging humanitarian awareness relating to criminal procedure and punishment earlier than the nineteenth century [29].

Due in large part to Cesare Beccaria's *On Crimes and Punishments* (1764) and its influential shaping of the *philosophes'* perspectives, James Megivern's work observes a shift in perspective on capital punishment at the end of the century [30].

Indeed, one has merely to look at the 1765 article "Question" by the Chevalier de Jaucourt in Jean d'Alembert and Denis Diderot's *Encyclopédie*

have raised legitimate protest against unjust political developments in the government, the Company praised the people when they resumed a more passive obedience to the state: AEG, *Registres de la Compagnie des Pasteurs* [RCP] 19, f. 174 (13 May 1707). For this reason, a service of personal and corporate repentance was held in response to the restoration of peace (*ibid.*, f. 178 [17 June 1707]).

28 Randall McGowen, "A Powerful Sympathy: Terror, the Prison, and Humanitarian Reform in Early Nineteenth-Century Britain", in *Journal of British Studies*, 25/3 (1986), p. 313. McGowen's later work qualifies this point to show that by the end of the century concern was expressed that "the very sight of violence tended to corrupt public morality" ("Civilizing Punishment: The End of the Public Execution in England", in *Journal of British Studies*, 33/3 [1994], p. 260).

29 Even McGowen acknowledges a progression in his later work over the eighteenth-century attitude toward public executions ("Civilizing Punishment", *op. cit.*, pp. 259-260). Moreover, Rebecca Kingston's research on patterns of criminal judgment and sentencing of the *parlement* of Bordeaux while Montesquieu served as magistrate reveals a moderating tendency in pre-Revolutionary France's sentencing, which played more on emotions rather than fear. She writes, "Although the introduction of objectives of personal reform in sentencing were a product of a later century, these trends of conviction did open a space in which punishments could be considered as having a more formative influence on patterns of criminal behavior than strict deterrence through fear. In this perspective, the judge not only uses prudence to apply the law to particular individuals and situation as an appropriate and requisite response, but also considers motives other than fear, which could lead to or aggravate criminal behavior. It would lead to a growing awareness of a hidden potential of penal policy in its various instruments as a more sophisticated tool of social control" ("Criminal Justice in Eighteenth-Century Bordeaux, 1715-24", in *Crime, Punishment, and Reform in Europe*, ed. Louis Knafla, Westport, 2003, p. 26).

30 James Megivern, *The Death Penalty: An Historical and Theological Survey*, New York, 1997, pp. 211-252. He argues that "no other single factor was more responsible for bringing the death penalty into disfavor than the biting sarcasm and stinging wit of Voltaire" (p. 219). However, Megivern's research is based upon the understanding that society's rejection of the afterlife due to secularization is what contributed to the change in attitude over the death penalty (p. 213). He tempers this perspective by acknowledging that there were Christian believers who fought the death penalty but that they faced the dilemma of misunderstanding, which he describes in the following manner: "Advocating retention of the death penalty was, oddly, one way of showing retention of belief in life after death, despite the attacks of the *philosophes*" (p. 214).

to observe the critique of using torture in the penal process [31]. The disquiet raised there was in reference to the act of torturing innocent people until the point of false confession as well as torturing for the purpose of identifying accomplices [32]. In this context of concern, Holland was heralded by the article as enlightened in its judicial treatment of the accused, but Geneva also received the praise of the *Encyclopédie* for its criminal procedure.

In d'Alembert's 1757 article "Genève," he commended the Genevan legal process on its concern for fair treatment, where defendants were informed of charges and allowed to solicit outside aid for public trial proceedings. It is likely that d'Alembert's praise of the Genevan legal process was a means for him to scrutinize French practices, which in comparison, did not revise this aspect of criminal procedure until 1780 [33]. Although acknowledging that Geneva still ascribed to the practice of torture, d'Alembert qualified its usage as applied "only to criminals already condemned to death, in order to discover their accomplices, if necessary" [34]. In this way, Geneva was extolled for using torture against *convicted* criminals rather than for *convicting* criminals.

Indeed, Michel Porret's excellent contribution to this area of study has shown that until 1738 and in accordance with the *Constitutio criminalis Carolina* of 1532, the practice of torture had been ratified in Geneva for matters of witchcraft and against criminals convicted of capital crimes such as poisoning, infanticide, homicide, and sodomy. In response to political unrest in the 1730s, the *Règlement de l'illustre Médiation* of 1738 revised practices of criminal investigation by abolishing "question" or torture as a means of securing confession in criminal procedure [35]. That being said, techniques such as torture by the wheel were last used on convicted criminals in 1728, which indicates a gradual movement towards eighteenth-century humanitarian concerns even prior to 1738 [36]. Genevan government was shifting in the ways it conducted criminal procedure but not toward the exclusion of the Genevan clergy from the process.

The Role of the Genevan Clergy in Criminal Procedure

Consoling criminals condemned to death by the Genevan government was one of the many social services for which Geneva's pastors were responsible over the course of the century [37]. Porret's work on the subject has shown that between the years 1755 and 1791, thirteen people were executed by the Genevan government [38]. My own survey of the *Registres de la Compagnie des Pasteurs* indicates that at least nine more were condemned and received care from the pastors prior to 1755 [39]. In these cases, the Moderator was the first to be informed of the Council's decision regarding the accused. Sometimes, the Council sent their appointed "Sautier" or Steward to relay the news [40], and on other occasions the Moderator

31 J. Lough (ed.), *The Encyclopédie of Diderot and D'Alembert: Selected Articles*, Cambridge, 1954, pp. 193-197.

32 Jaucourt concludes, "Finally, torturing criminals is by no means a necessity. Today we can see a highly civilised nation, as enlightened as it is respectful towards humanity, which has rejected this punishment with no inconvenience, even in cases of high treason" (Louis Jaucourt, chevalier de. "Question", *The Encyclopedia of Diderot & d'Alembert Collaborative Translation Project*, trans., Malcolm Eden, Ann Arbor, 2007. <http://hdl.handle.net/2027/spo.did2222.0000.872> [accessed Oct. 4, 2011]. Originally published as "Question," *Encyclopédie ou Dictionnaire raisonné des sciences, des arts et des métiers*, vol. 13, Paris, 1765, pp. 704-705).

33 France abolished this practice in 1780 and again in 1788 (Michel Porret, *Le crime et ses circonstances*, Geneva, 1995, p. 57).

34 Jean d'Alembert, "Genève", *Encyclopédie, ou Dictionnaire raisonné des sciences, des arts et des métiers*, vol. 7, Paris, 1757, p. 576.

35 This grievance was first raised by the citizens of Geneva in 1736 (M. Porret, *Le crime et ses Circonstances, op. cit.*, pp. 56-57. Porret's expertise was greatly appreciated in the writing of this article).

36 *Ibid.*, p. 58.

37 The position of chaplain for the prison was not established until the nineteenth century.

38 M. Porret, "Mourir sur l'échafaud à Genève au XVIIIe siècle", in *Déviance et société*, 15/4 (1991), pp. 381-405.

39 A thorough study of government records from 1700 to 1754 is still needed to confirm the exact numbers.

40 AEG, RCP 27, f. 252 (14 Sept. 1753).

was summoned before the Council or officially given the information by the Premier Syndic on behalf of the Council [41]. Information was frequently relayed merely a day before the execution was scheduled [42]. Due to the urgency of the information, the Company would meet on days beyond their weekly Friday meetings. The Moderator would then pass on the Council's news to the Company so that immediate preparations could be made, and their involvement within these events followed a particular procedure.

In preparation for an execution, the Company appointed a group of pastors to tend to the criminal the following day. Both the pastors of the city and of the country churches were called upon to share in these duties, though participation by country pastors was infrequent. In fact, Jacques Maystre, pastor of the church of Cologny from 1749 to 1755, may have been the only country pastor recorded in the registers as sharing in the care of those condemned to death [43]. Visitation of prisoners was then conducted in shifts with a varying number of pastors scheduled depending on the number of criminals per case. A rotation of pastoral visits began on the day of the execution by entering the cells at around 5 or 6 o'clock in the morning. Shifts then continued every hour to hour and a half [44], until the final shift of pastors accompanied the criminal to Geneva's Plainpalais, where the execution took place. In those last moments, a pastor stood beside the condemned at the place of execution and offered a prayer for him or her as well as for the people of Geneva [45].

Throughout these proceedings, the pastor was reminded of his duties "to instruct, console, and support" the accused "by the hope of religion" from the prison to the place of execution [46]. In the prisons, pastors exhorted criminals to repentance or "confession," and readings were offered from the catechisms, psalms, and New Testament to aid in that process [47]. François de Roches' prayer given on behalf of an unnamed, convicted criminal gives insight into the manner by which a consoling clergyman appealed to the "mercy" and "grace" of God in that time between conviction and execution [48].

De Roches called for God's "compassion and clemency in favor of this criminal who is about to bear the pain of his crimes." Echoing Jesus' words from Matt. 10:28, De Roches indicated the gravity of the moment as he appealed to God, who "not only can kill the body, but still send the body and soul to Gehenna [hell]" [49]. The inexcusability of the criminal's actions was highlighted as a violation of the law written on his soul, taught to him as a child,

41 AEG, RCP 23, f. 24 (17 Sept. 1728); AEG, RCP 27, f. 7 (24 July 1750).

42 In some cases, the company was informed of a probable conviction a week in advance: AEG, RCP 27, f. 7 (20 July 1750).

43 See AEG, RCP 27, f. 8 (24 July 1750); f. 29 (15 Dec. 1750); f. 365 (1 April 1755).

44 On 20 Aug. 1728, the registers indicate the request to allow 1½ hours between each shift of pastors: AEG, RCP 23, f. 16. However, this was not always followed: AEG, RCP 31, f. 98 (11 March 1771).

45 AEG, RCP 27, f. 29 (15 Dec. 1750). For a recounting of the procedure surrounding the march to the gallows see *Bibliothèque de Genève* [BGE], MS. Cramer 148, "Edits civils" vol. 6-7, f. 150-151. In France, Spain, Italy and parts of Germany, confraternities led religious processionals to the place of execution (J. Megivern, *The Death Penalty*, *op. cit.*, p. 211).

46 The nature of this duty did not change from the beginning of the century to the end. See AEG, RCP 23, f. 11 (13 Aug. 1728). See also the extract within AEG, RCP 31, f. 305 (17 Dec. 1773). A transcription of a version of this memoir is available by M. Porret, "Les pasteurs genevois au pied de l'échafaud au XVIIIe siècle", Geneva, Institut d'Histoire de la Réformation, 1993, pp. 1-7).

47 The Company also decided that it was appropriate to read *Exposition de la Foi Chrétienne* by Gédéon Mallet, the *Pratique des vertus chrétiennes*, and a collection of prayers by Jean-Frédéric Osterwald to the prisoner (AEG, RCP 32, f. 71 [21 Feb. 1777]). Significantly, Mallet's work is subtitled, *Suivie d'une courte réfutation des principales erreurs de l'Eglise romaine*, which indicates the ongoing concern over Roman Catholic thought, practice, and presence in Geneva.

48 BGE, MS. Comp. Past. 81, "Paraphrase de François de Roches du 21 May 1734 au 23 Décembre 1740" n. f. The procedural moment at which this prayer was read is not specified. However, given that it was written down, as was customary for public speaking, and that the prayer is directed on behalf of not only the criminal but the magistrates of Geneva, this may have been a prayer read at Plainpalais before the moment of execution.

49 Incidentally, this prayer provides an example of the ongoing belief in sin, hell and God's judgment as well as the Trinity that was present in the worship life of eighteenth-century Geneva (See J. McNutt, *Church and Society*, *op. cit*, ch. 5).

declared to him "clearly" in scripture as well as confirmed by his "conscience" [50]. Furthermore, with allusion to the Protestant notion of the civil use of the law [51], De Roches reproached his actions for disrupting the tranquility, safety, and good order of society. Nevertheless, De Roches pointed to the "precious blood of your dear son Jesus Christ" which has been "offered for the greatest sinners on the cross" as sufficient to pardon this criminal. In closing, he asked that God's guidance and council be granted to the magistrates, who are the "happy instruments in [God's] hand for the purpose of making piety and justice flourish among us," and he ended his prayer in the name of the Father, Son, and Holy Spirit.

Consolation such as this was offered not only to residents of the city but also to foreigners. An example of foreign prisoner care is evident in 1750 when two German soldiers were condemned to death for theft in the city. As a crime against the state, it was determined that the Genevan pastors would attend to them. Additionally, the Lutheran pastor of Geneva was invited to participate not only in the visits to the prison but to accompany the clerical procession at the execution [52]. Varying degrees of ecumenical toleration are evident in that the Company forbade the Lutheran pastor from offering communion to the prisoners [53]. Moreover, this permission should be contrasted with treatment of Catholic prisoners. The registers indicate that Catholic priests were permitted to visit incarcerated Catholic prisoners, but their accompaniment at the tribunal was forbidden given the public significance of that role. This policy was clarified in 1787 when a Capuchin friar seemingly unexpectedly accompanied the Catholic prisoner Rosset to his tribunal, which the Company recounted as a source of public outrage. It was determined that the ministry of Catholic priests would be "hidden" in the prisons rather than in public view [54].

In fact, much of the work of consoling criminals was "hidden" from the public eye beyond their presence at the Tribunal and the execution. That being said, because this aspect of the pastoral ministry was so critical, candidates training for ministry or the young ministers without positions in the Company were permitted to observe prison visitations at points. On 20 August 1728, the young ministers were allowed to accompany and observe the pastors appointed to these duties throughout the procedure [55]. However, on 17 September 1728, this permission was withdrawn without explanation [56]. The 1750 registers may shed light on this matter. In that year, young ministers were allowed to observe this procedure; however, permission was again revoked after complaints arose that too many people were crowding the antechamber at the prison and causing confusion [57]. Thus, when the question regarding their entry at the prisons surfaced once again in 1753, it was decided that the previous inconveniences indicated by the 1750 register would be avoided by permitting only the pastors named by the Company to be present [58]. Order was unsurprisingly of great value to the Genevan pastors in these proceedings.

50 Note that for Calvin, the law is used "in order that our guilt may arouse us to seek pardon, it behooves us, briefly, to know how by our instruction in the moral law we are rendered more inexcusable": *Institutes of the Christian Religion*, ed. John McNeill, trans. Ford Lewis Battles, Philadelphia, 1960, 2.7.3.

51 J. Calvin, *Institutes*, *op. cit.*, 2.7.10.

52 AEG, RCP 27, f. 29. It was determined that one city pastor and one German pastor would accompany the criminals to their execution.

53 In 1701, discussion about increased interaction with Lutherans was discussed, and by 1707, the first Lutheran sermon was delivered in Geneva. This was approved by the Petite Council on 8 Aug. 1707 and the Council of Two Hundred on 9 Aug. 1707: AEG, RCP 19, f. 191, 207-209. See also Leïla el-Wakil, "L'église luthérienne: 'une maison pour y faire le culte'", in *Revue du Vieux Genève*, 18 (1988), p. 93.

54 AEG, RCP 34, f. 58-59 (15 June 1787-22 June 1787).

55 AEG, RCP 23, f. 16.

56 *Ibid.*, f. 24.

57 AEG, RCP 27, f. 9 (31 July 1750). Furthermore, the presence of two young ministers accompanying the pastors at the Tribunal and then to Plainpalais caused controversy due in part to the young ministers attitude as well as the fact of their participation in so significant a role. The public were "surprised" by their presence, and the company took note to prevent that from happening again.

58 *Ibid.*, f. 252.

Humanitarian concerns, however, were not evident in the registers. In addition to exhibiting little toleration for Roman Catholic involvement in Genevan affairs, the Company registers also do not suggest a developing humanitarian tendency toward execution by the 1780s even though the clergy described this aspect of their work in sober terms. The 1773 appeal of the Company to the Council regarding changes to criminal procedure, for example, indicates clerical concern with how executions were affecting public good and order. However, rather than expressing worry over the "curiosity" of the public with the execution itself, the clergy raised the point that this excitement occurred to the detriment of business within the city. While acknowledging that an economic loss of work hours was ultimately the concern of the government, the Company still suggested that the Council choose a date for executions in advance so that people could work without worrying about missing the event. Order was again a central concern of the clergy but primarily because it was considered a key means for facilitating the proper and effective care of souls.

This driving concern is evident in the pastor's critique of rushed visitations as a hindrance to criminal consolation. A swift execution meant that the criminal was informed of the Council's decision by the pastor merely hours before his execution was carried out, which became a source of frustration over time for the pastors, who evidently felt a strong sense of the importance of what was described as their "sad" work in the prisons [59]. In 1773, the Company's concern led to action as they appealed to the Council with propositions to improve the care of criminals by claiming that their efforts were not as "useful" as they could be [60].

The time-table for sentencing and execution was the main source of their concern. The swiftness of the judgment, which was followed almost immediately by the march of the convicted directly to execution, gave pastors little time in the procedural order to care for criminals adequately, particularly when it came to giving them an opportunity to offer a confession of their crime in their last moments [61]. The ability to secure a confession was particularly challenging for pastors in cases where the accused had continually denied their guilt throughout the proceedings until sentencing [62]. According to their perspective, the confession was of the greatest value because it enabled the accused to embrace humility and give glory to God by honouring the truth. In addition, though of secondary value, such a confession gave certainty to the judges and edified the public.

To make their case, the Company pointed out that unlike England, Holland, Germany, and Berne, Geneva was "the sole place in Europe" where a criminal passed no more than twenty-four hours between hearing the announcement of their sentence and the moment of their execution [63]. The pastors then offered the example of Berne where spiritual matters took priority to such an extent that one could stay an execution temporarily if "the spiritual needs of the prisoner" required it [64]. Consequently, the pastors earnestly demanded that the Council reconsider the current criminal process, appealing to their "humanity" and "piety" in the following manner:

> We ask the Magnificent Council...to examine if these practices, founded on the desire and the hope to bring the criminal to the true sentiment of repentance and to procure thus the salvation of his soul are not preferable [65].

To that end, the Company requested that pastors be allowed to meet as promptly as possible with prisoners *before* sentencing. The rational behind this change was so that they would be able get to know the criminal better in order to earn their confidence so that

59 AEG, RC 1773, f. 702.

60 AEG, RCP 31, f. 302 (17 Dec. 1773).

61 *Ibid.*, f. 304.

62 This was particularly a concern after a new law was established in 1771 wherein criminals could appeal the decision of the *Petit Conseil* at the *Conseil des Deux Cents* (CC): AEG, RCP 31, f. 97 (8 March 1771). The registers indicate this was a tiring process for pastors who observed that the accused were more concerned with getting a reprieve and, therefore, less concerned with confessing their sins.

63 AEG, RCP 31, f. 304 (17 Dec. 1773).

64 *Ibid.*, f. 305.

65 *Ibid.*

they could better instruct, console, and prepare the convicted for their sentence while also preparing their soul as much as possible [66]. They also requested that certain pastors only be appointed by the Company for the duty of caring for the accused from the point of incarceration to the completion of their sentence as much as needed. Given the close relationship that would likely emerge from this arrangement, the Company acknowledged that the two designated pastors would maintain a strict level of confidence. With these changes, the Company hoped that their ministry to prisoners would be made more "fruitful" even if greater involvement would make it more "painful" for their ministry [67].

In the end, the Council reserved the right to decide whether the Company was free to meet with the criminal before sentencing in each particular case [68]. Sometimes the Company was encouraged by the Council to visit a prisoner before final judgment was announced to them, and in that case, the Council requested that the pastors keep the sentence in the strictest of confidence until they were told to relay the sentence to the criminal in prison [69]. At other points, during the Moderator's visits to the prisons, criminals would request the consolation of the pastors prior to sentencing, which required permission from the council [70].

Given this dynamic, it is unsurprising that the tensions between the two bodies, though largely infrequent, were more typically the result of governmental infringement on ecclesiastical jurisdiction rather than the other way around. A telling example of this dynamic is observed in Pastor Isaac Cardoini's report from 1 December 1769 about when he had accompanied a criminal condemned to death to the Tribunal the previous Tuesday. Upon arrival, he was amazed to find that he was without a chair. Adding insult to injury, he was then signalled by one of the magistrates to remove his hat [71]. This incident generated tension between the two bodies since the Company regarded the practice of being "seated & covered" at Tribunals as a time-honoured pastoral privilege, and historical precedents from Geneva's seventeenth-century records were called upon as proof [72]. When at the next execution in March 1771, the pastors charged with criminal care were instructed to appear uncovered before the Tribunal by the Premier Syndic, resistance was expressed [73]. The Council agreed to hear the case of the Company assuring them their intention was not to harm the pastors, diminish their significance [74] or "to trouble the harmony between the two bodies" [75]. In the end, it was decided by the Council that while the privilege of being covered was to be maintained, they deemed that the custom of having the pastors seated at the Tribunal was not a tradition to be continued in the future [76]. The general implications of this affair from the Company's perspective concerned discerning between when it was suitable "to support its rights" and when it was simply a matter of indifference [77]. This reveals the challenge faced by the Company to preserve their autonomous authority while also trying "to show as much as it could" their respect for the Council [78].

66 *Ibid.* The registers record this complaint as early as 4 & 18 April 1755: AEG, RCP 27, f. 366-367, 369. It was thought that more time with the criminal would allow for more effective pastoral care. However, in this concern, one may also see that the pastors were working according to the assumption that the criminal *was* guilty and merely refusing to confess in repentance rather than considering that the criminal might not have been guilty.

67 *Ibid.*, f. 306.

68 See the Council's response: AEG, RCP 31, f. 306-307 (24 Dec. 1773). Sometimes this was refused: AEG, RCP 31, f. 494 (13 Oct. 1775). Moreover, the request to delay the execution by twenty-four hours was refused out of concern that it would have "angry consequences" (*ibid.*, f. 307).

69 AEG, RCP 23, f. 24 (17 Sept. 1728).

70 AEG, RCP 23, f. 344 (6 June 1732). In the case of Paul Dentand, pastors outside of his family relatives were granted access while relatives required special permission: AEG, RCP 23, f. 346 (13 June 1732).

71 AEG, RCP 30, f. 425 (1 Dec. 1769).

72 AEG, RCP 31, f. 12 (26 Jan. 1770); f. 99 (22 March 1771).

73 *Ibid.*, f. 97-98 (11 March 1771).

74 *Ibid.*, f. 98 (15 March 1771).

75 *Ibid.*, f. 100 (22 March 1771).

76 *Ibid.*

77 AEG, RCP 32, f. 196 (12 April 1771).

78 *Ibid.*

In fact, the Company were not always so agreeable to the wishes of the Council, particularly when the Council tried to push the pastors' duty beyond spiritual nurturing into a complex and even controversial political overlap. This type of incident is evident on 24 July 1750 when three foreigners were condemned to death for crimes of theft. Because the Council wanted to discover other crimes they might have committed, they requested that the pastors would try and obtain the confession of other crimes that they might have committed. In order to encourage them to breach this confidence, they were told that this confession would not worsen their sentence [79]. The fact is that since 1615, in the ordination service, candidates for ministry were required to make a public promise to preserve congregant-pastor privilege by keeping secret all confessions made voluntarily by congregants over the course of their ministry; this was called "les confessions en decharge de la conscience" [80]. The only saving grace in this case was that the criminals had already been sentenced.

The Council's request to obtain confessions became more controversial in cases where it had not yet ruled on the punishment of the criminal. In 1743, the Moderator was asked by the council to extract a self-incriminating confession from a prisoner accused of crimes committed in Neuchatel [81]. This act would have invalidated the pastors' "discharge of conscience" oath. The registers recount a sense of being caught between the duty of the pastor and the employment of the Magistrate. Indeed, this very dilemma was faced by François de Rochemont after a woman privately confessed to him that her husband was part of a petty theft attempt. Although the Council demanded that Rochemont reveal the identity of the person involved, he refused to betray this confidence by appealing to his oath of secrecy taken at ordination [82]. Despite the relentless pressure from the government in which even his loyalty to the state was questioned, Rochemont affirmed his respect and "submission to their orders, and attachment to the government" [83] but maintained "that no one can free me from the obligation" to voluntarily keep secret a confession [84]. It was more important not to "lose the confidence [that the flock] had in their pastors" [85] or to breach his oath taken at ordination than to yield in the face of political pressure, a decision that was unanimously approved by the Company upon review. The jurisdiction of the church was expected to be maintained when the state infringed upon the oaths of office.

Conclusion

This research has shown that clergy and state dynamics in eighteenth-century Geneva reveal the ongoing, active role of the Company of Pastors within the political realm of the city into the late 1780s. Contrary to notions of mainstream secularization theory, the clergy functioned as an integral component of the penal process during that time, and this presence was powerfully undergirded by the understanding that the church and state needed each other for the good of the city as a whole. Furthermore, the example of De Roches reveals a notable theological affirmation of the civil use of the law present at the time of the consolation of criminals, which provided an effective link between religious and political concerns. According to Eric Golay's work, this link would endure even despite the revolutionary turbulence of the 1790's, in which even some clergy participated. In comparing the French Revolution with the Genevan Revolutions, he writes, "On the question of religion, a great majority of the Genevans reaffirmed the necessity of being Protestant in order to become a citizen," and despite revolutionary activity at the end of the century, "Geneva remained a Reformed

79 AEG, RCP 27, f. 7 (24 July 1750). This example confirms that all those condemned to death in Geneva, even foreigners to the city, were ministered to by the pastors on these occasions.

80 AEG, RCP 24, f. 565 (9 April 1737); AEG, RCP 28, f. 185 (20 April 1749). This was also called "la forme ordinaire" (AEG, RCP 26, f. 176 [9 Sept. 1746]).

81 AEG, RCP 25, f. 487 (3 May 1743).

82 AEG, RCP 26, f. 114-115 (28 Jan. 1746).

83 *Ibid.*, f. 115.

84 *Ibid.*

85 AEG, RCP 26, f. 116 (28 Jan. 1746).

state; its pastors were never persecuted...and a number of them, mixing religion and revolution, played an important political role during these years" [86].

In fact, the registers that highlight criminal care also expose how tensions emerged between the two spheres at various points, revealing the complex position that the clergy held when participating in the consolation of the convicted, particularly when hearing confession. Thus, it may be that the "seated and covered" controversy of 1771 offers an appropriate metaphor for the dynamic of the time. Namely, while clergy and council were both present in the tribunal room together, jurisdictions were clarified in that the clergyman was not offered a seat at the political table. Thus, Sorkin was indeed correct in arguing that, in Geneva, the church was closely allied with the state during the age of Enlightenment; however, the point remains that the clergyman still wore his own hat. After all, the Genevan government was not Erastian, but it was still not a theocracy either.

86 My translation of Eric Golay, "1792-1798 Révolution Genevoise et Révolution Française: Similitudes et Contrastes", in *Regards sur la Révolution genevoise, 1792-1798, MDG*, 55 (1992), p. 34.