Reasonable doubt: defences advanced in early modern sodomy trials in Geneva

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There are few charges that can be made against individuals more likely to damage their lives, reputations and futures, than sexual deviance.¹ In the early modern period, the danger was even greater as the crime carried the death penalty. For those faced with the gravest of punishments, one might be inclined to suppose that there was only one sure defensive strategy: outright denial. However, before testing this hypothesis, some general information on the quality of the documentation surviving in the Genevan archives is vital. In addition, something must be said about the understanding of deviance in Geneva's courts.

This chapter will take as its chronological parameters the period 1555–1665.² This is because 1555 was the date at which Calvin and the ecclesiastical authorities were able to take control of the administration of morals while 1665 saw the last prosecutions for sodomy for a century. Although one might expect to see intensive involvement by the Church in the prosecutions, the Calvinist Church was noticeable by its absence, confining its interest to adultery and pre-marital sex. Thus, this period gives insight into criminalised, rather than socially unacceptable, sexuality. Moreover, it is lengthy enough to allow for a significant number of trials to be examined in an area of criminality that is, for obvious reasons, not overly common. Just as importantly, it allows for the possibility that the Genevan attitude to this crimes might alter and evolve over the period between the advent of close ecclesiastical discipline of morals and the last sodomy trial in the mid-seventeenth century.³

Most cases include six types of documentation: a summary, the sentence, legal advice, medical reports, depositions of witnesses and transcripts of the interrogations. Individuals were asked about themselves, any previous prosecutions and the specific charges against them. The city's prosecuting magistrate, his assistants, the city's secretary and any number of senior magistrates, from none to over twenty, were present. Depositions were taken from prosecution

witnesses and, in some cases, witnesses for the defendant. Those giving evidence, regardless of their age, were physically confronted with the accused. The defendant was then asked to respond to the specific accusations being made. If the case involved violent sexual assault, a forensic report would be requested. At least two doctors or barber-surgeons would examine the males (predominately boys and youths) while midwives examined the females (of all ages). Eventually, the case documentation was passed to a university-trained legal expert (who had not been present). His role was to advise on the appropriateness of torture.⁴ Later, he might be asked to suggest a final sentence. Once the Lieutenant was satisfied that there was no more information to be gained, he would prepare a summary of the case for the city's supreme magisterial council.⁵ The Senate would then draft an official sentence, which would be read out in public. As these cases involved numerous interrogations often spread over weeks, there is a substantial body of material. More importantly, the verbatim nature of the records allows one to watch the case developing and to hear the dialogue between the magistrates, seeking evidence of guilt, and the defendant, striving to avoid a conviction – and death – for sexual deviance.

For the most part, Geneva's authorities used a range of generalised terms for these sexual crimes. However, evidence internal to the cases suggests that they were prosecuting with subtlety and discrimination. This chapter proposes to treat these cases in groupings, which reflect the behaviour of the prosecutors and defendants: adult, same-sex acts; bestiality; lesbianism; child abuse; 'deviant' heterosexuality; pre-adolescent sexual activity; and incest. Each of these terms – save incest – is anachronistic. However the anachronism is not forced. For example, any careful examination of the cases of child abuse shows that there are problems with differentiating between the abuse of boys (sodomy) and that of girls (rape). Cases involving children or minors were prosecuted differently from those involving adults. That is, cases of child abuse have more in common with each other than they do with cases given the same technical and legal name involving adults.

It is important to note that this does not mean that an early modern legal precision is being replaced by alternative modern categories, but rather that a culturally and temporally conditioned use of legal terminology is being substituted with categories based on the internal structure and evidence of the cases themselves. This structure and evidence are then being grouped and described in a manner more in keeping with modern usage. If one were to give an early modern Genevan 'catch-all' description to the cases under discussion it would be 'crimes against nature', a phrase which at times equates solely with sodomy (involving males with other males) but, in certain circumstances, encompasses a whole range of sexual crimes. Indeed, the only generalised and generic label with which Geneva's judges seem comfortable and confident is 'crimes against nature'. Genevans may not have been sure how to categorise diverse manifestations of deviance but they knew which

behaviour was deviant and that they did not approve of it. Most importantly, they knew it was unnatural.⁶

It seems appropriate to begin with two unique cases, one of lesbianism and the other of group heterosexuality. For ease of reference, see Table 7.1 for the basic details in the order in which they will be discussed below, as well as Table 7.2 which gives the wider statistical context for the trials treated in this chapter. In 1568, Françoise Morel, an itinerant plague worker, was arrested.⁷ She had been accused by a co-worker, Amber, of molesting her one night while they were sharing a bed. Amber had resisted and a violent assault had ensued. Françoise countered by asserting her innocence while admitting she had previously confessed to fornication with a male five years before. It seems clear that at the outset of the trial she was trying to advance a defence designed to protect her from further prosecution. She was readily admitting a criminal act (fornication) and a previous conviction. Either she did so because she thought attempting to avoid this admission was more dangerous or she may have thought that a previous conviction for fornication with a man might throw into doubt the charges currently facing her.

Thus, her first line of defence was to confess a known relationship with a man. A midwifery report confirmed that she was not a virgin. She then made the fatal error of retracting her fornication confession. This allowed torture.⁸ She admitted the assault on Amber as well as two previous sexual experiences with women and repeated fornication with men. Despite her dissolute life she was forceful in denying that she had ever taken money for sex. She might have been a rather busy bisexual but the lady was no whore. In addition, she denied that her actions with women were fornication. Although Germain Colladon, the legal adviser, judged her guilty of 'the horrendous and appalling crime of sodomising another woman (*le crime horrible et execrable de sodomie sur une aultre femme*)', he strongly advised that the public statement be vague.⁹ Finally, the clergy at her execution recorded that she admitted to additional lesbian acts.¹⁰

The important considerations arising from this case are that her first line of defence was a previously confessed relationship with a man. It is not clear why she attempted to retract this admission since it was manifestly clear that the magistracy knew about it already. They had used questions about her background in an attempt to catch her in the act of perjury or 'variation', which allowed for torture. In addition, both the amateur magisterial judges and Colladon were keen to hide the exact nature of her crime from the general public. It is not necessarily obvious how the final version was more acceptable than that originally proposed but it is certain that Colladon, at least, considered the first draft wholly inappropriate. Finally, from the magistrates' point of view the trial failed to answer their most persistent question about motive. The court was perplexed as to why Morel would have acted as she did. Morel's only insight was to suggest that she was possessed.¹¹ Although a dangerously reckless assertion, the judges seem

Table 7.1 *Specific Genevan trials mentioned*

<i>Defendant(s)</i>	<i>Sixteenth-century terminology</i>	<i>Modern terminology</i>	<i>Trial date(s)</i>	<i>Sentence</i>
François[e]-Jean[ne] Morel, plague-worker, daughter of Pierre Morel (naturalised Geneva)	Crime against nature	Lesbianism	16–31 March 1568	Drowned
Claude Crestien, from Nantua, Jaques Molleiz, from Rouz, and (in absentia) Sieur de Vergiez, Pierre Dabaux, André Burnet	Animal lust	Group sex	28 January–1 February 1569	Beaten through the streets and banished
Etienne Taccon, Christobla Sertoux (his niece by marriage) and Pierre Dentant	Incest, perjury, complicity	Incest, perjury, complicity	7–18 November 1556	Banished for 10 years.
Jeanne, daughter of Claude Nicolas, aged 15	Incest, theft, fornication	Incest, theft, fornication	25 January–26 April 1569	Drowned
Pierre, son of Claude Nicolas, aged 23	Incest		5 February–2 March 1569	Beheaded
Pierre de la Rue, aged 46	Highway robbery, bestiality	Highway robbery, bestiality	19 October–14 November 1617	Burned alive
Pyramus Mermilliod, aged 16 or 17	Bestiality	Bestiality	22 May–6 June 1660	Acquitted
François Bosson	Bestiality	Bestiality	28 February–16 March 1663	Not proven
Jaquema Gonet (servant) and Esther, aged 15, and Nicolas, aged 8, Bodineau (siblings)	Sodomy and acts against nature	Child abuse, lesbianism, sex between minors	12–24 October 1559	Acquittal, beaten, executed

Bartholomy Tecia, Theodore-Agrippa, and Emeri Garnier (students aged 15)	Sodomy	Sex between minors	28 May–10 June 1566	Acquitted, executed
Thomas Reancourt and Jaques Beudant	Sodomy	Same-sex acts	4 June–11 July 1561	Banished
Jean de la Rue, aged 80	Sodomy	Solicitation and same-sex acts	5–8 February 1617	Burned
<i>Pierre Canal sodomy ring, 1610</i>				
Pierre Canal (steward of the Senate), Abel Benoit (aged 20, soldier), François Felisat (24, carder), Pierre Gaudy (18, porter), George Plongon (25, Sieur Bellerive), Mathieu Berjon (36, printer), Antoine Artaut (30, carder), Jean Bedeville (23), Paul Berenger (23, tailor), Noël Destelle (25, baker), Jean Maillet (61), Paul André (23), Claude Bodet (45, baker), Jean Buffet (23, tailor) ^a	Sodomy	Same-sex act, especially oral sex	12 January–17 April 1610	Fined, banished, beaten, executed
Hozias Lamotte, tutor	Sodomy	Child abuse	29–31 December 1563	Drowned
Louis Guey (aged 72) and Beatrice George (aged 13)	Sodomy	Child abuse	11–21 September 1568	Decapitated and beaten
Jean Bourgeois (aged 45), Françoise Corbet and her daughter Clauda (aged 10)	Attempted rape	Under-aged marriage	20 August 1600	Jailed and fined

Note:

^a Numerous others were named but were not prosecuted, presumably because they could not be located. The sexual acts dated back, in some cases, to events over the previous decade.

Table 7.2 *Genevan trials, an overview*

<i>Modern terminology</i>	<i>Total number of trials (dates)</i>	<i>Total number of sexual partners (willing or unwilling)</i>	<i>Sentences or verdicts (no., %)</i>
Lesbianism	1 (1568)	5 (4 females, 1 male)	Executed (1, 100)
Heterosexual group sex	1 (1569)	6 (5 males, 1 female)	Beaten and banished (1, 100)
Incest (by blood or marriage)	13 (1556–1636)	22 (11 males, 11 females)	Not proven (2, 15.4) ^a ; incarcerated (2, 15.4); banished (1, 7.7); beaten and banished (2, 15.4); executed (6, 46.2) ^b
Bestiality	7 (1565–1663)	14 (7 males, 2 mares, 4 cows, 1 goat)	Unknown (1, 14.3); not proven (2, 28.6); executed (3, 42.9); acquitted (1, 14.3)
Pre-adult sexual experimentation	5 (1555–1624)	14 (12 males, 2 females)	Beaten and banished (3, 60); executed (2, 40)
Adult, same-sex acts	23 (1561–1662)	55 (all males)	Unknown (1, 4.4); fined (2, 8.7); not proven (7, 30.4); beaten and banished (2, 8.7); executed (11, 47.8)
<i>Child abuse</i> Against boys	6 (1555–1633)	19 (all males)	Not proven (1, 16.7); banished and beaten (1, 16.7); executed (4, 66.7)
Against girls	17 (1562–1615)	36 (18 males, 18 females)	Unknown (1, 5.9); not proven (1, 5.9); probation (1, 5.9); incarcerated (1, 5.9); beaten and banished (7, 41.8); executed (6, 35.3)
Totals	73 (1555–1662)	171 (128 males, 36 females, 2 mares, 4 cows, 1 goat)	Acquitted (1, 1.4); not proven (13, 17.8); unknown (3, 4.1); probation (1, 1.4); fined (2, 2.7); incarcerated (3, 4.1); banished (1, 1.4); beaten and banished (16, 21.9); executed (33, 45.2)

Notes:

^a One was a suicide so the case ended inconclusively.

^b Of these six, one case also involved infanticide and another an attempted murder.

not to have considered it valid and the case ended unsatisfactorily for the judges.

Almost a year later, Claude Chrestien and Jaques Molliez were arrested for having had sex with a girl along with three other men.¹² Molliez breached Claude's effective wall of silence when he confessed that one night he had found the other four men having sex with the same serving girl. After a confrontation with Chrestien and the threat of torture (advised by Colladon), Molliez confessed. His defence was that he had only ever had sex twice. Both men confessed and begged for mercy. Three issues fascinated the magistrates. Who went first and had the order been agreed in advance? The prisoners reported the same order (that is, Lord Veigiez went first and there had been no previous discussion).¹³ Second, had they watched each other? Both admitted their act of fornication but said that, although it sounded like the others had had sex, they were not sure.¹⁴ Third, what had the other four been doing while the fifth was having sex? Three stood idly by, definitely not looking at one another or handling themselves – or one another – while the next in line, as it were, sat ready at the foot of the bed.¹⁵

The court's understanding of the crimes they were facing is fascinating. Colladon was clear that lesbianism was sodomitical and against nature. However, the group sex, while revolting, was 'normal' fornication.¹⁶ Once the magistrates had established the guilt of the men, they were interested in ensuring that they had not engaged in any contact with one another. That is, the judges were eliminating the additional charge of a crime against nature. Although the group sex disgusted them, the actual activities uncovered in the second case remained within the general category of 'natural sexual acts'. This interest in 'natural' and 'unnatural' is the issue to which this chapter will return.

Let us turn to incest. The most interesting aspect of the statistics is the rate of execution. In the case of incest, 46 per cent of the trials resulted in an execution. If one adds a pre-sentence suicide then defendants died in 54 per cent of these trials. Clearly, this suggests a marked difference from the single case of group sex. Can the statistics provide any more insight into magisterial sensibilities? In those cases involving sexual acts between relatives by marriage the verdicts resulted in sentences of floggings and banishment in two cases, two not-proven verdicts and a single execution (see Table 7.2). However, in the five cases involving close blood relatives, the sentence was always death. One might be inclined to infer from this that sex with relatives by marriage, while incestuous, was not as serious an offence as sex with a close blood relative. Can one hypothesise that the former, like group sex, was disgusting and criminal while the latter, like lesbianism, was unnatural? Also, can the case details give us any further insight?

Two cases of incest are worthy of closer investigation. In 1556, the city was rocked by the scandal of a leading merchant, 'Fat' Etienne Taccon, being accused of getting his niece by marriage, Christobla Sertoux, pregnant and of

trying to arrange a marriage between her and Pierre Dentant which would hide the crime and, it seems, allow him to carry on the relationship.¹⁷ What most shocked the magistrates was the cold calculation shown in Taccon's plans, which only went awry when it became clear that Pierre was not willing to allow the incest to continue and was not too keen on accepting the charge of pre-marital fornication, especially as he only became aware of the pregnancy after agreeing to the marriage. Taccon's defence throughout was his innocence and the assertion that Christobla was carrying Dentant's child. Eventually, after confrontations with Sertoux, he admitted that he had had sex with her but said that Dentant had as well and so the child might not be his.

It was left to Colladon to unravel the evidence. He opined that Taccon and Sertoux were clearly guilty of incest. He faulted Dentant for continuing to perjure himself for so long, though he conceded that he had not known the unborn child was Taccon's, having been told that it was the child of another relative by marriage. As Dentant was even younger than the girl, he suggested that the city might want to be lenient. In the end, the city deemed that they were all guilty of attempting to pervert the course of justice in addition to the incest.¹⁸

The case of the Nicolas siblings was slightly more complex in that their parents had been executed only weeks before on charges of witchcraft and conspiring to spread plague.¹⁹ However, the important element of the case was the line of defence taken by Jeanne and Pierre Nicolas. Jeanne was primarily questioned for theft and possible complicity with her parents. She was also asked about fornication with her fiancé, Martin Leschiere. Her assertion of virginity was quickly disproved by a medical examination. She then admitted to pre-marital sex with Martin. Despite confrontations with her brother who had already confessed to incest, she maintained her innocence until after she was tortured. Two days later she admitted that she had denied the greater charge because it was a capital crime while fornication was a 'lesser' crime.²⁰

Undoubtedly, the memory of her parents' burning had left a vivid imprint on her adolescent mind. Pierre had confessed spontaneously. He had been left little choice once he had admitted to sharing a bed with his sister and – he hastened to add – their younger brother (who had slept between them). It seems he tried this line of defence to prove that his sister had had no opportunity to fornicate with Martin. The result was disastrous. Thus, the defensive strategy taken by both was to admit as much of the truth as possible while avoiding any admission of incest.

With bestiality, there was no partial defence. Denial was the only option. However, even this serious crime only resulted in an execution in 43 per cent of the cases and, interestingly, gave rise to a single acquittal. Three cases contain elements worthy of a brief mention. Pierre Delarue, while being investigated for highway robbery in Protestant Geneva, was discovered to have

been convicted of bestiality eighteen years before in a nearby Catholic village.²¹ This conviction was used as the justification for burning him alive. Therefore, a case that originally started with an investigation into the theft of some salt became much more dramatic when the Lieutenant began examining the defendant's past. It eventually became apparent that he had escaped from gaol before his scheduled execution and had changed his name. When he was convicted of bestiality, he had been known as Jean Bocard (*alias* La Violette).²²

In 1660, an eyewitness (Danielle Livron, aged thirty) denounced Pyramus Mermilliod.²³ She had seen him in the stable with one hand on his genitals and the other in or about the cow's fundament.²⁴ Two factors resulted in Mermilliod's acquittal. First, he claimed 'that he was urinating against the cow's fundament to kill off the flies, having heard at Jussy that this was a good remedy (*quil urinoit contre le fondement de la vache pour faire mourir les mouches vaires ayant appris a jussy q[ue] cestoit un bon remede*)'.²⁵ Secondly, the Lieutenant's assistant (*auditeur*) reported that he had measured the height of the privates of both the cow and Mermilliod and concluded that since the cow was a good French royal foot higher it was unlikely that an act of copulation could have taken place. One can suppose that the judges had little idea if the defence was true. Thus, although they could not prove he was guilty of bestiality, they thought his behaviour suspicious and dubious and therefore banished him from the city, leaving him 'to God's judgment'.

The final case is a dramatic example of the role of circumstantial evidence in Roman Law trials.²⁶ Despite an eyewitness account, which allowed the legal adviser to recommend torture, Bosson maintained his innocence in the face of this torture.²⁷ However, he changed minor elements of his testimony (to his detriment). As a result, the court banished him to God's judgment. In effect, they found that there was sufficient circumstantial and eyewitness evidence to question his innocence but not enough to convict – a 'not-proven' verdict.²⁸ This highlights the importance, in Roman Law, of incontrovertible proof. It was clear that he had altered his testimony. There was no doubt that he had run away from the arresting officer. There was an eye-witness to the events. However, without a second eye-witness or an outright confession, the court could not convict. Hence, he was banished.

In cases of sexual deviance between minors the rate of execution was comparable to that in the foregoing trials, 40 per cent. In most cases, the younger the defendant the more likely the courts would favour a sound thrashing over death. However, two complicated cases are worth consideration for, yet again, bringing to the fore the issue of 'unnatural' acts. In 1559, Jaquema Gonet, a young servant girl, was executed for seducing her master's daughter, Esther.²⁹ Together, they 'fingered each other's privates (*mettoient le doigt dans le membre lune de lautre*)'.³⁰ More importantly, they both abused Esther's brother, Nicolas. Nicolas had reported the acts to his mother and, thereby, initiated the case. The magistrates were mainly interested in knowing the girls' motivation. Esther

said it started when Jaquema told her that boys could make their members longer.³¹ The judges and Colladon struggled with how to label the crime and to word the public sentence. Colladon, after a number of drafts, decided that Jaquema had committed 'abominable acts of sodomy and a sin against nature' while Esther was guilty of incest, an 'act of fornication which was also against nature in view of the extreme youth of the poor small child'.³² Although Esther knew that she had sinned, Colladon advised that she should be spared but *only* because of her age.³³ Nicolas should be strongly admonished though he was too young to understand his crime.³⁴ Thus, one sees an attempt to arrive at a judgment based on an understanding of sexual development and moral responsibility. Also, the state was determined to shield the spectators at the public punishment from the actual details of the case. Even the summation avoids clarity.³⁵

The trial involving three students, Tecia, Agrippa and Garnier, is of most interest because of the unwillingness of the latter two to report Tecia.³⁶ It became clear in the trial that Tecia had repeatedly exposed himself and fondled a number of fellow students and even attempted to force himself on Agrippa one night in bed. His behaviour was outrageous.³⁷ Nevertheless, no one rushed to report him.³⁸ Tecia quickly made a full confession. He had been abused in Avignon when he was ten and, despite repeated solicitations, had not been able to entice any of his fellow students.³⁹ What was also clear was his lust for Agrippa and the manipulative lengths he was willing to employ to satiate that desire.⁴⁰ He cited the fate of Sodom and Gomorrah and called upon the magistrates to punish him.⁴¹ They obliged within a fortnight.⁴²

Since male, adult same-sex crimes are fairly numerous, I will have to summarise the defences taken in these cases. First though, it is important to note that only 48 per cent of the trials resulted in an execution. The defences themselves take a number of forms. First, whenever possible defendants mentioned their previous sexual acts with women.⁴³ When forced by witnesses, or torture, they often admitted to some fondling and 'horseplay'.⁴⁴ In all cases there was a determined effort to resist confessing to two specific acts. First, penetration (whether anally or orally) was denied.⁴⁵ If this was confessed, the defendants strongly denied that ejaculation took place.⁴⁶ In effect, there was a defence beyond outright denial: previous heterosexual or 'natural' sexual activities. Once same-sex acts were admitted there was clearly a hierarchy of crime. Penetration, or the attempt thereto, was bad, penetration long enough to ejaculate was worse.

Two cases perplexed the magistrates and an examination of these trials will prove useful: those of Reancourt and Beudant (on the one hand) and Delarue (on the other). In both cases, there was more than sufficient evidence to convict: Reancourt and Beudant were caught in the act while Delarue freely confessed his guilt. Reancourt was clearly suffering from mental problems while Beudant was too young (only eighteen) and had been put up to the behaviour as part of a privately run sting operation against Reancourt,

whose exhibitionism and fondling (in church) had begun to annoy leading citizens.⁴⁷ Reancourt was well known for his behaviour; however, it seemed that the magistracy was unwilling to take any action against him.⁴⁸ They both confessed to kissing one another but denied anything else.⁴⁹ Reancourt admitted that he knew their behaviour was wrong.⁵⁰ The legal advice eventually concluded that nothing ‘approximating to the appalling crime of sodomy (*approchans au detestable crime de sodomie*)’ occurred, certainly not through the behaviour of Reancourt.⁵¹ However, the lawyers also mentioned the youth of Beudant and the age and marital status of Reancourt as mitigating factors.⁵² In the end, these opinions were followed by the State, which banished both men but placed Reancourt under the harsher sentence of ‘on pain of death’ while qualifying Beudant’s banishment ‘on pain of flogging’.

Jean Delarue, for his part, fascinated the magistrates because his primary explanation for his life-long sodomy was that it gave him pleasure.⁵³ His trial was extremely brief – only four days – and resulted in his execution. The summation noted two important features coming from his testimony. First, he confessed ‘that for years he had abandoned himself to committing the horrible crime of sodomy, against nature, with many people outwith this city (*que des longues annees il s’est abandonne a commettre l’horrible crime de sodomie contre nature avec plusieurs personnes hors ceste cite*).’⁵⁴ Secondly, he had only been caught because ‘he had been in an inn in this city a few days ago with a young man [Balthasar] . . . [and] he had made an attempt on the person of that young man, who had resisted and reported [him] to the law (*il y a quelques jours en un logis public en ceste cite avec un jeune homme . . . il auroit attente sur sa personne le quel jeune homme luy resiste et revele a justice*).’⁵⁵ Delarue had managed to maintain an active sex life for many years and seemed to have expected that Balthasar would either acquiesce or, at least, simply ignore the advance. However, the most important feature of this trial is the openness of his confession and the forthrightness of his motivation. When asked ‘if he committed this horrible crime for pleasure [he] responded for pleasure . . . and [because of] his poverty, he confessed he had done this for pleasure with all those with whom he had committed it (*sil a part commis cest horrible acte p[ar] plaisir R[epondre] par plaisir . . . et p[ar] pauvrete confesse l’avoir faire p[ar] plaisir avec toute ceux quil avec lesquelz il l’a commisery*).’⁵⁶

The most interesting series of cases, however, relates to Pierre Canal.⁵⁷ As can be seen from Table 7.1, a substantial body of men was arrested. There are many important points worth consideration. First, the city was immediately suspicious of the close relationships between these men of widely differing socio-economic backgrounds.⁵⁸ Second, whenever possible social and marital status were used as a defence.⁵⁹ In addition, although everyone had had oral sex with Canal there was a determined effort to deny ejaculation.⁶⁰ Worse from the point of view of the judges, there was evidence of partner swapping.⁶¹ Although torture played a part in the trials it seems not to have produced false confessions.⁶² Finally, the behaviour, as with the octogenarian

Delarue, had remained hidden for a considerable period of time.⁶³ Taken together, this series of trials presents impressive proof both of a close-knit group of men engaged in same-sex acts as part of a wider social context as well as the importance of status, evidence of heterosexuality and 'lack of consummation (ejaculation)' as a defence strategy.⁶⁴ These men were not only part of a promiscuous group, but also had a reasonably active (and carefully hidden) social life one with another.⁶⁵ In addition, they were all well aware of the best means of protecting themselves when caught.⁶⁶ While the historian may infer the types of defences advanced, these men clearly knew them as a matter of life or death.⁶⁷

Although these cases are interesting, the most surprising feature is the repeated stress laid by the magistrates and lawyers on natural versus unnatural acts. Moreover, the creeping defence, of admitting some things while denying the greater crimes, is a common strategy as is the plea of previous involvement in natural sexual activities. Finally, the rate of execution is surprisingly constant at 40–50 per cent.

As can be seen from the Tables though, the situation changes dramatically in cases of child abuse, especially in cases involving boys. In these cases, the rate of execution is nearly 67 per cent. Although the rate of execution in cases involving girls is lower, at 45 per cent, these are the cases in which penetration was proven or confessed; the other cases, in effect, involved 'inappropriate touching'. In other words, sexual assault on children produces an overwhelming rate of execution regardless of gender. The horror of the magistrates in these cases comes through repeatedly; they are truly shocked that anyone would want to harm a child.⁶⁸ They regularly ask if the child cried and, if so, why the person persisted.⁶⁹ In a sense, crimes against children seem to be the most 'unnatural' in the eyes of the magistrates, lawyers and doctors.

Finally, one might highlight a few additional cases. In 1563, Hozias Lamotte, a student and private tutor, was arrested for violating his pupil, Jehan Cherubim.⁷⁰ The tale had come out when young Jehan started crying at the supper table and his parents asked what was wrong. His father was particularly incensed because he had explicitly forbidden the tutor to strike his child, since he had assumed that physical abuse might well lead to worse excesses. Five years later in 1568, Louis Guey was executed for having had sex with Beatrice George.⁷¹ Despite her age, she was beaten. This was because twice she had entered his room and initiated sexual relations. That was deemed to be culpable. Finally, in 1600, Jean Bourgeois was accused by the consistory of Gex, a rural parish, of attempting to rape a young girl, Claudia, by becoming engaged to her with her mother's consent.⁷²

So, having survived this hasty trawl through Genevan deviance, what tentative conclusions can be advanced? First, outright denial was rarely tried as the sole defence, except in bestiality cases. Usually, the defendants admitted some crimes while denying the worst charges. Also, in cases of same-sex acts, previous contact with women was quite a strong defence. The most successful

defence was that identified by the lawyers: youth and diminished mental responsibility. In many cases, the authorities interpreted these categories very broadly indeed. The most interesting overall conclusion from an examination of these trials is the stress laid on activities that are against nature and those that are not. Unnatural acts are punished most severely. More importantly, there seem to be gradations of unnatural acts. For example, incest with a blood relative is more unnatural than sex with a relative by marriage. Sexual acts involving children, because they also cause pain and suffering to an innocent, are seen as especially unnatural. The defensive strategies adopted by the accused seem to bear this conclusion out. Defendants were willing to admit to just about anything 'natural' but constantly maintained their innocence against the charge of 'unnatural' acts. When forced to confess, by opposing testimony or torture, they still had in mind a firm hierarchy of the unnatural acts that were more natural. Thus, ejaculation during penetration was worse than penetration alone; which was worse than simple assault; which was worse than exhibitionism. Throughout these trials, judges, lawyers, doctors, midwives, witnesses, and the defendants, provide evidence of a very subtle and discrete dialogue about deviance in which many diverse levels are apparent. For an age without psychology, sociology and other 'modern' behavioural disciplines, the participants in these trials reveal themselves to be very acute observers of human behaviour and development and, perhaps, surprisingly modern.

Notes

- 1 For general studies on this topic see K. Gerard, *Pursuit of Sodomy: Male Homosexuality in Renaissance and Enlightenment Europe* (Harrington Park, Pennsylvania, 1987); M. Goodrich, *The Unmentionable Vice: Homosexuality in the later Medieval Period* (no place: Dorset, 1979).
- 2 For additional information see E. W. Monter, 'La Sodomie à l'époque moderne en Suisse romande', *Annales: Économies, Sociétés, Civilisations*, 4 (1974), 1023–33 and his 'Sodomy and heresy in early modern Switzerland', *Journal of Homosexuality*, 6 (1980–81), 41–55. All manuscript references are from the *Archives d'État de Genève* and its two series of *Procès Criminels* [henceforth as, PC1 or PC2: dossier number (trial dates): accused].
- 3 Although prosecutions stopped in the mid-seventeenth century, there are four surviving cases thereafter. However, these were handled in a very different way and evidence a dramatic shift both in magisterial and popular opinion. See PC1: 14778 (5–12 December 1785, Louis Caulet, aged forty-seven, watchmaker, for sodomy with a grenadier, fugitive); 14930 (31 July 1786, Jacob Zimmermann, shoemaker, aged twenty-three, for soliciting soldiers, censured and banished); 15178 (2 June–31 July 1787, Jacob Ponçon, for sodomy with, and corruption of, various soldiers, banished); 15711 (20–22 May 1789, Jaques Dombres, aged forty, billiard-hall owner, for sodomy, deprived of his licence).
- 4 On the place of torture in judicial processes see J. H. Langbein, *Torture and the Law of Proof: Europe and England in the Ancien Regime* (Chicago, 1977); J. Heath, *Torture*

and *English Law: An Administrative and Legal History from the Plantagenets to the Stuarts* (Westport, 1982).

- 5 The Lieutenant was Geneva's chief investigating magistrate (comparable to the Scottish procurator fiscal) who was helped by his four *auditeurs*.
- 6 For attitudes elsewhere see G. Ruggiero, *The Boundaries of Eros: Sex, Crime and Sexuality in Renaissance Venice* (Oxford, 1985); M. Rocke, *Forbidden Friendships: Homosexuality and Male Culture in Renaissance Florence* (Oxford, 1996).
- 7 PC1: 1465 (16–31 March 1568): Françoise, daughter of Pierre Morel, *bourgeois*, aged approximately thirty-six. The papers in the individual dossiers are not paginated or foliated but are arranged (for the most part) in a chronological order. Thus, reference will be by date. The Genevan civic structure needs some comment. At the bottom of the social scale were foreigners and *natifs* without civic power. Registered aliens were sworn to protect the city and called *habitants*. Anyone could buy or be given full civic status (though forbidden senatorial and syndical office) as a *bourgeois*. A child born to *bourgeois* parents in Geneva gained the rank of *citoyen* and access to all offices (including those of Senator and Syndic).
- 8 PC1: 1465 (22 March 1568).
- 9 Colladon's explicit description was altered in the first draft of the public sentence to 'debauchery and fornication in a manner contrary to nature (*debordement et paillardise contre nature*)'. The final draft replaced this with '[a] detestable crime contrary to nature (*crime detestable contre nature*)'. Colladon's phrase made the sex act clear. The first draft was still explicit (fornication, *paillardise*) while the final form was so vague as to include bestiality. For more on women and crime see U. Rublack, *The Crimes of Women in Early Modern Germany* (Oxford, 1999).
- 10 Cf. F. Canade-Sautman, *Same Sex Love and Desire among Women in the Middle Ages* (Basingstoke, 2000); J. C. Brown, *Immodest Acts: The Life of a Lesbian Nun in Renaissance Italy* (Oxford, 1986).
- 11 For the close association of gender, sexuality, and the demonic see L. Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (London, 1994); D. Elliott, *Fallen Bodies: Pollution, Sexuality, and Demonology in the Middle Ages* (Philadelphia, 1999).
- 12 PC1: 1517 (28 January–1 February 1569). See also the case of group homosexuality involving three Europeans and three Muslim converts to Calvinism, PC2: 1634 (19–24 February 1590): Girardin Dupuis (from Versoix, aged fifty, acquitted), Jean Chaffrey (from Dauphiné, aged twenty, executed), Etienne Chappuis (*citoyen*, aged fifteen, executed), Tatara Mohamet (from Martara, aged thirty-five, executed), Assan (from Turkey, aged twenty, executed), Ali Arnaud (from Rumania, aged thirty-four, executed).
- 13 PC1: 1517 (27, 29 January 1569): Claude (son of Claude Chrestien), from Nantua, a mason and Jaques (servant of Claude de Lac, son of Pierre Molliez), from Rouz. The other three men implicated but not prosecuted were the Sieur de Veygiez, Pierre Dabaux (servant, along with the girl, of the Avullier household) and André Burnet (servant of Jean Burnet, mason, from Nantua, and Chrestien's employer as well). The young woman was Pernette Chappuis, niece of André Bonjon. They all lived in the Avullier house.
- 14 PC1: 1517 (26 January 1569).
- 15 PC1: 1517 (28 January 1569).

- 16 His undated advice referred to the acts as '[a] thing completely horrible (*chose tout horrible*)'. The summation said that 'like creatures, wholly shameless and bestial, they had defiled themselves and fornicated together (*comme gens de tout effrontes et brutaux se polluerent et paillardèrent tous*)'. The public sentence added the marginal note that they had acted 'like dogs and brute beasts (*comme chiens et bestes brutes*)'.
- 17 PC2: 1110 (7–18 November 1556): Etienne (son of François Taccon, *bourgeois*, called *Gros Thivent*), Christobla (daughter of Jehan Sertoux, from St-Jullien) and Pierre (son of Pierre Dentant, from Neynier, shepherd).
- 18 Colladon's opinion, as well as both the summation and sentence, expressly mention the incest and the perjury.
- 19 PC1: 1516 (25 January–26 April 1569); 1519 (5 February–2 March 1569): Pierre (a wool-carder) and Jeanne Nicolas (aged about fifteen), the children of Claude Nicolas (a lace maker raised as an orphan in the city's *Hôpital Général*) and Claudine l'Hoste, a *citoyenne*. A mother's status did not pass to her children. Thus, they were both *natifs*. Jeanne's fiancé, Martin Leschiere, was banished on pain of death a few months later, see PC1: 1518 (1 February–9 June 1569), PC2: 1311 (1 February 1569).
- 20 She had been examined and proven not a virgin (29 January 1569). Her explanation of her prevarication came on 20 April.
- 21 PC1: 2378 (19 October–14 November 1617): Pierre (son of Pierre Delarue) from La-Baume-en-Genevois, aged forty-six.
- 22 The summation explained the tangled events: in 1609 'While at Baumont, he had abandoned himself to perpetrating that horrible and execrable crime against nature with a mare; having been detained as a prisoner for this in the said place he managed to escape (*estant au lieu de Baumont il se seroit abandonné à commettre l'horrible et execrable crime contre nature avec une jument, pour lequel estât detenu prisonnier dud[ite] lieu il se seroit evadé d'icelles*).' Cf. the use of the phrase '*crime detestable contre nature*' to obfuscate the lesbian case above.
- 23 PC1: 3696 (22 May–6 June 1660): Pyramus (son of Pierre Mermilliod), from Troinex, aged sixteen or seventeen, servant of Esaia Colladon in Petit-Sacconex.
- 24 A second witness was Catherine, daughter of Jaques Lebouz, from St-Genys (22 May 1660).
- 25 That is, 'that he was cleaning [the fundament] (*quil le nettoient*)' (28 May 1660).
- 26 PC1: 3777 (28 February–16 March 1663): François (son of Roulet Bosson), from Vernier in Gex, master carpenter, aged thirty.
- 27 The witness was Estienne (daughter of Hugues Duvillard), *habitant*, servant of Noé Remilly, aged thirty. He was tortured on 7 March 1663.
- 28 His defence was hampered both by his variations and because he had fled the officer of the court when they had tried to arrest him (28 February 1663).
- 29 PC1: 862 (12–24 October 1559): Jaqueme (daughter of Bernard Gonet, from La Cluse, labourer), chambermaid of Pierre Tolliet (apothecary); Esther (daughter of Ylaire Bodineau and Nicole Renaud, from Bles, *habitant*, step-daughter of Estienne Batteneau, book-seller and *habitant*), aged fifteen; Nicolas (son of Estienne Batteneau and Nicole Renaud), aged eight or nine.
- 30 12, 14 October 1559.
- 31 Jaqueme told Esther 'that she had seen some men who had lengthened [become erect] their penises (*quelle avoit veu des hom[m]es que avoyent leur membres long*)' and boys and girls in the village playing with one another (12, 18 October 1559).

- 32 The public verdict against Jaqueme is explicitly vague: ‘you have committed a detestable crime not to be named and likewise you have been possessed by the Devil (*tu as commys crime detestable qui nest point a nommer et mesmes que tu as este possedee du diable*)’.
- 33 The final advice comes in a second opinion from Colladon which seems to struggle with the exact wording of the crimes and punishment. The first opinion, by Nicolas des Gallars, Louis Enoch and Colladon, follows a similar line but inclines to a harsher punishment for Esther. Esther’s public verdict also says ‘you have committed a detestable crime not to be named (*tu as commus crime detestable et que nest point a nomme[r]*)’.
- 34 He is not actually sentenced in an official way. The appeal by their mother, Nicole Renaud, failed to prevent Esther’s flogging and banishment on pain of death.
- 35 Referring to ‘obscene and detestable acts that are not fit to be discussed (*actes vilaines et detestables et que ne sont pas dignes destre recitez*)’.
- 36 PC1: 1359 (28 May–10 June 1566): Bartholomy (son of Bastian Tecia, from Piedmont, *habitant*); Theodore-Agrippa (son of Jehan Daubigny, from Gascony); Emeri (son of Arnaud Garnier, from Gascony). Likewise, Joseph Guarino, when sexually assaulted by Claude Bodet, a *bourgeois*, in 1610 simply discussed the attack with his employer, Martin Anglois. Guarino said that when he had rebuked Bodet, the latter ‘trembling, could not reply (*tremblant il ne peult pas repondre*)’. Neither took the matter further (see PC1: 2022, 2 February).
- 37 Daubigny said that ‘an Italian student staying with me tried to bugger him that night about midnight (*ung escoleur Italien demourât chez me le principal le voulut le nuict bougrer environ la muynuit*)’.
- 38 Hence, both Garnier and Daubigny were initially arrested though they quickly changed from co-defendants into chief witnesses for the prosecution.
- 39 He confessed on 30 May 1566.
- 40 Tecia said ‘While Agrippa was asleep one night, [Tecia] tried to force him to realise his desire to place his member inside [Agrippa] (*Agrippa dormât une nuyt il se voulut efforcir daccomplir son desire cest de mettre son membre dand[it] luy*)’ (31 May 1566).
- 41 See 30 May 1566.
- 42 Colladon made it clear that Tecia ‘cannot be excused because of being too young and ignorant (*ne peut estre excuse de trop grande jeneusse et ignorâce*)’ because of the manipulative nature of his acts ‘to incite him [Garnier] into consenting to all those totally abominable acts (*pour le [Garnier] inciter a le consentir tous lesquelz actes sont du tout abominables*)’.
- 43 Jean Buffet was willing to admit to his extramarital fornication but was vehement in denying he had had any sexual contact with another man (PC1: 2031, 10 April 1610). Cf. Pierre du Four’s assertion that he was so far from being a sodomite that he had already fornicated (aged nineteen or twenty) and that his father knew it (PC1: 1818, 5–15 November 1600).
- 44 See the case of Tecia above.
- 45 See the discussion about the cases revolving around Canal below.
- 46 Again, see the Canal affair below.
- 47 PC1: 957 (4 June–11 July 1561): Thomas (son of Michel de Reancourt, from Normandy), goldsmith, *habitant*); Jacques (son of Pierre Beudant, from Nîmes), draper, servant, aged eighteen.
- 48 A string of depositions (on 4, 6, 9, 11, 28 June and 12 July 1561).

- 49 See Beudant's confession (17 June 1561) that 'he had also put his tongue in [the other man's] mouth (*luy passant aussi sa langue entre ses levres*)'. Reancourt denied that the kiss was intimate (6 June 1561).
- 50 His plea was that the behaviour was innocent in intent: 'it was only in play, with no wicked intent (*qua plus en se jouant non pas a mal*)' (12 June 1561).
- 51 See the sentence.
- 52 One said that 'in the first place and without any doubt, the said Thomas is, in age, a legal adult having a wife and children (*en p[re]mier lieu et sans aucunq doubte q[ue] led[it] Thomas estat en aage dhom[m]e p[ar]faict ayât femme et enfans*)'.
- 53 PC1: 2350 (5–8 February 1617): Jean (son of Jaques Delarue, from Passeri), aged eighty.
- 54 See the summation.
- 55 See the summation.
- 56 See 7 February 1617.
- 57 All the trials took place in 1610. PC1: 2013 (12 January–2 February, Canal, executed); 2014 (20 January–13 March, Jean Maillet, *citoyen*, spying and murder); 2016 (31 January–24 February, Plongon, *citoyen*, fined 200 écus); 2017 (31 January–25 February, Boniot; Felisat; Gaudy; sodomy, all executed); 2018 (31 January–3 March, Berjon, *citoyen*, banished); 2019 (31 January–3 March, Artaut; Bedeville; André; Destalle; sodomy); 2022 (1 February–17 April, Bodet, *bourgeois*, sodomy, fined 1,000 écus); 2031 (30 March–10 April, Buffet, fornication and sodomy, banished).
- 58 See Table 7.1 for details on status and profession.
- 59 Canal made it clear that he had not had oral or anal sex with his wife although he had taken the active and passive roles in both with other men, see PC1: 2013 (31 January 1610). Bergeron was specifically asked if he was married and had to admit that he was not married at the time of his first sexual relations with Canal (PC1: 2018, 3 February). Despite confessing to frottage, interracial sex, and mutual masturbation with Canal and Destalle (and at least six other youths) at various times in the previous thirteen or fourteen years, Bodet was only fined (PC1: 2022, 1 February).
- 60 Bonoit admitted that Canal had 'eaten his member' but that ejaculation had not occurred 'except one time' (PC1: 2017, 19 February 1610); despite torture, he maintained the distinction (23, 26 February). Felisat confessed to frottage and mutual masturbation only (31 January). Despite repeated torture, Artaut would only admit to mutual masturbation and that Canal had orally stimulated him but denied he had ejaculated in Canal's mouth or that he had ever performed oral sex on Canal (PC1: 2019, 3, 19, 26 February).
- 61 Plongon was accused (PC1: 2016, 23 February 1610) of having allowed his hand to wander while sharing a bed with Hugonin Challon (aged thirty-six) three weeks before the trial. Bodet admitted to fondling Destalle (PC1: 2019, 1 February).
- 62 See for example PC1: 2014 (20 January–13 March 1610), Maillet, who resisted extreme applications of torture and whose piteous pleas are preserved. He was acquitted. Canal was so badly tortured at one point that he could not speak and 'had trouble breathing' (PC1: 2013, 27 January). Two surgeons reported that Bergeron's arms had been badly damaged by torture (PC1: 2018, 1 March).
- 63 Pierre Guaict (aged twenty-six) said that men had been calling Canal a 'bugger' in public for the previous eight years, see PC1: 2013 (29 January 1610). Bergeron

admitted that Canal had molested him seven or eight years before the trial when Bergeron was in his late twenties and that he had not reported it (PC1: 2018, 31 January). Bedeville said his relationship with Canal had started five years before (PC1: 2019, 31 January). Destalle said that Canal had tried to molest him while he was still a student (in 1602, aged seventeen or eighteen); this was not reported nor did it end their friendship (PC1: 2019, 31 January).

- 64 One of the more creative defences was produced by Destalle who said that he had discussed masturbation with the minister De la Faye, who had told him it was wrong, although a number of other prominent youths had told him that masturbation (even mutual masturbation) was not a sin (PC1: 2019, 19 February 1610).
- 65 Plongon admitted (PC1: 2016, 31 January 1610) that he had slept over at Canal's house when he was about twenty-one but denied any acts of oral sex. The judges specifically wanted to know why André kept visiting Canal's house if he was always having to rebuff unwanted sexual advances (PC1: 2019, 2 March); André simply denied that anything had actually happened.
- 66 Felisat (PC1: 2017, 19 February 1610) defended himself by saying he 'intended no evil but knew that Canal was a man of reputation (i.e., socially prominent and powerful)'. Gaudy also took a similar line saying Canal forced himself upon the unwilling Gaudy (19 February).
- 67 Gaudy's father (also Pierre), after his son's appeal as a citizen to the *Conseil des Deux Cents* failed to overturn the sentence of death, presented a lengthy appeal (PC1: 2017, 28 February 1610) that argued for lenience on a number of grounds: the youth's age, the length of the detention during the trial, the cold in the prison, the harshness of the torture and the untrustworthiness of a convicted traitor, spy, and sodomite (Canal). Bergeron's wife and lawyer tried a similar appeal (PC1: 2018, 2 March).
- 68 E.g., PC1: 1147 (16–19 August 1563): Claude Barbel, a schoolteacher, was sacked for striking three of his pupils in the mouth with a rod. Cf. L. Haas, *The Renaissance Man and his Children: Childbirth and Early Childhood in Florence 1300–1600* (Basingstoke, 1998); B. A Hanawalt, *Growing up in Medieval London: The Experience of Childhood in History* (Oxford, 1993).
- 69 E.g., PC1: 3768 (9–24 December 1662): Col. Alphonse Crotto (from Lucca, aged forty-four) and Jean Chabaud (from Avignon, aged thirteen). Crotto was executed and Chabaud beaten.
- 70 PC1: 1167 (29–31 December 1563): Hozias Lamotte (from Anduze, student) and Jean (son of Jean Cherubim).
- 71 PC1: 1494 (11–21 September 1568): Louis Guey (*habitant*, from Aosta, aged seventy-two) and Beatrice (daughter of Nicolas George, merchant, from Piedmont), aged twelve.
- 72 PC2: 1932 (20 August 1600): Jean Bourgeois (from Vernier, aged forty-five), Françoise Corbet (mother of Clauda, from Chevrier), Clauda (daughter of Mauris Roget and Françoise Corbet, aged ten), Bernard Roch (Clauda's uncle). It appeared that this was an attempt to spirit the child across Lake Geneva from Protestant Gex to the re-Catholicised southern shore.