Dealings with God

From Blasphemers in Early Modern Zurich to a Cultural History of Religiousness

Francisca Loetz

Translated by
Rosemary Selle

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To those who, as translators, deal with words – with or without cursing – when they do the highly demanding but too often underestimated work of betraying authors upward

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Cultural History of Religiousness

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Contents

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Foreword

Those who deal with blasphemy will occasionally have an experience similar to that of doctors or lawyers. They are presented with a story and asked to give judgement in the matter. I was once asked by a concerned but not overly anxious mother whether her children, baptised as Roman Catholics, had committed blasphemy on a recent train journey when, within hearing of a priest, they had played a game of 'Holy Mass' with slices of salami. No answer to the question will be offered here. This study does not seek to take up theological positions, but to offer historical orientation. It enquires empirically into the meaning of religion in the Early Modern era and opens up a conceptual discussion of what a current history of religiousness could look like.

Just as looks can kill, our words can hurt. The history of blasphemy presented here is not a history of intellectual systems but one of verbal action. It does not treat physical acts of blasphemy such as 'bestiality' (sexual intercourse with animals), iconoclasm or desecration of the host. Its starting point is the realisation that early modern blasphemy is an alien phenomenon for modern western society. Who is really aware of cursing and swearing as a Christian when they let loose a 'go to hell!' or 'Jesus Christ!'? It seems that reverence towards God has made its exit from western industrialised countries. Why, then, should we bother to study the problem of blasphemy in historical perspective?

A first answer: certainly not because an early modern blasphemer could be sentenced to death, making the history of blasphemy a life-or-death topic. A second answer: not because early modern fear of the God of Christianity puzzles us today and thus needs explaining. And now a third, positive answer: because religiously founded norms continue to shape our western industrialised societies. Even if there is much that separates the European, ostensibly secularised Modern era from Christian Early Modernism, the epochs are connected by the question of the meaning of religion. Dealing with blasphemy in an early modern society is not a mere digging around in the past that turns up some entertaining anecdotes. Enquiring into the scope and implications of religious utterances means examining how religious norms regulate everyday life. This in turn means opting for a fundamental access to understanding a society. Blasphemy was the object both of authoritarian and of mutual social sanctioning; it was an everyday phenomenon of social and potentially of political action;

it expressed various forms of individual belief and unbelief. The present study falls accordingly into three parts, opening with discussion of the research. Each section of Parts II and III ends with a headed Summary. A Glossary provides definitions of distinctive terms from the Swiss early modern context that do not have ready equivalents in modern English. Although no attempt can be made here to study the approximately nine hundred recorded blasphemers in microhistorical detail, the aggregate data do provide highly diverse insights into the religious life of early modern Zurich.

This book is based on a *Habilitationsschrift* (professorial treatise) submitted in Germany and bearing all the hallmarks of Teutonic scholarship. In the interests of Anglo-American readers I have radically shortened the text, and revised and updated it where necessary. In doing so, I have taken note of the work of my reviewers, and thank them for their comments. Whereas in the German version a case of each type of blasphemy is presented for each century in order to document the continuity of the phenomenon, in this English version only one case of each type is presented for the whole period. Most of the quantitative data have been integrated in the text so that the tables and graphics of the German version could be dispensed with. Those interested in further detail may consult that version. For the benefit of the reader, most quotes are provided in modern English. A number of original quotes have been retained so as not to silence completely the early modern soundtrack. It is thanks to Kaspar von Greyerz that the book is being published in the St Andrews Studies in Reformation History series.

Religion in Early Modern History: An Approach by way of Blasphemers in Zurich

1.   Formulating the Question

On January 6, 1658, the nailer's apprentice Johannes Zyder from Ravensburg in Swabia was taken to court. The prosecution alleged that at the Saffran inn in Zurich he had replied to the provocative question of why Swabians were 'liver-eaters' by telling a blasphemous joke. It went as follows: God was travelling with a Swabian, bought some liver and asked his fellow traveller to cook it. But before they could eat it, God was called away to a deceased person wishing to be raised from the dead. God fulfilled the wish and received money in return. Going back to his Swabian fellow traveller, he was looking forward to finally enjoying the meal. But the liver was gone. The Swabian vehemently denied eating it. So God divided the money he had received into three parts and said that each should take his due: the Swabian, God himself, and the one who had eaten the liver. Whereupon the Swabian took two parts.

This joke, which was very successful in its time, may not appear blasphemous from today's perspective. Even if practising Christians might find the depiction of God as a lord who takes money for his services offensive, for most of us the point of the joke with its self-deprecating narrator is that it pokes fun at the Swabians. In our secularised society, the idea that God's honour could be seriously insulted by such a joke seems irrelevant. Historically, however, it is certainly worth examining verbal forms of blasphemy such as swearing, cursing and abusing or denying God. Banal and anecdotal as it may seem, Johannes Zyder's case offers opportunities to explore the implications of religious norms in the everyday life of an early modern society. The very fact that our modern society has difficulty in understanding this joke as blasphemous gives rise to the essential question of difference, the question of the 'meaning' of religion in an early modern society. What is blasphemy, and what makes it a problem for early modern people?

Evidently blasphemy has to do with religion, but in what way exactly? What conclusions can we draw concerning religion in the Early Modern era by looking at blasphemy? If the verbal behaviour treated in this study had not been a stumbling block, there would have been no need to initiate legal proceedings. We are concerned with utterances that were recorded as offences. The blasphemies that resulted in court cases were norm transgressions exceeding a certain level of tolerance, and as such they bear testimony to religion in a threefold perspective: as an individual attitude of faith, as a medium of conflict between two opponents, and as the object of sanctions. Religion can be defined as the sum of metaphysically substantiated patterns of interpretation and behaviour through which human beings lend meaning to their contingency experiences.[1] However, the standpoint from which interpretation is undertaken must always be kept in mind. So in the case of blasphemy, various norms are transgressed. At the individual level, the transgression is limited to metaphysical questions of personal faith. But the settling of a conflict with a concrete opponent relates to social norms of behaviour that imply the keeping or breaking of social peace. From the perspective of the authorities and the social environment, blasphemy is a norm transgression that may undermine the legitimacy of their claims to power and thus also endanger community life. Given that norm transgressions are the negative of norm expectations,[2] the offence of blasphemy enables us to explore the available spaces of thought and action in the religious field.

The present study aims to establish the essentially political, social and individual nature of religion by exploring how religious norms affect everyday life. The level of norms will thus be linked with the level of practice. In empirical terms, this means asking how theologians, ministers of religion and city councillors dealt with the problem of blasphemy in their respective functions as thinkers, pastors and judges. However,

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[1]   On the problem of defining religion from, respectively, theological, sociological and historical perspectives, see: Gregor Ahn, 'Religion', in *Theologische Realenzyklopädie*, vol. 28 (Berlin–New York, 1997), pp. 513–21; Thomas Luckmann, 'Einleitung', in Bronislaw Malinowski, *Magie, Wissenschaft und Religion und andere Schriften* (Frankfurt, Main, 1973), p. XI; Richard van Dülmen, 'Religionsgeschichte in der Historischen Sozialforschung', *Geschichte und Gesellschaft*, 6 (1980), pp. 37f.

[2]   The deduction of norm expectations by way of norm transgressions as 'normal exceptions' is emphasised by Hans Medick with reference to Eduardo Grendi in 'Entlegene Geschichte? Sozialgeschichte und Mikrohistorie im Blickfeld der Kulturanthropologie', in Joachim Matthes (ed.), *Zwischen den Kulturen? Die Sozialwissenschaften vor dem Problem des Kulturvergleichs* (Göttingen, 1992), pp. 167–78; here: pp. 173f. Medick might also have referred to what Paul Drew and Anthony Wootton term the 'investigation of the normal through the abnormal' in their examination of Erving Goffman's interaction concepts: Drew and Wootton, 'Introduction', in id. (eds), *Erving Goffman: Exploring the Interaction Order* (Cambridge, 1988), pp. 1–13; here: p. 7.

blasphemy will not be treated here exclusively as the subject of theological thought and authoritarian rule. It is also a phenomenon of social practice, giving rise to the question of what function and effects blasphemous norm transgressions had in everyday life, and what attitude of faith on the part of the blasphemer they represent.

Developing the theological dimension of blasphemy in early modern Zurich requires a meticulous appraisal by church historians, focusing on theological history. Very little has been done so far. This study therefore concentrates on Zwingli and Bullinger as the two eminent representatives of Reformed Zurich. In accordance with the object of the study, the questions asked in assessing their work are as follows. Which theological traditions did the two Reformers connect with in their discussion of blasphemy? What innovative impulses did they introduce into the debate? What significance did they attach to the problem of blasphemy?

This approach to the theological concept of blasphemy can only be a pragmatic means of accessing blasphemy in the history of theology. In assessing the writings of Zwingli and Bullinger, detailed attention cannot be given here to tracing the history of ideas; similarly, theologians of the post-Reformation era have not been included. This is quite justifiable when we consider the fact that – as sample research showed – the topic of blasphemy is treated by hardly any of Zwingli's or Bullinger's successors. If it occurs at all, then it is only in order to confirm Zwingli's or Bullinger's position. The analysis of the theological dimension of the offence of blasphemy can thus do no more than to sketch in the theological background against which the Zurich blasphemers stand out.

The traces of theology are not only to be found in theological writings, however. When church representatives were required by the relevant secular authorities to provide assessments in court cases of blasphemy, they naturally made use of theological argument. What theological concepts did they refer to, and how did they apply theological norms to the practice of arguing individual cases? Asking these questions will enable us to distinguish between theological thought and ecclesiastical moral politics.

More familiar to historians than the theological aspects of religious phenomena is the political dimension. This brings together the issue of authoritarian power over subjects and the participation of subjects in power. The complexity of this issue demands a fourfold perspective. The first question concerns legislative norm-setting as a means of political exercising of power. How did the legislator, i.e. the Zurich Council, define blasphemy, and what were the intentions of its mandates? The other three questions refer to the application of norms. Did the church and the council make use of prosecutions of blasphemers in order to impose their power interests? An analysis of the practice of sentencing by secular judges will indicate whether, in the interest of prevention of further offences,

the courts tended to pursue punitive aims (concerned to marginalise the offender) or restitutive aims (concerned to reintegrate the offender). Could blasphemers 'negotiate' their sentence with the judiciary instead of merely subjecting themselves to it? Blasphemers were called to account not only by the authorities but also by their fellows. For this reason, the behaviour of witnesses of blasphemy will also be examined in order to establish the role played by social control among speakers. We shall need to clarify whether witnesses made use of the judiciary for their own purposes when they reported blasphemers or came to out-of-court settlements with them.

As well as the theological and political perspectives of blasphemy, this study lays emphasis on the social dimension of religion as the interaction of culturally defined norms. Examining blasphemy as a cultural phenomenon is not a self-evident undertaking, as is apparent in the current controversies surrounding the establishment of a modern cultural history. Without wishing to anticipate the necessary methodological discussion at theoretical level at this point, a provisional empirical answer may nonetheless be offered. Premised on the understanding of culture as the sum of socially formed patterns of action and interpretation that historical individuals have at their disposal in order to give meaningful shape to their lives, the question arises as to what the 'meaning' of blasphemy might be. Whom and what did blasphemers mean when they uttered blasphemies, in what contexts did they operate, and indeed who were they?

The religious dimension of blasphemy, finally, requires the least comment. The conflicts that led to the official accusation of blasphemy are a reflection of the religious utterances that caused problems. This raises the essential question of what convictions and doubts of faith were being expressed in blasphemous talk. But here, too, there may be differing perspectives. Within the field of confessionalisation research, blasphemous utterances offer the opportunity to explore how laypeople dealt with Reformation doctrine. What theological points do the blasphemers and their opponents discuss? How do these points change over time? From the perspective of history of belief or unbelief, blasphemous utterances indicate what believers wrestle with in their individual dealings with God. What do Christians accuse God of? How is God imaginable – or unimaginable – for them? These two perspectives are closely related, in that both the history of confessionalisation and the history of un-/belief address the issue of changing images of God. But further differentiation is necessary. We need to ask what characterised blasphemers. On the one hand, this means distinguishing them from those prosecuted for sorcery or heresy. On the other hand, it entails asking what blasphemous utterances have to tell us about the blasphemers themselves. Were they taking up the legacy of heretical traditions? Did they show certain forms of sociability that included the spontaneous use of given patterns of speech, or did they

tend to be non-conforming brooders who gave individual expression to their autonomously developed convictions and questions?

Approaching the past from the perspective of a modern understanding of blasphemy would lead us anachronistically astray. The question is not how today's idea of blasphemy – as opposed, e.g., to heresy – looked in a society of the past. Rather, we must ask what the members of an early modern society considered to be blasphemy. This study, therefore, follows a historical concept of blasphemy. However, the conceptualisation undertaken by mediaeval and early modern theologians and jurists – which will be set out in this study – is not found in the diffuse terminology of the court records. Whereas theologians and jurists categorise blasphemy as cursing, swearing, and abusing God, the legal sources often speak summarily of 'blasphemous words' or treat the theological and juridical categories wrongly as synonyms. Hence the assessment of whether a recorded verbal offence was a curse, a swearing or an abuse of God cannot rely on the terminology of the court records. Rather, a historical interpretation is required that places the blasphemous speech actions in early modern categories, regardless of what the sources call them.

We distinguish, therefore, four concepts of blasphemy: today's ideas of blasphemy; the early modern theological and juridical conceptualisation of verbal sin; the imprecise usage in the court records; and the historical categorisation as speech actions of cursing, swearing, or abusing God, in accordance with the early modern theological–juridical criteria. It is this last concept of blasphemy that forms the basis of this study.

2. Research Situation

2.1. History of Religion and Religiousness

Religion is a familiar topic for historians of the Early Modern era, and in particular for church historians. After all, Reformation and confessionalisation and secularisation are central to their work. They tend, however, to select a specific approach when examining religious developments of the sixteenth to eighteenth centuries. Some explore their topic by way of church history or political history, others by way of social history. How do current orientations in research enable us to approach the subject of practised blasphemy?

The majority of church historians focus on changes in theological ideas, ecclesial institutions and rules. Their questions are directed towards the history of ideas and of events. 'Secular' historians whose interest is in political history take a similar direction when they examine, for instance, the consequences of the Reformation for internal state formation or the

implications of religious conflicts for international politics. True, these examples reduce the approaches of church history and political history to the bare essentials. But the reduction reveals the crucial point relevant to the present study with regard to the significance of religion in early modern times. Traditional church history and political history are chiefly concerned with the significance of theological ideas and developments in ecclesiastical history, far less with the significance of religion itself. Religion, the sum of religiously charged norms that shape human behaviour within a society, is only rarely what guides the enquiry.[3] Moreover, church history and political history still tend to be dominated by the Reformation, with a resulting relative paucity of research into the rest of the Early Modern period. For these reasons, studies in church and political history play a secondary part in the present work.

A different approach to religion is taken by cultural historians. We can identify, summarily speaking, three directions taken since the 1970s. The first group, operating in closest proximity to church and political historians, concerns itself with aspects related to the theological and political imposing of the Reformation. Key issues include the reception of the Reformation in the rural population, conflict between communities and their rulers, and the dissemination of Reformation ideas through written or oral media.[4] A second group of cultural historians takes up questions of faith, piety or church tradition, as developed by Johann Huizinga and Lucien Febvre in their history-of-mentalities approaches back in the 1920s. Some dominant topics explored by secular historians are the fears experienced by early modern people, their expressions of piety, their access to their church, their familiarity with church rituals. But this 'history of religion' too has been selective and has omitted significant topics and periods, depending on national historiographical tradition or on the denominational preference of the author. While French historians of mentalities favour the sixteenth century as a phase of religious criticism and the eighteenth as the century

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[3]   Some church historians have a different focus, however. Andreas Holzem, for example, calls for an examination of religious life as experience and behaviour: 'Die Konfessionsgesellschaft: Christenleben zwischen staatlichem Bekenntniszwang und religiöser Heilshoffnung', *Zeitschrift für Kirchengeschichte*, 10 (1999), pp. 53–85; here: p. 85.

[4]   Cf. the relevant studies by Peter Blickle and his followers on the peasant reformation and communalism, or Robert Scribner's reflections on the oral and written distribution media of the Reformation as well as his commentary on the concept of communalism. See, e.g., Peter Blickle, *Kommunalismus. Skizzen einer gesellschaftlichen Organisationsform*, 2 vols (Munich, 2000); Robert W. Scribner, 'Communalism: Universal Category or Ideological Construct? A Debate in the Historiography of Early Modern Germany and Switzerland', *Historical Journal*, 37 (1994), pp. 199–207.

of 'de-Christianisation',[5] studies from the German- and English-speaking worlds concentrate on the era of Reformation and 'Puritanism' as a phase of (enforced) change in religious behaviour and convictions. All these studies have succeeded in broadening the narrow approach taken by church and political historians in pursuing history of ideas and events. However, the cultural history studies themselves often succumb to a self-imposed limitation. The history of religiousness need not be identical to the history of piety or church tradition. Questions of faith are not restricted – to give just a few typical examples – to the struggle with one's own faith in egodocuments, attendance figures for Holy Communion, participation in pilgrimages, or the use of certain religious formulae in wills.[6] Many social history and history of mentalities studies, especially in the German-speaking area, tend to neglect the seventeenth century and to ignore individual patterns of behaviour that do not conform to church norms. Both of these research interests are central to the present study.

The gap in research is filled to some extent by the group taking a third approach to religion. Since the mid-1980s, religious marginalisation has been a topic of increasing interest to cultural historians tending towards the current anthropological orientation of their discipline. Topics focused on include witch-hunts, inquisition and sorcery.[7] Whereas research into the practice of sorcery is still at an early stage, the witch-hunts already form a prospering subdiscipline. This research does take history-of-ideas aspects into account, for example in analysing demonology, while also enquiring into the structural conditions correlated with the witch-hunt.

Research into the witch-hunt and the Inquisition involves differing emphases as far as period and topics are concerned, but their lines of enquiry are comparable and they draw on the same genres of sources. Their environment is the spiritual and secular courtroom of days gone by. The court record provides the material of their research. Each analyses how witches, sorcerers and heretics became criminalised outsiders for the

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5   On the historiography of the concept, see Hartmut Lehmann, 'Von der Erforschung der Säkularisierung zur Erforschung von Prozessen der Dechristianisierung und der Rechristianisierung im neuzeitlichen Europa', in id. (ed.), *Säkularisierung, Dechristianisierung, Rechristianisierung: Bilanz und Perspektiven der Forschung* (Göttingen, 1997), pp. 9–16; here: p. 13.

6   Criticism of the equating of piety with church tradition is not new, as the objections raised by John Edwards indicate: 'The Priest, the Layman and the Historian: Religion in Early Modern Europe', *European History Quarterly*, 17 (1987), pp. 87–93.

7   On further aspects, albeit not specifically relevant to the history of blasphemy, see: Kaspar von Greyerz, *Religion and Culture in Early Modern Europe: 1500–1800* (Oxford, 2008); Bernhard Jussen and Craig Kolofsky (eds), *Kulturelle Reformation: Sinnformationen im Umbruch 1400–1600* (Göttingen, 1999); Michael Weinzierl (ed.), *Individualisierung, Rationalisierung, Säkularisierung: Neue Wege der Religionsgeschichte* (Munich, 1997).

church. This research provides some groundwork for the present study of blasphemy. Definitions and distinctions of the various forms of non-conforming behaviour are provided, and the methodology shows what care is needed in evaluating the court records. However, studies of witchery or heresy cannot throw light on the phenomenon of blasphemy itself. Blasphemers are accused of ignoring or questioning God, i.e. of 'bad belief', whereas heretics are said to be guilty of insisting on erroneous convictions, i.e. of 'wrong belief'.[8] Witches, on the other hand, are generally accused of ignoring the divine order and making pacts with the devil. The periods under investigation vary too: heresy and witchery are found chiefly in the fourteenth to seventeenth centuries, while the sixteenth to eighteenth centuries are more significant for blasphemy. This sets limits on the mutual usefulness of the research.

2.2. Blasphemy as a Special Case

There is much research still to be done on the history of blasphemy, although a few publications are available.[9] Their approaches vary considerably. These will be discussed in this subsection, in order to establish where they might benefit the present study and where research deficits are apparent.

Historians of ideas have worked quite intensively on the field of blasphemy. However, they deal with striking individual cases declared to be blasphemy in their time, generally on the basis of published philosophical–theological treatises.[10] Their concern is to reconstruct the thinking of eminent figures such as Giordano Bruno, and not to place blasphemy in its

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[8]   For discussion of the distinction between heresy and blasphemy, problematic for those responsible at the time, see Winfried Trusen, 'Rechtliche Grundlagen des Häresiebegriffs und des Ketzerverfahrens', in Silvana Seidel Menchi (ed.), *Ketzerverfolgung im 16. und 17. Jahrhundert* (Wiesbaden, 1992), pp. 1–20.

[9]   Cf. Alain Cabantous, 'Du blasphème au blasphémateur: Jalons pour une histoire (XVIe–XIXe siècle)', in Patrice Darteville, Philippe Denis and Johannes Robyn (eds), *Blasphèmes et libertés* (Paris, 1993), pp. 11–31; Richard van Dülmen, 'Wider die Ehre Gottes: Unglaube und Gotteslästerung in der Frühen Neuzeit', *Historische Anthropologie*, 2 (1994), pp. 20–38.

[10]   For recent examples, see Michiel R. Wielema, 'Ongeloof en atheïsme in vroegmodern Europa', *Tijdschrift voor Geschiedenis*, 114 (2001), pp. 332–53; Georges Minois, *Histoire de l'athéisme: Les incroyants dans le monde occidental des origines à nos jours* (Paris, 1998); David Wootton, 'New Histories of Atheism', in Michael Hunter and id. (eds), *Atheism from the Reformation to the Enlightenment* (Oxford, 1992), pp. 13–53; Alan Charles Kors, *Atheism in France 1650–1729: The Orthodox Sources of Disbelief* (Princeton, NJ, 1990). A Foucaultian analysis in terms of discourse history is undertaken by David Nash, *Blasphemy in Modern Britain: 1789 to the Present* (Aldershot, 1999), and, in a similar vein, David Nash, *Blasphemy in the Christian World: A History* (Oxford, 2007).

social and cultural context. They are interested in blasphemy and atheism as intellectual systems that are linked with other systems of thought. The history-of-ideas approach to blasphemy does not attempt to comprehend religion, but theories of religion; not everyday practice, but exceptional intellectual figures. It creates a history of religiously relevant thought, but not a history of religiously charged action. For this reason, the findings of history of ideas are hardly discussed here.

Legal historians, as far as they deal with blasphemy at all, see their main task as elaborating a doctrinal history of how the offence is treated in legal texts. They too regard blasphemy as an intellectual problem. Most available studies summarise legal developments at the normative level in a broad sweep from prehistory to the modern era, without deriving their generalisations from the sources. Apart from a few exceptions, no attention is given to legal practice.[11] For this reason, these legal history surveys are of little value for the subject of the present study, particularly as they deal mostly with blasphemy legislation in regions other than those treated here. An occasional comparison regarding normative regulation of the offence of blasphemy proves useful, however.[12]

Among literary historians, Ralf Georg Bogner's investigation of the problem of verbal sin is exceptional. Based on a meticulous compilation of published German 'lingua texts', he reaches the conclusion that in the Early Modern era 'everyday communication' was increasingly disciplined, i.e. that a civilising of use of language (after Norbert Elias) took place.[13] Since Bogner makes use of normative texts such as laws, rules of religious orders and pastoral–theological directions for behaviour, his thesis would need to be tested in relation to use of language in Zurich.

As well as historians of ideas, law and literature, social historians of various orientations have developed an interest in blasphemy. As early as 1942, Lucien Febvre posed the question whether Rabelais had had the

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[11]   The jurist Leonard Levy, for example, presents the history of blasphemy as a heroic struggle between enlightened protagonists and their narrow-minded persecutors: Leonard W. Levy, *Treason against God: A History of the Offense of Blasphemy* (New York, 1981).

[12]   An in-depth study of blasphemy in legal history in France is offered by Corinne Leveleux, who emphasises that the offence of blasphemy may be regarded not so much as a clearly defined legal category but rather as a cultural product: *La parole interdite: Le blasphème dans la France médiévale (XIIIe–XVIe siècles)* (Paris, 2001). To avoid misunderstandings, it should be pointed out that the narrow focus on dogma and institutions in legal history is not typical of the discipline overall. A rare example of the broadening of legal history to encompass issues of social and cultural history may be found in Dietmar Willoweit (ed.), *Die Entstehung des öffentlichen Strafrechts: Bestandsaufnahme eines europäischen Forschungsproblems* (Cologne i.a., 1999).

[13]   Cf. Ralf Georg Bogner, *Die Bezähmung der Zunge: Literatur und Disziplinierung der Alltagskommunikation in der frühen Neuzeit* (Tübingen, 1997); particularly: pp. 54–84.

necessary mental equipment (*outillage mental*) to be an atheist.[14] It was a significant question, yet even after the Second World War there was little response to Febvre's theses. Many years later, the history of mentalities turned its attention once again to blasphemy.[15] In 1980, Elisabeth Belmas laid the foundations in her doctoral thesis[16] for her overall interpretation of blasphemy.[17] Without distinguishing between legal norms and legal practice, she concludes from the increase in legislative activity on the part of French monarchs in the sixteenth- and particularly in the seventeenth century that blasphemy was increasingly prosecuted in the Early Modern era. Belmas follows her academic tutor Jean Delumeau[18] in suggesting that the intensification of legislation proves that the state was developing greater sensitivity for utterances that contradicted the divine order. The contemporaries had seen a causal connection between such utterances and the crises of the sixteenth and seventeenth centuries, she suggests. Fearful of further crises, the state had felt obliged to prosecute witchery, sorcery and blasphemy mercilessly, enforcing the acculturation of a superficially Christianised population.

This interpretation is taken up by Robert Muchembled insofar as he sees the 'invention of the modern human being', cured of blasphemous talk, as the result of a process of acculturation.[19] Without discussing this interpretation as such, Françoise Hildesheimer suggests that, in the course of the eighteenth century, blasphemy changed from a religious offence to a social offence.[20] The generalised nature of such interpretations urges us to subject them to the acid test of systematic sources research – especially as the idea of a cultural contrast between the elites and 'the' people is losing significance.

Influenced perhaps by 'postmodernism' in the 1990s, Olivier Christin avoids the generalisations of his French colleagues. Instead, he contents

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[14]   Cf. Lucien Febvre, *Le problème de l'incroyance au 16e siècle* (Paris, 1942).

[15]   Cf. Olivier Christin, 'Le statut ambigu du blasphème', *Ethnologie française*, 22 (1992), pp. 337–43; Françoise Hildesheimer, 'La répression du blasphème au XVIIIe siècle', in Jean Delumeau (ed.), *Injures et blasphèmes* (Paris, 1989), pp. 63–81. For the relevant criticism, see also Alain Cabantous, *Histoire du blasphème en Occident XVIe–XIXe siècle* (Paris, 1998), pp. 9f.

[16]   Cf. Elisabeth Belmas, *La police des cultes et des moeurs en France sous l'Ancien Régime: Thèse de 3ème cycle, Université Paris I* (Paris, 1985).

[17]   Cf. Elisabeth Belmas, 'La montée des blasphèmes à l'âge moderne du moyen âge au XVIIe siècle', in Delumeau (ed.), *Injures et blasphèmes*, pp. 13–33.

[18]   Cf. Jean Delumeau, *Angst im Abendland: Die Geschichte kollektiver Ängste im Europa des 14.–18. Jahrhundert* (Reinbek bei Hamburg, 1978), pp. 587f.

[19]   Cf. Robert Muchembled, *L'invention de l'homme moderne: Culture et sensibilités en France du XVe au XVIIIe siècle* (Paris, 1988); particularly: pp. 76–82.

[20]   Cf. Hildesheimer, 'Répression'.

himself with dividing the authorities' prosecution of blasphemy in the Early Modern era into four phases that he sketchily associates with confessionalisation. On the basis mainly of pastoral–theological sources, he questions Delumeau's model of acculturation but does not offer an alternative interpretation.[21] Christin's remarks make some contribution to the history of blasphemy, in that they provide material for empirical comparison in a few instances.

Those who have devoted themselves since the 1990s to the history of religious practices have been thematically inspired by their French colleagues in the history of mentalities, but have not adopted the problematic mentalities concept used by them. Rather, they tend to make use of historical–anthropological concepts, concentrating on three thematic fields: blasphemy as social action, blasphemy as the object of disciplining, and blasphemy in its specific variants of cursing and swearing.

In a strongly associative essay, Peter Burke endeavours to throw light on blasphemy as a ritualised form of social action through words.[22] Although Burke himself has not followed up his reflections of 1986, his proposal to focus on the category of 'communication' for the constituting of social reality marks a fundamental change of perspective. Rather than seeing blasphemy exclusively as taking up a position *vis-à-vis* authoritarian norms, he explores the meaning of blasphemous acts within their own contexts. The present study will reveal how crucial this approach is for an understanding of blasphemy.

Blasphemy is treated as a problem of authoritarian or communal disciplining by Elizabeth Horodowich, Susanna Burghartz and Heinrich R. Schmidt. Horodowich establishes that, in late mediaeval Venice, blasphemy was a relatively minor offence. In the sixteenth century, however, legislation and prosecution intensified. The explanation given is that the Venetian councillors held strangers, paupers and people on the margins of society responsible for economic and political crises as well as for plague epidemics. These groups in society provoked divine anger, the councillors claimed, by their constant cursing and swearing. Thus the sentencing policy in the Venetian Republic was 'a political act aimed at controlling and

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[21] Cf. Christin, 'Statut ambigu'; Olivier Christin, 'Matériaux pour servir à l'histoire du blasphème (deuxième partie)', *Bulletin d'information de la mission historique française en Allemagne*, 32 (1996), pp. 67–85; Olivier Christin, 'Sur la condamnation du blasphème (XVIe–XVIIIe siècles)', *Revue d'histoire de l'Eglise de France*, 80 (1994), pp. 43–64; Olivier Christin, 'Matériaux pour servir à l'histoire du blasphème (première partie)', *Bulletin d'information de la mission historique française en Allemagne*, 28 (1992), pp. 56–67.

[22] Cf. Peter Burke, 'Beleidigung und Gotteslästerung im frühneuzeitlichen Italien', in id. (ed.), *Städtische Kultur in Italien zwischen Hochrenaissance und Barock: Eine historische Anthropologie* (Berlin, 1986), pp. 96–110, 205–6.

conditioning the *popolo*'.[23] Burghartz, by contrast, notes in passing in her examination of the late mediaeval legal policy of the Zurich Council that an ambivalent policy was adopted towards blasphemers. This raises the fundamental question of the aims of the judiciary, a question the present study will also ask.[24] Blasphemy plays a more central part in Heinrich R. Schmidt's quantitative study of the imposition of morals norms in two early modern villages in Berne. Schmidt concludes that disciplining such as the proscription of cursing was exercised not so much by the authorities as within the community.[25] This thesis will need to be carefully tested in the present study with its exploration of blasphemy as social action and the object of disciplining.

Both Burghartz and Schmidt see the council or the local community as responsible for the prosecution of blasphemy. Eva Labouvie, on the other hand, sees the sanctioning of cursing and swearing chiefly as a cultural disciplining. Drawing on her research into witchcraft, she develops the thesis that cursing had its origins in verbal magic. The curse, she suggests, was anchored in popular village culture – in contrast to the ecclesial elite culture – as a means either of harming a personal opponent in body and soul, or of warding off disaster by means of an antidote.[26] In the course of the seventeenth century, according to Labouvie, the curse had gradually become an insult.[27] Without going into this seventeenth-century change, Schmidt shares Labouvie's interpretation, restricting it, however, to the heavy curse. This was characterised, he notes, by malevolence (*dolus malus*). The person who curses rebels against God, attempting to replace God's rule by sorcery. Punishments for this were predictably severe.[28]

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[23]   Elizabeth Horodowich, 'Civic Identity and the Control of Blasphemy in Sixteenth-Century Venice', *Past & Present*, 181 (2003), pp. 3–33; here: p. 33.

[24]   Cf. Susanna Burghartz, *Leib, Ehre und Gut: Delinquenz in Zürich Ende des 14. Jahrhunderts* (Zurich, 1990), pp. 134–7.

[25]   Cf. Heinrich Richard Schmidt, *Dorf und Religion: Reformierte Sittenzucht in Berner Landgemeinden der Frühen Neuzeit* (Stuttgart–Jena–New York, 1995). Schmidt's rigorous position within the controversies surrounding the interpretation of church discipline is somewhat relativised in Heinrich Richard Schmidt, 'Emden est partout: Vers un modèle interactif de la confessionalisation', *Francia*, 26 (1999), pp. 23–45.

[26]   Cf. Eva Labouvie, 'Verwünschen und Verfluchen: Formen der verbalen Konfliktregelung in der ländlichen Gesellschaft der Frühen Neuzeit', in Peter Blickle and André Holenstein (eds), *Der Fluch und der Eid: Die metaphysische Begründung gesellschaftlichen Zusammenlebens und politischer Ordnung in der ständischen Gesellschaft* (Berlin, 1993), pp. 121–45; here: pp. 128–30.

[27]   Cf. ibid., pp. 123f., 141.

[28]   Cf. Heinrich Richard Schmidt, 'Die Ächtung des Fluchens durch reformierte Sittengerichte', in Blickle and Holenstein (eds), *Der Fluch und der Eid*, pp. 65–120; here: pp. 98f.

In contrast to Burghartz, Schmidt and Labouvie, Ashley Montagu and Geoffrey Hughes do not explore the connection between the history and disciplining of blasphemous utterances. Montagu and Hughes, as well as Peter Schuster, depict curses and oaths simply as an arbitrary verbal affect.[29] Montagu's work of 1967 draws on psychological arguments, while Hughes's study of 1993 points to historical linguistic aspects. Neither offers sufficient or convincing evidence of the practice of blasphemy from the sources. Schuster's study (2000), on the other hand, argues on the basis of brief references in court records that cannot provide detailed material on the context of speech acts.[30] Thus the blasphemous variants of cursing and swearing remain open to interpretation.

The studies introduced above make no claim to a comprehensive analysis of blasphemy. Each of them focuses on an aspect that is limited in terms of topic or method. Unsurprisingly, therefore, their arguments have usually been published in journal articles. The only monographs on the early modern practice of blasphemy are those of Alain Cabantous and Gerd Schwerhoff.[31]

The Bielefeld historian Gerd Schwerhoff has a threefold concern in his work, completed in 1996, on the 'theological construction, legal prosecution and social practice of blasphemy from the thirteenth to the beginning of the seventeenth century'. He seeks to define and delimit the subject, to elaborate a chronological profile, and to analyse social practice.[32] Thus Schwerhoff's interest overlaps with my own, creating an advantageous situation in which our findings are complementary and can be mutually enriching.

Without initiating detailed discussion of the empirical findings at this stage, three points can be made. First, the analysis of how the theological–juridical discourse developed is central to Schwerhoff's study. Although he

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[29] Cf. Geoffrey Hughes, 'Schismatic Vituperation: The Reformation', in id. (ed.), *Swearing: A Social History of Foul Language, Oaths and Profanity in English* (Oxford–Cambridge, MA, 1993), pp. 91–100; Ashley Montagu, *The Anatomy of Swearing* (London, 1967).

[30] Cf. Peter Schuster, *Eine Stadt vor Gericht: Recht und Alltag im spätmittelalterlichen Konstanz* (Paderborn–Munich–Vienna–Zurich, 2000), pp. 74–7.

[31] Cf. Gerd Schwerhoff, *Gott und die Welt herausfordern: Theologische Konstruktion, rechtliche Bekämpfung und soziale Praxis der Blasphemie vom 13. bis zum Beginn des 17. Jahrhunderts* (Habilitationsmanuskript Bielefeld, 1996). This study is available online in a pdf version: http://deposit.ddb.de/cgi-bin/dokserv?idn=973426160&dok_var=d1&dok_ext=pdf&filename=973426160.pdf (accessed August 21, 2008). A much shorter revised version is in print in Gerd Schwerhoff, *Zungen wie Schwerter: Blasphemie in alteuropäischen Gesellschaften 1200–1650* (Konstanz, 2005). Cf. also Cabantous, *Histoire du blasphème*. A further monograph expected soon is Rebekka Schifferle's doctoral thesis on the history of blasphemy in the city of Basle from 1674–1798.

[32] Schwerhoff, *Gott und die Welt*, pp. 8f.

does not include the discussion of blasphemy in Reformed society (despite the fact that Basle is among his case studies), Schwerhoff has laid important foundations – following the work of the mediaevalists Carla Casagrande and Silvana Vecchio – for the history of blasphemy as a specific concept. His work hugely facilitates the ongoing task of incorporating Reformed society in the debate on blasphemy. Second, Schwerhoff concentrates on the High and Late Middle Ages. His Early Modern era is exceptionally early, corresponding to his concept of a 'long sixteenth century'.[33] His source material hardly goes beyond the first decades of the seventeenth century. This accentuation enables Schwerhoff to deal critically with the question of the epoch character of Early Modernism and the continuities between the Late Middle Ages and the beginning of the Early Modern era. It also means, however, that overall developments in the Early Modern era are not fully treated. Schwerhoff deals with central periods, but they are too brief for the Early Modern era as a whole. The present study is concerned, therefore, to complement Schwerhoff's work by taking in the dimension of Early Modernism as a whole, i.e. from the sixteenth to eighteenth centuries.

Third, Schwerhoff's analysis of the social practice of blasphemous talk is based on examples from the cities of Cologne, Nuremberg and Basle. His methodological decision in favour of a comparison of these cities has advantages and disadvantages. The sheer volume of the sources involved obliges Schwerhoff to rely on samples. Legitimate and useful though this method may be, a closer look reveals that the samples are modest.[34] Moreover, the sources available in the three cities selected are of varying quality. This results in considerable gaps in chronology and content. Concentration on urban sources also means that the rural territories of the cities are excluded. With a view to countering these deficits, the present study has opted for a different approach. It focuses on the history of a region rather than a city. It does not lose heart at the sight of a mountain of court records, but works diligently through them. On this basis, the study can attempt to answer questions that Schwerhoff cannot ask, given his approach and the sources he draws on.

Schwerhoff's case study has two distinct advantages. First, it is open to comparatistic perspectives, which the present study, with its monographic appraisal of the extensive source material in the Zurich archives, must necessarily do without. Second, Schwerhoff's choice of cities enables him to compare conditions not only in different localities but also from

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[33] For commentary on this 'long sixteenth century', see ibid., pp. 193, 236f.

[34] Schwerhoff himself comments on this: Gerd Schwerhoff, 'Blasphemie vor den Schranken städtischer Justiz: Basel, Köln, Nürnberg im Vergleich (14.–17. Jahrhundert)', *Ius Commune*, 25 (1998), pp. 39–120; here: pp. 64–5, 104.

different confessional perspectives. The present study can achieve this only to a limited extent. The quantitative and qualitative evaluation of court sentences against blasphemers in Lucerne offers a glimpse of conditions in a Catholic city.

The Parisian historian Alain Cabantous has also worked intensively on blasphemy. He claims to present the history of blasphemy in western Europe from the sixteenth- to the nineteenth century. In fact, his study of some 200 pages, published in 1998, is dominated by the Romance-language countries, above all by France. Naturally, Cabantous cannot cover the whole field with his own research, and finds himself dependent on reviewing others' modest empirical findings. His main interest is in how the offence of blasphemy is dealt with in theological and juridical terms, and in particular in the sentences pronounced by the relevant courts and the social practice of blasphemy. He summarises current findings, facilitating the incorporation of the example of Zurich in his European context. Even more important, however, is Cabantous's concern for the spoken language as embedded in its social and cultural context.[35] Cabantous's cautiously expressed proposal is at the heart of the present study. In what sense can blasphemy be seen as verbal, culturally shaped social action in the space between authoritarian norm-setting and individual behavioural choice?

Cabantous does not fully achieve his ambitious aims. He makes the assumption, for example, that certain verbal utterances only become blasphemy on the basis of sociocultural attribution processes. Despite this decisive methodological premise, he does not reflect on the relevant linguistic models. Moreover, since he hardly uses case studies, there is little opportunity for him to test his assumptions against legal practice. He states repeatedly how little the history of blasphemy has been researched. The present study sets itself the task of developing Cabantous's linguistic approach further and enriching the history of blasphemy with empirical material.

In summary, a historical understanding of the effect of religious norms will need to examine institutionally, collectively and individually shaped forms of lived reality. Access to this reality can be found in blasphemous speech acts that point to the respective doctrinal, political and ecclesial guidelines, social sanctions and individual expressions of faith.

2.3. Blasphemy and History of Crime

As blasphemy is an offence, we would expect to find it appropriately treated in history of crime. This is not the case, however. It is only those researching

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[35] Cf. Cabantous, *Histoire du blasphème*, p. 9.

the Inquisition and the witch-hunt who venture into the field of religion. Nonetheless, as we shall see, history of crime does offer assistance to research into blasphemy. It is a subdiscipline dating back some thirty years in the French- and English-speaking countries,[36] and concerning itself with the history of crime and criminal justice. Its classic interests are in profiles of criminals, offences, victims and punitive measures. Its methods tend to be quantitative, though its enthusiasm for statistics has been considerably dampened by methodological problems encountered in the pre-statistical era. Of late it has turned its attention to qualitative approaches, and it is these upon which the present study seeks to draw in developing profiles of 'the' blasphemers and the circumstances of their offences.

In Germany, the history of crime studies has been undertaken mostly since the 1990s. Inspired by international work, largely on neighbourhood conflicts, it has engaged in qualitative analysis of everyday offences and sought to throw light on local patterns of conflict resolution. While earlier research concentrated on exposing how the judiciary exercised authoritarian political and civilisatory power, and showing 'social crime' to be an expression of social protest, more recent microhistorical analyses of neighbourhood conflicts emphasise the significance of the symbolic 'honour capital'. Members of a village or city community defended their social position not by means of arbitrary violence but according to established patterns of conflict. The social status of individuals depended on their proportion of the constant material and symbolic resources of their society. It will be important to take greater account of this symbolic level of sociability.[37] The corresponding hypothesis that blasphemy does not only challenge God, but also, as a form of verbal conflict, takes on the world, i.e. the secular opponent, will be crucial to the present study. Blasphemy will also be examined as a means for the authorities to exercise political power and for the blasphemers to express protest.

Not every instance of blasphemy resulted in a court record. Resolution of conflict also occurred outside the courtroom, and it is this important but – in view of the sources – problematic phenomenon that has been explored notably by French historians under the heading *infrajudiciaire*. Recent findings indicate that we should not underestimate the extent and frequency of relatively informal resolutions to legal conflicts. If we do not look beyond the official legal system, we shall lose sight of a whole

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[36] A survey of German and international research may be found in the relevant articles in Andreas Blauert and Gerd Schwerhoff (eds), *Kriminalitätsgeschichte: Beiträge zu einer Sozial- und Kulturgeschichte der Vormoderne* (Konstanz, 2000).

[37] This is also emphasised by Richard van Dülmen: 'Historische Kulturforschung zur Frühen Neuzeit: Entwicklungen – Probleme – Aufgaben', *Geschichte und Gesellschaft*, 21 (1995), pp. 403–29; here: p. 420.

range of significant patterns of conflict resolution. The present study takes up the empirical impulses of *infrajudiciaire* research by systematically incorporating both formal and informal paths to conflict resolution.[38]

History of crime was for a long period obsessed with the punishment of offenders. Then, some fifteen years ago, Natalie Zemon Davis initiated a twofold shift with her study of French pardon tales. She analysed how sixteenth-century French suppliants facing the death penalty were able to influence the royal sentence by narrative means. This meant replacing the perspective of the law with that of the defendants.[39] Her interest in the narrative quality of her sources also meant the introduction of an approach that later became known as the *linguistic turn*. Davis's study enabled history of crime to 'discover' this new approach as well as the topic of pardon and the logic of sentences that now appear arbitrary.[40] Since then, more recent studies have explored what factors influence court sentences, and have proved that the sentence could be influenced by age, gender, social status and advocacy on the part of others.[41] Thus court practice was not governed simply by rigid legal principles, but could give precedence to mercy. It was based, in other words, on 'regulated arbitrariness'. The present study keeps this insight in mind as it seeks to expose the cultural guidelines applying to blasphemy.

Despite the fact that the offence of blasphemy is, in theological and judicial terms, a *crimen laesae majestatis divinae*, it has been given little attention in history of crime studies. Apart from a scattering of publications, only some quantitative data on the prosecution of blasphemers are available in Inquisition research. We conclude that the social practice of blasphemy remains virtually a closed book for history of crime.

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[38] On the problem of out-of-court settlement with further references, cf. Carl A. Hoffmann, 'Außergerichtliche Einigungen bei Straftaten als vertikale und horizontale soziale Kontrolle im 16. Jahrhundert', in Blauert and Schwerhoff (eds), *Kriminalitätsgeschichte*, pp. 563–79; Francisca Loetz, 'L'infrajudiciaire: Facetten und Bedeutung eines Konzepts', in Blauert and Schwerhoff (eds), *Kriminalitätsgeschichte*, pp. 545–62.

[39] Cf. Nathalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford, 1987).

[40] Insight into the consequences of the linguistic turn for the general interpretation of state rule is offered by the articles in George Steinmetz (ed.), *State/Culture: State-Formation after the Cultural Turn* (Ithaca–London, 1999).

[41] The most comprehensive study relating to mediaeval France is that of Claude Gauvard, *'De grace especial': Crime, état et société en France à la fin du Moyen Age*, 2 vols (Paris, 1991).

2.4. History of Zurich

Local studies have a very strong tradition in Switzerland, and it is to this that we owe the well-documented history of the city state of Zurich. This does not apply to all fields of interest, however. As we shall see, both the focus chosen and the gaps left have consequences for the present study.

The latest work of reference on the early modern canton of Zurich provides swift orientation concerning political, church-historical, economic and social developments in the territorial state.[42] However, specialised literature must also be consulted. The vast majority of studies concentrate on the Reformation era, i.e. on the person and works and international theological impact of Zwingli and Bullinger.[43] In addition, there are useful older studies as well as a number of more recent publications on the Church in Zurich.[44] One of its significant features, the morals court, is treated in several well-founded and complementary studies with a focus on institutional or theological history.[45] Their interest, however, is in court organisation and the pursuit of sexual offences. The

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[42] The individual articles vary in quality, however. Cf. Niklaus Flüeler and Marianne Flüeler-Grauwiler (eds), *Geschichte des Kantons Zürich: Frühe Neuzeit – 16. bis 18. Jahrhundert*, vol. 2 (Zurich, 1996).

[43] Standard works on Zwingli are: Peter Blickle, Andreas Lindt and Alfred Schindler (eds), *Zwingli und Europa: Referate und Protokoll des Internationalen Kongresses aus Anlaß des 500. Geburtstages von Huldrych Zwingli (26.–30.3.1984)* (Zurich, 1985); Ulrich Gäbler, *Huldrych Zwingli: Eine Einführung in sein Leben und sein Werk* (Munich, 1983); Gottfried W. Locher, *Zwingli und die schweizerische Reformation* (Göttingen, 1982). For a survey of Bullinger, see Fritz Blanke and Immanuel Leuschner, *Heinrich Bullinger* (Zurich, 1990). For general orientation, see also: Bruce Gordon, *The Swiss Reformation: New Frontiers in History* (Manchester–New York, 2002); Kaspar von Greyerz, 'Switzerland', in Bob Scribner, Roy Porter and Teich Mikuláš (eds), *The Reformation in National Context* (Cambridge i.a., 1994), pp. 30–46; Arnold Snyder, 'Word and Power in Reformation Zurich', *Archiv für Reformationsgeschichte*, 81 (1990), pp. 263–85.

[44] Cf. Rudolf Pfister, *Kirchengeschichte der Schweiz: Von der Reformation bis zum Villmerger Krieg*, 2 vols (Zurich, 1974); Paul Wernle, *Der schweizerische Protestantismus im XVIII. Jahrhundert: Das reformierte Staatskirchentum und seine Ausläufer (Pietismus und vernünftige Orthodoxie)*, vol. 1 (Tübingen, 1923); Wilhelm Baltischweiler, *Die Institutionen der evangelisch-reformierten Landeskirche des Kantons Zürich in ihrer geschichtlichen Entwicklung* (Zurich, 1905).

[45] Cf. Wayne J. Baker, 'Christian Discipline and the Early Reformed Tradition: Bullinger and Calvin', in Robert V. Schnucker (ed.), *Calviniana: Ideas and Influence of Jean Calvin* (Kirksville, MO, 1988), pp. 107–20; Christoph Wehrli, *Die Reformationskammer: Das Zürcher Sittengericht des 17. und 18. Jahrhunderts* (Winterthur, 1963); Roger Ley, *Kirchenzucht bei Zwingli* (Zurich, 1948); Küngolt Kilchenmann, *Die Organisation des zürcherischen Ehegerichts zur Zeit Zwinglis* (Zurich, 1946); Walther Köhler, *Zürcher Ehegericht und Genfer Konsistorium: Das Zürcher Ehegericht und seine Auswirkung in der deutschen Schweiz zur Zeit Zwinglis*, vol. 1 (Leipzig, 1932).

offence of blasphemy is not separately treated, so that the present study cannot make use of their findings.

From a very different perspective, the spread of the Reformation has chiefly been considered in terms of event history.[46] Introductory reflections on important theological and religious Reformation themes are also offered by Walter Tappolet, Walter Hollenweger, Palmer Wandel and Matthias Senn in their studies of Zwinglian Mariology,[47] the Reformed idea of neighbourhood and the religious interpretation of the world of Reformation.[48] The linguist Gabriel Meier lists the expressions used by Reformers to insult their theological opponents.[49] A. Blatter proves to be a similar history-of-language collector in his characterisation of 'popular mood at the time of the Swiss Reformation'.[50] These descriptive publications in events history are necessarily superficial and generalising, and thus only of passing interest for the present study.

The sound and solid studies on the constitution and administration of Zurich date from the nineteenth century and the first third of the twentieth.

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[46]   Whereas Emil Bosshart von Sternenberg presents a heroicising picture of the morals mandates and their authors (cf. *Das vaterländische Zürcher Regiment: Eine positive Form des Polizeistaates* [Zurich, 1910]), Leonhart von Muralt associates the introduction of the Reformation in the city of Zurich with the constitution of the basically 'democratic' city state: 'Stadtgemeinde und Reformation in der Schweiz', *Schweizerische Zeitschrift für Geschichte*, 10 (1930), pp. 349–84. Huber and Kamber reconstruct the event history of the beginnings of the Reformation in the Zurich region: cf. Peter Kamber, *Bauern, Reformation und Revolution in Zürich, 1522–25* (Zurich, 1991); Peter Kamber, 'Die Reformation auf der Zürcher Landschaft am Beispiel des Dorfes Marthalen: Fallstudie zur Struktur bäuerlicher Reformation', in Peter Blickle (ed.), *Zugänge zur bäuerlichen Reformation: Bauer und Reformation*, vol. 1 (Zurich, 1987), pp. 85–125; Peter Huber, *Annahme und Durchführung der Reformation auf der Zürcher Landschaft 1519–1530* (Zurich, 1972). A similarly strong focus on event history may be found in René Hauswirth's study of the Kappel crisis era: 'Stabilisierung als Aufgabe der politischen und kirchlichen Führung in Zürich nach der Katastrophe von Kappel', in Bernd Moeller (ed.), *Stadt und Kirche im 16. Jahrhundert* (Gütersloh, 1978), pp. 99–108.

[47]   A detailed discussion from the perspective of history of theology is offered by Emidio Campi, *Zwingli und Maria: Eine reformationsgeschichtliche Studie* (Zurich, 1997).

[48]   Cf. Palmer Lee Wandel, 'Brothers and Neighbors: The Language of Community in Zwingli's Preaching', *Zwingliana*, 17 (1988), pp. 361–74; Walter J. Hollenweger, 'Ave Maria: Mariologie bei den Reformatoren', *Diakonia*, 15 (1984), pp. 189–93; Matthias Senn, 'Alltag und Lebensgefühl im Zürich des 16. Jahrhunderts', *Zwingliana*, 14 (1976), pp. 251–62; Walter Tappolet (ed.), *Das Marienlob der Reformatoren: Martin Luther, Johannes Calvin, Huldrych Zwingli, Heinrich Bullinger* (Tübingen, 1962).

[49]   Cf. Gabriel P. Meier, 'Phrasen, Schlag- und Scheltwörter der schweizerischen Reformationszeit', *Zeitschrift für Schweizerische Kirchengeschichte*, 11 (1917), pp. 221–36.

[50]   Cf. A. Blatter, *Schmähungen, Scheltreden, Drohungen: Ein Beitrag zur Geschichte der Volksstimmung zur Zeit der schweizerischen Reformation, Wissenschaftliche Beilage zu den Jahresberichten des Gymnasiums, der Realschule und der Töchterschule* (Basle, 1911).

They have retained their validity.[51] Although some organisational details within the legal system are not covered, the insights of these works into the history of politics and administration enable us to describe the basic structure of the system. Prosopographical detail is also provided in Hans-Rudolf Dütsch's doctoral thesis of 1994 on the person of the bailiff.[52] Dütsch does not deal, however, with the actions of the judiciary, i.e. with the aspect of legal practice. This means that the present study can draw on reliable material relating to legal structures but not to everyday legal life in the canton.

Thomas Müller-Burgherr examines the loss-of-honour offence, but he too does not deal with legal practice. His interest is in legal doctrine.[53] His findings show how fluid the judicial definition of the loss-of-honour offence was at the time. This offers support to the methodological decision in the present study in favour of categorising recorded blasphemous offences according to the early modern judicial and theological criteria rather than relying on their attribution in the legal sources.

Three studies are devoted to legal practice in Zurich.[54] Susanna Burghartz has evaluated the council manuals from 1376 to1385 quantitatively according to the classical typology of history of crime (drawing-up of

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[51]   Cf. Rudolf Braun, *Das ausgehende Ancien Régime in der Schweiz: Aufriß einer Sozial- und Wirtschaftsgeschichte* (Göttingen–Zurich, 1984); Rudolf Schnyder, *Zürcher Staatsaltertümer: Der Zürcher Staat im 17. Jahrhundert* (Berne, 1975); Bruno Schmid, 'Die Gerichtsherrschaften im alten Zürich', *Zürcher Taschenbuch*, 89 (1969), pp. 8–34; Wilhelm Heinrich Ruoff, *Der Blut- oder Malefizrat in Zürich von 1400–1798* (Berne, 1958); Erwin Kunz, *Die lokale Selbstverwaltung in den zürcherischen Landsgemeinden im 18. Jahrhundert* (Zurich, 1948); Paul Guyer, *Verfassungszustände der Stadt Zürich im 16., 17. und 18. Jahrhundert: Unter der Einwirkung der sozialen Umschichtung der Bevölkerung* (Zurich, 1943); Wilhelm Heinrich Ruoff, *Die Zürcher Räte als Strafgericht und ihr Verfahren bei Freveln im 15. und 16. Jahrhundert* (Zurich, 1941); Anton Largiadèr, *Die Anfänge der zürcherischen Landschaftsverwaltung* (Zurich, 1932); Hans Fritzsche, *Begründung und Ausbau der neuzeitlichen Rechtspflege des Kantons Zürich* (Zurich, 1931); Arthur Bauhofer, 'Fürsprechertum und Advokatur im Kanton Zürich vor 1798', *Zürcher Taschenbuch*, 47 (1927), pp. 136–58; Eduard Eichholzer, 'Zur Geschichte und Rechtsstellung des zürcherischen Untervogtes', *Zeitschrift der Savigny Stiftung für Rechtsgeschichte German. Abt.*, 44 (1924), pp. 197–215; Karl Dändliker, *Geschichte der Stadt und des Kantons Zürich*, 3 vols (Zurich, 1908–1912); Johann Caspar *Bluntschli, Staats- und Rechtsgeschichte der Stadt und Landschaft Zürich*, 2 vols (Zurich, 1838–39).

[52]   Cf. Hans-Rudolf Dütsch, *Die Zürcher Landvögte von 1402–1798: Ein Versuch zur Bestimmung ihrer sozialen Herkunft und zur Würdigung ihres Amtes im Rahmen des zürcherischen Stadtstaates* (Zurich, 1994).

[53]   For this reason, concrete examples of honour conflicts are the exception. Cf. Thomas Müller-Burgherr, *Die Ehrverletzung: Ein Beitrag zur Geschichte des Strafrechts in der deutschen und rätoromanischen Schweiz von 1252–1798* (Zurich, 1987).

[54]   The spiritual but not the secular legal practice is treated in Bruce Gordon, *Clerical Discipline and the Rural Reformation: The Synod in Zurich, 1532–1580* (Berne i.a., 1992).

criminal, crime and punishment profiles).[55] Whereas Erich Wettstein's 1950s study of capital punishment mentioned blasphemy only in passing,[56] Burghartz draws welcome attention to the ambivalent treatment of this offence on the part of the council. However, her selection of material and her quantitative approach only allow her to take a glance at the issue of blasphemy. The data on the problem of loss-of-honour offences prove far more informative.

A highly detailed study on village 'sociability' in two significant areas of the Zurich region, the bailiwicks Greifensee and Kyburg, in the period c. 1480 to 1520 has been published by Katja Hürlimann.[57] Her interest is in forms of sociability. Drawing on legal records of the lower courts as well as the appeal instance of the city council, her quantitative and qualitative evaluation provides an astonishingly sharp-focus picture of the diversity of conflicts occurring in everyday village life. Hürlimann's work is significant for the present study in three respects: she characterises practised conflict culture in the village; she provides some quantitative data on the topic of 'offences against morals and religion'; and her period is the end of the Middle Ages. Thus her findings facilitate at least the beginnings of an answer to the question of the quantitative and qualitative place of blasphemy in relation to other offences. Moreover, comparison of the sentences of the lower courts in Hürlimann's study with the bailiff and council decisions in the present study will provide insights into judicial practice. Lines of continuity between the Late Middle Ages and the Early Modern era may become apparent.

In summary, then, the history of Zurich has been intensively researched, but mainly from the perspective of political and constitutional history. When we move beyond the Late Middle Ages and the Reformation, huge gaps become apparent particularly in social and cultural history. The present study can benefit especially from the investigations into the significance of the clergy in communal life. Markus Schär, David Gugerli and Klaus Martin Sauer have researched the role of the clergy house, focusing on questions not directly connected with blasphemy. Some of their remarks, however, indicate what forms of religious behaviour on the part of clergy and church members were regarded as norm-conforming or unacceptable.[58] Overall, then, research into the object of this study

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[55] Cf. Burghartz, *Leib*.

[56] Erich Wettstein, *Die Geschichte der Todesstrafe im Kanton Zürich* (Winterthur, 1958), p. 91.

[57] Cf. Katja Hürlimann, *Soziale Beziehungen im Dorf: Aspekte dörflicher Soziabilität in den Landvogteien Greifensee und Kyburg um 1500* (Zurich, 2000).

[58] Cf. Klaus Martin Sauer, *Die Predigttätigkeit Johann Kaspar Lavaters* (Zurich, 1988); David Gugerli, *Zwischen Pfrundt und Predigt: Die protestantische Pfarrfamilie auf*

in the post-Reformation era is thin on the ground. Tracing the Zurich blasphemers will mean learning a lot that is new.

2.5. History of Blasphemy: Five Theses on a Research Deficit

Given the current research situation, the historical view of religion is inadequate. The example of blasphemy shows where the deficits lie:

First, the multidimensional phenomenon of religion is frequently narrowed down in historiography – be it in history of ideas, doctrines, institutions or politics – to primarily theological–ecclesiastical or judicial–political aspects. It is necessary to broaden the current history of religion into a history of religiousness.[59]

Second, the historical view of religion continues to concentrate strongly on the Early Reformation era, on the urban environment and on written media. There are few long-term studies available, apart from recent studies on the control of morals. Analysing the significance of religious norms by way of verbal action in the urban and rural population of Zurich in the period from around 1500 to 1770 thus entails taking this research deficit as our starting point.

Third, previous insights into the history of blasphemy tend to treat it as an expression of intellectual systems rather than of social action with words. With few exceptions, history of crime studies omit religion. Even though blasphemy in the form of cursing, swearing, and abusing God is an offence, history of crime has taken no further interest in it. Analysis of blasphemy in social history tends to associate it with uncontrolled affects, collective psychological fears and disciplinary conflicts. The models of social disciplining, civilising and acculturation on which these interpretations are based are highly controversial. Hence the history of blasphemy as an indicator of the significance of religious norms in a society is, largely, still to be written. Existing models of interpretation will need to be tested, and alternative models will need to be developed.

Fourth, the analysis of norm transgressions will have to determine the mutual relationship between vertical and horizontal discipline, rather than contrasting statist and communal perspectives. An adequate picture of legal practice will require precise knowledge of the patterns of more formal

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der Zürcher Landschaft im ausgehenden 18. Jahrhundert (Zurich, 1987); Markus Schär, *Seelennöte der Untertanen: Selbstmord, Melancholie und Religion im alten Zürich* (Zurich, 1985).

[59]   The discussion of what such a history of religiousness could look like unfolds in the final chapter of this study.

court sentences on the one hand and the less formal social sanctions on the other.

Fifth, the secular and ecclesiastical court records bear witness to norm transgressions and sanctioning. Examining only the profiles of crime, criminal, victim and sentencing by quantitative methods with the help of such records would mean reconstructing the circumstances of an offence and judicial policy. This approach neglects the perspective and interpretation categories of the historical subjects and thus ignores cultural aspects. The deficit can be largely countered by means of the qualitative evaluation of statements in court, assessments and petitions such as we have them for the Zurich area.

3.   Interpretative and Methodological Approaches

3.1. Explanatory Models for Early Modern History

Current early modern research is engaged in a lively debate on explanatory models, which can be subsumed under the headings disciplining, confessionalisation, community self-regulation, crisis theory, acculturation and state formation. The following discussion will focus on the contribution these models can make to the study of blasphemy.

The controversies in the 'disciplining debate' are twofold, revolving round the implicit conceptualising of the term discipline on the one hand and the explicit interpretation of processes of disciplining on the other hand. Both of these are associated with the names of sociologist Norbert Elias and historian Gerhard Oestreich, despite the fact that neither has given theoretical grounding to his use of the term discipline.[60] Elias suggests that the decline in violence has to do with an increasing taboo surrounding its use and with the growing control of affects. Could this phenomenon not also be relevant to blasphemy as a conflict of honour? Oestreich, in contrast to Elias, sees social disciplining playing a greater role than self-disciplining. His model of social disciplining suggests that the church as an institution may be regarded as a significant instrument of discipline in the Early Modern era.[61] As far as the prosecution of blasphemy is concerned,

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[60]   This deficit was partly remedied by Winfried Schulze in his posthumous commentary on Oestreich's model of 'social disciplining': 'Gerhard Oestreichs Begriff der "Sozialdisziplinierung" in der frühen Neuzeit', *Zeitschrift für Historische Forschung*, 14 (1987), pp. 265–302.

[61]   Cf. Gerhard Oestreich, 'Strukturprobleme des europäischen Absolutismus', *Vierteljahresschrift für Sozial- und Wirtschaftsgeschichte*, 55 (1969), pp. 329–47.

this raises the crucial question of the aims and effects of church control on the behaviour of the people.

The connection between social disciplining and confessionalisation is made in German research by Wolfgang Reinhard and Heinz Schilling.[62] They conclude that confessionalisation between 1530 and 1650 is a long-term process during which the state succeeds, in alliance with the church and by the use of repressive measures, in increasingly controlling popular behaviour.[63] Unlike Reinhard,[64] Schilling has adjusted what began as a firmly statist perspective. In a programmatic essay of 1986 contrasting state 'moral discipline' with ecclesial 'sin discipline', he conceded that discipline was unimaginable without communal self-regulation processes.[65] Eleven years later, in a sharp controversy with Heinrich R. Schmidt, Schilling called for a 'double perspective of macro- and microhistory in research into early modern church discipline'. His concept of authoritarian disciplining still takes precedence over community self-regulation, however.[66]

Heinrich Schmidt is sceptical towards statist ideas of confessionalisation; he sees it, rather, as a deeply 'communal process'.[67] He follows Peter Blickle in

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[62]   Michael Stolleis emphasises, however, that confessionalisation, state formation and disciplining should not be equated: '"Konfessionalisierung" oder "Säkularisation" bei der Entstehung des frühmodernen Staates', *Ius Commune*, 20 (1993), pp. 1–23; particularly: pp. 36–42.

[63]   Cf. summarising in: Wolfgang Reinhard, 'Was ist katholische Konfessionalisierung', in id. and Heinz Schilling (eds), *Die katholische Konfessionalisierung* (Gütersloh, 1995), pp. 419–52; Heinz Schilling, 'The Reformation and the Rise of the Early Modern State', in James D. Tracy (ed.), *Luther and the Modern State in Germany* (Kirksville, MO, 1986), pp. 21–30.

[64]   Cf. Wolgang Reinhard, 'Zwang zur Konfessionalisierung? Prolegomena zu einer Theorie des konfessionellen Zeitalters', *Zeitschrift für Historische Forschung*, 10 (1983), pp. 257–77; here: p. 268.

[65]   Cf. Heinz Schilling, '"Geschichte der Sünde" oder "Geschichte des Verbrechens": Überlegungen zur Gesellschaftsgeschichte der frühneuzeitlichen Kirchenzucht', *Annale dell'Istituto storico italo-germanico in Trento/Jahrbuch des italienisch-deutschen historischen Instituts in Trient*, 12 (1986), pp. 169–92; here: pp. 179, 191f.

[66]   Cf. Heinz Schilling, 'Disziplinierung oder "Selbstregulierung" der Untertanen? Ein Plädoyer für die Doppelperspektive von Makro- und Mikrohistorie bei der Erforschung der frühmodernen Kirchenzucht', *Historische Zeitschrift*, 264 (1997), pp. 675–91; cf. also Heinz Schilling, 'Profil und Perspektiven einer interdisziplinären und komparatistischen Disziplinierungsforschung jenseits einer Dichotomie von Gesellschafts- und Kulturgeschichte', in id. and Lars Behrisch (eds), *Institutionen, Instrumente und Akteure sozialer Kontrolle und Disziplinierung im frühneuzeitlichen Europa/Institutions, Instruments and Agents of Social Control and Discipline in Early Modern Europe* (Frankfurt, Main, 1999), pp. 15–32.

[67]   Heinrich Richard Schmidt, 'Sozialdisziplinierung? Plädoyer für das Ende des Etatismus in der Konfessionalisierungsforschung', *Historische Zeitschrift*, 265 (1997), p. 648. See also Heinrich Richard Schmidt, 'Die Christianisierung des Sozialverhaltens als permanente Reformation: Aus der Praxis reformierter Sittengerichte in der Schweiz während

understanding Reformation as 'communalism', as the result of movements taking place at community level whose main aim was social peacemaking and peacekeeping by means of reconciliation and the founding of a pure Communion fellowship. Confessionalisation in Europe, Schmidt suggests, was both socially and metaphysically motivated and locally anchored. 'The subjects create and shape the state',[68] not vice versa. Although Schmidt has meanwhile revised his extreme position somewhat and now focuses more strongly on the reciprocal nature of vertical and horizontal disciplining, the balance continues to be tilted in favour of the local communities.[69]

Obviously, Schmidt's concept of the parish 'locally embedded' in the political community is highly significant for the present study. The question of the offence of blasphemy has its place in the controversy between Schmidt and Schilling.[70] Does the state attempt to criminalise blasphemers by means of its ecclesial 'apparatus' in the interests of securing its own claim to power, or does the prosecution of blasphemers indicate the extent of horizontal social control in religious matters, in other words the self-regulation of communities? The terms disciplining and confessionalisation are familiar models of interpretation for historians of Early Modernism. The collective term 'social self-regulation' requires further comment, however. It covers quite heterogeneous aspects of history of crime relating to the subjects 'function of the judiciary', 'labelling theory', 'concept of honour' and 'social control'.

History of crime has been concerned from the outset with the question of what functions the judiciary fulfilled. While the question remains valid, the answers suggested in older, often Marxist-inspired works have lost currency. In the 1970s and 1980s, the controversy centred on the thesis that the judiciary was an instrument of repression used by the state or by social elites to assert their own interests. Today's research, however, offers a more differentiated picture. First, the delinquents are no longer mere objects of repressive measures but subjects who enter into negotiations with the courts.[71] Second, the courts themselves are no longer seen as

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der frühen Neuzeit', in Peter Blickle and Johannes Kunisch (eds), *Kommunalisierung und Christianisierung* (Berlin, 1989), pp. 113–63.

[68] Schmidt, 'Sozialdisziplinierung?', p. 666.

[69] Cf. Schmidt, 'Emden'; particularly: pp. 42f.

[70] The names Schmidt and Schilling are associated with extreme positions in the debate. More conciliatory discussion can be found in the work of the church historians Berndt Hamm (Protestant) and Andreas Holzem (Catholic). Cf. Berndt Hamm, 'Reformation als normative Zentrierung von Religion und Gesellschaft', *Jahrbuch für Biblische Theologie*, 7 (1992), pp. 241–79 (closer to Schilling's position); Holzem, 'Konfessionsgesellschaft' (more open to Schmidt's position).

[71] For a summary of her many relevant studies, cf. Nicole Castan, 'Le recours, exigences et besoins de justice, Théorie et pratique en France et en Angleterre à l'époque classique',

merely punitive but also as restitutive instances. Third, some historians even go so far as to speak of the use of the courts by the people.[72] And finally, Carolyn Conley's concept of the 'unwritten law' offers a good example of the fourth shift in perspective: 'the findings and actions of the criminal justice were … primarily determined by the values and priorities of the local community.'[73] The picture of criminal justice has thus changed considerably in the research of the last two decades. The former repressive instrument in the hands of the state has become an ambivalent tool for creating or keeping public order. The relevance of this for the sanctioning of blasphemy in Zurich will need to be examined.

As the role of the judiciary as an authoritarian instance of control was relativised in history of crime, aspects of social self-regulation came to the fore. Labelling, horizontal social control and extra-judiciary conflict resolution were now the keywords. Deviant behaviour was no longer identified with criminality, to be easily categorised according to legal criteria. Instead, it was seen as the product of social attributions. Criminality is not an objective fact; it does not exist 'as such'. For this reason, more recent studies avoid the term criminality and prefer to use 'deviance'. According to labelling theory, deviance comes about through the labels that people either give themselves or are given, formally or informally, by the judiciary or by their social environment. The labels indicate that their behaviour is, to a greater or lesser extent, not norm-conforming.[74] What is regarded as right or sanctioned as wrong is thus not determined exclusively by the judiciary, but ascertained by means of social control. The interpretative model offered by these recent studies is, in summary, that early modern societies dealt with norm transgressions according to complex, autonomous but not always consistent patterns both inside and outside the courts. Norm enforcement was a matter for the people and took place in a variety of formal and informal ways. The present study will

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in Heinz Mohnhaupt and Dieter Simon (eds), *Vorträge zur Justizforschung, Geschichte und Theorie*, vol. 1 (Frankfurt, Main, 1992), pp. 253–68.

[72]   Cf. Martin Dinges, 'Justiznutzungen als soziale Kontrolle in der Frühen Neuzeit', in Blauert and Schwerhoff (eds), *Kriminalitätsgeschichte*, pp. 503–44. Engaging with Habermas's concept of discourse: Susanne Rappe, 'Schelten, Drohen, Klagen: Frühneuzeitliche Geschichtsnutzung zwischen "kommunikativer Vernunft" und "faktischem Zwang"', *Werkstatt Geschichte*, 14 (1996), pp. 87–94.

[73]   Carolyn A. Conley, *The Unwritten Law: Criminal Justice in Victorian Kent* (New York–Oxford, 1991), p. VII.

[74]   As a strong advocate of the labelling theory in Germany, see the work of the crime sociologist Fritz Sack, 'Kriminalität, Gesellschaft und Geschichte: Berührungsängste der deutschen Kriminologie', *Kriminologisches Journal*, 19 (1987), pp. 241–68. More recent criminological controversies on the labelling theory seem to me to have no consequences for history of crime and may thus be disregarded here.

need to ask what made those who cursed God 'blasphemers' and how their norm transgression was dealt with in early modern Zurich society.

While current controversies focus on studies of social self-regulation, the explanatory paradigms associated with crisis and acculturation, popular in the 1970s and 1980s, have become somewhat dated. Nonetheless, the 'crisis' and 'acculturation' models are so closely related to the object of the present study that they will need to be taken into account.[75] The thesis that the constant threat to one's own existence in the crisis-ridden seventeenth century led to an increased fear of offending against religious norms may be psychologically convincing. But it has its weaker side too. One problem is that the correlation between 'objective', 'structural' crisis factors and the prosecution of, for example, blasphemers is based on speculative psychological arguments (fear).[76] Gerd Schwerhoff, too, concludes regarding the prosecution of blasphemers that neither in Cologne, Nuremberg nor Basle can marked connections be shown between crisis situations and criminal justice measures.[77] The present study will need to ask to what extent the cases of blasphemy in Zurich testify to existential fears among early modern people and can be read as reactions to crisis phenomena.

Elisabeth Belmas associates blasphemy more closely with acculturation processes than with crisis phenomena. With reference to Freud, she sees blasphemy as a surreptitiously pleasurable act of taboo-breaking, which she explains as an expression of 'forms of instinctive resistance by populations undergoing incredible cultural pressure'.[78] Blasphemy is thus interpreted in psychological categories (taboo, instinct) and associated with hegemonic structures (cultural pressure). No proof of this is offered, however. François Berriot follows a similar argument in his arbitrary collection of mental crisis phenomena, listing blasphemy as 'manifestations of a sort of revolt against Christian morals and faith'.[79]

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[75]   A survey of the crisis theories of the 1970s can be found in Peter J. Coveney, 'An Early Modern European Crisis?', *Renaissance and Modern Studies*, 26 (1982), pp. 1–25. Cf. also as an introduction: Monika Hagenmaier and Sabine Holtz (eds), *Krisenbewußtsein und Krisenbewältigung in der Frühen Neuzeit – Crisis in Early Modern Europe* (Frankfurt, Main i.a., 1992).

[76]   Andreas Blauert emphasises that crisis models subscribe to a simplistic natural determinism: 'Kriminaljustiz und Sittenreform als Krisenmanagement? Das Hochstift Speyer im 16. und 17. Jahrhundert', in id. and Gerd Schwerhoff (eds), *Mit den Waffen der Justiz: Zur Kriminalitätsgeschichte des Spätmittelalters und der Frühen Neuzeit* (Frankfurt, Main, 1993), pp. 115–36; here: p. 122.

[77]   Cf. Schwerhoff, *Gott und die Welt*, pp. 137f., 270f., 292.

[78]   Belmas, 'Blasphèmes', p. 24.

[79]   François Berriot, *Athéismes et athéistes au XVIe siècle en France*, 2 vols (Lille, n.d.), p. 264.

Others who make a connection between blasphemy and acculturation are Keith Thomas, Jean Delumeau, Carlo Ginzburg and Eva Labouvie. They do, however, avoid the questionable psychological interpretations of their French colleagues. Keith Thomas suggests that developments in the natural sciences meant the breaking of a spell in the world. Irrational behaviour was gradually eliminated, the world deprived of its magical dimensions. This in turn opened the way for a rational scepticism expressing itself especially in atheistic utterances.[80] Actually, Thomas's interpretation is an extreme version of the acculturation thesis. Acts that were previously culturally autonomous in a given society (magic) are submitted to a dominant value system (rationality of the natural sciences) and the acculturated part-culture is lost. Delumeau does not identify winners and losers quite so unambiguously. He understands blasphemy as evidence of protest against Christian morality, pointing to a superficial level of Christianisation. Well into the Early Modern era, Christianity had not succeeded in incorporating the indigenous cultures, he suggests.[81] Similarly, Ginzburg sees the miller Menocchio as being outside dominant Christian conformity. Loyal to the last to his heretical background in popular culture, Menocchio eventually paid for this with his life.[82] Labouvie also emphasises *Eigensinn*, the autonomy of popular culture. She sees cursing and casting spells, i.e. variants of blasphemous talk, as belonging 'on the one hand to the original stock of means of self-defence in the village, as well as being forms of self-justice'.[83] As these 'popular magical perspectives' contradicted the church concept of blasphemy as verbal sin, conflicts between church and people were, according to Labouvie, inevitable.[84] She suggests that the autonomous cultural system of the population was so strong that it resisted the church's efforts at acculturation. This corresponds to Dülmen's interpretation that blasphemy indicates the people's rejecting the church altogether.[85]

There has been criticism of the acculturation model. Jean Wirth shows in the context of iconoclasm that elite culture and popular culture were not in conflict.[86] Robert Scribner makes similar corrections in his diverse case

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[80] Cf. Keith Thomas, *Religion and the Decline of Magic: Studies in Popular Beliefs in Sixteenth- and Seventeenth-Century England* (London, 1988), pp. 198f.

[81] Cf. Delumeau, *Angst*, pp. 587f.

[82] Cf. Carlo Ginzburg, *Der Käse und die Würmer: Die Welt eines Müllers um 1600* (Frankfurt, Main, 1983).

[83] Labouvie, 'Verwünschen', pp. 122f.

[84] Ibid., pp. 123f.

[85] Cf. Dülmen, 'Wider die Ehre Gottes', p. 33.

[86] Cf. Jean Wirth, 'Against the Acculturation Thesis', in Kaspar von Greyerz (ed.), *Religion and Society in Early Modern Europe 1500–1800* (London–Boston–Sidney, 1984), pp. 66–78; here particularly: pp. 73–5.

studies of popular culture. He points out repeatedly that culture should not be seen as a confrontation between two classes but as a 'functional whole' in which a number of part-cultures are dynamically correlated both vertically and horizontally.[87] Scribner's criticism of the acculturation model is relevant for the present study in that it raises the question of who blasphemers turned against and what motivated them to do so.

The studies discussed above all endeavour to explain early modern history in its essentials. Two other studies approach the phenomenon of blasphemy within a narrower interpretative framework. In a case study of cursing, Heinrich Schmidt distinguishes between light and heavy variants of blasphemous utterances. Everyday cursing was not ill-intentioned, was therefore not understood to be blasphemous and was punished lightly. The heavy curse, on the other hand, was an insult to divine majesty or an instrumentalising of God by means of verbal magic. Both represented a refusal to recognise the divine order and were therefore a 'negation of the system'.[88] Schwerhoff draws attention, however, to the fact that neither in the mandates nor in the sentences are there any traces of the magical nature of cursing. Similarly, the punishment known as *Herdfall* for offences of cursing is not a reliable criterion for categorising the offence as light or heavy.[89] Arguments for and against Schmidt and Schwerhoff on the basis of the Zurich material will be developed in the empirical section of this study. Suffice it to say at this point that Schmidt's interpretation of heavy cursing as 'negation of the system' points to the political dimension of the offence of blasphemy. In the Early Modern era, protest against God is rebellion against the authorities ruling in God's name. So blasphemy will need to be examined not only in a religious and cultural perspective (processes of confessionalisation, secularisation, disciplining, acculturation), but also in a political perspective (problem of resistance).

In contrast to Schmidt, Schwerhoff stresses in his monograph that blasphemers challenged both God and the world. In social terms, blasphemy was an 'act of theatrical self-portrayal in conflict situations' in which the actors expressed their power, strength and sovereignty. Their evocation of God was, according to Schwerhoff, ambivalent. On the one hand, blasphemers called on God for help and testimony; on the other hand, they showed their superiority towards their opponents, which amounted to a provocation of God. 'Challenging God also implied, [however], believing in God'. Hence the majority of blasphemers were

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[87]   Cf. in particular for conceptual discussion of the problem of elite and popular culture, Robert W. Scribner, 'Is the History of Popular Culture Possible?', *History of European Ideas*, 10 (1989), pp. 175–91.

[88]   Schmidt, 'Ächtung', pp. 98f.

[89]   Cf. Schwerhoff, *Gott und die Welt*, pp. 334–6.

not unbelievers or atheists in the modern sense but, rather, disaffected believers wrestling with God. This little 'bunch of defiant rebels' included, according to Schwerhoff, a small number of 'virtuoso' blasphemers, loners who made their own sense of the world and gave voice to it. In social practice, then, the offence of blasphemy ranged from the extraordinary individual utterance daring to question the tenets of Christianity, to the banal everyday verbal provocation directed against concrete opponents. The normative theological and judicial 'discourse', however, did not see blasphemy as a minor offence, but emphasised its gravity. Without adding much that was new to the High Mediaeval ideas of blasphemy as an offence, jurists and theologians of the sixteenth century had dramatised it considerably by systematising and intensifying earlier efforts to categorise the offence. It cannot be shown, however, even in the sixteenth century, that the concern of jurists and theologians arose from the fact that they saw a magical dimension in blasphemous talk.[90]

Beyond the empirical findings, Schwerhoff's crucial conceptual contribution lies in his treatment of blasphemous talk as a verbal medium of conflict enactment, i.e. as a specific speech act. By placing blasphemy in its communicative context, Schwerhoff releases it from purely theological or judicial categorisation. This opens up the path to exploring the use of blasphemous talk by the speakers, instead of limiting oneself to the question of concept, norms and sanctions. Schwerhoff's interpretative model – in which blasphemers assumed the existence of God by employing blasphemy in speech acts as a means of enacting conflict – amounts to blasphemy being 'brought down to earth'. His approach takes the religious norm transgression of blasphemy beyond its theological, judicial and religious dimensions to embed it in early modern conflict culture. This highly significant concept will need to be discussed fully in order to test its theoretical and empirical scope.

3.2. Blasphemy as a Key to Religion in Cultural History

As formulated by Kaspar von Greyerz nearly fifteen years ago, the task of a social history of religion is 'historical research into the function and meaning of religion within an overall societal frame of reference'.[91] This positioning drew attention to research deficits in the field of history of religion that are still in evidence. True, the term 'meaning' has become

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[90]   Ibid., pp. 401, 414, 375, 411f., 325.

[91]   Kaspar von Greyerz, 'Religion und Gesellschaft in der frühen Neuzeit', in *Religiosität, Frömmigkeit: Jahreskongress [der Schweizerischen Gesellschaft für Wirtschafts- und Sozialgeschichte], 11. November 1983* (Lausanne, 1984), pp. 13–36, here: p. 14.

programmatic in German-language research since the 1990s as a result of Ute Daniel's call for a hermeneutic or 'symbolic' turn in historiography, expanding social history to form a new cultural history.[92] The debate cannot be covered here in full,[93] but the relevant question for the present study is the contribution Daniel's concept of 'meaning' can make to an understanding of the phenomenon of blasphemy, and what further conceptual differentiation will be needed.

Daniel's analysis of 'meaning' as the social construction of reality is aimed at 'structures of perception, meaning-giving processes and values orientation'. 'Interpretations of the world and of society, relevant as they are for social action and behaviour, for social continuities and discontinuities', should be 'taken as seriously as socioeconomic and other structures'.[94] Such practices are to be recognised as meaningful and meaning-giving behavioural patterns against the given background. Thus Daniel 'cannot imagine an object which cannot be analysed in terms of cultural history'.[95] Observing the hermeneutic principle that to understand something is to understand it as the answer to a question, she formulates as follows: 'Understanding something historically in the hermeneutic sense means placing historical phenomena as meaning-giving, as interpretations of self and world on the part of historical subjects, in the historical context in which they first become apparent as answers to questions.'[96] This approach means that historical subjects no longer act as members of a collective, i.e. their class or social group, determined by the given economic and political structures. Rather, Daniel's concept of 'meaning' assumes that individuals

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[92] Ute Daniel, '"Kultur" und "Gesellschaft": Überlegungen zum Gegenstandsbereich der Sozialgeschichte', *Geschichte und Gesellschaft*, 19 (1993), pp. 69–99; here: p. 94.

[93] For a summary of each side of the debate on history of society and 'everyday cultural history', with comprehensive bibliographical references to the ensuing controversies, cf.: Carola Lipp, 'Kulturgeschichte und Gesellschaftsgeschichte – Mißverhältnis oder glückliche Verbindung?', in Paul Nolte, Manfred Hettling, Frank-Michael Kuhlemann et al. (eds), *Perspektiven der Gesellschaftsgeschichte* (Munich, 2000), pp. 25–35; Martin Dinges, '"Historische Anthropologie" und "Gesellschaftsgeschichte": Mit dem Lebensstilkonzept zu einer "Alltagskulturgeschichte"?', *Zeitschrift für historische Forschung*, 24 (1997), pp. 179–214.

[94] Daniel, '"Kultur"', pp. 92f.

[95] Ute Daniel, *Kompendium Kulturgeschichte: Theorien, Praxis, Schlüsselwörter* (Frankfurt, Main, 2001), pp. 8f. The objection that Daniel employs a 'total' concept of culture operating without the category of society seems unjustified to me, since her concept does not exclude dimensions of structural history. On this objection, cf. Thomas Sokoll, 'Kulturanthropologie und Historische Sozialwissenschaft', in Thomas Mergel and Thomas Welskopp (eds), *Geschichte zwischen Kultur und Gesellschaft: Beiträge zur Theoriedebatte* (Munich, 1997), pp. 233–72; here: p. 237.

[96] Ute Daniel, 'Historie und Hermeneutik: Zu Geschichte und Gegenwart einer turbulenten Beziehung', *Handlung, Kultur, Interpretation*, 5 (1996), p. 142.

shape the given conditions into their own world. People are not born as objects of structures, but make themselves subjects of their given reality. While historiography cannot ignore the structures within which historical subjects act, it must also take account of how these subjects construct their world. Questions of the meaning people give to their own world, how they see their place in it, and how individuals and collectives act and interact are absolutely central to our understanding of a society. Daniel concludes that historiography that seeks to understand past societies as the products of social existence must necessarily also concern itself with the meaning of human action and behaviour.

In its concern for a cultural history of un-/belief embedded in political, social and religious structures, the present study takes up Daniel's programme of hermeneutically aware historiography. Three qualifications must be made, however. First, Daniel's argument is based on the concept of culture. Following several years of discussion, she remains loyal to her position of the 1990s and is reluctant to subject the term culture to a limiting definition.[97] With reference to Friedhelm Neidhardt, she defines culture as 'a system of collective constructions by means of which people define reality.'[98] This means that every phenomenon of human life is of a cultural nature, so that culture cannot be defined as a part-phenomenon of a society. In debate with the Bielefeld School from which she originates, Daniel argued the necessity of deepening praxeological approaches in historiography: 'Looking at "practice" – the complex whole made up of thoughts and action – places symbolic processes at the centre of social sciences analysis as social action.'[99] Daniel does not, however, discuss in detail what makes culture a system, or in what way the practices of the historical subjects constitute a social construction of reality. The term 'practices'[100] continues to be a problematic aspect of Daniel's approach. According to Bourdieu, practice is both necessary and relatively autonomous, insofar as it is

> constituted in the dialectical relationship between, on the one hand, a *habitus*, understood as a system of lasting, transposable dispositions which, integrating past experiences, functions at every moment as a *matrix of perceptions, appreciations and actions* and makes possible the achievement of infinitely

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[97]   Cf. Daniel, *Kompendium*, pp. 8f.

[98]   Daniel, '"Kultur"', p. 72.

[99]   Ibid., p .84.

[100]   Ute Daniel lists only the relevant literature on 'the so-called practice approach'. Cf. ibid., p. 84, n. 57. For epistemological criticism of the practices concept, cf. James Bohrman, 'Do Practices Explain Anything? Turner´s Critique of the Theory of Social Practices', *History and Theory*, 36 (1997), pp. 93–107.

diversified tasks, thanks to analogical transfers of schemes permitting the solution of similarly shaped problems, and thanks to the unceasing corrections of the results obtained, dialectically produced by those results ....[101]

There is no need to detail here the reception of this influential definition in history studies, but the problem of Bourdieu's term 'habitus' should be noted. It has already been critically addressed by Martin Dinges and Carola Lipp.[102] The concept suffers from latent economism and latent structuralism. Although *habitus*, according to Bourdieu, is bound by the conditions of social and cultural 'capital' as well as economic capital,[103] it is this last that has the upper hand.[104] In the end, practices are economically determined. People are also said to have matrixes of action, perception and thought at their disposal, but Bourdieu does not go into how these matrixes function. He seems to imply that practices arise from a combination of the dialectic automatism of the given situation and the system of behavioural dispositions. Thus Bourdieu subjects the individual to the structures created by capital in its three forms. His individual is determined rather than autonomous.

The weakness of Bourdieu's concept of practice leads to the second qualification of Daniel's approach. The question is this: to what extent do historical subjects have scope for action? Martin Dinges has taken on this question in his work on lifestyle concept. Engaging critically with the Bielefeld School of social history, which sees individuals as the objects of structures, and with a historical anthropology that largely dispenses with conceptualisation and prefers to describe the action and experience of individuals in ethnographical single-case studies, he calls for a new cultural history in the form of 'history of everyday culture'. Dinges's programmatic proposal includes central considerations based on action theory that remedy the weaknesses of Bourdieu's concept of *habitus*. Action does not simply 'function' according to latent laws of 'capital', he suggests; neither can it be pressed into a congruent system. On the one hand, action contains unconscious components and unintended consequences; on the other hand, an action does not necessarily lead to specific consequences. Dinges sees action as a spectrum of 'styles of behaviour', i.e. relatively stable behaviours of individuals, groups or societies, relating to a specific problem. The 'style' is marked, consciously or unconsciously, by the

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[101] Pierre Bourdieu, *Outline of a Theory of Practice*, 14th edn (Cambridge 2002), pp. 82–3.

[102] Cf.: Lipp, 'Kulturgeschichte und Gesellschaftsgeschichte', p. 33; Dinges, '"Alltagskulturgeschichte"', pp. 196–8.

[103] Cf. Pierre Bourdieu, 'Ökonomisches Kapital, kulturelles Kapital, soziales Kapital', in Reinhard Kreckel (ed.), *Soziale Ungleichheiten* (Göttingen, 1983), pp. 183–98.

[104] Cf. Dinges, '"Alltagskulturgeschichte"', p. 197, n. 55.

economic and social condition as well as acquired cultural options of the
time. The behaviour, however, is in the end dominated by the 'decisions' of
the actors. 'Lifestyles' may be interpreted as the relatively stable result of
decisions made by individuals or groups on the basis of options offered by
society, whereby individuals do not have absolute freedom in the decisions
they make.[105]

The significant distinction between Dinges's and Bourdieu's behavioural
practices is that Dinges emphasises the choices open to subjects within the
framework of their structural determinedness, without however denying
the influence of material or other contingencies. Though they may not
have absolute freedom, individuals do have considerable scope for making
certain behavioural choices. Their action arises from polyvalent options
rather than quasi-automated behavioural mechanics. Moreover, Dinges
defines the options for action as 'relatively stable'. Individuals can make
behavioural choices and can thus in the course of time also make changes.
This means that, unlike Bourdieu, Dinges recognises the possibility of
historical change. Since, in this model, individuals are seen to have
considerable freedom of choice in their actions, the change that takes place
need not be in the direction of further habitualisation. Subjects may act in
a way that results in de-habitualisation of styles of behaviour.

The third qualification of Daniel's concept is this: if human action and
behaviour are seen as essentially contingent, this has consequences for the
understanding of culture. According to Dinges, culture is not a closed system
but a 'variety of forms in which individuals, groups or whole societies
express their needs'. Not treating culture as a system opens the possibility
of emphasising 'the given rifts and shadings which culture receives as a
result of varying social, economic and political interests, and which occur
for men and women, different ethnic groups and classes as well as different
generations'.[106] Although Dinges does not enlarge on what he means by
'needs', 'rifts' or 'shadings', this does not detract from his argument that
culture is not necessarily a system. He liberates historiography from certain
narrow historical–anthropological approaches that tend to see action as
the social logic of acting and reacting. Dinges's concept makes allowance
for the fact that human behaviour is not necessarily logical; change may
not be in just one direction, and certainly need not be linear.

Objecting to the narrow idea of culture as a closed system does, however,
raise the question of how it might be better defined. Robert Scribner's
critical engagement with the schematic contrasting of elite culture and
popular culture offers the beginning of an answer. These are not opposite
systems, Scribner argues, but 'functional wholes', variants of a common

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[105]   Ibid., pp. 191, 198, 199.
[106]   Ibid., p. 185.

culture.[107] 'Culture is not only multivalent, but also involves complex processes of inculcation, appropriation, competition, assimilation or rejection of any given set of cultural values or practices.'[108] The 'functional wholes' are in reciprocal relationship. Summarising Scribner and Dinges and supplementing Daniel, we can define culture as a set of behavioural decisions, to some extent open to change, which subjects make on the basis of social, economic, political and other contingencies and by means of which they communicate with each other concerning their world. The relative freedom to change their behaviour in a variety of directions, which also means interacting with other subjects, results in a construction of social reality that is not free of internal contradictions, nor does it involve linear, purposeful change.

The programmatic approaches of Daniel, Dinges and Scribner discussed above are very relevant to the object of the present study. As Daniel emphasises, the hermeneutic process begins with not-understanding. Interpreting ways of speaking that would not today be heard as blasphemous means starting from a position of not-understanding. Asking after the 'meaning' of religious utterances on the basis of the early modern understanding of blasphemy implies that religion is not seen as primarily structurally determined (by the church, by theology, by fear), but rather as a changing set of action decisions made in the context of existing norms. Blasphemous utterances are speech acts that give evidence of how people understood their world. Exploring the questions to which blasphemy is the answer means defining more precisely the relevance of verbal norm transgressions for social action and behaviour. This is why, in the present study, the cultural concept of 'meaning' takes a key methodological position in the analysis of blasphemy.

3.3. Blasphemy as a 'Textually' Transmitted Speech Act

Language is the lifeblood of historiography. Few historians, however, show serious interest in the linguistic aspect of their sources.[109] The present study draws consciously on two basic tenets of philosophy of language. The first is that every verbal representation of reality is language-based

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[107]   Scribner, 'History of Popular Culture Possible?', p. 182.

[108]   Ibid.

[109]   Cf. Robert Jütte's criticism that history studies concentrate too much on the content side of verbal expression: 'Sprachliches Handeln und kommunikative Situation. Der Diskurs zwischen Obrigkeit und Untertanen am Beginn der Neuzeit', in Helmut Hundsbichler (ed.), *Kommunikation und Alltag im Spätmittelalter und früher Neuzeit: Internationaler Kongreß, Krems an der Donau 9.–12.10.1990* (Vienna, 1992), pp. 159–81.

and therefore 'text'. The second is that the use of words by blasphemers is polyvalent. We shall need to examine the linguistic models on which these premises are based, and ask ourselves what they can contribute to a historical understanding of blasphemy. The discussion that follows sets out the model of the speech act and the 'linguistic turn' and their empirical use in history studies.[110]

Scant attention has been paid to communication models in historiography in general and blasphemy in particular. Only the ethnologist Jeanne Favret-Saada proposed evaluating blasphemous utterances according to a model by Roman Jakobson. Taking up the sociological labelling theory, she considers utterances not to be blasphemous 'as such' but only as a result of attribution by listeners: 'an utterance is not qualified as blasphemy because of its specific content but on the grounds of a judgement which is based in turn on normative texts.'[111] This reverses the roles of 'énonciateur' and 'énonciataire'; the producers of blasphemy are not the speakers but the listeners who label a verbal utterance blasphemous.

Despite the author's attachment to labelling theory, Gerd Schwerhoff's study of blasphemy does not draw on Roman Jakobson's models. Instead, he makes use of J.L. Austin and John Searle's speech act theory,[112] which treats every verbal utterance as a speech act. These can be categorised by type (request, call, command etc.).[113] The speech act consists of four part-acts: locutionary, illocutionary, propositional and perlocutionary. The locutionary act refers to the linguistic utterance itself. The illocutionary act refers to the manner in which speakers address listeners. What they have to say about the world is the propositional act. The perlocutionary act points to what speakers mean by what they say.[114] Speaking, then, does not simply

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[110]   A fuller discussion of this problem can be found in Francisca Loetz, 'Sprache in der Geschichte: Linguistic Turn vs. Pragmatische Wende', *Rechtsgeschichte. Zeitschrift des Max-Planck-Instituts für europäische Rechtsgeschichte*, 2 (2003), pp. 87–103.

[111]   '... un énoncé n'est pas qualifié de "blasphème" en raison d'un contenu qui lui serait particulier, mais par une opération de jugement qui s'appuie sur un corps de textes réglementaires' – Jeanne Favret-Saada, 'Rushdie et compagnie: Préalables à une anthropologie du blasphème', *Ethnologie française*, 22 (1992), pp. 251–60; here: p. 257.

[112]   Cf. their seminal works: John L. Austin, *How To Do Things With Words* (Oxford, 1962); John Rogers Searle, *Speech Acts: An Essay in the Philosophy of Language* (Cambridge, 1984). On the conceptual relationship between their work, cf. Sybille Krämer, *Sprache, Sprechakt, Kommunikation: Sprachtheoretische Positionen des 20. Jahrhunderts* (Frankfurt, Main, 2001), pp. 10, 55–73, 135–53.

[113]   The following comparison of speech act and speech action draws particularly on the readily intelligible presentation by Angelika Linke, Markus Nussbaumer and Paul R. Portmann, *Studienbuch Linguistik*, 3rd edn (Tübingen, 1996), pp. 182–202.

[114]   A company director greeting a member of staff with the words, 'So you've arrived', is unlikely to be referring to the exact time of arrival. Rather, the words are intended to reprove unpunctuality and express the expectation that it will not happen again.

mean producing grammatically correct sentences. Speaking means doing things with words, hence the apt title of Austin's classic work *How To Do Things With Words*. Speech act theory does not attempt to clarify the relation between reality and the linguistic sign. Rather, it stresses that the world is interpreted by means of the act of speaking in a specific situation. Schwerhoff concludes from this that the study of blasphemy must 'reach beyond the analysis of mere language formulae and attempt to place the utterances in their social context.'[115] Blasphemy is not understood here as (intellectual) discourse after Foucault, producing power constellations and excluding some groups of speakers.[116] Neither can it be reduced to an uncontrolled, emotional expression, resulting in Freudian terms from the unconscious urge to break taboos.[117]

There are distinct advantages to Favret-Saada's and Schwerhoff's recourse to linguistic models. Blasphemy is liberated from its naïve status as an automatic formulation. It does not exist 'as such'. Speakers and addressees need to have knowledge of transgression of the illocutionary, propositional and perlocutionary norms in order to decode an utterance about God as blasphemous. As the perlocutionary part of a speech act generally points beyond its propositional part, blasphemy is not merely the expression of theological content, but is at the same time linguistic action in the context of linguistic conventions. In other words, it is social action. Blasphemers 'do' something specific in their speech act that goes beyond referring to God.

There are also disadvantages to the speech act theory that are not addressed by Favret-Saada and Schwerhoff. Full justice cannot be done here to the attendant controversies in philosophy of language and linguistics, but one or two principle reservations can be formulated. Speech act theory is oriented exclusively towards speakers and their intentions. What do they do when they speak, and what is their purpose in speaking? This suggests that speech act theory is a variant of motivation research. It ignores the fact that a speech act can have unintended consequences. It fails to examine the performance of the addressees in understanding what the speaker implicitly says. In other words, speech act theory goes only half way in the process of verbal communication, analysing from the perspective of the speakers.

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[115]   Schwerhoff, *Gott und die Welt*, p. 14.

[116]   On this discursive understanding of blasphemy in critical dialogue with postmodern approaches of the linguistic turn, cf. David Nash, 'Blasphemers or Profaners? Shaping Deviance in the French and British Traditions', *Cahiers Victoriens et Édouardiens*, 61 (2005), pp. 117–31; Nash, *Blasphemy in Modern Britain*, pp. 43–73.

[117]   On this understanding, cf. Emile Benveniste, *Problèmes de linguistique générale*, vol. 2 (Paris, 1974), pp. 253–7.

This leaves them delivering monologues. The dialogue or communication aspect of verbal utterances is neglected in speech act theory.

This criticism has given rise to models of speech action associated with the names Erving Goffmann, Harvey Sacks and H.P. Grice.[118] They too are concerned with the question of how what is said transmits what is not said ('implicature' in Grice's terminology).[119] Instead of exploring what speakers implicitly mean to say, speech action models attempt to explain how addressees are able to grasp what speakers mean by what they say and what is not said. Rather than examining verbal utterances in isolation, they analyse how utterances are related in the course of a dialogue, and how they take effect as a result of certain 'conversation maxims'. Thus speech action theories see communication as action in the sense of cooperative interaction: communication depends, in principle at least, on speakers speaking in such a way that others understand what they mean.[120] A verbal utterance becomes an action because the listeners recognise every verbal formulation as 'action'. This model sees every verbal utterance in the communicative situation as being 'interpreted', in that the addressees infer the intention of the speaker. The decoding of what the speaker means (i.e. the decoding of their implicatures) is open to various options of interpretation. Thus communication depends on the exchange of evaluations of action. This in turn presupposes that those who are communicating do so on the basis of a common, socially defined knowledge that goes beyond the specific situation of the moment.[121] The speakers assume that, together with the addressees, they form a linguistic community. This enables the addressees to place utterances in context and understand them according to given conventions of verbal behaviour.

Speech action or conversation implicature theory decisively supplements speech act theory. First, the interpretative performance of the listeners becomes part of the communication. Communication is not treated as the sum of isolated speech acts but as a train of exchanged speech actions. Second, attention is drawn to the social knowledge

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[118]   Cf. Erving Goffman, *Forms of Talk*, 2nd edn (Pennsylvania, 1995); Herbert Paul Grice, *Studies in the Way of Words* (Cambridge, MA, 1989); Harvey Sacks, *Lectures on Conversation*, 3rd edn (Oxford, 1998).

[119]   The term 'implicature' is Grice's neologism marking the distinction between implicature and implication (similarly, between 'implicate' and 'imply'). Cf. Eckard Rolf, *Sagen und Meinen: Paul Grices Theorie der Konversations-Implikaturen* (Opladen, 1994), p. 14.

[120]   Thus cooperation means a minimum common interest in understanding, though not necessarily mutual, productive agreement. On this differentiation, cf. Linke, Nussbaumer and Portmann, *Studienbuch*, p. 196.

[121]   Cf. Giesela Harras, *Handlungssprache und Sprechhandlung: Eine Einführung in die handlungstheoretischen Grundlagen* (Berlin–New York, 1983), pp. 22, 64.

without which communication between speaker and listener is impossible. Communication is understood as always taking place within a context. Third, the theory of conversational implicature distinguishes between successful and effective speech action. A communicative action 'succeeds' when the addressee understands the speaker's intention. An 'effective' speech action depends on the addressees fulfilling the intentions of the speakers.[122] Verbal communication is possible when speakers and listeners can communicate on the basis of common knowledge, without necessarily having to agree. Models of speech action do not attempt to establish what motivates speakers to pursue certain aims; in other words, they do not undertake motivation research. They infer the intentions of speakers indirectly from the effects achieved among their listeners.

What is the usefulness of treating early modern blasphemy as speech action? Applying speech act theory results in an a priori narrowing of perspective, with an analysis only of the verbal acts and intentions of blasphemers. This is but half the story, however. Speech action theory, on the other hand, allows us to introduce the addressees and what they thought of the sanctioned utterances, how they understood the blasphemers' intentions, and how far the blasphemers' speech actions were 'successful' or 'effective'. This 'effectivity quotient' in particular will enable us to draw conclusions concerning the knowledge of blasphemy in early modern society and the meaning of religious norms. An example will illustrate this.

In 1636, Hans Heinrich Meyer, bailiff of Knonau, sent a protocol of his interrogation of Michael Wyß to the Zurich Council. Wyß had been questioned because he had insulted and abused the omnipotence of God as well as the ministers. The defendant had answered that he had no idea what had happened, since he had been drunk at the time. If he had spoken against the Bible or the ministers, he was deeply sorry. He now entreated God and the authorities to show him mercy. He had always attended church, as his parish minister and the congregation could attest; there was no complaint against him.[123] An analysis of this document according to Grice's conversation model reveals how speech action theory can refine conventional forms of source criticism. While we can only speculate on the illocutionary act on the part of Wyß, the propositional act of the charge is beyond doubt. The bailiff makes a statement about the world and charges Wyß with an offence. What he means by this is absolutely clear. The reaction of the defendant indicates that the bailiff's perlocutionary aim is the defendant's plea of guilt. Wyß, however, decodes the bailiff's implicatures in an ambivalent manner. On the one hand, he allows the

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122   Ibid., p. 167.
123   Cf. StZH, A.27.74, Statement Michael Wyß, 21.8.1636.

bailiff's speech action to succeed. He indicates that he understands what he is accused of. He admits having made a mistake, should the charge be justified. And if so, he asks for the pardon due to him as an upright citizen. On the other hand, Wyß renders the bailiff's speech action ineffectual. He claims to be ignorant of his guilt. The conversational implicatures of this train of verbal action point to verbal cooperation between bailiff and defendant. They share the knowledge that to claim that the Bible is not the Word of God is a norm transgression. Wyß does not question the charge against him as such. Bailiff and defendant also both assume that a subject who has offended should show remorse, and that this remorse qualifies the subject to appeal to the mercy of the authorities. Only a person who is *compos mentis* can be held responsible for an offence. A person who is drunk is legally incompetent. Wyß would hardly have made use of this argument if he had not assumed it would convince the court in his favour. In propositional terms, then, Wyß's statement offers arguments for his innocence. In perlocutionary terms, he symbolically acknowledges that the supervising authorities owe lenience towards the penitent sinner.

The advantage of this analysis is that the distinction between what is said and what is not said can be made explicit. The verbal cooperation between speaker and addressees can be systematically traced, making their different interests apparent. The crucial point in the evaluation of Wyß's statement is not whether he actually did blaspheme while he was drunk. What counts in the courtroom scene is that the manner in which the defendant refers to religious norms reveals something specific about the relevance of religion in his society.

The blasphemies dealt with in this study are mostly transmitted in court records. These records relish narrative, tempting us to read them as 'fiction in the archives'. Taking up the position of the linguistic turn, which states that every representation of the world is expressed in language and that there is no world to discover behind the language, we could sharpen the argument as follows: historians cannot really ask *what* court records report as 'texts' of past circumstances, but can only 'deconstruct' *how* they report them. This opens an understanding of past ideas of the world.

This is the line taken by Ulrike Gleixner, Andrea Griesebner and Monika Mommertz,[124] who emphasise the factual nature of the fictional in court

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[124]   The concept of 'text' employed here is mostly quite open, however. It is symptomatic of this approach that Monika Mommertz's proposal for reading court records as language-constituted correlated action equates language with discourse, using 'discourse' both as a language-pragmatic term and as a specific Foucaultian concept: '"Ich, Lisa Thielen": Text als Handlung und sprachliche Struktur – ein methodischer Vorschlag', *Historische Anthropologie*, 4 (1996), pp. 303–29; particularly: p. 304, n. 10.

records.[125] They go beyond ethnomethodological or conversation-analysis insights in treating court statements not as uninhibited free discourse but as narratives with a purpose.[126] While the latter position implies that the truth of court records must be critically assessed, the former position relinquishes the claim to recognising a specific reality behind what those in court present. The following example will illustrate why it is important to bring these two positions together. The Zurich Council, sitting in judgement on Hans Wingarten in 1520, ruled that he had forfeited his life. While playing cards, he had cursed and sworn more than once in an unacceptable manner. Yet the sentence is by no means the plain judicial establishing of an offence. Rather, it reads like a dramatic narrative that makes Wingarten the high-spirited loudmouth, choleric gambler and tragic fool of a picaresque novel! Surely this is a prime example of how court records transmit speech actions as 'fictions'? My answer is no, however. Fiction has, in principle, no limits. Fiction can break with the social rules of narrative conventions. It need not keep to rules nor open itself to verification. But this fictional space is not where we find the defendants of the past or their interpreters of the present. Both are exposed to the communicative principle of interactive cooperation. Just as the 'creativity' of those questioned is limited – despite all their verbal options for action – by the relevance criteria of the court, historians have to respect the 'right of veto' of their sources. Court records bear witness to how the participants communicated concerning their world, without necessarily agreeing on that interpretation of reality. This world too is 'textually' constructed, but cannot be produced and interpreted at will, since it is bound by rules of social knowledge and is thus intersubjectively verifiable. Fact and fiction are closer than 'positivists' would wish, but we cannot simply eliminate the border between factual and fictional material.[127]

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[125] Cf. on this, e.g.: Andrea Griesebner, *Konkurrierende Wahrheiten: Malefizprozesse vor dem Landgericht Perchtoldsdorf im 18. Jahrhundert* (Vienna–Cologne–Weimar, 2000), pp. 144–76; Mommertz, '"Ich, Lisa Thielen"'; Ulrike Gleixner, 'Geschlechterdifferenzen und die Faktizität des Fiktionalen. Zur Dekonstruktion frühneuzeitlicher Verhörprotokolle', *WerkstattGeschichte*, 11 (1995), pp. 65–71; Ulrike Gleixner, *'Das Mensch' und 'der Kerl': Die Konstruktion von Geschlecht in Unzuchtsverfahren der Frühen Neuzeit (1700–1760)* (Frankfurt–New York, 1994), pp. 19–21.

[126] Attention was drawn to this specific character of speech before the courts by Ludger Hoffmann: *Kommunikation vor Gericht* (Tübingen, 1983), p. 107. A full discussion of the various approaches, with a view to a theory of judicial sentencing, is provided by the Hamburg psychologist and criminologist Gabriele Löschper: *Bausteine für eine psychologische Theorie richterlichen Urteilens* (Baden-Baden, 1999); see particularly Part II, Ch. 3.

[127] The softening though not the elimination of the border is also advocated by Michael Stolleis: *Rechtsgeschichte als Kunstprodukt: Zur Entbehrlichkeit von 'Begriff' und 'Tatsache'* (Baden-Baden, 1997), p. 16. For a conference report on discussion of the alleged horrors of discourse analysis and linguistic turn, cf. also Achim Landwehr, 'Vom Begriff zum Diskurs –

We conclude that the evaluation of verbal testimony cannot do without philosophy of language premises. The present study assumes that blasphemies are to be understood as speech actions, with the aim of assessing from their effects what the blasphemers said and what they meant by their words. Given the narrative urge of the court records and the current debate on the 'linguistic turn', it will be necessary to clarify to what extent we are dealing with 'fictional' evidence.

If we examine sources exclusively from the point of view of what is said, i.e. from the illocutionary and propositional perspective, we shall be tempted in the case of court records to concentrate on the reconstruction of offences, perhaps even to the point of making a retrospective 'judgement' on the case in question.[128] This approach places historical analysis unnecessarily on thin ice. Those who adopt the detective whodunit position will arrive at more or less probable statements on the recorded case in question. But the question of how those involved present the offence, what norms provide their orientation, and what they mean by their perlocutionary actions, is a more fruitful exercise. The sources do, of course, document that something has happened, but it is presented from the perspective of those involved in the court case. Thus the historically relevant 'fact' is not the incident itself, the 'true substance' behind the statements made, but the interpretation of the incident by those involved. Their 'fictional' shaping of the incident points to how they interpret their world.

The evaluation of sources as 'text' reaches its limit where the verbally constructed reality of a society dissolves into purely subjective 'fictional' interpretations of reality. Subjects in a society do not act autonomously but as members of a (language) community that binds them structurally to (linguistic) conventions. The speech action models take account of this when they ground communication in the cooperation principles of the speakers. Conversation models do not ask the ontological question 'What is?', whether subjectively or objectively. Their interest is in the question of what reality is for the speakers. These models allow for the fact that the world is intersubjectively constructed, but they also take as their starting point the distinction between what is said and what is meant. Hence this concept offers tools for precise paraphrasing and analysis of how, when they communicate, people make reference to common norms in order to cooperate verbally and to come to an understanding concerning their

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die "linguistische Wende" als Herausforderung für die Rechtsgeschichte?', *Zeitschrift für Geschichtswissenschaft*, 48 (2000), pp. 441–2.

[128]   For criticism of such 'retrospective crime studies' from a microhistorical perspective, cf. Otto Ulbricht, 'Aus Marionetten werden Menschen: Die Rückkehr der unbekannten historischen Individuen in die Geschichte der Frühen Neuzeit', in Ehrhard Chovjka, Richard von Dülmen and Vera Jung (eds), *Neue Blicke: Historische Anthropologie in der Praxis* (Vienna–Cologne–Weimar, 1997), p. 16.

reality. Reading historical written documents as 'textual' records of verbal actions does not mean getting lost in an obscure diversity of arbitrary perceptions. Respecting historical sources from a linguistic perspective means, rather, reconstructing their intersubjective interpretations of reality. Embedded as they are in the conventions of the language community, these interpretations are relevant in terms of cultural history.

4. The Example of Zurich

4.1. The Time and Place under Study

The blasphemous scenes we shall witness are set in early modern Zurich. However, the present study is not primarily concerned with Swiss history, and there are two reasons for this. In formal terms, Switzerland was part of the Holy Roman Empire of the German Nation until 1648.[129] The example of Zurich can thus be included in the history of German cities of the Upper Rhine. An even weightier argument is that in this study Zurich is not the setting for 'national' developments. Rather, the spotlight is on Zurich as the stage of a state whose constitutional structure is typical of a central European early modern city state (with the exception of northern Italy). We shall now examine the scenery for this stage and the period during which the blasphemous protagonists appeared on it.

After 1513, the territory of Switzerland consisted of the 13 cantons, the Mandated Members (bailiwicks administered jointly by at least two cantons) and the Associated Members (*Zugewandte Orte*), which were not full members and were associated only with single cantons. In the north-east lay one of these cantons, Zurich.[130] It consisted of the city and region of Zurich together with the Mandated Members geographically linked with it, forming a unified complex.

In constitutional terms, Zurich shows all the marks of a typical early modern city state.[131] The city council, made up of members of the guilds

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[129] Cf. Hans Berner, Ulrich Gäbler and Hans Rudolf Guggisberg, 'Schweiz', in Anton Schindling and Walter Ziegler (eds), *Die Territorien des Reichs im Zeitalter der Konfessionalisierung. Land und Konfession 1500–1650, Der Südwesten*, vol. 5 (Münster, 1993), pp. 279–323; here: p. 280.

[130] Cf.: *Handbuch der Schweizer Geschichte*, vol. 1 (Zurich, 1980), pp. 495–526; *Handbuch der Schweizer Geschichte*, vol. 2 (Zurich, 1980), pp. 675f.; Berner, Gäbler and Guggisberg, 'Schweiz', pp. 279, 300.

[131] For details and bibliographical data on current research, cf. Braun, *Ancien Régime*, pp. 15–20, 212f., 239–41, 248–51; Thomas Weibel, 'Der zürcherische Stadtstaat', in Flüeler and Flüeler-Grauwiler (eds), *Geschichte des Kantons Zürich*, vol. 2, pp. 16–65; here: pp. 27–40, 46–8, 63.

and the *Constaffel* (representatives of the patriciate, of commerce and the trades with free choice of guild) governed the city and the region. In the region, i.e. outside the city, government was in the hands of the bailiffs, appointed by the council from its own members. They were responsible for implementing the directions from Zurich in the communities. The bailiffs were not trained administrators or lawyers; in fact, they had no formal training at all for their task. Mostly they followed their fathers or other male relatives into the job and became familiar informally with the official duties.[132] They operated without access to codified law or any pre-forms of gazette.[133] The bailiffs had to rely on common law experience or on the directions reaching them from Zurich.

Unlike Calvin's Church, that of Zwingli exercised very little formal influence on government business.[134] Theological reflection on relations between secular and spiritual authorities led the Zurich Church to entrust profane matters to the council. The church saw its task as the proclamation of the Word of God, the development of well-ordered church communities and supervision of clergy activities. After the introduction of the Reformation in 1525, the necessary institutional structures were soon in place. Morals courts sprang up everywhere, church structures were successfully reorganised, clergy were educated in Zwinglian theology, and binding confessional texts were formulated.

The impact of Zurich's constitutional structure on the prosecution of blasphemy was threefold. First, the spiritual authorities were an advisory body to the secular powers and had no direct access to the judiciary. This meant that as institutions the churches could not take the legal initiative in combating blasphemy. The church was expected above all to support the work of the council. It was required to provide reports for the council on blasphemers, but these were recommendations only. Church *Fürträge* (advice) could suggest changes in the law but not enforce them. The most independent players were the local clergy. They were obliged to punish verbal offences themselves, to take offenders to the local morals court, or to report them to the bailiff.[135] Moreover, they could appeal to people's conscience through their sermons or in private conversation. Outside the

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[132]   Cf. Dütsch, *Landvögte*, pp. 131, 169.

[133]   Cf. Kunz, *Lokale Selbstverwaltung*, p. 95.

[134]   For a summary of the church situation, cf. Weibel, 'Stadtstaat', pp. 44f.; Heinzpeter Stucki, 'Das 16. Jahrhundert', in Flüeler and Flüeler-Grauwiler (eds), *Die Geschichte des Kantons Zürich*, vol. 2, pp. 172–281; here: pp. 195f., 208–16, 222–4, 231–7, 250–53.

[135]   On the leadership function of the clergy in the morals courts and their composition, cf. the summary account in: Weibel, 'Stadtstaat', p. 45.

morals court, therefore, the churches had 'only' pastoral means at their disposal to put pressure on blasphemers.

Second, Zurich's constitutional structure meant that the criminal prosecution of blasphemy was largely in the hands of the secular authorities. As in Cologne, Nuremberg, Constance or Basle, indeed as in France or England, the decisive institution of judicial policy in Zurich was the council.[136] All morals mandates originated with the council, and it was the council that sentenced blasphemers. The church's morals courts tended to deal with the minor cases. So blasphemy, a theologically substantiated offence, was chiefly punished by the secular judiciary. In the city, incidents of blasphemy were reported to the council; in the region, they were reported to the bailiff. Reports could also be made indirectly via official persons such as clergy, sub-bailiffs, representatives of the local courts, or village mayors. The bailiffs had to deal with the case themselves or hand it on to Zurich. Thus councillors and bailiffs were at the intersection of population and authorities, functioning both as advisors and supervisors to each. Third, therefore, Zurich's constitutional structure meant that, in matters of blasphemy, the council, bailiffs and people were interdependent.

The present study covers a period of 300 years. During this long period from the end of the Middle Ages to the end of the Ancien Régime, the political and confessional situation in Zurich remained basically stable. The constitution of the end of the fifteenth century was not abolished until 1798. Administrative organisation remained largely unchanged during this time. Judiciary and administration were thus working by the same principles for three centuries. These conditions have given rise to a source corpus that is homogenous in form and function for the period studied. This makes it especially appropriate for a long-term examination of the problem of blasphemy.

4.2. The Sources

Often enough, early modern historians have only a relatively bare cupboard of sources at their disposal. Not so in the canton of Zurich, where a wealth of source material awaits the researcher. Norms and practices can be consistently brought together. A collection of mandates provides information on the secular guidelines, while writings of Huldrych Zwingli and Heinrich Bullinger together with statements by the church give evidence of the theological norms. Recantation texts and synod reports bear witness to how the norms were applied. The records of the morals

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[136] Cf. Schwerhoff, *Gott und die Welt*, pp. 216, 233, 273f., 287, 409f.; Cabantous, *Histoire du blasphème*, pp. 66–76.

courts reveal the extent of church sanctioning of norm transgressions. Secular judicial practice is exemplified by the council manuals, the *Rats-und Richtebücher*, with their records of court sentences, the fines registers and the dorsal notes (notes written on the back of court records), reports from the bailiffs and the clergy, and in particular the court records of the defendants and witnesses. Given this wealth of available material, the following discussion will seek to establish how far the sources can satisfy the historical appetite they whet. Why have certain sources been selected, and what is the usefulness of the various textual genres available?

The legal regulation of blasphemy in Zurich was in the hands of the secular authorities. It was the council that enacted the morals laws and gave sentence. The church had only an advisory function. There was no clear dividing line, however. Minor forms of blasphemy could be dealt with by the church morals courts. The reconstruction of the norms level therefore requires study of the relevant theological writings as well as the ecclesial positions and morals laws. Sentencing practice, on the other hand, can be reconstructed from the protocols of the morals courts and the records of the secular courts.

With regard to the theological writings, the research situation indicated above means that a pragmatic sifting of the work of Zwingli and his immediate successor Bullinger will have to suffice. As theologians and church leaders, both had deep and lasting influence on the attitude of the Zurich Church towards blasphemy throughout the Early Modern era. Their few statements on blasphemy, which read as theological norm-setting and pastoral directives, can be found in sermons and catechetical works.

A specific form of theological norm proclamation is found in the public confessions made by blasphemers. The records show that the recantations were formulated by the judiciary, to be read out or repeated by the offenders at a church service. The form and content of these texts always follows the same pattern. The offenders admit their guilt and declare themselves deserving of the death penalty. The description of their blasphemous statements follows, with a recanting of the content. Then the offender begs God, the authorities and the congregation for forgiveness. In deep gratitude, the sinner acknowledges the infinite goodness of the authorities who have mercifully spared his life. Finally, the offender asks the congregation for their prayers, so that he might return to an upright and God-fearing life. The function of these recantations is twofold. On the one hand, norm-setting is taking place: the revocation of blasphemous words serves to remind the congregation of the church norms. On the other hand, the blasphemer's confession serves to confirm the validity of the norms. The few recantations by blasphemers that have come down to us show how the church dealt with unorthodox utterances, and how norm-

setting gave way to norm application. The confessions form a welcome supplement to the court records, in some cases revealing more about the content of the blasphemous words than the statements by defendants and witnesses.

Unlike the ecclesiastical norms, the guidelines of the secular authorities can be reconstructed from a single source genre. The morals mandates issued by the council laid down how blasphemers were to be dealt with. These mandates have been handed down in huge quantity and in a wide variety of handwritten and printed versions.[137] Apart from the printed versions, the documents are generally not dated. For this reason, the legal rulings are accessible but their chronology is difficult to establish. The present study concentrates on the most significant printed and clearly dateable ordinances.

The papers of the church authorities are at the intersection of norm-setting and norm application. The profuse but unordered collection of church records (*Synodalakten*) includes a wide variety of documents.[138] There are the *Fürträge* containing recommendations made by the church to the council in religious matters, including criticism of the council's lax attitude to combating blasphemy. Then there are reports containing the church assessment of cases of blasphemy, as commissioned by the council. As a rule, the records do not reveal who drew up the reports or why they were requested in a specific case. Despite this lack of information, the reports with their standardised pattern of argument provide useful insights into the relation between norm-setting and norm application. The reports typically begin with rhetorical submission to the secular authorities, acknowledging them to be judicially responsible for cases of blasphemy. The second part offers the topical arguments for the death penalty. The rhetoric as well as the formulaic character of the content indicate which theological–judicial norms were regarded as self-evident. The third part of the reports is quite different. It is argumentative, and not standardised. It discusses the concrete case and considers what form of blasphemy is at issue, whether there might be mitigating circumstances, and what sentence should be handed down. Here we can discover to what extent the church assessors kept to their own norms.

While the church records bear witness to the interaction between norm-setting and norm application at the highest level of the church, the fines registers of the morals courts in Zurich give evidence of the practice of prosecution by the churches at the local level. There are considerable

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[137]   For a survey of these arrangements, cf. Claudia Schott-Volm (ed.), *Orte der Schweizer Eidgenossenschaft: Bern und Zürich* (Frankfurt, Main, 2006).

[138]   Cf. A.44.1–3; B.II.1080–84; E.I.5.1–2; E.II.1–7b; E.II.8–54; E.II.87–103; E.II.335–436a.

quantities of material from the individual parishes of the region, some dating back into the seventeenth century. The quality of the records varies, however. From the city parishes we have only fragmentary documents of the morals court, dating from the eighteenth century when blasphemy was no longer a significant offence in the courts.[139] We have to keep in mind that the registers of the urban and rural communities usually record the offence only by a keyword, without further detail on the norm transgression in question. The entries are so summary in character that only a quantitative evaluation can be undertaken, like that of Schmidt for two Berne villages.[140] Such an evaluation is necessarily limited. It can provide insights into the recovery of social peace in the community, but not into the contexts in which blasphemous speech actions took place.[141] Thus the examination of ecclesial sentencing soon reaches its limits in Zurich. The protocols of the morals courts are not suitable for qualitative evaluation, and the rest of the material from the morals court of the city is disparate and not very illuminating when it comes to blasphemy. A systematic evaluation has for these reasons not been undertaken.

The easiest access to secular judicial practice is by way of the council manuals and the *Rats- und Richtebücher*.[142] Together they provide a corpus of some three hundred volumes. With the exception of council manuals for the years 1516 to 1544, both source genres for the whole period under study have been handed down. According to the constitutional structure of an early modern city state, the council exercised justice in two ways. For the territory of the city, it was the only court. In the region, however, jurisdiction was in the hands of the bailiffs, with the council acting as second and final instance. Thus the council records for the city contain every registered offence, whereas for the region only the problematic cases that were passed on to the next instance are recorded. Evaluating the council records, therefore, means passing over the 'banal' cases in the region.

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[139]   Samples from the records of the city morals court showed that, in 1709, 79 cases were decided, only three of which related to swearing. The proportion of recorded to sanctioned cases of swearing was as follows: in 1716, 97:3; in 1723, 91:3; in 1736, 95:2; in 1743, 34:0; and in 1751, 29:0. Other forms of blasphemy are not mentioned in the records. Cf. B.III vol. no. 173, pp. 175, 177, 178, 181, 182. The work of the Reformation Association is described by Wehrli, *Reformationskammer*.

[140]   Cf. Daniel Pünter, '… ist ihnen deswägen nach nothurft ernstlich zuogesprochen worden': Sittenzucht und ihr Vollzug auf der Zürcher Landschaft 16.–18. Jahrhundert' (lic.-phil.-thesis, ms., Zurich, 1994).

[141]   It is thus notable that Schmidt cannot picture his 'scenes' of blasphemy. Cf. Schmidt, *Dorf*.

[142]   Cf. B II and B VI.

The council manuals record the results of the council sessions. They contain the names of offenders and the sentence meted out to them. Only rarely are age, profession, place of residence or civilian status recorded. Judicial opinions are lacking entirely. The *Rats- und Richtebücher*, on the other hand, list only offenders sentenced to death or to severe corporal punishment. Without giving further detail on the offenders, the lists register all the offences laid to their name. Such lists, which in effect substantiate the sentence, provide crucial insights into the criminal background of blasphemers subject to heavy sentences.

Material on judicial opinion is sparse in the council manuals and the *Rats- und Richtebücher*. But further information can be gained from the dorsal notes of the court records. Very frequently, a note is found on the back of the final page of the court protocol. It records a formulaic version of the judicial opinion and any acts of pardon, even if these occurred long after the sentencing. This gives us crucial supplementary material. As a general rule, where there is a dorsal note, there is no corresponding entry in the council manuals. Evaluating the latter alone – as is done in most of the research – would be unsatisfactory, since some of the sentences and pardons would be neglected.[143]

Not every punishment handed down is actually carried out. In Zurich, however, there is nothing to suggest that sentences were 'just for the record'. On the contrary, random samples show, for example, the finance authorities making charges for carrying out corporal punishments. Moreover, the fines registers of both city and region for the entire Early Modern era have been preserved in hundreds of volumes. They show the revenue accruing to the city and the bailiwicks from the fines imposed on offenders, whose names, offences and places of residence are recorded, together with the amount received. These entries make it possible to examine the execution of sentences in the relatively minor area of fines.

The serial nature of the fines registers makes quantitative evaluation tempting. The present study, however, will take a quantitative approach only at intervals. Two sources of information will be drawn on: the distribution of the level of fines in city and region, and their time distribution within a bailiwick during the entire period studied. This offers the opportunity to determine the function of the council court for the city and the region, and to explore the question whether the level of fines depended on the individual judge. In principle, any of the bailiwick accounts would be appropriate for this purpose. Andelfingen has been chosen as an average bailiwick.[144]

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[143]   This is shown in detail for the bailiwicks of Greifensee and Kyburg by Hürlimann, *Soziale Beziehungen*, pp. 62–4.

[144]   Cf. Dütsch, *Landvögte*, pp. 36, 65.

Essential as sentencing may be for the description of jurisdiction, the picture of legal practice would be pale indeed without consideration of the cases themselves. The protocols of the lower courts would be appropriate for this purpose, but the present study has decided, surprisingly perhaps, to do without these sources. The reason for this methodological decision is that a sampling of the bailiwick records showed that the protocols, if they deal with blasphemy at all,[145] contain largely stereotyped and summary statements such as 'used blasphemous, bad, impertinent words' or 'has caused some conflict'. This will hardly provide material for blasphemous speech action.[146]

The bailiffs' reluctance to decide in cases of blasphemy has provided this study with the heart of its source corpus. When a bailiff handed a legal matter on to the council, the latter collected *Kundschaften und Nachgänge*, i.e. drew up court protocols.[147] This also happened when, for whatever reason, the defendants could not appear before the council in person. For Zurich, these court protocols have been preserved in exceptionally large numbers and in continuity from the end of the fifteenth to the beginning of the nineteenth century. The registry *Kundschaften und Nachgänge* alone comprises an estimated 85,000 loose leaves in folio format in the archives. The 170 boxes full of loose, unnumbered pages arranged by year do not by any means contain only court records. Similarly, the *Kundschaften und Nachgänge* are not only found under this heading in the archives. The collections of 'personalia' and 'religious slander' also include relevant court records, adding another 7,500 pages to those under scrutiny. In view of this mass of sources, from which some 900 blasphemers have been identified, it will come as a relief to learn that the equally impressive stock of bailiwick records of lower court protocols will not be evaluated.

What is the source value of the *Kundschaften und Nachgänge*? To answer this, we need some knowledge of the origins and function of the court protocols. In order to obtain *Kundschaften und Nachgänge*, the council either appointed two of its own men as *Kundschafter* or

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[145] The 28 volumes of court records from the bailiwick of Kyburg for the whole of the Early Modern era contain only two reasonably relevant cases of blasphemy: 21.71–21.99. There were similarly disappointing results of the samples from the judicial records of the bailiwicks Andelfingen, Bubikon, Bülach, Eglisau, Grüningen, Knonau, Niederweningen and Regensberg.

[146] A typical example is the sentencing book of the Andelfingen bailiff for the years 1684–94. Cf. B.VII.2.4.

[147] The two terms cannot be fully distinguished. In theory, *Kundschaften* refers to the questioning of witnesses in cases of official offences, while *Nachgänge* are statements obtained following a private complaint (cf. Ruoff, *Räte*, pp. 70f.). The distinction appears to be nominal, however: the court records refer to the reports submitted both as *Kundschaften* and as *Nachgänge*, despite the fact that blasphemy was always an official offence.

Nachgänger, or it turned directly to the bailiff. Their task was to question the accused and the witnesses locally and separately, without naming the person who had reported the matter.[148] The record of the statements was to be as detailed and accurate as possible, since the council came to its decision on the basis of these papers alone. The council thus depended on the accuracy and reliability of the statements it received. Writers and *Kundschafter* were under oath to record fully and truthfully the statements of those they questioned.[149]

Despite their wealth of detail, the *Kundschaften und Nachgänge* do not fulfil the requirements of historical analysis. The personal details are often incomplete, and the names of those who reported a blasphemy are not usually given. Those implicated in a particular case and their relation to each other cannot in most cases be ascertained. Moreover, it would be naïve to assume from the narratives that the speakers were 'uninhibited'. They were answering questions in a specific situation; they were speaking – mostly under oath – before the courts. With few exceptions, the defendants were prepared to speak, so that torture was 'only' rarely applied.[150] The statements are thus not to be read as extorted concessions to the judiciary, even if we cannot assume that fear was absent.[151] An impression of spontaneity and fearlessness is given, but the narratives follow certain patterns of relevance. The statements are 'narrated representations' and not free speech. What today's linguistics has to say about 'purpose' is equally true of the early modern judiciary: the statements made are not 'free of purpose', but directed at the court. Evaluation of the court records must always keep in mind the narrative strategies and justifications of those questioned.

Besides the specific situation for speakers before the court, a second source-critical aspect must be considered. Only a tiny proportion of the *Kundschaften und Nachgänge* shows the typical features of inquisitorial questioning,[152] in which the defendants could only respond to (written)

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[148] Cf. Ruoff, *Räte*, pp. 78, 98.

[149] Cf. (ZB) MsL.459, pp. 433–5.

[150] Usually these were cases in which the defendant was also suspected of having committed a grave crime or of being a heretic. Cf. for instance A.27.61, Statement Jörg Altherr, 3.7.1617, or A.27.121, Statement Anna Hartmann, 1.2.1699.

[151] We are justly reminded of this by Wolfgang Behringer's reference to a case of witchcraft in his discussion of the problem of torture: 'Gegenreformation als Generationenkonflikt oder: Verhörsprotokolle und andere administrative Quellen zur Mentalitätsgeschichte', in Winfried Schulze (ed.), *Ego-Dokumente: Annäherung an den Menschen in der Geschichte* (Berlin, 1996), pp. 275–93; here: pp. 282f.

[152] The standard framework for questioning of blasphemers can be found e.g. in: Joh. Chr. Froelich von Froelichsburg, *Commentarius in Kayser Carl deß Fuenfften und deß H. Roem. Reichs Peinliche HalsGErichtsOrdnung …* (Franckfurt–Leipzig, 1733), pp. 5–16.

questions by answering 'yes' or 'no'. The vast majority of the *Kundschaften und Nachgänge* have come down to us as the narratives of those questioned. The questions themselves can only be deduced from the text. Those questioned had the opportunity to give a detailed account of the incident, including their own interpretation of it. These individual narratives offer additional contextual information. Interpretation and context are both crucial to the reconstruction of how those involved perceived the incident in question.

The third aspect to be considered in the evaluation of *Kundschaften und Nachgänge* is the indirect speech in which most of the statements are couched. The court protocols have come down to us, literally, in the handwriting of the court clerks. To what extent did the protocols deviate from what those questioned actually said? We cannot expect a definitive answer to this, as we cannot compare the protocols with the original statements.[153] But we have good reason to assume that the court clerks sought to record the statements made in court as accurately as possible. They rarely simply summarise what was said. Even if several witnesses were in agreement, their statements were recorded individually in style and content. Occasional corrections in the records point to careful editing of the statements. It was significant, for example, whether someone was accused of swearing by *gotz* or *getz*, by *himmel* or *himmel hergott*, since in legal terms referring to God involved lighter or more serious offences.[154] The judicially relevant words and phrases were thus precisely recorded, leading us to question the idea that the clerks were autonomous authors of their texts[155] or pursued 'narrative strategies' in them.[156]

My thanks to Karl Härter for this reference. Criminal procedure in early modern states is hitherto poorly researched. On the state of research and research deficits, cf. Karl Härter, 'Strafverfahren im frühneuzeitlichen Territorialstaat: Inquisition, Entscheidungsfindung, Supplikation', in Blauert and Schwerhoff (eds), *Kriminalitätsgeschichte*, pp. 459–80.

[153]   The scant knowledge we have of court clerks in Zurich is assembled by: Georg Sibler, 'Nachträge zu den Landschreibern im alten Zürich', *Zürcher Taschenbuch*, 113 (1993), pp. 131–7; Georg Sibler, 'Zinsschreiber, geschworene Schreiber und Landschreiber im alten Zürich', *Zürcher Taschenbuch*, 108 (1988), pp. 149–206.

[154]   The crucial question was whether God was named or not. For example, the court clerk crossed out the word 'himmel' from a statement by Rudolf Leeman on swearing by the wife of a boatman. Cf. A.27.48, Statement Rudolf Leeman, X.11.1600.

[155]   Ulrike Gleixner, on the other hand, sees the judges to a far greater extent as authors of their texts. Cf. Gleixner, *Unzuchtsverfahren*, p. 21.

[156]   This is Sabean's thesis in his presentation of the 'narrative strategies' of Württemberg Protocols, which omits any discussion of the linguistic turn. Cf. David W. Sabean, 'Peasant Voices and Bureaucratic Texts: Narrative Structure in Early Modern German Protocols', in Peter Becker and William Clark (eds), *Little Tools of Knowledge: Historical Essays on Academic and Bureaucratic Practices* (Ann Arbor, 2001), pp. 67–93.

A further argument supports the idea that the court clerks were faithful to what was said in court. Their protocols had to be read back to those questioned and be confirmed by them.[157] Very few asked for corrections, suggesting that they found themselves correctly quoted. So even if we are not dealing with live recordings of court proceedings, we can assume that the perspective of those involved is presented with great proximity.

But how close is this proximity? Do the documents present 'from above' or 'from below'? Neither nor, is the answer. The *Kundschaften und Nachgänge* dealt with here do not originate 'from below' because they are not direct testimonies from those involved, nor do they come from the lowest level of the lower judiciary. The court protocols do not simply offer a perspective 'from above', however. Those who speak are not representatives of the authorities, speaking on behalf of or concerning those involved in the cases. Rather, we hear the voice of those involved, speaking before the *Kundschafter* or the bailiffs who mediate between the local lower courts and the city council. Thus the *Kundschaften und Nachgänge* are in a position between 'above' and 'below'. Evaluating the Zurich court protocols means, therefore, overcoming a purely statist perspective but not falling prey to the illusion of adopting the perspective of those involved.

These court records enable us to cross the borders set by contemporaneous autobiographical records, and to shift the perspective away from the authorities towards the defendants and witnesses. The court records do change in character considerably between the Late Middle Ages and the Early Modern era, however. Mostly undated into the 1520s and 1530s, the court protocols are strongly influenced by legal language and usually run to just a few lines. From the 1540s onwards, literality is far more developed, and with it the narrative urge and the readiness to date the records. For this reason, many questions regarding continuities and discontinuities between the fifteenth and sixteenth centuries must remain unanswered.

Contextual gaps left by the court records are partially filled in by three source genres found under the heading *Kundschaften und Nachgänge* in the archives: clergy and bailiff reports, character references by the clergy, and the supplications of the defendants. While character references and supplications follow certain patterns of argument, the clergy and bailiffs have much greater freedom in formulating their reports (allowing for some rhetorical conventions). This freedom has its limits, however. Whether on their own initiative or at the request of the council, the bailiffs were acting as conscientious officials in sending their reports to Zurich. They wrote from

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157   Little is known about this procedural matter. Ruoff can only point to a letter from a bailiff of Kyburg: *Räte*, p. 98.

their own knowledge of a case, or at second hand, summarising reports by clergy or officials. The clergy rarely took the initiative themselves. Mostly they responded to the council's request to provide information on a specific incident. They too fulfilled the task conscientiously, researching the matter and noting their findings in writing. This provides us with reports that valuably supplement the court records, particularly with regard to the background of a conflict and the reactions of the social environment. We gain insight into how conflict resolution took place outside the courtroom. We must bear in mind, however, that these reports by the clergy and bailiffs are also subject to the judicial relevance criteria. They do not tell the whole story of a case.

Further information on the defendants as persons can be found in the character references prepared by the clergy. There were three sets of circumstances under which they might be written, and the reports vary accordingly. In difficult cases, the council asked the parish priest about the defendant's previous behaviour. In this case, the priest was responding to a request. The ministers of the three main churches in Zurich – St Peter, Fraumünster and Großmünster – were obliged to visit prisoners delivered to the city towers and to report on the pastoral conversation. In both these cases, the function of the reports prepared by the clergy was to provide the council with background information on the person of the accused and his or her attitude to the offence. A different function was fulfilled by clergy reports commissioned by the church communities in order to give *Fürsprache* (advocacy) to the defendants. The first two types of testimony claim to provide neutral information, while the third, similar to a supplication, emphatically attests to the good character of the person in question. All three types of report only provide additional information on the person of the accused and the background to the conflict. They also demonstrate which behavioural norms were relevant in practice from a secular and spiritual perspective.

A specific manner of referring to the norm criteria of the authorities can be found in the small number of supplications for or from blasphemers preserved from around the mid-seventeenth century in Zurich.[158] Although the relatives, friends, *Fürsprecher* (advocates) or the defendants themselves make use of the rhetorical and argumentative topoi characteristic of the genre, the supplications are strikingly individual documents. Judging by the handwriting, quite a number of them are likely to have been written by the accused themselves. This makes the supplications an ideal genre for identifying the strategies employed by blasphemers in their conflict with the courts, and for exploring the political dimension of the offence

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[158]   In the mid-sixteenth century, a court protocol was some three pages long; by the beginning of the eighteenth century, this had increased to almost nine pages.

of blasphemy. However, despite the current level of research interest in the genre, our expectations of the supplications should not be too high. The few pleas for pardon that we have from Zurich do not have dramatic stories to tell. Zurich blasphemers generally remain matter-of-fact and to the point. Theirs is not N.Z. Davis's 'fiction in the archives' material.

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The Offence of Blasphemy in
Early Modern Zurich

1.   The Sanctioning of Blasphemy

1.1. Norm-setting

How the Law and the Secular Authorities Defined Blasphemy

Up to the end of the Ancien Régime, the Zurich judiciary did not have a written criminal code. Only the morals mandates indicated what was to be done in cases of blasphemy. Describing the legal sanctioning of blasphemy, therefore, means examining the ordinances in the mandates and how they changed over time.

The problem of verbal sin in the form of swearing and cursing was already recognised by theologians and jurists in the High Middle Ages.[1] In Constance,[2] Cologne, Nuremberg, Basle, Lucerne[3] or Berne[4] as well as in Zurich, the authorities set out to discipline the blasphemous tongues of their subjects. On August 18, 1344, the Zurich Council introduced fines (or imprisonment in cases of inability to pay) for the offence of swearing by physical attributes of God. The council also declared that members of the same household were not permitted to accuse each other of verbal sin. Evidently, this had been happening.[5]

Three further legal provisions followed in the fifteenth century. The ordinance of November 14, 1415 against cursing and swearing tightened

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[1]   On the theology of the thirteenth century, cf. the standard work by Carla Casagrande and Silvana Vecchio, *Les péchés de la langue* (Paris, 1991).

[2]   Cf. Schuster, *Konstanz*, p. 75.

[3]   On early legal provisions in cities of the German empire from the thirteenth century, cf. Schwerhoff, *Gott und die Welt*, pp. 148–57. Specifically on Cologne, Basle and Nuremberg, however, cf. Schwerhoff, *Gott und die Welt*, pp. 229–31, 246–7, 267–8.

[4]   On the evidently parallel developments in morals legislation in Berne, cf. Schmidt, *Dorf* , pp. 78–80.

[5]   Cf. H. Zeller-Werdmüller and H. Nabholz (eds), *Die Zürcher Stadtbücher des XIV. und XV. Jahrhunderts*, 3 vols (Leipzig, 1898–1906), vol. 2, p. 164.

the law by criminalising improper invocation of the Mother of God. Moreover, the reporting of blasphemous language was declared a civic duty (without stating which denunciations actually had legal force). The curse was placed formally alongside swearing, without explicit distinguishing of the two categories. Evidently the council was satisfied with this ordinance of 1415, which was confirmed in 1417 and 1421.[6] The problem of verbal sin became more urgent for the council following the Reformation.[7] A mandate of December 1, 1526 was repeated in 1528. Old and young, women and men were to refrain from blaspheming if they wanted to avoid fines and corporal or loss-of-honour punishments.[8] Both mandates prohibit swearing by the saints and by the Mother of God, indicating how the morals laws in Zurich in the early years of the Reformation continued the mediaeval traditions. The new provisions closely follow the previous ones in form and content.

The foundations for early modern arrangements were laid in the 'Grand Mandate' of 1530.[9] It was confirmed in 1532, with additional rules relating to Holy Communion. The version of 1550, which then remained valid in principle into the eighteenth century,[10] contained quite specific directions, whereas the ordinance of 1530 had referred summarily to the evil of blasphemy,[11] citing it together with other moral offences such as excessive drinking, dancing and ignoring the dress code. The punishments envisaged were fines, loss-of-honour and corporal punishments, and even the death penalty. Thus blasphemy is treated as a matter of public order. After the 'establishing' of the Reformation, the

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[6] Cf. ibid., vol. 2, pp. 38, 152.

[7] In view of the source situation, the following account cannot claim to be a fully reliable chronology of morals legislation. It does, however, correct some of the dates found elsewhere in the literature. Although the paging or numbering of documents in the archive of printed mandates is frequently inconsistent, it is given here to facilitate orientation. A detailed survey of the police laws may be found in Schott-Volm (ed.), *Orte der Schweizer Eidgenossenschaft*, in Karl Härter and Michael Stolleis (eds), *Repertorium der Policeyordnungen der Frühen Neuzeit*, vol. 7/2 (Frankfurt, Main, 2006). For a characterisation of the Zurich *Policey*, see also Claudia Schott, 'Policey in der Schweiz: Das Beispiel Zürich', in Michael Stolleis, Karl Härter and Lothar Schilling (eds), *Policey im Europa der Frühen Neuzeit* (Frankfurt, Main, 1996), pp. 489–507.

[8] Cf. Emil Egli (ed.), *Aktensammlung zur Geschichte der Zürcher Reformation in den Jahren 1519–1533* (Zurich, 1879; repr. Aalen, 1973), no. 1977, p. 515 and no. 1401, p. 616.

[9] Cf. e.g. the mandate of c. 1512 under A.42.2.

[10] Cf. III.AAb.1.1, no. XV, pp. 63–7.

[11] Cf. III.AAb.1.1; Egli (ed.), *Aktensammlung*, no. 1654, pp. 702–11. The recurrent reference to the collection of printed papers in the Zurich Zentralbibliothek (XVIII.210.53) is incorrect for the mandate of 1532.

ordinance was legitimated by Holy Scripture alone, no longer by the saints or the Mother of God.

The law of 1550 is far more detailed. It refers to improper use of the name of God, i.e. it appeals to the second commandment (the third in Reformation numbering). Whereas the mediaeval laws had not required legitimation, the Grand Mandate has recourse to retribution theology. It argues that the council has a duty to ensure that the subjects live godly lives, in order to prevent divine retribution in the form of epidemics, famines or other disasters. Arguing biblically, the Grand Mandate has strong Reformation features in its form. But conceptually it does not break with the mandates of 1530 and 1532. However typical the argumentation of the 1550 mandate may be for early modern legislation,[12] the appeal to retribution theology cannot be attributed to the Reformation. Legislators in Nuremberg, Cologne and Basle were already using the fear of divine retribution as legitimation in the fifteenth century.[13] For this reason, the assessment of the Grand Mandate as 'the culmination of Zwingli's efforts to draw a renewed way of life and attitude to life from Reformation sources'[14] is unconvincing. Moreover, cursing, swearing, and abusing God remain open terminological categories. There is no reference to the legal category of *crimen laesae majestatis divinae*, either here or in the Reich legislation.[15] As in the Middle Ages, fines and a general duty of denunciation were the deterrents against the evil of verbal sin.

Continuity with the mediaeval legislation is apparent, but the morals laws of the Reformation era do introduce fresh impulses. Increasing use is made of horizontal social control, with explicit reference to the scriptural principle. As before, the citizens were bound by oath to report blasphemous utterances to the authorities, and were reminded annually of this in the public reading of the mandate.[16] In addition, citizens were now given the right and duty to demand the *Herdfall* (also known as *Erdkuss*)[17] or the set fine from an offender, or to report the offender.

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[12] Cf. III.AAb.1.1, Mandate 1550, no. XXV, p. 7.

[13] The significance of the retribution theology argument in early modern legislation is emphasised, however, by H.R. Schmidt, who first introduced the term retribution theology to the discussion. Cf. Schmidt, 'Ächtung', pp. 73–5; Schmidt, *Dorf*, pp. 3–5. For Nuremberg, Cologne and Basle, cf. Schwerhoff, 'Schranken', pp. 56–8.

[14] Ley, *Kirchenzucht*, pp. 105–6.

[15] Cf. on Reich legislation Schwerhoff, 'Schranken', pp. 187–8.

[16] An ordinance of January 7, 1551 required the clergy to read the morals mandate twice or three times per year from the pulpit. Cf. (ZB) MsB.74, fol. 48r. For further detail on the loyalty oath required of subjects, cf. Weibel, 'Stadtstaat', p. 20.

[17] This punishment involved the delinquent 'falling to the earth', i.e. kneeling, and kissing the ground. Roger Ley records incorrectly that the *Herdfall* was introduced in 1580 for swearing. Cf. Ley, *Kirchenzucht*, pp. 149–50.

The regional mandate of 1572, as well as provisions of 1580 and 1601 issued for the whole territory, confirm the fines mandate in its versions of 1530/1532 and 1550.[18] The council evidently found it necessary to add some detail, however. After laying the Reformation foundations, the council was active in the next phase (beginning in the second third of the seventeenth century and ending with the final third) in differentiating the punishments and determining who should supervise the implementation of the law. The written form follows that of the sanctions already in practice.[19] Officially, the ordinance of December 29, 1627 introduced an innovation, the *Abkanzelung* as a loss-of-honour punishment. Another new sanction was the *Gätteri*. Not being permitted to carry a weapon was a further loss-of-honour punishment formally introduced in the mandate of June 25, 1636.[20] The council also gave attention to the implementation of the moral code, laying down in the mandate of November 28, 1650 how blasphemers were to be reported.[21] The mandate of July 20, 1672 reminded parents of their duty to be a verbal example to their children.[22] The regional mandate of 1679 emphasised the duty of officials to report blasphemy, threatening their dismissal if they should fail to do so.[23] Punishment in the form of public recantation was also officially introduced, adding a further loss-of-honour punishment. All these provisions increased the legal pressure on and by parents and officials. The city mandate of November 17, 1680 pointed in the same direction. The fine of 1 shilling was adjusted to current price levels, and the clergy could be increasingly enjoined to preach against blasphemy.[24]

The remaining mandates of the seventeenth and early eighteenth centuries – there were new versions annually between 1691 and 1714[25] – simply repeated the previous ordinances. Arguing that inadequate implementation of the edicts made it necessary to confirm them, the authorities still sought

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[18] Cf. III.AAb.1.1, no. XXXI, pp. 182–3; ibid., no. XXXII, pp. 191–2; III.AAb.1.2, no. XLIII, pp. 290–91.

[19] III.AAb.1.2, no. [?] , p. 535.

[20] Cf. III.AAb.1.3, no. LXXXVIII, p. 176–7. It is not known precisely which sanctions were associated with this punishment.

[21] Cf. III.AAb.1.4, no. CXXXIII, p. 263/3–8.

[22] Cf. III.AAb.1.5, no. CCXV, p. [?].

[23] Cf. ibid., no. CCXXXIV, fols 65r–6v.

[24] Cf. ibid., no. CCXL, fol. 94.

[25] Cf. ibid., no. CCLXXIII, fols 179–80; ibid., no. CCLXXIV, fols 197–8; III.AAb.1.6, no. CCXCVII, fol. 271; ibid., no. CCC, fol. 309; ibid., no. CCCVI, fol. 357v; ibid., no. CCCXXI, fol. 377v; ibid., no. CCCXXXIV, fol. 418; III.AAb.1.7, no. CCCXLIX, fol. 497v; ibid., no. CCCLVIII, fol. 356v; ibid., no. CCLIX, fol. 547; ibid., no. CCCLXVI, fol. 581; ibid., no. CCCLXXXVI, fol. 647; ibid., no. CCCCIV, fols 684v–5r; ibid., no. CCCCXV, fols 715–16v; ibid., no. CCCCXLVIII, fols 853v–4r.

to regulate the moral behaviour of their subjects.[26] Legal provisions of the second third of the seventeenth century specify blasphemy as one of their concerns, without however introducing any innovations. The Reformed Council was more active in combating blasphemy than its predecessors of the Late Middle Ages, but continued their tradition. Thus the Reformation in Zurich and Nuremberg, Basle and Cologne[27] did not result in a break with the judicial concept of blasphemy, but merely gave rise to increased legislative activity on the basis of the mediaeval definition.

The ordinance of November 14, 1718 marks the transition to a new phase in Zurich's blasphemy legislation. It obliges teachers to warn their pupils against swearing and 'other mischief'.[28] As before, those responsible for supervision and education are duty-bound to combat verbal sin. What is new is that blasphemy loses significance – factually, if not formally – in that it is mentioned as one of several 'mischiefs'. This mandate anticipates the last phase of norm-setting relating to blasphemy, which begins with the second third of the eighteenth century.[29] The final provisions of November 19, 1733 continue the seventeenth-century tradition in both form and content, though the punishment known as *Züchtigung an der Stud* (birching in prison or at the pillory) is set down in legislation for the first time. Despite showing neither new form nor content, the mandate of 1733 opens a new phase in the legislation relating to the offence of blasphemy. It appears as an independent ordinance in connection with matters of church attendance. Blasphemy is thus seen in isolation as a specific problem; apparently, it no longer fitted easily into the context of serious moral offences. The provisions introduced between 1734 and 1779 point in the same direction, following the rulings of 1718 and 1733. Blasphemy and its punishment occur in increasingly summary categories. Finally, the lawgivers of the end of the eighteenth century commute the offence of blasphemy, originally a threat to the community of the first order, to one of many instances of unacceptable behaviour.[30] In a mandate of 1764, for example, the council takes up the rhetorical tradition of earlier

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[26] For an interpretation of the repetition of mandates as a symbolic practice of norm-setting, cf. Martin Dinges, 'Normsetzung als Praxis? Oder: Warum die Normen zur Sachkultur und zum Verhalten so häufig wiederholt werden und was bedeutet dies für den Prozeß der "Sozialdisziplinierung"?', in Gerhard Jaritz (ed.), *Norm und Praxis im Alltag des Mittelalters und der frühen Neuzeit: Internationales Round-Table-Gespräch Krems an der Donau 7. Oktober 1996* (Vienna, 1997), pp. 39–53; here, pp. 43–52.

[27] Cf. Schwerhoff, 'Schranken', pp. 76–86.

[28] Cf. III.AAb.1.8, no. CCCCXCIX, fols 1058v–9r.

[29] Cf . III.AAb.1.10, no. DCII, fols 290–92.

[30] Cf. ibid., no. DCIX, fols 303–4; ibid., no. DCXXXIII, fol. 365; ibid., no. DCLXXII, fol. 44; ibid., no. DCCXXXIII, fol. 215v; ibid., no. DCCXLVII, fols 245v–6r; ibid., no. DCCCX, fol. 436v; ibid., no. DCCCXXXII, fol. 468; III.AAb.1.14, no. MV.

legal texts in referring to swearing and cursing as 'very sinful', but verbal sin has by this time lost its status as a major offence. The legal provisions of the eighteenth century read like traditional threatening gestures without any urge on the part of the authorities to legislate. Evidently, by the end of the eighteenth century, the secular authorities saw no reason to regulate further in the matter of blasphemy.

Summary   The Reformation certainly had its impact on the morals legislation of early modern Zurich, but this should not be overstated. The council's mandates of 1530/32 and the Grand Mandate of 1550 (which provided the basis of later legislation) took up the concept of the swearing mandates of the fourteenth and fifteenth centuries. Its new departure was the attempt to institutionalise horizontal social control in the tradition of retribution theology. All citizens were given the right and duty to demand the set fine or the *Herdfall* from anyone using blasphemous language. The intensity and systematic fervour with which the secular authorities pursued acts of verbal sin should be noted. Although there were no innovations regarding the judicial concept of blasphemy in the first decades of the Reformation, the council laid the foundations for early modern morals legislation. A large number of ordinances followed from the second third of the sixteenth- to the end of the eighteenth century, giving further detail to existing provisions and fixing in law the punishments already meted out. In these two phases of morals legislation, the offence of blasphemy was still prominent. This changed in the third phase – from the early eighteenth century – when the offence remained rhetorically significant but was no longer seen by the council at the end of the Ancien Régime as worthy of legislative endeavour.

How Theology and the Church Defined Blasphemy

Compared with the Late Middle Ages, the council of the sixteenth century was notably active in introducing legislation against blasphemy. Zwingli and Bullinger, however, showed relatively little interest in the council's endeavours. If they or the church leaders comment at all on the subject, they focus on three areas: the idea of blasphemy, the problem of oath-taking as a form of swearing, and the prosecution of blasphemous language. This offers us evidence of how the fathers of the Zurich Reformation and the church representatives saw blasphemy.

In theology, the term blasphemy covers a multitude of verbal sins. Three categories were distinguished: curses invoke disaster for the speaker or someone else; blasphemous swearing, on the other hand, involves

inappropriate calling on God as witness, i.e. it is an 'illegal' form of oath.[31] Abusing God, or blasphemy as such, could occur in three varieties or *species*. Anyone denying one of God's attributes, anyone attributing to God an inappropriate characteristic, and anyone assigning divine attributes to one of God's creatures committed blasphemy. This was the definition agreed on in principle by the mediaeval theologians and grappled with by their early modern successors.[32]

Zwingli employs the term blasphemy in four different meanings. He uses it to refer to religious opponents; takes up the *species* of blasphemy as above; associates blasphemy with heresy; and cites from Matthew 12.31 and Luke 12.10 the 'blasphemy against the Spirit'.[33] This sin, which Zwingli also calls 'the sin of denial or backsliding', involves not trusting that Christ alone has redeemed humankind by his death on the cross.[34] Zwingli is unmistakeably clear in his 'Commentary on true and false religion' of 1525: 'The greatest blasphemy is not to trust him [God].'[35] Blasphemy goes far beyond verbal sin. It is an attitude in which sinners turn away from God, break the covenant with God, and thus deny Christ.[36]

Apart from this absolute definition of blasphemy as godlessness or pre-modern 'atheism', Zwingli takes up the mediaeval categorising of the *species* as abuse of God. He formulates succinctly in his 55th Article: 'It is blasphemy against the Holy Spirit to deny that God's work is his and to attribute it to God's creatures or God's enemy, the devil; such blasphemy is unbelief.'[37] The Roman Church, according to Zwingli, is guilty of blasphemy when it propagates the doctrine of good works, places priests and saints and the Mother of God as intermediaries between God and the believer, and shows greed and power-seeking in operating its system of indulgences. It denies that God has redeemed humanity through the

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[31]   Schmidt, 'Ächtung', pp. 85, 87.

[32]   On the late mediaeval discourse of the *species* of blasphemy, cf. further detail in Schwerhoff, *Gott und die Welt*, pp. 31–9, 41–6.

[33]   Cf. Huldrych Zwingli, 'Auslegung und Begründung der Thesen oder Artikel 1523', in Thomas Brunnschweiler and Samuel Lutz (eds), *Huldrych Zwingli: Schriften*, 4 vols (Zurich, 1995), vol. 2, p. 449.

[34]   Ibid., vol. 2, pp. 450–51.

[35]   Huldrych Zwingli, 'Kommentar über die wahre und falsche Religion 1525', in Brunnschweiler and Lutz (eds), *Zwingli: Schriften*, vol. 3, pp. 31–511; here, p. 174.

[36]   Cf. ibid., vol. 3, p. 175.

[37]   'Um Lästerung gegen den Heiligen Geist handelt es sich dann, wenn man Gott sein Werk abspricht und es den Geschöpfen oder dem Feind Gottes, dem Teufel, zuspricht; und solche Lästerung ist nichts anderes als Unglaube' – Zwingli, 'Auslegung', in Brunnschweiler and Lutz (eds), *Zwingli: Schriften*, vol. 2, p. 451.

sacrificial death of his Son, and claims divine attributes when it seeks to regulate the forgiveness of sins in God's place.[38]

Zwingli deals only briefly with cursing, another variant of blasphemy. There are just two relevant passages in his printed works. The commentary on the 5th of his 67 Articles states that eternal life cannot be earned, even if one refrains from gambling, cursing, fooling around, and all forms of time-wasting.[39] In Article 31, on the other hand, Zwingli notes that there is no need to fear an angry woman wishing one to be struck down with epilepsy or cursed to the devil, since superstitious prayer goes unheard.[40] Cursing is despicable behaviour, but not theologically problematic. Contrary to the interpretations by Schmidt and Labouvie,[41] Zwingli does not associate it with harmful magic.

Swearing as a further variant of blasphemy (in early modern Swiss German, 'cursing' and 'swearing' were synonymous)[42] is found only indirectly in Zwingli's writings. He concerns himself not with blasphemous swearing, but only with the highly political issue of oath-taking. His whole argument, directed against the Anabaptists, states that it is right to call on God as a witness when taking an oath. Zwingli makes no mention of the wrongful use of God's name.[43] Evidently, he had no further theological interest in the issue of blasphemous swearing.

Basically, Zwingli's theological definition of blasphemy involves only one form of the offence, that of abusing God. Although on the one hand he rejects mediaeval sin casuistry, on the other hand Zwingli shares with mediaeval forebears the imprecise use of the terms heresy and blasphemy. Heretics believe wrongly, blasphemers believe badly: this distinction was difficult to implement in practice and was contested among theologians.[44] Zwingli treats heresy and blasphemy as distinct but related categories.[45]

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[38] Cf. ibid., vol. 2, pp. 20, 34–5, 99, 204–5, 282, 346.

[39] Cf. ibid., vol. 1, p. 55.

[40] Cf. ibid., vol. 1, p. 327.

[41] Cf. Labouvie, 'Verwünschen', pp. 128, 130; Schmidt, 'Ächtung', pp. 92–3, 112–13.

[42] Cf. *Schweizerisches Idiotikon – Wörterbuch der schweizerdeutschen Sprache*, vols 1–17 (Frauenfeld, 1881–2000), vol. 1, p. 1163, and vol. 9, p. 2091.

[43] On the significance of promissory oath formulae in the Middle Ages, cf. André Holenstein, *Die Huldigung der Untertanen: Rechtskultur und Herrschaftsordnung (800–1800)* (Stuttgart–New York, 1991).

[44] Cf. Schwerhoff, *Gott und die Welt*, pp. 31–9, 84–93. For the judiciary, the persistence of those questioned concerning their false doctrine was also a significant element of the charge of heresy. Cf. Trusen, 'Grundlagen'. For Christin, the blurring of boundaries between the two terms in the theological controversies of early modern France even results at times in heresy and blasphemy being indistinguishable. Cf. Christin, 'Condamnation', pp. 45–8.

[45] Cf. Zwingli, 'Auslegung', in Brunnschweiler and Lutz (eds), *Zwingli: Schriften*, vol. 1, pp. 34–5, 110.

He makes no effort to substantiate them, however. Inspired by the success of the first Zurich Disputation of July 21, 1522, he gave a talk shortly afterwards to the Dominican nuns of Öttenbach Convent, seeking to convert them to the new faith by means of theological argument but without precise clarification of terms. In the early 1520s, Zwingli argues rhetorically, less concerned with theological differentiation than with persuading his listeners, both nuns and laypeople. For emphasis he simply lists the terms, allowing them to merge.

The fourth variant of blasphemy Zwingli uses is to refer to religious opponents as blasphemers. While Luther pugnaciously labels as blasphemers the Roman Church, the rebellious peasants, the radical Reformers, the Jews, 'Epicureans' and adherents of Islam,[46] Zwingli concentrates on Rome (and not, perhaps surprisingly, on the Anabaptists).[47] He firmly refutes as unchristian, untrue and blasphemous the suggestion that he had claimed in a sermon that Mary had other children as well as Jesus.[48] Unquestionably, 'blasphemer' had become a term of abuse both for Zwingli and his Roman Catholic adversaries in the course of Reformation debates. As in French usage, the term was intended to stigmatise the opponent as a fighter for the wrong cause.[49]

Bullinger's concept of blasphemy is very similar to Zwingli's. He too regards blasphemy as an existential infringement of divine law and thus as essentially sinful.[50] Referring to Old Testament passages cited by the late mediaeval theologians, Bullinger states that those who take God's name in vain, for example calling on God to witness a magical blessing,[51] commit a swearing offence.[52] Whereas Zwingli treats cursing and swearing

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[46] On Luther's use of the term blasphemy to refer to denominational opponents, cf. Schwerhoff, *Gott und die Welt*, pp. 93–9. In the lingua texts also, the term blasphemy is used for defamation of religious opponents. Cf. on this Bogner, *Bezähmung der Zunge*, pp. 152–8.

[47] Cf. Zwingli, 'Auslegung', in Brunnschweiler and Lutz (eds), *Zwingli: Schriften*, vol. 2, pp. 209, 455, 460.

[48] Cf. Huldrych Zwingli, 'Die beiden Berner Predigten 1528', in Brunnschweiler and Lutz (eds), *Zwingli: Schriften*, vol. 4, pp. 33–91 and 363–504; here, p. 57.

[49] On the term blasphemy in theological controversies in France, cf. Christin, 'Condamnation', pp. 45–8, 59–61.

[50] Cf. Heinrich Bullinger, *Summa Christenlicher Religion …* (Zurich, 1556), fol. 41v.

[51] Cf. Heinrich Bullinger, Hausbuoch, *Darinn begriffen werden fuenfftzig Predigten …* (Zurich, 1558), fol. 57.

[52] Cf. ibid., fol. 56v. Bullinger points here to texts serving as leitmotif in the debate on the offence of blasphemy, such as: Psalm 5, Lev. 24, 2 Kings 18–19, Isa. 36–7 or the 77th Justinian Novella. A further conventional reference is to Matt. 5.33–7 and James 1.19 in the *Summa*. Cf. *Summa*, fol. 58. On the exegesis of these texts since the High Middle Ages, cf. G. Schwerhoff, *Gott und die Welt*, pp. 48, 56, 61–2, 127–8, 137, 306.

as offensive but relatively banal instances of everyday behaviour, Bullinger lays greater emphasis on loss of honour as the essential component of blasphemy. While cursing is directed against a human opponent, blaspheming is directed against God. In the fourth article of his *Summa*, in which Bullinger offers his readers a compendium of Reformed doctrine for use in everyday life,[53] cursing and swearing and blaspheming are described in concrete terms. Despite this interest, Bullinger's biblical idea of sin meant that he did not need to engage with mediaeval sin casuistry. As a theologian, he does not elaborate on the *species* of blasphemy or clearly distinguish between heresy and blasphemy.

Unlike Zwingli, Bullinger hardly ever (or at least not in the *Summa*, the *Hausbuoch* and the Gospel commentaries) uses the term blasphemy to refer to religious adversaries. Reasons may be that Bullinger no longer felt the heat of religious controversies as Zwingli had, or that his conciliatory nature predisposed him to avoid polemical divisions.

Zwingli and Bullinger dealt only briefly with theological definitions of cursing, swearing, and abusing God. Far more attention was given to oath-taking.[54] The Anabaptist refusal on principle to take oaths confronted the theologians with this explosive political problem in their conflict with the 'left wing' of the Reformation movement. Despite heated discussions on the necessity and validity of oaths, Zwingli and Bullinger did not find it necessary to treat the illegitimate oath specifically. In theological terms, the problem of blasphemous swearing was minor compared with that of oath-taking.

Like Zwingli and Bullinger, the Reformed Church had little to say on the subject of blasphemy. Evidence of theological discussions on blasphemy by church leaders is scarce.[55] Nonetheless, the church in Zurich regarded blasphemous language as a grave offence, and both Zwingli and Bullinger comment on the punishment of blasphemers. Neither of them is in any doubt that the prosecution of blasphemers is the responsibility of the secular authorities.[56]

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[53]   Cf. Bullinger, *Summa*, fols 32r, 33r, 58.

[54]   Cf. *Huldrici Zuingli opera completa*, editio prima curantibus Melchiore Schulero et Io. Schulthessio, vol. 6/2 (Zurich 1838), pp. 226, 229–30; Huldrych Zwingli, 'Auslegung des 55. Artikels', in *Werke*, vol. 2, p. 410; ibid., *Gerechtigkeit*, pp. 474, 480–83; Bullinger, *Hausbuoch*, pp. 56–9; Heinrich Bullinger, *In Sancrosanctum Evangelium … secundum Matthaeum Commentariorum lib. XII* (Zurich, 1552), fol. 59; Heinrich Bullinger, *In Sancrosanctum Evangelium … secundum Marcum Commentariorum lib. VI* (Zurich, 1545); E II.341, *Fürtrag* Bullinger, fols 3376r–7r. My thanks to Rainer Henrich for this reference.

[55]   Only rarely did the church, as in the year 1551, take the trouble to give biblical foundation to its bans on swearing. Cf. E.II.99, pp. 31–5, 9.12.1551.

[56]   Cf. Zwingli, 'Gerechtigkeit', in Brunnschweiler and Lutz (eds), *Zwingli: Schriften*, vol. 1, p. 212. Cf. also Bullinger, *Hausbuoch*, fol. 80r. For further detail on Bullinger's

But what punishment did blasphemers deserve? With one exception, neither Zwingli nor Bullinger discusses the corporal punishment and fines meted out by the council of their times. Rather, they concentrate on excommunication and the death penalty. In the 31st article of his theses, Zwingli notes that excommunication of blasphemers is not properly applied and is therefore of limited use. The death penalty should be avoided, he urges, or used only very sparingly for the protection of the community. Article 40 states that only the secular authorities have the right to put to death without incurring God´s wrath. The authorities should pronounce the death penalty only against those causing scandal, unless God commanded otherwise. The authorities should have God´s requirements in mind, since God does not seek the death of the sinner but that he should repent and live. In Article 65 – the only place where he comments on the practices of the secular courts – Zwingli explicitly rejects corporal punishment, saying that God will deal justly with those who fail to recognise their fault. They should not be subjected to corporal punishment unless their behaviour made it unavoidable.[57] Instead of physical violence, he recommends that verbal persuasion should be used to bring blasphemers to their senses. Apart from the question of the death penalty, Zwingli gives no concrete directions on the punishment of blasphemers. His interest is not in the punitive aspect of justice and the isolation of the offender, but in the restorative aspect and the readmission of the repentant sinner to the community.

Bullinger points to Leviticus 24.10–23, the crucial Old Testament reference used to justify the death penalty for blasphemy. He cannot simply ignore this passage in which the son of an Israelite mother and an Egyptian father is stoned to death for blasphemy at God's command. After all, the Reformers derive their principles from Scripture, unlike the Roman Church. Moreover, theologians had repeatedly cited this text ever since the days of the Church Fathers.[58] Bullinger is obliged to make his views known. Although blasphemy is an offence worthy of death, he says, moderation in all things is best.[59] He proves himself a realist when he quotes Paul (Galatians 6.2: 'Bear one another's burdens'; Romans 14.1: 'Welcome those who are weak in faith'), suggesting that leniency should

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influence on the morals mandates (not relevant to the present study), cf. Hans Ulrich Bächtold, *Heinrich Bullinger vor dem Rat: Zur Gestaltung und Verwaltung des Zürcher Staatswesens in den Jahren 1532 bis 1575* (Zurich, 1982), pp. 59–87.

[57] Cf. Zwingli, 'Auslegung', in Brunnschweiler and Lutz (eds), *Zwingli: Schriften*, vol. 2 pp. 331, 381–2, 492–3.

[58] Cf. Bullinger, *Hausbuoch*, fols 89v–90r. On the theological debate on the punishing of blasphemers in the Late Middle Ages and Early Modern Age, cf. Schwerhoff, *Gott und die Welt*, pp. 48, 56, 61–2, 127–8, 137, 306.

[59] Cf. Bullinger, *Hausbuoch*, fol. 90v.

be shown to repentant offenders.[60] The death penalty should not be the norm, therefore. Both Zwingli and Bullinger are at pains not to say which punishments might be appropriate. After all, sentencing blasphemers was the responsibility of the council. Bullinger, like Zwingli before him, is concerned for the restorative reconciliation of the sinner with God, whose grace alone is sufficient. His interest is not in the secular punishment of the blasphemer, but in the spiritually sustained restoration of divine order.

In the matter of punishment for blasphemers, neither Zwingli nor Bullinger pays attention to mediaeval sin casuistry. It would be wrong, however, to assume that they had nothing new to say and simply adopted the ideas of mediaeval jurists and theologians. Rather, they represent the Reformation transition to an innovative, biblical concept of sin that left the mediaeval ideas behind. Sin casuistry was concerned to categorise sin in order to determine which good works would compensate for norm transgressions. Zwingli and Bullinger, however, have absolute faith in justification by grace alone. They see no need, therefore, for a theological categorising of blasphemy.

Despite the caution with which Zwingli, Bullinger and the Reformed Church responded to demands for severe punishment of blasphemers, the church continued to amend its morals legislation.[61] Two years after the enactment of the Grand Mandate, the church declared to the council in 1534 that swearing should be more effectively controlled.[62] Amendments to the morals laws were repeatedly demanded by the church, especially in the course of the seventeenth century. Evidence of this can be found in clergy applications that requested changes to the Grand Mandate and declared criminal sentencing deplorable.[63] In particular, they found the fines too low. In the second half of the seventeenth century, church leaders discussed whether the morals courts should not ensure that blasphemers were subjected to the *Herdfall*. Some in the synod felt that members of the morals courts were partisan and not well enough educated to exercise justice. Eventually, in 1694, the church applied to the council to leave

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[60]   Cf. Ibid.

[61]   Thus the *Promptuarium ecclesiasticum* notes Advice between 1521 and 1792 for the years 1534, 1540, 1572, 1614, 1619, 1624, 1628 and 1680 relating to the Grand Mandate. Cf. E II.101.a, part IIa.

[62]   Cf. E.II.96, Recommendation, 20.10.1534, fols 13r–14v. On the institutionalising of the Protestant 'morals discourse' in general, cf. Hans Grünberger, 'Institutionalisierung des protestantischen Sittendiskurses', *Zeitschrift für historische Forschung*, 24 (1997), pp. 215–52.

[63]   Cf. E II.99, Advice, 9.12.1551, fols 32v–3r; (ZB) MsB.258, Advice (signed by Heinrich Bullinger, Rudolf Gwalther, Johannes Wolf and Burchkhart Leemann), p. 160; cf. E.I.5.1a, no. 38.

the imposition of the *Herdfall* to the morals courts.[64] The council's reply was that these courts depended for their work on the reports required of the clergy, so that the responsibility for implementing legal norms was ultimately theirs.[65] We may assume that further complaints by church leaders concerning inadequate punishment of blasphemers followed, since in 1714 the council, wearily conceding an increase in swearing and cursing, saw the solution not in new legislation but in effective application of the existing mandate. Bailiffs and clergy had failed to carry out their supervisory duties, it was alleged.[66] The secular and spiritual authorities blamed each other, and the church norms did not win the day. Nonetheless, Zwingli's and Bullinger's theology may have had some influence on morals legislation. The mandates do not differentiate the categories of cursing and swearing and the three forms of abusing God. The council may, however, have had pragmatic rather than theological reasons (in the interests of implementation) for not making these distinctions.

Summary   Just as the secular authorities in early modern Zurich legislated against verbal sin, taking their cue from the Late Middle Ages, both Zwingli and Bullinger and the Reformed Church addressed the problem of blasphemy. None, however, introduced theological innovations. Though the use of blasphemous language was a grave and reprehensible sin, it did not engage them intellectually. They devoted their theological energies to the political issue of oath-taking raised by the Anabaptists. Their ears were still open to the blasphemous talk of church members, however, and they expected the secular authorities to punish offenders appropriately. They were content to leave to the council the question of what was appropriate, though as theologians they stressed the significance of reconciliation of repentant blasphemers with God. Their approach was spiritual and restorative rather than secular and punitive.

Like Zwingli and Bullinger, the church leaders did not introduce new theological argument on blasphemy. They advocated adjustment of fines to the current price levels, and imposition of the *Herdfall*. There was no discussion of corporal or capital punishment. Most of their attention was devoted to the everyday verbal sins of swearing and cursing, and not to blasphemy as the exceptional, fundamental questioning of God (to which the death penalty applied). The Reformed Church in Zurich thus continued the late mediaeval tradition of mandates against swearing. Although its rhetoric spoke of the growing 'depravity of the times', its approach to verbal sin was basically pragmatic. There is little evidence

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[64]   Cf. E II.92, p. 49.
[65]   Cf. ibid., Council Decision, 15.11.1694, pp. 75–6.
[66]   Cf. E II.95, Council Finding, 24.5.1714, fol. 113v.

in the early modern church in Zurich of an urge to impose specifically 'Reformed' norms relating to blasphemy. The church leaders called for appropriate punishment of blasphemers and repeatedly denounced verbal sin, contributing to increased awareness of the problem of blasphemy among the authorities. But there was no 'new era' in the Reformation regarding blasphemy, no increase in severity towards blasphemers, and no development of new theological ideas on the offence. The arguments of the church showed little effect in the council. It took the constant church admonitions seriously and continued to legislate against blasphemy, but the morals laws took no account of theological differentiation in the conceptual development of blasphemy. Cursing, swearing and blaspheming were not distinguished. The council rejected the church's accusation of legislative inactivity and refused to transfer the penalty of *Herdfall* to the morals courts. For its part, the council criticised the church and its clergy for lack of zeal in reporting blasphemers. Cooperation between secular and ecclesiastical authorities at the level of norm-setting was limited.

1.2. How the Authorities Applied the Norms

The Supervisory Obligation of Officials and Citizens

The judiciary depended on reporting of blasphemers to the authorities. In late mediaeval Nuremberg, Basle and Constance, this was the task of Kundschafter.[67] Elsewhere – in France, the Rhine Palatinate, Leonberg in Württemberg, and the cities of Florence and Cologne – rewards were offered to those denouncing blasphemers.[68] In Zurich, on the other hand, consistent reporting of acts of blasphemy had been the responsibility of officials since the fifteenth century. Early modern legislation reflects this, but also obliges the citizens, under certain circumstances, to report blasphemy. Evidently, the authorities were dissatisfied with the work of the councillors, bailiffs, *Gerichtsweibel*, clergy and *Ehegaumer* (representing the morals courts) and even publicly threatened sanctions against negligent officials and witnesses. We shall need to examine how the officials and citizens fulfilled their duty.

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[67]   Cf. Schwerhoff, *Gott und die Welt*, pp. 259, 268–70; Schuster, *Konstanz*, p. 184.

[68]   Cf. Schwerhoff, 'Schranken', p. 51–6; Bernard Vogler, 'Die Entstehung der protestantischen Volksfrömmigkeit in der rheinischen Pfalz zwischen 1555 und 1619', *Archiv für Reformationsgeschichte/Archive for Reformation History*, 72 (1981), pp. 158–95; here: p. 176; Achim Landwehr, *Policey im Alltag: Die Implementation frühneuzeitlicher Policeyordnungen in Leonberg* (Frankfurt, Main, 2000), p. 150; Cabantous, 'Histoire du blasphème', p. 115.

The path taken by reports of blasphemy was indicated by Zurich's constitutional structure. Secular or spiritual officials took the initiative, as was their duty, or they were approached by citizens. The quantity of blasphemy records in the Zurich archives testifies to how the officials fulfilled their duty during the whole era under discussion. On the whole, the bailiffs acted appropriately, attempting to deal with the matter at local level or handing it on to the council. The case of Jagli Hartmann from Seltzbach shows how conscientious a bailiff could be: following 'some blasphemy', Hartmann left the country immediately. When he returned over three years later, the bailiff had him arrested and sent before the council.[69] Bailiffs could have very good memories. The spiritual authorities were often equally dutiful, some of the clergy insisting on reporting blasphemers to the bailiffs or the council even when they were repentant. The clergy and bailiffs were assisted by the *Ehegaumer* and *Gerichtsweibel*, who also dutifully reported cases of blasphemy. Innkeepers too were expected to have an ear to the language used by their customers, but only very few cases of their assisting the authorities are recorded.[70] It was more important to keep customers than to help maintain public order.

It is striking that the court records rarely show officials at the initial stage of court cases against blasphemers.[71] This suggests, first, that – as with their colleagues in Constance and Basle[72] – the officials in Zurich did not go out of their way to pursue blasphemers. Second, the vast majority of reports must have come from private citizens fulfilling their civic duty.

Why did officials not report blasphemers more often? One reason is that people will have tended to guard their tongues in the presence of an official. Second, officials were often simply not around when someone blasphemed. In addition, the officials will have wanted to avoid false accusations of the grave offence of blasphemy. Any accusation would have

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[69]   Cf. A.27.94, Letter Bailiff of Grüningen, 14.3.1656.

[70]   Cf. A.27.20, Statement Uolly Lup, 10.10.1554; E.I.10.5, Statement Hans Heinrich Schwytzer, 11.2.1708.

[71]   In this respect, Zurich does not correspond to Dülmen's account (cf. 'Wider die Ehre Gottes', p. 32) of most minor cases of blasphemy such as swearing and cursing being reported by officials.

[72]   Thus the office of *Lüsen* (official controllers of the moral behaviour of the population) in fifteenth-century Basle was unsuccessful. The Basle *Klagbücher* (complaints books) for 1531–38 record only four cases in which officials brought charges. Cf. Schwerhoff, *Gott und die Welt*, pp. 268–72, 288. In Constance, the reporting rates of the officials (known as *Angeber*, i.e. reporters) declined steadily over the sixteenth century – cf. Wolfgang Dobras, *Ratsregiment, Sittenpolizei und Kirchenzucht in der Reichsstadt Konstanz 1531–1548: Ein Beitrag zur Geschichte der oberdeutsch–schweizerischen Reformatoren* (Gütersloh, 1993), pp. 203–18, Table 1. Such informers were similarly unsuccessful in the fifteenth century (cf. Schuster, *Konstanz*, pp. 184f.).

to be substantiated. The early sixteenth-century case of the sub-bailiff Jegkli from Küßnacht illustrates the caution of officials. Jegkli had not reported a blasphemous utterance by Michel Degenhart because he had heard of it indirectly, from his own wife, who had heard of it from another woman. His investigation, Jegkli stated, had not uncovered anything specific and he had therefore instructed his wife to leave the matter at that.[73] The local minister made a similar statement.[74] This shows how the officials acted with caution and did not report blasphemy if they were in any doubt.

Reporting blasphemy meant setting a whole train of events in motion. Some of the clergy were evidently concerned to avoid this. In 1628, Minister Wyß took Merki to the morals court because of his marital conflict but refrained from mentioning his grave act of blasphemy in order, as he stated, to protect him from gossip.[75] Instead, he dealt with the matter of blasphemy in a private conversation with the offender. In this way, he spared himself the complications of a court case and spared Merki social exposure.

The attitude of the bailiffs was comparable with that of the clergy. Often they issued warnings instead of taking offenders to court. When in 1550 Hans Knöpfli was taken before the bailiff in Andelfingen accused of blasphemy, he again started swearing by 'God's suffering, cross and passion' (*gotz marter, crütz und lyden*). Previously the bailiff had repeatedly told him to go home,[76] refraining at first from applying legal sanctions.

The officials' assistants too sometimes slackened the reins of their office. In 1614, for example, the son of the Bailiff of Riespach found it unreasonable when Leeman demanded that he should take the blasphemer Keßler to Zurich in the middle of the night. He had therefore asked Leeman and his companions to wait until the next morning. Leeman replied that he should take it on his own head.[77] Evidently, the bailiff's son did not regard the matter as urgent enough to require nocturnal action. Only under pressure from those reporting the case did he pursue it. Where such pressure was lacking, representatives of the authorities could and did ignore acts of blasphemy. The court usher Heinrich Schnyder, for instance, did not report a blasphemous utterance he witnessed in 1612.[78] Officials, we may conclude, shirked more or less openly their responsibility to run blasphemers to earth.

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[73] Cf. A.27.13, Statement Jegkli, undated.

[74] Cf. ibid., Statement Lamprecht Zender, undated.

[75] Cf. A.27.68, Statement Minister Wyß, 28.1.1628.

[76] Cf. A.27.17, Report Bailiff [?], X.2.1550.

[77] Cf. A.27.59, Statement by the son of Sub-bailiff Batt Tuppiner of Riespach, 18.11.1614.

[78] Cf. A.27.57, Statement Heinrich Schnyder, X.4.1612.

Apart from the above 'technical' grounds for not reporting blasphemy, the officials had a further, significant reason. When attempting to investigate cases, they frequently met with silence. A letter written by Minister Vögts [?] to his brother-in-law colleague on June 5, 1672 exemplifies this. An 'honest man' had reported on April 14 that four weeks previously a group playing bowls had made a mockery of the parable of the ten virgins. The minister had immediately reported the case to the morals court, whose members claimed to have heard nothing about it, despite the fact that the accused bowlers had already confessed to their deed. The following Tuesday, Vögts had again referred the case to the morals court, which directed him to the secular authority of the bailiff.[79] The minister's judicial journey continued, but we cannot accompany him here. What is important to note is that even the honourable members of the morals court, who had in all probability witnessed the scene in question, attempted at first to conceal it. The citizen who denounced the offender had only felt his conscience pricking him four weeks after the event, when he reported it to the minister. We cannot determine the motive of the morals court – possibly, its members sympathised with the bowlers and were willing to treat their talk as light-hearted banter. We can, however, establish that it was only the action of the 'honest man' that brought the case to the court's attention. The minister had heard nothing of it. As long as witnesses protected the accused, officials were powerless to pursue a case, as other examples confirm.[80]

The authorities, concerned for their credibility, could not tolerate officials and witnesses deliberately refraining from reporting cases. The council attempted to sanction such negligent behaviour, but only rarely succeeded. Innkeepers were seldom punished, even though they will often have heard blasphemous talk, as a council judgement of 1708 shows: an innkeeper in Boldern was fined 3 pounds because he had tolerated blasphemy for too long.[81] Punishments were severe, but not extreme. Officials were treated somewhat more leniently. In the case of Jagli Maag in 1609, the council left it to the bailiff to decide whether to issue a formal reprimand to Minister Sprüngli and *Gerichtsweibel* Mag.[82] The Bailiff of Knonau in 1697, on the other hand, was instructed by the council to issue reprimands through the clergy of Knonau and Mettmenstetten to the local paymaster and the church administrator for not reporting the blasphemy in good time.[83]

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[79] Cf. E.II.88, Letter Minister Conrad Vögts [?] to Waser, 5.6.1672.

[80] Cf., for instance, A.27.137, Report Caspar Diebolt, 29.9.1726.

[81] Cf. B.II.701, p. 65, Sentence Innkeeper of Boldern, 13.2.1708.

[82] Cf. B.II.609, p. 30, Sentence Jagli Maag, 5.2.1680.

[83] Cf. B.II.659, p. 64, Sentence Ulrich Gugoltz, 2.10.1697.

Witnesses of blasphemous acts could also find their honour compromised by words of rebuke from the authorities. The findings in the case of Jagli Maag in 1608 caused the council to recommend that the bailiffs should consider not only penalties for Sprüngli and Mag, but also fines for the witnesses who had kept silent. In addition, their presence should be required at the 'punishment sermon' the minister was to deliver against them and the blasphemer. Thus the council endeavoured to enrol witnesses in the task of pursuing blasphemers and to keep them in mind of their duty. In reality, however, the council's hands were tied. To exert their authority, they were forced to put pressure on witnesses to report blasphemy. But they failed to prove any wrongdoing on the part of witnesses if everyone involved refused to speak. Since the officials had only limited means of exercising control, the council depended on cooperation from the people in dealing with blasphemy. Threatening them with sanctions was against the council's own interest. This is probably why the number of cases in which witnesses were sentenced for non-denunciation is extremely small.

Summary   For various reasons, bailiffs and ministers and their official assistants were unable or unwilling to take the initiative in systematically pursuing blasphemers. In most cases, it was private citizens whose action led to proceedings. The authorities were dependent on citizens' cooperation. When witnesses refused to break the wall of silence surrounding a case, any amount of investigation was useless. If witnesses decided to keep quiet about a case, the officials had little chance of hearing about it. It was not the officials but private citizens who carried out more effective supervision of verbal behaviour. Horizontal social control took precedence over the vertical authoritarian path.

Assessment of Blasphemers

A notable feature of early modern court records is that they generally fail to enquire into the deeper motives of the defendant. This is true of the records relating to blasphemers in Zurich. We shall need to examine what other criteria the secular and spiritual authorities used to assess verbal norm transgression, and the relation between the various assessments.

The authorities showed no interest in the question of why a person might have blasphemed. The judiciary turned its attention to the affective, physical and intellectual circumstances of the act. The *Kundschaften und Nachgänge* always enquired whether the accused had been provoked, whether they had acted 'in anger' (*im Zorn*), from bad habit,[84]

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[84]   From the wealth of examples, a single one has been chosen at random in each instance. Cf. on provocative blasphemy, e.g. A.27.103, Statement Maria Blewler, 21.4.1669.

when drunk,[85] or all of these together.[86] The *Kundschafter* also examined whether the blasphemy had occurred in a 'fit of madness' (*in verrenkung der Sinnen*). This could in turn be the result of an acute state of fear or chronic mental illness. In either case, the defendant could claim diminished responsibility. In making these enquiries, the authorities sought to clarify how far the defendant was responsible for the blasphemous act.

In the course of the seventeenth century, a new aspect came into play: the *Nachgänger* systematically attempted to discover how radical blasphemers had arrived at their utterances. Had they developed these views themselves, had they been influenced by sectarian movements, or were they even themselves the leaders of such movements?[87] The intention of these enquiries was to distinguish between heresy and blasphemy with a view to determining precisely the responsibility of the defendant.

As well as the question of responsibility, the form and content of the verbal norm transgression were important criteria in assessing blasphemy. The *Nachgänger* insisted on establishing the exact wording used by the alleged blasphemer. How often had they sworn or cursed; had they used the name of God;[88] had they done so euphemistically in the form of *getz*, or had they actually referred to *gotz*?[89] What exactly had the accused spoken of?[90] Answers to these questions were necessary for determining the gravity of the verbal offence. The catalogue of criteria used by the judiciary was certainly not arbitrary. It assumed logically that taking God's name in vain several times was worse than doing so only once, and that using God's name in an 'illegal' swearing was more reprehensible than using the name in a distorted form. Scorning the sacrament was a grave offence, but calling attributes of Christ or of God into question was graver by far.

The church assessors took up the criteria used in the *Kundschaften und Nachgänge*. They too considered whether a blasphemer had acted affectively, been drunk or mentally confused, and whether the blasphemous words had been repeated. These criteria were in accordance with the theological standards inherited from the High- and Late Middle Ages and applied by early modern assessors. The decisive question for determining the gravity of the offence was whether the blasphemer had

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On habitual cursing and swearing, cf. e.g. A.27.43, Statement Sarius Peter, *c.* 25.9.1592.

[85]   Cf. for instance, A.27.119, Statement Heinrich Widmer, 12.11.1694.

[86]   Cf. e.g., A.27.71, Statement Jörg Setteli, 27.11.1633.

[87]   Cf. e.g., A.27.47, Statement Jagli Gugenbühl, 15.2.1598, or A.27.141, Statement Hans Ulrich Hirt, 23.12.1730.

[88]   Cf. for instance, A.27.113, Statement Heinrich Maag, 2.6.1684.

[89]   Cf. A.27.14, Statement Kleinhans Morgenstern, X.X.1545.

[90]   Cf. e.g., A.27.39, Statement Cunrath Schupper, 18.7.1586.

acted deliberately and malevolently or unintentionally and arbitrarily. Moreover, had the blasphemy referred directly or indirectly to God; did it relate to God's own being or to something or someone associated with God (the saints, the Mother of God, the sacraments etc.)? The synod assessments in early modern Zurich closely followed this classification, as we see from their line of argument: blasphemy was, in principle, an offence deserving of the death penalty, but the circumstances of each case were to be taken into account. Blasphemy was blasphemy, whether it had occurred 'unthinkingly' (*unbesinnt*), 'naïvely' (*einfältig*)[91] and in concrete terms or indirectly (*qualificiert*, *absolut*, *materialiter*, *categorisch*, *positiv* or *mediat*;[92] *conditioniert*, *bedingt* or *indirecte*).[93] The synod assessment of 1647 on Bürkli refers bluntly in Latin to the old and well-founded rule that actions are judged by purpose and outcome.[94] In an assessment of Heller in 1679, the antistes Johannes Jacob Müller refers explicitly to the 'difference sensibly made by theologians and legal scholars' (*der Theologen und Rechtsgelehrten vernünftig gemachten Underscheid*)[95] – other sources make clear that he means the late mediaeval categories.[96] These were adhered to by the theologians and jurists in Zurich until the end of the Ancien Régime.

Theologically traditional, the assessors made no attempt at originality when giving biblical substance to their opinions. Like their mediaeval predecessors, they drew largely on the Old Testament[97] (especially Leviticus 24) as well as Matthew 25, John 10 and Revelation.[98] A glimpse of Reformed theology can be found in the new preference for the Pauline

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[91] Cf. e.g., E.I.5.1b, Considerations of the Clergy in the Case of Kleiner, 3.10.1660, no. 128.

[92] Cf. e.g., E.I.5.2b Assessment in the Case of Stutzer, 11.1.1685.

[93] Cf. e.g., E.II.88, Assessment in the Case of Meyer, 15.11.1671, p. 377.

[94] Cf. A.26.9, Assessment in the Case of Bürkli, 1647.

[95] Cf. E.I.5.2a, Assessment in the Case of Heller, 17.10.1679.

[96] Cf. E.I.5.1b, Advice of the Clergy, 3.10.1660; (ZB) MsH.222, no. 15, *c*. 1730.

[97] Cf. the arguments of the synod based on the Pentateuch, the Prophets and the Psalms relating to the swearing mandate E.II.99, Recommendation, 9.12.1551, fols 31–55. Reference is made to Lev. 20 und Deut. 23 in E.II.97, Assessment in the Case of Werdmüller, 1659, pp. 1265–7. Ex. 21.17 and Isa. 7.14 are cited in A.27.115, Assessment by Klingler in the Case of Kofel, 6.1.1689.

[98] Cf. on Lev. 24.15–16 for instance, A.26.9, Assessment in the Case of Bürkli, 1647. Reference is made to Matt. 25 in addition to John 10 and 14.5 in E.II.97, Assessment in the Case of Werdmüller, 1659, pp. 1250, 1261–2, 1264. Rev. 13.1–6 and 21 are quoted in A.27.115, Assessment Klinger in the Case of Kofel, 6.11.1689. On biblical references in late mediaeval theological discourse, cf. Schwerhoff, *Gott und die Welt*, pp. 39–40, 50, 62, 127–8, 306.

epistles, which had been less prominent in late mediaeval theology.[99] It is notable that, of the 13 synod assessments, only six use biblical references. Evidently, the criteria used by the assessors were regarded as well-founded enough not to require further substantiation. This is evidenced too by the explicit reference of one assessment to Bullinger's writings.[100] Bullinger had placed himself firmly in the judicial tradition, appealing in his discussion of punishment for religious offences to Roman law and to Augustine, and affirming older readings of the Pentateuch. His less conventional attachment to the Pauline epistles cannot be missed, however.[101] Bullinger does not go into Reich legislation, and in the synod assessments the Carolina appears only once on the margins.[102] In assessing blasphemers, then, the Zurich Church conformed with mediaeval argument, though with a Reformed marker in the assessors' preference for the Pauline letters.

The categories of blasphemy and heresy were frequently associated both by Zwingli and Bullinger and by the ecclesiastical assessors. An assessment of 1553 on Michael Servet stated, 'Since Servetus Hispanus calls the eternal Trinity a three-headed monster and three-part Cerberus, and even calls the gods [the three of the Trinity] mere fantasies and illusions and the three spirits evil spirits, he shamefully and horribly blasphemes against God's eternal majesty.'[103] In today's categories this makes him an anti-Trinitarian heretic, yet for the theologians of his time he was a blasphemer. Even though they did not make categorical distinctions between heresy and blasphemy, the theologians certainly differentiated when it came to verbal taboo-breaking. This is especially apparent in the case of General Johann Rudolf Werdmüller, whose every utterance was classified as unthinking and presumptuous, atheist and godless, wrong, misleading, profane and godless or unthinking, unedifying, thoughtless and malicious (*unbesinnt und vermeßen; atheistisch und gotloß; irrig, verführerisch, heidnisch und gotloß; unbesinnt, unerbaulich, leichtfertig und tückisch*).[104] Profane, blasphemous and heretical language are clearly distinguished. The

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[99]   Cf. references to 1 Cor. 2 and 15, 2 Cor. 13, Eph. 5, Gal. 11, Hebr. 13 in E.II.97, Assessment in the Case of Werdmüller, 1659, pp. 1259, 1261, 1265–7.

[100]   Cf. A.26.9, Assessment Bürkli, 1647.

[101]   Cf. Bullinger, *Hausbuoch*, fols 89r–90r.

[102]   Cf. A.26.9, Case Bürkli, 1647.

[103]   'Quod ergo Servetus Hispanus trinitatem coaeternam Dei triceps monstrum, ac Cerberum, quendam tripartitum denique deos imaginarios, illusiones, ac tres spiritus daemoniorium appellitat [*sic*], aeternam Dei maiestatem nefande et horribiliter blasphemat' – Joannis Calvin, 'Clarissimis syndicis, et amplissiomo senatui Genvensis reipublicae dominis nostris solendissimis', in Wilhelm Baum, Eduard Cunitz and Eduard Reuss (eds), *Ioannis Calvini opera quae supersunt omnia*, vol. 7 (Braunschweig, 1870), pp. 557–8; here: p. 557.

[104]   E II.97, Assessment in the Case of Werdmüller, X.X.1659, pp. 1254, 1263, 1260, 1266.

attention is to particular aspects of the blasphemous language rather than to strictly defined categories, however. As did Zwingli and Bullinger, the church assessors walked a conceptual highwire in dealing with heresy and blasphemy.

Ecclesiastical assessors were trained in rhetoric. Having brought the case against defendants, they introduced points in their favour. They did not fail to mention a long list of mitigating circumstances such as good character, religious ignorance, genuine remorse and humility on the part of the accused.[105] Their dialectic argument led them to conclude that exemplary punishment would be required, but they made no recommendation regarding the sentence. This was the responsibility of the secular authorities, after all,[106] though exceptions proved the rule. Their recommendations do have one important trend in common: apart from special cases such as that of Michael Servet,[107] none of the assessments examined advocates the death penalty. In Zurich as in Nuremberg,[108] arguments for a merciful sentence are consistently presented. And it is these very arguments that can be found in the council's judicial opinions.[109] We conclude that the church, concerned on the normative level for rigorous sanctioning of verbal sin, fulfilled a different role in concrete individual cases. 'Normative practice' (formulating assessment criteria meant applying norms and thus consolidating them for use in practice) required the Reformed Church both to classify the deed clearly and conventionally according to theological criteria, and to confirm the divine commission of the secular authorities acting in solicitous strictness tempered with leniency. Once again, we would be unwise to overestimate the influence of the Reformation on the assessment of blasphemers. The Reformed Church adopted the mediaeval theological categories in its argument, but in its encounter with the reality of individual cases it responded less harshly than its moral guidelines would lead us to expect. The characteristic feature of the synod assessments is not that they document how the church was used by the council to sharpen its sentencing of blasphemers. Rather, the records show that, although

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[105] Cf. on the question of reputation, e.g. E.I.5.2a, Assessment in the Case of Heller, 17.10.1679. Inadequate religious knowledge of defendants is recorded, e.g. in A.27.82, Recommendation by Breitinger in the Case of Münz, 13.4.1643. The motif of remorse, understanding and humility is noted, e.g. E.I.5.2b, Assessment in the Case of Hönysen, 21.11.1684. The authorities' obligation to show mercy is pointed out in E.I.5.2a, Case Heller, 17.10.1679.

[106] Cf. for instance, (ZB) MsB.80a, p. 469, Case Barbara Hertenstein, X.X.1660.

[107] Cf. Calvin, 'Clarissimis syndicis', p. 557–8.

[108] There, too, the theological and judicial authorities considered a wide variety of grounds on which they might justify a pragmatic and reasonably mild assessment of blasphemers. Cf. Schwerhoff, 'Schranken', p. 104.

[109] Cf. subsection below on sentencing practice against blasphemers.

the church leaders called for more systematic prosecution of blasphemers and took account of the secular judicial criteria, they did not assist the council in sharpening its jurisdiction, nor did they give fresh impetus to the categorisation of blasphemers.

Summary   Neither the secular nor the spiritual authorities in early modern Zurich developed new standards for categorising blasphemy. They drew on assessment criteria and biblical argument inherited from mediaeval theologians. Neither Roman law nor Reich legislation was relevant for the council or the synod in this matter. Contrary to modern expectations, the council and the synod assessors made no attempt to discover what deep psychological impulses might have motivated blasphemers. Verbal sins were classified according to the intentions of defendants, the expressions they had used, and the blasphemies they had uttered. Their aims were to be taken into account, but not the reasons why they had such aims. Thus assessments of blasphemous talk were not subject to arbitrary individual discretion, but were drawn up according to relevant 'objective' logics. On the normative level, the secular and ecclesiastical authorities intensified their campaign against blasphemy. On the level of 'normative practice', however, there were no new conceptual impulses for assessing blasphemy well into the eighteenth century. Zwingli and Bullinger had moved on from the mediaeval casuistry used to define blasphemy, but the synod assessors faced with the concrete task of categorising blasphemous utterances continued the mediaeval catalogue of criteria. Reformed theology, centring on the doctrine of justification, no longer required a case-based concept of blasphemy, but in practice the synod assessors were forced to make a differentiated evaluation of blasphemous talk. The secular authorities took a pragmatic approach. Putting aside the imprecise use of heresy and blasphemy by theologians, they distinguished by treating heresy as blasphemy under the influence of or with a view to influencing third parties.

The ecclesiastical assessment work had little to do with the enforcement of state formation in the age of confessionalisation. Although the church leaders affirmed the idea of the secular rulers as being divinely commissioned, they did not legitimise especially harsh punishment of blasphemers. Thus the assessments provided by the church did not enable the council to consolidate its own rule by means of draconian measures.

Blasphemers: Mentally Deranged or Morally Responsible?

A frequent caricaturing cliché maintains that mentally disturbed people sometimes think they are a famous personage. Not so among the early modern blasphemers in Zurich. Those said to be out of their senses were

usually unremarkable.[110] The task of the judicial authorities, no matter who they were dealing with, was to assess the degree of responsibility borne by the blasphemers. The council had to sentence the offenders or direct what should be done with those found to be mentally ill. Given this situation, three questions need to be answered. To what extent did defendants use the argument of 'mental derangement' or 'melancholy' as a protective and defensive strategy in court? How did the authorities deal with mentally ill blasphemers, and what characterised them in their own society? Does the content of blasphemy used by the mentally ill allow us to draw conclusions concerning religious norms in their society? The source material, sparse though it is, suggests the direction in which to look for answers.

With one single exception, there is no evidence of defendants claiming mental illness in order to avoid the charge of blasphemy. Hans Bader from Montville, who came before the courts in 1644 because of 'dreadful blasphemies and other irresponsible grave faults' (*erschreckenlich Gottslesterungen und andere unverantwortliche schwere fehler*), claimed to be a pilgrim to Compostella. The interrogation he was subjected to shows the court attempting to establish whether he was a heretic, a sorcerer or mentally disturbed. Asked where God was, Bader pointed to himself, explaining that since God was everywhere he could hardly be a Christian if God were not with him. The court was not satisfied with this, and subjected Bader to torture. After his ordeal, Bader added that he had neither sinned against God nor done any wrong. The interrogation continued. He was tortured again, but still claimed he knew nothing of all this since he had only just been born. Was this the evasion strategy of a stubborn heretic or sorcerer, was Bader indeed innocent, or was he crazy? Further torture was expected to reveal the truth. Now Bader stated that he had from his youth been kept in chains from time to time because of his mental state, but had always been freed again. The *Nachgänger* had not yet finished with him, however. Once again Bader denied having murdered, pacted with the devil or practised black magic. He did confess to having stolen a little, and said he might be a sorcerer as he had rule over the witches when God willed it. God was in heaven, but could also be on earth. He himself was able to pray. The *Nachgänger* did indeed establish that Bader knew the Lord's Prayer and the Ten Commandments in the Catholic version. He was neither a sorcerer nor a heretic nor a hardened criminal – but what was he? The torturers spared him for a

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[110]   My thanks go to Aline Steinbrecher for references to the *Spital* records relating to the blasphemers mentioned. Details of the medical, pastoral and social treatment of 'melancholy' patients in early modern Zurich can be found in her doctoral thesis: Aline Steinbrecher, *Verrückte Welten: Wahnsinn und Gesellschaft im barocken Zürich* (Zurich, 2006).

while and returned to questioning. Did he know his Creed? Who had created him? God in heaven. Who had redeemed him? God in heaven. How? By his crimson blood. What about the Trinity? Three persons: God the Father, the Son and the Holy Spirit. Which one had redeemed him? God the Son. Did he firmly believe that Christ had saved him? Yes. Despite further torturing, Bader strongly denied being a master sorcerer. His tears as he begged for mercy were a sure sign to the *Nachgänger* that he was repentant.[111] Bader escaped with his life and was merely banished on account of his mental state (*verwirrten, ohnsinnigen Kopf*).[112] The court had decided that his was a case of diminished responsibility. As we review the case in historical perspective, we do have the impression of a mentally disturbed person. Bader makes some good verbal moves that might suggest a malingerer pretending to be mentally ill. But if he had been a 'fraud', surely he would have acted as far more confused and confusing in order to be discharged as insane. Alternatively, he could have presented himself as a mentally sound, remorseful culprit in order to evade torture. The sentencing practice shows that he risked banishment and possibly corporal punishment, but not necessarily his life. It was his 'misfortune' to speak so reasonably and unconfusedly that he could not readily be categorised as mentally ill. Thus the reference to his mental state is unlikely to have been a lie to cover himself.

In the sixteenth century, there are few recorded cases of mentally disturbed blasphemers. The figure increases markedly in the seventeenth century. Defendants claimed to be possessed by the devil or to have lost their senses through injury. Isaac Keller had even lost his office as bailiff because of insanity. He wrote in a supplication of 1677 that he could not give a reason for his state. He compared himself with David: 'I cannot say where my malady comes from. I am like David being attacked by Shimei and saying "Let him alone, and let him curse; for the Lord has bidden him".'[113] At the time of writing, Keller was evidently aware that all was not well with him. Rather than take refuge in his mental state, he drew attention to his helplessness with regard to his blasphemous talk. Similarly, relatives and clergy emphasised their helplessness in attempting to bring blasphemers to their senses. In such cases, if the judiciary reached the evidence-based conclusion that the defendants were mentally deranged, it ensured that they were admitted to hospital.

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[111]   Cf. A.27.83, Statement Hans Bader, 30.3.1644.

[112]   Ibid. (dorsal note, 10.4.1644), Statement Hans Bader, 30.3.1644.

[113]   'Ich kan nit sagen, wohar mir das Übel eigentlich kompt. Ess ist mir, wie dem Heiligen Davidts, da er in seiner Verfolgung vom Symnay zu den Kinderen Zeania gesagt hatt, lassendt ihn fluchen, lassendt ihn fluchen, der Heilige hattss ihn geheissen, nit dass Got heiss fluchen' – A.26.12, no. 135, Petition Isaac Keller, 10.1.1677. Cf. 2 Sam. 16.5–14.

Relatives only seldom argued that defendants had diminished responsibility because of mental illness. This suggests that the likelihood of exonerating someone on such grounds was slight, as exemplified in the case of Catharina Schorf from Ütikon. She reported in 1720 that her brother Heinrich had been so annoyed by a children's prank that he had foamed like hot milk and, denying that God was clever enough to find him, had dashed out of the house.

According to his sister, Heinrich had already shown signs of mental instability before this act of blasphemy. He had sung hymns on the theme of mental struggle and had listened mockingly and with vapid gaze to the minister's sermon during a thunderstorm that he interpreted as a divine warning. The court was not convinced.[114] The council investigated thoroughly and eventually sentenced Schorf to six further days' imprisonment, three birchings, denunciation from the pulpit, and recantation in the church at Ütikon, where Schorf was to perform the *Herdfall* by the font. He lost his civil rights for life and was sentenced to *Verbot der Ürten*.[115] These penalties by the council exceeded the usual sanctions. No leniency was shown to Schorf, and his sister's endeavours on his behalf had failed.

The council's severity in this case should not lead us to assume that the judiciary did not admit the 'melancholy' of blasphemers as a mitigating circumstance. True, there are further cases in which the defendant's claim of insanity was rejected, but the argument of mental derangement still appears in the judicial opinions.[116] On the one hand, the judiciary accepts that blasphemers may have acted in a mentally confused state. On the other hand, this is not taken into account in the sentences. As in Cologne,[117] the Zurich judiciary is ambivalent when dealing with mentally disturbed blasphemers. It seeks to distinguish between needy and criminal offenders. The authorities attempt both to take care of insane defendants and to make them responsible for their offences in times of 'normality'. We find evidence of this in the consistent endeavours of the council to assess the mental state of the accused. Similarly, the court reports show that close attention was paid to the words of mentally disturbed defendants.[118]

Judicial consistency in assessing the responsibility of blasphemers and seeking a full confession is exemplified by the case of Heinrich Halbherr

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[114] A.27.133, Statement Catharina Schorf, 1.9.1720.

[115] Cf. B.II.750, pp. 135–6, Sentence Heinrich Schorf, 3.10.1720.

[116] Cf. e.g., B.VI.263, fols 113v–14r, Sentence Hans Huber, 6.6.1584 or B.II.597, p. 124, Sentence Hans Schmidt, 8.6.1682.

[117] Cf. Schwerhoff, 'Schranken', pp. 85–6.

[118] Cf. e.g., A.27.47, Report Locher, *c.* 15.2.1598, or E.II.97, pp. 1515f., Heinrich Jucker, Synod Assessment, 10.6.1672.

in 1717. First, the council gathered information 'as discreetly as possible' from the local minister, a member of the matrimonial court and Halbherr's children concerning his state of health.[119] The contradictory findings, however, left the council uncertain how to proceed, and it wavered in its judgement and treatment of the alleged blasphemer. Halbherr was sent to a prison tower and repeatedly interrogated and tortured there, a sign that he was thought responsible for his deeds. Then he was admitted to hospital; in other words, treated as mentally confused.[120] But the reports received from there by the council were equally inconclusive. Halbherr was for some periods sent to work in chains, a kind of 'work therapy' that assumed he had at least partially recovered. In January 1718, the minister responsible for pastoral care of Halbherr reported his 'melancholy temperament'.[121] In March of that year, the doctor in Halbherr's hospital wrote that he had been confused for a few days on admission to hospital, but had then been able to give sensible answers to questions. Moreover, he was quiet, eating well and devoting himself to prayer; in other words, he was of sound mind.[122] Also in March, the deacon at the Großmünster reached a different conclusion, however. Despite daily visits, he had not succeeded in getting a logical confession from Halbherr. In June, the culprit was again put in chains as a mad simpleton (*einfältiger tropf*) and said to have 'dreadful stupidity and ignorance in matters of religion' (*schüchliche stupiditet und ohnwüssenheit in Religions Sachen*).[123] Throughout this back and forth, Halbherr himself kept to his version of events: he had said nothing; and if he had, then he had not been of sound mind.[124] In the end, the council decreed that he should remain in hospital.[125] In his 'normal' phases, the council had attempted to call the blasphemer to account, including instructions to the executioner to obtain a full confession from him.[126] However, as soon as Halbherr succumbed again to 'melancholy',

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[119]   Cf. B.II.738, pp. 142–3, Entry Heinrich Halbherr, 30.11.1717.

[120]   Cf. B.II.738, the interrogations of 4.12.1717, 10.12.1717, 16.12.1717, 14.1.1718, 8.3.1718, 11.3.1718, 16.3.1718, 31.3.1718, as well as the many entries in the *Ratsbücher* under B.II.738, B.II.740, B.II.742.

[121]   A.27.132, Case of Heinrich Halbherr, Report by hospital chaplain, 23.1.1718.

[122]   Cf. Hi.266,71 Case of Heinrich Halbherr, Report, 25.1.1718; H.II.8, Case of Heinrich Halbherr, Report, 8.3.1718.

[123]   H.II.8, Case of Heinrich Halbherr, Report, 14.6.1718.

[124]   Cf. A.27.131, Statement Heinrich Halbherr, 6.12.1717.

[125]   Cf. B.II.742, fol. 59, Sentence Heinrich Halbherr, 29.8.1718.

[126]   Cf. B.II.738, p. 165, Entry Heinrich Halbherr, 18.12.1717. Isaac Keller was even permitted to pledge that after his release – he was soon to be readmitted to hospital – he would behave better. This shows that the council considered him fully capable of managing his own affairs. Cf. on this Aline Steinbrecher, '*Von der Blödigkeit des Haupts': Geisteskranke im Zürcher Spital 16.–18. Jahrhundert* (Liz. Phil., Zurich, 1997), p. 137.

the judiciary no longer saw him as deserving of torture but as requiring hospital treatment. The councillors were well aware that they were dealing with a mentally sick person and treated him accordingly during his phases of 'melancholy', without actually withdrawing the charge of blasphemy. Whether morally responsible or mentally deranged, the blasphemer remained a blasphemer until he had confessed and done penance. The idea that the mentally ill might not be responsible for their actions even in phases of 'normality' was alien to early modern Zurich.

Although the judiciary assumed that mentally disturbed blasphemers had phases of sanity, the picture they – together with doctors and clergy – painted of the offenders was in strong contrast. Like all the insane, blasphemers – such as Osli Streßler[127] – were described as wild animals, unpredictable in their behaviour and in need of protection from harming themselves or others. Typically, they are said to have threatened to kill themselves, which had to be prevented.[128] Statements by Hans Köllicker's brothers in 1685 show that those around mentally deranged blasphemers were also argued to be in need of protection. Köllicker was said to have annoyed his neighbourhood for over a decade with his cursing and swearing. Now he had threatened one of his brothers and his brother-in-law with a weapon and was to be put in hospital.[129] Up to the late eighteenth century, hospital was the last resort when all other means at the judiciary's disposal had failed to deal effectively with blasphemers. The argument that mentally sick blasphemers were a physical and moral threat to themselves and their social environment remained constant.

Summary   Mentally deranged blasphemers in early modern Zurich could be recognised by the authorities as insane. Nonetheless, their blasphemous words remained sinful. All acts of blasphemy were followed up by the judiciary, and charges were not withdrawn even when the defendant was classified as mentally ill. Only a full confession and act of penitence sufficed to end the case. The judiciary was responsible for restoring God's honour.

It is thus understandable that the accused or their advocates (*Fürsprecher*) did not argue diminished responsibility on the grounds of mental illness. The council explicitly recognised mental disorders as mitigating circumstances, but made no distinction in its sentencing between 'normal' and 'abnormal' blasphemers. References to the defendants' emotional disorders were a symbolic rhetorical gesture that served as an argument against the death penalty, the normative punishment for blasphemy.

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[127]   Cf. E.II.103, p. 721, Case of Osli Streßler, Synod Assessment, X.X.1675.

[128]   Cf. e.g. for Heinrich Halbherr, A.27.132, Report Johann Jacob Lavater, X.11.1717.

[129]   Cf. H.II.8, Letter Johanes Helgi, 29.1.1685.

When one of the usual punishments was handed down to blasphemers with mild mental illness, the ambivalent attitude of the judiciary in such cases was apparent. It examined systematically whether these strange blasphemers were heretics, sorcerers or mentally deranged. 'Examining' was by means of torture and religious interrogation, both of which assumed that the accused was sufficiently mentally sound to make a coherent confession and come to true religious insight. If the judiciary doubted the sanity of the defendant, admission to hospital followed, where both medical and pastoral care were provided. Thus the accused were treated on the one hand as having diminished responsibility. As soon as they showed signs of returning to their senses, however, they were again arrested, interrogated and catechised. As long as the charge of blasphemy was not fully clarified, it could not be withdrawn. Even periodically mentally confused persons could not simply be absolved of responsibility. Since the idea of a syndrome consisting of 'normal' and 'abnormal' phases was alien to the Zurich judiciary, they treated the same person over many years as alternately legally competent and incompetent.

Further ambivalence can be found in the attitude of the judiciary and the population towards insane blasphemers. Their admission to hospital was argued by the authorities and by the accusers in terms of the physical and moral threat posed by the accused, some of whom were also said to be suicidal. In other words, these insane blasphemers disturbed public order. There was no talk, however, of the danger of divine vengeance. This line of argument deprived the speech actions of mentally deranged blasphemers of their religious virulence. There is an open contradiction here between the persistent pursuit of the accused, in the interests of restoring God's honour, as religious taboo-breakers during their phases of 'normality', and the actual concern to neutralise them as social troublemakers.

Sentencing Practice[130]

The idea of tolerance is generally thought to be an achievement of the Enlightenment, while at the end of the Middle Ages and in the Early Modern era the flames rose from the funeral pyres of those burnt at the stake in the merciless struggle for orthodoxy. The power-seeking Inquisition was said to devour its victims and send scores of heretics and witches to their deaths. The same cliché is heard concerning blasphemy. Wettstein's claim that in Zurich a large number of blasphemers, 78 in fact, were executed

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[130]   This abbreviated English version of the study does not include the detailed tables with quantitative evaluation of the sentences. Readers with an interest in these tables are referred to the original German text.

between 1526 and 1745,[131] fits this pattern. The Zurich material shows
this assessment, however, to be the deceptive result of prejudice from a
modern perspective. Early modern jurisdiction is far too complex for the
council simply to be described as an intolerant authority that responded
to blasphemy by calling in the executioner. In view of this situation, seven
questions can be asked on judicial policy in Zurich. What weight was given
in the jurisdiction to the prosecution of ('normal') blasphemers? What
punishments did the council hand down to blasphemers? To what extent
did the council show mercy and give 'arbitrary' sentences, including those
in which the defendants 'negotiated' their sentence? What was the relation
between secular and ecclesiastical penalties? What consequences did they
have for those sentenced? What was the relation between sentencing by
the council and that of the bailiffs in the regions? And finally, in what way
did the council jurisdiction change?

Although council and church campaigned vigorously on the normative
level against verbal sin, the offence of blasphemy plays only a small part in
jurisdiction. Among the *Kundschaften und Nachgänge*, blasphemy makes
up just an estimated 2–3 per cent of cases.[132] Quantitative evaluations of
council records from 1376 to 1385 and judicial records from the bailiwick
of Greifensee for the period 1480 to 1520 show similar results.[133] The
records from the bailiwick of Andelfingen from 1545 to 1788 show an
even lower quota of 1.4 per cent for fines imposed for blasphemy.[134]

As in southern Germany, Switzerland and England, the prosecution
of blasphemers can hardly have been a significant repressive measure
on the part of the authorities.[135] The records show that it was not only
blasphemers who were seldom seen in court. The rates of prosecution do
not correlate with those for other categories of offences. In the course of

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[131]   Cf. Wettstein, *Todesstrafe*, p. 91.

[132]   This estimate is based on analysis of the sample years 1544/45, 1590/91, 1633,
1679, 1706/1707, each of which falls within a period of prosecution.

[133]   Cf. Burghartz, *Leib*, pp. 75–6; Hürlimann, *Soziale Beziehungen*, p. 297.

[134]   Cf. F.III.3. The basis for the estimated total of sentences is the number of entries
in 53 sample years (=2898 entries). The annual average (=54.67) has been multiplied by the
number of years during which sentences for blasphemy were imposed; for the period 1545 to
1788, the factor is 243 (=*c*.13,120 cases in total). The 188 fines for blasphemy correspond to
1.43 per cent of the total number.

[135]   For comparison of prosecution of blasphemers by the secular and church courts,
cf.: Schwerhoff, 'Schranken', p. 65; Schwerhoff, *Gott und die Welt*, pp. 160, 216–17, 273–4,
287; Schuster, *Konstanz*, p. 71; E. William Monter, 'The Consistory of Geneva', *Bibliothèque
d'Humanisme et de Renaissance*, 38 (1976), pp. 467–84 – here pp. 471–2; Landwehr, *Policey
im Alltag*, pp. 348–9; Schmidt, *Dorf*, p. 85; Helga Schnabel-Schüle, *Überwachen und Strafen
im Territorialstaat: Bedingungen und Auswirkungen des Systems strafrechtlicher Sanktionen
im frühneuzeitlichen Württemberg* (Cologne–Weimar–Vienna, 1997), p. 227.

the eighteenth century, cases of pure blasphemy increased, whereas – with a few fluctuations – the economically and morally relevant categories 'economic and property offences' and 'abortion /infanticide' or 'dissolute life' remained at the level of the sixteenth century. Violent offences (murder and manslaughter), and insults with and without blasphemy as well as political offences declined, whereas the judiciary increasingly prosecuted sexual offences. The prosecution rates for blasphemy do not allow apparently convincing explanations such as their coinciding with economic crises or being part of a process of social disciplining on the part of the council. Blasphemy rates cannot be taken as indicators of crisis or of modernisation.

We can, however, observe in the sentencing of blasphemers by the early modern council certain judicial–political aims. Quantitative evaluation of council sentences reveals some striking features. Fines in combination with loss-of-honour punishments, together with loss-of-honour punishments alone, make up just under half the total. Blasphemy was evidently treated by the judiciary as an honour offence requiring the restoration of honour to the one offended. Money alone could not achieve this, as the small number of 'fine only' penalties shows, in contrast to the sentencing practice of the fourteenth century particularly.[136] Money was significant as a means of sanctioning,[137] but the Early Modern era intensified the stigma attached to its sentences by combining fines with loss-of-honour punishments.[138]

Corporal punishment played an even smaller role than fines. The council did not seek to deal with blasphemy by means of physical force. Corporal punishment was not combined with fines and loss-of-honour punishments. Evidently, it was used against persons without honour who had insufficient material or symbolic capital to interest the council. Conversely, we may assume from the small proportion of them sentenced to corporal punishment that blasphemers tended to be honourable people. In taking them to task, the judiciary was not dealing with a marginalised group.

This interpretation is supported by the practice of banishment. In almost 15 per cent of cases, the council made clear that it wanted to see blasphemers out of the country as *personae non gratae*. As in late mediaeval

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[136] In the period 1376 to 1385, blasphemy was in most cases punished by fines. Cf. Burghartz, *Leib*, pp. 134–7, 267–9.

[137] This is Schwerhoff's assessment. Cf. Schwerhoff, *Gott und die Welt*, p. 220.

[138] On the stigma attached to loss-of-honour punishments, cf. Gerd Schwerhoff: 'Verordnete Schande? Spätmittelalterliche und frühneuzeitliche Ehrenstrafen zwischen Rechtsakt und sozialer Sanktion', in Blauert and id. (eds), *Mit den Waffen der Justiz*, pp. 158–88.

Basle,[139] many of the offenders were put in the pillory before being taken to the borders. In exceptional cases, the punishment was even symbolically sharpened. In 1688, Marti Rudolfs's sentence stated that he was not to return to the territory for 101 years.[140] So what type of people did the council want to get rid of? The pillory[141] was used above all for men and women who had no form of capital to compensate for their blasphemous words. A typical sentence is that against Dorothea Suter in 1596, said to be a loose woman. Having spent two weeks in prison, she was to be subjected to a loss-of-honour punishment and then banished.[142] It is symptomatic that Suter was from Einsiedeln, since three-quarters of those banished were not local residents.[143] A typical sentence in this context is that against Jacob Blüwler on June 26, 1588. He was to be banished only if he could not prove himself to be a Zurich citizen.[144] Here and elsewhere, the council was concerned to get rid of criminal 'foreigners' as unwelcome guests.[145] Local blasphemers, on the other hand, were to stay within the borders whenever possible.

The place of the death penalty within the scheme of sentencing confirms the above. Capital punishment accounts for a surprisingly high 25 per cent of sentences, but closer examination reveals that only a fifth of those executed or 6 per cent of the total of those sentenced had been found guilty of blasphemy alone. These rates are well below those of Winterthur or Lucerne, indicating that the Zurich judiciary, strict though it was, was not disproportionately bloodthirsty.[146] The other four-fifths of those executed

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[139] In late mediaeval Basle also, banishment was often preceded by a loss-of-honour punishment. Cf. Schwerhoff, 'Schranken', p. 71.

[140] Cf. B.VI.272, fol. 94, Sentence Ruodolf Marti, 22.1.1668.

[141] According to the mandate of 1627, the *Gätteri* punishment was to be imposed on *Knaben* (the term could refer to a male child or to a confirmed, unmarried man of whatever age; cf. *Idiotikon*, vol. 3, p. 709), but it seems to have been little used in the city (by contrast with the region). This is suggested by reports of poor maintenance of the dungeon areas at the entrances to city churches. For detail, cf. Wilhelm Heinrich Ruoff, 'Die Gätteri als Form des Kirchenprangers', in K. Ebert (ed.), *Festschrift Hermann Baltl* (Innsbruck, 1978), pp. 421–38, here: pp. 426–38.

[142] Cf. A.27.45 (dorsal note, 17.2.1596), Petition Melchior Suter, X.2.1596.

[143] Of the 45 banished persons the sources allow us to place geographically, only 15 were from the Zurich area.

[144] Cf. A.27.41 (dorsal note, 26.6.1588), Statement Jacob Blüwler, 26.6.1588.

[145] On this characteristic of banishment, cf. Carl A. Hoffmann, 'Der Stadtverweis als Sanktionsmittel in der Reichsstadt Augsburg zu Beginn der Neuzeit', in Hans Schlasser and Dietmar Willoweit (eds), *Neue Wege strafgeschichtlicher Forschung* (Cologne–Weimar–Vienna, 1999), pp. 193–237, here: p. 206.

[146] In the city of Winterthur between 1401 and 1800, with an average population of 2,700, ten blasphemers were executed. Cf. Franz Gut, *Die Übeltat und ihre Wahrheit: Straftäter und Strafverfolgung vom Spätmittelalter bis zur neuesten Zeit. Ein Beitrag zur*

in Zurich had committed grave crimes such as murder, armed robbery, repeated theft, sexual offences ('sodomy', 'bestiality', 'rape', 'incest'). The death penalty was thus imposed on two groups of 'blasphemers': hardened criminals on the one hand, and 'genuine' blasphemers on the other. The *Rats- und Richtebücher* reveal a great deal more about the first group. The council sentence of 1688 against Felix Meyer is typical. He was said to have raged terribly in a house,

> … and sworn a thousand God Almighties, Heaven, a thousand sacraments, thrown up his hands and said lightning should strike the house. He had had it in mind to kill someone and, having done the deed, to hang himself. In a different house, during a violent thunderstorm, he had lain on his back and stretched out his legs and said lightning from heaven should strike him (*reverenter*) in the behind. He had then sworn many times, a thousand God Almighties, heaven and sacrament. He had called his mother a witch and a whore and sworn dreadfully. On another occasion he had said he had nothing to do with God but only (God save us) with the devil.[147]

Moreover, according to the sentence, Meyer had beaten and cursed his mother and his wife, attacked a woman in the street and criticised the community distribution of wood. Here the expression 'blasphemer' refers not so much to someone who has blasphemed against God as to the criminal personality as a type. The death penalties show blasphemy as an accompaniment to crime rather than, necessarily, a separate offence. Wettstein has made a methodological error in listing as blasphemers sentenced to death all those entitled as such in the *Rats- und Richtebücher*, without giving attention to the individual charges against them. It is simply not correct to say that the judiciary in Zurich sent blasphemers to their death with considerable frequency. Capital punishment was among

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Winterthurer Rechtsgeschichte (Zurich, 1995), pp. 201, 204. On cases in Lucerne, see Chapter III. In sixteenth-century Cologne, Nuremberg and Basle, capital punishment for blasphemy appears to have been an isolated occurrence. The sources permit only a cautious assessment, however. Cf. Schwerhoff, 'Schranken', pp. 95–8.

[147] 'Tusent Herr Gott, Himmel, Tusent Sacrament geschworen, die Hand ufgworffen und greth habe, die Stral sölle In das Huß schießen. Item er habe Ime ein mal für sich genommen, einen umbzebringen und wan daßelbig geschächen, als dan welle er sich selbs erhäncken. In einem anderen Hus habe er uf ein Zÿth, als es häfftig doneret und gwäterleichtet, sich an ruggen gelegt die bein ob sich gestreckt und greth, die Stral sölle Ime von Himmel herab (reverenter zemälden!) In hinderen schießen. Auch daruf villmaln geschworen, thusent Herr Gott, Himmel und Sacrament. Item so habe er sÿn Mutter ein Hëx und ein Huor geschulten und darzuo übel gschworen. Bei einer anderen Gelegenheit, habe er greth, er habe mit Gott nüt mehr zuo schaffen, sonder allein (Gott behüte uns) mit dem Tüfel' – B.VI.266, fols 171–2, Sentence Felix Meyer, 13.2.1608.

the raft of penalties available to them, but its significance in prosecuting blasphemers must be seen in perspective.

The sources offer only the beginning of an answer to when blasphemers were sentenced to death on the grounds of blasphemy alone. In 1514, Rudi Rifli was to be executed for using 'unchristian, shameful, evil words and oaths' (*unchristenlich, schantlich böß swür und wort*). In a quarrel, he had rejected the peace offered him, calling on God to harm the authorities. Reprimanded for this, he called down God's curse on the very chair of the deity.[148] His offence was that he had dared, indirectly, to curse God himself. Then there is the case of Hans Wingartner in 1520. While playing cards, he let loose an impressive series of profane oaths, some of them original, and demonstrated his blasphemous and poetic gifts in a graffito.[149] Judging from this notorious case, the usual swearing on the passion of Jesus Christ became critical for the offender when it was unusually combined with references to the devil or open rebellion against God.[150] Had the council sentenced to death all blasphemers who uttered comparable oaths, the executioner would have been kept much busier. The sources do not reveal why Wingartner and some of his fellows received the death penalty while others were spared. Perhaps he was to be a warning to others. The question remains open. Similarly, we cannot trace the fate of the few further radical blasphemers who dared to make outrageous statements about God.

Our picture of the Zurich judiciary can be further differentiated. Non-residents were more frequently banished than sentenced to death. Of the 68 convicted who can be identified, only six were not subjects of the territorial state. Moreover, we find that over 80 per cent of those sentenced to death for blasphemy alone were men. Women were far less frequently executed. The conclusions we draw from this concerning gender and the prosecution of blasphemy depend on our presuppositions. We might assume that women blasphemed less than men and committed less serious blasphemies. This seems improbable. Alternatively, if women blasphemed just as men did, perhaps they were better tolerated by their social environment, less often denounced, and treated by the council as less significant cases. This would mean that the same blasphemous utterances by women and men were more or less offensive according to context. We may conclude from this that women appeared only rarely in socially relevant 'public' spaces.

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[148]   B.VI.245, fol. 42r, Sentence Rudi Rifli, X.X.1514.

[149]   Cf. B.VI.248, fol. 30r, Sentence Hans Wingartner, Tuesday before St Ulrich's Day 1520.

[150]   Cf. e.g., A.27.29, Statement Bernhart and Heini Meiger, as well as Jacob Byr, X.X.1572.

The sparse sources available[151] suggest that the second interpretation is more convincing, but we cannot be more definitive than this. We can state, however, that gender-specific council jurisdiction was not – at least in the case of blasphemy, as the witch-hunt in Zurich is not yet fully examined[152] – to the particular disadvantage of women.

Analysis of gender history aspects is often associated with the question of male dominance. Examination of the severity or leniency of the judiciary seeks to establish to what extent jurisdiction was an instrument of power, and whether the subjects were able to functionalise the court for their own ends. Just as the death penalty was infrequently imposed by the Zurich Council, the proportion of defendants who were acquitted or had their sentences reduced is small. Three interpretative points follow from this finding. Unlike the French seventeenth-century courts, the Zurich Council only rarely pardoned offenders,[153] and it did so within narrow individual bounds. This meant, in consequence, that those convicted had little chance of influencing the sentence. The low rate of acquittal shows that the council saw the charge of blasphemy as proven in most cases. Hence those who reported blasphemers had good reason to do so. The accusation was not lightly used simply to settle a score with someone. We conclude that the charge of blasphemy was not suitable for using the court for one's own purposes.

Even though the council exercised clemency only within narrow boundaries, it is worth examining this 'space for mercy' in order to uncover the 'autonomous' principles of its jurisdiction. The judicial opinions offer information on this – albeit from the council perspective – when they indicate mitigating circumstances leading to reduction of a sentence.

The concept of mercy used by the council in its sentences is alien to us. We find it macabre that someone should be beheaded 'for mercy' to spare him or her more painful and dishonourable forms of capital punishment.[154] Other criteria used by the council to explain the reduction of sentences are equally strange. Taking the circumstances of the offence, the criminal responsibility and the remorse of the defendant into account seems familiar enough, but modern justice would certainly seek to come to an objective verdict independent of the social status of the accused. Early modern jurisdiction, however, regards the social position of the defendant

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[151] Not distinguishing according to gender-specific speech habits, the lingua texts do not offer much evidence on this. Cf. Bogner, *Bezähmung der Zunge*, p. 18.

[152] On the end of the witch-hunt in Zurich, see the examination thesis (accessible in the state archives) by Patrick K. Sele, *Das Ende der Hexenprozesse in Zürich* (lic.-phil.-thesis, ms., Zurich, 1998).

[153] Cf. Cabantous, 'Histoire du blasphème', p. 128.

[154] Cf. B.VI.268, fol. 155r, Sentence Rudi Gillmann, 20.2.1628.

as a crucial and 'objective' measure when it comes to sentencing. The figures make this abundantly clear. In two-fifths of cases, the sentence is legitimated with reference to the social capital of the blasphemers. The impression we gain is that the Zurich Council judges more by the person than by the offence in question. What third persons have to say in favour of the accused ('external social capital') carries far more weight than the 'internal social capital' of birth or lifestyle. The supplications submitted by the defendants appear relatively seldom in the judicial opinions. The council is more concerned with the social net supporting a defendant. Its main criterion is the social integration of the accused. Those who have their good and recognised place in the community are to be enabled in principle to keep it. The sentences seek not to isolate the offenders, but to bind them into a close-meshed social net.

A second striking feature of the council's judicial opinions is the relatively high proportion of those receiving a reduced sentence on the grounds of their supplication or family strains. No doubt the judiciary wanted to see defendants show remorse, but the council evidently also had in mind the considerable costs that would ensue to the 'public purse' should the defendant no longer be able to support dependent family members. This was a rational and pragmatic approach.

The reasons given for acquittals are also understandable. If the council could not prove guilt beyond doubt, it was wise to release the accused.[155] The authorities thus had the opportunity to decide *in dubio pro reo* and show their leniency. The arguments concerning criminal responsibility are similarly convincing from today's perspective. But the incidence of plausible considerations is almost as frequent as others that do not appear logical to us. Why should Christmas or Easter be a mitigating circumstance? Why should the old age of a defendant[156] be taken into account in one case, but youth[157] in another? It may be reasonable to treat the time from arrest to sentencing as 'custody', but why should this lead to a shorter sentence? Was the council not contradicting itself when it accepted drunkenness as an excuse but acknowledged resignedly at the same time that the defendant had not been able to hold his drink?[158] What has the fact that a defendant's father had died an honourable battlefield death,[159] or that his family were

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[155] Cf. B.II.575, fols 18–19, Sentence Jacob Bucher, 15.7.1676; B.II.699, fols 108–9, Sentence Jacob Unholz, 12.9.1707.

[156] Cf. A.27.62 (dorsal note, undated), Statement Rudolf Gwalter, 5.5.1618.

[157] Cf. as examples, B.VI.258, fols 108v–9, Sentence Oswald Schwytzer, 30.3.1556; B.VI.267, fols 180v–81r, Sentence Uolrich Müller, 17.3.1624.

[158] Cf. A.27.48 (dorsal note, undated), Statement Felix Rüttli, X.11.1600.

[159] Cf. e.g., B.VI.254, fol. 84r, Sentence Jacob Geßner, Thursday after Candlemas 1536.

good and pious people,[160] to do with the behaviour of the accused himself? Why was it that the loose verbal morals in the military and in foreign places[161] served to exempt Zurich citizens who had been on military service or lived in foreign parts from watching their tongues? Surely the comment that a defendant was not of bad character,[162] or was a good Zurich citizen,[163] was another desperate attempt to find a reason for reducing the sentence. Of course such retrospective questions are anachronistic, but they reveal the difference from today in the council's rhetoric of mercy. The arguments set out above were not mutually exclusive for the council, neither were they far-fetched. The judicial opinions demonstrate how the judiciary stylised itself as an early modern authority seeking to do justice to Christian rule. Its brief was to be both strict and solicitous. Blasphemers deserved the death penalty, but mercy was part of the divine commission.

To what extent was the sentence reduced? The answer given in the verdicts is clear. The act of mercy consisted in giving the accused their life and accepting their remorse. Typically, the judicial opinion refers to accepting the defendants' promises not to reoffend.[164] So much for the self-referential discourse of the judiciary in its sentences. Comparison with sentences where no mitigating circumstances are given changes the picture, however. There is little difference between 'normal' and reduced punishments. The components of punishments are the same. This means that the 'dramatised' language of the council when taking account of mitigating circumstances was part of its rhetoric of mercy. This in turn was used to stylise the council as a Christian authority.

Given this 'discourse of mercy' and the reluctance of the judiciary to show leniency, what opportunities did defendants have to 'negotiate' their sentences? Very little, going by the evidence of the few supplications that have come down to us.[165] The mere fact that supplications are so few, and are so seldom listed by the council under mitigating circumstances, suggests that

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[160] Cf. B.II.539, fols 93–4, Sentence Bailiwick Clerk Johan Kramer, 31.10.1667, or E.I.10.4, Sentence Hans Ruodi Kleiner, 29.11.1660.

[161] Cf. e.g., A.27.27 (dorsal note, 10.4.1568), Statement Jörg Meyer, X.X.1568, or B.II.459, fol. 27, Sentence Bürkli, 9.2.1647.

[162] Cf. A.27.68 (dorsal note, 29.4.1628), Statement Mathys von Wald, 18.4.1628.

[163] Cf. A.27.20 (dorsal note, 20.10.1554), Letter from Bailiff in the Case of Cunrad Uolmann, 13.9.1554.

[164] Cf. e.g., A.27.37 (dorsal note, 16.7.1582), Statement Lienhart Hohenrütter, X.X.1582.

[165] There are nine supplications from six blasphemers. Cf. A.27.61, Supplication Berni Bärli, 13.5.1616; A.27.80, Supplication Ulrich Singer, 10.11.1634 and X.X.1634; A.27.90, Supplication Heinrich Friderich, 17.1.1651; A.27.104a, Heinrich Baumann, 3.1.1671; A.92.3, Supplication Abraham Hegi, 8.9.1678; A.27.109a, Supplication David Thomann, 21.7.1679; A.27.100, Supplication David Thomann, Whitsun 1680; A.27.117, Supplication

blasphemers could not expect to gain much from them. In the seven cases we have, the effect of the supplications is not apparent.[166] The sentences do not differ from others, and they range as usual from ecclesiastical loss-of-honour punishments to heavy fines. If the supplications had any effect at all, it lay perhaps in avoidance of the death penalty. Only one supplicant, David Thomann, alludes to this. His supplication of 1680 requests the council to refrain from imposing the death penalty (*höchstes recht*), since he had erred because of 'sinful temptations' (*sündliche Anfechtungen*).[167]

Thomann's reference to *höchstes recht* is exceptional; his argument, however, is typical. In general the content of the offence is not discussed, and the defendant's error not indicated. The supplications do not contain concrete grounds (such as 'anger' or drunkenness) for excusing the petitioners. Rather, they present themselves as fallible human beings submitting themselves to the mercy of God and the authorities. We see from this that the supplicants are not concerned to present arguments on equal terms with the judiciary and to negotiate their sentences. In an act of humility, they formally submit to the council and pledge to behave better. Their attempts to influence the sentence are indirect: armed with basic knowledge of the Bible and Reformed theology, they seek to remind the authorities of their Christian duty to forgive. 'Shall I despair?', asked the watchmaker Jacob Meister in 1663 in lively rhetoric; 'Oh no, for God does not desire the death of a sinner; rather that he should repent and live. Just as I well know in my heart that my God is merciful, I hope in this hour to find a merciful judge.'[168] But however individually they expressed the topos of divine or authoritarian mercy,[169] the supplicants' arguments could not bring their influence to bear. They could only symbolically submit to the Christian authorities and refer to reconciliation with God. Their chances of influencing their sentence were extremely slim.

David Thomann, 7.4.1692. In addition, there is a large number of supplications from Jakob Redinger for the 1660s.

[166]   Cf. A.27.61, Supplication Berni Bärli, 13.5.1616; A.27.80, Supplication Ulrich Singer, 10.11.1634; A.27.79, Hans Keller, 13.8.1640; A.27.90, Heinrich Friderich, 17.1.1651; A.27.104a, Supplication Heinrich Buman, 3.1.1671; A.27.109, Supplication Hans Jacob Kleiner, X.X.1678; A.27.109a, Supplication David Thomann, 21.7.1679.

[167]   A.27.100, Supplication David Thomann, Whitsun 1680.

[168]   'Soll ich ver zagen … O nein. Dan Gott begärt nit den todt des sünders, sunder das er sich bekere und läbe […] Wie ich in meinem herzten ver sichert bin zu haben ein gnedigen gott, allso hoff ich werde dißers gägen würdigs stund auch haben ein gnedigen richter' – A.92.3, Supplication Jacob Meister, 8.10.1663.

[169]   Handwriting and spelling suggest that the supplicants themselves wrote their petitions. Cf. e.g., ibid., Supplication Abraham Hegi, 8.9.1678; A.26.9, Petition father-in-law of Captain Bürkli, undated.

Defence strategies too had to operate within narrow boundaries. This may well be the reason why most of the accused pleaded guilty. Three patterns of excuse were popular.[170] Some defendants claimed they had been so drunk at the time of the offence that they could not remember anything, but accepted that the witnesses were probably right.[171] Others did remember the offence, but claimed they had been provoked and had uttered the blasphemous words 'in anger' (*im Zorn*).[172] It was also common for defendants to claim that witnesses had misunderstood them.[173] Justification on the grounds of psychological distress was exceptional, however. In 1660, for example, Barbara Herstenstein von Töß admitted saying that if she was pregnant, the Holy Spirit must be responsible. She claimed to have spoken, however, in fear, misery and in a confused state.[174] Irrespective of their arguments, the offenders frequently showed remorse. Whether or not their excuses were serious, what mattered to the defendants was to save face and, if possible, to offer the council mitigating circumstances for the offence. This need not be interpreted, however, as an admirable strategic performance in dealing with the judiciary. Those who confessed without offering either excuses or feelings of remorse received the same punishments. Strategic action was of little value.

What happened when the accused denied the offence or did not want to admit their guilt? In the sample of 314 verdicts, this applies to a striking 42 cases. Twenty-one of them claimed to have been misunderstood or wrongly quoted. They attempted to split linguistic hairs in self-defence.[175]

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[170] Stereotyped patterns of justification recur in the lingua texts, which urge their readers not to accept verbal offenders' excuses of drunkenness or acting in affect. Cf. Bogner, *Bezähmung der Zunge*, pp. 93–5. That this had little effect in Zurich confirms the fears of verbal critics that the taboo-breakers might indeed use these very arguments to defend themselves. The normative expectations give evidence of disciplining intentions and failures, but not effective disciplining.

[171] Cf. A.27.57, Statement Heini Zimmer, 27.2.1617.

[172] Cf. A.27.83, Statement Rudolf Hägi, 14.6.1644.

[173] Cf. ibid.

[174] Cf. A.27.97, Statement Barbara Hertenstein, 29.3.1660.

[175] Cf. A.27.77, Statement Heinrich Breytinger, Tuesday after St Paul's Day 1636; A.27.79, Statement Marx Müller, 30.7.1640; ibid., Statement Hans Keller, 13.8.1640; E.II.9, Summary of the Case of Jörg Zindel, X.12.1643; A.27.83, Statement Rudolf Hägi, 7.6.1644; A.27.89, Reply Burgli Küschenhan, 9.12.1645; ibid., Statement Heinrich Schultheß, 8.3.1650; ibid., Letter Deacon Hans Heinrich Fäßi, 16.9.1650; A.27.98, Letter from Bailiff Spondli, 4.12.1661; B.II.545, fol. 118, Sentence Maria Bleuwler, 24.4.1669; A.27.104a, Letter Hans Heinrich Baumann, 15.12.1670; A.27.114, Report from Parish Minister in the Case of Hans Schwarzenbach, 15.8.1687; A.27.119, Report Bailiff Hans Jacob Leuw in the Case of Jacob Wolfensperberger, 28.11.1694; ibid., Statement Hans Beyner, 25.2.1696; ibid., Statement Jacob Kübler, 25.9.1696; A.27.120, Report Minister Rollenbutz in the Case of Barbara Trüb, 9.10.1698; A.27.126, Letter Dean Caspar Hardmeyer in the Case of

Fifteen denied outright,[176] and two others explicitly declared themselves not guilty.[177] Only three risked a counter-attack by accusing one of the witnesses;[178] only one dared to argue that the blasphemous utterances had been merely a joke and should not be taken so seriously.[179] As far as we can reconstruct the verdicts, persistence proved advantageous only for four of the accused. They were acquitted and discharged and had their costs paid.[180] All the rest were punished; in other words, their statements were taken to be pretence. Some were even more harshly treated because of their obstinacy. Corporal punishment in particular tended to be harsh, though we cannot ascertain whether this was connected with what the accused said or what they had committed. The fact is that their scope was very limited. Strategically, the best they could do was to save face socially by presenting themselves as delinquents who had been in a state of diminished responsibility at the time of the offence. Such 'social cosmetics' had no influence on the sentence, however. Only in very rare cases did the defendants succeed in convincing the council of their innocence. The judiciary, concerned to obtain confessions from the accused[181] in order to show the legality of its sentencing (in cases of capital punishment, the defendants are typically said to have confessed of their own accord),[182] did not take the excuses of those confessing into consideration. This left very

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Sub-bailiff Kleiner, 2.12.1708; B.II.725, fol. 153, Sentence Jacob Weidman, 11.4.1714; A.27.137, Report Minister Diebolt in the Case of Jacob Kuntz, 29.9.1726; A.27.144, Statement Gebhard Heller, 8.4.1735.

[176]   Cf. A.27.41, Statement Veit Türinger, undated; A.27.29, Statement Hans Großmann, X.X.1572; A.27.81, Statement Hans Kleer, 23.3.1642; A.27.100, Statement Elsbetha Staubin, 9.9.1665; A.27.107, Statement Oswald Streßler, 22.6.1675; A.27.113, Statement Caspar Meyer, 23.4.1684; A.27.117, Statement Jacob Wollenweider, 15.11.1684; A.27.113a, Statement Hans Jacob Maag, 27.1.1685; A.27.116, Statement Hans Habersat, 31.3.1690; A.27.119, Statement Bochenez, 18.4.1696; E.I.5.2b, Case of Anna Hartmann, 13.2.1699; A.27.125, Statement Jacob Unholz, X.X.1707; A.27.126, Statement Hans Widmer, 14.2.1708; A.27.138, Statement Elisbetha Bürgi, 13.9.1727.

[177]   Cf. A.27.6, Statement Marx Metzler, X.X.153X; A.27.125, Statement Jacob Unholz, X.X.1707.

[178]   Cf. A.27.63, Statement Junghans Utzinger, 13.5.1620; A.27.94, Statement Jagli Aman, 29.5.1656; A.27.96, Statement Johannes Zyder, 6.1.1658.

[179]   Cf. A.27.6, Statement Antonius, X.X.152X.

[180]   Cf. A.27.29 (dorsal note, 21.6.1572), Statement Hans Großmann, X.X.1572; A.27.77, Statement Heinrich Breytinger, Tuesday after St Paul's Day 1636; B.II.545, fol. 118, Sentence Maria Bleuwler, 24.4.1669; A.27.125, Statement Jacob Unholz, 8.9.1707.

[181]   On the judicial function of the confession in the Inquisition process, cf. Gerd Kleinheyer, 'Zur Rolle des Geständnisses im Strafverfahren des späten Mittelalters und der frühen Neuzeit', in id. and Paul Mikat (eds), *Beiträge zur Rechtsgeschichte: Gedächtnisschrift für Hermann Conrad* (Paderborn, 1979), pp. 367–84.

[182]   Cf. e.g., B.II.545, fol. 56, Sentence Marx Bleuwler, 17.2.1669.

little room for defendants to 'negotiate' their sentence with the authorities and thus bring their own interests to bear.

The extreme rarity of negotiations with defendants indicates that the council did not regard clemency as a significant instrument of judicial policy. Where leniency was shown, a certain pattern was followed. With one particular exception,[183] there was no leniency in cases of fines and the *Ürten* punishment, and we have no evidence whatsoever that defendants were spared corporal punishment. If the council showed mercy, it was usually by lifting *Ehr- und Wehrlosigkeit*, typically one year after sentencing. That this was the rule is exemplified by the case of Hans Ruodolf Kleiner. He wrote in his supplication, 'I have given myself a hard yoke. I shall not enter an inn for a whole year unless for a wedding.'[184] The time elapsing before the council showed mercy could however be as little as three to six months, or as long as three, five or six years.[185] It was highly exceptional for the judiciary to lift the loss-of-honour punishment immediately.[186] Its fine-tuned clemency policy focused on the punishment that presumably affected the civil rights of those convicted. Showing leniency meant restoring the defendants to full citizen status with its rights and obligations. The judiciary was less interested in the social reintegration of those convicted than in their restoration to the political citizenry. A functioning subject was a useful subject.

The prosecution of blasphemy was a matter for the council. As a secular authority dealing with norm transgression based on theological categories, how did it proceed? How did it impose secular and ecclesiastical punishments, and did it regard these as complementary? Analysis of the ecclesiastical and secular sanctions reveals that they are complementary only to a small degree. Just as an appearance before the council often resulted in church sanctions, a charge in the morals court often gave rise to secular punishment. It was highly exceptional, however, for the sub-bailiff, representing secular justice, to lead the culprit to the pulpit for

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[183]   Only Jacob Meister had his fine halved: cf. B.II.523, fols 79–80, Sentence Jacob Meister, 14.11.1663.

[184]   'Ich habe mir gare ein hartes gsatz gemacht: ich wole ein yar lang ihn kein wirzt hus oder Es seige an Eyner ehren hochzit' – A.27.109, Supplication Hans Ruodolf Kleiner, called Spöribub, X.X.1678.

[185]   Cf. as an example (in brackets: time until mercy was shown): B.VI.267, fol. 201, Sentence Hans Jacob Bertschinger, 31.7.1624 (three months); B.VI.258, fol. 235r, Jacob Güttinger, 10.1.1560 (six months); ibid., fols 227v–8, Sentence Hans Breitenstein, 29.6.1559 (nine months); B.VI.266a, fol. 100v, Sentence Hans Pfister, 21.2.1616 (two years); B.VI.262, fol. 64r, Sentence Lienhart Wäber, 1.7.1577 (four years); B.VI.266a, fol. 4r, Sentence Baltasar Wyg, 1.5.1613 (six years).

[186]   Cf. E.I.5.1b, Case of Uli Frey, 22.3.1636.

reprimanding.[187] The council distinguished clearly between the secular and spiritual sphere, and between blasphemy as a more secular or more religious offence. Thus a theologically defined offence was treated as an ambivalent category.

Given this ambivalent treatment by the secular judiciary, what role was the church expected to play in combating blasphemy? It had to participate in enforcing ecclesiastical sanctions, after all. We find that such sanctions hardly ever appear combined with banishment, and never in combination with the death penalty. Evidently, the council regarded such church sanctions as superfluous when offenders were, in one sense or another, 'out of the way'. The secular authorities did not need the help of the church in removing blasphemers from society. The analysis of secular and ecclesiastical punishment components shows that the church had an important role to play in the reintegration of blasphemers.

The category of church sanctions makes up almost two-fifths of the total; that of the secular sanctions, three-fifths. Once again, we have evidence that the metaphysically defined offence of blasphemy was treated more as an earthly than an unearthly crime. Moreover, in both the secular and ecclesiastical categories, the formal reprimand by the authorities (council or morals court) accounts for a surprisingly small 15 per cent of the punishment components. Only relatively seldom were blasphemers directly sanctioned by representatives of the judiciary. In the church category, it is striking that exclusion from Holy Communion, one of the statutory components, is mentioned only once in the sentences.[188] Evidently, excommunication was a matter for the morals courts. This deprived the council of a significant punishment component, and meant that it could not intervene directly in the life of the parish. We may take note too of the relation between *Abkanzelung* and appearing before the matrimonial court (*Stillstand*) on the one hand (one-third of components), and recantation and *Herdfall* on the other (two-thirds). The council clearly preferred sanctions involving active redress to those that merely required the culprits to listen passively to a warning or reprimand. Although the council frequently punished blasphemers without involving the church, it expected the church authorities to participate actively in enforcement. The council made use of ecclesiastical penalties to reintegrate condemned subjects in their parishes by means of active atonement. We can assume that this occurred especially in cases where the council judged the blasphemous talk to be a metaphysically oriented offence.

While the church sanctions aimed to reintegrate verbal sinners in their parishes, the opposite was true of the secular punishments. In Nuremberg,

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[187] Cf. B.VI.254, fol. 207, Sentence Andres Rytzel, 1540.

[188] Cf. A.27.103, Case of Anna Murer, Report Bailiff Heinrich, 28.12.1668.

for example,[189] the penalty was to exclude offenders from the social life of the community by banning them from the inns. Those condemned to *Ehr- und Wehrlosigkeit* or *Verbot der Ürten* (no less than two-fifths of those receiving secular punishment) were for lengthy periods virtually excluded from active social life and condemned to social passivity. Since the council only rarely reduced punishments, the culprits had little choice but to 'serve their time'. Active redress was not an available option. The same applies to the second remaining group, those who received secular penalties without banishment. Their punishments were of shorter duration, but the stigma attached to loss-of-honour punishments should not be underestimated.

The council was concerned to nuance its punishments. *Züchtigung an der Stud* could be one-, two- or threefold.[190] *Ehr- und Wehrlosigkeit* could last from six months to one year (in most cases), or it could be a ten-year or even lifelong punishment.[191] The duration of banishment also varied.[192] Those who were reprimanded at officially closed council or church doors were symbolically less exposed to public disgrace than if the doors were open.[193] Having to appear several times before the council or the morals court was more reprehensible than a single appearance, we may assume.[194]

The punishment known as *Herdfall* or *Erdkuss* was similarly differentiated. It could be imposed one- or twofold.[195] In some cases it was carried out in prison, with only the prison officials attending. In others the offenders were more publicly exposed, kneeling outside the prison tower, at the boat landing stage,[196] in front of the congregation at church, at the

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[189]   Cf. Schwerhoff, *Gott und die Welt*, p. 164.

[190]   For examples of double or triple birching, cf. B.II.808, p. 130, Sentence Gebhard Heller, 27.4.1735; B.II.729, fols 120–21, Sentence Heinrich Bollier, 30.3.1715.

[191]   Cf. from the many examples according to length of punishment: B.VI.264, fol. 314, Sentence Hans Heinrich Schad, 9.10.1595; B.II.655, fol. 77, Sentence Hans Jacob Kübler, 29.9.1696; B.VI.254, fols 20v–21r, Sentence Cleynbub Vogler, 1634.

[192]   Cf. e.g., B.II.731, fol. 127, Sentence Franz Niderist, 28.10.1715; B.VI.258, fols 108v–9, Sentence Oswald Schwytzer, 30.3.1556; B.II.768, fol. 37, Sentence Ulrich Leuthold, 21.2.1725; B.VI.272, fol. 94, Sentence Ruodolf Marti, 22.1.1668.

[193]   Cf. for instance (relating to the morals court), B.II.856, fols 48–9, Sentence Jacob Laban, 15.3.1747; (relating to appearing before the council), e.g. B.II.619, fol. 74, Sentence Hans Schwarzenbacher, 10.9.1687.

[194]   Cf. e.g., B.II.663, fols 150–51, Sentence Barbara Trüb, 22.11.1698; B.II.808, p. 130, Sentence Gebhardt Heller, 27.4.1735.

[195]   For sentencing to a double *Herdfall*, cf. e.g.: B.II.527, fols 90–91, Sentence Georg Stapfer, 29.9.1664 or B.II.748, fol. 34, Sentence Anna Mejer, 11.7.1720.

[196]   The prison tower of Wellenberg was in the lake area within the city. Following their release, offenders were put on land and required to execute the *Herdfall* at the boat landing stage. This meant that they served their loss-of-honour punishment at the very moment when they re-entered the terra firma of the city.

Zurich fish market, sometimes with officials of the judiciary present,[197] and at specific times of day.[198] The council also stipulated whether the *Herdfall* was to take place in the church of the place or places where the blasphemous words had been spoken, and/or in the offender's local church.[199] The defiled space was to be restored and the offender reintegrated in his or her parish. Thus the justice policy of the council focused both on reintegration of the offender and on restoration of divine honour. Long-term sanctions were intended to impair the social lives of those condemned for blasphemy. Their social prestige was severely diminished and their honour capital forfeited when they were excluded from social life and forced to ask their parish for forgiveness. Executing the *Herdfall* meant not only doing penance for dishonouring God, but actively restoring that honour. The council's nuancing of loss-of-honour and corporal punishments shows that blasphemy was an 'honour offence' *par excellence*. In Zurich as in Cologne,[200] God's honour was restored when offenders forfeited part of their own honour capital. This redress enabled them to be reintegrated in the community. Council jurisdiction was thus based on restitutive honour policy in a double sense.

The council's judicial policy depended on participation by the subjects. On the one hand, the authorities relied on the people to report delinquents. On the other hand, the meting-out of stigmatising penalties assumed that the subjects would enforce the social degradation of culprits. That they did so is confirmed by a number of sources on the effects of loss-of-honour punishments. A dialogue dating from 1560 reveals what the *Ürten* punishment implied. At a wedding, an argument arose between Clemens Wälti and Dani Götz. Wälti eventually pointed out that Götz was not admitted to weddings,[201] evidently referring to a *Verbot der Ürten* imposed on Götz. Aware of the sentence, his opponent used the knowledge to humiliate him. Another scene, this time from the year 1662, shows how harmful such reproaches could be. According to the charge, miller Hans Müller from Zurich had slandered the Bailiff of Hedingen and had alleged moreover that the bailiff was not an honourable man.[202] Evidently, the

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[197]   On such additionally shameful impositions, cf. e.g. B.VI.256, fol. 30, Sentence Marx Glattfelder, Monday after Ascension Day 1541.

[198]   Cf. the specification that the sanction was to be carried out at 1 p.m.: B.VI.272, fol. 94, Sentence Ruodolf Marti, 22.1.1668.

[199]   Cf. for examples of recantation in the four city churches of Zurich or in the home parish: B.VI.263, fol. 187, Sentence Jagli Roth, 12.3.1586; E.I.5.1b, Sentence Ulrich Frey, 22.3.1636.

[200]   Cf. Schwerhoff, 'Schranken', p. 73.

[201]   Cf. A.27.23, Statement Blin Bur, 20.3.1560.

[202]   Cf. A.27.98, Statement Caspar Zimberman, 24.4.1662.

bailiff could not let this rest, otherwise we would have no record of the case. We may conclude from this that citizens who could not take part in social occasions were stigmatised by means of horizontal social control.

Abkanzelung was similarly based on a humiliation of the culprit. This was not simply an embarrassing affair during a service, as three council directions addressed to the local ministers demonstrate. In 1672, Minister Conrad Vögts received written instructions for a sermon rebuking ten of his flock who had blasphemed while playing bowls. Then on Saturday evening, the minister was informed that the culprits had been sentenced to attend the service, but would be spared an *Abkanzelung*.[203] In 1687, the minister in Etzliberg had a similar experience. He was to rebuke Hans Schwarzenbacher in a sermon, but the culprit would be allowed to sit in his usual place.[204] The minister in Ütikon received more detailed instructions in 1720. He was to deliver 'a strict and earnest sermon, but with the necessary caution' (*eine scharfe und ernstliche Predigt, jedoch mit nöthiger Praecaution*).[205] It seems the council had good reason to ensure that delinquents were not simply handed over to the parish. Reprimands from the pulpit could prove counterproductive, as in the case of Riethmüller from Dietikon in 1717. Asked why he had stayed away from church for so long, he replied that at first he had not attended because the minister had made digs at him from the pulpit, but that was no longer happening.[206] We cannot be sure whether the council was aware of this problem, but we have evidence that the clergy were often asked to preach generally against blasphemy rather than specifically addressing those who had been sentenced.[207]

The consequences of the penalty of recantation indicate that the council had good reason to act with caution. In 1586, the wife of Cunrath Schüppers was sentenced to recantation, together with her husband. She was spared, however, when she threatened to do what her father had done. After being sentenced to a recantation, he had left the country.[208] Interestingly, this threat caused the council to decide that, as a nursing mother, Schüppers should be spared punishment. Evidently the judiciary was aware that the social consequences of an honour punishment such as recantation could be severe. This was indeed the intention of such penalties, as shown in

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[203] Cf. E.II.8, Letter Minister Conrad Vögts [?] to Waser, 5.6.1672.

[204] Cf. A.27.114 (dorsal note, 22.8.1687), Statement Hans Schwarzenbacher, undated.

[205] B.II.750, fol. 135, Sentence Heinrich Schnorf, 12.9.1720.

[206] A.27.131, Statement Riethmüller, 15.9.1717.

[207] Cf. as examples, B.II.471, p. 78, Sentence Heinrich Schultheß, 20.4.1650; B.II.808, p. 130, Sentence Gebhard Heller, 27.4.1735.

[208] Cf. A.27.39 (dorsal note, undated), Statement Cunrath Schupper, 18.7.1586.

a communication by Ruodolf Löuw, bailiff in Eglisau, in 1651. In it, he apologises for not promptly passing on to the minister an order to demand a recantation from Felix Huber. Receiving the order on Saturday evening, he had not been able to forward it to the minister in time for the Sunday service. He was now enquiring whether the punishment could be executed the following Sunday, or whether it should take place at the Tuesday service, which was also well attended.[209] It was clearly a matter of exposing culprits without delay to the judgement of their fellows.

The *Herdfall* penalty also had consequences for those sentenced. In a rare reference from the morals court records of 1734, tailor Bürkli from Zurich complained that tailor Oberman was refusing to pay his debts to him. Oberman replied that he would not take orders from someone who had blasphemed in his youth and been sentenced to the *Herdfall*. The court sentenced Oberman for insulting Bürkli, who had long since served a punishment that should no longer be mentioned.[210] The case indicates that Bürkli, although integrated in urban society as a master craftsman, remained vulnerable. He won his case in the morals court, but Oberman's argument bears witness to the long memory of the social environment and the long arm of horizontal social control.

The impact of honour punishments shows that these were not simply decreed by the council, but also practised by the social environment of the delinquent. Blasphemers were subject to a principle of social control with interlocking formal and informal justice. The fight against blasphemy was not simply a matter of political power being exercised by the judiciary. Formal and informal control overlapped.

Whereas the council dealt with cases of blasphemy from both city and region, the bailiffs decided only the cases in their own bailiwick. What cases were these? How did the bailiffs' sentences differ from those of the council? To what extent did the regional prosecution of blasphemy depend on the person of the bailiff? In summary, what was the significance of the bailiffs' jurisdiction for the political rule of the city over the region?

The fines registers from the Andelfingen bailiwicks provide some answers to these questions. The legitimate assumption that the bailiffs' calculations allow us to draw conclusions only on the fines meted out is deceptive, however. The registers also include loss-of-honour punishments, though we do not know whether these were systematically entered. There are no references to other punishment components. Is this because they were not entered in fines registers, or because they were handed down by the council alone? Only an examination of the local court records – not undertaken here – could provide an answer. Although the fines registers

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[209] Cf. A.27.90, Letter Ruodolf Löuw, 10.8.1651.
[210] Cf. B.III.178, p. 9, Entry, 6.6.1734.

do not give us a complete picture of jurisdiction in the region, they do at least allow glimpses of the sentencing by bailiffs, which goes beyond fines alone.

Only 1.43 per cent of those entered in the Andelfingen fines registers were found guilty of blasphemy. The figure is similar for the rural bailiwick of Greifensee, where in the period 1480 to 1519 offences against morals and religion made up 2 per cent of cases in the lower courts and 3 per cent before the council.[211] We can thus assume that the Andelfingen figures are representative. It is notable that the *Herdfall* alone was imposed sixteen times,[212] imprisonment eight times,[213] appearing before the morals court four times,[214] and *Ehr- und Wehrlosigkeit* just once.[215] The vast majority of cases were regarded as 'harmless' enough to warrant only a fine. We conclude that the more serious cases went before the council. Data from Greifensee and Kyburg confirm this, in that the figures for sentencing before the council are higher than those for the local courts. The distribution of fines in Andelfingen, as in the Zurich sample, further substantiates the assumption. It is immediately apparent that the Andelfingen bailiffs impose fines similar to those handed down by the council. The amount for both instances is generally between 2 and 50 pounds.[216] Urban and regional fines are shown to be comparable. Andelfingen imposes a large number of small fines of less than 5 pounds, whereas these are not found in the Zurich sentences. Conversely, heavy fines of more than 50 pounds are more frequent in the Zurich registers. This reflects the fact that the bailiffs dealt with less serious cases, the council with the severe ones. Bailiffs had less to do with blasphemers than the council, and dealt only with minor delinquents.

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[211] Cf. Hürlimann, *Soziale Beziehungen*, pp. 74, 297. It must be kept in mind that Hürlimann subsumes heresy, blasphemy, sexual offences, sorcery and further special cases in the category of offences against morals and religion – cf. ibid., p. 301.

[212] Cf. F.III.3, Fines Register Andelfingen: Heinrich Baßler, 1574; Uoli Bucher, 1593; Michel Zinzeller, 1694; Benedict Rütsche, 1695; son Hörnis, 1595; Hans Bucheller, 1611; Michel Küchli, 1611; Hans Honysen, 1611; wife of Jörg Wolfers, 1613; Bastian Kübler, 1638; Derus [?] Wekerling, 1641; Gallus Burman, 1641; Jagli Breiter, 1641; Joseph Wäsi, 1644; Hans Brunysen, 1645; a Bavarian pig herdsman, 1664.

[213] Cf. ibid., Fines Register Andelfingen: Hans Honysen, 1613; Felix Zuner, 1620; Bastian Kübler, 1638; Hans Brunysen, 1645; Jagli Hagenbuch, 1663; Caspar Metler, 1706; Jacob Bachnang, 1707; Jagli Sigg, 1707.

[214] Cf. ibid., Fines Register Andelfingen: Jeörg Hammerer, 1597; son of Heini Keller, 1598; Caspar Metler, 1706; Jacob Bachnang, 1707.

[215] Cf. ibid., Fines Register Andelfingen, Felix Zuner, 1620.

[216] Of the 41 sentences with fines, 30 of these were between 5 and 50 pounds, five between 50 and 100, and six over 100 pounds.

How heavy were the fines, and to what extent did this depend on the person of the bailiff? We can give an approximate answer to the first question. According to Peter Ziegler, the daily wage of a master craftsman rose between the mid-sixteenth- and the second third of the eighteenth century from around 8 shillings to about 20 shillings.[217] A price mandate of 1536 gives a meal in the inn as costing 4 shillings, a day's feed for a horse 1 shilling.[218] Figures for the city of Zurich in the early eighteenth century show that a worker could earn 20 shillings per day, and a carpenter 17 shillings. A Zurich pound (528g) of veal cost 3 shillings, a pound of butter 7½ shillings.[219] Thus the minor fines imposed were the equivalent of several days' work, some twenty meals at the inn or about three kilograms of meat. These were appreciable but not prohibitive fines. Apparently, the level of fines was not adjusted to developments in prices, so that towards the end of the Ancien Régime the fines were less heavy by comparison with earlier periods.

Contrasting the fines imposed for other offences enables us to assess the significance of those meted out for blasphemy. Examples from the bailiwick of Andelfingen[220] include Claus Ziegler, who paid 1 pound in 1546 for 'punching'. Hans Bentz, who used a weapon to throw Uolrich Bentz to the ground, was fined 5 pounds in 1562. Fines were similar in the seventeenth and mid-eighteenth centuries for insults to opponents such as 'good-for-nothing' or 'cheat', 'whore' and/or 'witch'. The insults 'thief' (*Diebin*) or 'rogue and thief' (*Schelm und Dieb*), on the other hand, often cost the offender amounts between 1 pound and 2 pounds 10 shillings. Quite different rates could apply to the same swearwords, however. In 1639, calling Mrs Rietmüller a 'witch' cost Jagli Ärbentz 15 pounds, and Maria Knöpfli had to pay 6 pounds for insulting the locksmith Schmand as a 'rogue' (*Schelm*). The Andelfingen bailiffs acted as typical early modern officials, not punishing strictly by the rulebook but taking both offender and victim into consideration. The same applied in cases of swearing and cursing. In 1632, Hans Othli was fined 9 shillings for swearing, and in 1663 Joerg Steiner's wife was fined fifteen. Evidently, the bailiffs had taken account of the defendants' poverty.

Blasphemous talk could be treated as a relatively ordinary offence, as comparison with other penalties demonstrates. Condemned one-time

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[217]   Cf. Peter Ziegler, *Zürcher Sittenmandate* (Zurich, 1978), Appendix, unpaginated.

[218]   Cf. Hürlimann, *Soziale Beziehungen*, p. 245.

[219]   Cf. Fritz Lendenmann, 'Die wirtschaftliche Entwicklung im Stadtstaat Zürich', in Flüeler and Flüeler-Grauwiler (eds), *Geschichte des Kantons Zürich*, vol. 2, pp. 126–71; here: p. 149.

[220]   The following examples from Andelfingen may all be found under the name and date in the fines register of the bailiwick (F.III.3).

adulterers, guilty of immorality (*Unzucht*) had to pay 100 or 150 pounds, while in 1716 the sorcerer Ulrich Fehr was fined 40 pounds together with four other men from Eglisau for the use of sorcery (*wegen gebrauch lachsnerischen Künsten*). Comparison with verbal insults reveals that those using extreme or very personal insults were sentenced to heavy fines. In 1601, Ruodolf Goldschmid had insulted Heinrich Randegger, claiming he was unfit to receive the sacrament and was worse than Judas the betrayer. This cost him 11 pounds. Insult and physical injury generally cost the defendant up to 5 pounds, but the amount could be much higher. The range was just the same in cases of blasphemy. In other words, cursing and swearing were equivalent to a profane insult and thus quite ordinary.

Examples from other categories of offence confirm this. Two men who vomited after heavy drinking, thus despising God's gifts, were sentenced to fines of 3 pounds (Jorg Schmidtknecht in 1545) and 5 pounds (Schider Müller in 1566). In 1540, Rudi Sigg had to pay 5 pounds for immoral sexual behaviour; in 1630, a married woman was fined the same sum for illicitly fondling the men at her table. Several inhabitants of Flach and Volken had to pay 10 pounds in 1649 for immoral dancing, and the following year Hans Widermann's fishing after the evening Pentecost service cost him 8 pounds. Perjury was a more serious offence. Hans Jost was sentenced to a fine of 26 pounds in 1534, and the 'poor journeyman' (*armer Gsell*) Zent Wyss to 50 pounds in 1595. These examples demonstrate that the bailiffs treated blasphemy similarly to perjury or other immorality offences. They were not exceptionally strict towards blasphemers.

But were there not some bailiffs who proved exceptionally zealous in pursuit of God's honour? In Andelfingen between 1561 and 1791, for example, eight bailiffs were conspicuous for the above-average number of blasphemers brought to justice each year; two other council representatives had strikingly below-average figures. The distribution of annual rates does not, however, reveal any marked waves of prosecution of blasphemers. Only towards the end of the seventeenth and beginning of the eighteenth centuries is there greater activity on the part of the bailiffs, with a final decline by the end of the Ancien Régime. The higher averages at the turn of the eighteenth century contrast with the waves of prosecution in the whole area of the territorial state of Zurich. This means that the striking figures in Andelfingen are not associated with general trends in the prosecution of blasphemers. If this is so, we can only conclude that the ten bailiffs with above- or below-average prosecution figures regarded blasphemy as highly significant or insignificant. The person of the bailiff played a part in the prosecution of blasphemers. A small part, admittedly, since the figures are not sharply divergent. Thus the bailiff had a certain influence on the prosecution rate for blasphemers, but could not simply show exceptional tolerance or intolerance.

The bailiffs did not have this scope when it came to setting the fines. The rates are similar for all the Andelfingen bailiffs. Whatever their level of interest in blasphemers, the level of their sentencing was governed by the penal principles of the council. A few examples of this will suffice: fines for insult and injury ranged mostly between a few shillings and 2 pounds 10 shillings,[221] but could be as high as 10, 50 or more pounds.[222] The same applied to various uses of blasphemous language.[223] Thus we find that the extent to which blasphemers were taken to court in the region depended in part on the person of the bailiff, but the sentence did not. Unlike the situation in England at the outset of the Modern era,[224] this finding is in keeping with what Schmidt has established for the morals courts in the Berne region. Comparable offences were comparably punished, regardless of which minister was present in the morals court.[225] Justice was dispensed in the interests of the authorities, not the personal interest of a bailiff or minister.

Understanding all this static judicial material as part of a dynamic development is a difficult process. The sample presents statistical problems. Above all, the sentences prove to be highly individualised. They take so many factors into account as to make comparison with other cases difficult. Even in a simple case such as the sacramental oath it is not easy to establish the level of fines imposed at one point in time in comparison with another. Whether and in what way the council's and the bailiffs' jurisdiction changed over time can only be outlined. The negative findings are particularly striking. Sentences from 1525 to 1747 do not vary according to the peaks of prosecution, which occurred in 1525–35, 1560–1610 and 1650–90. Death penalties are concentrated in the seventeenth century, for instance, but the wave of prosecutions in 1650–90 does not show marked impact.

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[221]   Cf. F.III.45, Fines Register Zurich: Jung Notz, Natalis 1573 or Caspar Notz, Baptistalis 1619; Caspar Knor, Natalis 1623; Hanns Petter Äberhart, Natalis 1573; Hans Ulrich Berthold, Baptistalis 1573.

[222]   Cf. ibid., Fines Register Zurich: Hanns Ziegler, Natalis 1573; Hans Ruodolf Stapfer, Baptistalis 1624; Heinrich Landolt, Baptistalis 1573.

[223]   'Unchristian oaths' (*unchristenliche Schwür*) resulted in a fine of 5 pounds (F.III.45, Fines Register Zurich, Hans Jörg Hallouwer, Natalis 1617); 10 pounds for 'heavy swearing and blaspheming' (*übel geschworen und Gott gelestert* – ibid., Fines Register Zurich, Simon Nötzli, Natalis 1578), or even 200 pounds for 'unchristian and improper swearing and blaspheming' (*unchristlichen unnd ungebürlicher schwüren und gotts lestrungen wegen* – ibid., Fines Register Zurich, Juncker Hans von Waldkirch zu Schollenberg, Baptistalis 1579).

[224]   Marjorie Keniston McIntosh concludes that the sanctioning of moral offences depended considerably on the individual regional courts and the jurors themselves: *Controlling Misbehavior in England 1370–1600* (Cambridge, 1998), p. 209.

[225]   Cf. Schmidt, *Dorf*, pp. 149–56.

Similarly, the rates of acquittal and part-pardon appear unconnected with the waves of prosecution. The fact that the judiciary came down harder on blasphemers in some decades than in others did not mean that more lenient or harsher punishments were meted out.

The distribution of punishment components in the era under discussion reveals three further findings. The first concerns punishment by physical means. The rate of corporal punishment does not decline at the end of the seventeenth century, and rises at the beginning of the eighteenth. Even the 'primitive mediaeval' punishment of tongue-slashing was still in use.[226] This hardly points to more humane sentencing. However, we should not overestimate the significance of corporal punishment, which makes up just under 1 per cent on average in the period under investigation, with capital punishment accounting for just under 0.5 per cent of punishment components. Physical force was not the means of choice for the judiciary in dealing with blasphemers.

The second finding concerns the relation between secular loss-of-honour punishments (*Ehr- und Wehrlosigkeit*, *Verbot der Ürten*, being brought before the council) and church ones (*Herdfall*, recantation, reprimand from the pulpit, being brought before the morals tribunal). From the beginning of the seventeenth century, there is a shift towards the ecclesiastical sanctions. Unlike the situation in the morals courts of the Berne region, however, it cannot be said that the ecclesiastical honour punishments characterised the immediate post-Reformation era. Although its significance declined, the *Herdfall* still accounted for about one-quarter of church punishments in the first half of the eighteenth century.[227] It was gradually replaced by recantation, reprimand from the pulpit, and citing before the morals tribunal. The rate for this last penalty increased *vis-à-vis* the others. Ecclesiastical punishments were thus more widely distributed, the culprits less frequently exposed before the congregation. Overall, the council shifted the theologically defined offence of blasphemy from the profane- to the sacred sphere. The proportion of church sanctions increased, while the social character of the norm transgression diminished. Can this be read as a sign of secularisation?

The third finding is that the jurisdiction of the Zurich Council shows no clear development.[228] The punishments remain comparable throughout the period under investigation. There is no recognisable shift from corporal to

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[226]   This punishment remained exceptional even in mediaeval times, however. Schuster notes only two cases in fifteenth-century Constance: *Konstanz*, p. 76).

[227]   Schmidt speaks of a 'dramatic decline' of the *Herdfall* punishment in Vechigen and Stettlen from the seventeenth century. Cf. Schmidt, *Dorf*, p. 91.

[228]   Schwerhoff suggests this assessment when he speaks of an increasing significance of shame punishments *vis-à-vis* fines, a decline in heavy corporal punishment in the eighteenth

loss-of-honour punishments and then to fines. Up to the end of the Ancien Régime, the death penalty retains its significance. Acquittals and part-pardons show no development in a specific direction. We cannot draw lines of modernisation – let alone postulate linear development – leading away from physical and incriminating sanctions towards material and less stigmatising punishments. The Zurich Council's sentencing provides no evidence of progress towards a more 'modern' and 'humane' judicial policy in the Early Modern era.

These findings raise the question of whether (and if so, in what way) this jurisdiction continued that of the late mediaeval era, or whether the Reformation formed a watershed. The increase in morals legislation might well suggest the latter to be the case. But to what extent did the written recording of legal rulings lag behind judicial practice? The current research situation permits a cautious assessment. Samples from the council manuals of the Late Middle Ages reveal that neither the penalty of reprimand from the pulpit nor that of recantation were newly introduced by the Reformed Council, and that in the fourteenth century the conviction rate was high, namely three-quarters of those accused.[229] Appearing barefoot and bareheaded at the church – as in other places[230] – and having to ask the congregation for their prayers must have been similarly incriminating to executing the *Herdfall*. But the Reformation did mark a break in one respect. Evidently for theological reasons, undertaking a penance pilgrimage to Einsiedeln and making confession there was completely deleted by the Reformed Council from the catalogue of penalties. Fines remain at similar levels in the Early Modern era to those of the fourteenth and fifteenth centuries.[231] They do not appear to have been adjusted to changing price levels. This suggests that the level of punishment declined by the end of the Ancien Régime. Overall, the findings point to strong continuity between the Late Middle Ages and the Early Modern era rather than a change of direction occasioned by the Reformation. Apparently, blasphemers were

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century, and an increasing differentiation of the stock of punishments. Cf. Schwerhoff, *Gott und die Welt*, pp. 165, 196, 212, 220–21, 240.

[229]   Burghartz calculates for the period 1376 to 1385, that 73 per cent of the 62 cases of blasphemy resulted in sentencing by the council (cf. Burghartz, *Leib*, p. 135). For the penal system in the fifteenth century, cf. the relevant *Ratsbücher* under B II.

[230]   Cf. for Cologne and Paris: Schwerhoff, *Gott und die Welt*, pp. 164, 263; Cabantous, 'Histoire du blasphème', p. 130.

[231]   Cf. the data for the fourteenth century in Burghartz, *Leib*, p. 267, n. 63. For the fifteenth century, cf. e.g. B.VI.218, fol. 352, Sentence Uelrich Ritter, X.X.1452; my thanks to Hans-Jörg Gilomen for allowing me to access the databank on the *Ratsbücher* for the years 1450–70, and to Pascale Sutter for printing out the relevant data.

more frequently apprehended in early modern Zurich than more severely punished.[232]

Summary Examining the sanctioning of blasphemy by the judiciary means exploring the offence of verbal sin in its political dimension. The place of blasphemy within council jurisdiction as well as the characteristics and changes in judicial policy reveal the extent to which the secular authorities prosecuted blasphemers in order to expand their own rule over their subjects and to use the church to further their own interests.

In quantitative terms, blasphemy makes up for a tiny proportion of court cases. Qualitatively, we find that the 'average blasphemers' often paid the same fines as those who had inflicted verbal or physical injury; and 'common' blasphemy and injuries were treated as equivalent offences. The offence of blasphemy in its everyday form did not have special status when it came to prosecution. It was simply one of a number of moral lapses. If at all, verbal sin was marked out by its ambivalent character, in that it was treated as both a profane and a sacred offence. It was certainly an honour offence *par excellence*. God's honour was restored when the culprits had to offset their guilt with their honour capital.

The council's handling of blasphemy, theoretically a grave offence, as being of secondary importance indicates that the prosecution of blasphemers cannot have been used as a particular instrument of discipline. Although the Zurich judiciary handed down the death penalty time and time again – less frequently, however, than is often claimed – its response to blasphemy could elsewhere be very differentiated.[233] The Zurich judiciary operated a policy of banishment in dealing with citizens from outside Zurich, but otherwise avoided the exclusion of offenders. This was neither a marginals nor a marginalising policy. On the contrary, blasphemers in Zurich, whose punishments indicate that they were for the most part respectable citizens, were sanctioned in a way that stigmatised and excluded them for a time, but enabled them later to be reintegrated in the life of the community. The council was concerned that offenders should be reintegrated in their church parishes by means of an active gesture of reconciliation, and decided when they should be readmitted as fully entitled subjects by removing the secular loss-of-honour sanctions against them. The council pursued a dual policy of restitution towards blasphemers: the restoration of God's honour was coupled with the reintegration of offenders in their political

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[232] On this tendency, see the comparison with council sentences from Lucerne in Chapter III.

[233] For the Calvinist Palatinate, cf. Vogler, 'Entstehung', pp. 175–6. Similarly, in the early modern Duchy of Württemberg, punishment for blasphemy ranged from a fine to the death penalty. Cf. Schnabel-Schüle, *Sanktionen*, p. 234.

and ecclesial parish. Women – who caused less offence as blasphemers, since they tended to blaspheme in less public environments and were thus not so often reported as men – tended to be more leniently treated by the council.

The reintegration policy of the judiciary rested on five pillars: the calculation of the sentence according to the logic of social capital; remorse on the part of the defendant; the jurisdiction of the bailiffs; the participation of the church in the enforcement of penalties; and the implementation of more formal sanctions by means of informal social control.

Unlike the modern judiciary, the early modern court applied 'person-oriented' rather than 'case-oriented' criteria. This meant that the level of fines for the same act of blasphemy, for example, could vary considerably. Those with a certain social capital at their disposal were spared corporal punishment. In this way the council acted according to principles of its own, though within strict boundaries. As far as the exceptional cases allow an assessment, we do not find that higher officials were shown particular privilege in sentencing. Whatever mitigating circumstances appear in the sentences, they make no difference to the punishment itself. It is the same as in the cases without recorded mitigating circumstances. Similarly, petitions and supplications make little difference to the sentences. There are few part-pardons, and acquittals are exceptional. Sentences note a defendant's remorse, but this does not affect the punishment. The point of the confession, after all, was not to influence the sentence, but to show that the penitents submitted to God and the authorities, thus restoring the damaged relationship of trust with both.[234] Those who did not trust but obstinately continued to deny their guilt and were then found guilty were consequently sanctioned. This judicial policy reveals three facts about the judiciary and the use of it. First, the accused had hardly any opportunity to influence their sentence by strategic means. Second, a false accusation of blasphemy in order to harm someone else and benefit oneself was evidently too risky in view of the threatened sanctions. Third, the council's jurisdiction enabled it to present itself as a strict but caring Christian authority, without making itself dependent in its sentencing on the criteria it named as reference points.

Bailiffs and church supported the council's judicial policy. To some extent, the prosecution of blasphemers depended on the person of the bailiff, but the bailiffs' sentencing complied with council principles. They represented the judicial policy interests of the canton in the region. It is

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[234] This is illustrated by one of the exceptionally rare instances of torture. Jagli Maag, accused of 'godless talk' (*gottlose Reden*), tried in vain to convince his torturers that he could not confess to something he could not remember because of his drunken state at the time: A.27.113a, Statement Jagli Maag, 31.1.1685.

immaterial in this context that the bailiffs dealt less with blasphemers than did the council, and that the cases before them were not the gravest.

The church participated in secular judicial policy by enforcing the ecclesiastical loss-of-honour punishments. In this way, the church took part in the reintegration of offenders in parish life. The secular authorities for their part did not intervene in church life. Secular and church instances did not functionalise each other for their own purposes. It is striking to find that church and secular punishment components are hardly complementary. The fact that the council increasingly handed down ecclesiastical rather than secular punishments may express a shifting of the theologically defined offence of blasphemy from the profane- to the sacred sphere. Possibly this is the result of secularisation processes that place religious affairs increasingly in the sphere of the church or of personal beliefs.

Just as the secular authorities had need of the church in order to prosecute blasphemy as a metaphysically oriented offence, the honour punishments required the subjects to relegate the offenders socially in line with the penalty. The more formal punishments meted out by the secular authorities had to be complemented by more informal social sanctions on the part of the subjects. The council decreed sentences; the subjects enforced them. It is no coincidence that the council and the members of the morals court relatively rarely subjected the accused to a direct encounter. Rather, the authorities relied on the social environment of blasphemers to give effect to the sentences handed down.

The current research situation allows only a limited comparison of judicial policy in Zurich with that of other cities. It seems that Reformed Zurich laid particular emphasis on the stigmatising character of penalties. Fines were usually combined with honour punishments. This points to a specific severity of the Zurich judiciary. The suggestion, however, that large numbers of blasphemers were sentenced to death in Zurich is incorrect. In this respect, Zurich was not so different from other places.

The research situation and the problems of quantitative evaluation make it extremely difficult to assess continuities and discontinuities in judicial policy towards blasphemers. Insights into late mediaeval jurisdiction suggest that continuities dominate in the Early Modern era. The crucial change is not in the severity of punishments, but in the number. Blasphemers were not necessarily more severely punished, but they were more frequently apprehended.

Clear lines of development in the council's sentencing between the Reformation and the end of the Ancien Régime cannot be drawn. The council's sentencing policy does not fit into processes of humanisation, disciplining or modernisation. It does, however, have a political dimension, in that the council was concerned for the reintegration of the Zurich

blasphemers in their church parishes and civic communities, and depended for this purpose on the cooperation of the subjects.

1.3. Blasphemy as the Object of Horizontal Social Control

How Witnesses Reacted to Blasphemy

The morals mandate prescribed an unequivocal reaction to blasphemy: it was to be punished on the spot, or a charge was to be brought.[235] In practice, witnesses had further options. This section examines the behaviour shown by hearers of blasphemous talk before they turned to the judiciary. In turn, how did blasphemers react to the witnesses' reactions? What do these behaviours reveal concerning the status of blasphemy?

There were law-abiding subjects in Zurich who sanctioned immediately or appealed to the authorities. But others simply expressed disapproval, and there were some who more or less actively tolerated blasphemy. A strong reaction was expected from officials. The minister in Meilen, Johann Rudolf Zeller, reported in 1686, 'not without extreme horror' (*nicht ohne sonderen grausen und schrecken*), that Bailiff Ebersperger had reacted in exemplary manner when he heard blasphemies uttered by Heinrich Wyman, a surgeon. Ebersperger had gone immediately 'in horror' (*in schrecken*) to the minister and reported the offence.[236] The judiciary of the eighteenth century still expected a clear reaction to blasphemy. In 1755 in Wernetshausen, Heinrich Pfenninger was asked during interrogation whether his wife had not been horrified to hear his blasphemous words.[237] Evidently not, the defendant argued, since she had eaten the meal he offered her. His words had not, as was apparently to be expected in a case of blasphemy, spoiled his wife's appetite.

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[235]   I use 'social control' as a broad sociological term, meaning all the ways in which people classify and sanction others' behaviour as deviant. Social control may be vertical, e.g. exercised by the authorities, or horizontal, e.g. expressed by mutual reprimands. Cf. Helge Peters, *Devianz und soziale Kontrolle: Eine Einführung in die Soziologie abweichenden Verhaltens* (Weinheim–Munich, 1989), p. 20. For the sociological debate on this term, cf.: Sebastian Scherer and Hennerq Hess, 'Social Control: A Defence and Reformulation', in Roberto Bergalli and Collin Summer (eds), *Social Control and Political Order: European Perspectives at the End of the Century* (London–Thousand Oaks–New Delhi, 1997), pp. 96–130; Collin Summer, 'Social Control: The History and Politics of a Central Concept in Anglo-American Sociology', in Bergalli and id. (eds), *Social Control and Political Order*, pp. 1–33.

[236]   A.27.11, Case Heinrich Wyman Report Johann Rudolf Zeller, 31.1.1686.

[237]   Cf. A.27.146, Statement Heinrich Pfenninger, 16.10.1755.

Such expectations sometimes caused witnesses or blasphemers to report how blasphemous words had affected them. When in the first third of the sixteenth century Hans Druodel claimed, in the house of Niclaus Martin, that the devil had invented prayer, those around the table had been very shocked and warned him not to repeat this.[238] Words like this could have physical impact on the listeners. The printer Hermann Baumann, for example, arrived home one day in 1670 to hear his wife talking with a woman neighbour and a woman friend. These two had spoken ill of him and the neighbour had claimed – misunderstanding his words – that he had blasphemed in anger. She had clapped her hands over her head on hearing it. Men could react just as emotionally as women. The innkeeper Gugoltz from Mettmenstetten, for example, defended himself in 1697 by reporting that he had been shocked and shamefaced to hear himself comment, when several nuns were said to be pregnant, that the Holy Spirit must have been responsible.[239] Evidently, a respectable man had to redden with shame at such lewd, blasphemous talk.

Being shocked by blasphemy was a sign of being a respectable person. Calling blasphemers to account was even better. In 1554, the parish minister of the rebellious bailiff Cunrad Uolmanns took matters into his own hands. Having heard a few days previously of Uolmanns's blasphemous talk, he gave a general reprimanding sermon that was clearly directed at the bailiff. He announced from the pulpit that some members of the community were guilty of more serious blasphemies than those for which blasphemers in Zurich had been sentenced to death.[240] In this way the minister gave due warning, but did not further pursue the individual in question. He had acted both strictly and mercifully, and had shown commitment to God's honour.

Witnesses who criticised blasphemers directly did not always have God in mind, however. The case of Rudolf Bräm is a good example. In 1681, the butcher became so furious with the bailiff that he cursed and swore about him. The witness Bünhart stated that Bräm's wife implored him to stop, saying he should not blaspheme God like that, because the walls had ears.[241] Instead of being concerned with the rules relating to divine honour, the circumspect butcher's wife attempted to calm her husband to prevent him being denounced for causing disturbance. For some at least, avoiding conflict took precedence over restoring God's honour.

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[238]   Cf. A.27.18, Statement Steffen Haß, undated.

[239]   Cf. A.27.120, Statement Heinrich Gugoltz according to Protocol of Knonauer Amt, 4.9.1697.

[240]   Cf. A.27.20, Case Uolmann Report Bailiff, 13.9.1554.

[241]   Cf. A.27.111, Statement Bünhart, 16.11.1681.

Witnesses to blasphemous speech actions claimed to have clearly reprimanded the culprits even when they were acquainted but not related. The clerk Schweitzer, for instance, reported sitting in an inn with the Olten bailiff Hans Jakob Hönysen and Hönysen's brother-in-law, paymaster Landolt. Hönysen had complained that the wine was not good, which meant that the Lord God (*absit blasphemia dicto*) had cheated him. The clerk had admonished Hönysen and warned him of severe punishment if he did not refrain from such talk. And Clowi Mantz, who was also present, had wagged his finger at Hönysen.[242] Whether verbal or non-verbal, these warnings were unequivocal. Hönysen, whom Schweitzer and Landolt evidently knew well, was to refrain from such talk if he wanted to avoid severe punishment. Possibly his listeners were indeed shocked to hear Hönysen attack divine majesty in this manner. But the idea of the bailiff being taken to court was even more dreadful to them. They warned him, but left it at that.

Bailiffs were of course not supposed to be the black sheep in the community, but the leading lights. Bailiff Holtzhalb fulfilled this expectation. In 1686, he reported having heard Bollerbüren arguing with Anna Stadler – probably a prostitute – and cursing and swearing. He had warned him to stop if he wanted to avoid being charged.[243] The bailiff tried initially to deal with the matter informally, by threatening a charge but not initiating it. Once again, God's honour came off worst. The bailiff was more concerned to prevent further blasphemy than to punish the one already committed. He wanted to avoid conflict with Bollerbüren.

Blasphemers aroused shock. They were reprimanded in a more or less friendly manner. Some people, however, recoiled from them in abhorrence, as an incident at an inn in 1634 reveals. There was uproar at the blasphemous utterance of a Jew that Christ was not begotten by the Holy Spirit but by a Jew. The guests vied with each other in expressing their repugnance. Wanger claimed he would not say such things for 100 guilders. Züg would not do it for 200, he said, and Von Schwitz asserted he would not even take 1,000 guilders for such blasphemy. They had left it at that.[244] Even if the case was not pursued, the message was clear: blasphemy was a despicable business from which respectable people demonstrably kept their distance.

Such abhorrence could even be expressed in body language. Borius Bünhart described to his companions how his disgust at the blasphemous language used by his friend Rudolf Bräm had caused him to beat his chest

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242   Cf. A.27.113, Statement Clerk Schweitzer, 12.11.1684.

243   Cf. A.27.160, Statement Bailiff Holtzhalb, 26.7.1686.

244   Cf. A.27.72, Statement Caspar Gletlin, X.4.1634.

and say, 'Let's go. I can't bear to stay here.'[245] Bünhart had decided on an emphatic gesture that, quite literally, left the blasphemer behind. Others acted more forcefully in attempting to prevent blasphemous utterances. They would put a hand in front of the speaker's mouth before blasphemies could emerge, for instance. Were they more concerned to protect God's honour or to spare the speakers a court case? It is hard to tell. But their reaction certainly indicates that blasphemers were stigmatised as irresponsible speakers.

It is only to be expected that in the court records witnesses emphasise how much they despise blasphemers. We can deduce indirectly that there were various forms of toleration of blasphemy. Wives, for example, often left it to their husbands to report blasphemers. They merely told their spouses – without delay, and duly horrified, as their witness statements emphasise – what they had heard. A typical example is that of the married couple Agata Äschmann and Hans Heinrich Hännßler. As innkeepers in Richterswil, they were legally required to report blasphemies uttered by their guests. Hännßler had failed to do so and defended himself in 1612 to the authorities by claiming that he had heard of blasphemous language used by Ulrich Walder from his wife. She in turn had been alerted to the blasphemy by a prostitute who was present at the time. Hännßler had ignored this, he said, because it came 'from such a person' (*von einer sollichen person*).[246] Women might draw attention to blasphemy, but it was usually the men who decided whether it should be reported. As heads of household, they were often the first to be told. In 1669, Jacob Kienast had not heard the blaspheming Marx Bleuwler himself, but had heard of his words from his wife, his servant and a further witness. He had then decided to report Bleuwler to the clergy.[247]

A case from the year 1661 reveals, however, that such decision-making by the men arose from role expectations in the early modern marriage rather than from women's legal and social opportunities to report blasphemers. Verena am Büel, the wife of Georg Zindel, went to her sister-in-law, the wife of Conrath Zangger, to report her own husband's blasphemy. Evidently, Zangger's wife took the matter further, as eventually the bailiff stated to the council that Zindel's wife had reported tearfully that her husband swore and cursed frequently and took no notice when she urged him to pray.[248] Despite her religious scruples, Verena am Büel had passed the responsibility to her sister-in-law, presumably to avoid further

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[245] 'Laßend uns gahn, Ich mag nit mehr da sein' – A.27.111, Statement Borius Bünhart, 16.11.1681.

[246] Cf. A 27.57, Statement Hans Heinrich Hännßler, X.4.1612.

[247] Cf. A.27.103, Statement Jacob Kienast, 22.1.1669.

[248] Cf. A.27.98, Letter Bailiff Wolff, 26.7.1661.

marital conflict. Other examples show that women preferred to avoid the direct route to the judiciary when they accused their own relatives of blasphemy.[249]

There is a difference between delegating an accusation of blasphemy and avoiding it altogether. Someone who went to bed while the disliked neighbours were rollicking, cursing and swearing, or admitted withdrawing into the garden so as not to hear neighbours' blasphemies, wanted to steer clear of the whole bothersome business.[250] This attitude was acceptable in the case of habitual blasphemies. In the early sixteenth century, Rudolf Großmann freely admitted being asked by the journeyman Heinrich from Höngg whether he had not heard Jacob Brögen cursing. He had answered that he did not want to listen, since he didn't like to hear swearing, and thought someone else might report the incident.[251] Whoever did not want to hear could turn a deaf ear and avoid trouble. It seems that Großmann was not unduly concerned about divine honour or retribution.

In a society where people depended on each other, there was good reason to seek to get on well together. This was probably why Bailiff Wolff was stalled when he tried to gather information about Georg Zindel in 1661. No one, he reported in frustration, had heard the curses Verena am Büel had complained of to her sister-in-law. Witnesses claimed they had heard nothing because there was a stream running in front of the house.[252] We may well assume this to be a stratagem rather than a sign of their clear consciences. The neighbours were evidently more concerned for their relationship with Zindel than for keeping the law or restoring God's honour.

Another form of toleration of blasphemy was treating it with indifference. In such cases, the responsibility for respecting religious norms was neither delegated nor refused. It was ignored completely. This attitude is found in Zurich particularly when blasphemy occurs in typical situations and social milieux. A good example is the case of a miller's labourer from Catholic St Gallen at an inn in Bischofzell in 1673. He had called the Protestant translation of the Bible, the written Word of God, a heretical book, and had been banned from the country for doing so. He had returned some time later, despite the fact that blasphemous religious insults were long remembered. The bailiff stated that no one was angry with him, since no one cared about the blasphemy any more.[253] The incident had become an insignificant, tolerable everyday occurrence.

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249   Cf. A.27.103, Case Süri Letter Bailiff Heinrich Kilchperger, 28.12.1668.
250   Cf. A.27.13, Statement daughter of Felix Nüßeler, and Andreas Rytzli, undated.
251   Cf. A.27.12, Statement Rudolf Großmann, undated.
252   Cf. A.27.98, Letter Bailiff Wolff, 26.7.1661.
253   Cf. E.I.10.5, Report Bailiwick, 19.7.1673.

Blasphemy was by no means a trivial matter, however, and some witnesses sought to make use of hearing it to their own benefit. When blasphemy occurred at an inn, witnesses offered not to report it if the blasphemer agreed to pay their bill. This happened, for instance, in 1612, when two journeymen offered not to report Uli Walder for his blasphemies on the Mother of God at the inn if he would pay. The three of them came to an agreement, had a drink together, and parted amicably.[254] Here the religious norm transgression was used as a pretext for conviviality, and one element of that conviviality was the enjoyment of blasphemous jokes. Witnesses were not always horrified when they heard blasphemous words. Enjoying a drink together was more important to them than the thought of an offended deity.

Blasphemers did not need to respond to witnesses' reactions unless they expressed displeasure. Only then was it necessary to deal with tension. In principle, blasphemers gave one of two responses to their opponents: some admitted their wrongdoing; others boldly stood by their speech action. Naturally enough, the judiciary preferred the first response. Thus the culprits attempted to limit the damage, or witnesses drew attention to their exemplary remorse. A typical example is the statement by Jacob Zahnder in 1685 that he was 'cut to the quick' (*seye ihm ein stich ins hertz gegangen*)[255] when he realised what blasphemies he had uttered. In the eighteenth century also, the judiciary expected deep remorse on the part of blasphemers. Heinrich Pfenninger was asked by the court whether he had not wept when accused of using blasphemous language.[256] The body was a truthful mirror of the soul.

Blasphemers were well-advised to regret and retract their utterances as swiftly as possible. Nonetheless, the judicial records more often note obstinate individuals, such as Michel Keller or Hans Jacob Atzger, who stood by their words.[257] Despite being turned out of the tavern for cursing in 1563, they had not apologised but insolently planted themselves against the wall and abused God's gifts of bread and wine by putting their feet on the table.[258] In 1723, Andreas Zander from Bachenbülach was warned of divine punishment if he should continue his cursing and swearing. His reply was, 'May God come, may God come with vengeance if I am guilty.'[259] Both Keller and Zander turned a deaf ear to the legitimate warnings of

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[254] Cf. A.27.57, Statement Rudolf Goldschmid, X.4.1612.

[255] A.27.113a, Statement Jacob Zahnder, 20.3.1685.

[256] Cf. A.27.146, Statement Heinrich Pfenninger, 16.10.1755.

[257] Cf. A.27.24, Report Sub-bailiff Andres Farmer, Friday after St John's Day 1563.

[258] Cf. A.27.99, Case Jacob Atzger, Report Parish Minister, x.7.1563.

[259] 'So kome Er, so kome Er und räche es, wan ich schuldig bin' – A.27.135, Statement Hirt, 18.10.1723.

witnesses. It was not religious fervour that motivated them, but provocative ferment. They were among the social rebels we have already mentioned.

Summary   Before a blasphemy was reported, the offence had already given rise to a range of reactions. Whatever the response of witnesses to blasphemy, their behaviour consolidated religious norms that applied in practice regardless of legal or ecclesiastical rules. In this way, the witnesses exercised horizontal social control towards blasphemers. There was some overlap between this control and the aims of the judiciary, so that disciplining by the authorities and by the community was complementary.

The statements made by witnesses or defendants concerning reactions to blasphemy reveal the pressure applied to both to justify their behaviour. Time and again witnesses were asked by *Nachgänger* about their compliance with the morals mandate. Witnesses had to convince the court that they were indeed responsible subjects although they had not reported the case. Those seeking to protect blasphemers would claim that the latter had heeded their warnings and shown immediate and sincere remorse. Blasphemers claimed the same for themselves. These strategies of argument and interrogation indicate that, for the authorities, the morals mandate is not simply a symbolic piece of paper, but a concrete means of calling the subjects to account and thus of disciplining them.

The reactions of witnesses to blasphemy fall into two groups. Some expressed their disapproval or attempted to apply the morals mandate actively. Others tolerated the blasphemies or even integrated them in their conviviality. In the first group, witnesses' disapproval could – in accordance with normative expectations – be expressed in a strong physical reaction. This (alleged) reaction corresponded to the ideal of the exemplary subject's recognising blasphemy as a grave offence. The second group of witnesses did not flee blasphemers, but warned them. Their motives are various and not necessarily honourable. Threatening blasphemers with a court case meant claiming to represent the interests of God and the authorities. But personal interests also came into play when witnesses warned blasphemers. They sought to protect family or friends from punishment. Bailiffs who warned but did not initiate proceedings against blasphemers avoided open conflict and thus made life easier for themselves as officials. God's honour came off worst. However reprehensible the blasphemous speech action might seem to these witnesses, they assumed that the matter could be dealt with informally.

Others recoiled in horror from blasphemers and took more decisive action. They distanced themselves emphatically, sometimes physically, from the perpetrators, avoiding all contact with them. Tolerating such people would mean staining one's own honour. These witnesses stigmatised

blasphemy as an unacceptable offence and thus indirectly honoured God and the authorities.

Some witnesses exercised control themselves by demanding the *Herdfall* from blasphemers. We cannot tell how big this group was, since there are court records only for the cases in which witnesses met resistance to their demand. There are indications, however, that the people of Zurich tended not to act as guardians of the law in this way.

We know as little about the motives of the informal guardians of the law as about their number. Were they really concerned to restore God's honour, or did they seek advantage for themselves at the expense of the culprits? The paucity of sources relating to the practice of the *Herdfall* prevents a clear answer to this question. Certainly the offence of blasphemy opened both options to the witnesses.

The motives of witnesses who put a hand to the mouths of blasphemers also appear ambivalent. Preventing someone from uttering further blasphemies could be interpreted in several ways. Possibly they sought to stigmatise the speakers as irresponsible subjects; perhaps they sought to prevent God's honour being sullied. Whatever their motive, the decisive action taken by witnesses is proof of the provocative force of blasphemy in both social and religious terms.

A quite different attitude was apparent when witnesses passively or actively tolerated blasphemy. Four groups can be identified here. Some witnesses did not react directly to blasphemers, but delegated their responsibility to do so. Often it was wives who adopted this attitude, reporting blasphemous incidents to their husbands and leaving it to them as head of household to bring charges. Women complaining of blasphemies uttered by a female relative evidently tended to report them to a female friend instead of going to the authorities themselves. It was not legal requirements but gender-specific role models (in marriage) that caused the men to decide and the women to let other women speak for them. The example of blasphemy indicates that religiously charged speech actions tended officially to be a male-specific domain.

Closing one's ears to blasphemy meant tolerating it and ignoring the responsibility given in the morals mandate to all Zurich subjects. It showed a desire to avoid direct confrontation with the culprits rather than concern for God's honour. Blasphemy was a punishable offence, but since it could bring one's own affairs into disarray, it was best ignored altogether.

A similar attitude was shown by those who ignored blasphemy out of indifference. These witnesses regarded blasphemies as behaviour typical of certain social groups and situations, an everyday and banal occurrence not deserving of further attention. Such witnesses had no need to deny responsibility for complying with the morals mandate, since from their point of view no action was required.

The most extreme position was that of witnesses who actively tolerated blasphemy. They promised, for example, not to report a blasphemer who undertook to pay their bill at the inn. This provided a good pretext for another round of drinking. Those who laughed at blasphemous jokes and wanted them repeated were treating blasphemy as an object of conviviality instead of acting against the norm transgression. Abusing God in propositional but not in perlocutionary terms was evidently enjoyable, and not only for blasphemers.

Reactions to blasphemy allow us to draw some conclusions concerning the meaning of religion in an early modern society. Blasphemy was a complex phenomenon that gave rise to a wide variety of responses. Religious norm and norm transgression were in a subtle relationship and cannot simply be seen as black and white. Even if theologians, jurists or exemplary subjects knew which teachings and behaviours were 'white' and which were 'black', in practice it was grey that dominated the picture. At the normative level, blasphemy was a grave offence and demanded severe punishment. In practice, however, the reactions of witnesses ranged from exemplary horror and legal action to passive and active toleration of blasphemies. The response of blasphemers to witnesses' reprimands ranged from defiant insistence on blasphemies to remorseful retraction. The fact that blasphemers and witnesses twisted and turned before the courts certainly indicates the pressure on both to justify themselves to the judiciary. The authorities wanted to see the morals mandate implemented. However, the range of choices made by blasphemers and witnesses between rejection and toleration of blasphemy show that Zurich society did offer a certain scope for individual thought and action. Not every act of blasphemy was prosecuted as such. An early modern society was capable of permitting religious taboo-breaking – to a certain extent at least, recognisable but hard to define – as a social, partly banal and everyday provocation not requiring disciplinary action.

Motives for Reporting Blasphemers

Blasphemy was an official offence *par excellence*. As God's representative, the authorities were duty-bound to prosecute blasphemers. This placed them in a difficult position, since they were both prosecutor and judge. They depended on the reporting of blasphemers by the people, and evidently the officials were reluctant to seek them out. Subjects who failed to report blasphemies were not taking any great risk. It was hard to prove, after all, that they had deliberately covered up an incident. What, then, motivated people to hand blasphemers over to the judiciary? Were they really concerned to show themselves as law-abiding and pious citizens who acted in God's interest? The rhetorical nature of this question suggests

that other motives also played a part. These will now be explored with a view to understanding blasphemy as the object of social control and the religious status of blasphemy as an offence in early modern society.

Whenever Zurich witnesses comment on what caused them to report a blasphemy, their concern for self-portrayal in court has to be borne in mind. Nonetheless, the protocols reveal that witnesses reporting blasphemy were urged by their consciences to do so.[260] According to their own statements, a night often passed before their consciences pricked them. In 1684, the bailiwick clerk Schweitzer stated that when he heard the Olten bailiff Hönysen blaspheming he had 'thought about it, and as his conscience was pricking him' (*nachgsinnet und wÿl ihm sein gwüßen kein ruh glaßen*) he had eventually reported the case.[261] Similarly, the innkeeper Aberti said he had wanted to have Leinhart Fuchs arrested the morning after his evening blasphemies at the inn. The culprit had disappeared, however, and he had only been able to take him to the court three months later when he happened to meet him in Zurich.[262] The incident had lingered in Aberti's memory and alerted his conscience. He pursued the matter without being put under any pressure to do so because he had failed to report it immediately. The blasphemy committed by Fuchs had become a matter of personal concern to Aberti, whether for religious or other reasons.

Pangs of religious conscience in cases of blasphemy should not be underestimated. In 1723 the innkeeper Anna Meyer stated that, after some hesitation, she had felt duty-bound to report Andreas Zander for blasphemy, despite his long and honest service at the inn and his admission of moods of melancholy.[263] Her hesitation and regret express the sympathetic attitude of an employer towards her loyal servant, and she attempts moreover to protect him by drawing attention to his depression, introducing an argument for diminished responsibility.

We cannot exclude the possibility that Meyer simply feigned her part in order to pre-empt any accusations directed at her, but if this was the case she was hardly convincing. Her statement supports Zander more than it does Meyer herself, who implicitly admits remiss behaviour. There is no indication that Meyer was put under pressure by anyone else, or that she was attempting to accuse Zander unjustifiably. Her statement reveals that blasphemy could be seen as an offence grave enough to warrant the termination even of long-standing loyalties. Unexpiated words of blasphemy could cause nagging consciences. The clergy warned constantly

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[260] Cf. A.27.61, Statement Jacob Nägeli, 15.4.1616.

[261] A.27.113, Statement Bailiwick Clerk Schweitzer, 15.11.1684.

[262] Cf. A.27.113a, Statement Aberti, 9.6.1685.

[263] Cf. A.27.135, Statement Anna Meyer, 29.10.1723.

from the pulpit that those who kept silent about blasphemies were guilty of verbal sin themselves. Evidently, their warnings did not go unheeded.

Were there cases of denunciation in order to harm someone, as we find in the witch-hunts?[264] Unlike the situation in Lorraine, instances of false accusations appear to be rare.[265] As in the case of Barbara Lienhard from Basle,[266] that of Margaretha Krieß in 1668 is an absolute exception. Krieß told a woman friend that when they were cooking, her daughter-in-law Barbara Süri had pushed her away from the stove and uttered blasphemous words. Asked to repeat her accusation in front of the bailiff, Krieß withdrew it.[267] Clearly, the idea of a court case was too much of a risk.

Witnesses usually avoided making false accusations, as we see from their typical justification strategies. They often declared that they had not reported an incident because they had only heard unreliable rumours of it.[268] Certainly the witnesses were concerned not to be charged with failing to report a case, but their justifications also reveal that accusations of blasphemy needed to stand on firm ground. This was a matter not only of judicial necessity but of concern for justice, as we may assume from the caution witnesses showed in making accusations of blasphemy.

False accusations were exceptional, but denunciations could be used to settle a score with someone. We have evidence that the base motive of revenge could result in denunciation. The *Nachgänger* asked Jacob Wollenweider sceptically why he was only now reporting a matter of blasphemy, when he was in conflict with Gugolz.[269] Evidently, the judiciary had experienced wrongful accusations of blasphemy being used as a weapon in conflicts. This was precisely the argument used by defendants who claimed – in a standard formula – that witnesses were accusing them 'out of envy and hatred'. Several examples of this can be found.[270] The printer Heinrich Baumann claimed in 1671 that neighbours had not reported his alleged

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[264] Cf. from the wealth of recent publications, Robin Briggs, *Witches and Neighbours: The Social and Cultural Context of European Witchcraft* (London, 1996).

[265] Cf. Christin, 'Condamnation', p. 54.

[266] Schwerhoff emphasises in the case of Lienhard how seldom the reproach of blasphemy was instrumentalised for personal purposes (cf. Schwerhoff, 'Schranken', p. 100), though he does assume that slandering took place in extreme cases (cf. Schwerhoff, *Zungen*, p. 182).

[267] Cf. A.27.103, Report Bailiff Hans Heinrich Kilchperger, 28.12.1668.

[268] Cf. A.27.13, Statement Heinrich Wirt, undated.

[269] Cf. A.27.120, Statement Jacob Wollenweider, 22.9.1697.

[270] Cf. e.g., A.27.146, Statement Heinrich Pfenninger, 18.10.1755.

blasphemies until three months after the incident, when they were in conflict with him and seeking to harm him.[271]

Marital conflict could also give rise to denunciation. The case of Anna Bucher in 1676 is a particularly telling example. Twelve years previously, she stated, one of her children had fallen ill. Her husband had deplored the child's poor health, and she had replied that God was punishing their dissolute lives. If that were so, her husband said, he would rather God punish him than the children. He should hold his peace, she had admonished him; God was not to be provoked. He had then blasphemed, but no one had reported the matter. Why had she kept silence for so long?, the *Nachgänger* asked. Her justification was that people had spoken ill of her husband and she had sought to protect him from such rumours.[272] This is hardly convincing. It is surely no coincidence that she now decided to expose her husband to the rumours and to dig up an incident that had occurred over a decade earlier. It seems unlikely that Bucher suddenly felt her conscience pricking her. Probably she was trying to cause difficulties for a husband she had been in conflict with for years. Apparently an accusation of blasphemy could be used – as in Paris in the seventeenth century[273]– as a weapon in running battles with neighbours or spouses.[274]

Not only women used denunciation as a weapon. Men too, whose social position was stronger, brought charges against opponents to make life difficult for them.[275] Often the accusers appear to have been more concerned with their own honour than with God's, although predictably they presented matters differently. In 1708, the Zurich surgeon Heinrich Wirth stated in his charge against Heinrich Widmer von Horgen that he had heard the latter blaspheming as he left church in the company of others. At the time he had not, unfortunately, reprimanded the blasphemer, who was unknown to him. Only after thinking about the incident did he realise that he was guilty of sin. Now, a few days previously at the home of councillor Werthmüller, he had encountered the blasphemer again and been needlessly insulted by him. He had recognised him and reported the earlier blasphemy in order to salve his own conscience.[276] Evidently, Wirth reacted more swiftly to protect his own honour than to defend God's. Personally insulted by Widmer, he brought a charge without delay.

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[271]   Cf. A.27.104a, Statement Heinrich Bauman, 3.1.1671.

[272]   Cf. A.27.108, Statement Anna Bucher, 13.7.1676.

[273]   Cf. Cabantous, 'Histoire du blasphème', p. 118 with reference to an MA thesis by S. Debaret.

[274]   For such a case, cf. A.27.120, Statement Barbara Trüb, 21.12.1698.

[275]   Cf. e.g. A.27.96, Statement Johannes Zyder, 6.1.1658.

[276]   Cf. A.27.126, Statement Heinrich Wirth, 14.2.1708.

The cases examined so far permit only indirect conclusions as to the motives of witnesses who reported blasphemers. We can confirm these conclusions by looking at the absolutely exceptional cases in which we have direct indicators of witness motivation. The incident involving Heinrich Puri in 1654 shows how persistent witnesses could be. Puri, a servant in Elgg, had argued at an inn with the servant of Salomon Hegner about the sixth chapter of Mark's Gospel. Puri had claimed that, according to the Bible, Christ was the son of a carpenter.[277] The butcher Felix Meister had countered that if he believed that, he had a Jewish faith. 'Jewish' in fact meant 'blasphemous', since according to church doctrine Christ was conceived by the Holy Spirit. Puri acknowledged his error and, after a long argument, he finally asked for mercy and offered to execute the *Herdfall*.[278] However, the witnesses refused to accept this as an adequate punishment. Meister reported the incident to the minister, thinking he would 'understand the matter better'. There is no evidence that Meister was seeking any personal benefit. It seems that the witnesses wanted to make an example of Puri. Their righteous anger caused them to act as officials and hand the matter over to a theological expert for clarification.

Further examples reveal the length of time that could elapse between an occurrence of blasphemy and the reporting of it. In four cases, the time was twenty-four hours;[279] in four other cases, up to a week.[280] In three further cases, it had taken the witnesses up to four weeks to bring charges;[281] in five cases, over a month went by;[282] and in four instances, the witnesses waited a whole year before reporting the incidents.[283] When witnesses hesitated to inform officials, their motives tended to be dubious. Often they had personal interests in mind rather than those of God or the

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[277] Cf. A.27.92, Statement Heinrich Puri, 1.6.1654.

[278] Cf. ibid., Statement Felix Meister, 29.5.1654.

[279] Cf. A.27.43, Statement Lienhart Vögeli, 21./22.9.1592; A.27.99, Case of Hans Jacob Atzger Report by Minister, X.7.1663; A.27.135, Case of Andreas Zander, 18.10.1723; A.27.137, Case of Hans Frey Report by Minister, 7.7.1726.

[280] Cf. A.27.70, Case of Jacob Wener Report Bailiff Hans Georg Kaufmann, 7.12.1630; A.26.9, Case of Captain Bürckli Statement by the 11 Witnesses, 2.3.1646; A.27.89, Case of Christina Holler Report Bailiff Hirzel, 4.1.1650; A.27.129, Statement Jacob Huser, 20.3.1714.

[281] Cf. A.27.89 Case of Elisabeth Meyer Report Deacon Fäßi, 16.9.1650; A.27.113a, Statement Lienhart Fuchs, 9.6.1685; A.27.144, Statement Gebhard Heller, 8.4.1735.

[282] Cf. A.27.12, Statement Uli Mietli, undated; A.27.68, Statement Heinrich Merki, 25.1.1628; A.27.79, Statement Hans Keller, 13.8.1640; A.27.96, Statement Johannes Zyder, 6.1.1658; A.27.103, Case of Anna Murer Report Bailiff Hans Kilchperger, 28.12.1668.

[283] Cf. A.27.79, Statement Felix Hönysen, 18.4.1640; A.27.83, Statement Adam Steger, 7.6.1644; A.27.103, Case of Marx Bleuwler Report Minister Johann Caspar Brunner, 2.10.1669; A.27.119, Case of Hans Jacob Kübler Report Bailiff Heinrich Bräm, 22.9.1696.

authorities. When incidents were reported without delay, revenge could also play a part, but these witnesses appear to have acted for reasons of conscience and religious conviction. Whether the Zurich witnesses reported blasphemy immediately or later does not seem to have depended on the gravity of the offence.[284]

Further conclusions can be drawn from the fact that long periods could elapse between a blasphemous incident and the reporting of it. The judiciary always followed up such reports, even when the incident was not recent. The authorities took the offence of blasphemy seriously, relying on the good memory of their subjects as in other court cases. The witnesses kept a kind of 'accusation capital' at the ready, which could be used if necessary to defend one's own honour.

Comparison with denunciation behaviour in the witch-hunts reveals that reports of blasphemy generally grew on different soil. The accusation of witchcraft was based on creating associations that were a question of interpretation. Had a farmer who lost his crop in a storm been exposed to the black magic of a witch or to divine punishment? Blasphemy was easier to deal with. Had certain words been spoken or not? Accusing someone of blasphemy meant referring to an unequivocally blasphemous speech action. Further witnesses were required to confirm the utterance, as in Zurich a conviction was only possible if at least two witnesses made clear statements. Those who accused wrongly risked bringing on themselves the punishment the defendant would have received. The Andelfingen court rules of 1534, for example, require that in cases of false accusation the denouncers should 'be in the shoes' of the accused, receiving the punishment due to them had they been convicted.[285] This meant that in Zurich, as in late mediaeval Constance, arbitrary accusations were kept at bay. Whereas witchcraft could, within the context of the time, be 'produced' by an accuser, blasphemy had to be uttered before it could be used by witnesses for their own purposes. This is no doubt the reason why we do not find waves or centres of denunciation for blasphemy in Zurich. The reporting behaviour in Zurich does not suggest that the people are under pressure from moralising campaigns or transition crises.[286] In Zurich at least, the prosecution of blasphemy is not a good indicator for people functionalising the judiciary.

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[284]   This is the thesis, however, of R. van Dülmen. In his assessment, witnesses tended to denounce serious blasphemy either in order to avoid divine retribution or as an act of revenge against the defendants. Cf. Dülmen, 'Wider die Ehre Gottes', p. 34.

[285]   Cf. B.VII.2.1, *Rechte und Gerichts=Ordnung*, 6.6.1534.

[286]   On these explanations of use of the judiciary in general, cf. Dinges, 'Justiznutzung', pp. 524–5.

Summary   Those who help to initiate court proceedings are attempting to discipline. When the people of Zurich frequently played their part in ensuring that the judiciary could prosecute a large number of blasphemers – exactly how many we cannot say – they co-disciplined. Just as officials exercised the rule of the authorities in bringing blasphemers before the council, witnesses disciplined the culprits by reporting them. The pressure to discipline came partly from the authorities, but chiefly from the population. Social control of blasphemers was more strongly horizontal than vertical.

Since officials were obliged to prosecute blasphemers, it is not surprising to find them bringing the culprits to justice. The subjects, although bound by the morals mandate, could not be forced to comply with it. What, then, motivated the citizens of Zurich to behave as part of the long arm of the law? The few statements we have from witnesses – concerned as they were, of course, with self-portrayal – on their motives allow us to identify two tendencies. Some responded to pangs of conscience; others had their own personal interests in mind.

Those who tolerated blasphemies participated in the sin of blasphemy. This biblical and ecclesiastical argument was taken so seriously by some Zurich citizens that they could not keep silence when they had witnessed an incident of blasphemy. Such religious scruples should not be underestimated or assumed to be mere self-portrayal before the court.

The religious convictions of witnesses are difficult to ascertain. Their statements in court do not reveal what made blasphemy so intolerable, and this was not asked of them. The court records offer only traces of the behaviour their consciences urged on them. Some showed great moral fervour, rejecting the prescribed *Herdfall* and insisting on entrusting the matter to the theological expertise of the clergy. Others' strong moral scruples caused them to accuse even a long-standing and loyal servant who was guilty of blasphemy. These witnesses were torn between the relationship of trust and the desire to protect the accused on the one hand, and the necessity on the other hand to defer to the authorities and restore God's honour. In the end, God and conscience won out over the personal bond with the accused.

With very rare exceptions, the citizens of Zurich only charged blasphemers when they were certain that the norm transgression had actually occurred. False accusations were too risky to be used simply to make life difficult for someone. Rumours were treated much more sceptically than in the witch-hunts, and there were no waves of denunciation. This shows that the accusation of blasphemy had only limited potential as a weapon in social conflicts.

Denunciation did occur, however. Some used it to take revenge or retaliate in situations and constellations of conflict. Both female and male

witnesses, whether socially superior or inferior to the accused, made use of the judiciary to denounce opponents. What appeared to be action defending God's honour could in fact conceal highly profane interests. This may well explain why accusers sometimes delayed turning to the authorities. They waited until their weapon could do the greatest damage.

The judiciary trusted the long memory of the citizens for cases of blasphemy. These were taken very seriously by the authorities and society, and were followed up even when the alleged incident had taken place years previously. This gave the witnesses an 'accusation capital' that they could draw on at any time. It also meant that those who were guilty of blasphemy were always vulnerable, exposed to horizontal social control that could be applied at any moment. Not only were the formal criminal proceedings a constant threat to blasphemers. These they might and probably often did escape, but there was little refuge from the judgement of their fellow citizens. In early modern society, the religious integrity of the community was a treasure not to be lightly squandered.

Out-of-Court Settlements in Cases of Blasphemy

From the perspective of the authorities, i.e. in institutional terms, prosecuting blasphemy meant one of two things. Either blasphemers were brought to court, or they escaped prosecution. Either the judicial system exercised its disciplinary muscle, or it was shown to have a loophole. This perspective does not take account of the out-of-court legal settlements on which this chapter will concentrate. Under what conditions did such settlements occur; what characterised them; and how were they related to the official judiciary? In other words, how were religious norms shaped by non-institutionalised forms of settlement?

It is French historians in particular who have drawn attention – using the term *infrajudiciaire* – to the way in which offences are dealt with outside the courts and to the fact that the authoritarian judiciary forms only part of legal practice. Without discussing the strengths and weaknesses of their concept in detail here,[287] a pragmatic working definition of the infrajudiciary can be offered. The infrajudiciary is an out-of-court space where opponents – with or without an arbitrator – find ways of settling their differences and restoring social peace. A successful infrajudiciary requires its settlements to be recognised by the authorities and/or the social environment. This becomes apparent in Zurich from the cases in which out-of-court settlements fail and the matter comes before the court.

Basically, Jörg Seteli from Constance, Caspar Koller and Jacob Haller had reached an agreement. At the Zurich inn Zum Stern in 1633, Seteli

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[287]   Cf. for detail Loetz, 'L'infrajudiciaire'.

had called the flat bread served with the soup a Zurich *Oblate* (communion wafer). He was promptly reprimanded by one of the other guests, Antonius Pestalutz, for abusing Reformed communion.[288] But that was not the end of the matter. After Seteli had drunk so much that he had to vomit, abusing God's gifts of wine and bread, he was said to have blamed the Zurich sacrament. The next morning Koller and Haller, two of the witnesses, whom Seteli had invited to drink with him without knowing them, returned to the matter. Seteli should humbly ask God's forgiveness, they demanded, otherwise they would take him to court. He was also to pay 5 pounds into the alms box and pay the bill of the day before, amounting to 3 pounds 10 shillings. Seteli accepted all this, but the agreement was thwarted by a member of the council named Wüst. Together with captain Gwalter and court clerk Frieß, Wüst had heard about the incident at the inn from Jacob Haab. Wüst had gone to Berger, another council member, and the two had asked the innkeeper what had happened. On hearing his report, they had decided not to let the matter rest.[289] They must have brought charges against Seteli, as his case can be found in the Zurich court records. The innkeeper, on the other hand, had not reported the incident despite his legal obligation to do so. He had tolerated the blasphemy. The council members, however, were not prepared to accept an infrajudicial settlement.

Sometimes it was the witnesses of blasphemy who refused to accept an out-of-court agreement, as in the case of Heinrich Puri in 1654. The witnesses to his blasphemous words were not prepared to accept the *Herdfall* as sufficient sanction.[290] These cases show that, while it was possible and legally acceptable for opponents to reach their own settlement, infrajudicial agreements could not succeed when someone spread rumours; when representatives of the authorities declared the settlement to be illegitimate; or when witnesses rejected it. Successful infrajudicial settlements depended on agreement between the opposing parties and acceptance or at least toleration of an out-of-court agreement on the part of the witnesses or the authorities.

As far as we can tell from the court records, cases of blasphemy were quite often settled with the help of a third person as arbitrator. These might be spiritual or secular officials, or private individuals. It was within the legal requirements that a pastor should demand the *Herdfall* from a delinquent.[291] Some officials, however, acted in the interests of the authorities even

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[288]   Cf. A.27.71, Statement Antonius Pestalutz, 8.11.1633.

[289]   Cf. ibid., Statement council spokesman (*Ratsredner*) Wüst, 9.11.1633.

[290]   Cf. A.27.92, Statement Felix Meister, 29.5.1654.

[291]   Cf. e.g., A.27.12, Case of Bürgi Studer Statement Jacob Röschli, undated.

without directions to do so, as in the cases of Cunrad Uolmann[292] and of Hans Keller's parish minister in 1640. Keller had produced a blasphemous version of a Christmas carol, which Heinrich Ruckstuol took to be an insult directed at him. Instead of reporting the matter to the authorities as an act of blasphemy, the minister called the two men to his house the next morning. In the presence of the dean, the *Gerichtsweibel* and the captain, he called on Keller to apologise to Ruckstuol.[293] He had found a ritualised form of out-of-court settlement and involved members of the authorities in it. In the cases of Keller and Uolmann, the parish ministers sought to avoid legal proceedings, not because they rejected the authority of the courts, but in the interests of restoring law and order before the authorities were forced to intervene.

In the case of Uolmann, the parish minister had sought to make use of the public. In 1628, Minister Wyß from Dachsen decided instead to reprimand privately in the case of Heinrich Merki. The minister had called together the two local *Ehegaumer* and the bailiff in order to question Merki concerning marital conflict. Wyß had not, however, mentioned to the tribunal the blasphemous utterances of which Merki's wife accused her husband. Possibly the witnesses had not wanted to pursue the matter. Evidently the minister had settled the matter with Merki, for when the case did reach the courts after all, some three years later, the 13 witnesses knew nothing of blasphemies being uttered.[294] In other words, the minister had circumvented the judiciary and settled the matter privately, substituting for the court.

Ministers such as Wyß must quite frequently have infringed the legal requirements when dealing with norm transgressions. The fact that blasphemers often asked their parish minister not to report them indicates that there was at least a chance of their request being granted. In 1650, however, Heinrich Schultheß did not get quite what he wanted from Minister Schintz. The minister took Schultheß to court the morning after he had drunkenly equated God with the devil at an inn. Schintz made no official mention, however, of the many curses Schultheß had uttered over a number of weeks. This suggests that Schintz and Schultheß had come to an agreement on the sanction for the curses.[295] Evidently, the minister was differentiating between the lesser offences of blasphemy that could be dealt with out of court and the graver case that the court should deal with.

Secular officials also made their own decisions about whether to involve the judiciary, as we see from a case in Baden in 1657. Catholic farmer

[292]   Cf. A.27.20, Case of Cunrad Uolmann Letter Bailiff, 13.9.1554.

[293]   Cf. A.27.79, Reply Hans Keller, 13.8.1640.

[294]   Cf. A.27.68, Letter Minister Wyß, 28.1.1628.

[295]   Cf. A.27.89, Statement Minister Schintz, 25.3.1650.

Hans Klotz from Wettingen made some derogatory remarks at an inn about the Reformed confession, eventually uttering dreadful blasphemies and claiming that the God of the Reformed faith had had intercourse with a white horse. Meyer, himself a Reformed citizen, turned angrily to the mayor, who told him to arrest Klotz. On being arrested, Klotz admitted his guilt and made a formal apology. The *Gerichtsweibel* then directed the opponents to be reconciled.[296] Clearly he was treating the case not as one of religious abuse but of personal insult, which Klotz had revoked by means of his apology. In this way, the *Gerichtsweibel* avoided a court case and at the same time legitimised the agreement reached by the opponents as preferable to judicial action.

In most cases of conflict it was not officials who arbitrated, but relatives and friends. The case of Elisabeth Studer in 1660 exemplifies the concern to find solutions to conflict within the family. Studer stated that she and her husband had been in conflict before their marriage. Contrary to custom, her husband-to-be had refused to bear the costs of the wedding. She had insisted on his duty to pay, whereupon he had cursed all who came to her house and had not been seen for two weeks. Studer's brother-in-law had brought about a reconciliation. The two parties will have reached agreement on financial matters and the revoking of the curses. However, Elisabeth Studer complained that her husband had repeatedly sworn about her, which she had reported to her father and her brother-in-law. Neither had taken any action, she stated.[297] Two conclusions may be drawn from this episode. First, Elisabeth Studer expected male relatives to assist her in dealing with her husband. This expectation reflects a gender-specific role model, which will not be pursued further at this point. Second, Studer's wife regarded her husband's curses as part of their marital conflict, a matter to be clarified within the family. Even blasphemous curses could be treated simply as a domestic issue.

As well as family members, friends could be called on to arbitrate in conflict situations. A typical example is that of David Füßli in 1633. Füßli was required to explain convincingly to the court why he had not charged Seteli, whose case was described above. He had not reflected sufficiently on the matter that night, Füßli stated, but next morning he had gone to the bridge and asked some good friends what he should do. He could not simply let the matter rest.[298] The friends' taking counsel together was equivalent to a preliminary court hearing, with the informal 'bench of judges' deciding whether Seteli should be charged. The decision evidently

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[296]   Cf. E.I.10.4, Statement Hans Meyer, X.X.1657.
[297]   Cf. A.27.97, Statement Elisabeth Studer, 20.1.1660.
[298]   Cf. A.27.71, Statement David Füßli, 9.11.1633.

went against the judiciary and in favour of the delinquent. Füßli did not take him to court.

Court records containing evidence of infrajudicial settlements in cases of blasphemy tend to report situations in which the delinquents and witnesses came to an agreement without involving arbitrators. The mutual agreement was based on something offered by the blasphemers that the witnesses regarded as adequate. Witnesses enjoyed being paid for their silence. Typically, they offered not to report the blasphemy if the blasphemer paid part or all of the drinking bill.[299] This kind of barter did not always succeed, however. As we saw in the case of Heinrich Puri, witnesses might refuse the blasphemer's offer to pay for a round of drinks and execute the *Herdfall*, and instead take the case to the authorities.[300] Once again, judiciary and infrajuduciary are seen to be overlapping rather than separate legal systems.

This overlap is apparent in the case of Jörg Seteli described above. In demanding that he should seek God's pardon, put 5 pounds into the alms box, and pay the drinking bill, Haller and Koller were imposing a punishment fully in keeping with what the judiciary required. They were virtually substituting for the court. The convicted Seteli was to pay the 'court costs' (the drinking bill) as well as a fine corresponding to the rate for more serious cases of blasphemy, and he was to restore God's honour by means of an act of humility. Judiciary and infrajudiciary are identical here in form and content.

The resonant relationship between judiciary and infrajudiciary is also expressed in the rituals adopted by blasphemers and witnesses to confirm their actions. In 1612, Uli Walder reached agreement with two journeymen, one from Aegeri and one from Einsiedeln, that he would pay the drinking bill if the two would keep quiet about his confessionally blasphemous remark. They promised to do so, shaking hands on the matter.[301] Sanctioning of swearing was not only a matter for the courts, evidently. The same is true of gestures used by delinquents to apologise. Just as the court could impose the *Herdfall* as a loss-of-honour punishment,[302] blasphemers could choose it as their own act of humility. Heinrich Schultheß stated in 1650 that during a sea voyage he had sworn at Heinrich Wyland, but had fallen to his knees in the boat and begged him for forgiveness.[303] Again, out-of-court settlements concerning blasphemy show overlap with court agreements, and vice versa.

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[299] Cf. as an example, A.27.120, Complaint Frantz Häni, 14.5.1697.

[300] Cf. A.27.92, Statement Frantz Wollenweider, 29.5.1654.

[301] Cf. A.27.57, Statement Rudolf Goldschmid, X.4.1612.

[302] Cf. e.g., B.II.856, fols 48–9, Sentence Jacob Laban, 15.3.1747.

[303] Cf. A.27.89, Statement Minister Schintz, 18.4.1650.

As we have seen so far, the infrajudiciary was a form of horizontal social control that could resemble a preliminary court hearing (for example, the decision on whether to report a case) or could substitute the court (when the judiciary explicitly recognised out-of-court settlements as equivalent, or when those involved in a case deliberately circumvented the institutionalised judiciary). The infrajudiciary could also operate after court proceedings had ended and the judiciary had long since closed the case. A telling example is that of Heinrich Bürkli in 1734 against master tailor Oberman. Oberman refused to pay debts to Bürkli, claiming that he need not owe anything to a former blasphemer who had been sentenced to the formal and dishonouring *Herdfall*.[304] Oberman was taking advantage of Bürkli's vulnerability, attempting in a kind of after-court infrajudiciary to punish his opponent a second time by subjecting him to loss of rights and honour.

Summary   Infrajudicial prosecution of blasphemy – in other words, the way in which blasphemers and witnesses reached agreement, sometimes with the help of arbitrators, on how to deal with the norm transgression – reveals much about legal practice in an early modern city-state. These insights contribute to answering the question of the social significance of blasphemy and the religious disciplining of the population.

Infrajudicial settlement assumed that opponents, together with arbitrators, were able and willing to reach agreement, and that their social environment and/or the authorities accepted or possibly even forced the arrangement. The opponents might or might not know each other, whereas the arbitrators were known to them. Officials, relatives or friends who were to act as arbitrators had to be trusted by those who turned to them for help.

Outside the courts, there were three significant means of dealing with a norm transgression and restoring social peace. Officials could choose to reprimand privately. Sometimes they chose to denounce the delinquents verbally, exposing them to public ignominy. Opponents tended to prefer making a bargain: one promised not to report a norm transgression, the other undertook to provide something appropriate in return.

The space in which out-of-court settlements were reached could be entirely private or semi-public. Informing only the family in cases of conflict meant keeping the matter within the 'clan'. Getting together the local officials and requiring the delinquent to explain himself to them, on the other hand, meant integrating representatives of the judiciary in a non-institutionalised form of jurisdiction. In legal practice, therefore, there was some overlap between public and private space.

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[304]   Cf. B III.178, p. 9.

Just as it is inappropriate to assume a clear distinction between 'public' and 'private' in the relationship of institutionalised- and non-institutionalised judiciary, the oppositions 'authoritarian legal system versus legal vacuum', 'codified law versus common law' and 'organised-versus arbitrary jurisdiction' are equally questionable. Infrajudiciary and judiciary were not separate informal and formal systems, but together formed an integrated system in which informal means of conflict resolution shifted towards the formal. Divergences could be dealt with in a form of out-of-court jurisdiction. In form and content there were resonances between court and out-of-court verdicts. Officials who chose to bypass the judiciary in some cases, but to involve it in others showed the extent to which the judiciary and infrajudiciary supplemented each other even for representatives of the authorities.

Three types of infrajudiciary can be identified. The infrajudiciary could form a kind of preliminary hearing in which private individuals and possibly officials decided whether a case should be reported to the authorities. The course was set in the direction of involving the judiciary or forming an alternative to it. In the latter case, the infrajudiciary took the place of a court case. We might imagine that the population avoided the judiciary because of an attitude of resistance to it. The court records available to us – admittedly not the ideal source for this purpose – do not support this hypothesis, however. Witnesses and alleged blasphemers tended to agree on punishments comparable to those meted out after formal court proceedings. In other words, they did not develop an 'autonomous' subculture. Similarly, officials did not regard out-of-court settlements as a subversive alternative when they urged opponents to come to an agreement. Rather, the infrajudiciary was seen as supplementing the role and relieving the load of the judiciary.

The infrajudiciary could take a third form, following the verdict in a court case. Those convicted were also ostracised, exposing them to social sanctioning. The infrajudiciary cooperated with the judiciary, the two legal spheres forming an integrated system. For this reason, it would be short-sighted to assume a deep cultural divide between judiciary and infrajudiciary, and to attempt to understand the legal practice with reference only to what took place in the courts.

The insights into legal culture in an early modern city-state provided by the example of blasphemy in Zurich give an impression of the meaning of blasphemy as a religious norm transgression. The many ways in which blasphemers were called to order outside the courts show that social control contributed to the consolidation of religious norms. Blasphemers were subjected to considerable pressure by their social environment, obliging them to pay drinking bills and accept the 'sentences' pronounced by witnesses. Even minor instances of blasphemy in everyday life –

the cases that tended to be settled out of court – were still serious enough to render the delinquents vulnerable and the witnesses ready to take the offensive. Thus the impact of horizontal social control should not be underestimated when measured against the response of the authorities. Taming the blasphemous tongue was more a matter for the population than for officials.

2.   Blasphemy in the Context of Social Action

2.1. Blasphemy as Insubordination

When subjects swore at or cursed representatives of the authorities, it was an ambivalent offence in early modern terms. They were offending God's honour, and at the same time they were refusing the respect due to the authorities. Paolo Prodi suggests in his interpretation of legal history that cursing and swearing is an act of political insubordination.[305] If this is so, were the blasphemers challenging the authorities rather than God? What and whom did the subjects mean when they referred to God in their utterances about the authorities? What effect did their words have? Finding an answer to these questions means, initially, clarifying how political action is to be understood in the social context of Early Modernism.

   Being politically active in our time means making fundamental political demands, taking part in protest activities, or joining a political party. We cannot, however, transfer this idea of politics to the Early Modern era, since pre-modern politics does not consist of programmes, signatures on petitions or party activities. Moreover, blasphemers acted as individuals who did not make use of institutionalised means of political expression. Their words may be best understood within the contested category of 'experience'.[306] In this context, action taking place beyond the bounds of institutions is seen as interaction between individuals in their structural relationships. Applied to the field of politics as the relationship between authorities and subjects, this means examining whether those who swore at officials were targeting the authorities and had political concerns, or whether they were directing their blasphemy at individuals and had personal interests in mind.

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[305]   Cf. Paolo Prodi, *Das Sakrament der Herrschaft: Der politische Eid in der Verfassungsgeschichte des Okzidents* (Berlin, 1997), pp. 328–9.

[306]   On the establishing and discussion of the concept of experience, cf. the articles in Paul Münch (ed.), *Erfahrung in der Geschichte der Frühen Neuzeit* (Munich, 2001). In critical engagement with J.W. Scott's 'postmodern' concept, cf. also Ute Daniel, 'Erfahrung – (k)ein Thema für die Geschichtstheorie?', *L'Homme Z.F.G.*, 11 (2000), pp. 120–23.

It is not surprising to find that most of the accused had concrete reasons for cursing and swearing at officials. The subjects' annoyance, evident from a small number of cases, was chiefly directed against the *Gerichtsweibel*, the *Ehegaumer* or the bailiffs as representatives of the authorities. The case of Rudolf Bräm in 1681 is typical. His house had been sold – in a compulsory auction, apparently – well under value by the bailiff Huber. Bräm felt so unfairly treated that he insulted Huber as a worthless layabout. The authorities would punish him, and if not then God would do so. If God should spare him, God was even more unworthy than Huber.[307] Bräm was criticising Huber as an individual, but not the authorities represented by the bailiff. On the contrary, as a respectable subject he expected the authorities to show justice and discipline the official. The episode is not one of blasphemy until Bräm suggests the possibility that God might ignore Huber's behaviour. God cannot act unjustly. Thus the blasphemy is directed against God and not against the authorities. Bräm's action is without political implications. He rebels against Huber as a person, not against the authorities as such. He keeps God out of his conflict with the official.

As in late mediaeval Constance, blasphemous utterances in Zurich against 'them', i.e. the authorities, tended to be specifically occasioned. In 1699, Wilhelm Kern accused the village mayor Hans Jacob Frölich of wrongfully confiscating his property and also of misappropriating revenues of the bailiwick. He insulted Frölich for being an arsehole who drove out beggars and tricked his wife out of her dowry; 'He wanted thunder and hail (God spare us) to destroy everything.'[308] In this case, unlike that of Bräm above, the blasphemer not only vented his own annoyance, but wished ill on the authorities, condemning them altogether. His blasphemous anger was blind, however: calling for a thunderstorm simply to destroy everything. Unlike some insubordinate contemporaries, Kern did not attempt to change the rules in the relationship between authorities and subject. He can hardly be regarded as a blasphemer with political interests.

Only a very small proportion of blasphemers were politically critical. The judgement against Lienhart Uttinger in 1527, for example, states that, despite being warned, he had broken the peace and carried on swearing by God's wounds, saying he would do so even if seven bailiffs were present.[309] In 1620, Kleinhans Berchtold von Wasterkingen showed scant respect for

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[307]   Cf. A.27.11, Statement Rudolf Rieder, 8.11.1681.

[308]   'Er wolte, daß der doner und hagel /Gott bhüt unß/ alles in boden einhin schluog' – A.27.111, Statement Hans Volkhart, 26.8.1699.

[309]   Cf. B.VI.251, fol. 60r, Sentence Lienhart Uttinger, Thursday before St Bartholomew's Day 1527.

the authorities, wanting them to be struck by lightning.[310] Jörg Haupt from Steinmauer was even more explicit in 1650. He swore that lightning should strike the authorities, and 'by a thousand sacraments and the sacrament of blood, he wanted thunder and hail to strike the Öttenbach [the local prison].'[311] Unsurprisingly, this insubordinate subject found himself in court.

In 1708, Bailiff Kleiner from Metttmenstetten found a subtle means of questioning the authorities. He was accused of 'inappropriate talk' (*ohngeschickte reden*) against soldiers' Sunday drill and inspections. He replied, '… He could not deny having said that you should work for six days and inspect on the seventh'.[312] Whether out of genuine conviction or just for fun, Kleiner's ironic comment – which profaned the Sabbath commandment and thus amounted to blasphemy – criticised military service as a Helvetic institution. Even a bailiff had disregarded his 'civic' duties in this case.

How did the authorities deal with such provocations? They showed little interest in the exact wording of such utterances. The court protocols often use set phrases such as 'inappropriate talk' or 'bad swearing' (*unschicklich redden, übel schwören*). This is in strong contrast to the care otherwise taken by the court scribes to record the exact words used by blasphemers. Thus the authorities concentrated on the perlocutionary substance of the speech actions rather than the propositional. They were less interested in the blasphemous content than in the critical tone. In other words, their concern was more for the political dimension of blasphemy than the theological.

The council sentences reflect this concern for the political implications of blasphemy. The punishments frequently relativise the religious aspects of the offence by not including church sanctions such as reprimanding from the pulpit or admonishment by the morals court. Fines and loss-of-honour punishments outweigh the ecclesiastical ones.[313] Only three 'political' defendants had to execute the *Herdfall*.[314] The only person

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[310]   Cf. A.27.63, Statement Kleinhans Berchtold, 22.3.1620.

[311]   '[dass] di stral In die Obrigkeit schießen […] 1000 Sacrament, bim blut Sacrament, er wölte, daß der Donder und der hagell In den Öthenbach schlüge' – A.27.89, Report Bailiwick Case of Jörg Haupt, 13.3.1650.

[312]   'Könne Er nit in abred seÿn, daß Er gesagt habe, 6 tage soltu arbeiten und am 7.t[en] mußtern […]' – A.27.126, Statement Bailiff Kleiner, 10.12.1708.

[313]   Cf. e.g., B.VI.249, fol. 209r, Sentence Uli Böny, First Sunday after Laetare 1526 or B.II.703, fol. 170, Sentence Kleiner, 11.12.1708.

[314]   Cf. A.27.63, Statement Kleinhans Berchtold, 22.3.1620; B.VI.268, fols 306v–7r, Sentence Rudolf Keller, 25.10.1632; A.27.89 (dorsal note, 1.5.1650), Report Bailiff, 13.3.1650.

sentenced to recantation in the church was Jacob Welte.[315] Thus the council actually treated the swearing as offensive talk rather than blasphemy. The punishments corresponded to those handed down for common insult. Clearly the culprits had shown lack of respect for the authorities, and the council interpreted the verbal offences as action on the profane level, affecting the relationship between authorities and subject.

Anyone refusing to execute the *Erdkuss* was rebelling against the authorities. Such refusals, few though they are, can be taken as a measure of 'oppositional' behaviour. Gerhart Huober is an example. According to Jörg Müller, who in 1607 had rebuked him for his swearing and demanded the *Erdkuss* from him, Huober had responded abusively: 'he should (*reverenter*) kiss his behind'.[316] A quick-witted answer, undoubtedly, but hardly an attempt at political action. Huober did not boast of having broken the law. His concern was to tell Müller to mind his own business; thus his behaviour had no political dimension.

The case of Jacob Mor from the county of Kyburg is different. Despite having his tongue slashed for swearing in 1534, he had reoffended and sworn by God's cross, suffering and wounds. Called on to execute the *Erdkuss*, he had sworn again and replied that he simply could not keep this ban. A subject who refused to be silenced and to do what the law required of him was acting against the authorities and was thus in political 'opposition'. Mor evidently saw himself as an insubordinate subject: the sentence includes his statement that his aims and energies were directed towards damage, disloyalty and disruption.[317]

'Political' offenders such as Mor are highly exceptional. The sources also offer rare cases of those who made fun of the *Herdfall*. At a Zurich inn in 1616, Andres Rother and his companions were urged to drink by a group of farmers from Altstetten. Despite their refusal, they were further provoked by the farmers until Rother let loose an angry oath. He then complied immediately with the demand to execute the *Herdfall*. The farmers, however, ridiculed him and claimed he had kissed the devil's behind.[318] The court records do not reveal the exact circumstances of this satire on the morals mandate, but we can well imagine that the comical scene was motivated by high-spirited conviviality rather than political concerns.

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[315] Cf. A.27.73 (dorsal note, 26.9.1635), Statement Jacob Welte, 22.9.1635.

[316] '… sölle im (Reverenter) den hinderen Küßen […]' – B.VII.21.85, Statement Jörg Müller, 27.3.1607.

[317] Cf. B.VI.257, fol. 243, Sentence Jacob Mor, X.2.1552.

[318] Cf. A.27.61, Statement Andres Rother, 5.8.1616.

Summary   Throughout the Early Modern era, people in Zurich continued to swear in their conflicts with the authorities, and to curse them for concrete reasons. These blasphemers were rarely cited before the courts: the source corpus is almost restricted to the examples given in this section. They were not prevalent at particular times, nor did they pursue specific political aims. Their insubordination towards instructions from the authorities made them refractory subjects. It is notable that they did not demand rulings on principles or for their individual cases. Rather, they saw themselves as unjustly treated by the authorities on a particular concrete occasion, and expressed their feelings either in blasphemous complaints *ad personam* or in general lack of respect towards the authorities. Only in a very small number of exceptional cases did they act as political criminals who rejected the authorities' claim to power. Their cursing and swearing was not so much an attempt to bring down God's judgement on the officials by means of verbal magic as an attack on the personal honour of their opponents. Those who refused to execute the *Herdfall* did not usually have genuine political reasons for doing so. Most of them regarded the demand as unreasonable and reacted by provoking their adversaries in turn. These opponents were not concerned with making political demands, but with settling personal scores.

Generally, the authorities reacted calmly to the behaviour of these subjects. They handed down punishments corresponding to those for insults, with little recourse to ecclesiastical sanctions. This treatment by the judiciary suggested the culprits had spoken offensively rather than blasphemously. The words were not seen to constitute a *crimen laesae majestatis divinae* but simply a profane insult affecting the relationship between authorities and subject.

The speakers who directed their blasphemous energies towards the authorities tended to be awkward but not insubordinate subjects. Swearing and cursing against the authorities meant expressing one's displeasure within certain linguistic conventions, without calling or even wishing for political change. The judiciary took the same view. Thus blasphemous words were not politically directed and – apart from a very few exceptions – blasphemy could not be politically instrumentalised.

2.2. Blasphemy as Insult

Blasphemy Expressing a Conflict of Honour

'Blasphemous insults to honour followed the pattern of secular conflicts of honour.'[319] Schwerhoff's thesis creates a hitherto unusual connection between blasphemy and insult. He contends that, on the one hand, blasphemers use their strong language to call on God to assist them against their adversaries. On the other hand, they demonstrate their own strength by showing contempt towards the higher powers. Blasphemers challenge both God and the world.[320] The following discussion radicalises Schwerhoff's interpretation by claiming that blasphemous insults are not only partly but primarily secular conflicts of honour. This makes them a culturally specific form of enacting conflict. The challenge to God is in fact secondary. The thesis will be substantiated in discussion of these four questions: To what extent is blasphemy a *crimen laesae majestatis divinae*, i.e. an insult to divine honour? What (gender-specific) rules govern secular conflicts of honour? How do the enactments of secular conflicts contrast with those in which the opponents use blasphemous language? In what ways do linguistic features of blasphemous utterances, the self-understanding of blasphemers and the reaction of witnesses suggest that blasphemous speech actions provoked the world rather than God and were thus a medium of secular conflicts of honour?

The idea that blasphemy is an insult to divine majesty is a recurrent topos in ecclesiastical[321] and secular sources. 'Man's honour is restored but God's honour suffers' was the complaint of the author of the visitation report in 1670.[322] Synod reports also stated that, by means of blasphemous utterances, 'God's sovereign majesty is directly assaulted and offended'.[323] In 1686, the minister in Meilen, suspecting Heinrich Wyman of a *crimen laesae majestatis divinae*, wrote to the council that Wyman had not only cursed his son, 'but also, as it pains me to write, horribly assaulted with his blasphemous tongue the great God of heaven.' The minister asked

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[319]   Schwerhoff, *Gott und die Welt*, p. 339.

[320]   Cf. as a concise summary of this argument, Gerd Schwerhoff, 'Starke Worte: Blasphemie als theatralische Inszenierung von Männlichkeit an der Wende vom Mittelalter zur Frühen Neuzeit', in Martin Dinges (ed.), *Hausväter, Priester, Kastraten: Zur Konstruktion von Männlichkeit im Spätmittelalter und Früher Neuzeit* (Göttingen, 1998), pp. 237–63.

[321]   Cf. on the pattern of the recantations, e.g. A.27.96, Recantation Junghans Schmid, 1.5.1659.

[322]   'Dem Menschn wird seyn ehr wider gegeben, aber Gottes ehr muoß lyden' – E.II.119, p. 192, Visitation report Freiamt, Autumn 1670.

[323]   '… die Hohe Mayestat Gottes [wirt] ohnmittelbar angriffen und verletzt' – (ZB) MsA.124b, Case of Samuel Meyer, fol. 604v.

the council to direct how he should act, 'since it is a matter of saving God's honour, which will certainly not go unsaved, for if it is not saved by the human [authority], he will certainly save it, since he is a jealous God who will not give his honour to another.'[324] The various church sources see blasphemous language as an insult to God's honour. The task of the authorities is to restore God's honour before the 'jealous God' takes action.

A similar normative approach is taken in the secular court records.[325] These argue as if divine honour were the honour of a concrete person. What this means becomes apparent when we compare insults without blasphemies and those that make use of blasphemous references. The parallels with the various secular conflicts of honour indicate how closely related the content of cursing and swearing is to secular insults. In order to argue this, we need to be aware of the ground rules of ordinary conflicts of honour in the 'agonistic culture' of the Early Modern era. The background to every insult is the fact that each individual's social status is defined by honour. Honour is a finite resource that cannot be multiplied or reproduced. The consequence of this is that one person's honour capital can only increase at the expense of another's. In order to avoid loss of social status, the individual losing honour to another must make up for this loss.[326]

This 'honour economy' means that, when the finite resource of honour is at stake, the conflicts in Zurich and elsewhere[327] follow a similar dramaturgy.[328] An opening provocation (the assault on the addressee's honour) is followed by retaliation (regaining of honour). Those challenged are obliged to respond, either by evading the conflict or facing it. Facing

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[324]   '… sonder auch leider, welches zu schreiben mir grauwet, den großen Gott im himmel mit seiner lesterzungen erschröcklich angegriffen […] weil es umb die rettung der ehre Gottes zethun, gewüß nit ungerettet bleiben wird, dann so sÿ die menschliche [Obrigkeit] nit retten würde, so wird Er sÿ gewüßt retten, maßen Er Ein Eÿfriger Gott ist, der sein Ehr keine andere geben will' – A.27.11, Report Minister Johan Rudolf Zeller, 31.1.1686.

[325]   Cf. e.g., B.VI.266a, fol. 100, Sentence Heinrich Pfister, 27.3.1615.

[326]   On the concept of agonistic culture on the basis of ethnological and sociological models, cf. Rainer Walz, 'Agonale Kommunikation im Dorf der frühen Neuzeit', *Westfälische Forschungen*, 42 (1992), pp. 215–251; here: pp. 221–3.

[327]   From the wealth of literature on this, see e.g.: Martin Dinges, 'Die Ehre als Thema der historischen Anthropologie: Bemerkungen zur Wissenschaftsgeschichte und zur Konzeptualisierung', in Klaus Schreiner and Gerd Schwerhoff (eds), *Verletzte Ehre: Ehrkonflikte in Gesellschaften des Mittelalters und der Frühen Neuzeit* (Cologne–Weimar–Vienna, 1995), pp. 29–62; Ralf-Peter Fuchs, *Um die Ehre: Westfälische Beleidigungsprozesse vor dem Reichskammergericht (1525–1805)* (Paderborn, 1999).

[328]   On the conceptualisation of these patterns, cf. Martin Dinges: 'Ehrenhändel als "Kommunikative Gattungen": Kultureller Wandel und Volkskulturbegriff', *Archiv für Kulturgeschichte*, 75 (1992), pp. 359–93.

the conflict means attacking the attacker and making use of various threats according to the principle of equivalence. In its third phase, the conflict escalates and breaks into the open, when it is then either settled amicably or not (restoration or redistribution of honour).

The equivalence principle applied both between the sexes and among men or women in conflict. The women had the same rules of engagement as men when they sought to prevent loss of honour, to humiliate an opponent or to defend their own honour by means of an equivalent counter-accusation. There were different criteria when it came to honourableness, however. As in many parts of Europe, women were frequently slandered as 'whores', 'witches', 'child murderers' or 'gossips'. Women's respectability was defined by sexual good conduct, discretion, and refraining from magical practices. Men, on the other hand, had different criteria to contend with. 'Rogue' or 'thief' or 'good-for-nothing' on the one hand (*Schelm*, *Dieb*, *Lump*), and 'sodomite', 'bugger' or 'cuckold' (*Ketzer*, *Kuhgeher*, *Gehörnter*) on the other, were the defamatory insults typically directed at men in Zurich and elsewhere up to modern times. Men's honour was measured against two criteria: their business capacity and their sexual potency. Those attempting or performing sexual intercourse with animals were committing a capital offence known as a form of 'heresy' (*Ketzerei*). A man cuckolded by his wife was incapable of taming her sexually and was regarded as a henpecked husband.[329]

In the sixteenth century at least, punishments for conflicts of honour in Zurich often showed a characteristic 'fines arithmetic' (H.R. Schmidt). The sentences drew up the bill meticulously. In the conflict between Bastian Mack and Hans Otli Bugoltz, for instance, the latter was sentenced to pay 10 pounds for breaking the peace, 1 mark for hitting, and 1 pound 5 shillings each for two punches.[330] Gender distinctions were not usually made, apparently, provided the adversaries were of comparable social status.[331]

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[329] The gender-specific variants of insults to honour are well documented in the literature. British examples can be found in: Laura Gowing, 'Gender and the Language of Insult in Early Modern London', *History Workshop*, 35 (1993), pp. 1–21; Michael F. Graham, *The Uses of Reform: 'Godly Discipline' and Popular Behavior in Scotland and Beyond, 1560–1610* (Leiden–New York–Cologne, 1996), p. 293; Robert Shoemaker, 'Male Honour and the Decline of Public Violence in Eighteenth-Century London', *Social History*, 26 (2001), pp. 190–208. On the insult 'Kuhschweizer', cf. Claudius Sieber-Lehmann, 'Einleitung', in id. and Thomas Wilhelmi (eds), *In Helvetios – Wider die Kuhschweizer: Fremd- und Feindbilder von den Schweizern in antieidgenössischen Texten aus der Zeit von 1386 bis 1532* (Berne–Stuttgart–Vienna, 1998), pp. 1–21.

[330] Cf. A.27.21 (dorsal note), 2.3.1558, Complaint Bastian Mack, X2.3.1558.

[331] Cf. as an example, F.III.45, Fines register, Baptistalis 1614.

The initial thesis was that blasphemous language follows the patterns of secular conflicts of honour in both form and content. This indicates the high value of cursing and swearing as a provocation. These verbal sins were also suitable for retaliation. Those who were attacked used blasphemous expressions to threaten, impress and humiliate their challengers. It was not God they addressed but their opponents. In propositional and theological terms, cursing and swearing were varieties of blasphemous speech action. In perlocutionary terms and with regard to its effect, blasphemous talk was often a profane weapon wielded in conflict, consigning God to the background. The following empirical examples provide evidence of this.

A large number of cases demonstrate that blasphemous talk was felt to be a provocation. In 1545, the tailor Heinrich Herliberger was said to have insulted and cursed Rudolf Vogler, calling down shame on him in the name of God's suffering.[332] The success of this speech act was apparent in the punch-up that followed. Curse, provocation and violent conflict were closely associated – and satisfaction was part of the ritual. Demanding satisfaction was not only characteristic of men, as a case of *c.* 1528 shows. According to a statement by Heini Flicks, the wives of Kerer and Kilchart had insulted and hit each other. After an attempt to make peace between them had failed, Kerer's wife stood outside Kilchart's wife's house and swore that God's power on earth should shame her in the privy. 'If you are as worthy as I am', she shouted, 'then come out here.'[333] Kilchart's wife was not concerned to gain divine support, but to declare war emphatically on her opponent.

Blasphemies had a limited profane function as provocations. Their aim was to force opponents to face the conflict. Blasphemous language used as a threat had further aims. The adversaries were to be intimidated, with or without divine assistance. In 1612, the Gilg brothers together with Leinhart Huber had attacked Anna Meyer and Anna Wetzel and thrown them to the ground. Anna Wetzel stated that after this incident, when a thunderstorm was brewing, she had managed to take shelter in a barn. Huber had made fun of the storm, she reported, although the two women had warned him to fear God, who would punish them all if he did not desist. Huber had replied condescendingly that God was already there and whistling. If the charge against Huber – whose sentence is not entered in the council records – was 'offence and violence' (*frevel und gewalt*),[334] it indicates how the judiciary interpreted his speech action. He was in fact guilty of an extreme act of blasphemy. In propositional terms, he had made himself equal with God and with divine judgement. His human judges,

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[332] Cf. A.27.10, Statement Rudolf Vogler, X.X.1545.

[333] 'Bist als gut als ich, so kum ußhin' – A.27.6, Statement Heini Flick, *c.* 1528.

[334] A.27.57, Statement Anna Wetzel, 22.6.1612.

however, read his words differently and treated his behaviour as a profane act of violence.

Huber may have just wanted to enjoy himself by scaring the women. Other cases show, however, that blasphemous talk often went hand in hand with the threat of violence. Typical entries in the *Richtebuch* record, as in the case of Jörg Scheller in 1613, offences of blasphemy, curses and threats (*gotteslesterungen, schwüren und tröuworten*). Although the 'staged threats' ('Drohbarock' in M. Dinges's term) of blasphemers undoubtedly referred to God, our examples make clear that the speakers were not evoking God in order to call down divine support. Rather, blasphemers demonstrated their strength by dealing fearlessly and disrespectfully with God.

Less frequent than such instances of self-applause are the cases in which God is used as a threat. Heinrich Wyman attempted to bring his son to his senses by verbal and non-verbal means. According to the parish minister in Meilen, the father had hit his son on the shoulder and blasphemed horribly, claiming that, if God did not punish him, he was not a just God.[335] The question of whether Wyman actually believed he could force Providence in this manner or whether he was only letting off steam with this specific threat is less important here than our perspective on the utterance as a speech action. Wyman's message is not that God could be an unjust God (a blasphemous misattribution), but that his son should change his behaviour towards his father. Wyman does not imply statements concerning God's being, but warnings to his son.

Blasphemous talk could also be used to impress. Curses and oaths were given unusual formulations, or common ones were given theatrical staging. Captain Bürckli had threatened by means of stereotypical oaths, but drew attention to himself by adding an unusual expression. Johannes Wyß stated that Bürckli had attempted to break into a house containing weapons belonging to his imprisoned brother. He had sworn as he did so that he wanted his brother's belongings out of the house, even if God himself should be there and protest.[336] Soldiers are expected to be bold, but taking on God himself was surely a step too far.

Women, too, practised the art of impressing, and could be just as successful as the men.[337] The marital conflict between Anna Wieland and

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[335] Cf. A.27.11, Report Minister of Meylen, 31.1.1686.

[336] Cf. A.26.9, Statement Johannes Wyß, 2.3.1646.

[337] The proportion of female delinquents listed in the sentences for cursing and swearing suggests this. Among the 28 blasphemers registered in Basle between 1546 and 1556, there are no fewer than five women (cf. Schwerhoff, *Gott und die Welt*, p. 287). The percentage of women among those sentenced in early modern Stettlen and Vechigen ranges from 40 to 50 (cf. Schmidt, *Dorf*, p. 85).

her husband is a case in point. They rowed so noisily that Jacob Asfar, leaning out of a window, heard Anna Wieland cursing horribly and blaspheming that God Almighty, God's cross, God's passion and God's baptism should shame her husband. Anna Rottenschwyl remembered a further detail: Anna Wieland had also verbally and dramatically threatened her husband with a knife.[338] This reference to physical violence added to Anna's impressive performance.

Blasphemers showed considerable creativity in playing to the gallery. In 1677, Hans Jagli Stüdli from Wil set a dramatic scene. He had sworn against a married couple, and been reprimanded by Heinrich Stockhar. Stüdli had reacted angrily, Stockhar stated, and called down God's manifold destruction by hail and thunder, even though a storm with thunder and lightning was raging at the time.[339] In a society in which thunderstorms were regarded as life-threatening,[340] Stüdli's reference to the storm was no coincidence. He had taken on diabolical features.

Such theatrical displays were not limited to the sixteenth and seventeenth centuries. In the 'civilised' eighteenth century also we encounter Rabelaisian types, such as Heinrich Frey. According to a bailiff's report around 1702, Frey had entered the Krone inn, already somewhat inebriated, and left the door open behind him. The wife of Martin Morath had asked him to close the door; he had replied with 'coarse words' (*unflätige wort*). When reprimanded by Hans Ulrich Haußer and Hans Jacob Sprenger, Frey had put on a burlesque performance. He had cursed them repeatedly and behaved as if their reprimands were not to be taken seriously. Then he had challenged them by the holy sacrament. Eventually, when his wife wanted to take him home, he had again threatened and cursed that if she did not keep quiet he would kill her with a pebble and swear by all the saints together.[341] Whether on the real-life stage of the inn or in the fictitious world of the picaresque novel, individuals like Frey could play with rhetorical effects that put them rather than God in the limelight. Symptomatically, the report speaks of a sad (*leidig*) matter that this 'miserable creature' (*Ellende Tropf*) Frey was involved in. There is no mention of blasphemy.

Threatening and impressing were two ways of placing oneself above opponents. A third option in the struggle for honour capital was to humiliate adversaries. Shipmaster Heinrich Engelhardt and his son had been at loggerheads for months. In 1677, when, according to his father's

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[338] Cf. A.27.35, Statements Jacob Asfar, Magdalen Wäber, Anna Rottenschwyler, 11.7.1579.

[339] Cf. A.27.108, Statement Heinrich Stockhar, X.6.1677.

[340] Cf. Heinz D. Kittsteiner, *Die Entstehung des modernen Gewissens* (Frankfurt, Main, 1991), pp. 25–65.

[341] Cf. A.27.123, Bailiwick Report, undated.

statement, the son had shown impertinence by refusing to lift his hat to Caspar and Balthasar Aman, Engelhardt had become angry. He did not believe his son was a child of God; rather, he was of the devil. Should the devil claim his son, he would not prevent it.[342] Here a father not only cursed his son, but degraded him too.

Such utterances could harm the reputation of the person; in other words, do damage to their honour. We see this in the case of Adam Wolffer's wife against her brother-in-law Heinrich Wolffer from Andelfingen. On August 29, 1691 she complained, as recorded in the bailiwick sentences, of Wolffer's spreading rumours that she was not sufficiently opposed to the devil. He had then accused her of being the one who spread such rumours about him. The bailiff sentenced each of them to a fine of 12 pounds for 'abuse, curses and oaths' (*schelten, fluoch und schweren*).[343] In terms of locution and proposition, the Wolffers had articulated curses and oaths, while in perlocutionary terms they had maligned. Symptomatically, neither received an ecclesiastical punishment. The in-laws had made accusations against each other to reduce each other's honour capital. Their punishment was the same, without regard to gender. Evidently, their mutual slandering was treated as an equivalent and profane offence.

Just as blasphemous provocation of opponents followed the rules of conflicts of honour, blasphemous retaliation was also patterned on the honour code. Here too, the principle of equivalence was central. Frequently, those who were verbally attacked responded with a mirroring counter-attack. In 1514, Ruodolf Schintz was said to have complained about Tubli, claiming he was a nobody and not a man of honour. Schintz blasphemed by God's suffering and called on Tubli to come and see who he was. Tubli's reply – 'I know you, but you don't know me, and may God's suffering shame you'[344] – was concerned to restore the exact balance of strength between them by verbal means.

The verbal strategy of mirror-image retaliation was also adopted when the conflict escalated. In these cases, the blasphemous words were usually uttered at the last moment as the sharpest rhetorical weapon. Heini Breitinger from Hottingen and Sprüngli had a verbal conflict of this kind, according to a statement by Thoman Wetzel around 1545. Breitinger had opened the first round, provoking Sprüngli by calling him a dwarf:

> Then Sprüngli said that if he was a dwarf then Breitinger was a heretic and a villain. Then Breitinger called him a dwarf again. At this Sprüngli said, 'If I'm

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[342] Cf. A.27.108, Statement Heinrich Engelhardt, 14.5.1677.

[343] B.VII.2.4, Sentencing Book Bailiwick Andelfingen, 29.8.1691.

[344] 'Ich kenn dich wol, aber du kennst mich nit, dz [daß] dich gotz lÿden schänd' – B.VI.288, fol. 1r, Statement Hanns uff allen Vieren, Wednesday after Epiphany 1514.

a dwarf, then you have been with a cow.' Then Breitinger stated: 'Sprüngli, you are using improper words.' At this, Sprüngli told Breitinger to dare to come up to him. At this he [Breitinger] went up to him [Sprüngli] and said to him, 'Here I am', and put his hand to his dagger. Then he cursed Sprüngli.'[345]

The first round had ended in a draw. In the second round, Breitinger still failed to win out over Sprüngli; in fact, the latter proved himself superior. The relatively harmless designation 'dwarf' now stood against the grave disparagement as a man who had sexual intercourse with a cow. Breitinger reacted immediately to this loss of face by reproaching Sprüngli with making indecent accusations. In the third round, the adversaries moved to the finish. One challenged the other to a duel ('come here'); the other took up the challenge ('here I am') and threatened physical violence (he drew his dagger), mobilising his last verbal resources (he cursed). The opponents repeatedly restored the balance of honour between them until neither saw any way forward but to bring matters to a head by means of their sharpest weapons.

Women's verbal behaviour was similar. In the social asylum (*Blatternhaus*) in Zurich in 1567, Catharyna Streker and Barbara Stryner, probably both prostitutes, went for each other. The court records state that Stryner had provoked Streker with the usual swearing. Streker did not hesitate to swear back, challenging her opponent: 'Come here, you're just as unworthy as I am'. According to the records, Streker took up the challenge. Were she a man she would prefer to have sexual intercourse not only with donkeys and foals than with Stryner, but even with the devil. Both women had then sworn horribly: 'God's heaven, a thousand God Almighties, seven sacraments, baptism, cross suffering elements and the sum total of all oaths imaginable, as well as cursing by God's name.'[346] Meaningful as it might be for these women of doubtful reputation to insult each other as 'whore', their retaliation could draw attention neither to their own sexual integrity nor to the other's lack of it. Their 'honour' as prostitutes depended on questioning the 'market value' of their opponent. When both had done this, no further escalation of dishonouring talk was possible. They sharpened the conflict by means of cursing and swearing

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[345] 'Da seigte der Sprüngli, alls gwüß er ein Zwerg wer, so gwüß were der Breitinger ein Ketzer und Boßwicht. Da zwergete Inn der Breitinger abermaln. Daruff spreche der Sprüngli, alls gwüß ich ein zwerg bin, so gwüß hast du ein ku geheÿt. Da seite der Breitinger, Sprüngli du tribst unzimliche wort. Uff das seigte der Sprüngli, der Breitinger solt zu Im kan. Da gienge er gegen Inn und spreche, Da bin Ich, gryffe auch mithin an sin gwer. Da fluche er Sprüngli' – A.27.10, Complaint Heini Breitinger, *c.* 1545.

[346] 'Gotz himel, Tussennd hergot, Siben Sacrament, Tauff, Krütz lÿden Elemennt unnd Inn Summa alle schwür, so sÿ erdenken khönnen unnd dartzu allwegen gott genamset' – B.VI.259, fols 271v–2v, Sentence Streker, Sentence Stryner, 29.12.1567.

alone. Once again, blasphemous language opened the final round of a secular enactment of conflict.

A further argument supporting the idea of blasphemous talk as a form of profane enactment of conflict is the close linguistic relationship between secular conflicts of honour and blasphemy. Swearwords were often followed by (mostly ordinary) oaths, detracting from the blasphemous character of the speech action. From the myriad examples, one typical case is that of Caspar Keller in 1569. Following a conflict with the innkeeper Hans Koch in Glattfelden, the sentence against Keller stated that he had not only used coarse words such as cow-shit, but had also sworn by the cross and passion, baptism, elements and sacraments.[347] Such verbal outbursts were by no means restricted to men.[348]

Besides the combination of insult and blasphemy as an insult to honour, the linguistic merging of the two is instructive. The expression *Donners Hundtsfud*,[349] for example, clearly demonstrates how the blasphemous element (*Donners* = swearing by thunder) and the insult (*Hundtsfud* = dog's arse) formed a compound, with the blasphemy as a kind of prefix emphasising the profane character of the honour insult. Curse and insult could even blend to such an extent that they were no longer distinguishable, as in the words of Catharina Rem from Wollishofen. In 1709, she admitted calling her husband a sodomist and a son of the devil. On an occasion when he refused to sleep with her, she sang of him as a 'damned curse' (*verdammter fluch*).[350] 'Being a curse' offers a fine example of how 'curse' trespassed semantically into the field of 'insult'.

There are other instances too in which the language used in Zurich indicates that blasphemous talk often referred to secular conflict and did not have God in mind. 'Swearing' and 'maligning' could be very closely associated. A telling example is the (putative?) misunderstanding in the interrogation of Heinrich Halbherr of Hinwil in the year 1717. Asked what he had sworn in a particular incident, he replied, 'rogues, thieves' (*Schelmen, Dieben*). In other words, he equated the verbs 'swear' and 'insult'. The *Nachgänger* persisted with their questioning, insisting this was not the matter at issue. Had he not spoken ill of God and God's business?[351] Their reaction showed that their original question was a successful speech action but not an effective one. Halbherr had understood their question (even if he may have feigned 'stupidity'). He decoded the question and gave a logically possible answer. From the perspective of the

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[347] Cf. B.VI.260, fol. 16, Sentence Caspar Keller, 12.3.1569.

[348] Cf. e.g., A.27.160, Statement Anna Stadtler (known as Rotanna), 26.7.1686.

[349] A.27.112, Statement Caspar Bochsler, 4.8.1683.

[350] A.27.127, Statement Catharina Rem, 22.8.1709.

[351] Cf. A.27.131, Statement Heinrich Halbherr, 29.11.1717.

Nachgänger, however, Halbherr had taken up the ambivalent verb only in one sense, thwarting their attempt to ask about blasphemous oaths. This discrepancy was only possible because the verbs 'swear' and 'insult' were not clearly distinguished.

Cursing and swearing were relatively banal variants of blasphemy. Abusing God was a more serious matter. Even here, however, in the field of blasphemy in the narrower sense, blasphemous talk could take on the function of a secular insult to honour. In 1735, Gebhardt Heller from Wil had to answer a charge brought against him by Johannes Angst. Angst stated that Heller, asked in a private setting why he had allowed Lieutenant Fries to call him *Henkersbub* (hangman's assistant), had replied that he was just as worthy as the triune God.[352] Heller had thus applied the secular retaliation rule, 'I am just as respectable as you are', to the sphere of the sacred. In contradicting his opponent, Heller was not committing blasphemy by comparing himself with God. Rather, his bold comparison focused on the secular conflict of honour. His concern was to re-establish his own social standing.

As well as parallels with secular conflicts of honour and semantic shifts in insulting language, the way blasphemers presented themselves and the reaction of witnesses provide evidence that blasphemous speech actions were an attack on the person of the opponent. In the first third of the sixteenth century, for example, Jörg Bleuler was surprised to be arrested. He had accused his brother-in-law of adultery with his wife, and in the altercation that followed he had resorted to swearing. On being apprehended, he had behaved as if innocent, protesting that he had neither stolen nor rebelled.[353] From his perspective, the blasphemous words were simply a negligible and trifling matter.

Given the cultural context, Bleuler's behaviour might well appear plausible, as in the case of Hans Jagki Henßler of Rümlang. In a petition of 1648, the minister Waser confirmed that, while at work in the vineyard, Henßler had shouted that he was better than God, since he had married Ewain, a disagreeable woman whom not even God wanted.[354] The minister stated that, although Henßler had indeed said this, the words were not spoken in anger or with the intention of insulting God's majesty, but simply in innocence and ignorance.[355] So even the clergyman trivialised Henßler's blasphemy as an unfortunate verbal slip.

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[352] Cf. A.27.144, Report of Eglisau Bailiff, 8.4.1735.

[353] Cf. A.27.11, Statement Peter Kaufmann, undated.

[354] Cf. A.27.87, Letter from Parish Minister Waser to his brother-in-law and colleague, 4.2.1648.

[355] Cf. ibid., Petition Parish Minister Waser, 8.3.1648.

The case brought by Abraham Hegi against Caspar Thomann and his wife exemplifies this understanding of blasphemously enhanced insult as an assault on personal honour. In 1679, Hegi accused his landlord Thomann of insulting his wife, threatening to beat her, and wishing the devil on her. He had demanded that Thomann should offer satisfaction to him and his family.[356] It was not atonement for 'unchristian talk' Hegi had in mind, but personal satisfaction. For him, the issue was not blasphemy but secular insult to his honour.

The sentences handed down confirm this understanding of blasphemy. In 1747, for instance, butcher Jacob Laban of Regensberg was accused of having insulted Bailiff Füessli. Laban, said to have uttered 'abusive language, reprimands, blasphemous curses and oaths', was sentenced to kneel publicly before the bailiff and offer his apologies. He could remain standing, on the other hand, to serve for his 'abuses and threats' (*schmäh = und dräuworte*).[357] Laban had to submit to the reprimands of the morals court, but the court did not insist on recantation in church. Rather, it was concerned to restore the honour of the bailiff. It distinguished between 'abuses and threats' on the one hand, and 'cursing and swearing' on the other. Evidently, the judiciary saw this primarily as a case of secular conflict of honour. God's honour appeared less sullied, so that a semi-public admonishing by the morals tribunal was regarded as sufficient.

An objection to this interpretation might be that, in the comparatively secularised eighteenth century, the sacred dimension of blasphemy had receded, giving rise to a different approach in the judiciary. But examples from the sixteenth- or seventeenth century show otherwise. Hans Keller stated that, on Christmas Day 1640, Heinrich Ruckstuol had rewritten a hymn with the words: 'Praised be Jesus Christ, born for us a rogue'. His cousin Jacob Ruckstuol had asked Keller whether he meant God. Keller had replied that his words referred to his cousin Heinrich. Heinrich had to appear in the parish minister's house and apologise to his cousin Jacob in the presence of the dean, Captain Ehrensperger and the court clerk. Next morning, the incident was handled by the court as a case of verbal injury, not blasphemy.[358] Even in the presence of a clergyman, it was already a matter of restoring a person's 'good name' rather than God's in the seventeenth century.

In the period under discussion, there are plenty of cases in which the reaction of witnesses shows that the sacred dimension of blasphemous language carried little weight. Some witnesses chose to ignore what they

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[356] Cf. A.92.3, Complaint Notz, X.9.1679.
[357] B.II.856, fols 48–9, Sentence Jacob Laban, 15.3.1747.
[358] Cf. A.27.79, Statement Hans Keller, 13.8.1640.

heard (this is what they claimed in court, at least).[359] Others complained of the disturbance caused by noisily arguing couples, without detailing the cursing and swearing involved.[360] Parish ministers attempted to deal with blasphemous talk privately, even in a case as drastic as that of weaver Heinrich Merki in 1677. He admitted having shouted at his wife by a hundred sacraments that she should be killed by lightning. On being told by her that he should be ashamed of his curses, particularly as he had taken Communion that day, he had replied that he had taken the devil, not God.[361] It is remarkable that the minister treated these outrageous words as an unfortunate profane retaliation that could be dealt with privately and informally.

The secular authorities too were prepared to treat blasphemous speech actions as understandable expressions of displeasure that did not seriously threaten divine honour. In 1582, for example, Lienhart Hohenrütter from Innsbruck, unable to find accommodation in Küßnacht, had sworn and called on God to send thunder and fire from heaven and burn the place to the ground.[362] The secular authorities responded leniently. They released him for the stereotypical reason that he regretted his 'ill-chosen words' (*ungeschickten Reden*) and had promised to mend his ways.[363] His cursing had become *ungeschickte Reden* that did not even affect the honour of the authorities as God's representative on earth.

Summary   Many blasphemous speech actions were in fact primarily secular conflicts of honour in both form and content. The normative concepts of council and church treated blasphemy as an insult to divine majesty, arguing God's honour as if dealing with a concrete person. In other words, their norms were adjusted to the rules of secular conflicts of honour.

Patterns of such conflicts in Zurich were similar to those in other European societies. 'Agonistic cultures' were characterised by the 'economy of honour'. The symbolic capital of honour determined the status of each individual and was a non-renewable resource. Since honour capital could not be increased, any loss of honour or prestige could only be rectified by regaining the lost proportion of honour.

Secular conflicts of honour generally unfolded in three phases. An opening provocation was followed by a reaction in the form of retaliation,

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[359]   Cf. e.g., neighbours' statements concerning the Nüßeler household under A.27.13, undated.

[360]   Cf. e.g., A.27.108, Statement Joseph Büttinger, 9.6.1677.

[361]   Cf. A.27.68, Statement Heinrich Merki, 25.1.1628.

[362]   A.27.37, Statement Lienhart Hohenrütter, X.X.1582.

[363]   Ibid. (dorsal note, 16.7.1582), Sentence Lienhart Hohenrütter.

until the conflict reached a satisfactory (or indeed unsatisfactory) conclusion. If those provoked did not choose to evade conflict, they generally retaliated according to a gender-specific 'equivalence principle'. This involved restoring (or even enhancing to one's own advantage) the original distribution of honour by countering an insult with one of equivalent gravity. Both women and men knew the rules of blasphemous talk as a variant of secular conflict. There are parallels between the cases in which the opponents uttered blasphemies or refrained from doing so, and little difference can be found between the two groups. Those on the margins of society were perhaps more likely to produce curses, swearing and blasphemies – but for respectable citizens too, both men and women, it was 'normal' to use blasphemous words when defending their own honour.

Blasphemous insults occurred in three phases, as with 'pure' conflicts of honour. The provocative value of a blasphemous speech action was so high that those addressed took it as a personal attack. They reacted in accordance with the 'equivalence principle', attempting to impress or threaten their challengers by cursing, swearing, or abusing God in equal measure. In terms of language, their retaliations implied reference to God, but these blasphemers were not in fact calling on God for support. They were putting on a picaresque performance, using cursing, swearing, and abusing God as a means of enacting conflict. As in Paris in the seventeenth century, blasphemous expressions could accompany physical violence, or be drawn as a sharp verbal weapon at the climax of conflict. In both form and content, the same rules applied for men and women.[364] The examples from Zurich contradict the idea that blasphemy can be understood as a sublimated form of violence and thus as part of the civilisation process.

Reactions on the part of witnesses and the judiciary as well as the behaviour of blasphemers themselves make clear that blasphemies used in insults were taken to be an attack on the individual concerned rather than an assault on God's honour. The relative insignificance of the sacred sphere became apparent when clergy trivialised blasphemous utterances as unfortunate verbal retaliations, when the ecclesiastical and secular authorities alike argued that a blasphemous speech action compromised the honour of the person addressed, and when those attacked demanded satisfaction for themselves and their honour. Blasphemy was then no longer an insult to God, but a version of secular enactment of conflict. Under these circumstances, the significance of religious norms was that they formed a culture-specific medium of profane conflict enactment.

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[364]   By contrast, Cabantous stresses that cursing and swearing were specifically male rituals of violence: 'Histoire du blasphème', pp. 121, 193–4.

The language used in blasphemies frequently reflects their profane character. Insults and blasphemy were combined in such a way that the latter intensified the former. Blasphemous words in compounds took on the function of prefixes increasing the effect of the insult. Semantically, 'insulting', 'swearing' and 'cursing' were so closely related that they could be understood as synonyms.

The qualitative significance of blasphemy as a secular insult to honour does not decline in early modern Zurich. Examples from city and region for the period from the end of the fifteenth- to the middle of the eighteenth century show that blasphemous speech actions retained their honour-insulting character. This observation should engender scepticism towards models suggesting that human behaviour in the Early Modern era was 'civilised' and increasingly regulated. Such scepticism, however, does not yet answer the question of historic change in blasphemy.

Cursing: Verbal Magic or Insult?

In Zurich as in Cologne, Nuremberg and Basle, the early modern court records deviate from the theological terminology of the time. Whereas the theological–legal texts differentiate in theory between swearing, cursing and abusing God, in legal practice these terms are used synonymously.[365] In 1723, for example, the minister Caspar Diebolt from Bülach reported that Andreas Zander had without any particular reason cursed and blasphemed horribly, as badly as one can curse, by thunder and hail and lightning, sacraments and elements.[366] In fact Zander had not cursed, but sworn. To avoid misunderstandings, we need to make clear from the outset that the cursing dealt with in this chapter is the speech action by which someone wishes harm on him- or herself or on another person. With this precise definition, cursing excludes the ambivalence of blasphemous language emphasised by Labouvie in her study of 'Verwünschungen' (curses, enchantment, bewitchment).[367] Cursing as the evocation of disaster cannot be a blessing, nor can it be an effective antidote, anchored in popular culture, to the threat of harm. Cursing as examined in this chapter should not be confused either with the divine monopoly on cursing as expressed in God's vengeance.[368] Cursing in our context is a variant of blasphemous behaviour with a specific intended effect.

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[365]   Cf. Schwerhoff, *Gott und die Welt*, pp. 321–9.

[366]   '… ohne einichen gegebenen anlas erschreklich gefluchet und gelästert, was man immer fluchen kan, bim Donner, Hagel, Stral, Sacramenten, Elementen' – A.27.135, Letter Minister Diebolt, 30.9.1723.

[367]   Cf. Labouvie, 'Verwünschen', p. 130.

[368]   Cf. Schmidt, 'Ächtung', pp. 82, 102.

What is 'specific' about cursing is controversial in research. Three positions can be identified. The first sees in cursing and swearing an insignificant verbal affect. Our interpretation of blasphemous speech actions as a form of verbal conflict enactment has shown that this position underestimates the phenomenon. The second position sees heavy cursing as belonging to the field of magic and the accompanying fear of divine retribution. The third position, as represented by Schwerhoff, places verbal taboo-breaking in the field of profane conflicts of honour. Is a curse an insult, or is it verbal magic? The following discussion will examine where the stronger arguments lie, and to what extent a redefinition of cursing is required.

There is much about the practice of cursing in everyday life in Zurich that supports the verbal magic thesis. As with other variants of blasphemy, ecclesiastical and secular norms take their cue from theological argument on divine retribution. Fear of God's vengeance was no empty judicial or theological formula, but an expression of popular feeling, as evidenced well into the eighteenth century. A report on the Ochsner family by the parish minister in Illnau in 1717, for instance, stated that such dreadful cursing and blaspheming was often heard in their house that the neighbours feared their own houses would be destroyed as well as that of the Ochsners. They expressed surprise at God's forbearance.[369] Such passages certainly create the impression that cursing was perceived as verbal sin. Both the minister, representing the ecclesial 'elite culture', and the neighbours he cites, representing the village 'popular culture', seem to have expected that the Ochsners' verbal behaviour would cause harm. But what exactly does the listeners' fear refer to? Were they afraid that God would take his revenge because his honour had been offended, or because those cursing had attempted to usurp his power by means of magic? The sources do not offer us a clear answer. The case of Uli Wißmann from Kloten, in 1677, shows that there was a reaction to cursing. The parish minister informed the council that Uli Wißmannn had complained to him about cursing and swearing by Felix Schwytzer and Joseph Güttinger. Wyßmann was concerned that, if nothing was done, God would punish them all.[370] Everyone knew about the matter, but no one wanted to take action. It is possible that Wyßmann had quite different motives for reporting Schwytzer and Güttinger. Be that as it may, the minister took Wyßmann's part and stated that the blasphemies were a cause for concern, even though they were not directed at Wyßmann personally. Others, however, did not share this concern, the minister reported. Such cursing and swearing was not so threatening to them that they were prepared to take the matter to court.

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[369] Cf. A.27.131, Case of Ochsner Report Parish Minister of Illnau, 9.9.1717.
[370] A.27.108, Letter Minister Wyß, 5.6.1677.

Evidently some feared the magic effects of a curse, while others did not. Heavy cursing was not necessarily regarded as a magic formulation giving rise to fear of divine retribution.

Besides this fear of Providence, Schmidt – as well as Schuster and Sabean[371] – sees in the proviso formulae used by the court scribes an indication that cursing was associated with magical dimensions: 'No mention of a curse without a preceding verbal antidote.'[372] He suggests that insertions such as 'God save us' are not simply set phrases, but an expression of the fear of repeating a formula that could do harm even without harming intent on the part of the accused.[373] The court scribes in Zurich took similar precautions, inserting phrases such as *salve honore*, *absit blasphemia dicto*, or 'God spare us' (*Gott bhüt uns*). In this way, they cleared the reported words of their blasphemous implication and ensured that the original speech action was unsuccessful. Witnesses too evidently sought to anticipate the effect of a curse, as did Jacob Widmer in the first third of the sixteenth century. He said of Walpurga Ernst that the accused had sworn by seven God almighties, God's suffering, and other bad oaths. He had heard so many from her that he was horrified and could neither repeat nor tell of them all.[374] But were such formulations really an antidote? Are they not simply set phrases inserted almost automatically by the court scribes as they wrote? The Zurich sources offer just one individually varied comment by a court scribe. In the case of Zindel in 1661, the scribe noted that the defendant had spoken 'terrible words (God forgive me for putting them on paper!)'.[375] This insertion is revealing, as it shows that comments by the scribes were by no means unambiguous. We could read this insertion as an antidote whose propositional and perlocutionary substance is intended to cancel the effect of the blasphemous words and remove the danger of divine retribution. But the opposite could also be the case. Possibly, the scribe wanted to deny any responsibility for Zindel's blasphemous words in perlocutionary terms. In this case, an antidote would be superfluous because the formulation would not imply an effective blasphemy. Thus the provisos in which Schmidt sees verbal magic being magically countered can also be interpreted as set phrases used by the scribes to indicate that

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[371] Cf. Schuster, *Konstanz*, p. 76; David W. Sabean, 'Soziale Distanzierungen: Ritualisierte Gestik in deutscher bürokratischer Prosa der Frühen Neuzeit', *Historische Anthropologie*, 4 (1996), pp. 216–33.

[372] Schmidt, *Ächtung*, p. 93.

[373] Ibid.

[374] Cf. A.27.18, Statement Jacob Widmer, undated.

[375] '… grusame wort (welche mir Got verzeihe, dz [daß] ich sie uf das Papÿr setze!)' – A.27.98, Statement Georg Zindel, 15.5.1661.

they are reporting norm-breaking without committing it themselves.[376] In this case, no magic is involved.

Where (heavy) cursing was so closely associated with verbal magic that an antidote was considered necessary, would we not expect the scribes and witnesses of other blasphemous formulations to take comparable prophylactic measures to protect themselves from divine vengeance? This is generally not the case, however. Hans Sigrit is one of countless witnesses stating, without recourse to any verbal precautions, that a defendant – in this case Mathys Schmid – had sworn oaths 'by God's wounds, suffering, baptism, heaven, earth, ground and chrism as well as by God's name.'[377] It would not be difficult to cite court protocols that do not contain proviso formulae, weakening the argument that the insertion of verbal antidote by scribes indicates the magical nature of curses.

There is consensus in research that those who used curses committed verbal sin and were guilty of taboo-breaking. Did this taboo-breaking involve magical elements, however? A sentence such as that against Heinz Truodel in 1564 suggests an affirmative answer. Truodel was found guilty of intimating that a strong oath against an opponent was more effective than a pious prayer.[378] But did he mean that the oath depended for its deterrent effect on its magical force? We cannot be certain.

The behaviour of some witnesses confirms the impression that they closely associated curses and magic. Contrasting scenes suggest different interpretations, however. In the year 1545, Rudolf Knechtli reported a row between the brothers Jagli and Simon Liechti. After a series of mutual cursings, Simon had placed his hand over his brother's mouth with the words, 'Yes, I'm closing his behind.'[379] Do these words not suggest that Simon was treating his brother's curses as an expression of disrespect towards God rather than as threatening verbal magic? This interpretation is possible, but not imperative. Another scene reveals how witnesses who intervened in conflicts deciphered blasphemous speech actions. In 1559, the innkeeper Georg Fytz complained about a journeyman who, when asked to pay his bill, had thrown his purse provocatively on the table and

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[376]   This reading is reinforced by David Sabean's interpretation of the proviso formulae as a general verbal cleansing ritual with exorcist character on the one hand and, on the other, as an expression of horror in cases of blasphemy. Sabean sees the formulae as a social positioning on the part of the Württemberg court scribes even where no connection is made with blasphemy. In a hierarchical bureaucracy, the authors defer to their superiors while distancing themselves from the lower-strata defendants. (Cf. Sabean, 'Distanzierungen', pp. 220, 226.) There is no reason why this interpretation should not also be true of blasphemy.

[377]   '… als namlich Wunden, Lÿden, touff, himel, ertrich, Boden und Crisam und zudem gotz namen [geschworen]' – A.27.13, Statement Hans Sigrit, undated.

[378]   Cf. B.VI.259, fols 126v–7, Sentence Hans Truodel, 11.6.1564.

[379]   'Ja, das füdli verhan Ich Im' – A.27.10, Statement Rudolf Knechtli, *c*. 1545.

cursed, telling Fytz to take the money himself. Fytz had reprimanded him and asked him to do what the law required, kneeling to kiss the ground or paying a shilling into the alms box. The journeyman had continued to provoke and curse until a man named Max Harnister intervened, placing his hand over the speaker's mouth to silence him.[380] Eventually, according to the innkeeper, the blasphemer had been turned out of the inn following a fight. The context in this case suggests how we might interpret the concern to prevent further blasphemy. It is not God's honour at stake, but that of the innkeeper. It is no coincidence that the journeyman is reminded of what the morals mandate required, but is not forced to comply. The need, as Harnister saw it, was to prevent further conflict in the tavern rather than to put a stop to blasphemous talk that would call down divine vengeance.[381]

The rare examples up to the turn of the eighteenth century in which witnesses are reported to have physically curbed 'evil words' involve swearing rather than curses. Such cases are nonetheless relevant to the question of whether curses are a form of verbal magic. Tellingly, the Zurich material lacks evidence of cursers being prevented from the locution of blasphemous words. This is significant, given the small number of cases involving swearing. Evidently, those who heard swearing felt called on time and again to prevent the oaths being articulated, in order to deal with a conflict of honour. Would we not expect their reactions to be far more drastic if they had interpreted the uttering of curses as a threatening form of verbal magic? Unsatisfactory as such arguments *ex negativo* may be, the gaps in the sources can indeed be read as eloquent silences, leading us to conclude that cursing was not necessarily associated with verbal magic. For this reason, it was not deemed necessary to interrupt the articulation of blasphemous words, and hence there is no record in the sources of such acts of physical intervention.

Our thesis supporting Schwerhoff's interpretation is that curses and secular conflicts of honour were closely associated but did not involve a decisive magical threat. Our examination of curses against the authorities revealed the relatively tolerant reaction of the judiciary. Such tolerance would be inexplicable if the curses were regarded as verbal magic. The social value of cursing was that it enabled the orderly enactment of conflicts of honour. Cursing was used both to humiliate an opponent and as a performance to exalt oneself. A few cases will now exemplify this,

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[380]   Cf. A.27.22, Statement Max Harnister, X.6.1559.

[381]   Tellingly, such attempts at de-escalation are also found in verbal conflict situations that have nothing to do with blasphemy. In Westphalia, for example, insults were avoided by putting a hand over the mouth of the speaker. Cf. Fuchs, *Ehre*, pp. 108ff.

without repeating what has already been established regarding blasphemy as insult.

One form of confronting an opponent was theatrical self-cursing. A bold outsider by the name of Johannes Teuffer from Wallis had, according to a charge brought against him in 1681, sworn by the sacraments as well as calling God the devil's messenger. 'Let me fall ill, God of thunder and God of heretics', he had said, but he claimed not to have thought that he might die.[382] For unknown reasons, Teuffer had dared to present himself as someone who did not even fear sickness as a divine punishment. That he was not afraid of losing his life is an indication that he was concerned with the public impact of his words and not with their possible magical effect. Similar behaviour can be found in the eighteenth century.[383]

The thesis that curses are primarily profane insults does not entirely deprive them of any magical properties, but it does decisively relativise the element of verbal magic. An example from 1598 shows how the profane element outweighs the magical. In the presence of his master Heinrich Tütschli, Peter Rodel complained to the Zurich master Konrad Horner that Tütschli was failing to pay his wages. Horner had rejected the complaint and taken up Tütschli's assertion that in wartime Rodel had urged his comrades to curse in order to escape death. This made Rodel a dishonourable man.[384] Horner's argument assumed that, by means of cursing, soldiers could protect themselves in battle; in other words, that the curse was a form of verbal magic. Recourse to such potential magic made Rodel a coward, according to Horner. It is notable that the court case was not concerned with the offence of cursing, but with the fight that broke out between Rodel and Tütschli. If the accusation of cursing could be damaging to one's honour and end in a fight, then the legitimacy of an antidote was not in question. The opponents were in fact in dispute over their social honour capital.

The examples presented so far may tend to emphasise the injurious character of curses *vis-à-vis* their magical element, but this interpretation is not exclusive. True, we can find further arguments for heavy cursing not being closely connected with verbal magic in practice. It is striking that many instances of cursing were recorded in the courts without the judiciary's taking further note of them. Mathys von Wald from Küßnacht, a Zurich subject, returned penniless from military service in 1628 and had to live by begging. People had thrown only stale bread to him,

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[382] '1000 sacrament geschworen, den höchsten Gott, Teüffels Bott geheißen. Item gesagt, du TonnersGott, du Kätzers Gott, laß mich doch kranck werden. Des sterbens aber habe er nit gedacht' – A.27.111, Statement Johannes Teuffer, 15.11.1681.

[383] Cf. A.27.134, Statement Ehegaumer, 9.11.1721.

[384] Cf. A.27.41, Statement Hans Uttinger, 22.5.1598.

he said, causing him to say to his companion, 'May the devil roast them and lightning strike their house.'[385] Despite his unequivocal cursing of the people of Küßnacht and the case brought against him for this reason, the judiciary was as unimpressed in this case as in comparable examples of the sixteenth and eighteenth centuries. Mathys was released immediately. Evidently, the court did not see itself under the threat of verbal magic.

The reasons why the judiciary chose not to sanction cursing in some cases are unknown to us. Similarly, we grope in the dark when it comes to the principles of sentencing by the council. At times, the rule of 'fines arithmetic' was applied;[386] at other times, cursing by defendants of comparable social background was punished differently.[387] Moreover, the sentences handed down by the Zurich judiciary do not enable us to differentiate between minor offences of cursing and heavy magical curses. Although the council reacted sensitively to magical practices, it showed little interest in the possible supernatural elements of cursing. The sentencing practice certainly does not suggest that a curse was understood to be verbal magic requiring a consistent and severe response. The sources corpus does not contain a single case of complaint concerning the magical effects of a curse.

Summary   As the sources from everyday legal practice in early modern Zurich provide only imprecise terminology, the phenomenon of cursing has to be defined in detachment from the language of the sources, as a specific type of speech action. The curse is a variant of blasphemy by means of which speakers wish harm on themselves or on the person addressed.

The interpretation of this speech action is controversial in German-speaking research in that Schmidt and Labouvie consider heavy curses and those rooted in popular culture to be verbal magic. Schwerhoff, on the other hand, regards the curse as a form of secular insult. In fearless contest with God, the speakers take to the stage with the aim of humiliating their opponents.

Analysis of examples from Zurich reveals the arguments for the interpretation of cursing as verbal magic to be less than fully convincing. Although the theological idea of divine retribution was present both at the normative level of elite culture and at the practice level of popular culture, it was marked by ambivalence. Fear of God's vengeance might

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[385] '… daß sÿ der Tüffel (Gott behüt) braten und die stral Inns huß schlachen soll' – A.27.68, Statement Mathys von Wald, 18.4.1628.

[386] Cf. A.27.57, Statement of the 17 witnesses in the Case of Hans Murer, 8.7.1611.

[387] Cf. e.g., A.27.75, Statement Captain Schwarzenbach and Heinrich Buman, 21.5.1634.

be associated with magical vanquishing of God, but not essentially so. Cursing might give rise to fear of magical effects, but not necessarily.

Similarly, the proviso formulae used by the court scribes need not be interpreted as a precautionary antidote to the magical force of a curse. The scribes were simply marking the fact that they were recording the blasphemous offence without reinvoking the curse. As the curse had lost its force, the proviso was not required as an antidote. Its set phrases did not need to protect the scribes from a God who might feel provoked by the repetition of a blasphemy in the courtroom. Rather, the writers were distancing themselves explicitly from an offence already committed.

Some witnesses showed a distinctly physical reaction to swearing or cursing. They put a hand to the mouths of blasphemers to prevent them articulating the offensive words. This could indicate that they sought to silence speakers of magical words, but two objections can be raised. The aim of the witnesses' intervention was to prevent verbal escalation, limiting a secular conflict of honour rather than a blasphemous action. Had curses been regarded as magical formulae, witnesses would surely have been consistently concerned to prevent blasphemers from uttering blasphemies. There is no evidence of this, however.

Although cursing in Zurich took place in a society rooted in magical ideas, it was the insulting character of the speech action that took centre stage. At least from the end of the fifteenth century and into the eighteenth-, curses were a means of inflicting an insult to honour. In the battle for honour capital, they were used according to the rules of conflict enactment for the purposes of emphatic provocation, self-portrayal, and humiliation of the opponent.

The sentencing practice reveals the extent to which the judiciary regarded curses as an element of secular conflict of honour, unassociated with verbal magic. Frequently, the blasphemous words were recorded in cases of conflict without being sanctioned. Where there were sanctions, the sentencing was not clearly differentiated according to minor and banal or heavy and magical curses. This is all the more striking since the judiciary strictly prosecuted magical practices such as witchcraft. There is no evidence of anyone being charged with the magical impact of a curse, which is what we would expect in view of the denunciation of witches. Evidently, curses were not tainted with magic.

There is no clear answer to the question of whether curses are magical or injurious in character. The curse might have magical implications, but there are stronger indications for seeing curses as a form of profane conflict of honour. Indications are not proof, however, and for the latter our sources are too ambivalent. Are curses verbal magic or insult? The answer cannot be given as either-or. However, it points in the direction of insult.

2.3. Blasphemy as an Element of Sociability

Blaspheming God as a Social and Situation-Specific Disposition

Cursing and swearing are still regarded today as language used by socially
marginalised persons unable to control their tongues in certain situations.
The strong words heard in squabbles hardly remind anyone nowadays of
blasphemy. Given the significance of religious norms in early modern times,
we might expect the situation in Zurich to be very different. Blasphemy
was surely too serious a matter to be treated as an annoying behaviour
exhibited by certain social groups, or as an irrelevant verbal affect. Testing
this idea means reaching for the margins of tolerance that existed for
blasphemy in Zurich. We shall need to ask in which social groups and
situations blasphemy was attested, and to what extent the problematic
speech actions were religious or profane in character from the perspective
of contemporaries.

There was agreement among the people of Zurich, Cologne and Basle
as well as with the English and the French in the Early Modern era that
blasphemous talk was a characteristic socially specific disposition of
soldiers and the lower strata of society.[388] However, unlike in Cologne or
Basle, blasphemy in Zurich was not primarily associated with vintners,
butchers or juveniles.[389] In Zurich, it was beggars, foreigners, criminals
and awkward outsiders who completed the picture. When Michel Hengli
was arrested in the first third of the sixteenth century, he conjectured that
he had probably been accused by a resident of Zug with whom he had
earlier been drinking at a Zurich tavern. This man had started swearing,
prompting Hengli to point out that blasphemous words might be common
elsewhere but not in his city of Zurich.[390]

Tellingly, the church leaders took up this image of the uncontrolled
stranger when they spoke of the growing evil of verbal sin. In 1650, the
council was recommended to introduce a new mandate against 'old and
new blasphemies from France, Catalonia and Dalmatia clogging the dear
fatherland'.[391] That bad verbal habits in foreign countries might even be
contagious was an argument offered by some delinquents in self-defence.
A miller's apprentice, Georg von Birch, stated in 1592 that he had sworn

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[388] Cf. Schwerhoff, 'Schranken', pp. 105–6; Cabantous, 'Histoire du blasphème',
pp. 89–92.

[389] Cf. Schwerhoff, 'Schranken', p. 112.

[390] Cf. A.27.10, Statement Bailiff Winkelmann, undated.

[391] '… fürbrächende alte und Neüwe Gotslästerungen, mit dem das liebe Vaterland auß
Frankreich, Catalonien und Dalmatien krams weiß erfüllt werde' – E.II.97, p. 1134, Entry ,
c. 25.4.1650.

because of habits picked up in foreign places.[392] This was not merely an empty excuse, since it was frequently recognised by the judiciary as a mitigating circumstance. In a tavern brawl in 1568, for example, the apprentice Jörg Meyer from Nördlingen had sworn heavily: 'a thousand Gods, sacraments, elements, heavens, five thousand God almighties, cross and other evil oaths.' On being reprimanded he had added, 'I fear no one, not even God in heaven.'[393] Despite this grave offence, the council only imposed banishment, accepting that such blasphemies were widespread in the defendant's home country. In this way, the council got rid of the foreign apprentice and did not demand the *Herdfall* punishment.[394] It was more concerned to restore public order than to restore God's honour. From the Zurich perspective, blasphemous talk was characteristic of strangers. Those returning to Zurich from foreign lands with bad language habits in their luggage could expect a certain degree of understanding from the judiciary, provided they promised to readjust to the stricter verbal norms applying in their homeland. What displeased the judiciary about the foreigners or returning Zurich subjects was not that they had seriously abused God, but that they were bad locals or guests who undermined verbal morality in the country.

The second group notorious for their blasphemous tongues were the soldiers. In 1546, Felix Oberglatt accused the common soldier Witter of swearing horribly, 'as common soldiers do' (*wie dan die lantzknecht thuond*).[395] Captain Bürckli from Bassersdorf defended himself in 1647 by saying he had got into the bad habit of swearing in French military service.[396] The prison chaplain Hottinger excused Heinrich Trümpler in 1719 by saying he had taken on swearwords from soldiers in Rapperswil.[397] The sentences handed down to such delinquents can only be reconstructed in three cases. Wilhelm Huber, known for his fierce conflicts with his family, was sentenced to *Ehr- und Wehrlosigkeit* for 10 years. Hans Jakob Kübler had to execute the *Herdfall*.[398] Trümpler, an obstinate 'atheist' who at first refused to confess, faced heavier penalties. He was sentenced to twofold birching, recantation and admonishing from the pulpit. He was

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[392]   Cf. A.27.43, Statement Georg von Birch, 25.9.1592.

[393]   '… schwere, namlich Gotz Tusend Sacrament, Ellement, Himel, fünff thusend Hergott, Krütz unnd andere böse schwür […] fürchte auch niemans unnd Gott Im Himel nit' – A.27.27, Statement Heinrich Holzhalb, X.X.1568.

[394]   Cf. ibid. (dorsal note, 10.4.1568), Sentence Jörg Meyer, X.X.1568.

[395]   A.27.16, Statement Felix Oberglatt, X.11.1546.

[396]   Cf. A.26.9, Assessment Case of Captain Bürckli, X.X.1647.

[397]   Cf. A.27.133, Report Prison Chaplain Hottinger, 21.7.1719.

[398]   Cf. B.II.655, fol. 87, Sentence Hans Jacob Kübler, 29.9.1696.

banished again, this time for six years.[399] We cannot tell why the council was concerned to restore divine honour in some cases but not in others. But we find that when defendants justified their blasphemous speech actions with what was customary in the military, or when others assigned such speech habits to military usage, an offence against God's honour was not the centre of attention. Rather, these (self-)assignations served to characterise the soldiery as coarse fellows. The military style of behaviour was offensive because it gave rise to conflicts among the subjects, not because it called down divine retribution.

The third social group seen as characterised by blasphemous talk was that of the beggars. This was especially true of the sixteenth century, which provides us with all our examples. In the 1530s, Marx Metzler from Thurgau was charged with 'swearing horribly, as the beggars and vagrants do'.[400] When Jakob Berschy heard a beggar swearing as he passed his door, he promptly denounced him.[401] In both cases, it is not the assault on God but the nuisance of begging that causes annoyance. These two examples do not provide firm proof on the basis of sources, but they do make the above interpretation plausible.

As well as strangers, soldiers and beggars, criminals too were labelled as notorious blasphemers. Most blasphemers who were sentenced to death have their verbal habits noted as an accompanying offence.[402] To cite an example from the eighteenth century, Ulrich Leuthold from Oberrieden had often come to the attention of the authorities. He had scolded and slandered his wife, threatening one of his children with a weapon and a neighbour with arson, until eventually his dreadful swearing and cursing resulted in a charge.[403] Certainly, the blasphemies committed by such defendants were norm infringements. But which norm was affected? Not the religious norm-breaking, the provocation of the deity that endangered the whole community, but the social norm-breaking that disturbed community life was the primary concern. Criminals were also blasphemers, but people who abused God were not necessarily criminals.

The fifth group thought to be in the habit of blaspheming was the heterogeneous bunch of rebels. These included the rowdy adolescents, obstinate reoffenders or grumblers occasionally found in the judicial

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[399] Cf. B.II.746: fol. 54, First Sentence Heinrich Trümpler, 2.8.1719; fols 109–10, Second Sentence, 23.9.1719.

[400] '… übell geschworen haben sollt unnd suonst auch andere übeln, so die bettler und Landstricher gebruchent' – A.27.6, Statement Marx Metzler, X.X.153X.

[401] Cf. A.27.14, Statement Jacob Berschy, X.X.1542.

[402] As a typical example, cf. B.VI.257, fol. 330, Sentence Heini Liechi, 27.10.1552.

[403] Cf. A.27.136, Interrogation Ulrich Leuthold, 16.1.1725.

records.[404] Hans Morgenstern from Zurich was one of the non-conforming reoffenders. In the year 1552 he was charged with drunkenness, swearing and other inappropriate behaviour. In the course of the trial, it transpired that in 1539 he had used blasphemous words during an attempted rape.[405] The 'inappropriate behaviour' (*ungeschickte handlungen*) he was now accused of was serious. He was alleged to have sworn repeatedly at his family and threatened them with a weapon. He was said to have insulted the honour of his daughter before her marriage by claiming she was so lecherous that he would take her to a bull. After the wedding, he was alleged to have said in public that he would rather his son-in-law committed the offence of bestiality than that he should sleep with his daughter. In view of all these charges, it is hardly surprising to learn that Morgenstern had broken the peace on several occasions, that he had invoked the devil in swearwords, and had disparaged God's gift of bread.[406] Morgenstern proved incorrigible. Although he had not committed further criminal acts since the attempted – and failed – rape, he refused to conform to the social order. As a notorious troublemaker, he was not primarily in conflict with God but with society. If those around him had seen divine honour seriously threatened by Morgenstern, would they not have intervened sooner? His blasphemies pale into descriptions of himself and others as outsiders.

The Zurich sources have very little to say about rowdy adolescents. The parish minister in Diebolt recorded that Jacob Kuntz from Ried, together with three companions, had led bulls into the meadow remarking that God knew less than a cow's tail and would not punish him for his sexual allusions.[407] Strictly speaking, these were outrageous words, yet in his report of 1726 the minister pointed out that Kuntz had immediately confessed his offence, and moreover was capable of praying well.[408] The charge against him was not for blasphemy, but for 'thoughtless and foolish talk' (*leichtfertige und unbesinnte Reden*),[409] the authorities categorising his words as adolescent muscle-flexing rather than full-blown blasphemy.

The sixth and largest group of habitual blasphemers consisted of those who, in the eyes of the judiciary, led a dissolute life. Their milieu was prostitution, the social asylum (*Spital*) and antisocial households. A typical scene is the night in 1567 when the two prostitutes Catharina Streker from Andelfingen and Barbara Stryner worked themselves into a verbal sparring

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[404] Cf. for example, the various records in the Case of Uolmann in 1554 under A.27.20.

[405] Cf. A.27.19, Statement Rudi Wipf, X.X.1539.

[406] Cf. ibid., Statement Hans Morgenstern, X.X.1552.

[407] Cf. A.27.139, Case of Jacob Kuntz, Letter Minister Diebolt, 29.9.1726.

[408] Ibid.

[409] A.27.137, Statement Jacob Kuntz, 30.8.1726.

match, showering each other with curses.[410] The authorities showed no mercy and sentenced them both to death by drowning. However, the *Richtebuch* corrects the impression that they were condemned for blasphemy alone. Evidently, they were also guilty of stealing and further serious offences.[411] As the judiciary saw it, the two disreputable women had led lives of crime. Their swearing was a secondary matter.

In general, the judicial records offer relatively little information on how the judiciary proceeded when the breaking of a religious taboo was to be punished. The case of the 'whore' (*Hure*) Anna Mantz appears characteristic, however. The judgement of 1631 sentenced her, on the grounds of her dissolute way of life and habits of blasphemous swearing and cursing, to loss-of-honour and corporal punishments followed by banishment.[412] This means that she was punished secularly as a prostitute and not as a blasphemer. The sentence has nothing to say about insult to divine honour.

Other cases point in a different direction, however. The two 'whores' Elisabetha Pfister and Barbara Boshart from Wädenswil had to execute the *Erdkuss* because of their swearing. In 1615, the former innkeeper Heinrich Pfister was found guilty of spending the whole night with prostitutes, repeatedly taking the name of God in vain, and swearing and cursing at the authorities.[413] The punishment was severe: Pfister had to execute the *Herdfall* as well as a recantantion; he was declared *ehr- und wehrlos* and not permitted to take part in festivities. Although his honour was soon in part restored, the judiciary had indeed treated him harshly. But was it his ordinary swearing that had been his undoing? After all, any extraordinary oaths would have been recorded. Pfister had criticised the authorities, and they reacted strongly to any assault on their honour. Subjects who spent their time with prostitutes and insulted the honour of the authorities had to be stopped in their tracks. To make an example of them, the stereotypical blasphemies that were otherwise punished lightly or not at all were subject to additional severe ecclesiastical sanctions. The authorities had a low opinion of the behaviour of a potentially rebellious subject who kept dubious company. The problem was not so much his attack on God as his politically dangerous disposition.

Other antisocial persons met in the *Spital*. Its function in pre-modern times was not only that of a place for the sick, but also a social asylum. There was thus plenty of cause for conflict among the inhabitants and with the staff

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[410]   Cf. A.27.26, Statement Hans Meyer von Brütten, X.12.1567.

[411]   Cf. B.VI.259, fols 271v–2r, Sentence Catharina Streker/Barbara Stryner, 29.12.1567.

[412]   Cf. B.VI.268, fol. 250r, Sentence Anna Mantzin, 26.1.1631.

[413]   Cf. B.VI.266a, fol. 100r, Sentence Heinrich Pfister, 27.3.1615.

at the *Spital* in Zurich. In 1660, for instance, the woman warden of the *Spital* complained about rebellious Catharina Bürcklin. What concerned her most was that Bürcklin constantly took the name of the Holy Trinity in vain, even when in the privy. Recently, while cooking dumplings, Bürcklin had once again sworn by the Trinity. Then the pot had tipped over.[414] The warden was not worried about harmful magic or an insult to God's honour. Rather, she suspected Bürcklin of being in league with dark powers. Seeking to get rid of her, she came up with the accusation of witchcraft rather than blasphemy.

The court records reveal that those on the margins of society were not only found in the *Spital*. They also offended the ears of their neighbours.[415] A detailed, stigmatising five-point characterisation has come down to us of Margreth Müller, a prototypical marginal figure: 'The devil himself is constantly in her mouth and on her tongue. She calls her own children bastards and devil's offspring. 2. Her Christianity and devotion are mere pretence, her godfearing hardly earnest.' She often threatened to kill her own children and her husband. '5. Most of the time she is so heavy with wine and drunkenness that she does not know what she is doing; she falls asleep in her befuddlement, swearing and cursing, and wakes up with the same godless and quarrelsome tongue.'[416] Without a doubt, blasphemy was regarded in Zurich as in Cologne, Nuremberg or Basle as part of a 'behaviour syndrome' (G. Schwerhoff), attributed to individuals and families through the generations. In the case of the Ochsner family, the parish minister stated that not only had several members of the family been sentenced to recantation for blasphemy, but he had also heard from his predecessor that a forebear of the father had received a similar sentence.[417]

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[414]   Cf. A.27.97, Statement *Spital* Warden, 20.7.1660.

[415]   Cf. e.g., B.VI.259, fols 12v–13, Sentence Anna Bötschin, 9.5.1561; A.27.65, Sentence Balthasar Wyg, 1.5.1613 (= B.VI.266a, fol. 4r); it is likely, however, that blasphemies played only a small part in comparison with other tavern conflicts recorded by the courts. According to Hürlimann, cases of blasphemy in the bailiwicks Greifensee and Kyburg for the period 1480 to 1520 amounted to 3 per cent of the total of 34 incidents (cf. Hürlimann, *Soziale Beziehungen*, p. 247). Beat Kümin examines the role of the tavern as a place of social encounter and the object of fairly ineffectual disciplining by the authorities, but does not come across the problem of blasphemy: 'Useful to Have, But Difficult to Govern: Inns and Taverns in Early Modern Bern and Vaud', *Journal of Early Modern History*, 3 (1999), pp. 153–75.

[416]   'Der leidige Teüffel ist ihro stets im maul und auf d. Zunge. Ihre Eigen kinder nannet sie Teüffels- und hurenkinder u. bankart. 2. Bey Ihro ist nur ein schein christenthumb und ein werck der gottseligkeit, und gottesforcht ein geringer Ernst […] 5. Sie ist auch fast allezeit mit dem wein und trunkenheit dergestalt beschwert und geladen daß sie nit weißt, waß sie thut, entschläfft in der füllerei und im fluchen und schweren und gleicher gestalt erwachet sie auch mit ein solche gotlosen und zänkischen maul' – A.27.111, Anonymous Report, X.X.1681.

[417]   Cf. A.27.131, Report Minister, 9.9.1717.

Calling someone a blasphemer meant placing them in a particular social milieu. Blasphemies in this context were not simply isolated speech actions in which the speaker referred to God. Blasphemies were part of a style of behaviour that stigmatised individuals as outsiders. Blasphemy as part of the disposition of an antisocial person pointed to the earthly dimension of religion rather than the heavenly. Thus religious norms and norm infringement are not only part of the sacred sphere, but also to be understood as social attributions.

This insight is necessary to an understanding of why clergy and neighbours sometimes waited a long time before making accusations. The *Gerichtsweibel* Frey reported of the Tufweiler family in 1717 that they neither attended church nor prayed. Instead, they cursed and swore at everyone, putting fear into the whole parish.[418] The minister Johann Heinrich Keller reported in 1718 that Stein from Glattbrugg cursed his family and neighbours so horribly that God's forbearance was indeed astonishing.[419] Certainly we should not underestimate the 'fear of the whole parish' (*die Furcht der ganzen Gemeinde*) in these cases, given the retribution theology of the time that was emphasised by the authorities. But the parishes seem to have been less worried than suggested. They put up with the curses of the accused for some months, presumably because the witnesses regarded them as insults but not as dangerous blasphemies.

The material of the court records suggests that blasphemers were recruited largely from the lower strata of society. This need not imply that such subjects cursed and swore much more than other people. It may be stated, more cautiously, that blasphemous talk tended to be attributed as habitual to those on the margins of society. The people of Zurich knew how to differentiate, however. In 1545, Gallus Christiner and David Singenberg were in agreement that Hans Morgenstern, a man of dubious reputation, had repeatedly argued with his father and brother and threatened his wife with a sword, but they had never heard him swear.[420] Not every antisocial person was automatically branded as a blasphemer. Moreover, blasphemy was not the privilege of marginal figures alone. The bailiff Uolmann was certainly not marginal, nor were such notorious blasphemers as the stovefitter Jörg Blüwler or the master goldsmith Weiß, both from Zurich.[421] What makes blasphemy interesting as a behavioural style of the lower strata is not that social marginality is associated with blasphemy. Rather, we are struck by the fact that habitual swearing is accepted as part of a

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[418]   Cf. ibid., Statement Court Clerk Frey, 15.6.1717.

[419]   Cf. A.27.132, Report Minister Keller, 3.3.1718.

[420]   Cf. A.27.14, Statement Gallus Cristiner, X.X.1545.

[421]   Cf. B.VI.259, fol. 263, Sentence Jörg Blüwler, 3.6.1667; A.27.126, Statement Hans Conrad Weiß, 25.2.1709.

verbal disposition even in a religiously charged society such as that of early modern Zurich.

Blasphemous speech actions occurred in a particular social milieu and in specific everyday situations. Swearing in particular was part of everyday normality. When people were drunk, playing cards or emotionally excited, blasphemous utterances were regarded as tolerable behaviour, although of course honourable Christians did not blaspheme. In such contexts, curses and swearing could function as outlets for spirited people.[422] Typically, Hans Morgenstern argued in 1539 that he did not swear malignantly; only a minor swearword occasionally crossed his lips.[423] What was wrong with such an occasional harmless slip of the tongue? Other defendants claimed that extraordinary circumstances had led them to lose control. In 1650, for instance, Hans Keller, a Zurich tailor, defended himself by asserting that he was not in the habit of swearing coarsely. The same argument was proffered by baker Heinrich Wäber in 1654, who claimed he behaved like other people and did not swear.[424] Both men presented themselves as innocent at first, but went on to admit their wrongdoing. Their initial claim not to be using exceptional language shows that cursing and swearing formed part of everyday speech.[425]

Everyday behaviour included drunkenness. The law provided for consideration of a blasphemer's responsibility when a sentence was handed down; time and again the defendants claimed they had not been in control of their tongues as a result of excessive drinking.[426] Witnesses would defend someone such as Joseph Gessner in 1606 by arguing that he swore a lot when inebriated, but was honest and hard-working when sober, and harmed no one.[427] Similarly, the council justified its lenient sentencing of Jagli Wild in 1667 by stating that he was 'friendly and modest' (*fründlich und bescheyden*) when sober.[428]

Alcohol and blasphemy were so closely associated that a remark like the following in the court records is striking: 'He was not drunk' (*geschahe alles nüchterner weiß*).[429] Jacob Zahnder's statement in 1685 that he had not been completely drunk and had known what he was doing is in fact

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[422] Cf. Montagu, *Swearing*, p. 72. A detailed discussion can be found in Gerd Schwerhoff, 'Der blasphemische Spieler: Zur Deutung eines Verhaltenstypus im späten Mittelalter und in der frühen Neuzeit', *Ludica*, 1 (1995), pp. 79–95.

[423] Cf. A.27.19, Statement Hans Morgenstern, X.X.1539.

[424] Cf. A.27.92, Statement Heinrich Wäber, 14.8.1654.

[425] Cf. A.27.89, Statement Küschenhan Burgeli, 9.12.1645.

[426] Cf. e.g., B.VI.259, fol. 54, Sentence Kilian Häderli, 10.4.1562.

[427] Cf. A.27.52, Statement Balthasar Nießli, 20.12.1606.

[428] B.VI.259, fol. 286, Sentence Jagli Wild, 27.10.1667.

[429] E.I.10.5, Case of Pündner/Reistel Bailiwick Report, 19.7.1673.

untypical.[430] Evidently both the judiciary and the delinquents assumed that excessive consumption of wine led to irresponsible behaviour and loosened blasphemous tongues. This idea, however, reduced blasphemy to a side-effect of excessive drinking such as was characteristic of the Early Modern era. It became part of a banal, relatively everyday situation-specific disposition.

Research indicates that playing cards was a further typical situational context for blasphemous speech actions.[431] The Zurich sources, however, are strikingly silent on this both for the fourteenth century and the Early Modern era.[432] Between 1545 and 1788 in the Andelfingen bailiwick, only three of a total of 156 blasphemers were fined for swearing while playing cards.[433] Despite the wide variety of gaming mandates at the normative level, the disparate items from the Zurich Council are limited to the end of the fifteenth- and beginning of the sixteenth century. A description by Michel Bumann from the year 1520 is particularly telling. Herman Ferer had been contentedly playing cards with Hans Wingartner until he lost a game, whereupon Ferer had suddenly torn up two cards and sworn by Christ's passion. When Bumann reprimanded him for swearing, Ferer had retorted that he should not be so unsociable.[434] This suggests that Ferer saw Bumann as a spoilsport – ordinary swearing was after all a natural and entertaining element of a game of cards. Ferer was demanding a degree of tolerance towards his blasphemous words, indicating that his society did indeed show such tolerance.

Such 'entertaining' blasphemies cannot have been entirely harmless, however. Ferer did stop blaspheming, and knew there were limits to the fun. Hans Wingartner went far beyond those limits, which was probably the reason why he was sentenced to death. His enigmatic case and the sentence of 1520 are set out here in some detail. He was said to have blasphemed deliberately against God. On losing a game, he was determined to throw the pack of cards out of the window, even if God should be sitting on them. He had then sworn repeatedly by the passion and referred to Joseph who had made the gruel for the infant Christ. During another game, he had cursed and sworn by Joseph as someone who had put arsenic in God's gruel. He had also written a blasphemous verse on the wall.[435] The passion

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[430]   Cf. A.27.113a, Statement Jacob Zahnder, 20.3.1685.

[431]   In fifteenth-century France, 7.84 per cent of charges of blasphemy brought by the authorities were associated with blasphemous utterances during card games. Cf. Cabantous, 'Histoire du blasphème', p. 120.

[432]   For the fourteenth century, cf. Burghartz, *Leib*, p. 136.

[433]   Cf. F.III.3.

[434]   Cf. A.27.3, Statement Michel Bumann, X.7.1520.

[435]   Cf. B.VI.248, fol. 30r, Sentence Hans Wingartner, Tuesday before St Ulrich 1520.

oaths were too ordinary to make Wingartner an exceptional figure. The insult to Joseph as a househusband (*Kindli müßli macher*) and the allusion to poisoning God were much less widespread, however. They occur very rarely in the Zurich court records, although they are known to have been familiar expressions.[436] Probably Wingartner, who was not charged with any other offences, had gone too far with his blasphemous words, though not only as a blasphemer. He had overstepped the boundaries of tolerance in other respects, acting with intent and repeating the blasphemous expressions. Within an oral culture that lent particular significance to the written word, Wingartner's graffiti will have been considered deeply insulting. Moreover, Wingartner's blasphemous utterances had provoked God himself. To claim that the pack of cards should be thrown out of the window even if God were sitting on them was to treat God as a human being and to provoke him openly. The paradoxical verse on the wall, referring to God's peace and grace coming to an end and being cursed by the earth, was heavily blasphemous. Wingartner's case shows where tolerance towards blasphemous words in everyday situations such as cardplaying had its limits. As in Cologne, Nuremberg and Basle, ordinary and habitual blasphemies were tolerable[437] and could be used to express mateyness among the players. Blasphemy could be a form of sociability, but consciously 'original', individualised blasphemous speech actions were too strongly marked. The blasphemer made himself equal with God, thus committing an intolerable insult to divine honour.

Card games are just one example of emotionally charged situations giving rise to spontaneous and unintentional speech actions. Were the people of early modern Zurich also sympathetic towards other blasphemous affects? 'Anger', as discussed earlier, was regarded in Zurich as understandable grounds for blasphemous slips of the tongue. This should not be disregarded. An example of the affective nature of blasphemy is that of Pfister in 1615. According to Anna Küng, Pfister had entered a tavern with two young women, touched the private parts of one of them and exclaimed, 'A thousand God Almighties, she's got no hair there yet.'[438] Unquestionably an insolent philanderer was at work here, but his words suggest genuine surprise. They would make no sense as an insult, as verbal magic or as provocation of the deity.

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[436] Cf. Frida Bünzli and Martin Illi, *Hirsebarden und Heldenbrei* (Berne, 1995), p. 42. Although it is quite possible that the reference to Joseph as a gruelmaker goes back to mediaeval Joseph motifs, the term was also used more generally to insult a man regarded as too soft.

[437] Cf. Schwerhoff, 'Schranken', pp. 108–9.

[438] 'Botz thusent Hergot, sy hat noch khein har daran' – A.27.60, Statement Anna Küng, 16.1.1615.

Ordinary swearing was evidently often accepted as an outlet for uncontrollable affects. The judiciary certainly preferred to deal with cases in which the blasphemous expressions were less ordinary. In 1569, for example, Caspar Keller from Glattfelden readily admitted using the usual oaths on the passion when he got into conflict with the innkeeper over the bill. He denied swearing by God's heaven and earth, protesting he knew nothing of the matter.[439] We may conclude that anyone charged with exceptional blasphemies was at risk of more severe punishment, since they could not claim to have blasphemed in habitual affect, i.e. with a verbal automatism not really addressed to God. This principle was confirmed by the synod in 1685. Hans Stutzer from Weyer was charged with a blasphemy *materialiter*, i.e. clearly blasphemous in its literal content. This was said to be distinct from the unfortunately frequent widespread blasphemous expressions.[440] Thus the synod argued fatalistically that spontaneous blasphemous outbursts had to be tolerated. Should a blasphemer vary the standard expressions, however, the habitual element was lacking and the blasphemy became reprehensible.

As well as enquiring into blasphemers' 'anger', the judiciary also took an interest in their intentions. Defendants who had repeated their blasphemies despite being admonished, and blasphemers who had sworn deliberately, were subject to harsh penalties.[441] In 1557, for instance, Anna Fryg received a loss-of-honour punishment and was then ducked underwater in the Limmat repeatedly over a distance of several hundred metres before being banished.[442] Her case shows the severity of the authorities towards deliberate blasphemers. Picking an argument with God meant going too far.

Often the judiciary, the witnesses and the blasphemers themselves gave 'anger' or another emotional state as the reason for verbal sins. Other patterns of psychological interpretation play no part in the court records. The case of carpenter Hans Kästli in 1538 is an absolute exception. Wibla Wäber reported that Kästli had left a tavern completely drunk and uttered numerous 'strong oaths' (*grosse schwüre*), causing Wäber to admonish him. Kästli had replied that Wäber should not be angry with him, since 'this fear' (*diese furcht*) always overcame him when he drank, causing him to swear.[443] Fear, the key concept in Delumeau's interpretations of the Early Modern era, is very rarely found in the judicial records.

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[439] Cf. A.27.23, Statement Caspar Keller, 3.12.1569.

[440] Cf. E.I.5.2b, Assessment Hans Stutzer, 11.1.1685 (= (ZB) MsE.134, pp. 5111f.).

[441] Cf. e.g., B.VI.251, fol. 60r, Sentence Lienhart Utinger, Thursday before St Bartholomew's Day 1527.

[442] Cf. B.VI.258, fol. 162r, Sentence Anna Fryg, 4.8.1557.

[443] A.27.8, Statement Wibla Wäber, X.X.1538.

Unlike Kästli, the maid Barbara Hertenstein from Töss did know the reason for her fear in 1660. Finding herself pregnant after adultery, she claimed to be with child from the Holy Spirit.[444] She had said this in a time of fear and distress, and in a state of mental confusion, she claimed.[445] The judiciary did not tolerate her adultery, sentencing her to six weeks' work *am Schellenwerk*. Her blasphemy, which appears to have had the quality of an idiomatic expression,[446] was treated much more leniently. The local deacon was left to decide whether to admonish Hertenstein in a personal talk.[447] The judiciary showed comparable forbearance in the case of a surgeon's daughter from Greifensee, Elsbeth Maag, in 1690. Unmarried but pregnant, she was asked who the father of her child was. She was said to have denied the pregnancy 'with these terrible, almost blasphemous words: If she was pregnant (God forgive me for repeating the words), she must have been overshadowed like the Mother of God.'[448] We do not know the sentence, but it is striking that her clearly blasphemous words are stated by the judiciary to be 'almost blasphemous'. The emotional distress associated with extramarital pregnancy – no other distressing circumstances are mentioned in the records – could excuse blasphemy. In early modern Zurich, anger and drunkenness could be acceptable reasons for blaspheming. Apart from the problem of extramarital pregnancy, there was little interest in further psychological exploration. Blasphemy committed in an emotional state was tolerated, but within limits.

Summary Unquestionably, religious matters had high sacred value in early modern times. Nonetheless, the profane elements of blasphemy in that period, regarded as the marks of a social and situation-specific disposition, should not be underestimated. The blasphemy label did not necessarily qualify a person's attitude to faith; it could also be a social attribution. In the understanding of the time, marginal social groups such as foreigners, soldiers, beggars, criminals, rebels and antisocial individuals (the gamblers and adolescents prevalent elsewhere are hardly mentioned in Zurich) were characterised by behaviour that included blasphemous

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[444] Cf. E.II.9, Statement Barbara Hertenstein, 14.5.1660.

[445] Cf. A.27.97, Statement Barbara Hertenstein, 29.3.1660.

[446] References to the fertility of the Holy Spirit were not only heard from women. When it was reported at his inn in Mettmenstetten that several nuns were expecting, innkeeper Hans Ulrich Gugoltz commented laconically that the Holy Spirit must have been at work. Cf. A.27.120, Statement Hans Heinrich Gugoltz, 24.9.1697.

[447] Cf. B.II.509, fol. 61, Sentence Barbara Hertenstein, 26.3.1660.

[448] '… mit disen grausamen, vast gotteslästerlichen Worten: Wan sie schwanger seye, müßte (Gott rechne mir die widerhollung nicht zur sünd) überschattigt worden seyn wie die Muter Gottes' – A.27.116, Statement Elsbeth Maag, 21.8.1690.

talk. As long as these notorious blasphemers gave vent to their blasphemy within 'ordinary' bounds, their environment tended to react leniently. The offensive words were ignored and the legal requirements disregarded. The authorities did not show a heavy hand in such cases. Where they punished the frequent everyday swearing and curses, it was more a matter of sanctioning the disturbance of social peace than that of religious order. Their concern was less for divine retribution than for the concrete damage caused by social conflicts. The accusation of witchcraft was far more effective in stigmatising a troublesome person than that of blasphemy.

It is unsurprising that contemporaries perceived marginal groups as coming into conflict with the law more frequently than respectable subjects. This explains the fact that the judicial records register the lower strata of society as being especially prone to blasphemous talk. This distorted picture should not lead us to assume that it is chiefly the marginal groups in society who swear and curse. Master craftsmen and bailiffs also succumb to the temptation of blasphemy, and more will be said concerning the journeymen who occur repeatedly in the examples cited.

The judicial origin of our sources means that scenes from public places (inns, streets, neighbourhoods) have come down to us. It would be naïve to assume that blasphemy was restricted to such places and social contexts. The records of the morals court in Vechigen and Stettlen, Berne, provide evidence that blasphemous actions did occur in the 'private' sphere of marriage, family and household.[449] The Zurich sources drawn on in the present study do not deal with such cases, however. The veil that shrouds 'private' forms of blasphemy cannot be lifted.

Blasphemy is not only a partially tolerated though disturbing pattern of behaviour found in particular social environments. It is also attributed to specific emotionally charged situations such as conflicts of honour or games of cards. Those who blasphemed in a state of diminished responsibility, i.e. in anger or when drunk, could expect leniency from witnesses and the judiciary, provided the blasphemies did not exceed 'ordinary' taboo-breaking. After all, the speakers had had their personal opponents rather than God in mind. In such standard everyday situations, religion paled almost into insignificance. The infringement of religious norms was reduced to a profane side-effect of alcohol consumption, human excitability and tavern conviviality. Blasphemy could be regarded very differently, however. Those who provoked God deliberately and possibly with 'original' expressions committed a far graver offence. In these cases divine retribution was to be feared, since God's honour had been assaulted. The standardised 'ordinary' blasphemies, on the other hand, were simply treated as annoying, profane slips of the tongue.

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[449] Cf. Schmidt, *Dorf*, p. 92.

Members of a religiously permeated society were well capable of distinguishing between norm infringements related to this life and those related to the afterlife. The omnipresence of religious norms cannot, however, simply be explained by the fact that, in a manner alien to our modern times, religion in the Early Modern era carries a sacred significance connecting everything with God. Religious categories could be used to make social attributions, to shape forms of sociability, to express annoyance. In other words, secular matters could be dealt with by religious means. To suggest that the culture of Early Modernism was characterised by an indissoluble interlocking of the sacred and profane spheres should not serve to overemphasise the permeation of the profane sphere by the sacred. The reverse, i.e. the permeation of the sacred by the profane sphere, must also be taken into consideration.

The boundaries at which the relative tolerance of blasphemy in Zurich ended demarcate the space for thought and action in a strictly religious society. Habitual blasphemy, verbal slips in a state of drunkenness or anger, adolescent boisterousness, and a few instances of fear, such as the distress of extramarital pregnancy, could excuse blasphemy. Conscious and deliberate attacks on God's honour were inexcusable. The margins of tolerance were narrow, but still broad enough not to categorise every blasphemous utterance fundamentally as an actual abuse of God. Although the people of Zurich did not live in a de-sacralised, 'enlightened', 'rational' society in which blasphemy was no longer worth taking to court, the image of an intolerant Early Modern era that waged relentless war on unorthodox words and deeds is too undifferentiated.

The Pleasures of Provocation

As we have seen, provocation marked the beginning of conflicts of honour. The need to defend one's honour might lead into a blasphemous confrontation. Taboo-breaking in which the opponents acted out of enjoyment of provocation is a different case, however. We shall now examine 'blasphemy for fun' and its implications for the scope of religious norms in the Early Modern era.

Blasphemy frequently arose in the context of tomboyish rivalry. In Zurich, three such contexts can be identified: verbal high spirits in company, defiant shows of verbal strength in an insider group, and polemical challenges to opponents of a different denomination.

Religiously permeated it might be, but everyday life in Zurich was by no means deadly serious. In 1672, a lively game of bowls was reported by 'an honest man' to the parish minister Conrad Vögts. During the game, the players were said to have alluded to the parable of the wise and foolish virgins. The bowls that hit were said to be the wise ones, the others

the foolish ones who would be excluded from the kingdom of heaven. Moreover, the players had made the 'foolish' (*töricht*) bowls say, 'Lord, Lord, open to us.'[450] Tellingly, the records give no indication at all that the case had judicial consequences. The morals court convened by the minister claimed to have heard nothing of the incident. Evidently no one except the minister and the one 'honest man' (*ehrlicher Mann*) felt urged to treat the players' witty words either as indirect blasphemy or as disrespectful towards the scriptures. Humour and religious allusions were not mutually exclusive, even when the latter were gently blasphemous.

As well as games, it was often drink that inspired blasphemous utterances. Heinrich Schultheß, for example, had been in frequent trouble with the judiciary because of his swearing and his risky interpretations of the Bible.[451] He nonetheless complained at an inn that 'the wine was so sour that if it were poured into a donkey's behind (rev[erenter]) it would kick so wildly that the stars would fall from heaven.'[452] Schultheß thus disparaged God's gift of wine and even used the blasphemous image of a donkey being able to reach the stars with its hind legs. He did not imply criticism of God, however. Rather, he had his critical eye on the innkeeper and enjoyed the rhetorical fun of accusing him, in front of all his customers, of serving poor wine. We cannot say whether the judiciary would have attached greater weight to the insult or the blasphemy. No sentence was required, since Schultheß fell to his death attempting to escape from the prison tower.[453]

The inn was the setting for a wide variety of blasphemies. Among groups of drinkers, jokes and banter were the order of the day. In 1658, the journeyman Johannes Zyder from Ravensburg told the joke about a Swabian, which opened the present study. What was amusing about the story of how God, deprived of the meal of liver he had looked forward to after doing his miracle, offered to share out his earnings between his Swabian companion, the *Leberfresser* (liver-eater) and God himself? Surely not the blasphemous idea that God was a gourmet who even took money for raising someone from the dead. Rather, it was the Swiss *Schadenfreude* at the stupidity of the Swabian joke figure who betrayed himself by his meanness. It is notable that this blasphemous story did not repel the listeners. On the contrary, it was found to be so amusing that Nüscheler,

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[450]   'Herr, Herr thue uns auf' – E.II.88, Letter Minister Conrad Vögts [?] to Waser, 5.6.1672. Cf. Matt. 25.11.

[451]   Cf. A.27.89, Statement Heinrich Schultheß, 18.4.1650.

[452]   '… der Wÿn sÿge so sauwer, daß, wann man In einem Essel (rev[erenter]) ins gseßß schüttete, Er wurde dergestalten hinderen ußschlagen, daß die sternen von Himel fielend' – ibid., Statement Jacob Wyland, 23.5.1650.

[453]   Cf. ibid. (dorsal note), Statement by various witnesses, 3.8.1650.

a master craftsman, asked Zyder to tell the joke again. Even when Nüscheler had been brought before the Zurich morals court in another matter, he had not mentioned the incident at the inn, evidently not regarding it as offensive.[454] Zyder had made people laugh, but not at God's expense. It was the Swabians, unpopular with the Swiss, who were the butt of this joke. The propositionally very serious blasphemy could be laughed about because the speech action implied *Schadenfreude* towards neighbours.

At the inn there is not only laughter, but also a lot of high-spirited banter. Early modern Zurich was no exception in this regard. In 1523, Rüger reported that on the previous evening, Christmas Day, he had been at the inn and remarked that it was customary to speak of God and his holy word. Whereupon the goldsmith Rudolf Benner had exclaimed, 'We want nothing to do with God. The devil must have something too […] if I am to be of the devil, then that's what I'll be.' These were strong blasphemous words, yet according to the records none of the witnesses could say whether Benner had spoken jestingly or in earnest. No one had argued with him, it was said.[455] Evidently no one had taken offence at Benner's blasphemies. Taking pleasure in blasphemy as amusing provocation was imaginable and could be acted out.

Appreciation of such humorous blasphemies did not mean that any blasphemy was possible. Blasphemers who provoked in this way walked a tightrope and risked losing their balance. In 1559, Heinig Oswald, son of a weaver from Egg, knew he had gone too far. In a drunken state, he had wanted to order another round of drinks. The innkeeper had refused him, saying he would vomit if he continued drinking. Oswald had replied that this did not matter, since God himself had at times drunk until he vomited.[456] Having to vomit as a result of excessive drinking of alcohol was regarded as disparaging God's gifts. But attributing such contemptible behaviour to God himself and thus making him an occasional drinker was a truly godless piece of work. Clearly aware of this, Oswald left the country and did not return home for several years, eventually facing the judiciary. The council treated his words as annoying talk, with no mention of blasphemy. Oswald was not subjected to church punishment. He was declared *ehr- und wehrlos* and not permitted to take part in ceremonial occasions.[457] He had gone too far with his amusing banter, but not to the extent of having to ask divine forgiveness in public.

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[454]   Cf. A.27.96, Statement Johannes Zyder, 6.1.1658.

[455]   'Wir wend [wollen] nüt mit gott zeschaffen haben. Der tüfel muoßß auch ettwas haben […] muoß Ich denn des tüffels sin, So wil Ichs auch sin' – A.27.6, Statement Hanno Rüger, *c*. 1523.

[456]   Cf. B.VI.258, fol. 197, Sentence Heinig Oswald, 6.4.1559.

[457]   Cf. F.III.45, Baptistalis 1548.

As long as people were speaking more of themselves than of God in their high-spirited words, Zurich tended to be relatively tolerant. But anyone dishonouring God soon found that light-hearted fun could take a bitterly serious turn. Hans Grüter, for instance, was found by the council to have sat in the local tavern and stated to an audience of decent people that God was the devil's ape and the devil God's ape.[458] Quite suddenly, he had started spouting blasphemous nonsense in familiar expressions, and it cost him dear. He received the ordinary punishments of *Ehr- und Wehrlosigkeit* as well as exclusion from ceremonies, but the additional punishments (a fine of 4 marks, confinement to the city, and compulsory attendance at church) were among the extraordinary. The judiciary did not tolerate cheaply provocative antics, and this is true also of the eighteenth century.[459]

The second typical context for blasphemous remarks arising from the pleasure of provocation was that of blasphemers engaged in verbal trials of strength with opponents. Journeymen were particularly active in this field, as exemplified in a scene at the Zurich Neumarkt in the year 1500. In a group of journeymen, Hanns Fridwiler teasingly asked Felix Meyer whether he wanted to go to the brothel. Not on a religious holiday, another of the journeymen interjected, since that was inappropriate. But Meyer replied that he wanted to have sex even if the Holy Spirit was sitting on his toes.[460] Meyer's shameful words were doubtless intended to impress not God but his companions with his sexual prowess. The judiciary was not amused by Meyer's ostentatiousness and sentenced him to recantation in two major Zurich churches as well as prohibition of ceremonial occasions. He was also sent to confession in Einsiedeln. The blasphemous, tomboyish journeyman subculture was thus held in check.

Swearing was also part of journeyman parlance. A scene at the Weggen tavern in Zurich in 1592 gives an idea of what this meant. Peter Sarius had met there with several miller journeymen and got into an argument with the landlady. Sarius, it was alleged, had accompanied all his utterances with swearwords. As the conversation proceeded, each of those taking part had used swearwords for emphasis. There had been no breach of the peace, however. Those involved had gone on talking for an hour-and-a-half, without drinking wine.[461] According to Pauli Usteri, the companions had simply sat and talked, peaceably and pleasantly, and drinking

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[458] Cf. B.VI.259, fol. 210, Sentence Hans Grüter, 7.11.1665.

[459] Cf. e.g., A.27.133, Statement Heinrich Trümpler, 13.7.1719; B.II.746, fol. 54, Sentence Heinrich Trümpler, 2.8.1719.

[460] Cf. B.VI.243, fol. 3r, Statement Cunrat Lydiner, Tuesday after St Peter's Day 15XX.

[461] Cf. A.27.43, Statement Pauli Usteri, 25.9.1592.

only moderately. In this setting, blasphemy was a code by which the speakers identified themselves as belonging to a closed group of 'manly' journeymen.

What gave pleasure was not the provocation alone, but also playing games with the possible consequences of a blasphemous utterance. In 1616, a group of farmers from Altstetten made fun of the Münster journeyman Andres Rother, who had refused their invitation to join them in a drink. They had then provoked him in a way that caused him to swear in anger. The farmers then demanded the *Erdkuss*, which Rother executed. But then one of the farmers had said, 'Now you know you have (God spare us) kissed the devil's backside [reverenter].'[462] Rother's swearing had not offended the religious sensibilities of the group, nor were they – who had after all committed a blasphemy themselves by equating the ground with the devil's backside – concerned for God's honour. Rather, the group had ridiculed Rother, using the blasphemy as a pretext for exposing the stranger and brazenly parodying the morals code.

Taking pleasure in blasphemous provocation was not simply a matter of light-hearted verbal competition. It had a serious side, too. The brazen answers blasphemers gave their opponents exemplify this. In 1687, Elisabeth Hug was reported to the city morals court in Zurich for having said, in conflict with Jacob von Bär, that what she said and what she claimed was just as if God himself were speaking.[463] Gebhardt Heller von Wil seems to have responded similarly in 1735 when asked, while drinking with a group of friends, why he had let himself be called *Henkersbub* (hangman's assistant). According to the report by Bailiff Hirzel von Eglisau, Heller had replied: 'I am just as worthy as God the Father, the Son and the Holy Spirit and the Lord Jesus.'[464] The implication of these speech actions is clear. The individuals attempt to save their honour by making a provocative comparison. Their blasphemous retorts were not addressed to God; neither did they directly insult any opponents. Their challenges were intended to dispel any doubts about their reputations. Honour capital was no joking matter; paradoxically, this was exactly what Hug and Heller demonstrated when they used blasphemous words to try to prove their respectability.

The tavern was the convivial setting not only for well-meaning blasphemies but also for blasphemous refractoriness. In 1715, at a tavern in Knonau, Heinrich Bollier from Rüschlikon requested the assembled

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[462] 'Jetzt weist, das du (Gott behüt uns) den tüffel [reverenter] den hinderen küßt hast' – A.27.61, Statement Andres Rother, 5.8.1616.

[463] Cf. A.44.1, Letter Schultheiß to moral courts, 1.11.1687.

[464] 'Ich bin so gueth als Gott der Vatter, der Sohn und der heillige geist und mein herr Jesus' – A.27.144, Case of Gebhardt Heller Report Bailiff, 8.4.1735.

bailies to open a letter he had written against them, evidently not for the first time. The officials declined, pointing out that the authorities would have intervened by now if they saw reason to do so. Bollier had then taken a knife and opened the letter, commenting that God's grace and mercy were great but his letter was even greater.[465] His provocative attempt to show off cost him dear, however. He was sentenced to one week in prison, threefold *Züchtigung an der Stud*, admonishing from the pulpit, recantation, lifelong *Ehr- und Wehrlosigkeit*, and house arrest.[466] The ecclesial punishments make clear that the judiciary considered his provocation blasphemous. Bollier himself had probably not intended to call God's rule into question, but simply to impress the officials. His provocative speech action signalled that he despised them and that he feared nothing and no one. All this had nothing to do with magical conjuration, personal insulting of his opponents, confrontation with God, or merry entertainment.

Such loners as Bollier were not frequent up to the seventeenth century, but in the eighteenth- larger numbers of blaspheming loners came before the courts. One example is Andreas Schultheß from Stäfa. According to interrogation in 1737, he had been involved in a fight at a Zurich tavern. The judiciary questioned him closely and enquired whether he had not used blasphemous talk on previous occasions. Had he not once alleged that the devil was a good man who would do him no harm? Had he not even said he would not respect God more than other people if God were on earth? And that was not all. Warned about his cursing and swearing, had he not said, 'one should send him [i.e. God] down to him. He'd like to fondle his behind'?[467] Schultheß's quick-wittedness and provocations must have left some people in Zurich speechless. Certainly he was too much for those required to discipline him. What was his intention? We may assume he wanted to live a free and easy life, doing as he pleased. His witty blasphemies mark him as a social non-conformist, trying his strength with society rather than with God.

The third field where blasphemies flourished was that of pleasure in confessional provocation.[468] The fruits of this field show how difficult it is to distinguish confessional polemics from blasphemy. One person's religious abuse was another's blasphemy, and vice versa. This interlinking of the two reminds us that blasphemous talk could take on different meanings according to context.

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[465] Cf. A.27.130, Statement Hans Rudolf Hetschwyler, 14.3.1715.

[466] Cf. B.II.729, fol. 120f., Sentence Heinrich Bollier, 30.3.1715.

[467] 'Man soll ihm [sc. Gott]ihn hinuntergeben, Er woll ihm den Hinteren ertätschlen' – A.27.145, Statement Jacob Kuentz, 28.5.1737.

[468] For a collection of such expressions from a historical–linguistic perspective, cf. Blatter, *Schmähungen*.

In view of the hostility generated by religious wars and the victims they claimed, confessional polemics have a constant serious undertone. Nonetheless, many confessional differences were played out with accompanying blasphemous sneers, to the amusement of an audience. Up to the eighteenth century, many scenes at the inn bring together the topoi of confessional polemics.[469] Such verbal games were risky, however, as the case of the Zurich innkeeper Alexander Ziegler shows. Hans Zyser recalled in 1605 that Ziegler had said at a tavern in Catholic Lucerne that the 'Lutherans' were in good spirits because the people of Lucerne thought Zwingli was in hell. Zyser believed, however, that Ziegler had only sought to ridicule.[470] Not every confessionally charged remark was seriously meant; in fact, it could even be said in jest. Ziegler had ventured too far into a dangerous grey area, however. His 'disreputable talk' (*verruchte redden*) had only polemicised against Catholics, but it was for God alone to decide who was damned and who was not. At first the Zurich judiciary did not consider his offensive words blasphemous, since it was Zwingli he attacked. Five years later, however, when Ziegler did commit blasphemy, the judiciary took up the earlier case again and reinterpreted it, assessing his utterance of 1605 as blasphemous. Depending on the circumstances, what was meant as a harmless piece of fun could take a very serious turn.

Traditionally, historiography brings the era of confessionalisation to a close in the mid-seventeenth century. Confessional polemics with a blasphemous note from a Catholic- or Reformed perspective reach well into the eighteenth century, however. At a tavern in 1713, the servant Heinrich Müller from Ütikon had challenged a woman from St Gallen who was among the guests. Catholic St Gallen had no good fortune in war, he alleged, because its worship of Mary was equivalent to the worship of the golden calf rejected in the Bible. Hardly a polite opening to the encounter, but this was still within the bounds of confessional hostilities. Müller then proceeded to overstep the mark. When the woman spoke up in defence of worship of Mary,[471] he replied that she was certainly down in hell, where the devil had his hands on her.[472] Strictly speaking, this was blasphemous from a Reformed viewpoint too, but the context of the action makes clear that Müller was attacking his confessional opponent and not God. That was how the judiciary saw it when they charged Müller with inappropriate words but not with blasphemy. In some contexts, blasphemy could turn into cheap confessional polemics.

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[469] Cf. e.g., A.27.130, Statement Franz Niderist, 26.10.1715.

[470] Cf. A.27.51, Statement Hans Zyser, 15.6.1605.

[471] Cf. A.27.128, Statement Jagli Duber, 7.2.1713.

[472] Cf. ibid., Statement Caspar Baur, 7.2.1713.

Summary   Those who provoke have reason to do so. Those who took pleasure in blasphemy as a means of provocation had their own motives. Whatever form the blasphemy took, the speech actions were always motivated by enjoyment of having the last word in a verbal game that was mostly amusing and sometimes serious. These verbal tournaments were not really concerned with God's honour or even that of opponents. The participants were eager to prove their own blatant quick-wittedness.

Effective provocation needs an audience. Undoubtedly, the people of Zurich will have played out their blasphemous moods in private as well, but it is no coincidence that the judicial records relating to pleasure in blasphemous provocation focus on three typical situations. The lively circle at the inn, rivalry within and between groups, and mockery towards confessional opponents: these are the contexts in which the effect of blasphemy depends on an audience enjoying the verbal sparring match.

These three contexts point to the spaces for thought and action in early modern society in the field of religious taboo-breaking. Such spaces could not simply be chosen at will, but they certainly existed. The limits were reached when speakers no longer spoke of themselves but of God. Within the limits, fun could be had by making religious allusions. Whereas the modern age tends to place religion – apart from such fundamental issues as freedom of religion – in the private and sacrosanct sphere, religion in the Early Modern era could be so public and 'profane' that it was either a consensual means of entertainment or a way of marking boundaries.

Just as religion and humour were not mutually exclusive, from the fifteenth- to the eighteenth century even blasphemous utterances could be provocatively sociable in character. Blasphemy could be 'played', dressed up in uncouth remarks. Journeymen especially enjoyed games of verbal sneers, marking them out from others and competing for status within their own group.

The problem of blasphemous confessional polemics demonstrates how context-dependent the meaning of blasphemy is. On the one hand, the answer to the question of whether certain words implied blasphemy or not depended on one's confessional standpoint. On the other hand, blasphemous mockery of those of a different creed could be no more than a cheap farce, not concerned with theological issues but only with the speaker's own *Schadenfreude*.

In principle, blasphemy was an extremely serious matter. In social practice there was space for provocative, sociable games that carried an element of risk. The games could only function because everyone knew and observed the rules, i.e. the religious norms. Religion in early modern times was a form of sociability reaching far beyond pilgrimages, brotherhoods, catechisation or other institutionalised forms of religiosity.

2.4. 'The' Blasphemer as a Person

In June 1723, the Zurich judiciary drew up a 'wanted' file on Jean-Jacques Dubois for theft, dubious trade practices and blasphemy.[473] The document is the only one offering a description of the outward appearance of a blasphemer in early modern Zurich. This is no coincidence, apparently, since the judiciary made little effort to pursue blasphemers who had moved on. A 'search' for blasphemers was only conducted if they were locals who had disturbed the peace, or people from elsewhere who had caused concrete damage. But who were these people? According to current research, blasphemers as individual offenders were mainly young men from among the marginal groups in society, and journeymen.[474] Cultural theorists such as M. de Certeau see blasphemers as groups of speakers intending to establish themselves as minorities by means of verbal norm transgression.[475] This is a short-sighted perspective, however, as the following examination of the social and geographical provenance as well as the age of Zurich blasphemers will show.

We begin with a brief review of the information gathered in the preceding chapters on the person of the blasphemer. Blasphemy was considered – *inter alia* – as a disposition associated with strangers, beggars, outsiders, criminals, soldiers, journeymen and grumblers. Blasphemous talk characterised the behaviour of social outsiders. Does this attribution correspond to the groups from which blasphemers actually were recruited? Without returning individually to all the blasphemers who have paraded past us, we may simply remind ourselves that those who dealt with God in unacceptable ways were in most cases male, might be educated or uneducated, could be craftsmen or officials or higher officers, and might live in the city or in the rural area. Habitual blasphemers were in good company, just as they were in seventeenth-century Paris.[476]

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[473]   Cf. A.27.135, Description Jacob Holtz, 10.6.1723.

[474]   Typical of this is the idea that, from the early seventeenth century, serious abuse of God was mainly perpetrated by the lower strata of society. Cf. Dülmen, 'Wider die Ehre Gottes', p. 34.

[475]   Cf. the essayistic reflections in Michel de Certeau, *La culture au pluriel* (Paris, 1974), pp. 87–9.

[476]   Cf. Cabantous, 'Histoire du blasphème', pp. 103–4.

The Zurich sources allow only a certain degree of further precision in this social and geographical description. Records of incidents in the rural area do not usually give the occupation. With craftsmen, the place of residence is generally not registered. We may assume for inhabitants of the city of Zurich that it was regarded as unnecessary to note the place of residence. Instead, the trade was given as a means of identifying the defendant. For the rural area, it is plausible to assume that every culprit not identified by trade was a peasant. However, none of these assumptions can be substantiated. The consequence of this for our analysis is that no distinction can be made between city and countryside. We can only establish for the rural area that there are no blasphemous 'agglomerations'; in other words, that blasphemy was not a local speciality.

Regarding the social origins of blasphemers, we have 110 relevant items of information on the approximately 900 persons listed in our sample. It must be kept in mind that the data drawn from the *Kundschaften und Nachgänge* are certainly distorted. Peasants, for instance, are not named as such, although – or because – they make up 85 per cent of the population.[477] This means that the city population is over-represented. A second problem of interpretation is that the table alone reveals little concerning the social origins of blasphemers. A comparison with the social topography of the whole Zurich region would be needed for a precise analysis of the data, but no such topography is available.[478] Thus the following table must be read with caution, despite its parallels with findings from Paris in the seventeenth and eighteenth centuries as well as with the area surrounding Zurich.[479]

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[477]   Estimated for *c.* 1635 from Margrit Irniger, 'Landwirtschaft in der frühen Neuzeit', in Flüeler and Flüeler-Grauwiler (eds), *Geschichte des Kantons Zürich*, vol. 2, pp. 66–125 – here, p. 87; Otto Sigg, 'Das 17. Jahrhundert', in Flüeler and Flüeler-Grauwiler (eds), *Die Geschichte des Kantons Zürich*, vol. 2, pp. 282–363 – here, p. 318.

[478]   Cf. Lendenmann, 'Wirtschaftliche Entwicklung', pp. 127–32.

[479]   Cf. Cabantous, 'Histoire du blasphème', p. 104.

Table 1   Social Origins of Blasphemers in the City-State of Zurich 1515–1747

SOCIAL ORIGINS	ABSOLUTE	% OF CATEGORY	% OF TOTAL
Craftsmen:	**60**		**54.54**
masters/journeymen	51/9	46.36	
of which millers	5		
of which smiths	5		
of which weavers	5		
of which shoemakers	4		
of which others	41		
Marginal groups, lower strata:	**22**		**19.99**
beggars, vagrants, day labourers, alms recipients, *Spital* occupants	16	14.54	
male, female servants	6	5.45	
Officials:	**16**		**14.54**
assistants (clerks, scribes)	5		
bailiffs	3		
schoolmasters	3		
council members	2		
clergy	2		
others	1		
Military	**8**		**7.27**
Doctors, surgeons	**4**		**3.63**
Total	110		

Despite its limitations, the table gives an approximate idea of the distinctive social features of blasphemers. This confirms previous research findings, but also enables us to revise and differentiate. As expected, over half of all blasphemers are craftsmen. The figure corresponds more or less to their proportion of the city population.[480] We can therefore speak of craftsmen being proportionately represented in the 'blasphemous population'. Whether butchers, millers, smiths, weavers and shoemakers are notorious blasphemers in this area, whereas other groups dominate elsewhere, cannot be stated with any certainty.

Not all the findings confirm earlier research, however. It is surprising to find that journeymen, often alleged to have a loose tongue, appear to

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[480]   Cf. Lendenmann, 'Wirtschaftliche Entwicklung', p. 130.

be strongly under-represented.[481] There is much to suggest that researchers have tended towards uncritical acceptance of contemporaneous descriptions in the sources of the coarse, blasphemous journeyman. In terms of quality, this may well be an accurate picture. As we have seen, blasphemous speech actions certainly were part of the journeymen's 'subculture'. But in terms of quantity, we should not overestimate. The same can be said of the marginal groups, parts of the lower strata, and the military. All regarded as prototypical blasphemers, they are all markedly under-represented[482] in the table when measured against their proportion of the population.[483] This discrepancy demonstrates the inadmissibility of drawing conclusions on the social structure of court-registered blasphemers on the basis of an accusation of blasphemy as a social label.

Just as research has tended to overestimate the blasphemous 'subculture' of soldiers, journeymen and the underprivileged, it has tended to underestimate the blasphemous speech actions of officials. Scant attention has been paid in research to blaspheming officials, whatever their status, yet in Zurich this group is relatively large. Could the reason be that religious taboo-breaking by officials was less tolerated? The conspicuous number of representatives of the authorities suggests this.

The clergy, doctors, surgeons, teachers, high-ranking soldiers and officials listed were undoubtedly among the educated blasphemers (though the levels of education varied). This gives rise to the question whether their education prompted them to harm God's honour by means of intellectual arguments. An answer to this question would require information on the proportion of 'banal' curses and swearing to radical blasphemies. Here the surface of the sources is simply too thin to allow us to tread further.

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[481] Exact figures for the proportion of craft journeymen to masters are unknown. But given that several journeymen often worked for one master, and allowing for the fact that not every master will have employed a journeyman, we may assume that blaspheming journeymen were not as strongly represented as their numbers would lead us to expect.

[482] It must be kept in mind that the Swiss military was not a professional army, but a militia.

[483] As far as I am aware, there are no exact data on the social structure of early modern Zurich. It is an undisputed fact, however, that mass poverty persisted in the second half of the sixteenth- and in the seventeenth century. A parish minister from Stein (Rhine) estimated the number of registered paupers around 1590 at almost 10 per cent of the population. Modern estimates reckon with two-thirds of the population living on the breadline. For details, cf. Irniger, 'Landwirtschaft', p. 88; Stucki, '16. Jahrhundert', pp. 226–9; Sigg, '17. Jahrhundert', pp. 284, 318.

We have moved so far on the thin ice of cautious assessments and plausible assumptions. We can confidently state, however, that blasphemers came from all groups in society. It does not look as though any particular group was fully under-represented, i.e. significantly refrained from blasphemous speech actions. Thus blasphemy can be understood as an indicator for the whole population, though almost exclusively the male gender. Blasphemers were often marginal figures, but they were joined – as in the late mediaeval city – by 'good', respectable citizens.[484] This is borne out by the arguments of blasphemer Michael Wyß in 1636. Asking the authorities to show mercy, he pointed out that he was a regular churchgoer, and that the parish minister and the bailiff could confirm his good reputation.[485] Examining the offence of blasphemy is, in principle, like looking through a keyhole at the entire population of Zurich.

The morals mandates and research findings both indicate that young men in particular were prone to blaspheming.[486] But when was a young man still young in early modern Zurich? When could 'youth' (*Jugendt*) be appealed to as a mitigating factor? Interestingly, the defendants themselves do not use this argument. Only the judiciary refers to the motif of diminished responsibility of juveniles before the court. In the sentence opinions, it is the symbolic rhetoric that counts. The age of defendants was evidently not significant enough to be recorded, so its relevance must have been limited. The 'youth' of delinquents was similarly insignificant when it came to sentencing. The punishments meted out to 'juvenile' offenders indicate that the young men were in fact adults, since *Ehr- und Wehrlosigkeit* could not be imposed on a minor.[487] The courts' distinct lack of interest in the age of blaspheming delinquents has its consequences for our historical curiosity. Only 22 of the 900 recorded cases of our sample give the age of defendants. The table sets out these cases:

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[484]   Burghartz, for example, establishes that everyday cursing and swearing were socially widely distributed in late mediaeval Zurich: *Leib*, p. 136. Schwerhoff is in cautious agreement: *Gott und die Welt*, particularly pp. 249, 287, 404.

[485]   Cf. A.27.74, Statement Michael Wyß, 21.8.1636.

[486]   Cf. on the research situation Schwerhoff, *Gott und die Welt*, pp. 379, 385–6, 387.

[487]   Cf. e.g., B.VI.256, fol. 234r, Sentence Hans Knöpfer, 2.9.1549.

Table 2   Age of Blasphemers[488]

AGE IN YEARS	ABSOLUTE NUMBER
Up to 20	3
20–29	6
30–39	6
40–49	1
50–59	3
60–69	1
over 70	2

Although the small number of cases prevents us from embarking on generalisations, the table does allow us to identify certain tendencies confirmed by findings from Paris for the seventeenth century.[489] Blasphemers tend to be young men between the ages of 20 and 40. This is one reason for relativising the idea of the 'juvenile' blasphemer by today's standards. The second reason is that in the demographic structure of early modern societies, the 20- to 40-year-olds made up a large proportion of the population. The relatively high absolute number of 'juveniles' should not be confused with their percentage in the population. Blasphemers were, as a rule, not boisterous boys. Rather, they were 20- to 40-year-olds struggling to establish or defend their social status. This may well be the reason why they more frequently became involved in conflicts of honour, often accompanied by cursing and swearing. It follows from this interpretation that blasphemous talk does not point us to a subculture of male juveniles. The proportion of 'young' blasphemers can be explained

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[488] Cf. A.27.62, Statement Rudolf Gwalter, 5.5.1618; A.27.79, Statement Felix Hönysen, 18.4.1640; A.27.90, Case of Felix Huber Bailiff Report Hans Ruodolf Louw, 8.10.1651; A.27.96, Statement Hans Jacob Schlump, 14.10.1658; A.27.99, Statement Jörg Stapfer, 4.6.1664; A.27.112, Case of Hans Honegger Bailiff Report Rudolf Lavater, 19.1.1682; A.27.113a, Statement Jacob Zahnder, 25.3.1685; A.27.116, Statement Hans Habersat, 31.3.1690; A.27.119, Statement Heinrich Beyner, 25.2.1696; A.27.164, Statement Vreneli Schwartzenbach, 27.12.1702; A.27.130, Statement Franz Niderist, 26.10.1715; A.27.132, Statement Heinrich Stein, 3.3.1718; A.27.133, Statement Heinrich Trümpler, 13.7.1719; ibid., Statement Anna Mejer, 7.5.1720; A.27.135, Statement Andreas Zander, 18.10.1723; A.27.136, Statement Ulrich Leuthold, 16.1.1725; A.27.137, Statement Jakob Kuntz, 30.8.1726; ibid., Statement Hans Frey, 9.7.1726; A.27.141, Case of Hans Ulrich Hirt Report Minister Hans Jacob Korodi, 20.12.1730; A.27.143, Statement Mathys Wäber, 13.1.1733; A.27.144, Statement Andreas Bindschädler, 3.5.1735; A.27.145, Statement Andreas Schultheß, 21.5.1737.

[489] Cf. Cabantous, 'Histoire du blasphème', p. 106.

by the fact that blasphemous speech actions are a concomitant of social establishing.[490]

Summary   Given the low level of structural background information on the social topography and the age pyramid of the Zurich population, making statements on 'the' blasphemer as a person is a tricky business. The matter is complicated further by the fact that the judicial records give little detail concerning the place of residence, occupation and age of defendants, particularly to the disadvantage of the rural territory. It is not possible to differentiate further according to variants of blasphemous speech actions.

Despite the paucity of data, the picture of 'the' typical young, male individual blasphemer, usually from a socially marginal background but also from the middle stratum, can be refined further. The blasphemer appears in several guises. The observation that mainly resident subjects from the middle stratum of society were recorded as blasphemers and individual offenders confirms the insights of previous research.

Other research findings must be relativised or differentiated. Marginal groups and those in the lower strata of society were considered to be typical blasphemers, but this does not correspond to their share of court cases. This discrepancy calls for a corrective, at least for Zurich, to the image presented in research of social outsiders and the underprivileged as prototypical blasphemers. In quantitative terms, young men were less disposed to blaspheme than current research positions suggest. Moreover, the proportion of journeymen as blasphemers in the population is relatively small. Qualitatively, the *jeunesse blasphématrice* consists of the 20- to 40-year-old males who in any case form the bulk of the population. The large number of cursing and swearing men aged between 20 and 40 may well have to do with the stage in life at which they are establishing themselves in society, rendering them more likely to become involved in conflicts of honour. This would contradict the thesis that interprets blasphemy as a subculture among young men, reading it rather as an indicator of social phenomena.

Hitherto, officials who blaspheme have not been the focus of research. As far as the craftsmen are concerned, corrections to current research

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[490]   This is also supported by Michaelas Schmölz-Häberlein's finding that in early modern Emmendingen (Baden), phases of reorganisation of the social order or integration of new citizens in an existing social order were marked by a significant increase in conflicts of honour. In other words, such conflicts were a calculated strategy for securing or raising one's own social standing. Cf. 'Ehrverletzung als Strategie: Zum sozialen Kontext von Injurien in der badischen Kleinstadt Emmendingen 1650–1800', in Mark Häberlein (ed.), *Devianz, Widerstand und Herrschaftspraxis in der Vormoderne: Studien zu Konflikten im südwestdeutschen Raum (15. bis 18. Jahrhundert)* (Konstanz, 1999), pp. 137–63; here, pp. 141–3, 159.

positions are necessary. Their contribution to the band of blasphemers corresponded to their share of the population. A particular proneness to blasphemy in certain trades does not appear to be demonstrable. The tongues of butchers or smiths did not run blasphemously away with them as often as alleged.

Blasphemy was not only a 'broadband offence', but also a social 'broadband phenomenon'. In principle, blasphemous speech actions were part of the verbal repertoire of the entire population. Examining blasphemy in the early modern city-state of Zurich, therefore, means advancing into the centre of that society, not hovering on its sociocultural margins. When addressing questions of religious norms in an early modern society from a historical perspective, blasphemy is not an 'exotic' but a central means of approach.

3.   Blasphemy as an Expression of (Un)Belief

3.1.   The Religious Knowledge of Blasphemers

Blasphemers act in a specific social context and a specific religious context. Assessing the religious background against which blasphemers acted means, to a degree at least, judging what the delinquents were dissociating themselves from. What were they actually dealing with in terms of content? How familiar were they with church doctrines or religious controversies? Examining the religious knowledge of blasphemers will offer some answers to these questions.

The court records from Zurich tell us little about the religious environment of blasphemers – but a little is better than nothing. There are some rare cases, recorded in the defendants' statements, in which the *Nachgänger* asked what had inspired blasphemers to their action. Further disparate pieces of information can be found in the defendants' attempts to justify themselves, or in the sentences pronounced on them. As the sentence depended on criminal responsibility, the judiciary attempted to establish whether defendants had knowingly transgressed religious norms. The richest source of material is the reports of Zurich's ministers and their deacons on conversations with prisoners in the city's prison towers. By no means neutral, these reports express the religious norms of their authors.

Only at the end of the seventeenth century did the *Nachgänger* in Zurich begin systematically to enquire into the religious backgrounds of blasphemers. The results were negative. They were told by the barber journeyman Johannes Friedrich Speyer from the Palatinate that he had received no religious instruction. His blasphemous reference to God as a senile man was something he had heard from a 'Papist' in whose area

he was a soldier. Hans Ulrich Hirt, who at a wedding had welcomed a wine server as the Holy Spirit, was asked where he had learned such 'bad expressions' (*böse Redens-Arthen*). The defendant replied that he had heard them from no one, but had read them in the Book of Psalms and sung them from there. He had not heard such expressions anywhere else.[491] A few of the *Kundschafter* attempted unsuccessfully to prove that blasphemers had been in contact with heretical movements.

Somewhat more informative than the court records are the descriptions given to the council by clergy concerning the mental and spiritual condition of prisoners. Such reports are stereotyped, the reason for this being that the ministers kept to the same catalogue of norms. The aims pursued by the clergy are apparent in the report on Johannes Teuffer's change of heart and mind. Sentenced to death as a murderer and blasphemer, the man from Wallis was said to have shown 'considerable brutality, stupidity and great ignorance' (*einiche brutalitet, einfaltigkeit und darbÿ grobe ohnwüssenheit*). Daily catechesis, however, had effected a change, and Teuffer now knew the tenets of the faith.[492] Even those whose lives had been lived far from God could, with the help of catechesis, find their way to God and learn the basics of the Christian faith. These basics were the Lord's Prayer, the Ten Commandments and/or the Creed. The clergy always enquired whether prisoners were able to recite these central texts. They also noted whether they were familiar with the commentary on the Catechisms. In the oral culture of the time this was all the clergy could expect of their flock, who were encouraged to attend church regularly, preferably twice a week, and to attend years of children's instruction. Often there were considerable gaps in prisoners' knowledge, the clergy stating that they were uninstructed in the faith or insufficiently so, and that they had not engaged convincingly with the religious content of what was taught.[493] Admittedly, those reporting on prisoners tended to present them as religious primitives in need of spiritual education. Some attempted to excuse the defendants by understating their religious knowledge, thus relativising their criminal responsibility. These objections, however, relate to the evaluation of religious knowledge rather than the level of knowledge itself. However little these blasphemers corresponded to the ideal of those reporting them, what counted was that quite a few blasphemers were unfamiliar with the foundations of the Christian faith. Such blasphemers were transgressing norms without specifically pursuing religious aims.

This was exactly the argument used by blasphemers defending themselves before the court or by others speaking for them in the council.

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[491] Cf. A.27.141, Statement Hans Ulrich Hirt, 23.12.1730.

[492] Cf. A.27.111, Case of Johannes Teüffer, Report, 29.11.1681.

[493] Cf. e.g., A.27.131, Case of Hans Jagli Ochsner, Report, 16.9.1717.

In 1648, Minister Waser stated in his petition that Hans Jagli Henßler from Rümlang had indeed committed blasphemy, but unintentionally and in ignorance.[494] Similar arguments were used by defendants. In 1690, Elsbeth Maag admitted her blasphemy, adding that she had spoken in ignorance, and without realising that her words were such a great sin.[495] Sixteen-year-old Jacob Kuntz from Ried also pleaded ignorance. Asked in 1726 why he had used blasphemous words, he replied that he was a poor boy who did not know it was such a great sin.[496] The formulaic references to words spoken in ignorance, coming from witnesses or scribes, indicate that this particular excuse was a common one. It must have been plausible for the council and therefore probably had realistic foundations.

We would not be justified, however, in dismissing these excuses as mere stratagems. Evidently, it was possible to miss out on the church's efforts to catechise. There are reports by the clergy that draw attention to the ignorance of defendants in religious matters. In 1714, a minister was horrified to find that Jacob Weidmann was as ignorant of the fundamentals of the Christian faith as if he had not been born and brought up among Christians but had only heard something of Christ in passing.[497] It seems that many blasphemers knew little of the tenets of the Christian faith. This suggests that their blasphemies were an attempt at social provocation rather than a sign that they had engaged with church doctrines and come to unorthodox conclusions. These were not 'genuine' blasphemers in the sense of religious criminals. They were non-conforming social outsiders who sporadically transgressed religious norms, inadvertently becoming blasphemers as they did so.

Blasphemers also come in other guises. While the examples above appear to confirm the idea that the early modern church was not successful in Christianising the population, we can find plenty of evidence to the contrary. Christian socialisation was widespread. Head of household Ulli Walder claimed in 1621 that, despite his drunken state, he had prayed the Lord's Prayer and recited the Ten Commandments as well as blessing his wife and children before they went to bed.[498] Religious devotions were among the duties of a husband and father, as Riethmüller also stated in 1717: it was his Christian duty to pray aloud and to read the Bible aloud, since he was responsible for the religious instruction of his family and

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494   Cf. A.27.87, Letter Minister Waser, 8.3.1648.
495   Cf. A.27.116, Statement Elsbeth Maag, 27.8.1690.
496   Cf. A.27.137, Statement, Jacob Kuntz, 30.8.1726.
497   Cf. A.27.129, Case of Jacob Weidmann, Report, 20.3.1714.
498   Cf. A.27.57, Statement Ulli Walder, 27.1.1612.

servants.[499] Christian socialisation was not merely ordained by the church, but was practised in families.

This socialisation left its mark and helps to explain the religious context in which blasphemers acted. While one was reminded of the parable of the wise and foolish virgins during a game of bowls,[500] others commented on sermons they had heard or writings they had read. The clergy even assumed that some prisoners might have read the *confessio Helvetica*.[501] In this religious climate, blasphemers must have known what they were doing when they used the name of God. Ulrich Singer from Rickenbach is an example of such an intentional blasphemer. In his petition of 1634, the miller conceded that, although he had read both Old- and New Testament several times, he had not wanted to repent. He did indeed prove his knowledge of the Bible. His petition, whose use of dialect deviating from the formal language of the court protocols indicates that he wrote it himself, is packed with biblical rhetoric in a manner astonishing even for his time.[502] If this adulterer attended church irregularly and denied the resurrection,[503] he will have found reasons in the Bible.

It would be unrealistic to assume, however, that blasphemers well instructed in the Christian faith always had religious grounds for swearing, cursing and abusing God. In the case of Heinrich Müller from Ütikon, Minister Ulrich from Mettmenstetten concluded in 1713 that Müller was an honest man who knew his Bible well. He did not believe that Müller had intentionally blasphemed God. He must have spoken his 'unfortunate words' (*unglückselige Worte*) in anger. The minister saw in Müller a good Reformed Christian whose tongue had regrettably run away with him.

Summary The data in the Zurich court records on the religious background of blasphemers are thin in quantity and quality. Their concern is to satisfy the court. Some defendants stated in interrogation that their ignorance of the faith prevented them from realising they were committing a religious offence. The city clergy, whose duty it was to visit prisoners in the prison towers of Zurich, were required by the council to assess the religious responsibility of those charged. The clergy tended in their reports to present themselves as teachers of religion to prisoners who had need of such teaching. Occasionally, they minimised the religious knowledge of defendants so that they could be presented as ignorant and therefore of diminished responsibility. Despite the restrictions these conditions

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[499] Cf. A.27.131, Statement Riethmüller, 15.9.1717.

[500] Cf. E.II.88, Letter Minister Conrad Vögts [?] to Waser, 5.6.1672.

[501] Cf. E.II.8, Statement Hans Jakob Amman, X.1.1634.

[502] Cf. A.27.80, Petition Ulrich Singer, *c*. X.11.1634.

[503] Cf. ibid., Letter Minister Johannes Murer, 16.3.1631.

place on our research into the religious background of blasphemers, the data available to us permit a tentative answer to the question how far blasphemers engaged with Christian doctrine and how far their true convictions urged them to dissociate themselves from God by means of blasphemous speech action.

Judged by their religious knowledge, the blasphemers of Zurich fall into two large groups. There were the ignoramuses who had missed out on church catechesis and knew almost nothing of the Christian faith. This same group included those who were familiar with the Christian basics – the Lord's Prayer, the Ten Commandments, the Creed, and the smaller or larger catechism – but had not engaged with the principles of Christianity. They could recite the texts by heart if necessary, but had no understanding of them. These critical assessments on the part of clergy reveal that some blasphemers abused God against their own theological will. Their speech acts are not examples of theological alternatives, but simply discrete transgressions of religious norms from a position of staunch social non-conformity.

We would be unwise, however, to assume from this group of theologically inadequate blasphemers that the population of Zurich was only superficially Christianised by the Reformed Church. The second large group consists of those who were so familiar with the Bible, prayers, sermons and devotional publications that their everyday lives were shaped by Reformed religiosity. These blasphemers knew – at least in retrospect – what they were doing when they acted verbally against God. There were some among them who simply expressed their 'anger' blasphemously. They were acting on the borderline between affective *faux pas* and intentional turning aside from the Christian doctrines. We might describe them as inadvertent but not uninformed blasphemers.

3.2. The Pleasures of 'Disputation'

Enjoyment of religious disputes in which the speakers displayed knowledge and posed questions was quite similar in formal terms to the enjoyment of blasphemous provocation. The effects achieved by the speakers reveal, however, that these are two distinct categories of challenge. Whereas those who provoked by means of blasphemy sought to entertain or shock their listeners, those who 'disputed' were interested in intellectual competition. Such competition, which concentrated on certain controversial issues, was perceived differently by the listeners and the authorities. The following chapter examines what the intentions, topics and effects of blasphemous 'disputations' reveal concerning the meaning of religion in the Early Modern era.

The court records show the setting of strong provocations to be comparable to that of fierce disputes. Both convivial meetings and chance encounters on the street could provide such a setting.[504] Most 'disputations' that ended in court began at the inn, where people of different confessions, beliefs and intellectual calibres came together. There seems to have been general consensus that whoever dared to dispute in religious matters should be 'informed'. The reaction of Cunrat Hürliman at an inn in 1572 exemplifies this. In a drunken state, Heini Nagel questioned him on his faith, claiming that if Hürliman had a Bible with him, he would interpret it for him in such a way as to convert him to the Reformed faith. Hürliman had asked to be left alone, since he could neither read nor write.[505] He avoided the confrontation by declaring himself illiterate and thus incompetent. His assumptions were, first, that matters of theological doctrine should be dealt with by informed and educated persons; and second, that the public at the inn would be satisfied with his response.

Caution was advisable when it came to theological questions. There were those who took this to heart, and those who also warned others not to get into deep water. In 1603, Paul Krüti recommended to innkeeper Sixt no longer to 'dispute' on matters of Christology such as the incarnation of Christ, since he was not well enough informed to do so.[506] Such warnings can be found into the eighteenth century.[507] Coming from laypeople, clergy or judges, they show the acceptance of religious controversies being aired in public settings. Those who took part were expected to be suitably theologically equipped. Those who 'disputed' constantly emphasised that they were indeed well informed on the subject, drawing attention to their knowledge of the Bible.[508] A fine example dates from 1616 at in inn in Adliswil. Benedict Berli was said to have challenged the bailiff Jacob Kegeli by saying he would prove he knew more than the bailiff, whereupon Kegeli had taken the Bible lying on the table and affirmed that he believed in Holy Scripture.[509] Evidently, laypeople's use of the Bible to discuss questions of principle was not restricted to theological experts.

Religionsdiscurse were not only conducted at the inn but also in polite society, as evidenced by Anna Werdmüller's petition in 1657. Her husband General Werdmüller, well known beyond the borders of the region, had repeatedly been challenged in high society by educated, quibbling people

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[504] Cf. the substantially similar statements by witnesses Paul Schmid, Michael Altstetter and Heinrich Eberhart under A.27.50, 9.12.1603.

[505] Cf. A.27.29, Statement Heini Nagel, 9.3.1572.

[506] Cf. A.27.50, Statement Jörg Sunthuser, 9.12.1603.

[507] Cf. e.g.,, A.27.114, Statement Felix Stauber and Martin Schäppi, 12.9.1687.

[508] Cf. A.27.51, Statement Ulrich Frölich, 22.4.1605.

[509] Cf. A.27.61, Statement Jacob Nägeli, 15.4.1616.

to discuss delicate theological questions. Her husband had risen to the challenge, Anna Werdmüller stated, because this had been unavoidable for him as a high-ranking representative of Zurich on such social occasions. Rather than repeating common and simple opinions, he had gathered expert information in order to offer a sturdy defence of the Reformed faith.[510] Whether this is an accurate picture will be discussed below. Suffice it here to note that, in polite society, religious controversies were part of the art of conversation. A refined response to more or less open religious sneers was expected, and here the educated had the necessary means at their disposal.

The religious 'disputants' had varying interests. Some simply wanted to be polemical, others enjoyed theological riddles, and a third group flexed their intellectual muscles. Polemics does without differentiation in the interests of sharp contrasts. This was the strategy adopted by Hans Crauwer and his opponent in their dispute at an inn in 1686. After suddenly mentioning the problem of relicts, Crauwer had asked one of the other guests, did he know who had created him? Yes, was the answer, it was God the Father. The guest had countered with the question, did he know who had redeemed him? Crauwer had given no answer. Finally, Crauwer had asked the guest a further question, this time concerning intercessory prayer. He had not been satisfied with the answer, since it did not correspond to the Catholic position.[511] The controversy was limited to cheap polemics with blasphemous undertone. Instead of gradually converging their positions at the level of the catechism, the adversaries simply tried to humiliate each other.

Such polemics in a convivial setting did not necessarily end in insults, as a scene dating from 1620 illustrates. A shoemaker, Raphael Sprüngli, had been sitting at an inn with his maidservant and labourer Hans Krötz from Stotzen in Alsace when Krötz asked the maid a question that was blasphemous from the Reformed point of view: was the Mother of God an intercessor in the Reformed Church? Sprüngli had admonished Krötz, but had not managed to silence him. Finally Sprüngli had declared, 'Come on Hans, I want to dispute with you. Take some wine along with you.'[512] Not prepared simply to accept the attack on his religion, Sprüngli had responded, though without insulting his opponent. His reaction was both humorous and serious. Krötz had to be admonished, Sprüngli's words suggest, but the better arguments would become apparent over a glass of wine together. We have no record of what became of their conversation,

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[510] Cf. (ZB) MsB.159, fol. 21, Supplication Anna Werdmüller, 28.12.1657.

[511] Cf. A.27.46, Case of Hans Crawer Report Caspar Billickter, 13.4.1686.

[512] 'Du, Hanß kom, Ich will mit dir disputieren, nimb ein maß wÿn zuo dir' – A.27.63, Statement Raphael Sprüngli, 4.4.1620.

and no evidence of Krötz being punished. This shows that the two must have got on together, their 'disputation' probably ending amicably.

Enjoyment of theological riddles eventually leading to blasphemies is apparent in another scene at the inn, this time in 1687. On a Saturday evening, Felix Stauber and Martin Schäppi were sitting together when they were joined by Hans Ulmer, who put a tricky question. What was the greatest wonder, he asked. Schäppi replied that without doubt this was the incarnation of Christ as God and man. Ulmer contradicted him, claiming that Mary's perpetual virginity before, at and after the birth of Christ was greater. To which Schäppi replied, was Ulmer not aware of the pre-existence of Christ before his human birth? Or since when had Christ existed, did he think? Ulmer's response was that Christ had existed for 1687 years. Stauber and Schäppi then accused him of knowing Christ only in his human form. As the conversation continued, Ulmer added that Christ had been born in sin like every other human being. Stauber and Schäppi corrected him with the help of passages from the scriptures, and threatened to throw him out of the inn. Ulmer promptly conceded his error.[513] This exceptionally detailed record of a 'disputation' shows, first, that printed papers gave rise to public discussion of religious questions among the laity.[514] Second, it shows that the laypeople knew both the Bible and church dogma. The Christological and Mariological controversy between Ulmer, Schäppi and Stauber echoes biblical passages and theological formulae of their time. Third, Ulmer's position as well as the arguments of his opponents reveal that laypeople did not simply – in a voluntary or enforced acculturation process[515] – adopt church doctrine. They were not dependent on the 'transformation of theological findings',[516] but engaged actively with dogmatic issues and reached conclusions of their own. However, not every 'disputant' taking unconventional positions was of the calibre of a Ginzburg Menocchio. Ulmer withdrew with calming words, admitting he had been wrong and thus accepting the accusation of blasphemy. Fourth, then, theological riddles could move in a blasphemous direction, but the threshold to unequivocal use of blasphemy was not lightly crossed.

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[513] Cf. A.27.114, Statement Felix Stauber and Martin Schäppi, 12.9.1687.

[514] Cf. on this, Hans Erich Bödeker, Gérald Chaix and Patrice Veit (eds), *Le livre religieux et ses pratiques* (Göttingen, 1991).

[515] Typical of this is the idea that religious offences express widespread popular doubt and unbelief, and can be interpreted as 'strong protest against the claims of the church'. Cf. Dülmen, 'Wider die Ehre Gottes', pp. 26–7, 37.

[516] Cf. Cristoph Burger, 'Transformation theologischer Ergebnisse für Laien im späten Mittelalter und bei Martin Luther', in Hans-Jörg Nieden and Marcel Nieden (eds), *Praxis Pietatis: Beiträge zu Theologie und Frömmigkeit in der Frühen Neuzeit* (Stuttgart, 1999), p. 51.

In the heat of theological battle, involuntary blasphemies might be uttered. Again we find ourselves at the inn, this time in 1696. Provoked by hatter Schwytzer, Doctor Bochenez had asked him, 'who first [salvo honore] shit in the water'. After some hesitation, Schwytzer had replied, 'God'. Bochenez rightly pointed out that Schwytzer had blasphemed, since God was a spirit without a body, who had created everything. He would tell him who had done it: neither a man nor a bird nor a fish, but the behind, s[alvo] h[onore]. Schwytzer had retaliated by calling him a Papist heretic, whereupon he was once again corrected: God in his omnipotence could put everything into a sheepfold. He certainly could not, Schwytzer retorted.[517] Thus the hatter angrily refuted the doctor's malice in presenting him as a stupid sheep, but he did so in an unfortunate manner. Answering that God was not able to contain everything in a sheepfold, he committed a second blasphemy by doubting divine omnipotence. This was certainly not an intellectual debate between equal partners; neither was it simply a matter of more or less friendly confessional jousting. The theological guessing-games served to humiliate the intellectual inferior under the pretext of having a little theological debate. Trying one's theological strength did not necessarily mean a fair fight. 'Disputing' could also be a means of cornering one's adversary and thus inciting to blasphemy.

'Disputations' could, however, involve a meshing of genuine theological interest, personal religious convictions, and a sporting challenge. All this can be found in the celebrated case of General Hans Rudolf Werdmüller in 1657.[518] Descended from a councillor and owning a famous manufactory, Werdmüller was one of the wealthiest men in Zurich. He was every inch a soldier and diplomat, well known in public life. Even before the trial in 1657, which probably resulted from an intrigue on the part of his cousin Thomas Werdmüller, the general had been conspicuous for his unorthodox lifestyle. This was not the first time he had aroused attention with regard to religious matters. His cousin had already denounced him in 1652 for making delicate religious remarks at the induction of Bailiff Escher. In this first case, the council had not pursued the matter further. In the second, however, Werdmüller was not to be let off so lightly. In a debate with Minister Grob from Wädenswil and in the Zurich inn Zum Rüden, Werdmüller had expressed such delicate positions that the council

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[517] '… wer zuerst s[alvo] h[onore] in das Wasser geschissen habe' – A.27.119, Statement Johann Georg Bochenez, 22.11.1690.

[518] On the Werdmüller dynasty, with a section dedicated to Hans Rudolf Werdmüller, cf. Leo Weisz, *Die Werdmüller: Schicksale eines alten Zürcher Geschlechts*, vol. 2 (Zurich, 1949), pp. 226–46. The event history of the case is traced by Otto Anton Werdmüller, *Der Glaubenszwang der zürcherischen Kirche im 17. Jahrhundert: Eine kirchenhistorische Skizze* (Zurich, 1845), pp. 13–36. The study includes a selection of paraphrased records, some with minor revisions. A very brief summary is offered by Sigg, '17. Jahrhundert', p. 301.

took up the case. The report provided by the church at the request of the council makes abundantly clear how much Werdmüller enjoyed theological disputes, and what care the experts took to comment on his positions one by one. In other comparable reports, the church representatives merely stated and then categorised the points listed in the charge (generally they were dealing with just a few critical utterances). In Werdmüller's case, they differentiated additionally between theological evaluation of the charges, Werdmüller's own response to the charges, and a discussion of his own arguments in self-defence. This whole exceptional case is a treasure trove for the historian of blasphemy, enabling us to explore three perspectives. The charges in the report reflect what witnesses said against Werdmüller, i.e. what effect his controversial words had on his listeners. Werdmüller's own responses to the charges show how the educated general sought to justify his words to the authorities. The church report, finally, reveals the category criteria used by the spiritual authorities as well as the space they granted the laity for theological discussions.

We cannot reconstruct in detail what it was that shocked Werdmüller's listeners, since the *Kundschaften* have not come down to us. But the summary account of the charges in the report does give insight into what the witnesses thought worth mentioning.[519] Those who reported that Werdmüller had carelessly thrown the Bible on the floor, had excused bigamy and adultery, played down hell, profaned eternal life, and insulted Moses and Paul, were focusing on the boldly entertaining character of his talk. These were matters of social taboo rather than religious content. Others reported remembering something relating to difficult theological questions. Who after all could distinguish between a Latin *persona* and a Greek *hypostasis*? Who was able to differentiate various heretical positions? These were matters for the specialists, and Werdmüller's example shows that not all of them were clergy. Religious disputes in convivial settings could be received in very different ways. Some liked or loathed them as entertainment; others enjoyed them as theological discussions.

The motives for Werdmüller's talk were diverse. There was the attraction of intellectual dispute, throwing heretical positions into the ring to urge one's opponents on. Werdmüller evidently knew the debates running through church history on the resurrection of the dead, eternal life or the Trinity. We may assume that his intellectual curiosity outweighed his intellectual vanity. As an educated man, he wanted to know others' opinion of the current controversies. He turned to a small group of knowledgeable people. According to the Großmünster minister

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[519] Cf. E.II.97, pp. 1247–69.

Felix Wyß, the conversation had been in a quiet place away from the guests and servants at the inn, so as not to annoy anyone.[520]

Werdmüller's enjoyment of 'disputation' also arose from his interest in questions of belief, some of them personal. As a soldier who had been in French service, he will have had concrete reasons for his criticism of the Helvetic confession. Should he pray on his knees together with his French co-religionists, or not? Werdmüller had found no answer to this in the confession text, and had drawn attention to the lack. In his defence, however, Werdmüller did not refer to the charge that he had questioned the binding character of the Helvetic confession. He had commented on the text, but not as an intellectual stating his position in matters of religious politics or confessional formation. Rather, Werdmüller spoke as a Zwinglian encountering a concrete problem in his faith life. 'Disputing' in this context did not only mean engaging in mental acrobatics, but also raising questions of religious practice.

Werdmüller was too much of an intellectual to be dogmatically constricted by his Reformed beliefs. The attraction of 'disputing' meant testing how far he could go in revealing himself as a 'free thinker'. The idea that salvation could be found elsewhere was intolerable to a monopolistic Reformed Church. Scarcely more acceptable was the milder version that one should not condemn those of another confession. Whichever of these two ideas Werdmüller expressed, his concession that he affirmed the Reformed doctrine and had probably not yet fully understood the crucifixion scene indicates that he was well aware of the limits he moved within.

Werdmüller's 'pleasure in disputing' also reveals a man of high society who enjoyed a joke in religious matters. He claimed, for example, to have said in jest, in the presence of a marshal and his wife, that women would not be saved. The marshal had enjoyed this remark, but his wife had not. Werdmüller had then asked the wife whether she believed that women would go to heaven with the characteristics they had on earth. On hearing that she did indeed believe this, he had answered that women would certainly have to change on their way to heaven, since their ways were evil from their youth on. She too was guilty of the female sin of trying to control her husband, instead of being obedient to him as the Bible required. He had told such jokes several times, it was stated.[521] Werdmüller had had his fun teasing the couple in a style corresponding to the tastes of high society.

The church report drew up a critical analysis of this 'enjoyment of disputing', carefully distinguishing between annoyingly confusing, dangerously heretical and intolerably blasphemous talk in this sensational

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[520]   Cf. (ZB) MsB.215, fols 1–2r, Copy Report Felix Meyer, 9.12.1657.
[521]   Cf. ibid., fol. 6v, Statement Werdmüller, 3.2.1659.

case. Evidently, the theologians found it difficult to differentiate between wrong belief and bad belief, as revealed by their conclusion that Werdmüller's denial of the resurrection was a Sadducean and thus heretical view. The experts, nevertheless, also categorised this point as an involuntary blasphemy. Their judgement concerning Werdmüller's insult of Moses and Paul was similarly contradictory. They concluded that, since these two represented God, insulting them was blasphemous. Yet they also accepted Werdmüller's defence that he had merely been trying out a heretical position.

The experts paid even closer attention to Werdmüller's heretical positions as 'an atheist, indeed a blasphemer' (*Atheist, ja Gots lesterer*). They strongly condemned his controversial standpoints as 'dangerous, annoying and seductive' (*gefährlich, ärgerlich und verführerisch*), even as 'atheistic and godless' (*atheistisch und gotloß*).[522] The judgement of his person was much more restrained, however. They did not accuse him outright of heresy and/or blasphemy, but cautiously stated that the defendant was inexcusable, that his theological dispute could not be approved and his dangerous talk (*discourse*) could not be advocated. Evidently, the experts were concerned to avoid scandal for Werdmüller and let him off with an urgent warning, given his high standing in society. They accepted his defence that, in heretically denying the Trinity, he had intended to get his listeners thinking. The church showed some understanding of the 'pleasure of disputing' on the part of an intellectual believer. Such theological debates were to be restricted to educated people, however. 'Simple persons' (*Einfalte Persohnen*) could not be trusted, according to the church, as their imprecise witness statements showed.

We may draw four preliminary conclusions from the discussion so far of Werdmüller's case. First, informal but high-level 'disputations' on religious matters took place among theologically educated intellectuals. At this level, the grey area between heresy and blasphemy was soon reached. Sophisticated and sensitive religious discussions were not restricted to more or less prominent theologians. Second, a variety of motives caused people such as Werdmüller to provoke controversies. Intellectual curiosity concerning theology was one of them, as were the sometimes unorthodox engagement with matters of faith, and pleasure in the art of refined and humorous conversation. If Werdmüller and his like made utterances in such disputes that gave rise to the charge of blasphemy, this did not make them actual blasphemers. Third, the listeners to such disputes were not always able to follow the subtle arguments of the disputants, and tended to reduce matters to a common blasphemy at the inn. In complex cases such as that of Werdmüller, it is important to establish what witnesses had

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[522]   (ZB) MsB.159, fol 20r, Supplication Anna Werdmüller, 8.12.1657.

to say concerning the social and religious space for action. Fourth, the church's attitude to theological disputes was neither particularly flexible nor completely rigid. Provided the disputants remained within the field of the Reformed confession, educated laypeople were permitted to 'practise' debating doctrinal questions to their own edification (*übungsweis*). From the church perspective, 'disputing' was possible, though within narrow boundaries. Blasphemy and heresy were not thought to lurk in every corner.

We have seen so far that the quality of 'disputations' varied considerably. It seems that the judiciary took account of such variations in their jurisdiction. Just four sentences can be reconstructed from the cases listed here. Hans Jakob Kleiner, who had counted David and Mary among the heathen, only had to appear before the morals tribunal and undergo *Verbot der Ürten*.[523] The idea that Revelation was not a biblical text, and that praying for the salvation of the souls of the dead was to be advocated, cost the Hartmanns a fine of one silver mark each.[524] Bochenez was given a sentence typically handed down to foreigners. For his riddle, he was to execute the *Herdfall* at the open council door and then leave the country.[525] Weidmann, who had disparaged the Mother of God as an old grandmother, was sentenced to heavy fines and loss-of-honour punishments, including recantation in church and admonishing from the pulpit.[526] Werdmüller evaded punishment at first by going abroad for two years, hoping the matter would be laid to rest. His hope was not fulfilled. The council, which also accused him of unpolitical machinations, decided unanimously that Werdmüller's talk had no evil intent or purpose.[527] They showed leniency by commuting the biblically founded death penalty for cases of serious blasphemy to a spectacularly heavy fine of 1200 pounds, to be paid immediately in cash. The respected general was also spared having to give a recantation formulated by the authorities.[528] In place of this loss-of-honour punishment in one of Zurich's city churches, he was privileged by begging pardon 'alone' in front of the secular and ecclesial authorities. Werdmüller, whose views were the most daring and theologically subtle, received the harshest punishment, though thanks to his social standing and his political connections he was shown a degree of leniency. Next in

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[523]   Cf. B.II.583, fol. 91, Sentence Hans Jakob Kleiner, 18.11.1678.

[524]   Cf. A.27.30 (dorsal note), Statement Abraham Geßner, 8.4.1573.

[525]   Cf. A.27.119 (dorsal note, 18.4.1696), Statement Johann Georg Bochenez, 21.11.1690.

[526]   Cf. B.II.725, fol. 153, Sentence Jacob Weidmann, 11.4.1714.

[527]   Cf. B.II.504, fols 63–5, Sentence Hans Rudolf Werdmüller, 27.4.1659 (the reference to the *Ratsbücher* B II.505 and 507 in Werdmüller, *Glaubenszwang*, p. 61 is incorrect).

[528]   Cf. ibid., fol. 63f., Entry Hans Rudolf Werdmüller, 27.4.1659.

the hierarchy of punishment were Bochenez and Weidmann. The judiciary ignored the fact that one was an educated man who had probably intended to provoke, while the other was an illiterate who had clumsily insulted the Mother of God. The Hartmanns, however, who were not known to have particular social capital, were treated leniently by the council. They were sentenced to a fine corresponding to that for verbal insults, despite the fact that the brothers had aroused religious controversy for some years with their dubious views. As far as we can tell from these four cases, the judiciary appears to have tolerated informal 'disputations' to a surprising degree. Those who made blasphemous remarks during their debates were punished according to the gravity of the offence.

Theological questions hung in the air and were not only taken up by intellectuals such as General Werdmüller. One of the major topics exciting attention was the significance of Mary as the Mother of God. This issue reveals the fluid border between confessional delimitation, earnest debate and blasphemous provocation. In 1714, Jacob Weidmann from Lufingen, in conversation with a soldier from Catholic Bremgarten, drew attention to Zurich's victory in the last war. He added that the Catholics might worship the old hen as long as they liked; she would not be able to help them. The soldier had corrected him and clarified that Catholics did not worship Mary, but regarded her as an intercessor. Mary was like the wife of a mayor, he said. Whoever wanted something from the mayor could approach his wife, hoping she would further his cause.[529] Weidmann did not give in, but insulted the Mother of God.[530] He had initiated the conflict by polemically remarking that, since Mary had not been able to give the Catholics good fortune in war, there was no reason to worship her. He had also besmirched her name. Instead of responding to the challenge with a counter-polemic, the soldier offered a theological correction. Mary was not regarded by Catholics as a god, but as an intercessor. This Roman Catholic standpoint, attributing to Mary properties that were not rightly hers, was blasphemous according to Reformed criteria. How could the soldier assert Mary's unbiblical function as intercessor, and compare this with the influence on a mayor by his wife?

Thematically close to the controversies on Mary were the debates on the Reformed doctrine of justification by faith alone. In both areas, it was a question of ensuring God's benevolence. This serious matter could be discussed humorously and did not necessarily descend into blasphemy, as evidenced by a scene during a crossing of the Zurichsee in 1705. The Catholic curate of Menzingen had remarked to Ulrich Züst that it was a pity he could not go to hell, since the Reformed Church had no purgatory.

529 Cf. A.27.129, Statement Bernhart Dups, 23.3.1714.
530 Cf. ibid., Statement Jacob Weidmann and Bernhart Dups, 23.3.1714.

Züst had replied that Christ alone freed from sin through his death on the cross. Others had been drawn into the conversation on the boat, and further confessional differences were discovered. The curate had asked a young man whom he believed in. His answer was that he believed in Jesus Christ the Son of God. He should give a proper answer, the curate demanded, hitting the young man on the head with his stick.[531] Half in earnest, half in jest, the passengers on the boat teased each other with theological questions such as the forgiveness of sins. A dose of confessional polemics could serve to enliven the discussion, but blasphemous obstacles were carefully negotiated. Instead of replying that he believed in the Catholic- or the Reformed cause, the young man gave the curate the only answer that spared him a blasphemy. Confessing Jesus Christ, he could not go wrong. The 'disputation' on the lake was an amicable one, with confessional standpoints being exchanged without the disputants getting into blasphemous deep water.

Another frequent topic of debate, often with confessional overtones, was Holy Scripture. In a typical case, following the Easter sermon by Gwalter in 1573, the brothers Isaak and Jacob became involved in 'some argument' (*ettwas arguierens*) at an inn with Abraham Geßner. Jacob Hartmann had taken the view that wine could not be a gift of God, since it made people drunk and clumsy.[532] In the controversy that followed, Isaak Hartmann had asserted that Minister Gwalter preached Aesop's fables. Jacob Hartmann had added that Revelation was written by an anonymous author. Geßner had reprimanded them both, stating that Gwalter had referred to Bullinger and not to Aesop, and that Revelation was written by John.[533] Their enjoyment of theological debate had a long history. Three or four years earlier, according to his brother, Jacob Hartmann had been in conflict with Geßner when the latter claimed that John had seen God's face, as written in Revelation.[534] Geßner for his part reported that the Hartmanns had often seen him disputing with the minister, and that they had accused him of being an Anabaptist.[535] This shows how personal rivalries also entered into the religious disputes. Although such disputes were in close proximity with conflicts of honour, it was theological interests that dominated them. Could one justify praying for the salvation of the dead; had John seen the face of God or not? These were questions that preoccupied not only generations of theologians, but also laypeople taking the scriptures seriously. Actually, it was blasphemous to doubt the

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531   Cf. E.I.10.5, Statement Sevelin, 2.2.1705.
532   Cf. A.27.30, Statement Abraham Geßner, 8.4.1573.
533   Cf. ibid., Case of Hartmann Bailiwick Letter, X.X.1573.
534   Cf. supplementing Letter Bailiff, ibid., Statement Isaak Hartman, 4.4.1573.
535   Cf. ibid., Statement Abraham Geßner, 8.4.1573.

apocryphal texts. And from the Reformed perspective, praying for the souls of the dead contradicted the doctrine of justification and thus disparaged the crucifixion. But the disputants will hardly have been aware of this, and would have been surprised to be accused of blasphemy. As they saw it, they were dealing with Holy Scripture and not with God.

Reformed Christians often shone out as good Protestants in religious debates by referring to the Bible, especially in confessional arguments.[536] A typical example is the statement by Jagli Kuontz on a conversation that took place in 1650. At his home, he and a group of friends had discussed while drinking, and Heinrich Schultheß had had a lot to say about God and the things of God. Schultheß had claimed that the devil had his place in the world just as God did. Kuontz had then turned him out, he stated. The next morning, however, Schultheß had returned and pointed out a Bible passage (possibly 1 John 3.8–10). When Kuontz, together with Hürlimann who had also been a guest the night before, had objected that Schultheß was interpreting the passage wrongly, the latter had not succeeded in countering the objection.[537] The scene provides clear evidence of laypeople engaging intensively with exegetical questions. Schultheß did not simply accept being shown the door, but attempted to defend his position with the weapon of Scripture. For him, the evening's dispute had not been mere superficial chatter. He had already been noticed for cursing;[538] now he had his personal honour in mind and was concerned to understand the Bible, as the minister Schintz confirmed.[539] Keeping up religious conversation was a need felt by many in the Early Modern era, even if they were notorious for cursing. Reformed Christians attempted to meet this need in harmony with Scripture, though this did not fully protect them from blasphemous misunderstandings.

Summary   Those who took part in religious disputes had a certain interest in theological polemics. This was different from the polemics that motivated those whose blasphemies were socially provocative. These latter were out for public success, while the 'disputants' sought theological insights. Not every informal and spontaneous *Religionsdiscurs* took a blasphemous turn, but heated exchanges could cause the participants to blaspheme. The settings for this varied considerably. Whether among strangers on the road, among friends at the inn, at home or in polite society with friends and acquaintances, a chance remark or a specific

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[536]   A.27.92, Statement Felix Meister, 29.5.1654 is typical.

[537]   Cf. A.27.89, Statement Jagli Kuontz, 29.3.1650.

[538]   Cf. ibid., Statement Jacob Wyland and Heinrich Schultheß, 8.3.1650 and 18.4.1650.

[539]   Cf. ibid., Statement Minister Schintz, 25.3.1650.

occasion frequently engendered religious debate. From the perspective of the authorities, the 'disputants' themselves and the witnesses, or anyone with the necessary equipment, i.e. good knowledge of the Bible, could take part in such discussions.

Religious conversations with a blasphemous context fell into three groups. In the first, those who spoke polemically were concerned to distinguish themselves in principle from those of different confession – not always with a note of enjoyment. Here 'disputation' often descended into denominational insult. Whether someone had spoken blasphemously depended on one's confessional standpoint. More subtle sneers, on the other hand, could be blasphemous utterances that formed part of polite conversation in high society. In the second group, intellectual 'disputants' flexed their mental muscles by means of riddles and guessing-games. The point – and the fun – was to vie with others in entertaining verbal competition. This could result in involuntary blasphemous slips that had nothing to do with religious convictions; the threshold of deliberate, conscious blasphemy was far higher. The third group, that of genuinely propositional and perlocutionary religious controversies, was also characterised by humour and intellectual self-portrayal. The partners in such debates were not always equal, however. Using arguments to corner a hapless partner and force him to utter a blasphemy meant taking unfair advantage and diluting the content of the debate. High-quality theological discussions were different, with disputants struggling sometimes for years to gain true insights. In such discussions, blasphemy – not regarded as such by the disputants – occupied a border area marked by intellectual curiosity, unorthodox thinking and engagement with questions of one's own faith.

The motives for blasphemous speech actions were many and varied. The urge towards self-portrayal – whether in high society or in front of an ordinary public – was certainly strong. We should not, however, underestimate the earnestness of the disputes. Engaging with issues of faith and the intellectual search for knowledge, even to the extent of 'free thinking', was the key motive. Blasphemy in this context was an expression of deep religiosity and theological self-positioning.

Church and secular authorities allowed the disputants some space for thought and action. Provided they were knowledgeable, the church did not object to people trying out various heretical or blasphemous positions. The purpose of such 'practice' was restricted, however, to confirming Reformed doctrine. Someone like the respected Johann Rudolf Werdmüller who expressed unorthodox ideas might evade corporal or loss-of-honour punishments because of his social standing, but would still have to expect severe sanctions.

It is difficult to tell from the sources what attitude the secular authorities took to the problem of blasphemous 'disputations'. In most cases the sentences are not given, suggesting that the judiciary may have waived prosecution. The secular authorities could be quite lenient, as evidenced by the cases in which the punishments for blasphemy and verbal insult are the same. When blasphemous or heretical utterances went beyond the bounds of 'common' usage, on the other hand, extremely severe punishments were meted out. The judiciary was not concerned with the criminal responsibility or the intellectual calibre of the accused, but simply with their social capital. Judiciary policy in the Zurich Council apparently sought to deal quite tolerantly with the frequent 'normal' infringements, and to treat sensational cases according to the social prestige of the defendants.

Religionsdiscurse with blasphemous implications had certain recurrent themes. Often they centered on Mary the Mother of God, indicating that the issues of sin and grace were on hearts and minds. This is confirmed by the finding that forgiveness of sins and the doctrine of justification by faith were also frequent topics of debate. Many people in early modern times struggled to understand how, as sinful beings, they could lead a life that was pleasing to God. For Reformed Christians, this meant clarifying which interpretation of the Bible was the proper one – a third frequent topic of debate.

It is quite possible, for analytical purposes, to describe in separate categories the settings and motives of blasphemous discussions, their effect on witnesses, the reactions of the authorities, and the themes discussed. But we should not forget how closely interlinked were confessional polemics, intellectual curiosity, unorthodox ideas and personal faith concerns for speakers, listeners and authorities. Moreover, the transitions from blasphemy as an involuntary, awkward utterance to blasphemy as a deliberate testing of the boundaries of space for religious thought and action were fluid. In addition, taking part in blasphemous discussions became less attractive in the eighteenth century, when it was hardly worthwhile to go to court. The court cases are clearly concentrated in the sixteenth- and seventeenth century. It is striking that neither the court records of late mediaeval Constance nor those of fourteenth-century and early modern Zurich include 'disputing' women.[540] Were religious debates a male preserve?

The cases of blasphemy covered here provide pointers to the implications of religious norms in an early modern society. A proportion of the population in Reformed Zurich – though we cannot tell what proportion –

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[540]   These do not even record cursing and swearing women. Cf. Schuster, *Konstanz*, pp. 74–5; Burghartz, *Leib*, p. 136. Such women appear to be recorded only at the level of the morals court. Cf. Schmidt, *Dorf*, pp. 85–9.

was familiar with the Bible and with the contemporaneous religious catchwords. As well as theologians, laypeople also occupied themselves with church doctrine and biblical exegesis. They acquired knowledge of the scriptures and dogmas in sometimes unconventional ways, and did not shy away from engaging with the experts. The secular and church authorities recognised this religious- and/or theological interest on the part of the laity by tolerating their 'pleasure in disputation', albeit within narrow bounds. The urge to gain insight and orientation in matters of faith by means of discussion should certainly be taken seriously. But the discussions could be entertaining at times – or confessionally insulting. The earnest search for religious insight could blend successfully with a secular, convivial setting at the inn. Evidently, people of the Early Modern era had a less distanced and more relaxed approach to religion, unlike the Modern age, which placed it firmly in the sacred sphere where reverence excluded sociability.

3.3. Dealing with Dogmatics

Questioning Ancient Paradoxes

At first sight, Christianity is riddled with paradoxes, confronting its adherents with the same questions throughout its history. Like other Christians, the Zurich blasphemers struggled to grasp the omnipotence of God, the Trinity, the work of Christ, the resurrection of the dead, the sinfulness of humanity, or the virginity of Mary. In order to categorise the blasphemous speech actions in doctrinal terms, three questions will be examined: (1) Are the blasphemers drawing on heretical traditions, contemporaneous theological debates or their own ruminations? (2) Can the speakers be divided into groups according to the kind of utterances they make? (3) What do the dogmatic implications of the incriminating blasphemies tell us about the meaning of religion in an early modern society?

The problem of divine omnipotence crops up in Zurich's judicial records from the seventeenth century onwards. The paradox of the powerless, crucified Son of God raises the logical question – also found in the Bible – of how Almighty God could allow himself to be nailed to a cross. At a Zurich tavern on Easter Sunday 1605, in conversation with the surgeon Felix Wirt, Alexander Ziegler had wondered why God could not have redeemed humanity without Christ's sacrificial death. His own answer to the scandal of the crucifixion was that the devil had enforced it,

thereby destroying God's omnipotence.[541] Ziegler attempted to resolve the paradox of Christ's sacrificial death by finding his own plausible answer to the crucifixion. This made him a blasphemer by personal conviction, since he attributed properties to the devil that were not biblically his. Ziegler had not, however, given up on the basic Christian tenet that Christ's death on the cross had overcome death.

Another issue relating to divine omnipotence, shared by blasphemers in Zurich and Württemberg,[542] was the theodicy question. In 1715, a woman reported to Minister Caspar Diebolt that godless people were declaring God to be too old.[543] Diebolt investigated the matter and discovered Jakob Nägeli to be the blasphemer. Nägeli stated that, on a Sunday, he had seen people making hay despite the Sabbath commandment, although there was no particular need to do so. He had told them that there were people who thought God was an old man no longer capable of being in charge. He had then stated that God was just as strong as he always had been; and if God were less merciful, the devil would have more power over their lives. Nägeli was claiming to have made use of a (deistic sounding) blasphemy not of his own making in order to take God's part and act on God's behalf. Evidently others had misunderstood him, Nägeli claimed.[544] Whether this was simply a stratagem on Nägeli's part we cannot tell, but what interests us here is the idea that God has lost control of his creation because of old age. Some saw this as a reason why the world was out of joint. And if God was no longer in charge, the ensuing power vacuum could only be filled by the devil. Only a strong God could ensure that the devil did not harm human beings. This interpretation of the theodicy question combined two forms of empirical knowledge familiar to people of the Early Modern Age: the awareness that disasters such as crop failures or epidemics could endanger their own lives at any time, and awareness of senility. Hence the idea of a very old, overburdened and thus humanised God. These are not matters of theological principles, but an attempt to square experience and faith.

The development of the doctrine of the Trinity was especially problematic in church history. In Zurich and elsewhere, importance was attached to understanding the doctrine correctly. In 1648, a Pole named Caspar Theodor Fengler, a former Jesuit novice and student, arrived in Thalwil and asked the local minister for support. The latter, not convinced

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[541] Cf. A.27.51, Statement Felix Wirtz, 5.8.1605; ibid., Statement Hans Escher, 3.8.1605.

[542] A case comparable in substance with Ziegler's criticism is noted by Sabean, 'Distanzierungen', p. 219.

[543] Cf. A.27.130, Report Minister Caspar Diebolt, 22.6.1715.

[544] Cf. ibid., Statement Jacob Nägeli, 25.6.1715.

of Fengler's orthodoxy in doctrinal matters, questioned him concerning his religious convictions. Some of these proved so unorthodox that the minister charged Fengler for blaspheming Christ and the Christian religion. When interrogated, Fengler confirmed his belief that God was one God, without Son and Holy Spirit. He claimed neither to be influenced by ancient philosophy, nor to have met anyone who shared his views.[545] We may assume he knew the ancient writers from his time as a Jesuit. Possibly, his anti-Trinitarian ideas came from an encounter with Bohemian Socianism. He identified himself as a loner who had neither belonged to nor led a movement. He claimed that his ideas came from his own inspiration and not from intellectual encounter with the ancient philosophers. We conclude that in his time, it was possible to develop one's own heretical positions without necessarily belonging to a heretical group. For this reason, we should not insist too strongly on the connection between heretics and blasphemers. It was perfectly possible for people to develop similar ideas independently of each other.

While the doctrine of the Trinity does not seem to have exercised many blasphemers, Christological questions did arouse considerable interest. In particular, the problem of Christ's conception was often debated. The doctrine stated that Mary had conceived the Son of God by the Holy Spirit. Some people imagined the event in much more earthly terms. In 1543, Hans Wildermut from Illnau reported that, while loading wood with his fellow journeymen, he had remarked that God had made all things well, and what a good thing it was that God had had a father and mother. He had then added that the parents must have slept together, as people do.[546] Probably Wildermut was only having a bit of fun, but his earthly idea shows how difficult he found it to imagine the Incarnation. This suggests that Wildermut was among the many people of Zurich who, without realising it, were latent blasphemers. They were attempting to resolve doctrinal paradoxes with the help of true-to-life but unorthodox thought constructs.

The Incarnation was also a puzzle to a group at the inn in 1687. Fisherman Hans Ulmer had asked what was the greatest miracle on earth. While Martin Schäppi replied that this was the incarnation of God's son, Ulmer pointed to Mary's virginity. The two got into a discussion on whether Ulmer 'did not know that in his incarnation Christ remained what he was, true God, and became what he was not, true human.' Ulmer expressed the view that Christ had only existed since his incarnation, i.e. for 1687 years. On being reminded that Christ had said, 'before

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[545] Cf. A.27.87, Statement Caspar Theodor Fengler, 10.7.1648.

[546] Cf. A.27.14, Statement Hans Wildermut, X.X.1543. Remarks in a similar vein allude to Mary's multiple motherhood (cf. e.g., A.27.115, Statement Hans Kofler, 27.12.1688).

Abraham was, I was', Ulmer had claimed that 'Christ was born in sin like us.'[547] This conversation bears witness to how much the people of Zurich enjoyed such 'disputations'. It also illustrates how Christians employed categories from their own everyday experience when dealing with doctrinal issues such as the dual nature of Christ. As Ulmer saw it, Christ's birth as a human being meant that his conception could be dated. What could Christ mean by his cryptic words that he had been there before Abraham (John 8.58)? Ulmer was evidently a good Christian attempting to grasp the faith, but from the church perspective his questions were leading him astray and making him an involuntary blasphemer.

Hans Jakob Kleiner took exactly the opposite view of the Incarnation in a tavern encounter in 1678. Asked by watchman Klein about the birth of Christ, Kleiner replied that Christ had two natures, and in his divine nature Christ was not born.[548] Klein, who evidently had some education, then called him an Arian, placing him in a heretical context. Kleiner, however, will not have been familiar with the theological debates of the heretical movement. It transpired in conversation with Klein that Kleiner knew nothing of Mary and David's Jewish origins. This striking ignorance suggests that, although he was able to refer to the doctrine of Christ's dual nature, he had no real grasp of theological issues. It is most unlikely that he had systematically taken up Arian ideas. Rather, he will have pieced together the doctrinal knowledge available to him and come to a conclusion that others had formulated before him. Kleiner was a heretical blasphemer out of ignorance, not part of a heretical tendency.

Christianity teaches that the crucifixion of the Son of God means victory over death. Thus physical death is not the end for human beings. The doctrine of resurrection from the dead was already much debated in the Old Church. Doubts were expressed in early modern Zurich, and not only there.[549] Words such as those of Rudolf Lehman from Meilen still seem familiar today. In 1616, he was said to have alleged 'that after death a person was no different from a dog; there was no eternal life, for no one had returned from the dead to witness to eternal life. Whoever did not believe this should go to the mortuary and ask about resurrection.

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[547] '… nit wüße, daß Xristus in seiner Mënschwerdung gebliben was Er war, wahrer Gott und worden, was Er nit war, wahrer mënsch […] Ehe Abraham war, war ich […] Xristus ist in sünden gebohren worden wie wir' – A.27.114, Statement Felix Stauber and Martin Schäppi, 12.9.1687.

[548] Cf. A.27.109, Statement Hans Jakob Kleiner, 7.11.1678.

[549] Quite a few people in Württemberg and the Palatinate also had difficulty believing in an afterlife. Cf. Schnabel-Schüle, *Sanktionen*, pp. 263–5; Vogler, 'Entstehung', p. 181.

There was no day of judgement.'[550] Lehman argued rationally, from a
common sense perspective, against the doctrine of resurrection. There is
no indication that he took an interest in the intellectual debates of his time.
Approaches that treat atheism exclusively as an intellectual phenomenon
fail to recognise that a trained intellect was not necessary for throwing
doubt on principles of Christian belief in the name of reason. People like
Lehman were neither enquiring Christians nor great thinkers. They were
simply social outsiders and down-to-earth realists. Despite being magically
and religiously charged, the Early Modern era did have space for non-
academic 'empiricists' who took a sceptical view of supernatural ideas.

Lehman's experience taught him that eternal life was definitely an
impossibility. Hans Jakob Amman, on the other hand, a surgeon from
Thalwil who became a citizen of the city of Zurich in 1614, made very
different heretical or 'blasphemous' points.[551] He had travelled in the Near
East, and attempted in 1634 to promote his unorthodox views in taverns.
The charge against him was that he had impudently spread 'erroneous
opinions' (*irrige Meinungen*), thereby confusing 'many honest people' (*vile
ehrliche lüth*). He was also accused by the court of evil and of blasphemies.
Of the ten charges against Amman, only five are of interest here: whether
he had claimed that the minister preached only for money; whether Christ
was conceived by the Holy Spirit; whether as a human being he was part of
the nature of Christ; whether he believed in the resurrection according to
the scriptures; and whether he was familiar with the *confessio Helvetica*.
Amman did not have to justify his views orally; as an evidently popular and
well-supported surgeon, he was given permission to do so in writing. What
he wrote and submitted to the court revealed him to be an enthusiastic
reader of the Bible. He found his idea that Christ's humanity came from
heaven confirmed by Matthew 1.18, Luke 1.35, John 5.6 and Hebrews
7.3. That Christ's flesh was found in every human being he drew from
John 1.14 and 6.51; Romans 8.9 and 10.8; Ephesians 4.4; and Colossians 1.14.
In Matthew 6.24, John 8.34, Romans 6.16, Galatians 2.17, 1 Peter 1.15
and 1 John 3.9, he found proof that humanity could live free of sin on earth.
From John 3.13, 1 Corinthians 15.49 and 2 Corinthians 5.6, he concluded
that human beings would indeed rise from the dead, but without entering

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[550] '… dass ein mentsch noch sÿnem todt anderst nit dann wie ein hund zeachten, es
sÿge dhein [kein] ehwig lëben, dann der abgestorbenen lüthen noch dheiner widerkommen,
der deßëlben halber zügknüß bracht habe. Und wer dem nit glaube, der sölle Inn das Beinhuß
gohn und noch der uferstendtnüs fragen. Es sÿge nüt mit dem Jüngsten tag' – B.VI.266a,
fol. 154, Case of Rudolf Lehman, Summary Kundschaften, 14.11.1616.

[551] Cf. E.II.8, fols 761–95, Statement Hans Jakob Amman, X.1.1634. For a brief
summary of the case, cf. Sigg, '17. Jahrhundert', p. 296.

eternal life.[552] Whether Amman's interpretations of Scripture can be seen in a specific context within church history is a matter for theologians, but what strikes us here is the wording of the synod report: Amman was not asked whether he found the wording of these questions in the Bible or not, but whether he believed the content of the questions or not.[553] He was to answer yes or no. The authorities did not succeed in cornering Amman. Refusing to be interrogated, he set out his arguments in full detail. The council decided initially not to pursue the matter further. They were evidently concerned to avoid further discussions that might even have led to public controversy.

In 1656, however, Amman was up before the court again. This time he was accused of claiming that everyone would inherit eternal life, whatever they believed. Amman corrected this misunderstanding, stating that in a tavern Jagli Stehli, Uli Düebensdorfer and Marx Kuhn, all of them drunk at the time, had attempted to embarrass him – he had not been drinking – with all sorts of questions. They had asked whether all peoples would inherit eternal life, and he had answered that among all peoples there were those who would inherit eternal life. Whether 'Turks' (*Türggen*) or 'heathens' (*Heiden*) could be saved, he did not know.[554] This time, Amman was found guilty and sentenced to three days' imprisonment for his words.[555] He lived for two more years, but after 1656 we hear nothing of him. No doubt he decided to keep his heretical and blasphemous convictions to himself.

The variety of issues addressed here indicates that the blasphemer Amman is in a different league from Lehmann. Amman did not argue as an unbelieving realist or half-hearted Christian taking a few stabs at church doctrine on some incidental occasion to demonstrate non-conformity. Amman was concerned to subject Reformed institutions and confessions to biblical scrutiny. He acted as a believer, possibly having encountered other religions or heresies during his time in the Orient and engaged with doctrinal issues as a result. He was not concerned with random social provocation but with theological matters of principle, about which he felt deeply. Even twenty years after his first appearance in court, when his name was no longer in the headlines, he must still have been notable for adopting challenging religious positions. The men who attempted to embarrass him will have known why they did so. Amman did not recant,

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[552] Cf. E.II.8, fols 761–4, 768–70, Statement Hans Jakob Amman, X.1.1634. Amman's convictions did not cause him to demonstrate his inner freedom by cursing systematically in public like the English ranter Abiezer Coppe. Amman does not appear to have been influenced by antinomian movements of his day. For the reference to Coppe, cf. Kaspar von Greyerz, *England im Jahrhundert der Revolutionen 1603–1714* (Stuttgart, 1994), p. 103.

[553] Cf. E.II.8, fols 771, 789, Statement Hans Jakob Amman, X.1.1634.

[554] Cf. A.27.94, Statement Hans Jakob Amman, 29.5.1656.

[555] Cf. ibid. (dorsal note, 31.5.1656), Statement Hans Jakob Amman, 29.5.1656.

and towards the end of his life he continued to believe, in contradiction to church doctrine, that non-Christians might be saved. Those who denied that Christ was conceived by the Holy Spirit, or the resurrection from the dead, were blasphemers in the eyes of contemporaries for denying God his right. Propagating such ideas meant acting as a heretic and leading Christians astray. This made Amman a heretical blasphemer who could be tolerated – he was not condemned in 1634, for example – provided he did not lead others astray. As history sees him, Amman is a man of integrity and perseverance who, over many decades, provided substitutes for paradoxical statements in Christianity in the interests of resolving biblical misunderstandings. In historical perspective, the blasphemer pales before the unorthodox, believing interpreter of the scriptures.

The crucifixion and resurrection of Christ are closely associated with the question of human sinfulness. God's sacrifice of his Son on the cross liberates humankind from original sin, opening the way to eternal life in heaven. This basic Christian view often gave rise to comments that were regarded as blasphemous, as in the case of Antonius Besutius (also known as Antonio Bessozo).[556] At a Zurzach tavern in 1564, he had 'disputed' with a trading friend from Florence on religious issues. The views expressed by Besutius appeared so offensive that the Zurich witnesses Cunrat Funck and Cunrat Eglibach reported the matter to Niclas Denis, a firm Genevan Calvinist. Denis pursued the matter and considered it necessary to visit Besutius and have a religious conversation with him. In the end, Funck and Eglibach reported Besutius to the authorities.[557] The court decided to hear all three witnesses[558] before questioning Besutius himself.[559] Further enquiries[560] eventually led the synod to conclude that Besutius had not only adopted blasphemous heretical and Jewish positions, but had also offered refuge to heretics.[561] On December 16, 1564, Besutius was sentenced to banishment and payment of Denis's costs.[562] Eglibach and Funck, on the

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[556]   For event history detail and exact reproduction of the records, cf. again Ferdinand Meyer, *Die evangelische Gemeinde in Locarno: Ihre Auswanderung nach Zuerich und ihre weitern Schicksale. Ein Beitrag zur Geschichte der Schweiz im sechzehnten Jahrhundert* (Zurich, 1836), pp. 184–97, 395–400.

[557]   Cf. A.27.25, Summary of the Kundschaften, undated.

[558]   Cf. ibid., Letter Cunrat Funcken and Cunrat Eglibach, 5.10.1564; ibid., Statement Niclas Denis, 30.10.1664 and 15.11.1664.

[559]   Cf. Meyer, *Gemeinde*, p. 400; 'Besozzi', in *Dizionario biografico degli Italiani*, vol. 9 (Rome, 1967), pp. 672–5.

[560]   Cf. for details, Meyer, *Gemeinde*, pp. 189–92.

[561]   Cf. E.I.5.1a, Case of Antonius Besutius, Synod Assessment, undated.

[562]   Cf. B.II.131, p. 4, Sentence Besutius, 15.1.1565.

other hand, had to pay their own expenses, since their accusations had not been entirely accurate.[563]

The level of attention given to Besutius's case bears witness to the fluid border between heresy and blasphemy in his time, and also to the strong reaction of laypeople to his positions. To claim that Christ was neither divine nor the Messiah who had overcome death by his own death on the cross was tantamount to claiming that humanity was still bound by original sin. The idea that humanity could liberate itself from sin by its own works, thus not being subject to God's providential judgement, poured scorn on Christ's sacrificial death. The whole matter of human sinfulness and the salvation of souls was existential to early modern Christians, however, and certainly not mere theological sophistry. Besutius must have roused the hackles of the witnesses who had no other reason to pursue him so relentlessly. Thanks to their religious sensitivity, his case revealing the heretical background of literate blasphemers has come down to us. The ideas taken up by Besutius had been *en vogue* since the days of the Old Church, spread by contemporaneous heretics such as David Georg from the Netherlands. We conclude that Besutius must have been a man with an open mind and religious interest, whose inner conviction led him to deviate from church doctrine. As an Italian merchant, he was probably in contact with heretical compatriots living in Poland. Otherwise, he would hardly have had an interest in becoming familiar with unorthodox views, offering accommodation to representatives of sectarian doctrines, and steadfastly defending his positions before the court. His heretical and blasphemous utterances were rooted in unorthodox tendencies of his time that drew on a long-standing tradition in ecclesiastical history. We have no evidence that Besutius reached his conclusions independently. The reports merely state vaguely that the defendant denied the charges. Had Besutius appealed to the Bible or to confessional writings, we would expect to find this recorded with corrective comments by the synod, as in other cases. Identified as a blasphemer in his own time, Besutius may be seen from today's perspective as a heretic. He is distinguishable from the brooders and doubters who derive their blasphemous insights from their own preoccupation with the Bible and the tenets of Christianity.

It was not only theologians who struggled with the problem of original sin. Johann Friedrich Speyer, a journeyman barber from Lambsheim in the Palatinate, offers evidence to the contrary.[564] Interrogated in 1689, he

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[563] Cf. with a reference to a Council Sentence of 16.12.1664, Meyer, *Gemeinde*, pp. 196–7. The *Ratsbücher* have no entry under this date, however.

[564] A brief note on the case, with implicit reference to Johann Jakob Höttinger, can be found in Julius Studer, 'Der Pietismus in der zürcherischen Kirche am Anfang des vorigen Jahrhunderts nach ungedruckten Quellen', *Jahrbuch der Historischen Gesellschaft Züricher*

stated that a man from Lüneburg named Walter had pointed him to the Bible, through which he had then come to faith. He had moved to Berne with Walter, joining a group that read the Bible over a number of days and 'rejoiced in Christ' (*sich in Christo* […] *erfröwet*). Yet he had not been influenced in his religious convictions either by the group or in other conversations. He knew nothing of his own errors, he said, and thought nothing of books, reading or writing. The Bible was sufficient for him. He had learned from it that through Christ's death alone he was freed from sin by the mercy of God. So there was no need for him to pray for forgiveness of sins or for his daily bread.[565]

Strictly speaking – and the judiciary kept to a narrow definition in this case – the accusation of heresy was correct. However, Speyer's idea of his own sinlessness might equally have exposed him to charges of blasphemy. Who, then, does he stand for? Literate and trained as a barber, he took note of the religious debates conducted in the pamphlets of his time. In fact, he owned two such pamphlets himself. This religious interest will have motivated him to move to Berne with his North German companion. Evidently, Berne was chosen deliberately by these two religious seekers, because of the early Pietist group active there. Speyer's description of group Bible-reading and days spent 'rejoicing in Christ' supports this.[566]

What, then, does Speyer's case stand for? The idea of a sinless life on earth was evidently crucial to him, possibly reflecting the image of early modern humanity beset by fears. Speyer would then be responding to such fears with a counter-strategy that did away with the ancient stumbling block of living in original sin, yet being redeemed from it by Christ's sacrificial death. Anyone who, unlike Luther, did not live in awareness of being *simul iustus et peccator* but found himself already liberated on this earth, had no need to fear the sting of original sin. Whatever the state of his fears may have been, Speyer's ideas resulted in charges of heresy against him. He exemplifies the blasphemous heretic whose earnest religious quest under the influence of early Pietist tendencies led him into the field of wrong beliefs in the eyes of the authorities.

Like the doctrines of divine omnipotence, the Trinity, the Incarnation, eternal life and forgiveness of sins, the doctrine of Mary's virginity contradicts human reason. Even before the Reformation, critical questions were asked about Mary's conceiving by the Holy Spirit and remaining virginal before, during and after the birth of Christ. In Reformed Zurich,

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Theologen, 1 (1877), pp. 109–209; here, pp. 112–13. My thanks to Rainer Henrich for pointing me to this.

[565]   Cf. A.27.115, Statement Johann Friedrich Speyer, 10.10.1689.

[566]   On early Swiss pietism, see Rudolf Dellsperger, *Die Anfänge des Pietismus in Bern: Quellenstudien* (Göttingen, 1984).

it was Zwingli who set the tone with his 'Sermon on the Ever-Virgin Mary' in 1522. Its theology cannot be discussed in detail here, but it may be noted that Zwingli sees Mary as a sinner. She is not the divine mother, herself virginally conceived, but the human bearer of the Son of God. For Zwingli, Mary's perpetual virginity is not a Mariological matter, but a Christological one. Mary does not have supernatural attributes. Rather, God, and therefore Christ, is eternal and performs the miracle of the virgin birth.[567] Zwingli's arguments call for considerable theological finesse on the part of his listeners and readers. He treats much more summarily the question of whether Mary was assumed into heaven and now intercedes there for humanity. The answer is an unequivocal no, according to Zwingli, on the grounds of the doctrine of justification.

Such Mariological discussions took place among laypeople as well as theologians. A court case in 1674 records how two Reformed citizens of Zurich got into conversation in Catholic Zug. Armbruster opined that the Mother of God had been as sinful before the birth of Christ as the rest of humanity. Kesselring had replied that although she was conceived and born in original sin, Mary had never committed a sin, since she was born again in this life by the Holy Spirit.[568] The two were tying themselves in theological knots here, contradicting both the Roman Catholic and the Zwinglian position. From the Reformed perspective, Kesselring had also committed a blasphemy. The idea of Mary being born again by the Holy Spirit in this life ascribed properties to her that were not admissible in Zwinglian Mariology, despite her exalted position. Possibly Kesselring had pieced together his own unorthodox Mariology from doctrinal components (Holy Spirit, rebirth, and possibly Assumption), creating a blend of Catholic and Reformed positions. It is more likely, however, that in the heat of confessional controversy, he got the components mixed up. Concerned to distance himself from Catholic views and to represent 'correct' Zwinglian dogma, he became doctrinally confused and strayed onto blasphemous paths.

Summary   The people of the Early Modern era struggled like others with the fact that the Christian faith required them to believe something they could not rationally grasp. Blasphemers in Zurich encountered this paradox in their discussions on the various doctrines: divine omnipotence, the Trinity, Marian virginity, and the Incarnation. These were dogmatic issues that had given rise to fierce controversies since the days of the Old Church.

The Zurich blasphemers were part of a long-standing tradition in church history, but their dogmatic preferences are not clearly defined.

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[567]   Cf. Campi, *Maria*, pp. 48–66.

[568]   Cf. E.I.10.5, Letter Armbruster to Jacob Ziegler, 6.2.1674.

Divine omnipotence appears to have been questioned from the seventeenth century onwards, perhaps indicating the beginnings of demystification of the world. There is recognisable and increasing interest among the Zurich blasphemers in aspects of soteriology. What did redemption from original sin mean? What did eternal life look like, and when did it begin? What exactly did the Saviour redeem humanity from? Such questions indicate that the people of the time were concerned about the consequences of a life lived in sin.

We can distinguish four types of blasphemers in Zurich according to their references to the ancient paradoxes of Christianity. There are the blasphemers from religious conviction, and the unintentional blasphemers acting out of commendable Christian concern. Then there are the rationalist sceptical blasphemers, and those one might term blasphemers against their will.

Those who simply wanted to use a blasphemous speech action to alarm their environment were not, strictly speaking, seeking to blaspheme. They were social troublemakers who either had no interest in religious questions and left the doctrinal paradoxes untouched, or played games with them without serious engagement.

The group consisting of rationalist sceptical blasphemers is difficult to categorise, rendering description unsatisfactory. There were a few 'philosophical brooders' exercised by the fundamental question of what makes the world go round, without pursuing any specifically religious line of enquiry. Then there were the 'pragmatists', who found what they regarded as plausible alternative explanations to the paradoxes of faith. The 'empiricists', on the other hand, threw systematic doubt on the tenets of Christianity. Then there were the 'latent realists', who used their experiential knowledge to criticise certain points of church doctrine without proceeding to conscious fundamental criticism of the faith. These four subgroups have in common that – to varying degrees – they resolved the paradoxes of Christianity by adjusting them to their own experience in life. Strongly shaped by magic and religion the Early Modern Age may have been, but it had a place for sober 'realists' for whom the only reality was the world that human reason and human senses can grasp. Such people did not need the help of a scientific revolution to demystify the world.

Others attempted, with the best intentions, to retain the *fascinosum et tremendum*[569] of faith when they upheld the paradoxes of Christian doctrine. Some of them, lacking the necessary dogmatic equipment, were blasphemers against their will. Out of ignorance, ineptitude or doctrinal

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[569] Cf. Rudolf Otto, *Das Heilige: Über das Irrationale in der Idee des Göttlichen und sein Verhältnis zum Rationalen*, 28th edn (Munich, 1947).

confusion, they became entangled in statements that contradicted Christian doctrine.

Some who engaged with their faith and gained insights deviating from the official line found themselves in the grey area between heresy and blasphemy. This group, too, can be subdivided. Some, such as the missionary-minded and unorthodox Hans Jakob Amman and the convinced Reformed free-thinker Hans Rudolf Werdmüller, have in common their engaged intellectual approach to the Bible, the confessional texts, and discussion with others. A religious but not particularly theology-minded layman such as Besutius, on the other hand, was influenced by ancient heretical tendencies. The more recent type of non-intellectual sectarian is represented by Speyer, the barber who attempted to grasp the faith 'rightly' in a pietistic community.

Different though they all were, these heretical blasphemers had two things in common. First, they did not try, like the rationalist sceptics, to resolve dogmatic paradoxes by means of empirical evidence. Rather, their deep faith led them to seek the 'true' interpretation of the stumbling blocks of Christianity, in order to grasp their paradoxical nature. Besides their inner pilgrimage, these heretical blasphemers shared an outer restlessness. All of them travelled. We may assume that on their journeys they came in contact with religious tendencies influencing their own religiosity.

What were the religious contexts in which blasphemers came into conflict with the ancient paradoxes of Christianity? There were sectarian figures and movements and the publications associated with them, but these played a relatively minor role. Philosophical or theological writings did not often incite blasphemers either, with the exception of the few intellectuals showing an interest in theology. The majority of these blasphemers were individual brooders, engaging with the Bible as good Protestant principle required, seeking to grasp the Christian doctrines. As a result, only tentative connecting lines should be drawn between blasphemers and heretical or philosophical influences.

The broad and varied spectrum of blasphemers referring to the ancient paradoxes of the Christian faith provides us with an approach to the phenomenon of early modern religion. Religion was not simply a matter of the dissemination of doctrines developed by theologians. Parts of the population actively took in what was offered to them in sermons and pamphlets. Blasphemers' norm transgression provides evidence that there were laypeople, some intellectual and some not, who neither simply and uncritically accepted church doctrines nor put them indifferently aside. These blasphemers show that the ancient questions of faith continued to evoke critical enquiry. This also reveals that a sizeable number of people, not content with the answers of the church, set out on their own religious quest for answers.

Only a minority of those who were categorised by the judiciary as blasphemers and who are heretical taboo-breakers in today's perspective, came under the influence of sectarian movements. The absolute point of reference in matters of faith in Zurich was personal engagement with the Bible. The topic of forgiveness of sins appears to have been central, suggesting that fear of the consequences of sin weighed heavily on the hearts and minds of early modern people.

A small number of blasphemers dared to challenge familiar paradoxes of the faith with the tools of their own reason. From an early modern perspective, these sceptical 'realists' who appealed only to their own experience were bold indeed. Whether their criticism was systematic or selective, their arguments shook the foundations of religion. They did not dare, however, to deny the existence of God. In the Early Modern era, Christianity as the normative framework of reference could not be disregarded.

Questioning New Paradoxes

With the introduction of the Reformed sermon and the abolition of the mass in 1523/25, the Zurich Council marked the official break with 'popery'. In practice, however, this did not mean the end of the ties with what was now the old faith. The biblical Marian festivals were retained at first.[570] Blasphemers continued to refer to the familiar paradoxes of Christianity, but the changes under the Reformation provided them with new material. This section discusses which specifically Reformed points of church doctrine were taken up by blasphemers, and what effect they had.

Sola fide, *sola gratia*, *sola scriptura* – these are the principles on which Protestant doctrine rests. As a result, Protestantism distanced itself outwardly from Roman Catholicism and diverged inwardly into a number of groups. Blasphemies committed in Zurich reflect these developments. Matters that were central to confessionalisation came into play: the authority of Scripture, the understanding of Holy Communion, prayer as an entirely personal communication with God without the need for heavenly advocates, and the difficult doctrines of predestination and justification.

In 1634, Michel Wyß from Hedingen touched a sensitive point when he claimed not to believe that the Old- and New Testament were written by God. Doubting that Holy Scripture was divine revelation was a serious matter for Reformed Christians. The new doctrine stated – unlike

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[570]   On the retaining of Marian festivals in the early years of the Reformation, cf. Markus Jenny, *Die Einheit des Abendmahlsgottesdienstes bei den elsässischen und schweizerischen Reformatoren* (Zurich–Stuttgart, 1968), p. 67; Campi, *Maria*, pp. 82, 93–4.

Catholicism – that the Bible alone was the binding Word of God, and church declarations had no such authority. Wyß had touched the raw nerve of Reformed doctrine, though he was not necessarily religiously motivated. Tellingly, he was called to account for taking his son out of school and for insulting the local minister with anticlerical remarks. During interrogation, he offered as an excuse that he had been drunk at the time and was heartily sorry if he had spoken against the Holy Bible or the preacher.[571] Whether or not Wyß had been inebriated, he withdrew his words, bringing his protest to an end. He made no attempt to give religious reasons for it. Evidently, Wyß was a subject who made secular and church authorities his quarry, but not God. In the end, he got cold feet and withdrew.

The *Nachgänger* were dealing with a more persistent blasphemer in miller Hans Dürsteller from Wetzikon. He was imprisoned in the city of Zurich in 1671 for inappropriate behaviour. Some weeks earlier, he had appeared before the morals court in Wetzikon and had been questioned concerning the Ten Commandments. His quick-witted reply was recorded as follows: 'On the third commandment he stated that we all swear a lot, and he did also. On the fourth he said he did not like working on weekdays, let alone on the Sabbath. On the seventh he said he was gradually getting old and [*salvo honore*] no longer wanted sexual relations outside marriage. He had had enough of women. On the eighth he said he was not tempted to steal so long as he had enough to live on.' The bailiff from Grüningen reported that further enquiries made about Dürsteller had revealed that his minister had admonished him to attend worship regularly. The miller had explained his absence on the grounds of doubt about some passages of the Bible. The apostle Paul was a liar, he asserted, since he claimed to be a Roman citizen, but was in fact a Jew.[572] Both Wyß and Dürsteller stepped out of line, but the latter proved wittier and more steadfast in his social provocation. Even under pressure he kept up his protest. His ironic answers made a nonsense of the interrogation by the morals guardians who tried to tie him to the Commandments. He pointed to inner contradictions of the Bible to justify his absence from church. Paul was a favourite with the Protestants, and accusing him of being untruthful about himself meant undermining the principle of scriptural authority. With a good grounding in Reformed faith, Dürsteller homed in on a central point of the new

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[571] Cf. A.27.74, Case of Michel Wyß, Report Hans Heinrich Meyer, 21.8.1636.

[572] 'Über das drit gebot. Wir schwerind allesammen vil, und es entgange Ihm auch mancher Schwuhr. Über das vierte. Er werkhe am Werktag nit gern, wöll gschwygen an dem Sontag […] Über das sibend. Seige anfangen Alt, möge (S[alvo] H[onore]) nit mehr huren, habe Wyberen gnug. Über das Acht. Es fächte Ihn nüt an zestahlen, wan man Ihme nur das synig liesse […]' – A.124.5, Report Hans Heinrich Kilchsperger, 5.1.1671.

doctrine, transgressing the behavioural norms of his society. There is no evidence that he was especially interested in exploring matters of faith.

A significant area of division between Catholicism and Protestantism was the understanding of the Mass or Holy Communion. Within Protestantism, the positions of Luther, Zwingli and Calvin diverged sharply. Blasphemers in Zurich were only occasionally exercised by the theological differences. But what was the status of Holy Communion in everyday life in Zurich, and which norms did blasphemers transgress when they scorned it? Many scenes with references to communion have come down to us. There is a Christmas night at the tavern in 1562, for example, when – according to the sentence – Kilian Häderli from Marbach in the Rhine valley had called on Jörg Wildysen to drink with him. The latter had refused, pointing out that Häderli had already drunk enough. He had also told Häderli that, as they had just come from the Lord's Table, he should keep quiet. But Häderli had replied he did not give a shit about Communion.[573] While Wildysen pointed out that taking communion obliged them to be at peace with each other, Häderli was not open to any religious argument. He gave vent to his annoyance against Wildysen – but not against God. It was no coincidence that, in this period of confessionalisation, the subject of Holy Communion was central to the conflict.[574] The adversaries chose a delicate matter of faith to try their strength against the social order. While one stylised himself as a peaceable Christian, the other threw religious caution to the wind and proved a fearless opponent. The religiously charged implicatures of their conversation had precious little to do with religious matters.

It was not often that the subject of prayer inspired blasphemers with theological or religious concerns. One of the very few examples is Hans Druodel, who, according to the sentence of 1564, claimed that the devil had invented prayer. He also asserted that it was more effective to swear by God's five wounds than to pray the Lord's Prayer in order to deter someone.[575] According to Steffen Haß, Druodel had spoken these words following Haß's remark that the weather was fortunately fine – for which

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[573]   Cf. B.VI.259, fol. 54, Sentence Kilian Häderli, 10.4.1562.

[574]   On the significance of the community at the Lord's Table in Protestantism, see Schmidt, *Dorf*, pp. 299–300, 309–12. His thesis on the disciplining of the congregation by means of self-reformation of members is confirmed by statements such as that of Elsbetha Rösslin. She had not attended Holy Communion, she said, because she was in conflict with several people: cf. A.27.112, Statement Elsbetha Rösslin, 29.5.1683. Such forms of refusal of Holy Communion are also documented for Lutheran Neckarhausen in Württemberg – cf. David W. Sabean, *Das zweischneidige Schwert: Herrschaft und Widerspruch im Württemberg der frühen Neuzeit*, 2nd edn (Frankfurt, Main, 1990), pp. 51–76 – and may certainly be regarded as typical.

[575]   Cf. B.VI.259, fols 126v–7r, Sentence Hans Truodel, 11.6.1564.

they had prayed to God. Haß added that Druodel had repeated his words at the inn, indicating that his speech action did not arise simply from the mood of the moment. Admonished several times, the defendant had insisted that, although he recognised the Lord's Prayer, the Creed and the Trinity, prayer was the work of the devil because in Holy Scripture the devil called on Christ to worship him.[576] Druodel attempted to use the Bible to explain why real swearing was more effective than devout prayer for deterring adversaries. He overlooked the fact that his argument and his confession of Christian faith were contradictory. Doubtless he enjoyed provocation, but Druodel was not a sharp-witted blasphemer. The earnestness with which he stood his ground should not be underestimated, however. He had repeated his utterances more than once in private and public settings, and had interpreted the Bible – albeit clumsily – in doing so.

The new doctrine of direct relationship with God through prayer was less subject to blasphemous remarks than certain aspects of the doctrine of predestination. A distinction has to be made here between speakers pursuing profane aims and those who formulated religious questions. A case in the first category was reported to the bailiff by Minister Johann Rudolf Zeller from Meilen in 1686. The previous evening, the surgeon Heinrich Wymann had returned angry from Zurich and, in the presence of the sub-bailiff Eberperger, had uttered heavy curses against his son and even spoken the propositionally blasphemous words: 'If God does not punish you, he is not a just God.'[577] The description of the scene makes it quite clear that Wymann had no intention of blaspheming by doubting God's providence. His perlocutionary message was a different one, demanding unequivocally that his son should submit to him. In this way, Wymann instrumentalised theological parts of the new doctrine for disciplinary purposes, making use of blasphemous means.

The new paradox that Providence determined human lives, yet individuals were responsible for their behaviour, led Alexander Ziegler to draw a logical but doctrinally false conclusion in 1605. If the human being was already condemned in the womb, he argued, there was no need for prayer.[578] Ziegler was not simply rejecting social norms. As a Reformed Christian, he showed an interest in questions such as the meaning of the crucifixion, struggling with what the new doctrine proclaimed. His argument that prayer was useless demonstrates how easily the doctrine of predestination could slide into fatalistic determinism.

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[576] Cf. A.27.18, Statement Steffen Haß, undated. For the biblical temptation scene, cf. Matt. 4.8–11.

[577] '… wan dich Gott nit straff, so iß Er nit Ein grechter Gott' – A.27.11, Report Minister Johan Rudolf Zeller, 31.1.1686.

[578] Cf. A.27.51, Statement Felix Wirtz, 5.8.1605.

Others, too, found that the doctrine of predestination preyed on their minds, as the judicial records show. In 1681, Salomon Bürgkli went to the tavern after attending church. There he contradicted the preacher's interpretation of Romans 9.11–13 that he had just heard. In his 'blasphemous words' (*gotteslästerlichen Reden*), Bürgkli claimed that the minister had wrongly interpreted the Pauline text as referring to predestination.[579] A case such as this reminds us that there were attentive laypeople in church who listened very carefully to what was said from the pulpit. Those who took their faith seriously made up their own minds. The specific dogmatic paradoxes of the new Reformed faith offered them ample opportunity for blasphemous reflections.

Summary   Of the many dogmatic issues raised by Protestantism in religious debate, those taken up by blasphemers were the scriptural principle, Holy Communion, prayer, and predestination. The blasphemers tended to adopt two quite distinct attitudes towards the specifically Protestant challenges of Christian doctrine. While some touched on topical sensitive issues to ensure maximum effect for their disgruntled words, others attempted to find their own positions amidst the confessional controversies. Some had profane interests, some religious.

Some 'profane' blasphemers transgressed religious norms with the aim of withdrawing from the social order. Associating prayer with the devil or throwing doubt on the authenticity of Holy Scripture as the Word of God meant rejection of the authority of divine order. Conversely, other 'profane' blasphemers demanded compliance with religious norms in the interests of maintaining divine order. Referring blasphemously to the injustice of God, they indirectly asserted that God was indeed just and would punish the disobedient. Whether they sought to provoke or to 'instruct', both these subtypes of 'profane' blasphemers generally refrained from using the Bible to explain their action.

Then there were the more holy-minded blasphemers in search of religious orientation. Unlike Catholicism, the Protestant faith emphasised that no one, neither saint nor Mother of God, could mediate between the believer and God. This was a new and unsettling idea. Was it really unnecessary to pray for the dead? Such specific questions were not so frequently asked, but often it was claimed that prayer was the devil's business. Possibly this was the response of religious seekers to the 'stumbling block' of the Protestant doctrine that the believer encounters God directly in prayer, with no need of advocates. Was the talk of the satanic origin of prayer the result of a theological 'over-reaction' by anxious believers attempting to rid themselves of specifically Protestant pressure? Such reflections reinforce

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[579]   Cf. A.128.9, Case of Salomon Bürgkli, Report Minister, 20.10.1681.

the idea that the Protestant faith could give rise to acute spiritual distress among subjects in Zurich, even leading to suicide.[580] But this takes us, at least with regard to the examples cited here, into the realm of psychological speculation. Certainly, the question of prayer was relatively insignificant for blasphemers in Zurich, suggesting that they were not inordinately fearful.

Religiously motivated blasphemers more frequently took up the subject of Communion, one of the central themes of Protestantism. The comments that have come down to us prove that laypeople responded very sensitively to the subject. It is notable that blasphemers never went so far as to develop their own ideas concerning the presence of God at Holy Communion. Instead, they made disrespectful remarks, bold enough to scorn but not to venture into quite different realms of thought.

A further burning issue for 'spiritual' blasphemers was predestination. The new Reformed doctrine did not always reach the laity, it seems. Why should people bother to live a godly life if their salvation or damnation was already determined at birth? Such questions indicate that the subtle theological arguments intended to forestall apparent theological contradictions were lost in the process of reception. The logical objections formulated by blasphemers also show the laity responding critically to what the church taught them.

The blasphemies occurring in the context of Protestantism supplement what we have seen so far concerning the meaning of religion in an early modern society. In many respects, the Reformation had broken with the old doctrines. Judging by the blasphemies relating to the changes involved, the breaks in theology that the Reformation brought did not have any major consequences for the scope of religious norms in Early Modernism. Blasphemy continued to shift between social provocation and religious doubt. Religion remained a conglomerate of profane and metaphysical implications. Reformed doctrine was taught by the church but received by a laity well capable of criticism.

The particular sensitivity of laypeople to daring remarks about Communion, coupled with the caution exercised by blasphemers on this subject, emphasises the centrality of Holy Communion in a Reformed society. Religion contributed to the maintenance of social order in that Communion was regarded as a form of social control. The religious ritual was the firm foundation of Christian society, dissuading blasphemers from developing alternative ideas of Communion. It was, quite simply, a sacrosanct institution that could not be openly questioned. For Christianity, religion was closely associated with the crucifixion of the Son of God. This offered believers, albeit under varying confessional criteria, forgiveness of

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[580]   This is the basic thesis offered by Markus Schär: *Seelennöte*.

their sins. None dared to weaken, let alone destroy this hope of salvation. Thus Christian societies of the Early Modern era rested on religious norms that were the product both of church-based education and critical reception of church doctrines by the laity.

3.4. Struggling with God

Rebelling against God

In illocutionary and propositional terms, all blasphemous speakers rebelled against God. In that respect, blasphemy is always 'system negation' (H.R. Schmidt). As we have seen in the cases presented so far, however, blasphemers usually refrained from systematic questioning of the divine order. They generally contented themselves with doubting church doctrine or using blasphemous speech action for profane purposes without aiming at God. This section will explore to what extent this is true of blasphemers who rebelled openly against God. What was their relationship with God, and what was their criticism of God?

Blasphemous speech actions create a certain relationship with God. In early modern Zurich, three typical constellations may be distinguished.[581] Some blasphemers refused obedience to God. The social order was divinely ordained; to negate it was to ignore God and terminate the relationship with him. Others at least retained some relationship. While they were criticising God, they were still engaged with him. Blasphemers who mocked God – this being the third form of distancing – were still referring to him.

Blasphemous refusal of obedience is exemplified by the case of Jacob Müller in 1608. His marriage had been in difficulties for some while. One day, enraged with his wife's behaviour, he had told her to refrain from praying. If she prayed during their marital conflict, she was not invoking God but the devil, he claimed.[582] This was a double failing on Müller's part. Instead of turning his thoughts to God, as in his wife's example, he rebelled against God. He degraded his wife's prayer as invocation of the devil, making God's antagonist the ruler of the world. Unquestionably, Müller showed disobedience towards God. Was this not a very serious case of 'system negation'? The Reformer and antistes Bullinger took the matter fairly calmly, admonishing Müller and telling him that people like

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581   Thus the situation in Zurich does not allow us to follow Dülmen's proposal (cf. 'Wider die Ehre Gottes', pp. 22, 32) to interpret grave forms of blasphemy as decided hostility to the church and to form categories of religious indifference, atheism, free thinking and agnosticism for the explicit variants of unbelief.

582   Cf. A.27.55, Statement Jacob Müller, *c*. 18.4.1608.

him were fools.[583] Bullinger treated Müller's behaviour as a banal and foolish everyday offence. He was one of those who occasionally stepped out of line, without pursuing grander aims.

Often refusal of obedience to God was coupled with criticism. During a harsh winter early in the sixteenth century, Landiß Handol's seeds had frozen. Talking with the parish minister, Handol said openly that he held God responsible, since he was unjust and powerless. He preferred the devil, who was more likely to help him.[584] What's more, Mary was a whore, he said. Handol had also called on his wife to quote Scripture to stop the heavy snowfall. She had refused, whereupon Handol replied, 'I am God and you must worship me'.[585] In this lively scene, Handol is both disobedient and critical towards God. How could God be just if he destroyed the seeds? Was God not in charge of the weather after all; was the devil perhaps more powerful? Handol treated God quite harshly here – and he went even further, slandering the God of the Old- and New Testament as powerless. He disparaged the Mother of God too. And his most radical act of rebellion was exalting himself to be God.

We do not know how Handol's contemporaries reacted, since the sentence against him has not come down to us. We may, nonetheless, make some plausible interpretative remarks on the case. Although Handol's blasphemous action was extreme in its harsh criticism and its astonishing hubris, he did not suggest that God might not exist. Rather, he saw God in conflict with other powers and demanded to be worshipped in place of God. In what sense was he 'negating the system'? His arguments arose from actual life experience. Having lost his crop, he knew why he would gladly have determined the weather himself, and why he accused God of injustice. He was not concerned with theological statements or assurance of faith, and he did not have recourse to the Bible. He was one of those who turned away from a God who had failed them. His attitude was the logical consequence of metaphysical disappointment, without any attempt to create utopian ideas of a better world. Handol was a radical refuser of the system, rebelling against God and the authorities.

Those who criticised God and entered into conflict with him focused on two points. Some claimed that God was unjust; others implied that he was unreliable. Blasphemers tended to see the injustice of God in adverse weather events. The sixteenth, seventeenth and eighteenth centuries resound with the complaints of those deprived by hailstorms of the fruits of their labour. It is notable that witnesses reacted sensitively to the blasphemous

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[583] Cf. ibid.; also, A.27.111, Statement Rudolf Burkhart, 8.11.1681.

[584] Cf. B.VI.243, fol. 231r, Statement Hannsli Stöubli, undated.

[585] 'Ich bin Gott und du muoßt mich an betten' – ibid., Statement Hans Bollier, undated.

assertion that God was an arbitrary weather-maker. They certainly remembered such words well. In 1708, the surgeon Heinrich Wirth stated that he had heard how Heinrich Widmer from Horgen had blasphemed as he left church that God was letting it snow too hard. Wirth reported this long after the event, but what interests us here is that he remembered the scene so well that he later recognised Widmer as the blasphemer.[586]

Only a very few scenes, mostly with sparse detail, point us to the fundamental nature of blasphemers' criticism. We encounter typical harsh criticism in the case of Hans Jagli Stüdli from Wil. Finding himself in a thunderstorm with the servant Heinrich Stockhar in 1677, he had sworn at least twenty times by thunder and hail. He had been reminded of divine retribution, but replied that God had never given him anything.[587] Hans Heller confirmed this witness statement, and added that Stüdli had said the hares had what they needed to eat and survived without praying.[588] Stüdli's rebellion was fundamental. He did not simply criticise a God who sometimes sent destructive storms. Rather, he terminated the relationship of trust with a God who looked after the animals but made life miserable for a believer. The climax of Stüdli's charge was to accuse God of not looking after the faithful. He had evidently finished with God, and the relationship was badly impaired.

Similarly, the 16-year-old beggar Andreas Wunderli had no personal trust in God. He was charged with invoking the devil and thus abusing God. Interrogated about his religious background, Wunderli stated that his parents had encouraged him to pray morning and night; also, that he had attended children's catechism and school, and had learned the answers in the Grand Catechism. The *Nachgänger* established that he still knew the Lord's Prayer, the Creed, the Ten Commandments, Psalms 23 and 113, as well as a morning- and evening prayer and a grace. They nonetheless tested his ideas of God by asking who had created him. He had named Christ as his creator, but denied that God the Father had created him. Asked who had redeemed him, he named the Holy Spirit.[589] Wunderli also refused to confirm that all good things came from God. In the four years since he had run away from home and fended for himself by begging and stealing, he had evidently not encountered the goodness of the Lord. His experience had been that God abandoned him. Despite his thorough grounding in religion, he had turned away from God in disappointment and constructed an idea of the divine that saved him from complete metaphysical emptiness. This time, it was not the devil but an absolute Holy Spirit who replaced

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[586] Cf. A.27.126, Statement Heinrich Wirth, 14.2.1708.

[587] Cf. A.27.108, Statement Heinrich Stockhar, X.6.1677.

[588] Cf. ibid., Statement Hans Heller, X.6.1677.

[589] Cf. A.27.120, Statement Andreas Wunderli, 11.1.1698.

God. But did Wunderli really believe in a God reduced to the Holy Spirit? Do his evasive answers not suggest that his thoughts tended towards the non-existence of God, though he attempted to conceal his radical doubts from the *Nachgänger*? The sources do not offer us an answer.

Refusing to trust God meant distancing oneself from him. Such distancing could take very different forms, as in the case of council adviser Heinrich Küng in 1612. According to the charge, he led a godless, immoral and antisocial life with constant cursing and swearing. He hardly ever attended church, and ridiculed the sermon when he did. He had insulted Minister Ziegler and made fun of the feeding of the five thousand narrative in the Bible (Matthew 14.13–21).[590] Küng rebelled against God. He transgressed religious norms and defamed Holy Scripture. But he was not beset by existential doubts on the message of the Gospel as a result of negative experiences in life. Rather, he was the provocative type, negating the system by playing competently with it and not submitting to it.

Summary   The Zurich blasphemers of the Early Modern era had three forms of rebelling against God, dealing with him by means of conflict. Some refused obedience to him, some criticised, some mocked God and/or Holy Scripture. Their motives and aims were various as they articulated their protest in these variants of 'system negation'. Some practised social provocation, some religious.

Social provocation took the form of resistance towards society and thus towards God, since society was divinely ordained. For these blasphemers, dissatisfied with specific circumstances or showing fundamental disregard for the social order, metaphysical concerns were secondary. Even church leaders such as Bullinger regarded the speech actions of these blasphemers as annoying everyday faults rather than dangerous religious utterances.

Those who radically turned their backs on God for metaphysical reasons practised religious provocation. As far as we can tell, their protest was fundamental and unchanging in content between the pre-Reformation sixteenth- and the eighteenth century. They were not motivated by intellectual philosophical speculation or by personal engagement with the Bible, but by concrete experiences in life. Both blasphemers and witnesses accused God of managing the weather so poorly that they were robbed of the fruits of their labours. They felt abandoned by God and had different ways of dealing with this.

Blasphemers who distanced themselves mockingly from God were extremely rare. Only a few dared to play with religious norms by parodying Holy Scripture. Theirs were cases not of religious doubt but of social provocation. The Zurich judiciary archives have no record of a

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[590]   Cf. B.VI.267, fol. 117, Sentence Heinrich Küng, 18.11.1612.

blasphemer presenting God as a ridiculous figure and then exposing him to fundamental theological–religious criticism.

The ways in which blasphemers rebelled against God point to the meaning of God in an early modern Christian society. People who had grown up with God could be harshly critical of him. Like the psalmists, they complained to God of the misfortunes of their lives, turning against him on the grounds of concrete life experiences. They struggled with a God who was within reach and yet so unreliable. They were not concerned with the abstract God of theological–philosophical speculation. These blasphemers out of pragmatism and religious disappointment in the Early Modern era were system refusers but not system innovators. In their rebellion, they replaced God with others such as the devil or the Holy Spirit. Their rebellious boldness did not empower them to create utopian ideas of a new order and to declare God non-existent.

Pre-Modern Atheism

One of the vexed questions in early modern research is how 'ordinary people' dealt with religion. Part of this whole complex is the discussion initiated by Lucien Febvre on whether atheism was possible in the Early Modern era, and whether it was of systematic relevance. Current research findings give rise to two fundamental questions. The first, taking up Febvre, is this: did people of the Early Modern era have an *outillage mental* at their disposal that enabled them to imagine a world without God? Following on from this, what form did a-theism, i.e. godlessness, take for the people of Zurich?

Statements bearing witness to the idea of a world without God are a rarity in the judiciary records of Zurich. In 1667, Felix Huber took the bailiwick clerk Kraamer to court for insulting him in the presence of others, which in turn had resulted, according to witnesses, in a stormy exchange between the pair.[591] According to Meier, Kraamer had blasphemed loud and long.[592] Dr Jacob Ziegler was able to say exactly which oaths he had sworn, taking half an hour to do so.[593] According to Hans Vogel, Kraamer had 'not acted like a human being, and as if there were no God in heaven.'[594] He was guilty of much 'loud and offensive talk' (*ußgegossene, ergerliche redden*)

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[591] Cf. A.27.101, Statement Häfeli, 11.9.1667.

[592] Cf. ibid., Statement Großkeller Meier, 11.9.1667.

[593] Cf. ibid., Statement Jacob Ziegler, 14.9.1667.

[594] '… nit gethan wie ein mentsch und alß ob kein Gott im Himel were' – ibid., Statement Hans Vogel, 11.9.1667.

in the eyes of the judiciary.[595] Following his 'inconsistent, blasphemous, terrible words' (*ohngerymte, Goteslesterliche, ohnliedenliche worte*) in public, he was sentenced for his 'godless way of life' (*gefüehrten gottlosem wesen*) to a heavy fine of 200 pounds, to be paid to the city of Zurich.[596] He was fined an additional 125 pounds for insulting Huber, to be paid to the city of Baden, where the breach of the peace had evidently occurred.[597] Witnesses and court were in agreement that Kraamer had gone too far in his use of insult. As Vogel indicated, he had behaved as if a God who might punish him did not exist. He was 'rewarded' with two fines: one for blasphemy and one for insult. The theoretical idea of a world in which God was not present could indeed be formulated, but was immediately retracted in the words 'as if'.

A single further example from the year 1670 offers evidence of the theoretical non-existence of God.[598] The printer Heinrich Baumann stated that he had for a considerable time accepted the malicious talk of his wife and her women friends against him. Finally, however, he had told the woman named Arter that she should refrain from accusations taking God's name in vain if she believed there was a God who heard and saw everything. Arter had misunderstood his criticism of her self-righteousness and thought he was doubting God's existence. Baumann had immediately corrected this, he stated.[599] As both Baumann's and Arter's words show, it was quite possible to articulate the idea that God did not exist. But the idea is used to confirm the existence of God by means of a double negation. Behaving as if God did not exist when in fact he did was all the more reprehensible. The idea that God 'was not' was thus put aside as a deviant thought. The people of Zurich had the mental capacity to put the idea of God's non-existence into words. They had the 'mental tools' to produce atheist thoughts. If they could put the idea of God aside without doubting God's existence, what did they mean by atheism?

Pre-modern atheism differs in one significant respect from modern atheism. Where the latter declares that God does not exist, the early modern concept of atheism assumes the existence of God. To reproach someone with acting against divine order or denying God is to postulate that God is. The tailor Heinrich Benninger, for example, showed 'all the signs of an atheistic person' (*alle zeichen eines atheistischen menschen*).

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[595] These are the words of the charge in the witness questioning of 11.9.1667. Cf. ibid.

[596] B.II.539, fols 93–4, Sentence Bailiwick Clerk Johan Kramer, 31.10.1667.

[597] Cf. ibid., fols 89–90, Sentence Bailiwick Clerk Johan Kramer, 24.10.1667.

[598] Given the sheer quantity of source material, I cannot exclude the possibility that I have overlooked a case or two. However, the figure is likely to be very small.

[599] Cf. A.27.104a, Justification Letter Heinrich Bauman, 15.12.1670.

Enquiries made about him in 1681 by the local magistrate (*Amann*), Bailiff and Parish Minister of Embach revealed that Benninger 'was a terrible curser and blasphemer who never uttered an honest or Christian word; he was always speaking of the devil and calling on him.' Repeatedly cited before the morals court because of marital conflict, he had not shown any improvement despite admonition to mend his ways. Moreover, he had to be strongly urged to attend Holy Communion. He was provocative at prayer, drinking wine and not removing his hat.[600] By the standards of his time, Benninger lived a godless life. His was not a respectable Christian marriage; he was unable or unwilling to curb his tongue to please God; and he disparaged Holy Communion. That he kept his hat on at prayer and enjoyed a drink at the same time was nothing short of open provocation. Benninger's behaviour was disrespectful towards others and towards God. All he did, however, was to show that he cared nothing for God. He did not say whether God existed for him or not.

By the standards of the time, Benninger's lifestyle showed that he had fallen away from God. To live without God was to have turned away from God, denying his existence. Heinrich Stein from Glattbrugg, an army captain and miller, lived such an atheist life. The minister Johann Heinrich Keller wrote in 1718 that for the past year Stein had lived irresponsibly, constantly cursing even his own wife and children; '[I]t was as if God's spirit had departed from him and he could hardly live a moral life'. He said he could no longer pray, and other religions too had prayer. Rebuked by his wife, he had replied that he had no fear of hell and would find some good companions there. This godless, atheist talk showed 'there was no good spirit in this man, and he might do all kinds of things.'[601] Like others, Stein was considered an 'atheist' because he repeatedly and consistently transgressed behavioural norms (cursing, and living a 'heathen' life for a year); refused God (rejection of prayer in the Reformed faith); and did not show God the necessary respect (no fear of hell). There was a further feature in Stein's case. An 'atheist' could be dangerous; he had, after all, taken leave of his senses. He was actually an uncivilised 'heathen' from whom God must depart. Stein's example demonstrates that in early modern Zurich, 'atheists' were not people who defined God away. Stein did not reject prayer altogether and was careful not to eradicate God. 'Atheists'

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[600] '… seige ein grausamer flucher und Lesterer, dem kein ehrlich und christlich wort zum maul außgangen: den teüfl stets zuvorderst im maul habe und demselben rüffe' – A.27.11, Case of Heinrich Benninger Report Bailiwick, 27.2.1681.

[601] 'Es scheint als wann Gottes Geist von Ihme Weit gewüchen und Er kaum mehr recht thun könne […]. [Auß welchen reden] abznemmen, wie der gut Geist nicht bey dißem menschen seye, derohalb Er capabel ist allerhand anzustellen' – A.27.132, Report Minister [Johann Heinrich] Keller, 3.3.1718.

were regarded as dangerous marginal figures who departed too far from God and jeopardised the social order with their anarchic behaviour.

As we have seen, 'atheism' referred to a certain reprehensible behaviour. In addition, specific statements about God were categorised as 'atheistic'. 'Atheist' blasphemers use words to deny the existence of God in the world. This second definition of pre-modern atheism is apparent in the arguments offered by Anna Werdmüller in 1657. The wife of Werdmüller, whose case was discussed above, claimed that he had been deliberately misunderstood. He had been presented 'as an atheist, indeed a blasphemer, who either did not understand his religion or had no religion at all'.[602] However, the theological experts in this sensational case did find points justifying the charge of 'atheism'. That the oath on the Helvetic confession was not binding was 'inappropriate and godless talk' (*ungeschickt, ja gotlose red*). The Sadducean idea of the resurrection only of the soul, aired by Werdmüller, was 'erroneous, seductive, heathen and godless' (*irrig, verführerisch, heidnisch und gotloß*), they found. The ideas that women were excluded from eternal life, and that all desires were fulfilled in heaven, whereas the bodies of the dead languished in a hell that could not be placed, were declared to be atheistic and godless.[603] In his notorious controversy and on various social occasions, Werdmüller had indeed played devil's advocate and developed contested positions. None of the charges, however, suggests that the general showed the slightest doubt of God's existence. Living a Christian life with God meant obeying God and the church. 'Atheists' were those who lived without God, denying God and the church without necessarily making statements about God.

Free-thinking intellectuals like General Werdmüller moved on dangerous ground. But a down-and-out like Hans Staub could also arouse attention. In 1692, the parish minister in Wädenswil made a devastating appraisal of him as a 'useless person' (*unnütze mensch*) who had no honest job, was constantly absent from church, missed Holy Communion, and threatened arson. This was not a person to be respected: his 'atheism' had become apparent in an interrogation. He knew no more of salvation than a horse or a mule. He recited the Lord's Prayer, the Ten Commandments, the Creed and Psalm 23 without any understanding. Despite his age, he knew no prayer whatsoever. He was so unrepentant that he showed no sign of remorse or humility, let alone shed a tear.[604] By Minister Ryff's

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[602] '... als ein Atheist, ja Gots lesterer, der eintweders seine religion nicht verstande oder wol gar kein religion habe' – (ZB) MsB.159, fol. 20r, Supplication Anna Werdmüller, 28.12.1657.
[603] Cf. E.II.97, fols 1255, 1260, Case of Johann Rudolf Werdmüller Synod Assessment, X.X.1659.
[604] Cf. A.27.117, Report Minister Johann Conrad Rÿff, 30.6.1692.

account, Staub was a mere animal, a being without a conscience, ignorant of his redeemer, a parasite in society. Unquestionably, Staub lived without God. But does that mean God did not exist for him? Neither the minister nor the defendant had future historians in mind: they have left us without an answer.

We have a further example of an 'atheist' blasphemer in Jean-Jacques Dubois from Lyon (also known as Jacob Holtz), charged with theft, swindle and blasphemy. In 1723, after several interrogations, the beggar admitted words that were 'atheist and godless concerning divine justice' (*Atheistischen und Gotsvergeßnen die Gerechtigkeit Gottes angehende wort*).[605] But what did the judiciary mean by such terms in the eighteenth century? One of the preceding interrogations offers an answer:

22. Q[uestion] Had he not indulged in much godless and atheist talk? R[esponse] This was claimed of him; maybe he had, maybe he had not done so. If he had, then he deeply regretted that his tongue had abused God though his heart did not. […]

23. Q[uestion] Had he not said he need not get closer to heaven than the Horse Market, as that was the merriest place to be? R[esponse] He had heard such words from a soldier in the war who had asked him, Holtz, whether he wanted to go to heaven. He no longer knew whether he had said the words himself or said he had heard them from others.

24. Q[uestion] Had he not said that whoever went to heaven had to draw water from the well in summer and clear the snow in winter? R[esponse] Possibly he had said that, and if so he was sorry! […]

25. Q[uestion] Had he not claimed he did not fear hell and would creep into Satan's farthest behind to escape hellfire? R[esponse] Perhaps he had said this, but he did not remember.

26. Q[uestion] Had he not spoken a terrible and dreadful curse, namely that God was not a just God if he did not punish him immediately when he did wrong? […] R[esponse] He did not believe he had said this.[606]

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[605]   A.27.135, Statement Jacob Holtz, 22.6.1723.

[606]   '22. Q[uestio] Ob er nicht allerhand gotlose und atheistische reden getrieben? R[esponsum] Man gebe solches von Ihme auß, könne seÿn und köne nit seÿn, daß er es gesagt. Wann deme allso seÿe, es Ihme von Hertzen Leid, daß sein Zung sich so schwehrlich an Gott vergriffen, doch seÿ Ihm nicht allso im herzten […] 23. Q[uestio] Ob er nicht gsagt, verlange nicht höher in den Himmel als bis auf den Roßmarckt. Da seÿ es am lüstigsten? R[esponsum] Dergleichen wort habe eines mahlen ein Soldat im Krieg hören laßen und Ihme darbeÿ unter anderen gfraget, ob er, Holtz, auch in Himmel wolle. Wüß es aber nicht mehr, ob er dergleichen für sich selbst geredt oder nur gsagt, habs von anderen gehört. 24. Q[uestio] Ob er nicht gsagt, wer in den Himmel komme, der müße daselbst in Sommer Waßer hinauf ziehen, im Winter aber Schnee reiteren? R[esponsum] Könne seÿn, daß er es gsagt, seÿ Ihme aber leid! […] 25. Q[uestio] Ob er nicht verdeütet, förchte die Holl nicht, wolle dem Satan

Dubois's verbal evasions did him no good. He was sentenced to executing the *Herdfall* at the landing stage after release from prison, an hour in the stocks, and slitting of the tongue, followed by banishment.[607] Although he had not doubted God's presence in the world, Holtz had committed a very grave offence. He had ridiculed God and God's message in a manner recorded extremely rarely by the judiciary. Scorning heaven and parodying it as a place beset by earthly tribulations was an affront, and the punishment was made to fit the crime. Instead of simply banishing the non-local culprit as usually happened, the council handed down heavy corporal and loss-of-honour punishments as well. Even though he mocked God, Holtz did not deny his existence. As an 'atheist' he had his own idea of heaven, which was not a godly one. A person who showed respect for no one, not even for God, was labelled atheistic and 'godless' by those in authority.

The example of Hans Frey in 1726 demonstrates a further feature of 'atheists'. Together with *Ehegaumer* Hegetschyler, he entered a tavern where several Catholics were sitting. According to witnesses, Frey started discussing religious questions with them. The Catholics had refused to take up his challenge, saying that religious controversies should be left to the clergy. But Frey had replied that he was 'a decent man. He was like the Lord God'.[608] The morals court official did his duty and reported the matter to the clergyman Rahn, who forwarded it to the council. Rahn argued that Frey deserved to be punished because the words he used at the tavern were a 'formal blasphemy' from a disreputable atheist living without God.[609] So the minister differentiated between blasphemy and 'atheism'. What was the difference? Frey's interrogation offers us an answer. The defendant had already been before the morals court twice. Moreover, some nine years ago he had insulted a schoolmaster, and had insulted a church administrator a year ago.[610] Frey admitted the blasphemy but protested that he did not swear very much and never kept his hat on in church.[611] Living 'without God' in the world could mean referring to God; in other words, explicitly assuming a world in which God is present. Refusing to honour God by repeatedly swearing or by keeping one's hat on in church, i.e. acting as a

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zu hinderst in den hinderen schliepfen, da er dann vor dem brand wol sicher? R[esponsum] Könne auch seÿn, daß er es gredt, wüß es aber nit mehr. 26. Q[uestio] Ob er nicht disen schröcklichen und entsetzlichen fluch hören laßen, namlich, Gott seÿe nicht ein gerechter Gott, wann er Ihme nit angesichts sträffe, so er was böses begangen […] R[esponsum] Glaub nicht, daß er diß so geredt' – ibid., Statement Jacob Holtz, 8.6.1723.

[607]   Cf. B.II.762, fol. 6, Sentence Jacob Holtz, 28.6.1723.

[608]   'Er seig ein braffer Mann, Er seig wie unßer Herr Got' – A.27.137, Statement Hans Ulrich Hegetshchwÿler, 9.7.1726.

[609]   Cf. ibid., Report Minister Johann Conrad Rahn, 7.7.1726.

[610]   Cf. ibid., Statement Ulrich Frey, 19.7.1726.

[611]   Cf. ibid., Report Minister Johann Conrad Rahn, 7.7.1726.

persistent and disrespectful blasphemer, characterised an 'atheist'. For the
people of early modern Zurich, 'atheists' were not those who denied God
but those who disowned God. They dealt with God *ex negativo*, giving
rejection of God as the grounds for their behaviour.

Deciding to live a life without God had serious consequences. 'Atheists'
were frequently accused of having an amoral lifestyle. Loudmouth Heinrich
Trümpler was one of them. The 20-year-old admitted in 1719 that he had
held a glass at the tavern and said the devil should take him if he could
not throw the glass at the wall and then make it whole again. On another
occasion, he had said he wanted to be the devil for a year and ride over
a mountain in daytime on a white horse.[612] As we have seen, quite a few
blasphemers enjoyed playing with diabolical fire. However, Trümpler's
invocation of the devil with a glass and his fantasy of omnipotence go
beyond the usual ideas. No wonder the deacon Hottinger found himself
confronted with an unrepentant culprit in the prison tower. He had
catechised Trümpler, he stated, but the prisoner had forgotten everything.
All efforts to bring Trümpler to repentance had been fruitless.[613] Hottinger
did not mention any theological or philosophical objections made by
Trümpler, whose 'godless talk' (*gotlose Reden*) does not suggest he was
a stubborn brooder trying to make his own atheist sense of the world.
Rather, he gives the impression of a hardened provocateur, untouched
by theological or philosophical systems. This contradicts the findings in
atheism research hitherto.[614] For his contemporaries, Trümpler with his
provocations and his recalcitrance was quite simply a bad Christian who
paid hazardous homage to the devil instead of to God.

Like 'atheists', 'Epicureans' also had the reputation of leading godless
and immoral lives. This connection has been explored in research,[615] but
the term 'Epicurean' is extremely rare in Zurich. In 1606, a number of
witnesses confirmed to the *Nachgänger* that Joseph Geßner swore and
cursed when he was drunk, but that he also apologised when he was
sober again. Schoolmaster Heinrich Wyß, however, judged that many

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[612] Cf. A.27.133, Statement Heinrich Trümpler, 13.7.1719.

[613] Cf. ibid., Case of Hottinger, Report 21.7.1719.

[614] On the basis of his entirely history-of-ideas study of the period 1600–1730,
Minois reaches the conclusion that the spread of atheism can be traced to the philosophical
arguments of the libertines and the deists (*Athéisme*, pp. 181–282). He does not, however,
consider the possibility that people like Trümpler may well have made a marked contribution
to this development. Rather, he assumes that, in the course of the seventeenth- and eighteenth
century, the atheist ideas of intellectual elites filtered down to 'the people'. Cabantous, on
the other hand, makes a connection between early modern atheism and the written culture,
and thus implicitly connects with the contemporary philosophical debates: 'Histoire du
blasphème', p. 32.

[615] On the stereotyping of the 'libertines', cf. ibid., pp. 94–6, 187–90.

years ago Joseph Geßner had led a shamefully 'Epicurean', lascivious and blasphemous life. The defendant had attended church no more than twice in the past year; he had sworn repeatedly; and he had even insulted his son. The concern was not that someone had expressed the – unthinkable – idea of God's non-existence. Geßner offended by repeatedly breaking the divine commandments, which he recognised when he made apology. Knowing that God exists, this 'Epicurean' behaved as if he did not; he lived lasciviously, thus disowning God. 'Atheism' and 'Epicureanism' were closely related, but apparently the people of Zurich regarded 'Epicureans' as even more morally reprehensible than 'atheists'.

Looking back over the cases presented, we find that very few blasphemers are recorded as imagining what the world would be like without God. There are considerably more passages referring to 'atheists' who led immoral lives. What, then, is the systematic relevance of atheism for the beliefs of the people? Here we have to distinguish between pre-modern- and modern atheism. Modern atheism, which declares God non-existent, was alien to early modern Zurich. If such atheists existed, what they had to say did not reach the ears of the judiciary. In that sense, atheism was an unknown phenomenon in the Early Modern era. Pre-modern 'atheism', on the other hand, certainly did exercise the people of Zurich. Those who cared nothing for God and lived as if God did not exist were not complete rarities. 'Atheism' was a problem for Early Modernism, but its theological relevance was moral rather than epistemological.

Summary Deeply permeated by religion though it was, early modern Zurich society did live with the formulated idea that God might not exist. People did have the necessary mental tools to formulate what is, in the modern sense, an atheistic thought. However, this was mere toying with an idea, since by double negation the existence of God was confirmed. And there were limits to the toying. None of the blasphemers used the available tools to construct a system that excluded God from the world. Radical doubters of God's existence who develop (philosophical) alternative interpretations of the world do not occur in Zurich's judiciary records. If they existed, they were cautious enough to keep their views to themselves and steer clear of the judiciary. Unlike our time, the pre-modern age did not associate the concept of 'atheism' with the question of whether God existed. 'Atheism' is a value judgement on a person's lifestyle and on what they had dared to say about God. Whereas the historical phenomenon of atheism is frequently reduced to systems of thought, for the people of Zurich it also meant specific forms of behaviour, including disrespect for God and the authorities, and disturbance and threatening of the social order. 'Atheists' were reprehensible Christians who committed sexual offences, skipped church, ignored warnings, invoked the devil, indulged

in omnipotence fantasies, and persisted in disrespecting God in spite of spiritual attention from the clergy. 'Atheists' were deeply immoral persons who disregarded God. This meaning of the word 'atheist' places it on a level with the already established 'heretic'.

It was not only the 'atheists'' lifestyle that showed they had fallen away from God. Their words about God revealed it too. A well-respected intellectual free-thinker who discussed sophisticated theological questions or played confidently with theological ideas to entertain high society might just as readily be charged with 'atheism' as loudmouths who paid homage to the devil and not to God.

The designation 'atheist' is a stigmatising labelling by another. Persons in supervisory roles, often the clergy, used the term for people who lived without God although God existed. 'Atheists' disowned God, but did not deny his existence. They dealt with God by rebelling against him, which meant referring to him. 'Atheist' as an abusive term for deeply amoral people was used from the second half of the seventeenth century. The term 'Epicureanism', which occurs elsewhere, plays hardly any part in Zurich in connection with blasphemy. 'Epicureans' in Zurich seem to have been people living even more lasciviously than 'atheists'.

In early modern Zurich, blasphemers themselves did not claim to be 'atheists'. The expression was a label given by others that tells us nothing about how these blasphemers saw themselves. None of the cases recorded suggests that 'atheist' blasphemers referred to specific motivation or intentions. Neither do we find that the 'atheists', generally uninterested in theology or philosophy, had thoughts on the existence of God that distinguish them from 'normal' blasphemers. Seen in historical perspective, there is little difference in content between 'atheists' and blasphemers.

'Atheist' blasphemies throw some light on early modern religion. They show that it was theoretically possible to 'think God away'. Nonetheless, a world without God was not reality. Or at least, no one dared to proclaim a world in which God was dead so loudly that the judiciary was alerted. And there are no traces in Zurich of people following rationalist tendencies in philosophy. A world without God was theoretically thinkable, but living without the Christian religion was as yet unthinkable.

3.5. Blasphemy and Images of God

By definition, blasphemies have to do with God and images of God. Blasphemy arouses our curiosity concerning the ideas of God in a society. The examples from Zurich enable us to gain an impression of the God of ecclesiastical and secular norm-setting, and to compare this with the God of blasphemous speech actions. Without returning in detail to the cases

already studied, we may simply ask ourselves what ideas mentally sound and mentally confused people in early modern Zurich had of God the Father, Son and Holy Spirit.[616]

Blasphemers in Zurich show little interest in the 'person' of the Holy Spirit, in continuity with the mediaeval tendency.[617] With regard to the Trinity, their main interest lay in Christological statements. Some became absorbed in the doctrine of the dual nature of Christ. In 1634, the surgeon Jakob Amman with his interest in theology denied that Christ was born of the Virgin Mary. Rather, he told the *Nachgänger*, Christ had brought his flesh with him from heaven.[618] For Amman, Jesus was more fully God than human, and this meant a belittling of the Incarnation. The fisherman Hans Ulmer took the opposite view in 1686. He was charged with denying the pre-existence of Christ and claiming that Christ had been born as an ordinary mortal.[619] Thus Ulmer, unlike Amman, brought the Incarnation to the fore. The dual nature of Christ evidently kept some early modern heads buzzing.

The paradox of the God who was crucified also gave rise to blasphemous contradictions. In one of the many informal disputations, Antonius Besutius took the view in 1564 that Christ did not die for the sins of humanity.[620] Ziegler wondered in 1605 why Almighty God had let himself be nailed to the cross to redeem humankind from sin.[621] Was God not omnipotent after all? These questions of the dual nature of Christ or the omnipotence of God raised by blasphemers were concerned with relatively abstract theological principles. Not many blasphemers took pleasure in such theological 'abstractions'. Usually, as the following examples show, they gave their attention to concrete attributes of God.

The image of God used by blasphemers is partially reminiscent of the God of the early modern Reformed Church as presented in research. For Reformed Christians, God is wrathful and vengeful, a strict authoritarian father who could also choose to show mercy. This God is easily identifiable in theological papers, sermons and catechisms, morals mandates, or clergy reports. It is this God that blasphemers refer to when they seek to impress

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[616] Iconographic perspectives form a distinctive field of study and are not considered here.

[617] According to Peter Dinzelbacher, the Holy Spirit was 'almost absent' from the devotional practice of the Middle Ages: *Handbuch der Religionsgeschichte im deutschsprachigen Raum: Hoch- und Spätmittelalter*, vol. 2 (Paderborn–Munich–Vienna–Zurich, 2001), p. 141.

[618] Cf. E.II.8, fol. 764, Statement Hans Jakob Amman, X.1.1634.

[619] Cf. A.27.114, Statement Felix Stauber and Martin Schäppi, 12.9.1687.

[620] Cf. A.27.25, Case of Antonius Besutius Report, *c*. 1564.

[621] Cf. A.27.51, Statement Felix Wirt, 5.8.1605.

or to threaten by means of words. They point to the ill that will befall their adversaries at the hands of the Almighty. God is just, they claim, calling everyone to account and punishing those who do wrong.[622] Such argumentation is the stuff of curses and swearing throughout the Early Modern era. Only in very rare cases, dating from the end of the seventeenth century, did blasphemers openly rebel against this wrathful God. Ulrich Schäpi, asked by the morals court judge Stapfer whether he did not fear God, replied that he did not.[623] Jakob Holtz expressed similar fearlessness in 1723 when asked whether he was not afraid that his behaviour would consign him to hell. He replied that he wanted to be in the devil's behind, where he would be safe from hellfire.[624] According to theologians and preachers, God's punishments were harsh, but this evidently did not deter individuals like Schäpi and Holtz.

Blasphemers submitting petitions struck a very different note, with recourse to the topos of the merciful God who forgives the repentant sinner. No wonder the parable of the Prodigal Son and biblical figures such as Peter and Paul were frequently evoked.[625] Blasphemers prostrated themselves verbally before the seat of God and the authorities, as in Heinrich Bleuwler's impressive several-page petition of 1656. He confessed, associating himself with the Prodigal Son of the Gospel, that he had sinned against God and God's authorities on earth. He was bitterly sorry and tearfully repentant, comparing himself with the apostle Peter and King Manasseh. He could not be counted among such saintly people, he said, but he recognised the tendency of the human heart to drink evil like water and then to err. Even a devout Christian could stumble and fall seven times a day, just as many devout and saintly persons had fallen short of God and his divine law. He noted examples of sinners such as Adam and Eve, who ate of the forbidden fruit; Noah, who preached justice and had blood on his hands; the prophet David, who committed adultery; Paul, who was once Saul and persecuted the church; and Peter, who three times denied his Lord and master.[626] Few petitions are as bombastic as this, but their arguments tend to be the same: God might be strict, yet it was his desire not to destroy but to save the penitent sinner.[627] This view among Zurich Reformed Christians was shared with those of the Palatinate.[628] The God of Zwinglian Reformed Christianity was both harsh and merciful.

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[622] Cf. e.g., A.27.64, Statement Caspar Eßßer, 23.3.1622.

[623] Cf. A.27.120, Statement Ulrich Schäpi, 18.6.1697.

[624] Cf. A.27.135, Statement Jacob Holtz, 8.6.1723.

[625] Cf. e.g., A.92.3, Supplication Heinrich Bleuwler, X.9.1656.

[626] Cf. ibid.

[627] Cf. e.g., ibid., Supplication Watchmaker Jacob, 10.8.1663.

[628] Cf. Vogler, 'Entstehung', p. 181.

Compared with the norms set by the authorities, the God of the petitions is a father figure with distinctly more human attributes. In blasphemous speech actions, God could take on even more immediate human form and become an ordinary mortal. This is especially evident in the doubts expressed by blasphemers such as Hans Wildermut, who declared in 1543 that, just like any other human being, Jesus was the fruit of sexual intercourse between his biological parents.[629] Such a description of God's human nature went too far for Reformed Christians.

The Zurich blasphemers rarely gave the Son of God concrete features, but God the Father had a body like every human being. The corporal oaths of the Late Middle Ages make this very plain. Further examples show how the idea of God as a human being persisted to the end of the seventeenth century, even though the corporal oaths died out around the end of the fifteenth century. This God was palpable, as an exchange in the tavern in 1548 shows. When a servant wanted to extinguish the lights at daybreak, Bluntschli said they should be left on to burn God in heaven.[630] For the little flame of a candle or an oil lamp to heat up God in heaven, according to Bluntchli's metaphorical implication, God had to be physically reachable.

The figure of God was seen in such concrete terms that the Almighty was attributed emotional and physical feelings. The journeyman Hans Benntzighofer, for example, was called to account for cursing his master and saying he would repeat his curses even if they should hurt the heart of God.[631] God had a heart, and God had eyes to see. He needed light to see by night, as Heinrich Helbling implied in 1556. His explanation of a comet was that God needed light in the dark and hung a lamp in the sky.[632]

God also shared with the rest of humanity the adverse effects of drinking too much alcohol. This was insinuated in 1556 by Heinig Oswald when he was warned to stop drinking in case he had to vomit and thus disparage the divine gift of wine. What did it matter, Oswald insolently replied, since God had to vomit too when he drank too much.[633] Man does not live by wine alone; he eats, and God eats too. According to a joke of 1658, God convicted of gluttony a Swabian fellow traveller who had eaten the liver he was supposed to share with God.[634] Who can take offence at the action of this chummy God who enjoys his food?

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[629]   Cf. A.27.14, Statement Hans Wildermut, X.X.1543.
[630]   Cf. e.g., A.92.3, Supplication Watchmaker Jacob, 10.8.1663.
[631]   Cf. B.VI.251, fol. 272, Sentence Hanns Benntzighofer, Thursday after Simon and Judas' Day 1532.
[632]   Cf. A.27.159, Statement Hans Schneberg, X.3.1556.
[633]   Cf. B.VI.258, fol. 197, Sentence Heinig Oswald, 6.4.1559.
[634]   Cf. A.27.96, Statement Johannes Zyder, 6.1.1658.

There is even a blasphemous suggestion that the Father in heaven was not averse to tobacco. This was the assumption of Jacob Zahnder in 1685, when he suggested his drinking companion might share his tobacco with God the Father.[635] Anthropomorphic treatment of God could go even further, as in the case of hatter Schwyzer in 1690. He wanted to dispute with Doctor Bochenez, who sought to quieten him by asking who had first shit in the water. The hatter had no answer, and was scorned by Bochenez for his ignorance. Finally, Schwyzer named the Almighty as the answer to the riddle,[636] taking to its logical conclusion the idea of God as a human figure. The God who ate and drank and felt pain must also have a metabolism, and be subject to ageing. Jacob Nägeli claimed in 1715 to have heard that, if the world was out of joint, it was because God was an old man of 5,324 years who was no longer in charge of world affairs.[637]

The concretisation of God as a mortal was not restricted to giving God a body. The legal treatment of blasphemy as insult shows that God had honour capital as a human being. His honour was to be protected like that of a respectable citizen. The idea of God as being comparable with an ordinary fellow mortal can also be found in blasphemous speech actions. It was possible to imagine God as a potential husband, for instance. In 1648, Henßler boasted of his merit being greater than God's, since he had married a woman God would never have taken as his wife.[638] Although the First Commandment forbids believers to make an image of God, he is quite clearly imagined as a male figure. A further blasphemous comparison from the year 1688 emphasises this. In a merry round at the inn, Jagli Wollenweider blurted out in fear that he was as innocent of illegitimate sexual intercourse as God the Almighty.[639]

Like any mortal, God could be presented as a man open to attack and by no means omnipotent. He was not all-seeing. That was why, as Jacob Kuntz alleged in 1726, he would not be taking a risk if he practised a little magic. God knew nothing of his experiments, and would not punish him.[640] In 1737, Andreas Schultheß was even more disrespectful. He had taken part in a tavern brawl, swearing and cursing vigorously. Asked whether he did not fear God in heaven, he had said no and added that God should be handed down from heaven for him to pat his behind.[641] This God was a worldly adversary and literally close enough to grasp. Instead

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[635] Cf. A.27.113a, Statement Jacob Zahnder, 20.3.1685.

[636] Cf. A.27.119, Statement Eva Engel, 21.11.1690.

[637] Cf. A.27.130, Statement Jacob Nägeli, 26.6.1715.

[638] Cf. A.27.87, Letter Minister Waser, 4.2.1648.

[639] Cf. A.27.117, Statement Hans Weiß, 21.8.1688.

[640] Cf. A.27.137, Report Minister Diebolt, 29.9.1726.

[641] Cf. A.27.145, Statement Jacob Kuentz, 28.5.1737.

of leaving God in his distant heaven, Schultheß provoked according to the laws of honour conflict. He stood outside God's house, as it were, and attempted to force him into action by means of an insulting gesture. His verbal strong-man tactics suggest that Schultheß was making no distinction between God and an earthly opponent.

Particular problems are raised by images of God among persons regarded as mentally unsound. Some, like Jaggli Gugenbül, developed impressive fantasies of omnipotence. He knew the Ten Commandments, the Lord's Prayer, the Ave Maria and the Creed, and claimed that the statue of Mary in Einsiedeln understood him, since Mary had given him power on earth. He was true God and man, since he was born of God the Father and Mother Mary. According to the interrogation of 1598, he had overturned tables and wine barrels in the monastery at Kappel because trading was going on there. So Gugenbül both imitated Jesus' cleansing of the temple (Matthew 21.12–17) and took on Christ's dual nature by claiming to be God and man. In a further interrogation, Gugenbül enlarged on his abstruse ideas of a holy five-in-one: he himself was the one to whom all must be obedient and subservient. He had created all things and knew all things. What was his was also that of his father and his mother Mary. Those who worshipped him also worshipped them, since Christ was his father and Mary his mother. This was why he had five seats (for the Father, for Mary, for her father, for the Holy Spirit and for himself). This was the Five-in-One. Heaven was his seat, purgatory his towel, hell his footwashing water, and the entire world his footstool. So he had also made the wind, and there would be 12 more years of good weather if he was believed and obeyed. Even if he were killed, only his flesh would suffer. Brother Claus had prophesied that he would be beheaded.[642] In his fantasy, Gugenbül exalted himself to divinity, but without putting himself in the place of God the Father, Son or Holy Spirit. He retained a degree of 'modesty', and merely said that he was the son of Jesus Christ and Mary. Rather than substituting parts of the Trinity, he expanded it into a quintuplet.

Conrad Huser was somewhat less presumptuous than Gugenbül. With reference to the parable of the unjust judge in Luke 18, he accused the bailiff of doing a bad job. He fought with him like Cain and Abel, he said, but God and the angels and the twelve apostles were on his side. Moreover, he had heard voices declaring that the saints were coming to open the Last Judgement. He, Huser, would be one of the judges. The comment by the *Nachgänger* seems plausible: Huser had given confused answers, but knew his Bible well.[643] Both Huser and Gugenbül were familiar with the

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[642] Cf. A.27.47, Statement Jaggli Gugenbül, 15.2.1598.

[643] Cf. A.27.76, Statement Conrad Huser, 22.2.1636 and 3.3.1636; Cf. A.27.98, Statement Bernhart Öri, X.1.1661.

scriptures. Each could quote chapter and verse that were fitting for the situation. Huser did not see himself as a divinity, however. He was content with the idea of being one of God's judges in the near future.

Jacob Jörg had depressed rather than omnipotent fantasies. In 1661, he threatened to blow himself up, complaining he had been abandoned by God and left to the power of the devil.[644] Hans Schmidt from Illnau appears to have had similar feelings about life. The minister Johann Oschwaldt reported in 1682 that there were many signs that the God of justice had ceased to care for him. Five years earlier, Schmidt had alleged that he was waiting to be fetched by the devil. If he had to wait much longer, he would hang himself. Moreover, the previous winter Schmidt had spoken blasphemously of God's gifts, particularly of some bread that was baked too dark. It looked as if it had fallen from the devil's wheelbarrow, he said. Schmidt's condition had deteriorated so much over the years that he even blasphemed in the presence of the clergy. But the minister failed to understand Schmidt's experience of his life being gradually taken over by Satan and God's protective hand being withdrawn. In retrospect, he assessed Schmidt as 'a bad boy from his youth' (*ein böser Bub von jugendt auf*), implying that it was no surprise to find his 'melancholy' (*Melancholie*) and his moral reprehensibility taking him down blasphemous paths.[645] Oschwaldt saw Schmidt as a lost soul who had wandered around for some years disturbing the peace. He had no understanding of Schmidt's subjective existential experience of being at the mercy of the devil. The daughter of Heinrich Halbherr showed greater psychological sensitivity when she explained her father's 'melancholy', which had robbed him of all hope, with a stroke of fate.[646] This explanation played no further part in the court case, however. The pathologisation of blasphemers, which occurs throughout the Early Modern era and cannot be dated only to the eighteenth century, did not involve a psychological approach.[647]

Summary Like theological papers, sermons, catechisms or works of art, blasphemies provide an approach to the ideas of God in a society. The images vary according to the source genre consulted. Sources from the

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[644] Cf. ibid., Statement Jacob Jörg, *c.* 16.1.1661.

[645] A.27.112, Report Minister Johann Oschwaldt, 30.5.1682.

[646] Cf. A.27.131, Statement Magdalena Halbherr, 2.10.1717.

[647] So the Zurich cases contradict Dülmen's thesis that it was the watershed of the Enlightenment that resulted in blasphemy being interpreted increasingly in the eighteenth century as an expression of mental disturbance. Cf. Dülmen, 'Wider die Ehre Gottes', p. 36.

normative field narrow the focus to theologically and legally shaped forms of expression, excluding the God of everyday belief or unbelief.

The early modern God of Zwinglianism is a God of wrath who can take vengeance at any time. This punishing God is constantly evoked in morals mandates, in theological writings, or in church declarations. This God is evoked by historians when they speak of the disciplining effect of Reformed faith on the people. They tend to overlook the fact that the strict judge could also be a merciful father. The argument of retribution assumed disciplining effects, but these explicitly included the opportunity of reconciliation with God.

Blasphemies in Zurich reveal little concerning the ideas of God in their time. God is remarkably anthropomorphic throughout the Early Modern era. Up to the end of the seventeenth century, reference is made to the bodily functions of a human-like God of male gender. Doubts about the dual nature of Christ were restricted to a few blasphemers with theological interests. The Holy Spirit does not figure at all.

Around the mid-seventeenth century, a further trend is apparent that comes to the fore in the eighteenth century. God becomes an ordinary fellow human being whose honour is constantly at stake, like that of a respectable citizen. This God, viewed somewhat disrespectfully, is not the God of devout believers. But the fact that blasphemers give God such human attributes assumes that good Christians too were aware of the anthropomorphisation of God, i.e. they knew the rules of the 'language game' (after L. Wittgenstein). The blasphemous speech actions must connect with thought patterns of the time, or they would be meaningless. If blasphemous utterances provide the negative image of ideas of God, it is clear that, for early modern Christians, God is concrete and true-to-life. This deviates sharply from the abstract Lord encountered in theological concepts and the norms set by the authorities.

Changes in images of God in early modern Zurich can be baffling. In the Late Middle Ages, the corporal oaths referring to parts of God's body fall into disuse, but up to the seventeenth century other blasphemies draw attention to God's bodily functions. We have no explanation for this contradiction. Around the end of the seventeenth century, blasphemers increasingly lose their respect for God, treating him as an ordinary person. But as we saw in the previous chapter, blasphemers now refrain from presenting God as a figure of ridicule. On the one hand, God is made concrete as a 'bourgeois' citizen and thus degraded; on the other hand, God is not exposed to ridicule and thus tends to be sacralised. We can establish these conflicting developments, but as yet we cannot explain them.

Research has not found it easy to think beyond the idea of the wrathful God of Reformed Christianity. This God is undeniable and ubiquitous in the normative sources. But besides this retributive God who participates

in the disciplining of the subjects, there are other ideas of God that did not serve disciplinary purposes. Exploring the effects of images of God on the behaviour of early modern peoples would necessarily involve gaining greater knowledge of diverse, juxtaposed, sometimes contradictory images. The court records of Zurich keep our interest within narrow bounds, however.

Using the delusions of mentally disturbed blasphemers to draw conclusions on religion in their time is a risky business. We can make some general observations, however, without attempting retrospective psychiatric diagnoses. It is striking that none of the mentally confused blasphemers went so far as to usurp God's place. The one who went furthest in his fantasies of omnipotence saw himself next to God, but did not cast him from his throne. On the other side of the divide, no one claimed to be a powerful adversary of God such as Satan in person. Blasphemers who developed fantasies of omnipotence saw themselves as God's right hand, saving or judging humanity on God's behalf. They did not appeal to any other power. This suggests that, in the Early Modern era, God's position as a patriarchal monarch was – apart from the rebels against God – quite undisputed. Even people who had lost control over themselves but continued to draw on their thorough knowledge of the Bible did not rethink or unthink God. Nonetheless, the basic belief that God ruled the world was accompanied and contradicted by the idea that Satan was up to mischief at all times and in all places. Tellingly, those blasphemers who tended towards depression did not refer to strange beings maltreating them, but to the devil controlling them and God abandoning them. The arguments used here are similar to those of mentally healthy blasphemers. Evidently, both the psychologically disturbed and the 'normal' blasphemers had only a limited repertoire for putting their experience of existential crises into words. None of them took flight into a world out of touch with reality, but into one that was filled with their own individual invented fantasies. The religion of their time shaped them so strongly that it left no space for alternatives to the Christian interpretation of the world.

Blasphemy in Zurich: Historical Change and Confessional Comparison

1.   Blasphemy in Zurich: Historical Change

Given that the thread of blasphemy runs through legislation from the Late Middle Ages to the end of the Ancien Régime, the question of continuities and breaks in the development of the offence arises. Two perspectives must be distinguished here. Examining the phases in which the offence was prosecuted does not indicate its extent, but reveals how sensitive society and judiciary were to blasphemous incidents. Then there is the examination of the blasphemous speech actions themselves. The question of how these changed over time in form and content – in general and according to their *species* – has only been touched on so far. The same is true of the question of criteria by which blasphemy was categorised, and the relation between verbal practice and the theological approach to blasphemy. This section will systematise what has simply been noted so far concerning the historical dynamics of blasphemy in its ordinary and extraordinary manifestations. Further examples will also be introduced.

A characteristic feature of historical change concerning blasphemy is the extent of prosecution. Quantitatively, the prosecution of blasphemy can only be determined from the combination of absolute prosecution rates with the development of population figures. Whereas in the Berne region the periods 1600–1615, 1640–70/90 and 1715–35 emerge as phases of heightened religious delinquency, in Zurich we find three distinctive but different phases of prosecution for blasphemy.[1] The cases of blasphemy rise slightly in the Reformation era. Judicial activity is concentrated in the years 1560 to 1610 and 1650 to 1690, followed by a sharp drop as in Berne. These two main phases cannot be explained by a parallel increase in population. If the rise in population and the number of court cases of blasphemy were correlated, we would expect a steady rise in prosecution rates, and not a return in the eighteenth century to the rates

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[1]   Cf. Schmidt, *Dorf*, p. 146.

of the Reformation era. Other factors must be in play here. A hypothesis that suggests itself is that deviant behaviour is less tolerated and more readily prosecuted in times of crisis when social stress is apparent. The Reformation offers such a critical time of change. In Zurich, there is evidence both supporting and contradicting this crisis theory.

The first marked move towards the prosecution of blasphemers in Zurich occurred in the years 1526 to 1536, but it was 30 years before the judiciary took vigorous action. Evidently, the Reformation had merely sounded the starting pistol for the punishment of blasphemers. The sound soon faded, even though the necessary courts and mandates were in place. Similar 'early stages' difficulties occurred in Berne.[2] This suggests that it was not institutional problems with the moral code that held things back. Rather, it actually took a whole generation for the normative ideas of the authorities to reach the population.

The big wave of prosecutions between 1560 and 1610 falls in a troubled time. Between 1529 and 1585 the population almost doubled, and land prices rose at least fivefold while wages remained almost static. The shortage of resources was palpable. Climate change around 1570 brought distress for the last 30 years of the sixteenth century, with famine in 1571, failed harvests for the people of Zurich in 1585–89 and 1594–97, and a sharp rise in poverty in the 1570s and 1580s.[3] All this seems to offer good reason for connecting the rise in judicial activity with the crisis factors of the time.

There are strong arguments against this thesis, however. The agricultural crisis continued throughout the seventeenth century, ending only in the 1730s.[4] In this period, with continuing tensions in agriculture, there is a renewed rise and fall in the prosecution of blasphemers. We must keep in mind that the Zurich area – both locally and regionally – was affected to very different degrees by the crisis.[5] Yet there is no evidence of blasphemous 'agglomeration' in the most badly hit areas. The three waves of plague between 1610 and 1636 will certainly have contributed to the 'atmosphere of disaster' said to have prevailed at the beginning of the seventeenth century, at a time of wars in Europe and extraordinary weather events.[6] Yet at that time blasphemers were prosecuted less often. The argument based on the crisis in agriculture may also be countered by pointing to

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[2]   The same delayed effect is noted by Schmidt, who points out that the first phase of prosecution in Berne between 1600 and 1615 follows the relevant mandates of 1587. Cf. ibid., p. 147.

[3]   Cf. Irniger, 'Landwirtschaft', p. 86; Stucki, '16. Jahrhundert', pp. 226–7.

[4]   Cf. Irniger, 'Landwirtschaft', pp. 84–8.

[5]   Cf. ibid., p. 87.

[6]   Cf. Sigg, '17. Jahrhundert', pp. 284–5.

the protoindustrial upturn at the end of the sixteenth- and start of the seventeenth century. True, the one cannot be reckoned against the other, but their simultaneity reminds us that it is not admissible to associate crisis situations directly with increased intolerance of norm transgressions.

A similar statement can be made concerning the second marked phase of prosecution between 1650 and 1690. The crisis theory hypothesis is supported by the Great Peasants' War in Switzerland in 1653,[7] the fourth wave of plague in 1667, the depression in the textile trade, and stagnation in trade and industry in the 1680s, as well as the poor climate at the end of the 1680s and 1690s.[8] But here, too, there are significant counter-arguments.[9] The considerable local and regional differences are not reflected in the prosecution figures. The famine year 1692, the Little Ice Age that lasted until 1701, and the Second Villmergen War of 1712 did not give rise to increased activity against blasphemers. Conversely, the textile production that dominated industry in Zurich saw an upturn around 1700 that did not result in a lowering of social stress levels or a smaller number of prosecutions for blasphemy.

Neat as the crisis theories explaining the early modern prosecution of marginal groups in society may be, they are not convincing.[10] This finding is in agreement with the sceptical position of recent research into witches *vis-à-vis* the familiar crisis models.[11] The additional observation that – in Zurich, at least – waves of witch-hunts do not coincide with the prosecution of blasphemers only adds to our scepticism.[12] It also raises a problem of interpretation: why are there phases of increased intolerance towards witches and sorcerers, but not against blasphemers at the same time? The current crisis theories cannot answer this question because they

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[7] This connection is made by Heinrich Richard Schmidt: *Dorf*, p. 148.

[8] Cf. Lendenmann, 'Wirtschaftliche Entwicklung', pp. 147–8; Sigg, '17. Jahrhundert', pp. 284, 289. Relating to the meteorological and demographic data in Switzerland, see also Christian Pfister, *Bevölkerung, Klima und Agrarmodernisierung 1525–1860: Das Klima der Schweiz von 1525–1860 und seine Bedeutung in der Geschichte von Bevölkerung und Landwirtschaft*, 2 vols (Berne, 1984).

[9] Cf. Lendenmann, 'Wirtschaftliche Entwicklung', pp. 148–9; Sigg, '17. Jahrhundert', pp. 288, 318; Conrad Ulrich, 'Das 18. Jahrhundert', in Flüeler and Flüeler-Grauwiler (eds), *Die Geschichte des Kantons Zürich*, vol. 2, pp. 364–505 – here, p. 373.

[10] Doubts concerning the widespread crisis theories are also expressed by Schwerhoff, *Gott und die Welt*, pp. 270, 292.

[11] Cf. on the question of the end of the witch-hunts, Sönke Lorenz and Dieter Bauer (eds), *Das Ende der Hexenverfolgung* (Stuttgart, 1995).

[12] In Zurich, 79 persons were charged with witchcraft between 1571 and 1598; 43 persons from 1600 to 1630; 27 persons from 1631 to 1660; and 16 persons from 1661 to 1700; cf. Paul Schweizer, 'Der Hexenprozess und seine Anwendung in Zürich', *Zürcher Taschenbuch*, 25 (1902), pp. 1–63; here, p. 43. The number dropped sharply and continuously after 1600.

fail to take into consideration the various effects that crises may have. The crisis models assume a simple, often monocausal interdependence of crisis event, social stress and repression. Research still has not developed satisfactory models for explaining witch-hunts and how they came to an end. Those studying early modern blasphemers and their 'disappearance' from the courts in the eighteenth century face similar difficulties.[13]

It would be a boon to discover connections between quantitative developments and qualitative changes in blasphemy, but there are no such connections. We substantiate this by first summarising the relevant findings of the previous chapters. Blasphemy in its three forms (cursing, swearing, and abusing God) is characterised by several continuities. Throughout the Early Modern era, blasphemy is a broadband offence and a broadband phenomenon. The offence covers a wide spectrum of norm transgressions and is committed in all sections of society. A certain shift is apparent, however, at least from the perspective of the judiciary. Blasphemers tend less frequently to be social provocateurs and are more often seekers after God who articulate their religious questions. They are joined by those who rebel openly against God. The religious knowledge shown by blasphemers tends to remain constant. As far as we can tell from the judicial records, the level of Christianisation among blasphemers does not vary. This precludes an interpretation of blasphemous talk as a reaction to growing attempts at acculturation on the part of the authorities. It is striking that not one of the blasphemers dared to ridicule God himself. They may have ranted and railed at the religious foundations of their society, and their taboo-breaking may have declined in judicial significance in the eighteenth century, but God was still in his heaven. Even at the end of the Ancien Régime, God's existence was not seriously doubted; not for some time to come could he be declared dead.

The lines of continuity make cursing, swearing, and abusing God seem an almost constant and static phenomenon of the Early Modern era. A closer look, however, reveals that there are dynamic moves in the development of blasphemy that should not be underestimated. From the end of the seventeenth century, *Nachgänger* ceased to expect witnesses to react to blasphemy with abhorrence. Another change occurred in the area

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[13]   Cabantous argues that the number of cases of blasphemy before the courts decreased because as the French monarchy was consolidated in the course of the seventeenth century, blasphemers were no longer seen as a serious threat ('Histoire du blasphème', p. 151). This is not convincing, however, since the numbers also fell in Zurich, where the political structures remained largely unchanged. Prosecution rates there cannot be explained by political changes. Although it is conceivable that at the beginning of the eighteenth century, a 'second crisis of the European consciousness' occurred on the basis of emergent intellectual objections to faith (cf. Minois, *Athéisme*, pp. 181–282), there is no evidence whatsoever in the Zurich records of such a crisis experience among the population.

of denunciation, with the number of cases in which witnesses reported blasphemers for personal reasons increasing from the second third of the seventeenth century. From around 1675, the evidence of informal regulation of blasphemous speech actions decreases. At the same time, humour in religious matters makes its exit. Blasphemous jokes, riddles or daring banter no longer occur in the judicial records. Were religious matters gradually becoming profane affairs that caused little offence but could be used to personal advantage? Was religion increasingly becoming a private business no longer requiring out-of-court settlements and removing God further into the sacred sphere? This may be so, but not necessarily.

The historical dynamics of blasphemy can be differentiated according to *species*. Throughout the Early Modern era, the curse that usually accompanied swearing followed the principle that speakers called down harm on themselves or others in the name of God or the devil. The curse was constant in form and content. Swearing was quite different. There were trends and fashions.

Corporal oaths in which blasphemers swore by God's body parts, secretions or excrements were widespread in Zurich and elsewhere[14] in the fourteenth and fifteenth centuries.[15] This form of swearing died out towards the end of the fifteenth century. The role played in this by Corpus Christi piety is difficult to gauge.[16] In the Late Middle Ages, saints and the Virgin Mary were also invoked in swearing.[17] Whereas the swearing mandates up to the early sixteenth century banned the wrong invocation of saints, the Virgin and God himself, after the Reformation the saints and the Virgin Mary disappeared from the legal provisions. The consequence of this 'loss of legal status' was that there were no further court cases with charges relating to these heavenly figures. It would be quite wrong to conclude from this development that the Reformation had caused the people of Zurich to change their talking habits. The disappearance of swearing by Mary and the saints from the judicial records simply shows that such swearing was no longer an offence under the law and no longer occupied the courts.

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[14] Cf. Gerd Schwerhoff, 'Blasphemare, dehosnestare et maledicere: Über die Verletzung der göttlichen Ehre im Spätmittelater', in Schreiner and id. (eds), *Verletzte Ehre*, pp. 252–78; here, pp. 271–2.

[15] Cf. for the fourteenth century the list in Burghartz, *Leib*, p. 267, n. 63. For the fifteenth century, cf. e.g., B.VI.221, fol. 306v, Entry Armbruster, X.X.1459.

[16] A detailed discussion (in particular of the 'discursive formation') of the corporal oaths and Corpus Christi piety can be found in Schwerhoff, countering Leo Steinberg and Caroline Bynum's theses on the understanding of late mediaeval sexuality in the context of religion: cf. *Gott und die Welt*, pp. 293–306, 310–15.

[17] Cf. Burghartz, *Leib*, p. 267, n. 63; B.VI.218, fol. 352, Entry Uelrich Ritter, 6.1.1452.

From the end of the Middle Ages to the second third of the sixteenth century, the courts dealt mostly with swearing by the passion and by the elements. The people of Zurich enjoyed stringing passion oaths together. According to Hanno Trayer in 1489, during a brawl Hans Bintzli had sworn by God's cross, God's passion, God's power, God's might. He had admonished Bintzli to stop swearing, Trayer stated, but then Heini Rot had intervened with, 'May God's blood shame you, why should a good journeyman be punished by drowning'.[18] Comparable words were heard in the mid-sixteenth century, for instance among journeymen in typical tavern settings. Johann Bentzli stated that Lyen Küch had sworn by God's wounds and God's passion.[19] The court records are full of similar cases, indicating – particularly as swearing by the elements rarely occurs in isolation – how popular it was to invoke the crucified Christ. It may well be that such speech habits reflect the passion piety of the sixteenth century and the special place of crucifixion theology in Protestantism, but this cannot be proved.

In Zurich, swearing by the passion and by the elements was frequently combined. In 1541, for example, Marx Glattfelder was found guilty of insulting God by swearing heavily by God's creation and passion.[20] Anna Fryg from Aarau, who was taken into the *Spital* in Zurich, was accused of cursing and swearing by God's creation and suffering as well as by the elements and sacraments.[21] In the case of Jagli Liechti in the mid-sixteenth century, the witnesses were in agreement that he had sworn and cursed against his brother with similar expressions, blaspheming by God's baptism, God's weakness, God's cross.[22] We have large numbers of such examples, all combining the reference to Christ's passion with the 'elements' of divine creation such as earth, air and sky.

Jagli Liechti also swore by the sacraments, marking the transition to the next fashion in swearing. This new trend is apparent in the example of Anna Wieland in 1579, indicative of the changes between 1575 and 1675. The witnesses stated that she had sworn at her husband, blaspheming by God's cross and passion and baptism, by the elements and sacraments,

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[18] 'Das dich gots blut schennt, worumb solt man denn ein guoten gsellen [zur Strafe] ertrencken' – A.27.2, Statement Hanno Trayer, X.X.1489[?].

[19] Cf. A.27.1, Statement Johann Bentzli, *c*. 1540.

[20] Cf. B.VI.256, fol. 30, Sentence Marx Glattfelder, Monday after Ascension Day 1541.

[21] Cf. B.VI.258, fol. 162r, Sentence Anna Fryg, 4.8.1557.

[22] Cf. A.27.10, Statement Jörg Knechtli, Rudolf Knechtli, Rudolf Wyß, Rudolf Geissmann, Heinrich Nötzli, Jacob Grossmann, *c*. 1545.

and multiplying the oaths.[23] The passion was increasingly replaced by references to the sacraments. Combinations of swearing by the sacraments and the elements now dominated, neither of these occurring in isolation. A 'verbal inflation' was also under way – in Zurich as in the Palatinate [24]– with sacrament swearing by the hundred or thousand. The journeyman Rudolf Keller, for instance, had already uttered dreadful multiple oaths by the cross and sacraments when he was called on to leave his opponent Friedrich Leibacher alone. Keller, however, persisted in hundred- and thousandfold swearing.[25] He was far exceeded in 1628 by the cutler Jacob Studer, who was said to have cursed his wife in the guild house by thousands of elements and sacraments, threatening to kill her.[26]

Swearing changed again after the second third of the seventeenth century. The trend towards combining swearing by the sacraments and the elements remained influential. Ulrich Schäpi from Horgen confronted the *Nachgänger* in 1697, swearing by the sacraments and claiming he did not fear God.[27] Johannes Lienhard from Waltenstein in Hungary confessed in 1708 that he had claimed to have a devil's sacrament.[28] These older forms of swearing continued to be used into the eighteenth century. The next trend was towards swearing by bad weather – though this was by no means new. Back in 1456, the council had had to deal with the question whether Uelmann Grebel had spoken the words, 'So let it hail. My wine will be even better.'[29] But it was only in the late seventeenth century that such bad weather swearing came into its own. Hans Jagli Stüdli from Wil was accused of being angry with his neighbours and swearing more than twenty times that thunder and hail should come and destroy the countryside.[30] In 1682, the vintner Heinrich Müller from Flurlingen defended himself that he did not remember cursing by hail and thunder, but would not deny it.[31] Lins Freimüller from Andelfingen had alarmed his fellow citizens the previous autumn – according to the charge by the bailiff in 1690 – by calling for thunder and hail to destroy all the grapes and vines

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[23] Cf. A.27.35, Statement Hanns Ludwig Brenwald, Jacob Asfar, Magdalen Wäber, Anna Rottenschwyler, 11.7.1579.

[24] Cf. Vogler, 'Entstehung', pp. 177–8.

[25] Cf. A.27.39, Statement Möritz, X.X.1586.

[26] Cf. A.27.68, Statement Arbentz, 25.1.1628.

[27] Cf. A.27.120, Statement Ulrich Schäpi, 18.6.1697.

[28] Cf. A.27.126, Statement Johannes Lienhard, 5.6.1708.

[29] 'Lass nun haglen. So gilt min win dester mer' – B.VI.220, fol. 76, Entry Uelman Grebel, X.X.1456.

[30] Cf. A.27.108, Statement Heinrich Stockhar, X.6.1677.

[31] Cf. A.27.122, Statement Heinrich Müller, 13.2.1682.

so that no wine could be made.[32] Did such bad weather swearing gain in effect and currency as a result of the negative weather events of the 1680s and 1690s? We may well make this assumption.

In the period after 1675, swearing changed remarkably, shifting at the illocutionary and propositional level more and more towards insult. As early as 1569, Caspar Keller from Glattfelden was found guilty of shouting coarse words and swearing by Christ's passion, the elements and sacraments.[33] Such cases are relatively rare before 1670, however, when swearing and insulting were increasingly blended. In 1667, bailiwick clerk Johan Kramer was accused of repeatedly insulting Friedrich Huber, swearing by thunder and lightning and calling his opponent a dog or a heretic.[34] Kramer combined older insulting terms with curses and oaths (thunder, lightning), adding insult to injury by means of prefixes ('lightning heretic').

The semantic blending of secular insult and blasphemy is apparent in Anna Froschau's confession in 1709. She admitted having knowingly uttered terrible blasphemies by thunder and sodomy.[35] Was blasphemous talk, still stigmatised as verbal sin from the normative perspective, losing its religiously provocative character and becoming a mere profane insult? If so, was this a sign of a process of secularisation in which religion was gradually – and comparatively – consigned to the background? This interpretation is by no means imperative. The sources allow us only to make plausible assumptions.

A small number of oaths that were regarded as grave offences provide further telling detail concerning the changes in blasphemous expressions. In an interrogation of the 1520s, Ignatig Schwerer stated that he had been out and about in bad winter weather with Antonius from Hall. If he should fall, he had said, he would swear like no one ever had before. When he did fall, he swore by God and by Joseph the gruelmaker.[36] These words were not unique, however. Around the same time, Hans Wingartner used a similar expression.[37] This points not so much to the originality of the two offenders as to the popularity of the late mediaeval motif of Joseph the 'father' of Jesus making gruel and washing nappies.[38] The example reveals

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[32] Cf. A.27.116, Report Bailiff Hans Caspar Escher, 16.10.1690.

[33] Cf. B.VI.260, fol. 16, Sentence Caspar Keller, 12.3.1569.

[34] Cf. A.27.101, Statement Großkeller Meier, 11.9.1667.

[35] Cf. A.27.164, Statement Anna Maria Froschauer, 19.6.1709.

[36] Cf. A.27.6, Statement Ignatig Schwerer, 152X.

[37] Cf. B.VI.248, fol. 30r, Sentence Hans Wingartner, Tuesday before St Ulrich's Day.

[38] Cf. the explanations in Bünzli and Illi, *Hirsebrei*, p. 42. (The reference to *Rats- und Richtebuch* 238 is incorrect, probably as the result of a typing error.)

how closely blasphemy was associated with piety. As with Corpus Christi devotions, blasphemy is transparent for elements of popular piety.

Another exceptional case was that of Ulrich Ochsenhuser from Thurgau, who was sentenced in 1572 for swearing by 'four pairs of Lord God' (*vier paar Herrgott*).[39] Without lingering here to interpret this expression, we note that the words were neither uncommon nor a local speciality. Lucerne was familiar with them too, where Franntz Hans appeared before the council in 1544 for his toast 'to the four pairs of Lord God'.[40]

The scene in which Caspar Fatli aroused attention around the mid-sixteenth century was an everyday one of familial dispute. The usual passion oaths were spoken. Yet the occasion was unforgettable for Bernhart Sprüngli because Fatli had, as he experienced it, sworn exceptionally in a way he had never heard before. Fatli had insulted his own son as a parson and shouted at him, 'May God's mercy shame you as a useless parson and devil, the devil come here and kill me so that by God's mercy I can have life after death.'[41] Cursing by God's mercy meant verbally reversing the balance of power on which curses and swearing were based. Instead of threatening with the passion of Christ, reckoning one suffering against another, Fatli appealed to God's mercy, repaying leniency with harm and hell.

In the seventeenth and eighteenth centuries, the judiciary lost interest in extraordinary blasphemies. There is only one case worth mentioning: in 1634, the butcher Andreas Ryffel had to confess in a recantation before the church congregation that he had insulted his godfather by saying he would rather have had a stupid dog at his baptism than his godfather. He admitted having despised God and God's sacraments and committed grave sin.[42] Nothing comparable appears in the judicial records in Zurich. Ryffel's extraordinary blasphemy forcefully anticipates the combinations of swearing by the sacrament and personal insult that became popular some forty years later. Such original examples of swearing are rare indeed, proving that cursing and swearing was a habitualised speech action.

As far as we can judge, blasphemous speech actions overlap conspicuously with contemporaneous literary and iconographic presentations of blasphemy. The blasphemous expressions denounced in late mediaeval and early modern theological devotional writings are exactly those that

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[39] B.VI.260, fol. 151v, Sentence Ulrich Ochsenhuser, 25.8.1572.

[40] RP 16, fol. 256v, Sentence Hans Franntz, 1544.

[41] 'Das Dich Gots barmhertzigkeit schände als nüdtsöllenden pfaffen und Tüfel, tüfel kom, nim mich bim hals, […] darmit ich deß Barmherzigen läbens abkome' – A.27.13, Statement Bernhart Sprüngli, undated (probably around 1550).

[42] Cf. A.27.72, Recantation Andreas Ryffel, 3.12.1634.

are found *en masse* in everyday life in Zurich.[43] Such warnings were not mere rhetoric, therefore, but responded to verbal practice.

This is different when it comes to the late mediaeval moral devotional writings and the pictorial material of the Early Modern era. Only one single motif from these sources recurs in the examples from Zurich, namely that of the decomposing swearing hand. As early as the thirteenth century, a story is found in Thomas von Chantimpré in which God makes lame the hand of a swearing cardplayer.[44] Sixteenth-century iconography took up this motif by blackening the hand of perjurers.[45] This motif of divine punishment occurs just once in the seventeenth- and once in the eighteenth century in the Zurich records. The seventeenth-century mention of a decomposing swearing hand is merely indirect, so that of the eighteenth century will be examined here more closely.[46] During one of the frequent religious controversies, the opponents progressed from politics to confessional divisions and thence to a heated debate accompanied by ordinary swearing. The innkeeper attested that he had duly admonished the adversaries, but Galli the tailor had challenged him to a dispute. They were both to lay their fingers on the table, and the one whose belief was false would have a blackened finger. The conscientious innkeeper, fully aware that divine judgement was being provoked, stated that he had replied to the blasphemer, 'You are a lazy godless character and you're provoking God.'[47] The moral message could hardly have been better conveyed in literature or image. The case illustrates how the 'reality' of blasphemous incidents and their discourse in 'fiction' partially permeate each other. We can only speculate on the pattern of causality here, stating simply that the many other moral motifs of blasphemous literature do not occur in the court records of Zurich. The 'pastoral theological discourse' developed in the Late Middle Ages does not appear to have made a deep impression on verbal action in early modern Zurich.

Just as the form of blasphemous expressions changed, so did the criteria for assessing the gravity of blasphemy. Up to the first third of the sixteenth century, the courts tended in cases of cursing and swearing to try to establish the number of blasphemous expressions used. A typical example is that of the Dietikon shepherd Hans Stachen at the end of the fifteenth

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[43] Cf. (for the Late Middle Ages) Schwerhoff, 'Schranken', pp. 39–40; Schwerhoff, *Gott und die Welt*, pp. 51–7; (for the Early Modern period), Bogner, *Bezähmung der Zunge*, particularly pp. 91–2.

[44] Cf. Schwerhoff, *Gott und die Welt*, p. 119.

[45] Cf. Christin, 'Matériaux (deuxième partie)', pp. 77–85.

[46] Cf. A.27.66a, Statement Joseph Werdmüller, 13.5.1625.

[47] 'Du bist ein ein fauler Gotloßer verdächtiger gsell, daß ißt Got versucht' – E.I.10.5, Statement Innkeeper (name not given), 11.2.1708.

century, who stated that Heini Frey from Rieden had blasphemed by God's wounds two or three times.[48] As the level of fines was often calculated arithmetically, counting up the number of blasphemies was reasonable.[49] A list following a brawl in 1518 illustrates this graphically. Beside each name the oaths uttered by the offenders are given, together with the number of times they repeated them.[50] This was not just a matter of bureaucratic perfectionism but of accuracy in a serious matter, as we see from the fact that *Nachgänger* corrected the lists by deleting an oath.

The numbers game in cases of blasphemy gradually declined, as evidenced by the way fines were calculated and the statements made by witnesses. A few in the seventeenth century still refer to numbers of oaths, as in 1677 when Heinrich Stockhar alleged that Hans Stüdli swore 20 or 30 bad weather oaths. Stockhar will hardly have been counting; rather, he sought to emphasise that Stüdli had repeatedly blasphemed.[51] In 1684, the *Ehegaumer* Heinrich Däntzler made a more exact statement on the carpenter Heinrich Maag from Greifensee. Unlike other witnesses, he claimed as a conscientious official to remember that Maag had sworn three times by the sacrament.[52] It was unusual for the exact words of blasphemies to be recorded, as was the case with the serial adulterer Uli Brunner in 1567. The *Nachgänger* thought it necessary to list the 17 swearing variants of which they accused him.[53] Evidently, Brunner's blasphemous repertoire was too much for them. But in each of these three cases, the statements do not appear to have affected the sentence.[54] Brunner was executed, but probably his repeated adultery rather than his habitual swearing was his downfall.[55] It seems that the question of the number of oaths sworn had become a court ritual, symbolically underlining the gravity of the offence. In the eighteenth century, the reference to numbers dies out altogether.

Besides repetition, the question of whether God's name was invoked in an oath decided its gravity. Up to the second half of the sixteenth century, this was a significant criterion. Sometime in the 1520s, witnesses asked Ignatig Schwerer why he had chosen a conspicuous Joseph oath. His alleged

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[48] Cf. A.27.2, Statement Hans Stachen, 149X.

[49] This fines arithmetic was often ineffective, however, especially from the sixteenth century on. The reason is unclear.

[50] Cf. A.27.3, Case of Immer, Schleipffer, Scherer, Wold and Stubenknecht, X.9.1518.

[51] Cf. A.27.108, Statement Heinrich Stockzhar, X.6.1677.

[52] Cf. A.27.113, Statement Heinrich Däntzler, 2.6.1684.

[53] Cf. A.27.26, Case of Uli Brunner, List of Charges, X.5.1567.

[54] The punishments are well within the normal bounds. Cf. B.II.577, fol. 155, Sentence Hans Stüdli, 7.6.1677; B.II.605, fol. 147, Sentence Heinrich Maag, 12.6.1684.

[55] Cf. A.27.26 (dorsal note, 5.5.1667), Case of Uli Brunner, List of Charges, X.5.1567.

answer is telling: 'That wasn't such a bad oath, because Joseph didn't suffer like Christ.'[56] In other words, his defence was that it was less reprehensible to swear by Joseph than by Christ. This is why it was important to know whether God was addressed directly or indirectly on the locutionary level, i.e. whether Schwerer had uttered a 'gotz' or a distorted 'getz'.[57]

The differentiation of 'minor' and 'major' cases of swearing by God was frequent in the first half of the sixteenth century. During this period, Hans Sigrit stated of Mathys Schmid that he had sworn the usual passion oaths and also uttered God's name.[58] Bernhart Sprüngli made a similar distinction when he stated that Fatli's oath by Joseph had taken him so much by surprise that he could not remember whether he had mentioned God in his other oaths.[59] On the other hand, Hans Meyer from Brütten stated in 1567 that, in a quarrel, Catharina Werki had used six particular oaths, naming God each time.[60] These cases indicate that, in the first half of the sixteenth century, the courts asked witnesses for precise facts but then ceased to make this requirement. The need to gauge the gravity of the offence by whether God was invoked in it declined. The sentencing practice shows that this standard fulfilled a mainly symbolic function, since it cannot be proved that the level of sentencing depended consistently on whether God's name had been used.

In cases of abuse of God, the council turned to theological experts for assistance in gauging the gravity of the offence. Nearly all the reports submitted to the council date from the second half of the seventeenth century. Their authors retain the criteria of their mediaeval predecessors. This meant open contradiction of the theology of Zwingli or Bullinger, who had broken radically with the mediaeval concept of blasphemy. In formal terms at least, nothing changed theologically in the categorisation of blasphemers.

The interest of the court in how often an oath was repeated and whether it contained the name of God waned perceptibly from the second third of the seventeenth century. In cases of cursing and swearing, previous differentiations of mainly symbolic character lessened. The categorisation of offences was levelled. When it came to abuse of God, however, despite the theological upheaval of the Reformation, the experts advising the council kept to the mediaeval criteria for the assessment of blasphemy. This may be a pointer to the loss of significance or banalisation of ordinary

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[56] 'Es wer nit so Ein bösenn schwuor, dann Joseph hette doch nit so vil marter gelittenn' – A.27.6, Statement Ignatig Schwerer, 152X.

[57] Cf. A.27.14, Statement Herman Göldli, X.X.1545.

[58] Cf. A.27.13, Statement Hans Sigrit, undated.

[59] Cf. ibid., Statement Bernhart Sprüngli, undated.

[60] Cf. A.27.26, Statement Hans Meyer von Brütten, X.12.1567.

curses and oaths. It was evidently no longer worthwhile for the authorities to distinguish these blasphemies according to their gravity. There was no development of a new criterion catalogue for the assessment of blasphemy based on the Reformed doctrines. Were the old criteria still thought to be adequate, or did the experts not think it worthwhile to elaborate new criteria? The sources give us no answer on this.

The early modern blasphemy that expresses itself in abuse of God already has its hour as a *species* in the seventeenth- and not only in the eighteenth century.[61] Of course there are earlier instances, with radical blasphemers such as Natrer in the Late Middle Ages and his successors after 1675 who caused offence as 'atheists'.[62] By contrast with these latter, the utterances of those who abused God in the sixteenth- and the first two-thirds of the seventeenth century were quite 'moderate'. We shall now systematically summarise what distinguishes the period before and after 1675.

Before 1675, unacceptable statements about God focused on three areas. There were the dogmatic questions that had always stirred hearts and minds. Then there were confessional polemics giving rise to blasphemy. And third, there were blasphemies coloured by the Reformation. The dogmatic issues were – in continuity with the ancient and mediaeval church – the resurrection, Christology, the Trinity and the forgiveness of sins. These questions also offered ideal material for confessional polemics. The doctrines of Mary's virginity and the forgiveness of sins were presented differently according to confession. A fresh polemical ingredient was provided by malicious comments on the Protestant or Catholic translations of the Bible. The upheaval of the Reformation had its influence on blasphemers, whose questions and complaints were directed at central points of Reformed doctrine: interpretation of the Bible, Holy Communion, predestination and prayer.

These markedly theological features of radical blasphemy fade after 1675. Only the problem of divine omnipotence still arouses some theological interest. Otherwise, the field is dominated by 'atheists', notable among their contemporaries not for particular religious convictions but for their generally reprehensible way of life. In the time after 1675, abuse of God is characterised by the motif of 'atheism' and that of 'psychiatric pathologisation'. The 'discovery' of melancholy led to the idea that

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[61]   In fact, Minois refers to the eighteenth century as 'the century of unbelief': *Athéisme*, pp. 285–408.

[62]   Natrer was found guilty in 1442 of uttering blasphemies that may be summarily paraphrased as follows (cf. B.VI.214, fol. 215v, Sentence Natrer, X.X.1442): 'I care nothing for God, who in any case does not heed me. I can help myself with the work of my own hands. If God were on earth in person I would challenge him.'

blasphemers might be suffering from a mental illness. Taking these two developments together, it becomes apparent that blasphemy is perceived in an increasingly less differentiated way. It becomes a mental affliction or an attitude to life. The doctrinal elements of blasphemous utterances lost significance, and God was gradually consigned to the background. To this extent we can speak of a profaning of the abuse of God, but we cannot draw a straight line from the believing magical world of the Late Middle Ages to the unbelieving rational world of the Enlightenment.

Summary   Blasphemy was present in the courts of Reformed Zurich and Berne throughout the Early Modern era. It seems almost to have been a constant phenomenon. But a closer look reveals this impression to be deceptive. Blasphemy proves to be a dynamic phenomenon, though without any spectacular shifts. Its development is not linear in one direction. Historical change in blasphemy is characterised by soft transitions and overlapping quantitative and qualitative changes.

The extent of prosecution of blasphemers offers a quantitative idea of the level of sensitivity with which Zurich society and the authorities reacted to blasphemy. The years immediately following the Reformation do not mark a watershed. In the years from 1525 to 1535, the number of cases of blasphemy recorded by the courts rose only slightly. A further generation passed before, in the years 1560 to 1610, blasphemers appeared more frequently before the courts. The second wave of prosecution occurred from around 1650 to 1690. Then the prosecutions steadily decreased, ceasing altogether around 1720.

In Berne as in Zurich, three phases of heightened court activity against blasphemers can be identified. To some extent, the phases are the same for each city. Neither in Berne nor in Zurich do prosecutions rise immediately at the time of the Reformation. Only a generation later do verbal sins cause offence more frequently. Evidently institutions and morals mandates could be changed more rapidly than awareness of religious norms. Moreover, a second, pan-European phenomenon is apparent. The drastic decrease in registered religious offences after 1720 points to the phenomenon of secularisation, though this cannot be interpreted here.

Other phases of prosecution of blasphemers in Berne and Zurich are divergent. Within the Zurich territory, the witch-hunt reaches its climax between 1570 and 1630. It follows its own rhythm, contrasting with that of blasphemy. These two observations, relating to secularisation and the witch-hunt, indicate how cautious we should be in equating crisis phenomena with increased social stress and ensuing intolerance towards deviant behaviour. Only in rare cases can blasphemous speech actions be interpreted as reactions to crisis phenomena. One can, for example, read the oaths against storms and the criticism of divine meteorological caprice,

occurring with some frequency during the second half of the seventeenth- and the beginning of the eighteenth century, as an echo of the Little Ice Age. In Zurich, there are further crisis factors that might support the crisis theories. The crisis models remain unconvincing, however. They fail to explain why the changes in the blasphemous *species* do not take place at the same time or move in the same direction. Similarly, the question of why quantitative and qualitative developments do not coincide remains unanswered.

Blasphemy in early modern Zurich is characterised by many constants. The offence is a broadband phenomenon encountered in all social groups throughout the period. Cursing and swearing in particular continue to be habitualised speech actions. Genuinely original utterances are extremely rare in the court records. Curses change little in form and content. Religious knowledge among blasphemers shows little fluctuation. Evidently, there is no correlation between blasphemy and the endeavours of the authorities in religious education. A further circumstance remains constant. God may be criticised here and there, but he remains the crucial point of reference for interpretation of real life. Even at the end of the Ancien Régime, there is no doubt in early modern Zurich society that God is alive.

Despite these constants, blasphemy is a dynamic phenomenon. There are fashions in swearing, for instance. Up to the end of the fifteenth century, swearing by God's body parts, excrements or secretions is popular. This is replaced by passion and element oaths (swearing by God's cross, suffering, wounds, or by earth, air, thunder and lightning etc.) up to about 1575. Over the next century, in Zurich as in France,[63] element and sacrament oaths (swearing by the sacraments in general or by a single sacrament, usually baptism) are dominant. A kind of 'verbal inflation' develops, with oaths being intensified a hundred- or thousandfold (swearing by the thousand sacraments, for example). After 1675, the oath is increasingly combined verbally with secular insults.

Changes in blasphemy as abuse of God appear less differentiated, but there is a marked turning point around 1675. The previously dominant theological engagement with the old and new doctrines gives way to unacceptable utterances about God being regarded as a problem of attitude or spiritual disposition.

The same period saw a change in the criteria by which the criminal gravity of blasphemy was determined. The question of how often a curse or oath was repeated, and whether God's name had been used, played hardly any part. The court no longer took an interest in these criteria, so that they lost their chiefly symbolic weight. Cursing and swearing were

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[63] Cf. Gabriel Audisio, *Les Français d'hier: Des croyants, XVe–XIXe siècle* (Paris, 1996).

hardly ever still differentiated according to gravity. In categorical terms, they were levelled.

The extent to which abuses of God were judged according to the standards of the time is an open question. There was contradiction between the Reformed theological concept of blasphemy and the categorising of blasphemous speech actions in synod reports. Zwingli and Bullinger had both radically rejected the mediaeval categorisation of blasphemy. However, theological experts dealing with actual cases took the mediaeval standards as their guide, taking no note of theological changes. We cannot say whether and at what point this changed. Most of the reports have come down to us from the second half of the seventeenth century, so that a long-term perspective is not possible.

A comparison with late mediaeval pastoral theology shows that the authors of that era did indeed listen to what people were saying. The speech habits they castigated were not a figment of their imagination, but actually present in verbal practice. The devotional stories they derived from their examples had little to do with verbal reality, however, and recur very rarely in court records in Zurich, with the exception of the motif of the decomposing swearing hand. Mediaeval pastoral theology had not had a lasting impact on speakers in Zurich.

Developments in the field of blasphemy give us a glimpse of the religiosity of the era. Elements of early modern piety come into view. Corporal oaths and swearing by Joseph point us to popular forms of devotion relating to Corpus Christi piety and the Joseph motif. Possibly, the preference for passion oaths can be attributed to the prominence of crucifixion theology in Protestantism.

Developments in blasphemy point to further changes in the field of religion. Many blasphemous traces bear witness to the seventeenth century being the great age of religious discussion among the laity, under the influence of confessional differentiation. These discussions take on a different character after 1675, however. The perlocutionary blasphemous nature of verbal sin declines. Oaths and curses are intensified a hundred- or thousandfold, and original expressions increase, as an attempt to compensate blasphemy's loss of significance. But it cannot be halted, as evidenced by the courts ceasing to differentiate the gravity of cursing and swearing.

Loss of significance was accompanied by the 'profanisation' of blasphemy. Semantically, the focus of blasphemous expressions shifted more and more towards secular insult. Denunciations were motivated increasingly by personal and secular interests. Religious norm transgressions were becoming a means of settling personal scores.

At the same time, religion experienced a sacral 'revaluation'. Blasphemy was used less as a social provocation, more as an expression of religious

quest or of rebellion. Religion was increasingly a private matter, a question of personal attitude to faith. This 'privatisation' of religion went hand in hand with a certain sacralisation of an already holy God. God and humour were no longer compatible. The ruler of the worlds was no longer seen as a chummy figure of ridicule. God moved into other, more distant spheres. From about 1675, religion increasingly became a matter of personal, sacrally enhanced beliefs. The sacred and the profane began to diverge, although we cannot speak of a linear development from an age of belief and magic to an age of unbelief and reason.

2. The Offence of Blasphemy in Confessional Comparison: A Perspective on Lucerne

Having followed the course of historical change in blasphemous speech actions in Reformed Zurich and related this to developments in Reformed Berne, we now draw a confessional comparison by turning our attention to Catholic Lucerne. Without going into detail, we summarise the findings based on evaluation of the *Ratsmanuale*, which have come down to us in full.

Apart from Schwerhoff's comparison of cities, there are no major empirical studies of the social practice of blasphemy that contrast the confessions. Our brief survey of Catholic Lucerne will therefore focus on the confession-specific features of dealing with blasphemy. It is received opinion that the morals regime of Protestantism was stricter than that of Catholicism. So were the blasphemers of Zurich taking a greater risk than those of Lucerne? Were blasphemies in Zurich different from blasphemies in Lucerne? A brief examination of laws, sanctions and verbal practice will provide answers.

The Lucerne sources are less numerous, suggesting that blasphemy was a slighter problem for the judiciary than in Zurich. This may also explain why statements by the defendants and witnesses are much less detailed than the material of the Zurich *Kundschaften und Nachgänge*. The prison registers merely list the charges, summarising the interrogation and the prisoners' response to the accusations. The *Ratsmanuale*, available to us for the whole of the Early Modern era, only list the verdicts and give no further detail.[64] Evidently, the Lucerne Council did not think it necessary to record blasphemies in detail in written form.

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[64] As in Zurich, the council manuals do not by any means record all the delinquents who appear before the courts. Many cases can be found in the prison registers (*Turmbücher*), which do not occur in the council protocols (cf. for example Cod. 4440, fol. 128v, Entry Jörg Clemens, Sunday after Pentecost 1566). For this reason, there is a certain distortion in the

The impression of a slighter interest in the problem of blasphemy on the part of the Lucerne Council is confirmed by the legislation. There are very few juridical initiatives compared with Zurich.[65] In the year 1497, the council decreed that those who swore and cursed were to be put in jougs or given a harsher punishment if necessary.[66] The next provision dates from 1561 and continues the late mediaeval swearing mandate. In it the council forbade insulting the honour of God, the Virgin Mary and all God's elect. Offenders were to be fined 10 pounds, and in more serious cases punishments were to be harsher.[67] After that, the offence of blasphemy occurred in the morals mandates together with the evils of dancing, heavy drinking, nocturnal disturbance of the peace, and failure to attend divine service. In order to appease God's wrath, moral offences had to be prosecuted, according to the regulation of 1619 that set a fine of 20 pounds for blasphemy.[68] The mandate of 1627 merely repeated the existing regulations regarding gambling, drinking, cursing and swearing.[69] Then the interest in blasphemy ceased. No new or supplementary laws were made.

This summary history of legislation in Lucerne regarding blasphemy is probably incomplete. The council records do not allow us to go further. But even if one or other regulation should be missing, we can gauge the extent of judicial interest in blasphemy. Unlike the Zurich Council, that of Lucerne did not constantly repeat, specify and differentiate the rules. Both councils were concerned for the moral behaviour and material extravagance of their subjects. Both used the theological argument of divine retribution. So it cannot be said that the authorities in Lucerne were generally more tolerant in moral matters. Rather, they did not give particular attention to blasphemy. As in Zurich, they retained the mediaeval swearing mandates without attempting to systematise or intensify the legislation relating to blasphemy. Quantitative samples from the council protocols reinforce this impression. Blasphemers in Lucerne were taken to court less often than in Zurich, as a comparison of blasphemers recorded in the *Ratsbücher* of the two cities with the estimated population of each indicates.[70]

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following discussion on the extent of prosecution of blasphemers, since in order to limit the workload only samples are taken and evaluated from the council manuals. The *Ratsbücher* from Lucerne are identified by their archive registration RP and the *Turmbücher* by Cod.

[65] Cf. the evidence in Repertorium 42/2ab for the years 1484–1708.

[66] Cf. RP 8.1, p. 87, Decision 4.9.1497.

[67] Cf. Cod. 1256/1, fol. 262r, Decision, 6.7.1561.

[68] Cf. Cod. 1256/3, fol. 258r, Decision, Sunday before St Simon's Day 1619.

[69] Cf. RP 61.3, fol. 217v, Decision, 27.12.1627.

[70] For precise quantitative data, see Francisca Loetz, *Mit Gott handeln: Von den Zürcher Gotteslästerern der Frühen Neuzeit zu einer Kulturgeschichte des Religiösen*

Three tendencies are apparent. Up to the beginning of the seventeenth century, the prosecution of blasphemers in relation to the total population is comparable in Zurich and Lucerne, with a rise in prosecutions at the end of the sixteenth century. Then the developments diverge. In the years 1640 to 1690, Reformed Zurich is far more active in prosecuting blasphemers than Catholic Lucerne. The figures then converge again in the early part of the eighteenth century. Blasphemy now becomes a less judicable offence in both places.

The confessional comparison confirms that the Reformation and Counter-Reformation did not bring marked change in the moral education of believers. Only after some delay do the rates of prosecution begin to rise in the last 20 years of the sixteenth century – in both places. Protestant Zurich does not show comparatively higher figures until the seventeenth century. While the prosecution of blasphemers in Zurich is in full swing, the *Ratsbücher* in Lucerne have hardly a single entry headed 'Blasphemy', despite the Counter-Reformation of 1665. We conclude that, in the Reformed area, it took a whole century after the Reformation for the confessional differences to have their full impact, while in the Catholic area the Counter-Reformation had no lasting consequences. The process of secularisation was apparent in both territories, without distinctive features specific to one confession or the other.

In both places, not only blasphemy itself but also toleration of blasphemy was an offence. The sentences indicate that, in the eyes of the authorities, the people both of Zurich and Lucerne were lax in reporting such cases.[71] There were also parallels in the secular and ecclesiastical punishment policies of Zurich and Lucerne, which imposed similar fines, loss-of-honour punishments and corporal punishment.

As in Zurich, the judiciary in Lucerne had a wide range of secular sanctions at its disposal. Fines started at 5 pounds and were graded to reach a maximum of 100 pounds.[72] As in Zurich, these were rates equivalent to those for verbal insult or adultery. Loss-of-honour punishments were identical in Zurich and Lucerne. Blasphemers were put in jougs and exposed to ridicule by their fellow citizens.[73] *Ehr- und Wehrlosigkeit* or

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(Göttingen, 2002), Ch. III.2.

[71]   Cf. as an example of adultery or a verbal insult, RP 41, fol. 205v, Sentence Anna Rützin, 1588.

[72]   For examples of fines of 5, 10, 20, 30 or 100 pounds, cf. e.g. RP 17, fols 47r–8v, Opf Hut, 1545; RP 7, p. 366, Sentence Hans Blatter, 1491; RP 16, fol. 256v, Sentence Hans Franntz, 1544; RP 38, Sentence Claus Schrüätter, 1582; RP 68, fol. 119r, Sentence Jacob Kohlhammer, 1644.

[73]   Cf. e.g., RP 71, fol. 517r, Sentence Cathrin Sigerist, 1655.

tavern bans were further forms of social stigmatising.[74] Banishment enabled the authorities to get rid of unwanted persons, particularly foreigners.[75] In both Zurich and Lucerne, the slashing or nailing of the tongue were thought to be appropriate corporal punishments for those guilty of verbal sin.[76] The final resort in both places was execution. But in Lucerne – again comparable to Zurich –, the two blasphemers found in the sample who were condemned to death were guilty of other grave crimes that resulted in capital punishment.[77]

The principles governing church punishments in Catholic Lucerne were not unlike those of Reformed Zurich. Reconciliation with God was central to both. Both required recantation during divine service,[78] various forms of admonition from the pulpit, and the ordaining of stigmatising places to be taken in the pews.[79] But there the similarities end. Church sanctions in Lucerne were specifically Catholic in character, including, for example, confession and procession, which were not considered by the Protestant authorities. The Lucerne Council instructed delinquents to confess to the local Jesuits or go in procession – including confession – to the Benedictine monastery at Einsiedeln.[80] It was also part of Catholic tradition, both in Lucerne and elsewhere,[81] that the offenders came barefoot to their church sanctions, carrying a lighted candle.[82] In Lucerne as in Zurich, church punishments sought to shame the delinquents. In Catholic understanding, absolution could only be given by the priest in the 'refuge' of the confessional. Only in a church proclaiming the priesthood of all believers was it meaningful, as in Reformed Zurich, for offenders to ask for forgiveness publicly before the congregation. Unsurprisingly, therefore, there is no mention of this at all in the Lucerne texts of recantation.

The secular sanctions imposed in Lucerne and Zurich are also instructive. Evidently, the Lucerne Council did not mete out very low fines of a few shillings or pounds, suggesting that it did not deal with the small, banal everyday curses and swearing. By contrast, the Zurich Council records contain many such everyday blasphemous expressions and how

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[74] Cf. e.g., RP 92.1, fol. 37r, Sentence Hans Kienr [?], 3.4.1719.

[75] Cf. e.g., RP 16, fol. 80r; Sentence Paule Baldegger, 12.1.1543.

[76] Cf. e.g., RP 19, fol. 291r, Sentence Jacob von Letzwyl, 1550.

[77] Cf. RP 12.3, fols 270v–71v, Sentence Hanns Bilsing, 10.7.1528.

[78] Cf. e.g., RP 68, fol. 378v, Sentence Caspar Diele, 1646.

[79] Gottfried Haut, for example, was sentenced to attending church regularly and to sitting in the pew behind the verger. Cf. RP 79.5, fol. 386r, Sentence Gottfried Haut, 12.4.1684.

[80] Cf. e.g., RP 59, fol. 182r, Sentence Jacob Banwart, 1624.

[81] Cf. for Nuremberg, Schwerhoff, 'Schranken', p. 97.

[82] Cf. e.g., RP 84.4, pp. 595–6, Sentence Michell Zwiler [?], 1698.

they were punished. The Lucerne Council made much more sparing use than Zurich of the sanction of *Ehr- und Wehrlosigkeit*. It seems that the social stigmatising of blasphemers played a smaller part in Lucerne.

The Lucerne judiciary also imposed punishments unknown in Zurich. Those who blasphemed on the day of a religious festival had to pay a fines surcharge, perhaps reflecting Catholic Church tradition and its honouring of such festivals.[83] The secular sanction of *Verbot der Ürten* was occasionally combined with a ban on gambling and fishing.[84] On rare occasions, the *Trülle* was used.[85] Lucerne had some variations on loss-of-honour punishments, but like Zurich it followed the laws of honour capital. In Zurich many a blasphemer was sentenced to *Züchtigung an der Stud*, while in Lucerne they were more frequently sentenced to several years in the galleys.[86]

Overall, Lucerne was somewhat more lenient towards blasphemers, but we should not draw too sharp a dividing line between Catholic 'leniency' and Protestant 'harshness'. The decisive difference was not in the levels of fines, loss-of-honour and corporal punishments, but in the fact that Zurich explicitly integrated horizontal social control in its system of sanctions. Everyone was authorised and required to demand the *Herdfall* from blasphemers. Verbal sin was not forgiven by ordained priests in the confessional, but by the congregation of believers, publicly asked to absolve the offender. Such rulings, grounded in the Protestant doctrine of the priesthood of all believers, were unknown in Catholic Lucerne.

In verbal practice, blasphemies in Zurich and Lucerne had much in common. Blasphemy was both an accompanying offence and a broadband phenomenon. Brawls in Lucerne, as in Zurich, were accompanied by cursing and swearing. In 1484, Hans Muner and Hans von Bengk confirmed in their oath of truth that their quarrels had been marked by 'unchristian oaths against God' (*uncristenlich schwür wid[er] gott*).[87] Similar cases date from the Early Modern era,[88] with marital- and familial conflict preparing the ground for blasphemous utterances.[89] Criminals were blasphemers *per se*. In 1644, for instance, Niclaus Wyßhaupt was banished for six years for 'having his way' (*seinen Willen versehen*) three times with a 13-year-old

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[83]   For Lieutenant Rüthima, who had sworn on Easter Day, the fine was doubled to 20 pounds. Cf. RP 71, fol. 441v, Sentence Lieutenant Rüthima, 1655.

[84]   Cf. RP 38, fol. 321r, Sentence Lorenz Allt, 1583.

[85]   Cf. RP 59, fol. 25r, Sentence wife of Jörgi Lentz, 1623.

[86]   Cf. Cod. 4515, fol. 222v, Sentence Gabriel Bürgi, 1628.

[87]   RP 6, fol. 179r, Sentence Hanns Muner and Hans von Bengk, Friday before Cantate Sunday 1484.

[88]   Cf. e.g., RP 38, fol. 115v, Sentence Saddler Lienhart and Ulrich, 1582.

[89]   Cf. e.g., RP 58, fol. 53v, Sentence Hans Wygk, 1621.

and additionally swearing and abusing God.[90] In both Lucerne and Zurich, blasphemy accompanied a wide variety of offences.

In both Zurich and Lucerne, verbal expressions specific to certain social groups and certain situations were perceived as blasphemous. An immoral lifestyle went hand in hand with blasphemy. In 1603, for instance, the council charged the cooper Mathy Bläser with blasphemy and a dissolute lifestyle.[91] Some were undeterred by judicial measures against them, such as Gottfridt Haut, who, already sentenced to church punishment in 1680, appeared before the council again in 1684 charged with a dissolute lifestyle, cursing and swearing.[92] There are many more such examples, reaching into the eighteenth century when Franz Hinelricher [?] was banished from the taverns in 1708 for his extravagant lifestyle and for cursing and swearing.[93] As late as 1742, Joseph Wyss was sentenced to the *Schellenwerk* for cursing and swearing and being involved in brawls.[94] Blasphemous talk expressed a certain attitude to life, and was perceived as a provocation both in Catholic Lucerne and Reformed Zurich.

The council records show that, even when their lifestyle was not reprehensible as a whole, the people of Lucerne liked to curse and swear in two specific situations: when gambling and when they were drunk. In 1545, for example, the council charged Opf [?] with cursing repeatedly while gambling.[95] He was by no means the only one.[96] Inebriation tended to loosen tongues, so that in 1623 Jacob Banwart was found guilty of unchristian, blasphemous talk and of offending against God's honour with his rash tongue.[97] Sociability quite often gave rise to blasphemy. In both Lucerne and Zurich, the convivial atmosphere of the tavern was frequently the setting in which blasphemers challenged God and the world.

But who were these blasphemers? As far as we can tell from a sample,[98] in Lucerne as in Zurich they did not come entirely from among marginal groups and journeymen. Of the 16 offenders who can be identified, there were two millers, two saddlers, a smith, a goldsmith, a weaver, a cooper, a woodcarver, a brickmaker, a baker, a shoemaker, a knacker, an innkeeper,

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[90] Cf. RP 68, fol. 82v, Sentence Niclaus Wyßhaupt, 6.7.1644.

[91] Cf. RP 48, fol. 376v, Sentence Mathy Bläsi, 1603.

[92] Cf. RP 79.5, fol. 386r, Sentence Gottfridt Haut, 12.4.1684.

[93] Cf. RP 88.2, fol. 143v, Sentence Franz Hinelricher, 12.5.1708.

[94] Cf. RP 100.3, fol. 183v, Sentence Joseph Wyss, 5.3.1742.

[95] Cf. RP 17, fol. 47r, Sentence Opf [?] Hut, 1545.

[96] Cf. e.g., RP 67, fol. 286v, Hans Jakob Schinder, 1643.

[97] Cf. RP 58, fol. 27v, Sentence Jacob Banwart, 1623.

[98] No ages are given, making it impossible to assess how young the blasphemers were.

a journeyman pharmacist, a soldier, and a student.[99] We cannot say that certain social groups tended especially towards blasphemy. In Lucerne as in Zurich, blasphemy was socially widespread.

There are parallels too in the content of blasphemy in the two cities. Swearing in Lucerne followed similar patterns to those of Zurich. Up to the first half of the sixteenth century, passion and sacrament oaths dominated. In 1528, Hans Bisling stood accused of many bad oaths by God's weakness and suffering, by God's baptism and the sacraments.[100] In 1543, Paule Baldegger came before the court for unchristian cursing by God's passion, wounds[101] In the second half of the seventeenth century, the focus shifted from passion to sacrament oaths. In 1643, Ludwig Lutenbach was banished for swearing and dishonouring God and the sacraments.[102] The following year, the council concluded that Jacob Kohlhammer had offended verbally against Holy Communion.[103] In 1683, the sentence against Franz Jost referred to his having cursed horribly and sworn sacrament oaths.[104]

Despite these parallels, there are three distinctions between the blasphemies of Zurich and Lucerne. In Catholic Lucerne, cursing and swearing by Mary or the saints remained an indictable offence throughout the Early Modern period.[105] Blasphemers in Lucerne showed very little interest in theological issues. Only one person in the sample, Caspar Diele in 1646, referred to the mystery of the Trinity.[106] There are no further radical abuses of God at all. The blasphemers of Lucerne did not formulate doubts about God or the doctrines of their church. They did not make their own theological statements about God, or at least not in such a way that they were called to account. We conclude that the specifically Protestant encouragement of all believers to read the Bible had ambivalent consequences. On the one hand, the Reformers opened up the revelation of

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99   Cf. RP 6, fol. 11r, Sentence Haß Jacoming, 1485; RP 34, fol. 60r, Sentence Hans Ulrich Glarer, 1575; RP 38, fol. 115v, Sentence Meister Lienhart, Meister Ulrich, 1582; ibid., fol. 121v, Andony Spiegel, 1582; RP 39, fol. 112v, Sentence Wife of Bader Jurdi, 1584; ibid., fol. 159v, Sentence Ulrich Rychniner, 1584; ibid., fol. 271v, Sentence Jeseph Eggli, 1585; RP 48, fol. 65r, Sentence Melchior Boßhart, 1602; ibid., fol. 376v, Sentence Mathy Bläsi, 1603; RP 59, fol. 25r, Sentence Jörgi Lentz, 1623; ibid., fol. 403v, Sentence Meister Wendel, 1625; Cod. 4515, fol. 70r, Entry Christoph Hartmann, 1626; RP 67, fols 108r, 115v; Sentence Jörg Brändli, 1642; RP 68, fol. 378v, Sentence Caspar Diele, 1646; RP 84.4, fols 595–6, Michell Zwiler [?], 1698.

100   Cf. RP 12.3, fols 270v–71v, Sentence Hans Bisling, 10.7.1528.

101   Cf. RP 16, fol. 80r, Sentence Paule Baldegger, 12.1.1543.

102   Cf. RP 67, fol. 310r, Sentence Ludwig Lutenbach, 1643.

103   Cf. RP 68, fol. 119r, Sentence Jacob Kohlhammer, 1644.

104   Cf. RP 79.4, fol. 312v, Sentence Franz Jost, 27.8.1683.

105   Cf. e.g., RP 71, fol. 192, Sentence Hans Sager, 1653.

106   Cf. RP 68, fol. 378v, Sentence Caspar Diele, 1646.

the Word of God to every believer, but on the other hand personal reading of the Bible led some enquiring types into the realm of blasphemous doubts and contradictions. Those who kept their flock from individual study of the Bible and emphasised the authority of church tradition, as in Catholic Lucerne, offered better protection from going astray.

Summary   Contrasting Reformed Zurich and Catholic Lucerne in their dealings with blasphemy reveals some notable confession-specific features. Although the two cities have much in common, there are also marked differences.

In both territories, the mandates against blasphemy connect with late mediaeval rulings and are not subject to full-scale revision after the second half of the seventeenth century. The Early Modern era was not a legislative watershed in this field. In both places, the legal norms were supported by argument from retribution theology, indicating that this was not specific to one confession or the other. In both Zurich and Lucerne, criminal law competence was in the hands of the secular authorities, i.e. the council. The church authorities, whether Roman or Reformed, were primarily charged with supporting the council by implementing the ecclesiastical punishments it imposed.

The largest numbers of blasphemers were prosecuted in both Zurich and Lucerne in the decades between 1580 and 1650. From the end of the seventeenth century, the number of defendants in proportion to the population dropped noticeably. This suggests that neither the Reformation nor the Counter-Reformation increased sensitivity to blasphemy in the population or the judiciary. The fact that blasphemy barely preoccupied the judiciary in the eighteenth century bears witness to a process of secularisation in both Lucerne and Zurich.

In both cities, the sentences against blasphemers were differentiated. Capital and harsh corporal punishment were used sparingly, usually in cases of hardened criminals. The majority of ecclesiastical and secular sanctions were in the form of fines and loss-of-honour punishments. The form of punishments could vary in the two cities, but the purpose was the same. Local offenders were to be reintegrated in the canton on the basis of the laws of honour capital.

Blasphemers in Zurich and Lucerne showed similar speech habits. Blasphemous speech actions were seen as a social and situation-specific disposition. Cursing and swearing went hand in hand with tensions, drinking and gambling as a ritualised verbal display pattern, associated both with everyday conflicts and with criminality. Marginal groups were often thought to have especially blasphemous tongues, but in fact blasphemers often came from established social groups. In Lucerne as

in Zurich, blasphemy was both an accompanying offence and a socially widespread phenomenon.

There are, on the other hand, distinctive differences between the two cities. The council in Lucerne was less systematic and less intensive in its legislation against blasphemy. There were no major waves of prosecution. Only blasphemous speech actions calling for a fine of at least five guilders were prosecuted. The punishment of *Ehr- und Wehrlosigkeit* was imposed far less frequently, reducing the social stigmatisation it involved.

In a comparison of Zurich and Lucerne, it is relatively easy to distinguish confessional similarities and differences in dealing with blasphemy. In view of the confessionalisation process engendered by the Reformation and the Counter-Reformation, we might expect these two major events to play a significant part in developments. The analysis of prosecution rates contradicts our event-history expectations, however. Similarly, a confession-history expectation that secularisation might have taken a different course in Catholic Lucerne from that in Reformed Zurich cannot be confirmed when it comes to blasphemy. In both places, it preoccupied the judiciary less and less. In neither city did the subjects show much appetite for reporting blasphemers. For this reason, the council in Zurich and in Lucerne found it necessary to make failure to report blasphemy an offence. The difference in confession was not relevant to this.

Catholic Lucerne did tend to be somewhat more lenient towards blasphemers. This does not mean the punishments were milder, however. There were two reasons why blasphemers had somewhat more licence there. First, the Lucerne Council often ignored banal everyday blasphemous speech actions that were punishable by small fines in Zurich. Second, the legal provisions in Zurich concerning the *Herdfall* and recantation made horizontal social control an integral part of sentencing practice.

Lucerne also practised social control, but within the bounds of Catholic Church tradition. The social control tended to be vertical rather than horizontal. In Zurich, disciplining by the congregation went beyond church tradition. Every subject was a potential moral guardian and morals judge, capable of exercising horizontal social control. This controlling function of church members was the background to the recantation texts formulated by the authorities, involving the congregation explicitly in the act of reconciliation. Here, the Protestant principle of parish self-regulation based on the priesthood of all believers had its impact.

Further confession-specific features relate to the content of blasphemies. In Lucerne, it continued to be forbidden to swear by the Mother of God or the saints. In Zurich following the Reformation, Mary continued to be honoured but not worshipped. The saints were abolished. The judiciary no longer needed to pursue any curses or oaths referring to them. The

change in theological constellations meant that in Zurich, the old 'catholic' blasphemies were no longer indictable offences.

The theological shifts had a further consequence. Protestantism encouraged the laity to read the Bible themselves. Unintentionally, this confronted believers increasingly with the contradictions of biblical texts and the dogmas derived from them that were paradoxical by rational criteria. Apparently, the people of Zurich were more likely to experience doubts in their faith than their neighbours in Lucerne. At any rate, they expressed radical abuses of God that were not heard in Lucerne – or at least not by the authorities.

Confession-specific distinctions between Catholic Lucerne and Zwinglian Zurich in dealing with blasphemy support the communalism theory developed by Heinrich Schmidt. In the process of theological and ecclesiastical disciplining, supervision on the part of the authorities turns out to be secondary to congregational self-regulation. Horizontal social control showed more intensive effects than authoritarian repression. Moreover – and this is an aspect not touched on by Heinrich Schmidt –, communalism came at a price. It meant transferring competence to the laity in matters relating to God. Allowing the laity to be more independent of the clergy was a risky business. Some laypeople became so independent that their abuse of God took them outside the congregation. In Zurich, the religious changes strengthened the position of the local church, but also made it more open to radical criticism of religion. When we enquire into how early modern societies in Europe referred to God or dealt with God, we should not overlook such ambivalences.

Outcomes and Outlook: From the Blasphemers of Zurich to a Cultural History of Religiousness

The words used by early modern blasphemers insult God's honour. For most of us, this is difficult to understand. Hence this study opened with the question of how religion can be understood in historical terms as a political, social and individual phenomenon. Its outcomes occupy three levels: the study offers empirical findings specific to the history of blasphemy; it discusses empirical and conceptual consequences of these findings for the interpretation of the Early Modern era in Europe; and it considers the relevance of the results for the conceptualisation of a history of religiousness.

Analysing the verbal offence of blasphemy as an early modern phenomenon involves confronting the conceptual problem of what blasphemy actually is. The term is so diffuse that we need to distinguish today's ideas of blasphemy from mediaeval and early modern categories in theological–juristic texts, from the expressions found in early modern judicial records in Zurich and the linguistically based concepts used in this study. The mediaeval and early modern theological–juristic categorisation cannot be found in Zurich's judicial records, which treat swearing, cursing, and abusing God as more or less synonymous expressions. For this reason, we cannot adopt the inexact terminology of the judicial records. Conversely, our modern understanding of blasphemy does not correspond to that of the Early Modern era. A historical study is thus faced with the challenge of avoiding anachronisms but not losing sight of the early modern theological–juristic categorisation. This study takes up the challenge on the premise that human beings act by means of words. They may say one thing and mean something different by it. The task of the addressee is to distinguish and decode – or not to do so. Applying this principle of Austin and Searle's speech act theory to early modern blasphemy means examining the propositional and perlocutionary substance of the words used, in order to be able to categorise them as cursing, swearing, or abusing God.

Analysing blasphemies in Zurich confronts us with the fundamental empirical challenge of how religion permeates early modern society. Since

every norm transgression relates to the norm itself, blasphemy as taboo-breaking draws attention to the religious values of a society.

The history of blasphemy is not concerned with an exotic marginal phenomenon, but with one that was central to early modern society: religion. So our first result is that blasphemies in Zurich offer us a wide variety of empirical conclusions. They reveal, on the one hand, how the sacral and profane spheres were closely linked. They show, on the other hand, the extent to which religion was a public affair, and what characterised religion. Moreover, the reactions of the secular and ecclesial authorities to religious norm transgression express the positions taken by the authorities in religious matters. Examining the practice of blasphemy also enables us to trace its historical changes and explore the space for religious thought and action in an early modern society.

It would be a historical misunderstanding to interpret blasphemy simply as a propositional statement about God. Rather than articulating religious positions, blasphemers used language as action within a given context. They were dealing with, i.e. referring to, God. In perlocutionary terms, blasphemers challenged God and the world, and they did so in three different contexts. In everyday conflicts, they fought for their own honour. Others used blasphemy as a particular style of behaviour. And others used the term as a socially stigmatising label.

Often, misuse of the name of God had to do with one's own name. Obviously, not every use of blasphemous strong language was carefully considered, but cursing and swearing were a useful way of enacting conflicts of honour. Blaspheming men and women were neither acting in the heat of the moment nor sublimating physical violence. They were using verbal strategies to win the battle for honour capital according to the laws of impression and retaliation. In many cases blasphemies provoked, accompanied or intensified physical confrontations. Blasphemies accompanied violence, which precludes their being regarded as a 'civilised' form of conflict or merely as a 'safety valve' for pent-up aggressions. Those who cursed and swore in a conflict were placing themselves on a level with God and using God for their own purposes. Such curses could contain elements of verbal magic, but this should not be overestimated. At the propositional level, blasphemy in cases of insult referred to God, but in illocutionary terms that reference was used to mean the concrete opponents in the conflict.

This is exactly how the addressees decoded the message of cursing and swearing at the perlocutionary level. They understood the implication of the blasphemous utterances, i.e. that their own profane honour was at stake and not God's sacred honour. This is emphasised by the semantic shifts that result in the blending of 'cursing' and 'swearing' with 'insulting'.

For some groups in society – social provokers, entertainers in high society, loudmouthed prattlers in the tavern or members of a particular peer group – blasphemy was a style of behaviour with which they sought to impress an audience. Those who played verbally with confessional fire, taking up sensitive issues such as prayer or the different versions of Holy Scripture, could be certain of success in the confessionally loaded atmosphere of the time. The object of contention was not God, but audience-grabbing polemics against confessional opponents.

As well as being a form of showmanship, blasphemy could be a social labelling. In Zurich society, it was associated with certain social groups (foreigners, soldiers, lower classes, journeymen, young males) or behaviours (drunkenness, 'anger', various exceptional emotional situations). In formal terms, the assignation of blasphemy criticised the lack of respect for God's honour. The implication of this self- or other-labelling, however, was not that the speakers were seeking conflict with God. Blasphemy and the reproach of blasphemy served to stigmatise others socially or to distance oneself. The argument of a religious offence in fact referred to profane interests.

The close association of profane interests with speech actions of religious content did not mean the latter could be used arbitrarily, however. Blasphemy was evidently of little use in expressing political opinions, for instance. Despite the fact that religious and political questions were intertwined in the Early Modern era, blasphemers did not pursue political aims (with very few and rare exceptions), nor did the authorities find it necessary to take action against 'political blasphemers'.

Blasphemies might not be politically loaded, but they were certainly public in character. Unlike in our secularised modern western society, questions of religion were not a private affair. At any time, any person could be expected to discuss religious matters with someone who might or might not be known to them. Typically, the judicial records report blasphemous incidents in taverns, at meetings or get-togethers especially on public holidays, and on the occasion of chance meetings on streets or squares. The subject of religion was omnipresent.

Almost all the blasphemous incidents documented in the court records occur in social meeting places. It is implausible that blasphemies did not take place elsewhere as well, but we may assume that those occurring in the 'private context' did not reach the courts because an 'audience' was lacking. With no audience taking note of a blasphemous utterance, there was far less pressure on 'private' opponents to defend their honour capital. A threat to public order was only judicable if there was a 'public' seen to be under threat. Blasphemy evidently required a certain public in order to be judicially relevant.

The role played by horizontal social control in enforcing religious norms confirms the public character of religious affairs. Had the population not considered it necessary to report blasphemers, the judiciary would have prosecuted far fewer of them. Unlike in cases of witchcraft, reports of blasphemy were seldom based on personal motives. Whereas a strange and inexplicable incident could easily be said to be associated with witchcraft, the use of blasphemous words had to be confirmed by several witnesses. An accusation of blasphemy was of little use in settling personal scores with an adversary. Such revenge required the opponent actually to have committed an offence worth reporting. Unsubstantiated accusations were risky, since the law required the punishment to fall on the accuser if the allegations were false. In addition, the full costs of the case had to be met by the accuser. Despite the instances of self-stylising before the courts, false accusations may be assumed to be rare. Rather, statements by witnesses that they had reported blasphemers for reasons of conscience should be taken seriously. Social control did have genuinely religious motives.

Horizontal control did not end when a norm transgression had been reported. A person who had uttered a blasphemy was potentially indebted to the witnesses of the utterance. Their good memory for blasphemous incidents provided them with 'accusation capital' with which they could report to the authorities some weeks, months or even years after the incident in question. Tellingly, the authorities took such late reports seriously and followed them up.

The council institutionalised this principle of mutual rebuke when it condemned blasphemers to recantation. They were obliged, during a church service, to ask the congregation explicitly for forgiveness, exposing them to the mercy of the churchgoers. The legal ruling that citizens had to require either the *Herdfall* or a fine from blasphemers, or to report them, was based on the same principle of control by the community. That this ruling was actually put into practice is indicated by the occasional cases in which blasphemers refused the *Herdfall* or witnesses played with the ruling. Religion was not private, but everyone's business. Much of the disciplining in religious matters took place as communal self-regulation, but this in turn was supported 'from above' by the authorities.

Blasphemers provoked and 'disputed' in many different ways, ranging from superficial confessional polemics to sophisticated theological debates. The debates arose from intellectual curiosity or serious soul-searching. Between the two extremes were the verbal contests in which reasonably equal partners vied to outdo each other or had their fun at the expense of verbal and intellectual inferiors. All these religious, publicly appealing and indeed playful debates show that laypeople, whatever their social and intellectual background, engaged with each other and with the clergy in questions of old and new paradoxes of faith, interpretation of

the Bible, and the various religious controversies of the time. It is therefore misleading to suggest that Christianisation and confessionalisation were exclusively a process of acculturation enforced by the elites of the secular and ecclesial authorities. When laypeople started to 'dispute' religious matters raised by a sermon, a pamphlet or an incident, whether they did it for entertainment or out of genuine theological interest, it was certainly not because an alien 'elite culture' forced them to do so. On the contrary, in some circumstances the authorities tolerated the discussion of doctrinal or exegetical problems 'for practice'. This would shed greater lustre on the doctrines of the Zwinglian Church. Both secular and ecclesial authorities allowed the laity – albeit within firm boundaries – to engage actively and independently with theological questions.

It would be methodically illegitimate to draw general conclusions on Christianisation based on the cases of blasphemy that reached the courts. As is to be expected, the judicial records and other sources concerned with blasphemy report only those suspected of misusing the name of God. Thus the source corpus turns a blind eye on all those who were inconspicuous in religious matters. We have no way of knowing whether this was because they observed the existing norms to the satisfaction of the authorities, or whether they were not Christianised but gave no cause for offence. However, the religious knowledge shown by blasphemers indicates that the Christianisation of the population was not merely superficial. True, there were some blasphemers who scarcely knew the basics of the Christian faith or who mindlessly recited something learned by rote. This group ventured into blasphemous waters in ignorance. Others were sincere but poorly taught Christians who suffered mishaps when they attempted to rescue God's honour, and got into blasphemous channels in doing so. The utterances of these inadvertent blasphemers occurred because they were inadequately schooled in the doctrines of Christianity, and not because they stood apart from the faith. The majority of blasphemous speech actions bear witness to blasphemers who, thanks to their Reformed socialisation, knew their Bible quite well or even very well. They felt free to comment critically on sermons or to read pamphlets dealing with religious affairs. They struggled with old and new paradoxes, though there is no evidence that they were influenced by heretical or philosophical tendencies. They sought religious debate in order to engage closely with God, with church doctrine or with the interpretation of Holy Scripture. Their blasphemous speech actions articulate specific questions to or protests against God. They protested knowingly against him, under the assumption that their discussion partners were sufficiently Christianised to follow their objections. Rather than showing how little the population was marked by Christianity, the Zurich blasphemies prove how forcefully speakers wrestled with the God of their church and how strongly the addressees reacted to taboo-breaking.

Blasphemy is not effective in an areligious or inadequately Christianised society. It assumes the validity of certain religious norms.

The Zurich blasphemies also enable us to draw conclusions concerning religious content. The wide variety of images of God is particularly striking. Some of them, such as the anthropomorphic ideas prevalent in the transition from the Late Mediaeval- to the Early Modern era, seem alien to us. It is also strange to find God in the dock, accused by radical blasphemers of all kinds of injustice. Somewhat more familiar is the early modern image painted by the authorities of an angry God and strict judge. Repentant sinners appealed – formally at least – to the merciful though authoritarian God the Father who embraces the penitent. In the context of entertainment and jollity, God was even presented humorously as a chum. But as religion gradually lost its public character, God was moved further into the sacral sphere. The privatisation of religion meant, on the one hand, the loss of God's true-to-life 'human' features; increasingly, God became an abstraction. On the other hand, the Almighty was degraded to become an ordinary bourgeois. Thus the image of God in early modern Zurich is, as far as we can conclude from the blasphemies examined here, full of contradictions.

Radical blasphemy could have its roots in sober 'realism' or in the existential search for God. The unproved postulates and, from a rational perspective, many paradoxes of the Christian message plunged some religious people into deep waters of doubt. Their ruminations – from various different approaches – made them heretical blasphemers who reinterpreted the paradoxes of the faith. Rational and sceptical types, on the other hand, were incited to dissent by the logical demands faith made upon them. They argued on the basis of 'objective' reality and experience, concluding that the doctrines of Christianity were nonsensical. The first group of radical blasphemers turned their backs on God in disappointment; the second group boldly terminated the relationship with God, refusing him obedience. How could God be so unjust as to bring misfortune on people time and again? Why did God redeem some and condemn others? How could Almighty God be nailed to a cross? In Zwinglian Zurich, it was typically questions relating to the doctrines of sin, predestination and soteriology that dominated.

Although radical blasphemers rebelled against God, they did not go to extremes. The idea that God did not exist could be formulated, but reality could not be constructed without God. The term 'atheistic' in the pre-modern era was a moral attribute, not a programmatic self-understanding. An atheist was seen by others as someone who lived apart from an existing God. Early modern blasphemers negated the religious system, but they did not develop utopias of a different God or a world without God. Mentally disturbed blasphemers did not express fantasies of a world without God.

As well as being a matter of Christianisation, various forms of belief and images of God, and a range of dogmatic contents, religion was a gender-specific affair. This might well explain why blasphemy was recorded almost exclusively as a male offence. Although women occur frequently in the records of the local morals courts, women who curse and swear are rare in the Zurich court records. There are no instances at all of women abusing God, either at the level of the council or the local courts. Did women not concern themselves with questions of religion? This would assume that women were biologically unfit for blasphemy, that they were culturally less prone to religious doubt, or that they had nothing to say on religious matters. We can discount the first two assumptions. What, then, can we conclude from the fact that so few blaspheming women come before the courts? The lack of 'genuine' female blasphemers simply points to the fact that women did not make themselves heard on religious issues in taverns, on the street, at festivals or in other public spaces, or that no one took note of what they said. We are left with the open question of whether women did indeed have blasphemous words in mind but not speak them, or whether their words were simply not heard. Being a woman and discussing theological questions do not appear compatible in early modern Zurich.

The offence of blasphemy throws light on a further aspect of religion in the Early Modern era, the question of the religious policy pursued by the authorities. The strategies of council and church in Zurich were very ambivalent. This gave rise to differences between council and church that weakened the action of the authorities. On the one hand, the council dramatised the offence and in consequence systematised and intensified the judicial prosecution of blasphemers. On the other hand, the council sentencing was – in proportion to the gravity of the offence – relatively lenient.

In comparison with other city-states, Zurich brought blasphemers consistently to book and imposed mainly loss-of-honour punishments. Overall, however, the Zurich judiciary did not demonstrate extreme harshness. Apart from the rate of death penalties, forms and levels of punishment were comparable with those of other city-states. Executions were avoided if possible, and usually imposed on notorious criminals. Foreigners tended to be subject to banishment. Other cases were dealt with by means of graded fines, and loss-of-honour and occasionally corporal punishments, without 'humanisation' of penalties being apparent. Blasphemies tended to be treated at the same level of punishment as insults or adultery. Sentencing in the city and region was subject to appropriate and person-oriented criteria that, arbitrary as they may appear to us, were in principle regarded as just by contemporaries. The aim of this sentencing policy was not to stigmatise and marginalise, but to reintegrate the offender in the political and church community. In the morals mandates, the council

might argue the God of retribution, but in practice it did not assume God to require the isolating or death of offenders.

Further ambivalence of the secular authorities in religious matters is apparent in cases of blasphemers suspected of being mentally ill. The council examined carefully, on the one hand, whether the defendant was mentally deranged. If so, he was recognised not to have criminal responsibility and to be in need of help. On the other hand, mentally ill blasphemers were treated as normal offenders. Without recognising that alternating phases of 'normality' and 'anormality' were part of a whole pathological syndrome, the council insisted that the accused should make a confession and return to their religious 'senses'. Even if the blasphemous utterances were made in a state of mental confusion, this did not release the speakers from their moral responsibility. So blasphemy could be categorised as an utterance by a person without criminal responsibility, yet it remained a serious matter that required redress.

This observation in particular shows that the council pursued ambivalent aims in prosecuting blasphemers. It shifted between the claim that it was restoring God's honour and the problem of protecting social order. Even though no one could misuse the name of God without being in their right mind, the council insisted that mentally ill blasphemers retracted their words. This contradiction makes clear that the council was more concerned with order in this life than with the life beyond. As God's representative, the authorities were obliged to act in God's name and protect God's honour. As custodians of order, they had to decide whether to get rid of those causing offence or to reintegrate them in the community.

The spiritual authorities were similarly ambivalent about blasphemy. Zwingli and Bullinger moved radically away from the casuistic concept of sin and towards an existential concept. But the church experts failed to adopt the new theological principles in their reports. Instead, they adhered to the theological standards of their Roman Catholic predecessors, distinguishing and punishing blasphemous offences according to their gravity, as in traditional sin casuistry. Voices in the church continued to demand that the council should act firmly and consistently against the widespread evil of blasphemy. The experts' reports, however, did not take a hard line against blasphemers. Theological concepts and church arguments were at variance.

The church in Zurich struggled with a further ambivalence. It taught the doctrine of the priesthood of all believers and recommended personal reading of the Bible. The result was that the church, since it allowed the laity a certain spiritual independence, had to tolerate religious 'disputations'. It also ran the risk of some believers stepping outside church authority and taking unorthodox paths. So the church found it necessary to limit

the 'autonomy' of the laity. It veered between tolerance and intolerance towards its lay members.

In view of the historic changes in blasphemy under the influence of popular forms of devotion, the Reformation loses significance as the boundary of an era. Continuities between pre- and post-Reformation times are strong, both in norm-setting and in sentencing practice. Moreover, in comparison with Catholic Lucerne, the contrasts in developments are not as sharp as the 'major event' of the Reformation might lead us to expect. The major prosecutions of blasphemers do not begin with the Reformation; the climaxes are in the second half of the sixteenth and seventeenth centuries. Waves of prosecution are evidently associated with other factors as yet unexplored. In the fight against blasphemy, the Reformation should not be seen as a significant stagepost, although it is true that Reformation and confessionalisation lent fresh impetus to the struggle. The institutionalisation of horizontal social control, for example, contributed much to the self-regulation of the Reformed congregations.

A far greater turning point than the Reformation was reached in the years around 1675. These years mark the boundary between the last major prosecutions of religious offences and the disappearance of such offences from the courts. The turn of the eighteenth century rang in an era in which religion was increasingly a private matter. It was no longer worthwhile for the courts to pursue cases of everyday verbal blunders. In public, only utterances expressing radical religious doubt were still regarded as offensive. In terms of the cultural history of religiousness, then, the turning point is not the Reformation. Apart from relatively short-lived trends in cursing, the epoch boundary between religious pre-modernity and religious modernity is the decisive one. Up to the third quarter of the seventeenth century, religion in its various confessional alignments shaped life at the political, social and individual level. The modern age of religion began in the eighteenth century, launching a secularisation process during which swearing and insult became synonymous, abuses of God came to be seen as a problem of attitude to life or of emotional state, and categorical differentiations in the judicial assessment of blasphemy became extinct. Religion became a matter of personal faith convictions; the sacred and the profane began to be separated.

When we relativise the significance of the Reformation as a landmark in the history of blasphemy, we should not deny its confessional consequences. Here it is easy to be misled by confessional clichés. In the fight against blasphemy, we find that Catholic Lucerne and Zwinglian Zurich had more in common than we might expect. In both places, the authorities used arguments of retribution theology to account for the prosecution of blasphemers. This was mainly the responsibility of the council, which gave the church the task of carrying out the ecclesial penalties. Sentencing policy

in each place is also comparable. The judiciary aimed at the reintegration of local offenders in the community, according to the laws of honour capital. The prosecution of blasphemers is correlated neither with the Reformation in Zurich nor with the Counter-Reformation in Lucerne. The process of secularisation that resulted in the disappearance of blasphemers from the courts is parallel in the two cities. There are no great differences between blasphemous speech acts in Zurich or Lucerne. Blasphemy was a broadband offence and a broadband phenomenon in each place, seen by the respective authorities as insufficiently denounced. The Reformation and the Counter-Reformation were relatively unimportant for the retribution theology that underpinned the norms, as for criminal justice and the practice of blasphemy.

There were, however, some confession-specific features in Lucerne and Zurich. In principle, the people of Reformed Zurich were less dependent on their church than their Catholic sisters and brothers in Lucerne. Guided by Holy Scripture and forgiven by the grace of God, their faith alone was the foundation of their personal relationship with God. This relative autonomy *vis-à-vis* the church was double-edged, however. The new theological foundations meant that blasphemies based on the old faith became irrelevant as an offence. But the people of Zurich, reading the Bible for themselves and relating directly to God without a strong bond with the clergy, expressed radical blasphemies that were quite unknown in Lucerne. They were more likely to get up to 'religious mischief', but their greater personal freedom was kept in check by stronger horizontal social control than in Lucerne. The congregation, as the 'communion of saints', kept watch on the pious behaviour of sisters and brothers in the faith. The church community was largely self-regulating. The secular authorities encouraged this social control by means of legal rulings requiring the *Herdfall*, and the introduction of a new type of morals courts. Compared with Lucerne, the authorities in Zurich pursued blasphemers more systematically. They imposed more loss-of-honour penalties and more frequently punished blasphemous blunders to which only small fines were attached. Thus blasphemers in Zurich ran a greater risk of being prosecuted than in Lucerne. In the long term, the Reformation left its mark in the stricter moral requirements of both the authorities and the subjects.

From today's perspective, these restrictions on freedom of religious opinion might lead us to see Europe's early modern societies as intolerant entities where secular and religious authorities sought to curb their subjects' scope for thought and action. The authorities apparently aimed to create subjects under control rather than free subjects. Their evident lack of complete success is attributed to their lack of means of enforcement. Following this argument would mean regarding norm transgressions such as blasphemy merely as indicators of the failure of disciplining measures.

Our empirical findings on blasphemy in Zurich open up a different perspective, however. They show that, in the field of religion, an early modern society had far greater space for thought and action than the authorities officially allowed, and that this is not merely attributable to a power vacuum in the authorities. Council, church and social environment all exercised a certain tolerance. Witnesses to blasphemy, for instance, could sanction the norm transgression in exemplary manner by applying the rulings of the morals code. They could, however, also passively or actively tolerate the verbal sin. Blasphemers in turn could respond to these reactions by defiantly reiterating their words or penitently retracting them. The relevant norms were applied in practice in such a way that flexible dealings with blasphemers were possible.

Our second main result is that the empirical insights of this study contradict historians' current interpretations of management of times of crisis, state formation and (confessional) disciplining of society in the Early Modern era. Famines, epidemics, disease, poverty, war or natural disasters were a constant threat to human life. The fact that in such situations some blasphemers railed against God provokes the question whether blasphemy and its prosecution might not be seen as a response to crises and fears. Some good evidence points in this direction, but there are counter-arguments too. The prosecution of blasphemy is not correlated with the known crises. In the course of the eighteenth century, blasphemy became an almost negligible offence, probably as a result of the process of secularisation. This cannot be proved from the court records, however, which register taboo-breaking but not its toleration.

It is undisputed among historians that a change from pre-modern authorities to the modern state took place. The controversies on state formation set in when explanations are sought as to how the change occurred. The example of Zurich tests the argument that confessionalisation parallels the modernisation of the authorities to form the state. The situation in Zurich weakens the hypothesis of the state-building effect of confessionalisation. Although the secular and religious authorities enforced confessionalisation, the political and administrative structures of the city-state remained virtually unchanged from the end of the fifteenth century to the end of the Ancien Régime. Confessionalisation need not be synonymous with consolidation of power.

As well as religious policy, the judiciary might be expected to contribute to state formation. This is the view taken particularly by older, Marxist-inspired studies in crime history, asserting that the authorities made use of the judiciary to control the subjects. The image of a repressive judiciary has been countered by the argument that early modern courts allowed appeal to divine mercy and explicitly recognised mitigating circumstances. Thus defendants could use well-chosen arguments to negotiate with the

authorities. Blasphemers in Zurich scarcely had this opportunity, however. Arguments by defendants played little part either in sentencing or in petitions. Acts of clemency were rare. Courts and accused were not engaged in negotiating penalties. Rather, the accused were expected to plead guilty in stereotyped statements, to ask for forgiveness from the authorities and thus symbolically to legitimate the court's decision. As far as the situation in Zurich is concerned, it cannot be argued that defendants made strategic use of the mercy motif of early modern justice, and that for this reason we should not overestimate the severity of the judiciary.

More recent studies emphasise that the implementation of justice was not only a matter for judges and lawmakers. The application of the law required the participation of the people. Moreover, 'unwritten law' of the subjects could not be arbitrarily infringed by the authorities. The example of blasphemers in Zurich strengthens this interpretation. In most cases, blasphemers could only be charged in court because someone reported them. The punishing of blasphemers relied on the people too, since loss-of-honour penalties required them to recognise the sanction as appropriate and to play their own part as the public. Such penalties were only meaningful if those convicted were exposed to horizontal social control by the subjects. This is especially visible in the ritual of recantation. Blasphemers were required to confess their guilt in public and to show repentance, and the congregation was expected to forgive. Neither the prosecution nor the sanctioning of blasphemers was a one-sided instrument of repression used by the authorities against the entire population. Rather, the fight against blasphemy relied on popular support.

Blasphemy was punished both in and out of court. Out-of-court settlements involved the conflicting parties coming to an agreement under certain rules, with or without the help of an arbitrator. As far as can be ascertained from the sources, 'infrajudiciary' was not a subcultural alternative judiciary in cases of blasphemy. Out-of-court settlements were regarded as an equally valid means of dealing with the offence. Jurisdiction was not only vertical, taking place in the formal space of the institutionalised courts, but also took place in the less formal but by no means arbitrary space of horizontal social control. This result too throws doubt on the idea that justice was meted out primarily 'from above' for the purpose of disciplining.

An even more radical questioning of the thesis of justice as an instrument of power can be found in the concept of 'use of the judiciary'. This suggests that subjects were not merely oppressed by the judiciary, but instrumentalised it for their own purposes. The accusation of witchcraft, for example, could be used to get rid of awkward opponents. This finding, though proven in cases of witchcraft, can hardly be applied to cases of blasphemy in Zurich. Charges relating exclusively to the accusation of

blasphemy are far smaller in number than those naming blasphemy as an accompanying offence in conflicts of honour. Evidently, it was too risky or unpromising to accuse someone of blasphemy from dishonest motives. It is no coincidence that, in cases of 'blasphemy only', the sources hardly ever report personal interests on the part of the accusers.

Our interim result is that the cases of blasphemy in Zurich raise significant objections to the thesis that the authorities used the judiciary as an instrument of power. Our conclusion that religious policy in Zurich promoted neither state formation nor modernisation, and that the prosecution and stigmatising of blasphemers depended largely on popular support and horizontal social control, has momentous consequences for the interpretation of the Early Modern era. Just as models of the class struggle of elites against the oppressed masses have become outdated, the predominantly statist perspectives on confessionalisation must be overcome. The focus should now shift to the relation between disciplining by the authorities and self-regulation in the communities.

Alongside the debate on statism versus communalism, current controversies focus on acculturation and civilisation in the Early Modern era. Here, too, our findings on blasphemy in Zurich encourage us to revise familiar interpretations. A weakness shared by the acculturation thesis and the statist concept of confessionalisation is that they overestimate both the claims to power on the part of the authorities or elites and the insubordination of the subjects or 'the people'. The intensity with which blasphemers and their dialogue partners engage with questions of faith certainly detracts from the thesis of superficial Christianisation of the people, i.e. of the church's failed attempt at acculturation. True, some people in Zurich were almost untouched by catechesis and knew very little of the tenets of Christianity. Witchcraft records in Zurich provide evidence that faith could be strongly rooted in magic. But the many faith conversations taking place show that laypeople discussed, sometimes with the clergy, what they had heard in sermons or read in pamphlets or in the Bible. They were curious to get to the bottom of matters of faith and doctrine. They were not subjects clinging to their own worldview and resisting an alien interpretation; neither were they passive people on whom such an interpretation was being imposed.

The civilisation thesis operates on a quite different level. It does not relate to ideas of faith but to changes in human behaviour. The blasphemers of Zurich provide a fine counter-example for the thesis that, in the course of history, people increasingly learned to control their affects by the introduction of taboo topics and behaviours. Blasphemy very frequently accompanied violence. Blasphemy did not sublimate physical force by channelling aggression into a 'civilised' course. Rather, blasphemy often prepared the ground for violence and caused it to escalate. Conversely,

blasphemous speech actions only rarely arose from 'uncivilised', arbitrary affects. On the contrary, the speakers generally followed certain rules of provocation. Moreover, it cannot be said that blasphemy gradually became taboo in early modern Zurich. Blasphemy was a norm transgression occurring in all sections of the population and always attributed to similar contexts such as drunkenness or conviviality. The verbal limits did not shift markedly either in social or situational terms. In fact, the norm transgression lost part of its taboo character in the course of the eighteenth century, when blasphemy almost disappeared from the courts. Evidently, this particular form of norm-breaking had lost its 'conflict value'.

We come now to the third main result of our study. If the paradigmatic interpretations of the Early Modern era require revision, this is because of the conceptual deficits in current research. Any bookshop with a 'spiritual' section will have works on how to cope with life and to gain access to faith. The historical treatment of religion is quite different and could well give the impression that religion has to do only with ideas, institutions, religious deviance or gender relations. The history of theology or doctrine devotes itself, as a subdiscipline of church history, to the history of intellectual systems. Unconcerned with how people manage their lives and how societies deal with religious values, it sees religion as a vast argumentation complex. This narrows down the history of religiousness to the history of theological and philosophical thinkers. Linear developments may then be postulated that fail to take sufficient account of the coexistence of various, possibly contradictory forms of belief and unbelief. Moreover, church history is concerned with the church as an institution. With reference to the problem of blasphemy, this means that non-conforming behaviour is always seen from the institutional perspective. This is a perspective 'from above' that excludes the church community.

Those known as secular historians have different interests when they deal with the church. In early modern research, they concentrate on the question of confessionalisation, seeking answers to how old Catholics became new Protestants or renewed Catholics. Their approaches vary: some examine the clergy and the clergy house as a social category, others analyse how confessional content is conveyed through sermons, catechism, hymnody or pamphlets, establishing the results in reports of visitations. These studies do get close to religious behaviour, though they examine it from the perspective of church representatives and thus primarily as a product of church disciplining measures. Historians who enquire into the implementation of confessionalisation within congregations go a step further. They do not see religion only as the result of measures taken by the church, but also as the product of self-regulation in the church community. Here too, however, the perspective is internal to the church. Piety and

church religiosity are still too often equated, and polarities between church representatives and church members postulated.

The history of practised belief and unbelief has so far been the field of those working in mentalities or in microhistory. Lucien Febvre, one of the founders of *histoire des mentalités*, asked whether Rabelais could have been an atheist. It was this question that first made religious thinking in everyday life the object of historical study. Some of Febvre's successors took up his enquiry. Muchembled, for example, sees the 'invention of the modern human' in the opposition of 'elite' and 'popular culture', and Delumeau discovers fear phenomena in the prosecution of witchcraft and blasphemy. Far less speculative than these history-of-mentalities interpretations is Ginzburg's detailed reconstruction of the inner world of miller Menocchio from Friaul. The strength of this study is that it follows closely and in minute detail the religious views of a 'man of the people'. This is only possible because Ginzburg has the necessary sources at his disposal, which is not generally the case. Microhistory of this kind can only take account of a small number of believers and unbelievers. An additional objection to this microhistory is that Ginzburg cannot say how representative Menocchio is for his time. The criticism that microhistory restricts itself to trivial small-scale detail is undoubtedly polemical and unjustified. But if no attempt is made to show the larger picture within the small, studies like Ginzburg's may offer plenty of colourful stories of un/believers but not a history of belief and unbelief.

German historical anthropology has a great liking for microhistorical studies of everyday life, offering a meaningful counterweight to all the approaches that equate religion with church religiosity and theology. There are weaknesses here too, however, as mentioned above. The history of the Early Modern era is seen as a history of the opposition of alien elite culture and autonomous popular culture. The large number of individual stories soon lead into a history of religion in which the historical subjects become representations of magical, unchristianised views, said to represent 'the' popular culture in some unexplained way.

Our interim conclusion, then, is that histories of practised belief and unbelief to date each have their merits, but that their approaches present conceptual problems. This study takes a different approach that seeks to avoid the shortcomings of the others. Rather than chasing nebulous mentalities or poring over individual cases in all their wanderings, this study makes use of a broad base of aggregate data to place subjects in their historical context. Although the data on each of the roughly nine hundred blasphemers recorded here are relatively sparse, the combining of the data provides an overall picture that enables us to examine empirically such 'major theories' as that of enforced civilisation of the population and to assess how representative individuals are within their structural relations.

Gender history has not contributed much so far to the history of blasphemy. It has shown nonetheless in other contexts related to religion that gender is historically relevant in this field. Research into witchcraft is the outstanding example when it explores the fact that mainly women but also some men were prosecuted. The question of why blasphemy was largely a male offence has not been examined so far. The answer that this could have to do with the smaller value attached to women's utterances with religious content is no more than a cautious and unsatisfying hypothesis.

History of crime has rarely ventured into the field of religion. It is mainly the crime-history approaches in research into witchcraft and the Inquisition that deal with religious offences. Nonetheless, a history of blasphemy can benefit from these approaches. Like them, it seeks to draw up a profile of culprits, circumstances of the crime, and punishments. For Zurich, we can correct the picture of blasphemy as an offence punishable by death and as the subcultural behaviour of young men or as the behavioural pattern of marginal social groups. The 20- to 40-year-old men who played to the gallery with their strong words, who broke into confessional polemics, who took part in bold intellectual discussions on theological issues and who wrestled with God came from all parts of the social spectrum. The judiciary responded with highly differentiated punishments, imposing the death penalty 'relatively' seldom (since any case is one too many).

The phenomenon of religion goes beyond the church and church religiosity. Our fourth main result is that the history of religiousness cannot restrict itself to the approaches discussed above. It must attempt to fathom the implications of religious norms in everyday life, in order to grasp religion in its political, social and individual dimensions. What might such a culturally oriented history of religiousness look like, and what would its perspectives be? This fundamental question can only be answered programmatically by first examining the term 'religiousness' and explaining the concept of history associated with it.

As a global phenomenon, religiousness encompasses everything that is religiously loaded within a society and gives rise to norms because of its religious relevance. These norms are required for managing everyday life, so that belief and unbelief can be understood as how believers and unbelievers act in relation to religious norms.

Shifting the emphasis from an examination of religion to an analysis of religiousness means connecting with the endeavours of recent German cultural history. These do not focus on religion itself but on its meaning. Instead of reducing religion to structural requirements of theology and church, the aim is to establish how historical subjects refer to religion as social action. The question is what role religiousness plays in the social construction of reality. What exactly do speakers mean when they refer to religion? How do the addressees understand the implied messages? What

value orientations and endowment with meaning are indicated by the communicative situations? These three fundamental questions direct our gaze to the reality produced by human beings when they act with reference to religious norms. The concept of religiousness takes up the concept of culture as a system of collective constructions of meaning.

Despite its closeness to recent cultural history, the present history of religiousness only partially takes up the idea of the hermeneutic–symbolic turn in history studies. Hermeneutic historiography has not succeeded so far in solving the conceptual problems associated with the idea of practice, the question of the subjects' space for action, and the systematic character of culture. The methodological options developed in the discussion of the linguistic turn are also only of limited use. If we abolish the gradual but certainly existent boundary between fiction and the presentation of factuality in our court sources, we create unnecessary confusion. The 'stories' that are 'narrated' by witnesses and defendants in court depend on testing those very boundaries without crossing them. Nonetheless, the controversies surrounding the linguistic turn have significant methodological potential, which lies in the considerable heightening of sensitivity towards the narrative construction of reality in source texts.

A fruitful way of taking up the ideas of the 'new' cultural history and the linguistic turn but avoiding their conceptual shortcomings can be found in the pragmatic turn of the communication sciences. The model of speech action and conversational implicature works both methodologically and empirically. If speakers want to act successfully by means of words, they have to observe certain rules. Otherwise, their listeners will not be able to interpret the message received. Speakers are thus bound by linguistic structures. They are relatively free, however, in deciding how to use these structures. The way in which speech actions may be combined is the basis of the verbal practices of a society. On the basis of this repertoire, speakers and addressees interpret the world and are thus enabled to live in it together. Speech actions are not testimonies that emerge from the realm of random creativity, i.e. the realm of fiction, but testimonies reflecting the perception of the world by historic subjects. Enquiring into the subjective nature of these testimonies does not mean putting oneself sympathetically in others' positions. Exploring the subjectivity of interpretations means discarding the postulate that the world (of the past) exists objectively and can be recognised as such. Analysing historical sources as speech actions does not mean asking what reality is, but examining how speakers and addressees came to an understanding of reality.

In empirical terms, this model enables us – free from psychological speculations – to discover what blasphemers did when they misused the name of God, and what effect it had. Blasphemy becomes recognisable as a context-dependent broadband offence that has much more to say

about society than its juristic–theological categorisation as *crimen laesae majestatis divinae*. Judging the gravity of a blasphemous offence only by the formal juristic criteria of the time, i.e. by the propositional content of the criminal speech act, is unsatisfactory. The degree of taboo-breaking is also apparent in the effect of the speech action; in other words, the decoding of its perlocutionary elements by the addressees.

The cultural history of religiousness presented here with blasphemy as its exemplar calls not only for the use of models from communications theory in the study of history, but also for fresh reflection on the status of the subject in history. Whereas macrohistorical studies sometimes lose sight of the subjects, microhistorical analyses tend to stay with individuals and then somehow link them with the culture of a collective. In fact, the historic subject is between structure and individual case. Neither purely statist perspectives nor unconnected individual stories can do justice to the subject. The more case studies can be reconstructed from their context, the better we can understand how subjects in all their diversity help to shape history. Finding subjects between macro- and microhistory is extremely difficult, however, as long as the preferred sources begin on the normative level. Sources in which the subjects have a chance to speak – if possible, directly – are far more instructive. A cultural history of religiousness emphasises the need to evaluate groups of sources that open up vistas 'from below'. This does not mean entertaining the naïve idea that such sources are identical with 'below'. On the contrary, this cultural history has to enquire into the refractions in the sources. When assessing court records, for example, it is essential to evaluate speaking before the court as a specific speech situation.

The cultural history of religiousness developed here calls for the end of old polarities. It has become apparent that the concept of elite culture versus popular culture in the Early Modern era is no longer viable. Just as the faithful did not simply resist church doctrines, the judiciary was not simply a repressive tool in the hands of the authorities. Although their space for thought and action was by no means unlimited, believers were certainly in a position to engage actively and independently with the principles of Christianity and the confession-specific positions. The prosecution and punishing of blasphemers relied on participation of the subjects in the judicial system. In this sense church and believers, council and subjects formed a 'functional whole' (R. Scribner).

Within this 'functional whole', many interpretations of the world coexisted. Believers who wrestled desperately with God lived side by side with people who turned their backs on God or the church for rationalist reasons. 'Atheism' was rooted in a wide variety of attitudes to life. Distinguishing between the God-fearing and the 'godless' is an undifferentiated contrast often enough occasioned by uncritical reading

of the sources. A cultural history of religiousness has the task of exploring the fluid boundaries between faith orientations and religious norms, rather than overemphasising oppositions.

In recent years, the firm boundary between the Middle Ages and the Early Modern era has become less distinct; more and more continuities between the Late Middle Ages and the Reformation era are being established. Yet still the Reformation and the Counter-Reformation are seen as the decisive epoch boundary. Unquestionably, these were important milestones in theology and church politics on the road to a confessionalised society. But the cultural history of religiousness renews the question of whether the comparison between the Catholic Middle Ages and the confessionalised Early Modern era is indeed the crucial one. Judging by the fundamental effect of religious norms on how people act, the more meaningful comparison is between a pre-modern religious era and a modern religious one. Religious norms, determining the space for thought and action in European societies up to the end of the seventeenth century, began to fade into the background in the eighteenth century. Religion gradually became a private matter. This shift in the assessment of epoch boundaries reminds us how important are long-term studies that examine, rather than merely adopt, epoch divisions.

The history of religiousness as the history of practised religious norms contributes to overcoming a further opposition. In interpreting confessionalisation, it seeks to discover the relation between statism and communalism rather than pitting them one against the other. Cultural history of religiousness trains sensitivity to the way in which behaviour patterns are determined by all the members of a society, so that the two forms of disciplining are in fact coupled. The question of how conflicts arise and who makes use of the norms for what purpose throws light from a different standpoint on how the sacred and profane spheres interact. It is simply too one-sided to stress that, in the Early Modern era, profane acts were founded in the sacred. There needs to be equal emphasis on the fact that sacral references could have profane features. To people in today's secularised modern world it is essential to point out that matters of this world were legitimated with those of the next – but the reverse is equally true. Using God as a threat to get the better of an opponent in a conflict of honour can only be explained when the interlocking of heavenly reference and earthly interests, i.e. of propositional and perlocutionary speech levels, has been systematically uncovered.

The cultural history of religiousness proposed here goes beyond the attempt to do justice to the historic subject and to overcome unhelpful polarities in historiography. It deliberately refrains from regarding culture as a consistent system. Instead of assuming that people act consistently, it explores ambivalences. For example, the rhetorical dramatisation of

the offence of blasphemy and the intensified legislation in the council are contradictory to the relative banalisation of blasphemy in many of the sentences. A second example is the tension between Zwingli's and Bullinger's radical theological shift away from a casuistic understanding of sin and the moralising of blasphemous talk by the church. The character of blasphemy itself is polyvalent too. In the form of insult, speakers were challenging God on the one hand and the world on the other. Blasphemies were as polyvalent as the contexts they occurred in. This is why attempts at monocausal explanations for the phenomenon of blasphemy, such as crisis theory, fail to do it justice. Greater sensitivity for inner contradictions and ambiguities means taking leave of allegedly plausible explanations and linear models of development.

Cultural history of religiousness regards religion as a political, social and individual phenomenon. It does not ask what religion, is but how human beings refer to religious norms in their actions. In asking the question of how religious norms shaped people's space for thought and action in their everyday structural relations, history of religiousness widens the historical horizon in the study of religion. The history of religiousness makes religion 'visible' beyond church religiosity and theology. Rather than narrowing blasphemy down to the history of an intellectual concept or of an offence, the history of blasphemy as history of religiousness opens up far wider perspectives. It examines how people sought to restore divine honour in the name of the Lord, how they provoked the world by invoking God, and how they wrestled with God. In other words how, in their own society, they dealt with God.

Glossary

Abkanzelung	reprimand or admonishing from the pulpit
Constaffel	a guildlike body that dated back to the age of noble families in Zurich
Ehegaumer	overseer in matrimonial matters
Ehr- und Wehrlosigkeit	loss of civic rights and the right to bear a weapon
Fürträge	recommendations by the church to the secular authorities
Gätteri	dungeon at the church door into which offenders were locked
Gerichtsweibel	court sergeant
Herdfall, Erdkuss	punishment in the form of kneeling and kissing the ground or touching it with the forehead
Kundschaften und Nachgänge	protocols of defendants' and witnesses' statements, drawn up by representatives of the court (*Kundschafter* or *Nachgänger*)
Rats- und Richtebücher	often found in one volume, though their content differs: *Ratsbücher* contain council decisions, while *Richtebücher* contain some of the council sentences, in particular death sentences

Schellenwerk	punishment in the form of forced labour outdoors during which the delinquent wore an iron headring with bells attached
Trülle	a rotating cage for offenders that could be pushed round by passers-by
Verbot der Ürten	prohibition of entering a tavern or attending occasions such as weddings
Züchtigung an der Stud	birching (in prison or at the pillory)

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