

‘Grotius and Socinianism’, in: Martin Mulrow and Jan Rohls (eds.), *Socinianism and Arminianism. Antitrinitarians, Calvinists, and cultural exchange in seventeenth-century Europe* [Brill’s studies in the intellectual history, vol. 134], Leiden 2005, p. 121-147

Grotius and Socinianism Hans W. Blom

God’s government of the world was of special importance for the Dutch in the second half of their War of Liberation from the Papist Oppressors from Spain. Across the board they were convinced that God had delivered them from the Spanish tyranny, and they were afraid to forsake God’s benevolence by sinning. Also here, these Dutch Reformed parted company with each other. Some were going to maintain that God had decided upon who will be saved and who won’t, in his unfathomable and eternal Edict. Although God thereby is presented as the Author of evil, this is so in an indirect way only, viz. by way of punishment of the sins of the unbelievers, the heterodox and heretics, the schismatics and apostates. ‘Evil is the rod of His wrath’, in the in no way original words of Johannes Trigland.¹ Others in the Reformed Church maintained – and they considered this to be the original Christian position – the general nature of man’s justification by Christ’s sufferance on the cross. Therefore, the latter were in need of a different understanding of evil in the world. To consider sinful man, in the injudicious use of his free will, to be himself the author of evil seemed the obvious choice, however, creating the need for an appropriate notion of redemption that unveils the causal nexus between Christ’s sufferance and justification. The Socinians believed they had found the logical thing to say: there is no way in which Christ’s passion can be proportional to man’s sins, while it is absurd to suppose that Christ (the innocent Lamb) might have been punished for our sins. Hence man’s justification must have followed from God’s free and unmerited liberation from punishment. Hereby, however, the person of Christ was greatly reduced in importance, a process to be brought to its logical conclusion by denying Christ to be an independent persona of God. When Sybrandus Lubbertus started to attack Socinianism in the Low Countries, in the first decade of the seventeenth century, there was as yet no such a Socinian position at hand. His attacks went accompanied by a full exposition of the Socinian doctrine in the form of his Franeker edition of Socinus’ own *De Iesu Christo servatore* in 1611.² While we may surmise that his anti-Socinian project was maybe to counter early developments towards rational Christianity, or maybe because he considered it to be a more radical version of the Arminian threat, in any case, Lubbertus was well served by the attempted appointment of the (not so cryptic) Socinian from Steinfurt (Germany), Conradus Vorstius, to Arminius’ chair. It is there that the momentous debates of the 1610s started. Grotius stepped in with his *Ordinum pietas* of 1613 and he contributed a few years later with the *De satisfactione Christi* (1617) in which he attacked Faustus Socinus himself on the subject of man’s justification by Christ.

In this article I will discuss the position of this anti-Socinian tract of Grotius within the context of his early writings, as well as its reception. In due course it will become evident that the opinion of the modern³ editor of this text that *De satisfactione* is essentially a work in theology is misguided. Not only does Grotius take issue with the deeper dimensions of Dutch

¹ Triglandius 1616, *Aenwysinge*, pp. 31 ff.

² Cf. Rabbie 1990, *Introduction*, pp. 7 ff, where he refers to the visit of the Polish Socinians Christoph Ostorodt and Andrej Woidowski to Franeker in 1598, and argues the general absence of knowledge of and interest in Socinus in the early seventeenth century Netherlands. Apparently Lubbertus had to create such an interest (by his edition) before he could fight it. The story was first mentioned by Jac Taurinus 1611 in his *Brand-clock*, directed against the Frisian opponents of Conradus Vorstius.

³ Actually, Gerardus Vossius had been its contemporary editor. See *infra*.

theological politics, but also we do find here the origins of that radical Grotian politics that one is now wont to identify with radical Enlightenment. In a restricted sense the issue at hand is that of the nature of punishment. However, as punishment presupposes a theory of justice, in a concealed way if one likes, the whole debate on predestination is on the table. Grotius conceals and feigns to discuss only matters of abstruse theological nature. Having fought the predestinarians for many years, in collaboration with Johannes Wtenbogaert whose history of religious appeasement goes back to the great debates of the 1590s, Grotius had no problem in understanding their zeal and aim. By fearing God's wrath if soft on heresy, these True Reformed made the fight against heresy a reason of state. Even while the conscience of individual man should not be forced (and here the Dutch Reformed agreed across the board) we should not easily forsake God's benevolence by not fighting heresy. Grotius sets out to undermine this conception of the private-public distinction which makes belief a public affair, and would give a spectacular meaning to the very conception of the 'public church'.⁴

The late eighteenth-century Dutch philosopher and theologian Dionysius van den Wijnperse is being reported to have remarked that Grotius treats punishment differently in *De satisfactione Christi* and *De jure belli et pacis (DJB&P)*.⁵ The context of that remark is a discussion between the Leiden literati Meinardus Tydeman and Willem Bilderdijk on the nature of grace, the principles of Protestantism, natural theology and natural law. Tydeman wrote to Bilderdijk: "D. van den Wijnperse praised the anti-Socinian book of Grotius *De Satisfactione*."

The two correspondents – Orangists, Calvinists, and conservatist – shared a disapproving attitude towards the Arminian-Loevesteinian-Aristocrat writers 'who were more successful in their literary activities than in politics'. It did not deter them from receiving Grotius as one of their own in the fight against the English Unitarians that was so important in the Dutch Christian Enlightenment at the end of the eighteenth century. Dionysius van den Wijnperse had been involved in the *Haagsche Genootschap* for the defence of the faith against Priestley and his Unitarian influence in the Netherlands in the 1780s. And indeed, while in the seventeenth century Grotius was generally believed to be a Socinian himself, and suspected of a hidden political agenda, the eighteenth-century attitude towards Grotius seems to be primarily a positive one, against the background of a general 'Dutch' understanding of natural law. The interest of these intellectuals – defining their relationship to the endeavours of the Dutch Republic that no longer was – is apparently the interface between theology and natural law, more precisely the concordance between a theological and a natural-law conception of punishment. Correctly, they understand that Hugo Grotius was precisely engaged in a similar

⁴ There is a straight development from the Coornhert debates in the 1580s to the Arminianism debates in the 1600s. The history of church politics *Kerckelycke geschiedenissen* (Leiden 1650) by Jacobus Trigland is very informative for these debates, in particular with a view to determining within these debates the interconnection of the various processes of transformation in Dutch society around 1600: religious establishment, economic growth and social change, in a new political order.

⁵ Bilderdijk, Tydeman, Tydeman 1866, *Briefwisseling*, vol. I, p. 55, MT to WB (25 March 1808): "D. v.d. Wijnperse prees het Anti-Sociniaansch boek van Grotius *de Satisfactione*; maar verwonderde zich, dat hij, daarin, een ander denkbeeld van de straf voorstelde, dan in zijn *Jus Belli ac Pacis*, en eene andere, en betere, verklaring van Jesai. 53, dan in zijn *Comment. ad ill. loc.*, daar hij 't op Jeremias past." Cf. van de Wijnperse 1778, *Verhandeling*; van de Wynperse 1794, *Demonstration* [= Translation of van der Wynpersee 1793, *Betoog*]. Dionysius van den(?) Wynperse (1724-1808) was a professor of philosophy in Leiden. For the Jesaia reference see: *De satisfactione* X, 38: "consider that part of the covenant in which Christ stipulated that, if he submitted to death, it would happen that to those who believed in him remission for sins would be granted, and God made this promise, as appears from Esai. 53.10". Cf. Grotius 1679, *Annotationes in VT*, p. 323b, ll. 16 ff. The correspondents owned a negative appreciation of Pufendorf, and estimated the Leiden natural law thinker Pestel above Immanuel Kant, as transpires from the same correspondence.

enterprise, and the remark of van den Wijnperse on an apparent inconsistency between the two in Grotius is telling. No surprise he studied Grotius, and came to his observation.

Van de Wijnperse was referring here to an overlooked aspect of Grotius' theory of punishment that is particularly relevant from a theological perspective: is God acting for a purpose when he punishes or is he punishing for his own sake? If for a purpose then God's punishment is on a par with that of other rulers: punishment is undertaken for the sake of justice. If not, then a problem arises in the theory of satisfaction.

It has been remarked that Socinianism has much in common with Arminianism, in particular a rationalist approach to the Bible, an emphasis on the practical moral value of religion and an abhorrence of theoretical subtleties.⁶ Rationalism in theology is about method rather than substance and in the issues at hand, the nature of God's saving grace, Arminianism was mostly concerned with the election to and resistibility of grace, while Socinus concentrated on grace as the completely free gift of God. Grotius had become involved in these issues along both fronts. Not only within the context of the Remonstrant-Counterremonstrant debates on predestination, but also on the Socinian-Calvinist front, as a consequence of the alleged Socinianism of Conradus Vorstius (1569-1622) appointed to the chair of Arminius in Leiden.⁷ Grotius' *Pietas* (1613) – an outright defence of the Remonstrance and toleration – was occasioned by what finally would turn out to be an insurmountable opposition against Vorstius' appointment.⁸ A few years later, he wrote his *Defensio fidei catholicae de satisfactione Christi adversus Faustum Socinum Senensem* (1617) to deal with the question of the nature of sin and its redemption. By singling out this issue, he skilfully combines a critique of Socinianism with a defence of his own Remonstrant position, without however being forced to tread into the well-worn paths of the arguments 'de gratia et praedestinatione'. [well-worn, as exemplified e.g. by the summarizing treatments by Polyander and Grevinchovius⁹] And then, when Grotius writes his *De veritate religionis Christianae*, published in 1627 after some delay, he again returns to Vorstius by taking Vorstius' anonymous edition of Socinus' book on bible interpretation as the basis of its third and fourth chapters. The *De Satisfactione* hence is in between the *Ordinum pietas* of 1613 and the *De veritate* of 1627, all of which taken together with some justification made him liable to the suspicion of Socinianism as well as political schemes. As the argument went, Grotius was coming to the rescue of Socinianism because he did not explicitly condemn its central tenets, and hence tacitly condoned it.

There is another lineage, however. That one follows the road of the notion of punishment, from *De jure praedae commentarius*, written between 1604 and 1607, to *De satisfactione* and to the book mentioned in reference by Van de Wynperse, *De jure belli ac pacis*, published in Paris in 1625. This lineage spans a slightly larger period, but it is a lineage by hindsight because *De jure praedae* remained a manuscript till 1864 when it was rediscovered to be published in 1868 by H.G. Hamaker on the instigation of Robert Fruin. Punishment plays a complicated role in the Grotian oeuvre. We will see punishment's importance in the theory of just war (no surprise, evidently), and in the understanding of the doctrine of redemption (a bit

⁶ Cf. Kühler 1912, *Socianisme*.

⁷ See his justification before the Senate of Heidelberg in 1599: Vorstius 1611, *Confessio*.

⁸ The attack was led by Sybrandus Lubbertus, a Calvinist minister from Leeuwarden (Frisia), who had made the persecution of Socinianism his pet project. First he edited a Socinian text, then he orchestrated the attack on Vorstius' appointment, see Lubbertus 1611, *Iesu*, and Lubbertus 1613, *Commentarii*. From there, Socinianism quickly became the kind of contagion that was actively shunned notwithstanding the famous Dutch toleration that made the publication of Socinian writings plainly possible.

⁹ Polyander à Kerckhoven 1616, *Staet*.

more of a surprise), and, lastly, in the construction of man's sociability. To reduce this to one phrase: punishment is the linchpin of the bringing about of justice, as in just war, justification, and social justice. It remains to be seen what this second lineage for the *De satisfactione* has to do with Faustus Socinus, as that requires us to understand the interdependencies of the second lineage, from *De jure praedae* to *De jure belli ac pacis*.¹⁰

At issue in this development ultimately is the reordering of reason and revelation, a process which takes place against the Calvinists' history of salvation, and against the dogmatic conception of justice. The nature of God's justice being at stake, the humanist demands a coherent view of the world including both divine and human justice under one simple concept. The long discourses on punishment are therefore to be seen as the disquisition of the practical side of justice (punishment is the essence of the execution of justice, which is nothing else but the bringing about of a situation of justice ('justice done')). *De veritate* is about the reasonableness of Christianity, it is apologetic, and in a way all of Grotius' Christianity is apologetic: he believes that revelation brings certainty (*assensus*) to truth, established by way of consensus among men. Compare this with J. Trigland, in his acerbic criticism of Arminianism, as he derides the interest in political order among the 'politijcken', praising the trust in God's eternal plan of the 'kerkelijcken'. "But since they have no certainty in religion, or more correctly don't have a religion at all (Omnis Religio nulla religio, All Religion is no religion), they expect their salvation from a civil life, and thus aim to dissolve other people's hearts from the creed, put on quicksand and make rely on a political life."¹¹ The Calvinists (or: 'Gereformeerden', Reformed, as they preferred to be called) emphasised the undeserved aspect of grace: God's grace is not a consequence of man's belief, but belief is rather a consequence of grace. Where the Socinians agree with them in seeing grace as undeserved (free gift of God) the deviation must be fought to deny the relevance of Christ's passion.

We must therefore first analyse what is meant by the biblical 'Christ died for our sins', and Grotius' answer is that man is punished for his sins because Christ, the son of God, has freely accepted to be punished in our place by the greatest punishment of all, i.e. death. In order to defend this interpretation, Grotius develops a notion of punishment, which is essentially that the final cause of punishment is the prevention of sin, and the promotion of justice. In this way, Grotius expounds the practical moral value of the Bible and the central place in it of the coming of Christ, while preventing the dismal conclusion that God is the author of sin or evil, and underlining the importance of human freedom.

No doubt, ever since Grotius had started writing on just war, he had stressed the importance of punishment for the establishment of justice. The argument in *De jure praedae* is straightforward. In what must be regarded as a classical oikeiosis-argument, Grotius states that man's first duty is to himself, and that self-preservation and appropriation of goods are precepts of the law of nature. But there is also the perspective of 'universal concord', and the typical challenge of oikeiosis as we find it e.g. in Cicero is to understand the process by which this universal concord and humanity comes about. This 'justice properly so called', to 'have a

¹⁰ Among the earlier literature on Grotius attention is paid to the doctrine of punishment by Haggemacher 1984, *Grotius*; see also Besselink 1989, *Faith*. On the relationship between Grotius and later philosophy of penal law, see Hüning 2000, *Potestas*.

¹¹ Trigland 1615, *Christen*: "Maer alsoo sy selfs gheen vasticheyt inde religie/ Ja om recht te seggen gheen religie hebbende (want Omnis Religio nulla religio, Alle Religie is gheen religie) haer salicheydt stellen in een Borggherlijck leven/ soo soecken sy oock ander menschen herten met haer vande Religie los te maecken/ op een drif-sant setten/ ende op een polityck leven te doen vertrouwen."

care for the welfare of others', 'that brotherhood of man', that 'certain kinship established among us by nature' makes it 'sinful that man should lie in ambush for his fellow man, a precept which Cicero very properly ascribes to the law of nations'.

The foregoing observations show how erroneously the Academics – those masters of ignorance – have argued in refutation of justice, that the kind derived from nature looks solely to personal advantage, while civil justice is based not upon nature but merely upon opinion; for they have overlooked that intermediate aspect of justice which is characteristic of humankind.¹²

In addition to the law of self-preservation and the law of acquisition thus arise the law of inoffensiveness and the law of abstinence. 'Consequently, we feel the need of that form of justice properly known as *κοινωνική*, or 'social virtue' (virtus socialis).'¹³ In passing we should mention that Grotius considers his first law to follow from necessity. 'As we read in Seneca, necessity, which breaks all law, is a great support of this great human weakness. Indeed necessity is the first law of nature, as we said in the beginning.'

Of the two forms of justice then distinguished, compensatory justice (justitia compensatrix) has a twofold function: in regard to good, the preservation thereof; in regard to evil, its correction. The law of obligation deals with these matters, but also that of reward and punishment. It may well be asked why two approaches to compensatory justice are proposed. If indeed the subjective rights to life, liberty, and estate in a social setting imply the corresponding duty to respect those of others, it might seem that obligation would be sufficient. Grotius notices that obligations can arise from contract and from offence (delictum), and that obligations have to be fulfilled.

'Such justice requires that the thing taken shall be returned in the case of a theft just as in the case of a loan, and that, even as payment is made of a purchase price or of a revenue from a contract, so also reparation for loss inflicted and restitution for injuries should be provided.'

Thus one may ask, if a wrongdoer incurs an obligation to be fulfilled, why should a wrongdoer in addition be punished? Indeed, to inflict punishment upon a person is to harm him, which seems to run counter to the laws of nature developed so far. In other words, if the 'equality' of the subjective rights is all that is at stake in society, it must be sufficient to have a concept of obligation and its fulfilment. Naturally, the issue arises how people are made to perform their obligations, and its regulation being the interest of all would have to be allotted to magistrates. From this perspective Grotius maintains that evil has to be punished, just as good deeds have to be rewarded. The reason for this is that punishment and reward do not pertain to the fulfilment of a debt incurred, but to prevent evil and promote good deeds. Punishment is a 'curative procedure', and also functions by example – as says Aristotle; punishment is not imposed 'because sin has been committed but in order that its commission may be prevented' (Plato). However, we still fail to have a straightforward connection between the argument of rights and duties on the one hand and that of reward-punishment.

Grotius in fact is using two kinds of argument to defend punishment. Both are part of a possible *oikeiosis* process.¹⁴ On the one hand, he follows the well-established republican

¹² Grotius, ____, *DJP*, II [6', 7].

¹³ Grotius, ____, *DJP*, II [8].

¹⁴ See on *oikeiosis* in Grotius Winkel 1988, *oikeiosis-Lehre* and Blom and Winkel (forthcoming), Grotius and the Stoa.

argument for public virtue. From the classical Pericles exhortation, Platonist arguments that the whole is crucial to the parts, and Livius' statement that 'in no way will you be able to protect your own interests by betraying the public interest', it is followed that in addition to the rights and duties between individuals, the individual has duties towards the community to which a right of the community corresponds. This right takes the form of punishment because

'owing to the fact that men (repeatedly carried away not by true self-love but by a false and inordinate form of that sentiment [non vero sed falso atque inordinate sui amore], the root of all evil) were mistaking for equality that which was in point of fact disproportionate ownership, and because this false conception was giving rise to dissension and tumult, evils which it was important to avoid for the sake of concord and public tranquillity, the state (respublica) intervened in the role of arbiter (mediā) among the contending parties, and divided the various portions equitably'.¹⁵

Here Grotius explains that the republic contributes to the establishment of justice by rewarding/punishing according to the distinction between 'verum / falsum sui amor'. This move is part of the ascending order that leads to universal concord and humanity. Although Grotius emphasises in the next line that the origin of these judgements (judicia) of the republic is the same as the origin of laws (and that consequently all authority is by consent only), the theory of punishment is made coextensive with the republic: its role is to rule out 'amor propre' and promote 'amour de soi'. That is to say that the republic must impose upon the citizens a moral attitude towards the enjoyments of one's rights coherent with some higher good, the preservation of the commonwealth itself. Indeed, within the oikeiosis perspective, one would require an order expanding from self-preservation to commonwealth and finally to universal humanity and concord.¹⁶

We find an indication of how to understand this process in Grotius' discussion of the moral vengeance that the first two laws – of self-preservation and appropriation – have in the offering. In the passage that Richard Tuck presents as his core exhibit for an Epicurean interpretation of Grotius, that God created man $\text{☉} \blacklozenge \text{er} \blacklozenge \square \boxtimes \square \blacklozenge \blacklozenge \blacklozenge \blacklozenge \blacklozenge \blacklozenge \blacklozenge \blacklozenge$, 'free and sui juris', I understand Grotius – in contradistinction to Tuck – to indicate a first step in the process towards social justice.¹⁷ That is, precisely from man's freedom he deduces the 'fidei regula', the rule of good faith, truth and trustworthiness. Being true to one's own free self, man is morally bound to be true to others. Lying and cheating thus become actions of a different category than incurring a debt, even while normally as a consequence these actions do create debts in their trail. Hence, when good faith develops, Cicero is right in calling it 'the foundation of justice', says Grotius. Failing the rule of good faith is thus the kind of evil that deserves punishment.¹⁸

¹⁵ Grotius, ____, *DJP*, II [11'].

¹⁶ This argument is developed by Grotius in close reference to Cicero, *De finibus*, III, and Seneca, *De beneficiis*, V.

¹⁷ Trigland mentions that the term *aùtoxoúision* is discussed by Augustine, *Twee brieven tegen de Pelagianen*, bk 3, c. 4; c. 9. I did not find this publication. Presumably Trigland refers here to *Bode, met twee seyndt-brieven, Prosperi eˉn Hilarii, aen Avgvstinvm; van de over-blijfselen vande ketterije der pelagianen*. Rotterdam 1608: Waesberghe (Tr. from the Latin into Dutch and ann. by A.J. Smout). See for the argument Trigland 1650, *Geschiedenissen*, pp. 17ff.

¹⁸ The term *regula* is used in the Digests to indicate general principles of law, in distinction to specific rulings. In Roman oratory, *regulae* are the principles inherent in language and language use. E.g. in Quintillian, *Inst Orat* X,2,13; Seneca, *Ben*, 4,12. Reference to Cicero, *Off*, I, 23: "Fundamentum autem est iustitiae fides, id est dictorum conventorumque constantia et veritas. Ex quo, quamquam hoc videbitur fortasse cuiquam durius, tamen audeamus imitari Stoicos, qui studiose exquirunt, unde verba sint ducta, credamusque, quia fiat, quod dictum est appellatam fidem." Cf. also Fikentscher 1979, *Fide*.

Thus we have to distinguish two ways of introducing just punishment: one on the basis of the priority of the commonwealth over ‘amour propre’, and another on the basis of the moral value of faithfulness. The former entails what nowadays is called, end-state principles, the latter is a procedural principle. Oikeiosis demands of man to be in harmony with nature, i.e. with the larger whole of which he forms part. Oikeiosis starts from the awareness of self and the interests of self, and shows the ways in which the individual is re-connected (in the sense of ‘re-ligio’) to the totality of nature, either by accepting laws (civil law, law of nations, God’s law), or by developing behaviour that will produce this harmony (fides).¹⁹ The prevention of unjust actions can be done by demonstrating that the transgression of laws will not be permitted (i.e. be punished), or by punishing breaches of fides. The former is about the subjection to laws, while the latter is about the establishment of laws, in communities of faithfulness. From the former perspective punishment is the prerogative of authority, from the latter perspective punishment is everyone’s business.

It is my contention in this paper that while Grotius combined both perspectives in *De Jure Praedae (DJP)* (for obvious reasons, since he wanted to allow the right of punishment to individuals in the absence of authority (i.e. enforcing the law of nations by default), as well as for reason of breach of contract (everyone has the right to punish unfaithfulness, even if not part of the contract)). Next, he emphasised the first approach in *De satisfactione Christi*, and the second one in *DJB&P*. I will now present these two in historical order.

1. Defensio fidei catholicae de satisfactione Christi adversus Faustum Socinum Senensem

In 1617 was published Grotius’s *De satisfactione Christi*, a defence of the ‘catholic’ creed against Faustus Socinus from Siena. It has been convincingly argued that Grotius, with the intellectual support of his friends, and in particular that of Gerardus Vossius, set out to write this critique of Socinian ideas about atonement as an attempt to counter the animosity he had earned among Counter-Remonstrants with his defence of the Remonstrant minister Conradus Vorstius in his *Pietas* of 1613. Grotius expected that a critique of Socinianism on an issue far away from contested concepts like predestination and free will would re-establish his orthodoxy, and hence his credibility as a political leader and leading intellectual. How wrong he was!

As Hermannus Ravensperger, the author of a small tract against the *Satisfactione* remarked:²⁰ “I am wholly convinced that under the pretext of religion the cause of a region [viz. Holland] is being promoted; that a political schism is sought by means of a religious one; that under the cover of the five articles [the so-called five fundamental articles of faith of the Remonstrants] are hidden the monsters of errors and the idols of a Socinian brain”

And to sum up: “I have noticed that he [Grotius] refutes ‘Socinus’s opinion’ on satisfaction and snatches the arms taken from jurisprudence, from the adversary of the catholic faith in such a way that time and again he comes to the assistance of that same adversary”. In other words, says Ravensperger, Grotius is not only using a pretended refutation of Socinus as a stealthy means to political ends, but even devilishly promotes Socinianism itself.

¹⁹ Spinoza will take fides as the core concept in the ‘contract’-chapter – chapter 16 – (Spinoza 1670, *Tractatus*), although he wants to underline that fides is still purely utilitarian as people (rulers and citizens alike) are shamed into fides. A comparison between Grotius and Spinoza on this score is highly illuminative of both thinkers, but is to be presented elsewhere.

²⁰ Quoted in Rabbie 1990, *Introduction*, pp. 43.

A few years later the German Socinian Johannes Crellius replied to Grotius. Although pressed to do so, Grotius did not answer this book, arguing that by responding he would as a matter of fact promote the case of Socinianism rather than defy it. Apparently he had learnt his lesson. However, that was not the end of it. Within a few years, the whole affair fired back upon Grotius who was in the end generally regarded by his Counterremonstrant opponents to be a real Socinian himself. “What happened to Mr. Grotius is the same as what happened to all Remonstrants: ... as long as they had hope to retain the town hall and the church they showed Christian countenance, but when those were lost, they lost at the same moment the divine truth and conscience”, writes the devoted Voetian spokesman Martinus Schoockius in 1638.²¹

De satisfactione essentially sets out its case along the following lines:

- Punishment is not an act which falls within the competence of the offended party as such (II, 5).²²
- The offended party has no right to punishment (II, 8), but only restitution (II, 9) [the cause of debt is not the moral wrongness of the act, but that I lack something, II, 10]
- The right of punishment in the ruler is neither the right of absolute ownership nor a personal right (II, 16)

Therefore, and as a consequence, Christ’s redemption of our sins is a ‘dispensation’, i.e. ‘an act by a superior, by which the obligation imposed by a law remaining in force is removed with regard to certain persons or things’ (III, 2). Punishment is not necessarily proportional to the sin (III, 10). Socinus’ claim that ‘no one can take upon himself the punishment for the delict of another’ is countered by Grotius, by showing examples of the opposite. (IV, 21) This is clearly sufficient for his purpose, which apparently is to further stress that punishment is not based on a contractual relation, nor on a creditor-debtor relation: ‘but the real question is this, whether an act which is within the power of a superior can, even without consideration of another’s delict, be appointed by the superior for the punishment of another’s crime’. (IV, 22)’

For punishment, therefore to be just, it is required that the act of punishing itself is within the power of him who punishes, which holds true in three cases, either by the previous right of him who punishes, or by the just and valid consent of him whose punishment is concerned, or by a delict of the same’ (IV, 12). There must be a certain connection between him who has sinned and him who is to be punished: ‘This connection, then, is either natural, as between father and son, or mystical, as between king and people, or voluntary, as between defendant and surety’ (IV, 11)

And in further proof Grotius adduces some telling examples:

‘who would regard as unjust the decimation usual in the Roman legions ... ? Who would regard it as unjust, if, when the highest power relaxes the law, some man who is useful to the state but deserving of exile because he is guilty of some crime is retained in the state while someone else of his own free will takes upon himself the obligation to go into exile, in order to furnish the required example? Who would regard it as unjust, if the highest ruler of the state refuses public offices, for the fulfilment of which others equally competent are found, to children of public enemies, even though they are not otherwise unworthy? Indeed, there is nothing unjust in this. For in the first case the crime of him who is punished, in the second case the valid consent of him whose case is concerned, and in the third the liberty of the ruler, permitted the occurrence of the thing which the ruler used as punishment’. (IV, 22)

²¹ Quoted in Rabbie 1990, *Introduction*, pp. 47.

²² References are to the chapter and paragraph numbering of the Rabbie edition.

The conclusion, in the next paragraph, is that God used the ‘sufferings and death of Christ in order to set a serious example against the immense guilt of us all’. Clearly, just as the ancients said about forgiveness that it was ‘neither according to the law, nor against the law, but above the law and for the law’, this is completely true of his divine grace. It is above the law, because we are not punished; it is for the law, because the punishment is not omitted, and remission is granted in order that we may in the future live according to the divine law’ (V, 11). A precise discussion of the distinction between debtor-creditor and sinner-punisher relationships then follows, in particular as it appears in the procedures of the discharge of debt and punishment. Thus Grotius is going to achieve his threefold refutation of Socinus, i.e. ‘Now that two questions have been answered, whether God could justly punish the willing Christ for our sins, and whether there was some sufficient cause for God to do so, a third remains, whether God did this in reality, or, what amounts to the same thing, whether he intended to do so’ (VI, 1).

The real issue of *De satisfactione* thus has become whether God has done justice to man by promising redemption of the sins. In *De jure praedae* the question was whether certain actions of punishment were *just* (war, the taking of prize or booty), in *De satisfactione* the question is whether full *justice* has been done by a certain (limited) act of punishment. In order to answer this question, (again) the theory of punishment has to be elaborated in relation to justice.

Grotius definitely had reasons of a theological nature to construct this theory. On the one hand, he was bound by the opinions of Socinus he was refuting. In this respect he had to take issue with various publicly decried Socinian positions, such as on the nature of God. Other matters relate to God’s will and power in relation to the law. The integration between theological and legal arguments is achieved by describing God as a king in the execution of justice. Hence the series of metaphorical names: *superior, princeps, rector*. The conception of punishment itself is the same as in DJP, the right to punish is limited to ‘superiors’ only. It is remarkable that so to say the sole responsibility for the rectification of injustice is in the hands of superiors. It is also remarkable that the notion of sin is not elaborated upon. Good reasons for this may be found in the *Ordinum pietas*, where Grotius claimed the freedom of prophesying, and derides the claims to exclusivity on the part of the ministers of the Orthodox Church. No doubt, God gives the last judgement, and original sin is not to be disputed (even while it does not figure in the five fundamental articles of the Remonstrants). Moreover, a discussion of the contents of sin was irrelevant to the Socinian refutation, so not even the question how we know God’s justice was at stake.

2. De poenis

In chapter xx of book II of *De jure belli ac pacis*, Grotius retakes his whole discussion of punishment. The exposition is much more extensive, various authors are presented in a new light, and the tenor of the argument is different. As the exposition in *De jure praedae* was in chapter II, which was not published until 1868, his readers will not have remarked any chances, except when putting the *De satisfactione* next to it. This was noted by Van den Wynperse at the end of the eighteenth century, preceded in the seventeenth century only by Lambertus van Velthuysen, theologian and lawyer, and in the continuing anti-Socinian climate drawn to reconsider Grotius’ book.

Thus, in paragraph iii.1 of *DJB&P* II.xx, Grotius explained:

But the subject of this right (of punishment), that is, he to whom the right is due, has not been determined by nature itself. She indicates indeed the reason why a wrongdoer can be punished, not, however, who should punish, even though she indicates sufficiently that it is most convenient to nature if this is undertaken by him who is superior. Not, however, because this is proven to be necessarily so, except in so far as the word 'superior' is taken in that sense that he who acts wrongly thereby is seen to make himself inferior to any other and lowers himself from the ranks of man into that of the animals.

The competence to this right belongs by nature to everybody, ... even while in the republic one must understand these to be indicated by the laws. (ix, 2)²³

Grotius thus gives a somewhat unusual interpretation to the dictum 'he who is without sins, let him cast the first stone', by indeed presupposing the moral rectitude of he who punishes him who is punished. Moreover, the purpose of punishment - as we have seen before - in the words of Seneca: *Nemo prudens punit, quia peccatum est, sed ne peccetur*. This implies a certain lenitude in punishment, as indeed we find among men, 'because man is to such an extent bound to another by bounds of blood, that he must not hurt him unless for the purpose of some further good. In God it is a different matter.' (iv,2)

For the actions of God can be based upon the right of the Supreme Power (*ipso summi dominii iure*), particularly where a man's special desert is concerned, even if they have in view no end outside themselves. ... That is, even then when He punishes a wicked man, He does so with no other purpose than of punishing him.

Nevertheless, even if we follow the more generally accepted interpretation it comes to the same thing, so that God is said to have made all things for His own sake, that by right of the highest freedom, not seeking or regarding any perfection outside Himself; just as God is said to be 'self-existent' (αὐτοφύσει) because He is not born of any. Assuredly, Holy Writ bears witness that the punishments of those that are irretrievably lost are not exacted by God for any purpose, when it is said that He derives pleasure from their woe, and that the impious are derided and mocked by God.²⁴

Human punishment, on the other hand is not dependent on any other notion of superiority than that of moral superiority. Moreover, human punishment is for a goal. This differs from both the argument in *De jure praedae* and in *De satisfactione*. In a double sense Grotius has been changing his position.

1. Any honest man can punish an evil, with the purpose of preventing further evil, correcting the wrongdoer, or putting an example.
2. Moreover, even after judges have been appointed to whom the power to punish has been allotted, the old natural liberty remains, especially in places where there are no courts, as, for example, on the sea. In this respect, all reference to the ranks and order of society is lost.

3. The inconsistency explained

Against the background of two strands of thought in Grotius: a theological one from the *Ordinum Pietas* to *De veritate*; and a development in his theory of justice from *De aequitate* to *DJB&P*. After a period of fruitfully combining the theological and legal-political perspectives, Grotius is seen to separate these again. God's teaching of justice now has

²³ Grotius, 1993, DJB&P, II, 20, iii.

²⁴ Grotius, 1993, DJB&P, II, 20, iv..

become independent from his control of the world. It is here that the difference between *De satisfactione* and *DJB&P* comes to the fore. This difference consequently has to do with the relationship between divine justice and human justice. Two moves are made. On the one hand, the purpose of punishment in human affairs is even more clearly defined as justice and the punishment is available to all righteous persons, that is, no longer is maintained that punishment is only available to rulers. On the other hand, the similarity between God the ruler and human rulers has been severed. God does not punish for a purpose. Here Grotius is apparently tempted to follow ‘the more generally accepted’ interpretation, i.e. – I would argue – more generally accepted than the interpretation he gave in *De satisfactione*.

Grotius’ concept of justice is the connecting thread between *DJP*, *De satisfactione* and *DJB&P*. In the process, the theory of punishment is secularised, by relegating Christ’s redemption to the mysteries of God again. The responsibility in punishment, furthermore, is emphasised, in order to stress the frailty of human life. Punishment is a judgement about circumstances and consequences, rather than a command, or the application of power. This is underwritten by the Gospel.

We have seen how Grotius developed his theory of justice around the idea of just punishment. He was therefore definitely not inclined to accept Socinus’ interpretation of man’s justification through Christ, as it hinged on omitting punishment, rather than its execution. Like Socinus, however, Grotius strongly believed in the coherence of reason and revelation, even while many subtleties of Scripture must necessarily escape us. The continuity of natural religion, natural theology, and revelation is what Grotius shared with Socinus, rather than anything like Unitarianism. The Socinian emphasis on religion as a help for the practical conduct of life is reflected in Grotius as well. In his zeal, however, to reject Socinus, Grotius identified divine and human punishment as the right of the sovereign for the promotion of the common good. This position did not satisfy him in the end. Not only did he defy from answering Crellius, but he retracted his steps in the *De jure belli ac pacis*. The development from just war to justification and from there to justice implied in the end a more radical opposition to Socinus: the justice obtainable among men is the result of the human capacity of self-justification. Thereby Grotius prepared the way for the Enlightenment. This significant change was recognised at the end of the eighteenth century, and at the same time earned Grotius a place of honour in the gallery of anti-Unitarians.

4. Reception

The first defence of the *Satisfactione* against Crellius²⁵ will only appear in 1648, when Lambertus van Velthuysen writes his *Specimen refutationis libri Crellii de satisfactione Christi*. There is no evidence why Velthuysen (1622-1685) undertook to write this book. He was trained as a minister and doctor in the late 1630s and 1640s, in Utrecht and Leiden. His attempts to obtain a minister’s position failed on the accusation of unorthodoxy. It might seem that he wanted, as Grotius had, to rehabilitate himself. However, in the dedication of the book to Johannes Jacobus du Bois, minister of the Walloon Church in Utrecht, he expresses his

²⁵ Actually, *Antwoord van Joannes Krellius Frankus [...] op het boek van Hugo de Groot aangaande de genoegdoening van Christus tegen Faustus Socinus van Sena geschreeven* (S.l.: s.n., 1623) is the Dutch translation of Johannes Crellius’ *Ad librum Hugonis Grotii quem de satisfactione Christi adversus Faustum Socinum Senensem scripsit responsio* (Rakow, 1623). A year after Velthuysen’s critique, a Dutch translation of Crellius’ defence of religious freedom was to be published: *Verdediginge vande vryheyd der religie. Door Joannis Crellius Polack. In ’t Latijn beschreven en uytghegheven in ’t jaer 1637. En nu in ’t Nederlandsch getrouwelijck overgheset.* s.l.: s.t. 1649.

gratitude to belong to this church.²⁶ A refuge this was no doubt, since all of his family had been and remained members of the Dutch Reformed Church. In what would become his usual style, Velthuysen emphasises that his only aim in writing the book is to find out the truth about the matter: no polemics. Apart from Crellius (and his stand-in Martinus Ruarus), we find only a reference to unnamed *adversarii* of his position. Only one other name appears explicitly: that of the *Clarissimus Grotius*, as the author of the *Satisfactio* of 1617. And indeed, the general line of the argument is in many respects based on Grotius's exposition. However, Velthuysen had also read *De Cive* at that point in time. In his reconstruction of the juridical analysis of punishment, which was one of the important elements in Grotius's contribution, he brings up the Hobbesian formula that according to pristine law ('*jus primaevum*') each is free to everything against everyone ('*cuique licet omnia in omnes*'). He stresses more strongly than Grotius did, the 'right by which everyone has access to all means that he considers necessary to his conservation'. But, interestingly, Velthuysen does not follow Hobbes any further. Like Grotius he prepares the field for his critique of Socinian atonement by elaborating on the private-public distinction in establishing that punishment should agree with public well-being. On that basis, both Grotius and Velthuysen argue that indeed Christ must be said to have died for our sins, which as a matter of fact was denied by Socinus and Crellius.

Here, in the process of an essentially theological debate the outlines of a political theory were developed, and the support of some Hobbesian positions was invoked. Like Grotius, Velthuysen did not escape the suspicion of supporting Socinianism by using bad arguments against it. No doubt, for all their novelty, these arguments must have been considered bad ones. Juridico-political arguments in a theological debate were anathema to the orthodox theologians anyhow. Since Velthuysen in this, his first book had begun to connect Hobbes with Grotius and hence with Remonstrantism and, being a Cartesian, with free thought as well, the 'Scyllas and Charibdes that threaten the real Christian, the *Cartesiana theologia* and the *Hobbesiana pietas*' had taken shape.²⁷ The counter-Remonstrant suspicions about Cartesianism had been connected to the disrepute of Hobbes among their pietist brethren in England. As such it would acquire a momentum of its own, not to be checked by careful scrutiny of either Hobbes's political theory or its (limited) use in what later would be known as Dutch republican political theory, let alone the combination of both.

But as it was, Velthuysen had hit upon the basic principles of the political theory he was going to develop in more detail in his *Dissertatio epistolica de principiis justi et decori* of 1651, which he was advised to publicise by adding to the title that it was meant as a defence of Hobbes's *De Cive*. This was neither wise nor correct. I don't agree with Noel Malcolm's description of Velthuysen and the republicans of the 1660s and 1670s, De la Court and Spinoza, as Hobbesian-republicans. Malcolm seems to see our intellectual task as one of finding out how Dutch Hobbesians managed to develop Hobbes's political theory into the basis of republicanism. As I will continue to argue, the matter is slightly different. It is rather the question why Dutch republicans did see no harm in considering Hobbes a useful addition to their argument. The short answer to this question naturally is that they understood Hobbes as a pupil of Grotius, and believed to have sufficiently harnessed their theories against Hobbesian positions they did not accept. Moreover, indeed, they understood Dutch politics as strongly different from that of other nations. Even absolutists like the later Grotius, and his pupil Dirk Graswinkel, pointed out that in a constitutional state like the Dutch, the magistrate

²⁶ Velthuysen 1648, *Specimen*, dedication: "Denique toto illo tempore, quo post peregrinationes meas familiaritas mihi tecum intercessit, tot tantaque effusa erga me benevolentiae testimonia edidisti."

²⁷ These are the sarcastic words of an anonymous critic of Velthuysen in [Anonymus] 1666, *Theologia*.

was not ‘legibus solutus’. They could maintain this exceptional position because they believed that problems of morality were different from those of politics, as other republicans would argue more profusely.

Let us pursue Lambertus van Velthuysen in his political use of the *satisfactio Christi*: In order to decide on the issue of the atonement, Velthuysen puts forward a version of Grotius’ theory of punishment. This theory is meant to show that punishment is not a pay-off or retribution by the transgressor of the damage done. Punishment aims at prevention, by setting examples and inculcating fear. Punishment is neither retribution nor an act of anger. Its final cause is obedience to the law, as is the purpose of the Gospel anyhow.

Velthuysen is self-conscious about his adherence to a modern style of philosophy: ‘while abstaining from an appeal to whatever human authority, and freeing my mind of all prejudices, I go after the truth by way of first principles, whom no one in all sanity will oppose.’²⁸ This process will lead to dogmata that can be accepted, or else: ‘suspendo iudicium’.

He starts off with what he considers to be the *Sententia orthodoxorum*, that God the Father, out of his immense mercy and love towards mankind, sent his only son into the world, who by his obedience, death, and other foregoing sufferings redeemed from eternal death mankind, who by and because of their sins is subject to eternal damnation, and thereby really satisfying their sins.²⁹ This starting point is, as the first chapter of Grotius *De satisfactione*, about the prima facie meaning of Scripture, a meaning that has to be elucidated by further analysis.

Then, he introduces a long quote from Martinus Ruarus, to present the Socinian position.³⁰ This is an interesting move, since he thereby continues not so much the Grotius-Crellius debate, but rather the discussion between Grotius and his Dutch correspondents among whom Ruarus was one.³¹ The letter in question was not (yet) published, but ‘paucorum manibus versetur’. Ruarus argues that God’s ‘acceptatio’ has not occurred on the basis of some price or merit, but out of God’s love.³² The long passage ends with remarking that it would go against God’s justice to require of an innocent the punishment due to the culpable. And indeed, Velthuysen is going to structure his argument on the basis of this challenge: to safeguard the traditional and common-sense meaning of this central article of creed in the light of the rationalist considerations of the Socinians. Interestingly, he seems to accept a large part of Ruarus’ analysis – though without acknowledging so – as he concentrates on the last bit: the punishment of an innocent. Indeed, he sets off on a deeply philosophical adventure, to demonstrate that man cannot trade or contract with God; and that God’s transcendence implies a much more complicated relationship between God and His creation than either

²⁸ Velthuysen 1648, *Specimen*, dedication: “abdicata quorumlibet hominum autoritate, animoque omnibus praeiudiciis ... denudato, mihi aditum ad veritatem faciam per prima principia, quorum nemo sanus probationem postulaverit.”

²⁹ Velthuysen 1648, *Specimen*, 2: “Deum patrem, pro immensa sua misericordia, & amore erga genus humanum misisse in mundum filium suum unigenitum, qui homines per & propter peccata aeternae damnationi obnoxios, per obedientiam, mortem, & reliquas passiones, quae eam praecesserunt, vere pro eorum peccatis satisfaciendo, redimeret à perditione aeterna.”

³⁰ Velthuysen 1648, *Specimen*, 3-5: “utar verbis Ruari cujusdam, viri inter adversarios imprimis docti, & magni nominis, qui in Epistola quadam familiari ad amicum, suam, & in ea communem Socianorum fidem super hoc articulo sic exponet.”

³¹ Cf. Ruarus 1677, *Martini*.

³² Ruarus 1677, *Martini*, p. __: “meritum stricte dictum satisfactione excludo ... non ex proportione operum, sed ex Dei, aut beneplacito, aut promisso mensuratum ... [and finally:] nec justitia Dei permittat, ut poena nocenti debita, innocenti irrogetur.”

Grotius, or the Counter-Remonstrants may have believed. Equally interesting, he integrates essential Grotian doctrine of natural law into his theology. It will be very helpful to our understanding of Grotius' intervention in the Socinian debate to follow this further development.

Essentially, that Velthuysen denies that God punishes the innocent, and at the same time proves that he still can uphold that justification is not a recompense for 'fides & bona opera'.

Velthuysen maintains that even while God is the highest authority and absolute ruler of the universe, nevertheless there is a 'right by which to everyone belongs everything that he judges necessary to his existence; in such a way that although nobody lords over other people except by explicit or implicit pact, a ruler can nonetheless prescribe laws to the citizens and force them if they don't obey'. (p. 9) This right of the ruler is the very same right of all men in the first of times, and the ruler acts similarly for the conservation of society as individual men for their own preservation. These natural rights in extreme cases justify war, although 'non nisi extrema est necessitas. Et si in bellum erumpat contentio, ab utraque parte fit justum' (p. 10).

If indeed rule is based on contract, then God's rule can be regarded as based on contract as well: even while God does not really contract with men, he grants men certain rights, because like other rulers, God wants men to obey out of their own free will. So God obtains men's obedience by promises rather than punishment, 'licet pactum fuerit gratuitum' (pp. 13-4). Velthuysen wants us to distinguish between a privilege based on a contract, and hence a right that must be respected 'justitiâ salvâ', and a pure 'liberalitas' in which the subjects are no party. It is the former that wise rulers prefer. A similar argument applies to God's norms of justice. God's justice must be understandable by man: the norms of justice should be 'ea ut justa, secundum certas regulas justitiae, quae inter homines in usu sunt, ab hominibus judicari possit: quorsum enim alioquin Deus toties ad suae justitiae contemplationem homines invitaret Ier 9:24. 2Chr. 19.v.7. & in aliis locis infinitis'. -18. We see Velthuysen here continuing the rationalist project Grotius presented in his *De satisfactione*: a strict parallelism between God as a ruler and human rulers, between God's justice and human justice.

Also, in respect to the concept of punishment, Velthuysen sides with the early Grotius. Punishment is not a 'compensation of suffering', as Crellius wants it. 'The aim of punishment is not quite a recompense for the suffering received from the injustice, but a removal of future suffering. Such suffering would, however, follow previous injustice and the suffering following from that, if it were perpetrated unpunished'.³³ This argument fits into the previous: only if the norms of justice are clear, can prevention have a chance of success. This also helps explain that punishment does not involve an element of joy (which it would have had, if it were a recompense for endured suffering). Punishment is a careful judgement of negative and positive utilities, considered from the perspective of the 'pax & reipublicae incolumitas' (p. 29). This, it is easily understood, that evil that does not noticeably damage the state can remain unpunished.³⁴

Along these lines, Velthuysen further expounds the irrelevance to try to forbid what cannot depend on law, but only on the good will of the people (we don't ask the merchants a promise

³³ Velthuysen 1648, *Specimen*, pp. 25-26: "Finem poenarum non esse proprie satisfactionem pro damno accepto per injuriam: sed propulsationem damni futuri: quod tamen ex priori injuria, & damno per eam accepto, si impune transmitteretur, ad nos rediret".

³⁴ This evidently is one of the early formulations of the Dutch practice of 'gedogen' or permissiveness, like 'no war on soft drugs, as that might lead to an awkward repressive structure'.

never to cheat, p. 29). In this sense we should read the old saying: *salutem reipublicae summam legem esse*. (p. 30) Moreover, it is not ‘in debitum’ that we find the formal cause of punishment. Debit follows contract (or delictum), punishment is founded ‘in illo jure primaevo, quo cuique licet in proximum, quod sano iudicio existimat conducere’ (p. 35). This is most evident in the fact that rulers also punish outside their own territory. This also coheres with the Scriptural admonishment that we should forgive our wrongdoers, because ‘if that is done what induces fear in men, the laws will be satisfied’.³⁵ We do not punish because we want revenge, or want to see people suffer, ‘sed quia nos jus habemus nosmet conservandi’ (p. 45)

In consecutive steps Velthuysen demonstrates that Christ’s satisfaction is independent from original sin, that punishment is also independent from the actual sinner, and that ultimately the very notion of justice is crucial to understand punishment. Like Grotius, Velthuysen deploys a humanist Christianity on its way to the Enlightenment: Christ’s redemption is not independent from man’s actions, but requires the establishment of justice on earth. A strong anti-Augustinian tendency united Grotius and Velthuysen, even if they both fall short of a perfectionist position like that of Dirk Coornhert. They have arrived at their position from the opposite end: by taking the challenge of reason of state serious. In Grotius this is represented in the crucial notion of ‘fides’, in Velthuysen it is the reliance on the right of self-defence. For Grotius fides is the fountain of morality. Velthuysen will attempt a derivation of benevolence from the love of self.³⁶ Their realism in politics is always contained in a framework of justice.³⁷

Grotius eventually will sharply distinguish God’s rule from that of man. As Creator of the World and *dominus mundi* God has absolute rule, whereas among men, where this *dominium* is absent, rule can only be based on contract. God’s rule is evident from the decrees he has issued. These decrees are freely declared. Contract is a set of mutual obligations, which can exist among men, but not between man and God. We cannot contract with God since, even where the Scripture speaks of contract, it must be understood as a free and arbitrary gift by God.

The central distinction for both Grotius and Velthuysen is the one between contractual relations on the one hand, and the function of law on the other. Contracts define mutual obligations, the mine and thine in social relations. Here the relationship is one of creditor and debtor. And while the ‘neminem laedere’ and the ‘pacta sunt servanda’ are the basic principles of contractual relations, even while necessity and self-preservation may sometimes lead to conflicting outcomes, punishment is not and cannot be part of contract.

³⁵ Velthuysen 1648, *Specimen*, p. 40: “si itaque id praestetur, quo hominibus terror incutitur, legibus satisfactum est”. p. 40.

³⁶ See Blom 1995, *Causality*, chapters 4 and 5. Essentially, Velthuysen will argue that the *efficient cause* of benevolence is ‘the law of self-preservation’, while the *efficient cause* of property is benevolence, i.e. an other-regarding attitude (the latter holds, because property is always the recognition of others’ rights).

³⁷ Velthuysen, e.g. argues, that when a state *necessitate coacta* starts a war against another country, *propter rerum necessariorum perniciam* outside the control of this other country, then this war even if *ab utraque parte iustum*, cannot be called a punishment, not because the other country has not acted against us or didn’t hurt our rights, but because the formal reason of punishment is absent; i.e. the application of harm after a harm has been done to our society that, if unpunished, will produce further harm. Velthuysen 1648, *Specimen*, p. 47: “non vocatur vindicta, neque poena; non ideo, quia illa societas, quam armis aggredimur, nihil in nos commissit, aut jus non violavit: sed quia deest formalis ratio poenae, quae est inflictio mali propter malum, quo laesa est societas, quod malum sua natura aptum est, ni vindicetur, post se trahere aliud malum”.

Matters are different from the perspective of law: the intention of law is obedience. This obedience – as Velthuysen stresses time and again – is best obtained if performed voluntarily. Nevertheless, the magistrate has to employ means to secure obedience. Punishment is the instrument to obtain obedience in the future. In an interesting evocation of *De jure belli ac pacis*, Velthuysen argues that it is not the contract that produces the grounds for obedience, but the intention of the lawgiver to have the laws obeyed. The only reason, he says – repeating Grotius' argument in *De satisfactione* – that a transgression of laws by people living in other countries is not generally punished by the magistrates, is to be found in the fact that these transgressions do not normally harm the interests of the magistrates' own country. But if they do, then there is a just cause for war.

By this distinction between private, contractual relations and public law, Velthuysen enhances his definition of punishment as an instrument to ensure future obedience to the law and thereby to promote the end of laws themselves, the *salus populi*. Thus the magistrates may very well exempt a wrong-doer from punishment, or even punish innocent people, as e.g. they might punish a son for what his father did. The public well-being may dictate so. The same goes for just war: here many innocent people are punished (in passing, Velthuysen denies the notion of a collective responsibility of a people for their magistrates' wrongs). War indeed is a deterrent rather than a retribution, and even where presented as a retribution it really is a deterrent.

By stressing the interdependence of law enforcement and a self-reliant social morality, we can better understand the contractual origins of the state. The state is not a precondition for moral norms in society, but rather the precondition for the private-public distinction. As Velthuysen already had pointed out in 1648: the political contract is something 'naturae superveniens', and its purpose is to give the magistrate the monopoly of punishment, on the basis of which the magistrate proclaims laws. Since the pristine right to punish looked at self-preservation, the laws should look at the conservation and the *salus populi* of the community. There are many things, however, that a magistrate should not prescribe. They might, in one of Velthuysen's examples, consider to require from merchants a solemn pledge that they will never give underweight, as if by bringing in the force of religion many evils might be prevented. But the magistrate should realise that the commonwealth does not require at all such a constriction of conscience. It will simply not be an expedient thing to do.

In this attempt to integrate the different theories of punishment in *De satisfactione* and *DJB&P*, Velthuysen directs the attention to one of the main reasons that Grotius may have had at changing his perspective from the former to the latter book. In *De satisfactione* he had reached the limits of his rationalist theology. Pursuing that line would have forced him either to accept a naturalist position (which is that of Velthuysen) or a theocratic one. The solution he chose was to separate God's justice from that of man. This allowed him to make justice the business of all, even if this meant a loss of certainty in the application of punishment. However, it implied at the same time a great opportunity for the truth of justice, resulting from the social process of justification that goes with it.

Van den Wijnperse and his friends in the Haagsche Genootschap were remarkably favourable of Grotius. They accepted his conception of the redemption through Christ, as much as they knew him as the father of modern natural law. They may have just noticed the inconsistency between the two theories of punishment, but they were unaware of the difficulties that had marked Grotius' quest for a satisfactory theory of sociability. In their time, religion and natural law had long ended their disputes.

Looking for the place of the Socinian theme in the writings of Hugo Grotius, we combined two research strategies: the theological and the juridico-political lines. We showed how Grotius developed his ideas on punishment and at the same time further detailed his ideas about God's command of the world. From the Aristotelian position in *De aequitate*, to that in *DJP* and from there onwards to *De satisfactione* and *DJB&P*, a natural connection between offence and punishment is left behind, and is replaced by the punishing rector of society first, and the punishing righteous individuals later on. The implied continuity between God-Rector and magistrate-rector makes for a continuity between godly and worldly justice, or rather, seems to organise God's rectorial punishment according to human conceptions. So Grotius was happy to argue reasonably against Socinus' idea that the whole idea of Christ suffering to satisfy for our sins is against reason: as a wise Rector He has both accepted Christ's satisfaction and dispensed the believers from the punishment by eternal death, precisely because He wanted to impress upon man the need to follow Christ.

Bibliography

- [Anonymus] (1666): *Theologia Cl. Viri Do. L. Velthusii Philosophiae & Medicinae Doctoris, &c. Non Vulgaris*. Fryburgii.
- Besselink, Leonard F.M. (1989): *Keeping faith. A study of Grotius' doctrine of natural law*. Florence: Diss. European University Institute.
- Bilderdijk, Willem, M. Tydeman, Henrik W. Tydemann (1866): *Briefwisseling van W. Bilderdijk met de hoogleraren M. en H.W. Tydeman gedurende de jaren 1807 tot 1831*. 2 vols. ed. by Henrik W.T Tydeman, Sneek: Van Druten & Bleeker,
- Blom, Hans W. (1995): *Causality and morality in politics. The rise of naturalism in Dutch seventeenth-century political thought*. Diss. Utrecht.
- Blom, Hans W. and Laurens C. Winkel (eds) (forthcoming): *Grotius and the Stoa*. [Special issue of *Grotiana* 22-23 (2001-2)]
- Fikentscher, Wolfgang (1979): *De fide et perfidia: der Treuedanke in den "Staatsparallelen" des Hugo Grotius aus heutiger Sicht*. München: Verlag der Bayerischen Akademie der Wissenschaften (Sitzungsberichte - Bayerische Akademie der Wissenschaften, Philosophisch-Historische Klasse; Jahrg. 1979, Heft 1).
- Grotius, Hugo (1679): "Annotationes in Vetus Testamentum", in Grotius Hugo: *Opera Omnia Theologica*, vol. I, Amsterdam: Blaeu.
- Grotius, Hugo (1993): *De jure belli et pacis libri tres*. _Aalen: _Scientia Verlag [=DJB&P].
- Grotius, Hugo (1868): *De jure praedae commentarius*. _The Hague: M. Nijhoff [=DJP].
- Grotius, Hugo (1990): *Defensio fidei catholicae de satisfactione Christi adversus Faustum Socinum Senensem*. ed. by Rabbie, Edwin, Assen-Maastrich: Van Gorcum.
- Haggenmacher Peter (1984): *Grotius et la doctrine de la guerre juste*. Paris: Presses Universitaires de France.
- Hüning, Dieter (2000): "'Nonne puniendi potestas reipublicae propria est'. Die naturrechtliche Begründung der Strafgewalt bei Hugo Grotius", in: *Jahrbuch für Recht und Ethik* 8, pp. 93-124.
- Kühler, Wilhelmus Johannes (1912): *Het Socinianisme in Nederland*. Leiden: Sijthoff (repr. Leeuwarden: De Tille 1980).
- Lubbertus, Sibrandus (1611): *De Iesu Christo servatore [...] libri quatuor. Contra Faustum Socinum*. Franeker: Radæus.
- Lubbertus, Sibrandus (1613): *Commentarii ad nonaginta novem errores Conradi Vorstii*. Franeker: Balck.

- [Polyander à Kerckhoven, Johannes] (1616): *Den Staet vande voornaemste Quaestien ende gheschillen die ten huydighen dage gedisputeert worden/ tusschen de Oude Rechtgesinde/ die men Contra-remonstranten, ende de Nieu-gesinde diemen Remonstranten noemt. Duydelyck ghestelt ende getrouwelyck getrocken so uyt de Haechsche Conferentie als andere Stryt-Schriften over dese materie uytghegheven. Waer by noch zyn ghestelt eenige andere gheschillen van den genen die het met den Remonstranten houden/ opgeworpen. Als oock eenige seltsame dwalingen Nicol. Grevinchovij, ende Simonis Episcopij, getrocken uyt hare Schriften.* Amsterdam: Brandt.
- Rabbie, Edwin (1990): "Introduction" to Hugo Grotius: *Defensio fidei catholicae de satisfactione Christi adversus Faustum Socinum Senensem.* ed. by Rabbie, Edwin, Assen-Maastrich: Van Gorcum, pp. 1-78.
- Ruarus, Martinus (1677): *Martini Ruari, nec non H. Grotii [...] aliorumque virorum doctorum [...] ad ipsum epistolarum selectarum centuria.* Amsterdam: Crispicus, 1677.
- Spinoza, Benedictus de (1670): *Tractatus Theologico-politicus.* Hamburg.
[Jac Taurinus] (1611) Brand-clock. S.l., S.n.
- Triglandius, Jacobus (1615): *Den rechtmaticnden Christen. Ofte vande ware moderatie ende verdraechsaeemheyte die tot behoudinge vande waerheyte ende vrede inde gemeynen Christi na Godes woort onderhouden moet worden.* Amsterdam: van Ravesteyn.
- Triglandius, Jacobus (1616): *Clare Aenwysinge hoe Iohannes Utenbogaert hem gheensins en suyvert ... [etc.]. Rakende voornamelijck de poincten van 't noodtsaecken tot de sonde: ende d'onderlinghe Verdraeghsaeemheyte.* Amsterdam: Brandt.
- Triglandius, Jacobus (1650): *Kerckelycke Geschiedenissen begrypende de swaere en bekommerlycke Geschillen in de vereenigte Nederlanden voorgevallen, met derselver bestissinge. ende aenmerckingen op de Kerckelycke historie van Iohannes Wtenbogaert: uyt autentycke stucken getrouwelijck vergadert, ende op begeerte der Zuyd en Noort-Hollantsche Synoden uytgegeven, tot nodige onderrichtinge.* Leyden: Wyngaerden.
- Velthuysen, Lambertus van (1648): *Specimen refutationis libri Crellii de satisfactione Christi.*
- Vorstius, Conradus (1611): *Confessio D. Conradi Vorstii De Iustitia Dei: merito & satisfactione Christi: Fide justificante &c. Ex autographis fideliter descripta.*
- Winkel, Laurens (1988): "Die stoische oikeiosis-Lehre und Ulpian's Definition der Gerechtigkeit", in: *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* 105, pp. 669-679
- [Wijnpersse, Dionysius van de] (1778): *Verhandeling over de vergeeflykheid der zonde.* Utrecht.
- Wynpersse, Dionysius van de (1793): *Betoog der waare en eeuwige godheid van onzen Heere Jesus Christus tegen hedendaagsche bestrijdingen.* Amsterdam.
- Wynpersse, Dionysius van de (1794): *A demonstration of the true and eternal divinity of our lord Jesus Christ; in opposition to the attacks of the present age.* London: Knott.