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VII. Conclusions

In this book we have encountered many women whose life stories have been captured in the course of criminal investigations in early modern Frankfurt. Their tales are important for our understanding of the multitude of ways in which recorded criminality was impacted by both formal and informal means of social control, and the role of women's agency within this. Both bottom-up social control mechanisms as well as top-down social control exercised by the authorities determined the outcome of patterns of registered criminality. Heide Wunder formulated the task of crime historians as follows: it must be clear what remains in the dark, and for what reasons.\footnote{Wunder, ‘Weibliche Kriminalität’, 56.} These reasons can only be understood by looking at the local context of crime and social control. What could have been a cause of under-registration for a type of offending or offender in one city might not have been the case in another.

Over the past two decades, historical studies on female crime in early modern Europe have significantly altered our image of gender and crime. Scholars no longer assume that the rate at which women contributed to recorded crimes was invariant over time and space. Yet, although these studies offered many important insights and contributions to historiography, they remained limited in their attempt to account for regional variations and the impact of local socio-cultural factors. On the contrary, despite the fact that the level of women’s involvement in crime in early modern Europe varied considerably between 10 and 50%, it is often generalised as a period in which the female crime rate was rather high, especially in cities.

Scholars argued that during the early modern period female criminality was particularly an urban phenomenon. Early modern cities are presented as places that offered women a relatively high level of autonomy, fostered by urban demographic patterns that were characterised by relatively weak nuclear family structures and high levels of migration. At the same time, women in the city were also vulnerable in economic terms as they lacked social support networks. Theft, begging, prostitution and other petty offences were part of a wider range of survival strategies employed by these women in order to cope with their precarious situation. This independence and vulnerability in combination with highly institutionalised forms of formal control available in cities increased women’s chances of coming into conflict with the law and can explain the exceptionally high female crime rates in cities like London and Amsterdam (ranging from 30% to 50%).

However, as I argue in this thesis, the urban factor did not play out in the same way in early modern Europe. Although the explanatory model which stresses the distinct nature of urban life...
has offered very valuable clarifications for the different patterns of female offending in the city and in rural areas, it is too broad to understand the varieties in women’s criminality between different urban centres in early modern Europe. The level of independence and relaxation of informal paternalistic community control that women experienced in cities differed widely across early modern Europe. Hitherto, our understanding of urban crime patterns has been modelled primarily by studies on large metropolitan cities like London or dense and highly urbanised regions like the Dutch province of Holland. However, these cities are generally perceived by historians as places in which women enjoyed a relatively high degree of independence. Furthermore, they have linked the high proportion of female crime to the lack of informal social control mechanisms in cities. The case of Frankfurt shows that strong informal control through the household was not absent in urban settings. Informal social control was not a specific feature of rural societies in which close-knit family structures prevailed and formal control in the form of criminal courts was less present (literally speaking). Rather, the household was considered by the authorities and the community alike as an integral part of governance and policing alongside the criminal prosecution office.

In early modern Germany the patriarchal household was central in perceptions of social order. Of course, similar ideologies existed in other European countries. More than in other countries, however, das Haus embodied a legal entity in Germany and a unit of strongly regulated social control. The impact and extended reach of the household was possible because it was incorporated on a practical level. Single women, for example, were prohibited from setting up their own households because their independence defied the main principles of social order centred on the household. Frankfurt was a city with strong institutional control of mobility in which the right of permanent settlement was strongly connected to the institution of citizenship (Bürgerschaft) and, in extension, to household membership. For example, transients were only allowed to stay in the city for eight days before they needed formal consent from the authorities. Permission to stay was only granted to individuals who could prove that they possessed sufficient means to support themselves. Historians have often interpreted such characteristics in cities as a sign of ‘closure’ and exclusion towards migrants in general. Frankfurt and similar cities demonstrate, however, that the presence of strong institutional mechanisms to regulate mobility did not exclude migrants and did not lead to reduced levels of mobility. Rather, it created a framework in which newcomers, including women, were more incorporated in traditional urban corporate networks. Compared to cities with more open structures, such as London and Amsterdam, women (and men, for that matter) in Frankfurt, even if they had migrated to the city, had limited opportunities to settle

Ogilvie, Bitter living, 328; Van der Heijden, Women and crime, 162-163.
independently. Indeed, the number of female headed households in early modern Frankfurt was low, and the overwhelming majority were headed by widows.

Considering the different levels of independence and subjection to the household experienced by women in early modern Frankfurt compared to cities like London and Amsterdam, this thesis therefore set out with the hypothesis that societies with stronger institutions exercising (informal) social control portray different and lower patterns of female criminality. The assumption was that the relative restrictions on women’s independence in Frankfurt decreased the chances of their becoming involved with formal criminal justice, and at the same time lessened their socio-economic vulnerability in times of hardship. An important difference with cities like Amsterdam and London and the case of Frankfurt is the share of women in crime: in seventeenth and eighteenth-century Frankfurt women accounted for 22% of all the suspects investigated by the criminal investigation office. This thesis shows that the authoritative social control structures significantly impacted the level of women’s prosecuted crime in early modern Frankfurt in various ways, but not always as expected in the hypothesis. The evidence shows that Frankfurt both resembled the general urban European pattern, and differed from it.

The case of Frankfurt and the European pattern of female crime

There were several ways in which female crime in early modern Frankfurt did follow similar patterns to those found for other cities in this period. The types of offences committed by women and their socio-economic profile fit into the European urban crime pattern. The majority of men and women in early modern Frankfurt were prosecuted for property offences (40 and 50% respectively). Compared to their overall share among registered offences women were overrepresented among moral crimes, like prostitution and illegitimacy, and underrepresented among violent crimes. These differences partially derived from gendered discourses about what was considered to be threatening behaviour. Women were more active in fights and physical altercations than their prosecution patterns might suggest. The Verhöramt, however, only investigated violence in case of severe physical injuries or when the violence led to concerns about the maintenance of public order. In many cases, women’s fighting did not reach such a level and was settled informally in the neighbourhood or through lower judicial bodies. Overall, male and female recorded crimes were more similar than different.

The profile of the Frankfurter female offender resembled the general characteristics of criminal women in European cities as well. The typical female offender in Frankfurt was young, poor, living a mobile lifestyle (often working as domestic servants) and lacked an extended social network in the city. Most of them were independent: they were either unmarried or lived a life
independent of their husband (which was often the case, for example, for soldier’s wives). In Frankfurt too, women’s offences were particularly linked to the vulnerable stage in their life-cycle in their late teens and early twenties, which was generally a period of relatively high mobility and independence. Petty offences proved to be – at least for some – an occasional part of their survival strategies. Both for men and women, offences were often opportunistic and occasional. Like in other cities, the court records of Frankfurt demonstrated the precarious position of migrant. Independent migrant women, most of whom only stayed in Frankfurt temporarily, were the most vulnerable to becoming involved with the law. Over three-quarters of the women prosecuted for theft were foreigners. The position of foreign illegitimate mothers of illegitimate children was even more vulnerable than that of local women who were pregnant out of wedlock, because the urban authorities expelled them, unwilling to carry the financial burden of extra-marital children. The profile of women suspected of committing infanticide equally highlights the precarious position faced by female migrants when they were cut off from social support networks. These patterns have been highlighted for other cities as well. In fact, migration was one of the central features of urban crime patterns in this period.

The social profile of female offenders strengthens the observation that women’s crimes in early modern Frankfurt were to a large degree shaped by their precarious socio-economic position. Fluctuations in the share of women among recorded offenders were primarily related to an increase in property offending in the middle of the eighteenth century. During this period Frankfurt experienced a time of economic crisis (visible in the increasing expenditure of the various urban poor relief funds). Overall, the period was characterised by increasing prosecution efforts on the part of the authorities which were fostered by contemporary social developments. Economic decline and disruptions due to warfare fed the anxieties of the local authorities about masterless people as a disruption to the social order. Ordinances against begging and vagrancy accumulated during this period and authorities’ concern about social order and crime went hand in hand with efforts to improve policing and exclude outsiders from the community. Short-term events like war and subsistence crises indeed influenced prosecuted crime patterns, but it is difficult to find clear correlations between women’s crime and such factors. Women’s offences during this period were the result of the endemic poverty of large sections of the population that characterised early modern society.
Impact of authoritative social control structures

The case of Frankfurt shows that there were also considerable differences as a result of strong formal and informal authoritative social control structures. These impacted the actual pattern of women’s crime as well as the visibility of their criminality.

First, informal patriarchal household control played a significant role in the way female offenders were handled. An important feature of German legal thinking in the early modern period was that households played an important part in the control of deviant behaviour. Households, therefore, were not considered as ‘private spaces’ but served a public function, as did the disciplining role of the head of the household. In order to emphasise the public function of early modern households, Joachim Eibach introduced the concept of the ‘open house’ which has proven to be particularly valuable for the study of crime.

This thesis demonstrates that household dependency played an important role in connection to thefts of domestic servants, in particular women, because of the bonded nature of their labour contracts. By entering into service, servants were legally bound to the authority of their master for the agreed term and could not leave their position on their own account as they required their master’s consent. The latter possessed a semi-judicial authority to discipline all members of the household. The cases of domestic theft, as studied in chapter 4, reveal that this authority played an important role in the regulation of deviance in early modern Frankfurt. Usually, crimes by domestics only appeared in court if other disciplinary measures within the household had failed or the offender had failed. The role of the household thus had implications for quantification. I have argued that as a result of the different nature of male and female household dependency, the ‘dark figure’ caused by household discipline was more prominent among women than among men. The eighteenth century was characterised by a growing proletarianisation of the labour force, and this weakened mechanisms of incorporation in the household through guilds. This primarily affected male household members. Apprentices were increasingly boarding outside their master’s household. Moreover, the apprentices and journeymen were not only subjected to control within the household but also by guilds. More research is needed to study how the changing nature of the household in the nineteenth century impacted the control of deviance of female domestic servants. The public function of the disciplinary authority of the head of the household was increasingly limited by the state. It is likely that these changing patterns led to tensions between household and state authorities.

Although household authority had a broader reach in German-speaking territories than it might have had in other urban centres in Europe, it would be taking it too far to state that households in Germany were fully autonomous legal spaces (rechtsfreier Raum) in which authorities
did not meddle. Neither did households elsewhere in Europe refrain from settling matters within the domestic space informally without interference from the authorities. Rather, it was the relative strength of households in early modern Germany as the central legal, political, and social unit to ensure public order that needs to be considered. This is not to suggest that without the relative strength of household control female criminality in early modern Frankfurt would have reached similar levels as in such cities as London or Amsterdam. After all, the household also offered protection from the socio-economic insecurities women faced when living independently. Nevertheless, it has to be taken into account as a crucial selection mechanism that determined what kinds of cases ended up before the court and what did not.

Second, while informal household control played an important role in early modern Frankfurt, it was simultaneously characterised by strong formal control mechanisms. In the course of the seventeenth-century, the criminal justice system became firmly institutionalised and underwent a process of increased professionalisation. Throughout the entire Ancien Régime, the city council functioned as Frankfurt’s high court, and possessed the sole authority to impose corporal and capital punishments. At the beginning of the period, criminal investigations were conducted by the junior burgomaster, but following the call of the burgher community for a less arbitrary prosecution process the city council installed two council members to assist the interrogations. The city’s criminal investigation office developed from these two council members and there was an increasing differentiation of the legal system in which the boundaries between various tribunals became more clearly defined than before. As has previously been demonstrated by Joachim Eibach in his study on crime in eighteenth-century Frankfurt, the early modern period was characterised by a process of centralisation (Verobrigkeitlichkeit) and juridification. Frankfurt’s inhabitants experienced a much stronger presence of the legal system in their everyday life than people living in towns and villages incorporated in larger territorial states. The Verhöramt, however, was not an institution of top-down repressive disciplinary force imposed upon the population by the authorities, but functioned in interaction with the city’s inhabitants.\(^{1141}\)

The criminal investigation office was not the only institution of formal control in the city. Given the importance of the household as the location of social order, households were not only the site of discipline and informal control, but they themselves were subjected to the controlling eye of the authorities. After the Reformation, marriage was no longer considered a sacrament but a secular contract, and as such became a matter for regulation by the secular authorities. The sixteenth and seventeenth centuries witnessed an increase in the regulation of matters relating to marriage, leading to the criminalisation of all extra-marital sexuality. Just as in many other cities,

\(^{1141}\) Eibach, Frankfurter Verhör, 426-431.
the city council established a new semi-ecclesiastical tribunal, the *Sendamt* (replaced by the *Konsistorium* in 1726), to enforce the new regulations. The sphere of control of the authorities on marriage and household formation widened in the eighteenth century, and marriage was increasingly tied to financial requirements and questions of citizenship.

The semi-ecclesiastical tribunals in early modern Frankfurt functioned closely together with the criminal justice system. They did so both through control as well as through conflict settlement. They were not, as has often been suggested, competing or overlapping tribunals. The majority of the sexual offences were prosecuted before the city’s *Sendamt/Konsistorium* and were in fact not registered among the offences of the criminal investigation office. The latter only prosecuted such offences if they exceeded a level of punishment that lay beyond the jurisdiction of the ecclesiastical tribunals. Both the *Verhöramt* and the semi-ecclesiastical courts pursued the same aim of maintaining moral and social order.

Moreover, early modern Frankfurt was a city with strong institutional control over mobility. More than in England and the Netherlands, urban authorities in Germany (including Frankfurt) employed advanced mechanisms to control and regulate the entry and residence of strangers. The opportunity for foreign men and women to settle in the city independently was restricted. This strong control over mobility had a rather contradictory effect. On the one hand, it meant that more female newcomers were incorporated in social support networks. Due to the strong regulations, cities like Frankfurt provided less relaxation of paternalistic patriarchal control than women in more open cities might have enjoyed. At the same time, the position of women outside the controlling structures of the household was even more precarious because they could face constant prosecution and expulsion from the city.

Throughout the early modern period, the city council imposed ordinances that marginalised the mobile poor. German authorities placed increasing importance on belonging and settledness, and criminalised vagrancy and begging. However, the exclusionary policies of Frankfurt’s authorities affected men and women differently as a result of gendered labelling practices. Although mobility was perceived as a threat to social order that centred on the household, it was ubiquitous and a central aspect of early modern economies. While male mobility in the context of work and training (as journeymen or apprentices) was respected and even facilitated, women’s mobility was associated with disobedience and a longing for independence. Women’s mobility was mostly seen as a threat to the social order because it was - supposedly - connected to immorality. It was, therefore, primarily regulated through the city’s moral court and not through the criminal court. Young, independent and mobile women in particular had often first been punished by the consistory on multiple occasions before they were finally investigated by the *Verhöramt*. For men,
on the other hand, the moral courts appeared to be much less of a ‘gateway’ to future encounters with the law and investigation by the *Verhöramt*. At the same time, men who moved beyond the controlled structures of tramping were perceived as a bigger threat and risked being framed as robbers and organised criminals.

**Agency of women**

Considering long-standing assumptions that lower levels of female offending could be explained by the restricted nature of their public lives, it might be tempting to assume that relatively low female crime figures in early modern Frankfurt were the result of ideological and practical restrictions regarding women’s independence and their subjection to the sphere of the household. Detailed qualitative analysis of different types of crimes, however, disproves the idea that low female crime rates always point to a restriction of women’s public lives.

First, while this study has emphasised the importance of households as a social order mechanism which impacted the involvement of women among registered offences, it must be remembered that the household was part of the public sphere. Housewives played an important role in the exercise of household control and in the disciplining of their servants. In doing so, they by no means refrained from the use of violence and excessive force. Housewives were thus an *integral* part in the mechanism of control to maintain public order. Moreover, the qualitative analysis of the distribution of stolen goods revealed that women played an important part as buyers and resellers as a result of their economic roles within the household. There were no signs of organised criminal networks in the city. Rather, both male and female thieves made use of the importance of the informal second-hand market in the urban economy. Although women played an important role, the prosecution efforts of the authorities were focused elsewhere in terms of the prosecution of receivers. Negative stereotypes about Jews as deceitful, fraudulent and dishonest meant that local *Stättigkeitsjuden* were disproportionately investigated for fencing. Furthermore, as we have seen, women also instrumentally exploited gendered stereotypes. The majority of female thieves stole from the houses of people they were unacquainted with. The access to such household spaces was gendered in the sense that women were less likely than men to arouse suspicion when they entered houses, even if they were unknown in the neighbourhood.

Second, institutions of control, such as the consistory, were shaped by the way women encountered them. Historians have amply demonstrated that the interest of authorities in the household as a locus of moral and social order offered women opportunities to indict abusive and profligate husbands because they disrupted this order. Such cases show that women found ways to accommodate the patriarchal ideologies and adapt them to their own needs, and instrumentally
used the interest of the authorities that sought to maintain this order. At the same time, the study of women prosecuted for illegitimacy demonstrates that the experience of women before the Sendamt/Konsistorium varied considerably. In the course of the eighteenth century, authorities increasingly focused on the regulation of illegitimacy. In this case too, the interests of unwed mothers could align with those of the authorities, as has been demonstrated for married women, enabling them to negotiate support. Because the authorities were interested in preventing mothers and their illegitimate children becoming a burden to the local poor relief institutions, they were keen on holding the fathers financially responsible by withholding their wages or even by imprisoning them.

The examples of women pursuing action in these cases have demonstrated the importance of incorporating a perspective of agency to gain a better understanding of social control mechanisms, even if the agency was limited. Because the authorities aimed at strict control over the regulation of moral conduct and prohibited extra-judicial settlement without the consent of the authorities, women’s options for support in the case of extra-marital pregnancies were limited. As a result of the double-edged function of the semi-ecclesiastical court, for unmarried mothers, going to court to file for support always meant a self-disclosure of their crimes. Calling on the Sendamt/Konsistorium did not release them from punishment, and thus represented both a place of support and conflict settlement and punishment and control. Women appeared as plaintiffs and offenders simultaneously. However, by doing so, they also shaped the judicial system since authorities had to respond to their claims. Moreover, for migrant women especially the situation was precarious as the city council imposed regulations to expel foreign pregnant women to prevent them from becoming a financial burden to the city. Again, the punishment was separated from the civil function of the tribunal, as women could (and did) still start paternity suits before the same institution that had expelled them.

Third, despite gender ideologies that assume women’s immobility, they often defied these norms. One of the typical early modern offences in which women featured prominently was the infraction of banishment. Historians have often explained this by suggesting that women were more dependent than men on the social support structures from the urban community they were expelled from. As the cases in Frankfurt have shown, however, these women had often led mobile lifestyles prior to their expulsion. Their return to Frankfurt was often a continuation of pre-existing (regional) migration patterns, rather than evidence of a moral pressure on female settledness. Nevertheless, the difference in the rules and rights of residence, and the resulting different mobility patterns in early modern European trading cities such as Frankfurt, compared to booming
metropoles such as London or Amsterdam, is certainly a relevant factor to explain the different level of female delinquency.

**Future perspectives**

This thesis shows that a detailed case study of one city can contribute to our general understanding of the impact of local factors on female offending. Prosecution patterns of men and women were shaped by their different roles within the early modern social order, but in different ways than historians have previously assumed. The household was not a private space, nor were household relationships characterised as a dichotomy between men and women. Dependency within the household was a factor of age, marital status, gender and class. This research again shows that the effects of gender depended on the specific institutional (local) context and on men’s and women’s position within the societal order. In order to understand women’s encounters with the criminal justice system in the early modern Frankfurt, and elsewhere, it is crucial to think about gender in connection with the social, citizenship and legal status of individual women. The position of the mistress of a burgher household was fundamentally different from that of her domestic servants, who in turn had a better position than a migrant woman who was not (yet) incorporated in a household. This book shows that the extent to which city life offered a relaxation of patriarchal pressures could vary according to time and place, and that we have to be cautious in generalising the urban experience of early modern women. Moreover, the seventeenth and eighteenth centuries should not just be considered as a period of high female involvement in crime. Such a conclusion neglects the regional differences that were present in the early modern period itself.

The detailed analysis of formal and informal social control mechanisms in this study shows that it is important to consider a more inclusive approach to questions about gendered perceptions of social order. The experiences of women were central in this study, but we cannot ignore the fact that the central role of household order in early modern Frankfurt and beyond also shaped the patterns of male offending. In the historiography, the dominant notion is still that what needs to be explained is the absence of women in the criminal record, rather than considering which factors contributed to men appearing in them so frequently. As historians previously stated, the patriarchal social order put pressure on men as well as on women. Men labelled as vagrants and prosecuted as dangerous robbers are just as much ‘victims’ of societal norms that centred around the traditional burgher patriarchal household as were women prosecuted for illegitimacy or lewdness.

Patterns of male delinquency are also the product of institutional and societal selection mechanisms that produced criminal statistics, and should therefore equally be studied in the context of institutions of social control other than solely the criminal justice system. By now it has firmly
been established that the criminal justice system functioned alongside a whole range of institutions that regulated behaviour and settled conflicts. We have learned a great deal about the interactions between moral courts, neighbourhoods, lower courts, poor houses and other institutions when it comes to female criminality. Now it is time to have a better understanding how such institutions functioned in relation to men as well. We still know very little, for example, about the way that guilds regulated sexual or violent transgressions of their members and how this type of social control interacted with the criminal justice system. Unfortunately, the options for such an inclusive study for Frankfurt are limited due to the heavy archival losses during WWII, but other cities, in future comparative studies, could very well serve to pursue this.

Finally, for future comparisons about female offending in early modern Europe, it will be useful to think of different typologies of cities and how these created different mechanisms of control. Patriarchal ideals were universal in early modern Europe, but the extent to which they were implemented depended on the context. In cities like Frankfurt, whose economy was still dominated by crafts, and where guild-like corporations shaped social order policies, the position of women was different from that of women in industrial towns or maritime centres. Although such towns obviously had guilds as well, their labour markets were more diverse, and guilds tended to be more open. Consequently, the nature and importance of incorporation within the household was different in such urban centres from in a city like Frankfurt.