Chapter 4

"The Chain of Dishonor"

Petitioning for Rehabilitation in Imperial Germany

Peter J.[1] was an auctioneer and judicial consultant of Wegberg who was convicted of embezzlement and forgery in 1888. In 1891, he sent a sixteen-page petition to Kaiser Wilhelm II asking for the restoration of his civil privileges. Peter J. was clearly sensitive about his reputation, and the suspension of his civil privileges vitally undermined his good name, he felt:

> I feel it is a source of endless unhappiness to have lost my civil privileges. Since my release, I have been living reclusively and quietly, I do not interact with people at all, because I have such a mind and such a character that I am ashamed to go out because I think that the people will see my status as an ex-convict written on my forehead.[2]

In a different passage, he described experiencing this secondary punishment (*Nachstrafe*) as the harshest part of his conviction and claimed that the shame of it forced him to lead a sequestered life. A district commissioner (*Landrat*) confirmed Peter J.'s genuine sense of shame, stating that Peter J. had in fact retreated from public life.[3] When his wife became dependent on the poor relief system—something he had hoped to avoid at all costs—he felt further disgraced. In his experience, the stigma associated with poor relief was significantly worse than being dependent on the support of relatives.

Peter J.'s beliefs about his civil position contributed to his sensitivity to the effects of his conviction. In his petition, he explained that people in the town knew him for his honesty and his professional competence. He had taken on an "honorary post" as a lawyer in Aachen, which meant he did not receive any financial compensation for it. He also emphasized his constant deference (*Ehrfurcht*) and regard (*Ansehen*) for the court in all his conduct. He expressed his loyalty and obedience to and reverence for the kaiser, along with his pride in having been

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mercifully released from prison on the birthday of Wilhelm II's grandfather, the "glorious hero kaiser (*Heldenkaiser*), Wilhelm, the Victorious."[4]

Peter J.'s petition demonstrates the intimate connection between policies of stigmatization and mercy in the penal system of the German Empire. Disenfranchisement and the stigma of imprisonment could only be lifted by a special act of sovereign grace. Therefore, people like Peter J. were eager to demonstrate their loyalty and obedience to the kaiser in the hope that they would be officially rehabilitated. At the same time, these two core components of the felony disenfranchisement policy, stigmatization and mercy, came under pressure, became contested, and were then reinvented during the time of the German Empire. Several changes in German society, such as urbanization and the increased mobility of citizens, together with the expanding bureaucratic administration of the German nation-state, had significant effects on the functioning of stigmas and the possibility of being rehabilitated. Meanwhile, disenfranchised felons increasingly discarded the traditional vocabulary of mercy and started to deploy different rhetoric. The goal of this chapter, therefore, is to describe how disenfranchisement affected the lives of individual ex-offenders in the German Empire and the efforts they undertook to try and get rehabilitated.

Anxiety about "Dishonored Felons" Passing as Normal Citizens

Without a doubt, stigmatization was key to the punishment of disenfranchisement. After all, disenfranchisement had an expressive, public function, entailing a full-fledged revocation of one's citizenship rights. It was therefore crucial for fellow citizens to be aware of an offender's stigma. However, even though the word "stigma" originally signified visible marks like tattoos and brands used to identify people who had committed crimes or otherwise deviated from the norm, the stigma attached to dishonored ex-convicts in German society was generally invisible.[5] The notion of "stigma," therefore, is closely related to that of "passing." In Ervin Goffman's famous theory of stigma, its very invisibility is critical because its bearer can then choose freely whether to reveal it. Stigmatized individuals can either try to pass as "normal" by adjusting their conduct to general behavioral norms or accept the stigma as part of their identity. Goffman called this "stigma management."[6]

Prior to 1870, imprisonment, stigmatization, and disenfranchisement were intertwined in the penal policy of the German states as the stigma of disenfranchisement was closely connected to the offender's place of residence. Because the German states had no overseas colonies, no legal punishment could compare to deportation, as practiced in the British, French, and Russian empires.[7] All prison sentences were carried out within the borders of the German states. A guiding idea behind the penal policies was that felons would be reintegrated into

their former lives after their incarceration. This meant that offenders were often incarcerated far away from their hometowns and returned to their communities afterward.

In 1797, in order to prevent discharged prisoners from roaming the towns where penal institutions were located, the Prussian government decreed that discharged prisoners had to settle in the town they had resided in before their conviction.[8] In fact, a compulsory passport (*Zwangspaß*) often forced discharged prisoners to move back to their pre-conviction town.[9] Berlin municipal authorities, in particular, coerced discharged prisoners to reunite with their families in their hometowns outside of Berlin to prevent them from staying in the city.[10] In addition, some prisoners were visibly marked: before their release, their hair would be shaven off, forcing them to carry a demeaning symbol of incarceration into the outside world.[11] Such regulations and practices made it nearly impossible for a criminal conviction to be hidden from the community. Moreover, after prisoners returned to their hometowns (*Heimat* or *Heimatsort*), the people there were responsible for helping them in their future endeavors; in most cases, they would be handed over to poor relief.[12] These practices made the local community a centerpiece of punishment and rehabilitation in the first half of the nineteenth century. The connection between imprisonment and the convicts' return to their local communities undergirded the stigma they experienced.

This practice also suggests that incarcerating criminals, that is, putting them beyond the public gaze, was not motivated by growing concerns about their "privacy." Pieter Spierenburg famously argued that the need for imprisonment arose when bourgeois citizens of various western European states started to experience shame about the "spectacle" of punishment.[13] That workhouses, which were mainly used in the political struggle against poverty and vagrancy during the early modern period, were now remodeled as places for the execution of various punishments (*Straf-Anstalte*), including corporal punishments and the death penalty, supports Spierenburg's view.[14] Consequently, even though the 1794 General State Laws for the Prussian States (Allgemeines Landrecht für die Preußischen Staaten) had already replaced most of the punishments of public display with imprisonment, the Brandenburg House of Representatives still agreed, in 1843, to the policy of carrying out corporal punishment on people from the working classes (including women) inside penitentiaries.[15] Spierenburg sees this long-term evolution toward hiding the administration of punishment as evidence of Norbert Elias's idea of the civilization process: the repression of violent impulses and the internalization of norms of polite behavior were clearly reflected in the public's growing aversion to viewing the execution of punishments.[16]

By the mid-nineteenth century, imprisonment had therefore largely replaced "the spectacle of punishment" inherited from the *Ancien Régime*.[17] Yet, some people who were involved in early nineteenth-century penal policy argued that some offenders' reputations were so damaged by their incarceration that they could not

possibly lead a "normal" life in their hometowns. Many authorities therefore felt that it was in prisoners' best interest not to return to their hometowns after their release. Even though deportation was not common in the German Empire, sentences were nevertheless often reduced in exchange for voluntary emigration.[18] The extent to which this emigration was truly "voluntary" probably differed from case to case, but the authorities did not view it as a penal measure. The number of people who migrated under these circumstances is not clear, but it was surely substantial.[19] Along with the general wave of transatlantic migration, this practice started with the abolition of the redemption system in the United States in the 1820s.[20] For example, approximately three thousand ex-convicts migrated from the Kingdom of Hanover to the United States between 1832 and 1866.[21] Some convicted felons also went to South America, as, for example, in the case of a group of discharged prisoners from Mecklenburg who emigrated to Brazil after their release.[22] An influential prison official defended this practice as a two-edged measure since the ex-convicts were able to start a new life without the burden of their stigma, on the one hand, while local officials reduced the risk of recidivism, on the other.[23]

Indeed, voluntary exile had a strong connection with disenfranchisement. People deprived of their civil privileges often found it very difficult to reintegrate into their communities, either because their reputations were too tarnished or because they simply could no longer exercise their professions. In fact, judges sometimes suggested voluntary exile as an alternative to incarceration when they believed a penitentiary conviction and its consequences would be too harmful.[24] Thus, certain offenders enjoyed the class privilege of being able to choose emigration over incarceration. The most famous example of this was perhaps Friedrich List, the public official from the Kingdom of Württemberg who migrated to the United States after he was convicted of publishing and distributing a highly critical petition about the malfunctioning of the Württemberg bureaucracy in 1821.[25]

This practice—known as "transportation" rather than deportation—came to an end in the early 1860s, although its use had been diminishing since the late 1840s.[26] This decrease was not due to stricter border control or restrictions on immigration in countries like the United States. Rather, other "regular" migrants, concerned that (ex-)convicts could undermine the reputation of migrants in general, agitated to abolish this practice. They increasingly lamented the dangers such offenders posed to other migrants during their travels west. Consequently, migrant societies wanted to restrict access to the ships sailing west and asked the consul in Hamburg to prevent prison governors from sending inmates for transportation, and they were successful.[27] This meant that disenfranchised felons lost the option of transportation as an alternative to incarceration in the German Empire, so that they had to reintegrate into society on German soil.

At the same time, the measures taken to prevent the movement of ex-convicts in the early nineteenth century largely aligned with the German states' policies on

geographic mobility. Citizens of various German states did not have the unconditional right to settle in different communities until the Freedom of Movement Act of 1867 was implemented, guaranteeing free travel and settlement for German citizens within the borders of the North German Confederation.[28] This new regulation actually also included ex-convicts, unless a court explicitly ruled that they needed to be under police surveillance,[29] so that ex-convicts could more easily escape their stigma, albeit on German soil. As a result, the Freedom of Movement Act, along with the related phenomena of a rural exodus (*Landflucht*) and urbanization, deeply impacted disenfranchisement. The essential connection between imprisonment, stigma, and the ex-convict's local community no longer existed.

Arguably, this undermined the effectiveness of disenfranchisement as a stigmatizing punishment, or at least rendered the "invisibility" of the stigma much more pertinent. In 1878, these developments led Guido von Held, the governor of the penitentiary in Spandau, to conclude that released prisoners in the German Empire were not branded as they had been before but had to deal with an invisible or internal stigma (*innerliche Brandmarkung*).[30] Many citizens were preoccupied by the notion that criminals could "pass" as normal citizens, especially given the living circumstances in the metropolises: in a big city (like Berlin), people could blend in much more easily without worrying that their "true identity" might be uncovered.[31] Fear of the growing cities and the complexity, obscurity, and anonymity of life in the metropolis thus generated anxieties about criminality.[32] Public prosecutor Gustav Otto brilliantly captured this anxiety in his book *Berlin's Criminal World*, which he filled with descriptions of criminals blending into society while imitating the behavior of "normal" citizens:

> The clueless citizen or visitor in Berlin who walks around, goes to restaurants and looks at the sights doesn't realize that a large number of the people he comes into contact with who offer him their services or who actually serve him are really subjects with a lengthy criminal record. . . . The Berlin criminal . . . is generally polite and humble and has the urbane sensibilities that life in a big city impresses even upon its lower-class residents. His appearance is not unkempt and filthy. Rather, he is, as long as he can afford it, well-kempt and well-dressed, even elegant, and he goes further in ensuring a fine appearance by keeping his skin clean and taking good care of his hair and beard.[33]

The anxiety Otto expressed about criminals' "passing" was ubiquitous in discussions on crime and punishment at the time.[34] This anxiety persisted into the twentieth century, as evidenced by the 1906 affair that came to be known as the "Köpenickiade," in which discharged prisoner Friedrich Wilhelm Voigt tricked Prussian soldiers into believing he was a superior officer to steal money from the city treasury.[35] The same anxiety about passing also affected public debate about the efficacy of felony disenfranchisement. For instance, a public prosecutor from

Ulm named Elwert complained in the journal *Das Recht* that disenfranchisement was "not a form of public branding," much to his regret. Since dishonored criminals were no longer recognizable as such, he advocated that these sentences at least be published somewhere: "the traitor to his country, the perjurer, the pimp, the marriage imposter, the dealer in stolen goods . . . all these people should be subject to public censure by having their sentences published alongside their names."[36]

Keeping Track of Offenders in the Criminal Registry

If disenfranchisement's invisibility rendered the stigma of the punishment ineffective, why would people still be interested in legal rehabilitation? Was it even something disenfranchised felons pursued? In fact, many influential scholars believed that most offenders were not interested in getting their rights restored. In the second half of the nineteenth century, several international circles of legal scholars, lawyers, and prison directors debated such topics. The most famous of these was the Internationale Kriminalistische Vereinigung (IKV, the International Criminal Law Assocation), which the legal scholars Franz von Liszt (German), Adolphe Prins (Belgian), and Gerard van Hamel (Dutch) founded in 1889. The IKV's members were mostly left-liberal legal scholars, criminologists, and lawyers who were strongly associated with the "modern" approach to criminal law. The society served as a platform for those who wished to reform the penal system, both in Germany and in other parts of Europe.[37]

Ernst Delaquis's presentation on the topic of rehabilitation in different countries during an IKV meeting in 1906 sparked debate among scholars regarding criminals' interest in their civil privileges. Delaquis was a Swiss-German lecturer at Berlin University, Lizst's right-hand man between 1907 and 1914, and had been collecting material on the topic of rehabilitation for his *Habilitation*.[38] He was a staunch advocate of granting offenders the chance to have their rights restored. The director of the Moabit penitentiary, Karl Finkelnburg, however, argued that most offenders did not attach much value to their civil privileges: "Most people don't even think about this loss. They leave the prison and are just happy that they don't have to deal with any administration anymore."[39] He based this judgment on his personal experience, claiming that he had only once ever encountered a former inmate who wished to have his rights restored: a construction foreman whose subordinates refused to work under him. In this meeting, the Dutch society founder Van Hamel, like Finkelnburg, rejected the idea that a formal procedure for petitioning for rehabilitation was needed, arguing that most Dutch criminals did not value honor much anyway.[40]

Yet many more people petitioned for the restoration of their civil privileges than Finkelnburg suggested at the assembly. The files of the governmental offices

of the districts of Aachen and Düsseldorf, where the authorities dealt with petitions like Peter J.'s much more frequently than Finkelnburg led his colleagues to believe, confirm this.[41] Ex-offenders actively sought ways to be rehabilitated as normal citizens, relying on the legal and administrative possibilities available in the German Empire at the time. Any and every request made to reverse disenfranchisement undermined claims that disenfranchised felons did not care about their civil privileges. Thus, despite objections to generating a procedure for it, rehabilitation was a real possibility for disfranchised felons in the German Empire. Legal scholars' long neglect of rehabilitation is no reason to assume felons did not seek it.[42]

Most rehabilitation seekers handwrote their petitions themselves. A general petition typically contained a statement of the nature of the punishment, an elaboration of the difficulties the punishment had wrought in the petitioner's daily life, and an appeal to the mercy of the authorities. In some instances, petitioners also elaborated on the details of their offense to explain why they had committed the crime. The petitioners could draw on examples from several practical guides on communication between citizens and the authorities that were available at that time: the so-called *Briefsteller*.[43] In a few cases, the petitioners did not write the petitions themselves, as was clear from the signature not matching the handwriting of the letter. Unfortunately, it is unclear whether a family member, the clerk of the local police office (*Revierschreiber*), or someone else wrote these petitions. Nonetheless, given Germany's high literacy rate at that time, it is not surprising that many petitioners wrote on their own behalf.[44]

Peter J.'s case initially seems to confirm that disenfranchisement only had a stigmatizing effect in small communities. His community of Wegberg was certainly small enough that fellow townspeople would have known about his conviction. This also explains his feeling as if the conviction were written on his forehead. Yet, Peter J. also claimed that people knew about his conviction even before meeting him. For instance, he found it very difficult to find a job, even though he often kept silent about his criminal conviction. He suggested that potential employers in the entire Rhine region somehow had this information and rejected him on account of it. He also accused people of exploiting him by offering him a low salary because of his standing as a "dishonored citizen." In fact, he argued that the disenfranchisement held him back the most since many employers accepted ex-offenders in their businesses, "but only if they were still in possession of their civil privileges." This suggests that whether convicts had been given a "regular" prison sentence or had lost their civil privileges really made a difference.

As noted in chapter 2, disenfranchisement was about more than just losing the right to vote. The punishment affected one's entire functioning in German society. Private organizations, like workers' unions, depended on disenfranchisement as a means of controlling their membership. It was similar with insurance funds.

Thus, disenfranchisement was interwoven with the emerging German social state in many ways. Indeed, Julius S., a mine worker from Bochum, convicted for perjury, was a victim of this policy. His criminal conviction and disenfranchisement resulted in him losing his "first-class" membership in an insurance fund, causing him to eventually lose his right to a worker's pension. He petitioned in 1892 to get his rights restored so he would once again be eligible for first-class membership.[45] Some additional consequences of disenfranchisement did not follow directly from the law but were nevertheless highly restrictive. For example, being without the civil privileges made it more difficult to find housing, to obtain credit, or to find a job as many institutions required a *polizeiliche Führungszeugnis* (a certificate of good conduct from the police), and the police declined requests from those not in possession of their civil privileges.[46] This highlights a second reason ex-cons sought rehabilitation in the German Empire: there was a nationally coordinated criminal registry.[47]

During the 1880s, the uniform, decentralized criminal registry enabled officials to more effectively keep track of criminal records across multiple institutions within the empire.[48] It was undeniably a technology of bureaucratic surveillance as any interested authorities could reconstruct people's "criminal careers."[49] As many historians have argued, the creation of technologies of surveillance like the criminal registry was entangled with questions of security.[50] Many European countries developed criminal registries in the second half of the nineteenth century due to the intense international discussion and collaboration that characterized the emerging field of criminological science. Numerous international conferences allowed leading scholars to exchange ideas about criminal sciences and policy. During the 1876 International Conference on Criminology in Budapest, criminal registries were a central point of debate, and it was unanimously decided there that they were key to determining rates of recidivism.[51]

Germany implemented the criminal registry several years after other countries in Europe had done so. In 1882, the German Empire had decentralized the administration of the registry, which meant that criminal histories were collected and registered in convicts' places of birth. As a result, the information pertaining to a single person was kept in one place instead of being scattered throughout the entire country, even if that person had been sentenced by different courts in different towns.[52] In general, the records were kept at a special office under the governance of the state prosecutor in the local municipality. This decentralized system contrasted with centralized systems featuring a single storage site for all information about criminal convictions. Furthermore, the constituent states, not the imperial government, set the regulations for how the criminal registry was to be managed.

This way of organizing the criminal registry meant that the courts of the German Empire and the local offices of the state prosecutors had to be in active communication. The protocols dictated that court officials were to request infor-

mation from the criminal registry, and then state prosecutors were to send the information on a form specially designed for the purpose, known as the "excerpt" from the criminal registry. Consequently, local authorities often had to deal with petitions from people who now lived far away. Josef S., for example, lived and worked in Liberec (Bohemia) but was afraid that his employer would find out about his disenfranchisement by a court in Düsseldorf. In his petition of December 1896, he claimed that nobody in Liberec knew about his conviction, but his anxiety about being exposed was so strong that it remained even after he moved.[53] It is impossible to assess whether his anxieties were justified, but the implementation of the criminal registry did facilitate communication across borders about prior convictions.[54]

Of course, military officials were also interested in the emergence of the criminal registry and attached great value to the information it contained. The German Imperial Admiralty Staff, for example, utilized it to assess young men who voluntarily joined the navy and applied to become sea captains. In 1907, the staff complained that many had positive references from the local authorities but turned out to have lengthy criminal records, so it demanded that civil adminis-

Figure 4.1. Cartoonist Thomas Theodor Heine mocks German officials' preoccupation with a criminal record. "Throw him out, the guy was in prison once," a police officer says about an individual who is about to enter heaven. Thomas Theodor Heine, "Zur Fürsorge für entlassene Sträflinge," *Simplicissimus* 11, no. 41 (1906): 658. Courtesy Klassik Stiftung Weimar.

trations mention whether an applicant had a criminal record in their letters of recommendation. Only then could they determine whether the applicants had "the necessary moral dignity" to join the navy.[55] The Minister of the Interior supported them in this, writing a circular to the local authorities demanding that they follow this directive. This directive combined with the public's strong interest in the previous convictions of citizens to give the criminal registry an important place in German society.[56]

"The Whole or Partial Recovery of the Decrease in Moral and Legal Honor"

The implementation and development of the criminal registry greatly impacted rehabilitation. Expungement now became an integral part of legal rehabilitation—as is apparent in various studies and articles on this topic. In the earliest encyclopedic entries on rehabilitation, the notion was defined in a legally positivistic way. Karl Buchner defined it in Welcker and Rotteck's 1865 *Staatslexicon* as: "The cancellation of legal incapacities resulting from a sentence."[57] While Buchner primarily focused on the "legal incapacities" (loss of civil privileges) that followed from a punishment, later scholars included non-legal elements of rehabilitation in their definitions as well. In a 1913 book on rehabilitation, law student Georg Lindemeyer developed a very different definition: it was "the whole or partial recovery of the decrease in moral and legal honor that had been caused by the crime and punishment."[58]

Lindemeyer's more widely applicable definition demonstrated two distinct dimensions of the concept of rehabilitation. In contrast to Buchner, Lindemeyer distinguished between the legal and moral (*sittliche*) consequences of a criminal conviction. Moreover, his definition included a notion that was remarkably absent from Buchner's: honor. Erwin Bumke, a former president of the Reichsgericht, defined rehabilitation in the *Concise Dictionary of Jurisprudence* of 1928 in a similar vein, calling it "the restoration of reputation that has been lost as the consequence of a punishment."[59] Interestingly, this definition replaced the notion of honor with "reputation" (*Ansehen*) and disregarded the legal consequences of punishment. It seemed that legal scholars had gradually become more interested in the subjective question of "honor" and "reputation" than in the legal consequences of rehabilitation.

Once the criminal registry was introduced, formal rehabilitation came to mean two things: 1) reversal of the punishment of disenfranchisement, and 2) expungement of the punishment from one's criminal record. Legal scholars and local authorities often struggled to keep the two things separate. The biggest issue in discussions about rehabilitation was not its definition but rather how the restoration of one's civil privileges was related to the rule of law. To wit, was

it a legal right guaranteed by the law, or was it of a different nature? In the end, this question guided much of the discussion about rehabilitation in the German Empire. Legal discussions of rehabilitation and how it should be incorporated into the laws truly began in Germany in the early 1900s on the initiative of Ernst Delaquis. In books and articles that he started publishing around 1905, he identified a crucial difference between pardons granted as favors of the monarch and those issued via a bureaucratic procedure. At the same time, he remarked that the latter were gradually coming to dominate pardoning practices.[60]

In his books and articles, Delaquis drew important distinctions between three understandings of rehabilitation that he derived from the French context: gracious rehabilitation (*rehabilitation gracieuse*), the restoration of civil privileges granted as a favor by the monarch; judicial rehabilitation (*rehabilitation judiciaire*), a pardon granted by the judge or state prosecutor as the outcome of a legal procedure; and legal rehabilitation (*rehabilitation de droit*), with the criteria for rehabilitation codified in penal law. In judicial rehabilitation, supplicants had to meet certain court-set standards, such as providing proof of good conduct, before their rights could be restored; the designated official had to decide whether supplicants had met these standards. In legal rehabilitation, rehabilitation was considered a right offenders could claim after a certain time.

In drawing these distinctions, Delaquis argued that the system of rehabilitation had undergone historical development, passing in most countries from gracious to judicial and finally to legal rehabilitation.[61] He illustrated this by highlighting developments in nineteenth-century France. The Napoleonic *Code Pénal* of 1810 stipulated that only the kaiser could grant a pardon. With the second Berenger Law of 1891, the power shifted to the judicial parties.[62] Afterward, laws increasingly regulated the procedure. Thus, alongside the analytical distinction between different kinds of rehabilitation, Delaquis also developed a theory of legal history that moved away from mercy to a system of rights. Delaquis himself, however, strongly favored a system of judicial rehabilitation because it centered on offenders' efforts and ensured that people whose rights were restored were truly eligible for this because the public recognized that they had conducted themselves "with honor."[63]

"His Majesty Alone . . ."

Even though Delaquis advocated for judicial rehabilitation, the German Empire's system remained, in theory, one of gracious rehabilitation: administratively, ex-convicts' petitions to have their civil privileges restored were categorized as requests for clemency (*Gnadengesuche*). Thus, this structure strongly suggested that rehabilitation was part of the system of mercy and had to be considered a formal pardon. This perspective is also evident in the wording of these petitions.

Ferdinand L.—a former post officer from the town of Soest who had been sentenced for professional misconduct by a court in Aachen—closed his petition of 1871 with a typical expression of subservience to the monarch:

> All merciful kaiser and king! His majesty alone is able to save me from my wretched state. One word of mercy and I will have my civil privileges returned to me and can . . . then live the rest of my life with regret but without wretchedness. I throw myself at his majesty's feet and beg him to speak a word of mercy for your majesty's most obliging subject.[64]

Ferdinand L.'s most immediate concern in writing this petition was to secure his pension because disenfranchisement also caused him, as a civil servant, to lose his claim to a state pension. Until the late 1880s, most people who sought clemency were (former) state servants, which is perhaps not surprising given their direct interest in civil privileges. Post officers, in particular, were well represented in this group, predominantly charged with professional misconduct, which included any form of deceit. A book on the development of the German postal services in 1893 highlighted the honesty required of post officers: "The extremely high level of trust placed in the postal services justifiably requires impeccable honesty (*makellose Ehrenhaftigkeit*) of its officials."[65] Hence, these servants of the state appealed personally to the individual mercy of the king.

Ferdinand L.'s loyalty to the monarch aligned with the idea of mercy as the sovereign's prerogative. Indeed, there is a great deal of evidence to support this historical link between the granting of mercy and the monarchy—not least the coronation of Elector Friedrich III as the first king of Prussia in 1701. During this ceremony, the new king issued a general pardon to many imprisoned offenders deliberately to symbolize his power.[66] The event remained unique since his successors dispensed with a coronation ritual, but the power to grant pardons was clearly associated with the king and considered one of his prerogatives. In light of this history, American philosopher Kathleen Moore described the pardon as historically understood as "a gift freely given from a God-like monarch to a subject."[67] In fact, Kaiser Wilhelm II also granted annual amnesties to many imprisoned subjects on his birthday.[68]

The case of Albrecht Stein, a journalist with a doctorate in law, provides further evidence of this link as he pinned his hopes on such a birthday amnesty. Stein had been convicted of serious forgery and disenfranchised for twenty years, resulting in the permanent loss of his right to use his doctor's title. In the petition he wrote to the emperor in 1897, he lamented that no newspaper would accept his articles or hire him as an editor as long as he was unable to sign his articles as "Dr. Stein." He had in fact been charged with unlawfully using his doctor title on multiple occasions, so the Düsseldorf court of justice ruled that he was permanently stripped of this public rank due to his conviction. In his petition protesting against this punishment, he stressed that, unlike his father, who was the

Silesian democratic politician Julius Stein, he was a member of the Conservative Party and a loyal subordinate to the kaiser. He hoped that the amnesty granted on the one-hundredth birthday of Kaiser Wilhelm I, the grandfather of the presiding German emperor, in 1897 would reverse this part of his sentence.[69] Albrecht Stein's petition demonstrates that the idea of civil privileges as a gift granted by the sovereign also implied that people placed their hope on the monarch's personal discretion to get their rights restored.

The Female Consciousness

Frequently, wives wrote petitions on behalf of their convicted husbands. For instance, the wife of Arnold H., a cheesemonger from Krefeld, wrote a petition to the kaiser in 1891, a few days after Arnold H. had sent one himself. He had been convicted of fraud and sentenced to nine months in the penitentiary and three years of loss of honor. The two petitions were similar. Both argued that Arnold H. needed to have his trade license back, which he had been refused due to the suspension of his civil privileges. The only extra information Arnold H. added to his own request was that his fraud offense was his first and only lapse (*Fehltritt*) and that he had served his country well as a soldier before becoming a cheesemonger.[70] The theme of being a one-time offender often arose in petitions, but in Arnold H.'s case, the district president firmly contradicted this claim: Arnold H. had been arrested more than thirty times, mainly for disturbance of the peace and Sunday rest, as well as for trade offenses and insulting the public prosecutor, so he viewed Arnold H. as a troublemaker.

Arnold H.'s wife's petition was much longer. First, she dismissed his other offenses as small misdemeanors (*kleine Vergehen*) and focused on the circumstances in which the couple lived. She referred to the "severe" industrial crisis and the rising cost of food, which made their lives more difficult. Indeed, even though this was the time of high industrialization in Germany, many regions were struggling with economic crises between 1873 and 1896. The early 1890s, in particular, saw low economic growth.[71] Secondly, she addressed the kaiser more elaborately. For instance, she effusively praised his enormous heart (*großmächtiges Herz*), as evident in his role in bringing about the positive reforms in social security in the early 1890s: "With the labor laws, the kaiser truly manifested himself in a humane way."[72] With this, she alluded to Wilhelm II's curated image as the friend of laborers (*Arbeiterfreund*).[73]

One reason women may have written petitions on behalf of their husbands was that these requests had a more "apolitical" meaning, appealing more to the power of mercy. In different historical contexts, historians have argued that petitions were frequently seen as requests without any partisan interests and as direct expressions of people's desires. The ruling classes saw women as particularly suited

to writing such requests as "pure" messengers of their beliefs.[74] This aligns with the fact that these petitions were letters seeking pardons and not supplications, petitions often used in early modern Germany to voice political complaints.[75]

At the end of her petition, Arnold H.'s wife emphasized that she was making her request on behalf of herself and her young children. In this, her petition was typical of such letters, which were often presented as pleas coming from the entire family. Johann H.'s wife wrote in a similar vein, but her plea, signed by her and her children, was even more remarkable because her husband had been sentenced by the court of Düsseldorf for a sex offense, apparently against his teenage daughter. That is, he had been sentenced for violating §173 and §176 of the penal code, which outlawed incest and sexual abuse. Nonetheless, his wife still petitioned for the restoration of his rights and signed the petition as "wife of Johann H. together with children." This case was also remarkable because Johann H. was 63 years old and terminally ill when his wife wrote the petition. He was hospitalized, and there seemed to be no immediate practical reason to seek the restoration of his rights. She only mentioned that "it would be very painful for me, and for my children, to see my husband pass away without his civil privileges."[76] Clearly, she attached great value to her husband's honor since she believed it reflected on the entire family.

Such petitions from wives often appealed to the kaiser's "humane character." Johann H.'s wife repeatedly appealed to "the humane sentiments" of the kaiser and even added a religious dimension to her request in writing that she would "press her lips" and send to the heavens a prayer of thanksgiving and praise "that also extended to the heart of the kaiser." Such phrases, focusing on generosity, big-heartedness, and merciful favors, avoided potential political conflict by leaving out notions such as rights and duties. This register of emotional language seemed to be more readily available to women than to men.

Women's greater access to emotionality also played a role in beliefs about their potential for rehabilitation when they themselves were criminals. In fact, in criminological works it was widely thought that they were less likely to be able to have their honor restored than men. Delaquis, in particular, argued that "criminal women" were often considered more degenerate than convicted men, and that, although they were less likely to turn to crime, once they had, it was harder for them to return to a "normal" life. Contemporary literature on the female conscience supported this view: "Female conscience is more led by feelings and, where it truly speaks, less compromised and more insistent," theologian and moral philosopher Wilhelm Gass argued in 1869 in his *Lehre vom Gewissen*.[77] Crucially, women's emotionality, Gass and others believed, also made them more persevering. This was the reason Delaquis, too, believed that it was harder for women to have their honor restored.[78]

Indeed, in other realms of Wilhelmine culture, women had more difficulty appealing to their honor. A woman's honor mostly consisted in chastity and oth-

erwise she was an indirect "carrier" of honor, serving the honor of her husband, as Ute Frevert has shown.[79] Consequently, proving one's honor was principally seen as a male affair in the judicial system. Delaquis therefore also felt that the rehabilitation of female offenders was a marginal issue because it was only relevant to women working in "honorable" professions, which he argued was not the case for most female offenders.[80] Delaquis' argument again reinforces the close relationship between work and honor in the judicial mindset of the era.

Even so, women petitioned for the restoration of their own rights in exceptional cases. After all, they could be deprived of their civil privileges just like men, despite not being the principal bearers thereof. One such case was that of Anna R., a midwife from the town of Düren sentenced for perjury and incitement to commit perjury. In her petition, she used a style similar to that of civil servants like Peter J. For instance, she wrote extensively about her professional career and declared that she had "earned much trust" from her clientele and was widely respected in her town.[81] However, she did not go into too much detail about the reasons behind her offense but rather emphasized the "honorable" character of her husband: a member of the volunteer fire department, he had been injured while battling a fire in the local hospital, during which he had rescued the patients.

There is an interesting paradox in Anna R.'s request. She seemed unaware that civil privileges did not apply to her situation, yet she believed that official rehabilitation was of great value to her. Accordingly, the burgomaster of Düren replied to her puzzling request with an extensive statement. He first contradicted her assertion that she enjoyed a good reputation and pointed out how misguided her attempt was. After all, Anna R. believed she would be able to practice her profession again the moment she was rehabilitated, but he explained that before she could work as a midwife again she would need to renew her certificate, for which he did not believe she would be eligible. Nonetheless, he declared that Anna R. deserved special consideration. Anna R.'s case shows that both the authorities and petitioners believed that "honor" could be as important to women as it was to men, even though the civil privileges, in theory, only applied to men.

In Search of "Special Circumstances"

Delaquis objected to gracious rehabilitation because pardons from the monarch seemed arbitrary. As early as the eighteenth century, many famous Enlightenment philosophers from various European countries had criticized pardons for this reason, and enlightened thinkers soon came to share this critical view. Most commonly, it was argued that pardons were incompatible with a republican form of government. French Enlightenment philosopher Montesquieu, for instance, emphasized the purely monarchical character of the pardon, although he was not

necessarily opposed to its use in a monarchical state.[82] The fiercest opposition to the practice came from the Italian philosopher Gaetano Filangieri. In his *Science of Legislation*, he highlighted many arbitrary and unjust decisions that had been made in the name of mercy.[83]

These Enlightenment criticisms often equated monarchical rule with arbitrary rule. If monarchs could soften the consequences of the law with pardons, this only meant that the laws themselves were poor and imperfect; there was no genuine rule of law. Motivated by the idea of the perfectibility of laws, these thinkers argued that pardons should, ideally, not be necessary. In an essay on criminal justice (cited also in chapter 1), Globig and Huster contended that every pardon issued by a ruler breached the social contract that legitimated his authority.[84] A few decades later, the prominent philosopher of law Karl Salomo Zachariae called the pardon an injustice against the community in which it was exercised, arguing that the pardon was "a call to commit crimes because it increases the hope that one can sin without being punished."[85]

Yet, despite these serious criticisms, many scholars still defended the pardon in the nineteenth century. After all, the constitutional monarchy was still seen as the ideal model of state government, and pardons worked well with this mode of government.[86] As Sylvia Kesper-Biermann has pointed out, legal scholars at that time used three basic arguments to justify pardons. The first was based on justice: clemency could restore justice by correcting possible failures and weaknesses in the law. The second pertained to questions of social policy: too many prisoners generated dangers for the state, so pardons could help restore the balance to prevent the decomposition of society. The third claimed that pardons served to express the benevolence of the ruler. This final argument was often considered to be the most controversial since it reinforced the sovereign's arbitrary power.[87]

Paul Laband, an influential professor of constitutional law in the German Empire, supported the widespread understanding of mercy as the prerogative of the sovereign; he also believed that mercy was of considerable importance in society in general, "permeat[ing] every part of the life of the state," a "constant companion of public law," softening its harshness.[88] This claim that they mitigated the severity of the law was a classic defense of pardons. Moreover, Laband argued that the notion of mercy (as the bestowal of a benefit without any legal obligations) only applied to cases in which there was a relationship between a ruler and a subject (*Herrschaftsverhältnis*):

> Mercy is something granted without legal obligation. It is only used when there is a relationship between sovereign and subject; granting mercy is a prerogative of the sovereign and being "merciful" is his attribute.[89]

At the same time, under the influence of the "modern" criminological school, the notion that pardons were beneficial to the system of criminal justice experienced a sort of renaissance in the second half of the nineteenth century. Echoing

phrases by legal philosopher Rudolf Jhering, Franz Liszt, for instance, argued in his handbook of criminal justice that pardons could be a "safety valve" for the criminal justice system.[90] The fact that Delaquis was a pupil of Liszt seems contradictory. Yet, it makes sense knowing that Liszt had a certain type of pardon in mind. Such "modern" scholars were particularly supportive of parole: as this kind of pardon was conditional on the conduct of a released prisoner in society, the pardon came with incentives for the offender's reform. Thus, they did not view pardons as a correction of the laws but as a tool for helping social policy makers prevent the disintegration of society. This was very much in line with the "purpose"-oriented approach of the modern school.[91] This is the context in which one must understand Delaquis's preference for "judicial rehabilitation" because it granted ex-convicts the possibility of rehabilitation as a reward for good conduct.

Interestingly, the real procedure for rehabilitation in the German Empire, although it took the form of "gracious rehabilitation," was often closer to what Delaquis advocated in his work. He held that rehabilitation should ideally be awarded only after determining through extensive interviews with important individuals from the local community that it is warranted.[92] And although ex-convicts wrote petitions of clemency to the kaiser in the system of gracious rehabilitation, the local authorities actually made the decisions along these lines. The district president (*Regierungspräsident*) played the most important role in this because a ministerial decree of 1853 had made this community figure responsible for making the decision for or against clemency, emphasizing that it could only be granted in "exceptional" cases.[93] The same decree stated that district presidents had to consult with other local authorities before making a decision, most importantly the judiciary and especially the local state prosecutor.[94] Other frequently consulted authorities included the local burgomaster and the district commissioner (*Landrat*). However, these figures could only advise the district president. So, even though it has been argued that district commissioners held the real power in Prussia, the district presidents had more authority in clemency decisions, given their function as the heads of the police departments.[95]

Local authorities usually followed this procedure precisely. Petitions addressed to the kaiser usually ended up in the office of the Minister of the Interior, who forwarded them to the district president of the town where the petitioner resided. In almost all cases, the Minister of the Interior advised the district president to decline the request unless there were extraordinary circumstances. The district president would then make a decision based on information he had compiled and inform the petitioner. Local authorities' reactions to the petitions, however, differed from case to case. The burgomaster and state prosecutor, for instance, displayed great sympathy for Peter J. and Ferdinand L., seeming to truly regret that they could not find special circumstances for granting these former civil servants a pardon. Not even Ferdinand L.'s loss of entitlement to his pension was reason enough for the district president to support his request.

However, when Düsseldorf post officer Gottfried T. deployed similar arguments in his petition, the local authorities reacted dismissively. Gottfried T. had been sentenced for embezzlement in 1894 and, like Peter J. and Ferdinand L., he made loyalty to his office the leitmotif of his petition. He claimed he was honored to have been entrusted with the office and repeatedly expressed his remorse for the breach in confidence he had caused—a "most ignominious" (*schnödeste*) offense. He also addressed the kaiser in a subservient tone and claimed that he was unworthy of his mercy. Of course, he was simply trying to convince the kaiser that he had an essentially moral character and finally asked him for his "undeserved grace."[96] His rhetoric fit perfectly with the image of the loyal servant asking for sovereign grace. Yet, the burgomaster was not moved. Set on proving that Gottfried T. was a recidivist with an egoistic character, he described Gottfried T. as living a loose life, maltreating his wife and children, and neglecting his family since his conviction. In addition, and very importantly, the burgomaster emphasized that Gottfried T. was only interested in enriching himself.[97] Furthermore, the burgomaster mentioned Gottfried T.'s attempted escape from the Krefeld prison in the company of a "band of robbers" (an event that was also discussed in the local newspapers) as additional evidence of his reprehensible character.[98] Gottfried T.'s request was therefore denied without any further ado. The evidence amassed by the burgomaster illustrates the effort authorities put into processing cases, even if they generally rejected them.

Local community members also dedicated efforts to rehabilitation proceedings. Some of these people were less directly concerned with the ex-convicts' well-being than they were with the ex-convicts' immediate relatives. In 1897, the local citizens' association (*Bürgerverein*) of Rupelrath near Solingen tried to help two residents convicted of manslaughter who had been sentenced to eight to ten years in the penitentiary. Two men, both named Karl S., 21 and 26 at the time of the crime, had stabbed a day laborer to death. The citizens' association, just like Albrecht Stein, hoped that Kaiser Wilhelm I's hundredth birthday celebration would be a suitable occasion to plead for clemency in their case.[99] Both the burgomaster and the district commissioner of Solingen, however, remained steadfast in their judgments. They claimed that the extreme brutality of the crime disqualified the applicants from having their rights restored.[100] Such statements confirmed the repulsion local members of the bourgeoisie felt toward acts of brutal violence.[101]

The planned penal law reform of 1909 included a proposal to further codify this communal aspect of rehabilitation. In the first decade of the twentieth century, the German government had decided that, after more than thirty years, the Reich Penal Code needed to be significantly revised, which gave many experts an occasion to voice their ideas about the legal aspects of rehabilitation. The massive scholarly work, the *Vergleichende Darstellung*, which systematically compared penal systems across the world, preceded the draft reform. In §50 of the draft,

it was stipulated that the rights of disenfranchised offenders could be restored if local courts decided that they had conducted themselves "honorably" for a certain period of time.[102] This plan would be more in keeping with Delaquis's idea of "judicial rehabilitation," demonstrating that penal experts broadly supported this concept. Interestingly, however, this draft was largely based on the ideas of the "classical" school and only marginally adopted ideas from the "moderns."[103] Commentators envisioned some problems with the practical implementation of this plan. Increased mobility in the German Empire, for instance, made it difficult to determine who should decide on rehabilitation: the authorities in the ex-convicts' place of residence, or those in their place of conviction?[104] In the end, though, these reforms were never ratified or implemented, so the authorities continued to handle rehabilitation as described above.

A New Vocabulary of Entitlement

Feelings of honor and shame often had a material side too. Manfred Hettling argued that a central value of the German bourgeoisie was independence.[105] And, indeed, many petitioners referred to independence as a key aim. Increasingly, independence became associated with honor, as well as the possession of material resources and ideas about masculinity. In other words, as many historians have pointed out, the notion of honor had by this period become deeply entangled with economic independence.[106] Since the loss of civil privileges often undermined ex-convicts' ability to find work, the material consequences of the punishment were often considered to be integral to the dishonoring component of the conviction. The greatest dishonor lay in being dependent on the support of others. Almost always, a loss of independence was seen as disgraceful because a dependent life was undesirable in itself, never mind that it prevented people from fulfilling their material needs. Thus, ex-convicts were motivated to ask for the restoration of their honor not only by the prospect of job opportunities and financial means but also in order to maintain their independence.

Heinrich N., for instance, worked as a retailer in Duisburg and was convicted of perjury in 1883. His inability to find an occupation—or at least one equivalent to his previous one—created a "an oppressive feeling of unfreedom," he wrote in his petition to the kaiser. It went beyond his lack of work in that the punishment itself also had a direct emotional effect: "my current state makes being around people difficult and makes me anxious." He believed that this feeling would go away the moment these obstacles were removed: "my old joy in working would come back to me if I could again freely move among my fellow citizens."[107] Heinrich N.'s description of his feelings strongly suggests that he valued independence for intrinsic reasons and considered his current lack of freedom deeply dishonorable. One could argue, moreover, that his petition testified

to a certain emotionalization of his future prospects as he hoped to experience a new "joy" in being a productive citizen (*Schaffensfreudigkeit*).

Ex-convicts expressed their desire for independence nowhere more forcefully than in their wish not to have to appeal to the poor relief system, as many of the previous cases have already shown. The stigma associated with the poor relief system caused people to view taking recourse to it as a serious disgrace related to their experience of dependence. As we saw with Peter J. above, people preferred to get help from their families over utilizing the poor relief system. Another petitioner who feared the stigma of poor relief was Friedrich S. from Sterkrade. Convicted to one year in the penitentiary for pimping, he petitioned primarily out of a desire to no longer be a burden on the poor relief system.[108] Indeed, many petitioners voiced concerns about being "a burden" to the community; their state of dependence provoked the dishonor they felt and motivated them to seek rehabilitation.

In his petition, Friedrich S. also mentioned that he was old and very ill. This shows that the value ex-convicts ascribed to their civil privileges and to the state of being independent was not necessarily associated with their age. That is, older people also had material reasons to seek the restoration of their rights. Jacob S. from Barmen, for instance, who was sentenced for helping someone have an abortion, is a case in point: he was forty-five years old and was hoping to be admitted to a local burial fund. The burial funds, however, only admitted people up to age forty-five who were in possession of their civil privileges. Jacob S.'s material concerns cannot be isolated from his ideas about his reputation. Securing the financial means for his burial was clearly intrinsically valuable to him: "I view it as my duty to ensure that in the case of my death means for a burial will be there."[109]

These petitions did not focus on the convicts' former life conduct or the nature of their crimes. In fact, more petitions started emphasizing the difficulties of life after conviction to appeal directly to the kaiser's empathy. This was, for instance, the case in Heinrich K.'s petition of 1896. A bailiff from Beeck (Wegberg), he was convicted of embezzlement by the court of Aachen in 1894. After listing the problems his disenfranchisement caused in his daily life (three positions had already been denied to him), he concluded by appealing to the kaiser's empathy:

> Your Highness, please consider how difficult this punishment has made it for me to return to civil society, how difficult it has made it for me and my family to make a living, when my loss of honor remains in place, no institution, no business will take me, I thus stand before you, cast out with bound hands, and face an uncertain future.[110]

Heinrich K.'s differed from most in that he directly asked the kaiser to put himself in his shoes, whereas others usually just listed their hardships. Furthermore, Heinrich K. placed much less emphasis on his biography and his former conduct

as a civil servant. In this, it illustrates the shift in petitions' focus to life after prison and future prospects.

Johann Josef J. used rhetoric similar to that of Heinrich K.'s in a petition he sent fifteen years later, in 1911, to appeal to the kaiser's empathy. Johann Josef J. was a businessman from Aachen who had been sentenced to three years in the penitentiary for fraud in 1907. However, his approach differed in that he tried to generate awareness of ex-convicts' general experience of being dishonored in Germany. His petition was completely dedicated to the difficulties his conviction created in his daily life and did not mention the offense he had been sentenced for. Clearly, he did not consider this important in the context of his request.

What is striking in Johann Josef J.'s style is that he constantly shifted between a first-person and a third-person perspective. He referred to himself in the third person as "the convict," and even as "the miserable one" (*der Unglückliche*). In this way, he connected his personal experience with the general condition of other dishonored ex-convicts and created a sense of collective identity. He started his personal account by highlighting the shared experience—"I share in the general miserable fate of all released convicts"—and continued in this generalizing mode:

> I cannot describe how difficult it is to forge a good life as a citizen for those unlucky ones who, in the isolation of their sentences, have come to see things differently and now only want to survive in life but are forced to drag along the chain of dishonor behind them.[111]

The petition leaves the reader with the impression that Johann Josef J. was pursuing a higher political cause in his request for the restoration of his civil privileges. In a sense, he truly identified himself with the social group of dishonored felons.

One can clearly see the two different discursive strategies when comparing Johann Josef J.'s petition to Peter J.'s. Peter J. and other former civil servants prided themselves on being law-abiding citizens, presenting their professional conduct as an extension of state power and downplaying their offenses as momentary lapses. Johann Josef J., on the other hand, described his misery as an experience he shared with other ex-convicts. Thus, he expressed a sense of collective identity and used a vocabulary of political protest. In a way, he tried to convince the kaiser that ex-convicts were citizens with rights too. Johann Josef J.'s letter therefore reads more as a complaint about the consequences of his sentence than as a request for the restoration of his rights.

Both Heinrich K.'s and Johann Josef J.'s requests were rejected. The authorities advised against clemency primarily because both Heinrich K. and Johann Josef J. had previous sentences before their rights were stripped. In fact, Johann Josef J. had been sentenced six times.[112] Heinrich K. had even been sentenced to an additional honor punishment by a different court. The authorities therefore

categorized them as "habitual offenders," referring to them as such in internal communications.

Over time, it became clear that people petitioning for the restoration of their rights came from various backgrounds. There were civil servants, businessmen, artisans, street vendors, and even day laborers who were interested enough in their civil privileges to seek their restoration. Notably, the number of petitions sent in the districts of Aachen and Düsseldorf rose from the 1890s onwards, even though fewer people were deprived of their civil privileges.[113] Perhaps this is not surprising. After all, as fewer people were sentenced to honor punishments, those who were came to feel more isolated. One possible explanation is that ex-convicts had more trust in the rule of Wilhelm II.[114] Another explanation could be that the end of economic crises made people more optimistic about their future prospects, which, in turn, made them more eager to have their privileges restored.

Even though rehabilitation was formally an act of mercy, the discussion among local authorities increasingly revolved around prisoners' conduct after release, so, in practice, dealing with such cases bore many similarities to rehabilitation as a reward for good behavior. In their petitions, civil servants initially often elaborated on their honor in relation to their life conduct in office; in this context, they found the punishment most demeaning. If they used a vocabulary of entitlement, this entitlement was based on their biography. That is, they tried to utilize this "symbolic capital" to make their case.[115] Other petitioners, however, eventually started to stress other misfortunes related to their conviction, particularly that they had become a burden on the community and wanted this situation reversed. They hardly talked about their biography but emphasized their intention to become useful citizens in the future. In their experience, full citizenship was not just a privilege awarded for their honorable life conduct but something they were entitled to by virtue of their membership in a community—both the local community and the national community. Armed with this conception of citizenship, they sought to hold the state accountable and criticize what they perceived to be unjust practices in the penal system.

Notes

1. Parts of this chapter draw on a previously published article: Timon de Groot, "The Criminal Registry in the German Empire: The 'Cult of Previous Convictions' and the Offender's Right to Be Forgotten," *German History* 39, no. 3 (2021): 358–76.
2. LAV NRW R, BR 0005, no. 22776, petition from Peter J. addressed to Kaiser Wilhelm II, 17 August 1891.
3. Ibid., statement from the district commissioner on the case of Peter J., 28 September 1891.

4. Ibid.; Wilhelm I was often depicted as the *Heldenkaiser* as a consequence of the outcome of the wars of German unification between 1864 and 1871; cf. Wilhelm Oncken, ed., *Unser Heldenkaiser. Festschrift zum hundertjährigen Geburtstage Kaiser Wilhelms des Großen* (Berlin: Schall & Grund, 1897).
5. Cf. Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Englewood Cliffs, NJ: Prentice-Hall, 1965), 1–3, 48–51; Martha C. Nussbaum, *Hiding from Humanity: Disgust, Shame and the Law* (Princeton, NJ: Princeton University Press, 2004), 217–21.
6. Goffman, *Stigma*, 48–62.
7. Cf. Fitzpatrick, *Purging the Empire*, 19–39. See also Rosenblum, *Beyond the Prison Gates*, 75–78; Schauz, *Strafen als moralische Besserung*, 270.
8. Philipp Zeller, *Systematisches Lehrbuch der Polizeiwissenschaft nach preußischen Gesetzen, Edicten, Verordnungen und Ministerial-Rescripten*, vol. 1 (Quedlinburg: Basse, 1828), 58.
9. Wick, *Über Fürsorge für entlassene Sträflinge*, 38–40.
10. Hermann Friedrich Ortloff, *Das Zellengefängniß zu Moabit in Berlin* (Gotha: Perthes, 1861), 176.
11. Cf. Gustav Radbruch, "Der Ursprung des Strafrechts aus dem Stande der Unfreien," in *Elegantiae Juris Criminalis. Vierzehn Studien zur Geschichte des Strafrechts*, ed. Gustav Radbruch, 11–12 (Basel, 1950); Richard Braune, "Die Freiheitsstrafen einst und jetzt," *ZStW* 42, no. 1 (1922): 14–32, 18.
12. Wick, *Über Fürsorge für entlassene Sträflinge*, 39.
13. Pieter Spierenburg, "Geweld, repressie en schaamte. Enige historische gegevens," *Tijdschrift voor criminology* 20 (1978): 133–38. Spierenburg's take on the rise of the prison is different from Foucault's, of course. Yet, as Spierenburg also indicates, Foucault's thesis that the system of incarceration grew out of changing ideas about disciplining bodies and souls can easily be combined with the fact that sensitivities and mentalities regarding the execution of punishment had changed. Cf. Garland, *Punishment and Modern Society*, 159. Other works on the "spectacle of punishment" include Richard van Dülmen, *Theater des Schreckens. Gerichtspraxis und Strafrituale in der frühen Neuzeit* (Munich: C. H. Beck, 1987), 62–81; Foucault, *Surveiller et punir*, 53–59; Ute Frevert, "Empathy in the Theater of Horror, or Civilizing the Human Heart," in *Empathy and Its Limits*, ed. Aleida Assmann and Ines Detmers, 79–99 (Basingstoke: Palgrave Macmillan, 2015).
14. Bretschneider, *Gefangene Gesellschaft*, 271–305, 523–29; Nutz, *Strafanstalt als Besserungsmaschine*, 49–69.
15. Cf. Karl Adam, "Stände und Berufe in Preußen gegenüber der nationalen Erhebung des Jahres 1848," *PJ* 89 (1897): 285–308, 290; Ernst Feder, *Die Prügelstrafe* (Berlin: J. Guttentag, 1911), 17–18; cf. Ute Frevert, *Die Politik der Demütigung: Schauplätze von Macht und Ohnmacht* (Frankfurt a.M.: S. Fischer, 2017).
16. "Outbursts of cruelty did not exclude one from social life. They were not outlawed. The pleasure in killing and torturing others was great, and it was a socially permitted pleasure. To a certain extent, the social structure even pushed its members in this direction, making it seem necessary and practically advantageous to behave in this way." Norbert Elias, *The Civilizing Process: Sociogenetic and Psychogenetic Investigations*, trans. Eric Dunning (Oxford: Blackwell, 2000), 163.
17. Pieter Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression from a Preindustrial Metropolis to the European Experience* (Cambridge: Cambridge University Press, 1984). It is important to mention that Spierenburg sees this as a longer-term evolution and not as particular to the early nineteenth century. He argues that this process started with the erection of workhouses in the seventeenth-century cities of Amsterdam and Hansa. Nonetheless, the early nineteenth century still marked something of a new era since the prison idea spread significantly across Europe, more clearly taking on the function of a penal institution as opposed to a poor relief policy.

18. Günter Moltmann, "Die Transportation von Sträflingen im Rahmen der deutschen Amerikaauswanderung des 19. Jahrhunderts," in *Deutsche Amerikaauswanderung im 19. Jahrhundert. Sozialgeschichtliche Beiträge*, ed. Günter Moltmann (Stuttgart: Metzler, 1976), 147–96, 150.
19. Ibid.
20. Jürgen Osterhammel, *Die Verwandlung der Welt. Eine Geschichte des 19. Jahrhunderts* (Munich: Beck, 2009), 236–39.
21. Antonius Holtmann, "Auswanderungs- und Übersiedelungspolitik im Königreich Hannover 1832–1866," in *Schöne Neue Welt. Rheinländer Erobern Amerika*, ed. Kornelia Panek and Dieter Pesch, vol. 2 (Wiehl, 2001), 185–214, 194.
22. Matthias Manke, "Sträflingsmigration aus Mecklenburg-Schwerin vom Ende des 18. bis zur Mitte des 19. Jahrhunderts," *Jahrbuch für europäische Überseegeschichte* 9 (2009): 67–103, 78–81.
23. Wick, *Über Fürsorge für entlassene Sträflinge*, 42.
24. Moltmann, "Die Transportation," 149–50.
25. Wunder, *Geschichte der Bürokratie in Deutschland*, 7; Harald Focke, "Friedrich List und die südwestdeutsche Amerikaauswanderung 1817–1846," in *Deutsche Amerikaauswanderung*, ed. Moltmann, 63–95.
26. On a discussion of the concepts of transportation vs. deportation, see Manke, "Sträflingsmigration aus Mecklenburg-Schwerin," 68–70.
27. Moltmann, "Die Transportation," 178–81.
28. Bettina Hitzer, "Freizügigkeit als Reformergebnis und die Entwicklung von Arbeitsmärkten," in *Handbuch Staat und Migration in Deutschland seit dem 17. Jahrhundert*, ed. Jochen Oltmer (Berlin: De Gruyter, 2016), 245–90.
29. William Hesse, *Die Aufenthaltsbeschränkungen bestrafter Personen in Deutschland* (Lüneburg: König, 1905).
30. Cited in Richard Braune, "Wider die Polizeiaufsicht!," *ZStW* 9, no. 1 (1889): 807–32, 808. The lecture was held on 26 March 1878 at the general assembly of the Görlitzer Verein zur Fürsorge für aus Strafanstalten Entlassene. Cf. *BfG* 13 (1879): 315.
31. Consider the following remark by Peter Becker: "Above all, the crooks were considered experts of false appearances: they hid behind assumed names and professions in order to carry out their thefts unhindered and to evade the investigative activities of the police; they also used acting and rhetorical skills to deceive trusting citizens and peasants." Becker, *Verderbnis und Entartung*, 221.
32. Jürgen Reulecke, *Geschichte der Urbanisierung in Deutschland* (Frankfurt a.M.: Suhrkamp, 1985); Klaus Tenfelde, *Arbeiter, Bürger, Städte. zur Sozialgeschichte des 19. und 20. Jahrhundert* (Göttingen: Vandenhoeck & Ruprecht, 2012), 319; cf. Daniel Siemens, *Metropole und Verbrechen. Die Gerichtsreportage in Berlin, Paris und Chicago 1919–1933* (Stuttgart: Steiner, 2007).
33. Otto, *Die Verbrecherwelt von Berlin*, 86. Cited also in: Timon de Groot, "The Criminal Registry in the German Empire: The 'Cult of Previous Convictions' and the Offender's Right to Be Forgotten," *German History* 39.3 (2021): 358–76, 369.
34. Cf. de Groot, "The Criminal Registry in the German Empire," 369.
35. The controversy around the captain of Köpenick is discussed in great detail in Benjamin Carter Hett, *Death in the Tiergarten: Murder and Criminal Justice in the Kaiser's Berlin* (Cambridge, MA: Harvard University Press, 2004), 179–94; Rosenblum, *Beyond the Prison Gates*, 103–21; Müller, "'But We Will Always Have to Individualize.'"
36. Elwert, "Der Pranger," *Das Recht*, 628–29. Similar critique can be found in BA-BL 3001/6027, *Berliner Neueste Nachrichten*, 19 October 1913.
37. Sylvia Kesper-Biermann, "Die Internationale Kriminalistische Vereinigung. Zum Verhältnis von Wissenschaftsbeziehungen und Politik im Strafrecht 1889–1932," in *Die Internationalisierung von Strafrechtswissenschaft und Kriminalpolitik (1870–1930). Deutschland im Vergleich*,

ed. Sylvia Kesper-Biermann and Petra Overath, 85–107 (Berlin: Berliner Wissenschafts-Verlag, 2007); idem, "Wissenschaftlicher Ideenaustausch und 'kriminalpolitische Propaganda.' Die Internationale Kriminalistische Vereinigung (1889–1937) und der Strafvollzug," in *Verbrecher im Visier Der Experten. Kriminalpolitik. Zwischen Wissenschaft und Praxis im 19. und Frühen 20. Jahrhundert*, ed. Désirée Schauz and Sabine Freitag, 79–97 (Stuttgart: Steiner, 2007).

38. Eberhard Schmidt, "Ernst Delaquis zum Gedächtnis," *ZStW* 64, no. 1 (1952): 434–35, 434.
39. *Mitteilungen der Internationalen Kriminalistischen Vereinigung*, vol. 13 (Berlin: Guttentag, 1906), 578.
40. *Mitteilungen der Internationalen Kriminalistischen Vereinigung*, vol. 13, 572.
41. For various reasons, it is not possible to give a complete overview of the number of petitions that reached the offices of the districts of Aachen and Düsseldorf. One is that the Düsseldorf files (in contrast to those in Aachen) were not all saved. The Düsseldorf files only contain petitions from the period 1888–1902. Files for other periods were lost or not archived. However, the large number of petitions in the Düsseldorf files suggests that petitions were submitted more frequently in Düsseldorf than in Aachen. This makes sense because the district of Düsseldorf had a larger population. Another complication is that the files contain a summary of petitions in which it is difficult to determine the precise aims of the petitioners—whether they wanted their rights restored or sought, for instance, a termination of police supervision. I did not consider these petitions in this chapter but studied forty-nine petitions for the period of 1870–1914. The petitions associated with many cases mentioned in the files were not preserved. I left those out here.
42. Friedrich Oetker came to the same conclusion in his *Strafe und Lohn*.
43. Examples include Hermann Börner, *Der praktische Rathgeber für bürgerliche Kreise. Mit einer Auswahl von Muster-Formularen zur Abfassung von Anträgen, Bittschriften, Vorstellungen etc. in verschiedenen persönlichen Angelegenheiten* (Breslau: Freund, 1893); Matthias Übelacker, *Großer deutscher Muster-Briefsteller für die gesamte Privat- und Handels-Korrespondenz*, 10th edn. (Berlin: Euler, 1903); Franz Keller, *Allgemeiner Geschäfts- und Familien-Briefsteller*, 40th edn. (Berlin: A. Weichert, 1900).
44. Dieter Langewiesche, "Entwicklungsbedingungen im Kaiserreich," in *Geschichte des deutschen Buchhandels im 19. und 20. Jahrhundert*, ed. Georg Jäger, vol. 1, 42–86 (Berlin: De Gruyter, 2001), 63–69.
45. LAV NRW R, BR 0007, no. 30722, petition from Julius S. addressed to the state prosecutor of Düsseldorf, 11 February 1892.
46. Cf. Nikolaus Wachsmann, *Hitler's Prisons: Legal Terror in Nazi Germany* (New Haven, CT: Yale University Press, 2004), 52.
47. Cf. de Groot, "The Criminal Registry in the German Empire."
48. Several local police departments kept files on individual offenders during the first half of the nineteenth century, but there was no formal system. Cf. Becker, *Verderbnis und Entartung*, 64–74.
49. Alex R. Piquero, David P. Farrington, and Alfred Blumstein, "The Criminal Career Paradigm," *Crime and Justice* 30 (2003): 359–506; cf. De Groot, "The Criminal Registry in the German Empire," 360.
50. Sven Reichardt, "Einführung. Überwachungsgeschichte(n)," *Geschichte und Gesellschaft* 42, no. 1 (2016): 5–33, 9–10.
51. Franz von Holtzendorff, *Handbuch des Gefängnisswesens. In Einzelbeiträgen* (Hamburg: Richter, 1888), 571.
52. H. Marchand, *Das Strafregister in Deutschland* (Berlin: J. Guttentag, 1900); Josef Müller, *Vorstrafen und Strafregister* (Breslau: Schletter, 1908).
53. LAV NRW R, BR 0007, no. 30722, petition from Josef S. addressed to the state prosecutor of Düsseldorf, 1 December 1896.

54. The Reichsjustizamt (the Reich Justice Office) was responsible for international communication on criminal records: BA-BL, R 3001/5578.
55. LAV NRW R, BR 0005, no. 22834, circular from 7 July 1907.
56. De Groot, "The Criminal Registry in the German Empire."
57. Welcker and Rotteck, *Das Staats-Lexicon*, vol. 12, 423.
58. Georg Lindemeyer, *Die Wiedereinsetzung, Rehabilitation, Unter besonderer Berücksichtigung der §§50–52 des Vorentwurfs und der §§110–112 des Gegenentwurfs* (Berlin: A. W. Schade, 1913), 21.
59. Erwin Bumke, "Rehabilitation," in *Handwörterbuch der Rechtswissenschaft*, ed. Fritz Stier-Somlo and Alexander Nikolaus Elster, vol. 5, 774–76 (Berlin: De Gruyter, 1928).
60. Ernst Delaquis, *Die Rehabilitation Verurteilter* (Berlin: J. Guttentag, 1906); idem, *Die Rehabilitation im Strafrecht* (Berlin: J. Guttentag, 1907).
61. Delaquis, *Die Rehabilitation im Strafrecht*, 107.
62. Cf. Robert Badinter, *La Prison Républicaine (1871–1914)* (Paris: Fayard, 1992), 247–50.
63. Delaquis, *Die Rehabilitation im Strafrecht*, 121.
64. LAV NRW R, BR 0005, no. 22776, petition from Ferdinand L. addressed to Kaiser Wilhelm I, 12 July 1871.
65. J. Jung, *Entwickelung des deutschen Post- und Telegraphenwesens in den letzten 25 Jahren* (Leipzig: Duncker & Humblot, 1893), 172.
66. Christopher Clark, *Iron Kingdom: The Rise and Downfall of Prussia, 1600–1947* (London: Penguin Books, 2007), 68.
67. Kathleen D. Moore, *Pardons: Justice, Mercy, and the Public Interest* (New York: Oxford University Press, 1997), 8–9.
68. Monika Wienfort, "Zurschaustellung der Monarchie. Huldigungen und Thronjubiläen in Preußen-Deutschland und Großbritannien im 19. Jahrhundert," in *Symbolische Macht und inszenierte Staatlichkeit. 'Verfassungskultur' als Element der Verfassungsgeschichte*, ed. Peter Brandt, Arthur Schlegelmilch, and Reinhard Wendt, 81–100 (Bonn: Dietz, 2005), 96–97.
69. GStA PK, 1. HA Rep. 77 tit. 1001 Bd.4, Petition of Albrecht Stein, 10 February 1897.
70. LAV NRW R, BR 0007, no. 30722, petition from Arnold H. addressed to Kaiser Wilhelm II, 17 July 1891, 38–39.
71. Hans Rosenberg, *Grosse Depression und Bismarckzeit. Wirtschaftsablauf, Gesellschaft und Politik in Mitteleuropa* (Berlin: de Gruyter, 1967), 41; Hans-Ulrich Wehler, *Das deutsche Kaiserreich, 1871–1918* (Göttingen: Vandenhoeck & Ruprecht, 1973), 43.
72. LAV NRW R, BR 0007, no. 30722, petition from Arnold H.'s wife (name unknown) addressed to Kaiser Wilhelm II, 1891, 44–45.
73. Victor Böhmert, "Kaiser Wilhelm und Kaiser Friedrich als Arbeiterfreunde," *Der Arbeiterfreund* 26 (1888): 1–10; "Kaiser Wilhelm, der Arbeiterfreund," *Germania*, 6 February 1890.
74. Cf. Susan Zaeske, *Signatures of Citizenship: Petitioning, Antislavery, and Women's Political Identity* (Chapel Hill: University of North Carolina Press, 2003), 9–10, 17–18. Other historians called the belief that women were considered more suited to conveying a sensitive message a "politics of sense and sensibility." See Wendy Gunther-Canada, "The Politics of Sense and Sensibility: Mary Wollstonecraft and Catharine Macaulay Graham on Edmund Burke's 'Reflections on the Revolution in France,'" in *Women Writers and the Early Modern British Political Tradition*, ed. Hilda L. Smith, 126–47 (Cambridge: Cambridge University Press, 1998). One could also argue that women's voices could more easily be ignored by the authorities because the voices themselves lacked a certain political quality in the opinion of the ruling classes. Cf. G. R. Searle, *Morality and the Market in Victorian Britain* (Oxford: Clarendon Press, 1998), 157–58.
75. Andreas Würgler, "Voices from among the 'Silent Masses'. Humble Petitions and Social Conflicts in Early Modern Central Europe," *International Review of Social History* 46, no. 9 (2001): 11–34.

76. LAV NRW R, BR 0007, no. 30722, petition from Johann H.'s wife (name unknown) addressed to Kaiser Wilhelm II, 8 January 1901, 281.
77. Wilhelm Gass, *Die Lehre vom Gewissen. Ein Beitrag zur Ethik* (Berlin: Reimer, 1869), 152.
78. Delaquis, *Die Rehabilitation im Strafrecht*, 127.
79. Frevert, "Ehre—männlich/weiblich," 39–41; Ute Frevert, *Emotions in History: Lost and Found* (Budapest: Central European University Press, 2011), 73.
80. Ibid.
81. LAV NRW R, BR 0005, no. 22776, petition from Anna R. addressed to Kaiser Wilhelm II, 22 December 1892.
82. Charles de Secondat Baron de Montesquieu, *De l'esprit des lois* (1748), book 6, chapter 21.
83. Cited in: Louis Günther, "Die Strafrechtsreform im Aufklärungszeitalter," *AKK* 28 (1907): 112–92, 225–91, 170.
84. Globig and Huster, *Abhandlung von der Criminalgesetzgebung*, 157.
85. Zachariae, *Vierzig Bücher vom Staate*, vol. 3, 315.
86. Cf. Dieter Langewiesche, *Die Monarchie im Jahrhundert Europas. Selbstbehauptung durch Wandel im 19. Jahrhundert* (Heidelberg: Winter, 2013); Frank Lorenz Müller, *Royal Heirs in Imperial Germany: The Future of Monarchy in Nineteenth-Century Bavaria, Saxony and Württemberg* (London: Palgrave, 2017), 7–8.
87. Kesper-Biermann, "Gerechtigkeit, Politik und Güte," 26–28.
88. Paul Laband, "Das Gnadenrecht in Finanzsachen nach preußischem Recht," *Archiv für öffentliches Recht* 7, no. 2 (1892): 169–211, 172.
89. Ibid., 169–70.
90. Liszt, *Lehrbuch des deutschen Strafrechts*, 268.
91. Wetzell, *Inventing the Criminal*, 34; Arndt Meyer-Reil, *Strafaussetzung zur Bewährung. Reformdiskussion und Gesetzgebung seit dem Ausgang des 19. Jahrhunderts* (Münster: Lit, 2006), 13–16.
92. Delaquis, *Rehabilitation im Strafrecht*, 142.
93. LAV NRW R, BR 0005, no. 22781.
94. Hugo von Marck and Alfred Kloss, *Die Staatsanwaltschaft bei den Land- und Amtsgerichten in Preussen* (Berlin: Heymann, 1903), 553.
95. Lysbeth W. Muncy, "The Prussian 'Landräte' in the Last Years of the Monarchy: A Case Study of Pomerania and the Rhineland 1890–1918," *Central European History* 6, no. 4 (1973): 299–338.
96. LAV NRW R, BR 0007, no. 30722, petition from Gottfried T. addressed to Kaiser Wilhelm II, 9 February 1896, 207.
97. Ibid., statement from the burgomaster of Düsseldorf on the case of Gottfried T., 28 September 1891, 206.
98. Ibid., *Crefelder Zeit*, 7 March 1894.
99. Ibid., 259–62.
100. Ibid., 26–24.
101. Ralph Jessen, "Gewaltkriminalität im Ruhrgebiet zwischen bürgerlicher Panik und proletarischer Subkultur (1870–1900)," in *Arbeitskultur im Ruhrgebiet zwischen Kommerz und Kontrolle (1850–1974)*, ed. D. Kift, 226–55 (Paderborn: Schöningh, 1992).
102. *Vorentwurf zu einem Deutschen Strafgesetzbuch* (Berlin, 1909), 175–77; Hermann Lucas, "Das Strafrecht," in *Deutschland unter Kaiser Wilhelm II.*, ed. Siegfried Körte, vol. 3, 28–44 (Berlin: Reimar Hobbing, 1914).
103. BA-BL, R 3001/6035, Karl Birkmeyer, "Strafrechtsreform," *Münchner Neueste Nachrichten,* 9 November 1909.
104. BA-BL, R 3001/6036, *Heidelberger Tageblatt*, 7 August 1910.
105. Manfred Hettling, "Die persönliche Selbständigkeit. Der archimedische Punkt bürgerlicher Lebensführung," in *Der bürgerliche Wertehimmel. Innenansichten des 19. Jahrhunderts*, ed.

Manfred Hettling and Stefan-Ludwig Hoffmann, 57–78 (Göttingen: Vandenhoeck & Ruprecht, 2000).

106. Spierenburg, *Violence and Punishment*.
107. LAV NRW R, BR 0007, no. 30722, petition from Heinrich Heinrich N. addressed to Kaiser Wilhelm II, 18 May 1891, 33–34.
108. Ibid., petition from Friedrich S. addressed to Kaiser Wilhelm II, 12 February 1896, 217–18.
109. Ibid., Petition from Jacob S. addressed to Kaiser Wilhelm II, 20 January 1889, 2.
110. LAV NRW R, BR 0005, no. 22776, petition from Heinrich K. addressed to Kaiser Wilhelm II, 20 July 1896.
111. Ibid., petition from Johann Josef J. addressed to Kaiser Wilhelm II, 21 November 1911.
112. Ibid., statement of the public prosecutor on the case of Johann Josef Johann Josef J., 29 December 1911.
113. See chapter 3.
114. This partially contradicts Sylvia Kesper-Biermann's claim that ex-convicts were not especially interested in having their honor restored. See Sylvia Kesper-Biermann, "Gerechtigkeit, Politik und Güte. Gnade im Deutschland des 19. Jahrhunderts," *Jahrbuch der Juristischen Zeitgeschichte* 13, no. 1 (2012): 21–47.
115. Bourdieu, *Outline of a Theory of Practice*, 10–30.