

Chapter 2

PUNISHMENT ON THE PATH TO SOCIALISM

Socialist Perspectives on Crime and Criminal Justice before World War I

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August Bebel, co-founder and recognized leader of the Social Democratic Party (SPD) in Imperial Germany, had a clear idea about the fate of crime under socialism. In his best-selling book *Die Frau und der Sozialismus* (Woman and Socialism), published in 1879, he wrote:

Neither political nor common crimes will be known in the future. Thieves will have disappeared, because private property will have disappeared, and in the new society everyone will be able to satisfy his wants easily and conveniently by work. Nor will there be tramps and vagabonds, for they are the product of a society founded on private property, and, with the abolition of this institution, they will cease to exist. Murder? Why? No one can enrich himself at the expense of others, and even the murder for hatred or revenge is directly or indirectly connected with the social system. Perjury, false testimony, fraud, theft of inheritance, fraudulent failures? There will be no private property against which these crimes could be committed. Arson? Who should find pleasure or satisfaction in committing arson when society has removed all cause for hatred? Counterfeiting? Money will be but a chimera, it would be “love’s labor lost.” Blasphemy? “Nonsense! . . . Thus all the fundamental principles of the present “order” become a myth.¹

Bebel also knew, however, that “unfortunately, we do not yet live in those joyous times in which humanity can breathe *freely*.”² But until then, what should humanity do about crime? This chapter seeks to illuminate socialist attitudes toward the crime problem by addressing a series of questions, including the following: What role did German socialists assign the fight against crime? What

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position did they take regarding the state and its penal policies as well as toward prisoners? What was the impact of the criminalization of the Social Democratic Party (SPD) through the Anti-Socialist Law and the resulting imprisonment of many Social Democrats? How did socialists react to the development of modern criminology, which sometimes included a eugenic agenda? All these questions are, of course, directly connected to socialists' views regarding state and society, as well as their political strategies and experiences in this society.

Socialist calls for legal reform have been discussed by a few older studies, which have examined their content but not their historical context.³ By contrast, the more recent historiography on criminology and criminal justice before World War I rarely goes beyond a middle-class perspective. According to these studies, the bourgeoisie regarded criminality as a negative mirror image of its own identity, which it increasingly pathologized to exculpate society from its responsibility for the existence of crime. The perspectives of the workers' movement, whether Social Democratic or anarchist, are rarely mentioned.⁴ Michel Foucault, on the other hand, argued that the early workers' movement included acts of resistance against the bourgeois "colonization" of delinquency to "reverse this monotonous discourse on crime, which sought both to isolate it as a monstrosity and to depict it as the work of the poorest class."⁵ Foucault's thesis of a clear-cut dichotomy between bourgeois and working-class conceptions of crime is, however, questionable. Michael Schwartz, for instance, has shown that "socialist eugenics," too, spoke of a "criminal" underclass and shared many of the penal reform demands made by bourgeois criminology.⁶

We therefore need to examine socialist conceptions of crime and punishment more closely to discern why socialists accepted so much of the explanatory system of "bourgeois" criminology, even though they possessed the theoretical tools to criticize it and fundamentally opposed bourgeois society. A reconstruction of the criminological discourse alone cannot adequately answer this question. To do so would risk reifying the discourse into a historical subject. Instead, this chapter will analyze socialist conceptions of crime and punishment as the products of complex power relations and of a process of interaction in a concrete historical context.⁷ The discussion among German socialists was far more extensive, more contested, and more nuanced than the widespread but simplistic thesis that without private property there would be no crime would initially lead one to believe.

Wilhelm Weitling, Karl Marx, and Friedrich Engels

In the first decades of the nineteenth century, Germany experienced unprecedented levels of social distress, which provoked radical protest movements. In the early 1840s, the tailor's apprentice and early socialist Wilhelm Weitling, for example, believed that pauperism could only be abolished by a social revolution.

Therefore, one should not hesitate to incite the immiserated urban masses to launch a long-term guerrilla war. For Weitling, crime was thus a political tool for liberating society, but only until the revolution occurred. As soon as the new social order had been established, further crimes would be considered crimes against the whole people and would no longer be tolerated.⁸ Reacting to Weitling, Karl Marx and Friedrich Engels initially also regarded crime as something positive. Engels, however, in his 1845 book *The Situation of the Laboring Class in England* (*Die Lage der arbeitenden Klasse in England*), conjured up a new “proletariat,” who was qualitatively different from the “mob,” the ordinary poor. This proletariat, especially factory and mine workers, had already overcome “the first stage of opposition to social circumstances, the immediate rebellion of the individual by means of crime,” by organizing itself in solidarity and carrying out its actions in a targeted, planned, and disciplined manner.⁹

To describe the rest of the lower classes, Marx and Engels coined the term *Lumpenproletariat* (literally, ragged proletariat). In the wake of various failed revolutions, they wrote in the *Manifesto of the Communist Party* (1847–1848), the “*Lumpenproletariat*, the passive degeneration of the old society’s lower classes, will be partially injected into the movement through a proletarian revolution; by its nature, it will be more willing to sell itself for use by reactionaries.”¹⁰ The *Lumpenproletariat* simultaneously served as an aggregate category reflecting various social prejudices and as an analytical category that explained the failure of revolutionary movements within the lower classes.¹¹ To be sure, Marx and Engels saw the immediate causes of crime in alcohol, demoralization, hedonism, and moral decay, which they described in much the same terms as bourgeois reformers and conservatives.¹² Their search for underlying causes, however, led them to regard deprivation and misery as “the necessary consequences of modern industry.”¹³ Marx’s and Engels’s solution to this problem was the transformation of society according to socialist principles. Those social strata that did not share this view were doomed. In this sense, their proletariat was not only set off from those above it in the social order, but also from those below it. On the path to revolution, the proletariat could no longer be confused with the mob and thus could no longer be discredited.¹⁴

Middle-class social reformers and authorities looked for other answers to the problem of crime. For them, crime was above all a product of corrupting social influences against which the delinquent individual had not built up sufficient resistance. Around the middle of the 1830s, the view became dominant that strict solitary confinement would lead prisoners to engage in self-contemplation and improve their conduct. In the new cellular prisons operating on the “penitentiary system” that had been pioneered in the United States and England, religion and work were the most important techniques of moral rehabilitation.¹⁵ This penitentiary system found a critic in Wilhelm Weitling, who asserted that solitary confinement would lead to insanity and condemned it as worse than the

Inquisition.¹⁶ For Weitling, the only proper penal policy was the establishment of communism. Then, only a “natural vestige of human sickness and weakness” would remain, and these misdirected desires would be treated as illnesses. For these cases, Weitling developed a system of “philosophical healing,” which physicians would follow in treating the sick until their complete recovery. As a last resort, those who still did not improve would be excluded from society by exiling them to distant islands, so that they could not infect future generations with their sickness through mixing (*Vermischung*) and contact.¹⁷ Weitling followed his utopian model of society to its logical conclusion. Although he regarded human desires as a constant, he could not imagine any resistance to the rules of the ideal society that could result from a rational decision or external circumstances. Every violation must therefore have its origin in the individual and yet be outside that individual’s rational control, hence pathological.

Marx and Engels never produced as detailed a theory of punishment as Weitling. Like him, they criticized the cellular prison in *The Holy Family* (1845) as a system that “sooner or later would result in the insanity of the criminal.” In addition, they argued, solitary confinement combined judicial punishment with a kind of theological torture, which in its desire to convert the prisoner was worse than a quick execution and still resulted in the destruction of the person. In fact, Marx and Engels held that an effective fight against crime by means of punishment was impossible. In a critique aimed at Hegel, they wrote that “a theory of *punishment* that recognizes the *human being* in the criminal can do this only *abstractly*, in the imagination, because *punishment* and *constraint* go against *human* behavior.”¹⁸ In the materialist ideology of Marx and Engels, existence determined consciousness. Thus human weaknesses and desires would be overcome under socialism, and crime itself would disappear along with all its social causes. There would no longer be a *Lumpenproletariat*, whether it degenerated, was swept up in the revolution, or perished with the counterrevolution.

Early Social Democracy: Darwinism, Penal Reform, and Prison Labor

German socialists’ desire to develop a comprehensive scientific theory of the development of society led them to take great interest in Charles Darwin’s theory of evolution. Darwinism seemed to offer the opportunity to base the materialist view of history on natural science, thereby overcoming ideological obstacles such as religion.¹⁹ Darwinism did not influence the development of Marx’s own theory, in part because Marx had largely developed his theory of society before Darwin published his theory. The same was true of Engels, whose popular writings disseminated the theory of evolution within the workers’ movement: It was Engels’s theory of society that determined his interpretation of Darwinism, not

the other way around. Marx and Engels drew a sharp distinction between the laws of social science and those of natural science, especially when they addressed the fatalistic element of Darwinism, the “struggle for survival.”²⁰

In the works of August Bebel, however, the realms of society and nature were no longer separated; instead, socialist and Darwinist theories were blended. Bebel saw society as fundamentally shaped by the “struggle for existence” and in a constant state of development. For Bebel, crime was not simply the result of an unjust social order but an indicator of society’s stage of development. The increase of crime proved this: “The struggle for existence takes on its most brutal and violent form and thrusts men back into their most primitive state, where they regard one another as mortal enemies.”²¹ Bebel regarded the accumulation of capital as a barrier to humankind’s natural development because it deprived many individuals of the freedom that was necessary for them to develop their full capacities. Still, Bebel countered Darwinist notions of the inevitability of the struggle for survival with a greater emphasis on environmental factors and drew on the Lamarckian idea of the heritability of acquired characteristics to argue against the omnipotence of natural selection.²²

This synthesis of natural science and social theory was no longer a purely materialist one, as natural science concepts began to shape socialist thinking. Thus, as early as 1875, the socialist newspaper *Leipziger Volksstaat* remarked:

There can be no doubt that all crime results either from poverty (need) and educational neglect or from an abnormal . . . physical and mental constitution, that is, either from social or physiological causes. In other words: the “criminal” becomes criminal either due to his nature or due to social conditions. . . . Crime is a *disease*—a disease of *society* or a disease of the *individual*.²³

With this statement, the anonymous author not only contradicted the dominant jurisprudential view that free will was a precondition for legal responsibility, guilt, and punishment, but also deviated from the socialists’ focus on the social causes of crime. At the same time, the expectation that socialism would soon be established rendered socialists insensitive to the possible consequences of the application of scientific progress to social problems.²⁴

Socialist conceptions of such developments varied significantly, however. Bebel did not pursue the issue of crime and punishment any further. The present, he believed, would soon be overcome, and the socialist future, with its freedom for the development of the individual, would be free of crime.²⁵ An 1878 essay in Karl Höchberg’s journal *Die Zukunft*, which offered the most extensive socialist discussion of the prison system for some time, objected to this view. To be sure, while society was on the path to the ideal state, criminal justice was to be restricted to “unavoidable self-defense.” Nevertheless, the article argued, at a time of overcrowded prisons and lively penal reform debates, socialists “as

practitioners in the sense that they have experienced punishment” must take part in discussions of crime and criminal justice rather than leaving them up to jurists and prison officials.²⁶ Instead of a revolutionary perspective, the text outlined an evolutionary path lasting many years. For precisely this reason, the text did not limit itself to theoretical criticisms, but made concrete, practical suggestions for penal reform. The article called for individualized punishment on the model of the so-called progressive system, the introduction of release on probation, and made detailed suggestions regarding the ventilation and heating of the cells, prison food, education, and calisthenics, thus sharply criticizing the current penitentiary system. The article’s reform proposals clearly endorsed the notion of a therapeutic criminal justice system that was increasingly being advocated in German penal and prison reform circles.²⁷ But only two of the demands in this essay had an impact on the socialist party’s official policy regarding the prison system in the first decades after the founding of the Reich: those concerning the regulation of prison labor and the treatment of political prisoners.²⁸

German workers’ organizations had long raised the demand that prison labor be regulated. When the Lassallean and Marxist wings of the German labor movement merged in 1875 to form the Sozialistische Arbeiterpartei Deutschlands (Socialist Workers’ Party of Germany), re-named Sozialdemokratische Partei Deutschlands (SPD) in 1890, this demand was included in the new party’s Gotha Program. In 1869, Friedrich Wilhelm Fritzsche, a member of the leadership of Ferdinand Lassalle’s Allgemeiner Deutscher Arbeiterverein, had called for the prohibition of certain prison industries in a speech in the Reichstag of the North German Confederation. Fritzsche argued that if convicts were to practice the trades that they had learned in prison after their release, they would endanger the morals of young workers and children: “The negative example that released convicts typically provide has such a corrupting effect on these younger colleagues that it is no wonder that such factories literally become schools for criminals.” Fritzsche also railed against other consequences of prison industry, including competition for work in the free market, pressure on wages, and a general fall in product prices. His criticism stemmed from craftsmen’s traditional concerns about prison work, which they viewed as dishonorable.²⁹ Social Democracy represented the interests of several specific industries and their workers; here, Fritzsche was defending the interests of workers in his own trade, cigar-making. A general prohibition of productive prison labor was never envisaged. The Social Democratic suggestions, which resembled those made by other parties, aimed primarily at getting prison labor to produce for the state’s own consumption, for example, by producing military uniforms or agricultural goods. The minimal demands were that prison labor be paid and that it be offered at usual market prices. The Social Democratic Party made such a proposal in the Reichstag in 1885 and regularly reintroduced the proposal until 1902, but it was never adopted.³⁰

The Impact of the Anti-Socialist Law: Political Prisoners versus “Common Criminals”

The criminal justice issue that the Social Democratic Party was most concerned about was the treatment of political prisoners. This interest was, of course, closely related to the political persecution endured by the party during the twelve long years of the so-called Anti-Socialist Law, passed in 1878 and kept in effect until 1890, which made socialist and social-democratic organizations illegal and led to the imprisonment of countless party activists. The Social Democrat Ignaz Auer calculated the collective toll of the prison sentences served by party members during these years thus: “A thousand years prison for the rapture of reaction. . . . A thousand years of devastated domestic happiness, ruined health, terrible poverty for woman and child, and all too often, the destruction of one’s livelihood in their wake!” Even without the passage of special laws, the Social Democrats and their press were repeatedly prosecuted and sentenced to prison for *lèse majesté*, blasphemy, and libel.³¹ As a result, up to the turn of the century, Social Democratic discussions of the penal system consisted mainly of demanding various privileges for their incarcerated comrades and insisting on their equal treatment in the various federal states. Concretely, such criticism included demands for the self-provisioning, self-clothing, and self-employment of political prisoners, all of which was at the discretion of the heads of the penal institutions. Social Democrats hoped that such matters could be regulated in a future prison law that would regulate prisons across the Reich, which they and other parties had repeatedly proposed in order to address an omission made at the founding of the Reich.³² The 1871 Reich Penal Code (Reichsstrafgesetzbuch) had imposed a unified penal code on all of Germany and had also standardized the categories of detention by establishing detention in a *Zuchthaus* for serious crimes, detention in a *Gefängnis* (prison) for lesser crimes, and *ehrenhafte Festungshaft* (honorable detention in a fortress) for “honorable” offenders. But the unification of substantive criminal law was not accompanied by a unification of the prison system. The individual federal states retained a free hand in administering their penal institutions, as the unification of the penitentiary system was postponed indefinitely.³³

In addition to being recognized as honorable, *Festungshaft* involved many comforts and privileges that had to be fought for in the ordinary penal system, which did not recognize political prisoners as a separate category. Whereas prominent socialists tended to be sentenced to *Festungshaft*, rank-and-file party activists were often sentenced to regular prison. Thus August Bebel experienced his 1872–1873 *Festungshaft* in the Hubertusberg fortress, where he served time together with Wilhelm Liebknecht and other socialists, as a period of rest, during which he recovered from tuberculosis, read, and wrote a great deal.³⁴ Socialists who were less prominent suffered more under the penal system. Johann Most, for example, tells of comrades who at Plötzensee prison were put into prison

uniforms and thrown into communal confinement, while he enjoyed the privilege of being kept in solitary confinement.³⁵ Indeed, socialists were mainly concerned that they should not be considered the same as, let alone inferior to, “common” criminals. Bebel argued that a common criminal broke the law out of self-interest, while a political criminal acted out of idealism.³⁶ Johann Most called his fellow prisoners “rogues and ruffians.”³⁷ If socialists asked for better treatment than common criminals, this was not only to ease the conditions of their imprisonment; for them, the distinction between “political” and “common” criminals was a matter of principle. In this sense, their own prison experience did, of course, affect their image of common criminals.

Political and common criminal prisoners were usually separated by a gap in social status, education, and interests. Many Social Democrats found direct interaction with criminals correspondingly difficult, even shocking. In addition, there were preconceptions on both sides. Social Democrats, having read the *Communist Manifesto*, thought that most criminals were part of the *Lumpenproletariat* and were thus agents of reaction. Among the criminal convicts, on the other hand, the criminalization of the Social Democrats by the authorities had consequences as well. Thus the imprisoned socialist Johann Most found himself called a “terrorist” by fellow inmates, who jeered at and stole from him.³⁸ The two groups of prisoners distanced themselves from each other in mutual mistrust.

As political assassinations and anarchist actions shook Europe in the 1880s, the authorities intensified the criminalization of the Social Democrats.³⁹ Social Democrats reacted to their stigmatization in two ways. On the one hand, they charged the state and individual representatives of authority with being criminals.⁴⁰ On the other hand, they worked to distance themselves from common criminals but also from anarchist practitioners of the “propaganda of the deed,” to whom a revolution of the masses seemed possible and necessary. Thus the *Sozialdemokrat* clarified in 1883: “To do away with private property in general is *revolutionary*. To do away with a specific article of private property is, as a rule, the *act of a scoundrel*.”⁴¹ In their conflict with bourgeois authority, the Social Democrats viewed themselves as the morally superior force and thought that time was on its side. Therefore, despite their revolutionary perspective, they restricted themselves to a strictly law-abiding strategy. In fact, Social Democrats suspected that political actions and disturbances that did not follow this strategy were the result of targeted provocations on the part of reactionary forces.

This position was reflected in the definition of *Lumpenproletariat* as formulated by Wilhelm Liebknecht at the 1892 Party Congress. Several fellow socialists were angry that the Party newspaper *Vorwärts* had described rioters as *Lumpenproletariat* in reports on disturbances in Berlin. Liebknecht, however, insisted that *Vorwärts* had to distance itself from those who caused the unrest in order not to give the SPD’s enemies any opportunity to use the disturbances as a pretext to pass a new emergency law. As much as he demanded the abolition of

private property in general, his moral condemnation of individual law-breaking was strong: “In any event, our fellow party members did not break windows or engage in looting in the February riots. Whoever did that deserves the name *Lumpenproletarier*, and in a much more negative sense than that used by Marx. (Lasting, lively acclamation and applause.)”⁴² In the words of labor historian Gerhard A. Ritter, Social Democracy was an “emancipatory movement with strong concepts of bourgeois morality and propriety broadened by the specific concept of the honor of solidarity in the labor struggle and in the political battle.”⁴³

Socialist analyses of crime often referred to want and misery and to the unjust nature of existing social conditions as causes of crime and called for society to be reshaped accordingly.⁴⁴ Nevertheless, socialist discussions of the penal system were mainly shaped by the SPD’s struggle against the oppression exerted by the Anti-Socialist Law. The Party leadership’s focus on the treatment of political criminals, however, hardly reflected the interests and needs of the social strata for which the leadership claimed to speak. The culture of the workers’ movement was not the culture of the workers. Though workers did embrace some of the Party’s official views on crime and punishment, especially regarding the social causes of property crime and the issue of class justice, many misdemeanors were tolerated more by SPD voters than by the moralizing party rhetoric.⁴⁵ Nevertheless, the Marxist theorist Rosa Luxemburg noted that among ordinary workers, too, a process of self-segregation from a kind of underclass was taking place:

The workers themselves, especially the better-off ones, those who are organized, like to believe that, all in all, the existence and the struggle of the proletariat are part of the realms of honorability and prosperity. . . . Everyone knows that there are homeless shelters, that there are beggars, prostitutes, secret police, criminals, and “shady characters.” But all that is typically viewed as something distant and foreign, as something that lies outside society itself. Between the virtuous workers and these outcasts there stands a wall, and one seldom thinks of the miserable ones on the other side of the wall crawling around in excrement.⁴⁶

The socialist movement could not and did not wish to include the entire proletariat. Although socialist leaders claimed that their movement had an educational and disciplinary mission, they often did not make good on this claim during their time in prison and, instead, kept distance between themselves and ordinary criminals.

The SPD’s commitment to Marxist social theory at its 1891 Erfurt Congress had only indirect effects on its analysis of crime. To be sure, Marx and Engels had not contributed much to a theoretical investigation of the problem. For Engels, the respective morality of a society and thus its crime was tied to its stage of economic development. “In a society where the motives for stealing have been removed,” he wrote, “how we would laugh at the preacher of morality for solemnly proclaiming the eternal truth: ‘Thou shalt not steal!’”⁴⁷ By contrast, in the

first volume of *Das Kapital* (1867), Marx analyzed the laws on beggary and the first prisons in the fifteenth and sixteenth centuries as “blood legislation against the expropriated” and “laws for the depression of workers’ wages.” In his 1875 critique of the Socialist Party’s Gotha Program, Marx criticized the demand for the regulation of prison work: “One should at least clearly articulate that one does not wish to see the common criminal treated like livestock out of fear of competition, and that one does not wish to cut off their only means of improvement: productive work. That is the least that one could expect of socialists.”⁴⁸ Following Marx’s critique, this demand was dropped when the SPD formulated its Marxist Erfurt Program in 1891, which hardly touched on criminal justice at all.⁴⁹ Socialist positions began to become more nuanced in the course of reacting to the discipline of criminology, then in the process of forming.

Socialists and Criminology

The beginnings of a systematic empirical approach to criminality go back to the first half of the nineteenth century. Already in 1835, the Belgian moral statistician Adolphe Quetelet, whom the socialists frequently cited, claimed in his work on “social physics” that criminality was socially determined.⁵⁰ In the late 1870s, the Italian psychiatrist Cesare Lombroso caused a huge sensation when he claimed to have deciphered the morphology of the so-called born criminal through anthropometric and craniological screenings. German psychiatrists and jurists criticized Lombroso’s criminal anthropology on the grounds that the approach gave too little consideration to social causes of crime.⁵¹ Social Democrats intensified this criticism. To be sure, in a review of 1893, the leading Marxist theoretician Karl Kautsky conceded that “[t]he notion that some kind of criminal type actually exists cannot simply be dismissed. But this type is not the cause of the crime, but rather an effect of the same causes that make the *déclassé* into a criminal.”⁵² In this sense, criminal anthropology could perhaps be useful in the future. Otherwise, however, Kautsky had only criticism and derision for Lombroso. Kautsky viewed crime as exclusively conditioned by society and reminded readers that the bourgeoisie, too, especially the factory owners, committed murder when they exploited members of the proletariat, working them to death in their factories.⁵³

The teachings of early criminal anthropology faced methodological problems, and their monocausal interpretations left them vulnerable to attack. Criminal anthropology underwent further modifications by the Italian jurist and criminologist Enrico Ferri, who placed social influences like education, family, and economic factors alongside biological and physical factors at the center of his criminal sociology. In the process, he removed the major objections of the socialists. Ferri, who came from a middle-class family, gained considerable credibility in the eyes of socialists when he risked his academic career by declaring his

support for the Socialist Workers' Party of Italy in 1893.⁵⁴ In socialism, Ferri saw "a further development of Darwinian teachings," according to which the survival of the *best*—not the best *adapted*, as under capitalism—would be ensured. Given Ferri's hereditarian belief in the natural inequality of human beings, the existence of individuals biologically destined to be criminals appeared to him a fact of nature as well as a scientific fact.⁵⁵ While, as Kautsky noted in a review, equating nature with society was not genuinely Marxist, this was nevertheless a widespread tendency.⁵⁶

The blueprint for a Marxist-materialist analysis of criminality was provided by an extensive study of crime in France published in the leading socialist weekly *Neue Zeit*, which Kautsky edited. The study was carried out by the French socialist Paul Lafargue, a son-in-law of Karl Marx. Lafargue invoked Marx and Quetelet to demonstrate correlations between the organization of society, economy, and crime, supporting his hypotheses by comparing crime statistics with serial economic data. In a biting criticism of criminal anthropology, he concluded that criminality was exclusively the product of social conditions.⁵⁷ His strategy of analyzing criminality through the use of large statistical studies became widely accepted, with German socialists frequently making use of the crime statistics of the German Empire that became available after 1882.⁵⁸ Nevertheless, many socialists remained committed to a Darwinist view of society. Thus the Dutch criminologist and socialist Willem A. Bonger (1876–1940), whose 1905 work *Criminalité et conditions économiques* was perhaps the most extensive and most sophisticated criminal study of this type and widely read in Germany, could not divorce himself from the idea that the organization of society hindered the natural evolution of humanity.⁵⁹

The socialists' contradictory attempt to bring together Marxism and Darwinism developed from discussions regarding two primarily bourgeois conceptions. On the one hand, socialists argued against a moralistic, often theological interpretation of criminality, which viewed crime as a moral decision based on free will and as part of a process of moral decay that was blamed on social developments, urbanization, secularization, industrialization, and also on the rise of Social Democracy, with its materialist ideology of revolution.⁶⁰ Socialists expended considerable effort using statistics to refute this charge, stressing their own efforts at instilling discipline and preventing crime,⁶¹ and argued that natural science had revealed the idea of free will to be a fiction.⁶² On the other hand, the socialists also criticized Social Darwinist theories, such as Ernst Haeckel's, which viewed social developments as the result of the process of selection, regarded social differences as a product of nature, and opposed social-political interventions as counterproductive because they interfered with the process of natural selection.⁶³ Socialists, by contrast, insisted on drawing a distinction between society and nature because only such a distinction made it possible to conceive of capitalism as a changing and changeable social construct. The inherent ambivalence of the socialist

worldview thus combined with a belief in science that only became stronger as the socialist movement developed.

Prostitution, Alcohol, and the *Lumpenproletariat*

The socialist views of criminality and of the *Lumpenproletariat* were also closely bound up with the issues of prostitution and alcohol. According to Marx and Engels, prostitution was a “necessary social institution of the bourgeois world” in which bourgeois men exploited proletarian women to be able to sustain the bourgeois institution of marriage.⁶⁴ But within these rational explanations lurked resentments about the degenerative effects of prostitution. Thus the Social Democratic writer and activist Paul Kampffmeyer (1864–1945) noted in 1905: “Manners become coarser, an ambivalent tone enters into social interactions, a dirty joke sneaks into popular tunes and into children’s conversations. A moral contagion is transmitted from class to class in the large city.” He further warned that prostitution “seizes the body of the social organism and smites it with disease and death.”⁶⁵ Admittedly, society could be held responsible for driving a proletarian woman to prostitution, but in the end, this meant the way “down into the *Lumpenproletariat*, from which there is no escape.”⁶⁶ And it was here that prostitution produced the embodiment of the *Lumpenproletariat* criminal: the pimps, whom socialists saw as “parasitic elements,” “sworn enemies of society,” “dehumanized men” akin to beasts, and the “pestilence of capitalist society.”⁶⁷ In short, for many socialists, the *Lumpenproletariat* was now no longer merely a political-moral problem, but also an objective, biological danger to the health of society.

Many socialists also believed that alcohol played a role in harming health, undermining morality, and causing crime. Thus, in 1890, Karl Kautsky stated: “It is obvious that the same social conditions that create crime also lead to drink. It is therefore easy to understand why a large number of criminals have given themselves over to drink.” Once again drawing a line between the proletariat and the *Lumpenproletariat*, however, he also insisted: “Not the militant industrial proletariat, but rather the *Lumpenproletariat*, the decaying petty bourgeoisie and farmers, and those members of the wage-earning classes that have still not achieved class consciousness . . . are the ones who in large part fall victim to alcohol.”⁶⁸ Kautsky thus articulated a party line that allowed the party to defend itself against the accusations of the temperance movement but also took into consideration the role of drinking in proletarian and socialist subculture; during the time of the Anti-Socialist Law, only taverns were available as meeting places. For this reason, the party leadership actually had a rather indifferent stance toward alcohol.⁶⁹

Advocates of abstinence within the party, however, soon viewed alcohol not only as a substance that numbed pain and pacified the masses in a time of class

struggle. They also worried about hereditary factors and thus about the future of coming generations. For the League of Abstinent German Workers (*Deutscher Arbeiter-Abstinrentenbund*), founded in 1903, it was clear that the “restoration of all social relationships, on the one hand, and the elimination of everything that damages protoplasm (the fabric of life) and the unfolding of the innate positive qualities of the individual, on the other, are the only sure ways to prevent the development of crime by eliminating the conditions that give crime life.”⁷⁰ Here it becomes evident that for all of their attention to the social causes of crime, some socialists already wished to emphasize supposedly physiological factors. From there, it was no longer much of a stretch to endorsing biological explanations of crime and of the *Lumpenproletariat*. When, in 1909, the SPD Reichstag deputy Edmund Fischer (1864–1925) called for the party finally to distance itself from the view of the *Lumpenproletariat* as formulated by Marx and instead embrace modern biological viewpoints, he clearly reflected a development that had been simmering below the surface for some time.⁷¹

A biological approach to social problems was characteristic of a group of socialist intellectuals who were a minority within the Social Democratic Party but who significantly influenced discussions regarding crime and criminal justice.⁷² What is more, even intellectuals, such as Kautsky and Bonger, who consistently employed materialist arguments, did not hesitate to assert that the reproduction of the hard, biological core of degenerates would have to be regulated under socialism.⁷³ Voices such as that of Michael Sursky, who criticized criminal sociology and its biologization of crime, calling it “the fighter for the interests of the ruling classes,” remained isolated. This was also the case because Sursky’s arguments were hardly academic in nature, but exclusively ideological.⁷⁴ Within the movement, scientism and the adoption of Darwinist evolutionary views had already erased the border between the biological and the social, even for declared Marxists. This trend was facilitated by the socialists’ feeling of moral superiority toward those underclasses not organized within the workers’ movement. Their elitist moral views made lower-class needs and ways of life appear foreign to them.

Penal Reform and Prison Reform

In the years before World War I, socialists viewed criminal justice and the penal system as institutions that served to protect the ruling classes. These institutions would perish along with the social order and with criminality. “Where to put remaining evil-doers is a question that we need not worry too much about at present,” wrote H. Dietz in 1887.⁷⁵ This assessment proved to be too simplistic. The question of how to deal with chronically criminal elements did become more important for socialists as more of them came to believe that such chronically

criminal individuals actually existed and that they posed a general and immediate danger to society. Although Social Democrats had committed themselves in the Erfurt Program to waiting patiently for the collapse of capitalism, they could not avoid becoming embroiled in the political discussions regarding criminal justice reform and prison reform in the German Reich.

In addition, two specific issues continued to shape the demands of the socialists regarding the penal system: the treatment of political prisoners and prison labor. Because Social Democrats were subject to continued judicial prosecutions and the promised law unifying the prison system across the Reich was never passed, the SPD continued to voice its reform demands regarding the treatment of political prisoners.⁷⁶ Regarding the issue of prison labor, the party took its cue from Marx's pronouncement, in his critique of the Gotha program, that this problem was considered irresolvable under capitalism. SPD leaders criticized craftsmen's demands for the abolition of productive prison labor, which were attributed to their backward, petty bourgeois consciousness. Karl Liebknecht, speaking before the Prussian parliament in 1912, argued:

We can demand only one thing: that the unfair competition of convict labor be abolished. (Hear hear! from the Social Democrats). But the competition of prison labor [as such] must not and cannot be removed. Indeed, more work should be performed in the prisons—work that should be in every way the same as the work done by free workers, so that the prisoners, once released, can make use of the skills acquired in prison.

Liebknecht's suggested solution was accordingly pragmatic: He wanted to mechanize prison labor and organize it along the lines of large factories because big industry could handle the competition and released prisoners would do better as factory workers than as craftsmen.⁷⁷

Social Democrats also took positions on several other issues related to the penal system. They condemned corporal punishment, still used in the prisons and workhouses of several states as a means of enforcing discipline, as the epitome of cruel and barbaric punishment. Prison food, hygiene, and housing also met with socialist criticism, sometimes based on firsthand experiences.⁷⁸ Finally, socialists spoke out against deportation, which had been suggested as an alternative to normal punishment, not least because they feared that they themselves might then be deported to the colonies as political criminals.⁷⁹ A comprehensive Social Democratic position regarding criminal justice and the prison system, however, was developed only when a general public discussion of penal reform began to take place in the German Reich and the Social Democrats found themselves increasingly unable to bridge the contradictions between fundamentalist Marxist rhetoric and practical opportunities, between utopian views of the future and ordinary political discussions.

In 1882, Franz von Liszt, then a young Marburg professor of criminal law, published a programmatic article entitled "The Idea of Purposiveness in Penal

Law” (*Der Zweckgedanke im Strafrecht*), which called for legal punishments to serve the purpose of protecting society rather than providing retribution for a crime. In Liszt’s reform program, the array of penal sanctions included indefinite, potentially lifelong detention for incorrigible habitual criminals, rehabilitative prison sentences for corrigible habitual criminals, as well as fines and probation for occasional criminals.⁸⁰ In many respects, Liszt’s proposals were close to the political positions of the Social Democrats. “Every crime,” Liszt wrote in 1898, “is the product of the character of the criminal and the social conditions surrounding the criminal at the moment of the crime,” adding that “the social factors play a much larger role than the individual factor.” Therefore, an effective penal policy required above all “the reshaping of the decisive social conditions.” In the present social situation, this entailed “a social policy that aims to slowly but surely improve the entire position of the working class.”⁸¹ Liszt’s application of Darwinist evolutionary theory to society was also not foreign to socialists. Moreover, some of his students joined the SPD. These included Hugo Heine-mann (1863–1919), for example, who later taught criminal law and penology in the SPD’s party school and espoused positions explicitly identified with Liszt.⁸² For radical materialists, however, the Liszt school of criminal law did not go far enough. Thus, in 1904, Michael Sursky noted: “Criminologists needed to make but a single further step in order to recognize the genuine causes of crime,” but “they could not and would not do this, because this step leads to socialism.”⁸³ From another perspective, Wolfgang Heine (1861–1944), a lawyer and socialist member of the Reichstag, noted the internal contradictions of the sociological approach to penal law. He remarked that, despite its claims to be humane, it would inevitably lead to more severe penalties because it emphasized the protection of society at the cost of the individual.⁸⁴

What began to be at issue was the position that the Social Democrats should take regarding the concrete legal reforms then taking shape. Despite some criticism of Liszt’s positions, German legal scholars at the turn of the century had reached a consensus that the German penal code needed to be reformed to incorporate his “new school” of criminal law. Thus as early as March 1901, the Reich Office of Justice (Reichsjustizamt) announced plans to revise the Reich penal code, and in April 1906 a reform commission was charged with producing a new draft code.⁸⁵ Heinrich Wetzker, writing in the reform-oriented *Sozialistische Monatshefte* in 1902, therefore criticized the Erfurt Program as inadequate regarding matters of criminal justice. Although socialism would eliminate large-scale crime, he noted that “the current methods of fighting crime . . . are of such importance that we cannot afford to neglect them.” Precisely because the current system of incarceration encouraged crime, he argued, the Social Democrats had to take a stance.⁸⁶ Wolfgang Heine added pragmatically: “Meanwhile it is not worth bothering with . . . matters of the future since it is clear that in the *present*, when we can have a political impact, crime has not yet been eliminated.”⁸⁷

Whereas twenty-five years earlier Dietz had still been convinced that socialism was near, Heine now openly expressed Social Democracy's new orientation: practical, pragmatic reform policies focused on the problems of the present.

The SPD's position on penal and prison reform was shaped by yet another factor, however. When, in late February 1904, Social Democratic newspapers revealed the improper treatment of prisoners in the Plötzensee prison, the authorities charged them with libel. The Social Democratic lawyers Karl Liebknecht and Hugo Heinemann used the trial that followed, the so-called Plötzensee trial, to assemble a comprehensive body of evidence on the penal system that was meant to convince the public of the necessity of reforms.⁸⁸ The government's libel charge was withdrawn in the course of the trial, and Heinemann summed up the case with satisfaction: "Thus concrete examples have demonstrated that our penal system's practices, through no fault of those in charge, can render mentally deficient inmates permanently unfit for the struggle for survival."⁸⁹

The Social Democrats had now been so active on this issue that it became necessary to take a public position regarding the penal system. Accordingly, the issue was placed on the agenda of the 1906 Party conference in Mannheim. The lawyer Hugo Haase (1863–1919) delivered his first significant party congress speech on the subject and introduced a resolution. Haase used most of his speech to criticize the judicial persecution of Social Democracy and the unions. Not until the end did he turn to the question of crime in general. Here Haase, too, criticized Liszt's modern school by arguing that crime would be eliminated only through socialism. Nevertheless, he argued, the causes of crime in the existing social order could be reduced through a resolute social policy: for example, by implementing the eight-hour day, securing the freedom to form political coalitions, and adopting policies on housing, tariffs, and education that promoted social welfare. For the prison system specifically, Haase called for the unification of policy across the Reich, special institutions for youths and for the mentally deficient, early release, and the creation of work for those released.⁹⁰ On the one hand, Haase's resolution represented a compromise because it combined fundamental criticism with concrete proposals for reform while leaving out sensitive points such as indefinite sentencing and lifelong imprisonment, which would have required agreement regarding the state's punitive powers. In this respect, the speech's positive reception at the Party conference is understandable. On the other hand, congress chair Paul Singer overestimated the agreement regarding these proposals, which he used to justify the rapid passage of the resolution—the mass-strike debate had set the proceedings behind schedule—to be able to present an official SPD position in the discussions regarding the new Reich penal code.⁹¹

Indeed, not everyone was satisfied with the results of the Mannheim Congress. Edmund Fischer, for example, was convinced that Social Democracy must work toward practical goals rather than just hope for a socialist future. In his view, the current penal system should be reshaped according to the spirit of socialism and

humanity, but also according to modern science. As a consequence, Fischer supported many of the modern school's penal reform proposals, such as psychiatric diagnosis, indefinite detention, and special legislation for psychopaths.⁹² Because he defined the *Lumpenproletariat* biologically, he also supported eugenic measures such as sterilization, thus placing himself on the radical wing of general German criminology.⁹³ The medicalized view of alcoholism provided the basis for even more radical positions, even within the socialist movement. For if alcoholics and criminals were ill, logic commanded that they be treated until their recovery. Thus the socialist physician Otto Juliusburger (1867–1952) of the League of Abstinent German Workers demanded: “All people who demonstrate antisocial behavior under the influence of alcohol, from those who disturb the peace through excessive noise all the way to violent criminals and lechers, must be placed indefinitely in special educational institutions under social-ethical supervision.”⁹⁴

These positions represent the extremes. The overwhelming majority of socialists were not inclined to concede any further power to the current state because they were in constant conflict with its authorities and were fundamentally opposed to its political form. They gave voice to their perceptions of the state's class character and their own traumatic experiences by leveling the charge of “class justice.” Just as law could not exist independently of the existing social order, socialists reasoned, judges could not issue verdicts independently of their class background. The result of the application of this class law, which discriminated against the working class and resulted in its political persecution, therefore constituted class justice. Social Democrats' experiences with the Kaiserreich's judiciary supported their theoretical analysis.⁹⁵ The drafts of the new Reich Penal Code seemed to confirm all of their fears, especially the passages regarding the right of combination, and appeared to represent “a dangerous attack on Social Democracy and the labor movement.” The passages increasing the sentencing discretion of judges also proved alarming. Socialists feared that this would become a means of intimidation through which political opponents and striking workers could be locked up as incorrigible habitual criminals.⁹⁶ But even Siegfried Weinberg (1880–1932), who embraced a radically materialist position, admitted:

We know that, in addition to those cases in which punishment is abused in order to harass political or social opponents of the ruling classes, there are also cases in which society is forced to adopt measures to defend itself against those who wish to do it harm. We also must recognize that these are often nothing more than *either sick people* who belong in institutions *or victims of the capitalist system* and the misery it causes. Based on this recognition, we must say that the best penal policy is a comprehensive social policy, one very different from that of the current state.⁹⁷

According to the internal logic of this argument, bourgeois reformers' proposals for altering the penal code had to be rejected for the moment, but under socialism, they could well prove useful.

This did not mean, however, that concrete reform measures and proposals could not be assessed without ideological reservation and, if appropriate, advocated in the present.⁹⁸ Granted, the prison system seemed to socialists to be a remarkably ineffective way to prepare an individual for the struggle for survival. But Karl Liebknecht acknowledged in 1912:

The penal system is the way it is, and we have to make do with it. Still, the particular difficulty our prison reformers face is how to shape punishment within the legal framework in such a way that the deprivation of freedom does not have damaging effects. Instead, the punishment should employ the force of the authorities to produce effects that reduce and weaken the undesirable tendencies of the convict while strengthening those tendencies beneficial to society.⁹⁹

Using this approach, Social Democrats before World War I arrived at several suggestions for reform, some of them quite concrete. They made proposals regarding prison hygiene, education of prison officials and physicians, accident compensation, and measures to integrate released prisoners. They also promoted a graduated penal system along American lines and called for separate juvenile prisons as well as therapeutic treatment of mentally ill prisoners.¹⁰⁰ Social Democrats also called for the extension of conditional pardoning (*bedingte Begnadigung*), which had been introduced by decree in Prussia in 1895 and provided young first offenders the possibility of a suspended sentence, to a significantly broader range of offenders.¹⁰¹ Reform proposals suspected of involving an extension of state power faced criticism, however. Thus Wolfgang Heine's support for removing the legal requirement that the public prosecutor's office must always file charges (*staatsanwaltschaftlicher Anklagezwang*) was harshly censured by Siegfried Weinberg. Despite practical justifications for the reform, Weinberg argued that this would be too large a concession to the class state and to its public prosecutor, the embodiment of class justice, and amounted to neglecting "the democratic virtue of mistrust."¹⁰²

The socialists' main problem lay in weighing the interests of the individual against those of society, both in the present and in the future. Most socialists did not worry about this, however, since this problem would no longer exist under socialism. Some of the proposals could, on occasion, be quite radical. Because the socialist understanding of criminality rested squarely on Darwinism, it seemed quite conceivable, even scientifically proven, that some degenerate individuals were not physically up to the "struggle for existence," and therefore must become criminals. Paul Hirsch (1868–1940), writing in a popular scientific brochure first issued in 1897 and reprinted in 1907, considered how these few degenerate individuals could be rendered harmless in the society of the future and how the hereditary transmission of their criminal dispositions could be prevented:

The most certain and easiest way to achieve the weakening and gradual removal of this disposition is to cross such individuals with other, healthy elements. Based on the

current state of the science of genetics, however, we may assume that we will not reach our goal in this manner. . . . Just as in the case of consumption, syphilis, and other hereditary diseases, the disposition toward crime would finally stop being transmitted if all those afflicted were forced to live and die childless. To be sure, this is a harsh measure that affects the individual very severely, but the individual must subordinate himself to the needs of society. The individual's rights end where they collide with the duties to society.¹⁰³

Socialists' pre-World War I argumentation regarding penal and prison reform was fraught with paradox. On the one hand, regarding the present, they espoused what might be described as orthodox liberal positions, upholding individual rights and seeking to minimize incarceration. On the other hand, they laid claim to the modern school's agenda of preventive and individualized punishment for use in the socialist future—even as they claimed that these would no longer be needed in a society without crime.

Conclusion

Marx and Engels shared the terminology of middle-class social reformers to describe crime and the deprivation that they believed caused it. Although their conclusions were entirely different—predicting the fall of the existing social order—in their attempt to condemn existing society, Marx and Engels demonized the subproletarian social strata. Their conception of the *proletariat* as a positive political force led them to distinguish it from the *Lumpenproletariat*, which they blamed for failed revolutions. The socialist workers' movement later used the concept of the *Lumpenproletariat* to distance itself from other movements such as anarchism and to cast itself as a culture-bearing movement in the fight against state oppression. For this, the socialist movement paid the price of becoming rather distant from the lower strata of society.

Because they were convinced that socialism would soon establish a perfect society free of crime, socialists initially avoided a fundamental discussion of crime and criminal justice and limited themselves to criticizing the existing penal system. As a rule, up until the 1890s, Social Democratic calls for prison reforms dealt almost exclusively with the treatment of political prisoners. By the 1890s, however, the burgeoning field of criminology was producing large-scale statistical studies of crime, which socialists greeted as scientific proof of their conviction that society was responsible for crime. At the same time, socialist analyses of society were also undergirded by Darwinist ideas, and socialists had great difficulty maintaining the boundary between what is biological and what is social. The idea that society was characterized by a Darwinist "struggle for existence" was present in every socialist analysis of crime, including those of declared Marxists. Because socialist discussions about crime gradually became dominated by

academically trained intellectuals who had joined the socialist movement, they were increasingly colored by the kinds of biological arguments developed in the academic field of criminology. The *Lumpenproletariat* was now seen as a concrete biological danger for society, and socialists morally condemned it in accordance with bourgeois values.

Around the turn of the century, the socialists began to give serious thought to which penal and prison reforms they might support, in the present, in a state that they fundamentally rejected, and to the proper treatment of those who would still commit crimes under socialism in the future. While the Mannheim Party Congress Resolution of 1906 represented a compromise between perspectives for the future and concrete calls for reform, some socialists were prepared to support more far-reaching reforms in the present. The overwhelming majority of socialists, however, looked to the future. Those who conceded that this future would not be completely without crime were willing to support radical measures against a perhaps biologically determined core of degenerate enemies of society that they would not accept in the existing class society.

In these debates it is noticeable that it was exclusively revisionist Social Democrats, often writing in the *Sozialistische Monatshefte*, who embraced a pragmatic and sometimes biological, but no longer revolutionary Marxist approach to crime and criminal justice and were prepared, in the present, to take more radical steps in the fight against crime than their fellow party members who were orthodox Marxists. This set of issues was ideologically explosive because it touched on the sensitive area of the state's use of violence and raised a series of fundamental questions: To what degree could the masses be organized? What revolutionary or illegal actions were legitimate? What political strategy would lead to success?¹⁰⁴ But it is important not to confuse cause and effect. Revisionism did not give rise to new positions regarding crime and criminal justice. Both resulted from dissatisfaction with the theoretical potential of orthodox Marxism and from the attempt to bridge the gap between radical theory and social reformist practice.

Although the socialists had no intention of defending the existing social order, they had nevertheless adopted the rules of modern industrial society, including its order and discipline, and acted, politically, according to new standards and techniques. But it was not Imperial Germany's workers, the workers' movement, the SPD's electoral supporters, or even all SPD members who regarded the *Lumpenproletariat* as the opposite of their own identity, but the Party's leaders and functionaries, academics and intellectuals. Two psychological aspects should be noted here. First, socialist activists who agitated for their goals among subproletarian strata often reaped only contempt; as a rule, they did not find the potential revolutionaries who would work for socialism with them in these strata. Second, as the sociologist Erving Goffman has pointed out, stigmatized individuals often adopt the majority society's attitude toward individuals who are more strongly stigmatized than they are. According to Goffman, "the more [the stigmatized

individual] separates himself structurally from the normals, the more like them he may become culturally.”¹⁰⁵ Thus the fact that socialists drew such a strong distinction between themselves and the *Lumpenproletariat*, even though they themselves were persecuted and despised, also had external social psychological causes.

Does this mean that, ultimately, even the socialists signed on to the creation of the “carceral continuum,” which, according to Michel Foucault, produced the “disciplined individual” that was so well-suited to working in factories?¹⁰⁶ Did the socialists fail when confronted with the colonizing claims of bourgeois criminological discourse? Posing the question in this way makes the mistake of proceeding retrospectively from the results of developments, instead of assessing them in their historical context. The essentially trivial conclusion that even libertarian or abolitionist theories of crime develop disciplinary practices when they become incorporated into a political movement should not be taken as evidence of the constant reproduction of a single criminological discourse. Otherwise, one underestimates not only the political volatility and uniqueness of individual statements, but also the historical dynamic in the production of the criminological discourse. If Social Democracy rejected a political justification of crime as impractical, it did so for good reason. Instead, Social Democracy viewed crime essentially as an indicator of the existing society’s disintegration and a harbinger of the approaching revolution. Until such a time, its approach to criminal justice and penal policy focused on concrete, progressive reforms and appeared quite radical in the general discussion in the Kaiserreich. Through its interventions in the reform debates and through its general political success, the SPD did have an impact on bourgeois criminology and penal reform. Above all, Social Democracy raised the issue of social inequality as a problem that had to be addressed.

Notes

Translated by Keith D. Alexander and Richard F. Wetzell. This chapter is a significantly revised version of an essay that originally appeared in German in the *Mitteilungsblatt des Instituts für soziale Bewegungen* 26 (2001), whose editor kindly gave his permission for this new publication.

1. August Bebel, *Woman and Socialism*, authorized translation by Meta L. Stern (New York, 1910), 436–437.
2. August Bebel, *Die Frau und der Sozialismus*, 59th ed. (East Berlin, 1946), 532–533, 534 (emphasis in the original). A similar passage is found in the first edition: August Bebel, *Die Frau und der Sozialismus* (Zurich-Hottingen, 1879), 128–129.
3. Alfred Oborniker, “Strafrecht und Strafvollzug im Lichte der deutschen Sozialdemokratie,” parts 1 and 2, *Archiv für Kriminalanthropologie* 30 (1908), 201–235; 31 (1908), 1–31; Theodor Gartner, “Sozialdemokratische Partei und Strafrecht” (Ph.D. diss., Albert-Ludwigs-Universität Freiburg/Br., 1927); Alfred Behrle, *Die Stellung der deutschen Sozialisten zum Strafvollzug von*

- 1870 bis zur Gegenwart (Berlin, 1931); Manfred Worm, *SPD und Strafrechtsreform: Die Stellung der Sozialdemokratischen Partei Deutschlands zur Strafrechtsreform unter Berücksichtigung ihrer Wandlung von einer Klassenkampfpartei zur Volkspartei* (Munich, 1968). I omit the issue of capital punishment in this chapter. On socialist attitudes toward the death penalty, see Richard J. Evans, *Rituals of Retribution: Capital Punishment in Germany, 1600–1987* (Oxford, 1996), 455–461.
4. See Peter Becker, “Kriminelle Identitäten im 19. Jahrhundert: Neue Entwicklungen in der historischen Kriminalitätsforschung,” *Historische Anthropologie* 2 (1994), esp. 142–157 esp. 156–157; Monika Frommel, “Internationale Reformbewegung zwischen 1880 und 1920,” in *Erzählte Kriminalität: Zur Typologie und Funktion von narrativen Darstellungen in Strafrechtspflege, Publizistik und Literatur*, ed. Jörg Schönert (Tübingen, 1991), 485–486; Richard F. Wetzell, “The Medicalization of Criminal Law Reform in Imperial Germany,” in *Institutions of Confinement: Hospitals, Asylums and Prisons in Western Europe and North America, 1500–1950*, ed. Norbert Finzsch and Robert Jütte (Cambridge, 1996), 282–283. In the more recent studies of the history of German criminology, socialists hardly play a role. On this, see the works cited in the section on criminology below. Studies focusing on the socialists touch upon the issue but without systematic analysis: Richard J. Evans, “The ‘Dangerous Classes’ in Germany from the Middle Ages to the Twentieth Century,” in Richard J. Evans, *Proletarians and Politics: Socialism, Protest and the Working Class in Germany before the First World War* (New York, 1990), 10–12, 18–19; Eric A. Johnson, *Urbanization and Crime: Germany 1871–1914* (Cambridge, 1995), 61–78.
 5. Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York, 1978), 285–292, quote 288–289.
 6. Schwartz concentrates on the Weimar Republic: “Kriminalbiologie und Strafrechtsreform: Die ‘erbkranken Gewohnheitsverbrecher’ im Visier der Weimarer Sozialdemokratie,” *Juristische Zeitgeschichte* 6 (1997), 13–68.
 7. Foucault further developed his own discourse analysis on this point. See Achim Landwehr, *Geschichte des Sagbaren: Einführung in die historische Diskursanalyse* (Tübingen, 2001), 75–89.
 8. Wilhelm Weitling, *Garantien der Harmonie und Freiheit*, ed. Bernhard Kaufhold (orig. 1842; East Berlin, 1955), 21–26, 205–208, 259–60; see Weitling’s 1849 leaflet about the tasks and goals of the *Befreiungsbund*, esp. Point 5: Hermann Schlüter, *Die Anfänge der deutschen Arbeiterbewegung in Amerika* (Stuttgart, 1907), 52–56.
 9. Karl Marx, Friedrich Engels, *Werke*, 43 vols., ed. Institut für Marxismus-Leninismus beim ZK der SED (East Berlin, 1956–1967), 2, 504–506, quote 478; 356–359, 430–432, 453–455 (henceforth, *MEW*). See also crime as “der Kampf des isolierten Einzelnen gegen die herrschenden Verhältnisse,” in *MEW*, 3, 311–312.
 10. *MEW*, 4, 472.
 11. *MEW*, 7, 26; 8, 160–161. See Robert L. Bussard, “The ‘Dangerous Class’ of Marx and Engels: The Rise of the Idea of the ‘Lumpenproletariat,’” *History of European Ideas* 8 (1987), 675–692; Hal Draper, *Karl Marx’s Theory of Revolution*, vol. 2, *The Politics of Social Classes* (New York, 1978), 453–478, 628–634; Arno Herzig, *Unterschichtenprotest in Deutschland, 1790–1870* (Göttingen, 1988), 112–114; Gertrude Himmelfarb, *The Idea of Poverty: England in the Industrial Age* (London, 1984), 387–392; Michael Schwartz, “‘Proletarier’ und ‘Lumpen’: Sozialistische Ursprünge eugenischen Denkens,” *Vierteljahreshefte für Zeitgeschichte* 42 (1994), 537–570.
 12. See for example Engels on the Irish: *MEW*, 2, 260, 293–296, 320–323, 353–359, 412–413. Other authors are referred to by Himmelfarb, 312–317; Martin J. Wiener, *Reconstructing the Criminal: Culture, Law and Policy in England, 1830–1914* (Cambridge, 1990) 23–37; also: Dirk Blasius, *Bürgerliche Gesellschaft und Kriminalität: Zur Sozialgeschichte Preußens im Vormärz* (Göttingen, 1976), 52–65.

13. *MEW*, 1, 398; 2, 356–359, 430–431; 3, 310–312, quote 312. See also *MEW*, 1, 120, 143.
14. On the development of these expressions, see Werner Conze, “Proletariat, Pöbel, Pauperismus,” in *Geschichtliche Grundbegriffe*, 33–36, 41–44, 52–53.
15. For an overview, see Norval Morris and David J. Rothman, eds., *The Oxford History of the Prison: The Practice of Punishment in Western Society* (New York, 1995). On the German penal system, see Thomas Berger, *Die konstante Repression: Zur Geschichte des Strafvollzugs in Preußen nach 1850* (Frankfurt/Main, 1974); Blasius, *Gesellschaft*, 66–78; Wolfgang Dreßen, *Die pädagogische Maschine: Zur Geschichte des industrialisierten Bewußtseins in Preußen/Deutschland* (Frankfurt/Main, 1982), 271–340; Sebastian Scheerer, “Beyond Confinement? Notes on the History and Possible Future of Solitary Confinement in Germany,” in *Institutions of Confinement*, ed. Finzsch and Jütte, 349–359; Thomas Nutz, *Strafanstalt als Besserungsmaschine: Reformdiskurs und Gefängniswissenschaft, 1775–1848* (Munich, 2001); N. Hermann Kriegsmann, *Einführung in die Gefängniskunde* (Heidelberg, 1912), 24–78.
16. Weitling, 209.
17. *Ibid.*, 204–205, 214–219, quote 216.
18. *MEW*, 2, 187–202, quotes 198, 190.
19. Kurt Bayertz, “Naturwissenschaft und Sozialismus: Tendenzen der Naturwissenschafts-Rezeption in der deutschen Arbeiterbewegung des 19. Jahrhunderts,” *Social Studies of Science* 13 (1983), 362–367.
20. Hans-Josef Steinberg, *Sozialismus und deutsche Sozialdemokratie: Zur Ideologie der Partei vor dem 1. Weltkrieg*, 5th edition (Berlin, 1979), 43–46; Richard Weikart, *Socialist Darwinism: Evolution in German Socialist Thought from Marx to Bernstein* (San Francisco, 1999), 15–79; Ted Benton, “Social Darwinism and Socialist Darwinism in Germany: 1860 to 1900,” *Rivista di Filosofia* 73 (1982), 110–120.
21. Bebel, *Frau*, 1st ed., 93–96, quote 94.
22. Bebel at this point explicitly disputes Haeckel’s negative selectionism. Weikart, 131–152; Benton, 98–102.
23. “Über Verbrecherthum und seine Ursachen,” *Der Volksstaat*, 13 October 1875 (henceforth, *VS*) (emphasis in the original). An abridged version of this essay was reprinted as “Das Verbrechen und seine Ursachen,” *Freiheit*, 19 July 1879.
24. Bayertz, 375–381; on the visions of the future of early social democracy, see Lucian Hölscher, *Welterricht oder Revolution: Protestantische und sozialistische Zukunftsvorstellungen im deutschen Kaiserreich* (Stuttgart, 1989), 203–220.
25. Bebel, *Frau*, 1st ed., 128–129; “Über Verbrecherthum”; on Bebel’s “Zukunftsstaat,” see Hölscher, 307–318.
26. “Strafhaft, Strafverfahren und Strafvollzug im Lichte des Socialismus: Unter besonderer Berücksichtigung eines für das Deutsche Reich zu schaffenden Strafvollzugs-Gesetzes,” *Die Zukunft* 1 (1878), 642–643, quote 634. It was not possible to identify the author of this essay. Because the essay is, in part, written in the first person plural, group authorship seems plausible. See Behrle, 15–18.
27. “Strafhaft,” *passim*, esp. 674–675, 747–752, 754–756. The essay refers especially to the penal system in Saxony as administered by Eugene d’Alinge in the Zwickau prison (*ibid.*, 679). D’Alinge saw himself as an opponent of any dogmatic penal system and pursued a flexible policy of individualization; this did not prevent him from being heavily criticized by Social Democrats: “Ein deutsches Gefängnis,” *VS*, 1 March 1873. Johann Most and Bebel, too, served time in Zwickau in 1874–1875 but had no cause to complain. August Bebel, *Aus meinem Leben* (orig. 1911, 1914; Bonn, 1997), 375–377, 383–384. See in general Kriegsmann, 64–65, 70–78.
28. “Strafhaft,” 672, 737–741, 755.
29. *Stenographische Berichte über die Verhandlungen des Reichstages des Norddeutschen Bundes*, 1. Legislaturperiode, 1869, 29 May 1869, quote 1144. For similar remarks, see *Stenographische*

- Berichte über die Verhandlungen des Deutschen Reichstages* (henceforth, *RT*), 3. Legislaturperiode, II. Session, 4. Sitzung, 14 February 1878, 38–39, 43. An example of the early rejection of prison work: *Die Verbrüderung*, 32 (19 January 1849), 128. As a demand within present society, it is in the Gotha Program: *Programmatische Dokumente der deutschen Sozialdemokratie*, ed. Dieter Dowe and Kurt Klotzbach (Berlin, 1973), 173.
30. *RT*, 4/III/74, 7 July 1879, 2105–2106; *VS*, 15 September 1876; “Moderner Sklavenhandel,” *Der Sozialdemokrat*, 25 November 1882 (henceforth, *SD*); Behrle, 10–12.
 31. *Nach zehn Jahren: Material und Glossen zur Geschichte des Sozialistengesetzes*, vol. 2, *Die Opfer des Sozialistengesetzes* (London, 1890), 136. For the years 1890 to 1910, *Vorwärts* counted an additional 1,118 years *Gefängnis* and 11 years *Zuchthaus*. Alex Hall, *Scandal, Sensation and Social Democracy: The SPD Press and Wilhelmine Germany, 1890–1914* (Cambridge, 1977), 64–72.
 32. Bebel, *Leben*, 473; Johann Most, *Die Bastille am Plötzensee: Blätter aus meinem Gefängnistagebuch*, 2nd ed. (Braunschweig, 1876), 76–77; “Die trockene Guillotine,” *VS*, 14 April 1875; *SD*, 20 October 1881; “Zur Festungshaft in Hubertusburg,” *VS*, 6 July 1873; *VS*, 2 May 1875; “Behandlung der politischen Gefangenen in Preußen,” *VS*, 5 May, 7 May, 12 May 1875; *VS*, 13 June 1875; *SD*, 2 January 1881. See also Auer, who at the end of the 1890s declared that the treatment had gotten even worse in comparison to that of the 1870s. *RT*, 9/IV/155, 18 January 1897, 4122–4123; *RT*, 9/IV/29, 21 January 1898, 756–760; see also Stadthagen: *RT*, 9/VI/74, 31 March 1898, 1941–1943; *RT*, 10/II/39, 22 February 1899, 1057–1061. Berger, 212–235.
 33. Kriegsmann, 123–128.
 34. Bebel, *Leben*, 367–382, esp. 371–372.
 35. Most, *Bastille*, 41–42; see also Liebknecht’s examples in his speech before the Reichstag: *RT*, 2/II/56, 29 January 1875, 1414–1418; “Zur Behandlung politischer ‘Verbrecher,’” *VS*, 22 September 1875; see the report by Wolfgang Wunderlich: “Aus dem Tagebuch eines politischen Zuchthäuslers,” *SD*, 12 July–13 September 1890.
 36. Bebel, *Leben*, 471.
 37. *Bastille*, 7–9, 16, 19, 42. Critically interpreted by Sigrid Weigel, “Und selbst im Kerker frei . . . !” *Schreiben im Gefängnis: Zur Theorie und Gattungsgeschichte der Gefängnisliteratur, 1750–1933* (Marburg, 1982), 49–53.
 38. Cited according to *Freiheit*, 7 May 1887. See also *SD*, 10 June 1887. The report by the Social Democrat Leuschke in *VS* hints at rejection by fellow prisoners. “Behandlung,” *VS*, 22 September 1875. Also compare the report of prisoner K. M. in *Hinter Kerkermauern: Autobiographien und Selbstbekenntnisse, Aufsätze und Gedichte von Verbrechern. Ein Beitrag zur Kriminalpsychologie*, ed. Johannes Jaeger (Berlin, 1906), 348–354.
 39. Werner Conze and Dieter Groh, *Die Arbeiterbewegung in der nationalen Bewegung: Die deutsche Sozialdemokratie vor, während und nach der Reichsgründung* (Stuttgart, 1966), 116–118; Evans, *Rituale*, 456–9; Joachim Wagner, *Politischer Terrorismus und Strafrecht im Deutschen Kaiserreich von 1871* (Heidelberg, 1981), 56–88; Dirk Blasius, *Geschichte der politischen Kriminalität in Deutschland, 1800–1980: Eine Studie zu Justiz und Staatsverbrechen* (Frankfurt/Main, 1983), 55–69.
 40. “Die Gesellschaft des organisierten Massenmordes,” *SD*, 9 May 1880; “Aus der Verbrecherwelt,” *SD*, 31 October 1880. After December 1881, portraits of members of the “guild of brigands of law and order” (*Ordnungsbanditenzunft*) were published at irregular intervals in the category “criminal album.” These included, for example, the judges in the 1881 Leipzig trial against Bebel and Liebknecht: *SD*, 22 December 1881. See Vernon L. Lidtke, *The Outlawed Party: Social Democracy in Germany, 1878–1890* (Princeton, 1966), 110–138, 261; Wagner, 88–115, 133–135.
 41. B. Combattant, “Diebstahl und Revolution,” *SD*, 22 March 1883 (emphasis in the original); “Gesindel und Revolution,” *SD*, 26 February 1886; “Verrohung der Gesellschaft,” *SD*, 6 March 1884. See also *MEW*, 7, 536; Johnson, 76–77.

42. *Protokoll über die Verhandlungen des Parteitag der Sozialdemokratischen Partei Deutschlands, abgehalten zu Berlin vom 14. bis 21. November 1892* (Berlin, 1892), 107–108, 272–275, quote 275; see *Vorwärts*, 13 March 1892. An interpretation of this discussion is also given in Schwartz, “Proletarier,” 547–549; see Richard J. Evans, “‘Red Wednesday’ in Hamburg: Social Democrats, Police and Lumpenproletariat in the Suffrage Disturbances of 17 January 1906,” *SH 4* (1979), 14–15, 23–26.
43. Gerhard A. Ritter, *Die Arbeiterbewegung im Wilhelminischen Reich: Die sozialdemokratische Partei und die freien Gewerkschaften, 1890–1900*, 2nd ed. (Berlin-Dahlem, 1963), 221. See also Brigitte Emig, *Die Veredelung des Arbeiters: Sozialdemokratie als Kulturbewegung* (Frankfurt/Main 1980), 210–213, 232–240; Adelheid von Salder, *Auf dem Wege zum Arbeiter-Reflexionismus: Parteialltag in sozialdemokratischer Provinz Göttingen 1870–1920* (Frankfurt/Main, 1984), 148–163.
44. See the report of the SD about a speech by Liebknecht before the Saxon parliament in 1880: *SD*, 21 January 1880; “Die Neider des Zuchthauses,” *VS*, 10 April 1874; *VS*, 8 March 1876; “Wiederherstellung von Zucht und Sittlichkeit,” *SD*, 3 October 1880; “Sozialreform,” *SD*, 27 September 1883; “Zur Kriminalstatistik des Deutschen Reiches,” *Die Neue Zeit* 5 (1887), 85–91 (henceforth, *NZ*); Karl Lübeck, “Verbrecher und Verbrechen,” *NZ* 4 (1886), 368–374. Manfred Worm’s thesis regarding the latent principle of retribution in Social-Democratic thought seems to be untenable and lacking sources to support it: Worm, 34.
45. Ralph Jessen, “Gewaltkriminalität im Ruhrgebiet zwischen bürgerlicher Panik und proletarischer Subkultur, 1879–1914,” in *Kirmes—Kneipe—Kino: Arbeiterkultur im Ruhrgebiet zwischen Kommerz und Kontrolle, 1850–1914*, ed. Dagmar Kift (Paderborn, 1992), 235–244, 251; Michael Grüttner, “Working-Class Crime and the Labour Movement: Pilfering in the Hamburg Docks, 1888–1923,” in *The German Working Class, 1888–1933: The Politics of Everyday Life*, ed. Richard J. Evans (London, 1982), 54–75; Michael Grüttner, “Die Kultur der Armut. Mobile Arbeiter während der Industrialisierung,” *Jahrbuch Soziale Bewegungen* 3 (1987), 24–29; Richard J. Evans, “Proletarian Mentalities: Pub Conversations in Hamburg,” in Evans, *Proletarians*, 152–155, 166; idem, *Kneipengespräche im Kaiserreich: Stimmungsberichte der Hamburger Politischen Polizei, 1892–1914* (Reinbek, 1989), 182–224. See also the report by Paul Göhres on “the many Social Democrats who share the broad masses’ not very high level of morality”: *Drei Monate Fabrikarbeiter und Handwerksbursche: Eine praktische Studie* (Leipzig, 1891), 196–197. Franz Mehring, “Zur ‘Gerichtschronik’ der Parteipresse,” *NZ* 23 (1904–1905), 793; U. Flüchtig, “Zur Gerichtschronik der Parteipresse,” *NZ* 24 (1905–1906), 819–822.
46. Rosa Luxemburg, “Im Asyl,” (orig. 1912), in Rosa Luxemburg, *Gesammelte Werke*, vol. 3, *Juli 1911 bis Juli 1914* (East Berlin, 1978), 84–90, quote 86.
47. *MEW*, 20, 87.
48. *MEW*, 23, 761; 19, 32.
49. See Point 8 of the demands: *Programmatische Dokumente*, 179.
50. Adolphe Quetelet, *Sur l’homme et le développement de ses facultés, ou essai de physique sociale*, vol. 1 (Paris, 1835), 10. On early statistics on crime and morality, see Monika Böhme, *Die Moralstatistik: Ein Beitrag zur Geschichte der Quantifizierung in der Soziologie, dargestellt an den Werken Adolphe Quetelets und Alexander von Oettingens* (Cologne, 1971).
51. There are a number of newer studies available regarding the development of criminal anthropology and Lombroso’s biography. For the Italian context specifically, see John A. Davis, *Conflict and Control: Law and Order in Nineteenth-Century Italy* (Houndmills, 1988), esp. 314–334; Daniel Pick, *Faces of Degeneration: A European Disorder, 1848–1918* (Cambridge, 1989); Peter Becker, *Verderbnis und Entartung: Eine Geschichte der Kriminologie des 19. Jahrhunderts als Diskurs und Praxis* (Göttingen, 2002), 291–322. On the reception in Germany, see Mariacarla Gadebusch-Bondio, *Die Rezeption der kriminalanthropologischen Theorien von Cesare Lombroso in Deutschland von 1880 bis 1914* (Husum, 1995); Richard F. Wetzell, *Inventing the Criminal:*

- A History of German Criminology* (Chapel Hill, 2000), esp. 39–71; Silvana Galassi, *Kriminologie im Deutschen Kaiserreich: Geschichte einer gebrochenen Verwissenschaftlichung* (Stuttgart, 2004), 140–225; Christian Müller, *Verbrechensbekämpfung im Anstaltsstaat: Psychiatrie, Kriminologie und Strafrechtsreform in Deutschland 1871–1933* (Göttingen, 2004), 72–80.
52. Kautsky, “Eine Naturgeschichte des politischen Verbrechers,” *NZ* 11 (1892–1893), 70.
 53. See *ibid.*, 69–70; cited according to “Der Alkoholismus und seine Bekämpfung,” *NZ* 19 (1890–1891), 51. Kautsky’s position was criticized by Friedrich Große, “Zur Naturgeschichte des politischen Verbrechers,” *NZ* 12 (1893–1894), 205–213; see the further contributions to the discussion: Karl Kautsky, “Lombroso und sein Verteidiger,” *NZ* 12 (1893–1894), 241–250; Otto Lang, “Noch einmal der Fall Lombroso,” *NZ* 12 (1893–1894), 373–376.
 54. See Enrico Ferri, “Kriminelle Anthropologie und Sozialismus,” *NZ* 14 (1895–1896), 452–459; *idem*, *Das Verbrechen als sociale Erscheinung: Grundzüge der Kriminalsociologie*, trans. Hans Kurella (3rd ed., 1892; Leipzig, 1896), esp. 62–67, 84–100. Ferri, who worked as a socialist agitator until returning to a professorship in 1906, changed his political views repeatedly. He later openly sympathized with fascism. On Ferri, see Pick, 145–147; Thorsten Sellin, “Enrico Ferri (1856–1929),” in *Pioneers in Criminology*, ed. Hermann Mannheim (1958; London, 1960), 277–300; see also James Edward Miller, *From Elite to Mass Politics: Italian Socialism in the Giolittian Era, 1900–1914* (Kent, OH, 1990), 58–76, 89–93, 106–110. On the discussion of criminal anthropology and sociology among Italian socialists: Davis, 334–342; Delia Frigessi, “Scienza socialista e scienza borghese tra ‘Archivio di psichiatria’ e ‘Critica sociale’,” in *Le radici del socialismo italiano* (Milan, 1997), 223–234.
 55. Ferri, *Socialismus und moderne Wissenschaft*, trans. Hans Kurella (1894; Leipzig, 1895), 39–48, 68–80, 8–24, 31–35.
 56. “Darwinismus und Marxismus,” *NZ* 13 (1894–1895), 709–716. Kautsky’s own relationship with Darwinism was contradictory and is strongly debated in academic research. Although he castigated Ferri for mixing nature and society, Kautsky’s own work also contains similar tendencies. Weikart, 162–188.
 57. Lafargue, “Die Kriminalität in Frankreich von 1840–1886: Untersuchungen über ihre Entwicklung und ihre Ursachen,” *NZ* 8 (1890), 11–23, 56–66, 106–116.
 58. See, for example, Kautsky, “Lombroso,” 244; Lang, “Fall,” 374–376. The recourse to statistics is what distinguishes this work from earlier essays: J. S., “Der Einfluß der Jahreszeit auf die Kriminalität,” *NZ* 12 (1893–1894), 719–722; H. L., “Ziffern des Verbrechen, insbesondere die starke Abnahme der Vermögensdelikte,” *NZ* 21 (1901–1902), 267–271, 312–317; S. Weinberg, “Der werdende Verbrecher: Eine kriminalistische Studie,” *NZ* 21 (1902–1903), 16–21; Heinrich Wetzker, “Die Zunahme der Verbrechen,” *Sozialistische Monatshefte* 6 (1902), 518–527 (henceforth, *SM*); Siegfrieda, “Ortsüblicher Tagelohn und Kriminalität in Preußen,” *NZ* 24 (1905–1906), 636–638.
 59. W. A. Bongers, *Criminalité et conditions économiques* (Amsterdam, 1905), 340–345, 349–350, 721–726. See the socialist discussions: M. Sursky, “Aus der neuesten Literatur über die wirtschaftlichen Ursachen der Kriminalität,” *NZ* 23 (1904–1905), 628–634; Robert Michels, “Review of: *Criminalité et conditions économiques* by W. A. Bongers,” *Kritische Blätter für die gesamten Sozialwissenschaften* 2 (1906), 290–291. Bongers came from an educated middle-class family and joined the Socialist Party in 1897. On Bongers’s biography, see H. Bongers, “Korte Levensschets van Prof. Mr. W. A. Bongers,” in *Verspreide Geschriften* von W. A. Bongers, Deel 1, *Criminologie en Criminele Statistiek* (Amsterdam, 1950), ix–xxv; J. Valkhoff, “Bongers Werken,” in Bongers, *Geschriften*, Deel 1, xxxvi–xcii.
 60. Two examples should suffice here: G. von Rohden, “Von den sozialen Motiven des Verbrechen,” *Zeitschrift für Sozialwissenschaft* 7 (1904), 509–531; F. A. Karl Krauß, *Der Kampf gegen die Verbrechensursachen: Übersichtlich dargestellt für alle Volks- und Vaterlandsfreunde* (Paderborn, 1905), esp. 9–14, 17–68, 147–149.

61. "Kriminalstatistik," 88–90; "Notiz: Statistik der Verbrechen und Vergehen im Deutschen Reich von 1882 bis 1887," *NZ* 7 (1889), 141–142; Georg S., "Die weibliche Lohnarbeit und ihr Einfluß auf die Sittlichkeit und Kriminalität: Ein nachträglicher Beitrag zur lex Heinze," *NZ* 18 (1899–1900), 754–756; Karl Kautsky, "Die Aktion der Masse," *NZ* 30 (1911–1912), 115–116.
62. See W. A. Bonger, "Cesare Lombroso," *NZ* 28 (1909–1910), 356–357.
63. The secondary literature on the subject is now very comprehensive. For a good synthesis see: Mike Hawkins, *Social Darwinism in European and American Thought, 1860–1945: Nature as Model and Nature as Threat* (Cambridge, 1997), 132–145.
64. Sybille Krafft, *Zucht und Unzucht: Prostitution und Sittenpolizei im München der Jahrhundertwende* (Munich, 1996), 131–133. Quote Bebel, *Frau*, 59th ed., 233. General female criminality was not part of social democracy's main interests. An exception: Siegfried Weinberg, *Über den Einfluß der Geschlechtsfunktionen auf die weibliche Kriminalität* (Halle, 1907).
65. Paul Kampffmeyer, *Die Prostitution als soziale Klassenerscheinung und ihre sozialpolitische Bekämpfung* (Berlin, 1905), 35, 37. See also similar passages in Karl Kautsky, *Der Einfluss der Volksvermehrung auf den Fortschritt der Gesellschaft* (Vienna, 1880), 77–84; Heinrich Lux, *Die Prostitution, ihre Ursachen, ihre Folgen und ihre Bekämpfung* (Berlin, 1892), 21–23; Paul Hirsch, *Verbrechen und Prostitution als soziale Krankheitserscheinungen* (Berlin, 1897), 54; Georg S., 749–756; Edmund Fischer, "Die sexuellen Probleme," *SM* 13 (1909), 961–962. Middle-class criminologists shared the same views: Peter Becker, "'Gefallene Engel' und 'verwahrloste Menschen': Über 'Erzählmuster,' Prostituierte und die Kriminalistik des vorigen Jahrhunderts," in *Konstruktion der Wirklichkeit durch Kriminalität und Strafe*, ed. Detlev Frehsee, Gabi Löscher and Gerlinda Smaus (Baden-Baden, 1997), 340–346.
66. Lux, *Prostitution*, 12; See Hirsch, 24–29; Kampffmeyer, 35; Edmund Fischer, "Die Überwindung der Prostitution," *SM* 10 (1906), 240–241.
67. Kampffmeyer, 33, *ibid.*; Lux, *Prostitution*, 26, Liebknecht, *Protokoll Parteitag 1892*, 274; Mehring, *ibid.*, 794.
68. Kautsky, "Alkoholismus," 52, 115.
69. See the following overview: Hasso Spode, *Die Macht der Trunkenheit: Kultur- und Sozialgeschichte des Alkohols in Deutschland* (Opladen, 1993), 235–241.
70. Quoted in Otto Juliusburger, *Gegen den Strafvollzug* (Berlin, [1905]), 13. See Otto Lang, *Die Arbeiterschaft und die Alkoholfrage* (Vienna, 1902); *idem*, *Alkoholgenuß und Verbrechen: Ein Vortrag* (Bremerhaven, 1892).
71. "Das Lumpenproletariat," *SM* 13 (1909), 1133–1139. Fischer came from a poor background and worked himself up as an autodidact to become a woodcarver, journalist, and writer.
72. On socialist eugenics, but with an emphasis on the period after 1918: Michael Schwartz, *Sozialistische Eugenik: Eugenische Sozialtechnologien in Debatten und Politik der deutschen Sozialdemokratie, 1890–1933* (Bonn, 1995); Doris Byer, *Rassenhygiene und Wohlfahrtspflege: Zur Entstehung eines sozialdemokratischen Machtdispositivs in Österreich bis 1934* (Frankfurt/Main 1988). On the socialist roots of racial hygiene: Peter Weingart, Jürgen Kroll, and Kurt Bayertz, *Rasse, Blut und Gene: Geschichte der Eugenik und Rassenhygiene in Deutschland* (1988; Frankfurt/Main, 1992), 105–129; Weindling, 117–126, 94–96.
73. Karl Kautsky, *Vermehrung und Entwicklung in Natur und Gesellschaft* (Stuttgart, 1910), 261–267; Bonger, *Criminalität*, 726. Compare esp. to Kautsky: Schwartz, *Eugenik*, 36–51.
74. M. Sursky, "Die kriminal-soziologische Schule als Kämpferin für die Interessen der herrschenden Klassen," *NZ* 22 (1903–1904), 641–648, 682–686.
75. H. D., "Gefängniswesen und Vollzug der Freiheitsstrafen in Deutschland," *NZ* 5 (1887), 295.
76. Arthur Stadthagen in *RT*, 11/II/117, 12 January 1905, 3694–3708; *RT*, 12/II/132, 22 February 1911, 4825–4837; Wilhelm Schröder, "Politische Gefangene in deutschen Gefängnissen," *SM* 12 (1908), 218–227.

77. *Stenographische Berichte über die Verhandlungen des Landtages, Haus der Abgeordneten*, 21. Legisl., V. Session, 19. Sitzung, 21. Februar 1912, 1363–1366, zit. 1365 (henceforth, *HdA*); also reprinted in Karl Liebknecht, *Gesammelte Reden und Schriften*, 10 vols., ed. Institut für Marxismus-Leninismus beim ZK der SED (Berlin/East, 1958–1968), 5, 22–25, quote on p. 24. See m.s. [= Max Schippel], “Innungen und Gefängnisarbeit,” *NZ* 9 (1890–1891), 443–447; Siegfrieda [= Siegfried Weinberg], “Die Gefängnisarbeit,” *NZ* 25 (1906–1907), 864–872.
78. August Bebel, *RT*, 10/II/175, 23 March 1900, 4935–4938, 4941; See also *VS*, 4 Mai 1870; “Zur Naturgeschichte der besten der Welten,” *SD*, 20 September 1883; “Zur Frage der Prügelstrafe,” *Socialpolitisches Centralblatt* 3 (1893), 465–467 (henceforth, *SC*); H. Lux, “Untersuchung der Kost in den preußischen Gefängnissen,” *NZ* 7 (1888), 359–358.
79. Review of Strosser-Stursberg, *Die Anlage von Strafkolonien und die Prinzipien des gegenwärtigen Strafvollzugs* (Düsseldorf, 1880), *Jahrbuch für Sozialwissenschaft und Sozialpolitik* 2 (1881), 153–156; Ignaz Auer, *RT*, 9/VI/29, 31 January 1898, 756–760; Michael Sursky, “Rezension von *Der Bankrott des modernen Strafvollzugs und seine Reform*, von Max Treu,” *NZ* 23 (1904–1905), 325; Wolfgang Heine, “Stafrecht, Strafprozess und Strafvollzug,” *SM* 10 (1906), 750.
80. Franz von Liszt, “Der Zweckgedanke im Strafrecht,” in *Strafrechtliche Aufsätze und Vorträge*, 2 vols. (Berlin, 1905), 2, 173, 169–173, 178. On Liszt and his school, see: Richard F. Wetzell, “From Retributive Justice to Social Defense: Penal Reform in Fin-de-Siècle Germany,” in *Germany at the Fin de Siècle: Culture, Politics, and Ideas*, ed. Suzanne Marchand and David Lindenfeld (Baton Rouge, 2004), 59–77; Monika Frommel, *Präventionsmodelle in der deutschen Strafwirk-Diskussion: Beziehungen zwischen Rechtsphilosophie, Dogmatik, Rechtspolitik und Erfahrungswissenschaften* (Berlin, 1987), 42–114. Another interpretation, which identifies lines of conflict between psychiatry and legal studies, can be found in Müller, 125–141.
81. Franz von Liszt, “Das Verbrechen als sozialpathologische Erscheinung,” in *Strafrechtliche Aufsätze*, 2, 234, 235, 236, 246.
82. Other students of Liszt’s included Siegfried Weinberg and Gustav Radbruch. The latter admittedly did not join the SPD until 1918. See Heinemann’s essays: “Entwurf zu einem schweizerischen Strafgesetzbuch,” *SC* 3 (1893), 61–63; “Das Strafsystem in dem Entwurfe eines Schweizerischen Strafgesetzbuches,” *SC* 3 (1893), 73–76; “Sozialpolitisches in dem Entwurf eines schweizerischen Strafgesetzbuchs,” *SC* 3 (1893), 88–90; “Die verwahrloste und verbrecherische Jugend,” *SC* 3 (1893), 157–159; “Strafrecht und Sozialpolitik,” *SC* 3 (1893), 463–465; “Der österreichische Strafgesetzentwurf und die arbeitende Klasse,” *AfsGS* 7 (1894), 359–409. In 1892, Heinrich Lux cited without comment multiple pages from an essay by von Liszt regarding the social origins of crime and their remedy. Lux, ed., *Handbuch*, 159–60; compare Franz von Liszt, “Die gesellschaftlichen Ursachen des Verbrechens,” *SC* 1 (1892), 59–60.
83. Sursky, “Schule,” 685; I. Ingwer, “Zur Reform unseres Strafgesetzes,” *Der Kampf* 2 (1908–1909), 67.
84. “Zur Reform des Strafrechts,” *SM* 7 (1903), 22–35; Oborniker, 216. Here, too, Worm’s interpretation that Heine, like many other Social Democratic jurists, did not wish to forgo guilt and retribution seems hardly tenable. Worm, *SPD und Strafrechtsreform*, 55–59.
85. Wetzell, “From Retributive Justice”; Richard F. Wetzell, “Criminal Law Reform in Imperial Germany,” (Ph.D. diss., Stanford University, 1991), 95–154, 213–223, 280–287.
86. Wetzker, “Der Punct 8 unseres Programms,” *SM* 6 (1902), 610.
87. Heine, “Reform,” 24 (emphasis in the original). Both refer to Wetzker’s seminal essay, “Zunahme.”
88. Georg Gradnauer, *RT*, 11/II/90, 13 May 1904, 2893–2903; Georg Gradnauer, *Das Elend des Strafvollzugs* (Berlin, 1905), esp. 3–4, 56–80; see the collection of news accounts in Liebknecht, *Reden*, 1, 132–151. This kind of prison scandal with subsequent trial was not atypical. Hall, 78.
89. “Königsberg und Plötzensee,” *Die Neue Gesellschaft* 1 (1905), 135.

90. "Resolution Haase," in *Protokoll über die Verhandlungen des Parteitag der Sozialdemokratischen Partei Deutschlands, abgehalten zu Mannheim vom 23. bis 29. September 1906* (Berlin, 1906), 140–142; Hugo Haase, "Strafrecht, Strafprozeß und Strafvollzug," in *Protokoll Parteitag der SPD 1906*, 360–377.
91. *Protokoll Parteitag der SPD 1906*, 378; Ernst Haase, *Hugo Haase: Sein Leben und Wirken* (Berlin-Frohnau [1929]), 16, 94.
92. "Laienbemerkungen zur Reform des Strafrechts," *SM* 10 (1906), 487–492; "Über das Strafrecht der Zukunft," *SM* 15 (1909), 157–165; "Die Wanderer," *SM* 20 (1914), 308–314.
93. Fischer, "Lumpenproletariat," 1138–1139. Compare Wetzell, *Inventing*, 100–105.
94. Juliusburger, 22. The Swiss psychiatrist, radical opponent of alcohol, and criminal anthropologist August Forel, writing in *SM*, could even raise the question of euthanizing certain criminals. "Todesstrafe und Sozialismus: Zum Fall Grete Beier," *SM* 12 (1908), 1048. On Forel, see Spode, 137–138, 221–223, 235–237.
95. See, for example, Karl Liebknacht, "Gegen Klassenstaat und Klassenjustiz," (1907), in *Reden*, 2, 17–42; Erich Kuttner, *Klassenjustiz!* (Berlin, 1913). Compare Klaus Saul, *Staat, Industrie, Arbeiterbewegung im Kaiserreich: Zur Innen- und Außenpolitik des Wilhelminischen Deutschland 1903–1914* (Düsseldorf, 1974), 188–210; Hall, 72–88.
96. S. Weinberg, "Die Strafrechtswissenschaft gegen die Arbeiterklasse," *NZ* 30 (1911–1912), 405–412, quote 406; idem, "Der Strafrechtsentwurf," *NZ* 31 (1912–1913), 490–495; idem, *Die Arbeiterklasse und der Strafgesetzentwurf* (Stuttgart, 1910); Heine, "Reform," 29–30; Michael Sursky, "Sozialdemokratische Randbemerkungen zu den Vorarbeiten der Strafrechtsreform," *NZ* 27 (1907–1908), 33–38, 67–74, 95–106; Otto Lang, "Die grosse Strafrechtsreform," *SM* 13 (1909), 1591–1592, 1595–1596.
97. "Der neue Strafgesetzentwurf," *NZ* 28 (1909–1910), 721–722 (emphasis in the original).
98. Heinrich Wetzker, "Das Elend des Strafvollzuges," *Die Neue Gesellschaft* 1 (1905), 346.
99. Karl Liebknacht, *HdA*, 21/V/61, 1 May 1912, 5025. Here Liebknacht is already developing the thoughts that he formulated in his famous draft "Gegen die Freiheitsstrafe" (1918), in part employing identical language. In *Reden*, 9, 391–396, there is also the formulation "struggle for existence" (*ibid.*, 393). Thus this can hardly be classified as an outstanding and trend-setting document among socialist proposals for reform. See Berger, 263–265; Heinz Cornel, "Resozialisierung—Klärung des Begriffs, seines Inhalts und seiner Verwendung," in *Handbuch der Resozialisierung*, ed. Heinz Cornel, Bernd Maelicke, and Bernd Rüdiger Sonnen (Baden-Baden, 1995), 18.
100. Gradnauer, 44–52, 86–92; Siegfried Weinberg, *Soziales Strafrecht* (Gautzsch, 1908), 29–30; Karl Liebknacht, *HdA*, 21/III/23, 18 February 1910, 1811–1813; *HdA*, 21/IV/20, 6 February 1911, 1411–1424; *HdA*, 21/IV/30, 18 February 1911, 2296–2304; *HdA*, 22/III/33, 21 February 1914, 2706–2711. See note 99. See Oborniker, 222–235. Clearly the SPD's program of penal reform was less constrained by anachronistic world views than by justified mistrust of the class state. Compare Thomas Welskopp, "Im Bann des 19. Jahrhunderts: Die deutsche Arbeiterbewegung und ihre Zukunftsvorstellungen zu Gesellschaftspolitik und 'sozialer Frage,'" in *Das neue Jahrhundert: Europäische Zeitdiagnosen und Zukunftsentwürfe um 1900*, ed. Ute Frevert (Göttingen, 2000), 21–26.
101. Siegfrieda, "Die bisherigen Resultate der bedingten Verurteilung," *NZ* 23 (1904–1905), 455–456; Wolfgang Heine, *RT*, 10/II/274, 5 March 1903, 8409; Karl Liebknacht, *HdA*, 21/V/20, 22 February 1912, 1439–1440; compare Oborniker, 220–221.
102. Wolfgang Heine, "Weniger Strafen" and "Replik," *Vorwärts*, 9 January 1910; quoted according to Weinberg, *Arbeiterklasse*, 26, with further references there; also, Wolfgang Heine, "Gegen den Anklagezwang," *SM* 13 (1909), 481–489; Kuttner, 27–34; Karl Liebknacht, *HdA*, 21/IV/30, 18 February 1911, 2296.

103. Hirsch, 72; 2nd ed. (Berlin, 1907), 122–130, quote 184. Compare Hans Fehlinger, “Über Rassenhygiene,” *SM* 14 (1910), 965–970; Schwartz, *Eugenik*, 62–66.
104. Eduard Bernstein, “Die Menge und das Verbrechen,” *NZ* 16 (1897–1898), 229–237. Ingrid Gilcher-Holtey has noted that Bernstein’s discussion of the work of Italian criminologist Scipio Sighele in this article sparked internal party criticism of Bernstein. See Gilcher-Holtey, *Das Mandat des Intellektuellen: Karl Kautsky und die Sozialdemokratie* (Berlin, 1986), 122–123, 127.
105. Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (1963; New York, 1986), 107, quote 114.
106. Foucault, *Discipline and Punish*, 297.