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## **Crime, gender and social control in early modern Frankfurt am Main**

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## VI. Transgressing social order

### Mobile men and women

Historians working on female crime in early modern Europe have shown how the relatively independent position of women in cities contributed to their likeliness of breaking the law. At the same time, as Andrew Lees and Lynn Hollen Lees reminded us, cities were not only places of relative independence, but of discipline and control as well.<sup>869</sup> It is precisely this tension between the city as a place of social mobility and relative freedom versus a place of regulation and surveillance that shaped the experiences of female offenders. There were considerable differences, however, in the level of control urban authorities imposed on their inhabitants. The highest levels of female offenders in the early modern period were found in large urban centres with relatively open migration regimes like London and Amsterdam. The urban authorities of these cities were reluctant to impose restrictions on the settlement of migrants because it might have prevented many from moving there, while the cities' economies depended on a continuous influx of labour.<sup>870</sup> A considerable proportion of the incoming migrants were female, many of whom were single, who were attracted to the possibilities of the diverse labour market and relatively generous relief provisions.<sup>871</sup> Historians like Peter King and Manon van der Heijden have argued that these migration patterns greatly contributed to the high level of female involvement in crime in these cities.<sup>872</sup>

Germany, on the other hand, was a region with strong institutional control of mobility. More than elsewhere, the right of permanent settlement in cities was strongly connected to the institution of citizenship (*Bürgerschaft*). For others the right to stay and/or entitlement to community

<sup>869</sup> A. Lees and L. Hollen Lees, *Cities and the making of modern Europe, 1750-1914* (Cambridge 2007) 36-39.

<sup>870</sup> M. van Leeuwen, 'Overrun by hungry hordes? Migration and poor relief in the Netherlands, sixteenth to twentieth centuries' in: S. King and A. Winter eds., *Migration, settlement and belonging in Europe, 1500-1930s. Comparative perspectives* (New York 2013) 173-203, 190; J. Innes, S. King and A. Winter, 'Settlement and belonging in Europe, 1500-1930s. Structures, negotiations and experiences' in: S. King and A. Winter eds., *Migration, settlement and belonging in Europe, 1500-1930s. Comparative perspectives* (New York 2013) 1-28, 14; E. Kuijpers, *Migrantenstad. Immigratie en sociale verhoudingen in 17e-eeuws Amsterdam* (Hilversum 2005) 332-333; L.P. Moch, *Moving europeans. Migration in western Europe since 1650* (2nd edition: Bloomington 2003) 54-55; M.J. Kitch, 'Capital and kingdom. Migration to later Stuart London' in A.L. Beier and R.A.P. Finlay eds., *London 1500-1700. The Making of the Metropolis* (London 1986) 224-251; L.B. Luu, *Immigrants and the industries of London, 1500-1700* (Abingdon 2016) 166; L. Hollen Lees, *The solidarities of strangers. The English poor laws and the people, 1700-1948* (Cambridge 1998) 47-51.

<sup>871</sup> P. Earle, 'The female labour market in London in the late seventeenth and early eighteenth centuries', *Economic History Review* 43:3 (1989) 328-353; E. Hubbard, *City women. Money, sex, and the social order in London 1570-1640* (Oxford 2012) 17-23; A. Schmidt, I. Devos and B. Blondé, 'Introduction. Single and the city. Men and women alone in North-Western European towns since the late middle ages' in: J. de Groot, I. Devos and A. Schmidt eds., *Single life and the city 1200-1900* (New York 2015) 1-24, 4; L. van de Pol and E. Kuijpers, 'Poor women's migration to the city. The Attraction of Amsterdam health care and social assistance in early modern times', *Journal of Urban History* 32:1 (2005) 44-60; Moch, *Moving Europeans*, 50.

<sup>872</sup> P. King, 'Female offenders, work and life-cycle change in late-eighteenth century London', *Continuity and Change* 11:1 (1996) 61-90; M. van der Heijden, *Women and crime in early modern Holland* (Leiden 2016) 160-163.

rights were limited or denied completely depending on their legal status.<sup>873</sup> At the same time, authorities often imposed moral and religious restrictions on access to citizenship, which was strongly associated with the establishment of a new household. The latter had become increasingly important from the sixteenth century onwards and was perceived by the authorities as the key institution to preserve the urban social order.<sup>874</sup> Jan Lucassen and Piet Lourens found that the dues and additional requirements (i.e. proof of legitimate birth) were much higher in German cities than in the Dutch provinces, particularly in Holland, for obtaining citizenship.<sup>875</sup>

Across early modern Europe, concepts of a well-ordered society led to the stigmatisation of people without a fixed abode. Vagrancy, begging and other related offences were increasingly criminalised throughout the period.<sup>876</sup> The strong institutional restrictions in early modern Germany did not necessarily lead to less mobility (as has been suggested in the past), but it did create a framework with a clearer legal and semi-legal differentiation between insiders and outsiders.<sup>877</sup> Due to the territorial fragmentation of the Holy Roman Empire and the restrictive settlement laws of urban and territorial authorities, it took very little for people to become 'unsettled' legally, compared with more centralised states like France or England. According to Leo Lucassen, itinerant groups were much more likely to be excluded as a result of these settlement regimes and much more vulnerable to criminalisation than elsewhere.<sup>878</sup>

Thus, to gain a better understanding of differences in women's involvement in recorded crime throughout early modern Europe, it is crucial to take a closer look at the way mobility was

<sup>873</sup> S. Hochstadt, 'Migration in preindustrial Germany', *Central European History* 16:3 (1983) 195-224, 221-222; A. Gestrich, 'Trajectories of German settlement regulations. The Prussian Rhine Province, 1815-1914' in: S. King and A. Winter eds., *Migration, settlement and belonging in Europe, 1500-1930s. Comparative perspectives* (New York 2013) 250-268, 252; K. Härter, 'Recht und Migration in der frühneuzeitlichen Ständegesellschaft. Reglementierung – Diskriminierung – Verrechtlichung' in: R. Beier-de Haan ed., *Zuwanderungsland Deutschland. Migrationen 1500-2005* (2005) 50-71; Lees and Hollen Lees, *Cities*, 37.

<sup>874</sup> H. Wunder, 'Gender norms and their enforcement in early modern Germany' in: L. Abrams and E. Harvey eds., *Gender Relations in German History. Power, agency and experience from the sixteenth to the twentieth century* (London 1996) 39-56, 45-46; K.A. Lynch, *Individuals, families, and communities in Europe, 1200-1800. The urban foundations of western society* (Cambridge 2003) 154-155.

<sup>875</sup> P. Lourens and J. Lucassen, "'Zunftlandschaften" in den Niederlanden und im benachbarten Deutschland' in: W. Reininghaus ed., *Zunftlandschaften in Deutschland und den Niederlanden im Vergleich* (Münster 2000) 11-43. Also: M. Prak et al., 'Access to trade. Citizens, craft guilds and social and geographical mobility in early modern Europe – a survey of the literature, with additional new data', BEUCITIZEN Working Paper 1 (2014); K. Stuart, *Defiled trades and social outcasts. Honour and ritual pollution in early modern Germany* (Cambridge 2006) 2-3; C.R. Friedrichs, 'How German was the German home town?', *Central European History* 47:3 (2014) 488-495; B. Roeck, *Civic culture and everyday life in early modern Germany* (Leiden 2006).

<sup>876</sup> M. De Koster and H. Reinke, 'Policing minorities' in: P. Knepper and A. Johanse eds., *The Oxford handbook of the history of crime and criminal justice* (Oxford 2016) 268-284.

<sup>877</sup> Härter, 'Migration und Recht', 66; J. Eibach, 'Versprochene Gleichheit - verhandelte Ungleichheit. Zum sozialen Aspekt der Strafjustiz der Frühen Neuzeit', *Geschichte und Gesellschaft* 35 (2009) 488-533, 526. On migration in early modern Germany in general: D. Hoerder, *Geschichte der deutschen Migration vom Mittelalter bis heute* (München 2010).

<sup>878</sup> L. Lucassen, 'Between Hobbes and Locke. Gypsies and the limits of the modernization paradigm', *Social History* 33:4 (2008) 423-441, 439. Also: L. Hollen Lees, *The solidarities of strangers. The English poor laws and the people, 1700-1948* (Cambridge 1998) 47-48.; K. Härter, 'Security and cross-border political crime. The formation of transnational security regimes in 18<sup>th</sup>- and 19<sup>th</sup>-century Europe', *Historical Social Research* 38:1 (2013) 96 – 106.

regulated. Sheilagh Ogilvie found that, because of the stronger social and institutional restrictions, female mobility in early modern Germany was penalised more harshly than elsewhere in Europe. This was closely linked to attempts to regulate independent, unmarried women. Ogilvie stated that while such regulations were also found elsewhere in Europe in the sixteenth century, they were progressively abandoned in the following centuries in contrast to Germany where instead they intensified.<sup>879</sup> Despite these restrictions, mobility was part of everyday life for large sections of the population, who moved either temporarily or permanently in search of work or security.<sup>880</sup>

But how did perceptions about gender influence the norms, regulations and control mechanisms that were implemented by the authorities to regulate migration over the course of the early modern period? And how did these influence the patterns of prosecuted crime of men and women in Frankfurt? In order to answer these questions, this chapter investigates the way that people who transgressed the mobility norms implemented by Frankfurt's authorities were prosecuted. The first part of this chapter focuses on the various police ordinances that were issued by the authorities against vagrancy and begging in Frankfurt, as well as on the regulation of migration to and mobility in the city in general. This allows us to investigate the norms the city's authorities imposed on mobility and how they developed through time. The chapter then investigates how these attitudes influenced the policing efforts of the authorities, and how this affected the position of migrant men and women. Finally, the last section of this chapter is devoted to understanding how exclusion from communities was gendered by examining the breach of banishment as a case study. Studying this typical early modern crime is particularly suitable to investigate the position of mobile women. Were they more affected by this punishment than men because of the norms that discriminated against independent women?

Despite the strong institutional control to which they were subjected, men and women were in fact mobile. Data on the geographical background of citizens in early modern German cities demonstrate that the majority were usually born elsewhere.<sup>881</sup> Moreover, studies have shown that women made up a considerable part of the migration to cities in early modern Germany, and

<sup>879</sup> S. Ogilvie, *A bitter living. Women, markets, and social capital in early modern Germany* (Oxford 2003) 114-115; 312. Also : R. Dürr, 'Der Dienstbote ist kein Tagelöhner...' Zum Gesinderecht (16. bis 19. Jahrhundert) in: U. Gerhard ed. *Frauen in der Geschichte des Rechts* (München 1997) 115-139, 116; M. Wiesner, 'Paternalism in practice: the control of servants and prostitutes in early modern German cities' in: P.N. Bebb and S. Marshall eds., *The process of change in early modern Europe* (Athens OH, 1988) 179-200; U. Rublack, *The Crimes of women in early modern Germany* (Oxford 1999) 152-154; B. Studer, 'Frauen im Bürgerrecht. Die soziale und rechtliche Stellung von Frauen in spätmittelalterlichen Städten' in: R.C. Schwinges ed., *Neubürger im späten Mittelalter. Migration und Austausch in der Städtelandschaft des Alten Reiches (1250-1550)* (Berlin 2002) 169-201.

<sup>880</sup> Hochstadt, 'Migration in Preindustrial Germany'; Hoerder, *Geschichte der deutschen Migration*, 20; Moch, *Moving Europeans*, 42-43; J. Lucassen and L. Lucassen, 'The Mobility transition revisited, 1500-1900. What the case of Europe can offer to Global History', *Journal of Global History* 4 (2009) 347-377; K.J. Bade et al. eds., *The encyclopedia of migration and minorities in Europe. From the 17th century to the present* (Cambridge 2011).

<sup>881</sup> Moch, *Moving Europeans*, 44; T., McIntosh, *Urban Decline in Early Modern Germany. Schwäbisch Hall and Its Region, 1650-1750* (Chapel Hill 1997) 165-175; Prak et al. 'Access to trade'.

could even exceed male migration.<sup>882</sup> The lion's share of migration directed towards Frankfurt during this period was life-cycle dependent labour migration: journeymen, day labourers and domestic servants.<sup>883</sup> According to Rainer Koch, the number of migrant women (excluding those that had acquired citizenship or become resident aliens) in eighteenth-century Frankfurt was about 9,000. This is equal to a quarter of the total population, and more than half of all the foreigners (*Fremde*) in the city. However, the reasoning on which he based this estimate is unclear.<sup>884</sup> More reliable data are available about the percentage of migrant women among new citizens. In Frankfurt, about 8.7% of the men born locally who acquired citizenship between 1600 and 1735 were married to a woman who had been born elsewhere, and consequently migrated to the city. The number of migrant men acquiring citizenship who married a non-native woman was slightly higher at 10.4%.<sup>885</sup> In total, 31.5% of the non-natives that became burghers within this period were women, most of them through marriage but some on their own account.<sup>886</sup>

Thus, early modern Germany was characterised both by strong regulation *and* high levels of mobility. How then did the increasing restrictive control of mobility by the authorities affect the position of migrants in the city? And was unwanted mobility perceived differently for men and women? If so, how did this shape the prosecution efforts of the authorities?

### Reforming poor relief: the importance of settledness

In order to answer these questions, it is necessary to study the framework within which the regulation of migration developed, and how this shaped distinctions between insiders and outsiders of the urban community. From the sixteenth century onwards, mobile poor and travelling groups were increasingly subjected to regulation and criminalisation as a result of growing public and official concern. The animosity towards impoverished outsiders was closely linked to major

<sup>882</sup> C. Pfister, *Bevölkerungsgeschichte und Historische Demographie 1500-1800* (2nd Edition: 2007) 116-119; McIntosh, *Urban decline*, 166. Studies of women and migration for the early modern period are still scarce, especially in contrast to studies on the nineteenth and twentieth century: S. Hahn, *Historische Migrationsforschung* (Frankfurt 2012) 57-59, 65; S. Hahn, *Migration-Arbeit-Geschlecht. Arbeitsmigration in Mitteleuropa vom 17. Bis zum Beginn des 20. Jahrhunderts* (Göttingen 2008); P. Sharp ed., *Women, Gender and Labour Migration. Historical Perspectives* (New York 2001); M. Kraus and H. Sonnabend eds., *Frauen und Migration* (Stuttgart 2001); E. Aubele and G. Pieri eds., *Femina Migrans. Frauen in Migrationsprozessen* (18.-20. Jahrhundert) (Sulzbach/Taunus 2011).

<sup>883</sup> E. Karpf, *Eine Stadt und ihre Einwanderer. 700 Jahre Migrationsgeschichte in Frankfurt am Main* (Frankfurt 2013) 67-77; H. Duchhardt, 'Frankfurt am Main im 18. Jahrhundert' in: Frankfurter Historische Kommission ed., *Frankfurt am Main. Die Geschichte der Stadt in neun Beiträgen* (Sigmaringen 1994) 216-302, 273-277.

<sup>884</sup> R. Koch, 'Frankfurt am Main im 18. Jahrhundert. Topographie, Demographie, Verfassung, Lebens- und Rechtsgemeinschaften' in: G. Engel, U. Kern and H. Wunder eds., *Frauen in der Stadt. Frankfurt im 18. Jahrhundert* (Königstein/Taunus 2002) 67-86, 71.

<sup>885</sup> G.L. Soliday, *A Community in Conflict. Frankfurt Society in the Seventeenth and Early Eighteenth Centuries* (Hanover 1974) 47.

<sup>886</sup> Soliday, *Community in Conflict*, 49. Other relevant tables on pages 44-52. For similar figures in other cities: McIntosh, *Urban Decline*, 165-175.

changes in the organisation of poor relief throughout early modern Europe.<sup>887</sup> These changes were stimulated by the ideals of poverty and poor relief of the Protestant reformers, most importantly Martin Luther, and humanists like Juan Luis Vives. The key aspects of the changes were the distinction between the deserving and undeserving poor, and a call for reforming and centralising relief practices.<sup>888</sup> In *An den christlichen Adel deutscher Nation* (1520), Luther called for the abolition of all begging among Christians and in order to achieve this he stated that ‘each town should support its own poor and should not allow strange beggars to come in [...]’. He proposed introducing a system of overseers who would know the local poor and be able to distinguish them from strangers.<sup>889</sup> Between 1522 and 1530 more than 25 poor relief regulations were implemented in German cities in line with Luther’s principles, including Frankfurt.<sup>890</sup> His principles were also at the foundation of the 1530 Reich Police Ordinance. There it was stipulated that every parish was obliged to take care of the deserving poor within their own community and to allow only their own disabled and feeble members to beg for assistance.<sup>891</sup>

Thus, reforms in poor relief during this period rested on two principles: first, (centralised) care for the city’s own deserving poor, and, second, the exclusion of (foreign) beggars. How these principles were implemented varied considerably, both within the Holy Roman Empire and elsewhere in early modern Europe and changed over time. One of the logical consequences of organising poor relief based on these principles was the necessity to define ‘belonging’ to the community. In other words: who had the right to relief and who did not? Joanna Innes, Steven King and Anne Winter differentiated between three different types of leading principles that authorities employed to define belonging in early modern Europe: work-based systems, where settlement was granted based on employment status (e.g. completed apprenticeships, guild membership and so on); residence-based systems, where settlement was granted after a period of

<sup>887</sup> R. Jütte, *Poverty and deviance in early modern Europe* (Cambridge 1994); A. Gestrich and L. Raphael eds., *Strangers and poor people. Changing patterns of inclusion and exclusion in Europe and the Mediterranean world from classical antiquity to the present day* (Frankfurt am Main 2009); H. Bräuer, ‘Armut in Mitteleuropa 1600 bis 1800’ in: S. Hahn, N.M. Lobner and C. Sedmak eds., *Armut in Europa, 1500-2000* (Innsbruck 2010) 13-34.

<sup>888</sup> Bräuer, ‘Armut in Mitteleuropa’, 17; R. Jütte, *Arme, Bettler, Beutelschneider. Eine Sozialgeschichte der Armut* (Weimar 2000) 131-190; S. Schmidt, “Pleasing to God and beneficial to man”. On the confessional similarities and differences of early modern poor relief in: A. Gestrich, L. Raphael and H. Uerlings eds., *Strangers and poor people. Changing patterns of inclusion and exclusion in Europe and the Mediterranean world from classical antiquity to the present day* (Frankfurt am Main 2009) 315-342.

<sup>889</sup> M. Luther, *Adress to the Christian Nobility of the German Nation Respecting the Reformation of the Christian Estate* (1520), translated by C.A. Buchheim in: Internet Modern History Sourcebook, <https://sourcebooks.fordham.edu/Halsall/mod/modsbook.asp> (accessed 07-06-2017) part 2, §21.

<sup>890</sup> Jütte, *Arme, Bettler, Beutelschneider*, 141. On the reorganisation of poor relief in Frankfurt and the establishment of a communal poor chest, see: R. Jütte, *Obrigkeitliche Armenfürsorge in Deutschen Reichsstädten der Frühen Neuzeit* (Köln 1984); H. Schembs ed., *Der Allgemeine Almosenkasten in Frankfurt am Main 1531-1981. 450 Jahre Geschichte und Wirken einer öffentlichen milden Stiftung* (Frankfurt am Main 1981).

<sup>891</sup> M. Weber ed., *Die Reichspolizeiordnungen von 1530, 1548 und 1577. Historische Einführung und Edition* (Frankfurt am Main 2002) 161; Gestrich, ‘Trajectories of German settlement regulations’, 252.

continuous and uninterrupted residence; and finally, birth-based systems. In most places, hybrid systems evolved with multiple criteria for settlement and subsequently multiple levels of access to urban provisions, including poor relief.<sup>892</sup>

One of the characteristics of early modern Germany was that citizenship (*Bürgerschaft*) was more defining in regulating belonging than elsewhere, and that it was more strongly associated with notions of the well-ordered household.<sup>893</sup> German authorities placed increasing importance on belonging and settledness (*Sesshaftigkeit*). Settledness can be defined as having a fixed place of residency accompanied with legal incorporation into a community, either as a burgher or resident alien. German authorities envisioned a model of social order in which everyone was incorporated within a household, preferably governed by a male head of the household, or at least subjected to a legal community in some shape or form.<sup>894</sup> This ideal of social order was based on a principle of reciprocity. Settledness not only meant obligations (paying taxes, etc.), but also meant that one could put a claim on the authority's responsibility to provide protection (*Schutz*) to their members. According to Heinz Schilling, this was one of the basic principles of the *Stadtrepublikanismus*, or urban republicanism, that existed in the Free Imperial Cities of the Holy Roman Empire.<sup>895</sup> Under this system, foreign suspects were always asked if they were under 'protection' (*Schutz*) somewhere. This was the same as asking if someone was formally settled anywhere and thus legitimised their mobility.<sup>896</sup>

In Frankfurt, only citizens and resident aliens (*Beisassen*) were entitled to communal relief.<sup>897</sup> The total burgher community of Frankfurt (including male household heads with full citizenship, their families, widows and other independent women with citizenship rights) accounted for approximately 50% of the population in the second half of the eighteenth century.<sup>898</sup> In order to prevent destitute people from being able to have access to the city's poor relief funds, the city council linked the admission of foreigners to citizenship and the obtaining of settlement as a resident alien to wealth. For new citizens (thus not locally born burgher sons), the required minimum asset varied between 100 Guilders and 50 Guilders in the early modern period. For resident aliens, the requirements were even stricter: they were obliged to have a minimum of 500

<sup>892</sup> Innes, King and Winter, 'Settlement and belonging', 10-11.

<sup>893</sup> Gestrich, 'Trajectories of German Settlement Regulations', 252; Härter, 'Recht und Migration', 51-52; C.R. Friedrichs, *The early modern city 1450-1750* (2nd edition: New York 2013) 143.

<sup>894</sup> Härter, 'Recht und Migration'; Rublack, *Crimes of women*, 9.

<sup>895</sup> H. Schilling, *Die Stadt in der Frühen Neuzeit* (2nd edition: München 2004) 89-90.

<sup>896</sup> Lucassen, 'Police professionalisation', 35. This principle shaped settlement regulations well into the nineteenth-century: A. Fahrmeir, 'Nineteenth-century German citizenship. A reconsideration', *The Historical Journal* 40:3 (1997) 721-752.

<sup>897</sup> Jütte, *Obrigkeitliche Armenfürsorge*, 214-217; J.H. Faber, *Topographische, politische und historische Beschreibung der Reichs- Wahl- und Handelsstadt Frankfurt am Main*. Vol. 1. (Frankfurt am Main 1788) § 21 and § 22.

<sup>898</sup> R. Roth, *Stadt und Bürgertum in Frankfurt am Main. Ein besonderer Weg von der ständischen zur modernen Bürgergesellschaft 1760-1914* (München 1996) 86.



Guilders in assets.<sup>899</sup> In addition to this, foreigners that had acquired citizenship had to guarantee that they would not claim relief for four years.

The same applied for resident aliens, who only formed a minority of the city's inhabitants (see table 1). According to the *Beisassenrecht* (law relating to resident aliens) of the late sixteenth century, they were not entitled to poor relief for the first couple of years.<sup>900</sup> Foreigners (*Fremde*) were not eligible to claim structural relief at all. Moreover, for them, having employment was a necessary condition to be able to stay in the city, as it guaranteed that they would be subjected to the authority of the head of the household or the guilds instead of wandering around begging. Foreigners that did not work as domestic servants or journeymen – and were therefore incorporated in a household – were required to register and ask formal permission from the authorities, otherwise their stay was restricted to a period ranging from three to eight days.<sup>901</sup>

**Table 18 Composition of the population according to legal status, 1785-1810**

Year	Inhabitants	Full Citizens <sup>902</sup>		Resident Aliens		Jews	
1785	36,400	4,200	11.5%	1,800	4.9%	3,000	8.2%
1795	37,000	4,360	11.8%	1,500	4.1%	2,969	8%
1805	37,000	4,520	12.2%	1,200	3.2%	2,939	7.9%
1810	40,485	4,680	11.6%	994	2.5%	2,214	5.5%

Source: Roth, 'Blühende Handel', 362.

Such distinctions were not only important because they determined the level of access to community rights, and the right to stay, but also because they defined the relationship between individuals and the urban authorities. It meant a differentiation between those that were granted the formal protection (*Schutz*) of the city council, who committed to protect and defend their rights

<sup>899</sup> Jütte, *Obrigkeitliche Armenfürsorge*, 214-217; R. Koch, *Grundlagen bürgerlicher Herrschaft. Verfassungs- und sozialgeschichtliche Studien zur bürgerlichen Gesellschaft in Frankfurt am Main (1612-1866)* (Wiesbaden 1983) 76-90; Roth, *Stadt und Bürgertum*, 65-88.

<sup>900</sup> Jütte, *Obrigkeitliche Armenfürsorge*, 216-217. The number of years resident aliens were barred from relief is not specified. Jütte simply states 'several years – *einige Jahre*'.

<sup>901</sup> As part of the extensive criminal investigations against city council member Johann Erasmus von Senckenberg, against whom (amongst other things) investigations were carried out for the rape of his cook Maria Katharina Agricola, many administrative records from his personal records ended up in the *Criminalia*. These included city council records dealing with the regulation of settlement and illegal foreigners. IfSG Frankfurt am Main, Criminalia 12880 (1756) e.g. folio 153, Ratsedikt, 22.08.1709 'Fremde sollen binnen acht tagen sich aus der Stadt und deren dorfschafften begeben'; PO 3356 *Fremde Handwerksleute, die keinen Meister haben, sollen sich daher nicht über die gehörige Zeit aufhalten* 25.03.1749.

<sup>902</sup> Unfortunately, there are only reliable data are only available for *Vollbürger*, i.e. male household heads. If their sons, daughters and wives, and widows heading a household independently are included the citizenry accounted for close to 50 percent in the eighteenth century.

and personal security.<sup>903</sup> Various police ordinances either explicitly or implicitly defined who the authorities of Frankfurt considered as deserving the protection of the city. These included all burghers and their families, resident aliens and their families, Jews with citizenship and their families, the city's soldiers and their families, and, finally, foreigners who had received permission to stay in the city. As one can see in table 2, domestic servants and journeymen were not listed, because they were considered to belong to the protection of either the household or the guild. Unless they belonged to one of the categories described above they had no formal *Schutzverhältnis* to Frankfurt.<sup>904</sup>

**Table 19 People falling under the protection (Schutz) of the urban authorities**

<b>Burghers</b> , their sons and daughters, and widows (provided they did not marry a foreigner).
<b>Resident aliens</b> , their children and widows (provided they did not marry a foreigner.)
<b>Jews with citizenship</b> ( <i>Schutzjuden</i> ) and their widows and children.
<b>Soldiers</b> of the city's army, including their wives, widows and children as long as they had been married with the consent of the <i>Kriegszeugamt</i> .
<b>Foreigners</b> with formal permission to stay.

Source: PO 3632 *alle und jede in hiesigem Schutz und Pflichten nicht stehende Personen binnen 14 Tagen aus der Stadt zu schaffen* 24.05.1763.

Differentiating between various levels of belonging, particularly in a society in which mobility was omnipresent, required an administrative framework to monitor the movement of people from and to the city, their (possible) settlement and a registration system to examine their legal status. In 1593, the city council established the *Inquisitionsammt*, presided by three council members, to oversee the admission of citizenship and residency for registered aliens, as well as reviewing requests of foreigners to stay in the city for a limited period of time. In the eighteenth century, the *Inquisitionsammt* was incorporated with the *Schatzungsamt*, the tax office.<sup>905</sup> Apart from this office, which was after all only meant to monitor those that settled in the city, the city council implemented a whole set of regulations aimed at controlling migration. These included efforts to control places of arrival (city gates, inns and taverns), requiring the neighbourhood burgher captains to monitor and register

<sup>903</sup> For the legal meaning of the *Schutz*-principle, see the discription in: *Deutsches Rechtswörterbuch Online*, <http://drw-www.adw.uni-heidelberg.de/drw/info/index.html> (accessed 01-09-2017).

<sup>904</sup> Koch, *Grundlagen bürgerlicher Herrschaft*, 112, 116; Roth, *Stadt und Bürgertum*, 84-85.

<sup>905</sup> A. Johann, *Kontrolle mit Konsens. Sozialdisziplinierung in der Reichsstadt. Frankfurt am Main im 16. Jahrhundert* (Frankfurt am Main 2001) 48-50; Soliday, *Community in Conflict*, 54.

local population movements, and the increasing demanded for documentation (registration at the city gates and inns; issuing gate passes; requesting the possession of identification documents).<sup>906</sup>

These regulations were implemented from the middle of the sixteenth century onwards, but intensified from the late seventeenth century. To compare: cities in the province of Holland only started to experiment with the implementation of law to restrict settlement from the second half of the seventeenth century onwards, during a period of economic decline. However, the urban authorities quickly abandoned the restrictions because they were unable to implement them. And in Amsterdam authorities refrained from implementing exclusionary settlement regulations because they feared this would put off migrant labourers from coming to the city.<sup>907</sup> Lynn Hollen Lees found that compared to early modern England, German towns employed more developed mechanisms to control and regulate the entry- and residence of strangers.<sup>908</sup>

Despite the desire to control and restrict the movement of newcomers, demographic necessity meant that early modern cities depended on incoming migration, as they could generally not reproduce themselves naturally before the nineteenth century.<sup>909</sup> Unfortunately, there is little information about the geographical, economic, and socio-cultural background of migrants coming to Frankfurt. In the late sixteenth century, religious refugees from the Low Countries found their way to the city, and boosted the local economy. At the peak of the refugee migration, the Flemish-Walloon community counted approximately 3000 to 3500 people that settled in the city permanently on a total population of 20,000. Although they were initially granted to establish their own church within the city borders, this was later prohibited and they moved their church to Bockenheim, in the vicinity of the city.<sup>910</sup> In the seventeenth century, after the revocation of the Edict of Nantes, Frankfurt faced new crowds of religious refugees as approximately 70,000 Huguenots passed through the city on to other destinations. Due to the restrictions on the freedom of worship, Frankfurt was not attractive for permanent settlement, but it offered support and protection for the time being.<sup>911</sup> We know even less about the background of labour migrants coming through the city, but only Lutherans could become citizens.<sup>912</sup> It is known for other cities in Europe, that (migrant) churches were important for migrants as support networks and enabled their integration into the city by providing assistance in times of need.<sup>913</sup> Johannes Müller found

<sup>906</sup> J. Kamp, 'Controlling Strangers - Identifying Migrants in Early Modern Frankfurt am Main' in: H. Greefs and A. Winter eds., *Materiality of Migration* (Forthcoming 2018).

<sup>907</sup> Van Leeuwen, 'Overrun by Hungry Hordes?', 186-187, 190.

<sup>908</sup> Hollen Lees, *Solidarities of strangers*, 47-48.

<sup>909</sup> Lucassen and Lucassen, 'Mobility transition', 359-363.

<sup>910</sup> Karpf, *Eine Stadt und ihre Einwanderer*, 41-66; Schindling, 'Wachstum und Wandel', 211, 224-228.

<sup>911</sup> Duchhardt, 'Frankfurt am Main', 263.

<sup>912</sup> Soliday, *Community in conflict*, 4-5.

<sup>913</sup> Van de Pol and Kuijpers, 'Poor women's migration'.

that in Frankfurt too, religious networks played an important role in the integration of refugees from the Low Countries in the urban community.<sup>914</sup> Again, however, we know much more of distinct groups of migrants in Frankfurt, and an in-depth study on the migration patterns and networks, or of the composition of the urban population in general, is much needed.

We do know, however, that Frankfurt's city council was regularly caught between conflicting interests with regard to the regulation of migration. They needed to consider the majority of the burgher community, who demanded that the city council implement protectionist regulations to preserve the economic position of the guild. Throughout the early modern period, burghers demanded increasing economic restrictions for resident aliens, whereas the authorities at times opted for a more open migration policy to draw in wealthy migrants. This led to tensions between the burgher community and the city council on several occasions.<sup>915</sup> At the same time, implementing too many restrictions on entry to the city would also hinder its economy as Frankfurt depended on free access to the city in order to maintain its function as a centre for trade. In general, however, it appears that the city council was keen on implementing and enforcing regulations, although they often lacked the resources and institutional back up to do so.<sup>916</sup> For example, formally everyone entering the city gate would have to undergo investigation and be checked. In practice, this was not always feasible, and many were able to enter the city gates without any such investigation.<sup>917</sup> Similarly, innkeepers were required to register all their guests each night and hand the registry to the burgomasters of the *Inquisitionssamt* each night. In addition, they were not allowed to house guests who could not demonstrate identity papers and a proof of entry from the city gates. But here as well, enforcement proved difficult and 'illegal' migrants managed to find lodgings in the city.<sup>918</sup>

Maintaining economic stability and social order were the main principles influencing early modern migration policies.<sup>919</sup> The patriarchal household formed the ideal unit in the minds of early

<sup>914</sup> J. Müller, *Exile memories and the Dutch Revolt. The narrated diaspora, 1550-1750* (Leiden 2016).

<sup>915</sup> Karpf, *Eine Stadt und ihre Einwanderer*, 42-78; C. Reves, *Vom Pomeranzengänger zum Großhändler. Netzwerke und Migrationsverhalten der Brenntano-Familien im 17. Und 18. Jahrhundert* (Paderborn 2012) 231-292; J. Müller, 'Transmigrant literatur. Translating, publishing, and printing in seventeenth-century Frankfurt's migrant circles', *German Studies Review* 40:1 (2017) 1-21, 4; M. Magdelaine, 'Frankfurt am Main. Drehscheibe des Refuge' in: R. Thassen and M. Magdelaine eds., *Die Hugenotten* (München 1985) 26-37.

<sup>916</sup> Kamp, 'Controlling strangers'.

<sup>917</sup> For examples, see: Criminalia 2630 (1711); Criminalia 3245 (1722); Criminalia 5250 (1741). At the same time, there are plenty examples of people who were arrested at the gate as well: Criminalia 1425 (1675); Criminalia 3383 (1724); Criminalia 4158 (1733); Criminalia 7559 (1759); Criminalia 7838 (1763). On the practice of entering gates in early modern cities: D. Jütte, 'Entering a city. On a Lost Early Modern Practice', *Urban History* 41 (2014) 204-227.

<sup>918</sup> IfSG Frankfurt am Main, Schatzungsamt, Ugb-Akten 928 (1779-1790); Schatzungsamt, Ugb-Akten 1003 (1777); Schatzungsamt, Ugb-Akten 1167 (1759-1760); Schatzungsamt, Ugb-Akten 1226 (1755); Schatzungsamt, Ugb-Akten 1255 (1756); Criminalia 3698 (1728); Criminalia 6763 (1753); Criminalia 7848 (1762); Criminalia 12880 (1770); Criminalia 10470 (1797); Criminalia 10681 (1801); Johann, *Kontrolle mit Konsens*, 49.

<sup>919</sup> K. Sennfelt, 'Ordering identification: Migrants and material culture in Stockholm, 1650-1720' in: H. Greefs and A. Winter eds., *Materiality of Migration* (Forthcoming 2018); Härter, 'Recht und Migration', 51.

modern rulers to guarantee social order. And, as Ulinka Rublack, phrased it: ‘mobility in itself was the great enemy of a society based on household control’.<sup>920</sup> Nevertheless, mobility was ubiquitous: urban communities depended on the arrival of newcomers to maintain population numbers. Domestic servants, journeymen, day labourers and merchants were indispensable for the urban community. The everyday reality of mobility made it difficult to formulate a clear-cut definition of belonging or even of settledness. Pierre Boussar Philippon – arrested for theft and vagrancy – stated, for example, that he was ‘not yet settled (*Sesshaft*) because he was still young and unmarried. Besides, he constantly travelled around with his merchandise between Saxony and along the Bohemian border’.<sup>921</sup> Others excused their unsettledness as a result of economic need. *Geschirrhändler* Philip Hahl who was arrested for vagrancy together with his family, stated that he could not afford to pay taxes that were required in case of settlement.<sup>922</sup> Historians working on vagrancy in early modern central Europe have argued that territorial fragmentation, restrictive settlement laws and tight guild control were some of the major reasons for people to become ‘unsettled’ and subsequently prosecuted as vagrants.<sup>923</sup> The emphasis on settledness, legal incorporation and household belonging restricted the opportunities for young women *and* men to settle in the city independently.

### Vagrancy laws and the labelling of unwanted mobility

The study of vagrants, travelling groups and other ‘unsettled’ people has been important to the study of the history of crime in early modern Germany since the 1970s and ‘80s with important contributions by Carsten Küther, Uwe Danker, Ernst Schubert and others, who mainly focused South-West Germany.<sup>924</sup> Since then, historians have moved away from the image of vagrants and

<sup>920</sup> U. Rublack, *The Crimes of Women in Early Modern Germany* (Oxford 1999) 9.

<sup>921</sup> Criminalia 5119 (1740) folio 1. Original: ‘Er seije noch an keinem ort sesshaft, weilen er noch jung und unverheurathet seije, auch mit seinen Galanterie waaren in Sachsen und an der Böhmischen Grantzne herum beständig hin und wieder reise.’

<sup>922</sup> Criminalia 8361 (1768) folio 2. Original: ‘Warum er sich denn nicht mit denen seinigen an dem Ort wo er geböhren und hingehöre ordentlich wohnbahr aufhalte, ob ihm denn nicht bekannt, dass das herumziehen und vagabunde leben dessen er eingestehe sehr verboten seije? Er seije ein blutarmer Mann der weiter nichts habe, als wie er da stehe und sein leben kümmerlich durch bringen müsse und deßwegen seije er nicht in Standt an einen Ort beständig zu wohnen weilen er das Schutz und herren geld nicht auf bringen können.’ Also see: Criminalia 8576 (1771) folio 2. Original: ‘Sein vatter habe zu Steinbiebersdorff den Schutz gehabt er aber stehe als ein armer Judt nirgends in Schutz und müste suchen wie der Allmosen sich zu erhalten.’

<sup>923</sup> B. Althammer, ‘Roaming men, sedentary women? The gendering of vagrancy offences in nineteenth century Europe’, *Journal of Social History* (Forthcoming 2018); K. Härter, ‘Cultural diversity, deviance, public law and criminal justice in the Holy Roman Empire’ in: T. Ertl and G. Kruijtzers eds., *Law adresssing diversity. Premodern Europe and India in comparison (13th – 18th centuries)* (Berlin 2017) 56-94.

<sup>924</sup> G. Schwerhoff, ‘Kriminalitätsgeschichte im deutschen Sprachraum. Zum Profil eines “verspäteten” Forschungszweiges’ in: A. Blauert and G. Schwerhoff eds., *Kriminalitätsgeschichte. Beiträge zur Sozial- und Kulturgeschichte der Vormoderne* (Konstanz 2000) 21-67, 39-42; C. Küther, *Menschen auf der Straße. Vagierende Unterschichten in Bayern, Franken, und Schwaben in der zweiten Hälfte des 18. Jahrhunderts* (Göttingen 1983); U. Danker, *Räuberbanden im Alten Reich um 1700. Ein Beitrag zur Geschichte von Herrschaft und Kriminalität in der frühen Neuzeit* (Frankfurt am Main 1988); E. Schubert, ‘Mobilität ohne Chance. Die Ausgrenzung des fahrenden Volkes’ in: W. Schulze ed., *Ständische Gesellschaft und soziale Mobilität* (München 1988) 113-163; N. Finzsch, *Obrigkeit und Unterschicht, en. Zur Geschichte der rehinischen Unterschichten gegen Ende des 18. und zu Beginn des 19. Jahrhunderts* (Stuttgart 1990); L. Lucassen, *Zigeuner. Die Geschichte eines*

other unsettled mobile people as a counter-society (*Gegengesellschaft*) and social bandits.<sup>925</sup> Rather, scholars like Gerhard Ammerer have stressed the heterogeneity of the many types of mobile groups and individuals that were labelled by the authorities as beggars, vagabonds or more general as undesirable and unsettled. Instead of forming a ‘counter-society’, many remained partially integrated or connected to the ‘settled’ communities.<sup>926</sup> Over the past two decades, historians have increasingly employed bottom-up perspectives and socio-cultural approaches to study the everyday experiences (*Alltagswelt*) of those who lived unsettled lives during the early modern period.<sup>927</sup>

At the same time, historiography has dealt quite extensively with the way top-down labelling processes shaped the image of mobility as potentially harmful, and how this became increasingly associated with criminality. Historians have shown how these processes were linked to changing perceptions of poverty and definitions of social order. These changes shaped policies against vagrancy, but also, more in general, affected policies concerned with settlement, migration, poor relief and so on.<sup>928</sup> The establishment of vagrancy regulations and anti-begging laws played an essential role in the attempts of urban (and territorial) authorities to exclude unwanted foreigners from their territory. The following paragraph will analyse the begging and vagrancy legislation of early modern Frankfurt and show that the importance placed on settledness led to increasing discriminatory legislation towards vagrants and other wandering groups.

The first laws that discriminated between local and foreign beggars in Frankfurt were implemented by the city council in the late fifteenth century.<sup>929</sup> These regulations were not intended to eradicate mendicancy entirely: they were implemented to ban the begging of foreigners only. Local ill and disabled people continued to be allowed to beg for alms on the streets. In order to be able to differentiate between local and non-local beggars, the city council implemented the use of

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*polizeilichen Ordnungsbegriffes in Deutschland 1700-1945* (Köln 1996); M. Rheinheimer, *Arme, Bettler und Vaganten. Überleben in der Not 1450-1850* (Frankfurt am Main 2000); G. Ammerer, *Heimat Straße. Vaganten im Österreich des Ancien Régime* (Vienna and Munich 2003); G. Fritz, *Eine Rotte von allerhandt rauberischem Gesindt. Öffentliche Sicherheit in Südwestdeutschland vom Ende des Dreißigjährigen Krieges bis zum Ende des Alten Reiches* (Ostfildern 2004); W. von Hippel, *Armut, Unterschichten, Randgruppen in der Frühen Neuzeit* (2nd edition: München 2013).

<sup>925</sup> For a recent overview of the historiography: G. Ammerer and G. Fritz, ‘Die Gesellschaft der Nichtsesshaften. Daseinsbewältigung, Lebens- und Umgangsformen’ in: G. Ammerer and G. Fritz eds., *Die Gesellschaft der Nichtsesshaften. Zur Lebenswelt der vagierenden Schichten vom 16. bis zum 19. Jahrhundert* (Affalterbach 2013) 7-20.

<sup>926</sup> L. Lucassen, ‘A blind spot. Migratory and travelling groups in Western European historiography’, *International Review of Social History* 38:2 (1993) 209-235; Ammerer, *Heimat Straße*, 307-308.

<sup>927</sup> See f.e.: Ammerer, *Heimat Straße*; P. Fumerton, *Unsettled. The Culture of Mobility and the Working Poor in Early Modern England* (London 2006); T. Hitchcock and R. Shoemaker, *London Lives. Poverty, Crime and the Making of a Modern City, 1690-1800* (Cambridge 2015).

<sup>928</sup> K. Härter, ‘Grenzen, Streifen, Pässe und Gesetze. Die Steuerung von Migration im frühneuzeitlichen Territorialstaat des Alten Reiches (1648-1806)’ in: J. Oltmer ed., *Handbuch Staat und Migration in Deutschland seit dem 17. Jahrhundert* (Berlin 2016) 45-86; S. King and A. Winter eds., *Migration, Settlement and Belonging in Europe, 1500-1930s. Comparative Perspectives*. (New York and Oxford 2013); De Koster and Reinke, ‘Policing Minorities’ 270-272.

<sup>929</sup> J. Menzler, *Die Bettelgesetzgebung des 17. Und 18. Jahrhundert im Gebiet des heutigen Landes Hessen* (Marburg 1967) 48-56; Jütte, *Armenfürsorge*, 27-31; 203-208; T. Bauer, ‘“Es solt yhe niemand unter den Christen betteln gahn”. Zur Geschichte der Bettler in Frankfurt am Main’, *Archiv für Frankfurts Geschichte und Kunst* 62 (1993) 91-100.

special identification badges.<sup>930</sup> In the early seventeenth century, local recipients of poor relief had to make themselves known by carrying a badge shaped like an eagle on their clothes.<sup>931</sup> The city's beadles (*Bettelhögte* – in eighteenth century referred to as *Armenknechte*) were charged with policing the streets looking for foreigners begging and to expel them from the city. These regulations formed the legal framework for the exclusion of foreigners considered to be undesirable to the urban community by the city council.<sup>932</sup>

In the seventeenth century, begging regulations became stricter and also banned begging by locals. According to an ordinance of 1625, the city council found that the increasing number of 'many local' and 'even more foreign beggars', caused considerable nuisance in the city. They considered that begging on the streets should be abolished completely. The true sick and needy had to be taken care of in the city's hospital and/or by the *Armenkassen*. All other individuals found begging were to be sanctioned, and foreign beggars would be punished and subsequently expelled.<sup>933</sup> Until the establishment of the poorhouse in 1679, begging and collecting alms continued to be tolerated in specific cases, most particularly for journeymen. Tramping was a central part of the city's economy, in which craft guilds dominated. Journeymen that arrived in the city and failed to find work were supposed to go to the *Stadtkanzlei* together with the *Stubenvatter* of their journeyman inn, or in the event that there was no designated inn for their handicraft, with the senior master of the guild. If the journeyman decided not to stay in the city and wait for work, he was granted a document that allowed him to beg in the city for two or three days in order to gather enough money to travel further. If a journeyman decided to stay instead, he was not allowed to beg, but received a document which allowed him to earn a living as a day labourer or carrying out non-regulated craft activities.<sup>934</sup>

In 1679 the city council established the *Armen-Waisen- und Arbeitshaus* (from now on referred to as the poorhouse) with the specific aim of eradicating begging from the city completely. The wish for such an institution had been voiced before, but was not fulfilled earlier due to funding

<sup>930</sup> M.R. Boes, 'Unwanted Travellers. The Tightening of City Borders in Early Modern Germany' in: T. Betteridge ed., *Borders and Travellers in Early Modern Europe* (Aldershot 2007) 87-112, 107-108.

<sup>931</sup> M. Hess, *Die Geschichte des Frankfurter Armen-, Waisen- und Arbeitshaus (1679-1810)* (1921). Unpublished PhD thesis, Universität Frankfurt am Main, 22.

<sup>932</sup> For similar developments, see: J.P. Coy, *Strangers and Misfits. Banishment, social control and authority in early modern Germany* (Leiden 2008) 31-56; A. Küntzel, *Fremde in Köln. Integration und Ausgrenzung zwischen 1750 und 1814* (Köln 2008) 70-76. For discussions of 'foreign' poverty as an instrument for exclusion (and inversely inclusion): L. Raphael, 'Grenzen von Inklusion und Exclusion. Sozialräumliche Regulierung von Armut und Fremdheit im Europa der Neuzeit', *Journal of Modern European History* 11:2 (2013) 147-167.

<sup>933</sup> PO 2032 *Betr. die abschaffung der Bettler und Colligirung einer Almosen Steuer* 25.08.1625. Original: 'Demnach ein Ehrenvestor wolweijser Rath dieser Staat nun eine Zeit hero befunden, dass mit den jenigen personen, welche sich des Bettlen gebrauchen eine merckliche gross Unordnung in dieser Statt eingerissen, in deme nit allein viele inländische des Bettlens sich befleissen, sondern auch noch ein mehrer Anzahl von fremden Bettler da Jahr Uber sich allhier uffbalten'.

<sup>934</sup> PO 2410 *Was massen einige handwercks Gesellen im Land herum vagiren* 30.12.1675. Original: 'sich mit Posseln oder anderer Tag-Arbeit sich so lange nehmen/ biß er Arbeit überkommet'.

problems. According to the ordinance, the poorhouse was established with the aim of abolishing the shameful begging on the streets (*umb das schändliche Gassenbettlen abzuschaffen*). From now on, journeymen unable to find work, foreign beggars and other vagrants (*Bettler und andere Vaganten*) had to report to the poorhouse where – after careful examination of each person's individual character and circumstances – they would receive some travel money (*Viatico/Zebrpfennig*) in order to leave Frankfurt. Those that failed to do so were arrested and expelled from the city.<sup>935</sup> In the following begging ordinances, the distinction between local beggars and foreigners was reinforced. In both cases, offenders would be punished by having to perform some sort of forced labour, either working in the city's trenches (*Schanzen*), cleaning the streets and pulling the scavengers cart (*Kothkarren*) or pulling wool (*Wollkratzen*). Unlike locals, however, who were released without further punishment, foreigners were expelled from the city after they had performed hard labour.

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Simultaneous to regulations that were specifically aimed at begging, there was a development in which the mobility of unsettled people in general, and of ethnic minorities (Jews and gypsies) in particular, became subjected to control, discrimination and subsequent criminalisation.<sup>937</sup> Again, the Reichs Police Ordinances of 1530, 1548 and 1577 formed the foundation for this process, introducing the basic norms and regulations, such as mandatory identification, expulsion of foreigners, etc.<sup>938</sup> After the city council issued some general regulations in the early seventeenth century, in which innkeepers were strictly forbidden to house any wandering suspicious people or beggars under penalty of paying a significant fine and even risking the loss of citizenship, the ordinances became of a more repressive and discriminatory nature in the late 1660s and the 1670s.<sup>939</sup> This first peak of repressive policing against wandering groups was directly related to the plague epidemic of 1666/67. 'Beggars, tramps, vagrants, itinerant artists, sick and in general all the loose and riff-raff' were seen as a massive threat for public health, as their uncontrollable movement meant they could easily have carried the disease from contaminated places to the city.<sup>940</sup> Throughout the period, unsettled Jews (*Betteljuden*) in particular (especially

<sup>935</sup> PO 2429 *umb das schändliche Gassenbettlen abzuschaffen* 04.09.1679.

<sup>936</sup> E.g. PO 2984 *Gänzlich Verbot des Gassenbettelns* 12.04.1729; PO 3250 *Bettler und herrnloses nichtwürdiges Gesindel soll nicht geduldet werden* 26.04.1742; PO 3417 *Ausschaffung der Bettler und herrnlosen Gesindels* 18.01.1753.

<sup>937</sup> For the prosecution of gypsies in early modern Frankfurt, see: Boes, 'Unwanted travellers', 96-98. For other regions in early modern German speaking territories, see (amongst others): Lucassen, *Zigeuner*; Härter, 'Cultural diversity', 73-83; V. Kallenberg, *Von "liederlichen Land-Läuffern" zum "asiatischen Volke". Die Repräsentation der 'Zigeuner' in deutschsprachigen Lexika und Enzyklopädien zwischen 1700 und 1850. Eine wissenschaftliche Untersuchung* (Frankfurt am Main 2010).

<sup>938</sup> Härter, 'Recht und Migration', 62-63.

<sup>939</sup> For early examples of ordinances against "Fabrende Leute", see: PO 1803 *Daß niemandt ohne unser deß Rahts, unserer Bürgermeister, oder deren darzu verordneten Rathspersonen Vorwissen und Bewilligung einige frembde anhero kommende Personen [...] bei ihme einziehen lassen* 02.05.1613; PO 2157 *Daß niemand einige frembde Personen hohes oder nidriges Stands, ohne vober erlangte [...] aufstrückliche und sonderbare Vergünstigung beherbergen* 16.06.1635.

<sup>940</sup> PO 2342 *Ordnung wornach sich unsere dess Raths der Statt Franckfurt an die Statt Pforten zur Inspection der Feden verordnete Rathsfreunde und zur Wacht bestellte kriegs Officirer, Soldaten und Schreiber in Einlaß- und Abweisung der Fremden zu halten*



Eastern European Jews) were linked to the spread of diseases.<sup>941</sup> The link between controlling epidemics and intensified prosecution of wandering groups was common throughout the Holy Roman Empire. Similar developments, for example are visible in Frankfurt's neighbouring territory of Kurmainz, and continued throughout the eighteenth century.<sup>942</sup>

In the eighteenth century, the city council regularly implemented general ordinances that demanded the expulsion of vagrants. In 1706 they ordered the banishment of all 'useless and masterless scum, [...] but in particular the so-called gypsies'.<sup>943</sup> Other general ordinances followed in 1708, 1709, 1714, 1717, 1723, 1729, 1738, 1742, 1749 and 1753.<sup>944</sup> None of these regulations formulated clear definitions as to who should be prosecuted and who should not. Some of the regulations aimed at a certain group in particular (e.g. gypsies in the beginning of the 18th century and Jews in the late seventeenth century). The majority of the ordinances, however, used a more general and all-inclusive terminology, such as *Gesindel* (scum), *Vaganten*, *Landstreicher* (vagrants) and *Bettler* (beggars). These terms were accompanied by adjectives like *leichtfertig* (frivolous); *liederliche* (loose), *verdächtig* (suspicious), *unzüchtig* (bawdy), *herrenloß* (masterless), *müssiggehend* (idle), *gottlos* (godless), and *verruht* (wicked). What was criminalised, therefore, was not so much an act, but rather a state of being. During the eighteenth century this state of being became increasingly associated with and equated to criminal behaviour. Beggars were associated with property offences, while vagrants and (in particular) gypsies were accused of even more serious offences such as robbery, arson, and - in times of war - espionage.<sup>945</sup>

On top of the layer of local ordinances issued by Frankfurt's city council itself was a layer of supra-regional ordinances issued by the *Oberrheinischer Kreis*.<sup>946</sup> General ordinances against vagrancy (*Poenalordnungen*) were issued by the *Kreis* amongst others in 1709, 1711, 1722, 1726, 1728,

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26.09.1667; PO 2348 *eine gewisse Ordnung, wo nach man sich alhie im Einlaß- Uffnehm- oder Abweisung der Frembden zu verhalten habe* 04.08.1668.

<sup>941</sup> E.g. PO 2770 *Was massen die schädliche Seuche der Bestilentz in Bohlen und verschiedenen dahin gränzenden Orten und Landen, dergestaltten wiederumb überhand niemt* 16.09.1710.

<sup>942</sup> Härter, *Policey und Strafrecht*, 951-953.

<sup>943</sup> PO 2712 *Daß in denen zu allhiesiger Stadt Bottmässigkeit gehörigen Dorffschafften kein unnützes und herrnloses Gesindlein von Bettlern und andern ihres gleichen nicht geduldet* 10.08.1706. Original: 'kein unnützes und herrnloses Gesindlein von Bettlern und andern ihres gleichen nicht geduldet [...] in specie aber so viel die so genannten Zigeuner betrifft noch in verwichenem Jahr den gemessen Befehl dahin ergehen lassen/ daß selbige/ wo sie in unserm Gebieth angetroffen werden mögten [...] fortgetrieben werden sollen'.

<sup>944</sup> Faber, *Topographische Beschreibungen* 2, 57; Hess, *Frankfurter Armen-, Waisen- und Arbeitshaus*, 66.

<sup>945</sup> PO 2905 *Demnach die Zigeuner, Bettler und sonst allerhand Vagabunden und herrnloses unnützes Gesind [...] in hiesiger Gegend und Nachbarschaft Troupen weiß zusammen rottiret [...]* 22.06.1723.

<sup>946</sup> The Holy Roman Empire was divided into several Reichskreise, which were administrative bodies, established primarily to organise a common defence structure and collect imperial taxes. Since the seventeenth century, Frankfurt had been the site of assembly for both the Oberrheinischer Kreis, and the Kurrheinischer Kreis. See: M. Müller, 'Die Reichsstadt Frankfurt am Main als Kur- und Oberheinische "Kreishauptstadt" im 17./18. Jahrhundert' in: A. Amend et al. eds., *Die Reichsstadt Frankfurt als Rechts- und Gerichtslandschaft im Römisch- Deutschen Reich* (München 2008) 107-137; M. Müller, *Die Entwicklung des Kurrheinischen Kreises in seiner Verbindung mit dem Oberrheinischen Kreis im 18. Jahrhundert* (Frankfurt am Main 2008).

1748 and 1763.<sup>947</sup> They regulated cooperation between the members of the *Kreis*, and made the prosecution of vagrants a communal effort and obligation, through collective patrols, etc. The ordinances of the *Oberrheinischer Kreis* used a similar stigmatising semantic towards vagrants as Frankfurt's city council employed in their local legislation. However, the regulations were much more far-reaching. In contrast to Frankfurt, where expulsion and forced labour were the only punishments formulated in the ordinances, the *Poenalordnungen* of the *Oberrheinischer Kreis* stipulated branding and even hanging as punishments for incorrigible vagrants.

In general, Frankfurt did not impose such severe punishments, and there are only a handful of references to offenders who were branded following *Poenalordnungen* of the *Oberrheinischer Kreis* in the criminal records.<sup>948</sup> Although it was rare for the magistrates in Frankfurt to brand offenders or impose the death penalty based on the ordinances of the *Oberrheinischer Kreis*, the ordinances *did* form the legal basis upon which Frankfurt expelled many offenders. It also led to increased cooperation between Frankfurt and other members of the *Oberrheinischer Kreis* in terms of policing. Because these patrols were mainly concerned with controlling the rural territories, they were of little influence on the policing in the city. Sometimes, however, vagrants arrested in the countryside were transported to Frankfurt for interrogation.<sup>949</sup> Overall, however, Frankfurt does not appear as an important actor in large-scale operations rounding up beggars and vagrants from the territory. Compared to some of the vagrancy removals known particularly from Southern Germany or Austria, the prosecution efforts of Frankfurt and the neighbouring territories appear to be less excessive.<sup>950</sup>

The continuous publication of ordinances prohibiting vagrancy, begging and other related practices have been read by historians as a sign of failure of the early modern state. They argued that authorities often lacked the resources as well as the legitimacy to effectively enforce policies against begging and vagrancy.<sup>951</sup> More recently, however, scholars have considered this view to be too simplistic. Karl Härter argued, for example, that the continuous publication of new vagrancy

<sup>947</sup> The *Poenalordnung des Ober- und Kurrheinischen Kreises* of 1748 is published in: B. Althammer and C. Gerstenmayer eds., *Bettler und Vaganten in der Neuzeit (1500-1933). Eine kommentierte Quellenedition* (Essen 2013) 164-171.

<sup>948</sup> Criminalia 3783 (1729); Criminalia 3944 (1731); Criminalia 4210 (1734); Criminalia 4945 (1739); Criminalia 5875 (1747); Criminalia 6520 (1751); Criminalia 6353 (1750); Criminalia 6957 (1754).

<sup>949</sup> E.g. Criminalia 3695 (1728); Criminalia 3845 (1730); Criminalia 7429 (1788); Criminalia 9233 (1781). On the influence of controlling vagrancy on the development of early modern 'police forces' and policing practices: policing, see: Lucassen, "Harmful tramps", 29-50; Härter, 'Security and cross-border political crime'; V. Milliot, 'Urban police and the regulation of migration in eighteenth-century France' in: B. de Munck and A. Winter eds., *Gated communities? Regulating migration in early modern cities* (Farnham 2012) 135-157; C. Emsley, *Crime, police, and penal policy. European experiences 1750-1940* (Oxford 2007) 63-73.

<sup>950</sup> R. Jütte, 'Bettelschübe in der frühen Neuzeit' in: A. Gestrich ed., *Ausweisung und Deportation Formen der Zwangsmigration in der Geschichte* (Stuttgart 1995) 61-71; L. Lucassen, 'Eternal vagrants? State formation, migration and travelling groups in Western Europe, 1350-1914' in: L. Lucassen, W. Willems and M. Cottaar eds., *Gypsies and other itinerant groups. A socio-historical approach* (New York 1998) 55-73; 63.

<sup>951</sup> J. Schlumbohm, 'Gesetze, die nicht durchgesetzt werden - ein Strukturmerkmal des frühneuzeitlichen Saates?', *Geschichte und Gesellschaft* 23 (1997) 647-663; Ammerer and Fritz, 'Die Gesellschaft der Nichtsesshaften', 11.

laws showed the capacity of the state to take action. It showed their ability to adapt their policies to (perceived) social threats and realities, and to develop new forms of disciplining, sanctioning, policing, registration and so on.<sup>952</sup> The ordinances were effective because they required those that were affected to adapt their tactics. They did so, for example, by stealing and forging required identity documents in order to maintain their mobility and circumvent the increasing pressure authorities put on settledness.<sup>953</sup> As such they still influenced the lives of vagrants, and in turn forced the authorities to react to the new survival strategies displayed by those on the road.<sup>954</sup> Second, they were 'effective' in the sense that they successfully criminalised marginal groups and formed "the enduring stereotype of external dangerous groups which threatened internal security [...]".<sup>955</sup> In the eyes of the authorities, the failure to eradicate begging and vagrancy was not necessarily the result of their own incompetence, but a sign of the incorrigibility of the wandering poor, which in turn strengthened the stereotype of an unruly and deviant mobile underclass.

Thus, what these paragraphs have demonstrated is that the urban authorities in Frankfurt employed increasingly restrictive and criminalising regulations concerning mobility. In order to maintain social order and economic stability, settlement in the city was bound to much more regulations than are known for a centralized state like early modern England, or the relatively open cities in the province of Holland. In order to understand how this influenced the 'urban' effect on female crime patterns, it is necessary to consider how these regulations impacted male and female mobility differently.

Working on the issue of gender and vagrancy in the early modern period, scholars initially argued that women hardly played a role when it comes to vagrancy. They assumed that the majority of vagrants were young and male.<sup>956</sup> Claudia Ulbrich, for example, stated that 'vagrancy was predominantly a male affair'.<sup>957</sup> According to Carsten Küther (and others), women were less likely to have to resort to a life on the streets out of economic need, because they were more likely to be considered as deserving poor, and therefore receive communal support.<sup>958</sup> Robert Jütte argued that as wives, daughters, and domestic servants women were more bound to the home and the settled

<sup>952</sup> Härter, *Policey und Strafrecht*, 1074-1080.

<sup>953</sup> For Frankfurt: Kamp, 'Controlling strangers - Identifying migrants'. Also: Lucassen, *Zigeuner*; Ammerer, *Heimat Straße*; Fritz, *Öffentliche Sicherheit*.

<sup>954</sup> Härter, 'Prekäre Lebenswelten', 21-38.

<sup>955</sup> Härter, 'Security and "Gute Policey"', 49.

<sup>956</sup> Von Hippel, *Armut, Unterschichten, Randgruppen*, 90; Finzsch, *Obrigkeit und Unterschichten*, 242; Fritz, *Öffentliche Sicherheit*, 227-229.

<sup>957</sup> C. Ulbrich, 'Zwischen Resignation und Aufbegehren. Frauen, Armut und Hunger im vorindustriellen Europa' in: G. Klein and A. Treibel eds., *Begehren und Entbehren. Bochumer Beiträge zur Geschlechterforschung* (Paffenweiler 1993) 167-183, 176.

<sup>958</sup> Küther, *Menschen auf der Straße*, 28. Also: R. Jütte, 'Dutzbetterinnen und Sündfegerinnen. Kriminelle Bettelpraktiken von Frauen in der Frühen Neuzeit' in: O. Ulbricht eds., *Von Huren und Rabenmüttern. Weibliche Kriminalität in der Frühen Neuzeit* (Köln 1995) 117-137, 121.

community than men, both economically as well as legally. He stated that in times of need women therefore experienced more pressure and social control to remain settled.<sup>959</sup> Both Robert Jütte and Helmut Bräuer considered this ‘pressure’ on settledness as a manifestation of existing moral norms, which put more pressure on women than it did on men. Illegitimacy was one of the main causes for women to be sentenced to a life on the road, while for men it had less of a discriminatory effect.<sup>960</sup>

More recently, Otto Ulbricht argued against explanations based on a supposed ‘moral pressure on settledness’ for women.<sup>961</sup> According to Ulbricht, sexual norms had only little validity among the lower classes, as the high illegitimacy rates during this period demonstrate. Instead, Ulbricht considered that a better, more general explanation was the traditional orientation of women on home and household, while men were more oriented towards the outside world. As a result of this (supposed) rootedness in the home, women were less familiar with the world of the road and therefore may have encountered more difficulties in making the transition to life on the road in contrast to men who had experienced this as soldiers, journeymen or other labour migration.

I argue, however, that such perceptions tend to reproduce older notions of migration and gender based on a dichotomy of female settledness and male mobility. In this perspective, female mobility (apart perhaps from the migration of domestic servants) is almost automatically considered as a transgression of existing norms. There are numerous studies that show that these perceptions hold little value. In fact, Beate Althammer pointed out that even though vagrancy is still largely framed as a male phenomenon, studies on German-speaking territories reveal that women represented about 35 to 40 percent among prosecuted vagrants in the eighteenth century.<sup>962</sup> Nevertheless, there were significant gender differences in the way authorities framed and regulated mobility, which in turn shaped the prosecution patterns of authorities.

### **Controlling male and female mobility: diverging approaches**

The settlement regulations and vagrancy laws in early modern Frankfurt produced a gendered labelling of ‘dangerous’ mobility. Perceptions about gender influenced the way authorities regulated migration. As a result of this, regulations to control mobility and suppress vagrancy worked out

<sup>959</sup> Jütte, ‘Kriminelle Bettelpraktiken’, 122.

<sup>960</sup> Jütte, ‘Kriminelle Bettelpraktiken’, 123; H. Bräuer, “... weillen Sie nit alzeit arbeit haben khan” Über die “Bettelweiber” von Wien während der frühen Neuzeit’, *L'Homme. Europäische Zeitschrift für Feministische Geschichtswissenschaft* 7 (1996) 135-143.

<sup>961</sup> O. Ulbricht, ‘Bettelei von Frauen auf dem Land in den Herzogtümern Schleswig und Holstein (1770-1810)’ in: G. Ammerer et al. eds., *Armut auf dem Lande. Mitteleuropa vom Spätmittelalter bis zur Mitte des 19. Jahrhunderts* (Wien 2010) 63-90, 65-66.

<sup>962</sup> For references see: Althammer, ‘Roaming men, sedentary women?’.

differently for men and women. An analysis of the framing of unwanted mobility in the vagrancy laws, and the regulatory framework concerned with migration shows that men were both at the core of images about dangerous mobility, and that at the same time male (labour) migration was much more institutionalized and considered as the norm.

The language employed by the authorities in vagrancy laws (as well as regulations concerning mobility in general) was often written from the perspective that men were the main target that needed to be addressed. Most ordinances used masculine nouns: *Landstreicher*, *Bettler*, *Vaganten*, etc.<sup>963</sup> This does not mean that women were excluded from these regulations. On the contrary, authorities apparently felt the need to specifically mention that women were included as well: both in the local ordinances as well as in the ordinances of the *Oberrheinischer Kreis*. Frankfurt's begging ordinance of 1729 stated that: 'no person, young or old, foreign or local, sick or healthy, regardless of their constitution or sex, should be tempted to beg for alms'.<sup>964</sup> In the *Poenalordnung* of 1748 directed at '*das Land-verderbliche Ziegeuner- Jauner- und anderes Diebs- Raub- Mord- wie auch Herrnlose- liederliche Bettel-Gesinde und Landstreicher*' it was even made explicit that this terminology apparently only applied to men: it was not until the sixth article of the ordinance that it stated that all the previously mentioned regulations should also apply to women.<sup>965</sup> Apparently the terminology and stereotypes employed made it necessary to explicitly state that these regulations also included women.

Such differences may seem superficial, but were in practice influential. According to Karl Härter, authorities employed different labelling tactics for each gender. In the case of men, they were more likely to frame men who were wandering around in pairs or small groups as organised gangs of robbers, or to attribute labels as gypsy or 'beggar Jew' (*Betteljuden*) and prosecuted them criminally in turn. According to Härter, this gender-specific labelling strategy of vagrancy as a sign of organised criminal activity for men vs. survival strategy for women influenced the age structure of vagrants. In Kurmainz hardly any men aged over 50 were arrested for vagrancy. Härter, argued that this was due to the fact that vagrant men were more likely to be sentenced to capital punishment because the authorities had labelled them as dangerous thieves and robbers, whereas women could count on more mercy.<sup>966</sup>

<sup>963</sup> The only ordinance specifically including the female noun, *Bettlerinnen*, was from 1708 and renewed in 1714. PO 2734 *Bettler und Vaganten sollen nicht geduldet werden* 02.02.1708.

<sup>964</sup> PO 2984 *Gänzlich Verbot des Gassenbettelns* 12.04.1729.

<sup>965</sup> *Poenalordnung des Ober- und Kurrheinischen Kreises* 1748, article VI: '*Allermassen nun in vorstehenden §§phis, nach unterscheid derer Fällen, gegen die Ziegeuner, Jauner und Vagabunden, männlichen Geschlechts, das nöthige Verordnet worden; also wird auch ein solches, in Ansehung der Weiber und deren Kinder, ohne unterscheid des Geschlechts, welche das 20te Jahr erfüllet haben, anbero wiederhohlet und erstreckt.*'

<sup>966</sup> Härter, 'Prekäre Lebenswelten', 32-36.

Perhaps even more important with regard to gender differences in the regulation of migration was the fact that all the ordinances associated the nomadic existence of journeymen with begging and vagrancy. Or, perhaps to put it more precisely, the ordinances considered the unregulated moving of young artisans in search of work to be a problem that was closely associated with their attempts to suppress begging. The tradition of moving as part of their apprenticeship and professional life was crucial for urban economies in Central Europe. According to Merry Wiesner, journeymen shared a self-identity and ideal of masculinity which was centred on independence and connected to mobility. For women, however, such qualities were not tolerated at all. A sixteenth-century author wrote that ‘one thinks highly of journeymen who have wandered, but absolutely nothing of maids who have done so’.<sup>967</sup>

Over the course of the seventeenth and eighteenth centuries, authorities increasingly aimed to regulate journeymen’s mobility. Journeymen were increasingly connected with potential risks for public order, but the perceptions of young men’s masculinity connected to mobility continued to have a lasting importance for normative gender roles. More than any other group of labour migrants, the mobility of journeymen was highly institutionalised and controlled by guilds, the use of *Kundschaften* (reference letters), designated inns etc.<sup>968</sup> In Frankfurt, every journeyman entering the city was required to go directly to his *Gesellenherberge* (a lodging house for his own particular guild) and report to the *Stubenvatter*. If there was no designated inn for his particular craft, the journeyman was not allowed to choose his lodging freely, but had to report to the senior master of the guild. This master would supervise his search for a new service and make sure the journeymen would not go around begging. In order to prevent journeymen from staying too long in town if they were unable to find a new position, the period journeymen were allowed to stay in the lodgings was restricted, usually – depending on the guild – to eight days.<sup>969</sup> In addition to carrying passports, which were increasingly required for everyone in the early modern period, journeymen had to carry written attestations from former employers, which served a twofold purpose.<sup>970</sup> First, they functioned as recommendations for future employers, and enabled them to examine the

<sup>967</sup> M.E. Wiesner, ‘“Wandervogels” and women. Journeymen’s concepts of masculinity in early modern Germany’, *Journal of Social History* 24:4 (1991) 767-782, 777. Also: R. Dürr, ‘Die Migration von Mägden in der Frühen Neuzeit’ in: M. Krauss and H. Sonnabend eds., *Frauen und Migration* (Stuttgart 2001) 117-132.

<sup>968</sup> R. Reith, ‘Circulation of skilled labour in late medieval and early modern Central Europe’ in: S.R. Epstein and M. Prak eds., *Guilds, innovation, and the European economy 1400-1800* (Cambridge 2008) 114-142.

<sup>969</sup> PO 2410 *Was massen einige handvercks Gesellen im Land herum vagiren* 30.12.1675; PO 2429 *umb das schändliche Gassenbetteln abzuschaffen* 04.09.1679.

<sup>970</sup> R. Brandt, ‘Die Grenzen des Sagbaren und des Machbaren. Anmerkungen zur Rechtsgeschichte des Frankfurter “Zunfthandwerks” während der Frühen Neuzeit’ in: A. Amend et al. eds. *Die Reichsstadt Frankfurt als Rechts- und Gerichtslandschaft im Römisch-Deutschen Reich* (München 2008) 247-264, 255. On the use of passports in the early modern Frankfurt see: Kamp, ‘Controlling Strangers’; Boes, ‘Unwanted travellers’, 110. In General: V. Groebner, *Der Schein der Person. Steckbrief, Ausweis und Kontrolle im Europa des Mittelalter* (München 2004); C. Bohn, *Inklusion, Exklusion und die Person* (Konstanz 2006) 71-94.

journeymen's past working experiences. Second, and perhaps more importantly, they served to distinguish journeymen on the road from vagrants. Guild masters were ordered not to employ journeymen if they could not present valid attestations.

Domestic service, the main form of female labour migration, is often compared to the practice of tramping. In older historiography, historians considered domestic service as a form of training for future marital life and household tasks. According to this view, a young girl serving in an alien household was no different from a young man learning a trade through being an apprentice working and living in the household of his master.<sup>971</sup> In contrast to the tramping of journeymen, however, contemporaries perceived the mobility of maids as undesirable. Leaving service and moving elsewhere on their own account was a sign of independence that was intolerable in a society with deep-rooted anxieties about women living independently outside patriarchal control. According to Renate Dürr, urban and household authorities treated the migration of domestic servants with much suspicion because their mobility threatened the domestic and social order.<sup>972</sup>

In contrast to the migration of journeymen, maids received far less assistance in their quest for work and the control over their mobility was far less institutionalised. In contrast to some other cities, like Nuremberg, Strasbourg or Munich, where the authorities had set up systems of employment agents that were organised similarly to the control of journeymen, the domestic service market in Frankfurt was primarily organised by common law, and not institutionalised at all.<sup>973</sup> Maids looking for domestic service in Frankfurt depended on informal contacts of family, friends or acquaintances.<sup>974</sup> Often they only moved to the city after arrangements for service had already been made, because it was risky to move to the city without having a proper place to stay.

In order to prevent servants from leaving their service prematurely to find a better paid service elsewhere, Frankfurt signed a *Taxordnung* – which fixed the wages for servants and day labourers – together with the neighbouring territories Kurmainz, Kurpfalz, Hessen-Darmstadt, Nassau-Idstein, Isenburg, the county of Hanau and the Imperial City Worms in 1654.<sup>975</sup> Apart from regulating the wages, this ordinance also implemented measures to regulate the movement of labourers, including domestic servants. Masters were required to give their servants a document when they left their service temporarily or permanently, much like the recommendation letters used by journeymen. It was supposed to serve as proof of the servant's good conduct during service and

<sup>971</sup> Dürr, 'Migration der Mägde', 117-118.

<sup>972</sup> Dürr, 'Migration der Mägde', 120. Also: Wiesner, 'Paternalism in practice'.

<sup>973</sup> I. Kaltwasser, *Häusliches Gesinde in der freien Stadt Frankfurt am Main: Rechtsstellung, soziale Lage und Aspekte des sozialen Wandels 1815-1866* (Frankfurt 1989) 21-22; R. Koch, 'Zum Gesindewesen in Frankfurt am Main (17.-19. Jahrhundert)', *Archiv für Frankfurts Geschichte und Kunst* 59 (1985) 231-250.

<sup>974</sup> E.g.: Criminalia 5940 (1747) folio 3; Criminalia 6848 (1753) folio 5-6; Criminalia 8765 (1774) folio 6-9.

<sup>975</sup> Kaltwasser, *Häusliches Gesinde*, 22.

the fact that the servant had left the service legitimately.<sup>976</sup> In contrast to journeymen, however, the use of reference letters was never implemented for domestic servants.

In the eighteenth century, the city council considered the implementation of a servant order (*Gesindeordnung*) similar to those that were in use in other cities. They argued that such an ordinance was necessary because the city was swamped with masterless people (*“eine menge schutzlose Leute”*) who pretended to be servants looking for a position, thereby circumventing the restrictions on foreigners. In order to prevent genuine domestic servants being evicted from the city together ‘with the idle scum’, the authorities considered a better regulated labour market for domestic servants to be indispensable.<sup>977</sup>

The city council decided to order the consistory to draft a *Gesindeordnung*. Overseeing the domestic service market, which was ultimately a predominantly female labour market, was apparently most fitting for an office that was in charge of policing morals. Throughout early modern Europe, there are many examples that show how urban authorities considered the regulation of female migration primarily as a matter of maintaining morality.<sup>978</sup> Leslie Page Moch argued that this was partially related to women’s reproductive capacities and the fear of becoming responsible for illegitimate children of migrant women.<sup>979</sup> Lynn Hollen Lees also considered that the reproductive functions of women were one of the decisive factors that the overseers of the poor took into consideration in the prosecution of female vagrants in early modern London.<sup>980</sup> As we have seen, financial considerations were also at the heart of the prosecution of illegitimacy in Frankfurt too. In 1755 the city council issued a decree that ordered that all single foreign mothers should be expelled.<sup>981</sup> And as we will see later on in this chapter, women migrating independently were likely to be associated with lewdness and immorality.

The gendered perceptions of authorities with regard to what they considered legitimate reasons for moving are also reflected in the provision of handing out casual assistance to travellers. In an attempt to control begging and vagrancy, they offered travellers an opportunity for casual assistance (*ein Zehrpfennig*) in order to continue their journey.<sup>982</sup> The main aim of the city council for handing out such casual assistance, was to prevent impoverished travellers, subsistence migrants

<sup>976</sup> PO 2265 *Mayntzischer Receß [...] allgemeiner Taxordnung* 01.05.1654.

<sup>977</sup> Criminalia 12880 (1756) folio 11-13: *Des Schatzungs Consulenten General-Plan zu Eintreibung der Schatzungsrestanten*, 17.02.1756.

<sup>978</sup> M. Schrover et al., ‘Introduction. Illegal migration and gender in a global and historical perspective’ in: M. Schrover et al. eds., *Illegal migration and gender in a global and historical perspective* (Amsterdam 2008) 9-37, 13.

<sup>979</sup> Moch, *Moving Europeans*, 15.

<sup>980</sup> Hollen Lees, *Solidarities of strangers*, 58-59.

<sup>981</sup> PO 3445 *Daß man die Lapsas, so nicht von hier, mit ihren Kindern fortschaffen solle* 18.03.1755.

<sup>982</sup> Similar examples also existed in other early modern cities: G.P.M. Pot, ‘Het beleid ten aanzien van bedelaars, passanten en immigranten te Leiden, 1700-1795’, *Leids Jaarboekje* (1987) 89-92; J. Boulton, ‘Double deterrence. Settlement and practice in London’s West End, 1725-1824’ in: S. King and A. Winter eds., *Migration, settlement and belonging in Europe 1500-1930s. Comparative perspectives* (New York 2013) 54-80, 68; Kuijpers, *Migrantenstad*, 297-298.



etc. from staying in town and relying on begging for their daily bread. Before the establishment of the poorhouse, foreigners could find assistance from the city council or the communal poor chest (*Almosenkasten*).<sup>983</sup> The poorhouse published annual reports, listing the number of recipients of care, including the number of people that received a *Zebrpfennig*. The reports themselves were lost in WWII, but thanks to the numbers provided in the dissertation of Martin Hess on the poorhouse from 1921, it is still possible to gain an overview. Cross-references to various contemporary sources that also mentioned the number of *Passanten* for selected years made it possible to prove the reliability of the data provided by Hess.

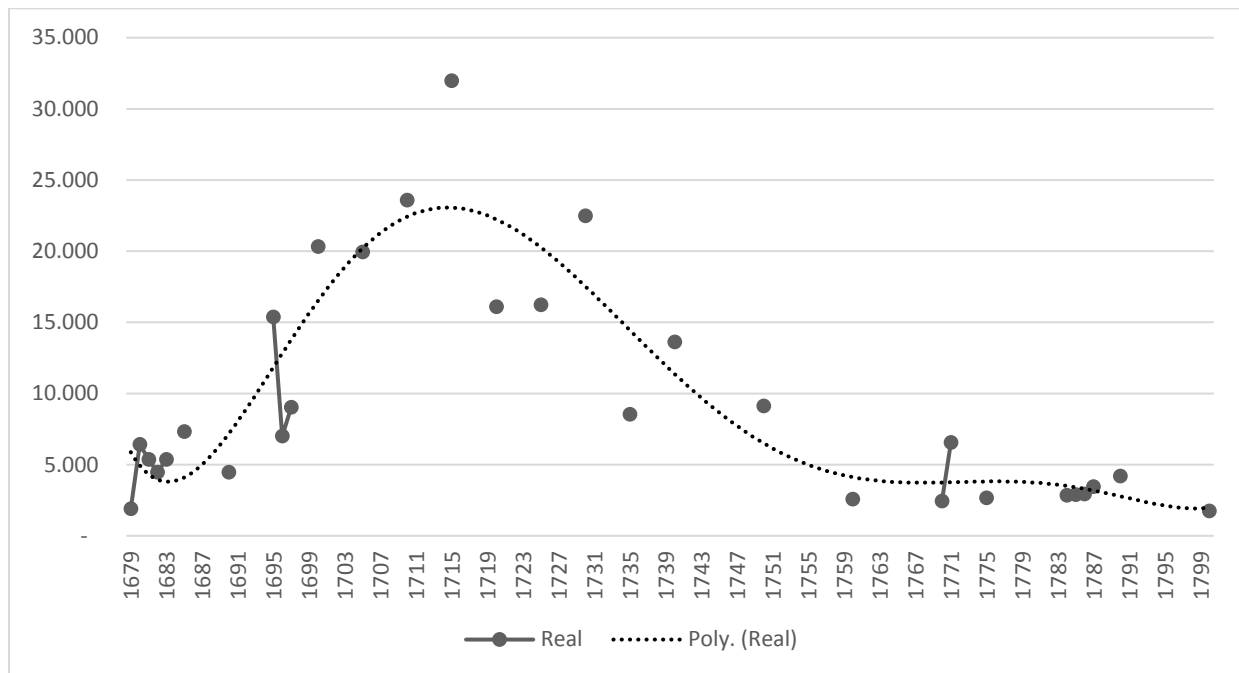
Figure 1 shows the number of recipients since the establishment of the poorhouse. In 1680, its first full year in existence, the poorhouse had already provided 6,420 transients with a *Zebrpfennig*. By that time the city had a population of around 24,000 inhabitants, which means that a number of people as large as a quarter of the total urban population were granted a form of casual relief in order to make sure that they would continue their journey and not stay within the city. The number of recipients was at its highest in the 1710s, as a result of the increasing unsettledness due to the War of the Spanish Succession. In 1715, no fewer than 31,978 transients received assistance. The number of people granted a *viatico* that year even exceeded the total population of the city, which is estimated at about 26,400 inhabitants at that time.<sup>984</sup> By 1730 the total number of transients who had received assistance since the establishment of the poorhouse was 777,196.<sup>985</sup> These numbers clearly demonstrate the high level of mobility experienced by a city like Frankfurt.

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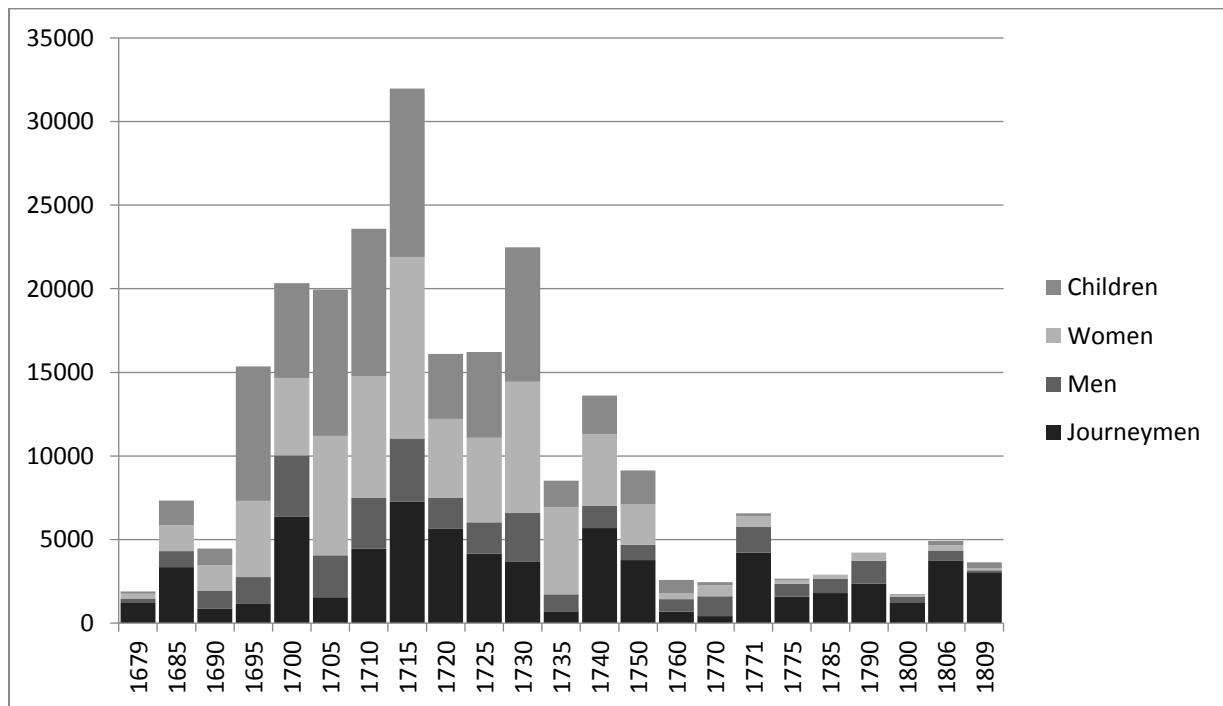
<sup>983</sup> Jütte, *Obrigkeitliche Armenfürsorge*, 144-145.

<sup>984</sup> Roth, *Stadt und Bürgertum*, 47; H. Mauersberg, *Wirtschafts- und Sozialgeschichte zentraleruropäischer Städte in neuerer Zeit. Dargestellt an den Beispielen von Basel, Frankfurt a.M., Hamburg, Hannover und München* (Göttingen 1960) 54.

<sup>985</sup> Hess, *Frankfurter Armen-, Waisen- und Arbeitshaus*, supplement 2 and 3.

**Figure 16 Number of Passanten granted travel money, 1679-1806**

Sources: Haase, *Armenhausordnung* (1684); Hess, *Frankfurter Armen-, Waisen- und Arbeitshaus*, Supplement 2 and 3; P.J. Spener, *Berliner Predigten 1693-1701*. Edited by E. Beyreuther and D. Blaufuß (Hildesheim 2015) 584; *Monatliche Unterredungen einiger Guten Freunde von Allerhand Büchern und andern annehmlichen Geschichten. Allen Liebhabern der Curiositäten zur Ergetzlichkeit und Nachsinnen* (1689) 251; H.G. Hüsgen, *Getreuer Wegweiser von Frankfurt am Main und dessen gebiete für Einheimische und Fremde* (Frankfurt am Main 1802) 25; Moritz, *Versuch einer Einleitung II*, 217; P. W. Gercken, *Reisen durch Schwaben, Baiern, die angränzende Schweiz, Franken, die Rheinische Provinzen, und an der Mose u.in den Jahren 1779-1787, nebst Nachrichten von Bibliotheken, Handschriften, Archiven, Röm. Alterthümern, Polit. Verfassung, Landwirthschaft und Landesproducten, Fabriken, Manufacturen, Sitten u.* (Worms 1788) 51; Faber, *Topographische Beschreibung I*, 146; F. Schäfer, *Gesichte des Frankfurter Waisenhauses von seiner Entstehung im Jahre 1679 bis zum Bezug des neuen Waisenhauses im Jahre 1829* (Frankfurt am Main 1842) 92.

**Figure 17 Types of Passanten granted travel money, 1679-1806**

Source: Hess, *Frankfurter Armen-, Waisen- und Arbeitshaus*, supplement 3.

After the 1730s, the number of recipients granted travel money decreased remarkably. This decline, however, did not affect all groups of recipients. The data of Hess make it possible to get more information on the composition of the groups of transients granted *Zehrpfennige*. Journeymen were registered separately from other “*allerhand Passanten*”: men without a profession, women and children. Until the 1730s they made up a considerable share among the recipients of casual assistance: they accounted for approximately 1/3 of all recipients and 40% if we include the artisans from the calculations. According to Hess, they included many soldiers’ wives and their children. So how come the authorities became increasingly restrictive regarding those to whom they granted assistance?

Hess argued that the existence of new labour opportunities for women in the developing proto-industry and new manufactories meant that fewer women had to move around in order to look for work. Similarly, the rise of standing armies would have provided new employment opportunities for men without any trained skills.<sup>986</sup> Such an explanation, however, seems unlikely. First, the data provided by Hess do not specify whether or not the men and women granted assistance actually came from regions of developing proto-industry. Data provided by Robert Jütte on the origin of recipients in the first half of the sixteenth century reveal that poor transients in Frankfurt came from a wide geographical range: more than half originated from places beyond a radius of 150km. Moreover, the majority were not rural migrants, but originated from other cities. Of course, migration patterns are always subjected to change, and it is not possible to draw conclusions for the eighteenth century based on the data of Jütte. Still, they are a good reminder of the fact that migration flows to large cities like Frankfurt were not only comprised of migrants from the surrounding countryside, but also from other cities. Second, the relationship between declining mobility and expanding female labour opportunities due to proto-industrialisation are not as straightforward as suggested by Hess. In some regions there are indeed indications that cities experienced less inward migration as rural industries developed.<sup>987</sup> Other regions, for example south-west Germany, saw a more complex change in migration flows to the city, and actually witnessed a ruralisation of migration flows.<sup>988</sup> Third, there are no indications that the number of mobile poor decreased over the eighteenth century. In fact, as we will see below, data gathered for this period seem to indicate that the opposite was rather the case. What is even more telling is that the number of women amongst those arrested for vagrancy during the second half of the eighteenth century in the German speaking territories was very substantial.<sup>989</sup>

<sup>986</sup> Hess, *Armen- Waisen- u. Arbeitshauses*, 93.

<sup>987</sup> Moch, *Moving Europeans*, 53.

<sup>988</sup> McIntosh, *Urban decline*, 174.

<sup>989</sup> Althammer, ‘Roaming men’.

Thus, the disappearing of people on the move cannot serve as a sufficient explanation as to why authorities no longer granted assistance to people other than journeymen. Rather, the developments should be considered as a reflection of changing attitudes on the part of the authorities. The mobility of women associated with the army, for example, became less tolerated throughout the period. The rise of standing armies during the early modern period had a massive impact on women with connections to the military. Traditionally, women had played an important role in the provisioning and care of armies, as sutlers, laundresses and seamstresses. As the early modern armies became more professionalised, these roles were taken over by the state, who increasingly restricted the role of women in the armies.<sup>990</sup> Soldier's wives and daughters following their husbands and fathers now faced the risk of being labelled as vagrants or prostitutes (see below). In addition to this, access to marriage for soldiers was restricted, as a result of which many women who had children with soldiers found themselves in the precarious position of having to take care of illegitimate children.<sup>991</sup> Frankfurt was known as a (European) recruitment centre, and attracted many men looking for employment with female family members and lovers following their tracks.<sup>992</sup>

The deeply rooted tradition of tramping, on the other hand, not only continued to be tolerated, but was also supported by the government. The practice of providing assistance to journeymen on the move existed throughout the Holy Roman Empire.<sup>993</sup> It was not until well into the late nineteenth century that the formal and informal infrastructures aiding this type of mobility

<sup>990</sup> B. Engelen, *Soldatenfrauen in Preußen. Eine Strukturanalyse der Garnisonsgesellschaft im späten 17. und im 18. Jahrhundert* (Münster 2005); K. Hagemann and R. Pröve eds., *Landsknechte, Soldatenfrauen und Nationalkrieger. Militär, Krieg und Geschlechterordnung im historischen Wandel* (Frankfurt 1998); M. Asche, 'Krieg, Militär und Migration in der Frühen Neuzeit. Einleitende Beobachtungen zum Verhältnis von horizontaler und vertikaler Mobilität in der kriegsgeprägten Gesellschaft Alteuropas im 17. Jahrhundert' in: M. Asche et al. eds., *Krieg, Militär und Migration in der Frühen Neuzeit* (Münster 2008) 11-36, 25-26; Lucassen and Lucassen, 'Mobility Transition Revisited', 24-25; G. Parker, *Military innovations and the rise of the West, 1500-1800* (2<sup>nd</sup> edition: Cambridge 1996) 77-78; J. Hurl-Eamon, 'The fiction of female dependence and the makeshift economy of soldiers, sailors, and their wives in eighteenth-century London', *Labor History* 49:4 (2008) pp. 481-501; T. Cardoza, 'Habits appropriate to her sex'. The female military experience in France during the age of revolution' in: K. Hagemann, G. Mettele and J. Rendall eds., *Gender, war and politics. Transatlantic Perspectives, 1775-1830* (New York 2010) 188-205.

<sup>991</sup> PO 2978 *Weibspersonen soll vorzüglich mit Soldaten unzünftiger Umgang verboten seyn* 01.02.1729. E.g.: Criminalia 2482 (1706); Criminalia 6131 (1748); Criminalia 6632 (1752); Criminalia 6986 (1753-54); Criminalia 7744 (1761); Criminalia 10036 (1791).

<sup>992</sup> J. Kamp, 'Between agency and force. The dynamics of desertion in a military labour market, Frankfurt am Main 1650-1800' in: M. van Rossum and J. Kamp eds., *Desertion in the early modern world. A comparative history* (London 2016) 49-72. For examples of soldier's wives, widows and daughters coming to Frankfurt following their husbands and fathers: Criminalia 2002 (1694); Criminalia 3290 (1723-1726); Criminalia 4227 (1734); Criminalia 4945 (1736-42); Criminalia 6094 (1748-1749); Criminalia 8504 (1770); Criminalia 8790 (1774-1776); Criminalia 10086 (1791); Criminalia 10392 (1795).

<sup>993</sup> K.J. Bade, 'Altes Handwerk, Wanderzwang und Gute Policey. Gesellenwanderung zwischen Zunftökonomie und Gewerbereform', *Vierteljahrsschrift für Sozial- und Wirtschaftsgeschichte* 69:1 (1982) 1-37, 15; S.R. Epstein, 'Labour mobility, journeyman organisations and markets in skilled labour in Europe, 14th-18th century' in: M. Anrout and P. Monnet eds., *Le technicien dans la cité en Europe occidentale 1250-1650* (Rome 2004) 251-269, 252; Reith, 'Circulation of skilled labour', 129-130; A. Steidl, *Auf nach Wien! Die Mobilität mitteleuropäischen Handwerks im 18. und 19. Jahrhundert am Beispiel der Haupt- und Residenzstadt* (München 2003).

were dismantled by the authorities.<sup>994</sup> The gendered perceptions of authorities created a complex paradox. Male mobility outside the parameters of legitimate labour migration was labelled as a massive danger to public order and increasingly associated with organised criminality. At the same time, the regulation of male labour migration was highly institutionalised and designed to facilitate (controlled) mobility, while women's mobility was perceived as a threat to the existing domestic and social order associated with immorality.

The decline in the number of people granted assistance, in particular people moving outside the framework of legitimate tramping traditions, coincided with the increasing criminalisation of mobility and ordinances issued both by Frankfurt's local urban authorities and the *Oberrheinischer Kreis* in the period between 1720 and 1760 (see above). As we will see below, this period also witnessed an increase in the prosecution of mobility offences by the criminal investigation office.

### Mobility as a crime before the Verhöramt

The previous paragraphs have demonstrated how begging and vagrancy were increasingly criminalised through various police ordinances. But how were these ordinances enforced in practice? We know that even though the authorities aimed to strictly control migration into the city, many men and women defied the norms that restricted their mobility. Women *did* move to the city, and often did so independently or together with other women. Thus, they did so outside the parameters of what was considered legitimate for women. But to what extent were mobility offences prosecuted and sanctioned criminally, and how was this gendered? The following paragraph investigates the prosecution practices regarding begging and vagrancy in early modern Frankfurt.

Begging and vagrancy were not listed as acts that were punishable with corporal and capital punishments in the *Carolina* (1532), the central criminal law code of the Holy Roman Empire. But even though begging and vagrancy were not considered as felonies, they were already strongly associated with criminality in the law code.<sup>995</sup> In the *Carolina*, authorities were urged to watch all suspicious beggars and vagrants closely in order to prevent crime and maintain public order.<sup>996</sup> As demonstrated above, over the course of the seventeenth and eighteenth centuries the city council of Frankfurt issued several police ordinances that prohibited begging and criminalised vagrancy

<sup>994</sup> B. Althammer, 'Vagabonds in the German Empire. Mobility, unemployment and the transformation of social policies (1870–1914)' in: L. Raphael ed., *Poverty and Welfare in Modern German History* (New York 2016) 78–104.

<sup>995</sup> On the 'uniqueness' of vagrancy as a criminalised state of being, rather than a criminal act, see: P. Ocobock, 'Introduction. Vagrancy and Homelessness in Global and Historical Perspective' in: A.L. Beier and P. Ocobock eds., *Cast out. Vagrancy and Homelessness in Global and Historical Perspective* (Athens 2008) 1–34, 1.

<sup>996</sup> T. Bauer, '"Es solt yhe niemand unter den Christen betteln gahn". Zur Geschichte der Bettler in Frankfurt am Main', *Archiv für Frankfurts Geschichte und Kunst* 62 (1993) 91–100, 95.

and mobile poverty in general. Despite this increasing intolerance towards unsettled individuals and mobile groups, neither begging nor vagrancy were listed as separate offences in the regulation of the criminal investigation office of 1788. The regulations merely stated that the *Verhöramt* should monitor all ‘suspicious’ persons that arrived in the city, in order to prevent crime.<sup>997</sup> This means that vagrancy did not belong to the jurisdiction of the high criminal court, but was considered to be a petty offence.

Although the regulations did not list begging or vagrancy as separate offences, they considered them a state of being that allowed for a differentiated legal treatment by the investigators of the *Verhöramt*. In cases of petty crimes, the investigators of the *Verhöramt* had the jurisdiction to impose punishments themselves, instead of having to transfer the case to the city council. If the suspect was a ‘wandering vagrant without a place of residence’, they had the authority to impose punishments of up to three months of imprisonment or hard labour, and to expel the offenders from the city and its territory. However, if the suspects were persons of good standing or citizens, the *Verhöramt* could only keep them in custody or impose fines.<sup>998</sup>

For the most part, the prosecution and expulsion of foreign beggars and vagrants in the city was the responsibility of the overseers of the poor and other lower policing officials, such as the *Gemeine Weltliche Richter*. In 1498, the city council employed the first beadle *Bettelvögte* in order to police and oust foreign beggars from the city. They remained in charge throughout the early modern period (in the eighteenth century they were called *Armenknechte*). Their number increased from two at the beginning of the early modern period to five by the late seventeenth century and increased to a total of ten in the second half of the eighteenth century. They were increasingly accompanied in their task by soldiers of Frankfurt’s army, who patrolled the streets.<sup>999</sup>

Unfortunately, lists of the number of arrested and expelled beggars have not been preserved in the archives or were lost together with the archives of the poorhouse as a result of the bombings in WWII. Nevertheless, scattered references in other sources allow us to gain an idea of the number of people that were involved. In 1786, 470 beggars were granted *Zehrgeld* and expelled from the city. A year later, a total of 677 beggars were arrested, while 551 were given *Zehrgeld*. Another year later, close to a thousand beggars were arrested (970) and 713 were given *Zehrgeld*.<sup>1000</sup> During this time, the city had approximately 36,000 inhabitants, which means that the number of arrested/expelled beggars represented between 1.5 and 2.5% of the entire population. This corresponds with estimates for other regions during this period. For the eighteenth century,

<sup>997</sup> PO 4346 *Verordnung und Unterricht für das peinliche Verhör*=*Amt der Reichs Stadt Frankfurt* 04.12.1788 § 6.

<sup>998</sup> PO 4346 *Verordnung und Unterricht für das peinliche Verhör*=*Amt der Reichs Stadt Frankfurt* 04.12.1788 § 34.

<sup>999</sup> Hess, *Frankfurter Armen-, Waisen- und Arbeitshaus*, 91-92.

<sup>1000</sup> Hess, *Frankfurter Armen-, Waisen- und Arbeitshaus*, table 1 and 2; J. H. Faber, *Topographische, politische und historische Beschreibung der Reichs- Wahl- und Handelsstadt Frankfurt am Mayn*. Vol. 1. (Frankfurt am Main 1788) 146.

historians have estimated the share of unsettled people among the population quite differently. Carsten Küther proposed a share of 10% for the second half of the eighteenth century, but his estimates have been contested by most other historians. Rather, they considered a share of between 2 to 4% to be accurate.<sup>1001</sup>

Thus, begging and vagrancy primarily belonged to the responsibility of the city's poor relief system, and not that of the criminal investigation office. Cases were often only transferred to the *Verhöramt* if vagrants were suspected of other criminal offences like theft or fraud, or if the authorities suspected connections with larger groups of criminals. It may come as no surprise, therefore, that numerically speaking, begging and vagrancy and other related mobility offences were of little importance in terms of the types of prosecuted criminal offences in early modern Frankfurt. Crimes against the authorities and public order, which included vagrancy and other related offences, made up just fewer than 16% of all investigated criminality before the *Verhöramt*.<sup>1002</sup> Of the 1,898 public order offences, 431 investigations concerned vagrancy and other related offences, which means that they made up slightly less than a quarter (22.7%) of the offences in this category.<sup>1003</sup>

When comparing this number to the total number of beggars expelled from the city in a single year, it becomes clear that the *Verhöramt* investigated only a fraction of all sanctioned mobility in Frankfurt during this period. Despite the fact that these cases only represent a minority, they allow us to trace the increased anxieties of the authorities. After all, they reflect when, why and how authorities considered a case to be serious enough to be investigated by the criminal investigation office. They are therefore particularly suitable to trace gendered perceptions of unwanted mobility. The intensity of prosecution varied considerably throughout the period. Most of the cases are from the period between the 1730s and the 1770s.<sup>1004</sup> This coincides with a period of intensified prosecution efforts in general: more cases were handled by the *Verhöramt* in this period than at any other time in the early modern period. The same period was characterised by an intensified association of vagrancy and criminality in the police ordinances, both in Frankfurt as well as in the neighbouring territories.<sup>1005</sup> Not all mobility crimes, however, were prosecuted with the same intensity at the same time. Collecting alms with false documents, for example, primarily

<sup>1001</sup> Küther, *Menschen auf der Straße*, 20; Härter, *Policey und Strafjustiz*, 988; Schubert, *Arme Leute*, 3-5; Von Hippel, *Armut, Unterschichten, Randgruppen*, 89-90.

<sup>1002</sup> IfSG, Criminalia 1600-1806, see appendix figure 6.

<sup>1003</sup> Because some offenders were prosecuted for a combination of offences, the total number is lower than the accumulated number of offenders in table 3.

<sup>1004</sup> See appendix figure 7.

<sup>1005</sup> Härter, *Policey und Strafjustiz*, 989-990.

occurred in times of war or other social crises, when it was common to go around and collect alms to rebuild burnt down churches, etc.<sup>1006</sup>

Table 3 shows that the share of women among mobility offences varied considerably: from less than a quarter of all cases related to begging/vagrancy and collecting alms with false documents to more than a third of the ‘suspicious foreigners’ (*verdächtige Fremde*) arrested, more than half of the violators of banishment and even close to three-quarters of all gypsies arrested. With the exception of begging/vagrancy, these patterns correspond with what we know from other places in the Holy Roman Empire. As will be discussed in more detail below, women were usually well represented among violators of banishment. Despite the fact that gypsies were increasingly criminalised in police ordinances during the eighteenth century, and their presence prohibited in the entire *Oberrheinischer Kreis*, including Frankfurt, the total number of prosecutions is very low. Moreover, the cases were concentrated between the 1730s and the 1760s. Leo Lucassen has argued that the intensified prosecution of vagrants and gypsies was connected to pressure on military recruitment markets and the need to match the demand for manpower.<sup>1007</sup> This stimulated the authorities to intensify prosecution efforts for men to be sentenced with military labour. However, these policing efforts were more concentrated on the countryside, rather than in cities. This helps explain why women were overrepresented among those arrested as gypsies in early modern Frankfurt. Cities were considered too risky for men to enter, which is why families often sent the women to the city instead.<sup>1008</sup> They were less likely to be arrested, and if they were, they were more likely to receive favourable treatment. The numbers therefore reflect a division of labour which was directly influenced by the security policies of the authorities.<sup>1009</sup>

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<sup>1006</sup> Appendix table 2.

<sup>1007</sup> Lucassen, *Zigeuner*, 53. Also: Härter, *Policey und Strafrecht*, 951.

<sup>1008</sup> E.g. Criminalia 2299 (1701); Criminalia 3944 (1731); Criminalia 6291 (1750); Criminalia 7409 (1759).

<sup>1009</sup> Härter, *Policey und Strafrecht*, 992-997.



**Table 20 Men and women prosecuted for ‘mobility offences’, 1600-1806**

Offence	M	%	F	%
Begging/vagrancy	119	75.8%	38	24.2%
‘Acting suspiciously’	71	66.4%	36	33.6%
Illegal return/breaking banishment	100	48.8%	105	51.2%
Collecting alms with false documents	78	75.7%	25	24.3%
Gypsies*	12	26.1%	34	73.9%
Total	380	61.5%	238	38.5%

Source: Criminalia, 1600-1806.

Based on what we know for other regions in the Holy Roman Empire, the involvement of women prosecuted as vagrants in Frankfurt, on the other hand, appears to be rather low by comparison. Most, recent studies on early modern Germany have estimated a female share of 35 to 40%, and accepted a ratio of 2 to 3.<sup>1010</sup> These data, however, are mostly based on a different type of source: *Gauner- and Diebslisten*. They contained information both of individuals that were actually prosecuted as well as individuals who were identified during the interrogations of others, but who were never formally prosecuted. *Gauner- and Diebslisten* served to facilitate the policing efforts of the authorities and were intended to function as a reference list.<sup>1011</sup> Thus, these sources are significantly different from the investigation records of Frankfurt. In the latter case, property offenders who were labelled as vagrants are not considered in the calculation, while in the case of *Gauner- and Diebslisten* they were. In the eighteenth century, roughly 20% of the property offenders in Frankfurt were identified as beggars or vagrants.<sup>1012</sup>

\* Gypsies were not the only ethnic/religious minority that faced criminalisation during the early modern period. In many police ordinances published in the eighteenth century, poor Jews (*Betteljuden*), particularly from eastern Europe, were increasingly associated with criminality. They are not listed separately here, because, unlike gypsies, Jews were never criminalised as a group (see below). The cases in this table only relate to cases in which individuals were prosecuted simply for being labelled as gypsies. There are other cases in which individuals who were prosecuted for theft, for example, were labelled as gypsies, but these are not listed here. See also: Boes, *Crime and punishment*, part III.

<sup>1010</sup> For numbers, see: Ammerer, *Heimat Straße*, 131; O. Ulbricht, ‘Bettelei von Frauen auf dem Land in den Herzogtümern Schleswig und Holstein (1770-1810)’, in G. Ammerer et al. eds., *Armut auf dem Lande* (Wien 2010) p. 65; H. Bräuer, *Armenmentalität in Sachsen 1500 bis 1800* (Leipzig 2008) 45; G. Fritz, ‘Eine Rotte von allerhandt räuberischem Gesindt.’ *Öffentliche Sicherheit in Südwestdeutschland vom Ende des Dreißigjährigen Krieges bis zum Ende des alten Reiches* (Ostfildern 2004) 228; R. Jütte, ‘Dutzbetterinnen und Sündfegerinnen. Kriminelle Bettelpraktiken von Frauen in der Frühen Neuzeit’ in: O. Ulbricht eds. *Von Huren und Rabenmüttern. Weibliche Kriminalität in der Frühen Neuzeit* (Köln 1995) 117-137, 132-133; H. Bräuer, ‘...weillen Sie nit alzeit arbeit haben khan.’ Über die ‘Bettelweiber’ von Wien während der frühen Neuzeit’ *L’Homme Z.F.G.* 7 (1996) 135-143; Härter, *Policey und Straffjustiz*, 992-993, 1091; Althammer, ‘Roaming Men, Sedentary Women?’; A. Blauert and E. Wiebel, *Gauner und Diebslisten. Registrieren, Identifizieren und Fahnden im 18. Jahrhundert* (Frankfurt am Main 2001) 57; Küther, *Menschen auf der Straße*, 29; Scheffknecht, ‘Arme Weiber’, 94; Schubert, *Arme Leute*, 276; A. Blauert, ‘Diebes- und Räuberbanden in Schwaben und in der Schweiz, am Bodensee und Rhein im 18. Jahrhundert’ in: H. Siebenmorgen ed., *Schurke oder Held? Räuber und Räuberbande* (Sigmaringen 1995) 57-64, 60.

<sup>1011</sup> On this type of sources, see: Blauert and Wiebel, *Gauner- und Diebslisten*, 12-31.

<sup>1012</sup> Eibach, *Frankfurter Verhöre*, 56.

More importantly, however, the investigation office only examined a fraction of all mobility offences. It is likely that the share of women was higher before the other lower policing institutions, and that in the case of women, authorities were less inclined to transfer their case to the *Verhöramt*. Although the number of men and women actually prosecuted for vagrancy before the *Verhöramt* was relatively low over the two centuries, there were fluctuations over time. In the seventeenth century, hardly any vagrancy cases were investigated by the criminal prosecution office: it was still primarily a social order offence handled by the overseers of the poor. It was not until the 1740s onwards that vagrants were prosecuted by the *Verhöramt* on a more regular basis.

Women arrested as vagrants were considered as less of a threat to public security than men. These considerations are clearly demonstrated in a case from 1718. A group of vagrants, consisting of two families, including seven women, four men and seven children, was arrested just outside the city at the *Galluswarte* by a general patrol. The case was transferred to the *Verhöramt* because the authorities suspected that some of those arrested, in particular the men, might be connected to a wanted gang of robbers. But not all those arrested were investigated by the *Verhöramt*. Three of the seven women were released together with their children, given a warning not to enter the city's territory again and escorted across the border. The other four women and their husbands, however, were interrogated by the *Verhöramt*. After a first round of interrogations, the investigators proposed to the city council that the women and children should be released because they could no longer be held in custody without further 'inconvenience and costs'.<sup>1013</sup> For the men, however, they sent out correspondence to neighbouring cities to see if they could be connected to other street robberies. Apparently, in the eyes of the authorities, the women did not require further investigation, even though they were married to men they suspected of robbery and other criminal activities.<sup>1014</sup>

The sources of women arrested for vagrancy or other mobility-related offences demonstrate that a mobile (and unsettled) life was certainly not the "prerogative" of men. They show that early modern female mobility was much more diverse than the migration of domestic servants, and marriage or family migration.<sup>1015</sup> Many women defied gender norms that dictated a settled life at home. The following biographies serve as an example to illustrate the diversity of women arrested for vagrancy. The road did not just belong to young single women: the sources include women of all ages, different marital status, and at all stages of their life. Women moved alone, together with casual acquaintances, and spouses or other family members. The first example

<sup>1013</sup> Criminalia 9233 (1781) Folio 11. Original: '[...]ob es nicht rathsam seyn mögte, die arrestirte Weiber mit ihren Kindern los zu lassen, weil diese ohne vielen Unlust und Kosten nicht wohl länger in Arrest behalten werden könnten.'

<sup>1014</sup> Also see: Criminalia 1189 (1660) 'die weiber mögten aber ohne fernerer straff erlassen und fortgeschafft werden'.

<sup>1015</sup> Hahn, *Historische Migrationsforschung*, 138-151.

is perhaps closest to the image of early modern female migration encountered in the literature: that of young single migrant women responding to the demand for domestic servants in the city.<sup>1016</sup> In 1765, nineteen-year-old Margaretha Neubertin from Würzburg was arrested together with a woman called Anna Maria Seibelin, for sleeping in one of the garden sheds outside the city, on Frankfurt's rural territory close to Bockenheim. They had previously worked together as *Viehmägde*, taking care of the animals of the innkeeper of *In dem Grünen Baum*. After he had dismissed them because there was no further work for them, the two women agreed to spend the night in the garden shed, as the city gates were closed and they would not be able to enter the city without paying a fee. According to Margaretha's testimony, she had previously worked in Mainz for six months on a farm, helping out during the harvest season, after which she had come to the Frankfurt area in the hope of finding service. She knew the city well, as she had already served as a domestic servant for a year with a baker in Sachsenhausen.<sup>1017</sup> Anna Maria's mobility patterns were largely concentrated within the same region and determined by the availability of labour. She depended on knowledge and acquaintances she had gathered along the way, and her mobile life was 'interrupted' by longer periods of settledness.

More examples of female mobility are revealed in a case from 1764, when several people were arrested as 'suspicious foreign vagrants' during the *Herbstmesse*, and interrogated by the investigation office.<sup>1018</sup> Among the seventeen suspects were four women, each with a different profile and mobility background. Magdalena Müllerin, aged 26, was born in Berlin and according to her statements she earned a living sewing and knitting. She did not have a fixed residence, and had previously stayed in the region around Cologne. Magdalena also had an illegitimate child of a year and a half, whose father was a French soldier.<sup>1019</sup> The second woman that was interrogated was Maria Kleeberin, aged 24 and born in Maastricht (Netherlands). She had been married to a *Nassauischer* soldier, who had passed away. Maria stated that she made a living knitting and washing and that she had come to the city to visit her sister.<sup>1020</sup> The third woman, Dorothea Louisa, née Wieherkin, from Lubin (Poland), was arrested together with her husband Gottfried Henrich Castrop, 54. According to their statements Gottfried and Dorothea were settled in Emden, where they ran a business. The couple were able to show a passport from Emden, and declared that they

<sup>1016</sup> Moch, *Moving Europeans*, 15; M. Mitterauer, 'Gesindedienst und Jugendphase im europäischen Vergleich', *Geschichte und Gesellschaft* 11 (1985) 177-204; J. Kok, 'The Family Factor in Migration Decisions' in: J. Lucassen, L. Lucassen and P. Manning eds., *Migration History in World History. Multidisciplinary Approaches* (Leiden 2010) 215-250, 225.

<sup>1017</sup> Criminalia 8144 (1765).

<sup>1018</sup> IfSG, Repertorium 251, 304; Criminalia 8055 (1764). Original: 'Protocollum Examinis die während der Herbstmesse als verdächtig in arrest gebrachte fremde Landstreicher und dergleichen Weibspersonen'.

<sup>1019</sup> Criminalia 8055 (1764) folio 2-3. 'Sie habe keine sichere Wohnung, ihr Aufenthalt seije bisher in der gegend von Cöln gewesen [...] Sie habe ein Kind von einem frantz. Soldaten welches 1 1/2 Jahr alt seije'.

<sup>1020</sup> Criminalia 8055 (1764) folio 3. Original: 'Sie seije an einem Nassauischen Soldat verheurathet gewesen, welcher aber verstorben. Sie nähre sich mit Stricken und Waschen, seije erst in die Stadt gekommen um ihre Schwester aufzusuchen'.

had come to the city to purchase wine for their business.<sup>1021</sup> Finally, the last woman was Anna Sophia, 28, a baptised Jewess from Mainz, who was arrested together with her husband Mattheus Schwaller from Trier, aged 36. The couple earned a living as pedlars, as a result of which they were often on the road, although they were domiciled in Ammerbach. They, too, had come to Frankfurt to purchase merchandise. In the end, all four women (and their husbands) were ordered to leave the city, and, with the exception of Anna Sophia and her husband, they were escorted out of the city gates by the city's militia, and warned not to return.

These examples are not exhaustive of the diversity of female mobility demonstrated in the sources. What they show is that women were on the move as singles, as breadwinners for their family, or together with their husbands as a working couple. A considerable number of females prosecuted as vagrants belonged to the military.<sup>1022</sup> Generally speaking, female mobility was more regional than that of men, although there are many examples of women travelling considerable distances, defying the formal restrictions imposed on their mobility.<sup>1023</sup> Anna Margretha Metzgerin from Wormbs was arrested four days after her arrival in Frankfurt for begging with false papers. During her interrogation she declared that she had obtained the papers from a woman called Rothe Liese or 'die Maijnzerin' during an earlier stay in Frankfurt and that she had used them to go around begging in Hessen. Moreover, she had previously attempted to travel to Holland with another false document, but could not make it passed Bonn, where her documents were ripped into pieces by the authorities.<sup>1024</sup>

<sup>1021</sup> Criminalia 8055 (1764) folio 6-7. Original: 'seijen hierber gekommen um einen Weinbandel zu etabliren, und damit in Emden Wirthschaft zu treiben [...] und wolten so balden sie nun ihren Wein hier eingekauft sogl. wieder von hier wegreisen'.

<sup>1022</sup> E.g. Criminalia 2002 (1694); Criminalia 2040 (1695); Criminalia 5279 (1741); Criminalia 7216 (1755); Criminalia 7409 (1759); Criminalia 7691 (1761); Criminalia 7718 (1761); Criminalia 8055 (1764); Criminalia 9900 (1789).

<sup>1023</sup> On gender differences in geographic radius of migrants: Moch, *Moving Europeans*, 50; Hahn, *Historische Migrationsforschung*, 120-121; McIntosh, *Urban decline*, 171; S. Kienitz, *Unterwegs. Frauen zwischen Not und Norm. Lebensweise und Mentalität vagierender Frauen um 1800 in Württemberg* (Tübingen 1989) 30; Bräuer, 'Bettelweiber', 139; H. Wunder, *Er ist die Sonn', sie is der Mond. Frauen in der Frühen Neuzeit* (München 1992) 179.

<sup>1024</sup> Criminalia 2080 (1696).

**Map 2 Origin of vagrants arrested in Frankfurt**

Source: Criminalia based on references in this chapter.

Only few of the men and women prosecuted before the *Verhöramt* can be characterised as permanently homeless and truly unsettled. Many found temporary employment, which allowed them to stay in a place for a least a period of time or travelled as itinerant workers and artisans. In many cases, they also remained connected to their home community, to which they occasionally returned. Even families or groups that can be considered as wandering more or less permanently had connections within the settled community.<sup>1025</sup> Often their mobility followed established routes driven by seasonal labour opportunities or the prospect of alms, through places where they were sure to find a place to stay.<sup>1026</sup> During Jewish holidays, for example, alms were handed out to impoverished Jews in Frankfurt's ghetto, attracting many poor to the city.<sup>1027</sup>

<sup>1025</sup> E.g. Criminalia 7718 (1761); Criminalia 8055 (1764); Criminalia 8361 (1763).

<sup>1026</sup> G. Ammerer, 'Die "Betteltour"'. Aspekte der Zeit- und Raumökonomie nichtsesshafter Armer im 18. Jahrhundert' in: G. Ammerer et al. eds., *Armut auf dem Lande. Mitteleuropa vom Spätmittelalter bis zur Mitte des 19. Jahrhunderts* (Wien 2010) 37-62.

<sup>1027</sup> Criminalia 9079 (1778).

Certainly not everyone who could formally be considered as unsettled by the authorities was indeed prosecuted. Although anti-begging laws demanded strict enforcement and heavy punishments, they were not always carried out rigorously. Despite centralised regulations, local authorities tried to differentiate between ‘harmless’ and ‘harmful’ wandering. In certain cases, suspects arrested as suspicious foreigners were able to clear their name and continue their journey, sometimes even without having a formal place of residence.<sup>1028</sup> The local population continued to assist illegal beggars and there are several examples of altercations between beadle and locals trying to free arrested beggars.<sup>1029</sup> Nevertheless, the regulations created a legal framework that increased the precariousness for foreigners either visiting only for a couple of days, or looking for a position with the aim of staying for a longer time.

### Precarious independence

The consequences of the authority’s attempts to control migration (in particular of the mobile poor and travelling groups) through vagrancy regulations, poor laws and the implementation of security policies went beyond the mere prosecution of vagrancy and begging.<sup>1030</sup> Leading a mobile life, not (yet) having a permanent place of residence or being sufficiently incorporated in the urban community could be enough for authorities to consider an individual to be a potential criminal. Contrary to locals, who could not be punished based on a mere suspicion, migrants could be punished with the so-called *Verdachtsstrafe*. This was a proceeding in which an offender who could not be found guilty, but whom the authorities highly suspected, could be expelled from the city without a formal conviction for a criminal act.<sup>1031</sup> This increased the precarious position of migrants in early modern towns.

Historians have often highlighted the marginal and hazardous positions of migrant women in early modern towns, and have cited this as one of the explanations for the relatively high level of female involvement in criminality during this period.<sup>1032</sup> In a city with strong formal control measures against outsiders, women had fewer opportunities to settle independently. This had a

<sup>1028</sup> Härter, *Policey und Strafjustiz*, 1082-1083.

<sup>1029</sup> Eibach, *Frankfurter Verböte*, 153-154.

<sup>1030</sup> For similar processes in Cologne see: A. Küntzel, ‘“Herrnloses Gesindel” und “Unqualificirte” Fremde in der freien Reichsstadt Köln im 18. Jahrhundert’, *Geschichte in Köln* 53 (2006) 63-74.

<sup>1031</sup> B. Thäle, *Die Verdachtsstrafe in der kriminalwissenschaftlichen Literatur des 18. und 19. Jahrhunderts* (Frankfurt am Main 1993); Härter, *Policey und Strafjustiz*, 489-490; A. Roth, ‘Verdachtsstrafe’ in: *Handwörterbuch zur Deutschen Rechtsgeschichte*. Vol. 5. 681-684.

<sup>1032</sup> J.M. Beattie, *Policing and Punishment in London. 1660-1750. Urban Crime and the Limits of Terror* (Oxford 2001) 63-73; A. Schmidt and M. van der Heijden, ‘Women Alone in Early Modern Dutch Towns. Opportunities and Strategies to Survive’, *Journal of Urban History* 42 (2016) 21-38; M. Van der Heijden, *Women and Crime in Early Modern Holland* (Leiden 2015) 161; Moch, *Moving Europeans*, 146; G. Schwerhoff, ‘Kriminalität in der Reichsstadt Köln um 1700. Ein neuer Blick vom Turm’, *Geschichte in Köln* 55 (2008) 63-86, 70-72; J. Kamp, ‘Female Crime and Household Control in Early Modern Frankfurt am Main’, *The History of the Family* 21 (2016) 531-550, 538-539; Rublack, *Crimes of Women*, 66-69.

rather contradictory effect. On the one hand, it meant that more women were incorporated in social support networks. The strong regulations meant that cities like Frankfurt provided less relaxation of paternalistic, patriarchal control than women in more open cities might have enjoyed. At the same time, the position of women outside the controlling structures of the household was even more precarious because they could constantly face prosecution and expulsion from the city.

The story of Christina Drachin is exemplary for the way that early modern policies of exclusion could marginalise migrant women and made them susceptible to control by the authorities. Christina, born in Umstadt (some 37km from Frankfurt) and aged 26 or 27, was accused by a crowd that had gathered around her as she passed the *Römerberg*, of having stolen someone's watch and wallet.<sup>1033</sup> In the middle of this consternation, the *Armenknecht* Mevius joined the scene, and arrested and imprisoned Christina in the poorhouse, after which she was brought to the *Verhöramt* for interrogation. Being asked for the reason of her arrest, it becomes clear that Mevius and Christina were no strangers to each other. She stated that she did not know why she had been arrested, but that the *Armenknecht* did not like her.<sup>1034</sup>

So how had Christina and Mevius become acquainted with each other? During the interrogations, Christina was asked if she had been arrested before and had been 'escorted through the city's gates?' – to which she replied that this had happened twice before.<sup>1035</sup> The first time she was expelled on orders of the *Löbl. Schatzungsamt* – the office in charge of supervising the settlement of strangers. The second time she was arrested because she had returned to the city despite the orders of the *Schatzungsamt*, and lodged at a women's house on the *Breitengasse*. This time Christina was not escorted out of the city immediately but imprisoned in the poorhouse for a short period first. When the interrogators asked her for the reasons for her expulsions, Christina answered tellingly: 'because, as a stranger, she was not tolerated in the city'.<sup>1036</sup> The *Examinator* of the *Verhöramt* also wanted to know if she had been investigated by the consistory at any point, to which Christina answered in the negative. So, the reason the *Armenknecht* Mevius and Christina were already acquainted with each other was that he had whipped her in the poorhouse during her previous arrests, as well as escorted her through the city gates when she was told to leave town.

At the point when Christina was arrested by Mevius she had already been in the city again for over a year. During this period, she worked as a maid for a baker, who had let her go because he accused her of stealing and lewd behaviour, staying out every night until 11 or 12 and walking the streets. Because of her reputation, the *Examinator* of the *Verhöramt* also asked her if she had

<sup>1033</sup> Criminalia 9196 (1780).

<sup>1034</sup> Criminalia 9196 (1780) folio 2. Original: 'Die Ursache ihrer Arretirung wisse sie gar nicht. Der Armenknecht Mevius, der ihr nicht gut seije, habe sie am Freijtag Abend gegen 6 Uhr, als sie über den Römerberg geben wollen ergriffen [...]'.  
<sup>1035</sup> Criminalia 9196 (1780). Original: 'Ob sie nicht schon einmal im Arrest gewesen und dem Thor hinaus geführt worden?'.  
<sup>1036</sup> Criminalia 9196 (1780) folio 3. Original: 'Weil man sie als eine Fremde Person nicht in der Stadt leiden wolle.'

been investigated by the consistory before, to which she replied in the negative. Finally, despite not being convicted for theft or lewdness, Christina was ordered to work in the poorhouse for more than two months, after which she had to walk through the *Wachtparade* for two days before she was expelled again.

The case of Christina is important because it highlights several of the key aspects in understanding the impact of mobility on early modern female crime in Frankfurt. It shows how the settlement regulations and attitudes to the foreign poor made it difficult for women like Christina to settle in Frankfurt and make a living. Several institutions, ranging from the taxation office and the consistory to the criminal investigation office were either actually involved, or considered to be responsible. Despite these difficulties, Christina eventually managed to find employment, but due to her previous encounters with the authorities she was closely watched and monitored, which made it more likely for her to be arrested. Foreigners like Christina, who could not legitimate their stay in the city and provide evidence of some level of employment, were not allowed to stay in Frankfurt and could be expelled even without being convicted of committing any crime.

### **The Malefizbuch, an example of gendered framing of unwanted mobility**

The example of Christina demonstrates how, compared to locals, foreigners were more likely to be subjected to formal social control by the authorities. They were often mistrusted and ran the risk of being associated with criminality. These associations were frequently based on gendered stereotypes, which are reflected in the prosecution practices. One source that allows us to study the way that unwanted foreigners were perceived and framed by the authorities is the so-called *Kleine Malefizbuch*, or as it was written on the title page: a register of suspicious people (*Verzeichnuß verschiedener verdächtig geschienener Personen*). This was a book in which the *Verhöramt* recorded offenders or other suspicious people who had been expelled from the city, mostly after only limited investigation. One of the purposes of this record was, as we can see from various cases, to check whether or not arrested offenders had been denied the city earlier.<sup>1037</sup> Unfortunately the *Malefizbuch* has only survived for the years between 1751 and 1771.<sup>1038</sup>

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<sup>1037</sup> E.g.: Criminalia 8574 (1771); Criminalia 8790 (1776); Criminalia 9079 (1778); Criminalia 10032 (1790); Criminalia 10161 (1792).

<sup>1038</sup> IfSG Frankfurt am Main, Das kleine Malefizbuch, 1751-1771. According to the first page of the *Malefizbuch*, the record was started 'pro Officio Examinatorio' in 1751 and continued until 1765. In the book, however, the entries continued for much longer until 1771. Presumably, more records were kept before the destruction caused by WWII. According to the late nineteenth century index, the city archive held *Malefizbücher* for the years 1751-1808: R. Jung, *Das Frankfurter Stadtarchiv. Seine Bestände und seine Geschichte* (Frankfurt am Main 1896).



Despite its importance in the investigation process, the record was kept irregularly. In 1753, for example, the *Malefizbuch* contained only three entries, while there were 44 in 1755. The record did not only contain cases that were investigated by the *Verhöramt*, but by other institutions as well, in particular the *Konsistorium*. In slightly under two-thirds of the cases in the *Malefizbuch* (63%), the offenders can also be traced in the *Criminalia*. There was a total of 379 entries in the record, relating to 350 individuals. This relates to just over 16% of all the offenders investigated by the *Verhöramt* during this period, and (although it is not possible to determine the exact share) even a smaller share of all migrants that arrived in Frankfurt at some point during these years. Despite the incompleteness of the register, it offers the possibility of tracing the way authorities in Frankfurt framed ‘unwantedness’. After all, they reflect cases in which, for one reason or another, it was considered necessary to make the effort and record the respective person in the registry.

**Table 21 Type of ‘offence’ registered in the Malefizbuch (M/F), 1751-1771**

	<b>M</b>	<b>%</b>	<b>F</b>	<b>%</b>	<b>Total</b>
Theft	85	65	46	35	131
Suspected person ( <i>Verdacht</i> )	43	70	18	30	61
Lewdness ( <i>Liederlichkeit</i> )	4	13	27	87	31
Vagrants	21	81	5	19	26
Stay ( <i>Aufenthalt</i> )	15	60	10	40	25
Illegal return	15	62	9	38	24
Gambling	11	100	0	0	11
Begging	8	80	2	20	10
Violence	4	100	0	0	4
Suspected infanticide	0	0	4	100	4
Gipsy	2	67	1	33	3
Other	5	56	4	44	9
No reason	26	54	22	46	48
Total	234	62	145	38	379

Source: Das Kleine Malefizbuch.

As we can see in table 4, the majority of ‘offenders’ registered in the *Malefizbuch* had been suspected of committing theft. Often, however, there was no concrete evidence that the suspect had actually committed such an offence. Rather the fact that they were suspicious, known to the authorities

from previous encounters, or simply fit the profile of criminal poor, had been enough to arrest them and oust them from the city. Others were arrested simply for being ‘suspicious’ (*als verdächtig eingezogen*). Distinctions between the various categories are not straightforward and perhaps even create a reality that in the eyes of the investigators of the *Verhöramt* did not exist as such. There is for example no clear indication why some were characterized as ‘suspicious’, others were characterized as vagrants, others as ‘*Liederlich*’, or why in some cases the registers specifically referred to a person’s stay in the city as suspicious, and not the person itself.

Women made up 38% of the offenders registered in the *Malefizbuch*, which is substantial considering that their share among all registered offences was much lower. The *Malefizbuch* highlights some important gender differences when it comes to the framing and policing of what was perceived as unwanted behaviour of strangers, which is also supported by a more qualitative assessment of the *Criminalia* and other sources. In both cases, unwanted migrants were primarily associated with property offences. This corresponds with other studies in early modern Germany, which have demonstrated that vagabonds and the mobile poor were often associated with theft, and other related property offences.<sup>1039</sup> Similar to what we have seen in the paragraph above, female foreigners were less likely than men to be labelled as beggars or vagrants by Frankfurt’s authorities. While women comprised 38% of the offenders registered in the *Malefizbuch*, their share among those specifically referred to as beggars or vagrants was much lower: 20% and 19% respectively. Instead, female mobility, it appears, was considered more of a moral problem. Among those arrested for *Liederlichkeit*, women made up 87% of the registered persons.

In the *Deutsche Wörterbuch* by the brothers Grimm, *Liederlichkeit* is defined as carelessness with regard to the future, levity (*Leichtsinn*); neglect of duties (*Nachlässigkeit*); living disorderly (*ausschweifende art, unordentliches leben*).<sup>1040</sup> The *Deutsches Rechtswörterbuch* defines it in general as a behaviour that does not correspond to the societal norms (*ein Verhalten, das den gesellschaftl. Erwartungen nicht entspricht*) and more specifically as squandering, extravagance and illicit sexual behaviour (*Verschwendung, Unzucht*).<sup>1041</sup> In short, *liederlichkeit* referred to all kinds of unacceptable behaviour. Ordinances regulating the mobility of marginal groups framed them as all kinds of loose scum (*allerhandt liederliches Gesindel*).

If we look at the uses of the term in the criminal records, it becomes clear that in its use the term was much more gendered than one would assume based on entries in the dictionary. In

<sup>1039</sup> Härter, *Police und Strafjustiz*, 1091-1100; Ammerer, *Heimat Straße*, 432-446.

<sup>1040</sup> *Deutsches Wörterbuch von Jacob Grimm und Wilhelm Grimm*

<http://woerterbuchnetz.de/DWB/?sigle=DWB&mode=Vernetzung&hitlist=&patternlist=&lemid=GL05934#XGL05934-Liederlichkeit>.

<sup>1041</sup> DRW – Online Edition:

<http://drw-www.adw.uni-heidelberg.de/drw-cgi/zeige?index=lemmata&term=liederlichkeit&firstterm=liederlich>

the *Malefizbuch*, only four men were described with the adjective *Liederlich*, and mostly this was accompanied with another term. The notorious Blumenstock and Johann Jacob Dircks were both arrested in 1771 as ‘vagrants and highly suspicious and wanton fellows’ (*vagabunden und höchst verdächtige und liederliche Pursche*), expelled from the city and handed over to recruiters for the imperial army.<sup>1042</sup> A year before, Nicolaus Keßler was arrested as a ‘debauched fellow and a deceitful player’ (*ein liederlicher pursch und betrüglicher Spieler*).<sup>1043</sup> And finally, in 1756 Christoph Rheinwaldt was released after four months of hard labour in the trenches for his lewd lifestyle (*liederlichen lebensart*).<sup>1044</sup> In none of these cases did the term have the connotation of illicit sexual behaviour, but rather referred to disorderly and illicit conduct in general. A similar picture emerges from the criminal investigation records.<sup>1045</sup>

The opposite, however, was true for women. Whenever authorities referred to arrested women as *liederliche Dirnen*, *Weibspersonen* or *Weibsmenschen*, they suspected them of immoral behaviour, extramarital sex and prostitution. Mobile women in particular ran the risk of being branded and prosecuted as such. These associations were based on more general attitudes towards women, which feared (and criminalised) women living independently outside the male patriarchal control.<sup>1046</sup> Ulinka Rublack has demonstrated how in seventeenth-century Württemberg independent women (*Eigenbrödlerinnen*) were connected with lewdness and illegitimacy.<sup>1047</sup> The mobility of domestic servants was contested in moral tracts, because it was considered as a sign of women seeking independence and placing them outside the sphere of male control.<sup>1048</sup> In Frankfurt, too, control over the mobility of domestic servants was closely associated with moral issues and financial concerns, and the *Konsistorium* considered the institution to be primarily responsible for this. The connection of female mobility and immorality is also demonstrated in the way authorities described non-martial relationships among vagrants. As Gerhard Ammerer demonstrated for eighteenth-century Austria, in the case of women even longstanding and stable partnerships were described in pejorative terms, associating them with lewdness, promiscuity and

<sup>1042</sup> Malefizbuch, 180 (20.06.1771); Criminalia 8545 (1771).

<sup>1043</sup> Malefizbuch, 171 (24.07.1770). Also: Criminalia 8579 (1771).

<sup>1044</sup> Malefizbuch, 50 (19.06.1756).

<sup>1045</sup> E.g. Criminalia 2435 (1705) about Bernd Johannsen, an apprentice from Copenhagen, who had “*ein sehr liederliches leben geführt*”; Criminalia 3328 (1723) about Philipp Jacob Guntermann, who was indicted by his father in law for “*einem [...] liederlichen und verschwendersichen Leben, wie auch s.v. Fressen, Sauffen und Müssiggang*”; Criminalia 6193 (1749) about several *Bäckerknechte* who had been sentenced to the poorhouse for ‘*liederliche Aufführung*’ and seducing others to engage in disorderly behaviour.

<sup>1046</sup> Beattie, *Policing and Punishment*, 64.

<sup>1047</sup> Rublack, *Crimes of Women*, 139.

<sup>1048</sup> Dürr, ‘Migration von Mägden’.

immorality. The same relationships were described much more neutrally in the case of men. There authorities spoke of ‘marriage-like’ relationships etc.<sup>1049</sup>

In the majority of cases, the women that were investigated and expelled from Frankfurt as suspected prostitutes were never formally convicted of this offence because of a lack of proof. Most of the women shared similar characteristics: they were young and independent, and often had only casual employment histories. In 1750, for example, a patrol arrested six women as *liederliche Dirne* (prostitutes) in the forest close to the city.<sup>1050</sup> Their stories are exemplary of many of the women arrested as immoral or suspicious. The first woman who was interrogated was Catharina Franckin, a soldier’s daughter of 24 years old. She was born in Rosenau in Austria (some 560 km from Frankfurt) and married to a soldier of the imperial army. Her husband deserted three years previously near Maastricht in the Netherlands, after which she had not seen him anymore. After his desertion Catharina had worked as a servant, but for the past year and a half she had stayed with relatives of her husband, and had just recently travelled to Frankfurt with the aim of finding an opportunity to travel to Ludenberg near Düsseldorf. When she was asked by the interrogators ‘if she prostituted herself’ (*ob sie nicht auff hurerij sich zugelegt*), she vehemently denied this.

The stories of the women who were arrested together with her are remarkably similar. Anna Maria Castin was 20 years old and was born in Hallgarten (approx. 83 km from Frankfurt). She had worked as a domestic servant in Mainz for about a year, but became sick and was forced to leave, after which she had travelled to Frankfurt and on to Hanau where she had worked for a gardener. She had only recently returned to Frankfurt together with one of the other arrested women, Anna Catharina Zahnin, with whom she had planned to go to the Pfalz. There they wanted to earn some money by cutting grain to buy new clothes, so that they could find a new service (*da sie sich hernach mahl wieder Verdingen wollten*). The latter originated from Gemünden am Main (85 km east from Frankfurt) and, just like Anna Maria Castin, she had worked in Mainz as a domestic servant and in Hanau with gardeners.

The fourth woman, Albertina Louisa Krebsin, 20, from Darmstadt (approx. 30 km south of Frankfurt) had already been disciplined for loose behaviour on an earlier occasion by the consistory in Frankfurt. Next to her name in the criminal investigation record it was written that she had already been sanctioned to the donkey (shaming punishment) in front of the Hauptwache (*diese bereits vor 4 wochen an den Esel gebunden worden*).<sup>1051</sup> According to her statements, she had tried

<sup>1049</sup> G. Ammerer, ‘Von “Gutschen”, “fleischlichen Begierden”, und “Ehefleppen”. Partnerschaft, Sexualität und Nachkommen im Milieu der Landstraße’ in: G. Ammerer and G. Fritz, *Die Gesellschaft der Nichtsesshaften. Zur Lebenswelt vagierender Schichten vom 16. bis zum 19. Jahrhundert* (Affalterbach 2013) 107-132, 112-113.

<sup>1050</sup> Criminalia 6283 (1750).

<sup>1051</sup> Criminalia 6283 (1750). ‘An den Esel gebunden werden’ was a shaming punishment, usually meted out to disorderly soldiers or women who were punished for illicit sexual behaviour. Offenders were bound on a wooden donkey for public shaming. In Frankfurt the wooden donkey was situated in front of the Hauptwache.

to earn a living by knitting for the people on the Sandhof (a manorial estate just outside of Frankfurt). When she was asked if she lived her life as a prostitute (*‘ob sie nicht dem hurenleben nachgegangen’*) Albertina Louisa replied: ‘not much, just with one soldier – otherwise she’d rather go begging’.

The fifth woman, Anna Margaretha Wissnerin, aged 23, from Neustadt an der Aisch (170 km south-east from Frankfurt) had come to the region because she had a relative living in Offenbach, who had promised her to help her find a position as a servant. Finally, Maria Catharina Lampesin, aged 19 from Gießen (ca. 60 km north of Frankfurt) had previously worked in Frankfurt as a domestic servant for a year, and just returned to the city after a stay with her relatives in Darmstadt, hoping to find a new position. Only two of the six arrested women, Anna Margaretha Wissnerin and Maria Catharina Lampesin, managed to clear their name of any suspicions and were released without further punishment. The remaining four, however, were expelled from the territory and warned not to return again. Unfortunately, the records do not reveal why the authorities considered two of the women harmless and allowed them to stay, while the other four were expelled, particularly as their stories were very similar.

Just like the story above, women that were arrested on suspicion of prostitution were often arrested just outside of the city, close to the ramparts, walking on their own, together with casual acquaintances, or in small groups of women. The women often stated that they were travelling in search of work.<sup>1052</sup> Whether or not this was an excuse or the truth, it reflects the double standards in relation to (labour) migration. Whereas the mobility of women was met with moralising disapproval, male labour migration in the form of tramping was institutionalised and assisted.<sup>1053</sup> Young women travelling in the company of soldiers, in particular, ran the risk of being labelled as harlots.<sup>1054</sup> Local women were certainly not spared from such associations. Unlike migrant women, however, they were not banished in the first instance, but only after repeated arrests.<sup>1055</sup> In some cases, foreign girls managed to clear their name and were allowed to continue their stay in the city. However, this was always accompanied with the strict condition that they should find an honest household to stay in.<sup>1056</sup> Independence, in other words, was not accepted.

Some historians have considered this moral pressure as one of the main causes of female vagrancy in the early modern period.<sup>1057</sup> The cases in Frankfurt, however, portray a more complex picture. Although there are many examples of women in the sources who were expelled based on

<sup>1052</sup> E.g. Criminalia 3698 (1728); Criminalia 4493 (1736); Criminalia 5731 (1744); Criminalia 7559 (1759).

<sup>1053</sup> Althammer, ‘Roaming Men, Sedentary Women?’; Dürr, ‘Migration der Mägde’.

<sup>1054</sup> Criminalia 5296 (1741); Criminalia 3698 (1728); Criminalia 5004 (1739); 5563 (1743).

<sup>1055</sup> Criminalia 5745 (1744); Criminalia 5731 (1744); Criminalia 5882 (1747).

<sup>1056</sup> Criminalia 6501 (1751); Criminalia 5916 (1747).

<sup>1057</sup> Bräuer, ‘Bettelweiber’, 140; Jütte, ‘Kriminelle Bettelpraktiken’, 123.

moral grounds, it is not always possible to discern from the criminal records if, in fact, lewdness and extra-marital sexuality were the root causes of female unsettledness. There are examples of women whose ‘career’ on the road started after they had been prosecuted and expelled for prostitution or illegitimacy, but these were usually not women that had been strongly rooted within a community to begin with.<sup>1058</sup> It is very unlikely that illegitimacy alone drove women onto the streets. While Otto Ulbricht certainly had a point by stating that not all female mobility was equated with immorality by the authorities, it was a specific, gendered way of framing unsettledness that reflects the double standards concerning sexuality in this period.

Men wandering around did not risk being prosecuted based on their mobility being associated with improper independence and promiscuity. However, they faced other stereotypes which endangered their mobility in a different way. One of the most striking features of the men registered in the *Malefizbuch* was the high number of foreign Jewish offenders among them. 43% of the men listed as *verdächtig geschienener Personen* were labelled as Jews, compared to only 3% of the women. Frankfurt was home to one of the largest Jewish communities in early modern Europe, and as such it formed a major locus of attraction for Jewish migrants. The city was connected to other Jewish communities through family networks, ranging from Prague to Amsterdam.<sup>1059</sup> To a certain extent, the lower number of Jewish women is a reflection of the fact that Jewish women faced even stricter patriarchal control than Christian women and were less likely to be on the move independently. Although this is reflected by the fact Jewish women had a much lower share among registered offenders than their Christian counterparts, there are examples of female Jewish migrants committing offences in Frankfurt.<sup>1060</sup> However, they were less affected by stereotypes of male Jewish criminals, which explains their low number among suspects in the *Malefizbuch*, compared to men.

Framing Jews as dangerous and criminal had a longstanding tradition. Older stereotypes of Jewish criminality were concerned with accusations of ritual murder, poisoning wells, eating Christian babies, or killing entire Christian communities.<sup>1061</sup> However, these older stereotypes had mostly ceased to exist by 1700, and they no longer played a role in the framing of Jews as suspicious

<sup>1058</sup> E.g. Criminalia 7256 (1756); Criminalia 6398 (1750); Criminalia 3960 (1732); Criminalia 4945 (1739).

<sup>1059</sup> T. Burger, *Frankfurt am Main als jüdisches Migrationsziel zu Beginn der Frühen Neuzeit, Rechtliche, wirtschaftliche und soziale Bedingungen für das Leben in der Judengasse* (Wiesbaden 2013); Karpf, *Eine Stadt und ihre Einwanderer*, 33-41.

<sup>1060</sup> V. Kallenberg, “und würde auch sonst gesehen haben, wie sie sich durchbrächte”. ‘Migration’ und ‘Intersektionalität’ in *Frankfurter Kriminalakten über jüdische Dienstmägde um 1800* in: S. Schraut et al. eds., *Femina Migrans. Frauen in Migrationsprozessen (18.-20. Jahrhundert)* (Sulzbach/Taunus 2011) 39-67.

<sup>1061</sup> Ulbricht, ‘Criminality and Punishment of Jews’, 49; J. Wiltenburg, *Crime and Culture in early modern Germany* (Charlottesville 2012) 100.

in the *Malefizbuch* and the *Criminalia* of the eighteenth century.<sup>1062</sup> By this time, popular accounts firmly established the association of Jews roaming the countryside as organised bands of robbers. Earlier studies on banditry implicitly took over some of the eighteenth century stereotypes regarding Jewish criminality, highlighting their role among criminalised gangs.<sup>1063</sup> Most of the Jews registered in the *Malefizbuch* were suspected of theft, either individually or as part of a larger gang. In 1752 Meijer Salomon from Prague was expelled because he was suspected of stealing.<sup>1064</sup> In 1762, Callmann Lazarus of Amsterdam experienced a similar fate and was expelled from the city after performing forced labour in the trenches.<sup>1065</sup> According to Karl Härter, labelling Jewish strangers as suspicious based on their religious background was strategically used by the authorities so that they could associate them more easily as robbers or members of criminalised gangs, thereby reinforcing the existing stereotypes.<sup>1066</sup>

Despite the dominant association of Jews and criminality, local *Stättigkeitsjuden* were not overrepresented among property and violent offenders in the eighteenth century.<sup>1067</sup> In fact, in the latter case they were even underrepresented in relation to their overall share among the population, which was probably related to the high degree of autonomy that the Jewish community in Frankfurt had in terms of conflict regulation within their own community. Thus, it was particularly the combination of being male, foreign and Jewish which fostered the anxieties of Frankfurt's authorities.

### **Penal exclusion: the importance of banishment in early modern criminal justice**

The previous paragraphs have shown how much the urban authorities of Frankfurt depended on exclusionary mechanisms as a way to maintain public order. People unable to prove their incorporation in the city's social control networks – either through household membership or otherwise – were denied settlement. It may come as no surprise, therefore, that banishment was one of the most commonly executed criminal punishments in the early modern period throughout the Holy Roman Empire.<sup>1068</sup> According to Jason Coy, penal migration (mobility as the result of

<sup>1062</sup> On Jewish criminality in early modern Frankfurt, see: M. R. Boes, 'Jews in the Criminal-Justice System of Early Modern Germany', *Journal of Interdisciplinary History* 30 (2000) 407-435; V. Kallenberg, 'Extremely Common – Jews before the Frankfurt Penal Court, 1780-1814' (Unpublished PhD thesis TU Darmstadt 2016).

<sup>1063</sup> Lucassen, 'Blind Spot'; Ulbricht, 'Criminality and Punishment'; Egmond, *Underworlds*, 126.

<sup>1064</sup> *Malefizbuch*, 17 (20.10.1752).

<sup>1065</sup> *Malefizbuch*, 89 (05.04.1762).

<sup>1066</sup> Härter, 'Prekäre Lebenswelten', 36.

<sup>1067</sup> Eibach, *Frankfurter Verböte*, 212, 299.

<sup>1068</sup> J.P. Coy, *Strangers and Misfits. Banishment, Social Control and Authority in Early Modern Germany* (Leiden 2008) 52-56; H. Schnabel-Schüle, 'Die Strafe des Landesverweises in der Frühen Neuzeit' in A. Gestrich ed., *Ausweisung und Deportation. Formen der Zwangsmigration in der Geschichte* (Stuttgart 1995); A. Blauert, *Das Urfehdewesen im Deutschen Südwesten im Spätmittelalter und in der Frühen Neuzeit* (Tübingen 2000); G. Schwerhoff, 'Vertreibung als Strafe. Der Stadt- und

banishment) was an ‘engine of mobility’ that ‘helped shape larger patterns of migration in early modern Germany’.<sup>1069</sup> Penal migration certainly only affected a small percentage of people on the move during this period. Nevertheless, it is a clear example of the exclusionary regulations by authorities during the early modern period affecting foreigners in much greater numbers than locals. Studying banishment, therefore offers an opportunity to gain a deeper understanding of the way that the precariousness of mobility in the early modern period could be gendered. This part of the chapter studies a particular group of people: those that defied their sentence and returned to the city.

As we have seen in table 3 above, men and women were prosecuted for violating their banishment about equally often: approximately 100 male and 105 female offenders were investigated for this offence. Frankfurt was not the only city in the modern period where one can observe a marked female predominance among offenders who returned illegally after banishment.<sup>1070</sup> Scholars have related this to the fact that women were more dependent on settledness and experienced more difficulties faced with a life on the road than men. According to Robert Jütte, for example, women were more compelled to defy their sentence, because they were less likely to make a living being isolated from their social support networks than men.<sup>1071</sup> Carl A. Hoffmann, on the other hand, argued quite the contrary. He claimed that women would have found less difficulty making a living than men after expulsion. For them there was always the possibility of entering domestic service. He based his assumption on the fact that there was a strong emphasis on honour in early modern guilds, leaving expelled journeymen excluded from that segment of the labour market.<sup>1072</sup> Such a view ignores the fact that there were more casual employment opportunities available for men, even with a tarnished reputation, for example in military service, than there were for women. Thus, the question remains: how can one explain the female predominance among violators of banishment? Were the reasons for men and women to return to the city different? Or are these differences a sign of gendered prosecution policies of the urban authorities?

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Landesverweis im Ancien Régime’ in: S. Hahn, A. Komlosy and I. Reiter eds., *Ausweisung, Abschiebung, Vertreibung in Europa, 16. – 20. Jahrhundert* (Innsbruck 2006) 48-72; Hahn, *Historische Migrationsforschung*, 95-101.

<sup>1069</sup> J.P. Coy, ‘Penal migration in early modern Germany’ in: J. Coy, J. Poley and A. Schunka eds., *Migrations in the German Lands, 1500-2000* (New York and Oxford 2016) 51-66, 51-52.

<sup>1070</sup> Schwerhoff, ‘Kriminalität in Köln’, 71; Blauert, *Das Urfehdedwesen*, 139; Hahn, *Historische Migrationsforschung*, 97; Van der Heijden, *Women and Crime*, 134-135; Jütte, ‘Geschlechtsspezifische Kriminalität’, 113; D.J. Noordam, ‘Criminaliteit van vrouwen in Leiden in de 17de en 18de eeuw’ *Jaarboekje voor Geschiedenis en Oudheidkunde van Leiden en Omstreken* 77 (1985) 36-46, 41-42.

<sup>1071</sup> Jütte, ‘Geschlechtsspezifische Kriminalität’, 113. Also: G. Ammerer, “‘durch Strafen [...] zu neuen Lasten gereizt’”. Schandstrafe, Brandmarkung und Landesverweisung – Überlegungen zur Korrelation und Kritik von kriminalisierenden Sanktionen und Armutskarrieren im späten 18. Jahrhundert’ in: S. Schmidt ed., *Arme und ihre Lebensperspektiven in der Frühen Neuzeit* (Frankfurt am Main 2008) 311-339, 328-329.

<sup>1072</sup> C.A. Hoffmann, ‘Der Stadtverweis als Sanktionsmittel in der Reichsstadt Augsburg zur Beginn der Neuzeit’ in: H. Schlusser and D. Willoweit eds., *Neue Wege strafgeschichtlicher Forschung* (Köln 1999) 193-237, 217.



In order to answer these questions, all cases of violations of banishment in the *Criminalia* have been studied for the 17<sup>th</sup> century as well as the following sample years for the eighteenth century: 1700-04; 1710-14; 1720-24; 1730-34; 1740-44; 1750-54; 1760-64; 1770-74; 1780-84; 1790-94. The sample includes a total of 102 criminal investigation records, 96 individual offenders (48 male and 48 female) and at least 143 occurrences of infraction of banishment.<sup>1073</sup> These numbers of course only represent illegal returns that were investigated by the *Peinliche Verhöramt* and not those that were dealt with by other institutions. We must also consider that there were presumably many cases in which offenders were simply escorted out of the city, again without a proper investigation. And, of course, not every returnee was detected and some managed to return to the city and stay under the radar. There are many references in the interrogation records in which offenders recall earlier occasions that they had returned to the city without getting caught.<sup>1074</sup>

Before we can study the gender dynamics of violations of banishment, it is necessary to study how banishment was implemented by Frankfurt's authorities, and with what aims. In early modern Frankfurt various urban institutions possessed the authority to expel a person beyond the city borders and/or its territory. This stems from the fact that expulsion or banishment was both a petty penalty as well as a penal sentence. In the latter instance only the city council – which functioned as a high court – was authorised to execute the punishment. Banishment fulfilled various functions within the early modern legal system: as a punishment on its own; as a possibility to mitigate sentences for crimes where the legal code demanded the death penalty; as *Verdachtsstrafe*; as a policing effort.<sup>1075</sup> Banishments executed as a penal sentence were generally accompanied with the obligation to swear an oath (*Urfehde*), a condition which could only be imposed by the high court.<sup>1076</sup> The *Peinliche Verhöramt*, could, as we have seen, expel people in case of minor offences without the consent of the city council. A person could even be expelled if he/she was highly suspected by the authorities, but there was no evidence to prove him/her guilty by the *Verdachtsstrafe*. When it came to the policing of vagrancy and begging, the city's poorhouse and hospitals were authorised to apprehend any wandering and masterless person and escort them out of the city. Frankfurt's soldiers patrolled the city and its territory with the same purpose. Likewise, the institutions in charge of moral policing (the *Sendamt* in the seventeenth century and the *Konsistorium*

<sup>1073</sup> In many cases, infraction of banishment was not filed in a separate record by the *Verhöramt*. Often they included these cases with the previous investigation records, i.e. with the interrogation files for the crime for which they had received their banishment in the first place. This means that an infraction of banishment in 1755 could still end up in the sample.

<sup>1074</sup> E.g. Criminalia 4209 (1734); Criminalia 6257 (1750); Criminalia 8504 (1770).

<sup>1075</sup> Hofmann, 'Der Stadtverweis als Sanktionsmittel', 198; R. Laitinen, 'Banishment, Urban Community and Judicial Practice: Thieves in mid-17<sup>th</sup> century Turku', *Scandinavian Journal of History* 38:5 (2013) 549-567.

<sup>1076</sup> Originally the *Urfehde* was an oath taken to forswear any vengeance after imprisonment and was designed to restore peace and re-integrate the offender into the community. Throughout the early modern period, however, it became a synonym for forswearing a city or a territory. Blauert, *Das Urfehdenwesen*.

from 1728 onwards) could expel any loose, idle and disorderly people. This particularly affected women who were suspected of prostitution or illegitimacy.

Providing an overview of how many people were indeed expelled from Frankfurt during the early modern period is not possible, as there are no sources available that allow for a calculation of the number of expelled persons per institution. In the late eighteenth century alone, more than 500 beggars were expelled on a yearly basis.<sup>1077</sup> It remains unclear how many people requesting permission to stay in the city at the *Inquisitionsammt* were denied access and ordered to leave the city. An overview of the number of foreign, unmarried, pregnant women expelled by the consistory is equally lacking. Fortunately, the criminal records offer the opportunity to study the prevalence of expulsion in early modern Frankfurt at least to a certain extent. The *Strafenbuch* records all the penal punishments meted out by the city council between 1562-1696. Moreover, although the *Criminalia* are investigation records, they still provide information about the punishment in three-quarters of the cases. The figures presented in this chapter are based on all *Criminalia* in 1700; 1720; 1740; 1760; 1780.

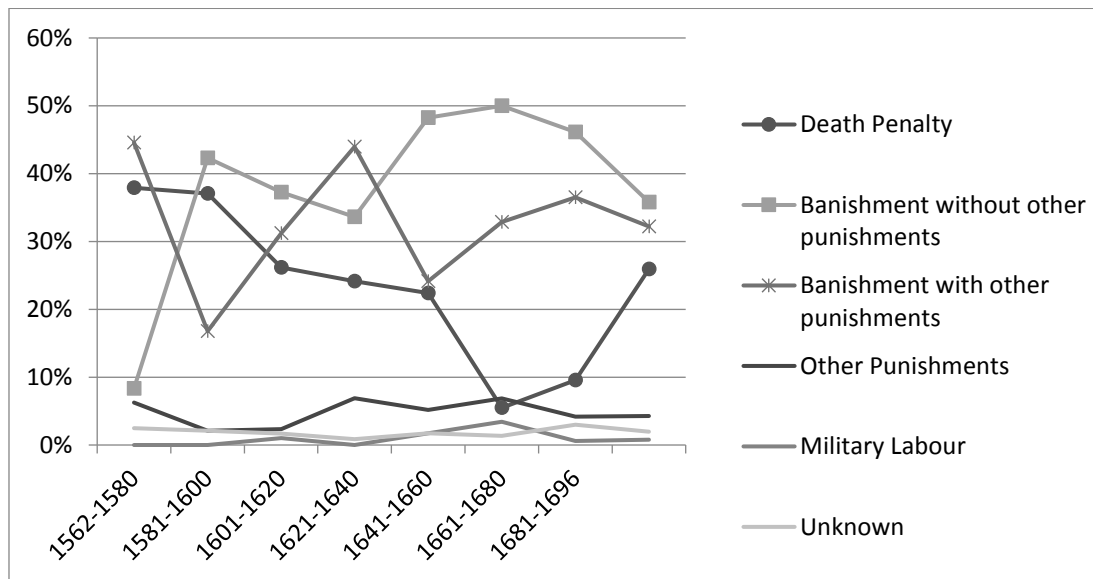
Of all recorded sentences in the *Strafenbuch*, banishment had a share of 68%, relating to 891 offenders banished between 1562 and 1696 (figure 3 and 4). The records also show that banishment became increasingly important throughout the seventeenth century: in the second half of the sixteenth century banishments ‘only’ made up 53% of all punishments recorded, but by the second half of the seventeenth century this had grown to 83%. The number of death penalties decreased simultaneously.<sup>1078</sup> Banishments were not only exclusionary punishments, but also served a public function for the authorities to demonstrate the boundaries of accepted behaviour.<sup>1079</sup> Banishments were therefore often imposed in combination with other shaming rituals or corporal sanctions.

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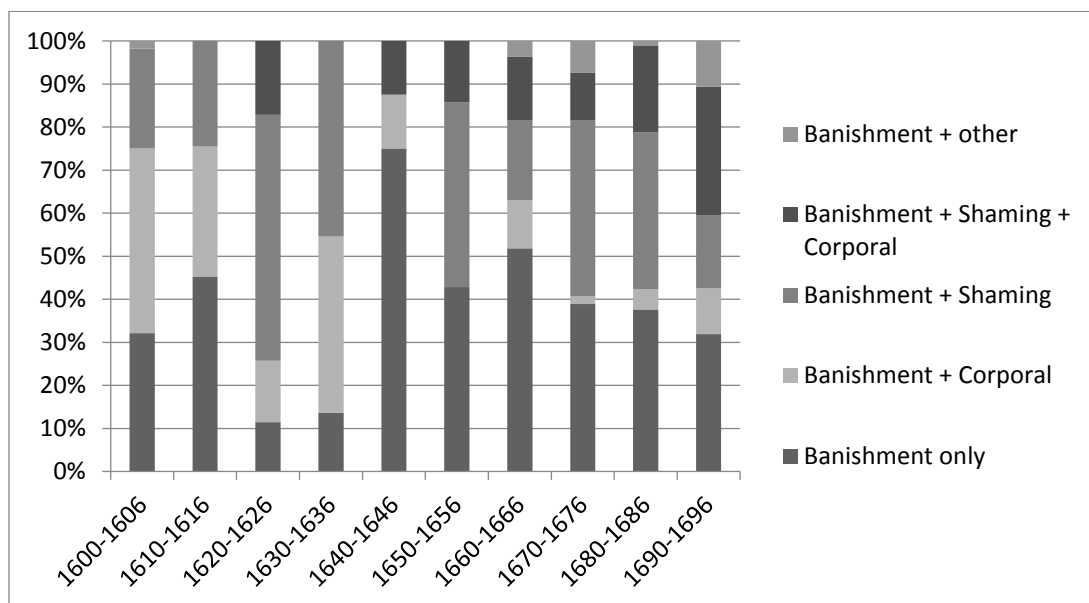
<sup>1077</sup> Hess, *Frankfurter Armen-, Waisen- und Arbeitshaus*, tabel 1 and 2; J. H. Faber, *Topographische, politische und historische Beschreibung der Reichs- Wahl- und Handelsstadt Frankfurt am Mayn*. Vol. 1. (Frankfurt am Main 1788) 146.

<sup>1078</sup> R. von Dülmen, *Theater des Schreckens. Gerichtspraxis und Strafrituale in der Frühen Neuzeit* (5<sup>th</sup> edition; München 2010) 187.

<sup>1079</sup> Coy, *Strangers and misfits*, 3.

**Figure 18 Share of banishment on penal punishments, 1562-1696**

Source: Von Dülmen, Theater des Schreckens, 187.

**Figure 19 Banishment in combination with other punishments, 1600-1695**

Source: Strafenbuch.

As has been mentioned before, the *Strafenbuch* only listed all the penal punishments (*peinliche Strafen*) but did not record cases that were sentenced with petty penalties such as fines, short imprisonment, verbal admonishments or simple expulsions (*Stadtverweise*). A comparison with the references to all punishments in the sample years of the *Criminalia* show that banishment still made up a significant proportion of the sentences: in 62% of the records with a reference to a final outcome, offenders were expelled from the city.<sup>1080</sup> Towards the end of the century ‘modern’ prison sentences became more common, but the authorities still relied heavily on expulsion. It was not uncommon that offenders were sentenced to perform forced labour either in the poorhouse or in the trenches first, and were expelled from the city after the completion of their sentence. Magdalena Fallerin from Elsass, for example, was sentenced to eight days of *Trassklopfen* in the poorhouse before being expelled for life (*für ewig*) for stealing three neckerchiefs from a shop (*Trass* is tuff which was used to make plaster – it was common for offenders to be sentenced to grind these rocks).<sup>1081</sup> It is not always specified in the sources, however, whether the expulsion was part of the sentence or if they were ordered to leave town because their right to stay in the city was revoked. Either way, the result was the same.

Although it is always difficult to compare such numbers due to the heterogeneity of the legal systems and the sources, similar trends appear in other cities throughout the Holy Roman Empire. In all, every city banishment was central to law enforcement; it was either the most executed type of punishment or accounted for a significant share. In sixteenth-century Augsburg and Ulm, authorities sentenced offenders to banishment in more than 50% of the cases.<sup>1082</sup> In Cologne, the city authorities expelled one out of five offenders at the turn from the sixteenth to the seventeenth century, making banishment the majority of all punishments. By the end of the seventeenth century, banishment had become even more significant: 58% of the offenders were now punished with exclusion.<sup>1083</sup>

Authorities did not apply banishment sentences randomly. In his study of banishment in sixteenth-century Ulm, Jason P. Coy characterised banishment as an instrument to mark the socio-

<sup>1080</sup> These numbers are based on a sample of all investigation records in the *Criminalia* for the years 1700; 1720; 1740; 1760; 1780. Total no. of offenders: 369. Joachim Eibach calculated that in the eighteenth century, banishments accounted for 23.3% of all punishments (Eibach, *Frankfurter Verböte*, 387). However, in his calculations Eibach did not account for the fact that offenders were often punished with a combination of sentences, for example: banishment and whipping or imprisonment in the poorhouse and chastisement. This accounts for the variation in the calculations of Eibach and myself. Unfortunately, the picture remains incomplete, since there are fewer references to a final outcome in the investigation records concerned with violence or disturbing public order.

<sup>1081</sup> *Criminalia* 5122 (1740). Also e.g.: *Criminalia* 5076 (1740); *Criminalia* 5079 (1740); *Criminalia* 7587 (1760); *Criminalia* 7650 (1760); *Criminalia* 9169 (1780).

<sup>1082</sup> Hoffmann, ‘Der Stadtverweis als Sanktionsmittel’, 204-205; Coy, *Strangers and Misfits*, 25-26.

<sup>1083</sup> G. Schwerhoff, *Köln im Kreuzverhör. Kriminalität, Herrschaft und Gesellschaft in einer frühneuzeitlichen Stadt* (Bonn 1991) 148; Schwerhoff, ‘Vertreibung als Strafe’, 52.

spatial boundaries of the urban community.<sup>1084</sup> Depending on the local jurisdiction, efforts of authorities to purge the city from undesired individuals were particularly directed towards offenders who were prosecuted for property offences, vagrancy, and moral offences.<sup>1085</sup> Violent offences, on the other hand, were far less likely to be punished with banishment as authorities preferred to opt for fines and reconciliations. As Joachim Eibach pointed out, violence was apparently not considered as a type of behaviour that threatened the urban community in the eyes of the authorities, whereas immoral conduct and property offences were.<sup>1086</sup>

A central characteristic of banishment sentences throughout the cities of the Holy Roman Empire was that authorities were more likely to sentence foreigners to this type of punishment than citizens or settled resident aliens.<sup>1087</sup> In Frankfurt, the number of foreigners amongst expelled offenders varied between 64% (*Strafenbuch*) in the seventeenth century and 78% (*Criminalia*) in the eighteenth century, which was disproportionate to their overall share. Many of the offenders that were banished were characterised as vagrants, beggars or unsettled individuals. Banishment was just one of the methods employed by authorities to marginalise these types of behaviour. Whenever local citizens did get banished, this was particularly connected to moral offences.<sup>1088</sup>

Looking at the absolute numbers, the share of women amongst banished offenders in Frankfurt in the *Strafenbuch* and *Criminalia* was 36%, which was disproportionately high compared to their share among overall offenders.<sup>1089</sup> The chance of female offenders being banished was higher than for men: in the *Strafenbuch*, 89% of the recorded sentences for women were banishments and in the *Criminalia* this was 68%. Men, on the other hand, were ‘only’ banished in 73% (*Strafenbuch*) and 59% (*Criminalia*) of the cases. On the one hand this divergence is the result of the reluctance of authorities to impose the death penalty on women, and the fact that certain types of punishments, such as military service, were not given to female offenders.<sup>1090</sup> Regardless of the severity of their recidivism, female thieves were hardly ever put to death. Men faced the risk of being branded as dangerous robbers and professional criminals, and were consequently hanged.<sup>1091</sup>

<sup>1084</sup> Coy, *Strangers and Misfits*, 52-56.

<sup>1085</sup> Hoffmann, ‘Der Stadtverweis als Sanktionsmittel’, 206-207; Coy, *Strangers and Misfits*, 29; Härter, *Policey und Strafrecht*, 638.

<sup>1086</sup> Eibach, *Frankfurter Verböte*, 388-390.

<sup>1087</sup> Coy, *Strangers and Misfits*, 30; Hoffmann, ‘Der Stadtverweis als Sanktionsmittel’, 206; Eibach, ‘Versprochene Gleichheit’, 526.

<sup>1088</sup> Coy, *Strangers and Misfits*, 79-112.

<sup>1089</sup> Sample *Strafenbuch*; Sample *Criminalia*.

<sup>1090</sup> R.J. Evans, *Rituals of Retribution. Capital Punishment in Germany 1600-1987* (Oxford 1996) 29-32; 138-40; H. Schnabel-Schüle, ‘Frauen im Strafrecht vom 16. bis zum 18. Jahrhundert’ in U. Gerhard (ed.), *Frauen in der Geschichte des Rechts. Von der Frühen Neuzeit bis zur Gegenwart* (München 1997) 185-98.

<sup>1091</sup> An exception was the case of Maria Elisabeth Wagnerin, a notorious thief and part of a band of thieves, who was hanged in 1725. *Criminalia* 3416 (1724) and 12790-92 (1724).

More importantly, the divergence is a result of gendered crime patterns. Unlike men, women were hardly ever prosecuted for violent offences, a crime which was often sentenced with monetary fines. But women were often in the majority when it came to the prosecution of moral offences, and they were more likely than men to be expelled for fornication, illegitimacy and other related crimes. The preoccupation of authorities with maintaining financial stability and preserving moral order within the urban community helps to explain why in some other Free Imperial cities the share of banished women was also disproportionately high (compared to their general proportion among offenders). In the first half of the sixteenth century the share of women amongst banished offenders varied between 67% and 29% in Augsburg.<sup>1092</sup> In Freiburg they accounted for 63% of all banishments between 1681 and 1780, and 47.7% of the offenders banished for theft between 1629 and 1762.<sup>1093</sup> In Cologne the female share of those expelled was 52% (1698-1712),<sup>1094</sup> and finally in Schwäbisch Hall (1760-69) it was 46%.<sup>1095</sup>

### Legitimising infractions and clashing perceptions

Despite the efforts of the urban authorities to regulate mobility and exclude unwanted individuals from the community, many people defied their sentence and returned to the city illegally. This allows us to study how the offenders themselves dealt with the restrictions that were imposed on their mobility and defied them. So, what were the reasons for people to return to Frankfurt despite their expulsion? During the interrogations of the *Peinliche Verhöramt*, investigators paid a great deal of attention as to how offenders wanted to justify their illegal return to the city. This information was needed in order to assess the punishment, as some reasons – such as poverty or improved conduct – could be considered as mitigating circumstances.<sup>1096</sup> There were many reasons for offenders to break their banishment and their statements allow us to gain a sense of the practical consequences of banishment and their lives after expulsion. They also reveal that offenders could have a different perception of what banishment actually entailed and as we will see, their views did not necessarily correspond with that of the authorities. There are more or less three different types of justifications that offenders used: 1. returning to what was left behind; 2. lack of knowledge/diverging views about the implication of the sentence; 3. to access specific urban infrastructures that were not available in the countryside.

<sup>1092</sup> Hoffmann, 'Der Stadtverweis als Sanktionsmittel', 204.

<sup>1093</sup> Wettmann-Jungblut, 71. Blauert, *Das Urfehdedewesen*, 103.

<sup>1094</sup> Schwerhoff, 'Vertreibung als Strafe', 58.

<sup>1095</sup> Blauert, *Das Urfehdedewesen*, 139.

<sup>1096</sup> Orth, *Dritte Fortsetzung*, 880-881. See, for example, the explicit reference to Carpzov in the legal advices of the syndics in Criminalia 8049 (1764).

After receiving their banishment, most offenders were escorted out of the city without the possibility to collect their belongings or to settle any remaining business. It may not come as a surprise, therefore, that many people excused their return with the fact that they had come to collect belongings that were left behind or claim outstanding wages.<sup>1097</sup> The more strongly an offender was rooted in Frankfurt, the more he or she left behind and the more closely he or she remained connected to the city. People of course left behind not only their belongings, but also children, spouses and other family members. Although it was possible that authorities may have banished spouses and children along with an offender, this was not necessarily common practice. The care for remaining family members was, therefore, a strong incentive for people to return to the city.<sup>1098</sup>

On 15 March 1721, burgher Wilhelm Ohler was banished for ten years for stealing and handling stolen goods after the great fire in the Jewish Ghetto (*Judengasse*) of 1721.<sup>1099</sup> It did not take long for Wilhelm to return to Frankfurt: in September of the same year he was arrested for infraction of banishment. Wilhelm stated that he would not have returned to the city if it were not for his old and sick father who had requested his help during the autumn fair. Both Wilhelm and his father had sent petitions to the city's magistrate for permission to return to the city prior to his return. But, since these requests were denied, Wilhelm saw no other option than to return to the city illegally. As a result, Wilhelm's banishment was extended to a total of twelve years by the city council. Considering his circumstances, the authorities refrained from any additional sentencing, such as condemning him to the pillory or whipping, which was the normal response to people who broke their banishment.

The situation was different, however, if children were involved. Johann Henrich Seiler, a local soldier, had been banished for "suspicious housekeeping" (*verdächtiges Haushalten* – i.e. keeping a brothel or housing prostitutes), leaving behind his wife and children in Frankfurt. After his expulsion, Johann's wife fell ill and passed away with no one to take care of their children. To prevent these four small children from becoming a financial responsibility and burden to the city, the magistrate cancelled his banishment under very strict conditions in order for him to take care of them.<sup>1100</sup> In this case, the possible negative financial consequences of Johann's banishment for the city's poor relief system outweighed the magistrates' desire to purge the community of immoral individuals.

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<sup>1097</sup> E.g.: Criminalia 1672 (1685); Criminalia 2327 (1702); Criminalia 2656 (1711); Criminalia 3090 (1720); Criminalia 3342 (1724); Criminalia 3850 (1730); Criminalia 3946 (1731); Criminalia 3956 (1731); Criminalia 5228 (1741); Criminalia 5456 (1742); Criminalia 6978 (1754).

<sup>1098</sup> Criminalia 2630 (1711); Criminalia 2760 (1714); Criminalia 3439 (1725); Criminalia 3932 (1731).

<sup>1099</sup> Criminalia 3129 (1721).

<sup>1100</sup> Criminalia 3090 (1720).

Apart from returning to what they had left behind, the justification of offenders for their illegal entry to the city (or its territory) also appears to reveal that their perceptions of what the punishment entailed differed from those of the city's authorities. Banishment, as we have seen, was a multi-layered punishment. It could be imposed with or without corporal or shaming punishments; with or without a fixed duration; with or without the possibility of pardon in case of good behaviour; only from the city, from its entire territory or even further; and with or without swearing an oath. This diversity gave considerable room for interpretation of the sentence and the precise legal details and consequences were open to debate both by jurists as well as by the authorities that applied the sentence.

The multiple varieties of banishment sanctions created leeway for individuals who often used it as an excuse strategy. Some of the offenders, for example, justified their return by claiming that either they had not sworn an oath, or that they did not understand what it meant. There are also examples of cases in which the offender had refused to swear an oath, and where the *Gemeiner Weltliche Richter* had done this in their place.<sup>1101</sup> The authorities took such a rationale into consideration when assessing the punishment. Especially in the case of young female offenders, the authorities did not consider it unlikely that the offender may not have understood the concept or the consequences of swearing an oath.<sup>1102</sup> In such a case, Frankfurt's magistrate decided to refrain from punishing offenders for infraction of banishment, but to have them renew the oath with an extensive explanation of what it actually entailed. To make sure that offenders could not use this excuse in the future, the scribes added a reference to this in the final sentence.

A second point of (supposed) uncertainty was the geographical scope of the banishment: whether one was expelled only from the city or also from its territory, and, in case of the latter, what the reach of this territory actually was (see illustration 1 for a map of the territory of Frankfurt).<sup>1103</sup> In 1723, Johannetta Schrader from Mainz was arrested by a patrol on the high road close to the *Friedberger Warte*, one of the defence towers of Frankfurt's countryside. A year and a half before, Johannetta had been expelled for fornication and was now asked by the interrogators to justify her presence on the city's territory. She replied that, according to her own knowledge, she had stayed on the 'free and public roads (*offenen freijen Strassen*)' and had not entered the city's territory at any time.<sup>1104</sup> The authorities decided to expel Johannetta again, with the explicit warning

<sup>1101</sup> E.g. Criminalia 4520 (1736).

<sup>1102</sup> E.g.: Criminalia 1483 (1679); Criminalia 1672 (1685); Criminalia 2656 (1711); Criminalia 3090 (1720); Criminalia 3316 (1723); Criminalia 3946 (1731); Criminalia 6398 (1750).

<sup>1103</sup> Criminalia 2706 (1712); Criminalia 2712 (1712); Criminalia 2735 (1712); Criminalia 3304 (1723); Criminalia 3342 (1724); Criminalia 4081 (1732); Criminalia 4210 (1734); Criminalia 4212 (1734).

<sup>1104</sup> Criminalia 3304 (1723).



that she should keep a further distance from Frankfurt and its territory or else she would face the *Staupbesen* (the whip).

Others excused their infraction by referring to (supposed) conditions that allowed them to pass the city.<sup>1105</sup> But even without referring to such conditions, many of the returnees excused their return with the fact that they were only passing Frankfurt on their way elsewhere. These excuses were often accompanied by explicitly mentioning that they would not stay the night.<sup>1106</sup> Similar sentiments were voiced by offenders who stated that they had not entered the city on their own account, but that they were commissioned by their employer and that therefore their personal banishment did not apply.<sup>1107</sup> Apparently, they did not perceive their banishment as a prohibition to enter the city entirely, but as a sentence not to settle in Frankfurt. Or to put it in other words: according to their own sense of justice, banishment was supposed to be an exclusion from the urban community as a legal entity – the right to obtain citizenship or a resident status and to be able to appeal to the city as a *Schutzgemeinschaft* with all its accompanying services and provisions – and not necessarily as an exclusion from the city as a geographical entity.

Such sentiments were also voiced by offenders who appealed to the fact that – according to their own opinion – they should not be considered a threat to the urban community. In January 1715, for example, Johann Boss was banished for violently assaulting a young girl. He was apprehended in August of the same year and excused his return by stating that “it wasn’t as if he had sworn the city due to theft or murder”.<sup>1108</sup> Another, more common excuse strategy, was that violators appealed to the sentiments of authorities regarding vagrancy and unsettledness. Local soldier Niklas Hugern, for example, stated that he returned to Frankfurt to visit his mother in order to receive some allowance, as the only other options left would have been to go stealing and robbing, something he could not do.<sup>1109</sup> These excuse strategies were sometimes combined with statements by offenders that they had bettered their life circumstances and therefore should be eligible again to enter the city.<sup>1110</sup>

Finally, a third type of justification referred to the need to enter the city for services or supplies that were unavailable on the road, such as medical experts.<sup>1111</sup> These explanations are not specific to those that violated their banishment, but reflect the general attractiveness of the city and

<sup>1105</sup> Crim 2656 (1711); 3316 (1723); 3946 (1731); 5012 (1739); 6398 (1750).

<sup>1106</sup> This was also considered a mitigating circumstance: Orth, *Dritte Fortsetzung*, 880-881. E.g. Criminalia 1483 (1679); Criminalia 3090 (1720); Criminalia 3405 (1724); Criminalia 4158 (1733); Criminalia 5098 (1740); Criminalia 5592 (1743); Criminalia 8578 (1771); Criminalia 8790 (1774); Criminalia 9246 (1781); Criminalia 10161 (1792).

<sup>1107</sup> E.g. Criminalia 1205 (1660); Criminalia 4209 (1734); Criminalia 5231 (1741); Criminalia 7838 (1762).

<sup>1108</sup> Criminalia 2760 (1740). Original: ‘Wäre ia keine diebereij und keine mörderij warmit er die Stadt verschwobren’.

<sup>1109</sup> Criminalia 3439 (1725). Original: ‘Er bette also müssen zu seiner Mutter gehen, daß er was zu leben bekommen, dann er bette nicht können stehlen und rauben gehen.’

<sup>1110</sup> Criminalia 2327 (1702); 3090 (1720); 3932 (1731); 4209 (1734); 5098 (1740).

<sup>1111</sup> Criminalia 2118 (1697); 2630 (1711); 3323 (1723); 5592 (1743); 8046 (1764).

its services. After all, one of the key characteristics of cities is their multifunctionality and the availability of services.<sup>1112</sup> Foreigners arrested as suspicious often provided similar explanations for their stay in Frankfurt. Although the city was situated in one of the more urbanised regions of the Holy Roman Empire, its services still functioned as an important pull factor. The availability of relatively cheap goods and merchandise in particular attracted many people. Physical discomforts due to starvation, disease or extreme cold as a result of the aggravations of life on the road also drew people back to the city.

A particularly devastating tale is that of locally born Anna Justina Heintzebergerin, 30 years old. Both her parents passed away when she was still young and Anna was raised in the poorhouse. Her life was characterised by encounters with the law for property offences and immoral behaviour before she was banished in 1740 for theft. After her expulsion, she moved to Mannheim where she found employment working as a day labourer in a tobacco factory. But Anna was no longer tolerated there after her ‘whole body became unclean (*am ganzen Leib gantz unrein geworden*)’ and was forced to leave. What followed subsequently was a life of begging and roaming the countryside. As her disease progressed and she became verminous (*von dem ungezieffer fast aufgefressen worden*) Anna decided to return to Frankfurt only to buy a cap to cover her head so her physical appearance would not repel people too much. But before she was able to leave the city, Anna was apprehended by the *Gemeine Weltliche Richter* Winkler close to the *Affentor* and taken into arrest. Her pitiful situation did not move the magistrates to mercy and Anna was sentenced to the pillory and banished again.

Underneath all of these justifications one can read the more underlying causes for the return of offenders. Illegal returns to the city offered a (temporary) solution to hunger, poverty and marginalisation. During the interrogations, investigators often inquired after the whereabouts of offenders following their punishment and how they made a living in order to assess their character, whether or not they had improved their ways? In the majority of the cases the answers reveal a life that was characterised by mobility, odd jobs and occasional crime. For many, this was not a lifestyle created by banishment, but a continuation of their previous mobility patterns that were often regionally dominated. Because many offenders already lived a mobile life prior to their arrest, their networks extended beyond the borders of the city. The presence of family members back home or in other places often directed the movement of offenders.<sup>1113</sup> Even family-like structures among vagrants or networks of prostitution could offer social support on the road and offer valuable

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<sup>1112</sup> A. Lees and L. Hollen Lees, *Cities and the making of modern Europe, 1750-1914* (Cambridge 2007) 21-27; L. Lucassen and W. Willems eds., *Living in the city. Urban institutions in the Low Countries, 1200-2010* (New York 2012).

<sup>1113</sup> Criminalia 1672 (1685); Criminalia 4212 (1734).

connections in other cities or villages.<sup>1114</sup> The problem was, however, that none of these connections offered long-lasting solutions to the precarious and deprived life of banished offenders. They could offer short-term support but no assistance to settle and escape a life that was characterised by moving from one place to another to find short-term employment.

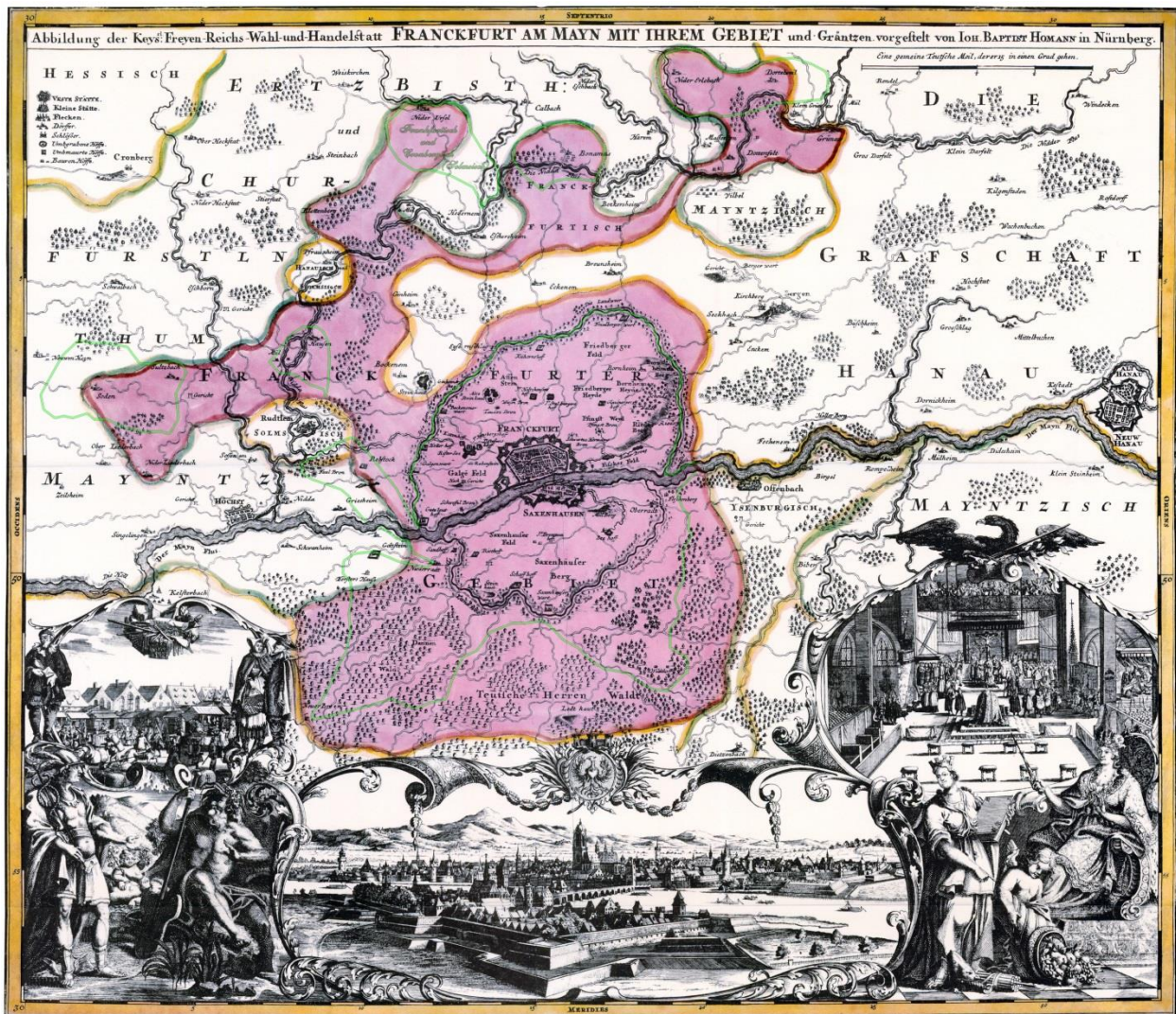
For most local people, however, Frankfurt remained the primary economic and social lure. This was where they knew their way around and where there were family members that could provide shelter and a place to stay. Remaining close to the city, and only entering it on occasion, was a very common tactic employed by offenders after their banishment. In 1770 it was reported to the *Schatzungsamt* that Maria Catharina Dreherin, a local soldier's widow, had been seen in the city at her daughter's house, despite her expulsion eleven years before. During her interrogation it was revealed that she returned to the city repeatedly to collect wool to spin from the weaver Idstein, as she was unable to gather wool outside 'but still depended on it to make a living'.<sup>1115</sup> But Maria never returned to the city with the objective of staying, knowing very well that she was forbidden to do so. Instead she remained very close and stayed in places like Offenbach (8 km from Frankfurt), Ginnheim (6 km from Frankfurt) and Rödelheim (7 km from Frankfurt). The map of Frankfurt shows that it was relatively easy to move around in the proximity of the city, without actually entering Frankfurt's territory.

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<sup>1114</sup> Ammerer, 'Schandstrafe, Brandmarkung und Landesverweisung', 328-329.

<sup>1115</sup> Criminalia 8504 (1770).

### Map 3 The city of Frankfurt and its territory



Source: Joh. Baptist Hofmann in Nürnberg, ca. 1712

#### The practice of returning – a reflection of female settledness?

Thus, the question remains: was the attraction to return to the city greater for women than it was for men? Were women more dependent on settledness and less able to make a living on the road, especially if they had to take care of young, possibly illegitimate, children? Or was their overrepresentation a reflection of the prosecution efforts of the authorities? In order to answer these questions it is necessary to take a closer look at some of the characteristics of the violators of banishment before the *Verhöramt*. To this end a total sample of 102 criminal investigations records have been investigated, concerning 96 individual offenders. Considering the scope of banishment during this period, the number of investigated violations of banishment is rather small. However, we must take into account that these cases only represent the tip of the iceberg. There are references

in the Criminalia and other sources which show that first- and even second-time, returnees were simply expelled again by lower officials.<sup>1116</sup> Moreover, not all the cases of violation of banishment investigated by the *Verhöramt* can be distinguished as such from the description because the focus is on the crime committed upon return. Nevertheless, these cases offer a good sample to study the gendered aspects of this offence.

The sample reveals that there were an equal number of individual male and female offenders who violated their banishment. Women, however, were more likely than men to be prosecuted for breaking their ban more than once. If we take recidivism into account, the share of women becomes even more significant. According to the sources, 31 of the 96 offenders had ignored their expulsion more than once and of these 31 recidivists only 9 were men and 22 were women. Thus, women were more inclined to defy their sentence repeatedly than men. Data for other regions seem to confirm this image as well.<sup>1117</sup> Not only did women return to the city more often, they also appear to have returned to the city sooner. The data in table two shows that the majority of women were arrested within six months after their banishment, whereas men were more likely to return after a longer period of time. It must be noted that the time of arrest did not necessarily correspond with the time of return to the city. However, there are only a few examples of offenders who returned to the city almost immediately after their expulsion and managed to stay in Frankfurt for a couple of years before being detected.<sup>1118</sup> More often, offenders were caught the same day or at least within a week after their return to the city. They were often apprehended by the *Gemeine Weltliche Richter*, beadles, or staff members of the poorhouse. In effect, the very people that knew that they had been expelled because they were part of the judicial system and recognised them from the time they were imprisoned in the poorhouse, or because they had escorted them out of the city personally.<sup>1119</sup> The more notorious an offender was, the more likely it was that he/she would be recognised by either of the disciplinary officials. One of the *Gemeine Weltliche Richter* even stated that he kept a personal administration of all the people he had escorted out of the city.<sup>1120</sup>

<sup>1116</sup> Konsistorium 1746 folio 171 illegal return of Anna Christina Schillingsin; Konsistorium 1746 folio 13, 14 and 15 relating the illegal return of Elisabetha Brinckmännin. Relating to her case also: Criminalia 6062 (1748); Konsistorium 1759 folio 34, 121 and 129 of the case of Maria Katherina Dreherin. Relating her case also: Criminalia 7497 (1758-1759) and Criminalia 8504 (1770).

<sup>1117</sup> G. Schwerhoff, 'Kriminalität in der Reichsstadt Köln um 1700- ein neuer Blick vom Turm', *Geschichte in Köln* 55 (2008) 63-85, 71; P. Spierenburg, *The Spectacle of Suffering. Executions and the evolution of repression. From a preindustrial metropolis to the European experience* (Cambridge 1984) 166; Noordam, 'Criminaliteit van vrouwen', 41-42.

<sup>1118</sup> Criminalia 2656 (1711); Criminalia 8049 (1764).

<sup>1119</sup> E.g. Criminalia 2158 (1698); Criminalia 2656 (1711); Criminalia 2706 (1712); Criminalia 2709 (1712); Criminalia 2712 (1712); Criminalia 3245 (1722); Criminalia 3316 (1723); Criminalia 3375 (1724); Criminalia 3383 (1724); Criminalia 3385 (1724); Criminalia 3405 (1724); Criminalia 3887 (1731); Criminalia 3956 (1731); Criminalia 4081 (1732); Criminalia 4158 (1733); Criminalia 4209 (1734); Criminalia 5082 (1740); Criminalia 5098 (1740); Criminalia 5153 (1740); Criminalia 5231 (1741); Criminalia 5381 (1742); Criminalia 5456 (1742); Criminalia 5653 (1744); Criminalia 7725 (1761); Criminalia 8578 (1771); Criminalia 8651 (1770); Criminalia 8790 (1774).

<sup>1120</sup> Criminalia 5004 (1739).

**Table 22 Time between banishment and arrest for infraction of banishment (in months)**

Time between banishment & arrest	Number of offenders	Male	Female
< Month	5	2	3
1-6 months	31	11	20
7-12 months	13	6	7
13-24 months	12	4	8
> 24 months	29	15	14

Sources: Sample Strafenbuch; Sample Criminalia.

These figures seem to confirm that there was indeed more incentive for women to return to the city than for men. Was this because they were more connected to the city? Were they more dependent on returning? As we have seen above, authorities were particularly inclined to expel foreigners without any formal residency and were very reluctant to banish citizens and, to a lesser extent, resident aliens. More than 38% of the women and 43% of the men who returned to the city illegally originated from Frankfurt or one of the villages under the dominion of the city.<sup>1121</sup> Considering that the share of locals among banished offenders during this period was significantly lower (see above), it is clear that the pull of the city was slightly greater for locals than for foreigners. In contrast to what one would expect, however, the proportion of locals among returnees was higher among men than among women. These mostly concerned (previously) well established citizens who mainly returned to the city once, or twice at the most, to settle some practicalities.

There are indications in the sources that seem to suggest that men were more successful in settling permanently elsewhere. In 1702, Anton Dietrich was expelled from Frankfurt *cum reservation fama* for insulting the city's mayors. Within two weeks he managed to become a citizen in Hanau and he returned to Frankfurt to sell his 'Burgundy wines and other securities (*Burgunder Weine und andere Effecten*)' so he could set up a new shop in Hanau with the profit.<sup>1122</sup> Forty years earlier, Philipp Jacob Knauss was banished for insulting the local clergymen and calling them '*Hurenmeister*'. Again, his banishment did not seem to have had any marginalising consequences for Knauss: he returned to the city on behalf of his new employer, the count of the neighbouring territory of Isenburg, who had employed him as a scribe.<sup>1123</sup> And there are more occasions when male returnees

<sup>1121</sup> Sample Infraction of Banishment. Out of the 48 male offenders for infraction of banishment 17 originated from Frankfurt; 2 from one of its villages; 19 were characterized as aliens and in 9 cases the place of origin is unknown. As for women: 15 originated from Frankfurt, 3 from one of its villages; 28 originated from elsewhere and only in 2 cases their place of origin is unknown.

<sup>1122</sup> Criminalia 2327 (1702).

<sup>1123</sup> Criminalia 1205 (1660).



carried written attestations of employers whom they had worked for after their banishment.<sup>1124</sup> This must be related to the fact that the general population of male exiles was less uniform from the outset. Although the majority still belonged to the marginal poor, others were more established. It was this group that faced the least marginalisation after banishment.

Although the share of locals returning was higher among men than among women, there is still a dominant regional connection in case of female returns as well. Table 11 shows the distance from the places of origin of offenders in km to Frankfurt. This table indicates that local connections were not only important for offenders who were once members of the legal community of Frankfurt, but also played a role for other returnees. The data in the table indicate two important things. First, both male and female returnees tended to originate from places closer to Frankfurt than the overall population of banished offenders. Second, women had a much smaller mobility radius than men and more often originated from cities and villages that were closely connected to Frankfurt's regional network, like Hanau, Mainz and Darmstadt. While women predominantly moved around in the broader region of Frankfurt, they were not restricted to it. Susanna Rothin who originated from Oberrad, one of the villages in Frankfurt's territory, excused her banishment by stating that she had gone to Holland in order to try to find an honest living. However, as she lacked the right connections, she was unable to find a position there and returned home.<sup>1125</sup>

**Table 23 Places of origin of banished offenders compared to violators, in km to Frankfurt**

Distance to Frankfurt (in km)	Banished women (N=88)	Female returnees (N=27)	Banished men (N=98)	Male returnees (N=19)
> 25 km	20.5%	22.2%	9.2%	10.5%
25 > 50 km	18.2%	37.0%	8.2%	5.3%
50 > 100 km	22.7%	22.2%	13.3%	31.6%
100 > 150 km	13.6%	11.1%	16.3%	10.5%
150 > 200 km	4.5%	3.7%	11.2%	21.1%
200 > 250 km	4.5%	0.0%	13.3%	10.5%
250 km >	15.9%	3.7%	28.6%	10.5%

Sources: Sample Strafenbuch; Sample Criminalia.

<sup>1124</sup> E.g. Criminalia 2118 (1697); Criminalia 3291 (1723).

<sup>1125</sup> Criminalia 3932 (1731) and Criminalia 3946 (1731). Original: 'das sie sich ehrlich zu nehren gesucht und deswegen in Holland gereset, nirgend aber unterkommen, noch unterhalt finden können' [...] 'Sie hätte auff alle weis und wege gesucht sich ehrlich zu ernheren, hette aber nirgend unterhalt finden können, wie sie dann wercklich in Holland mit ihrer Schwester gewesen, allen weilen sie unbekandt nicht unter kommen können'.

Earlier in this chapter, it was demonstrated that women were mostly prosecuted for their mobility because it was framed by the authorities as loose and immoral, and connected to prostitution and illegitimacy. It may not come as a surprise, therefore, that the majority of women who violated their banishment (32) had originally been banished for moral offences like prostitution, illegitimacy or leading a loose and immoral life in general (*ein liederliches leben führen*).<sup>1126</sup> This is striking, considering the fact that moral offences were not normally dealt with by the *Verhöramt*. The image of the prostitute returning to the city after banishment because she depended on her local clientele is dominant in popular literature.<sup>1127</sup> However, studies on prostitution in the early modern period have indicated that it was a highly mobile profession: women moved around from city to city both on their own, as well as in more organised networks of procurers, brothel-keepers and prostitutes.<sup>1128</sup> In the case of Frankfurt too, regional patterns of migration appear to have existed among women arrested for prostitution, though it is unclear to which extent these were organized networks of brothel and procurers, or simply followed other existing regional migration networks. A large number of women, for example, were connected to the military milieu and followed the armies.<sup>1129</sup>

The example of Anna Maria Krammerin is illustrative for these patterns. Over the course of two years, Anna Maria Krammerin, a young girl from Steinheim (now part of Hanau), illegally returned to Frankfurt on at least four occasions. In between her returns she had worked as a servant in Hanau and Mainz and carried tobacco as a day labourer. But she also continued to supplement her income with prostitution. Throughout the entire period, Anna remained connected to a network of prostitutes and brothel keepers that appeared to operate primarily in Frankfurt. On three out of four occasions she was arrested with another woman, Anna Kleinköpffin from Darmstadt, with whom she had stayed in several brothels. Before her final infraction of banishment that can be traced in the sources, Anna was living in the countryside near Hanau with one of her former brothel-keepers who had also been banished.<sup>1130</sup> The example of Anna indicates that the attraction to the city must have been at least partially related to the existing regional networks, whether these were the reflection of organised structures or not. The majority of the women, both

<sup>1126</sup> Sample Infraction of Banishment.

<sup>1127</sup> K. Schneider, *Mörder, Diebe und Betrüger. Kriminalität in Frankfurt im 18. Jahrhundert* (Frankfurt 2017) 135-139.

<sup>1128</sup> L. van de Pol, *The burgher and the whore. Prostitution in early modern Amsterdam* (Oxford 2011) 28, 146; M. Mechant, 'Selling sex in a provincial town. Prostitution in Burges' in: M. Rodríguez García; L. Heerma van Voss and E. van Nederveen Meerkerk eds., *Selling sex in the city. A global history of prostitution 1600s-2000s* (Leiden 2017) 60-84, 78-79; Kienitz, *Sexualität, Macht und Moral*, 81-84.

<sup>1129</sup> Criminalia 3698 (1728); Criminalia 3893 (1731); Criminalia 5985 (1747); Criminalia 7569 (1759); Engel, *Soldatenfrauen*, 438-444.

<sup>1130</sup> Criminalia 3090 (1720).



local and foreign, caught for infractions of banishment had led a life in the margins that was characterised by deviance, mobility, an economy of makeshift and previous encounters with the law long before their expulsion.

Thus, it appears to have been a particular group of women who were prosecuted for returning to the city illegally. In the eighteenth century, authorities repeatedly voiced their concern about the increasing numbers of offenders who ignored their banishment. In their minds, this was a problem with female offenders in particular. In 1790, the head of the *Verhöramt* recalled that during the year and a half that he had been in office, hardly a week passed by without a women being arrested for ‘*gebrochener landesverweisung*’, while he only remembered one man being arrested for the same offence during this period.<sup>1131</sup> The women were framed by the *Kriminalrat* as headstrong and incorrigible, and having repeatedly insulted ‘God and the authorities’ (*‘Gott und die Obrigkeit’*) by ignoring their oath. These concerns were not new in the 1790s, but had been ongoing throughout the period. Between 1724 and 1731 Maria Margaretha Rücklerin from Herborn was arrested for infracting her banishment on three different occasions. In the legal advice, the syndics considered that Maria should be punished severely and made an example because the ‘violations of banishment were out of control’ (*‘die violirung der urphed gantz überhandt nehmen’*), particularly among such loose harlots (*‘dergl. ruchloosen dirnen’*), meaning women who were suspected of being prostitutes, fornicators or unwed mothers.<sup>1132</sup>

As we have seen earlier, the anxieties of the authorities towards loose women were not only fostered by moral considerations, but by financial concerns as well.<sup>1133</sup> They were unwilling to carry the burden of children and their (foreign) mothers who could not support themselves. It is unlikely, however, that the overrepresentation of women among infraction of banishment cases was only due to the fact that authorities were more likely to police and detect (future) unwed mothers out of financial concerns. Prosecutions for *fracta urpheda* peaked in the 1720s and 1740s, whereas concerns about illegitimacy and expelling unwed mothers based on financial grounds peaked in the 1750s. If anything, the former inspired the latter and not the other way around.

The high level of female recidivists among violators of banishment is more likely to result from a gendered division of labour among larger gangs than from the prosecution efforts of the authorities. These gangs often operated regionally and were organised along the lines of family relations. Most of the time, they did not group together, but changed the composition continuously in order to complicate their prosecution by the authorities, and prevent the risk of being labelled as

<sup>1131</sup> Criminalia 10032 (1790).

<sup>1132</sup> Criminalia 3385 (1724).

<sup>1133</sup> Also: D. Hüchtner, ‘Gender as a medium of change in Berlin’s politics of poverty, 1770-1850’ in: U. Gleixner and M.W. Gray eds., *Gender in transition. Discourse and practice in German-speaking Europe, 1750-1830* (Ann Arbor 2006) 25-50.

an organised criminal gang.<sup>1134</sup> Historians have shown how they strategically used the gendered attitudes of the authorities towards poverty. Women were much more able to rely on excuse strategies that framed their actions as a result of poverty and destitution. Men, on the other hand, were more likely than women to be framed as dangerous criminals and consequently faced being hanged. In Kurmainz, two-thirds of the death penalties were imposed on offenders labelled as vagrants or on other marginal groups.<sup>1135</sup> Repeatedly returning to a city from which they were previously banished was too risky for men.

One of the recidivist women was Anna Christina Müllerin, a converted Jewess from Gießen, who was investigated for the violation of her oath on at least five occasions during 1735 and 1741.<sup>1136</sup> The first time Anna Christina was expelled from Frankfurt this was for prostitution and theft when she was approximately 18 years old. The first time she returned to the city was within two months, in order to visit some of her fellow townspeople from Gießen and collect some clothing. Between the period of her first return to the city and her last (as documented in the criminal records) in 1741, Anna Christina had given birth to three children, of which at least one was illegitimate, and had married a soldier, who had died in service in Holland. She had found casual employment as a maid, with sewing, knitting and washing. However, she was also arrested for theft and the violation of banishment in Frankfurt. But her criminal activities were not restricted to Frankfurt: in Würzburg she was banned and branded for illegally recruiting soldiers, and in Mainz she was banished for theft after being exposed at the pillory.

Another example is that of Anna Barbara Großin, who was arrested for theft and expelled from Frankfurt in 1748, but broke her banishment in 1750 when she was arrested again for suspected theft.<sup>1137</sup> However, her criminal 'career' was not restricted to these two thefts. The criminal investigation records revealed that Anna Barbara's first encounter with the criminal justice system dated back 26 years, when she was arrested in Königstein for her connections with the *Breitfußischen* gang of thieves. Her body carried the proof of her past, as she had brandings both from Königstein as well as from Darmstadt. Finally, Anna Barbara was branded in Frankfurt for a third time and expelled from the city, with the warning not to return again or she would receive the death penalty. Anna Barbara was connected to a much wider group of notorious thieves that operated regionally. Her husband was expelled from Frankfurt in 1726, while two other male members called Heß and Sonnewald were hanged in the same year. Another female member of this group, Anna Maria Wagner, was one of the few female thieves to be hanged in Frankfurt.<sup>1138</sup>

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<sup>1134</sup> Härter, 'Prekäre Lebenswelten', 36-37.

<sup>1135</sup> Härter, *Policey und Strafrecht*, 1107-1117.

<sup>1136</sup> Criminalia 4945 (1739).

<sup>1137</sup> Criminalia 6353 (1750).

<sup>1138</sup> Criminalia 3416 (1722-1724); Criminalia 12790-12792 (1725).

The examples show that these women displayed considerable regional migration patterns. Their lives were not characterised by a moral pressure of female settledness at all. Although they continuously broke their banishment in Frankfurt, they also committed crimes elsewhere in the region. It is difficult to find evidence in these tales that women were more likely to defy their sentence because they were more dependent on the social support networks in the city than men. Rather, we may assume that their violations were the reflection of continuous regional migration and a gendered division of labour. Frankfurt was simply one of the many places in which they stayed from time to time.

### Conclusion

The aim of this chapter has been to map how the increasing criminalisation of the mobility of vagrants and other travelling groups since the sixteenth century was gendered in order to get a better understanding of the position of women in a city which aimed at strictly regulating mobility. As a result of changing attitudes towards poverty, authorities in the early modern period, including Frankfurt, put increasing pressure on the concept of settledness. This chapter has shown that the regulations on mobility not only increasingly associated the mobile poor with criminality, but also that they were based on specific gendered attitudes concerning mobility. Male mobility beyond the parameters of legitimate labour migration was labelled as a massive danger to public order and increasingly associated with organised crime. At the same time and in contrast to female labour migration, male labour migration was highly institutionalised and designed to facilitate (controlled) mobility. Perceptions about female mobility, on the other hand, hardly played a role in Frankfurt's vagrancy laws. Domestic service remained a labour market that was regulated informally, although attempts were taken to increase control in the second half of the eighteenth century. These attempts demonstrated how anxieties about female mobility were connected to moral issues and the possible disruptions this posed to social order.

Authorities approached male and female mobility rather differently. This influenced the position of women in the city, and shows that a different type of city created a different 'urban factor' with regard to female criminality in the early modern period, from that which we know for open cities like Amsterdam or London. The position of migrants who were not formally connected in the city was precarious. The laws had created a legal framework in which foreigners risked being expelled on the mere suspicion of having committed a crime. What was considered unwanted behaviour of strangers, however, was different for men than for women. In the latter case, this was framed in terms of anxieties about female independence and sexuality, whereas for men it was about fears of organised criminal gangs. These differences produced an image of male criminal

mobility that was more likely to be prosecuted by the criminal courts, whereas women's mobility featured more prominently before the *Konsistorium*.

Finally, the study of violations of banishment as revealed interesting patterns with regard to male and female criminality. Previously, many historians have seen the high level of female involvement in this type of crime as a result of the fact that women were more dependent on local connections than men. Although this may have been true in some cases, the profile of the women that returned to Frankfurt illegally suggests that the reality was more complex. Women displayed regional migration patterns which were not only focused on Frankfurt. Additionally, gendered perceptions of authorities about dangerous mobility help explain why women were more likely to return than men.

In early modern Germany, including Frankfurt, authorities imposed stronger control on mobility and settlement than they did for example in England or the Netherlands. The regulation of poor relief was strongly connected to citizenship and legal incorporation into the community. Transients were restricted in their opportunities to stay in the city: after eight days they had to acquire formal consent from the authorities whose primary interest was preventing impoverished people from settling in the city. These principles clearly impacted the opportunities of women (and men) to settle in the city independently without being incorporated in social support networks through the household.