

Chapter 3

**REFORMING WOMEN'S PRISONS
IN IMPERIAL GERMANY**

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Beginning in the late 1860s, Germany witnessed a growing interest in the issues of female criminality and women's penal institutions.¹ Between 1871 and 1914, the number of publications devoted to this subject substantially increased. The standard works of criminology, then gradually establishing itself as a science, usually devoted separate chapters to female criminality, even though these did not occupy a central position. By the turn of the century, however, an increasing number of publications focused exclusively on female criminality and the treatment of women in penal institutions. This increasing interest cannot be explained by a rise in female criminality. On the contrary, contemporary crime statistics showed that "the crime rates of women are consistently much lower than those of men."² In absolute numbers, occasional slight increases in female crime rates could be discerned, but by comparison to the development of male crime rates, these were negligible. In the standard German work on criminology, published in 1903, the criminologist Gustav Aschaffenburg therefore assessed the development of female criminality in optimistic terms: "Happily, the number of women sentenced has only slightly increased. In comparison to men, it has even decreased by 20 percent since 1882."³ Quantitatively speaking, only male crime seemed to pose a threat to public order. Nevertheless, the subject of female criminality drew a great deal of attention. This chapter will begin by outlining why the treatment of women in penal institutions became the subject of public interest in Imperial Germany and why the female gender played an increasingly important role in the general discussions of the penal system. We will then examine the debates on female criminality and the treatment of women in prison and,

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finally, conclude by discussing the actual reforms that were implemented regarding women's treatment in penal institutions in response to the calls for reform.

The starting point for the debate about female criminality was the assumption that the increase in female employment would inevitably cause a rise in the number of women committing crimes. This assumption was logically deduced from the generally accepted explanation for the low female crime rate, which argued that because women did not participate in economic and public life to the same extent as did men—instead focusing their lives on their families and close social relations—they had fewer opportunities to commit crimes. Though the proportion of offenders who were female was not yet seen as a threat, contemporaries predicted that female criminality would reach parity with that of males in the future. Thus, in 1903, the prison cleric Reinhold Stade wrote: “Regardless of the outcome of the woman question, it cannot be ruled out that in our turbulent times this change will happen faster than rational minds think possible. One thing is certain: the currently positive figures regarding female criminality will inevitably worsen.” There was no discernible reason, Stade continued, “why the woman of the future, independent and in every way equal in the eyes of the public in the realms of business and in trade, would not also become men's equal in the realm of crime.”⁴ Almost all publications on the topic linked the phenomenon of female criminality to the changing social position of women. This is why direct references were frequently made to the demands of the bourgeois women's movement. In light of the linkage that was being created between female employment and female criminality, the women's movement found it necessary to take a position on the matter. Its publications—including *Die Frau* and the *Centralblatt des Deutschen Frauenbundes*—regularly included articles on crime statistics that attempted to disprove the thesis that women's emancipation and female criminality were correlated. Their authors did not need to carry out their own statistical research, but could rely on the official crime statistics that the Reich government was publishing since 1882 as well as analyses of these statistics that appeared in academic journals. The majority of the articles published in the journals of the women's movement were dedicated to this question: “Have the last decades, with their unleashing of female powers in the public sphere, had a damaging moral effect on women in Germany?”⁵ Such an association was vigorously disputed by reference to statistical studies, which for the time period from 1882 to 1899 clearly showed that rates of female criminality had actually declined.⁶ Anna Waldeck, for instance, was able to cite an article by Chief District Court Judge (Landgerichtspräsident) Lindenberg in the *Deutsche Juristenzeitung*, which answered the question “Does women's employment influence women's criminality?” with a resounding no. She particularly emphasized Lindenberg's statement “that despite women's increased employment in the public sector, even the proportion of women sentenced for crimes committed in office has declined.”⁷ As these examples demonstrate, the discussion of female criminality was about

much more than the problematization of a marginal group: the subject of female criminality provided an opportunity to discuss the role of women in general and to reflect on the social change that was taking place. The debates about female criminality must therefore, first of all, be understood as reflections on the impact of modernization processes on gender relations. All of the contributions to the debate made a connection between the phenomenon of female criminality and the key words *public sphere*, *employment*, and *emancipation*.

The symbolic functions of discourses on criminality have been the subjects of numerous studies. In the words of historian Daniel Pick, “[c]rime, hysteria, superstition, parasitism, insanity, atavism, prostitution, crowds, peasantry, and brigands became the circulating figures of disorder.”⁸ The sociologist Carmen Gransee has argued that every narrative regarding behavior defined as deviant or criminal contains a surplus of normativity that reaches beyond the validation of legal norms and encompasses the demonstration of hegemonic values and the symbolic reproduction of lifestyles. Therefore every narrative about deviance contains not only information on what is prohibited but also on what is permitted and how one ought to behave.⁹ In her study of the late-nineteenth-century French discourse on crime, the historian Anne-Louise Shapiro employed this interpretation and also incorporated the category of gender. Drawing on newspaper reports of court proceedings, Shapiro analyzed the symbolic functions of the discussions of female criminals, which met with increasing public interest in France during this time. According to Shapiro, the position of women in society was negotiated through the use of stereotypes like the “husband killer” or the “murderess from passion.” This discourse, she argues, indicates that hegemonic norms and values were up for negotiation. Depictions of criminal women gave contemporaries a chance to communicate their conceptions of good and bad women, natural and unnatural mothers, and of the ill and the criminal, thus enabling them to comment on the rules for social relations and the spectrum of proper behavior for the female gender.¹⁰

Perceptions of female criminality during the Kaiserreich, too, indicate that contemporaries noticed a challenge to the hegemonic social functions assigned to women that threatened the entire gender order. As women entered the public sphere and as their presence there was perceived, society felt called upon to define the range of acceptable behavior for women to assign them their proper place in the bourgeois social order. In the debates on the penal system, these subjects were encapsulated in the question of how to deal with female criminality.

The main actors in this debate were prison officials. This chapter will trace why the previously neglected subject of female criminals and prisoners attracted their attention, which reform demands they made, and what influence they had in shaping and bringing innovation to the treatment of women in penal institutions in Imperial Germany. Since a comprehensive analysis of the debate is beyond the

scope of this chapter, I will focus on the most influential publications in order to reconstruct the central line of argumentation.

Penal Reform, Criminology, and the Prison as a Site of Scientific Discovery

There can be no doubt that prison officials who contributed to the boom in publications on the issue of female criminality and female prisoners were, at least in part, motivated by the desire to make a name for themselves and to professionalize their discipline. To lend the subject importance, they argued not only that the “entry of women into public life” would lead to an increase in the female crime rate. They claimed that female criminality represented a threat to society. For this reason, debates on women and the penal system also reflected the idealization of motherhood within the bourgeois family ideal. Thus the prison doctor Abraham Baer noted: “With a family upbringing by a mother who has been released from prison teaching morality, piety, and a commitment to order and work, an upbringing in no way improved by a father with the same mindset, it is no wonder that waywardness and crime will befall the next generation.”¹¹ Prison officials also drew on notions of population policy to direct greater attention to the issue of women’s treatment in the penal system. As the director of the Delitzsch prison, Hermann von Valentini, explained: “It must not be overlooked that here, in the prison for women, the number of future criminals is growing far more than in prisons for men. With male convicts, we are dealing with the men themselves, and with the present. With women prisoners, we are dealing with the next generation and the future.”¹² This argument thus assigned greater importance to combatting criminality among women than among men. Even if female criminality did not seem problematic in terms of overall numbers, criminal women were viewed as multipliers of crime, exponentially increasing the danger female criminality posed. Prison officials’ belief that they would be able to make a name for themselves through the discussion of the proper treatment of women in prison turned out to be thoroughly justified. For the issue could be connected to several debates and contemporary political issues: first, to the discussions regarding the creation of a unified prison system for the entire German Reich; second, to the penal reform movement that sought to change the penal code; and third, closely related, to the establishment of criminology as a scientific discipline.

A central part of the founding of the Kaiserreich in 1871 was the ambition to establish a uniform legal system throughout the German Reich, which manifested itself in the passage of a Reich Penal Code (*Reichsstrafgesetzbuch*, 1871), a Reich Law on the Organization of the Courts (*Gerichtsverfassungsgesetz*, 1877), and a Reich Code of Criminal Procedure (*Strafprozessordnung*, 1877), but which also

included the goal of establishing a unified prison system through a Reich Law on Penitentiary Institutions (Reichsstrafvollzugsgesetz). After the proposal for a Reichsstrafvollzugsgesetz failed in the Bundesrat, which represented the different German states, in 1879, efforts turned to using the administrative path to achieve a unified regulation of the prisons, which were administered by the states. On 28 October 1897, the governments of the individual states agreed on “fundamental principles which shall be applied in the administration of legally imposed prison sentences until the passage of further general regulations.”¹³ Despite the existence of these “fundamental principles,” the call for a national law regulating prisons throughout Germany continued. Therefore the organization of penal institutions remained a controversial issue throughout this period, which was continually discussed in professional circles and sometimes even affected political life in parliament and the general public through the daily press.

The second impulse driving the debate on the treatment of women in the penal system arose from the penal reform movement that took shape in the course of the 1880s and was associated with the criminal law professor Franz von Liszt.¹⁴ Its reform agenda derived from the observation that the existing criminal justice system was ineffective, as demonstrated by the high crime rate and, especially, the high rate of recidivism. According to Liszt, the primary purpose of punishment was “to protect society from crime.” Criminal sanctions should vary according to the personality of the perpetrator, with the severity and type of punishment determined by the degree to which the individual perpetrator posed a future danger for society. Liszt and his followers sought to determine the motivation for criminal behavior, thereby establishing a new position in the evaluation of crime. Whereas the so-called classical school of criminal law emphasized the free will of the perpetrator, representatives of the modern school made individual predisposition as well as social factors responsible for an individual’s criminal behavior. Liszt distinguished between three groups of offenders, for which he postulated different effects of punishment: “criminals of the moment” (*Augenblicksverbrecher*), who would be prevented from further violations of the law through “deterrence”; “constitutional criminals [*Zustandsverbrecher*] capable of and requiring rehabilitation,” who could be rehabilitated through appropriate measures; and, finally, “incurable constitutional criminals,” who should be rendered “harmless” (*unschädlich*) through lifelong or indefinite detention. To classify convicts into one of these groups, Liszt argued, authorities required exact knowledge of the perpetrators’ motives, social origins, education, character, and so on. In the process of thus classifying offenders the findings of both anthropological and sociological studies were to be applied. Under this approach, an effective penal policy necessarily required criminological knowledge. While Liszt was not personally engaged in research on criminal behavior, he could rely on numerous contemporary studies.

There is a consensus among scholars that criminology established itself as an independent academic field in the last third of the nineteenth century. Numerous studies trace the rise of this academic discipline in multiple European countries.¹⁵ Two aspects of this development are crucial to understanding the arguments advanced here. First, gender-specific assumptions played an essential role in perceptions, definitions, and explanations of criminal behavior. The explanations of lower female crime rates and the characterizations of “specifically female crimes” offered by the representatives of the anthropological, psychological, and sociological varieties of criminology all rested on constructions of a specific femininity.¹⁶ In describing criminality and its causes, criminologists established male criminality as the universal norm from which “special” or “specific” female criminality deviated. In other words, the gender factor became visible in constructions of criminality only when experts reflected on female criminality. Second, it is important to note that criminologists viewed their field as an empirical science. In Germany the criminological debates were dominated by psychiatrists, especially those who regularly testified in court, and prison doctors, all of whom based their criminological research on empirical, clinical studies of prison inmates. Thus the inmates of prisons and psychiatric wards became important objects of scientific interest. This close relationship between penal institutions and the accumulation of knowledge about criminality was noted by Michel Foucault, when he identified the prison as a “place of observation”: “The prison, the place where the penalty is carried out, is also the place of observation of punished individuals. This takes two forms: surveillance, of course, but also knowledge of each inmate, of his behaviors, his deeper states of mind, his gradual improvement; the prisons must be conceived as places for the formation of clinical knowledge about the convicts.”¹⁷ The penal institutions must therefore be viewed as a kind of laboratory for the contemporary discourse on criminality. Their inmates provided the empirical material for contemporary constructions of criminality.¹⁸

But penal institution not only increased in relevance because they were places of scientific discovery. They also gained additional importance through Liszt’s call to rehabilitate those offenders who could be rehabilitated. If prisons were to do more than merely incapacitate and deter criminals, the organization of prisons as places of rehabilitation would become one of the most important instruments for combatting crime.¹⁹

All of these factors provided the basis and background for the reformist discussions among prison officials working in women’s prisons, who could finally hope that their area of expertise, ignored for years, would at last gain public recognition. Prison officials repeatedly pointed to the close connection between knowledge about criminality and their work in penal institutions, explicitly deriving their authority to contribute to penal and prison reform from their many years of

experience in the penal system. As Josef Lenhard, director of the Bruchsal prison, put it: “Interaction with the incarcerated women and girls offers many opportunities to study women’s psychological peculiarities, the laws of their fundamental difference from men, and the roots of criminality.”²⁰

Prison officials sought to implement their conceptions on several levels. First, they attempted to classify the female inmates. In the process, they often relied on psychological theories even when they lacked any prior knowledge of medicine or psychology. Thus the prison cleric Reinhold Stade, who had no training in psychology, gave his 1903 book *Types of Women from Prison Life* the subtitle *Contributions to a Psychology of the Female Criminal*.²¹ Though not everyone developed their own categories, as Stade did, they still viewed themselves as experts who were qualified to confirm or refute the opinions of established criminal psychologists. In doing so, they did not wish to enter into competition with the experts, but to assist in laying the groundwork for more comprehensive research on female criminality in the future.

At a second level, prison officials took positions regarding those aspects of the penal reform agenda that concerned the treatment of women in court, arguing that female offenders’ “true” motives usually did not come to light in court, but could only be determined by observing the female criminal in prison. Thus Prison Director Lenhard, for instance, noted that his conversations with female prisoners and his examination of their correspondence had taught him that extenuating circumstances were often not considered in the trials because the women were too ashamed to speak of personal matters before an exclusively male court. In addition, Lenhard asserted that “sexual factors,” which according to his observations negatively influenced women’s soundness of mind, received too little attention in court proceedings. Based on these “experiences,” Lenhard explicitly supported calls made by criminologists Hans Gross and Gustav Aschaffenburg that court proceedings take into consideration the “gender-specific particularities” of women.²²

On a third level, prison officials drew on their ideas about specifically female causes of crime to develop new measures to prevent crime. Finally, on a fourth level, they demanded that prisons treat women in a manner that was “appropriate to their female nature” (*dem weiblichen Wesen angemessen*). In the debates on the effects of the prison system on women, penal officials portrayed themselves as the sole experts on the matter. Likewise regarding the issue of how best to organize penal institutions in a way that would foster rehabilitation: here, too, prison directors, prison clerics, and prison physicians claimed a unique expertise that lent them authority in professional publications or conferences. In the following section, we will briefly sketch the content of these debates, focusing on the calls for a gender-specific approach to preventing crime and the gender-specific treatment of prisoners.

Opposing Equal Treatment in the Prison System

In their publications, prison officials consistently called for the prison system to incorporate the specific needs of women. The aspiration to organize penal institutions according to “female needs” was not limited to Germany. Indeed, the issue was featured on the agenda of the International Prison Congress in Paris in 1895.²³ After extensive deliberations, that Congress passed the following resolution: “I. For physical as well as moral and intellectual considerations, it is just and necessary to establish different prison regulations for men and women. II. It is necessary to construct special facilities or wards for mothers. III. It is necessary to provide dispositions in the regulations that will ease the severity of the prison system for women and that will improve their food.”²⁴

In the debates taking place in Imperial Germany, suggestions for the gender-specific treatment of women in prisons concentrated on two areas: first, on the conditions of imprisonment, and second, on measures of rehabilitation. In addition, nearly all writings reflected on the question of what preventive measures society should take to counteract female criminality. All of the suggestions rested on the assumption that men and women were of “completely different natures.” Prison director Josef Lenhard, who in 1909 published an essay on the proper organization of women’s prisons, based the authority and relevance of his arguments on a quote from the well-known criminologist and judge Hans Gross:

One of the most difficult tasks for criminologists with regard to psychology remains the evaluation of woman; not only because she is physically and psychologically something completely different than man, but also because men can never fully understand the nature [*Wesen*] of a woman. . . . Woman is different from man: The anatomist and the physician tell us this, as do the historian and the littérateur, the theologian and the philosopher; every layman sees it for himself. Woman is different in her appearance, her perception, her judgment, her feeling, her desire, and her achievements. Only we jurists punish a man’s deeds in the same way as a woman’s, and treat a man’s testimony the same as a woman’s.²⁵

Prison officials extended this conclusion to the prison system itself: Just as in sentencing, they claimed that women and men were currently receiving “equal treatment” in the prisons.

Gender-Specific Effects of Punishment

“How do women experience punishments compared to men, given the same working hours, the same food, the same amount of exercise, and the other usual conditions of imprisonment?” This was the question that the aforementioned Josef Lenhard, director of the Bruchsal prison, used to introduce the first section

of his call for reforming the treatment of women in the prison system.²⁶ He, too, used the common legitimating topos of “experience.” As he put it: “My nearly twenty-five years of experience working in penal institutions for women must be seen as enough time to have gained the necessary information to answer the question posed.”²⁷ Summing up, he noted: “The negative effects of imprisonment on female convicts, especially in cases of longer terms of imprisonment, are apparent even to the layman. We see a reduction in the freshness of appearance and in body weight, as well as readily apparent signs of exhaustion.”²⁸ In addition, he perceived significantly different effects of imprisonment on women versus men: “According to my observations, a period of imprisonment lasting several months usually has a more severe effect on women’s health and morals than on men’s.”²⁹ The prison doctor Abraham Baer also noted: “Experience shows that prison life, with its negative influences on health, holds more dangers for females than for males.”³⁰ As evidence of the more severe effect of punishment on women, commentators regularly pointed to female prisoners’ higher rates of mortality and illness. Leonore Seutter, for instance, noted that in some years the rates of illness among women prisoners in Alsace-Lorraine were twice those of men, while in other years they were only 1 or 2 percent higher.³¹ Josef Lenhard, too, offered quantitative data by reporting on the rates of mortality and illness in the local women’s prison and the men’s prison. According to his figures, the annual mortality rate among male prisoners averaged 11.59 per 1,000, whereas among female prisoners it was 23.38 per 1,000. He also found a higher rate of illness among female prisoners: in the period from 1891 to 1894, the rate of illness was 30.3 male prisoners per 1,000 versus 44.5 female prisoners per 1,000.³²

Prison officials offered two explanations for these findings. First, they pointed to the fact that the health of the women who entered prison was generally already worse than that of male prisoners.³³ Second, it was claimed that the food given to female prisoners had a negative impact on their health. It was too heavy and hard to digest for the female inmates because they performed their work primarily while seated.³⁴ In addition, women in prison allegedly faced a psychological disadvantage. As Lenhard put it: “According to my observations, the majority of the women, whose family bonds are severed by their imprisonment, demonstrate their inborn needs for attachment, their more tender sensitivity, and their care for others, above all for their . . . children, to a much greater degree in prison than in freedom, and also differ entirely from male prisoners in this regard.”³⁵ Seutter pointed to the “anomalies in menstruation and pregnancy” that frequently occurred in prison and lead to psychological “conditions of mania and depression.”³⁶ Based on these arguments, reformist prison officials demanded that the future national law on prisons should reduce the amount of prison work required for women. In addition, they advocated adopting longer sleep periods and different dietary standards for female prisoners.³⁷

Rehabilitation

In the debates on reforming women's treatment in prison, prison officials generally emphasized rehabilitation (*Besserung*) as the main purpose of punishment. As Josef Lenhard noted in the introduction to his study, "We may safely assume that the ultimate purpose of the prison sentence, provided for by law and imposed by the judge, is primarily to rehabilitate lawbreakers, to train them to lead a free life in the proper way in the future."³⁸ Lenhard did make some concessions to the findings of criminologists:

[N]ot all prisoners can be protected from recidivism. There will always be a certain percentage who, due to recklessness, faulty upbringing, or an inborn or pathological desire, end up breaking the law [again] rather than taking the hand that offers to save them, or who are unworthy of protection because they have repeatedly abused it, rejected it and prefer the dark paths of the criminal.³⁹

Nevertheless, Lenhard held that the majority of prisoners were capable of being rehabilitated: "The vast majority of the convicted are victims who can still be saved."⁴⁰ That said, he stressed that women and girls were generally more receptive to rehabilitative measures than were men. As evidence he pointed to the steadily declining number of female inmates at the women's prison of Bruchsal and to the high ratio of women who had been released early or paroled for good behavior.⁴¹

Furthermore, reformers demanded that rehabilitative measures not be applied wholesale but adapted to the special conditions of each individual case; a demand that was raised not only regarding women but for the prison system as a whole. In other words, prison officials were calling for the so-called individualization of the rehabilitative measures imposed in prison, which required exact knowledge of each inmate and the individual causes of their offenses.⁴² The proper treatment of prisoners thus required criminological knowledge. The reformist officials who participated in these debates clearly viewed the female gender of an inmate as an important factor that justified, even necessitated, a specific kind of treatment.

Constructions of Female Criminality

The period from 1871 to 1914 witnessed the appearance of numerous publications on the specific nature of female criminality. These issues also comprised a significant proportion of the publications of prison officials. Although this is not the place for a comprehensive survey of gender-specific conceptions of criminality,⁴³ some brief remarks are necessary because some of these constructions played a key role in prison officials' proposals for rehabilitation measures and the prevention of women's criminality.

As a rule, crime statistics focused on certain differences between the genders: the relatively small proportion of female prisoners; gender-specific offenses;

dissimilar age distribution; differences in the influence of marital status; and finally, different motives.⁴⁴ Regarding age distribution, statisticians determined that men's criminality peaked between the ages of twenty-one and twenty-five, whereas women's criminality peaked between the ages of thirty and forty. Likewise, researchers detected a difference in the influence of marriage on criminal behavior: whereas the majority of convicted men were single, most of the female convicts were married, so that, in moral terms, marriage was said to have an elevating effect for men, but a lowering effect for women.⁴⁵ With regard to the division of the sexes by the kind of offense, researchers noted the high proportion of men's involvement in violent crimes such as assault, coercion, and robbery accompanied by murder. The fact that—aside from sexual offenses like prostitution and procuring—women were disproportionately involved in theft, fraud, embezzlement, and libel prompted the criminologist Gustav Aschaffenburg to conclude that “female criminality carries the characteristic of dishonesty, male crime that of brutality.”⁴⁶

A relatively high proportion of women were found to have committed murder and offenses against property. But criminologists emphasized that men's and women's motives for these crimes clearly differed. The majority of women convicted of murder were accused of infanticide. The next-largest group was comprised of those who murdered their husbands. Thus the violent crimes of women took place within their immediate social sphere and, hence, clearly differed from murders by men, which were primarily committed against persons unknown to the perpetrator.⁴⁷ Criminologists also assigned two specifically female motives to crimes against property committed by women: first, so-called altruistic reasons for theft and fraud and second, vanity.⁴⁸ The explanations offered for these peculiarities were inseparably bound up with gender-specific assumptions about the supposed physical and psychological characteristics of the “female sex in general.” Explaining the relatively high rate of women involved in thefts and receipt of stolen goods, Aschaffenburg asserted that these offenses suited women's nature and way of life because women lacked the physical agility and courage for burglary.⁴⁹ Women's lower participation in violent crime was also attributed to women's lesser average physical strength. According to these sorts of observations, women committed especially those crimes that reflected their nature (*Wesen*) and thus demanded a lesser expenditure of energy. As a result of the medicalization of the discourse on crime, experts also connected women's propensity for crime to their sexual functions. Criminal psychologists and physicians regarded the “psychological consequences” of menstruation, pregnancy, or menopause as causes of criminal behavior and emphasized that these factors could considerably impair women's soundness of mind.⁵⁰

The combination of heredity and milieu as causal factors in the explanation of crime also characterized the search for the causes of female criminality. Since the low crime rates of women were understood as a result of their broad exclusion

from employment and the public sphere, women's increased participation in public life around the end of the nineteenth century was seen as an indicator of potential criminal behavior. How participants in this discourse connected the public sphere, employment, and female criminality depended largely on their interests and positions. As a characteristic example of the lines of argument on this issue I will examine the writings of Josef Lenhard, who was one of the most forceful advocates for the reform of women's penal institutions.

Offenders Become Victims: Lenhard's Typology of Female Inmates

Lenhard divided the prisoners in the Weiberstrafanstalt Bruchsal, the women's prison in Bruchsal, into three categories. The criteria he used demonstrate his proximity to the modern school of criminal law. The assignment of a female prisoner to a category was not based on her criminal offense, but on her social background and on the supposed causes of her criminal behavior.⁵¹ The first category of female perpetrators consisted of young, single women who came from the lower classes and lived in large cities. Among these, he distinguished between those who belonged to the urban proletariat and those who had come from the countryside to the city as servant girls. As the decisive cause of the legal offenses of these women he cited the "dangers" of big-city life. Formative for the women of the "proletarian" class, according to Lenhard, were early sexual relationships, entered into "under the influence of modern-day entertainments and the unaccustomed enjoyment of alcohol, abetted also by the casual view of such sexual relationships that are, regrettably, found in broad segments of society." The resulting pregnancies and births drove the women to social distress until the "desperate women" saw abortion or infanticide as the only way out of their situation. The same was true of women who came to the city from rural areas, who were also led to illegal acts by the "seductions of the large city." To be able to afford "modern clothing," for example, they robbed or defrauded their employers or colleagues.

Lenhard's second category of female offenders was also comprised of single women. Representatives of this group, however, did not come from the lower classes but from somewhat more elevated strata of society. They were shop assistants and office clerks who had decided to pursue "the difficult path of independence." Because these women often failed and then found themselves in the cities with no family, shelter, or means of making a living, they saw crime as their only remaining possibility.

The third category consisted of married women who, in addition to their marital and maternal duties, were also responsible for the financial support of their families. These women typically lived in so-called mismarriages, in which the husband did not carry out his family duties; beatings by a drunken husband were part of their everyday lives. Because their husbands did not provide for the

material needs of the family, female perpetrators in this category had primarily altruistic motives for the “specifically female crime” of theft.

The central explanatory trope in Lenhard’s writings on women’s criminality is the connection between urban life and crime. The women he described all moved freely in the city’s public sphere without parental protection or oversight. To be sure, the themes of pleasure seeking, the consumption of alcohol, group living quarters, bed-renting, and urban masses surfaced in discussions of male criminality as well. But the dangers of the large city were assessed differently for men than for women. In explanations of male criminality, the large city served as a synonym for the threats of alcohol and socialist agitation. For women, by contrast, the big city meant primarily “moral and ethical decline.”⁵² Of central importance to Lenhard’s further argumentation was the fact that he described female offenders as victims, calling them “seduced,” “lost,” “stranded,” or “failed.”⁵³ For him, free, unbounded life in the big city posed a greater danger to women than to men because women’s weaker physical and mental constitutions were not equal to the seductions of city life or the challenges of the independence that women themselves desired.

Specifically Female Measures of Rehabilitation

Lenhard used his typology of female offenders to demand gender-specific rehabilitation measures as well as gender-specific crime prevention measures for women. His primary demand was to make use of the positive “moral influence” of women by hiring female prison staff and encouraging visits from women in prisoner’s aid societies. The advisability of employing female prison staff was discussed at the 1898 and 1901 meetings of the Kongress deutscher Strafanstaltsbeamter (Congress of German Prison Officials).⁵⁴ At these conventions, at which women were absent, the importance of female staff for the rehabilitation of female inmates was consistently emphasized. The largely positive response of prison officials derived primarily from the assumption that only women could recognize and comprehend the “inner life” of their imprisoned fellow women and that only they could win their trust.⁵⁵ Although there was agreement that female staff was absolutely necessary for women’s prisons, there were divided opinions regarding the positions that women should occupy. Prison director Gennat even advocated giving women positions as directors.⁵⁶ The majority, however, voted for a resolution that called for filling all lower-level and only some upper-level prison staff positions with women, reserving the position of director for a man.⁵⁷

Prison staff members, however, were not to be the only ones who should have influence on the female prisoners. Women from prisoners’ aid societies and private welfare associations were also to be given rights of visitation. It was hoped that such visits would enable the prisons to use the influence of women from “better circles of society” to obtain offers of assistance to prisoners even before

they were released.⁵⁸ In addition, intensive counseling of female prisoners by prison clergy would serve the important goal of providing a positive moral influence.⁵⁹ Furthermore, the prison director was to arrange for the welfare of the prisoner after her release. Single women especially were to be reintegrated into their families. During the female prisoner's detention, the prison staff should establish communication between the prisoner and her family and where applicable seek to achieve family reconciliation.⁶⁰

The establishment of a prison work program occupied only a secondary position in Lenhard's essay. Other authors, however, emphasized this aspect, which played a central part in structuring everyday prison life. Although prison work was defined as compulsory labor, it was generally viewed as one of the most important means of education of the inmates. The goal of prison work should be to enable a prisoner, whether male or female, "to find in honest work a means of making one's living. Three key phrases sum up the program of prison work: Prisoners should become accustomed to steady work; they must be rendered capable of hard work; and they must be taught to find joy in their work."⁶¹ As was the case for male prisoners, the debate on reforming women's prisons included the demand that prison officials find jobs for released prisoners, whether as servant girls or as seamstresses in the textile industry. Leonore Seutter, who in 1912 published a study of work in women's prisons, demanded that prison work must "counter the flood of women into unskilled labor by providing training in an occupation."⁶² But even Seutter, who wanted women to gain work qualifications while serving their prison sentences, advocated that women's prison work involved the prisoners' instruction in "specifically female" basic skills like home economics, knitting, sewing, and embroidery, the usefulness of which was assumed to be apparent for all female prisoners regardless of their social origins, background, or age. By favoring these work activities, the author concluded, women's prisons could be transformed into "true educational institutions," thereby "giving valuable assistance to the healing of our family life, which suffers, among other ailments, from the poor education of our women as housewives and mothers."⁶³

The view that the causes of female criminality were gender-specific was not only used to justify the special treatment of women in prison but also to promote certain preventive measures for fighting crime. The central measure that was proposed to counteract female criminality was to restrict women's activities to the "domestic sphere." Thus Lenhard noted: "The concern that should take precedence over all other measures is to free women, especially mothers, from the necessity of earning money and to win them again for the performance of their natural duties: caring for the household and raising children."⁶⁴

In sum, prison officials emphasized the gender-specific causes of female criminality. On this basis, they proposed crime prevention measures specifically for women. Their proposals concerning the treatment of women in penal institutions

can be divided into five main points: a strict separation of the sexes in penal institutions; the supervision of female inmates by female staff; special consideration for the moral influence of staff and prison clergy; the adaptation of the regulations regarding food, discipline, and work hours to women's physical constitutions; and a preference for domestic work in establishing prison work programs. All of these aspects were to be included in the future law that was to impose uniformity on penal institutions throughout the German Reich. Moreover, since female prisoners were labeled "victims," these suggestions could be presented as measures of protection and welfare. Thus it is no wonder that Lenhard remarked: "In the end, all of these efforts aim to give incarcerated women the special protection they deserve."⁶⁵

The Treatment of Women in Imperial Germany's Prison Regulations

How did these calls for reform relate to actual state measures affecting the treatment of women in penal institutions in Imperial Germany? According to Article 4, no. 13, of the German Reich constitution, the Reich had the right to pass a law relating to the penal system. As previously mentioned, however, while the Kaiserreich witnessed the passage of the Reich Penal Code, a Reich Law on the Organization of the Courts, and a Reich Code of Criminal Procedure, no agreement was reached on a law that would unify the prison system across the Reich. To be sure, the above-mentioned laws contained sections that directly related to the prison system: the Penal Code defined the different types of punishment, the Law on the Organization of Courts determined the place of punishment, and the Code of Criminal Procedure determined the beginning and end of punishment. Nevertheless, the concrete configuration of the prison system remained within the purview of the individual states.

The only regulations that applied throughout the Reich were the so-called "Bundesrat Guidelines" of 1897, which were to be "applied in the administration of legally imposed prison sentences until the passage of further general regulations."⁶⁶ These guidelines provided for the separation of prisoners serving sentences from prisoners awaiting trial; the separation of prisoners sentenced to compulsory labor (*Zuchthaus*), prison (*Gefängnis*), and jail (*Haft*); the separation of men from women; and the separation of juveniles from adults. Wherever possible, separate facilities or at least separate wards were to be constructed for each of these groups. Moreover, regulations were agreed upon regarding the use of single-cell versus communal imprisonment (§§ 11-16). The guidelines also addressed the issues of prison labor (§§ 17-22), food (§§ 23-24), disciplinary action (§§ 34-35), spiritual welfare (§ 28), class instruction (§ 29), and prisoner complaints (§ 39). It must be noted, however, that these guidelines possessed no

binding legal force. Instead, they must be understood as minimal demands for the penal system, and they essentially represented the least common denominator of the individual states. In addition, the Bundesrat Guidelines allowed considerable leeway for implementation, so that calls for the unification of the penal system throughout the Reich continued unabated.

The importance of these guidelines for Imperial Germany's prisons must therefore not be overestimated. Nevertheless, they demonstrate that the detention of women in separate institutions as well as the supervision of female inmates by exclusively female staff were among the aspects of the penal system that met with a general consensus. The guidelines' section on "Accommodation" stipulated: "As a rule, female prisoners are housed in special institutions (wards). Where this is not possible, the necessary measures shall be taken to prevent any contact between female and male prisoners. For the supervision of female prisoners, large institutions shall use female guards exclusively, smaller institutions shall use female guards as much as possible."⁶⁷

As noted above, the concrete configuration and administration of the prisons remained the affair of the individual states. Therefore, between 1871 and 1914, German prisons were governed by more than sixty different sets of regulations.⁶⁸ As the regulations for Prussia demonstrate, the policies of separate facilities for women and the use of female staff to supervise female inmates were indeed implemented at the state level.⁶⁹ In 1902 the Prussian Interior Ministry issued a unified set of regulations for the prisons under its administration.⁷⁰ They, too, stipulated the detention of women in separate institutions. Moreover, Article 82 of these regulations required the construction of separate wards in those institutions to which both male and female prisoners were admitted and mandated that "every interaction between prisoners of the opposite sex" was to be prevented.⁷¹ Regarding the hiring of staff, Article 42 noted: "For guarding and supervising female prisoners, only female staff—house mothers, supervisors, forewomen, and attendants—may be used."⁷²

The separation of the sexes was not an innovative provision, but had been considered essential from the initial institutionalization of modern prisons at the turn from the eighteenth to the nineteenth century.⁷³ As early as the end of the eighteenth century, the prison reformers John Howard, Eberhard Waechter, Heinrich Balthasar Wagnitz, and Albrecht H. von Arnim had called for separate accommodations for men and women in their writings.⁷⁴ Though these authors still favored the construction of gender-segregated wards within a single institution, in 1829 Nikolaus Heinrich Julius advocated the option of constructing separate institutions for each sex.⁷⁵ And by the 1840s, the single-sex penal institution was considered the only advisable option.⁷⁶ Women's prisons did not remain theoretical constructs in programmatic writings. In Baden as well as in Prussia, the first women-only penal institutions were established in the late 1830s. While the women's prison in Bruchsal remained the only women's prison in Baden until the

end of the nineteenth century, in Prussia a whole series of new women's prisons were established, especially between 1850 and 1860.⁷⁷ The women's prison was therefore not a new phenomenon of the late nineteenth century. Neither was the employment of female staff in women's prisons, which can also be traced back to the early nineteenth century. In Baden, the exclusive supervision of female prisoners by female staff was decreed in 1838. Prussia followed in 1842.⁷⁸

Thus the content of the 1897 Bundesrat Guidelines regarding the treatment of women in prisons was not new, but could be taken from older regulations. Nevertheless, a clear change can be seen in the time period between 1871 and 1914. The increasing importance of the issue of women's treatment in the penal system was reflected not only in the reform debates but also in the actions of state administrations, which began to criticize its past neglect, which had meant that in Prussia, for instance, the official guidelines had been implemented only to a very limited extent. This was the case, first and foremost, for the hiring of female staff. Looking back in 1901, Karl Krohne, the division head responsible for the prison system in the Prussian Ministry of the Interior, described the situation of women's prisons in the 1860s thus: "All that was accomplished was that, when the number of prisons was increased, a complete separation of female from male prisoners was achieved by means of the construction of special women's prisons. The requirement that in female institutions, except for the warden, only female staff should be used for supervision, was not implemented. Upper- and even lower-level male staff were hired."⁷⁹ Between 1871 and 1914, prison officials sought to change this state of affairs and pushed the hiring of female staff very hard. The new women-only hiring effort affected not only the lower-level positions, but also higher-level prison staff positions such as teachers and accountants. Around the turn of the century, Prussia was the first state in the German Reich to try out the appointment of "female supervisors" (*Oberinnen*) to head women's institutions, whose functions were equivalent to those of the prison directors (*Strafanstaltsdirektoren*) of male prisons.⁸⁰

Although reformist prison officials could feel vindicated by these measures introduced not only in Prussia but also in other German states, they also observed dangerous tendencies to be resisted. With the exception of the detention of female inmates in separate women's prisons and the hiring of female staff, they discerned a tendency to equalize the treatment of male and female inmates, which ran counter to their own desire for a penal system that was adapted to supposedly gender-specific traits. As we shall see, there were some indications that their assessment was correct and that the measures introduced by the Prussian Ministry of the Interior, for instance, were indeed moving in the direction of equal treatment of women and men.

The reform of the Prussian prison system did result in the sexes being separated for the most part, at least in the larger institutions. However, by the turn of the century, women's prisons still did not meet contemporary standards of a

“modern penal system.” Karl Krohne summed up the situation in 1901: “Unfortunately, we have neglected the facilities for female prisoners in a most irresponsible manner. We have the best cellular prisons for men, but have locked up all the women—young and old, rotten to the core and less bad—together without any consideration for their individuality, and have therefore let them morally corrupt one another.”⁸¹ From the turn of the century, the increasing importance ascribed to the treatment of women convinced the Prussian Ministry of the Interior to construct new buildings for women’s prisons. These new facilities were identical to men’s prisons both in their construction and in their system of imprisonment.⁸² The same was true for the prison regulations that structured daily life in the institution. In the course of imposing uniformity on the Prussian prison system, the Interior Ministry decided that the new prison regulations (*Hausordnung*) of the Moabit prison in Berlin should serve as the model to be followed in revising the regulations of the other prisons. The Moabit prison was designated exclusively for men, and its regulations therefore conceived for a men’s prison, which was clear from their very first sentence: “You are now an imprisoned man!” What was a women’s prison to do with this text? The women’s prison Siegburg-Brückberg rendered the introduction as follows: “You are now imprisoned!” The daily routine laid out in regulations of the women’s prisons was identical to that of men’s prisons.⁸³ Variations in the texts of these regulations were almost exclusively linguistic ones, involving the adaptation of the grammatical gender to the gender of the delinquents.

The inclusion of women’s prisons in the process of state reform amounted to an adaptation of women’s prisons to the standards and norms of the men’s penal system. Prison officials therefore saw their demands for a reform of women’s prisons system only partially met. Nevertheless, the significance of their demands should not be underestimated. Although prison officials’ reformist publications contained little potential for innovation in the way of concrete suggestions for the organization of women’s prisons, they did offer a new sense of meaning for these measures. In the Kaiserreich, therefore, it was not the content of the proposals—for example, for separate women’s prisons and female staff—that was new, but the fact that these concrete proposals were connected to a general demand that female prisoners be treated in a manner consistent with “female needs.”

In the early prison reform publications around 1800 and in the German *Gefängniskunde* (penology) literature of the first half of the nineteenth century, the separation of the sexes and the exclusive supervision of female prisoners by women were understood primarily as disciplinary strategies. These measures were considered necessary to maintain order and discipline in the institutions, which included establishing the prisons as a sphere free of sexuality.⁸⁴ The decision-making of the state administrations that constructed the first women’s prisons in the 1830s reveals that the crucial impetus had nothing to do with creating a gender-specific women’s penal system. Up to the 1850s, the establishment of women’s prisons

consistently served the goal of maintaining separate men's prisons. The creation of women's prisons was considered an appropriate strategy for implementing the separation of the sexes for both men's and women's penal institutions. In addition, the removal of female prisoners was designed to relieve the overcrowding of existing prisons. Moreover, the responsible ministries viewed separate prisons for the two sexes as an effective means of making the prison system more effective and more economical. Whereas the establishment of gender-specific wards within a single institution meant doubling the amount of space required—for example, due to the necessity of providing separate classrooms, dining rooms, work areas, and so on for male and female prisoners—it was possible to avoid this by having only one sex present in the institution. Thus the establishment of separate women's prisons in the first half of the nineteenth century was not at all connected to the notion that women should receive gender-specific treatment in the penal system. Thus the Badenese state councilor Lamey, for example, commented on the creation of the Women's Prison at Bruchsal in 1838 with the words: "There is no reason to follow special principles in the punishment of women."⁸⁵

In this regard, the Kaiserreich's reform debate reflected a clear change in how the proper treatment of women in the penal system was viewed. The reformist prison officials' demands rested on the conviction that the penal system's treatment of women required specificity and must take "special female needs" into account. They insisted that the penal system's treatment of women must follow special principles, which, moreover, ought to be set down in a federal law on prisons that would make them visible to the public. Programmatic demands, such as detaining women in separate penal institutions and employing female staff to supervise them, which were as old as the penal institutions themselves, were given new meanings. Now, these demands were no longer exclusively seen as disciplinary strategies and pragmatic structural measures used to streamline the penal system, but as the necessary preconditions to meeting the supposed "special needs" of the female sex. The success of this new set of meanings can be seen in numerous handbooks and other works on the prison system published long into the twentieth century.

Conclusion

In Imperial Germany, the proper organization of the penal system became a topic that received attention from many quarters. The discussions regarding a *Reichsstrafvollzugsgesetz* that would create uniform standards for prisons throughout the Reich, the establishment of criminology as a field of research, and the formation of a powerful penal reform movement all made prisons more important as sites of "scientific discovery" and tools in the "fight against crime." In the course of these developments, the treatment of women in the penal system

also attracted more interest. The resulting calls for reform were primarily articulated by prison officials. This chapter has examined the arguments advanced by a group of prison officials who were significant participants in the debate and were closely associated with the “modern school” of criminal law.

The starting point for their reform arguments was the assumption that women and men were “completely different in nature” (*wesensverschieden*). The contemporary organization of penal institutions, they maintained, did not take account of this fact at all. On the contrary, the organization of men’s and women’s prisons was described as identical, which reformers interpreted as leading to a clear disadvantage for women. Instead, reformist prison officials demanded that the conditions of women’s detention must take into account the physical and psychological “peculiarities” of women and that rehabilitation measures, too, must reflect “specifically female” needs. They emphasized rehabilitation as the primary purpose of punishment and assumed that “criminological knowledge” was essential to achieving this goal. Their demands were based on typologies of “female criminality” or of the female inmates of their institutions.

As we saw, the concrete reform demands contained little that was innovative. Some of the measures that were demanded had been recognized as pillars of an effective penal system since modern prisons were established in the late eighteenth and early nineteenth century; others had already been implemented during the Kaiserreich in the form of valid normative guidelines. The transformation reflected in Imperial Germany’s reform debates has less to do with the organization of women’s penal institutions than with the meaning that was ascribed to the penal system’s treatment of women. Thus, what was new was not the content of the demands but their connection to a treatment of women that would reflect “special female needs.” We should note that the question whether the actual conditions of imprisonment for men and women were in fact as similar as the reformers claimed can only be answered by detailed comparative research on men’s and women’s prisons that falls outside the scope of this chapter.⁸⁶

I would like to close with the question of what symbolic function the demand to inscribe special considerations for women in a Reich law on prisons fulfilled. Here we should note the descriptions of female offenders as victims, which formed a considerable component of the reformist argumentation. The characterization of reforms as “measures of protection and welfare” was consistently justified by reference to the physically and psychologically weaker constitution of women, which made them seem less suited for public life and employment than were men. For the same reason, the return of women to the domestic sphere was repeatedly advocated as a central means of preventing crime. At the same time, it should not be overlooked that the reformers viewed the employment of women as necessary in certain cases. Likewise, many demands of the women’s movement were recognized as justified; and its calls for the professionalization of female occupations were in fact promoted by the demand for female supervisory staff in women’s

prisons. However, the argumentation also clearly reveals that there were to be limits to women's changing position in society. Changes were acceptable only as long as they did not endanger the gender order itself. The demand for the special treatment of women in criminal law and in the prison system can thus also be interpreted as a means of normalizing and stabilizing the gender hierarchy.⁸⁷

Notes

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1. By the phrases "female criminality" and "women's criminality," I mean only the legal violations committed by women that were legally defined and sanctioned in penal codes. The concept thus refers to the entire spectrum of the punishable acts of women and does not refer to "woman-specific" or "woman-like" crimes.
2. See among others *Kriminalstatistik für das Jahr 1892*, Dritter Abschnitt: Die Verurtheilten nach Alter und Geschlecht insbesondere, bearb. im Reichs-Justizamt und im Kaiserlichen Statistischen Amt (Berlin, 1894). On the share of female criminality in the Reich's crime statistics, see Eric A. Johnson, *Urbanization and Crime: Germany 1871–1914* (Cambridge, 1995), 184–191.
3. Gustav Aschaffenburg, *Das Verbrechen und seine Bekämpfung: Kriminalpsychologie für Mediziner, Juristen und Soziologen, ein Beitrag zur Reform der Strafgesetzgebung* (Heidelberg, 1903), 129–130.
4. Reinhold Stade, *Frauentypen aus dem Gefängnisleben: Beiträge zu einer Psychologie der Verbrechenin* (Leipzig, 1903), 48.
5. See for example Marie Mellien, "Die weibliche Kriminalität im Deutschen Reiche," *Die Frau* 9 (1902), 499–500.
6. Mellien, "Weibliche Kriminalität," 500. See also Anna Ernst, "Zur Kriminalität der Geschlechter," *Die Frau* 8 (1901), 641–643.
7. Anna Waldeck, "Die Berufstätigkeit der Frauen und die Kriminalität," *Centralblatt des Bundes Deutscher Frauenvereine* 14 (1912), 5.
8. Daniel Pick, *Faces of Degeneration* (Cambridge, 1989).
9. Carmen Gransee, "Zur Reproduktion von Normalitätsvorstellungen von Weiblichkeit durch Kriminalisierungsprozesse—Eine Rekonstruktion der Medienwirklichkeiten," in Detlev Frehsee, ed., *Konstruktion der Wirklichkeit durch Kriminalität und Strafe* (Baden-Baden, 1997), 436–437.
10. Anne-Louise Shapiro, *Breaking the Codes: Female Criminality in Fin-de-Siècle Paris* (Stanford, 1996), 5.
11. Abraham Baer, *Die Gefängnisse, Strafanstalten und Strafsysteme, ihre Einrichtung und Wirkung in hygienischer Beziehung* (Berlin, 1871), 334.
12. Hermann von Valentini, *Das Verbrechertum im preussischen Staate, Nebst Vorschlägen zu seiner Bekämpfung durch die Gesellschaft und durch die Reform der Strafvollstreckung* (Leipzig, 1869), 246.

13. Hans Dietrich Quedenfeld, *Der Strafvollzug in der Gesetzgebung des Reiches, des Bundes und der Länder: Eine Untersuchung über die normative Grundlage des Strafvollzugs* (Tübingen, 1971), 2–8; Erwin Bumke, “Die Freiheitsstrafe als Problem der Gesetzgebung,” in Erwin Bumke, ed., *Deutsches Gefängniswesen: Ein Handbuch* (Berlin, 1928), 16–32. Christina Schenk, *Bestrebungen zur einheitlichen Regelung des Strafvollzugs in Deutschland von 1870 bis 1923: Mit einem Ausblick auf die Strafvollzugsgesetzesentwürfe von 1927* (Frankfurt am Main, 2001).
14. On the penal reform movement see: Monika Frommel, “Internationale Reformbewegung zwischen 1880 und 1920,” in *Erzählte Kriminalität: Zur Typologie und Funktion von narrativen Darstellungen der Strafrechtspflege, Publizistik und Literatur*, ed. Jörg Schönert (Tübingen, 1991), 467–495; Richard F. Wetzell, “From Retributive Justice to Social Defense: Penal Reform in Fin-de-Siècle Germany,” in *Germany at the Fin de Siècle: Culture, Politics, and Ideas*, ed. Suzanne Marchand and David Lindenfeld (Baton Rouge: 2004), 59–77; Richard F. Wetzell, *Criminal Law Reform in Imperial Germany* (Ph.D. diss., Stanford University, 1991); Richard F. Wetzell, *Inventing the Criminal: A History of German Criminology 1880–1945* (Chapel Hill, 2000), 31–38, 73–105; Eberhard Schmidt, *Einführung in die Geschichte der deutschen Strafrechtspflege*, 2nd ed. (Göttingen, 1951), 350–386.
15. Peter Becker and Richard F. Wetzell, eds., *Criminals and Their Scientists: The History of Criminology in International Perspective* (Cambridge, 2006); Pick, “Faces of Degeneration”; Nicole Hahn Rafter, *Creating Born Criminals* (Chicago, 1997); Robert Nye, *Crime, Madness, and Politics in Modern France* (Princeton, N.J., 1984). On developments in Germany see: Wetzell, *Inventing the Criminal*; Silvana Galassi, *Kriminologie im Deutschen Kaiserreich: Geschichte einer gebrochenen Verwissenschaftlichung* (Stuttgart, 2004). Peter Becker, *Verderbnis und Entartung: Eine Geschichte der Kriminologie des 19. Jahrhunderts als Diskurs und Praxis* (Göttingen, 2002); Christian Müller, *Verbrechensbekämpfung im Anstaltsstaat: Psychiatrie, Kriminologie und Strafrechtsreform in Deutschland 1871–1933* (Göttingen, 2004).
16. This already becomes clear in the title of Cesare Lombroso’s work, *Das Weib als Verbrecherin und Prostituierte: Anthropologische Studien, gegründet auf eine Darstellung der Biologie und Psychologie des normalen Weibes* (Hamburg, 1894). See also Mary S. Gibson, “The ‘Female Offender’ and the Italian School of Criminal Anthropology,” *European Studies* 12 (1982), 155–165; Nicole Hahn Rafter and Mary Gibson, eds., *Criminal Woman, the Prostitute, and the Normal Woman: Cesare Lombroso and Guglielmo Ferrero* (Durham, 2004); Karsten Uhl, *Das “verbrecherische Weib”: Geschlecht, Verbrechen und Strafen im kriminologischen Diskurs 1800–1945* (Münster, 2003).
17. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York, 1979), 249.
18. Thus Cesare Lombroso was a physician in a psychiatric facility and carried out his research and measurements on numerous prisoners. The major figures in German criminology also worked in penal and mental institutions: Gustav Aschaffenburg headed the observation ward for mentally ill criminals at the prison in Halle for a while, and Paul Nücke was staff physician at the Hubertusburg insane asylum. Mariacarla Gadebusch Bondio, *Die Rezeption der kriminalanthropologischen Theorien von Cesare Lombroso in Deutschland von 1880–1914* (Husum, 1995); Gibson, “The ‘Female Offender,’” 159.
19. Lombroso himself assumed that the category of the born criminal represented only a minority of those sentenced. Gibson, “The ‘Female Offender,’” 159.
20. Josef Lenhard, “Psychologische Betrachtungen über Frauen und Mädchen im Strafvollzuge,” *Blätter für Gefängniskunde* 43 (1909), 435–92, esp. 439–40.
21. Stade, *Frauentypen*. The same author has published additional works on this subject: *Aus der Gefängnisfürsorge. Erinnerungen aus vierzehnjährigem Gefängnisdienst* (Leipzig, 1901); *Durch eigene und fremde Schuld: Kriminalistische Lebensbilder* (Leipzig, 1904).
22. Lenhard, “Psychologische Betrachtungen,” 445.
23. The discussion focused on the question, “Is it advisable to make special regulations for women’s prisons that are very different from those for men’s prisons, regarding work as well as

- the disciplinary system and the provisions? Would it not be advisable to employ a special system for women?" Lothar Frede and Rudolf Sieverts, eds., *Die Beschlüsse der Internationalen Gefängnis-Kongresse 1872–1930* (Jena, 1932), 48.
24. Frede and Sieverts, *Beschlüsse*.
 25. Lenhard, "Psychologische Betrachtungen," 437–438. Here he cites Hanns Gross, *Criminalpsychologie* (Graz, 1898)
 26. Lenhard, "Psychologische Betrachtungen," 437.
 27. Lenhard, "Psychologische Betrachtungen," 437.
 28. Lenhard, "Psychologische Betrachtungen," 447.
 29. Lenhard, "Psychologische Betrachtungen," 449.
 30. Baer, "Die Gefängnisse," 335. On the pages that follow he provides substantial statistical material.
 31. Leonore Seutter, *Die Gefängnisarbeit in Deutschland mit besonderer Berücksichtigung der Frauen-Gefängnisse* (Tübingen, 1912), 95.
 32. Lenhard, "Psychologische Betrachtungen," 446. See also Lenhard's essay, "Einiges über Körperwägungen und über die Sterblichkeit einer Strafanstalt," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform* 4 (1907/08), 289ff., in which he confirms the much greater weight loss among women prisoners compared to men.
 33. Lenhard identified the following reasons for this: For one thing, the female organism had already suffered severely due to "unsupervised" births. For another, however, he blamed women's changing social conditions: the increased occupation of women outside the home in the last decades had brought significant disadvantages to women's general health. See Lenhard, "Psychologische Betrachtungen," 440. Seutter, on the other hand, noted that these women "durch ein ausschweifendes Leben, durch Armut, durch schlechte Ernährung und Körperpflege, durch unhygienische Wohnungen geschwächte Körper mit in die Anstalt bringen" (Seutter, "Gefängnisarbeit," 94).
 34. Lenhard, "Psychologische Betrachtungen," 448.
 35. Lenhard, "Psychologische Betrachtungen," 440.
 36. Seutter here relied on the testimonies of prison officials as well as on her own observations. Seutter, "Gefängnisarbeit," 100.
 37. Lenhard, "Psychologische Betrachtungen," 449–450. See also Abraham Baer's remarks on women's physical and psychological constitution in Abraham Baer, *Hygiene des Gefängniswesens: Der Vollzug der Freiheitsstrafe in hygienischer Beziehung* (Jena, 1897), 216–217.
 38. Lenhard, "Psychologische Betrachtungen," 436. In addition he called for this determination of purpose to be taken up in any future penal code. Lenhard, "Psychologische Betrachtungen," 455.
 39. Lenhard, "Psychologische Betrachtungen," 456.
 40. Lenhard, "Psychologische Betrachtungen," 437.
 41. Lenhard, "Psychologische Betrachtungen," 453 and 474–475.
 42. See for example Hermann Kriegsmann, *Einführung in die Gefängniskunde* (Heidelberg, 1912), 310–331.
 43. See Uhl, *Das "verbrecherische Weib"* for an extensive treatment of this issue.
 44. See for example Hugo Högel, "Die Straffälligkeit des Weibes," *Archiv für Kriminal-Anthropologie und Kriminalstatistik* 5 (1900), 231–289.
 45. Friedrich Prinzing, "Der Einfluss der Ehe auf die Kriminalität des Mannes," *Zeitschrift für Socialwissenschaft* 2 (1899), 109–126; Prinzing, "Die Erhöhung der Kriminalität des Weibes durch die Ehe," *Zeitschrift für Socialwissenschaft* 2 (1899), 433–450.
 46. Aschaffenburg, "Das Verbrechen und seine Bekämpfung," 129.
 47. Hoegel, "Straffälligkeit des Weibes," 260–269.
 48. Seutter, "Gefängnisarbeit," 85.

49. Aschaffenburg, "Das Verbrechen und seine Bekämpfung," 129.
50. For example Gross, "Criminalpsychologie," 413–490.
51. The following descriptions of the different categories are found in Lenhard, "Psychologische Betrachtungen," 458–460.
52. On the contemporary linkage between criminality and the large city, see Becker, *Verderbnis und Entartung*, 324f.; Martin Dinges and Fritz Sack, eds., *Unsichere Großstädte? Vom Mittelalter bis zur Postmoderne* (Konstanz, 2000); Johnson, *Urbanization*.
53. The description of female offenders as victims can also be found in the works of other authors. See, for example, Stade, "Frauentypen," 214.
54. The Darmstadt (1898) and Nuremberg (1901) meetings discussed the question: "Would it be advisable to hire only female staff (physicians and clerics excepted) in women's prisons, and to give a male higher-level prison official only supervisory authority?" See: "Bericht über die XI. Versammlung des Vereins der deutschen Strafanstaltsbeamten in Darmstadt vom 24. Mai bis 27. Mai. Nach stenographischen Aufzeichnungen," *Blätter für Gefängniskunde* 32 (1898), 341–464, esp. 444–462; "Bericht über die XII. Versammlung der deutschen Strafanstaltsbeamten in Nürnberg vom 29. Mai bis 1. Juni 1901. Nach stenographischen Aufzeichnungen," *Blätter für Gefängniskunde* 35 (1901), 1–210, esp. 132–161.
55. See, for instance, the comments of prison director Bässler in H. Bässler, "Gutachten," *Blätter für Gefängniskunde* 32 (1898), 109–114, quote 111.
56. Alice Salomon, "Die Frauenfrage auf dem Kongreß deutscher Strafanstaltsbeamter," *Die Frau* 8 (1901), 623–626, here 625.
57. The exact wording of the resolution was the following: "In Weiberstrafanstalten sind die Stellen a) der Werkführer, Aufseher und Oberaufseher unbedingt mit weiblichen Beamten, b) der Expeditions-, Kassen- und Wirtschaftsbeamten, des Lehrers und des Arztes thunlichst mit weiblichen Beamten, c) der Wächter, Boten, Handwerker, des Geistlichen und des Direktors dagegen nur mit männlichen Beamten zu besetzen."
58. Lenhard, "Psychologische Betrachtungen," 484.
59. Lenhard, "Psychologische Betrachtungen," 460.
60. Lenhard, "Psychologische Betrachtungen," 460. Lenhard viewed it as necessary to assign women who had been released from prison a chaperone to accompany them to their families.
61. Kriegsmann, "Einführung," 207.
62. Seutter, "Gefängnisarbeit," 148.
63. Seutter, "Gefängnisarbeit," 125.
64. Lenhard, "Psychologische Betrachtungen," 460. For similar arguments, see Stade, "Frauentypen," 289.
65. Lenhard, "Psychologische Betrachtungen," 486.
66. Printed, among other places, in *Blätter für Gefängniskunde* 30 (1898), 467–476.
67. Except for one further paragraph, the guidelines lacked any further gender-specific content. That paragraph, whose symbolic meaning should not be underestimated, recommended that female prisoners should not have their hair cut, in contrast to male prisoners, unless for hygienic reasons.
68. Schmidt, "Einführung," 345.
69. The decisions named here were also part of the Badenese official regulations (*Dienstordnung*). *Dienst- und Hausordnung für die Zentralstrafanstalten des Großherzogtums Baden mit Ausschluß des Festungsbaugefängnisses Rastatt vom 15. Dezember 1890* (Karlsruhe, 1891). On the Badenese prison system: Julius Appel, *Der Vollzug der Freiheitsstrafen in Baden: Allgemeine Gesichtspunkte* (Karlsruhe, 1905).
70. *Dienstordnung für die dem Ministerium des Innern unterstellten Strafanstalten und größeren Gefängnissen vom 14. November 1902* (Berlin, 1902). The responsibility for the Prussian prison system was on the one hand under the Ministry of the Interior (workhouses, penal

- institutions) (*Zuchthäuser, Strafanstalten*) and on the other under the Ministry of Justice. On this, see P. Jakobs, *Der Dualismus im preußischen Gefängniswesen* (Bonn, 1906); Thomas Berger, *Die konstante Repression: Zur Geschichte des Strafvollzugs in Preußen nach 1850* (Frankfurt am Main, 1974).
71. "Dienstordnung Preußen," 35.
 72. "Dienstordnung Preußen," 19.
 73. The beginning of the institutionalization of prisons in the modern juridical sense, as facilities where legally imposed prison terms are served, is universally dated to the transition from the eighteenth to the nineteenth century. On the formation of prisons, see Pieter Spierenburg, "The Body and the State: Early Modern Europe," in Norval Morris and David J. Rothman, eds., *The Oxford History of the Prison: The Practice of Punishment in Western Society* (Oxford, 1995), 49–77; Norbert Finzsch, "Comparing Apples and Oranges? The History of Early Prisons in Germany and the United States, 1800–1860," in Norbert Finzsch and Robert Jütte, eds., *Institutions of Confinement: Hospitals, Asylums, and Prisons in Western Europe and North America, 1500–1950* (Cambridge, 1996), 213–233. Thomas Nutz, *Strafanstalt als Besserungsmaschine: Gefängnisreformdiskurs und Gefängniswissenschaft 1775–1848* (Munich, 2001).
 74. John Howard, *The State of Prisons in England and Wales* (London, 1777); Eberhard Waechter, *Ueber Zuchthaus und Zuchthausstrafen, wie jene zweckmäßig einzurichten, und diese solcher Einrichtung gemäß zu bestimmen und anzuwenden seyen?* (Stuttgart, 1786); Heinrich Balthasar Wagnitz, *Historische Nachrichten und Bemerkungen über die merkwürdigsten Zuchthäuser in Deutschland*, 2 vols. (Halle, 1791); Albrecht H. von Arnim, *Bruchstücke über Verbrechen und Strafen, oder Gedanken über die in den Preußischen Staaten bemerkte Vermehrung der Verbrechen gegen die Sicherheit des Eigentums* (Jena, 1803).
 75. Nikolaus Heinrich Julius, *Vorlesungen über die Gefängniß-Kunde, oder über die Verbesserung der Gefängnisse und sittliche Besserung der Gefangenen, entlassene Sträflinge u.s.w., gehalten im Frühlinge 1827 zu Berlin. Erweitert herausgegeben, nebst einer Einleitung über Zahlen, Arten und Ursachen der Verbrechen in verschiedenen europäischen Staaten* (Berlin, 1828), 120–122.
 76. See for example the article entitled "Classification," in *Criminallexikon. Nach dem neuesten Stand der Gesetzgebung in Deutschland*, ed. Ludwig von Jagemann, 1854 (Reprint: Leipzig, 1975), 159–161.
 77. Karl Krohne, "Der Gefängnißbau in der Verwaltung des königlich preußischen Ministeriums des Innern," in Krone, ed., *Die Strafanstalten und Gefängnisse in Preußen, Bd. 1: Anstalten in der Verwaltung des Ministeriums des Innern* (Berlin, 1901), vii–xlvi, here xxii.
 78. Edict of 11 April 1842. See *Reglement für die Strafanstalt zu Rawicz, vom 4. November 1835, durch spätere Bestimmungen auch auf die übrigen Strafanstalten ausgedehnt, nebst den dazu nachträglich ergangenen ergänzenden Bestimmungen* (Berlin, 1868), 97–99. GLA Karlsruhe 234/10394, Staatsrat Lamey, 19. Mai 1838. Gudrun Kling, "Die rechtliche Konstruktion des 'weiblichen Beamten.' Frauen im öffentlichen Dienst des Großherzogthums Baden im 19. und frühen 20. Jahrhundert," in Ute Gerhard, ed., *Frauen in der Geschichte des Rechts: Von der frühen Neuzeit bis zur Gegenwart* (Munich, 1997), 600–616.
 79. Krohne, "Gefängnißbau," xxii.
 80. Karl Krohne reported extensively regarding the female supervisors at the gathering of prison officials in 1901: "Bericht über die XII. Versammlung des Vereins der deutschen Strafanstaltsbeamten in Nürnberg am 29. Mai bis 1. Juni 1901. Nach stenographischen Aufzeichnungen," *Blätter für Gefängniskunde* 35 (1901), 1–210, here 157–158.
 81. Krohne, "Bericht," 157.
 82. Krohne, "Gefängnißbau," xxxiv–v. They differ only in size. A women's prison should not admit more than 300 inmates, while a men's prison should not exceed 550 inmates.
 83. Hauptstaatsarchiv Düsseldorf, Regierung Düsseldorf, Nr. 11201, Hausordnung für Strafanstalten, vol. 5, 1898–1901, Ministerium des Innern, Berlin den 30. Januar 1899.

84. See for example Carl August Diez, "Ueber den Einfluss der Gefangenschaft auf die Gesundheit," *Annalen der Staatsarzneikunde* 8 (1843), 419–498, esp. 448–450.
85. Generallandesarchiv Karlsruhe, 234/10394, Errichtung einer Zentralstrafanstalt—modo Erbauung eines Weiberzuchthauses—in specie—dessen Einrichtung hinsichtlich der Behandlung der Sträflinge, Staatsrat Lamey, 19 May 1838.
86. For a detailed analysis of a women's prison in Imperial Germany, the Weiberstrafanstalt Bruchsal, see Leukel, *Strafanstalt und Geschlecht*, 187–266.
87. See Lenhard, "Psychologische Betrachtungen," 449.