

Beate Kutschke

The State's Dealing with the Poor before, during, and after National Socialism

Continuities and Discontinuities

Part I

Abstract

This article reconstructs the continuities and differences in the treatment of the poor and unemployed before, during, and after National Socialism. To this end, it takes as its starting point previous research on the socio-political history of poor relief from the late Middle Ages to the present, and on the persecution of the poor and unemployed between 1933 and 1945. The author illuminates in particular the role of the image of the poor and their mistreatment by welfare institutions. The reconstruction of continuities in these respects serves as a starting point for answering the question of whether the historically consolidated parameters of poor relief still have an impact in the twenty-first century. To answer this question, the author examines two current cases. The first is the efforts in the late 2010s to rehabilitate people who were persecuted and murdered as “asocials” and “professional criminals” during the Nazi regime. The second is a hitherto little-noticed peculiarity of social case law on sanctions for the unemployed since the mid-1990s: a divergence from the consolidated unanimous supreme court jurisprudence in Germany. It has resulted in the recipients of unemployed benefits being restricted with regard to their constitutional guarantee of legal recourse.

Inspired by the ethnographic method of participant observation, the author has deliberately combined two different types of writing in this article: the academic study with the format of the personal experience report.

The Discrimination and Stigmatisation of “Asocials” and the “Workshy” before and during National Socialism

During my research on “Music and Heroisation in the Mauthausen Liberation Ceremonies”¹ as a Senior Research Fellow at the Vienna Wiesenthal Institute in 2018 and 2019, a different topic attracted my attention, epitomised in Julia Hörath’s dissertation “Asoziale” und “Berufsverbrecher” in den Konzentrationslagern 1933 bis 1938.² The monograph focuses on two groups of prisoners in concentration camps that had until recently received little attention in research and in the culture of re-

1 “Music and Heroisation in the Mauthausen Liberation Celebrations – New Perspectives on Holocaust Remembrance and Commemoration in Austria”, *S.I.M.O.N.* no. 7 (May 2020), 26–44. DOI: https://doi.org/10.23777/SN.0120/ART_BKUT01.

2 Julia Hörath, “Asoziale” und “Berufsverbrecher” in den Konzentrationslagern 1933 bis 1938 (Göttingen: Vandenhoeck & Ruprecht, 2017).

membrance: those who had a black or green triangle sewn onto their prisoner jackets. The black triangle stigmatised people whose lifestyles did not conform to (petty) bourgeois Nazi ideas, such as homeless people, “workshy” welfare recipients (i.e. people who had refused to accept work offered by the authorities or had the “reputation” in the neighbourhood for being lazy³), “asocial families” as well as “asocial youths”, prostitutes, and “gypsies” (i.e. Sinti and Roma).⁴ Those people were classified as asocial. The green triangle marked people who had been convicted of criminal offenses at least three times and lived “exclusively or for the most part from the proceeds of crime”.⁵ Many of these convicted individuals had availed themselves of stealing as the only way to survive in the Great Depression.⁶

In the winter of 2018/2019, I was interested in this aspect of the National Socialist tyranny because it appeared to be still relevant in two respects.

First, in 2016, the Scientific/Scholarly Service (Wissenschaftlicher Dienst) of the German parliament (Bundestag) published a report according to which the concentration camp internees with the black triangle (as well as those with the green triangle) had never been rehabilitated and had received virtually no compensation payments.⁷ The Scientific/Scholarly Service had presumably prepared the documentation at the request of the parliamentary group Die Linke (The Left), which had submitted a “small question” (Kleine Anfrage) on this very topic to the federal government in November 2015.

A parliamentary group thus had to draw the government’s attention by means of a question to the fact that, until now, seventy years after the end of National Socialism, a group of victims had been excluded from rehabilitation. From my perspective, this indicated that asocials and professional criminals – even more than other groups of victims under National Socialism such as homosexuals and Sinti and Roma – had continued to be socially excluded. Therefore, they had not been given any recognition as victims of National Socialism. I supposed that the reason for this neglect was that – unconsciously or consciously – the idea had prevailed that these groups of victims had actually rightly been placed in concentration camps.

But if that is the case that asocials and professional criminals, i.e. the poor, still have such a bad image today, could this bad image possibly also have an effect on the treatment of the poor in today’s society, especially on the part of the authorities in the social welfare and unemployment benefit sector? I began asking myself these questions when, at the turn of 2019, I was looking for an explanation for the specific administrative actions of the Federal Employment Agency (Bundesagentur für Arbeit), actions which could be characterised as marked by a combination of dysfunctionality and harassment.

Since the early 2000s, I had repeatedly received private reports, in conversations with unemployed people in Germany, that gave the impression that the Federal Em-

3 On the existential significance that a person’s “reputation” could have for the authorities and other contemporaries under National Socialism, see Jens Kolata, “Zwischen Sozialdisziplinierung und ‘Rassenhygiene’. Die Verfolgung von ‘Asozialen’, ‘Arbeitsscheuen’”, in *Die Geheime Staatspolizei in Württemberg und Hohenzollern*, eds. Ingrid Bauz, Sigrid Brüggemann, and Roland Maier (Stuttgart: Schmetterling, 2013), 321–327, here 327.

4 For this national-socialist jargon, see Wolfgang Ayaß, “Asoziale” im Nationalsozialismus (Stuttgart: Klett-Cotta, 1995), 11.

5 Kurt Daluge, *Nationalsozialistischer Kampf gegen das Verbrechen* (Munich: Zentralverlag der NSDAP, 1936), 34.

6 On *Versorgungskriminalität*, see Christoph Sachße and Florian Tennstedt, *Geschichte der Armenfürsorge in Deutschland*, vol. 4 (Stuttgart et al.: Kohlhammer, 2012), 66.

7 Wissenschaftliche Dienste. “Asoziale” im Nationalsozialismus (WD 1 - 3000 - 026/16), <https://www.bundestag.de/resource/blob/478780/946af6a53de4beedba650bf537254942/WD-1-026-16-pdf-data.pdf>.

ployment Agency and its institutions⁸ aimed less at efficiently helping and more at frustrating the needy. I knew a case from 2012 in which the Jobcenter, being one of the around 400 institutions of the agency that administers the recipients of social welfare among unemployed people in Germany,⁹ had refused a beneficiary permission to move from a flat with a coal oven to a smaller flat with central heating, which would have significantly reduced the beneficiary's rental costs (financed by taxpayers in Germany). The beneficiary received permission to move only after other individuals had threatened the head of the Jobcenter to inform the media if the Jobcenter maintained its unjustified refusal.¹⁰

Regarding the so-called reporting appointments, which have played a central role in the administration of the unemployed in Germany, I knew of further irregularities. Employees of the state employment agencies, called "Jobcenter" and "Agentur für Arbeit", summon recipients of unemployment benefits and social welfare to an appointment without a concrete reason, with the general, universally applicable justification being that they want to talk with the "invited" unemployed about their professional situation. Is that merely minor harassment: making benefit recipients dance to the tune of the authority? Not at all: these reporting appointments are an occasion for sanctioning the unemployed. Benefit recipients who miss the appointment have to accept serious cuts to their benefits. In a case from 2010 and 2011, an employment agency summoned a former recipient of unemployment benefits who had been re-employed for several months. The erroneously "invited" person ignored the call for reporting. Because the person had "missed" the appointment, from the perspective of the employment agency, its staff right away sent the next call for reporting and, after the second "failure to show up", a third. The calls were accompanied each time by the announcement that the non-appearance of the addressee of the administrative act would be penalised. From my perspective, this case from 2010/2011 proved that the agency blindly issued calls for reporting without checking the case at all.¹¹

Were the cases observed by me only singular – "*bedauerliche Einzelfälle*" in the terminology of the German state authorities –, or could there be a continuation in the current unemployment management of what is indicated in the historical study by Hörath and the small question of the parliamentary group of Die Linke? What characterised the persecution of asocials under National Socialism, apart from the fact that they were interned in concentration camps, harassed, tortured, and murdered? What continuities and differences have characterised the treatment of the poor in Germany before, during, and after National Socialism?

8 The implementation of the tasks of the federal Employment Agency is currently carried out by about 1,000 institutions spread across Germany, which are divided into two groups: the employment agencies (Agenturen für Arbeit) and the job centres (Jobcenter). The former are responsible for unemployed persons who receive benefits from the unemployment insurance system, and the latter for unemployed persons who do not meet the conditions for receiving unemployment benefits and therefore receive transfer payments. Bundesagentur für Arbeit, "Über uns", accessed 20 February 2023, <https://www.arbeitsagentur.de/ueber-uns>.

9 Bundesagentur für Arbeit, "Über uns". As indicated in the preceding footnote, the German social law distinguishes between two types of recipients of state support in the case of unemployment or the lack of income. Those who have "been in a compulsory insurance relationship" for at least twelve months, according to section 142 (1), sentence 1, SGB III Unemployment Insurance Act, and paid (currently) 2.6 per cent of their income into unemployment insurance, receive 60 per cent of their preceding monthly income after taxes for usually no longer than twelve months. Persons who were not economically able to acquire a basic right to unemployment benefits receive basic income support at the subsistence level ("ALG II" or "Hartz IV" in common parlance) according to SGB II. From 1 January 2023, basic income support is called "citizens' income" [Bürgergeld].

10 Private information; details are available from the author.

11 Ibid.

What I did not (yet) know at that time (the turn of 2019), but subsequently found out, was that other researchers, following on from their studies on the Third Reich, had also raised the question of existing continuities with regards to society's treatment of the poor and unemployed, and other persons stigmatised and marginalised as asocials. As early as 1990, Horst Kahrs and Dieter Maier argued in their contributions to the volume of collected essays *Arbeitsmarkt und Sondererlass* (Labour Market and Special Decree), edited by Götz Aly, Matthias Hamann, Susanne Heim, and Ahlrich Meyer, that the labour administration outlasted the transformation from the Weimar Republic into the Third Reich.¹²

In his monographic study of the same year in which he investigates the term "asocial" and its application in the Third Reich, Klaus Scherer has emphasised the continuity of the discrimination of "asocial individuals" before 1933 and after 1945.¹³ In 1993, Wolfgang Ayaß described the continuity of "criminal workhouse placement" in Germany from the late eighteenth century to the end of the 1960s.¹⁴ For almost the same period of time – namely from the eighteenth century to the present day – Reinhard Sieder and Andrea Smioski in their work from 2012 saw ongoing efforts to combat (allegedly widespread) "work-shyness", which manifested themselves in particular in National Socialist politics and executive power.¹⁵

To jump back in the chronology, in 2001, Christa Schikorra presented her study on "asocial" prisoners in the Ravensbrück women's concentration camp under the title "Kontinuitäten der Ausgrenzung" ("Continuities of Exclusion"), and she showed that asocials were excluded *de lege lata* from compensation payments after 1945 in both West and East Germany.¹⁶ Likewise, Stefan Romey, in a volume of collected essays published by the Neuengamme Concentration Camp Memorial in 2009, also saw the reason why people defamed as "asocial" under National Socialism were not granted a legal claim to compensation after 1945 in the "continuity of [their] previous social discrimination and persecution". "There was no break with previous social values after the end of the Nazi regime."¹⁷ In the same volume, Susanne zur Nieden argued with regard to her case study on "Karl B., who was discriminated as an 'asocial'", that his story showed in an exemplary way "that social value judgements and ideas of order, which were already effective in German society towards marginalised

12 Horst Kahrs, "Die ordnende Hand der Arbeitsämter. Zur deutschen Arbeitsverwaltung 1933 bis 1939", and Dieter Maier, "Die Mitwirkung der Arbeitsverwaltung beim Bau der IG-Farben Auschwitz", in *Arbeitsmarkt und Sondererlass* (= Beiträge zur Nationalsozialistischen Gesundheits- und Sozialpolitik, vol. 8), ed. Götz Aly, Matthias Hamann, Susanne Heim, and Ahlrich Meyer (Berlin: Rotbuch, 1990), 9–61 and 175–183 respectively.

13 Klaus Scherer, *'Asozial' im Dritten Reich. Die vergessenen Verfolgten* (Münster: Votum, 1990), 125.

14 Wolfgang Ayaß, "Die 'korrektionale Nachhaft'. Zur Geschichte der strafrechtlichen Arbeitshausunterbringung in Deutschland", in *Zeitschrift für neuere Rechtsgeschichte* vol. 15, 3/4 (1993), 184–201, <https://kobra.uni-kassel.de/handle/123456789/2007013016948>.

15 "As is well known, 'work-shyness' was already countered in the eighteenth and nineteenth centuries by workhouses with compulsory education for work. Basically, this model of thought remains in force even after it was overlaid by the discourse of professionalised care and the partial scientification of social work in the 20th century. It experienced its sharpest intensification in the Third Reich. To this day, education for work remains the overriding idea (meta-idea) of welfare interventions. However, this meta-idea is initially cloaked by philanthropic and humanistic, and in social-democratically administered states and municipalities also by 'socialist' or 'social democratic' rhetoric". Reinhard Sieder and Andrea Smioski, *Der Kindheit beraubt. Gewalt in den Erziehungsheimen der Stadt Wien (1950er bis 1980er Jahre)*, with the assistance of Holger Eich and Sabine Kirschenhofer (Innsbruck, Vienna and Bolzano: StudienVerlag, 2012), 26.

16 Christa Schikorra, *Kontinuitäten der Ausgrenzung. "Asoziale" Häftlinge im Frauen-Konzentrationslager Ravensbrück* (Berlin: Metropol, 2001), especially 236 ff.

17 Stefan Romey, "'Asozial' als Ausschlusskriterium in der Entschädigungspraxis der BRD", in *Ausgegrenzt "Asoziale" und "Kriminelle" im nationalsozialistischen Lagersystem. Beiträge zur Geschichte der nationalsozialistischen Verfolgung in Norddeutschland*, ed. KZ-Gedenkstätte Neuengamme, 149–158, here 149 (Bremen: Edition Temmen, 2009).

social groups before 1933 and meant imprisonment and mass murder under National Socialism, continued to have an effect far beyond the year 1945”¹⁸

In their 2019 collected volume on the persecution of women stigmatised as asocial under National Socialism, Helga Amesberger, Brigitte Halbmayr, and Elke Rajal spanned the arc in the final chapter to the political climate in Austria in the immediate present, which, at this time, was shaped by the Freedom Party (Freiheitliche Partei Österreichs, FPÖ). “An increasingly unsolidaristic social climate enables open agitation against so-called social parasites – foreigners, the old, the sick, the disabled, those apparently unwilling to work. At the same time, social and welfare state support is being cut back.”¹⁹

While the authors of these studies pointed out continuities in a rather complementary and incidental way, three volumes of essays from 2009, 2021, and 2022 placed the examination of continuities at the centre. The first of these volumes was released on the occasion of the transformation of the former labour camp of Rummelsburg into a luxury residential area in the Berlin district of Lichtenberg.²⁰ The chapters by Dirk Stegemann, Wolfgang Ratzel, Harald Rein, Anne Alex, and Volker Eick asserted a continuity between the treatment of the poor in the past, especially between 1933 and 1945, and the administration of the unemployed and unemployable after 1945, especially since the so-called Hartz IV reforms of the early 2000s. The Hartz IV reforms tightened the conditions under which people who neither have an income nor are entitled to unemployment benefits can receive subsistence benefits.²¹

As evidence for the continued exclusion and degradation of the poor and unemployed, Stegemann referred to a 2005 report of the Federal Ministry of Economics. The report, titled “Priority for the Respectable – Against Abuse, Rip-off and Self-Service in the Welfare State”, “indirectly compared the unemployed with parasites [...], and social counsellors as ‘aides and abettors’ of social benefit abuse”:

In order to legitimise their exclusion from the social benefit systems [the government] defames ALG II recipients [i.e. recipients of basic social security benefits] as ‘liars’ regarding their statements about the neediness of their households. [According to the public discourse,] they successfully procure social benefits, although in reality they are ‘phantom apartment tenants’, ‘asset obscurants’, ‘income concealers’, ‘singing cabriolet owners’, ‘rip-off artists’ and ‘social benefit scroungers’.²²

18 Susanne zur Nieden, “‘Unwürdige’ Opfer – zur Ausgrenzung der im Nationalsozialismus als ‘Asoziale’ Verfolgten in der DDR”, in *Ausgegrenzt “Asoziale” und “Kriminelle” im nationalsozialistischen Lagersystem*, 138–148, here 146.

19 Helga Amesberger, Brigitte Halbmayr, and Elke Rajal, „Arbeitsscheu und moralisch verkommen“. *Verfolgung von Frauen als ‘Asoziale’ im Nationalsozialismus* (Vienna: Mandelbaum, 2019), 354.

20 Anne Alex and Dietrich Kalkan, eds., *ausgesteuert – ausgegrenzt ... angeblich asozial* (Neu-Ulm: AG-SPAK-Bücher, 2009). Other publications that, in the context of the Rummelsburg transformation, drew attention to the stigmatisation of the asocials, are Thomas Irmer, “Zur Geschichte des Arbeitshauses Rummelsburg in der NS-Zeit”, Deutsches Historisches Museum, 12 June 2013, https://www.dhm.de/archiv/ausstellungen/zerstorte-vielfalt/docs/Vortrag_Irmer_Zur_Geschichte_des_Arbeitshauses_Rummelsburg_in_der_%20NS-Zeit.pdf, and Bernhard Bremberger, ‘Ausmerzende Erbpflge’ an sogenannten Asozialen. Zwangssterilisierungen im Berliner Arbeits- und Bewahrungshaus Rummelsburg”, *Lernen aus der Geschichte*, 28 October 2015, <http://lernen-aus-der-geschichte.de/Lernen-und-Lehren/content/12625>.

21 Dirk Stegemann, “Wider eine Gesellschaft der sozialen Ausgrenzung!”, 9–14, Wolfgang Ratzel, “Die Rolle der Verwaltung bei der Vernichtung ‘asozialen’ Lebens”, 107–144, Harald Rein, “Wer Vollbeschäftigung ruft, wird Arbeitsdienst ernten!”, 242–254, Anne Alex, “Kein Mensch ist ‘asozial’”, 287–298, Volker Eick, “Hartz IV kommt jetzt in ‘Uniform’”, 301–311, in *ausgesteuert – ausgegrenzt ... angeblich asozial*.

22 Stegemann, “Wider eine Gesellschaft der sozialen Ausgrenzung!”, 11.

The activities in the context of the plans to transform the Rummelsburg area, including the production of a documentary film on the socio-political history of the camp,²³ most likely also inspired Die Linke to make its *Kleine Anfrage* on the rehabilitation of asocials. Ulla Jelpke, at that time a member of Die Linke in the Bundestag, participated in the panel discussion which Anne Alex and Dietrich Kalkan, closely cooperating with Andrea Behrendt, the director of the documentary, had organised on the topic “On the Rehabilitation and Compensation of Asocials”. Jelpke may have initiated the Small Question.²⁴

The volume from 2021 that Helga Amesberger and Brigitte Halbmayr edited – this time together with Judith Goetz and Dirk Lange – explicitly examines the question of “Continuities of the Stigmatisation of ‘Asociality’” and, from this examination, also derives “Perspectives on Sociocritical Political Education”. In their chapters, Heike Rode and Goetz argue for the “continuities of classism” that exist beyond the end of the Third Reich and the prevailing “anti-egalitarianism and naturalisation of inequality” as a “legitimising ideology of the social production of inequality and the power relations based on it”. They concretise their theses through, in particular, the continuing exclusion of the unemployed (as a kind of “asocial”).²⁵ In their contribution to the 2022 volume *NS-Verfolgte nach der Befreiung: Ausgrenzungserfahrungen und Neubeginn*, by Alyn Beßmann, Insa Eschebach, and Oliver von Wrochem, Andreas Kranebitter and Dagmar Lieske dub the term “second stigmatisation” to refer to the discrimination that persons labelled as “asocials” under National Socialism have suffered after 1945.²⁶

To what extent does the above research answer the questions I have raised? First, as shown above, it can be stated that my impression was correct: the poor and unemployed still have such a bad image that not even those who were persecuted, imprisoned, and mistreated as “asocials” under National Socialism had received compensation benefits. However, to what extent can the thesis be supported that the practices I have observed in the institutions of the Federal Employment Agency – job centres and employment agencies – are also an outgrowth of the way in which the poor and unemployed have been dealt with for centuries?

In order to substantiate this thesis, I will describe in a concise and substantiated way the treatment of the poor and unemployed from the Middle Ages to the present day. I will highlight four central aspects or characteristics of this treatment: first, the

23 *Arbeitscheu – abnormal – asozial. Zur Geschichte der Berliner Arbeitshäuser*, directed by Andrea Behrendt, produced by Globale Medienwerkstatt e.V. (2010), <https://de.labournet.tv/video/6049/arbeitscheu-abnormal-asozial-zur-geschichte-der-berliner-arbeitshaeuser>.

24 Jelpke “estimated that she asked 500 to 600 of these questions – per legislative period. At least in the past two legislative periods, according to Bundestag statistics, she asked even rather twice as many.” Anonymous, “Bye Bye, Bundestag”, *Süddeutsche Zeitung*, 26 September 2021, <https://www.sueddeutsche.de/politik/bundestag-maiziere-binding-1.5421531>. Referring to her activities in the late 2000s in the context of the transformation of the Rummelsburg labour camp, Alex informs readers in her 2017 edited volume that “[w]e put small questions to parliaments (Bund, Lichtenberg)”. Anne Alex and Lothar Eberhardt, “Kein Mensch ist asozial”, 384–398, here 387, in *Sozialassistive Verfolgung im deutschen Faschismus. Kinder, Jugendliche, Frauen als sogenannte ‘Asoziale’*, ed. Anne Alex (Neu-Ulm: AG SPAK Bücher, 2017).

25 Heike Rode, “Der Dokumentarfilm ‘... dass das heute noch immer so ist – Kontinuitäten der Ausgrenzung’ als Möglichkeit zur politischen Bildung”, 75–92, here especially 75, Judith Goetz, “‘Wer nicht arbeitet, soll nicht ...’ – Antiegalitarismus, Naturalisierung und Sozialdarwinismus als zentrale Merkmale rechtsextremer Ideologie”, 149–162, here especially 150, in *Kontinuitäten der Stigmatisierung von ‘Asozialität’. Perspektiven gesellschaftskritischer Politischer Bildung*, eds. Helga Amesberger, Judith Goetz, Brigitte Halbmayr, and Dirk Lange (Wiesbaden: Springer VS, 2021).

26 Andreas Kranebitter and Dagmar Lieske, “Die zweite Stigmatisierung. ‘Asoziale’ und ‘Berufsverbrecher’ als NS-Opfer in Westdeutschland und in Österreich nach 1945”, in *NS-Verfolgte nach der Befreiung: Ausgrenzungserfahrungen und Neubeginn*, ed. Alyn Beßmann, Insa Eschebach, and Oliver von Wrochem (Göttingen: Wallstein, 2022), 203–216, here 203. doi.org/10.5771/9783835349230.

action imperative and objective of social disciplining and moral education; second, stigmatisation/discrimination (here, in contrast to the studies mentioned above, only one aspect among others); third, labour and especially compulsory labour; and fourth, a complex of punishment, harassment, and an excess of violence.

Building on this compact historical overview, I will discuss the personally observed dysfunctionalities and harassment in the context of the unemployment administration (refusal to move; blindly issued calls for reporting with the threat of sanctions). In doing so, I will also show, by means of a recent case, that continuity extends into the social courts, where judges – to use Sebastian Dörfler’s and Julia Fritzsche’s words – “often prefer to look at the failures of the unemployed [rather] than at the question of whether the measure is useful at all”.²⁷

Social Disciplining since late Medieval Times

Historiographers have emphasised that, since the late medieval times, the welfare for the poor in the form of mercy and compassion has always been complemented or flanked by procedures that, under the maxim of help for self-help, imposed a behavioural regime on poor people that was believed to empower the poor to overcome their economically desperate situation.²⁸ Work and discipline – the latter as the basis for the willingness to work – were believed to play a central role for overcoming poverty. In turn, unemployment was considered to be due to a lack of industry and commitment, i.e. a lack of character. (The idea that people could work because they enjoy what they do, because making “products” (in the broadest sense) strengthens their self-confidence and self-esteem and is a means to “realise” themselves in it, and that inactivity is the result of discouragement and coercion rather than a lack of discipline, is alien to this logic.) Since, from the perspective of those who believed in the effectiveness of the behavioural regime, discipline was considered the key to the avoidance and overcoming of poverty, discipline from the outside was supposed to produce internalised discipline.²⁹ Consequently, work discipline was drilled into needy people.³⁰

Following Foucault,³¹ the techniques used to achieve internalised discipline are referred to in current socio-historiographical scholarship as “social disciplining”.³²

27 Sebastian Dörfler and Julia Fritzsche, “Warum unsere Gesellschaft die Armen verachtet”, Bayrischer Rundfunk, BR 2, 19 July 2015, <https://www.youtube.com/watch?v=ILUQhbGqONE>, 22:28–22:45.

28 Cf. the authors in the following footnotes.

29 Hannes Stekl, “‘Labore et fame’ – Sozialdisziplinierung in Zucht- und Arbeitshäusern des 17. und 18. Jahrhunderts”, in *Soziale Sicherheit und soziale Disziplinierung*, eds. Christoph Sachße and Florian Tennstedt, (Frankfurt am Main: Suhrkamp, 1986), 119–147, here 133. This logic emulates Norbert Elias’ dictum of “social compulsion to self-compulsion” (gesellschaftlichen Zwang zum Selbstzwang). Norbert Elias, *Über den Prozeß der Zivilisation* (Frankfurt am Main: Suhrkamp, 1991 [1976]), 312 ff.

30 Cf., for instance, Bernhard Rathmayr, *Armut und Fürsorge: Einführung in die Geschichte der Sozialen Arbeit von der Antike bis zur Gegenwart* (Opladen: Barbara Budrich 2014), 78.

31 The origin of “social disciplining” as a technical term in socio-historical studies is often traced to Michel Foucault’s 1975 monograph *Surveiller et punir* (Paris: Gallimar), and Gerhard Oestreich’s 1968 “Strukturprobleme des europäischen Absolutismus”, in *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte*, vol. 55, 329–347. See also Michel Foucault *Die Strafgesellschaft, Vorlesung am Collège de France 1972–1973* (Berlin: Suhrkamp, 2015). On Oestreich’s uncritical advocacy of a discipline of obedience and its proximity to the ideology of National Socialism, see Lars Behrisch, “Sozialdisziplinierung”, in *Enzyklopädie der Neuzeit Online*, eds. Friedrich Jaeger, Georg Eckert, Ulrike Ludwig, Benjamin Steiner, and Jörg Wesche (Stuttgart: J. B. Metzler, 2012), https://referenceworks.brillonline.com/entries/enzyklopaedie-der-neuzeit/sozialdisziplinierung-COM_351513.

32 Cf., first and foremost, Sachße and Tennstedt, *Geschichte der Armenfürsorge*, vol. 4, and Stekl, “‘Labore et fame’”, drawing on Foucault and Oestreich (see footnote 16), and Rathmayr, *Armut und Fürsorge*, drawing on

Christoph Sachße and Florian Tennstedt have traced in detail the development of these techniques from the late Middle Ages to the present in a four-volume study on the *Geschichte der Armenfürsorge*, published between 1980 and 2012. As a starting point for the history of modern poverty management, they pointed out changes in the treatment of poor people and especially beggars in the early sixteenth century.

According to Sachße and Tennstedt's findings, the Nuremberg begging order of 1478 addressed the duty to work for the first time.³³ The next order governing the poor (Armenordnung), issued in Nuremberg in 1522, forbade beggary and, in turn, introduced a communal support obligation for the poor, provided that the latter met the determined requirements of good conduct.³⁴ Idleness, gluttony, drinking, gambling, sexual debauchery, and the neglect of duties towards dependents³⁵ proved a lack of discipline (being the basis for the willingness to work and perseverance in carrying out a job) and were therefore condemned as vices. The respective virtues – diligence, order, and moderation – articulated discipline and also represented the norms and values of the urban artisanal middle class.³⁶

Sachße and Tennstedt further describe how, in the age of absolutism, poverty was increasingly equated with “non-work” (whereas, in the Middle Ages, voluntary poverty was highly valued for religious motives and begging was accepted as an alternative form of income generation).³⁷ The philosopher Lodovicus Vives anticipated such a dichotomic evaluation of work and non-work in 1526. He claimed that

[f]irst of all it must be made clear that the Lord imposed upon the human race as a penalty for its sin that everyone should eat the bread earned by his own labor. [...] So that there be none among the poor who are idle who in age and state of health are able to work, the Apostle Paul writes to the Thesalonians: ‘[...] if someone does not wish to work, then let him not eat’.³⁸

In line with Lodovicus' inclination against poor people, early-modern authorities in Germany organised poor relief. According to Bernhard Rathmayr, they considered work the “royal road to solving the problem of poverty, the education of the poor to work discipline [was] considered the most important socio-political task”.³⁹ Consequently, authorities in the northern German region of Schleswig-Holstein developed “compulsory labour measures against so-called idlers and work-shy rabble”.

Since 1547, healthy needy people have been required to work without exception or, if they refused, were banished from the community. From 1590 onwards, the town of Husum deported ‘healthy men and women capable of work’, who would beg out of ‘laziness’ or without municipal legitima-

Sachße and Tennstedt, and Stekl, “Labore et fame”. The connection between poor relief and social discipline has been emphasised above all by Sachße and Tennstedt, *Geschichte der Armenfürsorge*. See also Harm-Peer Zimmermann, “Zwangsarbeit als Mittel der Armenfürsorge”, *Lokale und biographische Erfahrungen*, in *Studien zur Volkskunde – “Gast am Gabelmann”*, ed. Andreas Kuntz (Münster and New York: Waxmann, 1995), 241–270, <https://www.isek.uzh.ch/dam/jcr:00000000-7643-dc0e-0000-000034217752/text34.pdf>.

33 Nürnberg Bettelordnung, reprinted in Christoph Sachße and Florian Tennstedt, *Geschichte der Armenfürsorge in Deutschland*, vol. 1 (Stuttgart et al.: Kohlhammer, 1988), 64–66.

34 Ibid., 30–31, 35.

35 Cf. *ibid.*, 34.

36 Ibid., 34–35.

37 Ibid., 15, 29.

38 Section, “Qua ratione eis omnibus prospiciatur victus”, in Lodovicus Vives, *De subventione pauperum sive de humanis necessitatibus, Libri II* (1532) (= Selected works of J. L. Vives, vol. 4), ed. and trans. Constant Matheussen and Charles Fantazzi (Leiden et al.: Brill, 2002), 99.

39 Rathmayr, *Armut und Fürsorge*, 82. For this statement, Rathmayr referred to Robert Jütte's 1986 findings on poor relief in some German cities in the early modern period. Robert Jütte, “Disziplinierungsmaßnahmen in der städtischen Armenfürsorge der Frühneuzeit”, in *Soziale Sicherheit und Disziplinierung*, 101–148.

tion ('begging sign'), to Gottorf, 'where they would be forged in iron for some time and used for public work, according to the findings of the case'.⁴⁰

The measures of social disciplining for the purpose of poor relief also promoted discrimination against and stigmatisation of the poor lower classes.⁴¹ They were considered as having less work discipline than those parts of the population which managed to earn their living (whereas those who had assets and thus neither had to earn their income nor needed work discipline as a basis for this were not included in the consideration).

Sachße and Tennstedt regard the time of the first known begging order that was issued in Nuremberg in 1478 as the beginning of the process of stigmatisation and discrimination against the poor that has continued throughout the centuries. According to them,

it was only to the extent that there were fixed criteria of neediness and bodies to check them that a definable social group of the 'needy' emerged at all. It was only when the beginnings of statistics on the poor, the description of the state of health, the family and income situation as well as the moral reputation of an entire class of city inhabitants became visible that people became aware of poverty as a social problem.⁴²

All three components together – the imperative of communal support for the poor, the belief that social disciplining was the appropriate means to enable the poor to overcome economic hardship, and the administrative registration of the needy (as a basis for their discrimination) – led almost logically to the establishment of special institutions in which the poor could be subjected to "education" in discipline and to disciplinary control. As Harm-Peer Zimmermann put it, penitentiaries (Zuchthäuser)

represented the inventions typical of the age of absolutism. They were the most important instruments of concerted action by state and municipalities aimed at the social disciplining of the lower strata of the population. They functioned as 'socialisation organisations'.⁴³

The German term *Zuchthaus*, a translation of the Dutch equivalent *tuchthuis* and the English term "house of correction", captures the disciplining objective of the penitentiaries in that *Zucht* is to be translated as "disciplining" or "correction". The first penitentiary, the Rasphuis, was founded in Amsterdam in 1596. Even earlier, in 1555, the first workhouse was organised in the former London castle Bridewell.⁴⁴ Like penitentiaries, workhouses quartered poor people unable to support themselves with the aim of teaching them work discipline. Both types of institutions – penitentiaries and workhouses – were copied in Germany. According to Wolfgang Ayaß, in Prussia, workhouses were first founded in Magdeburg and Spandau in 1687 and, by the end of the eighteenth century, a total of thirty-five workhouses were run in Prus-

40 Zimmermann, "Zwangsarbeit als Mittel der Armenfürsorge", 242. According to Zimmermann, the quotations are from "Nachrichten über das Husumer Armenwesen 1590".

41 "In the light of a history of poverty and welfare that looks further back than to the 19th century, this division turns out to be much older. The distinction between 'worthy' and 'unworthy' poor and the exclusion of the latter goes back at least to the beginning of the modern era and, like the control and disciplining of the poor, was by no means first invented by the pioneers of professional social work". Rathmayr, *Armut und Fürsorge*, 252.

42 Sachße and Tennstedt, *Geschichte der Armenfürsorge*, vol. 1, 34. For Lodovicus Vives' similar suggestion to register the poor, see Lodovicus Vives, *De subventione pauperum sive de humanis necessitatibus*, Libri II, 1532, section, „Collectio pauperum et professio“, 45 verso.

43 Zimmermann, "Zwangsarbeit als Mittel der Armenfürsorge", 242.

44 Gus Martin, *Juvenile Justice: Process and Systems* (Thousand Oaks, CA: Sage, 2005), 35.

sia alone.⁴⁵ According to the research of Zimmermann, in Schleswig-Holstein in the eighteenth century, penitentiaries were opened in Neumünster in 1729, in Altona in 1732, in Glückstadt in 1739, and in Flensburg in 1760. They served “as a measure ‘to discourage beggary’ and ‘idleness’ and to exclude all possible forms of deviant behaviour”.⁴⁶

Following the idea of discipline, the internal organisation of the penitentiaries emulated convent rules, revolving around a strict time and behaviour regime.⁴⁷ Work as a means of social disciplining was at its centre. As Zimmermann puts it, “[a] tightly organised, centrally controlled institution” served to make the inmates “socially acceptable, so to speak, by habituating them to work, diligence, and order”.⁴⁸ Sachße and Tennstedt portray the work conditions as follows:

The daily routine of the inmates is structured by penitentiary labour. Compulsory work is at the centre of the organisation of the prisons. The working day is long. It usually lasts from five o’clock in the morning to eight o’clock in the evening, interrupted only by meal breaks and prayer hours. The inmates are most often employed in the various branches of the textile industry. Spinning wool, reeling silk, rasping dyewoods, painting yarn, weaving and winding are the main occupations to which the forced labourers are assigned. Work in the rifle and porcelain factories, on the other hand, only occurred in exceptional cases.⁴⁹

As the inmates of the penitentiaries and workhouses were usually forced to work through the threat of punishments such as the deprivation of food and chastisement,⁵⁰ the working conditions must be classified as forced labour.⁵¹ Preference was often given to work that was particularly draining.⁵² In the Weimar Republic, milder forms of forced or compulsory labour were the so-called “work opportunities” (without internment), which, enshrined in the Reich Ordinance on the Duty of Care (Reichsfürsorgepflichtverordnung, RFV) of 1924, served to check the willingness of welfare recipients and the unemployed to work.

Among researchers, there is no consensus on whether the imposition of custodial sentences, which throughout history increasingly replaced corporal punishment, was also motivated by the authorities’ desire to profit from the inmates’

45 Ayaß, “Die ‘korrektionelle Nachhaft’”, 185.

46 Zimmermann, “Zwangsarbeit als Mittel der Armenfürsorge”, 242.

47 Stekl, “Labore et fame”, 120, 130.

48 Zimmermann, “Zwangsarbeit als Mittel der Armenfürsorge”, 242–243.

49 Sachße and Tennstedt, *Geschichte der Armenfürsorge*, vol. 1, 118, referring to Eberhard Schmidt, *Entwicklung und Vollzug der Freiheitsstrafe in Brandenburg-Preußen bis zum Ausgang des 18. Jahrhunderts* (Berlin: Gutentag, 1915); Herbert Lieberknecht, *Das altpreussische Zuchthauswesen bis zum Ausgang des 18. Jahrhunderts* (Charlottenburg: Klambt, 1921); Helga Eichler, “Zucht- und Arbeitshäuser in den mittleren und östlichen Provinzen Brandenburg-Preußens”, in *Jahrbuch für Wirtschaftsgeschichte/Economic History Yearbook*, vol. 10, 1 (1970), 127–147.

50 Stekl quotes from the Hamburg order of 1680, quoted in Albert Ebeling, *Beiträge zur Geschichte der Freiheitsstrafe* (Breslau-Neukirch: Kurtze 1935), 98 (Stekl, “Labore et fame”, 127–128).

51 Since the term “forced labour” is neither defined in the Social Covenant nor in the Civil Covenant or the European Convention on Human Rights, the European Court of Human Rights (hereinafter ECtHR), the United Nations (UN) Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights refer to the International Labour Organisation’s Forced or Compulsory Labour Convention No. 29 of 1930. According to its article 2, paragraph 1, forced labour is any work or service which is exacted from a person under the menace of any penalty and for which he has not offered himself voluntarily. In this light, the *Wissenschaftliche Dienste* of the Bundestag point out that forced labour is “characterised by two features: firstly, involuntariness and, secondly, the threat of punishment”. *Wissenschaftliche Dienste, Das völkerrechtliche Verbot der Zwangsarbeit und die Arbeit von Strafgefangenen während der Freiheitsentziehung* (WD 2 - 3000 - 132/16), 5, <https://www.bundestag.de/resource/blob/482698/12a1da50a6a54e09306a54280911e929/WD-2-132-16-pdf-data.pdf>.

52 Cf. Stekl, “Labore et fame”, 126–127.

labour, and whether they actually did so. Rathmayr points to sources from the early eighteenth and mid-nineteenth century in which the authors articulate the opinion that the inmates' labour was highly welcome.⁵³ In contrast, Ayaß emphasises that

[t]he economic benefit of the early workhouses must be regarded as rather low, both in terms of their economic efficiency and the provision of qualified labour. The programme of mercantilist economic policy and the reality of the institutions differ considerably here.⁵⁴

As social disciplining was always conceived of in terms of punishment – that is, negative, repressive, and deterring measures – the incarceration of poor people and the forced labour imposed upon them was also conceived as punishment. Not coincidentally, penitentiaries were punishment institutions. As Hannes Stekl emphasises,

[t]hrough their multifunctionality – the expansion of care for the poor as a synthesis of orphanages, workhouses, asylums and old people's homes, the use of labour as a factor of production, general and special prevention, an instrument of the penal system – the penitentiaries and workhouses assigned a permanent place to social outsiders.⁵⁵

In doing this, they increased the effect of stigmatisation and discrimination. The inscriptions above the entrance gates of the Hamburg and Vienna workhouses and penitentiaries built in 1618 and the early 1720s respectively – “Labore nutrior, labore plector” (Through work I am nourished, through work I do penance) and “Labore et fame” (Through work and hunger) – emphasised work as a means of correction and punishment.⁵⁶

The Prussian “Law on the Punishment of Vagrants, Beggars and Workshy People” of 1843 provided a special form of combining punishment with corrective labour coercion by regulating that wandering poor people, after serving a sentence of “imprisonment not less than six weeks or imprisonment for up to six months” for wandering “without a business or job, without being able to prove that he has the means to earn an honest living or is seeking an opportunity to do so”, could subsequently be interned in a correctional institution for up to two years. National Socialist discrimination and persecution was also based on this law, as will be shown below.⁵⁷

Furthermore, the penalty character of work in the penitentiaries also had a general preventive effect. As Zimmermann points out, the deterrent effect of “forced labour as a means of poor relief” was a “tried and tested means” of “moderating broad sections of the population”.⁵⁸

Because people always had in mind what happened to beggars, vagrants, ‘wandering rabble’ etc. and because they were afraid of the penitentiary, they took care of themselves and adapted to the desired norms by their own efforts.⁵⁹

53 The Malmenesche Kinder-Beschäftigungsanstalt in Berlin in 1854, whose closure was only ordered by the authorities after numerous mistreatments of the boys working there, characterised the children's work as economically valuable. Rathmayr, *Armut und Fürsorge*, 113 ff, cf. also 95.

54 Ayaß, “Die ‘korrektionelle Nachhaft’”, 184.

55 Stekl, “Labore et fame”, 120.

56 Stekl, “Labore et fame”, 119; Rathmayr, *Armut und Fürsorge*, 94–95.

57 Ayaß, “Die ‘korrektionelle Nachhaft’”, 195 ff.

58 Zimmermann, “Zwangsarbeit als Mittel der Armenfürsorge”, 242, 243.

59 *Ibid.*, 242–243.

According to the contemporaneous report of a prison pastor, the warning “You come to Breitenau”, an institute for correction and the rural poor (Korrekptions- und Landarmenanstalt) that was founded in 1874, was for many “the worst that could happen to them apart from the death penalty”.⁶⁰

Interim Conclusion

Since early modern times, poverty has been considered to be the effect of a lack of work discipline. Authorities imprisoned poor people in correctional institutions where work, a multifunctional supertool, served as a punishment and a means to teach them discipline.

What the prison pastor’s words hint at is confirmed in numerous primary sources. On the basis of extensive historical case studies, Rathmayr, Dirk Brietzke, and, in particular, Zimmermann demonstrate that the violence in the correctional institutions ranged from “normal” beatings to torture. Rathmayr cites an account of a kind of preliminary form of waterboarding for the purpose of forcing “work performance”.⁶¹ The use of instruments of punishment and torture, such as the Spanish goat and the wooden horse, are documented.⁶² If authorities intervened, they usually did so only after a long period of ignoring the grievances.⁶³ Survival rates were often anything but high.⁶⁴ Whether the level of violence was the same from the early modern period to the early twentieth century (as Ayaß and Zimmermann’s findings suggest),⁶⁵ or whether it increased in the seventeenth and eighteenth centuries and decreased in the nineteenth century (as Sachße and Tennstedt claim),⁶⁶ so that the reports of excessive violence were only regrettable exceptions, is a matter of debate.

The introduction of unemployment insurance with the passing of the Act on Employment Placement and Unemployment Insurance (Gesetz über Arbeitsvermittlung und Arbeitslosenversicherung, AVAVG) in 1927⁶⁷ eased the situation to some extent. Recipients of unemployment benefits were not forced to accept a job under all conditions – at least theoretically – and the sanctions were neither imprisonment, deprivation of food, corporeal punishment and/or forced labour, but rather the partial or complete loss of unemployment benefits. According to the law, during the first

60 Quoted after Ayaß, “Die ‘korrektionelle Nachhaft’”, 191–192. Regarding the deterring effect of penitentiaries and correctional institutions, see also Sachße and Tennstedt, *Geschichte der Armenfürsorge*, vol. 1, 244 ff.

61 Rathmayr, *Armut und Fürsorge*, 94.

62 *Ibid.*, 91, 92, 118.

63 Zimmermann, “Zwangsarbeit als Mittel der Armenfürsorge”, 249. Rathmayr, *Armut und Fürsorge*, 113 ff.

64 Stekl, “Labore et fame”, 135. Cf. Dirk Brietzke on the practice in the Hamburg penitentiary of the eighteenth century of forcing inmates to beat hair (a step in the making of hair blankets), knowing that these inmates would die of pneumoconiosis as a result of this labour. Dirk Brietzke, *Arbeitsdisziplin und Armut in der Frühen Neuzeit* (Hamburg: Verein für Hamburgische Geschichte, 2000), 540 ff. Brietzke refers to Jonas Ludwig von Hess, *Hamburg topographisch, politisch und historisch beschrieben*, vol. 1 (Hamburg: no publisher 1787), 355, https://books.google.com/books?id=5nABYjD2xsgC&printsec=frontcover&dq=Hess,+Jonas+Ludwig+von.+Hamburg+topographisch,+politisch+und+historisch&hl=de&newbks=1&newbks_redir=1&sa=X&ved=2ahUKewjDz7WUsP79AhWBR_EDHQ_6CL4Q6AF6BAGHEAI.

65 Ayaß, “Die ‘korrektionelle Nachhaft’”; Zimmermann, “Zwangsarbeit als Mittel der Armenfürsorge”, 245–247.

66 Sachße and Tennstedt note the “brutalisation of the punishment of beggars and vagrants”. Sachße and Tennstedt, *Geschichte der Armenfürsorge*, vol. 1, 39. They describe the history of poor relief as “the development of disciplinary structures in the cities of the late Middle Ages, the formation of a ‘fundamental discipline’ in absolutism, and the gradual replacement and superimposition of repressive-deterrent discipline by social-state ‘normalisation networks’ in the course of the 19th century”. Sachße and Tennstedt, *Soziale Sicherheit und Disziplinierung*, blurb.

67 RGBl. vom 22. Juli 1927, no. 32, 187.

nine weeks, unemployed receiving unemployment benefits could refuse a job offer without sanctions, especially if the work was paid below the standard rate or did not correspond to the unemployed person's qualifications.⁶⁸ However, these favourable conditions were available only to those unemployed who were eligible because they had previously been employed for at least twenty-six weeks during the previous twelve months and had thus paid premiums into the unemployment insurance system. Only those could claim benefits.⁶⁹ Moreover, as a result of the world economic crisis, the unemployment benefit system was soon exhausted, even for those who were entitled to it.⁷⁰

How does this history of the treatment of the poor and unemployed relate to the persecution of "asocials" under National Socialism and afterwards? Part 2 will explore the continuities and differences, particularly with regard to the four central features of the treatment of the poor and unemployed before 1933 (social discipline and moral education; stigmatisation/discrimination; work and especially forced labour; and punishment, harassment and excesses of violence). This part will then show that the four characteristics – in a weakened form – also characterise the processes in labour administration in the 21st century and have also left their mark on social jurisdiction.

68 If these reasons were not given, unemployed persons were punished with a loss of their entitlement to benefits for an initial period of four weeks in the event of a job refusal. Section 90 (2), AVAVG. They could lose their entitlement completely if one or more refusals were interpreted as a lack of willingness to work. Section 177 in connection with section 87, AVAVG.

69 Section 87 in connection with section 95 (1), AVAVG.

70 Christoph Sachße and Florian Tennstedt, *Geschichte der Armenfürsorge in Deutschland*, vol. 3 (Stuttgart et al.: Kohlhammer, 1992), 11, 18.

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Beate Kutschke has a doctorate in culturology and is a Privatdozentin for musicology at the Paris Lodron University Salzburg. In the past, she has taught at various universities, including Harvard University, the University of the Arts and Humboldt University in Berlin, as well as the University of Hong Kong. As a musicologist with a focus on culturology, she has examined avant-garde music of the twentieth century and popular music of the late seventeenth and eighteenth centuries. She has specialised in postmodernism and posthistoire, music and protest in 1968, music and heroism, the history of musical form and computer-based music information retrieval, as well as music philosophy and semiotics. She has received funding for her research from the German and Austrian research foundations (DFG and FWF) and the Vienna Wiesenthal Institute for Holocaust Studies, among others. Her volume of collected essays *Musik and Protest in 1968*, co-edited with Barley Norton, won the Ruth Solie Award of the American Musicological Society.

Recently, she has expanded her research interests to include topics at the interface of cultural history and law. She is particularly concerned with the history of the Unemployment Insurance Act and the legal doctrine of justification requirements for executive and judicial decisions.

Email: beate.kutschke@gmx.de

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