Maria R. Boes, *Crime and Punishment in Early Modern Germany. Courts and Adjudatory. Practices in Frankfurt am Main, 1562-1696*

Surrey, Ashgate, 2013, 279 p., ISBN 9 781409 431473

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- 1 In this highly readable book Maria Boes brings together new and existing research she has conducted into criminal justice in late-sixteenth and seventeenth-century Frankfurt am Main. It consists of twelve chapters that are firmly built on archival sources and a conclusion. No real introduction is included, which could have contained the central research questions and aims of the book. The volume really consists of chapters that can be perfectly read separately. Nonetheless, the book is a consistent whole as it systematically expounds the ways the Frankfurt criminal court acted toward a range of minorities or distinct social groups, including gypsies, Jews, women, sodomites, soldiers and people who had committed suicide. Marie Boes writes history out of indignation about social injustice committed in the past that she attributes to the proliferation of Roman Law, which had “a detrimental effect on large sections of the population” (p. 27), instead of bringing objective and uniform jurisprudence based on scientifically rational methods, as is claimed by some historians. The twelve chapters corroborate the central contention that the named minorities, except soldiers, were often one-sidedly treated by the Frankfurt criminal court. Wealth and social status had

selective influence on the penal structure. When they committed a crime, Jews were systematically treated more harshly than non-Jewish co-citizens. They were repeatedly selected as crime victims themselves, yet they were exposed to religious and racially denigrating treatment, to undermine their credibility as accusers and witnesses. Women were the objects of partiality in early modern Frankfurt as well. They were more readily subjected to torture than men, their testimonies were more easily ignored and they could count on less leniency when punished. Soldiers, conversely, could much more rely on clemency. They were seldom subjected to torture and their penalties were often softened. The fact that no soldier was ever prosecuted for rape in Frankfurt is according to the author also revealing for the dubious way in which the Frankfurt criminal court treated respectively women and soldiers.

- 2 According to Boes, the gender and racial bias was not necessarily entertained by the Frankfurt population as a whole. It largely stemmed from the male elites in charge of justice. Notably the influence and involvement of a new social group, lawyers, is an explanatory factor. They emerged in sixteenth-century Frankfurt concomitant with the introduction and proliferation of Roman Law, and their legal advice was increasingly sought by the criminal court. According to the author, such legal advices were often “riddled with astonishing shortcomings and biases” (p. 272) at the expense of for instance female, Jewish, and Gypsy plaintiffs and defendants. The leniency towards soldiers was largely due to the advocates who in their legal advices discredited witnesses and lowered the legal credibility of female victims.
- 3 The readability of the book owes much to the detailed narration of many judicial cases that offer the reader a glimpse into the ways in which the judicial apparatus functioned and into social life in early modern Frankfurt am Main. The book is based on the 1.338 sentences meted out in Frankfurt am Main between 1562 and 1696, that have been registered in the so-called *Strafenbuch*. That information is supplemented with the actual case files, that include testimonies, witness statements as well as the before mentioned legal advices written by advocates. The narratives based on these case files are in addition made livelier by the context provided by the author, for example a discussion of the way rumors and hearsay were crucial and valued in the early modern context of the city of Frankfurt, where the criminal court lacked police forces for establishing and investigating criminal acts. The book for instance also includes an interesting discussion of the way clothing was put on according to social status and profession, and how this was helpful in identifying suspects of crimes. All this provides the reader with a lively picture of life in sixteenth- and seventeenth-century Frankfurt am Main. Although some readers may sometimes desire some more quantitative analysis, the overall qualitative approach has resulted in a highly accessible book.
- 4 An important element of criticism, however, is that the author should have retained some more distance from her subject matters. A more impassive reading of the sources would have benefitted the quality of the monograph in two ways. First, it would have helped the author to more convincingly make her claim that various forms of bias indeed underpinned Frankfurt’s criminal justice. The repeated indignation that is expressed in the text made this reviewer somewhat skeptical regarding the way the sources have been analyzed, and whether the author paid enough attention to possible counter indications. The finding that women were punished more harshly than men, and especially soldiers, is for instance not fully convincing, because the type of crime perpetrated by women discussed in the book – infanticide – is not entirely comparable

to other crimes. Another example is the way resentment against Jews is represented in the book. Appalled by the many instances of misbehavior of soldiers against Jews she found in the sources, the author expresses her disbelief about the lack of such misbehavior in a particular case where soldiers effectively assumed guarding duties to protect some Jewish inhabitants (p. 177). The fact that many examples of criminal behavior surface in the archival records, should not automatically lead to the conclusion that there was “general excessive conduct towards Jews”.

- 5 Second, some more academic distance would have stimulated the author to go beyond merely assessing partiality in judicial practice, and build up some reflection on the reasons why such bias developed. The advocates clearly are the villains in the book, yet it would have been interesting to read more reflection on the reason why they entertained such biases. This would make the Frankfurt case also more interesting for understanding – for instance gender – bias in early modern judicial practice more broadly. Also, the fact that soldiers were treated more compassionately than other sentenced criminals may be attributable to contextual elements that go beyond the personal predispositions of advocates. Army soldiers typically constituted a separate jurisdictional group in early modern towns who often had their own military tribunals that were jealously guarded by army officers. Sentencing soldiers often led to confrontations between civil and military authorities. Perhaps such jurisdictional frictions were absent in early modern Frankfurt, but some more contextual information would help to better understand the presented cases.

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