

Playing By the Rules: Gambling and Social Identity in Early Modern German Towns

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Abstract: Records of arrest and interrogation of sixteenth- and seventeenth-century townsfolk who were involved in gambling incidents show that certain values generally associated with the nobility of the eighteenth century had deeper roots that were unrelated to noble status. Gambling provided common craftsmen as well as elite members of society an opportunity to display positive values such as courage, honesty, risk-taking, economic stability, and good character. These norms, however, are often obscured by the preponderance of attacks on gambling that appeared during the early modern period in the form of moralist tracts and sermons, critical broadsheets, and ordinances and decrees issued by local and regional authorities. Records of arrest show that the concerns of the authorities were largely economic in focus, targeting primarily professional card sharks and chronic gamblers rather than the sins associated with gambling (blasphemy, idleness, and belief in fate rather than Gods plan) that are the focus of many ordinances.

Key Words: Gambling, Early Modern Germany, Gender history, Legal history, Social history, Urban history, Masculinity, Violence, Artisans, Crime.

Resumen: Los datos de detención e interrogación llevados a cabo durante los siglos XVI y XVII con los villanos implicados en incidentes de juego muestran que determinados valores asociados generalmente con la nobleza del siglo XVIII tenían raíces más profundas que no se relacionaban con el status nobiliario. Tanto a los artesanos como a los miembros de la élite social, el juego les ofrecía la oportunidad de demostrar valores como el valor, la honestidad, la osadía, la estabilidad económica y el buen carácter. Sin embargo, estas normas, quedan a menudo oscurecidas por la preponderancia de los ataques contra el juego que aparecieron a principios de la edad moderna en forma de tratados moralizantes y de sermones, de pliegos críticos, así como en ordenanzas y decretos promulgados por las autoridades locales y regionales. Los datos de arresto demuestran que las preocupaciones de las autoridades eran principalmente de carácter económico, centrándose principalmente en los profesionales y en los jugadores empedernidos más que en los pecados asociados con el juego (la blasfemia, la desocupación y la creencia en el hado más que en los designios de Dios), los cuales son el centro de atención de muchas ordenanzas.

Palabras clave: juego, la Alemania de la temprana Edad Moderna, historia de género, historia legal, historia social, historia urbana, masculinidad, violencia, artesanos, crimen.

1. Introduction

At least since anthropologist Clifford Geertz introduced his notion of “deep play” among male gamblers in Bali, historians have recognized that games involving bets can have implications for the status and reputation of the players that are unrelated to material interest. Writing in the 1970’s, Geertz observed that Bali men made bets on cockfights involving a level of risk that made no sense in terms of a profit motive. Such betting was not motivated as much by winning as by the status to be gained by high-level risk-taking.¹ This theme is also explored in recent studies of gambling among the nobility of the early modern period, which explain wagering extremely high stakes as a way of replacing older forms of status. In his study of the European duel, Victor Kiernan links high-stakes gambling to the same process that led to aristocratic dueling, as a kind of replacement for war as an opportunity to exhibit noble values such as courage, risk-taking, and power, in this case expressed through money.² Thomas Kavanagh also interprets high-stakes gambling among the French nobility of the eighteenth century as a means of social distancing from the ascendant bourgeoisie, whom they disdained for their pursuit of base profit.³ Noble virtue required that gaming be a matter of amusement, not a means of seeking profit, thus games should be played with calculated disinterest. Other historians have linked nineteenth-century condemnation of gambling to the Protestant norms of the rising Bourgeoisie as defined by Max Weber. The moral middle class condemned gambling among the nobility as

¹ Clifford GEERTZ, “Deep Play: Notes on a Balinese Cockfight”, in *The Interpretation of Cultures: Selected Essays*, New York, Basic Books, 1973, pp. 412-453.

² Victor KIERNAN, *The Duel in European History: Honour and the Reign of Aristocracy*, Oxford, Oxford University Press, 1988, p. 154; see also Jonathan WALKER, “Gambling and Venetian Noblemen c. 1500-1700”, in *Past & Present*, 162, 1999, pp. 28-69, for a similar argument to explain high-stake gambling among Venetian noblemen of the sixteenth and seventeenth centuries.

³ Thomas KAVANAGH, *Enlightenment and the Shadows of Chance: The Novel and the Culture of Gambling in Eighteenth-Century France*, Baltimore, The Johns Hopkins University Press, 1993, pp. 56-57.

decadent and among the poor as evidence of “deficient moral sensitivities.”⁴

Up until a decade or so ago, historical research on gambling that dealt with the period before the eighteenth century was dominated by art historical approaches concentrating on game pieces and playing cards.⁵ Occasional attention was also given to graphic depictions of gambling scenes and printed tracts on gambling.⁶ More recently, historians have begun to turn to lesser known printed sources, such as civic and church ordinances that include gambling bans, as evidence of the attempts of authorities to attack gambling as a vice.⁷ A body of literature has also emerged in the last decade that examines gambling especially in the eighteenth century as related to noble manners and the civilizing process identified by Norbert Elias, and explores the

⁴ KAVANAGH, *Enlightenment*, pp. 56-57; For an anthropological perspective with similar themes see Michael HERZFELD, *The Poetics of Manhood. Contest and identity in a Cretan mountain village*, Princeton, Princeton University Press, 1985, pp. 152-62.

⁵ For only a few of many examples see W. C. SCHREIBER, *Die ältesten Spielkarten und die auf das Kartenspiel Bezug habenden Urkunden des 14. und 15. Jahrhunderts*, Straßburg, 1937; Detlef HOFFMANN, *Die Welt Der Spielkarte: Eine Kulturgeschichte*, Munich, G. D. W. Callwey, 1972; Sigmar RADAU and Georg HIMMELHEBER, *Spielkarten: Kataloge des Bayerischen Nationalmuseums*, Munich, Deutscher Kunstverlag, 1991; Manfred HAUSLER, *Das Bayerische Bild. Studien zur Spielkarte*, Berlin, Bube-Dame-König, 1993; Christiane ZANGS und Hans HOLLÄNDER, eds., *Mit Glück und Verstand: Zur Kunst- und Kulturgeschichte der Brett- und Kartenspiele. 15. bis 17. Jahrhundert*, Aachen, Thouet, 1994.

⁶ In Germany the so-called *Spielbücher* (gambling books): see Manfred ZOLLINGER, *Bibliographie der Spielbücher des 15. bis 18. Jahrhunderts, Erster Band: 1473-1700*, Stuttgart, Hiersemann, 1996.

⁷ Manfred ZOLLINGER, “‘...in der heilsamen Vorsorge erlassen...’ – Die Glücksspielgesetzgebung in der Habsburgermonarchie”, in *Homo Ludens: der spielende Mensch* 2, 1992, pp. 301-21; John DUNKLEY, *Gambling: a social and moral problem in France, 1685-1792*, Oxford, Voltaire Foundation at the Taylor Institution, 1985.

introduction of lotteries and special taxes on gambling and playing cards as sources of capital for the Absolutist State.⁸

Studies based on unpublished sources, however, remain rare, especially for the period prior to the eighteenth century.⁹ Those that do exist rarely consider the arguments of gamblers among the lower orders, or the dialogue between gamblers and authorities that can occasionally be gleaned from court records and supplications. The polemic of moralists and authorities appears in a new light when viewed within the context of records of arrest and interrogation of German townsfolk during the sixteenth and seventeenth centuries. These records provide evidence not only that the authorities themselves were more tolerant of popular norms, and more consistent in their aims, than their instruments of control would suggest; they also show that certain values generally associated with the nobility of the eighteenth century had deeper roots that were unrelated to noble status. Evidence from both printed and documentary sources from the sixteenth and seventeenth centuries support the conclusion that the authorities as well as the populace recognized in gambling an opportunity to display positive values such as courage, honesty, risk-taking, economic stability, and good character – and this was true for common craftsmen as well as for nobles or patricians. These norms, however, are often obscured by the preponderance of attacks on gambling that appeared during the early modern period in the form of moralist tracts and sermons, critical broadsheets, and ordinances and decrees issued by local and regional authorities.

⁸ As in Manfred ZOLLINGER, “Das Glücksspiel im 18. Jahrhundert”, in *Homo Ludens: der spielende Mensch* 1, 1991, pp. 149-70, esp. pp. 155-158; Günther BAUER, “Spielen in Salzburg im 18. Jahrhundert”, in *Homo Ludens: der spielende Mensch* 1, 1991; WALKER, “Gambling and Venetian Noblemen.”

⁹ Exceptions include WALKER, “Gambling and Venetian Noblemen”; Robert JÜTTE, “Die Anfänge des organisierten Verbrechens. Falschspieler und ihre Tricks in spätem Mittelalter und der frühen Neuzeit”, in *Archiv für Kulturgeschichte* 70, 1988, pp. 1-32; and Gerd SCHWERHOFF, “Falsches Spiel. Zur kriminalhistorischen Auswertung der spätmittelalterlichen Nürnberger Achtbücher”, in *Mitteilungen des Vereins für Geschichte der Stadt Nürnberg* 82, 1995, pp. 23-35.

2. Literature

The moralist literature attacking the vice of gambling especially proliferated during the period of Reformation in the early sixteenth century. Anti-gambling tracts concentrated largely on the danger that games of chance could provoke blasphemy and violence, on the potential for reducing householders to poverty and ruin, and on the irresistible temptation to cheat, all concerns that were mirrored in many anti-gambling ordinances of the same period.¹⁰ The blasphemous gambler especially was a paradigm of the literature of the late middle ages.¹¹ Cheating also appears both as a catalyst to violence, and as the only real means to financial gain in a gambling bout. In some tracts, success at gambling was assumed to be synonymous with cheating: "I can tell you here and now, before I learned to cheat, I couldn't win any game of chance, I lost every time," explains the gambler in Wickram's *Der treue Eckart*.¹² In book illustrations and broadsheets, fights over cards are rarely, if ever, depicted without some suggestion of false play, such as cards falling out from under the tablecloth or hidden in the player's belt.

The assumption that gambling must lead to swearing, violence, excess, or deceit grew out of the belief, shared by many late medieval theologians, that games of chance were inherently sinful. Dice especially had the reputation of being an invention of the devil, who

¹⁰ Space does not permit a comprehensive bibliography of tracts on gambling here; see ZOLLINGER, *Bibliographie der Spielbücher*.

¹¹ Blasphemy and gambling are so closely linked in the literature of the thirteenth to the sixteenth centuries that they have been described as "two sides of one coin" (zwei Seiten einer Medaille): Gerd SCHWERHOFF, "Der blasphemische Spieler – zur Deutung eines Verhaltenstypus in späten Mittelalter und in der frühen Neuzeit", in *Ludica, annali di storia e civiltà del gioco* 1, 1995, pp. 98-113, here p. 101.

¹² "doch sag ich dir zu diser stundt: Ee dann ich falsches spylen kundt, Kundt ich gewinnen gar keyn schantz. Der unfal thet mich reiten gantz", Georg WICKRAM, *Der treue Eckart*, 1538, in *Werke*, vol. 5/6, ed. Johannes Bolte, Tübingen, Litterarischer verein in Stuttgart, 1903, reprint Hildesheim, 1974, pp. 69-120, here p. 100.

was fond of using them to play for souls.¹³ Tossing dice or drawing lots were a means of tempting fate and thus a direct challenge to God's authority; when bets for money or property were involved, gambling was also a violation of the commandment against coveting one's neighbor's goods.¹⁴ The association of games of chance with devilish behavior is also reinforced in late medieval paintings of the Passion of Christ. Beginning in the fourteenth century, the gamblers contemptuously playing for Christ's clothing in these pictures are increasingly depicted with grotesque features, often coupled with aggressive gestures.¹⁵

Yet, it is also possible to find positive images associated with gambling in the literature of the sixteenth and seventeenth century. A large number of books were printed during this period that provided rules for various games, as part of overall attempts to codify aristocratic manners. Although bets might be placed on a game of simple chance, such as one draw of the card or one roll of the dice, most gambling involved a game with some sort of rules, and the ability to play by the rules was important to notions of status. The anonymous publisher of a German gambling book that appeared in 1646 characterized familiarity with the rules of the game as an important part of a man's education, for knowledge of the rules could prevent fights that occurred "because of ignorance and little

¹³ "Kartenspiel", in Hanns BÄCHTOLD-STÄUBLI and Eduard HOFFMANN-KRAYER, eds., *Handwörterbuch des deutschen Aberglaubens* vol. 4, Berlin, W. de Gruyter & Co., 1932, pp. 1014-1023, here p. 1015.

¹⁴ See for example WICKRAM, *Der treue Eckart*, 99, warning the gambler "Don't covet your neighbor's goods!" ("Nit bger deins nebenmenschen gut!") and Johann GRIENINGER, *Des hochwirdigen doctor Keiserspergs narenschiff*, trans. Johannes PAULI, Straßburg, 1520, 159va, "the gambler violates the ninth commandment, for there it is forbidden to covet another's goods" ("[der spiler] thut wider das [IX.] gebot, wan da würt verbotten, das man nit sol begeren frembd gut").

¹⁵ Heinz Herbert MANN, "Missio sortis. Das Losen der Spieler unter dem Kreuz", in *Mit Glück und Verstand*, pp. 51-69.

instruction in the game.”¹⁶ Understanding the rules, in this context, became a key to the civilizing process.¹⁷

Even the didactic literature attacking gambling can provide pro-gambling arguments. Granted, the counter-arguments of the gamblers are meant satirically and are intended to provide a basis for criticism rather than a serious justification for gambling; nonetheless, they do at times make sense. As scholars of literature have pointed out in other contexts, it was often the colorful arguments of the sinners rather than the dry sermonizing of the moralists that accounted for the popularity of such literature.¹⁸ The arguments of gamblers in these works in many cases also mirror defense strategies used by gamblers in court records; gambling, they claimed, was simply an innocent pleasure, not a means of seeking profit.¹⁹

Games also provided not only the chance to experience joy at winning, but to demonstrate strength of character in bearing losses. This characteristic has most often been associated only with elite gamblers; Castiglione, for example, saw in gambling an opportunity for the Courtier to display his distance from material concerns. Showing vexation at one's losses, to Castiglione, was an indication of miserliness, whereas successfully hiding irritation was not just a show

¹⁶ “wegen der Vnwissenheit vnnd ob der wenigen Vnterrichtung d[es] Spiels.” Quoted in ZOLLINGER, *Bibliographie der Spielbücher*, p. xv.

¹⁷ This point is also suggested by Manfred ZOLLINGER, “Erlesenes Spiel: Die Kodifizierung der Spiele vom 16. ins 18. Jahrhundert”, in *Homo Ludens: Der spielende Mensch*, Sondernummer 1993, *Ausstellungs-Katalog: Spielbücher und Graphik des 16. – 19. Jahrhunderts*, pp. 9-39.

¹⁸ Max OSBORN, *Die Teuffelliteratur des XVI. Jahrhunderts*, Hildesheim, Gg Olms, 1965, p. 74; Keith ROOS, *The Devil in 16th Century German Literature: The Teufelbücher*, Bern, Herbert Lang, 1972, pp. 71-76.

¹⁹ For some examples among many see Eustachius SCHILDO, *Der Spielteufel*, Frankfurt a. M., 1557, reprint in *Homo Ludens* 3, 1993, pp. 245-278, esp. pp. 252-3; and see the literature reproduced in Walter TAUBER, *Das Würfelspiel im Mittelalter und in der frühen Neuzeit. Eine kultur- und sprachgeschichtliche Darstellung*, Frankfurt a. M., P. Lang, 1987, pp. 109-162.

of strength – it was its own kind of courtly ethic.²⁰ Similar views were at the basis of attempts by the seventeenth- and eighteenth-century nobility to distinguish themselves from the bourgeois through heavy betting, as a sign of their indifference to material gain. Kavanagh sees in this process a relationship to the notion of gift-giving in primitive societies explored by Michel Mauss, in which the highest level of prestige could be attained by a gift that was equivalent to the destruction of wealth. Heavy gambling losses could also be a means of destroying wealth with disdain, thus leading to greater prestige for the gambler.²¹ Related to the ability to take losses coolly was the opportunity provided by gambling for displaying courage through heavy betting – gamblers in one text deride those who play for small stakes as “belonging to little children, who play for little bones and nutshells.”²² As we shall see, however, this particular ethic was by no means limited to those of elite status. While members of the common classes had less to lose, the pressure to accept losses with grace could be just as great for a common craftsman as it was for Castiglione’s Courtier.

3. Civic Ordinances

Many of the themes common to gambling literature of the early modern period are echoed in civic ordinances aimed at policing the populace. Ordinances are generally consistent in that gambling was not expressly forbidden, but was limited to a scale considered by the authorities to be “seemly” (*ziemlich*) as opposed to “dangerous” (*gefährlich*).²³ Even fifteenth-century ordinances, which usually

²⁰ Baldesar CASTIGLIONE, *The Book of the Courtier*, trans. George BULL, London, Penguin, 1967, p. 140; KAVANAGH, *Enlightenment*, pp. 38-39.

²¹ KAVANAGH, *Enlightenment*, pp. 39-41; WALKER, “Gambling and Venetian Noblemen,” pp. 49-51.

²² “gehören ... nur zu kleinen kindern/ die umb Kothen und Nußschalen spilen.” SCHILDO, *Spilteufel*, in *Teufelsbücher in Auswahl*, vol. 5, ed. Ria STAMBAUCH, Berlin, de Gruyter, 1980, p. 129.

²³ Stadtarchiv Augsburg (hereafter StAA), Ordnungen, Zucht- und Policeiordnung 1537; Schätze 16, 34-35 (1538); Schätze 36/8, Zucht- und Policeiordnung 1553, 31r, 38v-39r; Anschläge und Decrete 1490-1649, Teil

included warnings against blasphemy, generally limited only certain kinds of gambling, forbidding for example specific games of chance, bets over a specific amount, or gambling by certain people (such as travelers or young people), in certain places (such as in private homes), or at certain times (at night, on market days, on Sundays, during sermons, etc.).²⁴ Ordinances of the early sixteenth century often restricted gambling to playing for rounds of drinks or to a specific monetary amount, normally a few pfennigs per game.²⁵ By the mid-sixteenth century, the restrictions were less specific; an example from Augsburg forbids only “games that could cause appreciable want or ruin in providing for the gambler, his wife and children”²⁶; and threatens an unspecific “serious” punishment for “excessive and daily games that are ruinous to station (*Stand*) and maintenance.”²⁷ Thus legal restrictions after the Reformation were aimed less at controlling the act of gambling as a “sin” than they were targeting its potential to create economic problems.

Supporting the largely economic slant of these ordinances is the fact that the rules varied according to status. While gambling on an IOU was usually forbidden to all levels of society, rules for gambling

1, no. 20; Stadtarchiv Nördlingen (hereafter StAN), Ordungen und Decrete 1612-1640, 47r-v (1615); StAA, Literalien, 1529, Policey ordnung from Strasbourg, Aug 25 1529, which forbade only cheating; Stadtarchiv Mindelheim, III F b 1, Der Statt Mindelhaim Gsatz, c. 1519; Laura SMOLLER, “Playing Cards and Popular Culture in Sixteenth-Century Nuremberg”, in *The Sixteenth Century Journal*, 17/2, 1986, pp. 183-214, here p. 183.

²⁴ Rudolph HIS, *Das Strafrecht des deutschen Mittelalters* vol. 2, *Die einzelnen Verbrechen*, Weimar, 1935, pp. 324-329; SCHWERHOFF, “Der blasphemische Spieler,” p. 99.

²⁵ StAA, Schätze 36, 1472; Schätze 16, 38v-39r (1539); Literalia, Constance Zucht Ordnung 5 Apr 1531; StAN, Ordnungsbuch 1502-33, 1 (1502), 40 (1505); numerous other examples in TAUBER, *Das Würfelspiel*, p. 61.

²⁶ “Spil, die Ime, seinem Weib, vnnd kindern, an irer Narung, Scheinbarlichen Manngel, oder verderben bringen mögen”: StAA, Schätze ad 36/3, Zucht- und Policeiordnung 1553.

²⁷ “inn vbermessigem, vnnd gleichsam teglichen, ime inn seinem standdt, vnnd Narung verderblichen Spil”: StAA, Schätze ad 36, Polizeiordnung 1584.

with borrowed cash could differ. A Strasbourg ordinance of 1529 specifically forbade gambling for money only among the lower classes,²⁸ and the Habsburgs placed specific limits on daily losses based on economic status.²⁹ In Augsburg, landlords in public taverns were forbidden to lend any money at all to their guests for gambling, whereas the landlord at the Merchant's drinking room could lend up to one gulden.³⁰ In the Patrician's drinking room, as a reaction to a "ruinous" game that took place in 1568, a limit of 200 gulden was placed on cash to be extended for gambling by the landlord.³¹ In 1591, a decree limited losses at one sitting in both the Merchants' and the Patricians' drinking rooms to 50 gulden.³² This, incidentally, was more than that allowed the nobility under the Hapsburgs a few years earlier, a fact that underscores the dual function of such restrictions noted by Manfred Zollinger;³³ in setting this limit, the members of Augsburg's elite society were not only attempting to limit ruinous games – they were also publicizing their sense of their own status and wealth by suggesting that, for a typical merchant or patrician in this wealthy city, 50 gulden would not be considered "ruinous."³⁴

Restrictions placed on betting could also serve to underscore positive social values, which were not exclusive to elite members of

²⁸ "Schultheissen Burgern/ taglonern vnd andern/ die sich bloß vnd zu der notdurfft irer handtarbeit erneren": StAA, Literalien, 1529.

²⁹ ZOLLINGER, "...in der heilsamen Vorsorge erlassen...", p. 303.

³⁰ StAA, Schätze 71, Stadtbuch 1465, 132v; Anschläge und Dekrete 1490-1649, no. 43, 1574-98; Schätze 16, 175 (1581).

³¹ StAA, Evangelisches Wesensarchiv (EWA) 1481, Tom. 1, Acta das Patriziat- Herrn- oder Burgerstube betr. (1568 decision).

³² StAA, Schätze 16, 207v-208r. Gambling on credit was forbidden even to members of the court in some situations (see for example ZOLLINGER, "Das Glücksspiel," p. 155, on Vienna).

³³ ZOLLINGER, "... in der heilsamen Vorsorge erlassen . . .," p. 303.

³⁴ Approximately 6-12 month's income for an average craftsman: Ulf DIRLMEIER, *Untersuchungen zu Einkommensverhältnissen und Lebenshaltungskosten in oberdeutschen Städten des Spätmittelalters*, Heidelberg, Winter, 1978, pp. 206-212 (income estimates for sixteenth-century Augsburg); StAN, R29 F4 Schützenmaister, 1656 (pay rates for carpenters and masons).

society but shared by all members of the Society of Orders. Many city ordinances that forbade gambling on credit included warnings that debts resulting from gambling bouts or sums lent to gamblers by tavern keepers did not legally have to be paid.³⁵ Thus lenders had no recourse to courts of law to collect their debts. The effect of this rule was to make gambling debts a matter of good faith or *Treue*, a value that was crucial to early modern notions of honor at all levels of society. Payment of the debt then became essential to the debtor's good name, even more so than in the case of a contract that could be enforced in court.

4. Playing by the Rules

Norms of control, however, tell only half the story. We now turn to the records of the city courts to examine how these concerns were put into practice, and what strategies were employed by both gamblers and authorities in their discourse over gambling incidents. This discussion is based on an examination of 105 records of interrogation involving gambling that came before the city courts in Augsburg and Nördlingen between 1501 and 1699, along with hundreds of entries in punishment and discipline books.³⁶ In

³⁵ StAA, Schätze 71, Stadtbuch 1465 (copy of *Stadtbuch* from 1276); Schätze 16, 175, 7 Feb. 1546; Schätze 36/3, Zucht- und Policeiordnung 1553; Schätze ad 36/8, Zucht- und Policeiordnung 1580; Staats- und Stadtbibliothek Augsburg (hereafter SuSBA), 4^o Cod.Aug.132 Zucht- und Policeiordnung 1621; ZOLLINGER, *Geschichte des Glückspiels*, p. 27; KAVANAGH, *Enlightenment*, pp. 40-41. For legal discourse on the non-binding status of gambling debts see Jost DAMHOUDER, *Practica Gerichtlicher vbunge*, trans. Michael Beuther von Carlstatt, Frankfurt a.M., 1565, 231v-232r.

³⁶ The interrogation sample includes 26 cases from Nördlingen and 79 from Augsburg. The 26 Nördlingen cases represent all identifiable cases of gambling among the total of 1,210 interrogation records that exist for the years 1500–1699. The Augsburg cases were identified by an initial reading of all interrogation records from 1540-50 (which yielded 13 gambling cases), 1590-95 (42 cases), and 1640-50 (2 cases); because the sparsely-documented period of 1640-50 yielded so few records of arrest for gambling, an additional 22 cases from the seventeenth century were collected by random [MyC, 7, 2004, 7-38]

supporting their own actions, both defendants and witnesses in these cases were naturally inclined to present themselves in the most positive light possible. Thus their arguments can be seen as an expression of their notion of correct behavior.³⁷ At the same time, interrogation techniques and records of punishments allow us to identify the actual concerns of the authorities, who did not consistently enforce their own ordinances. In this discourse we are able to find clues as to where the norms of populace and authority were allied, where they deviated from one another, and what happened when norms were violated.

We begin our examination with a remarkable case from Nördlingen. On a February evening in 1571, a group of soldiers violently attacked a traveling yarn seller in a local tavern for changing his mind about placing a bet on a game of chance. Gabriel Tisch, the yarn seller, had wagered a purse equal to 37 gulden against a similar sum put up by a man named Ludwig, otherwise identified only as “the stranger” (*der Frembde*). According to witnesses, others among the tavern company warned the players not to risk such high stakes, but Gabriel replied only “it must be” (*es mueß sein*). In the middle of the game, however, Gabriel apparently had second thoughts about risking the impressive sum, and attempted to call off the bet with an offer to buy a round for the company. His adversary responded by trying to grab the purse and a scuffle ensued. The soldiers who were observing

sampling of records between 1605-1690. Some additional quotes by gamblers, here treated for qualitative purposes only, are also drawn from cases from other years. Entries in punishment and discipline books (in Augsburg, records of arrest or Strafbücher, 1509-1699, and records of fines or Zuchtprotokolle, 1576-1631; in Nördlingen, records of arrest or Urphedbücher, 1533-1625) are used to verify the consistency of fines and punishments but are not treated quantitatively.

³⁷ For an analysis of how the arguments of defendants, even when filtered by professional notaries and scribes, can be used to reconstruct social and cultural norms, see Natalie DAVIS, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France*, Stanford, Stanford University Press, 1987; on German interrogation records specifically see B. Ann TLUSTY, *Bacchus and Civic Order: The Culture of Drink in Early Modern Germany*, Charlottesville, University Press of Virginia, 2001, pp. 13-15.

[MyC, 7, 2004, 7-38]

the game took the side of the “stranger,” holding Gabriel down and beating him while Ludwig absconded with the purse. Although neither Ludwig nor the purse were recovered after the incident, the soldiers were questioned by the Nördlingen authorities for helping the “stranger” to take Gabriel's money “as if it had been lost in a game.”³⁸ Their defense strategy was straightforward – they were not motivated by a share in the purse, which they neither expected nor received, and they had no personal relationship with Ludwig. In fact, the soldiers claimed, they had no personal stake in the game whatsoever. They took the side of the stranger only because Gabriel was not playing by the rules.³⁹

Since paying up when money was lost was a matter of honor, the best means of ensuring payment was with the threat of dishonor. According to witnesses, Gabriel had placed both his honor and that of his opponent on the line when the bet was made by declaring, “Whoever loses and does not accept it should be a rogue”.⁴⁰ By not following through on his promise, especially after he himself declared the consequences of reneging on the bet in such absolute terms, Gabriel forfeited his honor and could no longer claim the respect of the tavern company.

Among the less privileged classes of early modern Germany, the value represented by willingness to part with losses should not be understood as disdain for money, as in the case of the nobility at court, but rather as evidence of economic health and a generous spirit. Although gambling is often characterized by theorists as an attempt to gain profit through idleness rather than industry and thus as in direct opposition to honest work, participation in such games could also serve as an expression of exactly those values it is accused of overturning. The ability and willingness to risk financial loss was evidence of financial viability, which for the average early modern

³⁸ “als ob es mit spilens verloren.” StAN, Kriminalakten 1571.

³⁹ StAN, Kriminalakten 1571; Urphedbuch 1567-1578, 74v-75r. The soldiers were fined and released after the incident.

⁴⁰ “ein schelm solltt sein der es verlieren vnd nicht zufriden sein würde”: Ibid.

townsman represented successful labor and an orderly life.⁴¹ Whether through gambling or through reciprocation in buying rounds, early modern men were expected to be willing to make a financial sacrifice for the entertainment of their fellows. The fact that they could afford to do so at all provided evidence of their stable financial status, if not exactly wealth; and the reality that they had precious little to spare made the sacrifice even more meaningful.

Gambling for rounds of drinks also had symbolic value, for participation in a joint drinking bout was an expression of social identity. The rules of popular society required that the costs of joint drinking bouts be shared, and anyone who failed to pay his “round” was subject to insults from his fellows.⁴² Participation in gambling for drinks could be simply an entertaining way of sharing the tab. In the case of simple games of chance, such gambling would be likely to result in a fairly equal distribution of expenses; and even when larger cash stakes were in play, the winnings were often used to pay for more drinks. In fact, insistence by gamblers that they used all or part of their winnings to buy rounds for the company was a kind of defense employed against charges of “professional” gambling.⁴³ In using this argument, they were displaying the positive social values of generosity and reciprocity, as a defense against the negative image of profit-motivated gambling. The norm expressed here was not disdain for material profit, but willingness to part with it in the interest of one’s fellows, which in turn suggested that the gambler was neither greedy nor desperate for money.

⁴¹ On the importance of order, industry, and willingness to make sacrifices in the communal interest as early modern values, see Paul MÜNCH, “Einleitung,” in idem. (ed.), *Ordnung, Fleiß und Sparsamkeit. Texte und Dokumente zur Entstehung der “bürgerlichen Tugenden”*, Munich, Deutscher Taschenbuch-Verlag, 1984, pp. 9-38, esp. pp. 20-22.

⁴² TLUSTY, *Bacchus*, pp. 122-125.

⁴³ StAA, Urgichten (hereafter Urg), Georg Herlin, 21-28 Aug 1592; Urg Hans Zinder, 17-19 Jan 1594; and compare Thomas BRENNAN, *Public Drinking and Popular Culture in Eighteenth-Century Paris*, Princeton, Princeton University Press, 1988, pp. 254-255.

Even by resorting to the vices normally associated with gambling, including violence and blasphemy, male gamblers were in many cases displaying their notions of masculine values. Violence most often broke out when the players' honor was at stake. Failure to follow through on paying a bet or refusal to participate in the rules of sociability were not the only possible grounds for insults to honor. Also certain to elicit a physical response was an accusation of cheating. When Endris Weiß believed that he saw Hans Hertel attempt to cheat him at a game of cards in 1539, he attacked Hertel with the accusation that he "is playing with them like a rogue," an insult that was an open invitation to the crossing of swords.⁴⁴ In another case, Georg Herb, accused of cheating in 1593, responded angrily that "no honorable man could say that of him."⁴⁵ Typically, Herb's response turned the point of honor against his opponent, forcing either a retraction of the accusation or a physical defense. A similar exchange of insults ended tragically for both parties in 1615, when city guard Hans Wüsst felt compelled to defend his honor against Maximilian Westermair, a fellow member of the guard, during a card game in an Augsburg tavern. Westermair accused Wüsst with the words, "he cheated [Westermair] on one of the trumps," which prompted Wüsst not only to hit his opponent in the face, but subsequently to provoke Westermair with the challenge, "[Westermair] being an honorable soldier, he should come out of the gate in the morning and they will settle this, or [Wüsst] will hold him for a dog's cunt."⁴⁶ Wüsst's challenge was in accordance with military regulations, which dictated that the pair postpone their duel until the following day when it could be conducted formally with the approval of their superior officer. But

⁴⁴ "er spil mit inen wie ain Schelm": StAA, Urg Hans Hertel, 1-5 Feb 1539.

⁴⁵ "es werd kein redlich mann sollches von ime sagen künden": StAA, Urg Georg Herb, 17 Sep 1593.

⁴⁶ "er habe ime vmb ainen stich vnrecht gethon"; "da er [Westermair] ein redlich[er] soldat sey, soll er am morgens fürs thor hinaus khomen wollen sy es mit ein and[er] austragen, od[er] wölle in für ein hundtsf[ud] halten." StAA, Urg Thomas Aman, 16 Dec 1615 (as Wüsst had fled the city, the details of this case are based on the testimony of witnesses rather than that of the defendant). On the term Hundsfud, also Hundsfott, see Jacob and Wilhelm Grimm, *Deutsches Wörterbuch*, 4.2:1934.

the affront to honor implicit in the insult “dog’s cunt,” an obscene accusation of sniveling cowardice, was too much for Westermair. He attacked Wüsst with a hunting knife. The duel of honor ended with Westermair’s death by a fatal wound in the throat, and Wüsst was forced to flee the city.

Whether or not any of these accusations of cheating were actually valid, they could not be ignored, particularly in the company of other men; failure to respond to such an insult would result in loss of status and honor. The graphic images of violence in association with gambling that appeared in book illustrations and broadsheets, which (as noted above) generally included a suggestion of cheating, do in fact seem to reflect popular norms, for such an allegation was the most common reason for a fight to break out over a game.⁴⁷

Even in the case of blasphemy, male values could come into play. Obviously, blasphemy itself could not be supported as a virtue. Yet, like other forms of theatrical bravado, the words of the blasphemer could serve as a demonstration of power, strength, and sovereignty. Especially in competitive situations such as gambling matches, blasphemy was a means of communicating aggression and demonstrating power. By issuing a challenge not only to his human opponent, but also to God, the blasphemer demonstrated his indifference to danger regardless of the power of his adversary.⁴⁸ Gerd

⁴⁷ Although Walker states that the immediate gains and losses resulting from unregulated gambling among nobles in Venice were destined to provoke an “emotional response” and thus incite violence, his examples all involve either cheating or failure to follow through on payment, suggesting that fights involved issues of honor rather than merely anger over losses: WALKER, “Gambling and Venetian Noblemen,” pp. 40-41.

⁴⁸ Gerd SCHWERHOFF, “Starke Worte. Blasphemie als theatralische Inszenierung von Männlichkeit an der Wende vom Mittelalter zur frühen Neuzeit”, in Martin DINGES (ed.), *Hausväter, Priester, Kastraten: Zur Konstruktion von Männlichkeit in Spätmittelalter und früher Neuzeit*, Göttingen, Vandenhoeck & Ruprecht, 1998, pp. 237-262; see also idem, “Der blasphemische Spieler,” esp. pp. 109-110; and Maureen FLYNN, “Blasphemy and the Play of Anger in Sixteenth-Century Spain”, in *Past & Present* 149, 1995, pp. 29-56, esp. pp. 49-54.

Schwerhoff has also argued that willingness to break the blasphemy taboo could create boundaries between the players and those not in the game, thus strengthening group identity and solidarity.⁴⁹

Despite repeated warnings against gambling and its associated vices, the treatment of offenders in gambling cases indicate that the authorities were surprisingly tolerant of the norms of popular society. In cases of violence, interrogations tend to concentrate on the point at which norms associated with dueling were broken – who first resorted to physical violence, who first drew a weapon, whether the victim was armed and capable of a defense, etc. – rather than whether gambling played a part in the incident. Entries in the punishment records describing the incident often ignore the gambling bout entirely, describing specific insults as the catalyst for violence rather than noting losses at cards.

Blasphemy also does not seem to have been a matter of concern to the authorities. Although civic ordinances issued throughout Germany during the fifteenth and early sixteenth centuries forbade or restricted gambling specifically because of its role as a catalyst for swearing, cursing, and blaspheming,⁵⁰ the interrogation records of bi-confessional Augsburg, where power was shared by Catholics and Lutherans in the city council, and Lutheran Nördlingen reflect little actual concern by the authorities over this issue. In none of the gambling cases I have read were gamblers questioned about blasphemy, nor are any punishments for blasphemy in connection with gambling evident. Protocols of the discipline courts in Augsburg (*Zucht-* or *Strafherren*) record occasional fines for “swearing” (*schwören* or *fluechen*) during the sixteenth and early seventeenth centuries, but none of these indicate the circumstances under which

⁴⁹ SCHWERHOFF, “Der blasphemische Spieler”, p. 109. Schwerhoff also notes that gamblers in general, as well as those specifically arrested for blasphemy, were overwhelmingly male: *Ibid.*, pp. 102, 110.

⁵⁰ For examples from Nördlingen see Karl Otto MÜLLER, *Nördlinger Stadtrechte des Mittelalters*, Munich, 1933, pp. 215-216, 223-34, 309; for Augsburg StAA, Schätze 16, 34-35; for numerous other examples, SCHWERHOFF, “Der blasphemische Spieler”, esp. pp. 100-101.

the cursing took place; and in at least one case in which witnesses volunteered the information that a disgruntled gambler verbally attacked his opponent with “cursing and swearing” (*mit fluech vnd schwern*), no blasphemy fine was collected.⁵¹ In ordinances, too, the connection between blasphemy and gambling that was often made during the fifteenth and early sixteenth centuries seems to have disappeared by the seventeenth. During the Thirty Years’ War, city leaders in Nördlingen issued lengthy ordinances warning against the sins of blasphemy and advocating prayer, but gambling was never mentioned as a potential cause.⁵² Although civic authorities very likely entertained real concerns about blasphemy within the context of an abstract notion of collective sin, this was clearly not a major focus of their policy on gambling.

Tolerance of the authorities for gambling for small change and for rounds suggests that they were also unconcerned over the devilish temptation to believe in fate, rather than in God’s divine plan. Games of chance encouraged players to put their faith in the goddess of fortune, which represented an affront to God at the beginning of the early modern era and came to constitute an affront to the work ethic by its end. Early sixteenth-century ordinances in both Nördlingen and Augsburg distinguished between permissible games of skill and illicit games based entirely on chance⁵³ – according to Laura Smoller, this

⁵¹ StAA, Protokolle der Zucht- und Straffherrn, 1614-16, March 29 1615. Fines for swearing were sparse and ranged from 16 kreuzer to 2 gulden; StAA, Zuchtbücher 1561-1599, Protokolle der Zucht- und Straffherrn 1576-1631. Studies of Spain and Italy suggest that this may have been more of an issue in Catholic territories; FLYNN, “Blasphemy”; WALKER, “Gambling and Venetian Noblemen.”

⁵² StAN, Ordnungen und Decrete 1640-88, 19v-21r, 1642. The later ordinances in Augsburg specifically directed against blasphemy also did not mention gambling (see for example StAA, Schätze 16, fo. 252v-254, Nov 1607).

⁵³ For example, StAN, Ordnungsbuch 1502-1533, 1; similar rules applied to elite players in the merchant’s drinking room in Augsburg (SuSBA, 4° Cod.Aug.281, Protokoll- und Rechnungsbuch der Kaufleutestube 1507, 26v). See also StAA, Literalien 1531, Zuchtordnung, for the same rule in Constance.

was where the line was drawn between legitimate “card-playing” and illegitimate “gambling” – but there is no record of enforcement of such ordinances. In none of the cases of gambling on which this study is based did interrogators attempt to determine what type of game was involved. While historians have made much of the distinction between games of chance and games of skill, civic authorities in Augsburg and Nördlingen made no distinction at all.⁵⁴

What, then, were the concerns of the authorities in these cases? Records of arrest show that the line between “good” and “bad” gambling, although not entirely in keeping with local ordinances, was nonetheless sharply drawn. This line was crossed when gamblers engaged in behavior that threatened the financial stability of otherwise productive citizens; when they bet amounts that they could not afford to lose, habitually gambled away household resources, or became involved in cheating or other kinds of gambling scams. Particularly targeted by the authorities were suspicious strangers who might be professional card sharks.

Most of the defendants in Augsburg who were punished for inappropriate gambling were not arrested in local taverns, but picked up in less controlled areas such as the shooting grounds located just outside the city walls (*Schießgraben* and *Rosenau*), which were popular gathering spots for serious gamblers. Similarly, suspicious gamblers in Nördlingen were generally arrested at the annual Pentecost market or at kermis festivals outside of town. The majority of these defendants in Augsburg, and all of those from Nördlingen, were outsiders rather than local citizens. In the case of tavern gambling, too, suspicion was more likely to fall on non-residents. Although tavern keepers were occasionally fined for allowing local craftsmen to gamble after tavern closing time (a fine that also applied

⁵⁴ For a summary of the arguments of historians regarding “chance” versus “skill” see ZOLLINGER, *Geschichte des Glücksspiels*, pp. 21-22, 41-44; Smoller argues convincingly that sixteenth-century playing cards represent a shared culture between commoners and the elite in Nuremberg, but her distinction between “gambling” and “card-playing” is not clear (SMOLLER, “Playing Cards and Popular Culture”, esp. pp. 183-84, 189-91).

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to serving drinks)⁵⁵, most arrests in public houses involved gambling for very large stakes, usually either involving suspicious strangers or people seated in a hidden or “secret” room.

Invariably in such cases, defendants were faced with accusations that cast them as professional gamblers. According to the archetype that emerges from the questions of the interrogators, these menacing characters made their living, with the help of various accomplices, by swindling their victims with loaded dice, marked cards, and persuasive language. Questions about cheating were standard in such cases, as well as demands for information about conspirators, informants, and related crimes such as theft and counterfeit coinage. In general, any gambler who won a very large purse was automatically assumed to have used persuasion and trickery. The application of torture was not unusual.⁵⁶ The victim of one such accused gambler, a peasant who lost fifty gulden in an Augsburg tavern, complained that “[he] had been lured and enticed into it with smooth and highhanded words;” the winner in this game was subjected to torture and permanently banished.⁵⁷

The image of the professional card shark that emerges from these interrogations is very similar to that identified by Robert Jütte, who described traveling gambling rings as a late medieval form of organized crime. These professionals were organized hierarchically and with specialized skills, and did indeed engage in other forms of fraud, including pick-pocketing and counterfeiting. Warnings against cheating became increasingly common during the fifteenth century,

⁵⁵ Six tavern keepers, for example, were fined 1 to 2 gulden for allowing gambling between 1540 and 1544, and 13 between 1590 and 1594: StAA, Protokolle der Zucht- und Strafherren, 1590-1594.

⁵⁶ Some examples include StAA, Urg Georg Mayer, 27-28 Jan 1581; Georg Herlin, 21-28 Aug 1592; StAN, Kriminalakten, Christoph Anngers, 1503; Hieronimus Bratsch 1507; Goerg Pfauenschwanz, 1574; see also StAA, Schätze ad 36/8, Zucht- und Polizeiordnung 1580.

⁵⁷ “ich darzu mit glatten und herlen wortten gelockt unnd geraitzt worden bin.” StAA, Urg Georg Herlin, 21-28 Aug 1592; see also StAN, Urphedbuch 1533-1550, 180r, Contz Sthäblin von Stainbuhell; Urphedbuch 1587-92, fo 52v, Peter Hayd, 26 June 1588.

possibly because the “art” of sophisticated cheating was actually becoming more widespread.⁵⁸ The trend seems to have continued throughout the early modern period; by the eighteenth century, professional card sharks posed a threat even to the fortunes of the nobility.⁵⁹

Interrogators were rarely able to positively identify a gambler who fit the stereotype of the professional swindler. Nonetheless, nearly all of the gamblers picked up at the shooting grounds, markets, or other questionable locations were banished as generally suspicious. Where actual cheating could be proven, the offender could expect exposure on the pillory, public denunciation, and permanent banishment. The arrest of one such card shark in Augsburg in 1655 provides a useful example of how these clever professionals operated. The defendant in this case, Martin Bleyer, was arrested for taking part in a sophisticated “sting” operation that aimed to separate a group of young men from Carinthia, in Austria, from the wages (*Lidlohn*) that they had just received for a period of service. The story began with a scenario remarkably similar to that of the case of Gabriel Tisch, described above: Bleyer, himself from Salzburg, easily convinced the boys to join him in a tavern for a drink on the pretense of engaging their help in delivering a letter for him on their way back to Carinthia. Bleyer then began to gamble with another tavern guest who was apparently a stranger to him. One of the young Carinthians, Caspar Reycher, was ultimately seduced by the possibility of an easy win and bet his entire purse of over 20 gulden on a single round of a game that Bleyer called “the Turkish wonder” (*das Türckisch wunder*).⁶⁰ Just as Gabriel Tisch had done, Reycher changed his mind during the play, and tried to take his money back – and just as in the Nördlingen case, the other members of the party stopped him and held him down while

⁵⁸ JÜTTE, “Anfänge des organisierten Verbrechens”.

⁵⁹ ZOLLINGER, “Das Glücksspiel”, pp. 161-164. Nobles in Venice were both victims and participants in gambling shark operations as early as 1600: WALKER, “Gambling and Venetian Noblemen”, pp. 36-42, 52-55.

⁶⁰ According to the scribe, the game Bleyer described was “nothing different from the game 18th” (“anderst nicht ... als das 18em spil”). StAA, Urg Martin Bleyer, 7-15 Dec 1655.

the winner ran off with the purse. What is different in this case is that Bleyer, caught in a garden while trying to slip out the back of the tavern, rendered a full confession of every detail of the scam.

Whether motivated by conscience, as he claimed, or by the belief that contrition would do more to soften the hearts of his interrogators than denial, Bleyer's confession provides us with a rare opportunity to observe a group of swindlers in action. The other two men involved in the game were actually Bleyer's accomplices, and the three had entered the city in the hope of finding an easy mark like Reycher. The set-up involved selecting a tavern known to allow large-stakes gambling, inventing a story that would encourage the Austrian boys to identify with Bleyer, stationing accomplices at the door and in the public room of the tavern, and passing information in the presence of the mark by speaking in *Rotwelsch*, the argot spoken by members of the underworld.⁶¹ The scenario was cleverly designed to emulate exactly that sort of gambling bout that was considered legitimate (that is, taking place in a public house; apparently as an aside to normal social relations; and initially just as a toss of the dice for the cost of drinks), as opposed to the sort of gambling that would obviously be viewed as illicit (in a secret or impermanent location, such as the streets or the shooting grounds; lacking social context outside of the gambling bout; and from the beginning as a high-stakes game).⁶²

It is, of course, quite possible that Gabriel Tisch was also the victim of a similar scam; but in that earlier case, the parties to the game who were arrested were local citizens, not outsiders, and there was no confession. Bleyer was thus punished much more harshly than the Nördlingen players, with exposure on the pillory and banishment

⁶¹ Standard works on Rotwelsch include Friedrich Christian Benedikt AVÉ-LALLEMANT, *Das deutsche Gaunertum in seiner socialpolitischen, literarischen und linguistischen Ausbildung zu seinem heutigen Bestand*, 4 volumes, Leipzig, F.A. Brockhaus, 1858-62; Friedrich KLUGE, *Rotwelsch, Quellen und Wortschatz der Gaunersprache und der verwandten Geheimsprachen*, Straßburg, K.J. Trübner, 1901.

⁶² These characteristics are noted as distinguishing "professional" from "social" gambling in WALKER, "Gambling and Venetian Noblemen", p. 57.

for life, a penalty that permanently tainted his honor.⁶³ His fate was not unusual for traveling gamblers. In Augsburg, non-resident players were more than twice as likely to be accused of swindling and more than four times as likely to be tortured and banished or executed as local residents. The dangers for foreigners to the city were even higher in Nördlingen, where over 2/3 of non-residents were accused of cheating and over 3/4 were tortured, banished, or both. None of the local citizens arrested in Nördlingen faced such harsh punishment.⁶⁴

Civic leaders showed serious concern not only about the activities of slick players like Martin Bleyer, but also about their victims, especially habitual gamblers whose losses contributed to their otherwise disorderly householding. Gambling itself was rarely noted as a basis for arrest in such cases. More often, the householder came to the attention of the authorities through general charges of neglect and abuse brought against him by his wife, often provoked by a particularly vicious beating or the removal of household goods from the home. Gambling in these cases then appears as part of an overall picture of wasteful living which also might include heavy drinking.

⁶³ StAA, Urg Martin Bleyer, 7-15 Dec 1654; SB 1654-1699, 28, 14 January 1655. Bleyer himself was only a youth in his 20's, and claimed that he had been seduced ("verführt") by his fellow swindlers after they had cheated him out of 15 gulden, "which he had earned honorably" ("welche [er] redlich erworben"). On the effect of exposure on the pillory see Kathy STUART, *Defiled Trades and Social Outcasts: Honor and Ritual Pollution in Early Modern Germany*, Cambridge, Cambridge University Press, 1999, pp. 128-30.

⁶⁴ In Augsburg, 12 out of 37 non-residents were accused of cheating, 8 of whom were banished and 2 executed; another 16 not accused of cheating were also banished due to prior arrests, gambling away alms, or otherwise suspicious behavior. In the case of local residents, 6 out of 46 were accused of cheating, only 2 of whom were banished; and 4 of the remaining 40 locals arrested were permanently banished for gambling away alms or poor householding. In Nördlingen, 15 of the 22 arrests of non-residents included accusations of cheating, compared to none among locals, and 17 of the 22 were tortured, banished, or both, again with none among locals.

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gluttonous eating, poor work habits and careless household management.⁶⁵

Such disorderly householders were generally forced to take an oath to avoid public taverns or any kind of social drinking, which often included a ban on gambling as well as on carrying weapons. This punishment appears in court records as early as the fourteenth century,⁶⁶ and seems to have peaked during the sixteenth and early seventeenth centuries. While imposing a ban on gambling certainly underscored disapproval of habitual gambling and poor householding, the punishment was aimed more at shaming the delinquent than controlling him, for financial stability and the ability to maintain an orderly household were also issues of civic honor. When men failed to live up to these expectations, the symbols associated with male public life were denied them. The fact that an oath to avoid gambling was often included in such bans – even when gambling was not at issue in the case – supports the idea that gambling, like carrying a weapon, was in fact a right of honorable men; a “privilege” that was revoked only when men abused their role as household head.⁶⁷ According to an Augsburg ordinance that appeared in 1580, chronic gamblers (those who participated in daily or habitual gambling bouts) were forced to take the oath only after their third offense, and then only for a period of one to two years.⁶⁸

⁶⁵ TLUSTY, *Bacchus*, pp. 118-120; for a Venetian parallel, see Joanne M. FERRARO, “The Power to Decide: Battered Wives in Early Modern Venice”, *Renaissance Quarterly* 48, 1995, pp. 492-512, esp. 501, 506; also WALKER, “Gambling and Venetian Noblemen”, p. 33.

⁶⁶ SCHWERHOFF, “Falsches Spiel”.

⁶⁷ For tolerance of gambling in other cities of Reformation Germany, see SMOLLER, “Playing Cards”; *Criminal Justice Through the Ages: From Divine Judgment to Modern German Legislation*, Rothenburg ob der Tauber, 1981, p. 276; Jean CALVIN, *The Theological Treatises*, trans. J. K. S. REID, Philadelphia, 1954, p. 82; Steven OZMENT, *The Reformation in the Cities: The Appeal of Protestantism to Sixteenth-Century Germany and Switzerland*, New Haven, Yale University Press, 1975, pp. 98, 104.

⁶⁸ StAA, Schätze ad 36/8, Zucht- und Polizeiordnung 1580.

The authorities in such cases were not concerned only with protecting the rights of the abused wife. Their major concern was that such a lifestyle could reduce the family to dependence on alms, creating a burden for the community. Thus it naturally follows that men who were already reduced to taking alms were the most strictly controlled group of all, for they were forbidden to gamble altogether. Alms recipients caught gambling in Augsburg could face banishment from the city, resulting in a loss of their livelihood.⁶⁹ An oath to avoid gambling was also required from householders who claimed to be too poor to pay fines for fights or other minor offenses.⁷⁰

When gambling debts actually threatened the existence of the household, then, the council might step in and take concrete action, as they did in the case of the careless butcher Hans Hafner in 1561. Hafner's wife appeared before the authorities in December of that year and complained "with tears in her eyes"⁷¹ that her husband had lost around ninety gulden in an all-night gambling bout that had taken place in a public tavern. Hafner's wife accused the winners, also butchers, of cheating her husband, and said that if Hafner made good on the debt, she and her seven small children would be reduced to poverty. The argument that came before the council, based on the woman's testimony and formulated by the Punishment Lords, countered Hafner's implicit debt of honor with the argument that support of the household, too, was a matter of honor; intervention by the authorities was necessary "so that [Hafner's wife] could remain in a state of domestic honor" (*darmit sy ... bey heusslichen Ehren pleiben möchte*).⁷² The council ordered the winners in this game to return Hafner's money, then locked all three gamblers in the tower for a period of correction. Although ordinances against high-stakes gambling did not differentiate between losers and winners, the

⁶⁹ Examples: StAA, Urg Ulrich Zents, 23-24 May 1542; Lienhard Ritter, 1 Jul 1542.

⁷⁰ StAA, Schätze 36/8, Zucht- und Polizeiordnung 1553.

⁷¹ "mit wainendten Augen" (Hafner's wife's first name was not recorded): StAA, Policeiwesen, Verbottenens Spielen 1552-1789, 1561.

⁷² Ibid.

council's sympathies are evident in the fact that Hafner was sentenced to a longer stay in the tower than his two companions.⁷³

Expressed in monetary terms, the line between appropriate and inappropriate gambling naturally shifted as one moved up the social ladder. The basic concern for protecting financial stability, however, did not. We have seen that while the poor were not allowed to gamble at all, citizens of middling and elite status were restricted to amounts considered appropriate to their respective stations. For elites as well as commoners, the real line was drawn not between games of skill and games of chance, nor between "civilized" games and those that led to blasphemy or to measured violence; the boundary depended on how much the player could afford to lose. This rule also applied to the council members themselves. When Augsburg patrician Leonhart Weis lost 1000 gulden in borrowed money in the Patrician's Drinking Room in 1568, his peers, responsible for passing judgment, were faced with a dilemma. For while failure to make good on the debt would rob Weis of his personal honor, paying it could in turn threaten his honor on another front, by upsetting the balance between his economic and his social status. As a deterrent to future "dangerous" games of this magnitude, all three players were fined heavily, and new legislation was introduced limiting gambling on credit in the patrician drinking room to 200 gulden. Finally, in a quid-pro-quo arrangement to preserve his reputation, Weis was forced to give up his place on the city council in exchange for keeping both his fortune and his honor intact.⁷⁴

5. Gender Boundaries

The issue of household economics has also been cited by sociologists as an explanation for the fact that in most cultures,

⁷³ "doch der Hans Haffner mehr tag wed[er] die anndern zwen." StAA, Ratsbuch 32, 1561-62, 95v.

⁷⁴ See note 32, above. The fines paid by the three players totaled 450 gulden. StAA, EWA 1481 Tom. 1 Acta das Patriziat, Herrn- oder Burgerstube betr. (1568 decision); SuSBA, Cod.Aug. 4° 117, Ämterbesetzungen 1548-1623, 22v.

women tend to be more restrained than men in gambling activities.⁷⁵ This is certainly the case in Augsburg and Nördlingen during the sixteenth and seventeenth centuries, where female gamblers are notably absent from the records. Aristocratic women in the eighteenth century certainly gambled, and at times for very high stakes.⁷⁶ But if gambling was common to ordinary women of the sixteenth and seventeenth century, then they must have played their games in private settings, where they did not come to the attention of the authorities. Women appear in the documents examined here only as observers to gambling bouts, not as participants. Most often they played the part of adversaries who denounced their husbands' gambling behavior. In two cases involving professional swindlers, women were also charged with acting as accomplices in their husbands' schemes, but in neither case were the women actually involved in the game.⁷⁷ Women belonging to the common classes may well have played games amongst themselves or with men within the household,⁷⁸ but it is unlikely that large stakes were the norm; in any

⁷⁵ Jan MCMILLEN, "Understanding Gambling: History, concepts and Theories", in idem (ed.), *Gambling Cultures: Studies in History and Interpretation*, London, Routledge, 1996, pp. 6-42, here 22; Gabrielle BRENNER, Martial LIPEB and Jean-Michel SERVET, "Gambling in Cameroon and Senegal: A Response to Crisis", in MCMILLEN (ed.), *Gambling Cultures*, pp. 167-78, esp. 168; on the requirement of early modern women to carefully manage household resources see MÜNCH, *Ordnung, Fleiß und Sparsamkeit*, p. 32.

⁷⁶ For examples of gambling among aristocratic women see ZOLLINGER, "Das Glücksspiel", p. 167; idem., *Geschichte des Glücksspiels*, pp. 148-149.

⁷⁷ One gambler's wife was suspected of standing guard at the shooting grounds as a lookout, in order to warn the gamblers when the bailiff was coming (StAA, Urg Mattheus Mair, 19 June 1595), and another of traveling with her husband and sharing in his ill-gotten gains (StAN, Urphedbuch 1567-78, 139v; Kriminalakten, Waldburga, Jörg Pfauenschwanz weib, 1574).

⁷⁸ Some ordinances specifically permitted women to gamble with men at honorable gatherings as long as both the bets and the players remained modest: MÜLLER, *Nördlinger Stadtrechte*, pp. 223-24; ZOLLINGER, *Geschichte des Glücksspiels*, p. 33.

case, such games apparently did not lead to the kinds of altercations that brought male gamblers before the courts.

A close look at the graphic images of the sixteenth and seventeenth century supports the suggestion that public gambling was not the norm for early modern women. Images of women gambling are not unusual, but most of them belong to a specific genre that has less to do with realistic depictions of daily life than with an allegory for sins unrelated to cards. Generally, women are not depicted gambling with other women, but with men, usually as a single couple. Such scenes tend to include a plethora of sexual imagery. Men are shown with their hands on their daggers, for example, representing sexual intent. The presence of wine cooling in the foreground is also standard, suggesting that drinks will be shared by the couple – a theme common to iconography of the “Love Garden”, indicating sexual intimacy.⁷⁹ Such images thus represent a play on words; the card game becomes a metaphor for love games.⁸⁰ Sebastian Brant hinted at this when he wrote of gambling women in 1494, “Every code forbids/ such mixing of the sexes/ women who sit together with men/ have no shame for their behavior and their gender.”⁸¹ A parallel can be made here with early modern assumptions about sharing drinks; if men and women did gamble with one another, much as when they drank with one another, it implied an intimacy that went beyond the table.⁸²

⁷⁹ TLUSTY, *Bacchus*, pp. 142-43.

⁸⁰ Brigitte LYMANT, “Die sogenannte Folge aus dem Alltagsleben von I.v. Meckenem. Ein spätgotischer Kupferzyklus zu Liebe und Ehe”, in *Wallraf-Richartz-Jahrbuch*, vol. 53, Cologne 1992, p. 32. See also ZANGS and HOLLÄNDER, *Mit Glück und Verstand*, pp. 88-94; Christiane ZANGS, “Glück beim Spielen, Pech in der Liebe”, in *Mit Glück und Verstand*, pp. 17-20.

⁸¹ “Das verbieten alle recht/Sollich vermischung beider gslecht/Die mit den mannen sytzen zamen/ Ir zucht vnd gslechtes sich nit schamen”: Sebastian BRANT, *Narrenschiff*, as quoted in TAUBER, *Das Würfelspiel*, p. 23.

⁸² TLUSTY, *Bacchus*, pp. 142-43; this interpretation is supported by the fact that in sixteenth- and seventeenth-century Venice, the most common category of women involved in gambling bouts were prostitutes: WALKER, “Gambling and Venetian Noblemen”, p. 62.

Also common to depictions of love as a game of chance between man and woman is the warning to men that they are certain to lose the game; when men and women are shown gambling with one another, the woman is generally depicted as the winner.⁸³ This may be shown through a winning hand visible on the table, or simply in the woman's smug expression, while the man might appear with his hand raised in a sign of defeat. All of these images thus belong to the genre of "women power" (*Weibermacht*) – in games of love, women are bound to have the upper hand.

6. Age Boundaries

While the boundaries placed between men and women in regard to gambling seem to have been based on unwritten rules, the authorities were more direct in their determination to control gambling among minors, especially those who gambled with someone else's money. Gambling minors faced the danger, often expressed in moralist tracts, that early exposure to betting could lead to addiction. Their inexperience made them particularly susceptible to exploitation by tricksters and professional gamblers as well.⁸⁴ According to the Augsburg council, for a gambler to win money from a child was no better than "[stealing] the money right out of the boy's purse."⁸⁵ Also problematic was the fact that young boys were likely to be gambling with money that belonged to their parents or masters. For these reasons, some cities forbade minors to gamble at all, or restricted them to gambling in the presence of their parents.⁸⁶ Ordinances in several cities forbade specifically gambling by butchers' apprentices, who

⁸³ ZANGS and HOLLÄNDER, *Mit Glück und Verstand*, p. 92; ZANGS, "Glück beim Spielen", p. 17.

⁸⁴ See for example TAUBER, *Das Würfelspiel*, p. 113; WICKRAM, *Der Treue Eckart*, p. 101; Michael von LANKISCH, *Eitelkeit des Spieles*, Zittau, 1666, 96r, 101v-102r.

⁸⁵ "als wan er dem knaben d[a]z gelt aus dem seckel gestolen hett": StAA, Urg Hans Utz, 26 Nov 1593.

⁸⁶ For example StAA, Literalia 1529, Strassburg Policey Ordnung Aug 25 1529 (age noted as 16); Literalia 1531, Constance Zucht Ordnung 5 Apr 1531 ("iungen knaben, die nit vnder den burgermaister geschworn habend"); ZOLLINGER, *Geschichte des Glücksspiels*, p. 33; HIS, *Strafrecht*, p. 328.

delivered and picked up animals and meat and were thus often entrusted with money belonging to their masters.⁸⁷

Yet, even among young boys, gambling for a few pfennigs was apparently acceptable, as is evident in the case of butcher's apprentice Hans Reischle. Reischle's father, who was also his master, defended him with the same argument that would apply to an adult: "he was only playing for a few pfennigs as an entertainment."⁸⁸ Surprising in this case is that even the butcher Guild Masters, who were responsible for establishing the ordinance against gambling by apprentices, admitted that their ordinance was "somewhat harsh" (*etwas scharpff*) and recommended letting the boy go unpunished.

7. Conclusion

Over the course of the early modern period, it is possible to identify a shift in emphasis in the ordinances addressing gambling, away from late medieval concerns with the sins of blasphemy and disregard for God's plan towards an increasingly economic focus. The treatment of gamblers before the courts, however, had always reflected the more practical economic concerns. It seems clear that from the early sixteenth century onward, the authorities were in fact less concerned about gambling as a sin than they were about the potential threat to order either on economic grounds or as a result of violence. Ordinances against "ruinous gambling," gambling away alms, and cheating were strictly enforced; whereas an association between gambling and sins such as blasphemy, "coveting one's neighbor's goods," or trusting in fate instead of God, is not evident in interrogations of gamblers. There is also no evidence that civic leaders were interested in the difference between games of skill and games of

⁸⁷ StAA, Urg Hans Reischle, 26 Apr 1593; StAN, Ordnungsbuch 1502-1533, 198 (1531); Ordnungsbuch 1612-1640, 36 (1615); Josef PAUSER, "'leichtfertige spill sein gar abgestellt': Norm und Praxis der Bekämpfung eines Lasters in der landesfürstlichen Stadt Krems im 15. und 16. Jahrhundert", in *Pro Civitate Austriae* 4, 1999, pp. 19-41, here 38.

⁸⁸ "er allain umb etlich wenig pfennig kurtzweilt": StAA, Urg Hans Reischle, 26 Apr 1593.

pure chance. Those responsible for enforcing the law clearly disapproved of violence, but violent incidents were generally treated independently of the gambling over which they originated. Of paramount concern was the archetype of the dangerous card shark who participated in organized collusion, gambled in “secret rooms,” and exploited children.

None of these points clash with popular norms. As long as gamblers played by the rules of popular society, they were unlikely to transgress the line drawn by the authorities. For the average early modern townsman, tavern games did not hold out the prospect of winning a fortune, as Keith Thomas suggested, or function as an escape from the realities of social inequality.⁸⁹ Historians have generally treated early modern gambling bouts as motivated strictly by profit, and thus placed them in opposition to the developing bourgeois values of industry, thrift, and order. But gambling had social and symbolic functions that had little to do with profit motives. Their entertainment value, expressed repeatedly as “amusement” (*Kurzweil*) in books on gaming, in ordinances clarifying legal and appropriate gambling, and in the testimonies of gamblers themselves, enhanced the potential for companionable sociability. Even the bothersome requirement that someone pay for the drinks was made more bearable when it became a game. At the same time, gambling provided an opportunity to display values associated with early modern notions of good citizenship, which included public representation of economic health – evidence of a successful, industrious, and orderly life. Even the disorderly behaviors that often accompanied gambling bouts, such as cursing and readiness to resort to violence, could strengthen group bonds and solidify the boundaries drawn between men of honor and

⁸⁹ Keith THOMAS, *Religion and the Decline of Magic: Studies in Popular Beliefs in Sixteenth and Seventeenth Century England*, London, Weidenfeld & Nicolson, 1971, p. 20.

those of lesser status, including children and women. Early modern citizens who were of age and in control of their resources had a right to display their social identity through gambling bouts, just as they had a right to bear arms. But both of these rights were held only as long as they played by the rules.