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Compromise and shake hands: the town council, authority and urban stability in Austrian small towns in the eighteenth century

MARTIN SCHEUTZ

Department of History, University of Vienna, Dr Karl Lueger Ring 1, A-1010
Vienna, Austria

ABSTRACT: Aside from the early modern tension between self-governance and the nascent institutions of state administration, towns were also marked by the tension between council and burghers; only the town council could guarantee urban stability. In conflicts between burghers, council mediation was usually concluded with the ritualistic shaking of hands and the threat of punishment in case of a repeat offence. Punishment of burghers was in all cases less important than mediation between offenders. The councils followed on the other hand a multi-layered, participatory model in their attempt to involve all resident burghers in government.

The example of two small towns in what is today Lower Austria shows how town rule – understood here as the rule of the council over the town's residents – was able to function during the early modern period.¹ Over 200 small towns surrounded by crumbling walls, typically home to somewhere between a couple of hundred and a thousand residents, provide us with characteristic examples of the early modern town in the region of Lower Austria. The two examples dealt with here demonstrate the relatively modest size and status of these close-knit, economically struggling settlements: Scheibbs, a small market town south of the Danube that was subject to a local lord, included around 70 burghers' houses during the early modern period; Zwettl, a town subject to the emperor, encompassed around 200 houses.

A comparison of the two communities' social structures clearly shows their divergent economic orientations. The market town of Scheibbs was oriented towards food-for-iron trade with the Erzberg mining region in Styria. In Zwettl, as in Scheibbs, the merchants, innkeepers and brewery

¹ H. Knittler, 'Städtelandschaft in Österreich im Spätmittelalter und in der Frühneuzeit', in K. Keller and H. Gräf (eds.), *Städtelandschaft, réseau urbain, urban network. Städte im regionalen Kontext in Spätmittelalter und früherer Neuzeit* (Cologne, Weimar and Vienna, 2004), 111–33.

owners were the economically dominant group within the town, but here the surrounding region's textile industry also played a strong role.²

Aside from the early modern tension between self-governance and the nascent institutions of state administration, towns were also marked by the tension between the council and burghers, various occupational groups, rich and poor. A special significance in Austrian small towns was reserved for the question of who was a member of the council, an institution which never managed to break away socially from the burghers. The elections of judges and the council – particularly following the counter-reformation – were usually controlled by a town's lord (a landed noble or the emperor): they were subject to confirmation from above. In the eighteenth century the burghers, therefore, increasingly renounced these rather expensive elections. Even so, council membership was a coveted privilege in the small towns examined here. Alongside burgher status and an 'honest' occupation, membership depended on the 'usefulness' of the candidate: education (ability to read and write, school education), knowledge of law, skill in dealing with the authorities and wealth were required. A certain 'familialization' of the councils can be ascertained, with some family names appearing on the roles for generation after generation.

In both towns, the council was divided into a controlling outer and a 'ruling' inner council, with new members typically starting in the outer council and gradually advancing toward membership in the inner council. The central figure behind the scenes – and the right-hand man of the market/town judge – was the city clerk (who was required to be a Roman Catholic), who was charged with the unbiased keeping of all city books, compiling protocols of the council decisions, making lists of deceased burghers and the general running of town business.³ The various groups within the town tried repeatedly to gain influence over the city clerk – and thus considerable advantages, since the council delegated to the clerk complete power over all written documentation of the city.

A comparison of the social structures among the burghers with the composition of the councils reveals the 'pressure groups' in the two small towns examined. A correlation between the secure economic

² M. Scheutz, *Alltag und Kriminalität. Disziplinierungsversuche im steirisch-österreichischen Grenzgebiet im 18. Jahrhundert* (Vienna, 2001); F. Moll and W. Fröhlich, *Zwettler Stadtgeschichte(n)*, 2 vols. (Schwarzach, 2000–02); M. Scheutz, "Die herrn seint zu Wien, die nahren zu hauß". Stadtregentum und Bürger in österreichischen Kleinstädten der Frühen Neuzeit', in W. Rosner and R. Motz-Linhart (eds.), *Die Städte und Märkte Niederösterreichs im Mittelalter und in der frühen Neuzeit. Die Vorträge des 20. Symposions des NÖ. Instituts für Landeskunde. Zwettl, 3. bis 6. Juli 2000 und der 1. Kurztagung des NÖ. Instituts für Landeskunde und der NÖ. Landesbibliothek 'Das Bild der Kleinstadt', St. Pölten, 23. Mai 2000* (St Pölten, 2005), 204–46.

³ M. Scheutz and Herwig Weigl, 'Ratsprotokolle österreichischer Städte in der Frühen Neuzeit', in J. Pauser, M. Scheutz and Thomas Winkelbauer (eds.), *Quellenkunde der Habsburgermonarchie (16.–18. Jahrhundert). Ein exemplarisches Handbuch* (Vienna, 2004), 590–610 (<http://www.univie.ac.at/igl.geschichte/weigl/ws2006/scheutzweiglratsprotokolle>). pdf, Oct. 2006).

circumstances of individual burghers and their council representation can be clearly shown. Both in Scheibbs and in Zwettl, merchants and innkeepers were greatly overrepresented on the councils. The merchants, who had the additional advantage of interregional contacts, often acted as 'catalysts of urban society'⁴ by virtue of their function as moneylenders.

In Scheibbs, for instance, the twelve local iron merchants clearly dominated the council. They usually made up over half of this twelve-member body. Furthermore, the merchants were well able to afford to participate in politics – compared to other council members, merchants were at council meetings far more often, and they usually stayed on the council longer than representatives of other occupations. For Scheibbs, the documentation on taxes paid shows that a merchant had at his command many times the income of a poor burgher (such as a master hatter or a shoemaker). Small-town residents were well aware of each council member's individual political power. While arguing with the wife of a Zwettl town council member, a butcher was overheard saying that he'd 'rather be a rich burgher than a poor councilman'.⁵

Council composition makes clear fundamental differences between the two towns. With their majority on the council of Scheibbs, the iron merchants were able to dominate the self-administration of the town; in Zwettl, on the other hand, the relative power of the merchants was less, with the trades being more influential. In most cases the merchants and the innkeepers, by virtue of their economic means, were able to establish themselves as the elite in the two small towns examined, assuming the most important positions (such as the office of town chamberlain) within the town administration. The merchants further underlined their status via the prominent position of their houses on the main square, and they also possessed the most monetary wealth when compared to other groups of burghers.⁶

The position of the council members was likewise given clear visual representation and status, for example by their entitlement to special seating in church. Moreover, burghers who were council members had to be given preferential treatment in public, for which reason some towns furnished council members with their own special coats. Church ceremonies underlined also the role of the council; in the minutely planned 'Corporis Christi' processions, for example, the council was allowed to

⁴ H. Knittler, 'Zur Frage der Zentralität. Nachlaßinventare als Quelle frühneuzeitlicher Kleinstadtforschung', in F. X. Eder, P. Feldbauer and E. Landsteiner (eds.), *Wiener Wege der Sozialgeschichte. Themen – Perspektiven – Vermittlungen* (Vienna et al., 1997), 75–94, see 87.

⁵ Stadtarchiv Zwettl, Ratsprotokoll 2–13, fol. 233v (14. XI. 1721); M. Scheutz, 'Vergleichen oder Strafen? "Gute policey" als Ordnungsprinzip der Frühen Neuzeit in den österreichischen Erbländern – das Zwettler Niedergerichtsprotokoll 1669–1698', in V. Bižek and P. Král (eds.), *Gesellschaft in den Ländern der Habsburgermonarchie und ihr Bild in Quellen* (Krumlov, 2006).

⁶ G. Raber, 'Bürgerlicher Alltag im barocken Weitra', in Rosner and Motz-Linhart (eds.), *Die Städte und Märkte Niederösterreichs*, 134–58.

Table 1: Occupational makeup of the councils in Zwettl (86 members, 1676–1780) and in Scheibbs (61 members, 1709–90) during the eighteenth century

	Zwettl	%	Scheibbs	%
Innkeepers/brewers	5	5.81	8	13.11
Merchants	17	19.77	28	45.9
Tradesmen (total)	58	67.44	23	37.71
<i>Foodstuffs</i>	8	9.30	4	6.56
<i>Leather</i>	9	10.47	5	8.20
<i>Metal</i>	3	3.49	3	4.92
<i>Wood</i>	5	5.81	2	3.28
<i>Textiles</i>	23	26.74	3	4.92
<i>Other trades</i>	10	11.63	6	9.83
Providers of services	4	4.65	1	1.64
Occupation unknown	2	2.33	1	1.64
Total	86	100	61	100

Note: Occupational categorization: innkeepers/brewers (full-time innkeepers, master brewers); merchants (all forms of trade: iron traders, merchants); trades: foodstuffs (bakers, butchers, pastry bakers, millers), leather (tanners, master leatherworkers, saddlers, furriers, wheelwrights, glove-makers), metal (locksmiths, blacksmiths), wood (carpenters, cabinetmakers), textiles (cloth-makers, cloth-cutters, weavers, tailors, sock-knitters), other trades (masons, potters, glassblowers, hatters); providers of services (civil servants, barber-surgeons, pharmacists).

Source: Stadtarchive Zwettl and Scheibbs, council protocols from Zwettl, 1676–1780, and Scheibbs, 1709–90.

distinguish itself by carrying the baldachin above the sacrament and the priest, with the city judge following immediately behind this group. In doing so, his position and status within the town received additional emphasis.⁷

In spite of all this, the councils of Austria's small towns were not usually unable to segregate themselves entirely from the 'lower' social strata. There were plenty of attempts on the part of the town council to express 'rulership' both visually and spatially: the town hall, as the centre of the council's power within the town, was not only the site of the town council's and town court's meetings, but also the place where punishments were administered. The stocks, for example, were usually located in front of the town hall, and a jail cell inside served to imprison disobedient burghers.

⁷ M. Scheutz, 'Kaiser und Fleischhackerknecht. Städtische Fronleichnamsprozessionen und öffentlicher Raum in Österreich während der Frühen Neuzeit', in Th. Aigner (ed.), *Aspekte der Religiosität in der Frühen Neuzeit* (St Pölten, 2003), 62–125.

By means of the clock, usually mounted on the town hall, as well as by means of the official scale inside (not to mention the units of measurement and weights displayed on the building) the council made visible the order and weight of justice which it imposed upon the town.

Town councils, just like rural manorial authorities, were able gradually to dominate the settlement of conflicts over the course of the sixteenth century; indeed, secret compromises between conflicting parties, without the involvement of courts, were increasingly forbidden. Only the town council could guarantee urban stability. The council, referred to as 'honourable' or often as 'wise', fulfilled its duties in diverse ways and in consideration of the involved parties' social status (burgher or non-burgher, man or woman, foreigner). In conflicts between burghers, council mediation was usually concluded with a ritualistic handshake and the threat of punishment in case of a repeat offence. In some cases, punishment also included jail terms ('Bürgerarrest') and/or monetary fines. The burghers were 'declared good friends once more ... via an apology and the shaking of hands.' Examination of a 363-entry lower court protocol, kept for the town of Zwettl from 1669 to 1698, shows the tendency of town courts (which were identical with the town councils) to strive for peaceful resolutions.⁸

Many normative texts from the sixteenth century onward forbade conflicting parties to 'resolve' their disputes privately. Disputes were to be mediated exclusively by a court representing the authorities. 'Secret resolutions' were made punishable.⁹ Again and again, burghers were punished for, in the eyes of the court, 'trying to be their own judges', thus calling into question the town court as the dominant factor within the town. Hence, the town court became the sole place where disputes between burghers could be dealt with: around 44 per cent of cases brought together two burghers before the court; disputes between burghers and members of the lower classes were significantly less common (c. 13 per cent). Only around 15 per cent of the cases handled in these courts were related to the conflict of a burgher with an outsider, while 12 per cent of cases involved two 'foreign' parties.

The relationship between tradesmen and the council was generally difficult; the city courts were constantly busy with trade disputes – often conflicts within a single trade or within business relationships (such as between butchers and shoemakers). The city court frequently mediated in conflicts such as verbal injuries and violent acts, but usually tended to delegate disputes within a single trade (such as between the guild master and individual master tradesmen) to the guild court. The most common type of conflict was that occurring between two neighbouring

⁸ Stadtarchiv Zwettl, Hs. 5/1. The protocols of inferior law courts comprise cases which do not involve capital punishment.

⁹ Th. Winkelbauer, "Und sollen sich die Parteien gütlich miteinander vertragen". Zur Behandlung von Streitigkeiten und von "Injurien" vor den Patrimonialgerichten in Ober- und Niederösterreich in der frühen Neuzeit', *Zeitschrift für Rechtsgeschichte, Germanistische Abteilung*, 109 (1992), 129–58.

Table 2: *Court decisions in Zwettl, 1669–98*

Verbal settlement of a verbal altercation	192	52.90%
Punishment	67	18.46%
Settlement and punishment	41	11.29%
Suit before court	38	10.47%
'No punishment recorded'	15	4.13%
Other	10	2.75%
Total	363	100%

Source: Stadtarchiv Zwettl, Manuscript 5/1.

occupational groups; the areas of textiles, foodstuffs and leather were particularly conflict-ridden. The butchers, for example, were traditionally involved in serious conflicts with economically and reciprocally related tradesmen such as shoemakers, who made their wares out of the skins provided by the butchers.¹⁰ The bulk of cases dealt with by the town court had to do with physical altercations (41.6 per cent) and 'injuries' (insults, verbal conflicts) (39.6 per cent). At some distance followed theft, sexual crimes (such as adultery, incest) and the 'bad' living of a couple or a family.

The headings chosen by the court for the respective entries into the court protocol read 'compromise' in over half the cases, and only around one fifth of the cases were concluded just with a punishment. The interest of the town court in monetary revenues was not all that acute. The court's strategy with regard to the imposition of fines was informed both by the social status of the parties and by the type of conflict. Verbally manifested conflicts (verbal insults) were overwhelmingly settled with 'compromise'.

Honour, as a central hierarchic element of pre-modern society, was subjected to frequent public tests – in the sense of 'agonistic communication', namely, communication which was intentionally aimed at the honour (positive or negative) of another person.¹¹ In many cases, vaguely described 'indecent diatribes' were held or 'bad words' about an adversary were 'poured out on one of the town's squares'. The most common insult with which male opponents were stigmatized was 'Schelm' (rogue, rascal), followed by 'Dieb' (thief) and 'Spitzbube' (rascal, swindler). Above all, then, property and 'legal integrity' (Ehrbarkeit) were called into question via the exchange of insults.

Women, on the other hand, more often saw doubt cast upon their sexual integrity, or were alleged to practise magic (as in being a 'witch'). The restoration of a 'good' and 'honest' name in the public was important here, and peace within the town was preserved in particular via the threat

¹⁰ F. Neumann, 'Die Schmähung als "Meisterstück". Die Absicherung ständischer Positionen durch Beleidigung unter Lemgoer Kürschnern im ausgehenden 16. und frühen 17. Jahrhundert', *Westfälische Forschungen*, 47 (1997), 621–42.

¹¹ R. Walz, 'Agonale Kommunikation im Dorf der Frühen Neuzeit', *Westfälische Forschungen*, 42 (1992), 215–51, here see 221–3.

of heavy punishment for repeat offenders. Reconciliation between the two feuding sides typically took place before the entire council or individual council members. The activation of third parties was a central element of conflict resolution mechanisms in the early modern period, with the council watching over the restoration of civic peace.¹²

The influence of alcohol played a role as an extenuating circumstance, whereas conflicts in public places (market, square, inn, etc.) entailed harsher punishment. As for conflicts involving violence, one can make out a typical pattern of escalation: initial verbal attacks were followed by blows, for which the head (and here the hair in particular) were primary targets. Only then were hard objects or actual weapons (such as daggers) employed. The public nature of such conflicts, for which favourite locations, alongside the inn,¹³ included the weekly markets and annual fair, was by its very nature suited to touch off a spiral of violence. The attacked party either had to defend itself or take the matter to the town court.

In the case of violent conflicts, the town court was decidedly more sensitive – and tougher – in its ‘approach’: in around half of the cases, monetary fines were imposed. Formal apologies, in other words the formal settlement of the conflict between the perpetrator and the victim, and particularly imprisonment played a far more prominent role in resolving violent conflicts. The town council seems to have had only limited interest in general prevention via the threat of punishment – much more important was the ‘normative guidance’ of the subjects. The town court was not so much interested in the literal implementation of the norms, but rather in ‘mediation’ and the ‘negotiation’ of punishments.¹⁴ ‘Manifold appeals’ of relatives, wives or neighbours could significantly lower or even eliminate monetary fines.

In the seventeenth century, at least at the level of the burghers, compromise between culprits and victims predominated, which the town court (in a way that strikes one as quite modern) believed to be far more conducive to the preservation of public order than the simple imposition of jail sentences and time on the pillory. The actions of the town council reveal their conception of ‘good policing’ and discipline in general, and particularly the connection between judicial punishment and ‘good order’.¹⁵ The councils of small towns in Austria were not so much concerned with ‘enforcing norms’, but much rather with social control.

¹² B. Krug-Richter, ‘Konfliktregulierung zwischen dörflicher Sozialkontrolle und patrimonialer Gerichtsbarkeit. Das Rügegericht in der Westfälischen Gerichtsherrschaft Canstein 1718/1719’, *Historische Anthropologie*, 5/2 (1997), 212–28, here 227.

¹³ M. Scheutz, ‘“Hab ichs auch im wüthshaus da und dort gehört ...”. Gaststätten als multifunktionale Orte im 18. Jahrhundert’, in M. Scheutz, W. Schmale and D. Štefanová (eds.), *Orte des Wissens. Jahrbuch der österreichischen Gesellschaft für die Erforschung des 18. Jahrhunderts*, 18/19 (2004), 167–201.

¹⁴ A. Landwehr, ‘Normdurchsetzung in der Frühen Neuzeit? Kritik eines Begriffs’, *Zeitschrift für Geschichtswissenschaft*, 48 (2000), 146–62.

¹⁵ K. Härter, ‘Soziale Disziplinierung durch Strafe? Intentionen frühneuzeitlicher Policeyordnungen und staatliche Sanktionspraxis’, *Zeitschrift für Historische Forschung*, 26 (1999), 365–79.

Social control was achievable not only via punishment, but also through the means of negotiated and context related variations from the baseline of such standard punitive practice, such as mercy and a voluntary lowering of punishment (after having received excuses by relatives, the family of the offender and so on). Town councils were very flexible in their imposition of punishments, with one and the same offence having widely varying consequences depending on various causative factors, such as neighbourhood, social status of offender and offended person, involvement of foreigners or inhabitants of the town, gender.

The town council was, above all, concerned that the former conflicting parties have only 'kind and good' things to say about each other in the future. In the case of quarrelling married couples – where it was mostly the wife who activated the courts – the city court generally decided in favour of a 'compromise' or imposed monetary fines and jail terms. In several cases, the court was content to threaten jail sentences or the loss of one's status as a burgher – the economic integrity of the household and the fear of a 'fallow' household were far more significant than punishments actually imposed.

When two burghers of Zwettl traded blows within the market area, the instigator of the fight was sentenced to pay half a 'taler' to his opponent – but the punishment was eventually dropped due to 'manifold appeals'.¹⁶ Punishments were also tailored precisely to the offender and his or her social status: jail terms could be 'served' in the cellar, in the 'burghers' jail', in one of the city towers or in the house of the beadle. In general, appeals for reduction (particularly of monetary fines) had good chances, more so in the case of verbal conflicts than in violent altercations. Punishments were even transferrable from women to men. In one case, a Zwettl burgher had to go to prison for his wife, who had publicly dealt a blow to a gatekeeper. The 'father of the house' was brought before court for his wife's outburst, and had to go to jail 'in place . . . of his wife'. Before doing so, he also had to beg the gatekeeper's forgiveness in the name of his wife.¹⁷

In conflicts between spouses, the town council usually tried to restore good faith; separations of 'table' and 'bed' were almost never mandated, as the economic viability of the 'household' in the town was to be left undiminished. Squabbling couples were sternly warned to make amends, usually in connection with the threat of punishment in the case of a repeat offence.¹⁸

Only in the case of sexual crimes (such as incest or adultery), or of crimes against property, did the 'mildness' of the city court find an abrupt end; in these cases there were high monetary fines, or – for thieves – banishment from town. In a protocol encompassing 700 convicted males and 97 convicted females, the pillory only appeared once in the case of theft, with

¹⁶ Stadtarchiv Zwettl, Hs. 5/1, fol. 55r (22. V. 1685).

¹⁷ Stadtarchiv Zwettl, Hs. 5/1 fol. 42r (19. I. 1680).

¹⁸ C. Hermann, *Geschlechterrollen im Zwettl der Frühen Neuzeit* (Zwettl, 2005).

the 'Schandfiedel' – a violin-shaped plate fixed on the neck of the penalized person and intended to shame its wearer, a typical women's punishment, perhaps a parallel to the scold's bridle – appearing seven times.¹⁹ While the council handled conflicts between burghers in a mediatory fashion and out of general public view, its behaviour towards members of the lower social classes was markedly more aggressive: servants were put in the pillory or threatened with banishment from the town.

The behaviour of a given council towards its town produced definite reactions; in Austrian small towns, as elsewhere, numerous 'challenges to the authorities'²⁰ can be detected: either the entire council or individual council members came under verbal attack and, as a result, felt provoked. In general, high standards were applied to and expected of the behaviour of council members. As it was often noted in Austrian municipal codes, council members were to be decent, God-fearing, pious and discreet. Council secrets and vote results, in particular, were to be held in strict confidence. The insults often directed at council members shed some light on the high standards expected of them: one utterance made against a council member was that 'he is not worthy of being on the council; he is a rogue'.²¹ Verbal aggressors took a calculated risk with such tirades, for their public utterances often reached the ears of the council and forced a public response.

The city judge (as the elected head of the town) and the town chamberlain (its financial manager) were often faced with insults. One burgher shouted: 'Our city judge is like an old woman', and that the chamberlain was 'a real "grain-Jew"'.²² The official power of the individual council members could be publicly called into question, in that town residents attempted to play out the council against the city judge: 'One need not at all ask such a councilman; the city judge alone is the boss.'²³ The towns seemed full of insults aimed at individual council members. Council members were called 'rascal' or 'crook'. One council member was called a 'bad councilman',²⁴ and the wife of another member was ridiculed as a 'great councilwoman'.²⁵ The diminutive form, 'Ratsherrl',²⁶ can be found as well. The council's assignment of civic responsibilities – such as the division of the tax burden among the populace, or the quartering of soldiers in town – elicited particularly intense reactions. Its position thus compromised, the council limited itself to imposing public apologies as

¹⁹ Stadtarchiv Zwettl, Hs. 5/1 fol. 37r (21. X. 1678), fol. 43v (12/ VI. 1682), fol. 43v (17 VI. 1681), fol. 48v (18. VIII. 1681), fol. 56r (30. VII. 1685).

²⁰ J. Eibach, *Frankfurter Verhöre. Städtische Lebenswelten und Kriminalität im 18. Jahrhundert* (Paderborn, Vienna et al., 2003), 136–55.

²¹ Stadtarchiv Zwettl, Ratsprotokoll 2–10, p. 227 (28 Nov. 1648).

²² *Ibid.*, Ratsprotokoll 2–12, fol. 173v (1 Aug. 1648).

²³ *Ibid.*, Ratsprotokoll 2–13, fol. 79v (23 Jun. 1712).

²⁴ *Ibid.*, Ratsprotokoll 2–13, fol. 314v (20 Apr. 1725).

²⁵ *Ibid.*, Ratsprotokoll 2–13, fol. 320r (26 Jul. 1725).

²⁶ *Ibid.*, Ratsprotokoll 2–10, p. 504 (31 May 1655).

punishment, with the verbal offenders usually required to apologize to several councillors, thus symbolically apologizing to the entire council.

A question which can be only partially answered is how the council's 'rule' within the town was enforced and regulated. For the most part, the town council only employed a few officers, such as the beadle and court usher, who can be viewed as having been the council's 'police'. The beadle was required to perform all sorts of tasks: he had to assist in overseeing the weekly markets, exercise a police-like function at yearly fairs, manage the city prison, collect taxes, play the 'right-hand man' of the market judge in many contexts, monitor obligatory church attendance on Sundays and holidays, keep beggars out of town and so on.

In light of this plethora of responsibilities, his policing function – which included the squelching of altercations and/or the arrest of incorrigible belligerents – was rather a minor aspect of the job. Beadles suffered frequent physical injuries while doing their work. Particularly dangerous for them were jurisdictional conflicts with other landed estates bordering on the town. The beadles served as the 'buffer' between the town councils and the subjects; a particularly hazardous part of their jobs was the execution of council directives (such as the posting of sale notifications on a house and the summoning of subjects before court).

On the other hand, there are numerous indications of violent behaviour on the part of the beadles during just such activities. The subordination of the beadle to the other burghers was also expressed in the social obligation of the beadle to doff his hat before all burghers. The beadle of Scheibbs, who repeatedly neglected to do so, was seriously insulted by a burgher in response. The beadle was ordered 'never again to . . . boldly appear before a burgher with his head covered'.²⁷ The burghers being policed repeatedly resisted attempts to monitor them, which they felt violated their private spheres. One night watchman, for instance, was accused of illegally having opened a door during the night, and another watchman was jumped on and tied up with rope by drunken journeymen.

The lack of enforcement personnel means that the council had to rely less on the enforcement of its rule by violent means than on the co-optation of the burghers into its system of governance and the preservation to the greatest extent possible of the normative forces inherent in the community itself.²⁸ The high number of offices to be filled annually by burghers helped to provide the council with broad-based legitimacy.

²⁷ J. Pauser, *Der Zwettler Gerichtsdienner in der Frühen Neuzeit. Zur Rechts- und Sozialgeschichte eines subalternen städtischen Exekutiv- und Justizorgans* (Zwettl, 2002); M. Scheutz, 'Diener zweier Herren. Der zwischen Land- und Niedergericht zerrissene Gerichtsdienner des Marktes Scheibbs im 18. Jahrhundert', in A. Holenstein, F. Konersmann, J. Pauser and G. Sälter (eds.), *Policey in lokalen Räumen. Ordnungskräfte und Sicherheitspersonal in Gemeinden und Territorien vom Spätmittelalter bis zum frühen 19. Jahrhundert* (Frankfurt am Main, 2002), 223–45.

²⁸ See F. Battenberg, 'Klein- und mittelstädtische Verwaltungsorgane in der Frühneuzeit in Hessen. Ein Beitrag zur städtischen Verfassungsgeschichte des 16. und 17. Jahrhunderts', in W. Ehbrecht (ed.), *Verwaltung und Politik in Städten Mitteleuropas. Beiträge zu*

In Scheibbs, with its 450 inhabitants, 23 offices had to be filled annually by 39 (mostly male) individuals – in a town with just 66 burghers.²⁹ A sort of ‘cursus honorum’ through the offices can be made out: young burghers were first appointed either as ‘gate-lockers’ – a sort of key service for one of the town gates – or as fire inspectors (organization of firefighting and inspection of chimneys in their neighbourhood).

The most highly regarded offices were those with such tasks as monitoring the price or quality of meat and monitoring the weight of bread for sale. Foodstuffs inspection was followed by the administration of the burgher’s hospital and the office of school commissioner. Indeed, here we can see a definite association between economics and a political position, because the merchants secured these presumably most important posts for themselves; in fact, they had a near-monopoly on them. Around a third to half of all burghers had to fill an average of one of these many offices, thereby participating in these towns’ self-administration. Council audits of the major offices’ accounting practices were intended to counter the rumours of irregular administration circulating in many towns. Fire prevention, supervision of (weekly and yearly) markets, the inspection of meat, bread and fish, compliance with closing times and other such things were taken care of by the office-holding burghers.

The important offices, in particular (such as the administration of the burgher’s hospital, usually the largest facility in the town), were reserved for the elite among the burghers, as was the office of town chamberlain which, with its financial responsibilities, was a special privilege of long-serving council members. Nearly all the offices accessible to burghers featured the insurance measure of double appointment. The individual officers were expected to monitor and regulate each other, both to prevent abuse of the position and to ensure the greatest possible participation of the townspeople in the administration of their town.

Alongside the broadening of council rule via the appointment of burghers to offices, there were frequent full meetings of the council together with the whole collective group of burghers (known as the ‘Taiding’). On an average of six times a year, all burghers came together from the sixteenth to the eighteenth centuries at least to hear publicly the auditing reports submitted, and they also had the opportunity to present their various ‘petitions’ before the council in person.

Especially important points of negotiation at these meetings were things like the discussion regarding closing times of inns, which had to remain closed during church services. The adherence to evening closing times, as well, was often raised at these meetings. Burghers could also bring in

Verfassungsnorm und Verfassungswirklichkeit in altständischer Zeit (Cologne, Weimar and Vienna, 1994), 221–53.

²⁹ M. Scheutz, ‘Formen der Öffentlichkeit in einem grundherrschaftlichen Markt des 18. Jahrhunderts. Die Scheibbs’er Taidinge als Versammlungsort der Bürger’, *Mitteilungen des Instituts für Österreichische Geschichtsforschung*, 109 (2001), 382–422.

complaints about the meat price or bread weights, both of which were set by the council.

A regular and almost stereotypical subject of negotiations at these 'Taidingen' was the report on the condition of the chimneys and on fireplaces which were not up to code – there were building standards for chimneys and places endangered by fire.³⁰ Around a third of all council meetings listed in the council protocols were 'public', that is, open to all male burghers. These meetings of all the burghers within individual towns were undertaken not simply in order to minimize conflict and maintain urban stability; they also served to publicize laws legislated by the authorities, which were read to the burghers in abbreviated form. Between 1740 and 1764, an annual average of 64 legal drafts ('patents') were read before any given burghers' council. Quite frequently, the formal approval of budgets for the individual offices also took place – often years late – at these full meetings; these meetings of burghers, therefore, provided at least the theoretical opportunity to scrutinize a town's finances. These 'Taidingen' also witnessed elections for the various burgher-accessible offices, which made the distribution of power visible to all participants.

Alongside the full meetings of all burghers, there were often executive committees on specific themes affecting the whole community: for example offences of the town's trade monopoly within the region around the city, the bread price or the price for different kinds of meat (beef, veal, pork). The burghers' rifle associations, which every burgher had to join for a certain time to ensure the defence of the city, along with the baroque fraternities (for example Corporis-Christi-fraternity) present in nearly all towns helped to create an egalitarian element within the community of burghers and foster their presence within the civic context.

Conclusion

Throughout the early modern period, the small towns of Lower Austria suffered from a steady loss of power with relation to the outside world as they became increasingly mired in tax debts. Inwardly, however, the councils – dominated by the economically more prosperous representatives of the burghers – followed a multi-layered, participatory model of urban civic rule in their attempt to involve all resident burghers in government and maintain urban stability.³¹

In particular, the close relationship between judicial punishment and 'policing' played a significant role in the maintenance of peace in towns,

³⁰ T. Wache-Kowarsch, "'Das liebe feür'. Frühneuzeitliche Feuerbeschau in landesfürstlichen Städten und Märkten. Zwettl und Perchtoldsdorf im Vergleich', in F. Moll, M. Scheutz and H. Weigl (eds.), *Leben und Regulieren in einer kleinen Stadt. Drei Beiträge zu Kommunikation, Fürsorge und Brandgefahr im frühneuzeitlichen Zwettl*, NÖ. (St Pölten, 2006), 111–205.

³¹ See the case Görlitz L. Behrlich, *Städtische Obrigkeit und soziale Kontrolle. Görlitz 1450–1600* (Epfendorf, 2005), 231–42 (English summary 243–7).

with the resolution of conflicts entailing, above all, that the 'evildoers' mend their ways. The authority of the council within the town was based on the broad participation in its activities, and the office-holding elites within the council – especially the merchants and innkeepers – secured for themselves the most important functions within the town's autonomous administration. The verbal challenges to the council in form of insults from burghers suggest that this monopolization of power was often contested, though not under serious threat.

The pillories of the most towns in Lower Austria – and therefore the visualization of the town council's authority in disciplinary and punitive power – were situated in the most important squares of the towns. These were also the locality of the weekly markets. The weekly markets again were the most important site of aforementioned 'agonistic communication', often in form of offences of 'Ehre' (honour).

Major offences of honour by inhabitants were seldom followed by a punishment at the pillory. Increasingly, the workhouses and detention houses of the central state took over the authority for punishment.³² The 1727 displacement of the stocks in Zwettl – which had been renovated just shortly before – in favour of a massive column depicting the Holy Trinity showed clearly the changing function of 'urban stability'.

The council placed far less emphasis on punishment than it did on a visualization of common 'welfare' for the entire town populace. Council members increasingly idealized faith in God's goodness, symbolized by the Column, in the sense of 'good policing', rather than a civil order enforced by punishment: the construction of the Trinity Column took place 'in order that almighty God might grant protection from all plagues and illnesses; for this reason, it is – pro decore civitatis – quite appropriate, that the Column of Honour be built upon the place where the old stocks once stood'.³³

The council as a punishing authority was thus replaced by a collective prayer of the city church congregation. It was evident that council rule over the burghers via mere enforcement (especially because there was just one court usher for nearly 1,000 inhabitants) had little chance of success. Urban stability and peace within early modern small towns in Austria were based, on the one hand, on the authority of the father/mother as heads of the household, and, on the other hand, on reciprocal control by neighbours and house-owners within the town. Punishment of delinquents or the control of town life by officers of the town council (such as the beadle), however, also played a minor but formative regulatory role.

³² G. Ammerer and A. Weiss (eds.), *Strafe, Disziplin und Besserung. Österreichische Zucht- und Arbeitshäuser von 1750 bis 1850* (Frankfurt am Main, Vienna et al., 2006).

³³ Stadtarchiv Zwettl, Ratsprotokoll 2–13, fol. 353r (16 May 1727).