

HOT AND COLD

*History, Casuistry, and Literature
in Schiller and Kleist*

The epistemological standard for the practice of observation at the end of the eighteenth century is for the observer to be *cold*. The subject shall speak for itself and must be protected from hasty conclusions and prejudices. Johann Karl Wezel advised the pedagogical observer to remain a “cold spectator” and not to interfere with the object of observation,¹ and Karl Philipp Moritz repeatedly emphasized the importance of cold self-observation as a basic requirement for the project of *Erfahrungsseelenkunde*. The observer of man must begin with himself before being able to observe others. Know thyself—*gnothi seauton*—is the most important requirement for becoming a successful observer and contributor to empirical psychology. He must observe everything that happens “as if

1. Johann Karl Wezel, “Über die Erziehungsgeschichten,” in *Gesamtausgabe in acht Bänden*, vol.7, ed. Jutta Heinz and Cathrin Blöss (Heidelberg: Mattis Verlag, 2001), 438.

it were a play” and the people “as if they were actors.” And he himself must become part of this observation “as if he were a stranger” whose stories of fortune and misfortune he needed to hear with “coldblooded attentiveness.”² In his novel *Anton Reiser* Moritz had implemented his “Versuch für ein Magazin zur Erfahrungsseelenkunde.” The novel is a literal translation of the program of cold observation into storytelling: under the name Anton Reiser, the author Karl Philipp Moritz objectifies his own biography and tells his own story from the distance of an impartial spectator. Although awareness of the autobiographical nature of the material contributes to an understanding of the novel as a programmatic attempt to implement the demands of *Erfahrungsseelenkunde*, *Anton Reiser* is more than a mere autobiography.

Moritz’s psychological novel implements the coldness of observation by means of cold narration, and thus develops a model for telling individual histories that can both claim historical truth and have value for general psychological cognition. Telling true stories that contribute to a knowledge of human nature without interfering with the object is the task of Moritz’s *Erfahrungsseelenkunde* as well as that of literary authors who are no longer content with merely entertaining an audience. They hear the call to contribute to the anthropological project of the eighteenth century.

In this context, Friedrich Schiller published his novella *The Criminal of Lost Honor* in 1786. In the spirit and tradition of the French *Pitaval*, a collection of legal cases published by the French lawyer, François Gayot de Pitaval, in several volumes between 1734 and 1743, the German translation of which Schiller would edit in 1792, his novella intervened in the debate of historical storytelling by framing the story of a criminal with a discussion of its narrative conditions. The preface of Schiller’s novella shows a certain proximity to Moritz’s project when the errors of man are declared to be most instructive for psychology. In difference to Moritz’s *Erfahrungsseelenkunde*, however, Schiller explicitly addresses the problem of

2. Karl Philipp Moritz, “Vorschlag zu einem Magazin einer Erfahrungs-Seelenkunde,” in *Werke I: Dichtungen und Schriften zur Erfahrungsseelenkunde*, ed. Heide Hollmer and Albert Meier (Frankfurt am Main: Suhrkamp, 1999), 802.

observation in conjunction with its representation. The request for cold *observation* in Moritz now turns into the request for cold *narration* and is thus treated as a problem of poetological dimensions. Although Heinrich von Kleist did not explicitly address the poetological questions that Schiller's novella had posed, Kleist's novella *Michael Kohlhaas* is also best understood as a contribution to the discussion of the poetics of cases.³

In the following, I argue that Schiller's *Criminal of Lost Honor* and Kleist's *Michael Kohlhaas* are not only two literary case histories but also, moreover, two cases that comprise what will become distinctions of literature itself: the distinctions between history and story, between history and case, and between case and story. These distinctions are at stake wherever literary texts cite historical material to produce case histories. Rather than merely citing the historical case, these stories refer to the case in history as an instance of storytelling.

A Tear on a Letter

My reading of the two literary cases starts with an episode from Kleist's *Michael Kohlhaas* that functions as the peripeteia of the novella. During his stay in Brandenburg, Michael Kohlhaas, who is trying to avail himself of all legal possibilities in order to settle his

3. Both novellas have been the object of countless interpretations and have also been discussed in the context of the history of psychology and with reference to the genre of the case. Bernd Hamacher sees Kleist's *Michael Kohlhaas* as a critical commentary on Schiller's famous novella and argues that Kleist exposes the limits of the emerging criminal psychology in Schiller's *Criminal of Lost Honor*. (See Bernd Hamacher, "Geschichte und Psychologie der Moderne um 1800 (Schiller, Kleist, Goethe): 'Gegensätzliche' Überlegungen zum 'Verbrecher aus Infamie' und zu 'Michael Kohlhaas,'" in *Kleist-Jahrbuch*, ed. Günter Blamberger, et al. [Stuttgart: J. B. Metzler, 2006], 60–74.) Susanne Lüdemann explicitly discusses both novellas in the context of the emergence of case history, and argues that literature distinguishes itself from other—particularly judicial and medical—discourses by purposefully undermining directive distinctions. (Susanne Lüdemann, "Literarische Fallgeschichten: Schillers 'Verbrecher aus verlorener Ehre' und Kleists 'Michael Kohlhaas,'" in *Das Beispiel: Epistemologie des Exemplarischen*, ed. Jens Ruchatz, Stefan Willer, and Nicolas Pethes [Berlin: Kulturverlag Kadmos, 2007], 208–223.)

conflict with the junker Wenzel von Tronka, receives a letter from his lawyer in Dresden with bad news. The message reports the denial of his legal dispute against the junker, and causes Kohlhaas to let a tear drop onto the letter. The mayor, who notices this reaction, approaches Kohlhaas to ask the reason for this surprising emotion, and promises to help him in this matter of obvious injustice. But the mayor's advocacy is without success; the court issues a resolution to vilify Kohlhaas as a troublemaker and orders him to refrain from bothering the Chancellery "with such paltry and pitiful affairs."⁴ This second dismissal of his legal request leaves Kohlhaas devoid of any hope of finding justice via the law, and this time his reaction is much less controlled: "Having read the letter, Kohlhaas . . . seethed with anger."⁵ With his trust in the law deeply injured, Kohlhaas decides to claim justice for himself by taking the law into his own hands, and thus enters the path that will turn him into "one of the most upright and at the same time terrible men of his time."⁶

In more than one way, this episode is important for Kleist's narrative of the horse dealer Kohlhaas, whose sense of justice is irreparably shattered.⁷ On the one hand, in precisely this passage Kohlhaas loses his confidence in the law and sees no alternative but to seek justice for himself. On the other hand, the description of Kohlhaas's emotions and affects clearly has psychological inten-

4. Heinrich von Kleist, "Michael Kohlhaas," in *Selected Prose of Heinrich von Kleist*, trans. Peter Wortsman (Brooklyn: Archipelago, 2010), 161. (All English quotations are from this translation.)

5. Kleist, "Michael Kohlhaas," 161.

6. Kleist, "Michael Kohlhaas," 143.

7. Joachim Rückert has rightly pointed out that Kleist uses the word *Rechtgefühl* instead of *Rechtsgefühl* in his *Kohlhaas*. In this small semantic shift, Rückert sees a manifestation of an ethical law and a moral sense that runs parallel to the positive law and guarantees its abidance. See Joachim Rückert, "'... der Welt in der Pflicht verfallen ...' Kleists 'Kohlhaas' als moral- und rechtsphilosophische Stellungnahme," in *Kleist-Jahrbuch*, ed. Hans Joachim Kreutzer (Berlin: Erich Schmidt Verlag, 1988/1989), 357–403. An important contribution to this discussion can be found in Dania Hückmann, "Unrechtes und Ungerechtes: Rache bei Kleist," in *Heinrich von Kleist: Konstruktive und destruktive Funktionen von Gewalt*, ed. Ricarda Schmitt, Séan Allan, and Steven Howe (Würzburg: Königshausen & Neumann, 2012), 231–246.

tions and offers insights into his emotional state that make his subsequent actions comprehensible on this level. In the following, I argue that this sequence, proceeding from a tear on a letter to an outburst of fury, has specific relevance for the story and its narrative structure.

It is telling that the original version of *Michael Kohlhaas* Kleist published in the journal *Phöbus* in 1808 shows certain omissions in this passage: the whole episode of the first letter onto which Kohlhaas sheds a tear is missing. Instead, Kohlhaas only receives one negative message, and it is this letter that causes him to burst into rage and triggers his crusade for justice.⁸ Only in the revised version of the book in 1810 is this initial moment further delayed. What could have been the reason for Kleist to revise precisely this passage and to defer Kohlhaas's furious outburst?

Anthony Stephens, who briefly discusses this passage, emphasizes the psychological expedience of this later addition.⁹ Indeed, there is no plot-related relevance that would have made this addition necessary. Since the unsuccessful attempt of the mayor to advocate for Kohlhaas adds nothing new to the overall plot, it is a compelling conclusion that Kleist wanted to highlight the psychological development of his protagonist in more detail and depth.

This circumstance brings up the question that has dominated the scholarly discussion of *Michael Kohlhaas* in the past three decades: the question of the relation between literary and historical narrative, which the novella's title addresses with the subtitle "From an Old Chronicle."¹⁰ With the episode of the tear that Kohlhaas lets fall onto the letter, Kleist has, purposefully or not, inserted a reference to a text, in which the question of historical narrative is

8. Heinrich von Kleist, "Michael Kohlhaas [Phöbus-Fassung]," in *Sämtliche Werke und Briefe*, vol. 2, ed. Helmut Sembdner (Munich: dtv, 1993), 292.

9. See Anthony Stephens, "Eine Träne auf den Brief: Zum Status der Ausdrucksformen in Kleists Erzählungen," in *Kleist: Sprache und Gewalt* (Freiburg: Rombach, 1999), 160.

10. See Carol Jacobs, *Uncontainable Romanticism: Shelley, Brontë, Kleist* (Baltimore: Johns Hopkins University Press, 1989); and Rüdiger Campe, *The Game of Probability: Literature and Calculation from Pascal to Kleist*, trans. Ellwood H. Wiggins Jr. (Stanford, CA: Stanford University Press, 2013).

programmatically discussed on a poetological level: Schiller's 1786 novella *The Criminal of Lost Honor*.¹¹ Prevented from crossing the border because of bad luck and misunderstanding, the wanted robber and murderer Christian Wolf, now at the end of his attempt to escape from the authorities, surrenders and turns himself in to the judge with the following words: "You still have no idea?—Write to your prince how you found me, and that I betrayed myself of my own free will—and that God will have mercy on him some day, as he will have on me now—plead for me, old man, and shed a tear on your report: I am the Innkeeper of the Sun."¹²

But there is more evidence that Kleist referenced Schiller's novella in *Michael Kohlhaas*. After the death of Kohlhaas's wife, as a result of her desperate attempts to prevent the looming disaster, Kohlhaas answers her last wish that he would forgive his enemies by quietly promising to himself: "Let God never forgive me if I forgive the Junker!" [so möge mir Gott nie vergeben, wie ich dem Junker vergebe!].¹³ Both Anthony Stephens and Bernd Hamacher have identified this promise as another reference to Schiller's "Host of the Sun," Christian Wolf, who in the passage quoted above uses a similar phrase to ask for forgiveness, "that God will have mercy on him some day, as he will have on me know." And yet, although the intention of the clemency plea to the Prince would be unmistakably clear, the analogous passage in Kleist's *Kohlhaas* lacks this decisiveness because the German "vergeben" (to forgive) can also be read as "vergelt" (to repay).¹⁴ Hamacher concludes that Kleist is

11. Although I am not the first reader to identify a connection between the two novellas in regard to the motif of a tear on a legal letter (most prominently, see Stephens, "Eine Träne auf den Brief"), my overall argument in regard to casuistic forms of writing does not depend on whether or not Kleist consciously refers to Schiller's text.

12. Friedrich Schiller, "The Criminal of Lost Honor: A True Story," in *Schiller's Literary Prose Works: New Translations and Critical Essays*, ed. Jeffrey L. High (Rochester, NY: Camden House, 2008), 55.

13. Kleist, "Michael Kohlhaas," 168.

14. "Vergeben' kann hier im Sinne von 'vergelt' gelesen werden, so dass konträre Paraphrasen möglich sind: 'Ich hoffe, dass Gott mir meine Taten nicht in gleicher Weise vergilt, wie ich die Taten des Junkers vergelte,' oder auch: 'Gott möge mir gnädiger sein, als ich es dem Junker gegenüber bin,' aber auch ganz im

systematically attempting to dissolve clarity where Schiller attempts to produce it. This also applies to the motif of the tear on the letter that Kleist uses almost conversely to its reference to Schiller. First of all, Kohlhaas himself lets a tear fall onto the letter, while Schiller's protagonist Christian Wolf asks the superior to do him the favor of writing on his behalf and to sign the letter with a tear. Whereas in Schiller's lachrymose scene we witness the criminal's effort to obtain advocacy, in Kleist's we see the loss of support. The letter that Kohlhaas receives and wets with his bodily fluid makes him understand that his lawyer cannot do anything for him, and that he is left to his own devices in his quest for justice. In both cases, the tear on the letter has a certifying function; it indicates an immediate testimony that the writing in documents can only ever produce through mediation. But in Schiller the tear on the letter remains a fictitious testimony, as Christian Wolf's request appears to be nothing other than the rhetorical instruction for his advocate to get in the right mood to appeal convincingly for the criminal's amnesty, and finally to drop a tear on the letter as evidence of the request's authenticity and pureness. In Kleist's novella the tear on the letter fulfills a very different task. The motif does not appear at the end of the novella as in Schiller. Instead, it appears at the very point in the novella when the plot turns around, at its peripeteia. The tear that Kohlhaas drops onto the letter conveys new insight into the story that had so far been contained by framing the novella as having been taken from an "old chronicle" and by the immense use of documents. More than ninety of these documents can be counted in Kleist's novella, among them the prophecy of a gypsy woman that remains secret throughout the novella and that the end of the text proclaims must be read about in history.¹⁵ I argue that there is a

Gegenteil: 'Gott möge mir nie vergeben, falls ich dem Junker vergebe.'" (Hamacher, "Geschichte und Psychologie," 69.)

15. See Stephens, "Eine Thräne auf den Brief." More recent studies on the traffic of documents in *Michael Kohlhaas* can be found in Friedrich Balke, "Kohlhaas und K. Zur Prozessführung bei Kleist und Kafka," *Zeitschrift für Deutsche Philologie* 130, no. 4 (2011): 503–530, and Rupert Gaderer, "Michael Kohlhaas (1808/10): Schriftverkehr–Bürokratie–Querulanz," *Zeitschrift für Deutsche Philologie* 130, no. 4 (2011): 531–544.

connection between this prophetic note that Kohlhaas will eventually swallow, which turns him into the mute witness and keeper of history, and the tear that he drops onto the disappointing letter from his lawyer. To convincingly make this argument, it is necessary to follow the reference to Schiller's *Criminal of Lost Honor* in more detail.

Cold (Schiller)

It is not surprising that Kleist's *Kohlhaas* references Schiller's novella. Beyond the motif of the tear, the two texts share a number of references. Both novellas refer to historically documented cases and position themselves in a popular contemporary tradition tracing back to the collections of remarkable and interesting criminal cases collected and published by the French lawyer François Gayot de Pitaval in the mid-eighteenth century. *Pitaval* stories, as they are metonymically called, were generally understood to be presentations of legal cases that presented psychological complexities in conjunction with judicial proceedings. They aimed to entertain and educate an audience consisting of academics and laymen alike. Friedrich Schiller showed his appreciation for the value of this work, when he agreed to be the editor of the 1792 German edition, translated by Carl Wilhelm Franz and Friedrich Immanuel Niethammer, and published under the title *Merkwürdige Rechtsfälle als ein Beitrag zur Geschichte des Menschen*. In the preface to his edition, Schiller begins with a lament about the unfortunate state of popular literature: "Inspid novels destructive of taste and morality, dramatized stories, so-called ladies' books, and the like, constitute to this day the staple of our circulating libraries, and ruin the remnant of sound principles which our stage-poets have not yet destroyed."¹⁶ This complaint targets the popular genre of love and adventure novels that was so vigorously dismissed by literary critics in the eighteenth

16. Friedrich Schiller, "Preface to the First Part of the Celebrated Causes of Pitaval," in *Schiller's Complete Works*, vol. 2, ed. Charles J. Hempel (Philadelphia: I. Kohler, 1861), 458.

century. The new literature that Schiller, Moritz and others demanded sought to be of educational use, a literature of *Bildung* that would foster critical thought and direct it toward worthy aims. Schiller was convinced that the collection of Pitaval's criminal cases would be of such use when he agreed to lend his name to the German edition. This honorable commitment had poetic as well as anthropological reasons:

[The present work] contains a number of judicial cases which, in point of interest, complication, and variety of objects, almost rival a romance [*Roman*] and have moreover the advantage of being historically true. Man is here seen in the most complicated situations exciting our expectation to the utmost, and keeping the reader agreeably employed in exercising his powers of divination in the unraveling of the plot. The secret play of passion is here unfolded to our sight, and many rays of truth are shed over the secret machinations of intrigue, and of spiritual as well as temporal frauds. Motives, which in common life, are hidden from the eye of the observer, become more manifest, where life, liberty, and property are at stake, and in this way the criminal judge is able to cast a deeper look into the human heart. . . . This important gain which is of itself sufficient to justify the commendations bestowed upon this work, is still greatly enhanced by the legal knowledge with which the relation of these cases is interspersed, and which is rendered lucid and intelligible by the individuality of the case to which the legal technicalities apply.¹⁷

According to Schiller, *Pitaval* accomplished what literature had thus far failed to do: to offer insight into the inner history of man, to vividly depict human passion and drives, to artfully arrange the plot, and to guarantee historical truth. Only a few years earlier, Schiller had published his *Criminal of Lost Honor* as an attempt to accomplish this poetic agenda.

Similar to the stories of *Pitaval*, Schiller's novella is based on a historical case. *The Criminal of Lost Honor* refers to the life story of the robber and murderer Friedrich Schwan, who was executed in 1760 and whose case had elicited a lot of public attention. Schiller's historical source was his philosophy teacher Jacob Friedrich Abel, whose father Konrad Ludwig Abel had been the judge

17. Schiller, "Preface," 459.

responsible for the murderer's arrest. But even before Schiller proceeds to the actual story, he takes the case as an opportunity for poetic reflections that echo Aristotle's *Poetics*, particularly the distinction between history, philosophy, and poetry. In his introductory remarks to the novella, just as in his later preface to the German edition of *Pitaval*, Schiller clearly follows an Enlightenment notion of *Bildung* that aims for a general knowledge of human nature by means of the exact observation of the individual; an aim closely related to Johann Karl Wezel and Karl Philipp Moritz's concurrent pedagogical and psychological projects. Schiller writes:

The human heart is something so simple and yet so multifaceted. One and the same capacity or desire can play out in thousands of shapes and directions, can cause thousands of contradictory phenomena, can appear in different combinations in thousands of characters, and thousands of dissimilar characters and events can be spun from the one and the same impulse, even if the individual in question never recognizes the relationship of his actions to those of the rest. If a new Linnaeus were to appear and classify humankind into genus and species according to drives and inclinations, how astonished we would be to find those whose vice must now suffocate in a constricted bourgeois sphere and the narrow confines of the law, together in one and the same species with a monster like Cesare Borgia.¹⁸

Against this background, the “conventional treatment of this story,” which contents itself with following the mere judicial facts and details, would not be suited to the study of “the everyday bourgeois sphere” (Schiller, 39). The distance between the historical subject and the reader would be too great to provide an understanding or even a vague sense of the manifold relations between the actions of the individual human being and the intensity of his emotions: “A gulf separates the historical subject at hand and the reader that preempts any possibility of self-comparison or practical usefulness, and, instead of inspiring a therapeutic sense of terror, which could serve as a warning to an egotistical sense of normalcy, the story

18. Schiller, “Criminal of Lost Honor,” 39.

elicits only a distant, disapproving shake of the head. . . . Lost with the relation is the lesson; and the story, instead of serving as an institution of learning, must make do with the meager accomplishment of satisfying our curiosity" (Schiller, 39–40). In order to contribute to the education of the reader and not to degenerate into some kind of light fiction, the narrative must close the historical gap. This enables the reader to come to an understanding of the historical subject and to learn from the story. The author can choose between two possibilities with which to master this difficult task: "Either the reader must become as heated as the protagonist, or the protagonist must become as cold as the reader" (Schiller, 40).

This is where the mediation between the historical subject and the reader turns into a poetological concern. And yet, as a historian the author does not have a real choice, as Schiller elaborates:

I know that many of the best storytellers of our own time and from antiquity have employed the former method and have appealed to the heart of the reader through a captivating rendering. But this approach is a usurpation on the part of the author and violates the republican freedom of the reading public, who have the right to judge for themselves. At the same time, the method is a transgression of genre boundaries, for it is the exclusive and characteristic domain of the rhetorician and the poet. The historian has no choice but the latter method. (Schiller, 40)

That is to say that the protagonist must cool down to the emotional temperature of the reader, and this must have an immediate effect on the narrative depiction of the historical case. If he wants to become the historiographer of the human soul, and if he wants to meet the standards of historical objectivity, the narrator must abstain from any poetic effort and rhetorical manipulation. Or, to carry forward Schiller's famous anatomical metaphor of the "autopsy of his depravity" (Schiller, 41), the pen must be turned into a scalpel in the hands of the historical author.

In this context, literary scholars have rightly pointed out that Schiller's poetological remarks would be nothing more than a programmatic statement, and Schiller himself does not seem to match up to them in his depiction of the story of the *Criminal of Lost*

Honor.¹⁹ With regard to the form and content of the story, the narrative of Schiller's novella contradicts his claim to poetic abstinence, and furthermore, his refusal of rhetoric is itself rhetorical. The exposition of the novella quite closely follows the precepts of the principium or exordium, introduced by Quintilian as a means to prepare audiences for the purpose of the speech and to secure their sympathy.²⁰ Rhetoric is most effective when it succeeds in being persuasive by not being rhetorical. Schiller's novella is not a true story simply because it is based on historical facts, but rather because it narrates on the assumption that the story is true. The novella itself treats historical truth not in regard to verifiable external facts, but as an effect of narrative. And Christian Wolf's request to the judge to petition for him, by letting a tear fall onto the letter, underscores Schiller's poetic agenda. The tear would be a witness of the true feelings of the criminal, it would testify to his remorse, contribute to the authenticity of his plea, and thus, to the truth of his story.²¹

Hot (Kleist)

When Kleist refers to Schiller's *Criminal of Lost Honor* with the motif of the tear on the letter, he simultaneously references the problem of historiographic objectivity at stake in Schiller's novella. Kleist

19. See Harald Neumeyer, "Unkalkulierbar unbewußt: Zur Seele des Verbrechers um 1800," in *Romantische Wissenspoetik: Die Künste und die Wissenschaften um 1800*, ed. Gabriele Brandstetter and Gerhard Neumann (Würzburg: Königshausen & Neumann, 2004), 157; and Viktor Lau, "'Hier muß die ganze Gegend aufgeboten werden, als wenn ein Wolf sich hätte blicken lassen': Zur Interaktion von Jurisprudenz und Literatur in der Spätaufklärung am Beispiel von Friedrich Schillers Erzählung 'Der Verbrecher aus verlorener Ehre,'" *Scientia poetica* 4 (2000): 95.

20. See Lau, "Hier muß die ganze Gegend," 96.

21. Here, I am following the line of argument of Bernd Hamacher, who writes that the tear "soll eine Wahrhaftigkeit herstellen, die der bloßen Schrift nicht zukommt. Analog auf die Ebene des Textes der Erzählung übertragen, hieße das: Wenn dieser von einer Träne benetzt würde—sei es des Erzählers, sei es des Lesers—, dann wäre der Untertitel nach dieser Vorstellung berechtigt, und es handelte sich um eine 'wahre Geschichte'" (Hamacher, "Geschichte und Psychologie," 68).

also bases his novella *Michael Kohlhaas* on a historically documented case, and he, too, claims historical authenticity for the story, even in its title. While Schiller's novella identifies itself as "true story," Kleist's *Michael Kohlhaas* pretends to be taken from an old chronicle.²² But in Kleist, it is Kohlhaas himself who sheds a tear on the saddening letter. It is his own fate to be abandoned by the law that triggers this bodily affect and that heralds the following acts of terror. Schiller's *Criminal of Lost Honor* ends with the motif of the tear as a call for a narrative that his preface rhetorically rejected as a violation of "the republican freedom of the reading public." In Kleist's text, the same motif marks the very moment of the story's reversal into tragedy.

One might suspect that Kleist is purposefully citing the motif from Schiller so as to deconstruct his poetic dictum. To use Schiller's poetological metaphor: the hero of Kleist's story is effectively heating up in this passage. First, it is only a tear that blurs his vision, but soon the second negative notice will lead to a full outburst of rage and to his violent battle, at once against and in favor of the law. Kleist's *Kohlhaas* itself has been the subject of heated debates. To some, such as the lawyer Rudolf von Ihering, he was a fighter for justice;²³ to others, such as the philosopher Ernst Bloch, he was only a "Paragraphenreiter," a stickler for the letter of the law;²⁴ and to still others, he was a pathologically deranged personality, an opinion to which Goethe's assessment of the horse dealer

22. "Aus einer alten Chronik." In his book *Passions of the Sign*, Andreas Gailus points out Kleist's use of the preposition "aus" instead of the more common preposition "nach" and draws conclusions regarding the relation between history and story: "Unlike the much more common *nach*, which would have constructed a rather loose relation of similarity between the novella and the chronicle, *aus* qualifies this relation in two additional ways: First, in pointing to an act that separates, and hence isolates, the novella from its source; and second, by emphasizing the uneven size of the two texts, implying that the novella is only part of the chronicle. The preposition thus calls attention to the fact that Kohlhaas's story derives from another narrative dealing with a broader and more general subject." (Andreas Gailus, *Passions of the Sign: Revolution and Language in Kant, Goethe, and Kleist* [Baltimore: Johns Hopkins University Press, 2006], 109.)

23. Rudolf von Ihering, *Der Kampf ums Recht* (Vienna: Propyläen, 1900).

24. Ernst Bloch, *Naturrecht und menschliche Würde* (Frankfurt am Main: Suhrkamp, 1961), 93.

as hypochondriac also contributed. One thing is certain: Kleist's *Michael Kohlhaas* did not leave its readers cold.²⁵

Could one therefore claim that Kleist chose the second possible way of storytelling that Schiller dismissed in his novella's preface for the benefit of historical narrative? And if the episode of the tear attests to the author's intention for the reader to warm up just as the hero does, what is the effect on the "republican freedom of the reading public," the violation of which Schiller suspected to be the consequence of this kind of narrative?

Kleist addresses the freedom of the reading public in a passage that has often been the center of scholarly attention. The Elector of Saxony tries by all means to bring into his possession the prophecy concerning his future fate, which Kohlhaas had received from an old gypsy woman and had carried with him in a leaden capsule ever since. In the name of the Elector, his chamberlain pays an old peddler who resembles the woman who originally gave the note to Kohlhaas, tasking her with getting hold of the paper. "Chance" has it, however, that the peddler woman chosen by the chamberlain because of her resemblance is the gypsy woman herself. In good romantic manner, the narrator rises to speak: "And since probability is not always on the side of truth, it so happened that something occurred here which we will report, but which we are duty-bound to permit any reader so inclined to doubt."²⁶

In his book *The Game of Probability*, Rüdiger Campe claims that readers will not be able to profit much from their freedom. If they do not believe in the identity of the women, they will not be able to understand the rest of the novella. And if the women were in fact not identical, the reader would face an even more severe inexplicability.²⁷ At the same time, Campe continues, this episode is not simply the end of the story, but marks the distinction between a novella and a historical transcript "from an old chronicle" as literature:

25. A summary of the debates on morality and constitutional law triggered by the novella can be found in David Ratmoko, "Das Vorbild im Nachbild des Terrors: Eine Untersuchung des gespenstischen Nachlebens von 'Michael Kohlhaas,'" in Blamberger et al., *Kleist-Jahrbuch*, 218–231.

26. Kleist, "Michael Kohlhaas," 246.

27. See Campe, *Game of Probability*, 388.

“The paradoxical poetical formula signals the ending of *Kohlhaas* therefore as the moment when Aristotle’s distinction between poetry, philosophy, and history—and hence the text’s fictional status—is at stake.”²⁸

This distinction of poetry is further supported when Kohlhaas finally swallows the paper with the prophecy that carries the knowledge of Saxony’s future fate and gives the horse dealer the opportunity to take a last and lasting revenge on the Elector of Saxony who has come to witness Kohlhaas’s execution:

The Elector cried out: “Now then, Kohlhaas, the horse trader, you to whom justice has been done, prepare yourself to give your due to His Imperial Majesty, whose legal counselor stands here, and to pay the price for your cross-border disruptions of the peace!” Removing his hat and flinging it to the ground, Kohlhaas said he was ready, and after once again picking up his children and pressing them to his breast, he handed them to the magistrate of Kohlhaasenbrück; and while the latter led them away, quietly weeping, he strode toward the execution block. No sooner had he unwound the kerchief from his neck and opened the pouch, then, with a fleeting glance at the circle of people that surrounded him, he spotted, in close proximity, the gentleman with the blue and white feathers in his hat standing between two knights who half-hid him from view. Taking a sudden stride forward, in a manner alarming to the guards, Kohlhaas untied the tube from around his neck; he removed the slip of paper, unsealed it, and read it through; and with his steady gaze glued to the man with the blue and white feathers in his hat, the latter looking on hopefully, he stuffed the paper in his mouth and swallowed it. At that very moment the man with the blue-and-white-feathered hat trembled and collapsed unconscious. But as his stunned companions bent down to him and lifted him up off the ground, Kohlhaas leaned over the block, where his head fell to the executioner’s axe. Here ends the story of Kohlhaas.²⁹

Not only for the Elector of Saxony but also for the readers of Kleist’s novella, the content of the paper that Kohlhaas swallows remains a mystery. Other than the Elector, however, the readers of Kohlhaas’s story will have access to it in the chronicles of Saxony. For after the end of the story of Kohlhaas has been announced, the reader is advised to look up the rest of the story in history books:

28. Campe, *Game of Probability*, 374.

29. Kleist, “Michael Kohlhaas,” 253–254.

“Soon thereafter, torn in body and soul, the Elector of Saxony returned to Dresden, where chronicles can be found that relate the rest of his story.”³⁰ This ending directly corresponds to the subtitle of the novella disclosing that it has been taken from an old chronicle. One possible interpretation is that here history appears to be the guarantor of poetic truth. In return, this would mean that history had to rely on facts established by means of poetry. One must therefore understand history and poetry to be mutually supportive; one cannot do without the other. The radical distinction between poetry and history, for which Schiller argues in *The Criminal of Lost Honor*, is impossible. Although Kleist’s novella can be read in such a way that it attributes prophetic agency to poetry, it appears to be much more plausible that Kleist’s novella emphasizes the importance of narrative fiction for history. What Kleist’s novella demonstrates in regard to Schiller’s claimed priority of history over poetry is that the (republican) freedom of the reading public is nothing but an empty formula, and the distinction between poetry and history nothing more than a (rhetorical) deception of the reader.

Case and History

The conflict over the distinction between history and story in Schiller and Kleist is framed by the presentation of their novellas as cases that use the narrative of an individual story to reference the more general problem of historical truth. The historicity of a case is necessary neither to support its individuality nor to verify its truthfulness; but it constitutes the circumstances under which the particular case can happen again.

This makes it necessary to further distinguish between case and history, between their specific modes of reference and the particular ways in which they relate to their source. Whereas historical writing is supposed to make available past events based on the unaltered and accurate presentation of original documents, the case presents its source material in reference to an order of knowledge,

30. Kleist, “Michael Kohlhaas,” 254.

to the formation of which it will itself contribute.³¹ One could, therefore, distinguish history and case as two different forms of cognition. Whereas history claims access to a documented truth, the case presents knowledge in an emerging form, pending verification by the very possibility of its repetition.

To this binary distinction of history and case, literature appears to be a third mode. It can be found on neither site of the distinction, since for literature the difference between source and citation is not essential, but rather located on the same ontological level.³² Kleist's references to Schiller in *Michael Kohlhaas* leading to the confusion of history and story are witness to this quality of literature. When Kleist references Schiller, literature is marked as a particular practice of writing that enables reference to the distinction between history and case and at the same time displays their literary means and conditions. To further strengthen this claim, I once again return to Kleist.

The gypsy episode at the end of *Michael Kohlhaas* contains another—albeit indirect—reference to Schiller. In a short anecdote titled “Improbable Veracities” that Kleist wrote only half a year after the novella, he once again uses the formula of probability not always being on the same side as truth. In this anecdote, an old army officer promises to tell three improbable stories that he introduces as follows: “For people demand of truth, as its primary requirement, that it be probable. And yet probability, as experience teaches us, is not always on the side of truth.”³³ At the end of the anecdote and after the audience has listened with astonishment and disbelief, one of the listeners reveals the source of the third story: “The story

31. Hans Lipps gives a similar definition of the case: “Das Besondere eines Falles ist etwas anderes als die dem Begriff einfach entzogene Individualität eines existierenden Gegenstandes. Ein Fall wird auf den Begriff *zu*, aber nicht—wie ein Gegenstand—von dem Begriff *her* nur eben weiterbestimmt. Fälle werden auf einen Begriff *hin* erkannt.” (Hans Lipps, *Die Verbindlichkeit der Sprache* [Frankfurt am Main: Klostermann, 1958], 51.)

32. For a discussion of the logic of literary reference, see Rüdiger Campe and Arne Höcker, “Introduction: The Case of Citation: On Literary and Pragmatic Reference,” in *Germanic Review: Literature, Culture, Theory* 88, no. 1 (2014): 40–43.

33. Heinrich von Kleist, “Improbable Veracities,” trans. Carol Jacobs, *Dia-critics* 9, no. 4 (Winter 1979): 45.

[*Geschichte*] is in the appendix to Schiller's *History of the Revolt of the United Netherlands*, and the author notes expressly that a poet should not make use of this fact, the history writer [*Geschichtschreiber*], however, because of the irreproachable nature [*Unverwerflichkeit*] of the sources and the agreement of the witnesses, is compelled to take it up."³⁴

The irreproachable nature of the source clearly marks the referential stakes of historical discourse. A text qualifies as history when referring to a source that antecedes it. However, if one follows the link to the source of the third story that Kleist's officer tells, one finds a very different presentation of the unlikely event. In Kleist's anecdote, the story is about an ensign who, by the enormous power of an explosion, is transported from one side of the French river Scheldt to the other. Without being harmed and still carrying banner and baggage, nothing but his position seems to have changed. In Schiller's *History of the Revolt of the United Netherlands*, a similar incident is reported in a series of events dealing with a devastating explosion at the river Scheldt and cases of miraculous survival by several people, including the protagonist of Schiller's history, the Duke of Parma himself:

Many had escaped in the most wonderful manner. An officer named Tucci was carried by the whirlwind like a feather high into the air, where he was for a moment suspended, and then dropped into the river, where he saved himself by swimming. Another was taken up by the force of the blast from the Flanders shore and deposited on that of Brabant, incurring merely a slight contusion on the shoulder. He felt, as he afterwards said, during this rapid aerial transit, just as if he had been fired out of a cannon. The Prince of Parma himself had never been so near death as at that moment, when half a minute saved his life.³⁵

The difference in presentation of the same case is remarkable, particularly in regard to the logic of historical storytelling. Kleist's officer presents the event as an isolated and individual case, and,

34. Kleist, "Improbable Veracities," 46.

35. Friedrich Schiller, *History of the Revolt of the United Netherlands*, trans. Lieut. E. B. Eastwick and Rev. A. J. W. Morrison (London: Anthological Society, 1901), 316.

thus, emphasizes its improbability, but Schiller embeds the incident in a series of similar cases with the opposite effect: the story appears less fantastic and more probable. Here, it is not historical truth that justifies the story to be told by the historiographer. Instead, it is the similarity of this event to the event that is important to the overall historical context: the lucky and miraculous survival of the Duke of Parma. Therefore, it is surprising that, according to Kleist, Schiller refers to the Aristotelian distinction between history and poetry in this context. It is even more surprising to find that he in fact fails to do so. Although the source of the third story in Kleist's anecdote can indeed be found in Schiller's *History of the Revolt of the United Netherlands*, Kleist's reference to Schiller's citation of the Aristotelian distinction is a fake.³⁶ When following this fictitious reference concerning the singularity of the historically certified event, one instead finds not a single event but a series of events. Under the premises of the questioned identity of truth and probability, the fake citation reverses the distinction of history and poetry from the *Poetics* just as the ensign in the story switches from one riverbank to the other.

Schiller also uses the Aristotelian distinction between history and poetry to frame the story of *The Criminal of Lost Honor*. In

36. In *Uncontainable Romanticism*, Carol Jacobs presents a reading of this constellation that alludes to the fictitious quote in Kleist's anecdote, and with reference to the problem of the source she concludes: "The single citation we are offered from this source [Schiller's *Geschichte des Abfalls der vereinigten Niederlande*], however, is not, by way of verification, about the siege but about the way in which stories and histories differ in their relationship to their sources: 'that a poet should not make use of this fact; the history writer, however, because of the irrefragable nature of the sources and the agreement of the witnesses is compelled to take it up.' . . . Let us forget for a moment that this citation is nowhere to be found in Schiller. . . . What defines history is that its relationship to its sources is *unverwerflich* ('irrefutable'); they are literally incapable of being dislocated. The text of history is founded upon an 'agreement of the witnesses' to which it simply adds its voice by way of corroboration. History's repetition of its sources verifies their authenticity, as though they were the necessary cause of history, but with the writer's repetition of the text of history all that is shot to pieces. What better proof do we have of this than the passage cited above, which misrepresents its historical source? For Schiller's history, as we have seen, preaches not the valorization of historical truth but the naiveté of believing possible a repair of the rupture his history has just described" (Jacobs, *Uncontainable Romanticism*, 191).

contrast to the series of events that supports the historical case of the lucky survival of the Duke of Parma, it is a single case of an individual that is supposed to carry the weight of the “history of humankind.”³⁷ The claimed truth of the story—or rather its importance as a contribution to the establishment of a future understanding of the human soul—is not guaranteed by a collection of cases, as it was, for example, in Moritz’s *Erfahrungsseelenkunde* and Pitaval’s *Causes célèbres*. Instead, the individual life story of Christian Wolf is supposed to stand in for the general truth of humankind and must therefore certify this truth by means other than historical precision. This might have been the reason that Schiller did not follow the path of historical and *cold* storytelling that he presented as the only valid alternative for not patronizing the reader. Indeed, Schiller does not show much accuracy in regard to the historical case, so that it is possible to conclude that he invented the case *against* its historical sources.³⁸ In contrast to the criminal Friedrich Schwan in Jacob Friedrich Abel’s historical report of the case, Schiller’s criminal is marked by an unfortunate physiognomy, he is socially shunned by women—in short, he appears to be a naturally disadvantaged human being, an outsider of society. Thus, his natural disposition and his subsequent social marginalization hurt his innermost feelings and, fueled by emotions of rage and revenge, drive him further toward a criminal career. In Schiller’s adaptation of the historical case, these insights into the psychological causality of the unfortunate protagonist are responsible for turning the story into a modern case that not only informs our understanding of the motivation of the criminal individual but also intends to establish an understanding of humankind in general. The framework of the story announces its strict following of the historical sources, but the framed story of the criminal’s life authenticates psychological truth by means of poetic imagination and literary empathy. In her discussion of the problem

37. Schiller, “Criminal of Lost Honor,” 39.

38. Here, I closely follow the conclusions from Johannes F. Lehmann, “Erfinden, was der Fall ist: Fallgeschichte und Rahmen bei Schiller, Büchner und Musil,” *Zeitschrift für Germanistik N. F.* 19 (2009): 380.

of truth in Schiller's novella, Gail K. Hart thus argues that in "Schiller's rendering, the choice between evoking either literary empathy or historical understanding seems to fall with literary warmth."³⁹ And similarly, Susanne Lüdemann concludes that the subtitle, "A True Story," would rather refer to poetic, and not so much to historical truth.⁴⁰ Both Hart and Lüdemann make reference to a letter from Schiller to Caroline von Beulwitz in December 1788, in which Schiller specifies the advantage of *inner* over historical truth:

What you say of *history* is certainly right and the advantage of *truth* that history has over novels, could alone elevate it above them. The question is, however, whether the *inner truth*, which I call philosophical and artistic truth . . . does not have as much value as historical truth. That a person in *such* situations feels, acts, and expresses himself in *such a way* is a great, significant fact for humanity and the novelist or dramatist has to get that across. The inner correspondence, the truth, will be felt and acknowledged without the actual occurrence of the event. The usefulness is not to be missed: this way one comes to know *mankind* and not simply *one man*, the human race and not the easily unrepresentative individual.⁴¹

By means of literary empathy, and hence contrary to the dismissal of the poet in the preface of Schiller's novella, the story of Christian Wolf's life exceeds the scope of the individual case and claims universal exemplarity. To convey the internal history of the protagonist, the historical perspective has to be complemented by a different form of observation that is ready to sacrifice historical accuracy for psychological understanding.

Schiller's programmatic preface to *The Criminal of Lost Honor* not only sets up a mode of representation that he then violates in the narrative of the actual story but also sets up a guiding distinction

39. Gail K. Hart, "True Crime and Criminal Truth: Schiller's 'The Criminal of Lost Honor,'" in High, *Schiller's Literary Prose Works*, 229.

40. "Und wenn Schiller seine Novelle im Untertitel 'Eine wahre Geschichte' nennt, so ist damit offenbar die 'poetische', und nicht (oder nicht nur) die historische Wahrheit gemeint" (Lüdemann, "Literarische Fallgeschichten," 216).

41. "Friedrich Schiller an Caroline von Beulwitz (14.12.1788)," in Friedrich Schiller, *Kritische Gesamtausgabe, Bd.2: Schillers Briefe*, ed. Fritz Jonas (Stuttgart: DVA, 1893), 172. (Translation by Hart, "True Crime and Criminal Truth," 228.)

for the reading and interpretation of the entire novella. Not the individual case of Christian Wolf and not even the exemplary case of a criminal must be considered the overarching theme of the novella, but the question of how to tell an individual story in light of general psychological cognition and truth. When Schiller employs literary fiction to complement the historical facts of the story in order to arrive at psychological understanding, it means that the mediation between the particular and the general cannot be accomplished solely on the basis of history but must rely on literary imagination.

This conflict is addressed once again at the very end of the story when Christian Wolf turns himself in and asks the judge for an emotional sign of his sympathy by letting a tear fall onto the report that contains his confession. The guiding poetological distinction between history and poetry that frames the novella is not resolved or even decided by the end of the story. The tension between these two modes of narrative cognition remains intact and the decision regarding how to judge the criminal Christian Wolf is left to the judge and to the reader.

As I argued earlier in this chapter, reading Kleist's *Michael Kohlhaas* as a critical response to Schiller's novella further complicates the leading distinction that Schiller attributes to the literary case history in regard to its realist demand and the truth claim in the subtitle of the story. Both novellas provide an insight into the function of literary fiction for contemporary attempts to establish narrative forms for general psychological cognition. And both novellas examine the problem of discriminating between individual exceptions and general or generalizable norms. Insofar as they approach these questions through literary forms of storytelling, Schiller's *Criminal of Lost Honor* and Kleist's *Michael Kohlhaas* are literary case histories in a narrower sense. And insofar as both novellas critically examine the possibilities and impossibilities of discrimination between these forms of storytelling, they anticipate the institutional success of psychological case histories in forming and eventually reforming legal and forensic processes of decision making in the nineteenth century.