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The Servant, the Law and the State: Servant Law in Denmark–Norway, c.1600–1800

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On 11 March 1777 the servant Sibilla Christensdatter Hæg was interviewed by the chief of police in Oslo. Sibilla had complained to the police that her master, the merchant Hans Frederich Holmboe, had dismissed her illegally. According to the law, a servant in Oslo in the late eighteenth century could leave service on only two specific dates during the year,[2] but Sibilla had been turned out on a different day. She therefore wanted compensation and asked to be paid maintenance for the time she had been without work as well as being awarded her full wages.[3] The police court, which ruled in the case four months later, disagreed. The dismissal was legal, according to the court, because Sibilla had violated paragraph 5 of the law, which gave masters the right to fire servants for 'stealing, drunkenness, insubordination or similar things'.[4] Specifically, the court claimed Sibilla had acted, in the words of the court, 'defiantly' towards her mistress and master. She was also faulted for being 'reckless' when minding her employer's two children, resulting in one child falling and hitting his head and the other being found with marks on his arm from Sibilla having grabbed him.[5] Sibilla partly disputed these claims, alleging that the first child had fallen and hit his head against a chair when she was forced to put him down on the

1 I would like to thank the participants of the workshop 'Labour Laws in Preindustrial Europe: The Coercion and Regulation of Wage Labour, c.1300–1850' (22 May 2020), particularly Charmian Mansell, Thijs Lambrecht, Hilde Sandvik, Vilhelm Vilhelmsson and Jane Whittle, for their valuable feedback.

2 Act of 3 December 1755, § 1 and 5.

3 Regional State Archive Oslo (hereafter SAO), Oslo police, minutes of the interrogations nr. I, 11 March 1777, pp. 124–6.

4 Act of 3 December 1755, § 5.

5 SAO, Oslo police court, minutes nr. 3, 12 June 1777, pp. 703–4.

floor in order to make up his cradle.[6] Yet, despite declaring the dismissal legal, the ruling was ambiguous: as she had requested, Sibilla was awarded her full wages. Furthermore, her master was fined for hiring Sibilla without checking her references, which the law stated that employers were obliged to do.[7]

As Sibilla's case reveals, servants and masters in Oslo in the 1770s were subject to legislation that stipulated when and how servants could enter and exit service. The law also required that employers issued references upon termination of the contract and demanded references upon hiring. In addition, the law provided rules for how servants and masters should solve potential conflicts. The decree that regulated all these issues in Oslo in 1777 was part of a larger body of laws, acts and ordinances that regulated service within the Danish–Norwegian state in the pre-industrial period. This chapter examines this legislation.

Previous research has mostly examined servant law from a local perspective or with present nation-states as a starting point.[8] Here, I investigate this body of law from the perspective of the seventeenth- and eighteenth-century Danish state. This state will be referred to as Denmark–Norway in this chapter. By taking Denmark–Norway as a starting point, I argue that we can both find connections and commonalities that go beyond today's national borders and identify local and regional idiosyncrasies. As demonstrated in other research, local demands were often addressed in discussions on how to regulate work through servant law.[9] By combining the perspective of the state with the perspective of a specific region or area we can see how different labour regimes and demands on labour interacted with both local and central servant

6 SAO, Oslo police, minutes nr. 1, 11 March 1777, pp. 124–6.

7 SAO, Oslo police, minutes nr. 3, 12 June 1777, pp. 703–4.

8 A. Faye Jacobsen, *Husbondret. Rettighetskulturer i Danmark 1750–1920* (Copenhagen, 2008); S. Sogner, 'The Legal Status of Servants in Norway from the Seventeenth to the Twentieth Century', in A. Fauve-Chamoux (ed.), *Domestic Service and the Formation of European Identity. Understanding the Globalization of Domestic Work, 16th to 21st Centuries* (Bern, 2004), pp. 175–87; H. Østhus, 'Contested Authority. Master and Servant in Copenhagen and Christiania, 1750–1850', unpublished PhD dissertation (European University Insititute Florence, 2013) looks at both Denmark and Norway, but there is very little on other geographical areas of the Danish state. This also applies to much research that looks at servant legislation primarily through the study of other topics, such as poverty, or on labour laws more generally.

9 Such arguments are less explicit in research on servant legislation, but more so in research on poverty, which often also deals with servant legislation. S. Dyrvik, 'Avgjerdsprosessen og aktørane bak det offentlege fattigstellet i Norge 1720–1760', in K.-G. Andersson (ed.), *Oppdaginga av fattigdomen. Sosial lovgivning i Norden på 1700-talet* (Oslo, 1983), pp. 109–84; G. Á. Gunnlaugsson, 'Fattigvården på Island under 1700-talet', in Andersson (ed.), *Oppdaginga av fattigdomen*, pp. 185–215; H. Róbertsdóttir, *Wool and Society. Manufacturing Policy, Economic Thought and Local Production in 18th-century Iceland* (Gothenburg, 2008).

legislation. The aim of this study is therefore to give a survey of the servant laws in the Danish kingdom during the seventeenth and the eighteenth centuries by examining common themes in the servant legislation as well as pointing out some differences between areas and over time.

Servant law affected many people: at least 10 per cent of the population in the European parts of Denmark–Norway worked as servants in the eighteenth century, and there were probably as many in the seventeenth century. Additionally, since service was primarily a position occupied by the young and unmarried, an even larger segment of the population had worked as a servant at one point in their life. This chapter is a study of legislation that affected servants, and not a survey of the implementation of that legislation. The time period, c.1600–1800, has been chosen because of the substantial number of servant laws that were issued during this period, particularly after the implementation of absolutism in 1660.

Servant law in Denmark–Norway

When Sibilla Christiansdatter Hæg went to court in Oslo in 1777, Denmark–Norway was a kingdom with changing borders and minor colonial claims. At the turn of the eighteenth century it included, in addition to Denmark and Norway,[10] Iceland and the Faeroe Islands in the Atlantic and the Duchies of Schleswig and Holstein in the Holy Roman Empire, the Caribbean island of St Thomas, the small port of Tranquebar on the Coromandel coast in south-east India and the fort Fredriksborg on the West African coast, controlled through a treaty with the kingdom of Fetu. At the end of the eighteenth century, the borders had changed somewhat: in the Caribbean, the islands of St Jan and St Croix were added to form the island group of the Danish West Indies. In Africa, five new forts were built, but some were also lost. In Asia, a trade station was set up in Serampore in Bengal under the name Fredriksnagore and the Nicobar Islands were claimed for the Danish king. In Europe, there was an attempt to recolonise Greenland, and the king sought to consolidate his power in Schleswig and Holstein, although the areas retained their particular status as duchies.

One way to seek control over this varied and changing area was through legislation, including legislation over labour. After the introduction of absolutism in 1660, the impetus for common legislation increased and came to fruition in 1683, when a law code for Denmark was issued. Poul Erik Olsen has contended that, in addition to the king, the Law Code was one of very few common

10 The borders of Denmark and Norway also changed, particularly in the seventeenth century.

features connecting an otherwise disparate state.[11] Five years later, in 1687, the Danish code was followed by the Norwegian Law Code. Despite being initially prepared by a separate law commission that was meant to revise earlier national Norwegian law codes, the Norwegian Law Code copied the Danish Law of 1683 in most respects.[12] Importantly in the context of this chapter, the sections and paragraphs dealing with servants in the Danish Law of 1683 and the Norwegian Law of 1687 are almost identical: the later Norwegian law largely copied the language of the earlier Danish version.[13]

In principle all inhabitants of Danish lands should have been subject to the king's law, although who an inhabitant was and what Danish lands were were both questioned and changing during the seventeenth and eighteenth centuries. The Norwegian Law Code of 1687 was valid in Norway and the Faroe Islands. The Danish Law Code of 1683 applied everywhere else, with exceptions for Greenlanders in Greenland and Tamils in Tranquebar.[14] In Holstein, under the Holy Roman Empire, Carolingian law applied. In Schleswig, the situation was different still. There, the medieval law of Jutland remained the valid law in general, but the Danish Law Code of 1683 was used in some areas. During the eighteenth century, however, the Danish Law Code and the law of Jutland were both increasingly replaced by Carolingian law.[15]

In Iceland the legal situation was also somewhat different. The medieval law book *Jónsbok*, which was in part modelled on a Norwegian Law Code from 1274, was never formally abandoned, but the Norwegian and Danish Law Codes partly came to replace it.[16] When it came to servant legislation it was less necessary to implement those law codes because an Icelandic ordinance issued in 1685 regulated service.[17] Its concurrence in time with the Danish and Norwegian Law Codes of the 1680s is interesting and, although there were differences, the Icelandic ordinance of 1685 laid out many of the same rules as the Danish and Norwegian Law Codes, most notably on hiring and firing and on the obligation to serve.[18] According to historian Hrefna Róbertsdóttir the act

11 P. E. Olsen, 'Kolonirigets organisering', in M. Bregnsbo (ed.), *Danmark. En kolonimagt* (Copenhagen, 2017), p. 201.

12 S. Dyrvik, *Truede tvillingriker, 1648–1720* (Oslo, 1998), pp. 295–303.

13 The Danish Law of 1683, hereafter DL, 3-19. The Norwegian Law of 1687, hereafter NL, 3–21. One telling difference is between the hiring days: DL 3-19-9 and NL 3-21-9. Hiring days continued to change from place to place and over time.

14 Olsen, 'Kolonirigets organisering', p. 201.

15 F. Thygesen, 'Danske Lovs indflydelse i hertugdømmet Slesvig', in D. Tamm (ed.), *Danske og Norske lov i 300 år* (Copenhagen, 1983), pp. 255–87. A servant law for both Holstein and Schleswig was issued by the Danish king in 1844.

16 P. Sigurðsson, 'Danske og Norske Lov i Island og de islandske kodifikationsplaner', in Tamm (ed.), *Danske og Norske lov i 300 år*, pp. 347–66.

17 Act of 2 April 1685.

18 Particular thanks to Vilhelm Vilhelmsson for pointing this out.

of 1685 was 'a response to a request ... from Copenhagen',[19] but formulated by officials in Iceland. As such it shows the interaction between the central power in Copenhagen and local elites and officials in Iceland.

Another example of the contact between local and central authorities on the development of labour and servant law can be found in Norway in the 1730s. At that time, the state actively elicited feedback from local civil servants on how to deal with poverty and what was framed as a shortage of servants.[20] Some of those civil servants sought advice from the peasantry and reported back to central authorities that the peasantry wanted stricter rules on service. The district judge in an area in south-east Norway, for example, reported that the public 'urgently asked' that the law be changed, that regulations on service should be tightened, and that vagrants should not be permitted to live in the countryside at all.[21]

In Iceland the 1685 decree was followed by a number of other decrees and acts in the late seventeenth and particularly in the eighteenth centuries, for example on obedience and order in the household, on compulsory service and on passports and mobility control.[22] Similarly, in other areas of Denmark–Norway a considerable number of decrees were issued to supplement or revise the rules given in the Law Codes of the 1680s. We can get an impression of the number by investigating two compilations of legal acts that were published in the late eighteenth and early nineteenth centuries. In both compilations, servants were grouped together with vagrants, a point I will return to later in this chapter when addressing laws on compulsory service. One of the compilations listed twenty-nine legal acts and decrees within the category 'servants and vagrants' just in the years between 1670 and 1795. That number excluded tax codes, as well as a number of acts issued for certain towns or regions and national law codes.[23] The other compilation, listing more minor acts and ordinances from 1660 to 1800, referred to 112 decrees grouped as being legislation on 'servants and vagrants', but here too the list is far from complete and numerous servant laws were omitted.[24] Moreover, there were few overlaps between the two compilations.

19 Róbertsdóttir, *Wool and Society*, p. 153.

20 Dyrvik, 'Avgjerdsprosessen og aktørane', pp. 109–84.

21 The National Archive of Norway (RA), 'Om tjenestefolk og løsgjengere' 1733–4, pakksaker, stattholderembetet, letter to H. Eseman.

22 Gunnlaugson, 'Fattigvården på Island', pp. 198–9; Róbertsdóttir, *Wool and Society*, pp. 157–69.

23 J. H. Schou, *Alphabetisk Register over de Kongelige Forordninger og aabne Breve samt andre trykte Anordninger som fra Aar 1670 af ere udkomne* (Copenhagen, 1795).

24 L. Fogtman, *Alphabetisk Register over de Kongelige Rescripter, Resolutioner og Collegialbreve, Aar 1660–1800. Anden Part, L–Æ* (Copenhagen, 1806).

The number of laws, acts, decrees and ordinances dealing with servants, then, was considerable.[25] Most of them applied to a certain town or region. The particular act used and referenced in Sibilla Christensdatter Hæg's case in Oslo in 1777, for instance, was originally issued in 1755 to apply in the city of Copenhagen but was extended to all chartered towns, Oslo among them, in the Norwegian region *Aggershuus* in January 1776. In August the same year, most of this Copenhagen act also became law in Bergen.[26] Just extending a law wholesale was not common practice, but having a particular piece of servant legislation that applied to one or several towns or regions was not unusual. Another example relates to Tranquebar, a small port on the south-east coast of India. Here we find a decree regulating service dated 17 February 1785.[27] Before this, no specific Danish servant law for this area seems to have existed, although the Danish Law Code should have been in effect, except for Tamils. The act of 1785 dealt with hiring days and gave rules on when servants had to give notice in order to change employers lawfully. Such rules were needed, according to the local Danish colonial government in Tranquebar, because servants left work without prior notice, leaving their masters without help.[28] Similar sentiments were expressed repeatedly in legislation from the European part of the kingdom, but, as in this act from Tranquebar, the motivation usually referenced the local or regional context.

In addition, there existed in Denmark–Norway laws that did not take geography as their starting point but sought to regulate servant keeping among Jews.[29] Despite the number of geographically or, as in the case of Jews, religiously limited decrees, we can also identify three themes that appeared repeatedly in servant legislation in the period 1600 to 1800; the extraction of taxes, regulating the relationship between master and servant, and compulsory service. We now turn to these three subjects.

25 The chapter will therefore not include all servant legislation issued within the kingdom. For overviews of servant laws see also for Denmark Faye Jacobsen, *Husbondret*, pp. 439ff; for Denmark and Norway Østhus, 'Contested Authority', pp. 359–65; for Iceland Vilhelm Vilhelmsson's chapter in this volume.

26 Act of 7 Aug. 1776.

27 S. Rastén, 'Beyond Work. The Social Lives and Relationships of Domestic Servants under Danish Rule in Early Colonial Bengal', in N. Sinha, N. Varma and P. Jha (eds), *Servants' Pasts: Sixteenth to Eighteenth Century South Asia* (Hydrabad, 2019), pp. 268–9; J. S. Izquierdo Díaz, 'The Trade in Domestic Servants (Morianer) from Tranquebar for Upper Class Danish Homes in the First Half of the Seventeenth Century', *Itinerario*, 43 (2019), 197–9.

28 Rastén, 'Beyond Work', pp. 268–9.

29 Act of 12 March 1725; Act of 6 August 1734; Act of 4 July 1747; Act of 13 December 1748.

Extracting taxes

The historian Sølvi Sogner, who has written extensively on servants in Norway, observed how, through the sixteenth century, 'all tax levies have special provisions for servants'.[30] The taxes were mostly imposed to extract money for poor relief and war, but, in that century, taxes on servants were also issued to help fund various government spending schemes, such as the wedding of a princess or a king's coronation.[31] During the seventeenth century, taxation increased substantially in Denmark–Norway. Moreover, the tax system was reformed and many taxes transformed from provisional to permanent, trends that continued into the eighteenth century. In fact, taxes became one of the main sources of income for the crown during this period, particularly after the introduction of absolutism in 1660. Historians have even regarded these developments significant enough to warrant the use of the term 'the fiscal state' as shorthand to describe the period.[32]

At the offset, servants, both as taxable objects and as tax-paying subjects, were on the periphery of this system. A number of different taxes existed, but as a general rule the most important were calculated based on the value of the land in the countryside. The urban population usually paid tax on their real estate, wealth and/or trade.[33] This meant, therefore, that many people who had no land or property, servants among them, would not be taxed, at least not directly. To remedy this, a number of provisions were enacted to collect taxes from some of those who fell outside this system, and several drew servants into the tax system. The number of tax levies that in some way included servants is too copious to list here, but generally they can be categorised into three main types: the 'consumption tax' that included the so-called 'family tax' and the 'people's tax'; various poll taxes; and tax to extract poor relief.[34]

30 Sogner, 'The Legal Status of Servants', p. 180.

31 17/18 (1539), 27/13 (1541), 38 (1544), 46 (1545), 147 (1560), 236/6 (1567), 266 (1569), 279 (1571), 323 (1574), 327 (1574), 335 (1574), 344 (1576), 476 (1582), 550 (1588), 656 (1595), 676 (1596), 729 (1600). Found in H. Winge, *Lover og forordninger 1537–1605. Norsk lovstoff i sammendrag* (Oslo, 1988).

32 The levels and subsequent burdens of taxation have, however, been intensely debated. A particularly lively debate was that among Norwegian historians in the 1980s and 1990s, wherein it was argued that Norwegian peasants paid less tax than their Danish counterparts, particularly in the eighteenth century. Important contributors to this debate were Kåre Lunden, Stein Tveite, Knut Mykland and Øystein Rian. For a take by a Danish historian, see O. Feldbæk, *Nærhed og adskillelse 1720–1814* (Oslo, 1998), p. 95. For a more recent contribution to the debate, see T. Bjerkås, 'Et nytt blikk på befolkningen? Om 1723-matrikkelens konsekvenser og årsakene til dens fall', *Heimen*, 51 (2014), 126–45.

33 Dyrvik, *Truede tvillingriker*, pp. 243–4.

34 We also find a number of taxes levied on servants, particularly urban servants, to help finance the poor: Act of 27 April 1758 (Copenhagen); Act of 9 May 1760 (towns in the region of *Skiælland*); Act of 28 April 1787 (the region of *Skiælland*).

Poor relief tax was to some extent a continuation of earlier tax revenue, but by the eighteenth century it was primarily levied on some urban servants, particularly in Copenhagen.[35] Poll tax was usually collected when the need for state finances were particularly desperate, often in connection with warfare. In the belligerent period 1678–1713, for example, servants and children over the age of ten or fifteen (depending on the specific tax levy) in the Danish countryside were taxed fifteen times.[36] In 1762, a poll tax was imposed on everyone over the age of twelve, servants among them. This tax law was collected in every part of the state: from 1762 in Denmark, Norway, Schleswig and Holstein and from 1765 also in Iceland, the Faroe Islands and *Finnmarken*, the northernmost region of Norway.[37] Other poll taxes were more concentrated in scope, time frame and geography: in 1711, for example, all waged servants in Norway were ordered to pay one-sixth of their salary in tax.[38]

The 'family tax' and 'people tax' were included in the tax category 'consumption' (*Consumtionen*), an early modern VAT. 'Consumption' mostly meant urban consumption, but in the countryside a 'family tax' (*Familieskat*) was imposed on members of a household, servants included. It was to be paid by public servants and certain other (usually) non-peasant groups in rural society, with varying measures of inclusion and exclusion depending on which income category they were deemed to belong to.[39] The so-called 'people's tax' (*Folkeskat*) was a tax on servants, urban and rural, with specific regulations and tax rates for town and country.[40] In the Danish countryside, the 'people's tax' also included farmers' servants, whereas in Norway it did not. Whether this constituted the actual taxation of Danish rural servants in contrast to servants in Norway's countryside remains unclear.

An important question in this respect concerns who actually paid the 'people's tax': the servant or the master? According to the legislation, it was the duty of the master to ensure the payment of the tax. Indeed, this was standard practice in all tax levies directed at servants, as it was with taxes that fell on other members of the household, such as wives, relatives and children. This, of

35 *Ibid*.

36 C. Rafner, 'Fæstegårdmændenes skattebyrder 1660–1802', *Fortid og nutid*, 33 (1986), 90, table 1.

37 Feldbæk, *Danmark-Norge. Nærhed og adskillelse*, p. 96.

38 H. M. Kvalvåg, 'Tjenerne som samfunnsgruppe 1711: En undersøkelse om tjenerhold og tjenernes lønnsnivå hos oppsitterne i det sønnenfjeldske Norge', unpublished MA dissertation (University of Bergen, 1974), p. 1.

39 Dyrvik, *Truede tvillingriker*, pp. 243–5. For example: Act of 1 February 1672 (Denmark); Act of 8 November 1680 (Norway), Act of 24 January 1682 (Norway); Act of 31 December 1700 (Denmark); Act of 24 December 1760 (countryside Denmark); Act of 22 December 1761 (countryside Norway); Instruction 23 August 1777 (towns Norway); Instruction 9 November 1782 (Denmark).

40 *Ibid*. Abolished in 1813.

course, was in line with the general ideology that saw the master as the representative of the household and all its members. In rural Denmark, in addition, manorial lords were responsible for collecting taxes from the household heads.[41] However, although revealing when it comes to power structures and ideology, this manner of tax collecting obscures any potential tax contribution from servants. A number of the tax levies on the 'people's tax', poll taxes and poor relief tax did explicitly allow the master to deduct the tax from the servant's wage.[42] Thus there was a possibility that servants in some cases did pay tax. On the other hand, a number of the tax levies also decreed that the tax was to be paid whether the servant received a wage or not.[43]

If we compare the tax levies of the sixteenth century with those of the seventeenth and eighteenth centuries, we find some suggestive differences. Whereas the wording in the laws for the sixteenth century suggested that servants paid taxes on what they earned *aside* from their wages,[44] in the seventeenth century servants were no longer taxed on what additional income they might earn. This change was already evident in the late sixteenth-century tax codes, and mirrored changes in the servant legislation that sought to restrict the servant's access to additional income beyond his or her wage. The state no longer wanted servants to be able to earn extra money from keeping sheep, trading, or growing flax or cereals and so on.[45] This also meant that they could no longer tax what became illegal activities. To a certain extent, taxation also became less gendered: while the earlier tax ordinances mostly concerned themselves with male servants, female servants were increasingly taxed in the late seventeenth and eighteenth centuries.

Regulating the relationship between master and servant

The second topic that repeatedly appeared in legislation on servants in pre-industrial Denmark–Norway concerned the relationship between master and servant. This included regulations on the servant contract, such as rules

41 The collection of the 'consumption tax' was also leased out for some time. Rafner, 'Fæstegårdmændenes skattebyrder', 88; S. Imsen and H. Winge (eds), *Norsk historisk leksikon* (Oslo, 2004), 'Konsumpsjon'; Act of 31 December 1700, chapter III, § 1.

42 Rafner, 'Fæstegårdmændenes skattebyrder', 88; Kvalvåg, 'Tjenerne som samfunnsgruppe', p. 31; Act of 9 May 1760 (towns in the region of *Skiælland*).

43 Act of 31 December 1700, chapter III, § 1 (countryside Denmark); Decree of 23 August 1777, §1 (towns in Norway, servants over the age of 15); Decree 9 November 1782 (Denmark); Decree of 28 April 1787 (towns in the region of *Skiælland*).

44 Sogner, 'The Legal Status of Servants', p. 180.

45 For more on this, see H. Østhus, 'Servants in Rural Norway c. 1600–1900', in J. Whittle (ed.), *Servants in Rural Europe 1400–1900* (Woodbridge, 2017), pp. 122–3.

on hiring and firing.[46] The latter was, as we saw, the crux in the case between servant Sibilla Christensdatter Hæg and her master Hans Frederich Holmboe. She argued she had been fired without cause, while he claimed she had been fired because she had acted in a manner that broke the law. Legislation that dealt with the master–servant relationship also included rules on the master's right to chastise his servant.[47] Below we will see how this became a disputed factor in the late seventeenth-century slave-holding society of St Thomas in the Caribbean. Furthermore, legislation compelled the master to facilitate the religious education of his servants, to care for them in the event they fell ill and to pay their wages on time.[48] The servants, on the other hand, were obliged to respect and obey their masters and mistresses.[49]

As such, and as we will also see regarding laws on compulsory service, the legislation portrayed the master–servant relationship as much more than a purely contractual relationship. The master's responsibility for their servants' religious education was a palpable expression of this and was sometimes elaborated in the legislation. In an act issued in 1691, the king saw the need – through a particular decree devoted to the issue – to remind masters and parents in the Danish countryside that they had a legal obligation to allow their servants and children to partake in the annual 'visitation', in which their knowledge of Christianity would be tested by the church.[50] In 1746 an act on 'house discipline' (*Huustugt*) was issued in Iceland with the express purpose of furthering knowledge of God as well as advancing peace between parents and children and masters and servants.[51]

Although the length and level of detail of the 1746 act were unusual, similar demands about servants' and masters' duties towards each other were often part

46 DL 3-19-9, 3-19-14, 3-19-15; Act of 2 April 1685, § 7, 8, 9 and 11 (Iceland); NL, 3-21-9, 3-21-14, 3-21-15; Act of 3 June 1746, § 125 and 26 (Iceland); Act of 9 August 1754, §9, 12 and 13 (Norwegian countryside); Act of 3 December 1755, § 1–9 (Copenhagen and chartered towns in *Aggershus* region, also applied to Bergen from 1776); Act of 23 March 1770; § 1–6 (countryside Denmark); Act of 21 May 1777, § 2,3 and 5 (the Faroe Islands); 17 February 1785 (Tranquebar); Act 25 March 1791, § 6–11 (countryside Denmark).

47 DL 6-5-5 and 6-5-6; Act of 2 April 1685, § 10 (Iceland); NL 6-5-5 and 6-5-6; Act 3 June 1746, § 8 and 16 (Iceland); Act of 25 March 1791, § 14 (countryside Denmark).

48 DL 1683 2-6-2 and 6-3-2; Act of 2 April 1685, § 16 (Iceland); NL 1687 2-6-2 and 6-3-2; Act of 3 December 1739 (Denmark); Act of 3 June 1746, § 5, 6, 7, 23 and 24 (Iceland); Act of December 1755, § 20 (Copenhagen and chartered towns in *Aggershus* region); Act of 21 May 1777, § 3 and 7 (Faroe Islands); Act of 25 March 1791, § 15, 16, 18 and 19 (countryside Denmark).

49 DL 1683 6-2-4, Act of 2 April 1685, § 10 (Iceland); NL 6-2-4; 3 Act of 3 June 1746, § 16, 17 and 19 (Iceland); Dec. 1755, § 15 (Copenhagen and chartered towns in *Aggershus* region); 25 March 1791, §14 (countryside Denmark).

50 Act of 28 February 1691.

51 Act of 3 June 1746.

of the master–servant laws. We find another example in a decree on policing in the Danish countryside in 1791. The need for such a law, according to the introduction of the ordinance, was to ensure that order was kept in the household so that 'both masters' authority over their servants can be enforced and servants can be protected from unjust treatment from the masters'. The act therefore sought to list the 'the limits on the paternal power and impress on the servants the obedience they owe their masters'.[52]

Insubordination was considered to be a valid legal reason to dismiss your servant and was explicitly mentioned in many decrees. It could even lead to the defiant servant being imprisoned.[53] In the case of Sibilla Christensdatter Hæg we saw how insubordination as a dismissible offence existed in practice and could lead to an actual dismissal in a court of law. However, this case also illustrates how courts interpreted law, here by categorising certain behaviour as insubordination. In my previous research on court cases between masters and servants in Oslo and Copenhagen in the late eighteenth century I found that a large number of different types of behaviour could be subsumed under the heading of disobedience and be judged illegal.[54]

This and other research on legal practice has revealed that breaches of master–servant law did come up in court. Although there is still need for further study, particularly of the seventeenth century and of rural areas, it seems that court cases between masters and servants were most common in urban areas of Denmark–Norway and from the second half of the eighteenth century. Predominantly such cases were concerned with issues related to contract and pay, particularly with illegal dismissal, absconding and unpaid wages. Some also addressed the use of corporal punishment, but only a few dealt with what has been termed the paternalistic side of the master–servant relationship, namely care of sick servants and the facilitation of religious education and church attendance.[55] Master–servant law, then, was enforced, but with substantial geographical variations and differences when it came to types of offence. Strict laws were tempered by pragmatism, where the authorities often tried to

52 Act of 25 March 1791, introduction.

53 Act of 1755, § 5 (Copenhagen, chartered towns in *Aggershus* region, Bergen); Act of 21 May 1777, § 2 (the Faroe Islands); Act of 25 March 1791, § 14 (countryside Denmark).

54 Østhus, 'Contested Authority'.

55 B. Gjerdåker, 'Om tenarar i Lofoten 1754–1818', *Heimen*, 17 (1977), 469–83; K. Ojala, 'At tjene for kost og løn hos godtfolk i 1700-talets Odense', *Fynske årbøger* (2005), 28–38; K. Ojala, 'Opportunity or Compulsion? Domestic Servants in Urban Communities in the Eighteenth Century', in P. Karonen (ed.), *Hopes and Fears for the Future in Early Modern Sweden, 1500–1800* (Helsinki, 2009), pp. 206–22; Faye Jacobsen, *Husbondret*; Østhus, 'Contested Authority'.

reconcile the feuding parties, which again was in line with the general practice in Nordic courts at the time.[56]

If we leave legal practice and return to what is the main focus of this chapter, servant legislation, we find substantial changes over time when it came to laws on the relationship between master and servant. While the sixteenth century had few legal regulations on this,[57] in the seventeenth and eighteenth centuries the number of legal clauses and decrees on one or more of these issues grew.[58] This reflected a general trend in which an increasingly ambitious state sought to control more and more aspects of society. With regard to the master–servant relationship this meant not only a growing number of more detailed decrees and acts but also that the legislation laid out how the state, through various officials and the police, should solve conflicts between masters and servants.[59] This, of course, also meant that they could interfere in the relationship between masters and servants.

Compulsory service

In 1777 the court in Oslo fined Sibilla's master for not asking for references from her former master. Demands for written testimonials appeared over and over in the servant laws from at least the seventeenth century,[60] and were usually coupled in the law with demands that some sort of local civil servant or priest should issue 'passports' to servants on the move.[61] The purpose was to control

56 S. Sogner, 'Conclusion: The Nordic Model', in E. Österberg and S. Sogner (eds), *People Meet the Law. Control and Conflict-Handling in the Courts* (Oslo, 2000), pp. 271–3.

57 148/6 (1560, on the Hanseatic community in Bergen); 167/30–31 (1562, concerned with crown land, aristocracy and towns); 343/32 (1575, areas of Marstrand and Viken). Found in Winge, *Lover og forordninger*.

58 For example, DL 3-19, NL 3-21, Act of 3 June 1746 (Iceland); Act of 9 August 1754 (Norway), Act of 3 December 1755 (Copenhagen, from 1776 extended to all towns in *Aggershus* county and Bergen); Act of 21 May 1777, § 2 (Faroe Islands).

59 Act of 22 October 1701, chapter III, § 6 (Copenhagen); Act of 24 March 1741, §1 and 2 (Copenhagen); Act of 9 August 1754, § 14; Act of Act of 3 December 1755, § 22 and 23 (Copenhagen etc.); Act of 7 August 1776, § 25 (Bergen); Act of 21 May 1777, § 6 (the Faroe Islands); Act of 8 December 1769 (Trondheim); Act of 25 March 1791, § 20–32 (Danish countryside).

60 Law of 1562, section 31, 156/30 and 31 (men and in towns, on crown lands and noble lands), in Winge, *Lover og forordninger*. Also referenced in Faye Jacobsen, *Husbondret*, pp. 439–40. For legislation that applied to men and women, see DL 3-19-12; Act April 1685, § 8 (Iceland); NL 3-21-12; Act 3 June 1746, §26 (Iceland); Act of 19 August 1754, § 12 (countryside Norway); Act of 3 December 1755, §11; Act of 21 May 1777, § 5 (the Faroe Islands).

61 For example: DL 3-19-8 and 10; NL 3-21-8 and 10; Act of 3 June 1746, § 26 (Iceland); Memo on 9 October 1762 (women in Aalborg region); Memo 21 November 1789 (Lolland

mobility and hinder vagrancy. In one act issued in 1701 an explicit connection between references, passports and what was thought of as dangerous mobility and criminality was expressed outright: in a statement outlining the reasoning behind the ordinance, it was explained that, because numerous people in the countryside did not bother to obtain the necessary passports or references, altered the ones they did receive or faked such documents the country was in danger of 'filling up' with vagrants and other criminals.[62]

Legislative attempts to limit and control mobility can be traced back to the Middle Ages, a time when Denmark and Norway were separate kingdoms. In regional laws from the twelfth century, we find early developments towards control over the mobility of segments of the population. In these laws, historians have also identified the transition from the slavery of the Viking Ages to 'free labour'.[63] Restrictions on mobility developed in later law codes, in which traces of the unfree labour of earlier periods largely disappeared from the legislation. In a decree from 1260 for Norway it was declared that farmers had trouble getting people to work for them because people wanted to go on trade trips instead of working the land. Similar reasoning was found in legislation up until the eighteenth century: people had to be induced with threats of legal consequences to work for farmers. In 1260 the solution was a ban on trading: persons who did not possess a specific amount of wealth were prohibited from travelling on trade trips between Easter and Michaelmas (29 September).[64] These restrictions on mobility were repeated in the first nationwide Norwegian Law Code, issued in 1274.[65] The Icelandic lawbook *Jónsbok* was largely based on this law,[66] and in Sweden a law code of the 1350s largely repeated these restrictions.[67]

Despite differences between and within regions and between town and country, from the seventeenth century Denmark–Norway legislation almost everywhere mandated that those without a farm, a cottage or a profession were

region, on type of paper used); Act of 25 March 1791, § 13 (Danish countryside); Memo 16 March 1793 (Zealand region, male servants and soldiers); 22 March 1793 (male servants enrolled in the military).

62 Act of 19 February 1701.

63 T. Iversen, *Trelldommen. Norsk slaveri i middelalderen* (Bergen, 1997), pp. 255–70. There are older written laws for Norway than for Denmark. For Denmark, see B. Poulsen, 'A Classical Manor in Viking Age and Early Medieval Denmark', *Revue belge de philologie et d'histoire*, 90 (2012), pp. 451–65.

64 'Haakon Haakonsens rettarbot', 1260.

65 'Magnus Lagabøtes Landslov', 1274.

66 Sigurðsson, 'Danske og Norske Lov i Island', p. 348.

67 P. Borenberg, *Tjänstefolk. Vardagsliv i underordning. Stockholm 1600–1635* (Gothenburg, 2020), p. 142. The king behind this law, Magnus Eriksson, was the great grandson of the king behind the Norwegian law code of 1274, Magnus Lagabøte.

obligated to take work as servants.[68] By then the medieval seasonal restrictions on travel had been replaced by year-round limitations on mobility. Movement was also structured around fixed moving days and half-year or year-long contracts for servants. In addition, issues of mobility and obligatory service became increasingly associated with vagrancy, which was criminal. By the late seventeenth century, people who were obligated to work as servants but refused were classified as vagrants.

By the eighteenth century, compulsory service as it was presented in a number of acts and decrees was aimed at forcing specific groups of the population into service and away from other types of work, particularly self-employment and day labour. An ordinance applicable to the countryside in Norway issued in 1754, for example, prescribed in quite typical language that everyone from 'the peasant's estate' without a farm or a profession was obliged to enter annual service. The reason, according to that ordinance, was '[t]o check the scarcity of servants among the public, which apparently has arisen from the fact, that a considerable amount of people of both sexes would rather live on their own than work for the farmer'.[69]

Here we find ideas similar to those expressed in the medieval legislation cited above: people did not want to work as servants and laws were necessary to ensure that they did. Typically, however, the 1754 act referred to the scarcity of available labour in the Norwegian countryside at that particular time. Similar mentions of a particular situation in a particular region or area can be found in a number of other decrees as well. In an ordinance valid on the Faroe Islands from 1777 we are told that tramps and people going around begging for wool were to be blamed for a shortage of servants in the countryside and for harvest failure.[70] The solution was the same as in the 1754 law for Norway and other legislation from the seventeenth and eighteenth centuries: forcing people into service and punishing those who refused as vagrants. In an act from Iceland that removed the possibility of some people labouring by the week, issued in 1783, reference was again to a lack of people willing to work as servants. Instead the act claimed that people in Iceland hired themselves out on much shorter contracts for high wages or went tramping around the countryside selling 'useless goods' and renting out livestock illegally.[71]

68 For example: DL 3-19-4; NL 3-21-4; 9 February 1684 (Norway, men); 2 April 1685 (Iceland); 28 July 1728 (women, Copenhagen); 2 December 1741, chapter 3, § 2 (Eastern region Norway); 3 June 1746 (Iceland); 29 April 1754 (countryside Norway); 3 December 1755, § 17 (Copenhagen and chartered towns in *Aggershus* region); 2 April 1762 (women, Denmark); 21 May 1777: § 9, 11 and 12 (Faroe Islands); 19 February 1783 (Iceland), 25 March 1791 (countryside Denmark).

69 Act of 9 August 1754, § 3.

70 Act of 21 May 1777, introduction.

71 Act of 19 February 1783, introduction and §1.

Some of the specificities of unwanted labour thus varied somewhat from place to place and over time: in the Faroe Islands in 1777 it was begging for wool, in Iceland in 1783 it was selling goods and renting livestock. In the act regulating service in Copenhagen from 1755 we find an urban example of unwanted economic behaviour: unmarried women were not allowed to 'run around selling fruits and similar items'. Instead they were ordered to work as servants.[72]

Demands on and for labour

Compulsory service demonstrates how the state preferred young, unmarried people without a farm or a trade to work as servants. But how, then, did compulsory service connect with the policies of taxation touched on above, which taxed some servants and servant keeping, and therefore seemingly undermined the policy of encouraging as many as possible to enter service? First, taxes fell primarily on servant keeping and on servants in some and not all households. Second, those who did not enter service were taxed more heavily than those who did. In the 'people's tax' of 1700 in Denmark, healthy people without a farm, cottage or position as a servant were taxed at six times the rate of a farmer's servant.[73] In the Norwegian countryside in 1762, such people would pay eight times as much as servants if they were men, and six times as much if they were women.[74] Taxation was consequently used to make living outside service costly, while the laws on compulsory service sought to make it illegal.

The laws demonstrate that the authorities assumed that if potential servants could decide for themselves they would choose not to be servants, thus making it necessary to force them into service. Without obligatory service there would be a scarcity of servants, it was claimed. A shortage of servants hurt agricultural production, and day wage labourers were not seen as a solution to the labour supply shortage. On the contrary, day wage labour and self-employment were highly restricted for several reasons: first, it was assumed to be a life on the margins that could easily lead to vagrancy and criminality. Second, it was argued that day wage labour inflated wages. These two claims were not seen as contradictory, as it was assumed that a day labourer would rather go idle than work for low pay, thus pressuring the desperate farmer in need of extra hands to pay higher wages or leading the demanding day wage labourer to live in poverty rather than accept low wages. Third, for the young and unmarried the state considered service, in which you usually lived with your employer,

72 Act of 3 December 1755, § 17.
73 Act of 31 December 1700, chapter III, § 1.
74 Act of 22 December 1761, chapter II, § 3.

as something desirable. It reflected the idea that people without a place in a household were masterless, and masterless people were unruly elements that threatened the stability and order of the state.

Besides these general concerns, there were differences within Denmark–Norway regarding who was allowed to work as a day wage labourer and would therefore be exempt from the obligation to serve. These differences reveal certain variations in how the authorities sought to structure the wage labour market. In the overarching law codes of 1683 and 1687, married people with a farm or a cottage would be allowed to perform day wage labour, as well as fishermen during wintertime and threshers, as the law put it, when they were needed.[75] This, then, was the general rule for Denmark–Norway. The requirements were also similar in an act for the Danish countryside in 1791, although certain soldiers were also allowed to do day labour according to this decree. In addition, and in contrast to the earlier general law codes and the Norwegian act of 1754, married people who had 'always supported themselves with day labour' were allowed to continue to do so. Furthermore, the 1791 act stated that neither aliens nor the country's own subjects should be 'hindered' from finding employment as day labourers in agriculture as long as they were equipped with the correct passports.[76]

The obligatory service laid out in the 1791 act for the countryside in Denmark was more lenient than the 1754 act for the Norwegian countryside,[77] the act of 1777 for the Faroe Islands or the act of 1783 for Iceland. The Icelandic act was particularly harsh and repealed a previous decree allowing people with a specific quantity of wealth to work on their own.[78] The Norwegian, Icelandic and Faroe Island acts all also required that cottars and farmers had to send the sons and daughters they could not employ themselves to work as servants. Similar requirements do not seem to have existed in legislation for Denmark.[79] Comparable obligations were, however, found in Swedish servant acts.[80]

These differences between the Faroe Islands, Iceland, Norway and Denmark, while not substantial, might be explained by the different demands on labour. Agriculture in the Danish part of Denmark–Norway was geared towards production for sale to a greater extent and thus the need for casual wage labour

75 DL 3-19-5 and 6 and NL 3-21-5 and 6.

76 Act of 25 March 1791, §1.

77 Act of 9 September 1754, §2 and 4.

78 Act of 3 June 1746, §15; Act of 19 February 1783, § 1. § 8 allowed fishermen to work as day wage labourers.

79 Act of 2 December 1741, part V (*Aggershus* region); Act 9 August 1754, § 3; Act 21 May 1777, § 11; 19 February 1783, § 7. There were some differences: Norway and Faroe Islands: sons and daughters; Iceland: only sons.

80 C. Uppenberg, *I husbondens bröd och arbete. Kön, makt och kontrakt i det svenska tjänstefolkssystemet 1730–1860* (Gothenburg, 2018).

was greater than in the other European parts of Denmark–Norway. In addition, before 1800 men in rural Denmark were subject to additional mobility restrictions through the existence of adscription, which legally prohibited them from leaving the manor.

A whole alternative set of legislation restricting men's mobility thus already existed in Denmark, making rules on compulsory service less necessary. In the late 1780s and early 1790s new liberal ideas inspired legislative changes such as the lifting of adscription. Its abolition was part of what was at the time seen as a trio of laws that promoted 'freedom', which also including a temporary easing of censorship and the abolition of the slave trade in 1792. The 1791 act relating to service, however, was less of a direct expression of such ideas, although some observers of life in the Danish countryside found it far too indulgent: one argued that no man or women should be able to leave the parish in which they were born before they turned twenty-eight or thirty.[81]

It is unclear to what degree the laws on compulsory service were followed, and it falls outside the scope of this chapter to investigate this. Most research on the practice of compulsory service has been limited to a specific county or town, but such studies have shown how the eagerness and possibility of enforcement varied over time and from place to place. At some places at certain times the laws on compulsory service were enforced, but more often enforcement was less rigorous.[82] Several of those prosecuted were merely instructed to find employment as servants, but a number of young men and women were also confined to correction houses, particularly in cases where such a workhouse could be found in the vicinity. It is, however, important to remember that for most people in Denmark–Norway service was not a permanent position, but something one did before marriage. The master–servant relationship was a contractual relationship you were allowed to exit and, despite the laws, young people worked in a variety of different situations and positions. For instance, in the northernmost part of Norway, which we will return to shortly, there was a group of young unmarried men called 'selvfosterkarer' who lived independently or with their parents and supported themselves by fishing and day wage labour.[83]

We now turn to two examples of the connection between local labour demand and servant law; *Finnmarken* in the northernmost part of Norway and the Danish West Indies in the Caribbean. Despite finding different solutions, both sought to recruit labour. In *Finnmarken* immigration was encouraged, in

81 P. A. Wedel, *Hvorfor er det saa vanskeligt at holde Tienestefolk?, og hvorledes kan dette daglig voxende Onde bedst afhielpes? En Undersøgelse gieldende for alle danske Huusfædre, og især for Landmanden* (Odense, 1799), p. 7.

82 Østhus, 'Servants in Rural Norway', pp. 117–18.

83 Particular thanks to Hilde Sandvik for pointing this out.

part by exempting settlers from taxation.[84] In addition, several legal measures were implemented specifically to encourage and to some extent to force servant immigration to the area. For one thing, the obligation to work as a servant was included in several decrees valid in the area, reinforcing the general laws of compulsory service.[85] Additionally, and in contrast to the general servant legislation for rural Norway, a number of these laws applied only to men, thus revealing how it was first and foremost young male manpower that was sought after in this area. Another measure was to force people convicted of crimes to work as servants in this region. A decree from 1762, for example, directed that people from *Finnmarken* sentenced to the correction house should instead work as servants for two to four years in the area.[86] Their labour was seen as too valuable to confine it to a correction house.

In the Danish West Indies, African slaves came to be the favoured worker after efforts to recruit voluntary migrants, indentured servants and convict labour failed.[87] In addition, we find some workers who were labelled 'servants', meaning people who had entered into a contractual relationship. They were subject to the servant legislation in the Danish Law Code of 1683, which was affirmed as valid on the islands in 1734 and 1755. Slaves were also partly subject to that law, but they were defined as 'property' and were not covered under the sections of the law dealing with service. The Danish Law Code's paragraphs 6-5-5 and 6-5-6, which gave mistress and masters the right to punish their servants and children, could be employed in the punishment of slaves. However, Gunvor Simonsen notes an interpretation of authority that was different to the practice of European Denmark–Norway. In the early period of colonisation, 1670–1700, Simonsen found that the state actually assumed the power to punish, thereby taking it away from the slave owner. Around 1700 there was a shift in this policy, which ended in 1733 with the issuing of an ordinance that delegated very wide powers to punish slaves to slave owners, and to all white inhabitants on the islands over slaves.[88] At the same time, in the European part of Denmark–Norway, the opposite trend was in motion: there the state slowly infringed on masters' authority over their servants, for example in easing servants' access to courts to address their grievances.[89]

84 Act of 25 April 1778, § 37. Mostly reiterated in an act of 20 August 1778 § 34, with some changes.

85 Act of 25 April 1702; Act of 20 August 1778 § 34, 40 and 42.

86 Act of 8 June 1762.

87 J. Heinsen, *Mutiny in the Danish Atlantic World. Convicts, Sailors and a Dissonant Empire* (London, 2017).

88 G. Simonsen, 'Sovereignty, Mastery, and Law in the Danish West Indies, 1672–1733', *Itinerario*, 43 (2019), 283–304.

89 Østhus, 'Contested authority'.

Conclusion

This study of servant law has emphasised four points: first, in Denmark–Norway between 1600 and 1800 a large number of different law codes, acts, decrees and ordinances on service and servants were issued. The quantity can partly be attributed to a general increase in law making in the Danish kingdom in this period, but it also reveals the interest the state took in this particular subject.

Secondly, it was argued that when we examine this substantial body of servant law three themes emerge: i) the extraction of taxes, ii) the relationship between master and servant, and iii) compulsory service. The state primarily sought tax revenue through the taxation of land, and the landless servant was of little interest here. Despite this, the servant was drawn into the tax system through specific tax levies that included poll taxes, the tax category of 'consumption tax' and poor relief. As such, the tax policy can also be connected with other aspects of the servant legislation: it assigned the task of tax collection to the master, thus emphasising that the servant was a member of a household where the master was the head. Conversely, the punishment meted out in the law for young, unmarried people of 'the peasant estate' who were not in service reveals how the state viewed this as an undesirable position, partly because such masterless people were assumed to live unruly lives. The master–servant relation was a contractual relationship with legal regulations on when and how to enter and exit service, but the law also compelled the servant to obey his master and mistress and obliged the master and mistress to care for their servants.

Thirdly, laws that regulated service dealt not only with servants but also with other types of worker and social group, particularly vagrants, beggars and itinerant people, but also soldiers, foster children and grown children, apprentices and, at times, even tenant farmers. These different groups were seen as connected by the lawmakers. A consistent concern was to compel young people to take steady employment as servants by criminalising those who did not and labelling them as vagrants and beggars. Another category, soldiers, were often drawn from among actual and potential servants, and the law sought to keep male servants in the countryside where they would be available for the military. Their importance is also evident from some of the tax levies, where soldier–servants were exempt from taxation.

The fourth observation of this study of servant law concerns the geography of the servant legislation. Servant law consisted of national legislation; the law codes of 1683 for Denmark and 1687 for Norway contained almost identical rules for servants and applied to most of Denmark–Norway, but servant law was also made up of regional and local decrees. In absolutist Denmark–Norway the king was the only lawmaker on paper; studies have shown how local elites sought to influence servant law, sometimes arguing for stricter policies than those preferred by the central administration in Copenhagen. In the decrees

and ordinances themselves, we have seen how a specific local situation was often cited: the particular situation in the 1780s in Tranquebar warranted a specific ordinance there in 1785; in *Finnmarken* in northern Norway the laws compelled certain criminals to work as servants to ensure a supply of workers, and in Iceland in 1746 lawmakers saw the need for a whole ordinance devoted to the subject of 'house discipline'. Despite these differences, however, a recurrent complaint was that there was a local, regional or national shortage of servants. The persistent solution to this persistent complaint was to seek to force a substantial segment of the population into service.