LABOUR LAWS IN PREINDUSTRIAL EUROPE
THE COERCION AND REGULATION OF WAGE LABOUR, C.1350–1650
EDITED BY JANE WHITTLE AND THIJS LAMRECHT
Labour Laws in Preindustrial Europe
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Labour Laws in Preindustrial Europe

The Coercion and Regulation of Wage Labour, c.1350–1850

Edited by Jane Whittle and Thijs Lambrecht
Dedicated to the memory of
Theresa Johnsson
1969–2022
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Abbreviations

ADBRM Archives départementales des Bouches-du-Rhône, Marseille
AMM Archives Municipales Marseille
ASFi Archive of Florence
DHC Devon Heritage Centre
DL The Danish Law of 1683
GA Gloucestershire Archives
HARC Herefordshire Archive and Records Centre
JP Justice of the Peace
NAI National Archives of Iceland
NL The Norwegian Law of 1687
RA The National Archive of Norway
SAB State Archives, Bruges
SAO Regional State Archive, Oslo
SFS Svensk författningssamling
SHC Somerset Heritage Centre
ULA Uppsala State Archives
The Servant Acts regulated labour relations for a large part of the population through compulsory service and other coercive measures, while at the same time creating a labour market where servants and masters could meet and decide whether to enter labour relations or not. In this chapter, the Servant Acts issued by the Swedish Crown, from the first one issued in 1664 to the sixth and last one in 1833, are analysed from the theoretical perspective of free/unfree labour.

Service in rural, pre-industrial Sweden was ubiquitous. Although exact numbers are not easily discerned, studies suggest servants made up 10 to 20 per cent of the population during the whole period under study here. The demographic structure followed the European marriage pattern already in the seventeenth century, so most servants were lifecycle servants, meaning that they served during adolescence and early adulthood and left service when they married.¹ This should not be exaggerated, however; older servants existed as well, but generally the position was associated with youth and unmarried status.²

Servants in early modern Sweden were neither as unfree as slaves nor as free as modern wage labourers, but rather part of an intrinsic system of free and unfree dimensions that structured the labour market. Admittedly, to use the term ‘free labour’ is risky, both since it could be questioned whether a modern-day wage labourer is free and since any freedom for most people in a pre-industrial setting was severely curtailed. Free labour should not be conflated with any

inherently positive meaning of the word ‘free’, but should rather be understood
in the Marxist sense of a free worker as someone legally free to choose between
work and hunger. As such, although work is almost always surrounded by
constraints, there is both a theoretically and practically different logic between
labour extracted through legal and physical compulsion and labour extracted
through economic compulsion. As will be shown, these can be combined
in a labour contract, and this is the reason for a thorough study of different
dimensions of certain labour relations. In the article ‘Labor – free or coerced?’
Robert J. Steinfeld and Stanley L. Engerman argue for a better understanding of
the history of labour by scrutinising how laws constructed the coercive practices
of work relations; what measures different laws admitted the state, employers
and workers; and how free and unfree dimensions formed each part of the labour
contract. Following Steinfeld and Engerman, I take it as my theoretical starting
point that legal and physical compulsion in labour relations is of a different
kind than economic compulsion, and that the different nature of compulsion
needs to be analysed for each step of the labour extraction process. A detailed
extension of this model is suggested by Marcel van der Linden.

In practice, the option that the Servant Acts posed service against was
day labouring: that is, working on short contracts for different employers.
Day labouring by people without a clear household affiliation – ‘masterless’
people – was what the regulations of the Servant Acts aimed to counteract.
This means that a servant was distinguished from a day labourer not by the work
tasks performed but by the specific position and connection to the employer.
A servant became part of the household in which he or she served, but was at
the same time a contracted labourer who could resign once the contract ended.
Therefore, the specificities of the servant contract can also be used as a tool to
understand the development of labour relations at large. In this chapter, this is
done by unpacking the free and unfree dimensions of the Swedish Servant Acts.
I use the theoretical perspective of free/unfree labour as an analytical tool to
dissect the dimensions of the servant institution that were stated in law, in order
to empirically analyse the Swedish Servant Acts and to theoretically expand the
free/unfree labour debate with this example.

3 Robert J. Steinfeld and Stanley L. Engerman, ‘Labor – Free or Coerced? A Historical
Reassessment of Differences and Similarities’, in Tom Brass and Marcel van der Linden (eds),
5 Marcel van der Linden, ‘Dissecting Coerced Labor’, in Marcel van der Linden and Magaly
Rodriguez Garcia (eds), _On Coerced Labor: Work and Compulsion after Chattel Slavery_
(Leiden, 2016), pp. 293–322. See also Christian G. De Vito, Juliane Schiel and Matthias van
Rossum, ‘From Bondage to Precariousness? New Perspectives on Labor and Social History’,
6 A similar analysis concerning the Danish/Norwegian servant legislation is made by
There are two debates in previous research that I would like to refer to as reasons for adopting this model in an analysis of the Servant Acts. The first is related to the importance that used to be attributed to the existence of a free peasantry in western Europe. Landed Swedish peasants belonged to an estate with both political power and economic opportunities to act in the land market as well as the labour market. However, the peasantry was not without internal antagonism. In fact, the Servant Acts serve as an illustration of this, since they were decided upon in parliament, in which the landed farmers, but not the landless or semi-landless part of the peasantry, were represented. Although the group of landed farmers were free – indisputably, in comparison with peasants under serfdom – there are reasons to add more nuance to the free-peasants perspective. If the term ‘peasantry’ is taken to include all people working the land, including servants who were children of both landed farmers and of landless people, unfree dimensions were prevalent. Therefore, this study adds a detailed analysis of free/unfree dimensions of the labour laws affecting a large part of the rural, pre-industrial population, which in turn nuances the labelling of western Europe as characterised by free peasants and eastern Europe by unfree peasants.

The second reason for using the perspective of free/unfree labour is related to previous research on Servant Acts. The focus in previous studies has been on economic and demographic aspects, with the Acts being understood as an effect, rather than a driving force in themselves. Furthermore, in previous research the development towards a free market has been taken for granted, and the story of the development of the Servant Acts has been told against this background. This means that the seventeenth-century Acts have been understood as a way to ensure the availability of soldiers during the many wars of the time. Mercantilist ideas about the advantages of a large, hard-working and poorly paid population have been used as the explanation of the increasingly detailed and restrictive Acts of the eighteenth century. In contrast, the

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Acts of the nineteenth century have been understood as the first steps towards a liberalised labour market. The quantity of restrictive measures in the Acts have also been attributed to variations in harvest results and regional labour market features. Although there are merits to these perspectives, I argue that they veil two important aspects. Firstly, the servant legislation was not only a feature of the labour market but also shaped the relationship between the state, masters and servants. Secondly, the Servant Acts show a remarkable continuity over the centuries that is not explained with this perspective.11

Another reason for adding to these previous studies is that they have mostly assumed that the strict legislation could not have been followed.12 I have previously studied how and when the Swedish Servant Acts were followed through an analysis of court cases and found that the legislation was actively used by masters and servants and often enforced rather strictly.13 I make some references to show how legislation was used in practice, and I argue that the legislation was part of the lived experience of both masters and servants. However, the main focus of this article is not about compliance, but is on the careful segregation of the free and unfree dimensions of the regulations of servants and masters. Although legal clauses cannot reveal how people lived their lives, it is not possible to reveal how people lived without knowledge of the laws surrounding them. The structure of the article follows van der Linden’s suggestion to analyse three steps of labour relations: entry, labour extraction and exit.14

14 Van der Linden, ‘Dissecting Coerced Labor’, p. 298.
Entry

Entry into the servant institution or the servant contract was freely chosen to the extent that people could not be sold or born into the position, nor legally be hindered from leaving their employer after the contracted work year. Servants and masters were also free to find each other. In principle, a servant could not be forced to start working for a certain master, nor could a master be forced to employ a certain servant. But under the heading of laga försvar (literally legal/orderly protection, hereafter translated as legal protection), the Servant Acts shaped the servant position through compulsion. The Servant Acts implicitly assumed that the servant position would be open to anyone willing to work. The scarcity of labouring people, rather than unemployment, was deemed a problem. Thus, the Acts created the servant position as a position of last resort, and it made legal compulsion part of the forming of the contract.

In medieval times service was imposed on people lacking the means to support themselves, defined as a certain sum of money.15 When the first proper Servant Act was issued in 1664, its first paragraph stated that every man of the peasantry not being a peasant farmer or having access to land should go into service or otherwise be forced into military service. The fundamental change was that money could no longer save a man from the obligation to go into service. This means that legal compulsion was strengthened with the introduction of the Servant Act. However, women were treated differently in this first Servant Act. For them, it was enough that they could show an honest way of supporting themselves.16 The same wordings for both men and women were kept in the second Servant Act, issued in 1686, but with one important addition. The Swedish Crown now saw the need to interfere not only with the freedom of its young and landless subjects but also with masters and their employment decisions in order to ensure a fair allocation of servants. This was done through the introduction of a limit to the number of male servants each master could employ. The allowed number of servants was based on the size of the farm.17

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17 Servant Act 1686 §1–2. For details about the distribution, see Uppenberg, I husbondens bröd och arbete, p. 269.
With the two Servant Acts issued in the eighteenth century, in 1723 and 1739, obligatory service was strengthened and further details were added. In principle, the same ideas guided the Acts. It was not enough to support oneself, and the motivation expressed in the first paragraph of the Acts was that the Crown wanted to discourage people from vagrancy, indolence and being prowlers or lodgers. The acceptance of an honest occupation for women was abandoned with the 1723 Act and replaced with another alternative: that women who had caring responsibilities for old parents or small children were exempt from obligatory service. This may have been of greater practical effect, as caring responsibilities must have been more prevalent than decent work opportunities. Nevertheless, it meant that legal restrictions on female labour converged towards those placed on men, as it forced women lacking the necessary position (as landed or as carer) into compulsory service.

In the 1723 Act, the restriction on the allowed number of servants in each household was extended to women, and the interference in the affairs of masters was dramatically sharpened, as the master’s own children were now to be counted as part of the labour force of the household. There was a total threshold per household that employers could not exceed. If the total number of working people in the household exceeded this limit, the master could be accused of holding too many servants, even if some of them were his own children. Thus, these excess children did not enjoy proper legal protection and needed to find employment. This meant that the wording of the Act forced children of a certain age out of their parental home and into the household of someone else. In the following Act, issued in 1739, this was mitigated with the paragraph that one son and one daughter could be exempt from the allowed number. The inclusion of the master’s own children in the allowed labour force was repealed in 1747, although the general restriction on the number of servants remained in place until 1789.

It might not be very surprising that clauses regulating masters’ behaviour were more contested and repealed earlier than those regulating servants; in general the Servant Acts ensured masters’ access to labour. But in my previous studies, in which I examined court cases, I found that masters’ behaviour was more closely monitored and more often punished by the court than the behaviour of servants. Even though a master with an especially pressing situation could

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19 Servant Act 1723 §1.
20 Servant Act 1723 §2.
21 Servant Act 1739 art. 3 §1–3.
be allowed to employ an extra servant, this could not be decided freely by the master but needed permission from the court. And the punishment of masters for employing servants without using them all year round was much more common in the court than cases of servants running away.\textsuperscript{23} However, masters were punished economically, while servants were also punished physically (for example with whipping or incarceration). This means that it is important not only to take employment relations into account but to acknowledge the legislative context and different ways that compulsion was administered.

During the nineteenth century compulsory service was becoming more contested, but it was not abandoned until the last Servant Act was issued in 1833. In the 1805 Servant Act, service was not compulsory for married people ‘who were registered and living in a certain place, pledged to honest and continuous work’.\textsuperscript{24} However, in 1811 and 1819 new decrees were issued in order to stress that this did not mean that young, landless people should get married and just live for the day, working irregularly.\textsuperscript{25} By 1833, the specific demand for landless people to choose service rather than any other way of supporting themselves was replaced by the demand to support oneself. But if that demand was not met, landless people could still be forced into the servant position.\textsuperscript{26} The servant position was no longer the position of last resort for landless people, although it continued to be a common position in which labour extraction was surrounded by unfree dimensions, as is developed below.

Marcel van der Linden describes two forms of coercive acts related to labour unfreedom: constrained choice and physical compulsion.\textsuperscript{27} But since constrained choice includes everything from free wage labour to self-sale into slavery in this model, it is not clear that the ‘constrained choice’ category is enough to capture the specificities of the servant position, or changes over time. To be subject to the Servant Acts in the first place meant to be landless, and to be a landless person in a pre-industrial setting was to be a person with constrained choices. What made the choice of the servant position special was thus not that it was constrained but that it worked as the last resort of free choice of employer. The choice not to take up the servant position led to physical compulsion.

\textsuperscript{24} Sw: ‘å Landet äro gifte samt å wisst ställe mantalsskrifne och boende, der de till arbete sig förbundit och ärligen försörja’, Servant Act 1805 art. 1 §1.
\textsuperscript{26} Servant Act 1833 art. 1 §1.
\textsuperscript{27} Van der Linden, ‘Dissecting Coerced Labor’, p. 296.
The clauses on legal protection targeted a specific group and gave them the following options: take up service in a household of your choice that is eligible to offer legal protection; go into military service (for men); take care of elderly parents (for women); or find yourself a landed position (a constrained choice indeed). If the person did not adhere to this, he or she would be put in another group, no longer one with constrained choices but rather under compulsion (mediated without money): a group that could be physically forced, either into a household as a servant or into convict labour. The service position was defined by its lack of definition: if one did not belong to any other defined group, one had to be a servant. In this way, the servant position was the last resort of legal and acceptable occupations. On the other side were illegal and immoral ways to support oneself – vagrancy, theft, prostitution. Although obligatory service was less strict after the Act of 1805 and especially after 1833, the need to find legal protection still shaped the lives of the landless.

Extraction of work

Once a master and servant had found each other and the contract had been sealed with a small sum of money changing hands, the relations between them were heavily regulated. While the Crown restricted both masters and servants concerning entry into the relationship, the Acts distributed the power differently once the work year started, with far-reaching rights for masters and far-reaching duties for servants. Marcel van der Linden defines labour extraction as based on three components: compensation, conditional force and commitment. All three were covered in the Servant Acts.

Compensation for servants was of two kinds: payment in kind and a cash wage. In kind wages were made up of lodging, food and clothes, so that a servant, if correctly treated, should have everything for his or her daily needs. Although this was of great importance and probably a major incentive for any willingness to take up the position, it cannot be said to characterise a free labour relation, on two points. Firstly, it deprived servants of the freedom of using their wages as best suited them and made it much harder to accumulate resources in order to one day find themselves another position. Secondly, although in kind wages made up a safety net, it did not set servants’ work apart from various kinds of unfree labour. Even in slavery or convict labour, workers were generally provided with food, lodging and clothes. Furthermore, not until the Servant Act of 1805 did insufficient food or lodging become a legitimate reason for servants to leave in advance, if the situation had not become better after repeated requests. Before

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29 Servant Act 1805 art. 2 §4.
that, it was rather the other way around. In the 1723 Act it was said that servants should be satisfied with the food and lodging that the master could provide, and anyone unfairly rejecting this who thereby discouraged others from taking up service in that household should be fined and forced to apologise in public.\textsuperscript{30} This measure was retained in the Act issued in 1739.\textsuperscript{31}

Money wages, on the other hand, did set servants apart from unfree labour. In previous Swedish research Börje Harnesk argued that a money wage was a sign of subservience, and therefore servants preferred other kinds of compensation, such as the possibility to keep sheep. I have found a similar pattern regarding the desire to get compensation in the form of increased independence, but, in contrast to Harnesk’s finding regarding money wages, I argued that cash wages were part of striving for independence.\textsuperscript{32} However, the Servant Acts created restrictions on wage payments in several ways. Masters were not allowed to pay their servants with part of the household’s produce. Already in the first Servant Act, of 1664, the clause regulating wages stated that no servant may request, and no master offer, the use of land or the profits of making and selling of beer or liquor. This was repeated and made more detailed in the following Acts. By the Act of 1805, the details were reduced while the essence was kept – wages should only be paid in cash and with clothes. In the last Servant Act, issued in 1833, wage rates were made a free agreement between the parties.\textsuperscript{33}

The other check on servants’ independence was maximum wage rates, in force from 1686 until 1805. Both masters offering and servants accepting wages higher than stipulated risked being fined.\textsuperscript{34} The regulations of wages and maximum wage rates deprived servants of the possibility to negotiate, but also deprived masters of the possibility to increase work extraction, and meant that the economic pressure to increase labour intensity was weak. Although it is plausible that masters and servants found many ways to negotiate in the daily running of things, the main mechanism allowed by the Acts for masters to increase labour intensity was the right to chastisement – that is, physical means rather than economic, and a feature well known from unfree labour relations.

Coercion, the second part of the scheme by van der Linden in defining unfreedom in labour extraction, was an intrinsic part of the servant contract. Chastisement – that is, corporal punishment – was addressed in the Servant Acts as an important way to make servants work and behave – and both were the responsibility of the master.\textsuperscript{35} In accordance with the definition of the servant position above as more of a status than defined by its work tasks, the

\textsuperscript{30} Servant Act 1723 §10.
\textsuperscript{31} Servant Act 1739 art. 7 §8.
\textsuperscript{32} Harnesk, Legofolk, pp. 141–8; Uppenberg, I husbondens bröd och arbete, pp. 171–93.
\textsuperscript{33} Servant Act 1664 §7; 1686 §7; 1723 §10; 1739 art. 5 §4; 1805 art. 5 §1; 1833 art. 5 §31.
\textsuperscript{34} Servant Act 1686 §7; 1723 §10; 1739 art. 5 §3.
\textsuperscript{35} Servant Act 1664 §5; 1686 §5; 1723 §6; 1739 art. 7 §1; 1805 art. 2 §3; 1833 art. 2 §5.
Servant Acts showed more interest in the behaviour of the servant than in how much or how efficiently he or she worked. This made chastisement a workable measure since, quoting van der Linden, ‘coercion can be applied to enforce discipline, but hardly as a punishment for a lack of creativity’. Creativity was not an important part of the servant institution as formulated by the Servant Acts. Servants should be ‘pious, loyal, diligent, obedient and not evade any of the duties that the master reasonably ordered’. This list refers both to the actual working practices and to the behaviour of the servant in relation to the master, thus capturing the intertwined roles of master–servant relations. Chastisement was to be administered at the judgement of the master, and did not include any reciprocity. The servant could go to court if he or she thought that the chastisement received had overstepped the ‘legitimate’, ‘due’ and ‘moderate’ use defined in the Acts, since outright battery resulting in bleeding wounds or serious injury was not allowed; but as long as it was deemed rightful chastisement, the servant needed to receive it with submissiveness.

The Servant Acts also contained a number of coercive measures at a more detailed level. A servant could not demand to get his or her wages before the end of the work year, thus creating a lock-in effect. Moreover, servants’ behaviours were addressed: they were not allowed to use their money at the alehouse, nor could they refuse to work during certain holidays. Neither were servants, as defined by the live-in arrangement, allowed to store their belongings at any other place than in their master’s household. The master was even ordered to arrange for the servant’s chest to be transported when contracting a new servant. Such features had the effect of putting the servant’s whole life in the hands of the master. The year-long contract with food and lodging provided had the obvious benefit of being a safety net, but the detailed coercive features meant it was not a free labour contract.

While chastisement was a coercive measure for making servants work and behave, the main coercive feature for keeping servants in their position was the one-year contract. This was already established in the 1664 Servant Act, although at that time half a year could be accepted, a possibility that was abandoned with the generally stricter and more comprehensive Acts from 1723.

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37 Sw: ‘Gudfruchtige, trogne, flitige och hörsamme, och icke undandraga sig alt thet arbete och sysslor, som husbonden thy skäligen befaller och föresätter’. Quote from the Servant Act 1739 art. 7 §1, but the same wordings were part of all Acts.
38 Sw: ‘skälig’, ‘tillbörlig’, ‘måttlig’, Servant Act 1664 §5; 1686 §5; 1723 §6; 1739 art. 7 §1; 1805 art. 3 §6; 1833 art. 3 §10.
39 Servant Act 1723 §12; 1739 art. 7 §9–10; 1805 art. 3 §13; 1833 art. 3 §16.
40 Servant Act 1664 §6; 1686 §8; 1723 §4; 1739 art. 6 §2; 1805 art. 3 §14, art. 8 §1; 1833 art. 3 §17, art. 8 §43.
What differentiated this labour contract from others was not that the length was regulated, but rather two other features: that it was not possible for the servant to leave the contract in advance, and that the alternative to staying in the position was to be violently brought back. Masters could demand help from local authorities to bring servants back, which was done by force if necessary. If the master did not want the servant back, the servant who had left in advance lacked legal protection. It is crucial to note that, although obligatory service was no longer in place after 1833, the one-year contract was still reinforced by the threat of being violently brought back.  

Generally, the message of the Servant Acts, especially during the eighteenth century, was that masters and servants needed to get along during the contracted year. Even if both parties were unhappy with the arrangement, they could not just leave each other. This means that force in the servant institution cannot be understood only as part of the relationship between master and servant. The state had goals other than labour extraction in imposing conditions that curtailed the freedoms of masters and servants; it sought to control landless subjects by delegating this responsibility to masters. When the chastisement of adult servants (males older than eighteen years and females older than sixteen years) was prohibited in 1858, this came with another change in the servant contract which is also the reason this year is the end of the period of study in this chapter. Since chastisement rather than giving notice was prescribed in cases when the master was unhappy with the servant, the abandonment of this force after 1858 was compensated with an increased right for masters to give notice. This points to the argument made in the introduction: that economic and physical compulsion are different ways of organising and extracting labour, speaking to different kind of logics, and that this was visible also to the actors of the time. However, not all parts of the labour contract became subject to economic compulsion at the same time, which is why it is important to categorise the different parts of the labour relationship and follow its development over time.

Commitment, the third way to extract labour in van der Linden’s definition, was covered in the Servant Acts as well, as in the demand for diligent labour discussed above. But did servants take pride in working as servants, and therefore do their best? It is of course likely that many servants did appreciate the household members with which they lived, that they thought the food was acceptable and the work load reasonable, and therefore wanted to contribute to a well-managed production, partly for ‘the joy of working together’, as van

41 Servant Act 1664 §3; 1686 §3; 1723 §4; 1739 art. 6 §1; 1805 art. 7 §1; 1833 art. 8 §44.
42 Servant Act 1664 §5; 1686 §5; 1723 §6; 1739 art. 6 §4; 1805 art. 9 §8; 1833 art. 9 §52.
der Linden puts it. Likewise, it is plausible that many others strongly disliked their subordinate position, thought they were unjust treated with unreasonably hard work and inferior provision, and only waited for a chance to get out of the servant position. There are signs of servants taking pride in doing a good job – and of masters being somewhat ambivalent about this. In the didactic literature from the time, the importance for masters and mistresses showing superior knowledge of the work process and never signalling the fragility of their position by asking servants for advice were strongly underlined. One recurring theme in this literature was servants taking pride in feeding the livestock of their employing household better than the livestock of neighbouring households.

The master–servant relation was not only a work relation, not only supposed to bring more arms and hands into agricultural production, but also a hierarchical household relation. Masters became masters when they employed servants, and as such their position as household heads and important figures in the local community was consolidated. Therefore, highly competent, motivated servants, who identified themselves with the household in which they were employed and took personal pride in its success, could be a threat to the master’s position.

Exit

There were three ways to leave the servant contract, with alternatives ranging from free to unfree. As with entry, there was a fundamental difference between leaving one employer for another and leaving the servant position altogether. The way to end a servant contract that could be freely chosen was to leave one employer after a full work year in order to start working for another employer. Although servants did use this opportunity extensively, as shown by servants’ frequent moves every year or every second year, it was surrounded by detailed regulations creating insecurity, as detailed below. The second way to end the servant contract was to leave the servant position altogether. This was legal if the servant had an alternative that offered legal protection, but, as shown in the entry section above, these were not numerous. The third way was, of course, to run away, an alternative that brought the threat of being fined as well as physically brought back if found, and otherwise being accused of vagrancy.

45 Van der Linden, ‘Dissecting Coerced Labor’, p. 309.
46 Uppenberg, I husbondens bröd och arbete, pp. 218–23; Reinerus Broocman, En fulständig svensk hus-håldsbok om svenska land-hushåldningen (Norrköping, 1736).
Van der Linden distinguishes between exit through physical compulsion, constrained choice and death. Physical compulsion could take the form either of being forced to leave or of being forced to stay, and being forced to leave could be through the decision of the employer or other forces.\textsuperscript{48} To start with ‘other forces’, the servant institution was a relationship between servant, master and the Crown. For most of the decisions, the Crown delegated its power over people to masters, so that masters had the right to decide about work organisation and treatment. The master’s right to the servant’s labour for the full year was also emphasised in the Acts, so that even a servant with a legitimate reason to leave had to wait until it was time to give notice. But there were occasions when the master was deprived of his mastery, as with the decision of how many servants each master could employ. Another such instance was military service.

Military service – another kind of unfree labour – stood in a complex relationship to the servant institution, as for men it was both an alternative to service and a punishment for not having taken up the position as servant. In time of peace, the Crown did not have the right to take servants out of their master’s house, but in time of war this right was extended. However, for periods of drill, the Crown forced male servants out of their masters’ households and, if this period exceeded one month, the servant did not have the right to come back to his former servant position. For the master, this meant that he could employ another servant, but for the servant it meant lacking legal protection and thus being at risk for vagrancy accusations.\textsuperscript{49} While this is neither the first nor the last time a state used force to acquire military labour, the relationship between peasant farmers, servants and military need for labour created a particular set of relationships. It has been argued that it was through placing the burden of conscription onto servants and other landless people that the Crown managed to create a comparatively strong group of peasant freeholders with political influence and the ability to pay taxes.\textsuperscript{50}

The Servant Acts strived to uphold the one-year contract, but did allow masters to give notice in advance if no measures, including chastisement, had brought relations with a servant to satisfaction. This satisfaction rested on the ability and knowledge of the servant to do the tasks required, and the behaviour of the servant. However, giving notice could not be done without reason, as in that case the servant was entitled to compensation. This meant that, even though servants could be forced to leave by their employer, it was a constrained right for masters. To be given notice is of course part of any labour relation, but the reasons for classifying this as physical compulsion are twofold. The first reason is that a servant who had been forced to leave his or her position in

\textsuperscript{49} Servant Act 1739 art. 1 §1, art. 6 §5; 1805 art. 1 §1, art. 8 §7; 1833 art. 1 §1, art. 8 §50.
advance risked accusations of vagrancy and, by extension, incarceration. The second reason is the lack of reciprocity between master and servant in ending the contract. Not until the Act of 1805 was the servant’s right to exit addressed; before that, only punishment for leaving in advance was specified.\textsuperscript{51}

While being forced to leave, by employer or by another power, could be part of the servant position, it was being forced to stay that set the servant contract apart and constituted a major unfreedom. If a servant left his or her position in advance, the master could demand help from the local authorities to physically bring back the servant. If the master did not want the servant back, the servant could not just try to find another position; quite the contrary, as any master shielding a servant who had run away could be fined. It was only if the servant had been wrongfully sent away that he or she was free to find another household to work in. The Servant Act 1739 explicitly stated that a servant who had run away and whom the master did not want to take back should be considered a vagrant. The servant also had to pay back any wages received. These fines could be issued even if the servant had only planned to run away.\textsuperscript{52} Another obstacle to running away was that anyone ‘not known’ at a certain place needed to show a passport issued by the authorities explaining his or her reason for travelling.\textsuperscript{53} This was in force from 1812, but servants were also subject to specific regulations concerning their movements before that date. ‘Less approved’ servants could not move between regions, and servants in certain sparsely populated counties could not move unless there was a food crisis or they had found an opportunity to get married or inherit a farm in another county.\textsuperscript{54}

Robert Steinfeld points out the importance of distinguishing between freely entered contracts and unfreedom once under a contract, and describes it as a major turning point when people no longer handed over the power over their lives for the contracted period to someone else by signing a contract, but rather kept the right to withdraw his or her labour at any point without punishment other than the economic: ‘The great political virtue of economic persuasion was that it left the ultimate decision formally to the laborer.’\textsuperscript{55} Although changes during the nineteenth century made the servant contract somewhat easier to dissolve for both master and servant, the servant could not withdraw his or her labour at any point of his or her choice. This long-lasting feature of the Servant Acts made even mid-nineteenth-century servants subject to physical compulsion.

\textsuperscript{51} Servant Act 1664 §5; 1686 §5; 1723 §6; 1739 art. 4 §11, art. 7 §1; 1805 art. 2 §3–5, art. 3 §6; 1833 art. 2 §5–6, art. 3 §10.

\textsuperscript{52} Servant Act 1664 §5; 1686 §5; 1723 §6; 1739 art. 6 §4; 1805 art. 8 §8; 1833 art. 8 §52.

\textsuperscript{53} Theresa Johnsson, Vårt fredliga samhälle: ‘Lösdriveri’ och försvarslöshet i Sverige under 1830-talet (Uppsala, 2016), pp. 100–3.

\textsuperscript{54} Servant Act 1739 art. 8 §6–7; 1805 art. 3 §1–2.

The unfreedom of the contract had its end after a full work year, but this rule was not without exceptions. The most important was the detailed regulation regarding children as servants. In the Act of 1723 the paragraph stated that if a master took an orphan into the household, that person should stay as a servant in the household until the master had been compensated for the cost, according to a judge. Even after that, the servant should preferably not take up service at someone else’s household but stay with his or her benefactor. This was further developed in the Act of 1739, in which ‘boys and girls’ should stay for three years and, if they had also been taught certain skills, they should stay until the master thought he had been compensated. It was also added that a servant having been saved from begging or military service could be forced to teach another servant to the same skill level before he or she was allowed to leave, and that any ‘poor man’s child’ taken in as a servant under the age of twelve years should stay until he or she turned eighteen. Although one could say that children are always unfree since they are under parental jurisdiction, in the Servant Acts even adult servants who had started working as children could be hindered in ending their contract if their masters thought they had not yet been compensated for the cost of upbringing.

Van der Linden distinguishes between forced to stay and exit with constrained choice, and both were prevalent in the servant position. During the contracted work year, servants were forced to stay by the use of violent treatment from authorities if necessary. However, during the short period in which a change of employer was allowed, the degree of freedom increased significantly. At that time, servants could set employers against each other, accept a position with one master and, if receiving a better offer elsewhere, change his or her mind and take up employment at that place instead. However, once the contract was sealed, a year of subservience began, with very little opportunity to leave.

There were practical hindrances to making use of this short-lived freedom of choice, and the wordings of the Servant Acts also indicate that masters trying to hinder their servants from leaving by putting up practical obstacles was not unheard of. The basic rule was that if none of the parties gave notice the servant contract continued over the next year, making it a de facto permanent position. There was a certain period of time of a few weeks up to two months open for giving notice and negotiating with a new employer, but these two processes were separated in time. This meant that a decision first had to be made to terminate the contract and only when this decision was made were masters and servants allowed to find a new servant or a new situation. The time period changed with the different Servant Acts issued, so that under the 1664 and 1686 Acts servants and masters could give notice two months before the day a new contract started (at Michaelmas, 29 September), and thereafter start finding new employment.

56 Servant Act 1723 §9; 1739 art. 6 §3.
or a new servant six weeks before at the earliest. In 1723 the period for giving notice started on 10 August, and allowed only two weeks, 14–29 September, for making new agreements. New time periods were also specified in all the later issued Acts.\textsuperscript{57} This created a potentially powerful check on leaving the contract, since a person was not only uninformed regarding the treatment of servants at a new place but not even allowed to make agreement with another household prior to the decision to quit the present employment.

Although gathering information about other possibilities was still allowed, there was a fine line not to be passed, because a potential employer could be accused of enticing the servant away from his or her master.\textsuperscript{58} That ‘stealing’ servants was morally wrong was an ideological underpinning of the servant institution, which also points to labour relations that were a relationship not only between the master and the servant but also between masters. Masters were understood as having a common master-interest in reducing the mobility of servants. Steinfeld analyses this moral understanding as a consensus needed to uphold the strict rules of unfree labour, and sees the eroding of this understanding as the necessary ground for new labour contracts to take form.\textsuperscript{59}

The servant needed a document, the so-called orloussedel, showing that he or she was free from the former employer, before making an agreement with a new one. This document was issued by the former employer after the servant or the master had given notice, but the wordings of the Acts showed a concern that masters could withhold this document or simply leave the household for those weeks in order to prevent the servant from finding a new position. The Acts covered for such events by allowing servants to give notice in the presence of trusted men if the master was absent.\textsuperscript{60} This meant a balancing of interests. In order to legitimate compulsory service and other unfree dimensions of the servant position, servants’ right to change employer was one legitimate interest. However, masters’ right not to engage in a competition on market terms in order to receive servants was another interest of importance.

The last alternative in van der Linden’s scheme for leaving is death, which characterised the most unfree labour relations such as chattel slavery. Servants were not bound to their position for life, but the Acts did prescribe what to do with the contract if a master died. In the Acts of 1805 and 1833, although the possibilities for ending the contract in advance had been somewhat increased, not even the death of a master meant the end of the servant contract. If the master’s heirs wanted to keep the servant, he or she had to stay. The same was

\begin{itemize}
\item \textsuperscript{57} Servant Act 1664 §4, 6; 1686 §4, 6; 1723 §4–5; 1739 art. 4 §1–2, art. 5 §1–2; 1805 art. 7 §1; 1833 art. 7 §39.
\item \textsuperscript{58} Servant Act 1664 §5; 1686 §5; 1723 §6; 1739 art. 4 §10; 1805 art. 7 §4; 1833 art. 7 §42.
\item \textsuperscript{59} Steinfeld, \textit{The Invention of Free Labor}, p. 169.
\item \textsuperscript{60} Servant Act 1664 §6; 1686 §6; 1723 §5, 1739 art. 4 §3–4; 1805 art. 4 §6–7, art. 7 §3; 1833 art. 4 §27–28, art. 7 §41.
\end{itemize}
true if the master sold the farm – the new owner could demand to keep the servant. And if the master moved to another farm, the servant was required to follow.\footnote{Servant Act 1805 art. 8 §4–6; 1833 art. 8 §47–49.} This shows how free and unfree dimensions were combined in unexpected ways, and that the story of the development of a free wage labour market cannot be told as a steady progression.

Conclusions

Although demographic and economic explanations provide important perspectives on labour legislation, laws create differing interests between the parties with their own internal logic. It has been shown here that coercive measures and compulsory service were surprisingly stable features of the servant position over a long time period, although the economic structure and work opportunities outside the servant institution changed profoundly. In the nineteenth-century Acts compulsory service became less strict and some features associated with a capitalistic labour market were introduced: freer wage setting, enhanced possibilities to end the contract and more alternatives to service. But a servant could still be violently brought back, chastised if misbehaving and unable to leave his or her position even if the master died or moved away. Only when the, sometimes contradictory, regulations are carefully unpacked, is this made clear.

Studying the labour laws from the perspective of different logics and tracing free and unfree dimensions emphasises the remarkable continuity of the Servant Acts that has not been possible to explain with demographic or economic features. Van der Linden’s model was developed for labour relations that are usually understood as unfree, if not outright slavery, indentured labour or coercive colonial practices. The model thus focuses more on the individual’s possibilities in unfree systems than on structural unfreedom. There were no visible chains in the Swedish servant institution and unfreedom was more structural than individual. Servants did not necessarily feel particularly unfree themselves, since they did what other people did and they could change employer after one year if they wished. Legal compulsion and violent measures were more of a threat than actual, day-to-day practice for most servants. But what an analysis based on this model makes clear is that the servant position was a position of last resort – any step outside the institution was a step towards being chased as a vagrant or physically forced back. The servant could not, as Steinfeld puts it, withdraw his or her labour at any point.

Although the choice of which specific master to work for was mostly free for servants, the position was surrounded by unfree – violent – dimensions. If a landless person did not go into service, he or she was subject to violence. If
a servant did not work faithfully, the same was true. And, finally, if a servant left his or her position in advance, violent capture and return was a risk. A pre-industrial landless person might not have had many choices, but still this inherent lack of choices was not enough for the state, which formed the servant institution through its demand that people had legal protection – that is, a legally recognised place in a household. The principle of legal protection created the servant position as a position of last resort, and all measures for labour extraction were reinforced by the threat of being punished as a vagrant if the servant did not meet them. The one-year contract, chastisement and payment in kind kept the servant in his or her place. While the servant position should not be thought of as a prison for the young, landless population, neither should it be thought of as a labour market in which people could switch freely between different types of labour contracts. It is rewarding here to distinguish between the individual servant’s contract and the servant position or institution. While the laws distinguished between masters and servants and made them two separate entities, in practice individuals could go between the groups during their life course. The possibility of leaving the position means that coercive measures might have been easier to endure. Nevertheless, the institution of service was unfree in many respects. Without keeping both of these features in mind at the same time, it is not possible to explain the historical development of labour.

This study has raised questions about the story of contrasts between the free peasants in north-western Europe and unfree peasants in eastern Europe. A large part of the peasantry of Sweden was not free, and not only were they unfree once in the master–servant relationship, but they were also subject to compulsory service and physical compulsion. The political and economic effects of this unfreedom have yet to be studied more thoroughly and placed in their comparative perspective.
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