Governing Black and White

A History of Governmentality in Denmark and the Danish West Indies, 1770-1900

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DOCTORAL DISSERTATION
Doctoral dissertation for the degree of Doctor of Philosophy (PhD) at the Faculty of Humanities and Theology at Lund University to be publicly defended on May 17 at 10.00 in LUX C121, Department of History, Helgonavägen 3.

Faculty opponent
Stephen Legg, University of Nottingham

Organization: LUND UNIVERSITY

Document name: DOCTORAL DISSERTATION **Date of issue:** May 17, 2023

Author(s): Kristoffer Edelgaard Christensen **Sponsoring organization:** Department of History

Title and subtitle: Governing Black and White – A History of Governmentality in Denmark and the Danish West Indies, 1770-1900.

Abstract:

This dissertation explores and compares the rationalities through which Danish state officials sought to govern the colonized Afro-Caribbean population in the colony of the Danish West Indies and the state's Danish subjects living in the metropole of Denmark in the period 1770-1900. Theoretically, it relies upon Michel Foucault's conception of 'governmentality' and the way this approach to governing, and to state power more generally, has been employed in various colonial and European settings, particularly within the field of colonial governmentality studies. This dissertation distinguishes itself from this field, however, by comparing metropole and colony in a more even, in-depth, and open-ended way; one which is sensitive to changes over time. The aim of this mode of comparison is to explore on a more solid foundation what was unique (and what was not unique) about colonial governing at particular points in time and space.

The dissertation is split into two parts. The first deals with the period 1770-1800 and offers an in-depth comparative account of the Danish state's governing of seigneurial relations at home and master-slave relations in the colony; the state's attempts to reform the criminal laws; its investment in the maintenance of racial and social hierarchies; its regulation of the everyday public lives of slaves and peasants; and lastly, its governing of the productive lives of enslaved and unpropertied laborers. In the second part, which deals with the period 1840-1900, the focus is on the making of a free labor market in metropole and colony and the associated apparatuses of poor administration and policing.

Essentially, the comparative analyses of the governmentalities, which were at the heart of these projects and domains of governing, point to a profound historical shift in the relationship between metropole and colony. In the late eighteenth-century, colonial officials in the Danish West Indies could still draw upon the governmentalities, which were essential for their peers back home. Thus, although colonial and metropolitan governmentalities were far from identical, there were significant points of overlap and commensurability in the governing of 'blacks' and 'whites'. Over the course of the nineteenth century however, these points of overlap and commensurability all but vanished. After the abolition of slavery in 1848, colony and metropole had become 'worlds beyond compare', each requiring each own particular 'handbook' of governing. On this basis, the dissertation points to the importance of exploring not only the distinction between colonial and non-colonial governing, but also the history of the distinction itself.

Key words: colonial governmentality, comparison, postcolonial studies, slavery, racism, punishment, hybridity, liberalism, economy, police, Michel Foucault.

Classification system and/or index terms (if any) Supplementary bibliographical information

Language: English (US) **ISSN and key title**:

ISBN: 978-91-89415-70-6

Recipient's notes **Number of pages**: 394

Price Security classification

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Cover images. *Top*: Oil painting of the plantation Mary's Fancy on St. Croix. Artist unknown, c. 1840. Maritime Museum of Denmark.
Bottom: Oil painting depicting corvée laborers on the Løvenborg Estate on Zealand in Denmark. Painted by Elias Meyer, c. 1800. National Museum of Denmark.

Faculty of Humanities and Theology
Department of History

ISBN 978-91-89415-70-6

Printed in Sweden by Media-Tryck, Lund University
Lund 2023

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MADE IN SWEDEN

To those who suffered

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ACKNOWLEDGEMENTS

This doctoral dissertation would not exist, in its present form or at all, without the help and consideration of a great number of people. More than anything, I owe a huge thanks to my two supervisors, who have been on board from the beginning. Hanne Sanders, Lund University, quickly made me feel welcome at the department and has, since then, subjected my work to the friendly, careful, and critical gaze of an experienced historian. In this, she has been joined by my co-supervisor Gunlög Fur, Linnaeus University, whose broad knowledge of colonial history and the field of postcolonial studies has been an immense source of support and inspiration. If this book is deemed readable and relevant for an audience beyond the somewhat narrow confines of Foucault-inspired scholarship, the honor is largely Hanne's and Gunlög's.

I have found another critical source of support and inspiration in the circle of Danish colonial scholars that has grown out of the University of Copenhagen's Saxo Institute. Most importantly, I want to thank Søren Ivarsson for his thought-provoking and always constructive and optimistic inputs. Together with Rasmus Sielemann, whose work on the Danish West Indies has been a great source of inspiration for this book, Søren is also the one who introduced me, when I was a master student at the institute, to the subject of colonial power and to the work of Michel Foucault. From this circle I also wish to thank Søren Rud, Gunvor Simonsen, Johan Heinsen, Aske Stick, Mads Langballe Jensen, Niels Brimnes, Simon Rastén, and Mathias Danbolt.

I also want to extent my gratitude to all my colleagues at the History Department in Lund. Coming to Lund as a Dane barely speaking or understanding Swedish could have been very difficult, but I was always met by a friendly and inclusive atmosphere – during the morning or afternoon *fika*, in the corridors, or in the many departmental seminars where I had a chance to share in their knowledge and expertise. In particular, I want to thank Fredrika Larsson, Gustaf Fryksén, Svante Norrhem, Anna Nilsson Hammar, Karl Haikola, Jagger Andersen Kirkby, Lise Groesmeyer, Emma Severinsson, Trine Outzen, Evelina Kallträsk, Markus Hansen, Anton Öhman, Rikke Lie Halberg, Emma Forsberg, Anton Jansson, David Larsson Heidenblad, Johannes Ljungberg, Björn Lundberg, Henrik Rosengren, William Wickersham, Ulf Zander, and Joachim Östlund, as well as Therese Mortensen, Frida Nilsson, Ida Scherman, and Karin Zackari from Human Right Studies. From the

department, I also wish to thank Lars Edgren for offering his always insightful comments on the final draft of the book.

I also want to extent a special thanks to Victor Pressfeldt, with whom I organized the department's Foucauldian Seminar from 2016 to 2020, and to Joel Kuhlin, who was a steady participant and later co-organizer. These seminars and lectures, which were visited by a growing circle of doctoral candidates and master students from many parts of the HT-faculty until Covid put the whole thing to a stop, led to some of the most fun and intellectually stimulating discussions I ever had. On this note, I also wish to thank Niklas Olsen, Hjalmar Falk, Sara Edenheim, Matías Seidel, and Mitchell Dean for the lectures they gave as part of the seminar series. To Mitchell I am also extremely grateful for his constructive reading of some of the early drafts for this book.

I also wish to thank the National Graduate School of Historical Studies for all the memorable conferences and courses organized by the school around the Swedish countryside. In particular, I fondly recall my times with Marie Bennedahl, Rikard Einegard, and not least with Magnus Bergman. From the school's network, I am also grateful to Christopher Collstedt for his invaluable reading of the draft manuscript, which he gave as opponent at the mock defense (*slutseminarium*).

I am also grateful to the people who supported those parts of my research that never fully materialized. First, I want to thank John Stampe Christensen for lending me his master thesis on landlord-peasant relations in a late eighteenth-century Danish county, which was a crucial focal point in the early drafts for this book. Secondly, I want to thank Asger Svane Knudsen, Mr. Prabhakar Rao, Denmark's vice-consul in India, as well as Simon Rastén, for helping me access the files from the former Danish colony of Tranquebar in the Tamil Nadu State Archives in Chennai, India. Regrettably, these avenues of research were hard to fit into the final book.

Moreover, this book would likely never have been finished if not for the generous financial support of the Helge Ax:son Johnson Foundation.

Lastly, I wish to express my eternal gratitude to my close friends and family. First, Morten 'New Shoes' Hansen deserves special mentioning. Besides drawing up two maps for this book, his warm and humorous nature has always given me joy, hope, and much-needed distractions from PhD life. The same goes for my other old friends, none mentioned none forgotten. To my parents Niels and Irene and my siblings Thomas and Pernille I am forever thankful for their love and support. And finally, my wife Luise and our two children Lilli and Nanna, whom I love more than anything else, I thank for their patience, their smiles, and for reminding me that there is more to life than what is found between the cover of books.

Copenhagen, March 2023

CHAPTER 1: COLONIALISM, GOVERNMENTALITY, COMPARISON

This book is about the ways in which colonized Afro-Caribbeans were governed in the Danish West Indies during the period 1770-1900. Throughout this period, this colonized population – made up of imported and enslaved Africans and their descendants[1] – was put to work in what was predominantly a sugar growing economy, first as chattel slaves to be bought and sold like any other commodity, and after 1848 as nominally 'free laborers'. Although small by most standards, the three islands of the Danish West Indies located in the Lesser Antilles – St. Thomas, St. John, and St. Croix – were an essential part of the Danish Empire until they were ceded to the US in 1917.

In light of present attempts to come to terms with the role of European colonialism in the making of the modern postcolonial world, the task of exploring this chapter of the colonial past is perhaps more pressing than ever before. As a contribution, this book aims to elucidate how colonial officials in the Danish West Indies sought to govern this colonized population: putting it to work, punishing crime, and stabilizing racial hierarchies, but also aiming to protect, nourish, and 'civilize'. In itself, this focus on colonial power and governing is of course far from original, in the context of the Danish West Indies or otherwise. Nevertheless, the book approaches this subject in novel ways, not least by asking questions of a more comparative nature. Essentially, it seeks to answer the question of whether and how Danish officials, as they governed the colonized, made use of those ideals and models of governing they knew and brought with them from their earlier lives in Europe, and from their mother country of Denmark in particular. Were these ideals and models, which were used to govern 'whites' back home, totally irrelevant for governing 'blacks'[2] in a Caribbean plantation colony? Or did this colonial world in the Americas somehow overlap with the one they had left behind?

[1] In this book, the terms 'slave' and 'enslaved' are used interchangeably, it being clear to all, both today and during the historical period in question, that those who were classed as 'slaves' did not end up in this category voluntarily, but through a violent and oppressive process of enslavement.

[2] Here, the terms 'black' and 'white' are employed as shorthand for the Afro-Caribbean population and for Danes or Europeans, respectively. In doing so, I am aware that I am clouding the ways

In posing these questions, this book is part of a long tradition of postcolonial scholarship. Like much of this postcolonial field, it is preoccupied with the question of whether and how the history of colonialism and empire can be said to have produced peculiar and distinct forms of knowledge and power. In particular, it belongs to a field known as 'colonial governmentality studies', a field that has drawn much inspiration from the French philosopher Michel Foucault (1926-1984). To Foucault, the history of power was not simply the history of those individuals and institutions who hold, lack, or crave power. It was also, as in this book, the history of how certain rationalities of power – or what Foucault sometimes called 'governmentalities' – emerge, become self-evident, and are transformed and contested as individuals seek to govern themselves and others. For this field, therefore, the history of colonial power and governing is not simply a history of oppression and resistance, but a history of the complex 'genealogies' through which power assumes a life of its own.

But although it belongs to the field of colonial governmentality studies, this book also poses questions that are rarely raised within this field. Firstly, this follows on from its particular emphasis on *comparison*. Of course, comparison is far from absent in current postcolonial histories of colonial power and 'governmentality'. After all, how could one assess the distinctiveness of the colonial world without some degree of comparison with Europe? Yet, as I will further explore later on, the mode of comparison that is employed is usually rather lopsided and dichotomic. It tends to favor the colonial case (or cases) and spends little analytical energy on comparable units of analysis from Europe. And rather than exploring overlaps and similarities, it tends to foreground absolute differences between 'colony' and 'metropole', as they are sometimes called. In writing this book, I have aimed for a more even, in-depth, and open-ended mode of comparison; one that gives as much priority to the exploration of difference as to possible points of overlaps and resemblances between governing in colony and metropole.

Secondly, this book distinguishes itself by its interest in the *history* of what I will call the *singularity of colonial governmentality*. Usually, colonial historians ask how colonial governing, in general or in particular sites, could be said to have relied upon distinct or singular forms of power or governmentality and how these were shaped, or remained untouched, by changes in the way colonizing states governed their subjects 'at home'. But these same historians are often much more silent on the question of whether there was variation or change over time in the degree to which colonial governing relied on singular and uniquely colonial ideals and models rather than those that were used 'back home'. Thus, the present study does not only ask if and how colonial power involved singular ways of governing the colonized at

these categories are not themselves timeless and how their making is a history of tension, exclusion, and power.

different points in time and space. It also examines whether there were changes in the degree to which colonial governmentality was meaningfully a reality of its own kind.

In many ways, therefore, the motivation for writing this book has been the expectation or hypothesis that a more even, in-depth, and open-ended form of comparison would be able to offer a different and valuable perspective on colonial governing – one that would be able to explore, on a solid foundation, what was unique (and what was not unique) about colonial governing at particular points in time and space, as well as the question of whether there were any significant changes over time in the relationship between governing in metropole and colony. With all this in mind, I chose to turn to the colony of the Danish West Indies and the metropole of Denmark, and picked two separate periods one century apart, namely the period 1770-1800 (studied in part I of the book) and the period 1840-1900 (studied in part II).

The reasons why I settled for this particular 'colony' and 'metropole' in precisely these periods of time are many. Given my previous training in eighteenth- and nineteenth-century Danish (colonial) history and my ability to access and read its archival remains (most of them in Danish Gothic handwriting and housed in Denmark), it made sense to pick a Danish colony. And out of the possible choices, the Caribbean colony of the eighteenth and nineteenth centuries quickly seemed like the most interesting case.[3] A site of unprecedented racism, violence, and oppression directed toward colonized individuals, it seemed, *prima facie*, like a most unlikely place to discover overlaps between metropole and colony, or to trace shifts in the degree to which colonial officials relied upon the models of governing used by their peers back home. If the comparative framework yielded such results here of all places, it might possess a more general validity for the study of colonial governing.

The colony of the Danish West Indies also seemed like a good choice given its special place in Danish historiography and public debate. Together with Greenland, it is without a doubt the part of the colonial past of Denmark that has long drawn the most attention. After being sold in 1917, nostalgic visions of the lost colony quickly gave life to popular and strong-lived narratives of exceptional Danish benevolence and humanism.[4] Today, however, the colony – and in particular its history of racism and slavery – is also subject to heated public arguments at regular intervals. Usually, these play out as a stand-off, and rarely a productive one, between those who believe this history requires self-critique, atonement, and even

[3] The other parts of the Danish colonial empire will briefly be introduced in 'Part I: Overlapping worlds, c. 1770-1800'.

[4] Karen Fog Olwig, "Narrating deglobalization. Danish perceptions of a lost empire," *Global Networks* 3 (2003); Karen Thisted, "'Hvor Dannebrog engang har vajet i mer end 200 Aar' - Banal nationalisme, narrative skabeloner og postkolonial melankoli i skildringen af de danske tropekolonier," *Tranquebar Initiativets Skriftserie* 2, nos. 1-51 (2008).

reparations on the part of 'the colonizer' and those who believe that the history of what happened 'out there' has little or no relevance for the present.[5]

Among established historians, the colony began to attract attention during the 1950s, initially only in Denmark, but from the 1980s also among researchers based in North America and the Caribbean. In a relatively recent overview of the field since the 1950s, Niklas Thode Jensen and Gunvor Simonsen have identified three distinct historiographical waves or trends, all of which have mirrored, they argue, broader international trends.[6] In the first, lasting roughly until the 1980s, historians wrote from a "Danish imperialist perspective".[7] Accordingly, their focus was on the lives and doings of Danes – or, more often, Danish officials – who administered, traded on, and lived on the islands, and no genuine attention was given to the lives and culture of enslaved or free blacks, or to the realities of colonial oppression and control. Since the 1980s, however, a new wave of research has placed colonized agency and colonial control at the center of attention, for instance by exploring the ethnic imaginaries of the enslaved, their strategies for navigating the colonial courtroom, and the colonial regime of law, punishment, and control to which they were exposed.[8] Building on this broad engagement, a third and more recent trend has begun to problematize what Jensen and Simonsen call "the neat spatial units marking earlier research".[9] Spurred on by global and transnational historical perspectives, this new trend of research finds that the sustained focus on the past colonized lives *in* the colony has tended to obscure the mechanisms, connections, and entanglements that have played out *across* its spatial boundaries.[10] In one noteworthy example, Rasmus Sielemann has argued that to understand the nature and changes in Danish West Indian governing, for instance its nineteenth-century practices of punishment and imprisonment, it is useful to place them in relation to contemporary European, and sometimes Danish, rationalities of governing.[11]

In most ways, this book shares this aim of placing the colony in a broader spatial framework, but it does so through a much more sustained and systematic comparative framework than has previously been utilized – a framework that makes

[5] See for instance Kristian Ditlev Jensen, "Mit stavnsbånd," *Weekendavisen*, March 12, 2021.
[6] Niklas Thode Jensen and Gunvor Simonsen, "Introduction: The historiography of slavery in the Danish-Norwegian West Indies, c. 1950-2016," *Scandinavian Journal of History* 41, nos. 4-5 (2016).
[7] Ibid., 480.
[8] Neville A. T. Hall, *Slave Society in the Danish West Indies – St. Thomas, St. John & St. Croix* (Jamaica: The University of the West Indies Press, 1992); Louise Sebro, *Mellem afrikaner og kreol - Etnisk identitet og social navigation i Dansk Vestindien 1730-1770* (Lund: Lund University, 2010); Gunvor Simonsen, *Slave Stories – Law, Representation, and Gender in the Danish West Indies* (Aarhus: Aarhus Universitetsforlag, 2017).
[9] Jensen and Simonsen, "Introduction: The historiography," 482.
[10] For more on this historiographical trend, see 'Part I: Overlapping worlds, c. 1770-1800'.
[11] Rasmus Sielemann, *Natures of Conduct – Governmentality and the Danish West Indies* (University of Copenhagen, 2015), esp. chapter 3.

it possible to pursue the question of whether and how Danish colonial officials could rely on forms of governing used by their peers back home. Moreover, to explore change over time, I have – as noted above – settled for what is, for this colony, a rather unusual timeframe, one that spans both the high tide of the colony under slavery in the late eighteenth century, which has attracted most of the scholarly attention, and the half century or so following emancipation in 1848, which is usually treated by itself or not at all.[12]

Furthermore, rather than a continuous or diachronic analysis, I have opted for an in-depth reading of two synchronic 'slices' of the past. My reason for picking exactly these periods are many. For one thing, each witnessed decisive and largely comparable changes in governing. For instance, one finds contemporary attempts in metropole and colony to limit the powers of slave masters and landlords, to reform the criminal laws, and to construct freer labor relations. But I have also focused on these periods and this larger timeframe because of the changes and discontinuities that hereby become more easily visible. More precisely, as I will argue throughout the book, by focusing on these periods one is able to identify an important change in the degree to which colonial officials relied on the rationalities of governing – or 'governmentalities' – used back home. Whereas colonial governing in the late eighteenth century was certainly distinct, it also incorporated much that would have been familiar and meaningful to domestic contemporaries. By the mid-nineteenth century, however, the colony had become – as I will show – a world beyond compare, one which was assumed to require its own and unique mode of governing. Thus, out of a shared world characterized by commensurability and translatability between metropole and colony, there had emerged a world in which the conceptual foundations – or governmentalities – for the governing of 'black' and 'white' had become thoroughly incommensurable and divorced.

Of course, this transformation was related to a broad set of developments, some of them world-spanning, others particular to Denmark, its empire, and of course its colony in the Caribbean. Throughout the book, but chiefly in the introduction to each of its two parts, I will draw attention to some of the economic, political, and cultural factors and developments that likely made Danish West Indian officials conceive the colonial world as either an extension of the metropole or, as they increasingly came to do, as a strange place that required its own modes of governing. But ultimately, the main focus of this book is not to explain, but to describe and compare. Not least, as noted above, it is about exploring the question of whether

[12] In 1995, Karen Fog Olwig described this as characteristic of the history of the Caribbean as a whole ("Introduction: Emancipation and Its Consequences," in *Small Islands, Large Questions – Society, Culture, and Resistance in the Post-Emancipation Caribbean*, ed. Karen Fog Olwig (London: Frank Cass, 1995)). Today, it still seems generally true in regard to the Danish West Indies, although with some notable exceptions (see Jensen and Simonsen, "Introduction: The historiography," 482).

and how colonial officials relied on forms of governing that would have been familiar and authoritative among their peers back home. However, before turning to this analysis, in the rest of this introductory chapter I will first present the larger theoretical and methodological framework upon which it is based, beginning with the central concept of 'governmentality'.

Governmentality

This book examines colonial power from the point of view of those white European men who governed the colonized population of the Danish West Indies. For this purpose, the book draws heavily on a mode of analysis or 'analytics' that is commonly referred to as 'governmentality'.[13] Today, this is a term that is used far and wide within the humanities and within the social and political sciences, and no doubt far beyond what Michel Foucault would have imagined when he popularized the term during the late 1970s. For instance, there is a voluminous body of scholarship on 'colonial governmentality' that will be taken up in the next section. But for now, the following will present the key analytical concepts and perspectives with which this book approaches the ways colonial governors (and their domestic colleagues) conceived of 'how to govern'.

Working within the analytics of governmentality means taking a distinctly Foucauldian approach to 'power'. In his view, as is well-known, power is not a thing some individuals possess and others lack, and nor is it essentially a negative force that poses limitations on knowledge or individuals. Rather, to explore power is to explore a whole number of relationships – within families, institutions, and society – that produce the regimes of knowledge and subjectivity through which people come to constitute themselves and their surroundings as meaningful entities. In Foucault's work on 'governmentality' in the late 1970s, this engagement with power relations was extended, but also taken in new directions. While Foucault had previously explored how power imposes subjectivities, truths, and norms upon objectified and passive subjects, the analytics of governmentality was instead focused on the exploration of the historically contingent ways agents have aimed to 'conduct the conduct' of themselves and others.[14] Instead of 'power', Foucault had therefore come to favor the concept of 'government'. And by this, he pointed out, should be understood not merely "political structures or to the management of states", but a great diversity of practices, ranging from the governing of one's soul,

[13] Mitchell Dean, *Governmentality – Power and Rule in Modern Society*, 2nd ed. (Los Angeles: Sage, 2010).
[14] Thomas Lemke, *Foucault's Analysis of Modern Governmentality – A Critique of Political Reason*, trans. Erik Butler (London & New York: Verso, 2019), 127-152.

children, and household to the large-scale activities of communities and sovereigns.[15]

The term 'governmentality' is derived from this reconceptualization of power as government or governing. Foucault himself often used this term in a confusing variety of ways, but following William Walters, it is useful to draw out two essential uses.[16] In its broadest sense, Walters argues, Foucault used the term to refer to a zone of governing existing somewhere in between what he defined as "states of domination" and "strategic games between liberties". In this sense, the term addresses relations of power where the agency of individuals is neither totally suspended (they are not slaves in chains), nor simply a matter of how individual wills "try to control the conduct of others" or "try to avoid allowing their conduct to be controlled". Somewhere in between these extremes of total powerlessness and pure volition, governmentality therefore refers to a form of conduction that relies on what Foucault on this occasion termed "techniques of government".[17] Thus, as Walters explains, it refers to a form of conduction that might be experienced as spontaneous and natural by the agents themselves, but which has in fact at some point in time and space "been subjected to a certain degree of investigation, critical reflection and perhaps calculated refinement."[18] Therefore, like the ways that parents govern their children or states direct the conduct of recipients of poor relief, the zone of conduct referred to as 'governmental' is, on the one hand, one premised on the (however limited) freedom of the governed to make different choices, and on the other, one that relies on certain already rationalized forms of conduction.

Foucault's second use of the term 'governmentality' revolved around a particular domain of governing, namely the government of and by the state. In particular, this was the focus of his 1977-1979 lectures at the Collège de France, where he presented a "genealogy of the modern state".[19] In this context, Foucault not only explored the historical transformations of forms of governing from the Ancient Hebrew forms of pastoral power to contemporary neoliberalism, but also proposed a new and distinctly anti-universalist approach to the state. It consisted in saying: "Let's

[15] Michel Foucault, "The Subject and Power," *Critical Inquiry* 8, no. 4 (1982): 789-790. See also ——, *Security, Territory, Population – Lectures at the Collège de France 1977-1978*, ed. Michel Senellart (New York: Picador, 2007), 120-122.

[16] Walters rightly also emphasizes a third usage, namely what Foucault called "liberal governmentality" (William Walters, *Governmentality – Critical Encounters* (London & New York: Routledge, 2012), 10-13). But seeing as this usage is more important to the historical analysis than it is to the analytical framework itself, it will be treated later on, in chapter 2.

[17] Michel Foucault, "The Ethics of the Concern of the Self as a Practice of Freedom," in *Ethics: Subjectivity and Truth*, ed. Paul Rabinow, The Essential Works of Michel Foucault (New York: The New Press, 1994), 299-300.

[18] Walters, *Governmentality – Critical Encounters*, 12.

[19] Foucault, *Security, Territory, Population*, 354.

suppose that universals do not exist".[20] Or, as others have added, it consisted in questioning the supposed essence of the state by showing how the state is not so much a historical constant as a historical construct that is continually in a process of becoming.[21]

More precisely, to study the state without recourse to 'universals' means to avoid interpreting its forms of governing as reflections of some underlying necessity, function, or reality. For instance, for the purposes of this book, it means avoiding a mode of interpretation that tends to view state practices – as many works on Danish history do – as self-evident and pragmatic responses to the state's interests, its need for order, or its involvement in class struggles or in other social and economic realities.[22] Instead, as Foucault explained in a 1980 interview, "[i]t means making visible a *singularity* at places where there is a temptation to invoke a historical constant, an immediate anthropological trait, or an obviousness which imposes itself uniformly on all."[23] And to do this, he argues, one must study the formation and transformation of what made certain forms of governing rational, acceptable, and self-evident. That is, one must identify what he sometimes called their underlying "programs of conduct" or, more simply, "governmentalities".[24] By examining how particular 'programs' or 'governmentalities' emerge and assume authority, the idea is therefore to explore the extent to which governing is not simply a pragmatic and self-evident response to some profound objective necessity, but is based on and driven by historically singular ways of governing that "possess", to quote Foucault, "their own specific regularities, logic, strategy, self-evidence and 'reason'."[25]

To do so, Foucault and later scholars have erected a rich if sometimes confusing body of concepts. In this study, I will limit myself to four key concepts, namely 'problematization', 'knowledge', 'art of governing', and lastly the notion of 'a governmentality' itself.[26] In limiting the analysis to these concepts, however, this book has much less to say about the complex interrelations of power, knowledge, and subjectivity; about how power produces subjects, how discourse orders the world of objects, how subjects govern and constitute themselves, etc. Instead, in my

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[20] ———, *The Birth of Biopolitics – Lectures at the Collège de France 1978-1979*, ed. Michel Sennelart (Basingstoke: Palgrave Macmillan, 2008), 2-3.

[21] Thomas Lemke, *Foucault, Governmentality, and Critique* (London: Paradigm Publishers, 2011), chap. 2.

[22] This historiographical critique will be unfolded in the chapters that follow.

[23] Michel Foucault, "Questions of Method," in *The Foucault Effect – Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, and Peter Miller (Chicago: University of Chicago Press, 1991), 76.

[24] Ibid., 75.

[25] Ibid.

[26] Besides Foucault's own studies, these concepts are also inspired by the terminologies used in the works of Nikolas Rose and Mitchell Dean, see Nikolas Rose, "Identity, Genealogy, History," in *Questions of Cultural Identity*, ed. Stuart Hall and Paul du Gay (London: Sage Publications, 1996); Dean, *Governmentality – Power and Rule in Modern Society*, 37-51.

use of these four terms, my focus is the more narrow and simple one of identifying the rationalities upon which certain practices of governing were founded in the Danish West Indies and its metropole of Denmark.

In using the first term – *problematization* – I refer to the ways in which a certain phenomenon or conduct, such as theft or poverty, is rendered problematic. Yet, in doing so, I follow Carol Bacchi's and Susan Goodwin's emphasis on the productive aspects of problematizations. They argue that a problematization is not a reaction to a pre-existing problem, but is itself "creating or constituting 'problems' as particular sorts of problems".[27] For instance, theft committed by enslaved Afro-Caribbeans may, as I explore in chapter 3, be problematized racially as a reflection of the supposedly criminal nature of all 'blacks', or may be problematized ethically as the property of 'evil' or 'fallen' individuals. Furthermore, as Bacchi and Goodwin emphasize, the distinct way a 'problem' is rendered problematic will influence what kinds of solutions appear meaningful to governors.[28] If all 'blacks' are disposed to crime, harsh deterrence and surveillance appear necessary; but if this inclination to crime relates only to an immoral subsection of the enslaved, it will be vital to find a way to separate the 'good' from the 'evil' offenders, and even to utilize instruments of moral improvement. Thus, rather than analyzing 'problem-solving', the purpose of exploring problematizations is to interrogate the deep-seated and sometimes conflicting conceptualizations through which 'problems' are made into particular types of problems.

The second concept – *knowledge* – refers rather broadly to the epistemological underpinnings of particular practices of governing. In this case, it refers to the ways of knowing that helped governors in metropole and colony to interpret and act on reality in the singular way that they did. Some of the knowledges in question were rather untheoretical and based more on experience, intuition, or know-how. A good example of this, to which I will often return, is various forms of racial knowledge about the supposed nature or psychology of 'blacks'. But some of the other knowledges that will be explored belonged to more specialized and theoretical bodies of thought, such as political philosophy, political economy, the science of 'police', theology, and of course theories of 'race'. However, the purpose of looking to this field of knowledge is not to contribute to the history of 'great minds' or even of 'knowledge' itself, as would an historian of ideas. Rather, the purpose is to locate the deliberations of state officials and legislators in the broader conceptual landscape of their time: to identify, for instance, their tendency to rely on a universal knowledge of human beings or a more particularistic idea of 'negroes'; to explore their use of a particular tradition, concept, or author; to realize which contemporary

[27] Carol Bacchi and Susan Goodwin, *Poststructural Policy Analysis – A Guide to Practice*, New York (Palgrave Macmillan, 2016), 29.
[28] Ibid., 13-19.

ideas they rejected; or to distinguish the arguments that would have been unfamiliar from those that were self-evident.

The purpose of the third concept – *art of governing* – is to get a firmer grip on how problematizations and knowledges were bound up with certain ways of intervening in reality. In everyday language, the word 'art' commonly refers to a kind of practical skill or know-how that may be more or less specialized. Here, it will be used in a sense that is broadly similar to what Foucault termed "a technology of government". In the words of Mitchell Dean and Kaspar Villadsen, Foucault understood a technology of government as a kind of "generally applicable model", one which has "particular propensities for perceiving and organizing", but which has "no simply origin, but heterogeneous sites of emergence".[29] What Foucault famously unearthed as "disciplinary power" is an example of such a technology: it was not invented anywhere or by anyone in particular, but gradually emerged from numerous sources to form a general art for seeing, thinking, and acting on reality that eventually appeared necessary and applicable across the social sphere.[30] Thus, by grasping governing as relying on 'art', one refers to those foundational aspects of a practice that cannot be reduced to the intentions or conscious reflection of particular subjects or institutions, but to a kind of authorless – but no less meaningful – program for seeing, thinking, and acting; one that has numerous genealogical origins and many possible points of application.

But while the concept of 'art' thus refers to mobile program for action that is capable of transcending geographical boundaries, when using the fourth and last concept – the notion of *a governmentality* – I will refer to the concrete foundations of governing as located at a particular point in time and space. That is, by 'a governmentality' I mean a concrete historical assemblage, in which one or more problematizations, knowledges, and arts of governing have crystallized into a coherent and specific program for problematizing, knowing, and governing reality. Thus, during the book I will speak, for instance, of the 'art of police' as a mobile art of governing that may be found in both metropole and colony, but use 'governmentality' to refer to the distinct foundations of governing identified at concrete points in time and space.

Here, this conceptual apparatus is useful for two reasons. First, it offers a theoretical perspective that allows for novel interpretations of the governmental practices of the Danish West Indies and the Danish metropole. But even more importantly, by stressing the ways that governing can be said to possess its own inner direction – one that is irreducible to the intention or motives of individuals or to some deeper structural or ahistorical necessity – it also offers a fruitful framework through which

[29] Mitchell Dean and Kaspar Villadsen, *State Phobia and Civil Society – The Political Legacy of Michel Foucault* (Stanford: Stanford University Press 2016), 93-94.
[30] Michel Foucault, *Discipline and Punish – The Birth of the Prison* (Vintage Books, 1995 [1975]).

to grasp how ways of problematizing, knowing, and acting on reality may move from place to place, and thus how metropole and colony might be entangled and connected through complex governmental genealogies.

With all this in mind, the central question that is explored in this book can be posed in the following way: *Did the governing of colonized blacks in the Danish West Indies rely on governmentalities that were similar to those of the Danish metropole, and if so how?* To explore this question during the two periods under consideration – i.e., 1770-1800 and 1840-1900 – the following sub-questions will be central. First, as colonial officials turned to a particular 'problem' – such as the mistreatment of slaves – did they constitute it as a particular kind of problem that mirrored how their peers at home problematized comparable issues? Second, did they rely on forms of knowing that resonated with what was considered authoritative in the metropole? And third, as they approached problems and utilized knowledges, did they govern colonized blacks on the basis of arts or programs of conduct that were familiar and authoritative to the governing of whites back home?

Rethinking the study of colonial governmentality

As mentioned, in applying this Foucauldian conceptual lens to the context of the Danish West Indies, this book is part of a field known as 'colonial governmentality studies'. As in postcolonial scholarship more generally, the influential works within the field of colonial governmentality studies have primarily focused on the colonies of the Old World: in Africa and southeast Asia, and more than anywhere else in India.[31] But as Rasmus Sielemann has recently noted, the field has generally paid much less attention to the New World, both in the context of slavery and in regard to the post-slavery government of black laborers in the Americas.[32]

One may only speculate as to the reasons for this. As Sielemann himself suggests, the surprising absence of Foucauldian perspectives on slavery and its aftermaths possibly has something to do with the fact that a Foucauldian approach might risk the very thing that scholars of this field have been most keen to avoid, namely to "whitewash the consequences of the mass-scale and systematic trafficking,

[31] For overviews of the field, see Søren Ivarsson and Søren Rud, "Rethinking the Colonial State: Configurations of Power, Violence, and Agency," *Political Power and Social Theory* 33 (2017); Deana Heath and Stephen Legg, "Introducing South Asian Governmentalities," in *South Asian Governmentalities – Michel Foucault and the Question of Postcolonial Orderings*, ed. Deana Heath and Stephen Legg (Cambridge: Cambridge University Press, 2018).

[32] Rasmus Sielemann, "Governing the Risks of Slavery: State-Practice, Slave Law, and the Problem of Public Order in 18th Century Danish West Indies," *Political Power and Social Theory* 33 (2017).

exploitation, and indirect murder of African men, women, and children".[33] For, as noted above, a governmentality approach tells us to look beyond the 'author' or 'function' of governmental practices: to look beyond the intentions, needs, and interests of those people who were ultimately responsible and culpable for the horrors of slavery and its aftermaths.

According to Joseph C. Miller, one of the things that has characterized the historiography of New World slavery is to treat slavery as essentially an 'institution'. In his view, this is problematic because such a notion tends to place the agency of slavers and slaves outside of time and space, constrained to play their pre-assigned roles as greedy, brutal oppressors and passive and sometimes resisting victims.[34] But seen from a governmentality perspective, an institutionalist notion of slavery is also problematic because it tends, as Sielemann has argued, and as will be explored in more detail throughout the book, to falsely reduce the governing of slaves to nothing but a form of repression which has the function of maintaining slavery. For even as slave management, in the Danish West Indies and other slave colonies, was clearly repressive and clearly designed to buttress slavery, it was never a pure and self-contained form of domination. On the contrary, as I will aim to document throughout part I, governing slaves often involved historically complex and highly heterogeneous practices – practices that relied on governmentalities whose aim it was not only to subdue slaves, but to fundamentally alter their conduct and sense of self; governmentalities which did not simply reflect the functional needs of slavery, but which had been formed out of historically singular ways of problematizing, knowing, and acting on reality.

But if such an approach to colonial government is still marginal to the history of slavery and its aftermath, it is well-entrenched in other areas, not least in the historiography of colonial India. One of the earliest and still most inspiring contributions to the field is David Scott's often-cited article 'Colonial Governmentality' from 1995. In it, Scott opposed what later scholars of the field have referred to as a "one-dimensional understanding of colonialism",[35] one that sees colonial governing as a manifestation of a static and generic state of "coloniality": "a singular colonialism, spatially undefined and temporally spread out

[33] ———, *Natures of Conduct*, 31.

[34] Joseph C. Miller, *The Problem of Slavery as History – A Global Approach* (New Haven & London: Yale University Press, 2012), chapter 1. With this critique, Miller has in mind not least the influential works of David Brion Davis and Orlando Patterson, for instance their respective works *The Problem of Slavery in Western Culture* (Oxford: Oxford University Press, 1966) and *Slavery and Social Death – A Comparative Study* (Cambridge, MA: Harvard University Press 1982).

[35] Ivarsson and Rud, "Rethinking the Colonial State: Configurations of Power, Violence, and Agency," 8. See also Heath and Legg, "Introducing South Asian Governmentalities," 4-8.

over four centuries".[36] More specifically, what Scott criticized was an argument made a few years before by Partha Chatterjee concerning the essential importance of race or, as he phrased it, "the rule of colonial difference" in colonial governing. According to Chatterjee's argument, the colonial state must be understood on its own terms, and not as an extension of its mother state, because it is driven by its own uniquely colonial dynamics, not least by its need to stabilize the difference and hierarchy between colonizer and colonized.[37] But what David Scott criticized was not so much the idea that race mattered, or that the colonial state was a unique phenomenon, but rather the presumption that race-based governing worked in an ahistorical, uniform and predictable way. As he worded it:

> even if as a system of representation race can be shown to operate across the colonial period, what also needs to be understood and specified is when and through what kind of political rationality it becomes inserted into *subject-constituting* social practices, into the formation, that is to say, of certain kinds of 'raced' subjectivities.[38]

Not least, what Scott aimed to do was to "impose an historicity on our understanding of the rationalities that organized the forms of the colonial state."[39] And to do so, he urged colonial scholars to pay particular attention to Europe and to ask how Europe's rationalities of governing had, at various points in time and space, influenced the colonial world. As he was careful to underline, this was not meant to imply that "the modernities of the non-Western world are somehow 'derived' from Europe's and that *therefore* an understanding of the 'original', as it were, would repay the effort." Rather, he argued, this concern with Europe's colonial career followed from the fact that the historical forms and transmutations of European modes of governing "generated changing ways of impacting the non-Western world, changing ways of imposing and maintaining rule over the colonized, and therefore changing terrains within which to respond."[40]

In writing this book, Scott's call to move beyond a static and generic colonialism and to appreciate both the importance of Europe and the historicity and heterogeneity of colonial governmentality has been immensely important. Of course, the same could be said for the many empirical studies of colonial governmentality that have followed his call since then, not least the many works

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[36] Frederick Cooper, "Postcolonial Studies and the Study of History," in *Postcolonial Studies and Beyond*, ed. Ania Loomba, et al. (Durham & London: Duke University Press, 2005), 415.
[37] Partha Chatterjee, *The Nation and its Fragments – Colonial and Postcolonial Histories* (Princeton: Princeton University Press, 1993), 18-22. See also George Steinmetz, *The Devil's Handwriting – Precoloniality and the German Colonial State in Qingdao, Samoa, and Southwest Africa* (Chicago & London: The University of Chicago Press, 2007), 27-55.
[38] David Scott, "Colonial Governmentality," *Social Text* 43 (1995): 196-197 (original emphasis).
[39] Ibid., 196-197.
[40] Ibid., 198 (original emphasis).

that have been published in recent years on various manifestations of colonial governing in the Danish Empire.[41]

But as mentioned already, this book distinguishes itself from the main strands of this body of scholarship by its method of comparison and its aim of historicizing the singularity of colonial governmentality.[42] In formulating this method and this aim, I have drawn upon the fields of comparative and global history.[43] Not least, I have drawn upon Kenneth Pomeranz's concept of 'reciprocal' or 'two-way comparison'. Although Pomeranz's concept is designed to tackle a very different problem – namely the problem of explaining the rise of industrialization and the great economic divergence between 'the West and the rest' – the historiographical and methodological critique he offers resonates with mine in many ways. Not least, what is relevant here is his warning against using incomparable units of comparison; against assuming one unit to be the norm and the other to be the deviation; and against endogenous forms of explanation.[44]

First, in regard to the first warning, I would argue that current approaches within the field of colonial governmentality studies tend to compare metropole and colony through incomparable units that are given a very uneven degree of attention. For whereas the colony (or sometimes a larger imperial network of colonies) is of course investigated through careful empirical studies and naturally finds itself at the center of attention, the unit against which it is compared is often little more than a generalized or theoretical construction (Europe, Western governmentality, etc.) that is inferred from the work of others. Thus, the assessment of the distinctiveness of various colonial practices of governing is not reached on the basis of detailed empirical analysis of some commensurable phenomenon in the metropole (or some

[41] Besides Rasmus Sielemann's inspirational work on the Danish West Indies that has already been mentioned, see also Søren Rud, *Colonialism in Greenland – Tradition, Governance and Legacy* (The Netherlands: Palgrave Macmillan, 2017).

[42] Naturally, in making this claim I am running the risk of simplifying what is in reality a rather large and heterogeneous field of scholarship. Quite likely, crucial contributions have been missed, not least since my engagement with this literature has mostly been confined to works available in English and primarily to those on the British and Danish Empires, and to a lesser extent the French and Dutch Empires.

[43] For overviews of these fields, see Deborah Cohen and Maura O'Connor, "Comparative History, Cross-National History, Transnational History—Definitions," in *Comparison and History – Europe in Cross-National Perspective*, ed. Deborah Cohen and Maura O'Connor (2003); Sebastian Conrad, *What Is Global History?* (Princeton: Princeton University Press 2016), 38-44; Heinz-Gerhard Haupt, "Comparative history – a contested method," *Historisk Tidsskrift (Sweden)* 127, no. 4 (2007); Jürgen Kocka and Heinz-Gerhard Haupt, "Comparison and Beyond – Traditions, Scope, and Perspectives in Comparative History," in *Comparative and Transnational History – Central European Approaches and New Perspectives*, ed. Heinz-Gerhard Haupt and Jürgen Kocka (New York & Oxford: Berghahn Books, 2009); Philippa Levine, "Is comparative history possible?," *History and Theory* 53, no. 3 (2014).

[44] Kenneth Pomeranz, *The Great Divergence – China, Europe, and the Making of the Modern World Economy* (Princeton: Princeton University Press, 2000), 3-17.

other comparable unit), but by relying on the conclusions drawn and generalizations made by others, a circumstance that is no less problematic for the very reason that most often those 'others' are the highly idiosyncratic and Eurocentric Michel Foucault himself (more on this problem later).[45] By comparing the Danish West Indies with the Danish metropole and treating them in a more even fashion, my ambition has been to avoid repeating this tendency to make the metropole into something that is merely "sketched in as background".[46]

Furthermore, in regard to Pomeranz's second warning, I have sought to avoid prefiguring the metropole as the norm and the colony as the deviation. Of course, the purpose of this methodological stance is not to gloss over the exceptional aspects of colonial governing at various points in time and space. Rather, the purpose is to make the analysis open to the exploration of nuances, overlaps, and what Pomeranz calls "surprising resemblances" between metropole and colony.[47] In many analyses of colonial governmentality, on the other hand, such an exploration is often closed off by a tendency to structure the historical narrative around binaries of more-less, present-absent, and excess-neglect; binaries that have the effect of establishing a kind of dichotomy of norm and deviation.[48] For instance, for all its lucid use of Foucault's vocabulary of power in the context of early twentieth-century colonial Delhi, the comparative ambitions of Stephen Legg's *Spaces of Colonialism* are ultimately satisfied by an insightful – but also highly generalizing – condensation of the ways that the European forms of power were "subject to a series of excesses and neglects" as they travelled to the colonies. Thus, in "the colonial context", Legg explains:

> [s]overeign power was excessively violent and theatrical, but sovereignty was not devolved to regional governments or individual voting rights. Disciplinary institutions were excessively carceral yet failed to swarm through society or invert their influence onto the wider population. In general, the translation of modes of power reveals a form of rule that put governmental apparatuses in place, but which

[45] See for instance Peter Redfield, "Foucault in the Tropics – Displacing the Panopticon," in *Anthropologies of Modernity – Foucault, Governmentality, and Life Politics*, ed. Jonathan Xavier Inda (Blackwell Publishing, 2005); David Arnold, "The Colonial Prison: Power, Knowledge and Penology in Nineteenth-Century India," in *Subaltern Studies VIII: Essays in honour of Ranajit Guha*, ed. David Arnold and David Hardinman (New Delhi: Oxford University Press, 1994); Gyan Prakash, *Another Reason – Science and the Imagination of Modern India* (Princeton University, 1999).

[46] The quotation stems from Kocka and Haupt, "Comparison and Beyond," 5.

[47] Pomeranz, *The Great Divergence*, esp. chapter 1.

[48] See for instance Mark Brown, *Penal Power and Colonial Rule* (New York: Routledge, 2014), 17-32; Deana Heath, *Purifying Empire – Obscenity and the Politics of Moral Regulation in Britain, India and Australia* (Cambridge University Press, 2010), 11-34.

> had fundamental doubts about the ability of colonial populations to support the processes on which liberal government relied.[49]

Borrowing the words of Philippa Levine, I believe this exemplifies a tendency to set up "a hierarchy with the lead comparison as the normative entity against which something else will be compared."[50] That is, rather than exploring the nature of the overlaps, similarities, and resemblances that might exist, the role of comparison is instead to stabilize colonial and metropolitan governmentalities as deviation and norm and, in that sense, as distinct and dichotomous kinds.

But third and lastly, what is problematic is also how the essential distinctiveness of colonial governmentality is usually presupposed right from the outset. Thus, rather than the singularity of colonial governmentality itself being in question and requiring comparative work to be assessed, it is typically considered adequate to invoke some supposedly essential and singular quality of colonial statehood, or of 'the colonial context' more generally. One clear example of this is Partha Chatterjee's influential argument, which has for instance been adopted by George Steinmetz, that colonial governing is unique to its structural need to maintain the distinction between colonizer and colonized.[51] Another example is Mark Brown's use of John Comaroff's notion that colonial states were "states *sans* nations"[52] to explain why colonial states, in India and elsewhere, were prone to either treat the colonized population as "little more than a natural resource" or leave it entirely to its own devices.[53] And with reference to the dominant role of race in colonial discourse, others have argued that colonial power was generally indisposed to the form of "individuation" that crafts normalized, disciplined, and self-governing subjects in a capillary fashion.[54] As explained by Megan Vaughan with reference to the operations of biomedical discourse in colonial British Africa, "in a situation in which every colonial person was in some sense already 'other'," it was less urgent for colonial medicine and psychiatry to carefully distinguish, objectify, and normalize the 'abnormal'.[55]

Borrowing terms from Pomeranz and other global historians, these are instances of how 'endogenous' explanation – in this case, explanation focused on the inner or essential qualities and trajectories of colonial cases – tends to restrict the spatial

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[49] Stephen Legg, *Spaces of Colonialism: Delhi's Urban Governmentalities* (Malden, Mass.: Blackwell, 2007), 20-25, quotation 24.
[50] Levine, "Is comparative history possible?," 340.
[51] Chatterjee, *The Nation and its Fragments*, chapter 2; Steinmetz, *The Devil's Handwriting*, 27-55.
[52] John L. Comaroff, "Reflections on the Colonial State, in South Africa and Elsewhere: Factions, Fragments, Facts and Fictions," *Social Identities* 4, no. 3 (1998): 343.
[53] Brown, *Penal Power and Colonial Rule*, 30.
[54] Ania Loomba, *Colonialism/Postcolonialism*, 3rd ed. (Routledge, 2015), 68.
[55] Megan Vaughan, *Curing their Ills – Colonial Power and African Illness* (Stanford, CA: Polity Press, 1991), 10.

framework of analysis by making it meaningful to study colonial units in relative isolation from the metropole or Europe.[56] By making this point, however, I do not mean to imply that historians have been wrong to invoke 'the colonial' as a meaningful framework of interpretation. Rather, my point is that this framework might restrict the analysis in unhelpful ways, notably by making it difficult to assess what was singularly 'colonial' about a certain form of governing at a certain point in time and space. For by taking the category of 'the colonial' as the point of departure, the boundaries of what is colonial is no longer in itself what is in question and in need of being assessed.[57]

In fact, much the same holds true even in works with genuine comparative ambitions and whose spatial frameworks include both metropole and colony. For instance, one could mention Deana Heath's book *Purifying Empire*, which offers detailed comparisons of the ways that 'obscenity' became the object of moral regulation in late nineteenth and early twentieth-century Britain, India, and Australia.[58] But even in this book, there is a tendency to presuppose rather than question the category of the colonial. Indeed, just like the many works in recent decades that have aimed, like David Scott, to appreciate the heterogeneity and interconnections between various forms of colonial governing,[59] the central problem for Heath is not to analyze the shifting boundaries of 'the colonial' itself, but to challenge the notion of colonialism as a generic and static entity.[60]

Of course, this tendency to presuppose rather than question the boundaries of the colonial is far from a sign of scholarly laziness. On the contrary, it follows quite naturally, I would argue, from the underpinnings of postcolonial studies as such. In many ways, a central tenet of the postcolonial tradition of thought that sprang from the process of decolonization in the 1950s and 1960s is precisely that there is something inadvertently singular about colonial and postcolonial contexts – that

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[56] Conrad, *What Is Global History?*, esp. chap. 4.

[57] For a revealing example of how the singularity of 'the colonial' is often simply presupposed, see how Sanjay Seth, without offering further elaboration, argues that "the 'colonial' in 'colonial governmentality' needs to be understood as an adjective designating the ways in which the specificities of colonial rule qualified the functioning and character of governmentality." (*Subject Lessons – The Western Education of Colonial India* (Durham & London: Duke University Press, 2007), 122).

[58] Heath, *Purifying Empire*. Another example could be Elise van Nederveen Meerkerk, "Grammar of Difference? The Dutch Colonial State, Labour Policies, and Social Norms on Work and Gender, c.1800–1940," *International Review of Social History* 61, special issue (December) (2016).

[59] For an overview, see Simon J Potter and Jonathan Saha, "Global History, Imperial History and Connected Histories of Empire," *Journal of Colonialism and Colonial History* 16, no. 1 (2015). See for instance Steinmetz, *The Devil's Handwriting*; Kathleen Wilson, "Rethinking the Colonial State: Family, Gender, and Governmentality in Eighteenth-Century British Frontiers," *The American Historical Review* 116, no. 5 (2011).

[60] In Heath's own words, the purpose of her comparison is to appreciate "the continuities and discontinuities within colonialism" and to gain "a clear understanding of how colonialism functioned." (*Purifying Empire*, 11, 34.)

their economic dynamics, social relations, ideologies, and modes of power were and are so decidedly distinct and unique as to warrant a particular analytical lens.[61] As Gurminder Bhambra has thoroughly argued, this understanding emerged in opposition to the established view of colonial history as little more than an extensions of Europe's own, a view that therefore assumed that the colonial and postcolonial world could be understood in terms of theories drawn from European history, not least theories on 'modernization' and 'capitalism'. What postcolonialism set out to do was therefore essentially to grasp colonial and postcolonial histories as histories *sui generis*. And as a necessary steppingstone, it has had to dethrone Europe as the universal subject of history.[62]

In large respect, this book shares this postcolonial ambition and does not in any way wish to deny or belittle the insights that it has produced, in general or in colonial governmentality studies in particular. Rather, if I have gone some way to identify a habit of uneven, dichotomous, and endogenous comparison in studies of colonial governmentality, it has only been in order to draw out the blind spots this might entail and the kind of questions and approaches it tends to rule out. For from my point of view, these less-asked questions and less-used approaches may be useful tools for deepening the postcolonial engagement with the history and afterlife of colonial power and governing. Not least, as I see it, the purpose of comparing metropole and colony in a more even and open-ended fashion and of asking, as this book does, whether and how colonial officials in the Danish West Indies relied upon a governmentality that was similar to the governmentality of the metropole, is essentially to explore the singularity of colonial governing in new ways. Not least, as already noted, the aim is to explore whether and how there was a change in the relationship between colonial and metropolitan governing over time. In the rest of this chapter, I will introduce the comparative framework through which this investigation will be carried out and, after that, my selection and use of source material.

Comparing colony and metropole

Comparing connected spaces

In a sense, the spatial dimensions of this book are both broad and narrow. They are broad in the sense that they encompass both colony *and* metropole. But they are

[61] See Julian Go, *Postcolonial Thought and Social Theory* (Oxford: Oxford University Press, 2016), 18-63.
[62] Gurminder K. Bhambra, *Connected Sociologies* (London: Bloomsbury, 2014).

narrow in the sense that this book deals only cursorily with spaces outside this intra-imperial dimension and generally has little to say about how colonial governing in the Danish West Indies compares to or was influenced by its connections with neighboring colonies or by larger Atlantic, American, or even world-spanning networks.[63] For this reason, this book cannot lay claim to elucidate in any exhaustive sense the spatially complex genealogical making of colonial governmentality in the Danish West Indies. It only explores whether and how it resonated with main strands of metropolitan governing, and the extent to which it was influenced by, or itself influenced, the metropole.

Nevertheless, in the period under consideration, the connection between colony and metropole was certainly a vital one. While the early history of the colony in the late seventeenth century was often characterized by long periods of isolation under company rule, with a long time in between people, goods, and news crossing the Atlantic,[64] at least by the mid-eighteenth century, colony and metropole were locked in a steady flow of interaction. As the colony became crown property in 1755, policies aiming to centralize control and curb administrative maleficence or despotic tendencies among West Indian officials created an ongoing stream of dispatches and directives, as well as a general movement toward administrative uniformity.[65] And although officials and locals more generally became parts of a local creolized culture and navigated within regional and even global networks,[66] most of them had received both their training and their upbringing in the metropole and were therefore naturally, as I will show over the course of this book, well-versed in metropolitan principles of governing.[67] All in all, it seems fair to say that to compare colonial and

[63] For an example of 'connected history' as applied to the Danish West Indies, see for instance Pernille Røge, "Why the Danes Got There First – A Trans-Imperial Study of the Abolition of the Danish Slave Trade in 1792," *Slavery & Abolition* 35, no. 4 (2014).

[64] Ove Hornby, *Kolonierne i Vestindien*, ed. Svend Ellehøj and Kristof Glamann, Danmarks Historie (Copenhagen: Politikens Forlag, 1980), 47-75; Johan Heinsen, *Mutiny in the Danish Atlantic World – Convicts, Sailors, and a Dissonant Empire* (London: Bloomsbury Academic, 2017), 6-9, 157-170.

[65] Hornby, *Kolonierne i Vestindien*, 115-118. More on this in 'Part 1: Overlapping Worlds, c. 1770-1800'.

[66] See for instance Louise Sebro, "Mellem mange verdner - Netværk,vækkelse og transnationale forbindelser i det atlantiske rum i begyndelsen af 1700-tallet," *temp: tidsskrift for historie* 10 (2020).

[67] Although the educational background of royally appointed colonial officials and their careers in and beyond their time in office have been studied in much detail (see Klaus A. Schmidt's unpublished master thesis "Det kongelige civile vestindiske embedskorps 1800 til 1848 med særligt henblik på sammensætning og karriereforhold" (Copenhagen, 1980)), the question of their social and geographical background is less well-studied. With good reason, however, it is generally assumed that high-ranking officials were principally drawn from the educated classes living in Denmark (see for instance Louise Sebro, "Kreoliseringen af eurocaribierne i Dansk Vestindien - sociale relationer og selvopfattelser," *Fortid og Nutid* 2005, June (2005): 87-88).

metropolitan governmentalities in this period is also to compare two thoroughly interconnected and integrated spaces.

However, unlike much recent work within the field of imperial history (or 'new imperial history' as it is often called), my analytical point of departure is not these intra-imperial connections themselves, and my aim is not primarily to explore how these interconnections shaped colony and metropole alike[68] – a focus that is also widespread in recent works on the Danish Empire.[69] Rather, my analytical point of departure is larger domains or projects of governing in which colony and metropole were both deeply invested, and my aim is to compare these with an eye to identifying both similarities and differences.

More precisely, what this means is that this analysis sets out by identifying a kind of 'common ground' or what comparative historians sometimes refer to as a *tertium comparationis*, literally meaning 'the third part of the comparison'.[70] In chapter 2, for instance, this common ground that metropole and colony shared was their contemporaneous investment in attempts to limit the 'seigneurial power' or 'domestic sovereignty' of slave masters and landlords. Thus, by a 'common ground' or *tertium* I mean a larger or more general phenomenon which may encompass what could be very distinct practices of governing and the very distinct governmentality that gave them their meaning and shape. And the purpose of this is to avoid locating metropole and colony *prima facie* in separate worlds or trajectories, and to be open to identifying both differences and what they might have shared, at a deeper level, in spite of appearances, or contrary to what historical agents themselves believed.

But in itself, this focus on comparison does not mean that this book is not interested in the nature and effects of connections between metropole and colony. Rather, it means that connections are not the analysis' point of departure, but part of its results. For, if one has identified the operation of a similar way of problematizing, knowing, or governing reality in the profoundly connected space of metropole and colony, this similarity has of course, in all likelihood, at least partially been made possible by the influence that, for instance, a metropolitan knowledge has exerted on colonial officials. And on the other hand, if one has identified stark contrasts between governmentalities in metropole and colony, this might signal something about the workings of these connections, for instance that they were very weak, or that their

[68] For overviews of this field, see Stephen Howe, "Introduction: New Imperial Histories," in *The New Imperial Histories Reader*, ed. Stephen Howe (London & New York: Routledge, 2010); Alan Lester, "Imperial Circuits and Networks: Geographies of the British Empire," *History Compass* 4, no. 1 (2006); Remco Raben, "A New Dutch Imperial History? Perambulations in a Prospective Field," *Low Countries Historical Review* 128, no. 1 (2013); Potter and Saha, "Global History, Imperial History."

[69] For more on this recent trend in Danish history writing, see 'Part I: Overlapping worlds, c. 1770-1800'.

[70] See for instance Haupt, "Comparative history," 700.

effect was not to transfer ideas and tie spaces together, but to set up boundaries and make spaces appear incommensurable.

Comparing evenly, but not symmetrically

As noted above, this book aims to compare metropole and colony in a more even fashion than usual. But its aim is not, as it is for some comparative historians, to produce 'symmetric comparison', at least if this is taken to mean that the comparative units are studied in equal depth.[71] Rather, I have chosen to examine the colony in more detail, through a greater variety of sources, and with greater attention to different scales of analysis. Besides limitations of time and space, the reason for this is that the analysis of this book is centered around colonial governmentalities and is interested in the metropole primarily for the purpose of grasping those generally authoritative ideals and models of governing that would presumably have been familiar to colonial officials. Thus, this book is not a symmetric or one-to-one comparison of metropole and colony for the simple reason that it explores them through rather different modes of analysis.

In the analysis of the colony, there is a greater emphasis on heterogeneity, practices, and the multiple scales through which governing took place. Thus, more than in the metropole, it pays greater attention to the co-existence of different and conflicting conceptions of governing that were held among colonial officials, and the analysis deals with contributions of officials working at different administrative scales. More concretely, it examines and switches between three administrative scales or levels: the local, the colonial, and the imperial.[72]

The 'local scale' refers to the jurisdiction of Christiansted. Centered on the colony's main city and covering the eastern part of the island of St. Croix (Figure 1), the jurisdiction of Christiansted held more than half of the island's approximately 28,000 Afro-Caribbean population (as per 1797). As in the metropole, Danish West Indian jurisdictions were administered by a city bailiff (*byfoged*), an officer who represented the lower end of the legal system and usually combined the office of judge in the city court (*bytinget*), judge in the police court (*politiretten*), and Chief of Police (*politimester*). As in the other four jurisdictions in the colony, in Christiansted and in its surrounding countryside, the city bailiff and his cadre of clerks, scribes, and police officers were usually those state officials who were most

[71] See for instance Kocka and Haupt, "Comparison and Beyond."

[72] For a more extensive overview of Danish West Indian sources, see Erik Gøbel, *A Guide to The Sources for the History of the Danish West Indies (U.S. Virgin Islands), 1617-1917* (Odense: University Press of Southern Denmark, 2002).

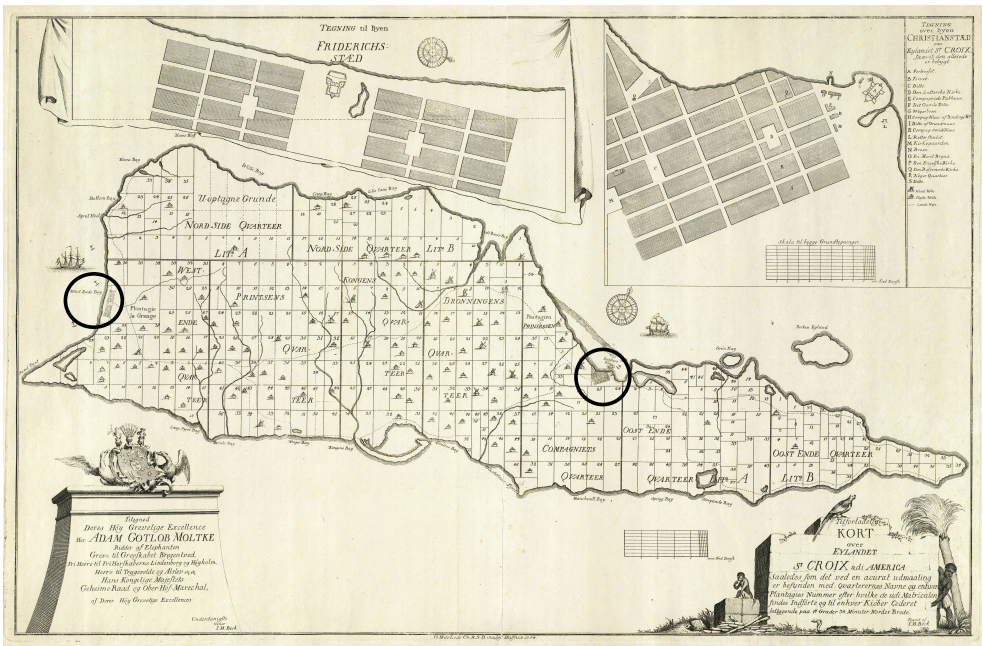

Figure 1. Map of St. Croix, by I. M. Bech 1754. The cities of Christiansted and Frederiksted are emphasized with a black circle. Royal Danish Library.

directly engaged in the day-to-day practice of governing blacks and colonial society in general.[73]

Despite its size, it is difficult to say how typical the jurisdiction of Christiansted was of the colony at large. In the late eighteenth century, at least, St. Croix's heavier reliance on plantation agriculture and its slightly higher ratio of black-to-white inhabitants – in comparison with the much smaller and hillier islands of St. Thomas and St. John that were less focused on the labor-intensive growing of sugar cane – likely increased the intensity of its engagement with the colonized.[74] However, like Gunvor Simonsen who has studied the archive of the Christiansted city bailiff in great detail for the period 1755-1848, I assume that its extraordinarily well-preserved archive offers a valuable window into the Danish colony as a whole. Like her, I have in particular drawn upon large sections of the protocols of the police court and the city court, though primarily for the years 1780-1800.[75] Unlike her, however, my focus is not primarily on the complex ways judges and slaves navigated and positioned themselves within this juridical system. Rather, in keeping with my focus on governmentality, I have studied this archive for the rationalities

[73] For more on the structure of the Danish Atlantic legal system, see Simonsen, *Slave Stories*, 47-49.
[74] For the colony's demographic until 1846, see Hall, *Slave Society*, 5.
[75] Simonsen, *Slave Stories*, 11-18.

of governing that city bailiffs followed during the daily practice of governing, for instance what they found problematic or insignificant as they examined complaints about slave maltreatment or prosecuted slaves suspected of theft.

The second scale – or what I call the 'colonial scale' – deals with authorities who had an over-arching role in running the colony as a whole. This class includes, of course, the Governor General or *generalguvernør* (after 1851 he was demoted to Governor), the highest state official in the colony who resided on St. Croix until the 1870s, when the office was moved to the now more prosperous St. Thomas.[76] In particular during the period before the emancipation of the enslaved in 1848, the Governor General held a key role in colonial governing, not least through his prerogative to issue local police regulations (known as placards or *plakater*) and his right to mitigate or appeal court rulings over slaves. Another key authority at the colonial scale was the so-called West Indian Government (*Den vestindiske regering*), which I will also refer to as 'the Colonial Government', which took care of general matters and the administration of the colony. From 1773 to 1849, it consisted of five members who decided through majority rule: the Governor General, the Commandant of St. Thomas (if present), and three state councilors in charge of their respective fields of administration, commerce, and justice.[77] After 1849, the Colonial Government was reduced to the Governor and his government secretary.[78] From 1852, however, it also worked closely together with the so-called Colonial Council (*Kolonialrådet*), a municipal body partly consisting of locally elected men (from 1865 split into two distinct councils of St. Croix by itself and St. Thomas and St. John together). Besides these administrative and municipal bodies, I have also examined lower court rulings that were appealed to the colonial Upper Court (*Landsoverretten*).

In analyzing this colonial scale, my focus has been on two kinds of sources. On the one hand, I have focused on officials' involvement in local practices of governing, for instance by examining gubernatorial decisions on cases regarding slave abuse in Christiansted. But I have also focused on their discussions on general principles of governing, as they drew up legislation or deliberated on more general matters. In most cases, however, these colonial discussions and the sources attesting to them were not contained within the colony, but tended to arise and develop in dialogue with the third scale of analysis, the imperial.

This imperial scale includes the various central metropolitan authorities to which colonial officials reported, most importantly the Danish Chancellery (*Danske kancelli*), the Chamber of Customs (*Kommerce- og generaltoldkammeret*), and after

[76] Fridlev Skrubbeltrang, *Vore gamle tropekolonier. Bd. 3: Dansk Vestindien 1848-1880 - Politiske brydninger og social uro*, ed. Johannes Brønsted, 8 vols. (Denmark: Fremad, 1952-1953), 63-68.
[77] Jens Vibæk, *Dansk Vestindien 1755-1848: Vestindiens storhedstid*, ed. Johannes Brøndsted, 2nd ed., 8 vols., Vore gamle tropekolonier (Denmark: Fremad, 1966), 40-41.
[78] Skrubbeltrang, *Dansk Vestindien 1848-1880*, 30-32.

1848 various departments of the home government, usually the Ministry of Finance (*Finansministeriet*). Formally speaking, the central authorities and ultimately the monarch – and, after 1848, the home government and Parliament – of course had the last say. But as was also true in other colonial contexts, the trans-Atlantic exchange between colonial and imperial authorities more often took the form of a conversation or dialogue than a bureaucratic execution of orders from above.[79] Some of the best examples and embodiments of the nature of this trans-Atlantic conversation are found in the government commissions set up at various times to deliberate on more concrete colonial issues, such as the commissions on slave law and the slave trade working during the 1780s and 1790s. Indeed, it is often in these trans-Atlantic deliberations that one finds the best basis for exploring what colonial and central authorities took for granted, disputed, or never even considered as they reflected on the governing of Afro-Caribbeans.

Thus, in analyzing the colony, I use a multi-scalar approach to explore the sometimes heterogeneous and conflicting ways Danish civil servants problematized, knew, and aimed to govern reality. In the case of the metropole, by contrast, my approach is exclusively mono-scalar and is focused not on local practices, and rarely on points of disagreement, but on the general models and principles of governing that were of authority in the making of new legislation and in more normative or theoretical accounts about how to govern, for instance as authored by political philosophers or political economists. To recall, the aim is not to compare symmetrically, but to explore whether and how colonial governors drew on the generally accepted governmentalities with which they must be presumed to have been at least somewhat familiar.

For this reason, the sources studied stem from central authorities, legislative bodies, and whoever else crystallized these generally accepted governmentalities. Yet, to narrow the analytical focus to what would have been most comparable to the Danish West Indies and the governing of the colonized, I have chosen to focus on the governing of the countryside and its rural population of farmers, cottagers, and laborers, popularly known as 'peasants' (*bønder*) or 'the peasant estate' (*bondestanden*), though I occasionally also focus on legislation and principles that applied to the Danish population more generally, for instance as they concerned the punishment of beggars and thieves. The reason for focusing primarily on the rural as opposed to the urban domain relates to the absolutely crucial role of this domain to Danish contemporaries, but also to the distinct social and legal relations through which the Danish peasantry were placed in the late eighteenth century where this analysis takes off. Somewhat like the social and legal relations of slavery, peasants were – as I will argue at greater length at the beginning of part 1 – imagined and

[79] On this point, see for instance George Steinmetz, "The Colonial State as a Social Field: Ethnographic Capital and Native Policy in the German Overseas Empire before 1914," *American Sociological Review* 73, no. 4 (2008).

treated as inferior others, little different from the 'savages' that the 'civilized' and educated classes had come to know from more exotic contexts. Exploring the governmentalities that targeted this large segment of the population therefore offers, I believe, a window into the governmentalities that must be presumed to have resonated most strongly in the colony.

Thus, this comparison of metropole and colony lays no claim to be entirely even or symmetric. Rather, in its aim of assessing the singularity of colonial governmentality and the history of this singularity itself, it approaches the making of governmentality in colony and metropole through distinct modes of analysis: the former through a multi-scalar focus attentive to heterogeneity and practices, and the latter through a mono-scalar focus on what was generally accepted or authoritative. This of course begs the question: does this make my readings of colony and metropole too different or incommensurable to form a basis for comparison? Naturally, the answer depends on what the analysis seeks to accomplish. If the aim was to produce a one-to-one comparison, it certainly would be problematic. But if the aim is, as here, to explore whether and how colonial officials relied on the generally accepted governmentalities of the metropole, I hope the reader will find my mode of comparison adequately even and balanced for this purpose.

Reading governmental texts, with and beyond Foucault

Before turning to the historical analysis, in this last section of this introductory chapter, I will specify how more precisely I have selected and approached the sources that give evidence to the governmental rationalities that made certain practices of governing necessary, meaningful, or self-evident in the Danish West Indies and in the metropole of Denmark. The four key concepts introduced earlier in the chapter – problematization, knowledge, art of governing, and governmentality – are useful to organize the analysis of these rationalities. But what sources are best suited to deciphering them, and through what conceptual apparatus are these sources to be interpreted?

Unlike many studies of power and governmentality, this analysis is wholly dedicated to the analysis of textual evidence. Therefore, it has very little to say about the means through which governors visualized or enumerated peoples and spaces, for instance through statistics, maps of colonial cities, or architectural blueprints of prisons or hospitals.[80] Instead, it is solely focused on texts or, more precisely, on texts that give evidence to the authority of certain ways of problematizing, knowing,

[80] Besides Foucault's now famous reading of 'the panopticon', see for instance Matthew G. Hannah, *Governmentality and the Mastery of Territory in Nineteenth-Century America* (New York: Cambridge University Press, 2000).

and governing reality. Indeed, following a classically Foucauldian approach to discourse, a text is not relevant for its hermeneutic potential: that is, it is not interesting for offering a window into its author's interest, intention, personality, unconscious, or experiential horizon.[81] Rather, a text is relevant to the extent that it gives evidence to the authority of certain assumptions or propositions on how to govern.

What is asked of a text is therefore something like this: As it takes something for granted or as it proposes something new, from what position of authority did it speak? And to answer this, one must ask questions like these: Was it written by someone whose wisdom and experience were highly respected? Did it attract support or disagreement? And most importantly, did it actively influence governing practices or the enactment of new legislation? Naturally, this emphasis on a text's authority directs the analysis toward texts written by figures of influence, texts that spurred and set the scene for subsequent discussion, and of course texts that directly and immediately cemented or changed certain practices of governing. But this does not mean that the analysis will concern itself only with the assumptions and arguments that were or became generally accepted and authoritative. In the case of the colony in particular, the analysis will also look, as noted above, for heterogeneity and thus for those governmental rationalities that were disputed, marginalized, or forgotten. In sum, what makes a text relevant is how it gives evidence to assumed, accepted, forgotten, or disputed rationalities of governing.

In interpreting the content of such texts, I have of course drawn upon the well of concepts developed by Foucault and others in their attempt to explore the plurality of governmentalities that have existed through time and space. In particular, I have drawn upon such classic Foucauldian concepts as 'sovereign power', 'discipline', 'liberalism', 'pastoral power', 'police', 'economy', and 'biopolitics' (to be taken up over the course of the book). At the same time, however, I have also sought to avoid the pitfall of 'applicationism'. In the words of William Walters, applicationism is "the tendency – perhaps a habit as much as a practice – to regard governmentality as a fully formed perspective that one simply applies to a particular area or topic."[82] Of course, to think of Foucault's work on power or governmentality in this way, as offering 'a theory' to be applied to concrete cases, would be quite contrary to the ethos of his work. Foucault instead thought of his work as "a kind of toolbox which others can rummage through to find a tool which they can use however they wish in their own area".[83]

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[81] In my view, one of the best introductions to Foucault's approach to discourse is still Hubert L. Dreyfus and Paul Rabinow, *Michel Foucault – Beyond Structuralism and Hermeneutics*, 2nd ed. (Chicago: The University of Chicago Press, 1983).

[82] Walters, *Governmentality – Critical Encounters*, 5.

[83] Quoted in Judy Motion and Shirley Leitch, "A toolbox for public relations: The oeuvre of Michel Foucault," *Public Relations Review* 33, no. 3 (2007): 263.

In the field of colonial governmentality studies, scholars are used to watching out for applicationism. Here, it is generally accepted that Foucault's conceptions of power and governing are highly Eurocentric and therefore cannot be transplanted unproblematically to the colonial world. To merely apply what has been formulated within a purely European – or, more often, French – point of reference would, as many scholars have shown, severely distort colonial realities.[84] But as others have shown, for instance Stephen Legg and Rasmus Sielemann, this does not make Foucault's concepts altogether irrelevant in colonial contexts, but rather demands that one uses them, as Foucault had urged, as a "toolkit" or "toolbox" that allows one to "pry open" the sources and organize the material if and when they prove convenient and useful.[85]

In writing this book, I have taken a similar stance. Not only have I found Foucauldian concepts useful to distinguish between different rationalities of governing, but often they have also made it possible to see what was common or different in metropole and colony. In doing so, I have also sought in some instances to take Foucauldian concepts in new directions, not least by drawing upon Mitchell Dean's work on 'police' and 'liberal governmentality' in early modern and modern England, and by incorporating insights from Foucault's own later work on Christianity and sexuality from the early 1980s.[86] But in other instances I have also sought to introduce concepts that have not previously been central to governmentality studies, and which have emerged out of my engagement with the historiography on, and the empirical material from, the Danish colony and metropole. In chapter 2, for instance, I speak of a liberal art of governing 'the passions' and generally, in first part of the book, I aim to give the notion of 'honor' the central place I believe it held in late eighteenth-century Danish rationalities of governing.

In all these ways, I hope to have struck a balance between using those well-established Foucauldian concepts that are familiar to scholars of the field, while tweaking some concepts and making room for new ones in a way that make it possible to appreciate the particularities of the Danish metropole and colony. Thus, by reading texts with and beyond Foucault, I hope to have avoided the related pitfalls of applicationism and Eurocentrism.

[84] Besides the works mentioned in note 35 above, see also Vaughan, *Curing their Ills*, 8-12.
[85] Legg, *Spaces of Colonialism*, xiv; Sielemann, *Natures of Conduct*, 42.
[86] This re-thinking of Foucauldian concepts is central to chapters 5-8. See in particular Mitchell Dean, *The Constitution of Poverty – Toward a Genealogy of Liberal Governance* (New York: Routledge, 1991); Michel Foucault, *Confessions of the Flesh*, trans. Robert Hurley, The History of Sexuality (New York: Penguin Books, 2021).

The structure of the book

This book is split into two parts. The first, which is by far the longest, deals with the period 1770-1800 and does so over five chapters, while the second, which deals with the period 1840-1900, consists of only two chapters. The reason for giving more space and attention to the first period than the second relates to one of the main purposes of this book, namely to historicize the singularity of colonial governmentality and to explore times and spaces in which this singularity is less clearly identifiable. And as I will argue, the late eighteenth-century Danish metropole and colony offers a valuable window into exactly such a time and space. To provide a clear contrast to this period, the last two chapters are dedicated to a period in which the boundaries of 'the colonial' were much more clearly defined, and thus to a colonial governmentality which conforms more clearly to familiar narratives of colonial difference and singularity. It is also in light of this that the second part of the book takes the liberty of analyzing colonial governmentality in the second period less exhaustively, less deeply, and with less emphasis on different analytical scales. (More on these methodological choices in 'Part II: Worlds Beyond Compare, c. 1840-1900.) Lastly, the final chapter presents and reflects on the findings of the book.

Note on translations and biographical information

Unless otherwise indicated, translations from Danish (and sometimes German) into English are my own. I have generally sought to translate as directly as possible and without unnecessary changes in sentence structure. In the case of key concepts or terms that are difficult to translate, the original words (with modernized spelling) are provided in square brackets and italics.

The biographical information that is provided throughout the book is taken from various sources. As a rule, I have followed the spelling and information as provided in *Dansk Biografisk Leksikon* (accessed through biografiskleksikon.lex.dk), but for lesser-known colonial officials or to obtain more detailed information I have consulted Kay Larsen's (1879-1947) compendious biographical collection *Dansk-vestindiske og guinesiske Personalia og Data*, housed in the Royal Danish Library (accessed through rex.kb.dk).

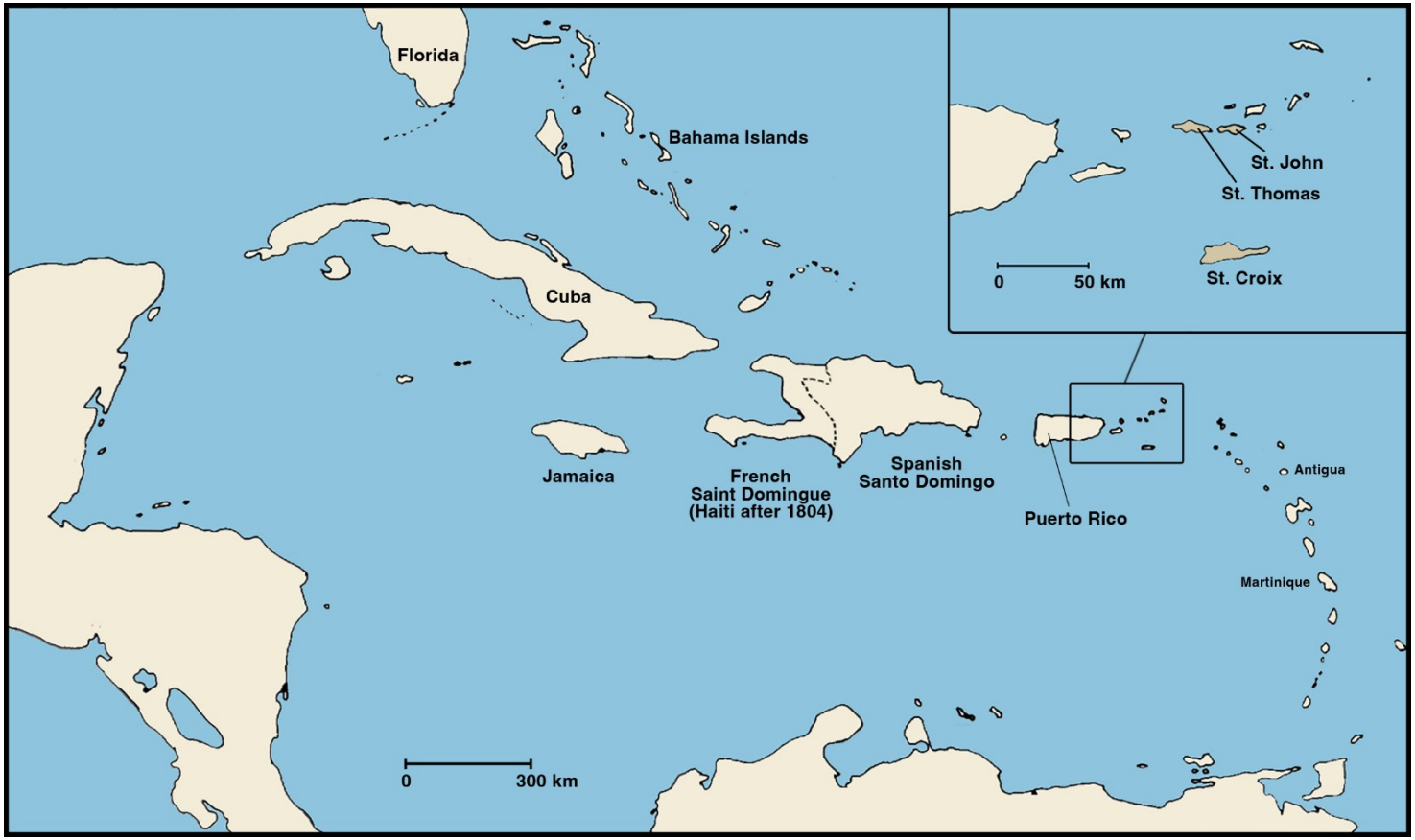

Figure 2. The eighteenth- and nineteenth-century Caribbean with close-up of the Danish West Indies. Morten Hansen 2023

Figure 3. The Danish State's mainland European possessions, c. 1800. Morten Hansen 2023.

PART I: OVERLAPPING WORLDS, C. 1770-1800

In the later decades of the eighteenth century, the Kingdom of Denmark (or Denmark-Norway) was still a significant player on the political scene of Europe. Although the preceding centuries had seen the loss to Sweden of the provinces of Scania, Halland, and Blekinge (in 1658), the Danish king still ruled Norway, the northern German duchies of Schleswig and Holstein, and the north-Atlantic islands of Iceland and the Faroe Islands, as well as a number of overseas colonies in the Arctic and the tropics: in Greenland, in India, on Africa's slave coast, and of course in the Caribbean. Around the year 1800, the King's European subjects numbered around 2.5 million, with 920,000 in the metropole of Denmark, 900,000 in Norway, and 600,000 in northern Germany. Overseas, the numbers were more modest and, in some cases, for instance on the coast of Africa, difficult to measure. In the case of the Danish West Indies, however, we possess very precise numbers. In 1797, a local official counted 36,693 people in total, 28,839 of them living on St. Croix, 5,734 on St. Thomas, and 2,120 on St. John.[1]

As was typical of the early modern period, this population lived in what was a highly diverse or heterogenous state, or what Michael Bregnsbo has labeled a "conglomerate state". Internally diverse and held together by little other than the figure of the monarch himself, the Danish Empire or 'conglomerate' was a highly heterogenous political entity, encompassing widely different geographies, juridical traditions, administrative practices, languages, cultures, and social relations.[2] Located in the westernmost corner of this conglomerate, the Danish West Indies was an extreme instance of its heterogeneity. Formed between 1672 and 1733, the Danish West Indies would eventually become the most valuable of the state's overseas possessions. Consisting of the hilly St. Thomas and St. John and the much larger and more arable island of St. Croix, which were acquired from the French in

[1] Hall, *Slave Society*, 5 (Table 1.1).

[2] Michael Bregnsbo, "Kolonirigets etablering", in *Danmark - En kolonimagt*, ed. Niels Brimnes, et al., Danmark og kolonierne (Gads Forlag, 2017), 120-122; ———, "Kolonirige under afvikling", in ibid., 196-197. The term 'conglomerate state' is here used in a somewhat wider sense than originally intended by Harald Gustafsson in his article, "The Conglomerate State: A Perspective on State Formation in Early Modern Europe," *Scandinavian Journal of History* 23, no. 3 (1998): 189.

1733, the colony was originally administered by a succession of trading companies specializing in the trans-Atlantic transportation of slaves and the slave-based production of sugar, while benefiting greatly from the natural harbor of St. Thomas that made its main city of Charlotte Amalie a center of local trade and, if convenient, a safe-haven for piracy.[3] In 1755, the colony became property of the crown, the state's foundational code of law (the Danish Code or *Danske Lov* of 1683) was extended to the colony,[4] and the colonial administration was reorganized according to the principles of the state's European dominions. From now on, the highest local authority was the Governor General, who was at the top of a large colonial administration of judges, officers, doctors, toll inspectors, priests, and so forth, who were all – except for those of inferior rank – royally appointed civil servants.

But in spite of these steps toward greater uniformity, the colony would still have struck incoming Danes as a rather strange place. For one thing, it was more culturally diverse than most Danes would have been used to. Although Danish was the colony's official language, only few spoke it, and generally the Danes – together with their brand of Protestantism – were overshadowed by the Dutch and the English who made up the majority of the colony's 3,000 white inhabitants as of 1797, not to mention the colony's 33,000 Afro-Caribbeans (most of them enslaved), who combined a mastery of these European languages with African beliefs and forms of worship.[5]

Secondly, the colony was and would remain a much more stratified and racist society. Although the society of whites (or *blanke* as they were known in Danish) was less socially stratified than the mother country,[6] and although divisions and hierarchies between whites and blacks were far from unknown in the mother country,[7] these racial divides and hierarchies were no doubt of far greater consequence in the colony. Here, the racial gulf was in fact only growing and hardening as the century wore on, and at a much quicker pace than in other Danish colonies.[8]

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[3] Hornby, *Kolonierne i Vestindien*; Heinsen, *Mutiny*.

[4] Poul Erik Olsen, "Danske Lov på de vestindiske øer," in *Danske and Norske Lov i 300 år*, ed. Ditlev Tamm (Denmark: Jurist- og Økonomforbundets Forlag, 1983).

[5] Hall, *Slave Society*, 9-19.

[6] As noted by Louise Sebro, what was distinct was the colony's lack of inherited nobility; see her article "Kreoliseringen."

[7] On the semantics of 'blackness' in eighteenth-century Copenhagen, see Gunvor Simonsen, "Racisme, slaveri og marked - Afrikanere i 1700-tallets København," in *Globale og postkoloniale perspektiver på dansk kolonihistorie*, ed. Søren Rud and Søren Ivarsson (Denmark: Aarhus Universitetsforlag, 2021).

[8] Gunvor Simonsen and Poul Erik Olsen, "Slavesamfundet konsolideres, 1740-1802," in *Vestindien - St. Croix, St. Thomas og St. Jan*, ed. Poul Erik Olsen , Danmark og kolonierne(Bosnia-Herzegovina: Gads Forlag, 2017), 134-137. For a comparison of broader 'Atlantic' discourses of race and the shifting racial imaginaries in the Danish colonies in Africa, see Pernille Ipsen,

Thirdly, the state's takeover did little to alter the strange realities of slavery or the extraordinary legal statutes that applied to enslaved Afro-Caribbeans, or 'negroes' (*negere*) as they were commonly known (the term 'free colored' or *frikulørt* being reserved for those who had won their liberty and thereby defied the seemingly natural association between blackness and enslaveability[9]). Although the crown initially drew up a code – generally known as the 1755 Slave Code – that defined the respective rights and duties of masters and slaves, it was never promulgated in the colony and therefore did not, as intended, set solid legal limitations on the master's use of his human property.[10] As of 1797, this meant that no fewer than 32,000 of the colony's inhabitants, 28,000 of whom lived on St. Croix, had no legal rights or personhood.[11]

Being so markedly different from the mother country – culturally, socially, and legally – it is perhaps understandable that historians have long written the history of the Danish West Indies, and the history of other Danish colonies for that matter, as if it unfolded in self-contained isolation, as what a recent assessment calls "a remote and exotic appendix to the 'real' history of Denmark".[12] Yet, as a new generation of Danish historians have argued, by insulating the history of colonies from that of the 'nation', as most historians did in the twentieth century, one also neglects the many ways that metropole and colony shaped each other;[13] for instance, how the circulation and exchange of ideas, goods, and people informed notions of race, modes of resistance, patterns of consumption, and questions about rights and belonging.[14]

Daughters of the Trade – Atlantic Slaves and Interracial Marriage on the Gold Coast (Philadelphia: University of Pennsylvania Press, 2015).

[9] ———, *Daughters of the Trade*, 49, 100-103.

[10] Poul Erik Olsen, "Fra ejendomsret til menneskeret," in *Fra slaveri til frihed - Det dansk-vestindiske slavesamfund 1672-1848*, ed. Per Nielsen (Denmark: Nationalmuseet, 2001), 37-39.

[11] Hall, *Slave Society*, 5 (Table 1.1).

[12] Niels Brimnes, "Danmark i postkolonialismens vridemaskine," *temp: tidsskrift for historie* 6 (2013): 183.

[13] For a condensed version of this critique, see Michael Bregnsbo, "Denmark and its colonies: Historiography," in *A Historical Companion to Postcolonial Literatures – Continental Europe and its Empires*, ed. Prem Poddar, Rejeev S. Patke, and Lars Jensen (Edinburgh: Edinburgh University Press, 2008).

[14] See for instance Johan Heinsen, "Escaping St. Thomas – Class Relations and Convict Strategies in the Danish West Indies, 1672–1687," in *A Global History of Runaways – Workers, Mobility, and Capitalism, 1600-1850*, ed. Marcus Rediker, Titas Chakraborty, and Mathias van Rossum (University of California Press, 2019); Kristín Loftsdóttir and Gísli Pálsson, "Black on White: Danish Colonialism, Iceland and the Caribbean," in *Scandinavian Colonialism and the Rise of Modernity: Small Time Agents in a Global Arena*, ed. Magdalena Naum and Jonas M. Nordin (London: Springer, 2013); Christian Damm Pedersen, "The Question of Rights in a Colour-Conscious Empire: The Danish West Indies and the Global Age of Revolutions (1800-1850)," in *Ports of Globalisation, Places of Creolisation – Nordic Possessions in the Atlantic World during the Era of the Slave Trade*, ed. Holger Weiss (Leiden: Brill, 2016).

In many ways, this book is part of this growing willingness to place metropole and colony in a unified analytical framework. Yet as noted in the introductory chapter, unlike most work within this field, my focus is less on the formative connections between metropole and colony than on the comparative question of the (changing) relationship between their respective governmentalities. And from this perspective, the most pressing task is not to assess the nature of the flows of ideas, goods, and people that influenced metropole and colony. Rather, to counterbalance the tendency to treat metropole and colony separately, what is more pressing is to create, as a kind of starting point, a more balanced comparative account of the two worlds in question. Were they, as the facts presented above seem to indicate, completely strange and dissimilar places, or were there also points of overlap and resemblance? Of course, there is no questioning the strangeness of the colony's cultural, social, and legal make-up. Yet, by drawing on work on the social imaginaries and relations of power that characterized contemporary metropolitan society and its rural society in particular, it also becomes clear, I will argue, that in the late eighteenth century the Danish West Indies would not have appeared as a completely dissimilar world to incoming colonial officials.

For one thing, this is because the Danish monarch at the time was, to borrow the terms of Frederick Cooper, the head of an "empire-state", but still not of a "nation-state".[15] That is, the imperial lands in overseas colonies like the Danish West Indies were not, as they would become in the nineteenth century, a world of foreigners as opposed to nationals, for the reason that – like many other European peoples at the time – it had not yet dawned on the Danes that they were first and foremost a 'nation'.

To be sure, since at least the mid-eighteenth century it had been possible to conceptualize the Danish people as belonging to the same 'nation' and as sharing a common genealogy, a common language, and even a particular body and temper.[16] But late in the century, this was still – as Ove Korsgaard has argued – a rather marginal discourse that was confined to a small Copenhagen-based intelligentsia. Indeed, the official ideology of the monarchy, the one that shaped rules on citizenship and reforms in the domain of education and rural relations, was not 'national' or 'ethnic', but 'patriotic'; that is, the *patria* was not ideally a 'nation'

[15] Frederick Cooper, *Colonialism in Question – Theory, Knowledge, History* (Berkeley: University of California Press, 2005), 153.

[16] See not least Ole Feldbæk, "Fædreland og Indfødsret - 1700-tallets danske identitet," in *Dansk Identitetshistorie*, ed. Ole Feldbæk (Copenhagen: C. A. Reitzels Forlag, 1991). For a notable example of this new nationalist discourse, see Erich Pontoppidan, *Den Danske Atlas eller Konge-Riget Dannemark, Med dets Naturlige Egenskaber, Elementer, Indbyggere, Vækster (etc.)*, vol. 1 (Copenhagen: A. H. Godiche, 1763), 126-153.

united by common descent, language, and traditions, but a political entity in which individuals enjoyed rights and fulfilled duties as subjects of a sovereign.[17]

Furthermore, the governing elite would not generally have felt that they had much in common with their social inferiors who inhabited the lower ranks of the societies of estates (*stændersamfundet*).[18] At least, as described by Peter Henningsen, this was true in regard to the estate or order known as 'the peasantry' (*bondestanden*), who made up roughly 80 percent of the population of Denmark. In the eyes of elites, the members of this estate had much in common with non-European 'savages'. In fact, Henningsen shows, they often compared them to 'Africans', 'Iroquois', or 'Hottentots'.[19] If this was so, it cannot have been entirely clear to the many officials who left Denmark for a colonial posting that where they were going – to the West Indies or anywhere else – was a world beyond 'the nation', one peopled by 'strangers' as opposed to 'nationals'. Much more likely, these educated men and their families, if they followed suit, would simply have seen this colonial environment and its colonized peoples as an extension of the division between 'civilized' and 'savage' with which they were already familiar.

Much the same can also be said of the West Indian plantation system and its modes of power. Of course, the New World colonial plantation system was a completely singular institution, designed for a very particular purpose and reliant on means of oversight, regimentation, discipline, and punishment whose degree of extremity and severity was altogether unknown in the metropole (or in any other place for that matter).[20] But even so, the plantation system, and not least the unlimited powers of masters over their slaves, would not necessarily have appeared as an entirely different thing. For instance, writing in 1784, the retired Governor General Ulrich Wilhelm de Roepstorff offered the view that the enslaved in the colony were comparable to "villeins" or "serfs" known from various parts of Europe. In fact, seeing as masters – like Danish lords – only possessed a "semi-property right" over those in their service, he believed it was:

> possible to consider the unfree negroes as villeins [*trælbønder*], their offspring to belong to their lords as serfs [*vornede*], and their work for food and clothing to constitute a reasonable corvée [*hoveri*].[21]

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[17] Ove Korsgaard, *Kampen om folket - Et dannelsesperspektiv på dansk historie gennem 500 år* (Copenhagen: Gyldendal, 2004), 167-199. The concept of patriotism will be treated at greater length in chapter 2, pp. 68-74.

[18] The Danish society of 'estates' or 'orders' will be explored in chapter 4.

[19] Peter Henningsen, *I sansernes vold - Bondekultur og kultursammenstød i enevældens Danmark*, 2 vols. (Copenhagen: Landbohistorisk Selskab, 2006), vol. 2, 557-584, quotations 558-559.

[20] Nicholas Mirzoeff, *The Right to Look – A Counterhistory of Visuality* (Durham & London: Duke University Press, 2011), chapter 1.

[21] CC. 419. No. 17: Roepstorff's memorandum (February 7, 1784), pp. 3-4.

Although Roepstorff was clearly stretching the analogy to its limits, his description was not without some basis in reality. Indeed, as will be further explored in chapter 2, the many seigneurial estates to which the majority of the peasants were still tied as Roepstorff made his analogy were effectively, as one historian has argued, "states within the state".[22] That is, just like the plantations, they constituted minor pockets of sovereignty operating almost autonomously. Most likely, as Malick W. Gachem has observed in the case of the French Caribbean, the difference between these domestic and colonial 'sovereigns' would therefore have been understood as "a matter of degree rather than kind".[23]

Thus, to the men of the late eighteenth century, the Danish West Indies was of course a very distinct element in the conglomerate state. It was so by virtue of its radically different legal, cultural, and social relations, not least as reflected in its reliance on racialized chattel slavery. But to them it would not have made sense to view the colony as a completely unfamiliar world. Rather, as I will substantiate over the next five chapters, they sometimes treated this colonial world as an extension of the one they knew: as an overlapping and commensurable space that allowed for a certain transability of experiences, vocabularies, and models of governing from metropole to colony, but also on occasion the other way around. Without the metropole being the underlying model for all aspects of colonial governing, I argue that, in the late eighteenth century, there was (still) a possibility of meaningful overlap between colonial and metropolitan governmentalities. Exploring the ways this possibility of overlap became, and did not become, reality in the Danish West Indies is the subject of the next five chapters.

These five chapters deal with five distinct governmental domains. In chapter 2, the subject is seigneurial relations and the way the state in metropole and colony aimed to govern the power that slave masters and whites in general exercised over the enslaved, and which landlords exercised over the peasantry. Chapter 3 deals with the contemporary attempts to reform the criminal laws in metropole and colony, in particular those relating to the crime of theft. After that, chapter 4 deals with the domain of social hierarchies and the maintenance of distinctions, chapter 5 with the regulation of the everyday public lives of slaves and peasants, and lastly, chapter 6 with the domain of production and the state's aim of optimizing the utilization of the work force.

[22] Thorkild Kjærgaard, *The Danish Revolution 1500-1800 – An Ecohistorical Interpretation* (Cambridge: Cambridge University Press, 1994), 207.
[23] Malick W. Ghachem, *The Old Regime and the Haitian Revolution* (New York: Cambridge University Press, 2012), 51.

CHAPTER 2: MASTERS AND SLAVES

In the middle of December 1779, the judge and Chief of Police in Christiansted, *byfoged* Alexander Cooper, chose to follow up on a rumor that had spread around St. Croix about an incident at a cotton plantation in the eastern part of the island. The rumor concerned the owner of the plantation, Richard Brown Sr., who was suspected of having punished two of his runaway slaves in such a "murderous and gruesome fashion" that they had both expired shortly thereafter.[1] The first slave, Abraham, Brown had apparently beaten in the head with a hammer while chained and hanging from a crossbeam in the living room of the main house. The other, Maria, he had ordered to be whipped and hanged by the neck, initially from a tree in the yard and later from a crossbeam in a chamber in the house.[2] Yet even as the various testimonies and the investigation of the blood-spattered crime scene seemed to confirm the suspicions (in fact even prompting Cooper to ask the accused's wife whether "she or her *husbond* was in the habit of butchering animals in their living room"[3]), Cooper was still wary of handing down a verdict. Instead, he referred the case to the Governor General, Peter Clausen.

A few months later, as Richard Brown was being detained, the Governor General decided that the Colonial Government could not allow such "inhumane conduct" to go unpunished, not least in light of Brown's misdemeanors a few years previously. Back then, in 1778, the punishment for his "tyrannical" and "cruel" treatment of both his wife and one of his slaves had only been mitigated and reduced to a substantial fine on condition that he would improve his "gruesome ways".[4] With the Governor General's backing, the case was therefore returned to the city court (*bytinget*) of Christiansted, where State Councilor Christian Ewald, following Alexander Cooper's death in 1780, was now acting judge.

Here, as he drew up his sentence in August 1781, Ewald faced a number of challenges. For one thing, there was the problem that all witnesses to Brown's misconduct were slaves, whose testimony was per definition inadequate to pass

[1] CCB. 38.9.4. Police interrogation, fol. 245 (January 15, 1780).
[2] Ibid., fols. 245-251.
[3] Ibid., fol. 247.
[4] WIG. 3.31.8. Entry March 9, 1780 (pp. 57-58).

sentence on a white, as was also the legal custom in other Caribbean slave societies.[5] Furthermore, the bodies of Abraham and Maria were now too decayed to ascertain whether a crime had even been committed. For these reasons, Ewald found it impossible to convict him of murder and issue the death sentence, as prescribed by the Danish Code. But he also deemed it inappropriate to completely acquit the planter, considering all the circumstantial evidence supporting the suspicion that his disciplinary measures had "been harder and gone further than they should have". Among this circumstantial evidence was "the suspicious and secretive way" the corpses had been buried, but also Brown's history of misconduct, not least his admission in 1778 that he had tortured one of his slaves to obtain her confession to a theft. On these grounds, Ewald issued a punishment of two years' work in irons at the city's fortress known as *Christiansværn*.[6]

Following Brown's appeal, by July 1782, the case had reached the St. Croix upper court (*landstinget*), where the judge Edvard Røring Colbiørnsen found considerable grounds to uphold the verdict of the City Court (even as he reduced the sentence to one year's work in irons due to the considerable time Brown had already spent in captivity).[7] In his verdict, Colbiørnsen had recourse to a number of reflections on the similarities and differences between the "constitution and circumstances" of the Danish West Indies and their metropolitan heartland of Denmark. On the one hand, he portrayed colony and metropole as opposites. To him, it was obvious that in a context in which laborers did not share in the fruits of their labor and could therefore not be driven to work by means other than force, it was only natural that the powers of their masters were more extensive than those wielded by masters over servants and laborers in Denmark. In the land of slavery,

> only means of force will drive their hands, and the unwillingness, which almost inevitably follows from forced labor that holds no promises of reward, will only be quenched through tougher punishments for negligence.[8]

But even if the metropolitan master-servant legislation could not serve as a model in the Danish West Indies, in Colbiørnsen's mind this did not make master-slave relations something radically different. Rather, presupposing that the authority of the slave master, at least as far as the state was concerned, was merely the extension of that held by metropolitan masters (or *husbonds*), he understood the distinction as more a matter of degree than kind. For, in his words, even as "the master's power over his slave must necessarily be more extensive than that of the *husbond* over the

[5] Simonsen, *Slave Stories*, 49-50; see also Elsa Goveia, "The West Indian Slave Laws of the Eighteenth Century," in *Caribbean Slave Society and Economy: A Student Reader*, ed. Hilary Beckles and Verene Shepherd (New York: The New Press, 1991).
[6] CCB. 38.6.14. The State vs. Richard Brown (verdict of August 11, 1781), fols. 73-74.
[7] CUC. 37.7.7. The State vs. Richard Brown (verdict of July 3, 1782), fols. 239-244.
[8] Ibid., fol. 240.

free servant", it was not the intention of "our mild lawgiver" to allow the enslaved to become "the victims of the self-willful [*egenrådige*] cruelty of each and every tyrannically minded master."[9]

As the basis for his legal interpretations of the intentions of 'the mild lawgiver', Colbiørnsen referred to the Slave Code of 1755 which, among other infringements on the master's power over his slaves, had confined discipline to the use of the whip and made all use of torture, mutilation, and the like a punishable offense.[10] For Colbiørnsen, apparently, it did not make much difference that this code had never, as already noted, been formally enacted in the colony. For him, it was enough that Brown had overstepped the norms it was seen to express and that he could therefore not avoid "the suspicion of being a dangerous and harmful citizen [*en farlig og skadelig borger*]".[11] Apparently, the Supreme Court in Copenhagen found nothing wrong in this mode of reasoning. As it weighed in on the matter in early 1783, it even made the verdict harsher, sentencing Richard Brown to two years of incarceration and work at the fortress in Copenhagen, the home of a class of convicts incidentally known as 'slaves'.[12]

To be sure, it was not an everyday occurrence in the Danish West Indies for a white slaveowner to be punished for treating his slaves 'tyrannically', and much less to be sentenced to work in irons for it, as a 'slave'. But although Richard Brown's fate was certainly exceptional, it did not arise in a vacuum. Rather, as several historians have shown, it was part of a growing attempt by colonial authorities across the Americas to oversee and limit the powers of masters over their slaves, attempts which were intensifying, they argue, in the later decades of the eighteenth century.[13]

In the Danish West Indies, Richard Brown was among the first to experience this change in the political climate. And although the Colonial Government was determined to make an example of him,[14] he would not be the last. Over the ensuing

[9] Ibid.

[10] The Slave Code of February 3, 1755, § 36-37, printed in *Kongelige Reskripter og Resolutioner, Reglementer, Instruxer og Fundatser* (1806-1902), 1843, 35-45.

[11] CUC. 37.7.7, fol. 243 (July 3, 1782).

[12] The Supreme Court verdict and deliberations of March 17, 1783 are found in its protocol for 1782 (*Voteringsprotokol*), 1782 A 473 – 1782 A 535, case 235/1782, pp. 515-519. Richard Brown, however, died a few weeks after the Supreme Court verdict, while he was still in captivity on St. Croix and well before news of the verdict reached the colony. According to the police report, he was "buried in silence", meaning without the usual ceremonies (see GG. 2.49. Police Report of March 9, 1783). For more on 'penal slavery' in Denmark, see Johan Heinsen, "Penal Slavery in Early Modern Scandinavia," *Journal of Global Slavery* 6 (2021). This case will be further discussed in chapter 4, pp. 167-168.

[13] Christian G. de Vito and Viola Franziska Müller, "Introduction – Punishing the Enslaved in the Americas, 1760s–1880s," *Journal of Global Slavery* 7 (2022): 8.

[14] In 1783, the Colonial Government reported to its superiors in Copenhagen that it hoped "the fate of Richard Brown will long remain a deterring warning for those who are equally malevolent" (WIG. 3.8.6. Entry 140. Letter to the Chamber of Customs (September 30, 1783), pp. 254-255).

decades, civil servants from all three administrative scales – the local, the colonial, and the imperial – would deal with the problem of men and sometimes women maltreating slaves on a regular basis. During the ten years from 1786 to 1796, for which I have studied the court protocols in depth, the *byfoged* of Christiansted presided over 25 instances of abuse, and as Chief of Police he presumably settled many more cases outside the courts. Among members of the Colonial Government, such cases often necessitated their interventions and sustained ongoing deliberations on how best to control the powers of slavers. And in Copenhagen and in commissions set up to revise the laws of slavery and the slave trade, slave abuse emerged as a recurring subject of discussion among colonial and metropolitan authorities.[15]

This chapter aims to explore the governmentality which was at the heart of the growing attempts to contain the powers of masters over their slaves in the Danish West Indies. To do so, I will ask: What were the problematizations that made a man like Richard Brown so self-evidently 'tyrannical', 'dangerous', and 'harmful'? Through what art of governing did authorities believe slave abuse was best countered? And was the knowledge involved primarily a racial knowledge of 'blacks', or was it also – or more primarily – a knowledge of the supposedly more universal institution of 'slavery' and of how 'slaves' navigated the predicament of their enslavement?

In posing these questions, I draw on a growing body of work that aims to rethink the rise of 'humanitarianism' or 'amelioration' in the eighteenth-century governing of slaves. Instead of seeing this either as an expression of new humanitarian ideals or emotions or as a calculated or nervous attempt to legitimize slavery in the face of the resistance it increasingly met from abolitionist or rebellious slaves, some historians are now more inclined to see it as a reflection of distinct modes of thinking about the governing of master-slave relations.[16] This is also the case in more recent Danish interpretations. Gunvor Simonsen, for instance, has portrayed it as a part of growing concern about the reproduction of the enslaved population, while Rasmus Sielemann, in a more distinctly Foucauldian analysis, has argued that it was part of a grander transformation toward biopolitical and liberal modes of governing.[17]

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[15] These local, colonial, and imperial sources will be introduced more fully in the second part of this chapter.

[16] Not least, I have drawn upon Malick W. Gachem's work on the French colony of Saint-Domingue, *The Old Regime and the Haitian Revolution*. See also Matilde Cazzola and Lorenzo Ravano, "Plantation society in the Age of Revolution: Edward Long, Pierre-Victor Malouet and the problem of slave government," *Slavery & Abolition* 41, no. 2 (2020); Parvathi Menon, "Edmund Burke and the Ambivalence of Protection for Slaves: Between Humanity and Control," *Journal of the History of International Law* 22 (2020); Christian G. de Vito, "Paternalist Punishment – Slaves, Masters and the State in the Audiencia de Quito and Ecuador, 1730s-1851," *Journal of Global Slavery* 7 (2022).

[17] These interpretations will be introduced more fully in the second part of this chapter.

Unlike this body of work, however, I approach the increasing state interference in master-slave relations from a more comparative point of view, by investigating whether and how the colonial governmentality in question overlapped with contemporary metropolitan governmentalities. More precisely, instead of placing the Danish West Indian concern over slave maltreatment in the broader colonial context of slavery, as scholars usually do, this chapter places it in relation to a domestic transformation in governing that occurred in the very decades that colonial authorities started cracking down on rogue slave owners like Richard Brown, namely the metropolitan project of limiting seigneurial powers of lords over their peasants.[18]

To compare the state's governing of master-slave and lord-peasant relations obviously means comparing two state projects that grew out of very different contexts. In the case of the colony, few could imagine a sugar economy run by free Afro-Caribbean laborers or without an ever-present 'force to drive their hands' (to recall Colbiørnsen's formulation cited above). Almost by necessity, reforming master-slave relations therefore meant preserving or even 'improving' slavery, not questioning and much less dismantling the master's power to treat his slaves as he pleased, as long as he did so 'humanely'.

In the metropole, by contrast, economic structures and opinions favored a more profound dismantling of the wide seigneurial powers that had for a long time bound the peasantry to live and toil in 'states within the state' (more on these seigneurial powers below). From the mid-eighteenth century onward in particular, rising world prices for grain, new production technologies, and new ideals of freedom made a growing number of peasants, landlords, and legislators ready to dismantle feudal bondage and provide better conditions for individuals (meaning adult males) to govern themselves as ethical, independent, and market-oriented individuals.[19] Thus, growing out of very different contexts, these projects naturally had very different goals in mind: while colonial officials simply hoped to 'humanize' master-slave relations, in the metropole the goal was to free the peasantry of most kinds of seigneurial power.

But even so, there is no reason to think of these projects as somehow incomparable or unrelated. To contemporaries, they certainly were not. On the contrary, while reformers in the mother country – as I will show below – often portrayed the lives

[18] To my knowledge, the largely contemporaneous attempts to curtail the seigneurial powers of colonial slave masters and domestic lords that were undertaken by various European states during the later decades of the eighteenth century have not been compared systematically by historians, and certainly not from the perspective of governmentality. The absence of a comparative dimension has for instance been noted by Malick W. Ghachem in the case of France (see his *The Old Regime and the Haitian Revolution*, 228 (note 46)).

[19] Ole Feldbæk, *Den lange fred: 1700-1800*, ed. Olaf Olsen, vol. 9, Gyldendal og Politikens Danmarkshistorie (Copenhagen: Nordisk Forlag & Politikens Forlag, 1990), 243-254.

of peasants as reminiscent of slavery (even colonial slavery), colonial officials tended to conceive of the authority of slave masters as ideally similar to the familiar and fatherly authority of the 'householder', or *husbond* in Danish. But, at a more abstract level, the projects are also comparable because what they were problematizing were different instances of the same phenomenon: *excesses of domestic sovereignty*, meaning the ways in which 'private' figures of authority, be they slave owners or landlords, were seen to cross a certain threshold of conduct that caused a host of problems at a political, economic, social, or even ethical level. On this basis, I believe there is much to be gained by treating these (and other comparable) projects of seigneurial reform from a comparative perspective.

In using this comparative perspective, I rely on two rather different kinds of sources. As explained in the introductory chapter, the analysis of the colony is multi-scalar and focuses on the sometimes conflicting ways officials on the local, colonial, and imperial scales contributed to the making and remaking of governmentality. In the case of the metropole, on the other hand, I am primarily concerned with the rationalities that buttressed the making of two key pieces of legislation promulgated in 1787 and 1788 (regarding the limitation of seigneurs' tenurial and disciplinary rights and the abolition of seigneurial bondage, respectively), but I will also turn to the discussions behind the promotion of self-ownership (*selveje*) and the regulation of seigneurial discipline (*hustugt*) that continued into the 1790s. In so doing, my aim is to reconstruct those rationalities of governing that were generally accepted and authoritative in the making of Danish rural reforms. It is to these rationalities and the broader context in which they emanated that I will now turn.

Lords, peasants, and rural reform

In the metropole, the so-called 'palace coup' of 1784 marks a crucial turning point toward the reform and eventual dismantling of the powers of lords over the peasantry. At the time of the coup, the legitimacy of these powers had for decades been one of the most important, heated, and divisive issues of public debate. Public opinion was split in two: On one side stood the defenders of tradition and seigniorial rights, on the other those who criticized the existing relations of power as backward, oppressive, and problematic through and through. Under the charge of the young crown prince Frederick (later King Frederick VI), the new administration quickly placed itself in favor of the critics, the so-called 'friends of reform'.[20]

[20] One of the best accounts of this debate is still Edvard Holm, *Kampen om Landboreformerne i Danmark i Slutningen af 18. Aarhundrede* (Copenhagen: Nielsen & Lydiche, 1888 [1974]). For more recent accounts of the rural reform movement, see Birgit Løgstrup, *Bondens frisættelse – De danske landboreformer* (Gads Forlag, 2015); Nils Valdersdorf Jensen, "Passion for

Of course, at the time of the coup, the conditions of the Danish peasantry actually had little to do with slavery as it was practiced in the Danish West Indies or in similar colonial settings. Rather, to follow the terminology of Markus Cerman, the Danish peasantry was ruled through a form of 'demesne lordship'.[21] As in much of early modern Europe and in particular east of the river Elbe, Danish demesne lordship usually combined what Cerman calls 'tenurial' and 'jurisdictional' lordship, meaning a kind of lordship in which peasants, as tenants, owed various kinds of rents in labor, money, and kind to their lords, and were subject to seignorial policing, discipline, magistrates, and courts.

In the eighteenth century, the Danish form of lordship took place on the 700-800 estates (*godser*) which held the great majority – about 80 percent – of the rural population. These estates were primarily owned by the old nobility, but increasingly also by up-and-coming bourgeois or recently ennobled families. Each estate typically consisted of a manor (*hovedgård*) with a number of villages spread around it. The typical tenurial relation between landlord and villager was based on a system of lifetime, but non-hereditary leaseholding (commonly known as *fæstevæsenet*). Thus, farmers or smallholders were not generally the owners of the land, the buildings, or even the instruments and animals at their disposal, and as a rule a lease would be terminated with the death of the leaseholder and would not pass on to his or her descendants unless they could pay the dues that the landlord demanded for a new lease (the so-called *indfæstning*). In exchange for enjoying usufruct of their lease, leaseholders were obliged not only to maintain the property and assets in their trust and to pay various dues in money and kind (*landgilde*, *tiende*, etc.), but also to perform a number of customary and often ill-defined labor services, usually in the form of corvée (*hoveri*) carried out on the manorial lands.

While the peasants, much unlike the enslaved in the colonies, possessed legally sanctioned rights to, for instance, inherit, terminate leases, enter contracts, and act as plaintiffs (even against their lords), in many matters they were also left completely defenseless against the will of their lords.[22] Indeed, until the reforms of the late eighteenth century, seignorial estates were effectively – as already noted – pockets of sovereignty left unsupervised or unregulated by central authorities, or "states within the state".[23] For instance, without acting as judges themselves, many lords (in particular of the old nobility) not only had the right to appoint local judges

patriarkalisme - modstanden mod landboreformernes 1786-1790," *temp: tidsskrift for historie* 9 (2014); Eva Krause Jørgensen, *Breaking the Chains – An Intellectual History of the Discursive Struggles over the Danish Agrarian Reforms, 1784-1797* (Aarhus University, 2015).

[21] Markus Cerman, *Villagers and Lords in Eastern Europe, 1300-1800* (Basingstoke: Palgrave Macmillan, 2012), 10-39.

[22] For a rare comparison of the conditions of slaves and peasants, see Per Nielsen, "Slaver og frie indbyggere 1780-1848," in *Fra slaveri til frihed - Det dansk-vestindiske slavesamfund 1672-1848*, ed. Per Nielsen (Copenhagen: Nationalmuseet, 2001).

[23] Kjærgaard, *The Danish Revolution*, 207.

(*birkeretten*) and the duty to bring wrong-doers to justice (*sigt- og sagefaldsretten*), but also had the privilege, if inclined to show grace, to settle less serious offenses by issuing their own extra-legal sentences, usually in the form of fines or some kind of corporal punishment.[24] And while keeping the peace, lords also fulfilled vital administrative functions for the state, leaving them free to, for instance, administer the estates of deceased tenants to suit their own interests and at the expense of inheritors or, just as importantly, to personally decide who to draft for military service.[25] This power was not only an effective threat against possible insubordination but also intimately tied to the form of bondage commonly known as adscription (*stavnsbåndet*), one that forced every male to remain within his estate of birth unless granted a certificate of release (*fripas*) by his lord at a price of his or her choosing.

Within the decade following the regime change of 1784, however, this system of demesne lordship was largely contained or replaced by a centralized system of state administration. In 1787 and 1788, the administrative and arbitrary authority of lords over the inheritance, property, and freedom of movement of peasants was abolished. In 1791, their right of domestic discipline (*hustugt)* was regulated and limited to those in their immediate service. With the passing of state-sponsored agreements of corvée during the 1790s, more and more peasants (in particular the farmers) were freed from arbitrary and unregulated corvée. And with the promotion of self-ownership among farmers, which also took off in the 1790s, more and more managed to entirely free themselves from their status as seigneurial tenants (*fæstebønder*).

The purpose of this analysis is to examine the governmentality that gave meaning and shape to this new legal order, commonly known as 'the rural reforms' (in Danish *landboreformerne*). The source material is chiefly the deliberations that took place during the proceedings of a royally appointed commission, commonly referred to as the Great Agrarian Commission (*Den store landbokommission*). In session between 1786 and 1813, it was primarily through this 15-man commission (hereafter referred to simply as 'the Commission') that the new legal order would find its particular form. Of its many years in session, my focus is primarily on the period between 1786 and 1788, when the main policies and principles of the new legal order were passed and formulated.[26]

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[24] Anette Faye Jacobsen, *Husbondret - Rettighedskulturer i Danmark 1750-1920* (Copenhagen: Museum Tusculanums Forlag, 2008), 64-74, 100-102.

[25] Birgit Løgstrup, "Den bortforpagtede statsmagt. Godsejeren som offentlig administrator i det 18. århundrede," *Bol og By: Landbohistorisk Tidsskrift* 1, no. 1 (1985).

[26] My primary source material is the printed commission deliberations from 1786-88, published in *Den for Landboevæsenet nedsatte Commissions Forhandlinger* 2 vols. (Copenhagen: Johan Frederik Schultz, 1788-1789), hereafter 'Forhandlinger'.

During these years, the Commission's work was particularly dominated by two rather like-minded individuals: the Head of the Exchequer (*Rentekammeret*) and landowner Count Christian Ditlev Frederik Reventlow (1748-1827) and the jurist and (from 1788) Attorney General Christian Ditlev Colbiørnsen (1749-1814), an older brother of Edvard Røring Colbiørnsen who presided as Upper Court Judge in the case against Richard Brown. In the following, the analysis will give particular attention to their thoughts as presented during the course of the Commission's proceedings, but will also consider the contributions of other influential commissioners who belonged to the reform-friendly camp, not least such figures as Attorney General Oluf Lundt Bang (1731-1789) and landlord and high-ranking officer of the Exchequer Vilhelm August Hansen (1743-1796).[27]

In focusing on the making of 'the rural reforms', the analysis deals with one of the most well-studied periods of Danish history, one whose many historiographical subfields and traditions it would be impossible to do justice to here.[28] What it adds to this historiography is, I believe, two things. For one thing, it offers a comparative perspective that situates the rural reforms in an imperial context, well beyond the familiar spatial categories of the nation or Europe that usually structure the analysis. But also, and just as importantly, it offers a new and, in my view, richer account of the rural reforms. It does so for the simple reason that scholars have not yet sought to examine these reforms as reflecting a particular governmentality, a coherent and historically specific program for governing. Through much of the nineteenth and twentieth centuries, this was because the thoughts of reformers were not understood as a strange world beyond our immediate comprehension, but rather as the full or partial disclosure of sound, universal principles deemed foundational to any modern state and society.[29] It did therefore not occur to these historians that 'slavery' or 'unfreedom' may be problematized in very different ways, or that the governing of men 'freed' from 'oppression' might rely on historically contingent conceptions of how to govern. Much the same was true for the revisionist movement that emerged in the 1970s. For them, in fact, their aim of drawing out the 'ugly side' of the reforms (for instance the hypocrisy with which ideals of 'freedom' were used to further the interests of farmers but abandoned when it came to the interests of smallholders,

[27] On these and the other members of the Commission, see Løgstrup, *Bondens frisættelse*, 214-219.

[28] For some recent historiographical overviews, see Arnold H. Barton, "The Danish Agrarian Reforms, 1784-1804, and the Historians," in *Essays on Scandinavian History* ed. Arnold H. Barton (USA: Southern Illinois University Press, 2009); Jørgensen, *Breaking the Chains*, 29-39.

[29] See for instance Holm, *Kampen om Landboreformerne*; Hans Jensen, *Dansk Jordpolitik 1757-1919* (Copenhagen: Nordisk Forlag, 1936-1945), vol. 1. To some extent, this teleological reading of the rural reforms as the origin of modernity may also be found in more recent accounts, such as Claus Bjørn, *Dengang Danmark blev moderne - eller historien om den virkelige danske utopi* (Denmark: Fremad, 1998), 9-38; Birgit Løgstrup, "Den danske vej til moderniteten," *temp - tidsskrift for historie* 6, no. 12 (2016).

servants, and laborers) only made it even less vital to engage in any detail with the ideas underpinning the reforms.[30]

In recent decades, however, historians have returned to the ideas themselves and have aimed to restore to them their proper place in history. Some have pointed to the importance of Rousseau's philosophy of the social contract and the emotional culture of patriotism,[31] others to the influence of pietism and cameralism,[32] and still others to liberal and physiocratic theories on political economy.[33] All of these studies have identified important aspects of how reformers rationalized the problem of protecting peasants from their lords. But since they have not worked from the perspective of governmentality, they have not systematically examined the coherent and specific program for problematizing, knowing, and governing through which these reforms were undertaken. Instead, these works have seen the reforms as instances of a variety of generic and rather ossified '*isms*' available from a larger European framework (such as cameralism, mercantilism, liberalism, etc.), but without excavating the singular governmentality that allowed certain aspects of these traditions of thought to possess authority and relevance in the first place.[34]

To examine this governmentality, the analysis will begin by reflecting on the concept of 'slavery' as it was used in reformist discourse in the years up to the important reforms of 1787 and 1788. In so doing, I will make the claim that rather than a purely rhetorical ploy, the widespread tendency among rural reformers to equate the condition of the Danish peasantry to that of 'slaves' points to their reliance on a distinctly Montesquieuan way of problematizing unlimited power, or what he called 'despotism'.

Slavery, despotism, and the passions

In the large corpus of books and articles that called for rural reform in the 1780s, it was common to conflate the categories of 'peasants' and 'slaves'. When doing so, authors often invoked a rather abstract and often ancient slave figure (for instance by using the old Norse term 'thrall'), but sometimes also had more concrete and

[30] See for instance Jens Engberg, *Dansk Guldalder - eller Oprøret i Tugt-, Rasp- og Forbedringshuset* (Copenhagen: Rhodos, 1973); Feldbæk, *Den lange fred*, 9, 257-273; Tyge Krogh, *Staten og de besiddelsesløse på landet, 1500-1800* (Odense: Odense Universitetsforlag, 1987), 133-173.

[31] Tine Damsholt, *Fædrelandskærlighed og borgerdyd - Patriotisk diskurs og militære reformer i Danmark i sidste del af 1700-tallet* (Copenhagen: Museum Tusculanums Forlag, 2000).

[32] Ingrid Markussen, *Til Skaberens Ære, Statens Tjeneste og Vor Egen Nytte – Pietistiske og kameralistiske idéer bag fremvæksten af en offentlig skole i landdistrikterne i 1700-tallet* (Odense: Odense Universitetsforlag, 1995).

[33] Jørgensen, *Breaking the Chains*; Dan Ch. Christensen, *Det moderne projekt - Teknik & kultur i Danmark-Norge 1750-(1814)-1850* (Denmark: Gyldendal, 1996), 66-80, 555-569.

[34] See for instance Jørgensen, *Breaking the Chains*, 74-76.

contemporary forms of bondage in mind.[35] For instance, in a 1784 publication by the reform-friendly legal and agrarian expert Christian Albrecht Fabricius, the conditions of the peasantry were deemed "much closer to thralldom [*trældom*] than freedom". In his mind, it was in fact rather meaningless to distinguish this domestic form of thralldom from that of "German serfs, French *main mortables*, and black slaves".[36] A couple of years later, Oluf Lundt Bang decried how adscription had reduced the peasants to "half slaves" (*halvslaver*). With particular reference to their colonial 'peers' across the Atlantic, Bang noted with anguish how it was now possible in deeds on manorial lands to witness announcements of Danish manors being sold "with its current residents according to the enclosed list", just as if it concerned "West Indian plantations, [sold] with livestock and Negroes".[37]

The few Danish scholars who have paid attention to these conflations of peasants and slaves have usually interpreted them as rhetorical ploys; as disingenuous and hyperbolic speech acts intended to challenge, moderate, or legitimate already-formed conceptions of seigneurial power.[38] While this interpretation is certainly not unfounded and, in some cases, quite obviously true,[39] I believe it would be wrong to reduce the significance of such conflations entirely to their intended effects on readers and audiences. Rather, I believe they should be seen as both reflecting and contributing to a particular way of problematizing seigneurial power.

First of all, these conflations relied on a wider European frame of reference. That is, rather than a pure instrumentalization of language, they echo a more general eighteenth-century transformation in thought, one that came to replace pre-existing

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[35] See for instance N. C. Clausson, *Proprietærernes Eyendom, lige saa hellig i Regieringens Øine som Bondens Frihed* (Copenhagen: L. C. Simmmelkiærs Forlag, 1787), 38; Tyge Rothe, *Vort Landvæsens System som det var 1783 politisk betragtet*, 2 vols. (Copenhagen: Gyldendals Forlag, 1784), vol. 1, 185-186; Anonymous, *Hoveriets og Vornedskabets Virkninger paa Bondestanden i Danmark* (Copenhagen: Gyldendals Forlag, 1787).

[36] Christian Albrecht Fabricius, *Tanker om de nye Indretninger i Landvæsenet* (Copenhagen: Johan Friderik Schultz, 1784), 65-66. The term *main mortables* referred to inherited serfs, but underlined how they could not be sold.

[37] Oluf Lundt Bang, *Afhandling om Bondestanden i Danmark - I Anledning af den kongelige Befaling af 25de August 1785 til den derom nedsatte Commission* (Copenhagen: Johan Frederik Schultz, 1786), 11, 16.

[38] Most recently, Eva Krause Jørgensen has understood Oluf Lundt Bang's conflation of peasants and slaves as "a rhetorical trope intended to de-legitimate the existing socio-economic structure and thereby weaken the reform-sceptic position" (Jørgensen, *Breaking the Chains*, 125). For a similar interpretation of a different text, see Nielsen, "Slaver og frie indbyggere 1780-1848," 92. The same may also be observed in international studies, for instance in Cerman, *Villagers and Lords*, 13-14.

[39] See for instance Oluf Lundt Bang's claim that the overall condition of the West Indian slave was in fact "much better" than that of the Danish peasant, because whereas the latter cannot "own anything with certainty", in the West Indies "a master can in no way make the property of his slave his own" (*Afhandling*, 16). As a member of the Slave Law Commission during the 1780s (more on this later on), Bang must have been aware that slave property was in no way legally protected and at best tolerated by custom.

ideas of labor as a graduated continuum of freedom and unfreedom with an absolute and binary opposition between 'free' and 'slave'. Thus, if Danish reformers failed to emphasize the fine-grained distinctions between different degrees of dependence and coercion, it was entirely in keeping with this new and much more dichotomous conceptualization of labor relations.[40] And secondly, rather than instruments with which to legitimize already fully formed ideas, following Ann Laura Stoler, I believe one should view these conflations as taking part in a redefinition of what could count as "comparable contexts".[41] Thus, more than convincing others, I believe their role was also to help reformers make sense of what was wrong and what they hoped to accomplish, in this case by allowing them to draw upon the well of thought that had emerged around the concept and reality of 'slavery'.

But what came out of this willingness to imagine lords as slave masters was not, it seems, any sustained interest in knowing how the power of such slave masters was managed at particular times or in concrete places, for instance in the contemporary Danish West Indies. Thus, in spite of occasional references to concrete colonial instances of bondage, the role of these conflations for reformers was not to draw upon contemporary colonial governmentalities, but rather to draw upon a purely theoretical imaginary, one that found its closest correlate, I would argue, in the political philosophy of Charles-Louis de Secondat Montesquieu (1689-1755). Accordingly, what this conception of the peasantry as 'enslaved' helped reformers to do was to problematize demesne lordship as a species of 'despotism', and therefore as a threat to those human 'passions' that should ideally govern conduct and form selves. The following will explain in rather general terms how this was so.

In his famous treatise *The Spirit of the Laws* (1748), Montesquieu had used the concepts of 'despot', 'despotic', and 'despotism' to describe the nature of a certain type of government that derived its overall features from the unlimited, undivided, and unchecked power of the one who wielded it.[42] Indeed, it was principally the notion of unrestrained sovereignty that distinguished despotism from the two other types of government he recognized, namely republican and monarchical: from the former by belonging to one man alone rather than to the whole or a part of the people; and from the latter by being without any fixed or established laws and being

[40] Alessandro Stanziani, *Bondage – Labor and Rights in Eurasia from the Sixteenth to the Early Twentieth Centuries* (New York: Berghahn Books 2014), 23-27; Robert J. Steinfeld, *The Invention of Free Labor – The Employment Relation in English & American Law and Culture, 1350-1870* (Chapel Hill: University of North Carolina Press, 1991), 101-105.

[41] Ann Laura Stoler, *Carnal Knowledge and Imperial Power – Race and the Intimate in Colonial Rule*, 2nd ed. (Berkeley: University of California Press, 2010), xi; See also ———, "Tense and Tender Ties – The Politics of Comparison in North American History and Colonial Studies," *Journal of American History* 88, no. 3 (2001).

[42] The following particularly draws upon Brian C. J. Singer, *Montesquieu and the Discovery of the Social* (Great Britain: Palgrave Macmillan, 2013); Vickie B. Sullivan, *Montesquieu and the Despotic Ideas of Europe – An Interpretation of "The Spirit of the Laws"* (Chicago: The University of Chicago Press, 2017).

enthralled instead to the immediate passions and whims of the master or prince. In short, Montesquieu explained, "in despotic government, one alone, without law and without rule, draws everything along by his will and his caprices".[43] For this reason, Montesquieu argued, the social and political relationship peculiar to despotism was best captured by the distinction between 'masters' and 'slaves'.

Across Europe, despotism quickly became "a prominent watchword of political thought and strife".[44] In Denmark, the idea initially faced harsh criticism as it prompted the leading minds to defend the absolutist monarchy against the accusation of being itself despotic.[45] However, when it came to lesser figures of authority, such as landlords, public opinion was more receptive. At least by the 1780s, it had become self-evident to many that there was something fundamentally problematic with the unlimited nature of seigneurial power. In some formulations, the problem was very concrete in that it allowed ill-minded lords to abuse their tenants.[46] But generally, and certainly among the commissioners in the Great Agrarian Commission, the problem was also understood as the more fundamental one that the peasantry's general lack of freedom and security tended to deprive everyone, even those currently living under a gentle and fair lordship, of any motive or reason to be other than lazy, stupid, careless, and useless.

In particular, it was this second formulation of the problem that most directly resonated with Montesquieu's conception of despotism. For, as noted by Brian C. J. Singer and others, what Montesquieu found most problematic about despotic power was not simply its disregard for the liberty and well-being of individuals, but rather its corruptive effects on their conduct and subjectivity.[47] Indeed, for Montesquieu, the problem with despotism was that it produces "a timid, ignorant, beaten-down

[43] Montesquieu, *The Spirit of the Laws*, trans. Anne M. Cohler, Basia Carolyn Miller, and Harold Samuel Stone, Cambridge Texts in the History of Political Thought (New York: Cambridge University Press, 1989 [1748]), 10 (book 2, section 1).

[44] R. Koebner, "Despot and Despotism: Vicissitudes of a Political Term," *Journal of the Warburg and Courtauld Institutes* 14, no. 3 (1951): 275-276. For a detailed examination of the history of the concept of despotism, see Melvin Richter, "Despotism," in *Dictionary of the History of Ideas*, ed. Philip P. Weiner (New York: Charles Scribner's Sons, 1973).

[45] Ditlev Tamm, "The Danish Debate about Montesquieu: Holberg, Kofod Ancher, Stampe, Sneedorff and Schytte," in *Northern Antiquities and National Identities: Perceptions of Denmark and the North in the Eighteenth Century – Symposium held in Copenhagen August 2005*, ed. Knud Haakonssen and Henrik Horstbøll (Copenhagen: Det Kongelige Danske Videnskabernes Selskab, 2008).

[46] See for instance how the members of the Great Agrarian Commission unanimously claimed in 1787 that "these abuses are the natural consequences of the superior power of lords on the one hand and of the ignorance and powerlessness of the peasantry on the other." (*Forhandlinger*, vol. 1, 369).

[47] Singer, *Montesquieu*, 98-155; Keegan Callanan, "Liberal Constitutionalism and Political Particularism in Montesquieu's 'The Spirit of the Laws'," *Political Research Quarterly* 67, no. 3 (2014).

people".[48] And essentially, for Montesquieu, despotism does so because it crushes those mechanisms that he, following a long tradition of political philosophy, saw as foundational mainsprings of good conduct and ethical selves, namely 'the passions' (in Danish, *lidenskaberne*[49]).

To appreciate the important role of 'the passions' at the time, it is helpful to turn to Albert O. Hirschman's classic work *The Passions and the Interests* (1977).[50] Here, Hirschman noted how a seventeenth- and eighteenth-century preoccupation with 'the passions' displaced three key proposition of political and moral philosophy: first, that the passions were "wholly vicious and destructive"; second, that the passions could effectively be governed through "repression" or through the authority of "moralizing philosophy and religious precepts"; and third, that the foundational problem of government – of self and others – was how to ensure the victory of virtue and reason over the passions.[51] In place of these propositions, moral and political philosophers across Western Europe now reclaimed the passions as "the essence of life and a potentially creative force", and became obsessed with the idea of utilizing certain elements of the inadvertently passionate nature of man to further the public good.[52]

More precisely, Hirschman shows how these thinkers – among whose ranks he counted David Hume, the Earl of Shaftesbury, and of course Montesquieu – became preoccupied with two exercises of thought. On the one hand, they sought to distinguish between the "benign" and the "malignant passions". Or, to be precise, they sought to separate the admirable or at least calm and moderate affections and sentiments that could further the public good and into which a certain measure of calculation and reflection had entered (such as benevolence, generosity, patriotism, vanity, and a love of comfort) from those passions that carried the opposite effects and whose expression were presumably violent, frenzied, turbulent, passing, or in any case erratic (for instance luxury, envy, and greed).[53] On the other, they sought to find ways through which to pit the former against the latter. That is, Hirschman argued, these thinkers immersed themselves in "the idea of engineering social

[48] Montesquieu, *The Spirit of the Laws*, 59 (book 5, section 14).

[49] Formed around the middle of the eighteenth century, the term *lidenskab* (derived from the verb *at lide* or 'to suffer') was a direct translation of the French term *passion*, similarly denoting the often strong but fluctuating inner movements of the mind and soul that put human beings in motion (see ODS, *s.v.* Lidenskab).

[50] For more recent treatments of this philosophy of the passions, see Amy M. Schmitter, "Passions, Affections, Sentiments: Taxonomy and Terminology," in *The Oxford Handbook of British Philosophy in the Eighteenth Century*, ed. James A. Harris (Oxford: Oxford University Press, 2013); Elizabeth S. Radcliffe, "Ruly and Unruly Passions: Early Modern Perspectives," *Royal Institute of Philosophy Supplement* 85 (2019).

[51] Albert O. Hirschman, *The Passions and the Interests – Political Arguments for Capitalism before its Triumph* (Princeton & Oxford: Princeton University Press, 1977), 15-17, 47.

[52] Ibid., 47.

[53] Ibid., 63-66.

progress by cleverly setting up one passion to fight another", for instance by using, as suggested by Montesquieu, man's love of honor and thus his desire for the approbation of others to counteract his immoral leanings.[54]

In Denmark, rural reformers would likely have encountered this way of thinking in the work of the Jens Schielderup Sneedorff (1724-1764). As a professor in political philosophy and a prolific writer on public affairs, Sneedorff remained highly influential well after his death.[55] Among other things, he may be credited for popularizing the view that an essential aspect of state governing was to know and utilize the passions, a view he unfolded in his main philosophical work *On Civil Government* (1757). Here, he used a somewhat different terminology, though, referring to natural human "laws" which, just like the passions, had the power to bend the wills of individuals away from evil and toward goodness, if only they were properly utilized.[56] In fact, under the guise of 'laws', rural reformers would even have encountered the three distinct passions which I believe were foundational to the governmentality of rural reform. These were what Sneedorff called 'civic virtue' (*borgerdyd*), 'honor' (*ære*), and 'self-interest' (*egennytte*).[57]

In the next sections, I will examine in more detail how rural reformers conceptualized each of these passions and study their respective role in the governmentality of the new legal order. But before doing so, it is useful to reflect on the general features of the governmentality that has been sketched so far. In my view, it makes sense to characterize it as 'liberal'. To do so, however, requires an expansion of what 'liberal governing' or 'liberal governmentality' is usually understood to entail.

In Foucault's work on governmentality, liberalism refers to a distinct "principle or method of the rationalization of the exercise of government".[58] And what was specific for this liberal way of rationalizing that emerged during the eighteenth century, he claimed, was its attention to those supposedly natural, self-organizing, and semi-autonomous mechanisms that were continually at work in societies, economies, and populations; mechanisms such as supply and demand or birth and mortality rates. Whereas previous ways of rationalizing – namely 'sovereignty' and

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[54] Ibid., 9-10, 20-31, citation 26.

[55] Øystein Sørensen, *Frihet og enevelde - Jens Schielderup Sneedorffs politiske teori* (Oslo: Universitetsforlaget, 1983), 10-13.

[56] Jens Schielderup Sneedorff, *Om Den Borgerlige Regiering* (Copenhagen: Johann Benjamin Ackermann, 1757), 4-5.

[57] See in particular ibid., 19-43. On the relationship between Sneedorff and Montesquieu's conception of these 'passions', see Sørensen, *Frihet og enevelde*, 53-68.

[58] Foucault, *The Birth of Biopolitics*, 318. The following offers a condensed version of Foucault's account of liberalism as presented in his lectures at the Collège de France in 1978-1979 (———, *Security, Territory, Population*; ———, *The Birth of Biopolitics*). See also Colin Gordon, "Governmental Rationality," in *The Foucault Effect – Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, and Peter Miller (Chicago: The University of Chicago Press, 1991).

'discipline' – had buttressed the sovereign's right and ability to organize and order his domains as perfectly as he could, this new and liberal mode of governing instead posed the problem of how to govern through the semi-autonomous mechanisms that were, whether the sovereign liked it or not, already governing the lives of the governed. In liberal governing, therefore, the challenge is to set up the conditions that allow these natural mechanisms to play out as favorably as possible.

Although Foucault thus described liberalism very broadly as the art of knowing and governing through natural mechanisms, both he and later scholars have primarily focused on 'economic' autonomies and the notion of 'economic man' (a concept that will be taken up again in chapters 6-8).[59] But without meaning to disclaim what Foucault and others have had to say about liberalism or to pronounce a new genealogy of its emergence, it does nonetheless make sense to expand the scope of what liberal governing might involve and to speak of a 'liberal governing of the passions'.

At least, if one thinks about the governmentality of rural reform as liberal, it makes it possible to recognize two things. First, it becomes possible to see that the basis for problematizing demesne lordship as an instance of 'slavery' was essentially a *knowledge of the natural autonomies that govern the governed*, in this case a knowledge of the passions. That is, if demesne lordship was problematized as a general corruption of conduct and subjectivity, it was by virtue of a knowledge of the passions and their role as possible mainsprings of goodness. And secondly, it makes it clear that what reformers sought to do was essentially to instrumentalize this knowledge for the purpose of providing *the best conditions for these autonomies to favorably shape conduct and form selves*. That is, what they looked for was a liberal art of governing men through their passions.

To repeat, I argue that the three passions – or autonomies – that reformers believed needed to be saved from despotism and harnessed by a liberal art of governing were the passions of 'civic virtue', 'honor', and 'self-interest'. The following will consider each of these passions in turn, beginning with the one that was, I would argue, the least significant, namely the passion of self-interest.

The passion of self-interest

In the second half of the eighteenth century, it became increasingly common to view man's desire to promote his own material well-being as a key mainspring of good

[59] Among the many accounts that follow Foucault in this regard one may mention Miguel de Beistegui, *The Government of Desire – A Genealogy of the Liberal Subject* (Chicago & London: The University of Chicago Press, 2018), see in particular chapter 2; Dean, *The Constitution of Poverty*; Bernard E. Harcourt, *The Illusion of Free Markets – Punishment and the Myth of Natural Order* (Cambridge, MA: Harvard University Press, 2011).

as opposed to sinful conduct. For instance, it was foundational to thinkers like Adam Smith, David Hume, Francois Quesnay and even, as will be explore in the next chapter, to a penal reformer such as Cecare Beccaria.[60] In Danish historiography there is also a long tradition for seeing the rural reforms in light of this recuperation of material self-interest as a mainspring of good conduct. Most recently this tradition has been revived by Eva Krause Jørgensen. In her analysis, rural reformers' attempt to limit the seigneurial hold over the peasantry was an essentially Physiocratic and Smithian project of harnessing the "economic self-interest" of each individual peasant.[61]

In my view, there is no doubting the importance of the passion of self-interest. Witness for instance Oluf Lundt Bang's lamentation on how the peasantry suffering under the seigneurial yoke had "lost the purpose that guides the actions of all creatures, which is their own good" and how they were therefore unable to "either want well or act well [*ville vel eller handle vel*]".[62] But such statements did not mean, as some accounts appear to suggest, that the individual's material self-interest was what needed to be saved and harnessed.[63] On the contrary, I will argue that rather than harnessing self-interested egoism, for the rural reformers building the new legal order it was a matter of redirecting self-interest into a very particular avenue: toward those material desires that were in line with the needs of traditional peasant households. To argue this point, I will analyze a handful of texts that I believe are broadly representative of the way reformers approached the problem of protecting copyholders (*fæstebønder*) against seigneurial encroachment on their farms.

In the decade after 1784, reformers dealt with this problem on a number of fronts. In 1787, leases became standardized and subject to state control to ensure copyholders would receive well-equipped farms and that inheritors would receive their fair share for their efforts.[64] In 1790, all leases became for life (*livsfæste*) in order, as the ordinance stated, to keep short-term leases with high risks of eviction from "quenching all desire for industry [*lyst til vindskibelighed*] among the copyholders".[65] During the 1790s, farmer corvée (*hoveri*) was regulated and determined as a certain number of days or amounts of work on the manorial lands.[66]

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[60] Beistegui, *The Government of Desire*, chapter 2.
[61] Jørgensen, *Breaking the Chains*, 102-107.
[62] *Forhandlinger*, vol. 1, 15.
[63] Besides Eva Krause Jørgensen's analysis, I principally have in mind works such as V. Falbe Hansen, *Stavnsbaands-Løsningen og Landboreformerne - Set fra Nationaløkonomiens Standpunkt* (Copenhagen: Selskabet for Udgivelse af Kilder til Dansk Historie, 1889 [1975]), 51-59; Povl Schmidt, *Litteratur for menigmand*, 2nd ed. (Odense: Odense Universitetsforlag, 1982), 14-31; Christensen, *Det moderne projekt*, 66-80, 555-569.
[64] Løgstrup, *Bondens frisættelse*, 221-223.
[65] Quoted in Jensen, *Dansk Jordpolitik*, vol. 1, 159.
[66] Thorkild Kjærgaard, *Konjunkturer og afgifter - C. D. Reventlows betænkning af 11. februar 1788 om hoveriet* (Copenhagen: Landbohistorisk Selskab, 1980), 64-71.

Long before that, from 1786 onwards, the state was financing loans for farmers to become the full owners of their farms (*selvejere*). Thanks to fortunate economic conjunctures, about forty percent of the arable land belonged to self-owners by the 1810s.[67]

But what role did the passion of self-interest play in all this? I will begin by turning to two texts from 1757 and 1759, written by Attorney General Henrik Stampe in support of the idea of furthering self-ownership, limiting corvée, and generally protecting peasants from seigneurial encroachments. Originally written as private letters to a friend, Stampe's views would later translate into a 1769 ordinance that legalized the selling of farms to farmers.[68]

In these texts, Stampe explained the positive effects of self-ownership on a farmer's conduct by comparing his state of mind to that of a copyholder. For, unlike the self-owner, the copyholder:

> is governed by a number of contradictory states of mind [*sindsbevægelser*]: on the one hand, there exists within him a desire to strive and to accumulate [*en lyst til at stræbe og samle noget*], but this desire is weakened by a kind of carelessness and negligence in regard to the improvement of his copyhold, to which he will be unlikely to commit time, labor, or expense, believing that the benefit will be reaped not by himself or his family, but by strangers.[69]

Even worse, Stampe continues, if such a man is not the owner of the farm but is subject to excessive seigniorial demands on his labor, his natural inclination 'to strive and to accumulate' will be entirely repressed: "the courage and desire to strive disappears altogether and nothing is left but negligence, inertia, and despair."[70] In sum, what brings the self-owner to work industriously and to even improve his farm is therefore not only that he is free from seigneurial encroachments on his property, but also that he has a positive incentive to commit his 'time, labor, and expense' to its betterment, namely the hope of being able to reap the fruits of his own labor. In this way of rationalizing the source and nature of good conduct, material self-interest obviously plays a significant role.

In fact, one might even be tempted to invoke the notion of 'economic man', that entirely frugal and self-interested being who is governed by what Adam Smith called "the desire of improving our condition". According to Smith, this is:

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[67] Sigurd Jensen, *Fra patriarkalisme til pengeøkonomi* (Copenhagen: Gyldendal, 1950), 34-42; Løgstrup, *Bondens frisættelse*, 486-488.

[68] Jensen, *Dansk Jordpolitik*, vol. 1, 75-81. The letters are printed in Henrik Stampe, *Erklæringer, Breve og Forestillinger General-Prokureur-Embedet vedkommende*, 6 vols. (Copenhagen: Gyldendals Forlag, 1793-1807), vol. 2, 545-568.

[69] ———, *Erklæringer*, vol. 2, 560-561.

[70] Ibid.

> a desire which, though generally calm and dispassionate, comes with us from the womb, and never leaves us till we go into the grave. In the whole interval which separates these two moments, there is scarce, perhaps, a single instance, in which any man is so perfectly and completely satisfied in his situation, as to be without wish of alteration or improvements of any kind. An augmentation of fortune is the means by which the greater part of men propose and wish to better their condition. It is the means the most vulgar and the most obvious; and the most likely way of augmenting their fortune is to save and accumulate some part of what they acquire, either regularly or annually, or upon some extraordinary occasion.[71]

But while this would not have been a poor description of the kind of man Stampe hoped to set free, Smith's account stands out in a least one important respect. For whereas Smith saw man's self-interest as essentially insatiable, limitless, and therefore ultimately the source of great personal unhappiness and distress,[72] Stampe appears to imagine it as limited to the goal of satisfying the more or less stable needs of 'the household'. For him, it was obvious that the farmer would work not merely for his own benefit, but also for "the benefit of his descendants".[73] Moreover, as opulence would allow for larger families and thus population growth, the workings of man's inner nature would lead larger families to divide their land into smaller units, provided they were still of adequate size to "employ and nourish a household".[74] Rather than being driven by an unlimited desire for riches, he assumed man's economic conduct to be directed toward the largely unchanging needs of households.

Much the same was true in the 1780s during the proceedings of the Commission. Oluf Lundt Bang, for instance, was confident that, being secured from seigneurial encroachments on his property, the farmer would "work with passion, pleasure and the hope of being able to pay his dues, both to the King, to his husbond, to himself and to his people".[75] Another commissioner, the jurist Andreas Bang, had no doubt that as a free man the farmer will:

> work for himself and his family [*for sig selv og sine*] with the same passion and drive with which any other free man seeks to earn the daily bread for himself and his family.[76]

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[71] Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (Hertfordshire: Wordsworth, 2012 [1776]), 336 (book 2, chapter 3).

[72] In the quotation, note Smith's emphasis on man never being entirely 'satisfied in his situation'. On this point, see also Dennis C. Rasmussen, "Does 'Bettering Our Condition' Really Make Us Better Off? Adam Smith on Progress and Happiness," *The American Political Science Review* 100, no. 3 (2006); Beistegui, *The Government of Desire*, 51-54.

[73] Stampe, *Erklæringer*, vol. 2, 554.

[74] Ibid., vol. 2, 557.

[75] *Forhandlinger*, vol. 1, 16.

[76] Ibid., vol. 1, 179.

In themselves, formulations such as these were of course merely expressions of assumptions or ideals about proper economic conduct. But at the time, they were also aligned, I argue, with the particular kind of economic life that reformers quite actively aimed to produce, namely a life devoted to the traditional needs of peasant households. For one thing, this ideal aim was vital to the land policies of the new regime. As Hans Jensen has shown long ago in his dissertation on the subject, these policies severely restricted landowners' rights to lease out and increase or reduce the size of farms to suit the desires and capacities of their tenants. Instead, as a rule, leases should be for life and farms should not be larger or smaller than required to nourish a family.[77]

But this ideal was also key to what I argue was one of the grander aims of reformers, namely to keep the peasantry devoted to their 'calling' as peasants and to keep them from desiring a different and more dignified life in another estate (*stand*). The governmentality that went into subjecting the peasantry to this 'calling' will be examined in chapter 4. In the next sections, I will make the claim that this goal, and with it the aim of directing the passion of self-interest toward the needs of households, was also – in key respects – an effect of the importance that reformers attached to two other passions, namely the passions of civic virtue and honor. For what these passions required of the individual was exactly to subject whatever he or she may desire, first, to the interests of the greater good and, second, to the particular forms of conduct and selfhood which were deemed honorable for a member of the peasantry.

The passion of civic virtue

For reformers, an essential passion that was corrupted by seigneurial lordship was what they called 'patriotism' or 'love of the fatherland'. In the words of Christian Ditlev Colbiørnsen, "there is a natural instinct [*drift*] in every free man for loving his fatherland", but it will only "hatch in the shadows of civil security".[78] What he had in mind was not, as one might think, a nationalist devotion to an imagined community tied together by common ancestry, language, culture, and so forth. Rather, as Juliane Engelhart has shown, what late eighteenth-century statesmen like Colbiørnsen spoke of in these terms instead relied on a European-wide notion of

[77] Jensen, *Dansk Jordpolitik*, vol. 1, 219-222. Jensen does note that the state occasionally made exceptions to the rule that farms should be no larger than 12 *tønder* or roughly 16 acres, sometimes for the sake of particularly gifted farmers.
[78] *Forhandlinger*, vol. 1, 33-35.

patriotism as being devoted to the common good of society and its guarantor and principle of unity, the state.[79]

In Jens Schielderup Sneedorff's work, reformers would have encountered this inborn love for the common good under the name of "civic virtue" (*den borgerlige dyd*). In his understanding of this term, which derived principally from Montesquieu, civic virtue was essentially "the love toward the commonwealth". Indeed, it referred to:

> that passion of the mind [*drift i sindet*] that makes us love it [i.e., the commonwealth] for its own sake, out of consideration for the greater perfection that consists in the happiness of a society and of many humans, and for which we will even, if it is necessary, sacrifice our own."[80]

Thus, for Sneedorff writing in the 1750s, civic virtue was an inborn and purely selfless devotion to the common good, one that drove the subject to subordinate his own individual happiness and interest to whatever furthered the common good. In Sneedorff's experience, however, civic virtue was also a delicate passion that required much work by the statesman in order to come alive. Much the same was true for the rural commissioners of the 1780s. But here, the problem was not, as it was for Sneedorff, how this selfless love risked being overshadowed by selfish desires and wants, of feelings of hate, envy, and self-pity that produced a general preoccupation with the self at the expense of the collective.[81] For them, the problem was instead how the passion of civic virtue, this crucial source of good and selfless conduct, was crushed by seigneurial power.

In emphasizing the central role of civic virtue in the making of the new legal order, I rely in large part on Tine Damsholt's work on what she calls 'the patriotic discourse'. In her analysis, in which the Commission's proceedings between 1786 and 1788 also play an important part, she convincingly shows how the reformist problematization of seigneurial power tended to follow two main trains of thought. For one thing, they tended to think of this power as a subversion of the 'social contract', as theorized by figures like Samuel Pufendorf and Jean-Jacques Rousseau. From this point of view, the purpose of granting the peasantry the rights that would shield them from seigneurial power was therefore that this would allow them to recognize their duties toward society as a just reciprocation for the security and freedom they would now enjoy under the protection of the state. Thus, by restoring the social contract, the peasantry would have a reason to subordinate its

[79] Juliane Engelhardt, "Patriotism, nationalism and modernity: the patriotic societies in the Danish conglomerate state, 1769–1814," *Nations and Nationalism* 13, no. 2 (2007).
[80] Sneedorff, *Om Den Borgerlige Regiering*, 105. On Montesquieu's influence on Sneedorff in this regard, see Sørensen, *Frihet og enevelde*, 59.
[81] See in particular, Sneedorff, *Om Den Borgerlige Regiering*, 108-109.

own good to the common good, and even to view these goods as one and the same.[82] But along with social contract theory, reformers were also influenced, Damsholt argues, by a new eighteenth-century bourgeois culture that saw emotions – such as intense sorrow, compassion, empathy, or joy – as the true foundation of moral conduct.[83] For this reason, they made great efforts, she shows, to disseminate a new culture of emotion and to turn the individual into a subject of patriotic feeling.[84]

In my view, Damsholt's account has identified some of the key reasons why reformers directed so much of their speculation and effort to the project of fostering civic virtue among the peasantry. Below, I will offer an illustrative example of how this project, as Damsholt argues, involved freeing peasants in order for them to become subjects of a social contract and of patriotic emotions. In the process, however, I will also expand on Damsholt's argument, showing how reformers also tended to problematize seigneurial power as corrupting the very basis of ethical conduct. But before during so, I wish to add a more general point that stems from the governmentality framework and concerns the genealogy of civic virtue that is presented by Damsholt.

As noted above, Damsholt ties the importance of civic virtue together with the rising influence of social contract theory and a new emotional culture, both of which made reformers eager to make peasants into rights-bearing and emotional subjects who were prepared to selflessly carry out their duties toward the common good. In my view, there is no denying these influences. But there was also, it appears to me, a much more immediate basis for this new legal order, namely the governmentality examined in this chapter: the liberal governing of the passions. Therefore, to grasp why it was essential for reformers to produce the conditions that would make the peasantry selflessly devoted to whatever furthered the common good, one should first of all refer to domains of thought beyond that of governmentality. More than proponents of social contract theory or products of bourgeois sensibility, reformers were essentially acting on the basis of a well-established way of thinking about governing; one that saw the unlimited power of 'masters' over 'slaves' as corrupting those inborn human passions – not least civic virtue – that would otherwise, if properly nurtured, lead men toward goodness.

To examine the role of this governmentality in the making of new legal order, I will turn to the deliberations leading up to the act abolishing adscription of June 20, 1788, an act that is also crucial to Damsholt's argument. A key text in this regard is the Commission's proposal from a few months before.[85] In this proposal, which was adopted almost wholesale in the act, the Commission described this life-long

[82] Damsholt, *Fædrelandskærlighed og borgerdyd*, 80-92.
[83] Ibid., 126-136.
[84] Ibid., 144-170.
[85] The Commission's proposal of April 28, 1788 is printed in *Forhandlinger*, vol. 2, 748-786. This document is not treated in Damsholt's analysis.

bondage to the estate of one's birth as "harmful to the moral and political constitution of the peasantry". For, it argued, by interposing itself between state and subject, this bondage to the will of the landlord could not fail to sever "the unmediated connection that should unite the regent and the people in a monarchic state". Indeed, even for those peasants who were currently treated well, there was no way around the keen realization of the "yoke" that would remain theirs for the lifetime of themselves and their descendants, a realization that continually served to "disturb" their "happiness" and to fill them not with patriotic joy and devotion, but with "resentment".[86] To illustrate this, the Commission offered the following comparison:

> when one juxtaposes the state of the adscripted with that of the free citizen and when one compares their respective moral springs [*moralske bevægårsager*] of thinking and acting, it becomes evident that the former is not able, to the same degree as the latter, to love his fatherland because to him it is closed off; to feel as perfectly his obligations, as a subject, toward the regent, because he is exposed to the unmediated sovereignty of the landlord; to exhibit the same brave courage because he is born in bondage and raised in oppression; or to possess the same industriousness as both his abilities and his will [*vilje*] has been limited.[87]

In other words, for the commissioners, adscription was the cause for the peasantry's presumed lack of devotion to its various duties toward the common good. For one thing, as Damsholt has also emphasized, this was because it left peasants feeling unreciprocated by a state that did not live up to its part of 'the deal'. But toward its end, this quotation also points to another aspect of the problem, something that had to do with the caging of 'the will'. It is to this connection between civic virtue and the will that I will now turn.

For Montesquieu, there was a close relationship between the passion of civic virtue and what one might call the exercise of one's will or, more simply, the right to choose. In his view, as shown by Vickie B. Sullivan, by making all subjects into the objects of the will of others, despotism tends to inhibit the very possibility of choice. Taking Aristotle's principle that "virtue arises from choice" to its logical conclusion, Montesquieu found, Sullivan notes, that "slaves cannot act from virtue".[88] According to this view, it is not so much the rights-bearing and emotional subject but 'the ethical subject' – the subject who chooses to be virtuous – who is at once the victim of despotism and the precondition of civic virtue.

In my view, Danish rural reformers saw things quite similarly. For them, adscription corrupted civic virtue because it deprived peasants of the possibility of choosing for themselves to do what was virtuous. In their less theoretical discourse, however, this

[86] Ibid., vol. 2, 757-758.
[87] Ibid., vol. 2, 757.
[88] Sullivan, *Montesquieu and the Despotic Ideas of Europe*, 184.

may be studied only indirectly: through their diagnosis of seigneurial bondage. In their deliberations on adscription, they tended to conceptualize this in two related, but distinct senses. On the one hand, it was a kind of arbitrary coercion, or what one commissioner described as an "unnatural coercion of the soul".[89] On the other, it was understood as depriving individuals of self-determination and thus of the possibility of making the right choices by themselves. It was this second conception that brought an observer like Christian Albrecht Fabricius to conclude that, being tied to the estate and bereft of the possibility of shaping his own future, a peasant has neither occasion nor reason to "exercise his mental abilities" [*anstrenge sine sjælsevner*] and will therefore become "stupid, indolent, and lazy".[90] Similarly, as Christian Ditlev Colbiørnsen argued in front of the Commission in 1786:

> Where this freedom is lacking, where the fate of the people depends on the will of particular citizens, where the occupational possibilities for the great majority of people is limited to the plot of land on which they were born, and where they therefore possess no free choice [*frit valg*] to seek better fortunes; there all desire for industry must by necessity vanish, all thinking be debased [*fornedres*], and all love for the fatherland languish.[91]

Thus, without any meaningful 'free choice', there was zero chance that the peasantry would choose to become industrious, to develop their mental abilities, or generally that they would choose to act out of a devotion to the common good. But at the same time, providing free choice was also understood as risky. As all members of the Commission agreed, it would not do to allow the peasantry to simply do as they wished – to move, work, and employ themselves as they pleased. As Christian Ditlev Colbiørnsen argued, the average peasant conceived of liberty as did man in his "natural state". For him, "to be free" is therefore "to be able to use his abilities and arrange his actions according to his own discretion [*godtbefindende*]".[92] To set the peasantry free was therefore to allow them to run around, Vilhelm August Hansen argued, "like lost sheep without a shepherd."[93]

Instead of complete or 'natural' freedom, what the commissioners looked for was therefore to provide peasants with the right modicum of free choice. On the one hand, it was therefore vital that the peasantry had the right to decide on a number of important matters. In Hansen's mind, this should extend to such matters as their occupation, their abode, and all those important decisions, like marriage and settling

[89] Willum Bolle Luxdorph's memorandum of October 21, 1786, printed in *Forhandlinger*, vol. 1, 46.
[90] Fabricius, *Tanker om de nye Indretninger i Landvæsenet*, 25-26.
[91] *Forhandlinger*, vol. 1, 35.
[92] Ibid., vol. 1, 342-343.
[93] Ibid., vol. 1, 121. See also Christian Ditlev Reventlow's comments, ibid., vol. 2, 526.

down, which have "the greatest influence on their lot during the rest of their life".[94] But on the other hand, it was also vital that the restrictions that were nonetheless necessary would not be experienced as just another form of bondage. For the commissioners, the practical solution to this problem – which was also adopted in the 1788 Act of Abolition – was to allow all male members of the peasantry to move and employ themselves outside their manor of birth, but to keep them within their county (*amt*) until they had either finished their military service or reached the age of 36.[95] In the eyes of the Commission, the benefits of this arrangement were many. In this way, one commissioner noted, the coercive elements that remained would be "felt much less as the area to which they are bound is big".[96] And since the liberty to travel beyond the county would usually be granted to individuals of a mature age, at a time in which their "desire for travel and moving" was presumed to be over, it was unlikely that it would cause them to abuse their freedom.[97]

As it appears, abolishing ascription meant – in large part – providing peasants with an appropriate modicum of free choice. But besides being a tolerable compromise between complete bondage and complete freedom, what was the nature of this kind of freedom? In the Commission's proceedings, it was described as a condition in which the individual was not merely free from arbitrary coercion, but free to choose what was morally right.[98] For instance, this essentially ethical understanding of freedom was expressed in 1786 by the experienced administrator of the Danish Chancellery, Willum Bolle Luxdorph. In his words, to be free is to be in a position "where one may freely perform one's duties".[99] Or, as he added the following year:

> it is impossible to think of freedom without thinking of duties; for to be free is nothing but to enlighten and follow one's conscience [*at oplyse og følge sin samvittighed*], to do what is right and to fulfill one's duties.[100]

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[94] Ibid., vol. 1, 123. For similar views, see the memoranda from late October 1786 by Johan Bartholin-Eichel, Andreas Bang, and Christian Ditlev Reventlow, printed in ibid., vol. 1, 141, 179-181, and 203-205, respectively.

[95] Kjærgaard, *The Danish Revolution*, 225-226; Krogh, *Staten og de besiddelsesløse*, 133-160; Finn Stendal Pedersen, *Den ulige frihed: studier i myten om stavnsbåndsløsningens betydning* (Odense Universitetsforlag, 1990), 44-57. Only those exceptional individuals who had proven themselves capable and diligent as students were exempted from this bond, as well as those young disabled men who were deemed useless as peasants and soldiers (see decree of June 8, 1788, §23-24, printed in *Chronologisk Register over de Kongelige Forordninger og aabne Breve samt andre trykte Anordninger som fra aar 1670 af ere udkomne* ed. Jacob Henric Schou, 16 vols. (Copenhagen, 1794-1814), vol. 9, 365-386.)

[96] John Erichsen's memorandum of October 28, 1786, printed in *Forhandlinger*, vol. 1, 211.

[97] Vilhelm August Hansen's memorandum of October 20, 1786, ibid., vol. 1, 137.

[98] The same ethical conception of freedom may also be found among contemporary Danish natural law scholars, see Jacobsen, *Husbondret*, 76-78.

[99] *Forhandlinger*, vol. 1, 46.

[100] Ibid., vol. 2, 505.

One finds a similar thought uttered by Vilhelm August Hansen. Like Luxdorph, he distinguished this true form of freedom from what he and Christian Ditlev Colbiørnsen defined as "self-willfulness" (*selvrådighed*).[101] True freedom was the opposite, therefore, of choosing without care for what one owed to society. But as Hansen continued, those who had been raised in "slavery" and "coercion", those who had never had the possibility of choosing for themselves, could naturally not be expected to choose as they ought and should therefore only receive this liberty gradually.[102] The young and those who were to be born and raised in freedom, on the other hand, would surely – Hansen trusted – choose as they ought. Indeed, if only they were properly educated by priests and teachers in their duties toward the common good, Hansen was sure such ethical individuals would be motivated by:

> love for their fatherland and the abode and land of their fathers, love for their estate, which is the most necessary and most honorable of all, and love for the King, yes even for their landlord if he is deserving of it.[103]

In other words, the reason adscription corrupted the passion of civic virtue was not only that it left peasants feeling unreciprocated. More than this, the problem was also, I have argued, that it placed the individual in a condition in which he had no possibility of exercising his will, in which he was merely an object of the will of others, and in which he could therefore not constitute himself as the ethical subject who chooses to fulfill his duties toward society out of a devotion for common good. Yet, if he was placed in such a condition and could himself decide to live his life as he ought, he would be governable through the inborn passion of civic virtue. That is, while it would of course be necessary to provide education and help along their understanding, in governing the peasantry the state should essentially seek to harness a passion that was already locked in man's nature: namely what Christian Ditlev Colbiørnsen, as quoted above, referred to as every man's "natural instinct for loving his fatherland". But while doing so, reformers also hoped to harness a very different mechanism of conduct. Rather than selfless love for the common good, this was a selfish love for one's honor. It is to this passion that I will now turn.

The passion of honor

On August 15, 1788, in the royal palace of Frederiksborg in northern Zeeland, Christian Ditlev Reventlow held a speech, his so-called 'Minerva speech', that is commonly taken to express the 'utopia' guiding the project of reform.[104] The

[101] Ibid., vol. 1, 125.
[102] Ibid., vol. 1, 120-125.
[103] Ibid., vol. 1, 125.
[104] Bjørn, *Dengang Danmark blev moderne*, 14-18. The speech is printed in "Tale af Hans Excellence Geheimeraad - Grev Christian af Reventlow," *Minerva, et Maanedsskrivt* 4 (1788).

immediate occasion for the speech was in itself rather insignificant, namely the granting of inheritable leaseholds (*arvefæste*) to fifteen farmers in northern Zeeland. However, aiming to milk this admittedly minor step toward more secure property rights for all its symbolic worth, Reventlow turned the event into a general celebration of the reform movement, not least of the act abolishing adscription passed less than two months prior. He did so by offering his audience and readership a glimpse of "the happy future" the country now had in store: a future of both "affluence" and "virtue, good moeurs, and piety"; a future in which public education will mold the "hearts and minds" of the young to be "more useful and happy in their calling"; a future in which every plot of land and every unit of agricultural production will be well-organized and optimally utilized, but also, as he continued, a happy time:

> in which the servant will make it a point of honor to be the sharpest worker [*sætte sin ære i at være den skrappeste arbejder*] and the farmer to be the best husbond; the time in which the farmer and cottager will both be pleased with their condition, not envy one another, but as friends through mutual services further one another's interests; the time when no poor will remain unassisted and no disabled beggars will be allowed to wander; the time in which the spinning wheel, the loom, and other domestic industry will take up the idle days of winter.[105]

Thus, caught within this web of ideals – of virtue and piety, of one's calling and tireless industry, of improved education and better poor relief – one finds the concept of 'honor' and the notion of a mechanism that urges individuals to surpass their peers in a benign kind of competition among 'friends' about being 'the sharpest worker' or 'the best husbond'. Indeed, one finds it in a very central place as that which will, together with education and religion, guide man toward the good.

To my knowledge, historians have not previously examined the role of honor in the making of the rural reforms. Considering the sustained attention the notion of honor has received from early modern historians of culture during the preceding decades, in Denmark and in other Nordic countries, this is perhaps surprising. As this comprehensive historiography has shown, in eighteenth-century society the notion of honor constituted an essential part of the social imaginaries and cultural logics through which individuals related to themselves and either distinguished themselves from or likened themselves to others.[106] But more than a seemingly natural fact of life, to a statesman like Reventlow, honor could also – as noted above – be

[105] Reventlow, "Tale af Hans Excellence Geheimeraad - Grev Christian af Reventlow."

[106] See for instance Christopher Collstedt, *Duellanten och rättvisan - Duellbrott och synen på manlighet i stormaktsväldets slutskede* (Lund: Sekel Bokförlag, 2007), esp. 76-102; Lars Edgren, *Stadens sociala ordning - Stånd och klass i Malmö under sjuttonhundratalet* (Lund: Lund University, 2021), esp. 124-130; Heinsen, "Penal Slavery in Early Modern Scandinavia," 348-369; Tyge Krogh, *Det store natmandskomplot - En historie om 1700-tallets kriminelle underverden*, 2nd ed. (Copenhagen: Rosinante, 2018).

conceptualized as a particular mechanism through which the state might govern the conduct of the peasantry. To grasp how this was so, I will once again begin by turning to Sneedorff.

For Sneedorff, honor was essentially, as Øystein Sørensen has shown, a "substitute for virtue".[107] In Sneedorff's words, whenever subjects were too selfish to be moved by civic virtue, "it is a great fortune that we are so vain as to willingly sacrifice everything, even life itself, for the imagined good [*den indbildte fordel*] we call honor."[108] Or, as he explained:

> When a noble soul [*en ædelmodig sjæl*] no longer knows its duty or finds pleasure in fulfilling it, but nonetheless notices how the eyes and hopes of the entire human race are directed toward it, it senses new forces through which it is able to conquer not only outward difficulties, but also itself: it sacrifices its dearest desires [*opofrer de kæreste lyster*], it tolerates the most cumbersome labors and shuns not even death itself, all so as to join together with other reasonable beings and live in their love and memory.[109]

Again, this followed closely in the footsteps of Montesquieu. Like Sneedorff, Montesquieu defined honor as essentially a love for an 'imagined good': that is, as a love that tied the subject to the world of the imagination. Like Montesquieu, Sneedorff appears to have understood honor not so much as a love of self, but more specifically as a love for a certain image of oneself or, to use Singer's term, for a certain 'self-image'.[110] Moreover, as Sneedorff would have agreed, the particular self-image with which such 'noble souls' are in love is not something they have personally chosen or contrived, but something that has collectively been deemed suitable to their particular social station. That is, all individuals are not judged according to the same standard or code, as the ambitions and actions that earn esteem for a nobleman, a burgher, or a peasant are not the same.[111]

Thus, according to this conception of honor, there ideally exist as many self-images as there are social orders, and for each such order these self-images would define the specific ideals individuals were expected to emulate. Like Reventlow's trust in the ability of self-images to animate individuals to excel at being 'the sharpest worker' and 'the best husbond', Montesquieu's concept of honor therefore presupposes what Singer calls a form of "competitive emulation resulting from the attempt to live up to appearances".[112] Like civic virtue, honor is therefore something that redirects self-interest away from the isolated wants of the self and toward what

[107] Sørensen, *Frihet og enevelde*, 57-62.
[108] Sneedorff, *Om Den Borgerlige Regiering*, 110.
[109] Ibid., 393-394.
[110] Singer, *Montesquieu*, 116-123.
[111] Ibid.; Sørensen, *Frihet og enevelde*, 69-71.
[112] Singer, *Montesquieu*, 123.

society considers good, but it does so by different means: by harnessing a love not for what is good in and of itself, but for what flatters or pleases self-perceptions. Thus, it is a form of love, to quote Montesquieu, through which "each person works for the common good, believing he works for his individual interests."[113] To put things in governmentality terms, the passion of honor is therefore an autonomous mechanism through which human beings will, under the right conditions, be spurred to emulate the conduct deemed suitable for their station in life.

Of course, this conception of governing was not a purely theoretical exercise. A good example in this regard is the case of France. Here, as John Shovlin has shown, from the middle of the century, the idea of harnessing honor and the workings of emulation was increasingly pursued by those who hoped to improve the mentality of the peasantry and generally to reconcile selfish egoism with the needs of the common good.[114] In the case of Denmark, the matter is less well researched. But I believe there are signs that the passion of honor also became increasingly important in Denmark from the 1760s onwards.

During this decade, as Peter Henningsen has shown, honor became a crucial theme of public debate and academic discussion. Here, a number of self-styled 'patriotic' voices, among them Sneedorff, believed society was suffering from a misguided conception of honor, one that led nobles, burghers, and even those of very limited means to grasp honor as 'vertically' distributed, with the high-born and wealthy having much honor and the lower sorts being without honor. In its place, Henningsen argues, these patriotic authors spoke in favor of 'horizontal' honor. This would make honor a good that was attainable by all who proved themselves useful for the state and for the common good, but only as long as they remained devoted to the calling each had been assigned by birth.[115]

Like their French contemporaries, these authors particularly problematized the disdain that this vertical distribution of honor brought upon the lowest rank of society, the peasantry.[116] In the following decades, this problem was dealt with on various fronts. For one thing, it was taken up by the many 'patriotic societies' (*patriotiske selskaber*) that began awarding prizes and medals to peasants and other commoners whose achievements and overall conduct made them worthy of public praise. In her study of these practices, Juliane Engelhardt concludes that these societies thereby hoped to provide commoners with "an incentive" to "work more

[113] Montesquieu, *The Spirit of the Laws*, 27 (book 3, chapter 7).
[114] John Shovlin, "Emulation in Eighteenth-Century French Economic Thought," *Eighteenth-Century Studies* 36, no. 2 (2003); ———, *The Political Economy of Virtue – Luxury, Patriotism, and the Origins of the French Revolution* (Ithaca & London: Cornell University Press, 2006), chapters 3-4.
[115] Henningsen, *I sansernes vold*, 393-397.
[116] For more on the eighteenth-century discourses on 'the dishonorable peasantry', see ibid., 366-369. On the French case, see Shovlin, *The Political Economy of Virtue*, 80-89.

and in new ways" by igniting what the societies referred to as "a competitive spirit" (*kappelyst*).[117] But more than a mere 'incentive', this use of public praise to motivate individuals to compete with and surpass their peers also points, I would argue, to the more specific idea of governing through the passion of honor.[118]

At the same time, the problem of the peasantry lacking a sense of honor was also taken up by rural reformers. Christian Ditlev Colbiørnsen, for instance, defined the goal of rural reform in these words:

> No longer shall this honorable estate [*den ærværdige stand*], whose laboring hands nourish and defend the state, be held in contempt [*være ringeagtet*]. Everywhere and with open arms the fatherland shall receive its emancipated sons into its gentle bosom, and they shall learn to love this beneficent mother whom they had not previously known.[119]

In the discussions of the Commission in the late 1780s, however, the source of this problem was not, as it was in the 1760s, how a vertical conception of honor denied that peasants and other social inferiors could ever possess honor. For reformers, the problem was rather how the peasantry's sense of honor was repressed or, in their terms, 'debased' by seigneurial power. For instance, Christian Ditlev Colbiørnsen and Christian Ditlev Reventlow now routinely spoke of "the debased way of thinking of the adscripted [*den stavnsbundnes fornedrede tænkemåde*]",[120] and "the debasing bonds [*fornedrende bånd*] due to which they may like other living creatures be counted as manorial property".[121]

With this concept of 'debasement', reformers appear to have had two things in mind. According to contemporary usage, 'to debase' (*at fornedre*) was to render someone lesser in value in terms of their worth in the eyes of others or in terms of their inner moral qualities.[122] In other words, to debase could mean to humiliate, to corrupt, or to do both things at the same time. For reformers lamenting seigneurial 'debasement' during the 1780s, it appears to have possessed this more expansive sense. That is, it signified how treating individuals as 'property' and denying them

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[117] Juliane Engelhardt, *Borgerskab og fællesskab - De patriotiske selskaber i den danske helstat 1769-1814* (Copenhagen: Museum Tusculanums Forlag, 2010), 155-162, quotations 155-156, 161.

[118] A similar point could also be made in regard to various educational publications that praised exemplary past and present individuals. See for instance Damsholt, *Fædrelandskærlighed og borgerdyd*, 102-111.

[119] *Forhandlinger*, vol. 1, 341.

[120] Ibid., vol. 1, 343.

[121] Ibid., vol. 1, 268.

[122] ODS *s.v.* 'fornedre' 2.: "gøre (nogen ell. noget) ringere end før; give en lavere værdi ell. plads; dels om nedsættelse i andres øjne, især m.h.t. ydre værdighed, rang osv. (jf. ydmyge), dels om forringelse i indre (ofte: moralsk) værd (jf. nedværdige)."

the status of 'reasonable beings' could not fail to both lessen individuals' self-worth and corrupt their morals.

To grasp the logic behind this equation, I believe it is useful to turn to Montesquieu's thought on despotism and dishonor. As noted, for him the passion of honor operated through self-images that sparked competitive emulation. But such a mechanism could not grow in just any kind of society. More than anything, as Singer has shown, it presupposed the possibility of a 'self' that may view itself, first, as distinct and separate from others (rather than being a mere extension of their will), and second, as potentially inferior or superior to others.[123] In despotic relations, however, this is of course impossible. For there, by being akin to property, "one's sense of self is continually confronted with nullification from above".[124] And "as men in them are all equal, one cannot prefer oneself to others; as men in them are all slaves, one can prefer oneself to nothing".[125] In other words, being all equally worthless and without an independent self or will, such 'owned' men were altogether unable to take pride in their actions or to judge themselves in relation to a certain idealized self-image.

While it is difficult to know how far Danish reformers would have followed this highly theoretical account by Montesquieu, they clearly shared, I will argue, some of its basic propositions. To show this, I will analyze the Commission's problematization of seigneurial discipline, that is their 'right of chastisement'. For here, one finds the basic idea that not only is honor a crucial mechanism of good conduct, it is also threatened by seigneurial power's tendency to nullify the self and thus the ability of individuals to take pride in themselves.

A crucial document in this regard is Christian Ditlev Reventlow's Memorandum on Corvée of February 11, 1788.[126] In the section on punishments by the seigneur and his officials, Reventlow lamented the abusive and arbitrary use of beatings, whippings, and 'thrashings', either during corvée or in the peasants' own homes. Indeed, he announced his wish that "thrashings [*hug*], which out of all punishments are the most ignoble [*uædelste*] and which seem to debase man the most [*mest at fornedre mennesket*], could be entirely abolished."[127] In its place, Reventlow recommended that minor infractions by peasants – such as failure to appear for work, negligence, insubordination, etc. – should be punished by state authorities in accordance with law, due process, and proportionality. At the same time, however, Reventlow was unwilling to part with the practice of arbitrary seigneurial punishment altogether, at least for certain members of the peasantry. For, as he continued:

[123] Singer, *Montesquieu*, 112.
[124] Ibid.
[125] Montesquieu, *The Spirit of the Laws*, 27 (book 3, chapter 8).
[126] The memorandum is printed in full in Kjærgaard, *C. D. Reventlows betænkning om hoveriet*.
[127] Quoted in ibid., 143.

> Experience has taught me that there are some farmhands who are too poor to be punished with fines and who have no feeling of honor and are therefore both evil and lazy [*ingen følelse have af ære og derved er ondskabsfulde og lade*], so that there is no instrument but the steward's whip that will keep them in order. I hope that when adscription has for some years been abolished and the effect of improved educational institutions will begin to show itself, that this unpleasant punishment can also be abolished. But for the time being I dare not recommend it, as it is highly necessary that such evil-minded and unenlightened people are held in a state of corporeal fear.[128]

In these comments, Reventlow expressed two key ideas. First, in his eyes there exists a certain kind of transgressor – apparently mostly unmarried males – who it is not only impractical to punish monetarily, but whose transgressions reflect the fact that they 'have no feeling of honor and are therefore both evil and lazy'. In other words, what Reventlow took for granted was the general notion that if people were neither 'evil' nor 'lazy' and generally acted morally, it was at least in part – as he would also argue some months later in his 'Minerva speech' – because the passion of honor guided their conduct toward the good, toward becoming 'the best husbond' and 'the sharpest worker'.

But at the same time, Reventlow also made it clear that what made seigneurial discipline 'debasing' and 'ignoble' was primarily the fact that it so visibly reduces individual selves to the objects of others. In light of the severe brutality and dishonor used in public punishments (see the next chapter), it is difficult to see how exactly Reventlow could define 'thrashings' (which would by definition be limited to what did not involve 'breaking limbs or damaging health') as 'out of all punishments the most ignoble', if not because of its completely arbitrary nature that reduces those who should ideally be in full possession of themselves to the 'property' or 'slave' of another. Moreover, this would also explain how Reventlow could nonetheless defend the use of seigneurial discipline for those who were not in any meaningful sense of the word in full possession of themselves, namely servants and other dependents.

As it appears, much like Montesquieu, Reventlow problematized seigneurial discipline as a corruption of the passion of honor that would guide man toward the good if only his sense of self was protected from being nullified by despotism. In the years before and after Reventlow's 1788 memorandum, one recognizes this logic at work in the Commission's reforms of seigneurial discipline. In 1786, the Commission secured the complete abolishment of those "debasing" punitive practices that seigneurs and their employees had traditionally used "at their own hand and according to their own discretion", such as 'the dog hole' (*hundehullet*), the pillory (*halsjernet*) or the infamous 'wooden horse' (*træhesten*). Like

[128] Ibid.

Reventlow's memorandum, the Commission did not foreground the question of brutality as such, but that of arbitrariness. Indeed, in the Commission's own words, these were practices which could not "avoid debasing [*fornedre*] the peasants' mode of thinking as this arbitrary treatment so evidently bears the mark of serfdom".[129]

Yet, like Reventlow, the joint commission found this arbitrariness more problematic for those individuals who were ideally to be in full possession of themselves. One sees this clearly in a 1791 revision of seigneurial discipline. With this piece of legislation, seigneurial discipline was limited to those in permanent or immediate seigneurial service – that is, as manorial servants and others in their capacity as corvée laborers – and could no longer lay claim to the bodies of those of a more dignified position.[130] To be precise, those who were now exempted were the heads of farmer households, both husbands and wives, as these constituted a class that did not at present sufficiently possess "the esteem and reverence [*agtelse og ærbødighed*]" necessary to enjoy the obedience of those in their service.[131]

The governmentality of rural reform

In the above, I have argued that the domestic project of protecting peasants from seigneurial power was founded on what I have called a liberal governmentality of the passions. This was a governmentality that *problematized* demesne lordship as a kind of 'slavery' and therefore, like Montesquieu, as a threat to those inborn human passions that reformers, relying on a complex *knowledge* from the seventeenth- and eighteenth-century discipline of political philosophy, saw as natural springs of good conduct and self-formation. In the process, I analyzed the *liberal art of governing* on the basis of which reformers used positive law to produce the conditions that would allow these passions to autonomously guide the conduct of the peasantry. First, I tried to show the centrality of the passion of self-interest, but also that rather than harnessing it, it was a question of redirecting it toward the desires that were appropriate for peasants. For this purpose, the passion of civic virtue was vital. By freeing the individual from arbitrary bondage and providing an appropriate modicum of self-determination, it was believed that man's inborn love for the commonwealth would guide him to selflessly devote himself to his duties, as a peasant, toward the common good. And lastly, to offer additional motives for devoting oneself to those duties, reformers hoped to use man's inborn vanity to ignite a competition for the imagined good of honor.

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[129] *Forhandlinger*, vol. 1, 389. This recommendation became law with the Decree of June 8, 1787, § 16, printed in *Chronologisk Register*, vol. 10, 136-139.

[130] Decree of March 25, 1791, § 4, 13-14, printed in *Chronologisk Register*, vol. 10, 136-139. See also Jacobsen, *Husbondret*, 124-137.

[131] DC. F10-73. No. 234/1791: 'Allerunderdanigst Forestilling' (March 7, 1791), *sub* IIIb.

In what follows, I will turn to the Danish West Indies and to what was, I believe, a very different and even incommensurable governmentality of the relations between masters and slaves. If I have gone some way to identify the liberal governmentality of the passions that was at the heart of the rural reform, it has been in order to demonstrate as clearly as possible what was profoundly singular about this colonial project of containing or 'humanizing' the seigneurial powers of masters over their slaves.

Masters, slaves, and the laws of humanity

It is not easy to say exactly when slave maltreatment became a cause of concern among Danish colonial officials. In the 1750s, some locals warned against tyrannizing the enslaved,[132] but few slavers were taken to trial and none of the cases elicited any sustained reaction from the Governor General or the West Indian Government.[133] Things appear to have changed during the 1770s, however. In 1771, the Danish Chancellery instructed Governor General von Roepsdorff and the West Indian Government to ensure that "negroes are not abused by their owner, either by suffering from a lack of physical necessities or by being subjected to other kinds of barbaric treatment."[134] A few years later, the West Indian Government began work on a new slave code, or *code noir*, that would contain rules for "what the white inhabitants have to observe in relation to the slaves".[135] During the 1780s, this colonial draft for a new *code noir* would become part of a prolonged trans-Atlantic discussion among domestic and colonial authorities on the principles of governing master-slave relations.[136] Without leading to any concrete reforms, these discussions carried on into the 1790s, when it was hoped that the abolition of the slave trade (passed in 1792, effectuated in 1803) would incentivize masters to treat their slaves more humanely. But the enslaved would have to wait another two or three decades before they acquired any actual legal rights and protections, such as the right to swear an oath in criminal cases or to receive certain amounts of food.[137]

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[132] See for instance Johan Reimert Haagensen, *Beskrivelse over Eylandet St. Croix i America i Vest-Indien* (Copenhagen, 1758), 35. More examples of such warnings will be addressed later in the chapter.

[133] According to Gunvor Simonsen's estimates, during the period from 1756 to 1770 only one case of slave maltreatment was examined in the jurisdiction of Christiansted, see *Slave Stories*, note 158.

[134] WIG. 3.40. Instruction of October 12, 1771, arts. 4-5.

[135] WIG. 3.16.1. Letter to the Danish Chancellery (October 15, 1778).

[136] Olsen, "Fra ejendomsret til menneskeret," 44-47.

[137] On these reforms, see Niklas Thode Jensen, *For the Health of the Enslaved – Slaves, Medicine and Power in the Danish West Indies, 1803-1848* (Copenhagen: Museum Tusculanum, 2012), 157-165; Hornby, *Kolonierne i Vestindien*, 245-251.

At that point, however, the abuse and neglect of slaves had long preoccupied colonial judges and administrators in their day-to-day overseeing of colonial society. Not least, as shown by Gunvor Simonsen, the number of trials and police examinations of possible maltreatment began to surge in the mid-1780s.[138] In my analysis, I have focused on the decade from 1786 to 1796, in which Simonsen reports this growth in activity. By searching the same material as Simonsen, namely the court protocols of the police and the city court, I have discovered 25 such cases from the jurisdiction of Christiansted. To dig deeper into the handling of such cases, I have also sought to trace the correspondence between judges and administrators.[139] And through this, I have also discovered a number of interesting cases from the neighboring jurisdiction of Frederiksted, whose court transcripts from the period are otherwise lost. But the chief empirical focus of my analysis of the local scale and its case-by-case governing of slave abuse is on the 25 cases from Christiansted.

Out of these 25 cases, two concerned slaves found dead under unknown circumstances.[140] In ten cases, the enslaved was believed to have been mistreated by their owner or, more often, by one of the slave's immediate superiors, such as a plantation overseer.[141] In the remaining fourteen cases, the suspect was a white person, usually male, who did not wield any formal authority over the abused.[142] In the latter category of cases, the accusation was often brought by the owner of the offended, usually in order to be compensated for the damage inflicted on their

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[138] Simonsen, G. 2017. *Slave Stories – Law, Representation, and Gender in the Danish West Indies* (Aarhus Universitetsforlag), pp. 54-56 (notes 153, 158). According to her analysis of the protocols of Christiansted's police and city court, there were only 12 such cases during the period 1770-1789, but no fewer than 51 during the period 1790-1809.

[139] For this purpose, I have primarily examined the archival files GG. 2.5.1-2; 2.16.1; 2.17.5-11; and WIG. 3.81.73.

[140] Namely the cases concerning the enslaved man Fraeser (CCB. 38.9.8., fols. 408-415, September 1788) and the enslaved woman Doll (ibid., 38.9.9, fol. 173, September 1792).

[141] See the cases against the planter *Johan Massman* (CCB. 38.9.7, fols. 67-76, July-August 1786); overseer *Richard Soars* (ibid., fols. 91-95, October 1786); overseer *Richard Christie* (ibid., fols. 95-97, October 1786), overseer *Patrick St. Ledger* (ibid., 38.9.8, fols. 459-471, December 1789-January 1790; ibid., 38.6.17, fol. 191, verdict of February 1, 1790); *George Bladewell* (38.9.9, fols. 73-74, November 1790); *Philip McKenna* (ibid., fols. 200-204, March 1793; ibid., 38.6.18, fols. 338-339, verdict of August 12, 1793); overseer *John Delany* (ibid., 38.9.10, fols. 489-512, April-May 1796); *Thomas Williamson* (ibid., 516, June 1796), *Miss Carden* (ibid., fols. 521-522, August 1796); overseer *Thomas Wilch* (ibid., fol. 534, September 1796).

[142] See the cases against overseer *Charles Brady* (CCB. 38.9.7. fols. 72-76, July 1786); *James Booth*, *James Tennat*, and *Charles Daly Bladewell* (ibid., fol. 81, September 1786); *Charles Brady* (ibid., fols. 119-120, February 1787); *Thomas Whitehead* (ibid., fols. 226-239, November-December 1787); a baker apprentice known as *Mersier* (ibid., 38.9.8, fols. 335-456, November-December 1788); *Samuel Berry* (38.9.9, fols. 48-50, October 1789); *Charles Ellis* (ibid., fol. 193, March 1793); the sailor *Heyma Botheia* (ibid., fols. 287-288, May 1794; ibid., 38.6.18, fols. 394-395, verdict of September 15, 1794); overseer *Patrick Casey* (ibid., 38.9.9, fols. 301-305, September 1794); *John Moreton* on two separate occasions (ibid., 38.9.10, fols. 458-460 and 489-490, September 1795 and February 1796); *Miss Perryman* (ibid., fol. 460, September 1795); *Miss Lytton* (ibid., fols. 551-557, November 1796).

'property'.[143] The owner was sometimes also the complainant when the suspect was one of the plantation's overseers, but many cases were also initiated by order of the Governor General or by the Chief of Police himself, often after hearing the complaints from the abused themselves. In fact, as Simonsen has also observed, during the period a growing number of slaves complained directly to the authorities.[144] One afternoon in 1796, for instance, a group of eight plantation slaves personally looked up Chief of Police Marcus Jonas Ludvig Nielsen in the city of Christiansted, complaining of the harsh work and poor rations they suffered.[145] Possibly, it was partly thanks to such actions by the enslaved that the category of abuse tended to expand. While judges in the mid-1780s primarily examined cases relating to various forms of physical mistreatment, involving murder, dismemberment, rape, and whippings, by the mid-1790s the accusations considered by the courts increasingly also touched upon the subjects of lack of provisions and overwork.

Although the cases were formally handled by officers of the court, they were often directly shaped and sometimes even decided on by the island's highest officials, the Governor General or the Colonial Government. Judges, of course, did most of the work, examining witnesses, putting together the facts, and assessing guilt. But particularly in what they saw as the more serious cases of abuse, they also kept their superiors in the loop, informing them about the details of the case, and sometimes asking them for decisions on how to proceed.[146] In the process, superiors formed their own opinions about the conduct in question, labelling it as, for instance, "unnecessary and excessive harshness", "tyrannical conduct", or "barbaric gruesomeness".[147]

In this way, individual cases of maltreatment sustained an ongoing 'conversation' up and down the administrative chain. For the members of the Colonial Government, such cases offered concrete examples for their deliberations about how the state ought to protect the enslaved from their masters. In the period under consideration, these more general discussions primarily took place on the imperial scale, through the Colonial Government's dialogue with two metropolitan

[143] See for instance the case against Thomas Whitehead (CCB. 38.9.7, fols. 226-239, November-December 1787).
[144] Simonsen, *Slave Stories*, 54-55.
[145] GG. 2.17.12. Nielsen's report to Lindemann (August 17, 1796).
[146] See for instance WIG. 3.81.73: Judge Ewald's letters to Governor General Schimmelmann of August 14 and August 28, 1786; GG. 2.17.5: his letter of October 30, 1786; ibid. 2.17.11: Judge Nielsen's letter to Lindemann of June 14, 1796.
[147] For the period 1786-1796, the sources on the superiors' responses to individual cases are best preserved for Governor General Lindemann's years in charge (c. 1790-91, 1794-96). See for instance GG. 2.5.2, entry 1790/7: Lindemann to Judge Bidsted (July 7, 1790); ibid., entry June 21, 1796: Lindemann's letter to Judge Nielsen; GG. 2.17.11: P. Oxholm's letter to Lindemann (May 20, 1796); WIG. 3.31.25, entry 1796/264: the Government's letter to Judge Nielsen (May 28, 1796).

commissions: the so-called Slave Law Commission appointed in 1783 to author a Danish *code noir*, and the Commission for the Better Organization of the Slave Trade which authored the 1792 act abolishing the slave trade from 1803.

In the following, my focus is on this multi-scalar conversation among Danish civil servants about what conduct was excessive, why it was excessive, and how it should be managed. Naturally, I am not the first to immerse myself in this conversation. In particular, I have drawn upon Gunvor Simonsen's work on the court material from Christiansted from the period 1756-1848 and Rasmus Sielemann's study of the governmentality that was reflected in the eighteenth century's laws on slavery and the abolition of the slave trade.[148] But my analysis differs from these accounts in terms of both its method and its larger argument.

Unlike my analysis, Simonsen's is largely quantitative. It traces a rise in the number of cases of maltreatment, but her primary focus is not on the conceptions of governing through which such conduct was problematized and managed, but rather on how it opened up a space for slaves to acquire a new form of agency. The focus on governmentality, on the other hand, is essential in Sielemann's account. But his material focus is exclusively on the laws on slavery and not on how authorities handled abuse in practice. Moreover, with his focus on laws – namely the unenacted Slave Code of 1755 and the 1792 abolition of the slave trade, which were both the work of domestic legislators – Sielemann's account is primarily about the plans held by a small circle of reformers back home and not, I will argue, about the particular conceptions of governing that were shared by judges and governors in the late eighteenth-century Danish West Indies.

In terms of the larger argument, this account also differs in how it grasps the relationship between colonial and metropolitan governmentality. For although neither Simonsen nor Sielemann aims to compare the colony with contemporary Danish (or broader European) ways of governing, their accounts nonetheless tend to portray the growing interference against slave abuse as part of larger European trends in governing. This is particularly true in regard to their view of the problematization behind it. In their analyses, it is – as I will explore below – what are known as 'biopolitical' and 'liberal' rationalities of governing that are seen in various ways to constitute 'abuse' as a particular type of problem. In this chapter, on the other hand, I generally stress incommensurability between metropole and colony. I do so both by questioning the importance of these 'biopolitical' or 'liberal' rationalities, and also by demonstrating the absence of what was so essential in the metropole's governmentality of rural reform, namely the liberal governmentality of the passions. Indeed, rather than 'despotism' and its general corruption of conduct

[148] Simonsen, *Slave Stories*; Sielemann, *Natures of Conduct*, chapter 3; ———, "Governing the Risks of Slavery." See also Olsen, "Fra ejendomsret til menneskeret"; Hall, *Slave Society*, chapter 3.

and selves, what defined certain forms of conduct as 'abuse' and therefore as problematic was essentially a calculus of public security, one that conceived of 'excessive domestic sovereignty' as a source of crime and even rebellion.

Humanity and the problem of slave maltreatment

When colonial officials distinguished between good and excessive treatment of slaves, they usually problematized slave abuse as both inhumane *and* contrary to the overall interests of the state. With this combined employment of humanitarian and strategic lines of thought, colonial officials exemplified what Malick W. Ghachem has referred to as a "strategic ethics of slavery". In the context of eighteenth-century French St. Domingue, Ghachem defines this strategic ethics as "a style of criticism" that condemned slave abuse from both ethical and strategic points of view, and did so without "seeking an agreement on their relative merits".[149] In the Danish West Indies, too, the humane and the strategic also tended to overlap seamlessly, and even to be one and the same. And seeing as what was humane was also prudent and *vice versa*, officials rarely felt any need to explain why exactly a particular act was worthy of condemnation.

Yet, in the larger multi-scalar conversation about slave maltreatment, one discovers, I would argue, three distinct ways of problematizing abuse. These were what I call a biopolitical and liberal problem of slave reproduction, the moral problem of debasement, and the security problem of crime and rebellion. As noted above, I will make the argument that, contrary to some historical interpretations, it was neither the problem of reproduction, nor the problem of morals, but the problem of public security that was essential to the colonial campaign against abuse. Therefore, what defined something as 'inhumane' was, I would argue, the extent to which it risked making slaves into enemies of society. To make my way toward this argument, I will explore the nature and importance of these problematizations, one by one.

The biopolitical and liberal problem of slave reproduction

According to Gunvor Simonsen, the growing campaign against slave abuse should be seen as a reflection of the idea that such abuse was at least partly to blame for the slave population's apparent inability to reproduce itself. As Simonsen has emphasized, the late eighteenth century witnessed "a growing concern among elite planters and colonial officers with the productive and reproductive potential of enslaved men and women".[150] According to Major and later Governor General Peter

[149] Ghachem, *The Old Regime and the Haitian Revolution*, 8, 138. In the last quotation, Ghachem refers to and quotes from philosopher Amartya Sen's work on his concept of 'plural grounding'.
[150] Simonsen, *Slave Stories*, 56. See also Jensen, *For the Health of the Enslaved*.

Lotharius Oxholm's estimates from 1792, discounting fresh imports, the slave population had dwindled by four hundred each year during the preceding decade.[151] To alleviate this, and faced with the abolition of the slave trade from 1803, authorities sought ways to increase the numbers and productivity of the enslaved: by improving midwifery and medical treatment on plantations, by promoting monogamous Christian family life among the enslaved, by softening the state's violent punishments for slave crimes, but also, Simonsen adds, by limiting the masters' maltreatment of their slaves. In her analysis, therefore, limiting abuse was simply one more way to "preserve the labor force".[152]

Although Simonsen's account is anchored in local needs and conditions, by portraying the problematization of slave abuse as growing out a concern with the numbers and vitality of the population, it nonetheless places it within a larger transformation in governing as studied by Michel Foucault, namely the rise of 'bio-power' or 'biopolitics' – a form of power that aims to take charge of 'life' as such, endlessly measuring, monitoring, disciplining, fostering, and multiplying the life of the population.[153] This is also one of the key points in Rasmus Sielemann's history of governmentality in the Danish West Indies. In his view, the eighteenth century generally saw colonial authorities moving toward treating the enslaved not as juridical subjects or non-subjects, but as living beings who were governed by mechanisms of a social, an economic, and a biological order.[154] I will return to this larger question of colonial and metropolitan biopolitics in chapter 6. Here, I will merely make the argument that such a biopolitical rationality of governing was *not* essential to the colonial campaign against slave abuse, but primarily something that surfaced among metropolitan reformers.

In fact, to my knowledge, the only time abuse was problematized from this biopolitical angle – as a source of depopulation – was during the deliberations of the metropolitan commission abolishing the slave trade in 1792. In this commission, abolition was seen as a means to correct a systemic hindrance to both reproduction and public security, namely that the current situation offered inadequate incentives for masters to treat their slaves well. For, the Commission argued, as long as their masters could always hope to replenish their stock with new slaves, slaves would be treated as perfectly replaceable and therefore be placed in a permanent state of hopelessness and insecurity. And hoping to enjoy themselves while they could,

[151] Joseph Evans Loftin, *The Abolition of the Danish Atlantic Slave Trade*, LSU Historical Dissertations and Theses (1977), 167-169.
[152] Simonsen, *Slave Stories*, 40-43, 56.
[153] Michel Foucault, *The History of Sexuality – Volume 1: An Introduction*, trans. Robert Hurley (New York: Vintage Books, 1978), 135-159.
[154] Sielemann, *Natures of Conduct*, esp. 80-112.

slaves were naturally dissuaded, it was argued, from investing themselves in orderly, monogamous, procreative unions that would allow their numbers to rise.[155]

According to Rasmus Sielemann's account, these logics are described as parts of a liberal governmentality, one that seeks to govern, as he words it, through "the interests, desires, and choices of men".[156] Or, to phrase Sielemann's insights somewhat differently, what is found in the deliberations behind abolition was a liberal governmentality that problematized slave abuse as a systemic and biopolitical problem, and the system itself for failing to co-opt the master's interest in the well-being of his slaves. But although this is, in my view, a very apt description of the basis of the act of abolition, one should not, as Sielemann seems to suggest, see this as a mirror image of how colonial authorities on the other side of the Atlantic conceived of the problem of abuse.[157]

To provide some context for this fissure between metropolitan and colonial reformers on this matter, it is worth noting that the members of the commission responsible for abolition were not personally familiar with the Danish West Indies and had not arrived at their suggestions by working with its officials. The commission's leader and *primus motor*, the Minister of Finance Ernst von Schimmelmann, was himself the owner of two of the largest plantations with no fewer than a thousand slaves in the colony. But just like the other six commissioners he had chosen for his commission, he had no first-hand experience of the colonial world.[158] If we can trust Schimmelmann's own words, this choice of commissioners was entirely intentional. Fearing that Danish West Indian authorities would try to delay or even sabotage his plans, he had deliberately avoided engaging too directly with them on the matter.[159] Indeed, like the local planters, the authorities were initially only inclined to accept abolition at the prospect of receiving financial support to purchase the slaves the colony required. And as the time for the effectuation of the act in 1803 grew closer and the slave population still showed no signs of maintaining its numbers, quiet skepticism eventually turned into open resistance as colonial authorities and planters launched a forceful, but ultimately unsuccessful campaign to have it delayed or even revoked.[160]

In their analysis of this resistance, historians have tended to emphasize its self-serving nature. In particular, the two central government figures behind it –

[155] The Commission's deliberations are examined in detail in Loftin, *Abolition*, chapter 3. The Commission's essential 1791 report and other writings are printed and commented on in Erik Gøbel, *Det danske slavehandelsforbud 1792 - Studier og kilder til forhistorien, forordningen og følgerne* (Viborg: Syddansk Universitetsforlag, 2008).
[156] Sielemann, *Natures of Conduct*, 113, see also 105-112.
[157] Ibid., 107.
[158] Gøbel, *Det danske slavehandelsforbud*, 22-40, 49-52.
[159] Ibid., 46.
[160] On West Indian attitudes toward the act and the campaign to revoke it (up to the final confirmation of abolition in 1807), see ibid., 111-131; Loftin, *Abolition*, chap. 5-6.

Governor General Ernst Frederik Walterstorff and Peter L. Oxholm, both of them planters on St. Croix – have been singled out for their "obvious pro-planter biases".[161] This is certainly hard to deny, but in my view, the Colonial Government's reaction to the act of abolition also reflected its distinct and well-entrenched conception of the problem of abuse and how it should be handled. To show this, the following will explore Walterstorff's and Oxholm's initial critique of abolition in 1792, and then place it in the context of the deliberations of slave abuse that occurred in the 1780s, at a time when authorities did not yet have to defend the status quo against the threat of abolition.

Most essentially, for colonial authorities, slave abuse was rooted in individual, not systemic failings. Without explicitly refusing Schimmelmann's biopolitical and liberal conception of the problem, Walterstorff and Oxholm therefore simply declared that slave abuse was committed by inhumane or poor individuals who were either disinclined or unable to take good care of their slaves. In Oxholm's view, "a proper and humane planter will never lose sight" of the food, clothing, medical care, rest, and whatever else the enslaved will require for their well-being. His "interest, habit, and beneficence" will adequately guarantee this.[162] In a similar vein, the fact that the population was dwindling and that too few children were being born was not understood as a reflection of a general state of hopelessness and insecurity, but followed on from "the intensity of the inclinations and passions of the negro race", not least as reflected in their promiscuous and presumably fruitless sexual lives, which slaves allegedly took to such excesses that they were left infertile, sick, and eventually dead.[163]

Surely, this was, as Gunvor Simonsen argues, "a shrill discourse" feeding on "the supposedly beastly promiscuity of Africans".[164] But in terms of its problematization of abuse, it was not merely made up for the moment (or no more than an expression of racism) but in line with the ways abuse had long been understood in the colony. This is evidenced by the deliberations that took place as the Slave Law Commission worked on a new Danish *code noir*.[165] Unlike Schimmelmann's commission, the Slave Law Commission of 1783 included several retired West Indian officials, such

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[161] _____, *Abolition*, 221. See also Gøbel, *Det danske slavehandelsforbud*, 127 about Walterstorff's "planter-friendly views". On the intimate connections between state officials and the local plantocracy, see Jørgen Bach Christensen's unpublished master thesis, "Kolonisamfundet på St. Croix i sidste halvdel af det 18. århundrede, med særligt henblik på aristokratiet blandt plantageejerne" (Copenhagen University, 1978), 89-99.

[162] CC. 424. P. L. Oxholm's memorandum of August 1, 1792, *sub* §7; The West Indian Government's report to the Chamber of Customs (December 29, 1792).

[163] CC. 424. The West Indian Government's report to the Chamber of Customs (December 29, 1792), *sub* § 8. This part of the report was authored by Governor General Walterstorff (see CC. 423. Walterstorff's *Foreløbige Anmærkninger* (September 21, 1792), *sub* §8); CC. 424. P. L. Oxholm's memorandum of August 1, 1792, *sub* §8.

[164] Simonsen, *Slave Stories*, 42.

[165] The files of the Commission are found in CC. 419.

as former Governors General Frederik Moth and Ulrich Wilhelm von Roepstorff,[166] and in its work it leaned heavily on the inputs of active colonial authorities. Not least, in its various drafts, the Slave Law Commission drew much inspiration from the Colonial Government's own proposal for a *code noir*, authored in 1783 by State Councilor and later Governor General Wilhelm Anton Lindemann.[167] Within the next couple of years, the Commission also received detailed comments on the various drafts from the colony's top officials: in 1784 from the Governor of St. Thomas, Thomas de Malleville, Vice-Governor Heinrich Ludwig Ernst von Schimmelmann, State Councilor Christian Frederik Laurberg, and Governor General Peter Clausen; and in 1787-88 from the St. Croix Burgher Council,[168] Upper Court Judge Edvard Røring Colbiørnsen, and Governor General Walterstorff.[169]

In the large corpus of proposals and memoranda submitted to the Commission on the matter of slave abuse in the 1780s, one rediscovers Oxholm's and Walterstorff's understanding from 1792: that slave abuse is essentially rooted in the exceptional failings of individual masters. As expressed by the Colonial Government in 1783, "most planters" already "know how much it conforms to their own interest to keep their slaves happy".[170] Accordingly, rather than a product of a larger systemic failing, whereby planters had insufficient incentives to treat their slaves well, active or retired colonial authorities instead described slave abuse as the property of those individuals who had, for whatever reason, failed or still not matured in their ethical mastery of themselves. In their view, it was therefore variously a product of "pride", "heartlessness", "furor", or "youth".[171] In the words of Thomas de Malleville, for instance, abuse was committed by those who were, again for whatever reason, not governed by "humanity, religion, and the master's self-interest, which command him to treat his slaves well".[172] Rather than a systemic response as Schimmelmann would propose in the early 1790s, retired and active colonial officials therefore

[166] As well as former *byfoged* on Christiansted Engelbrech Hesselberg (retired 1770) and former government secretary Johannes Søbøtker (retired 1765). Moth had retired in 1772 and Roepsdorff in 1773.

[167] CC. 419. No. 24: Lindemann's *Forslag til en Negerlov for de Kongelige Danske Vestindiske Eylande*, 1783 (hereafter *Forslag*). The importance of his and other colonial officials' comments to the Slave Law Commission will be treated in greater detail in chapter 3, esp. pp. 117-124.

[168] The St. Croix Burger Council (or *Borgerråd*) was the island's local municipal government, consisting of local land owners appointed by the Governor General (Vibæk, *Dansk Vestindien 1755-1848*, 41).

[169] The various colonial manuscripts submitted to the Commission are collected in CC. 421.

[170] WIG. 3.8.6. Entry 140: Letter to the Chamber of Customs (September 30, 1783), p. 254.

[171] See for instance Lindemann's argument that inhumanity toward slaves is born out of "pride" and "gruesomeness" (CC. 419. No. 24: Lindemann's *Forslag*, book 3, §1 comment), Malleville's admission that "there are those who do not measure the punishment in accordance with the crime, but after the furor of their passions" (CC. 421. Malleville's *Skrivelse* (February 26, 1784), p. 22), or Roepsdorff's conviction that "it cannot be denied that there may occasionally be found a proud and hard man" among the planters who wrongly "believe his negroes to be his absolute property" (CC. 419. No. 17: Roepsdorff's memorandum (February 7, 1784), p. 2).

[172] CC. 421. Malleville's *Skrivelse* (February 26, 1784), p. 22.

agreed that what was required was a strategy of surveilling, warning, dishonoring, and ultimately punishing those errant individuals who failed to respect 'humanity'.

Thus, more than arguments serving the needs of the moment, the shrill and deeply racist colonial resistance to abolition in the early 1790s was in keeping with well-entrenched conceptions of the problem of abuse. And as it appears, these conceptions can hardly be described as biopolitical or liberal; rather than causing the population's numbers to dwindle and rather than calling for a systemic intensification of the master's self-interested reasons for treating his slaves well, for active and retired colonial officials, slave abuse was essentially and simply committed by inhumane individuals in need of guidance and correction.

The moral problem of debasement

Another problematization of slave maltreatment that surfaced during the late eighteenth century was that it corrupted the ethical basis of conduct and self-formation among the enslaved. Indeed, there are signs that at least some colonial officials, much like their metropolitan peers, had in mind how 'despotism' ruined the 'passions'. Yet, it was rare for colonial officials to explicitly tie together abuse and demoralization. Perhaps for the same reason, historians have not, to my knowledge, examined this aspect of their problematization of abuse. One finds evidence of it, however, in the 1784 discussion among colonial officials on parts of Lindemann's proposal for a Danish *code noir*.

In the first provision of this code, Lindemann admonished whites "not to treat the slaves in a tyrannical fashion".[173] Attesting to the self-evident meaning a term such as 'tyrannical' carried for colonial officials, none of the four top officials who had been asked for comments voiced any objections or, with one exception, felt any need to elaborate. The exception was State Councilor Christian Frederik Laurberg, with whom Lindemann claimed to have worked closely in drawing up the code.[174] In his comment, Laurberg felt that the category of 'tyrannical' conduct required a little further specification. More precisely, he wished to add that it should count as a mitigating circumstance if a slave had committed a crime in a state of panic and fear that had been provoked by excessive verbal aggressions and threats from his superiors. For, as he argued, by "incessantly threatening the slaves with a greater punishment than is appropriate for the offense", masters and overseers drove slaves into a negative spiral of crime and vice, running away and stealing to survive. But also, Laurberg continued, it led to a mutual demoralization and even dehumanization of both masters and slaves:

[173] CC. 419. No. 24: Lindemann's *Forslag*, book 3, art. 1.
[174] CC. 421. Lindemann's *Supplement* (July 8, 1784), p. 65.

> To the poor treatment of slaves could, in my view, appropriately be added the all too widespread practice on the plantations of almost constantly addressing slaves roughly, of scolding and cursing them. Just as experience teaches that the majority of whites will, through continuously dealing with and commanding slaves, gradually and exceedingly diverge from humanity, in a similar fashion the slaves will generally, through habit, turn insensitive and indifferent [*uømfindtlige og ligegyldige*] by such treatment. As a result, this disorder rarely has other consequences than corrupting instead of improving the moral character of the negroes.[175]

In Laurberg's statement, one faintly recognizes a concern with how debasing and humiliating treatment gradually corrupts the subject's ability to be moved by the voice of morality, as the slave turns 'insensitive and indifferent'. Considering the Colonial Government's contemporary concern with the honor of slaves as this unfolded within the penal sphere (more on this in chapter 3), it is even likely that Laurberg had in mind nothing less than the corruption of the passion of honor and thus one of the metropole's key sources of ethical government and self-formation. In any case, Lindemann readily agreed with Laurberg's views, and to judge from their tacit reception from the other officials who were asked for comments, it appears to have been rather uncontroversial to associate slave abuse – even verbal abuse – with the corruption of slaves' moral character.[176]

Even so, I believe it would be wrong to view this way of framing the problem as essential to the campaign against slave abuse. For one thing, if this was so, one would have expected colonial judges and administrators to have broadened the category of acts that were subject to scrutiny and condemnation to include verbal abuse or whatever might lower slaves' sense of self-worth. In other words, if moral corruption was indeed the essence of the problem, the category of abuse would not, as noted above, be focused on the pain and strain inflicted on their bodies and on the dangers such abused slaves might pose to the public.

Furthermore, to judge from the kind of morality that colonial authorities hoped to secure for slaves, it seems that they were generally inclined to view morality not as what was to be protected against abuse, but rather as what should help make abuse bearable for the enslaved. Essentially, the morality that Danish West Indian authorities wished upon the enslaved was an apathetic acceptance of the injustices of the world, one which was grounded in Christian doctrine. As the Colonial Government argued in 1783, the teachings of Christianity provided slaves not only with sound principles of conduct, but also with consolation in the face of abuse. In its words, "religion generally eases the condition of the slave" and therefore serves

[175] CC. 421. Laurberg's *Erindringer* (January 12, 1784), pp. 16-17 (book 3, art. 1).

[176] In his response, Lindemann added how "inappropriate and unreasonable conduct", such as assaulting another man's slave "in frenzy" and "without cause", may "corrupt even the best of slaves and will easily drive him to excesses if he possesses some sense of honor or devotion to his master" (CC. 421. Lindemann's *Supplement* (July 8, 1784), p. 56 (book 3, art. 1)).

to render "excessive coercion and harshness more bearable". Conversely, the Colonial Government rhetorically asked: "What would encourage natural man to suffer injustice with patience?"[177] In the same spirit, Lindemann had furnished the preamble to his *code noir* with excerpts from the Bible that were designed to direct the slaves' attention toward the world beyond, where their acts of goodness and loyal service to their masters would unquestionably be rewarded by the omniscient and divine grace of God. Thus, as Lindemann explained, by offering "consolation and encouragement […] religion accomplishes what coercion cannot".[178]

The nature of the Government's promotion of this species of Christian morality among the enslaved will be explored at greater length in chapter 4. Here, it is enough to note that while it is true that colonial officials were able to conceive of slave abuse as corrupting the formation of moral selves, their actual attempts to improve morality were instead focused on producing selves who calmly and contently faced the injustices of their masters. For colonial officials, therefore, the moral problematization of abuse tended to be overshadowed by the problematization that was, in my view, at the heart of their campaign against slave abuse: namely that what defined certain forms of conduct as 'abuse' was their capacity to make slaves into 'domestic enemies' and dangers to public security. Unlike the biopolitical/liberal and the moral, this problematization is traceable on all three administrative scales, and not least seems to have been essential to those local and colonial officials who most directly influenced the campaign to contain the powers of masters.

The problem of public security

In the handling of slave abuse on St. Croix, the strategic ethics of Danish colonial officials was never far from a language of 'dangers'. As shown at the beginning of this chapter, Richard Brown was condemned as not only 'inhumane' and 'tyrannical', but also due to the presumption of him being 'a dangerous and harmful citizen'. Similar references to unspecified 'dangers' recur over and over in the Cruzian courts and colonial offices. For instance, in his 1796 verdict on John Moreton, a baker in Christiansted, the judge pointed out how his unmotivated beating of the enslaved man Coffy could have "dangerous consequences" and was contrary to "the laws and principles of nature, morality, and politics".[179] And just a week before, the Colonial Government had warned another errant slaver by the name of William Smith of the "dangerous" consequences of his actions. In this case, as in Richard Brown's case in the early 1780s, the authorities believed that Smith was at least partly responsible for the death of one of his slaves named Dick.

[177] WIG. 3.8.6. Entry 140: Letter to the Chamber of Customs (September 30, 1783), p. 257
[178] CC. 419. No. 24: Lindemann's *Forslag*, preamble to book 1.
[179] CB. 38.9.10, fol. 460, verdict of February 28, 1796.

Although the Government, under the leadership of Lindemann and Oxholm, did not believe it proven that Smith had in fact intentionally sought to have Dick killed, it informed him that his conduct:

> In this affair shows so much excessive harshness that the public cannot consider it as anything but a form of cruelty that the authorities must not allow to pass with impunity, so as to avoid awakening in the slave the completely depressing and, in regard to the consequences, dangerous thought that he cannot expect any defense against excessive and unjust harshness [*for ej at opvække hos trællen den aldeles nedtrykkende og i henseende til følgerne farlige tanke, at han ej kan vente forsvar mod overdreven og ufortjent hårdhed*].[180]

For all its vagueness, few whites on St. Croix would have doubted what was meant by such references to the 'dangerous consequences' of slave abuse. At least since the middle of the century, local planters and officials had told stories of how excessive discipline or overwork tended to push slaves to such misdeeds as marronage (i.e., running away), theft, self-mutilation, and even open revolt. In a 1758 publication, for instance, the Cruzian planter Reimert Haagensen had warned that "tyrannizing" the slaves brings them to such a degree of "stubbornness and desperation" and renders their labors into such "a harsh servitude" that they are prone to run away and to hurt either themselves or others.[181] One year later, investigating the causes of an unsuccessful slave rebellion on St. Croix in 1759, Judge Engelbret Hesselberg was even more emphatic. In his mind, "the unreasonable treatment of slaves by a considerable number of people has always and will by necessity bring about rebellion".[182] Later in the century, this logic was almost commonsensical. Everywhere, one finds references to the idea that it is not slavery itself, but 'inhumane' treatment – in the form of excessive violence, inadequate provisions, and overwork – that makes slaves into enemies of the public.[183]

Of course, I am far from the first to point to the omnipresence of this concern with public security in the Danish West Indies (or in other slave colonies, for that matter[184]). In Simonsen's earlier work, for instance, she has noted how Danish judges and officials around the turn of the century began to see their "main function" as ensuring "the stability of a society ridden by tensions between slaves and

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[180] WIG. 3.31.25. Entry 80/1796: letter to William Smith (February 19, 1796). See also GG. 2.17.10. Judge Eylitz's letter to Lindemann (December 14, 1795); GG. 2.17.11, Eylitz's letter to Lindemann (February 9, 1796).

[181] Haagensen, *Beskrivelse over Eylandet St. Croix i America i Vest-Indien*, 35.

[182] MS. 18. VII, D, 2. Engelbret Hesselberg, *Species Facti over den paa Eilandet St. Croix i Aaret 1759 intenderede Neger Rebellion, forfattet efter Ordre af Byefoged Engelbret Hesselberg*, p. 1.

[183] See for instance CC. 424. Bentzon's memorandum to Schimmelmann (July 24, 1802), pp. 2-4.

[184] See in particular Ghachem, *The Old Regime and the Haitian Revolution*, in particular chapters 1, 3-4.

masters".[185] Slavery's risk to public order and security is also central in Sielemann's account. Unlike Simonsen, however, he stretches this concern further back in time, seeing it – as I do – as an essential preoccupation of Danish colonial governing from the middle of the century onwards.[186] Neither of these accounts, however, examines how slave abuse was constituted as a problem of public security. That is, they have not asked what it was about certain acts or forms of conduct that was supposed to lead the enslaved toward crime and other sorts of wrongdoing.

In my view, Danish colonial authorities oscillated between two distinct ways of answering this question. Sometimes they found that what made certain forms of conduct problematic was how they made revolt and wrongdoing seem less costly and therefore more attractive for slaves than to continue obeying and calmly accepting their lot in life. But in other instances, officials conceived of abuse as that which transgressed what slaves were used to and thereby disturbed their tranquility. In a sense, therefore, officials oscillated between an 'economic' knowledge of incentives and a 'psychological'[187] knowledge of the mental state of the enslaved. On the one hand, slaves were seen as calculating subjects who constantly weighed up the cost and gain of choosing obedience over resistance; on the other, they were seen as creatures of habit who were accustomed to – and content with – a certain form of normalcy, but who could also be driven to desperate acts of resistance if they experienced treatment that transgressed what they perceived as normal or customary.

In the sources on the daily handling of abuse, it is difficult to distinguish clearly between these economic and psychological knowledges. In the 1796 case against William Smith, for instance, traces of both appear. Here, to recall, the Government worried that if Smith's excessive discipline – which had led to the death of Dick – was allowed to pass with impunity, it might give slaves the 'dangerous' thought that they had no 'defense against excessive and unjust harshness', and that they therefore had little or nothing to gain by remaining obedient and docile. On the other hand, it portrayed this activity of calculation or weighing up of pain and pleasure, not as constant, but as something that was 'awakened' by Smith's abnormal abusive act, which disrupted normalcy and brought the enslaved to reflect on their situation.[188]

Clearer formulations of these two knowledges are found on the imperial scale in the more general debates about the governing of the enslaved. In the Schimmelmann Commission in the early 1790s, for instance, there was a strong tendency to view the enslaved as 'economic men', as always weighing up the pros and cons of

[185] Gunvor Simonsen, "Slave Stories: Gender, Representation, and the Court in the Danish West Indies, 1780s – 1820s" (European University Institute, 2007), 242, see also 210-211.
[186] Sielemann, *Natures of Conduct*, 85-112.
[187] Here, the term 'psychological' refers rather broadly to the mental (as opposed to the physical) state and dispositions of individuals and collectives, and not to the later discipline of psychology.
[188] WIG. 3.31.25. Entry 80/1796: letter to William Smith (February 19, 1796).

obedience and resistance. Accordingly, this commission proposed that a general amelioration of the slaves' conditions – for instance by protecting the slave from his master's control over his family life and by granting slaves the right to own property and even to purchase their own freedom – would greatly decrease the risks of revolt and generally incentivize slaves to engage in good conduct.[189] As it argued:

> When the external circumstances of the slave's existence are softened; when, at least for a start, the slave's marriage and his domestic life are protected; when the slave is given a general permission and possibility of earning something for himself; when the prospect is thereby even opened up of someday obtaining freedom for himself and his children; then all those things will act as so many bonds that will oppose the slave's inclination to tear himself away from his situation. The more he stands to lose, the less daring he will be, and the hope of being able to obtain more surely by a quiet path what is more uncertain by the opposite one, will become a powerful motivating force for him to prefer the former.[190]

In the colony, some officials entertained very similar ideas. In 1788, for instance, Upper Court Judge Edvard Røring Colbiørnsen noted the advantages of acknowledging property ownership and a right to self-purchase among the enslaved. In his words:

> Experience has shown that one has little to worry about from a slave who owns something for himself. The fear of losing it keeps him not only from theft, marronage and other such misdeeds, but also makes him more devoted and submissive to his master. The hope of once being able to win his freedom and to have a place of refuge is, it seems, the most alluring prospect for a slave and furthermore the greatest motive for him for good conduct [*den største bevægårsag for ham til et godt forhold*].[191]

According to such lines of thought, the enslaved are governed by calculations of pain and pleasure, and the purpose of providing them with a degree of comfort and security against their masters is therefore to increase their incentive to obey peacefully.

But this 'economic' approach was far from alone, and was in fact often overshadowed, I would argue, by a tendency to think of the slave as a creature of habit, one who was accustomed to and content with a certain kind of normalcy. Not least, this was so in regard to the question of whether slaves should possess a right to self-purchase. This subject was taken up in 1783-1784, when Lindemann in his *code noir* had proposed giving slaves a right to purchase their freedom for a third over their value.[192] Lindemann himself saw this proposal as a part of his overall

[189] Gøbel, *Det danske slavehandelsforbud*, 233-235.
[190] Ibid., 226-227.
[191] CC. 421. E. R. Colbjørnsen's *Anmærkninger ved Neger Loven* (September 24, 1788), p. 98.
[192] CC. 419. No. 24: Lindemann's *Tillæg* (November 17, 1783), §9.

attempt to ensure the slaves had a kind of "encouragement" so that "fear of punishment is not the only motive for their actions".[193] But even though this general ambition was not without supporters in the Slave Law Commission,[194] the concrete proposal was strongly opposed by the Colonial Government as a whole. Under the leadership of Governor General Peter Clausen, the Government warned the home authorities that giving slaves such a right risked infecting them with "an excessive desire for money". Indeed, besides making the enslaved inclined to thievery, the Government found the proposal problematic because it would tear the enslaved away from their calm acceptance of things and make them desirous of a life beyond slavery. In its view, it was in "the best interests of both the slave and his owner that the former is content without speculating about future prospects," which for the majority would no doubt remain "unfulfilled yearnings".[195]

In keeping with this logic, colonial officials generally sought to avoid giving slaves any formal rights and instead aimed to uphold what they considered to be customary to the master-slave relation. One aspect of this was reflected in their handling of cases of abuse, which will be explored below. Another was the Government's opposition to the idea of giving slaves a full or limited right to property ownership. Instead, all concerned, including Edvard Røring Colbiørnsen, found it best to preserve slaves' customarily sanctioned right to earn an income on the side, for instance by using their spare time to grow, collect, and sell fodder, firewood, and surplus provisions at the urban markets.[196] Besides giving slaves a chance to acquire small luxuries and comforts that allowed them to settle contently into their inferior position,[197] the purpose of upholding this custom was to avoid the tensions that might arise if masters either felt infringed upon or were legally authorized to take their slaves' belongings for themselves whenever they wished. Perhaps the logic in question was best summed up by former Governor General Frederik Moth in his 1783 memorandum to the Slave Law Commission. In opposition to the proposal of legally banning property ownership,[198] he noted the following:

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[193] CC. 419. No. 24: Lindemann's *Supplement til Negerloven* (July 8, 1784), sub *Tillæg* §9.

[194] In 1783 and 1784, commissioner Jacob Edvard Colbiørnsen believed that the prospect of self-purchase was a sure source of "industry and faithfulness" (CC. 419. No. 14: memorandum of November 22, 1783, pp. 3-4) and former Governor General Roepsdorff that it would act as a "mainspring" of "moral rectitude" (CC. 419. No. 17: memorandum of February 7, 1784, pp. 10-11).

[195] WIG. 3.8.6. Entry 140: Letter to the Chamber of Customs (September 30, 1783), p. 260. For Malleville's and Schimmelmann's similar thoughts on the matter, see CC. 421, p. 33, 38. A few months later, Oluf Lundt Bang voiced a similar concern about a potential "frenzy of ownership and gain" among the enslaved (CC. 419. No. 15: Bang's memorandum (December 2, 1783), *sub* book 1, art. 2).

[196] For more on the commercial practices of the enslaved, see Hall, *Slave Society*, 80, 95-96.

[197] See for instance CC. 419. No. 17: Roepsdorff's memorandum (February 7, 1784), p. 10); CC. 421. Malleville's *Anmærkninger* (April 7, 1784), p. 29, 33.

[198] This was Oluf Lundt Bang's original proposal (see CC. 419. No. 11: Oluf Lundt Bang's *Concept til en Neger Anordning for de Dansk Vestindiske Eylande* (September 27, 1783), book 1, art. 2).

> To forbid the slave to earn and own, a freedom they have now through a long series of years acquired a kind of customary claim to, would in my mind and in their current conditions not only repress their striving in their work and calling, but could also easily give rise to and encourage rebellion; because many a mean and jealous owner would thereby be authorized, as often as he pleases, to take from his slave what little he owns […] and the unfree is thereby brought first to despondency and then, if too often stirred up by such meanness, to rebellion, in order either to acquire their freedom or to exert revenge on their evil masters or, if failing that, death, which they often consider easier than continual suffering. It must be observed that most slaves, I dare say four out of five, do not consider their slavery a great evil, as they are either born into it or have through a long series of years become accustomed to it.[199]

In Moth's understanding, to govern master-slave relations is to make sure that masters treat them in such a manner that they are kept in that state of calm and unreflective contentment in which most of them already live their lives. It is to keep the enslaved from "speculating about future prospects", as the Government argued in 1783, and it is to avoid "awakening" in the enslaved those "dangerous thoughts" that rogue planters like William Smith or Richard Brown might give rise to. Or, to quote Montesquieu's book on civil slavery, a work that at least Lindemann was familiar with,[200] it is to uphold a "humanity" that makes slaves, these "natural enemies of society", peacefully submit.[201] In Montesquieu's words:

> the humanity one has for slaves will be able to prevent the dangers one could fear from there being too many of them. Men grow accustomed to anything, even to servitude, provided the master is not harsher than the servitude.[202]

In the next section, I will explore the art of governing through which 'humanity' was upheld. First, it is useful to sum up the argument so far. In the above, I have explored the relative importance of the three problematizations through which 'abuse' could be turned into particular kinds of problems in the late eighteenth century. Initially, I argued that although a biopolitical and liberal problematization of abuse as a systemic threat to the slave population's reproduction was certainly essential to the abolition of the slave trade, it did not reflect or influence the way colonial officials conceived of abuse. Instead, they sometimes described it as a moral problem, but were generally much more inclined to view it as a 'danger' to 'public security'. To govern master-slave relations therefore meant conceiving of slaves in a very particular way: not as reproductive bodies, nor as beings with passions to be harnessed, but as *minds* that were understood through an 'economic' or 'habitual' knowledge or through a combination of the two. Thus, rather than a racial knowledge of how 'negroes' would likely experience or react to abuse, what

[199] CC. 419. No. 20: Frederik Moth's memorandum (May 12, 1784), *sub* book 1, art. 2.
[200] See ibid. No. 24: Lindemann's *Forslag*, book 1, preface.
[201] Montesquieu, *The Spirit of the Laws*, 256 (book 15, chapter 13).
[202] Ibid., 258 (book 15, chapter 16).

was essential was rather a knowledge of the much more universal figure of 'the slave' and how he or she might react as a human being, calculating costs and growing accustomed to the normalcy of his or her world.

For a clear expression of this downplaying of race and emphasis on a knowledge of a supposedly more universal human experience, it is useful to quote from later Governor General Adrian Bentzon's letter to Minister of Finance Schimmelmann in 1802. Here, he noted how important it was, as his colonial peers had long argued, that the enslaved sensed they were under the protection of the Government. And against the hypothetical counterargument that they would somehow, due to racial deficiency, take this the wrong way and rise up against their masters, Bentzon argued:

> that there exists no human race so animal-like, so bereft of moral concepts, that the consciousness of being under the protection of the laws and not completely left to arbitrary treatment should worsen it. No, it is the idea of lawlessness, of unlimited slavery, and of a condition that cannot sink any deeper, which drives people to despair and misdeed.[203]

The art of governing masters and slaves

In Rasmus Sielemann's analysis, the art of governing master-slave relations is described, in Foucauldian terms, as neither a 'sovereign' nor a 'disciplinary' mode of governing, but as a 'liberal' one. In other words, it was neither a matter of imposing law and justice on masters as would a sovereign ruler, nor of surveilling, inspecting, and normalizing them as would a disciplinary institution.[204] Rather, Sielemann argues, being faced with a powerful plantocracy insistent on its absolute rights over the slaves, the colonial state would instead opt for a more indirect and liberal way of governing. Accordingly, it would act by "organizing and allowing certain forces, actions, and interests to develop",[205] seeking to govern through and maintain a kind of equilibrium between the various autonomous mechanisms of society. For instance, it would, as already noted, try to harness the master's self-interest in the well-being of his slaves by abolishing the slave trade. Or, as Sielemann adds, it would draw on the idea that to avoid a general rebellion it was best to grant masters broad powers and to tolerate the abuses this might produce in order to keep them prosperous enough to take good care of their slaves (an idea that

[203] CC. 424. Bentzon's memorandum to Schimmelmann (July 24, 1802), pp. 3-4.
[204] For more on Foucault's triad sovereign-disciplinary-liberal (or security), see Lemke, *Foucault's Analysis*, 192-197.
[205] Sielemann, *Natures of Conduct*, 103.

was floated in 1791 by Count Johan Ludvig Reventlow, the brother of the rural reformer Christian Ditlev Reventlow).[206]

But although Sielemann offers a useful account of why it was meaningful to try to govern slaves without encroaching on their masters' rights, this has two problems. First, as already noted, it wrongly assumes that the liberal and biopolitical problematization of abuse was essential in the colony. But also, it wrongly downplays the sovereign and disciplinary aspects of this mode of governing. Rather than standing back by governing through the master's self-interest or by tolerating some degree of abuse to avoid some greater evil, I will argue that the sustained attempts to codify master-slave relations and the ongoing prosecution of slave abuse in the courts instead speaks to the aim of imposing a kind of law and norm on the master-slave relation. Certainly, this was a particular kind of law and discipline. This 'law' was not, as in the metropole's rural reforms, based on the will of the sovereign and, unlike many other contemporary slave colonies, it did not take the form of formalized legislation that specified the respective rights and duties of masters and slavers.[207] Furthermore, it was not a 'law' that would be enforced through an extensive disciplinary apparatus that continually and minutely sought to have it upheld and internalized by masters. Rather, what was imposed was the vague but powerful 'laws of humanity', and what was to make masters conform to and even internalize this law as their own was a broad assemblage of admonishment, shaming, and ultimately punishment.

For Danish West Indian officials, this art of governing through 'the laws of humanity' was useful because it allowed the state to intervene without making master-slave relations into juridical relations – i.e., relations governed by positive law. Not only did it usefully bypass the question of property rights, but it also allowed for more flexible and effective governing of master-slave relations than achieved through the specification of rights. Generally speaking, the Colonial Government argued in 1783, it was "very difficult to limit the right that lords and masters should enjoy over their subjects in such a way that neither side will have occasion to abuse the other."[208]

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[206] _____, "Governing the Risks of Slavery," 102-104.

[207] The various eighteenth-century codes regulating the respective rights of masters and slaves (or whites and blacks more generally) in the Caribbean are rarely treated together. For works on the Spanish, English, French, and Swedish slave codes, in particular on those passed during the period of 'amelioration' late in the century, see Ada Ferrer, *Freedom's Mirror – Cuba and Haiti in the Age of Revolution* (New York: Cambridge University Press, 2014), 26-31; Elsa Goveia, *Slave Society in the British Leeward Islands at the End of the Eighteenth Century* (USA: Yale University, 1965), 168-171, 185-186, 191-198; Ghachem, *The Old Regime and the Haitian Revolution*, chapters 1, 3-4; Fredrik Thomasson, *Svarta S:t Barthélemy - Människoöden i en svensk koloni 1785-1847* (Stockholm: Natur & Kultur, 2022), 17-19, 255-263.

[208] WIG. 3.8.6. Entry 140: Letter to the Chamber of Customs (September 30, 1783), p. 254.

And in the land of slavery, the Government believed this to be even truer. Not only was it difficult, officials often noted, to lift the burden of proof against a master if the only witnesses to his crimes were slaves, as was often the case,[209] but treating slaves as juridical subjects also risked giving them a dangerous sense of entitlement. For this reason, as the top colonial authorities agreed in 1787-88, it would be unwise to give slaves the right, as suggested by the Slave Law Commission, to complain to the police if they believed their masters had failed to provide them with adequate shelter, food, and clothing.[210] According to the St. Croix Burgher Council, considering the enslaved's "way of thinking" it was likely that if they "knew this to be in their power" they would use every excuse, even falsehood, to neglect their work, overburden the courts, and inconvenience their masters.[211] Edvard Røring Colbiørnsen completely agreed with this:

> I fear that to give the slave, by a publicly instituted law, the permission to accuse his master when he feels offended […] would do more ill than good and only give rise to obstinacy among the slaves and acts of revenge with all their evil consequences among the masters.[212]

Thus, to infuse master-slave relations with positive law was deemed both ineffective and sure to produce tensions between masters and slaves. Instead, it was much better to simply make the enslaved aware that they were under the humane protection of the Government and to impress on the masters their obligation toward their slaves. And among colonial officials, the way to achieve this was by supervising, admonishing, warning, dishonoring, and in the last instance punishing those individual masters who failed to honor 'the laws of humanity'. The Burgher Council, for instance, praised the established practice of having the Governor General or the Government "supervise that the slaves receive adequate board, food, and clothing, and warn and persecute those who do not comply after repeated admonitions".[213] And so did Colbiørnsen and Governor General Walterstorff, with the latter proposing that "the easiest and safest way of preventing tyranny or abuse against slaves" was to govern masters through the passion of honor. In his words:

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[209] See for instance CC. 421. Walterstorff's *Bemærkninger* (October 8, 1788), p. 126 (book 1, art. 13).

[210] This clause was included in a revised version of Bang's draft *code noir*, see CC. 419. No. 29: O. L. Bang's *Concept til Neger-Lov for de Danske Vestindiske Ejlande* (April 16, 1785), book 1, art. 13.

[211] See CC. 421. The St. Croix Burgher Council's *Betænkninger* (August 1, 1787), pp. 69-70 (book 1, art. 13).

[212] Ibid. J. R. Colbiørnsen's *Anmærkninger* (September 24, 1788), p. 102 (book 1, art. 13).

[213] Ibid. The St. Croix Burgher Council's *Betænkninger* (August 1, 1787), pp. 69-70 (book 1, art. 13).

> the authorities and any royal official of importance and influence should make it their duty, on all occasions, to display a kind of condescension for those slave owners who do not treat their slaves in accordance with the mild intention of the negro code.[214]

Thus, in these various practices – surveilling, admonishing, shaming, and ultimately punishing rogue individuals – colonial officials believed they had found a series of measures that, without being perfect in themselves, were at least adequately flexible to govern master-slave relations without giving either side 'occasion to abuse the other'. As it appears, rather than governing slavery by defining and upholding rights, as some of the metropole's chief legal minds and professors of 'natural law' were suggesting,[215] what was peculiar about this colonial art was how it governed through a normative humanitarian code of duties and obligations, one that was flexible enough to condemn problematic conduct without giving slaves a sense of entitlement. Thus, what these measures sought to accomplish was to infuse master-slave relations with a set of norms: norms about what slaves could reasonably expect, about what masters were allowed and obligated to do and say; in short, norms distinguishing 'humanity' from 'inhumanity'. To explore in more detail what these norms were and how they were imposed, I will now turn to the court cases from Christiansted and explore how the apparatus of colonial justice was used to punish those who failed to honor these 'humane' norms of mastery.

Making good householders

As mentioned, during the years 1786 to 1796, the *byfoged* of Christiansted administered 25 cases of suspected slave abuse. Of the 23 cases in which one or more white individuals were questioned or tried, the court reached a verdict in 17 cases. It is likely that those cases in which the documentary trace disappears before being officially closed were simply dropped, presumably due to a lack of evidence or with masters receiving a more informal warning.[216] The 17 cases, however, where the verdict is known only led to one acquittal.[217] But the many who were found guilty or at least worthy of punishment were now more fortunate than their peer Richard Brown a few years before. Instead of humiliating public punishment, the

[214] Ibid. Walterstorff's *Bemærkninger* (October 8, 1788), p. 126 (book 1, art. 13). At the time, Walterstorff and other colonial officials were under the impression that 'the negro code' would eventually be promulgated, which it never was.

[215] Mads Langballe Jensen, "Natural Law and Slavery in Eighteenth-Century Denmark" (manuscript in preparation).

[216] The unresolved case against overseer Richard Christie was likely settled with a warning (see WIG. 3.81.73. Judge Ewald's letter to Governor General Schimmelmann of August 28, 1786). For a telling example of this practice from Frederiksted, see GG. 2.5.2. Entry 1790/7: Lindemann to Judge Bidsted (July 7, 1790).

[217] This was Charles D. Bladewell (CCB. 38.9.7, fol. 81, the police vs. *James Booth, James Tennat* and *Charles Daly Bladewell*).

Christiansted court now settled the matter, as they also did on contemporary St. Domingue, with a monetary fine, set somewhere between 5 and 200 rixdollars depending on the case and the means of the guilty party.[218] Likely, the cause of this change in policy was to avoid lowering the esteem of whites, as will be further explored in chapter 4. Possibly, this was also the reason why most cases of abuse were now treated as 'police matters' in the police court, and thus without the formalities and public notoriety that often accompanied the proceedings of the city court. Between 1786 and 1796, only four cases were taken to the city court. Usually, as in Richard Brown's case, these were the more serious cases of abuse, like mutilation, torture, and harsh discipline leading to the slave's death.[219] But cases of equally serious abuse, such as what befell William Smith's slave Dick, were also sometimes settled in the police court.[220]

Without doubt, these cases represented only a small fraction of the abuse that the enslaved suffered in their daily lives. Yet, to judge from their regular recurrence and the importance colonial authorities attached to the practice of warning and punishing inhumane masters, these cases played a significant part in their plans to impose its norms of 'humane' slave mastery. But what, more precisely, were these norms that were to be imposed and internalized by masters?

For this purpose, it is useful to consider the central role of the notion of 'the householder'. Indeed, when colonial officials reflected more abstractly on what it meant to be a good or humane slave master, they often invoked the notion and imagery of 'the house' and its master, the so-called 'husbond' or 'housefather'. Informing the chamber of commerce of its proposal for a new *code noir* in 1783, for instance, the West Indian Government presented ideal slave owners as those who "promote Christianity and legal marriages among their slaves and in general show themselves as good housefathers [*gode husfædre*] toward them".[221] Similarly, it was not uncommon to see a slave owner described as a 'husbond' (*husbond*), his land

[218] The only exception is the case of the Spanish sailor *Heyma Botheia* who was originally sentenced to public decapitation for having accidentally killed a slave boy with a rock (38.6.18, fols. 394-395, verdict of September 15, 1794), but his sentence was eventually transmuted to a fine by the St. Croix Upper Court (CUC. 37.7.8, fols. 386-389, verdict of November 5, 1794). Only a few years later, however, the fines could sometimes be significantly higher (see the prosecution of Andrew Kenny in 1799 analyzed in Olsen, "Fra ejendomsret til menneskeret," 40-43). On the French practices, see Ghachem, *The Old Regime and the Haitian Revolution*, 139.

[219] Besides Heyma Botheia's case mentioned in the note above, there were the cases against the three overseers *Richard Soars*, *Patrick St. Ledger*, and *Philip McKenna*. Soars' verdict is unknown, possibly because the case was transferred to Frederiksted (WIG. 3.81.73. Public prosecutor Nørager's letter to Governor General Schimmelmann of November 14, 1786).

[220] For more on this case, see chapter 4, p. 170. Another example is that of the planter *Johan Massmann*, who was, per the Governor General's instruction, issued a fine of 25 rixdollars in the police court for having burned and scarred a young slave boy of his by the name of Christian (CCB. 38.9.7, fol. 76, police verdict of August 22, 1786).

[221] WIG. 3.8.6. Entry 140: Letter to the Chamber of Customs (September 30, 1783), pp. 265-266.

and property as part of the 'domestic sphere' (*husvæsenet*), and his private discipline as 'domestic punishment' (*husstraf*).[222]

As they employed these 'domestic' analogies, colonial officials made use of a vocabulary that was foundational to the metropole's law of households, or what scholars often refer to as *husbondretten* (literally, *husbond* law). As already mentioned, and as Anette Faye Jacobsen has argued in greater detail, it was in large part this form of authority that rural reformers found problematic as they hoped to free the peasantry from seigneurial 'slavery'.[223] Essentially a separate paternalist order of authority existing outside the domain of strict justice, *husbond* law vested *husbonds* – be they heads of actual households or of whole seigneurial estates – with the power to punish their wives, children, servants, and other dependents as they saw fit, although without inflicting wounds or damaging their health. In exchange for their submission and obedience, however, *husbonds* were obligated to see to the earthly and eternal well-being of their dependents: providing them with adequate food, shelter, pay, and clothing, caring for them in sickness, raising them as good Christians, and punishing them only in a loving and sensitive way.[224] As Nina J. Koefoed has recently argued, the ideals of authority of this legal order were distinctly Lutheran. Not least, she finds, this was reflected in the seventeenth and eighteenth centuries' increasing emphasis on the mutual and positive – but also rather abstract – obligations of householders and dependents; the former to care for the 'children', and the latter to obey and honor their 'father'.[225] As Koefoed notes, in this Lutheran household, the relations between those 'commanding' and those 'obeying' were "defined through obligations rather than rights".[226]

Of course, the fact that colonial officials sometimes used these terms does not mean that they meant to make the prerogatives and obligations of slave masters identical to those of metropolitan *husbonds*. Quite clearly, this was not the case. Rather, the reason these analogies are interesting is that they provided colonial officials with an underlying model from which to craft the specific code they hoped to impose on masters. What was particular about this *husbond* model was, as described above, the idea of upholding the master's prerogatives, but also of containing these prerogatives within certain limits while binding them to a number of vague

[222] In particular, these analogies are often found in Lindemann's writings (see CC. 419. No. 24: Lindemann's *Forslag*, book 3, arts. 4 (commentary) and 10), but also among verdicts on abuse (besides the upper court verdict against Richard Brown mentioned pp. 49-52, see also the 1799 verdict on Andrew Kenny cited in Olsen, "Fra ejendomsret til menneskeret," 41-42).
[223] Jacobsen, *Husbondret*, chapter 4.
[224] Ibid., chapters 1-5; Nina J. Koefoed, "Den lutherske husstand," chap. 4 in *Pligt og omsorg - Velfærdsstatens lutherske rødder*, ed. Nina J. Koefoed and Bo Kristian Holm (Copenhagen: Gads Forlag, 2021).
[225] Nina Javette Koefoed, "Authorities who care – The Lutheran Doctrine of the Three Estates in Danish Legal Development from the Reformation to Absolutism," *Scandinavian Journal of History* 44, no. 4 (2019).
[226] Ibid., 431.

obligations toward the well-being, but not the rights, of the dependents. To explore the distinct ways colonial officials tried to fit slave mastery into this model, I will examine their discussions in the mid-1780s about a new *code noir*.

Throughout these discussions, colonial officials agreed it was necessary to uphold the master's sovereign right over his slaves. Even Wilhelm Anton Lindemann, believed by some to be too soft on the slaves,[227] had proposed that the master's punitive prerogatives should also extend to acts that "go beyond the domestic sphere and concern the public", such as theft, marronage, or anything that was not deserving of a greater punishment than public whipping or working in irons.[228] These prerogatives were to be contained, however, within certain clearly defined limits. In his draft code, Lindemann had – with the support of Governor General Peter Clausen and State Councilor Laurberg – proposed outlawing the murder, torture, and mutilation of slaves; limiting domestic punishments to 100 lashes and always to "spare the health and limbs of the slaves"; and prohibiting masters from forcing slaves to marry against their will or to separate spouses or young children from their mother. At the same time, the master's power would also be bound by a number of vague and general obligations, but not by any rights that the enslaved might claim for themselves. Thus, masters were ordered to abstain from all forms of "tyrannical conduct" and to make sure that slaves were given "the necessities for the upkeep of life", cared for in sickness, adequately clothed, and educated in Christianity.[229] But the enslaved were at the same time denied any possibility of acting as rights-bearing individuals, for instance as plaintiffs or witnesses bringing complaints or testimony against masters.[230]

As noted, none of these suggestions materialized into concrete legislation during this period. Yet, this did not keep local judges and officials from enforcing many of them in their case-by-case administration of master-slave relations. In the courts of Christiansted, however, it was usually a specific subset of obligations and limitations that were upheld: it was not the duty to care for slaves in sickness or to see to their Christian upbringing, but rather the matters of excessive punishment and inadequate rationing that attracted attention.[231]

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[227] See chapter 3, pp. 145-146.

[228] CC. 419. No. 24: Lindemann's *Forslag*, book 3, art. 4.

[229] Ibid., book 3, arts. 1, 3-4, 6, 8-11, 13. The West Indian Government offered its support to these proposals in its letter to the Chamber of Customs of September 30, 1783 (WIG. 3.8.6. Entry 140, pp. 252-266).

[230] Thus, it was no coincidence that Lindemann's book on the subject was titled *On the Duties of Whites in Regard to the Negroes*. The articles denying slaves' right to act as plaintiffs and witnesses were included in book 4, arts. 12-13 (CC. 419. No. 24).

[231] The only cases from Christiansted concerning matters other than punishment and rations were against the French baker's apprentice *Mercier*, who was accused of the attempted rape of the enslaved woman Franky (CCB. 38.9.8, fols. 335-456, November-December 1788), against saddle maker *George Bladewell*, whose slave Magnus was found dead in a house in Christiansted, but

Often, it was a matter of whether a master or overseer generally treated his slaves as he should. This was true even in cases that were not strictly speaking about slave abuse, but in which the question of abuse somehow became relevant. For instance, in the case against plantation overseer John Wilcks, who was accused of shooting and raising the alarm without reason, the judge asked witnesses whether Wilcks had "mistreated the negroes" and had therefore raised the alarm "out of fear for them".[232] In the case against the enslaved man Snell, on trial for self-mutilation to get out of work, the judge in the police court felt obliged to find out whether it was really, as Snell claimed, "poor treatment" by a plantation overseer, one Mr. Usher, that had brought him to commit his desperate act. From the court transcript, it is clear that he questioned Snell's master and his two overseers whether Snell or other slaves at the plantation had been treated "tyrannically" or "starved".[233]

In cases about slave abuse, judges similarly examined whether owners and overseers generally treated their slaves as they should, for instance by ascertaining whether slaves were "ill fed" or "poorly treated".[234] For instance, in the case against overseer Patrick St. Ledger, the judge asked the plantation's owner about Ledger's overall "conduct toward the negroes" and asked Ledger himself whether he did not consider 45 lashes of cartwhip to be a "heavy punishment".[235] In this case, as in many others, however, it was not primarily a subject's general conduct that was on trial, but rather whether a particular act had transgressed the norms of good slave mastery. In Ledger's case, he was tried for causing the death of the enslaved man Grey, allegedly by having him tied to a ladder and cartwhipped 45 times at a time during the night when it was too dark to see, and where Grey's thighs were therefore accidentally injured to such a degree that he died from his wounds a few weeks later. In his verdict, Judge Brown did not doubt that this made Ledger worthy of punishment. Although he did not believe it could be proven that Ledger's conduct had caused Grey's death, he had clearly "transgressed the moderate punitive rights [*den mådelige revselsesret*] that a master is allowed over his slave" with the nocturnal and extensive whipping he ordered. As a result, but "seeing as no specific

without Bladewell's obvious failure to provide for his aged slave being punished (ibid., 38.9.9, fols. 73-74, November 1790), and finally, against the overseer *Robert Christie* (which will be addressed in chapter 4, pp. 169-170).

[232] CCB. 38.9.9, fols. 40-45, 53 (October 1789). The verdict is not known. See also ibid., fols. 11-16 (May 1789).

[233] CCB. 38.9.9, fols. 160-164 (June 1792). Snell's defense did not, however, convince the judge and he was sentenced to 100 lashes at the gallows followed by transportation (CCB. 38.6.17, fol. 298, verdict August 23, 1792). See also the case against the enslaved woman Oliva, similarly tried for self-mutilation (CCB. 38.9.9, fols. 227-228, July 1793).

[234] The quotation stems from the case against Miss Carden (CCB. 38.9.10, fols. 521-522, August 1796).

[235] CCB. 38.9.8, fols. 459-471 (January 1789), quotations fols. 460, 462.

law exist here for how such a crime is to be punished", Ledger was issued a fine of 200 rixdollars, to serve as "an example to others".[236]

As in Ledger's case, it was often suspicion of murder and mutilation that led the authorities to invoke a limit to a slaver's punitive prerogatives. But in some cases, the line was also drawn at the point where a slave's overall health had been at risk. To recall, in Lindemann's code, masters were instructed always to "spare the health and limbs of the slaves".[237] In the colonial courts, this duty was for instance invoked in 1796 to issue overseer John Delany with a fine of 100 rixdollars for what the Colonial Government referred to as his "tyrannical treatment" of the enslaved woman Antonette from the Lebanon Hill plantation. Aside from the fact that she had been severely beaten with 39 lashes of cartwhip up and down her back as a punishment for spreading rumors of Delany's unhappy marriage, it appears that the charge was primarily how she was afterwards put in chains, forced to work, and deprived of the medical attention she needed and did not receive before she fled to her owner, Baron Peter de Bretton.[238]

Clearly, from the above, it was usually by harming (and sometimes starving) the bodies of slaves that masters and other whites became culpable in the eyes of the authorities. But this does not mean that this art of governing primarily conceptualized slaves as bodies – bodies whose vitality and reproductive capacities had to be protected. Rather, as I have argued above, this art of making humane masters or *husbonds* was tied to a problematization that defined abuse as that which risked awakening 'dangerous' thoughts and calculations among the enslaved. Accordingly, what prompted the punishment – for instance, of Delany's maltreatment of Antonette – was not so much the physical damage itself, but rather the thoughts such abusive conduct was presumed to occasion in the minds of Antonette and her peers.

The governmentality of slave protection

In the late eighteenth century, governing master-slave relations and protecting slaves from the excesses of their masters relied on a governmentality of slave protection that had, as I have tried to show, very little in common with the metropolitan governmentality that was at the heart of the comparable project of saving the peasantry from 'slavery'. For one thing, to protect the enslaved was not to protect and harness some inner human mechanism of ethical conduct and self-formation. Although it was certainly possible for colonial authorities to view

[236] CCB. 38.6.17, fol. 191, verdict February 1, 1790.
[237] CC. 419. No. 24: Lindemann's *Forslag*, book 3, art. 4.
[238] WIG. 3.31.25. Entry 264/1796 (pp. 151-153): the Government's letter to Judge Nielsen (May 28, 1796); see also CCB. 38.9.10, fols. 511-512, police interrogation of May 31, 1796.

maltreatment as a kind of 'despotism' and thus as a source of moral corruption, their campaign to contain it instead *problematized* maltreatment as forms of conduct that inclined slaves to throw off the life of calm and quiet subservience. In the colony, therefore, the *knowledge* in question was not a theoretical knowledge of those natural 'passions' that ideally drove man toward goodness. Rather, to grasp why and how certain conduct drove slaves to crime and revolt, colonial officials oscillated between a conception of slaves as calculating or 'economic' agents and a 'psychological' presumption of being able to read the inner mental state of slaves.

Moreover, the *art of governing* that was central to the governmentality of slave abuse was hardly liberal. As noted, colonial governors did not, as I argued, grasp maltreatment as a systemic threat that required a systemic response, one that would use positive law – like the abolition of the slave trade or the granting of civil rights to slaves – to incentivize masters to care for the well-being of their slaves. Rather, for colonial officials, maltreatment represented an anomaly that required a *disciplinary art* of surveilling, admonishing, warning, shaming, and ultimately punishing those individual masters who, for whatever reason, failed to respect their normative obligations toward 'humanity'. Here, I have focused on the punitive aspect of this art as it unfolded in the courtrooms of Christiansted, and have shown the particular subset of obligations colonial judges and governors found it prudent to enforce. In the process, however, I have emphasized a certain degree of overlap between metropole and colony. But quite symptomatically, what overlapped was the very model of authority – that of 'good housefathers' – that rural reformers in the metropole were hoping to contain.

Finally, it is worth dwelling on the role of race. As argued above, the knowledge that was invoked to grasp how the enslaved would experience and react to various forms of abuse was not primarily a racial one. That is, it was not one that made reference to a distinct psychology or nature of 'negroes', but instead one that tended to think of them in more universal terms, as 'economic' or 'creatures of habit'. Even so, race was not completely irrelevant. Not least, a knowledge of the particular cognition or 'way of thinking' of blacks was clearly important in 1787-88, as colonial officials agreed that it was best not to vest slaves with any formal rights, for instance to complain about their master. As Governor General Walterstorff chimed in on this occasion, it was important to remember that "the nation [*slægt*]" in question is "an ignorant people, calm under the yoke they carry, but desirous of improvement and intense in their desires and emotions".[239]

Clearly, the supposed racial nature of blacks was far from irrelevant to colonial governors. Yet, as will be further explored in the following chapters, this did not mean that racial knowledge was all that mattered or that colonial officials could not

[239] CC 421. Walterstorff's *Bemærkninger* (October 8, 1788), p. 122.

rely on metropolitan governmentalities. Not least, this was true in the field of colonial penal reform and justice, which is discussed in the next chapter.

CHAPTER 3: CRIME AND PUNISHMENT

In the very same decades when colonial authorities began their efforts to contain the 'inhumanity' of slave masters, they also worked to reform the penal laws of slavery. Indeed, at least by 1778, they had come to see the "injustices and harshness" of masters and colonial justice as two sides of the same coin, both of them being in stark contradiction to "the laws dictated by humanity".[1] Like the issue of inhumane masters, the task of 'humanizing' the penal (or criminal) laws was taken up by many different agencies on the local, the colonial, and the imperial scale. For one thing, this was essential to Lindemann's *code noir* and to the drafts produced by the metropolitan commissioners of the Slave Law Commission in the mid-1780s. But for the most part, and seeing as these legislative attempts ultimately came to naught, it was a task that was carried out administratively and locally, as judges, Chiefs of Police, and Governors General mitigated and in other ways creatively bypassed the laws that were formally in place.

In most cases, the penal law that Danish West Indian judges and officials now sought to replace and circumvent was the placard of September 5, 1733, authored by Governor Philip Gardelin. Today commonly known as the Gardelin Code, its nineteen articles on such crimes as marronage, theft, and disrespecting whites were draconic to say the least. Maroons (runaway slaves) should lose a leg or, if pardoned by their owners, an ear, while runaway leaders were to be pinched three times with red-hot irons and hanged. Insults or menacing gestures toward whites, as well as thefts with a value of more than four rixdollars, would similarly result in the application of glowing pinchers and hanging, while lesser thieves would be branded and whipped with 150 lashes.[2] Although born out of extraordinary circumstances (it was passed as the young colony faced a famine and greater deterrence was believed necessary to hold the enslaved in check[3]), and although it was never formally ratified by the King, the Gardelin Code functioned as the basic legal framework for judging slave crime well into the nineteenth century.

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[1] WIG. 3.16.1. Letter to the Danish Chancellery (October 15, 1778); WIG. 3.8.6. Entry 140: Letter to the Chamber of Customs (September 30, 1783), p. 260.
[2] Hall, *Slave Society*, 56-58. A Danish version of the placard may be found in CC. 390, pp. 359-363.
[3] Jon F. Sensbach, *Rebecca's Revival – Creating Black Christianity in the Atlantic World* (Cambridge, MA: Harvard University Press, 2005), 22.

From the 1770s and 1780s onwards, however, Governors General began using their gubernatorial privilege to mitigate sentences. In her analyses of the years 1776 to 1823, Gunvor Simonsen has shown that Governors General did so to 34 percent of the verdicts of Christiansted City Court. These mitigations, she shows, followed a distinct pattern: capital punishment was generally commuted to branding or heavy flogging (up to 150 or 200 lashes) followed by penal labor or banishment (i.e., being transported and sold to another colony); dismemberment and branding were commuted to flogging; and floggings were reduced in terms of the number of lashes.[4] At the same time, she shows, judges began moving many crimes – such as marronage or disobedience – from the city court to the police court, where judges were freer to use their discretion and issue arbitrary punishments.[5] And a little later, by the late 1780s or at least, as Simonsen contends, by the early 1800s, judges began looking for other sources of authority, not least metropolitan legislation, that might trump or modulate the Gardelin Code.[6]

In this chapter, I will explore the governmentality that gave meaning and urgency to these late eighteenth-century efforts to reform and circumvent the existing regime of slave punishment. Although these changes have already, as indicated above, been thoroughly examined, the penal rationalities behind them still remain to be explored. The same, it seems, could be said for other late eighteenth-century Caribbean settings that experienced a similar move toward 'amelioration', i.e., toward an overall decrease in the use of capital punishment, dismembering, and general corporal punishment for slaves, and a relative rise in the use of penal labor and banishment. Here, scholars tend to tie the changes in question to external pressures from abolitionists or from local slave masters, but do not examine the underlying governmentality that gave them their particular form.[7]

Much the same is also true in histories of the Danish West Indies. Here, the prevailing analysis, namely Simonsen's, portrays the changes in question as a reflection of the state's growing concern with slave reproduction. Thus, just as with efforts to protect slaves from their masters, it was essentially, she argues, the abolition of the slave trade in 1792 (effectuated in 1803) that pressured the colonial

[4] Simonsen, *Slave Stories*, 163-164.
[5] Ibid., 56.
[6] Ibid., 165-167. Simonsen describes this turn to other legal sources of authority as a nineteenth-century phenomenon. Yet, as will be exemplified later in this chapter, instances of the practice are also found in court cases from the late 1780s and 1790s.
[7] See for instance Imran Canfijn and Karwan Fatah-Black, "The Power of Procedure – Punishment of Slaves and the Administration of Justice in Suriname, 1669–1869," *Journal of Global Slavery* 7 (2022); Goveia, *Slave Society in the British Leeward Islands at the End of the Eighteenth Century*, 175-176; Diana Paton, *No Bond but the Law – Punishment, Race, and Gender in Jamaican State Formation, 1780-1870* (Durham & London: Duke University Press, 2004), 22-39.

state to loosen its deadly hold over the enslaved and to concern itself "with reproducing labor in the long run".[8]

In my view, however, this does not account fully for the punitive changes in question. Although it is clear that governors sometimes problematized how the deadly, mutilating, and generally brutal nature of colonial penality squandered the laboring capacities of the enslaved (as well as the value their bodies represented), this concern predates the abolition of the slave trade and is only one part of the story. Indeed, while the concern to limit the waste of laboring and reproductive bodies certainly provided an impetus for penal change, what gave these changes their particular form was a governmentality that was focused on forming the subjectivities of the enslaved, most essentially – I argue – by protecting and harnessing their supposedly inborn passion of honor. Thus, while protecting slaves from their masters primarily meant targeting the *minds* of the enslaved, when it came to protecting some (but certainly not all) of them from the worst excesses of the law, it was instead a matter of targeting their *passions*.

By making this argument, I am also making the claim that this penal governmentality was intimately linked to and closely overlapping with contemporary penal transformations in the metropole. Thus, much unlike the reform of the powers of 'masters' examined in chapter 2, I argue that the history of colonial and metropolitan penal reform is a history of commensurable and interlinked governmentalities. But before turning to this comparative argument, I will begin by examining the two problematizations that were essential to the colonial attempts to revise the penal laws of slavery. As briefly hinted at above, these were, on the one hand, a problematization of the disgrace or infamy of 'dishonest punishment', and, on the other, a problematization of the costs of penal brutality. Following this, the chapter turns to the metropole to consider the deliberations of two Criminal Law Commissions, the first working on revising theft laws in the 1780s, the second proposing a revision of the entire Danish Penal Code in the early 1800s. Lastly, the chapter will return to the colony and explore the punitive practices of the courts of Christiansted.

Problematizing colonial penal excess

In Orlando Patterson's classic book *Slavery and Social Death* (1982), it was a central point that slavery, at all times and in all places, has consisted of "the permanent, violent domination of natally alienated and generally dishonored persons". Indeed, besides suffering violent oppression and lacking even the right to

[8] Simonsen, *Slave Stories*, 165, see also 40-43, 56, 158-167.

maintain his familial relations, in Patterson's view, a slave's life is essentially a life without honor. As a slave, one has "no power and no independent existence, hence no public worth".[9]

Patterson's is likely a good description of how the enslaved experienced their lives in the Danish West Indies. At the same time, however, it obscures the fact that this was not always the way their masters and governors saw it. Indeed, in the late eighteenth-century Danish West Indies, various voices began to speak of the enslaved, or at least some of them, as persons in possession of honor. For instance, in a 1788 article published in a metropolitan periodical, Johan Christian Schmidt, who was employed as a doctor on two of the Schimmelmann plantations, claimed that the creole slaves belonging to the Moravian mission – by 1794, the mission claimed to have had close to 10,000 members among the enslaved in the colony[10] – generally possessed a strong "sense of honor", one that led them to seek the approbation of their peers and superiors and to refrain from "wicked deeds". In particular, Schmidt singled out how the risk of being subjected to the Moravian church discipline – a practice that involved naming the wrongdoer in front of the congregation, public acts of penance, and ultimately even banishment – provided such "a strong bond on the Negroes" that it was "the greatest penalty they fear."[11]

A few years prior, in a 1783 report to the home authorities, the Colonial Government had expressed a very similar understanding. Like Schmidt, it praised the methods of the Moravians and their use of "church discipline", a practice "the slaves of the congregation fear much more than corporal punishment". In its view, this was "the main reason" for the relatively good conduct of their black followers.[12] But in the same report, it also assumed that a similar mechanism was at work outside the Moravian congregation: on the islands' plantations. Here, it argued, order was upheld not only by physical punishment, but by a hierarchy of honor. For, the Government argued, "in general the planter employs those negroes who distinguish themselves through good conduct as servants in the house, a position that is viewed as honorable [*et ærestrin*], and which is often surely also more comfortable". Therefore, while the hope of achieving this position of 'greater esteem' spurred slaves of lower standing to good conduct, the fear of losing it kept those of higher rank in place.[13]

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[9] Patterson, *Slavery and Social Death – A Comparative Study*, 10.

[10] Louise Sebro, "Brødremenigheden i Dansk Vestindien - Mission som formidler af europæisk kultur," in *Skoler i palmernes skygge*, ed. Julie Fryd Johansen, Jesper Eckhardt Larsen, and Vagn Skovgaard-Petersen (Dansk Skolemuseum, 2008), 28.

[11] Johan Christian Schmidt, "Blandede Anmærkninger, samlede paa og over Ejlandet St. Kroix i Amerika," *Samleren, et Ugeskrivt* 2, nos. 39-43 (1788): 238-239.

[12] WIG. 3.8.6. Entry 140: Letter to the Chamber of Customs (September 30, 1783), p. 257.

[13] Ibid., p. 256.

During the next decades, colonial officials professed such beliefs about honor at regular intervals. As in the instances above, the emphasis was sometimes on honor as a prized possession that a master or priest could take away as a punishment for disobedience or 'wicked deeds'. But in other instances, honor was not only a negative pull away from evil, but also a positive draw toward goodness, just as in Christian Ditlev Reventlow's idea of peasants competing to be 'the sharpest worker' or 'the best husbond'.[14]

Not least, this 'positive' approach to the passion of honor was formulated by Lindemann in his 1783 draft for a Danish *code noir*. For one thing, it was reflected in his concern to provide various ceremonial rights to baptized Christian slaves. While other slaves should be buried "in all silence in the field", these should enjoy, he proposed, the right to a customary Christian burial in a cemetery.[15] This suggestion was neither criticized nor explicitly lauded by the other members of the West Indian Government,[16] perhaps because it was already a well-established practice in the colony to distinguish between the burial rights of Christian and heathen slaves.[17] In any case, the purpose of the distinction was, for Lindemann, to harness "the great power such outward things [*udvortes ting*] exert over man". For, just as one may habituate children to "virtue" through "small insignificant gifts" and through "what flatters their self-perception [*indbildning*]", so the slave who initially seeks Christianity merely for the sake of outer appearances might come with time, "like the virtuous man", to love it "for more noble reasons [*af højere grunde*]".[18]

But the same basic idea of cultivating and harnessing the enslaved's sense of honor – or their vain love of certain self-perceptions – was also central to Lindemann's views on punitive reform. In this area of the law, he confessed his reliance on Jens Schielderup Sneedorff. Like his greatest inspiration, Montesquieu, Sneedorff had recommended lenience in physical violence, but harshness in the use of dishonor or

[14] Besides the examples provided during the chapter, see also how in 1802 the future Governor General Adrian Bentzon proposed encouraging "orderly domestic unions" by bestowing certain "distinctions" upon such good married Christians, for instance the privilege of being exempted from corporal discipline by the plantation *bomba* (i.e., slave driver) or overseer. For, as he argued, "few human species [*menneskearter*] possess a more lively feeling of honor and shame than the negroes" (CC. 424. Bentzon's memorandum to Schimmelmann (July 24, 1802), p. 7). See also WIG. 3.8.19. The West Indian Government's report to the Chamber of Customs (December 31, 1792), p. 533.

[15] CC. 419. No. 24: Lindemann's *Forslag*, Supplement (*Tillæg*), § 4 (November 17, 1783).

[16] See CC. 421. In his comments on Lindemann's draft, Thomas de Malleville did however assume a very similar relationship between Christian ceremonies and a passion for honor when he noted the great importance that "the Negroes" attributed to "the outer act and practice" of baptism and how this – rather than "right motives" – often had positive effects on their conduct (see CC. 421. Malleville's *Anmærkninger* (April 7, 1784), pp. 25-27).

[17] Hall, *Slave Society*, 83.

[18] CC. 419. No. 24: Lindemann's *Forslag*, Supplement (*Tillæg*), § 4 commentary.

infamy.[19] But while Lindemann was clearly inspired by such work, he was also – perhaps unbeknownst to himself – moving beyond or at least complicating their views on punishment. For rather than viewing infamy only as an effective deterrence, Lindemann also viewed it as potentially excessive. Indeed, for Lindemann it was crucial to use dishonor sparingly so as to avoid extinguishing "the slaves' sense of honor".[20] The next section will examine this problematization of infamy and how it became commonly accepted among colonial officials. To do so, I will explore the deliberations that took place in the colony during the years 1783-1788 as colonial officials worked and reflected on a new penal code for slaves.

The liberal problem of infamy

For a start, it is important to emphasize that when colonial authorities lamented the 'inhumanity' of the penal laws they were not arguing for the abolition of physical and public violence as such, not even in its most deadly, demeaning, mutilating, theatrical, and altogether horrific forms. Even Lindemann, whose choices of punishment were perceived by some of his peers as generally too gentle,[21] had proposed the punishments of being burnt alive at the stake or being broken on the wheel as proper responses to some of the most severe crimes.[22] Instead, what he and his peers were criticizing was how the existing laws failed to "find the right proportion between the punishment and the crime".[23] That is, they had failed to set punishments that were "appropriate to the crime".[24] And in the eyes of a growing number of colonial officials, this was not least due to the law's failure to distinguish between the 'honest' and 'dishonest' domains of punishments (*ærlig og uærlig straf*).

In Danish penal law, this distinction between 'honest' and 'dishonest' punishment was a foundational one. While the former could mean pain, costs, and sometimes even death, only the latter left a permanent mark of infamy that effectively and permanently ostracized the criminal from society. For one thing, it typically involved the loss of a number of legal, occupational, and religious rights. Thus,

[19] In his code (e.g., book 1, art. 72), Lindemann referred to a 1762 article from Sneedorff's periodical *The Patriotic Observer* (Jens Schielderup Sneedorff, *Samtlige Skrivter*, 6 vols. (Copenhagen: Gyldendals Forlag, 1776), 226-228). For more on Montesquieu's views on punishment, see David W. Carrithers, "Montesquieu's Philosophy of Punishment," *History of Political Thought* 19, no. 2 (1998): 235-239.

[20] CC. 421. Lindemann's *Supplement til Neger-Loven* (July 8, 1784), p. 63.

[21] Ibid. Malleville's *Skrivelse* (February 26, 1784), p. 21.

[22] See for instance Lindemann's clauses on slaves poisoning their masters or murdering whites (CC. 419. No. 24: Lindemann's *Forslag*, book 1, arts. 9-13).

[23] WIG. 3.8.6. Entry 140: Letter to the Chamber of Customs (September 30, 1783), p. 256.

[24] CC. 420, p. 83-84. Copy of the Chamber of Custom's letter to the West Indian Government (December 23, 1782).

according to the Danish code, the 'dishonest' criminal was barred from acting as a plaintiff and producing testimony in court (an act which, of course, required swearing an oath), from holding public office and burghership, from being a godmother or godfather, and finally from being buried 'in Christian soil'. Secondly, a dishonest sentence involved being publicly humiliated and sometimes even physically branded – with hot irons – as unworthy of the company of 'honest folk' (*ærlige folk*). And third and lastly, it involved coming into contact with a place and a figure that had become the physical embodiment of dishonor: the gallows (*galjen*) and the hangman or executioner (*kapmanden*).[25]

In the colony, by contrast, the distinction between 'honest' and 'dishonest' punishment was almost nonexistent. Certainly, as in the metropole, the colony had two distinct sites of punishment. First, every jurisdiction had the familiar penal site of the gallows (*galgen*), administered by a black executioner (usually known as 'the negro hangman') and closely associated with dishonor by whites and, according to some, also by certain blacks.[26] A less severe but still very public penal site was the whipping post (also known as 'justice pole' or *justitsstøtten*), where lesser criminals were brought and whipped without much formality, sometimes even without a trial or simply at the behest of their masters. In Christiansted, the whipping post was likely placed down by the harbor immediately next to the fortress (see Figure 4), while the location of the gallows is more uncertain. At the whipping post, Simonsen argues, slaves would be whipped with a 'rod' or 'birch' (in Danish often rendered as *ris*), and at the gallows with the more painful cartwhip (sometimes called *sikkefælle* in Danish). Originally used for driving ox carts, the cartwhip had a twisted lash at its end and was as, as noted in chapter 2, also used by plantation overseers, sometimes with deadly outcomes.[27]

Although spatially and conceptually distinct, these two penal domains were not a colonial version of the familiar distinction between 'dishonest' and 'honest' punishment. For one thing, the distinction between the gallows and the whipping post did little to change the fact that the slaves, who suffered the infamy of the

[25] Tyge Krogh, *Oplysningstiden og det magiske - Henrettelser og korporlige straffe i 1700-tallets første halvdel* (Denmark: Samleren, 2000), 328-351.

[26] According to Thomas de Malleville, the hangman was so despised among 'the negroes' that only already defamed convicts without relatives on the islands were willing to take this position. Indeed, he allegedly knew of a convicted freedman who took the position by employing exactly this "reasoning that if he has no family on the islands, then no one would be dishonored by him taking this step" (CC. 421. Malleville's *Betænkninger* (October 19, 1787), p. 89). Further testimony to this effect is provided later in this chapter, although it is important to emphasize that, in all likelihood, black hangmen were not equally despised by all of the enslaved. At least the hangman Pero from Christiansted appears to have been popular among runaway slaves for providing them with a place to hide (see GG. 2.49. Police report of July 22, 1787).

[27] Simonsen, "Slave Stories, 1780s-1820s," 50-51.

Figure 4. *View of the harbor area in early nineteenth-century Christiansted. The pole depicted slightly left of the fortress of Christiansværn (the white structure with the Danish flag) is likely the whipping post or* 'justitsstøtte'. *Watercolor by H.G. Beenfeldt, c. 1815. National Museum of Denmark.*

gallows and the hangman, had no civil rights to lose and were already fully ostracized from the society of 'honest folk' (meaning whites). But also, as colonial penal reformers began to argue in the mid-1780s, whatever distinction was left was continually undermined by a failure inherent to the penal laws and colonial justice more generally. This failure, they found, was twofold.

Firstly, there was the problem that it was usually the hangman, this physical embodiment of dishonor, who administered all punishments, regardless of whether the criminal had been sent to the gallows or the whipping post. In Lindemann's view, this meant that the cultivation of the slaves' sense of honor was permanently threatened, since they could suffer the infamy of the hangman without a court order and merely for some minor infraction that their master found deserving of a public whipping. For, Lindemann argued, even if it was true that many slaves were devoid of honor and thus not governed by a sense of shame or desire for esteem, this absent sense of honor was not, he found, a racial or even cultural trait, but essentially a consequence of having suffered infamy in the first place. For "many a slave", he argued, it was not until meeting the hangman that "the small spark of the love of honor [*ærekærhed*] that was still in him" was finally "lost". Therefore, if slaves were made to experience a "distinction between an honest and dishonest whipping" by having, as he proposed, the whipping post administered by "an honest slave", it

would help "impart the enslaved with a sense of honor [*bibringe slaverne en følelse for ære*]".[28]

Secondly, there was the related problem that the infamy of the gallows was not reserved for the particularly serious class of crimes and criminals who should be permanently removed from society. In the eyes of State Councilor Laurberg, who was once again Lindemann's strongest supporter, it was therefore one of the key virtues of Lindemann's draft that it followed the principle that "none but the most disgraceful acts should, through punishment, entail any form of disgrace for the criminal." More precisely, Laurberg rightly observed, Lindemann had aimed to reserve dishonorable punishments only for that particular class of crimes and criminals that called for various forms of life sentences, in the form of banishment, punitive labor, or death.[29]

As Laurberg described it, the purpose of associating infamy only with these life sentences were twofold. For one thing, it would ensure that the 'honest' and 'dishonest' criminals would not be confused, and thus that only the latter would suffer the contempt they deserved. Otherwise, if for instance first-time 'desertion' (fleeing the colony) was sentenced, as Lindemann had accidentally suggested, to 150 lashes at the whipping post followed by two to three years of work in irons in the fortress,[30] he or she would inevitably become intermixed and confused with all the 'dishonest' convicts serving a life sentence of fortress labor. Unavoidably, by being associated with the latter, the "honest slaves" would suffer "the contempt and humiliation of other negroes and whites", while the "dishonest slaves", by not being disassociated from these, would "lose the feeling of the disgrace that their evil deeds have brought upon them".[31]

But secondly, if this division was upheld, one would not only keep the honest criminals from losing their sense of honor and the serious ones from losing their sense of shame. Together with the separation between 'honest' and 'dishonest' executioners, one would also, Laurberg continued, contribute to the spread among the enslaved of a general association of what is honorable and what is good. Thus, helped along by education and good examples, he believed these penal changes would eventually bring:

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[28] CC. 421. Lindemann's *Supplement til Neger-Loven* (July 8, 1784), p. 63.
[29] Ibid. Laurberg's *Erindringer* (January 12, 1784), pp. 3-4.
[30] CC. 419. No. 24: Lindemann's *Forslag*, book 1, art. 33.
[31] CC. 421. Laurberg's *Erindringer* (January 12, 1784), p. 4. In his response to Laurberg's criticism, Lindemann noted that by the 'honorable' punishment of penal labor he had had in mind something different than the current arrangement of 'fortress labor' (*fæstningsarbejde*), namely a kind of house of correction (*tugthus*), to be located in Christiansted City Hall, combined with the use of convicts for public works in the cities, a punishment that would avoid intermixing the dishonorable and honorable criminals (see ibid., Lindemann's *Supplement til Neger-Loven* (July 8, 1784), p. 48).

> a great part of the negroes to think and act better than one has previously believed them capable of, to gradually develop a distaste for evil and a desire for good [*fatte afskye til det onde og lyst til det gode*], and begin to hold themselves in such esteem that it will no longer be unimportant what their masters and other whites, yes even what well-mannered negroes, think of them, and thus as a consequence they will be encouraged, just as much as whites, to obtain and maintain a good name and reputation and to feel and despise unjust humiliation.[32]

In his response, Lindemann wholeheartedly agreed with these sentiments.[33] To him, it was no less essential, to quote Laurberg, to modulate punishments in such a way that the slaves would seek to emulate the conduct that would earn them "a good name and reputation" and, in the process, "develop a distaste for evil and a desire for good". As in Lindemann's proposal of securing ceremonial rights for Christian slaves, the essential idea is to harness the passion of honor in such a way that the slave is drawn to love the good for itself.

However, these thoughts were not unanimously accepted in the discussions within the ranks of the West Indian Government in 1783-84. Indeed, none less than the Governor General, the experienced colonial administrator Peter Clausen, entirely failed to see the purpose of instituting such a rigid distinction between honest and dishonest punishments. Supposedly, he had:

> never seen negroes of such ambition, indeed not even house negroes, supposedly the most dignified of them, who have sought by their conduct to avoid the whipping post out of fear of being whipped by the hangman.

Moreover, by making the distinction explicit in law, one would not only increase public expense (to purchase and maintain one or two 'honest' executioners), but would also make it even more difficult, he argued, to recruit new hangmen in the future "if he shall pass for dishonest". In his experience, it was already quite difficult to convince slaves, even those convicted to death, to assume this position.[34]

In spite of Clausen's reservations, Lindemann's and Laurberg's principles were well-received by the members of the Slave Law Commission in Copenhagen. Having arrived, presumably sometime in late 1784 or early 1785, almost the whole of Lindemann's first book – the book on slave crime – was incorporated into the third draft of the 'Danish project' that Oluf Lundt Bang finalized in April 1785. Thus, a comparison of the first and second drafts of 1783-84 with the third draft of 1785 shows that while the first two lacked a systematic distinction between the

[32] CC. 421. Laurberg's *Erindringer* (January 12, 1784), pp. 3-4.
[33] Ibid. Lindemann's *Supplement til Neger-Loven* (July 8, 1784), p. 49).
[34] Ibid. Clausen's *Anmærkninger* (May 4, 1784), p. 44. In Lindemann's rebuttal, he naturally turned this argument around as proof that "the blacks do have some feelings of honor" (ibid., Lindemann's *Supplement til Neger-Loven* (July 8, 1784), p. 64).

honorable and the dishonorable spheres of justice and failed to associate the latter with life sentences,[35] both principles and even the entire structure of Lindemann's first book were essential to the third draft.[36] As I will explore later in this chapter, it is clear that this incorporation of Lindemann's first book was related not least to the commissioners' willingness to view the passion of honor as an important principle of conduct and self-formation, for both enslaved blacks and free whites.

In any case, in its 1785 draft, the Slave Law Commission had adopted Lindemann's distinction between honest and dishonest punishments and had reserved the infamy of the gallows for life sentences (banishment, life-time penal labor, or capital punishment) and the whipping post for less serious crimes. In the colony, too, these principles were gaining supporters. As the 1785 draft was circulating in the colony in 1787-88 (it is unclear what delayed it), they encountered no resistance, Peter Clausen having died in the summer of 1784. Instead, the top authorities who had been asked to comment criticized the draft for not applying these principles strictly enough. For instance, they criticized the clauses that failed to associate the gallows with life sentences, for instance in its punishment for 'open theft' (*ran*) committed with others (namely whippings under the gallows).[37] In this regard, the draft's clause prompted Thomas de Malleville to remark that:

> when a negro has been whipped under the gallows, he should no longer be returned to the other negroes in their master's house or to the plantation to work. In regard to article 52, I have shown how little feeling a negro generally has for the infamy of punishment. One should therefore try to awaken it, and it would have the opposite effect if a negro whipped at the gallows would again be intermixed with the other negroes of the country.[38]

Thus, just as Laurberg and Lindemann agreed in 1783-44, it was now the general opinion of the top colonial authorities that it was vital to distinguish more clearly between honest and dishonest crimes and punishments. Indeed, what was required was a regime of punishment that reserved infamy for those who deserved to be

[35] The 1783 draft had been authored by Bang alone, and the 1784 draft following the comments of the other commissioners. They are found in CC. 419. No. 11 (September 27, 1783) and No. 22 (July 22, 1784).

[36] The third draft is found in ibid. No. 29: O. L. Bang's *Concept til Neger Loven* (April 16, 1785). For an overview of Bang's thoughts on Lindemann's draft, see his undated and unpaginated *Nota* (ibid., no. 28), esp. *sub* 'The fourth book of the Danish project compared with the first book of the West Indian project'.

[37] See CC. 421. The St. Croix Burgher Council's *Betænkninger* (August 1, 1787), pp. 72-73 (book 3, arts. 14 and 30); Malleville's *Betænkninger* (October 19, 1787), p. 90 (book 3, art. 61). These colonial comments referred to book 3, arts. 30 and 64 in the 1785 draft, see CC. 419: No. 29.

[38] CC. 421. Malleville's *Betænkninger* (October 19, 1787), p. 90. In Malleville's comments to "article 52", which corresponds to book 3, art. 55 in the 1785 draft (on theft committed with others), he noted that "a negro" generally does not have such "delicate feelings of honor" that he would consider the punishment of branding and 150 lashes as infamous. Here, in Malleville's view, "the pain of the punishment is all they feel" (ibid., p. 89).

permanently ostracized from society and spared everyone else from suffering, or being intermixed with those who had suffered, the stain of the gallows. Only then, it was agreed, could one avoid excessively extinguishing "the small spark of the love of honor" they still possessed (to quote Lindemann). And only then could one "awaken" in them a sense of honor that would both make them fearful of suffering infamy (to quote Malleville), but also function as a positive draw toward developing "a distaste for evil and a desire for good" (to quote Laurberg). All in all, what was emerging as the basis for reforming the penal laws of slavery was *a liberal problematization* that criticized penal infamy for making the slaves ungovernable through their inborn passion of honor, keeping it from making them deterred by disgrace and desirable of esteem.

The biopolitical costs of the gallows

But as colonial governors came to agree that it was vital to maintain these distinctions, it was not only in order to protect and harness the passion of honor. It was also an agenda that was driven, as Simonsen has argued, by the colonial authorities' growing concern about the costs of excessively killing, dismembering, and banishing those laboring bodies upon which the economy ultimately relied. As noted, Simonsen ties this together with the abolition of the slave trade and accordingly principally describes it as an early-nineteenth-century phenomenon. Yet, one finds traces of it in the 1780s, although not in the initial colonial discussions on Lindemann's draft in 1783-84. But it surfaces here and there in the administration of colonial justice and later on, in 1787-88, in the discussions on the 1785 draft.

In the daily administration of colonial justice, the importance of thinking about the costs of the gallows was sometimes portrayed as a temporary or conjunctural concern. In 1783, for instance, the *byfoged* of Frederiksted, C. Lundby, asked Governor General Peter Clausen if it was not preferable to let two suspected thieves, named Korch and Gottlieb, off with a whipping of 100 lashes. He recommended this considering the insufficient evidence against them, and the small amount they were suspected of having stolen, but also since "there is such a great lack of slave negroes on the island".[39] In other instances, however, officials portrayed the problem as a more general one. For instance, this was so in Upper Court Judge Edvard Røring Colbjørnsen's 1785 verdict on Jochum and Sam, who were found guilty of laying hands on a white man. Because they had not done so out of anger, but following the orders of their master, Colbiørnsen read the Gardelin Code as prescribing dismemberment, more precisely the loss of a hand. Yet, considering the costs of such a practice to the public, he felt there was good reason to mitigate the

[39] WIG. 3.81.175. Judge Lundby to Governor General Clausen (September 30, 1783).

punishment to whippings at the gallows followed by banishment. According to his cold and utility-oriented reasoning:

> the punishment of severing a hand does not seem appropriate to our present political constitution, as the mutilation of slaves is more a burden to the public than a punishment for criminals, who hereby, by being made useless for their work, avoid the work of thralldom that could otherwise be demanded of them.[40]

The importance of considering the costs of penal severity was also, as noted above, essential when colonial authorities deliberated the Slave Law Commission's third draft in 1787-1788. Here, however, the biopolitical problem of costs was wider than simply the loss of laboring hands, even though this concern was still central.[41] Now the excessive use of the gallows was also deemed problematic due to its financial strain on the state's coffers. Like other slave colonies, the Danish West Indian state reimbursed masters with the value of those slaves who were taken away by colonial justice.[42] The idea was to avoid masters keeping their slaves out of the reach of the penal laws for fear of losing their investment at the gallows. For the state, this could be a costly affair. For although it could reduce its expenses by selling the slaves who had not suffered a capital sentence to other colonies, this rarely brought in enough to avoid a loss.[43] For this reason, in 1788, Governor General Walterstorff expressed his concern that sending too many slaves to the gallows, for instance for perjury, would "burden" the "country's finances".[44] And with a similar eye to reducing expenses, Edvard Røring Colbiørnsen proposed that one should brand criminals on the back and not on the forehead, to avoid significantly lowering the slave's value on the market.[45]

It would be wrong, however, to see the liberal problematization of infamy and the biopolitical problematization of costs as entirely separate. In practice, they presupposed each other, as they did for instance in the examples mentioned above. Thus, when Walterstorff feared the cost of punishing slaves at the gallows for

[40] CUC. 37.7.8. The State vs. Jochum and Sam (September 3, 1785), fols. 36-46, quotation fol. 44.

[41] This was the case, for instance, when E. R. Colbiørnsen spoke against making capital punishment too common, for instance as punishment for the crime of self-mutilation. In his view, capital punishments not only "lose some of their effect" if repeated too often but also involved a very tangible "loss for the state" (CC. 421. E. R. Colbiørnsen's *Anmærkninger* (September 24, 1788), p. 108).

[42] On contemporary French and Swedish practices of reimbursement, see Thomasson, *Svarta S:t Barthélemy*, 170-172.

[43] This estimation was given by E. R. Colbiørnsen in his verdict on Jochum and Sam referred to above (fol. 45).

[44] CC. 421. Walterstorff's *Betænkninger* (October 8, 1788), p. 133 (book 3, art. 68).

[45] This concern with market value was what was implied as the St. Croix Burgher Council, and E. R. Colbiørnsen disagreed about whether one should, "to the benefit of the country", cease to brand thieves on the forehead. The former saw this as less important than "the country's honor" (ibid., the St. Croix Burgher Council's *Betænkninger* (August 1, 1787), p. 74). In this case, Governor General Walterstorff sided with the Burgher council.

perjury, he of course assumed, like Lindemann, Laurberg, and Malleville had done, that 'dishonest' slaves convicted and defamed at the gallows simply could not be returned to their 'honest' peers, but had to be banished and sold off by the state. And when Colbiørnsen proposed branding slaves on the back, he did so in order to protect and harness the passion of honor. For, he added, unlike he who is branded on the back and who can therefore "more easily hide his disgrace", a slave who is branded on the forehead "will be known by all as a rogue and therefore has no encouragement for improvement".[46]

Thus, although these problematizations clearly pulled in different directions – one favoring a clearer distinction between dishonest and honest crimes and punishments, the other favoring a general decrease in capital punishment, mutilation, branding and otherwise costly or value-decreasing punishments – in practice they worked in tandem. Together, they drove colonial justice to carve up a clearer distinction between the lesser and greater crimes and criminals, to rid society of the latter, and to spare the former from the permanent infamy and physical marks of the gallows. But before turning to these transformations in colonial justice and the art of governing through which they took shape, I will turn to the metropole and its contemporary deliberations on penal reform. For, as I will argue, by comparing colonial and metropolitan penal governmentalities, one discovers both many points of resemblance and even how they drew upon each other.

Penal reform in Denmark

When Oluf Lundt Bang and the rest of the Slave Law Commission received Lindemann's draft and the comments from his colonial colleagues in late 1784 or early 1785, they appear, as already noted, to have fully accepted the main thrusts of Lindemann's and Laurberg's ideas.[47] To them, in other words, there was no reason why the basic legal distinction between 'honest' and 'dishonest' crimes and punishments could not apply in the colonial context of racialized slavery. But does this mean that Danish West Indian officials were merely applying or extending a penal governmentality that was already well-established in the metropole? Or are

[46] Ibid., E. R. Colbiørnsen's *Anmærkninger* (September 24, 1788), p. 109.

[47] This is also supported by a revealing passage in Bang's undated *Nota*, in which he compared the Slave Commission's second draft with Lindemann's draft clause by clause. Here, he professed his agreement with "the reasons mentioned by Laurberg", by which he referred to Laurberg's critique of Lindemann's paragraph on 'simple desertion', the one he believed failed to adequately separate the 'dishonest' and 'honest' criminals (see CC. 419. No. 28: Bang's *Nota*, *sub* 'The fourth book of the Danish project compared with the first book of the West Indian project', §33).

there rather, as I will show below, signs that metropole and colony developed together and that colonial developments even prefigured later metropolitan ones?

To explore these questions, this section of the chapter will focus on the work of two commissions that were appointed in the late eighteenth and early nineteenth century to revise the Danish Penal Code. The first of these was appointed in 1783, and in 1789 its work led to a Decree on Thievery and the Handling of Stolen Goods that is today seen as a prime example of the new penal principles of the Enlightenment.[48] In spite of this, its deliberations have rarely been the subject of thorough analysis, much less its underlying governmentality.[49] Among its members were several of the country's foremost legal experts, such as Jacob Edvard Colbiørnsen (Professor of Law at the University of Copenhagen and the older brother of Edvard Røring Colbiørnsen), Lauritz Nørregaard (Judge of the Supreme Court), and Oluf Lundt Bang. In drawing up the decree, the Commission was also assisted by another Colbiørnsen, the Attorney General and rural reformer Christian Ditlev.

Along with his brother Jacob Edvard, as well as Lauritz Nørregaard and the President of the Danish Chancellery Frederik Moltke, Christian Ditlev Colbiørnsen was also a member of the second commission examined here, the Criminal Law Commission which was in session from 1800 to 1803. Unlike the Theft Commission (as it will be called here), the task of the Criminal Law Commission was to define the main principles upon which a future revision of the entire Penal Code could be based. And unlike the Theft Commission, the work of this commission did not issue in any concrete reform. But like it, however, I believe that its deliberations offer a valuable window into the penal governmentalities that were generally accepted in the metropole.

The following will begin by considering the problematizations through which these penal reformers began to criticize the excesses of the existing penal laws. As in the colony, these critiques usually had a very tangible target, in this case the Danish Code's sixth book, 'On Crimes' (*Om Misgerninger*), that had – with some minor revisions – functioned as the foundational penal code since 1683. As in the colony, moreover, these excesses were usually understood as reflections of a lack of proportionality between crime and punishment. As Christian Ditlev Colbiørnsen argued as a member of the Criminal Law Commission in 1800, punishments should be no more severe than what was necessary "to deter evil". On the contrary, if punishments were excessively harsh – if the law, in other words, failed to modulate

[48] Ditlev Tamm and Jens Ulf Jørgensen, *Dansk retshistorie i hovedpunkter - fra Landskabslovene til Ørsted* (Copenhagen: Akademisk Forlag, 1983), 49-51.

[49] To my knowledge, the only detailed treatment of the Commission's files is found in Krogh, *Staten og de besiddelsesløse*, 160-166.

punishments to "the nature of each crime" – then the law would take on "the appearance of vengeance" and itself become "harmful".[50]

As advised by Michel Foucault, one should not interpret this call for moderation and proportionality in punishment – a call that was heard all across the eighteenth-century world of the Enlightenment – as a reflection of "a new respect for the humanity of the condemned".[51] Rather, as in the colony, this was clearly a project that was tied to new conceptions of governing and, of course, to the interests of states and dominant groups in society. This is also the prevailing understanding in current histories of late eighteenth-century Danish penal reform. Here, following Foucault, scholars now prefer to see them more as a matter of "optimization" or "rationalization" than as "humanization".[52]

By exploring the penal governmentalities of the two commissions mentioned above, this chapter adds further support to this interpretation. Yet, it also challenges its tendency to dismiss the significance of the idea of 'man' or 'humanity', as reflected for instance in the sharp – and, in some sense, Foucauldian – distinction between surface ideals ('humanization') and genuine strategy ('rationalization' and 'optimization'). In Foucault's *Discipline and Punish*, it is worth noting, this suspicion of the Enlightenment idea of 'humanity' led him to the argument that, for eighteenth-century penal reformers, 'man' was no more than an empty signifier. To them, Foucault argued, the 'man' they opposed to the horrors of the scaffold was not, as he would be in the nineteenth century, "a theme of positive knowledge"; that is, he was not a being whose nature or individuality were to be known in order to punish him more optimally.[53] Instead, the figure of 'man' functioned purely as "a legal limit",[54] one reformers used as an argument for limiting those forms of punishment that hindered their attempt to "insert the power to punish more deeply into the social body."[55]

In my view, however, it is vital to know what kind of man was presupposed in late eighteenth-century penal reform. As shown in the analysis above, among Danish West Indian reformers, at least, the 'man' that was set up against the horrors of the gallows was not simply an empty signifier or a convenient argument, nor a pure object of genuine compassion, but rather a being in whose very depths there was

[50] DC. G123A-G123B. C. D. Colbiørnsen's *Fragment, som Bidrag til det Commissionen paalagte Arbejde at foreslaae Grundsætninger til en nye og forbedret Criminel-Lov* (November 17, 1800), hereafter *Fragment*.
[51] Foucault, *Discipline and Punish – The Birth of the Prison*, 78.
[52] Peter Scharff Smith, *Moralske hospitaler - Det moderne fængselsvæsens gennembrud 1770-1870* (Forum, 2003), 71. See also Signe Nipper Nielsen, "»Tvang er den sande Friheds Grundstøtte« - Civilisation og kontrol i den danske oplysningstids strafforståelser belyst ved kriminal-lovgivnings kommissionen af 24. oktober 1800," *Historisk Tidsskrift* 103, no. 2 (2003): 319-320.
[53] Foucault, *Discipline and Punish – The Birth of the Prison*, 74.
[54] Ibid.
[55] Ibid., 82.

presumed to reside fundamental mechanisms of self-government: a passion of honor that had to be known, protected, and harnessed. Similarly, in the metropole, to 'humanize' punishment would also eventually, I will argue, involve a problematization of how penal infamy kept the passion of honor from shaping conduct and subjects. Here, however, there are signs that this particular way of problematizing infamy became central somewhat later than it did in the colony. In the mid-1780s, at least, it appears that infamy was problematic for a slightly different reason: not for corrupting an 'internal' mechanism of conduct and subject formation, but for acting as an 'external' force that placed individuals in a position where they could hardly become anything other than idle, useless, and even criminals. To examine this change in the problematization of infamy, the following will proceed chronologically, from the Theft Commission in the mid-1780s to the Criminal Law Commission in the early 1800s.

Two problematizations of infamy

The Theft Commission in the 1780s

It was no coincidence that theft, and property-related crimes in general, was among the first to catch the eye of Danish penal reformers. Not only had theft long been – at least since the century's beginning – the most common accusation dealt with in Danish courts (as it appears to have been all across Europe),[56] it was also the crime that now appeared more than any other to require a more proportional punitive response. As noted in the terms of reference that defined the task of the Theft Commission, "no part of the law appears more in need of reform than its sixth book on crimes", and in this no punishment appears to conform less to "the degrees of the crimes" than the one that is also "the most common", namely the punishment for theft.[57]

This lack of proportionality, the commissioners easily agreed, was reflected in an excessive use of infamy and brutality. Although major theft, following a 1771 amendment, no longer carried the death sentence by hanging, even a first-time verdict of minor theft (i.e., involving a value less than ten rixdollars) usually involved public disgrace and whippings at the gallows (*kagstrygning*), on top of which recidivist and more serious offenders were branded on the forehead and sentenced to years of penal labor, ultimately for life. As the commissioners convened in 1786 to discuss their respective proposals, they agreed to reserve the infamy and whippings of the gallows for third-time minor and first-time major thieves, a group who were also the only ones to suffer life-time imprisonment in the

[56] Krogh, *Oplysningstiden og det magiske*, 252-267.
[57] DC. F10-65. File 122: No. 1, the Commission's terms of reference or *kommissorium* (March 19, 1783).

fortress (meaning 'slavery'), on top of which second-time major thieves were to be branded on the forehead. All others, it was agreed, should be freed from the infamy of the gallows, and were instead sentenced to prison, first-time offenders and women to the "less dishonoring" punishment of a house of correction (*tugthus*), while second-time offenders were to serve their sentence at a fortress (or *rapshuis*), but to do so as 'honest' criminals.[58]

If the commissioners agreed on these proposals relatively easily, this was at least partly because it reflected the greater lenience with which Danish judges already made use of the gallows. As Tage Holmboe has demonstrated in his detailed study of the Supreme Court, the second half of the eighteenth century saw a gradual decrease in the use of capital punishment, mutilation, and dishonoring punishments. In regard to thieves in particular, it had from c. 1750 become customary in less serious cases of theft for the Supreme Court to convert hanging (abolished in 1771), branding, and whippings at the gallows to prison sentences.[59]

In 1786, however, there was one minor issue that divided the commissioners. Should the law explicitly distinguish between 'honest' and 'dishonest' crimes and punishments by making it clear that only life sentences meant "the loss of honor" (*ærens fortabelse*)? Three commissioners, among them Oluf Lundt Bang, were against this. In their view, it would give people the impression that there was nothing dishonorable or shameful about theft, and thereby "remove many a motive not to steal".[60] However, the three remaining commissioners, among them Jacob Edvard Colbiørnsen and Lauritz Nørregaard, believed it should be clear that only life-sentence convicts lost their honor in the legal and formal sense of the term. Otherwise, those 'honest' convicts who would once regain their freedom would, by being associated with the defamed, inevitably suffer a loss of honor and thereby, they argued, become unable "to earn their daily bread".[61]

More precisely, what Colbiørnsen and Nørregaard problematized was how infamy acted as an external force that ostracized individuals from those social contexts in which they could be useful to society. Thus, rather than disrupting an inner mechanism of conduct and subject formation, in their view, the problem with infamy

[58] DC. F10-65. File 122: The Commission's proposal (*Commisariernes udkast og forslag*), §§ 3, 5-8 (undated but submitted June 28, 1786). The quotation stems from the Commission's report (*Allernaadigst Indberetning*) that accompanied the draft (dated June 28, 1786). In large respects, the Commission's proposals followed O. L. Bang's proposals from 1784 (ibid., Bang's untitled document dated May 20, 1784, submitted May 20, 1786).

[59] Tage Holmboe, "Højesteret og strafferetten," in *Højesteret 1661-1961*, ed. Povl Bagge, Jep Lauesen Frost, and Bernt Hjejle (Copenhagen: G.E.C. Gads Forlag, 1961), 65-88, 159-160.

[60] DC F10-65. File 122: O. L. Bang's comments (dated May 17, 1786), §6. See also the Commission's minutes from its meeting of May 20, 1786, *sub* §6 (ibid., untitled document placed after document No. 1).

[61] Ibid., the minutes from the meeting May 20, 1786, *sub* §6 (untitled document placed after document No. 1).

was how it placed the defamed in a position where he or she had little choice but to be idle, useless, and even criminal. As they explained during the discussions in 1786:

> When a human being has lost his honor, he is thereby made completely unsuited to live in liberty. For, being universally despised, no one wishes to have any association with him and thereby, to him, all legal occupations are closed off. He will become a burden to himself and to others, and will be tempted to commit new crimes in order to maintain his life.[62]

Likely, the opposing side did not disagree with this conception of the problem. At least Oluf Lundt Bang had previously aired a very similar understanding,[63] and it likely expressed a commonly held understanding among legal experts. In Tage Holmboe's reading at least, it was in large part this concern to avoid placing free people in impossible circumstances that had made it meaningful for Supreme Court judges to decrease the use of penal infamy in the preceding decades.[64]

Rather, the reason why Bang opposed drawing a sharp distinction between 'honest' and 'dishonest' crimes and punishments was that he hoped to deal with this problem of infamy without making theft any less dishonorable in the eyes of the populace. As noted above, he feared that a sharp distinction would make it more acceptable to steal. That is, he feared that it would hinder the passion of honor from exerting a 'negative' pull away from wrongdoing. For this reason, it was best – he believed – to leave the customary shamefulness of theft intact. Yet, to avoid ostracizing too many people too much, he also wished, like the rest of the commissioners, to free the lesser offenders from the formal and most tangible marks of infamy, namely the gallows, and exposed them instead to the less dishonoring sentence of penal labor.

In the final decree of 1789, it was Bang's vision that carried the day.[65] Thus, rather than a sharp distinction between honest and dishonest as favored by Lindemann, the end-result of the Commission's work on theft sought to retain a deterring element of shame in all punishments for theft. And rather than problematizing infamy as a corruption of 'internal' mechanisms of conduct and subject formation, as colonial officials had come to do, the decree was instead shaped by the idea that penal infamy was problematic for being an 'external' force that robbed individuals of what they needed to make a living in a legal fashion.

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[62] Ibid., the Commission's report (*Allernaadigst Indberetning*), dated June 28, 1786.

[63] In 1784, O. L. Bang noted how taking the honor (as well as the property) of those who were to regain their freedom would hinder them "from earning their bread without suffering disrepute" (ibid., memorandum of May 20, 1784, submitted May 20, 1786, p. 18).

[64] Holmboe, "Højesteret og strafferetten," see, e.g., 69, 161.

[65] In large part, this was due to Christian Ditlev Colbiørnsen's intervention (see DC. F10-65. File 122.: Colbiørnsen's *Anmærkninger over Commisionens Udkast* (January 26, 1789), in particular §6). The 1789 decree is printed in *Chronologisk Register*, vol. 10, 10-12.

Thus, Lindemann and his colonial peers were not extending a well-established problematization of infamy from the metropole to the colony. Rather, as they shared their views of colonial penal reform with the legal experts in the Slave Law Commission (among them O. L. Bang), they exposed them to a way of reasoning with which these were not familiar. In fact, as I will now argue, what colonial officials did was to anticipate changes that were to come. At least by the early 1800s when the Criminal Law Commission was in session, it had become self-evident to Danish penal reformers that the problem with infamy was also, at a deeper level, its corruption of internal mechanisms of conduct and subject formation.

The Criminal Law Commission in the early 1800s

By the early 1800s, the foremost legal minds of Denmark were ready to dispense entirely with the horrors of the gallows. As Signe Nipper Nielsen has shown in her detailed analysis of the Criminal Law Commissions, the public use of the wheel and other deadly or mutilating shows of violence was now opposed on both emotional and strategic grounds. That is, there were signs of a new culture of empathy for the condemned, but also a very real concern with the effect of such violence on the character of the population.[66] On the latter count, Nielsen rightly recognizes the influence of the Italian theorist Cesare Beccaria and his work *On Crime and Punishment* (1764). Here, Beccaria had warned about how excessive penal violence led to a general hardening of "human souls" by corrupting what he and many other penal reformers across Europe now described as "sympathy" or "the grounds for morality", as noted by Lynn Hunt.[67]

But in Denmark at least, the problem with the gallows was not only, as Nielsen's account suggests, how displays of violence led to a general immoralization or hardening of 'the soul'. What was absolutely central for all commissioners was also, as it was for colonial penal reformers, how the excessive use of penal infamy risked corrupting the passion of honor. Like them, the commissioners were convinced that infamy should be used sparingly and reserved for those serious crimes that carried

[66] Nielsen, "»Tvang er den sande Friheds Grundstøtte«." Note for instance how Professor of Law J. F. W. Schlegel criticized the Penal Code's all too frequent use of public dismemberment, torture, and branding as practices that were "demeaning to humanity" and sure to have a "harmful influence on the people's way of thinking", imbuing "the nation with a penchant for cruelty" (DC. G123A-G123B. No. 5: Schlegel's memorandum (July 6, 1802), *sub* 'Om livsstraffe' (fols. 35-37)).

[67] Lynn Hunt, *Inventing Human Rights – A History* (New York & London: W. W. Norton & Company, Inc., 2007), 109. Note for instance Beccaria's warning that "as punishments become harsher, human souls which, like fluids, find their level from their surroundings, become hardened and the ever lively power of the emotions brings it about that, after a hundred years of cruel tortures, the wheel only causes as much fear as prison previously did" (*On Crimes and Punishments and Other Writings*, trans. Richard Davies and Virginia Cox, Cambridge Texts in the History of Political Thought (1995 [1764]), 63-64 (chap. 27)).

either capital punishment or life-time imprisonment and which must, as they agreed in 1803, "according to their nature and general notion of honor and morality necessarily be considered shameful and therefore bring upon their author the deserved contempt of every good and righteous citizen".[68]

In its 1803 proposal, the Commission included murder, arson, rebellion, rape, major fraud, major theft, and 'crimes against nature' (such as sodomy) in this category, but not a number of crimes that had previously or until recently brought upon the criminal the stain of dishonor, such as accidental homicide (*drab*), dueling, or minor theft (until 1789). Moreover, in aiming to restrict the use of infamy and to distinguish more clearly between honorable and dishonorable punishments, the Commission recommended completely abolishing all those "lesser degrees of dishonorable punishments" – such as the pillory (*gabestok*) or the iron collar (*halsjern*) – that were often used to punish minor police offenses, such as vagrancy, public disorder, or drunkenness, without entailing a formal loss of honor.[69]

The purpose of using infamy in this way, the Commission agreed, was to "guide and correct the people's sense of honor, which it is extremely important for the Government to maintain".[70] Essentially, this meant two things. On the one hand, by punishing with infamy only what "every good and righteous citizen" would by himself recognize as infamous, the Government would first of all ensure that people entertained the correct notions of good and evil, an idea that could clearly be traced to Beccaria. In his mind, if the state punished with infamy what was not in itself serious enough to be considered infamous, the distinctions between different degrees of crimes become unclear and "moral sentiments are destroyed".[71] But just as importantly, what the commissioners had in mind was also a related, but slightly different idea: namely, that penal infamy tends to corrupt a vital mechanism of ethical conduct and self-formation: the passion of honor. Thus, by the early 1800s, the problem with infamy was no longer, as it was in the 1780s, how an external ostracizing force placed individuals in impossible circumstances. Rather, the problem was now, as it had been in the colony since the 1780s, how penal infamy, if used unsparingly and disproportionately, confused the people's conceptions of what was more or less disgraceful and tended to break down the passion of honor.

The centrality of this problematization of infamy is evidenced by the deliberations that took place among the commissioners between 1800 and 1803. An important text is Christian Ditlev Colbiørnsen's so-called *Fragment*, which articulated many

[68] DC. G123A-G123B: the Commission's proposal (*Allerunderdanigst Forestilling*) of October 27, 1803, *sub* II ('Æresstraffe'), pt. I.
[69] Ibid., *sub* II ('Æresstraffe'), quotation pt. II, see also pts. IV-VIII and *sub* III ('Legemsstraffe').
[70] Ibid., *sub* II ('Æresstraffe').
[71] Beccaria, *On Crimes and Punishments*, 87 (chap. 33), see also 54-55 (chap. 23).

of the key ideas. Here, Colbiørnsen described the excessive use of dishonorable punishment "as contrary to true principles of law". For:

> by making such punishments common, the lawgiver weakens his nation's sense of honor [*ærefølelse*] seeing as he makes it clear that he does not value the esteem of his citizens [*den borgerlige agtelse*].[72]

To illustrate this point, Colbiørnsen added a personal memoir from his younger years in Norway thirty years previously (the Colbiørnsen family was of Norwegian descent). Here, in a moment of "furor and zeal", a public official had sentenced a young farmhand to walk through town in the so-called 'Spanish cape' (*den spanske kappe*) as a punishment for reckless driving, presumably with a cart (Figure 5). In response, the young man begged for another kind of punishment – even to work for a lifetime in slavery – since he found "such disgrace a more severe punishment than death." But to no avail. In the end, Colbiørnsen explained, the excessive actions of the official led the young man to take his own life so as "to wash away, with his own blood, the stain that had been placed on his honor."[73] As he made clear in a previous memorandum on the subject, Colbiørnsen saw such instances as problematic because they kept the passion of honor from guiding the subject toward goodness. In his words, they undermined that "feeling of true honor" through which the Government should ideally "lead the people to patriotic love [*fædrelandskærlighed*], this foundation upon which civil society may alone find unshakable support".[74]

With his tying together of honor and good patriotic conduct, Christian Ditlev Colbiørnsen agreed with his fellow commissioner and brother, Professor of Law and Chief Justice of the Supreme Court Jacob Edvard Colbiørnsen. In his voluminous memorandum, which remained unfinished on his death in 1802, J. E. Colbjørnsen similarly understood the love of honor as a strong source of patriotic and moral conduct. According to him, among "a people in love with honor, the law should maintain and sharpen this noble feeling", meaning the love each such individual has for "the opinion that other human beings and in particular citizens have of his moral value as man and political value as citizen."[75]

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[72] DC. G123A-G123B. No. 3: C. D. Colbiørnsen's *Fragment* (November 17, 1800). It is partially published in Tamm and Jørgensen, *Dansk retshistorie*, 108-113.

[73] DC. G123A-G123B. No. 3: C. D. Colbiørnsen's *Fragment.*

[74] Ibid. Copy of C. D. Colbjørnsen's *Udtog af generalprokurørens betænkning […] angående trykkefrihedens grænser* (undated, but c. 1799).

[75] Ibid. No. 7: J. E. Colbjørnsen's posthumous memorandum, also referred to as his *Fragment* (undated and unfinished, discovered among his belongings and copied by C. D. Colbjørnsen, who submitted it to the Commission's proceedings in March 1803), pp. 132-133. See also ibid., *Forhandlingsprotokol*, pp. 5-6.

Figure 5: *The Spanish cape, drawn by Johannes Wiedewelt and engraved by Johann Friedrich Clemens 1772. Royal Danish Library.*

For Jacob Edvard Colbiørnsen, a primary object of the law is therefore to ensure that the people hold the right conceptions of what conduct has more or less moral value. Thus, if it is vital to use penal infamy sparingly and only for those crimes that truly deserve universal disgrace, this is in order to "guide the ways of thinking of the citizens, to seek to give them the right conceptions of true human and civil worth and make these concepts lively and strong". For, "being infused by these, each thinking citizen will make it the principle of his efforts to achieve such a worth".[76] But also, he adds, it is vital in order to avoid corrupting that "love of self" without which individuals would cease to emulate what has moral value. Indeed, he feared that if the laws had, by an excessive use of infamy, "choked that feeling of civil

[76] DC. G123A-G123B. No. 7: J. E. Colbjørnsen's *Fragment,* pp. 133-134.

esteem that should, as a source of patriotic conduct, so carefully be maintained", there was even the additional risk that the defamed would take pride in what was bad and even criminal. As he continued:

> the love of honor, this need in every individual for the approving opinion of others that nature has implanted in the human heart, cannot be rooted out. If it is not directed toward the good of civil society, it will degenerate and bring about its corruption.[77]

In fact, in J. E. Colbiørnsen's view, an individual whose sense of honor had been perverted would be enticed to crime and even desire to be punished, as he sought "the only distinction that is still left for him", namely to gain the praise of his fellow citizens for the "courage" and "bravery" with which he faces his painful and terrible undoing.[78] As it appears, excessive penal infamy could not only confuse conceptions of good and bad, but also pervert individuals to take pride in acts that were essentially evil.

Usually, however, the other commissioners generally described the source of such evil conduct less as a perversion, and more as the complete loss of the love for the opinions of others. For instance, in his criticism of the practice of branding, Professor of Law Johan Frederik Wilhelm Schlegel assumed a close connection between the loss of this love and immoral conduct. As he argued, such a branded person has no escape from "the scorn and contempt of everyone, he knows that this verdict as to his conduct is, by his being marked, irrevocable":

> by necessity, he will fall either to the highest degree of despair or to a complete disregard for the judgement of others, a situation that will make any form of moral improvement completely impossible and will make him the sworn enemy of the entire human race [*det menneskelige køns afsagde fjende*].[79]

In this regard, another commissioner, Lauritz Nørregaard, took a very similar position. In his version of the argument, he leaned upon the German theologist and legal scholar Johann David Michaelis (1717-1791). Although Michaelis, in his *Mosaic Law* (originally *Mosaiches Recht*, 1770-1771, published in Danish in 1775), had proposed the complete abolition of dishonorable punishment (a move Nørregaard and the rest of the Commission believed went too far), Nørregaard nonetheless found it worthwhile to present Michaelis's diagnosis of the ills of dishonorable punishments: namely that, for the public, the individual who loses his or her honor becomes at best "useless" or, in the worst case, "a dangerous rogue [*farlig skælm*]". For, as he quoted Michaelis:

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[77] Ibid., pp. 28-29.
[78] Ibid.
[79] Ibid. No. 5: Schlegel's memorandum (July 6, 1802), *sub* 'Om legemsstraffe', fols. 37-38.

> whoever is allowed in the state must have an honor; otherwise, the great bond through which he is made dependent on the public is lost: for whoever has no honor has nothing to lose and will not worry about the judgements of others – that is, he will not be held back from the most despicable actions by notions of honor and disgrace, but alone by punishments that may be evaded.[80]

Thus, for L. Nørregaard, J. E. Colbiørnsen, and the other commissioners, the problem of penal infamy was no longer that it placed individuals in impossible circumstances, as they themselves had argued as members of the Theft Commission in the 1780s. Rather, the problem was how penal infamy, if used unsparingly and unproportionally, confused conceptions of good and bad *and* broke down the passion of honor that would make individuals desire the approbation of others.

Of course, it is not possible to say on the basis of the analysis above what caused or inspired this change in the problematization of infamy. Not least, it is impossible to say what role the penal reformers of the Danish West Indies played. Certainly, through the Slave Law Commission, figures like Oluf Lundt Bang and Jacob Edvard Colbiørnsen became familiar with it. But in the 1800s, this must have been a distant memory. Here, they more likely drew upon other experiences or, as Lauritz Nørregaard had done, upon theoretical works like that of Johann David Michaelis, as quoted above. Yet, what can be said with certainty is that in their respective attempts to reform the penal laws, colonial and domestic penal reformers eventually came to rely on the same problematization of penal infamy. To both, the 'humanity' of the condemned was not merely a convenient argument or an object of pity, but a being with inborn mechanisms of conduct to be known, saved, and harnessed.

Before returning to the colony, I will first explore the art of governing which was tied to this problematization of infamy. For, if it was vital to use infamy sparingly and proportionally, on the basis of what rationalities was it possible to determine who should be spared and who should suffer permanent exclusion and infamy?

The art of punishing: Dangerous crimes and evil criminals

In the late eighteenth century and the early nineteenth century, Danish penal reformers in the two commissions examined here oscillated between two principles of proportionality: on the one hand, to make punishment proportional to the danger the criminal act posed to society and, on the other, to make it proportional to the degree of evil or immorality residing in its author, the criminal. As Signe Nipper Nielsen has observed in her analysis of the Criminal Law Commission, these

[80] Ibid. No. 10: L. Nørregaard's memorandum (April 27, 1803). The quotation stems from Johan David Michaelis, *Mosaiske Ret*, trans. Jacob Wolf, 3 vols. (Copenhagen: Gyldendals Forlag, 1780-1783), vol. 3, 30-31.

principles pulled in very different directions and often led commissioners toward very different views about how best to punish.[81] This section will expand on this insight by exploring how the Danish legal experts (in the two commissions in question) weighed up the relative importance of these two principles and how they were brought together to form a coherent art of punishing. To do so, I will begin with the Criminal Law Commission before turning to the 1780s and the Theft Commission.

On one side, Nielsen shows, one finds a classically Beccarian argument about proportionality.[82] According to this, to quote the Commission's 1803 proposal, the fundamental purpose of punishment was to "maintain civil society". By inference:

> a crime's greater or lesser harmful influence on society, that is, the guilty's greater or lesser violation of the social contract, should be the yardstick according to which the greatness of the crime and the appropriate punishment is determined."[83]

As a rule of thumb, the most serious of crimes were therefore those that threatened society in its foundation and entirety – such as treason or other direct offenses against the monarch and the state – while the less serious crimes were those that did so only indirectly by somehow harming the person, belongings, or honor of individual citizens.[84] Accordingly, the task of the lawgiver was to determine a penal response that was adequate, but no more than adequate, to deter individuals from acts that were harmful to society on a sliding scale: the greater the danger, the greater the penal response. Indeed, if punishments were either too severe or too lenient than necessary to achieve this purpose, they were, in the first instance, little different from lawless "violence and tyranny" and, in the second instance, "powerless and inadequate" to protect society from harm.[85]

Within the Commission, however, there was also at least one commissioner who followed Beccaria even further. According to Beccaria, crime should be understood through an 'economic' or 'rational choice' model of analysis.[86] Deep down, he presumed, criminals are no different from law-abiding individuals. They have merely made the calculation that crime serves their interests better. For this reason,

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[81] Nielsen, "»Tvang er den sande Friheds Grundstøtte«," 316.
[82] Ibid., 314-315.
[83] DC. G123A-G123B. *Allerunderdanigst Forestilling* (October 27, 1803), preface.
[84] In making this argument, however, the Commission recognized that crimes against individuals were not necessarily less dangerous than crimes against society. For, in violating the right to security that each was due in return for his entering into and respecting the social contract, some of the greater crimes against individuals – such as cold-blooded murder or public defamation – were naturally more dangerous to the bonds of society than the lesser crimes against the state, e.g., an accidental slip of the tongue at the monarch's expense (ibid.).
[85] Ibid.
[86] These expressions are borrowed from Bernard E. Harcourt's analysis of Beccaria's philosophy of punishment in his *The Illusion of Free Markets*, 53-77.

punishment must be nothing more and nothing less than is necessarily to make the 'pleasure' derived from the crime less enticing to such utility-maximizing individuals than the 'pain' inflicted by punishment.[87] In the Criminal Law Commission, this position was taken by its President, Frederik Moltke. Like Beccaria, he believed it was erroneous to suit the punishment to the character of individuals, and instead preferred to focus exclusively on the danger of the criminal act itself. In his words, the true and only object of the criminal laws is "the dangerousness of the act" and not "the principles and way of thinking of the criminal".[88]

The majority of the commissioners, however, did not take such a doctrinaire position. Instead, they argued and, it seems, ultimately swayed Moltke that it was necessary to combine the Beccarian focus on societal harm with a focus on what they called "the morality of the act [*handlingens moralitet*]".[89] In the proposal and various memoranda, however, the commissioners rarely felt any need to define what it meant to fit punishment to 'the morality of the act'. But from their use of the term and related concepts, I will argue, it is clear that they understood it as what Michel Foucault, in his analysis of the contemporaneous penal reformers of France, has called "the intrinsic quality of the will".[90] Thus, in their eyes, to determine 'the morality of the act' was not really about the act itself. But nor was it, as it would be in the penitentiary of the nineteenth century, a question of acquiring a deep and complex knowledge of the individual's 'personality' so that one might rehabilitate in the most effective way.[91] Rather, what was questioned was simply this: Was the criminal's will devoted to the 'good' or had it, by a kind of corruption, fallen prey to the baser passions within? To judge 'the morality of the act' was therefore to judge the criminal's moral habitus and to do so on a rather simple scale: from 'good' to 'evil'.

For one thing, this understanding of 'the morality of the act' was presupposed in Frederik Moltke's critique of the idea. In his view, it was illusory to expect that judges would be able to "discover the most secret movements of the soul" and decipher whether the criminal had truly done everything to "defeat the stormy passions" within.[92] But one also finds the same understanding among the more whole-hearted supporters of the idea. Among them, "the morality of the act" was synonymous with "the degree of evil" reflected in the act,[93] a term that was used, again rather loosely, to refer to the degree to which the will of individuals had turned

[87] Beccaria, *On Crimes and Punishments*, 9, 21.
[88] DC. G123A-G123B. No. 3: Moltke's memorandum (July 6, 1801), p. 7.
[89] Ibid. *Allerunderdanigst Forestilling* (October 27, 1803), preface; see also the Commission's minutes from March 9, 1803 (ibid., *Forhandlingsprotokol*, p. 7).
[90] Foucault, *Discipline and Punish – The Birth of the Prison*, 98.
[91] Ibid., 248-256.
[92] DC. G123A-G123B. No. 3: Moltke's memorandum (July 6, 1801), pp. 7-8.
[93] Ibid. *Allerunderdanigst Forestilling* (October 27, 1803), preface.

away from 'the good'. In Christian Ditlev Colbiørnsen's various contributions, for instance, 'evil' was described as the property of individuals whose crime did not issue from their "natural urges [*naturdrifter*]", their "recklessness [*overilelse*]", or "a lack of good upbringing", but from choices and exercises of the will.[94] Indeed, more than anything, the source of the "morally evil act", Colbiørnsen argued at one point, was how the individual had allowed his will to be enslaved to his "self-love [*selvkærlighed*]". In his words:

> one can hardly imagine any kind of misdeed that does not have its basis in self-interest [*egennytte*], whether it consists in satisfying one's passions [*tilfredsstille sine lidenskaber*] or in acquiring for oneself some imagined good in accordance with the criminal's conception of this [good].[95]

Essentially, what was presupposed in these conceptions of crime and criminals was what is now commonly referred to as *homo duplex* ('double man'). As Rune Holst Scherg has argued in an article on the pre-criminological ideas of man, the model of homo duplex was absolutely central to the general understandings of crimes and criminals in late eighteenth-century Denmark. According to this model, which he argues was most fully articulated in Kantian philosophy, the criminal was not, as Beccaria had argued, an economic man who rationally pursued his interests. Rather, just as Christian Ditlev Colbiørnsen assumed, the criminal was supposedly split between good and evil: he possessed reason and volition, but had become enslaved to those passions that drove him toward crime.[96]

Thus, for the criminal law commissioners, to punish proportionally was to fit the punishment to both the societal danger of acts and the evil leanings of criminals. But how should the Penal Code succeed in doing both, and how more precisely could it distinguish the evil from the non-evil criminal? To explore this question it is useful to turn to the Theft Commission and its more hands-on and specific task of revising the laws of theft.

The 1789 Decree on Theft clearly owes much to Beccaria's familiar ideal of setting up, as worded in the decree's preamble, "a reasonable and appropriate proportion between the different degrees of the crime and its punishment" that offers "as much lenience as public security allows".[97] Yet, as scholars have long recognized, the decree is also characteristic for expressing a new and sustained interest in the 'subjective' dimension of the crime, one that had been missing from previous penal

[94] Ibid. No. 3: C. D. Colbiørnsen's *Fragment*, *sub* C, H, J & IIIc.
[95] Ibid. No. 14: C. D. Colbjørnsen's *Anmærkninger* (October 12, 1803).
[96] Rune Holst Scherg, "»Synd, Forbrydelser og Laster«. Forbryderen i 1800-tallets Danmark," *Historisk Tidsskrift* 106, no. 1 (2006): 64-76.
[97] Decree of February 20, 1789, preamble (printed in *Chronologisk Register*, vol. 10, 10-12).

laws.[98] It aimed to balance this concern for both the act and the criminal by constructing a rising scale of imprisonment that depended on both objective and quantifiable criteria (e.g., the amount stolen, the harms suffered by victim, the criminal's age, and the number of offenses) and more subjective or qualitative criteria (e.g., knowledge of the criminal's "upbringing, prior life, and current constitution", as worded in the decree). Most important were of course the repetition and the severity of the crime. For a third-time minor theft or first-time major theft (stealing cows or horses, for instance, counted as major theft), the facticity of the act was in fact all that mattered, as these always meant infamy and lifetime imprisonment. But for first- and second-time minor theft, there was plenty of room for the judge to take the specifics of the case and the individuality of the criminal into account. In the former, he could issue between two months and two years of correctional labor, and for a second-time minor offense between three and five years of harsher labor (in the *rapshuis* or fortress).[99]

Clearly, this gave great priority to an individualizing assessment of both the circumstances of each case and the morality of the offender. And to judge from the preceding deliberations of the Commission, this was clearly also the intention. In fact, the attempt to decode the 'degree of evil' in the offender was something that overshadowed these deliberations. For instance, it was central to the discussion of whether one should continue to categorize thefts as minor or major on the basis of the stolen amount (at the time, everything with a value above 10 rixdollars counted as major theft). Lauritz Nørregaard was of the opinion that it was usually mere happenstance whether little or much was stolen, and that the value stolen itself therefore said little about the morality of the offender.[100] In response, Jacob Edvard Colbiørnsen and Oluf Lundt Bang argued that although the value stolen was not the most important measure of criminality, it should nonetheless be considered as a circumstance. In the eyes of the former, this was so:

> not only because a theft of significant worth does more harm and wrong to the one who is robbed, but also because from the minor theft one may not to the same degree infer the degree of evil or temerity in the perpetrator [*slutte til den grad af ondskab*

[98] Holmboe, "Højesteret og strafferetten," 160-161; Nielsen, "»Tvang er den sande Friheds Grundstøtte«," 312; Tamm and Jørgensen, *Dansk retshistorie*, 50.

[99] Decree of February 20, 1789, §1-3. In §1, it was specified that the judge should here take into account "the criminal's age, upbringing [*opdragelse*], prior life [*foregående levned*], and current constitution [*iværende forfatning*], the occasion of the offense, the value stolen, especially considering the conditions of the victim, and finally whether the criminal has in the same case made himself guilty of further thefts, or if he has stolen from one he serves".

[100] DC. F10-65. File 122: No. 3, L. Nørregaard's *Erindringer* (submitted May 20, 1786), pp. 8-9.

eller dristighed hos gerningsmanden] that could move him to commit an even greater one.[101]

In line with these thoughts, the Commission agreed that the stolen amount should function as a circumstance that ought to be considered when the judge assessed the degree of danger and evil inherent to the crime.[102] But as the primary distinction between different classes of theft it preferred, as noted above, the criteria of repetition. Here, the reason for increasing the punishment with each repetition of the crime was understood as both as a deterrence against future wrongdoing and because repetition in itself was a sign of the offender's fall into evil.[103] For Oluf Lundt Bang, the author of the initial draft, the purpose of issuing life sentences for third-time minor offenders and first-time major offenders was simply this: that with their actions they had had shown themselves to be so depraved that there was "no hope of improvement".[104] Thus, just as Jacob Edvard Colbiørnsen believed that the theft of high values offered a transparent window in the 'evil' of the offender, so Bang found that repetition or the immensity of the crime was sufficient evidence that an individual had fallen so deeply into evil that he was too dangerous for society to be allowed to regain his freedom.

In fact, from Bang's 1784 initial draft, it is clear that punishing theft was not only about punishing dangerous acts, but also about punishing dangerous individuals. In his words, "the degrees of theft" must accord with both the danger of the crime and the difficulty of containing it, but must also be "determined insofar as it presupposes a greater or lesser corruption in morals [*fordærvelse i sæderne*], whereby more or less hope is left for improvement".[105] Thus, for Bang, crime presupposes a certain fall into immorality, and this fall is essentially what must be punished. More precisely, as he made clear, crime presupposes a prior "decay" and fall into such vices as "vanity", "carelessness", or "luxuriousness".[106] Indeed, just as it was for the criminal law commissioners of the early 1800s, for Bang the crime of theft could in almost every instance be traced back to a prior erosion of the will's mastery over the passions: to 'homo duplex' falling into evil. Exempting the exceptional instances where it is madness or hunger alone that produces the crime, theft is therefore, he argued:

[101] Ibid. No. 5: J. E. Colbiørnsen's *Anmærkninger* (dated March 21, 1785, submitted May 20, 1786); ibid. O. L. Bang's memorandum of May 20, 1784 (submitted May 20, 1786), pp. 5-6.
[102] Ibid., the Commission's report (*Allernaadigst Indberetning*), dated June 28, 1786.
[103] On this point, see ibid. No. 5, J. E. Colbiørnsen's *Anmærkninger* on how greater deterrence was needed to keep offenders from repeating their crime (in fact, this deterrence should, he said, be proportional to the criminal's "greater or lesser depravity").
[104] Ibid. O. L. Bang's memorandum of May 20, 1784 (submitted May 20, 1786), p. 30.
[105] Ibid., p. 4.
[106] Ibid., pp. 4-6, 8.

> a consequence of a lazy, luxurious and disorderly way of life [*en doven, ødsel og uordentlige levemåde*], of people who do not care to work, who do not bother to limit their mode of living in accordance with their basic necessities, yes who have through a long habit made it impossible for them to keep themselves within their bounds [*holde sig inden sine skrænker*], and therefore seek out occasions to claim the possessions of others in order to make up for what is most often a self-inflicted want. For this reason, I believe that *vita ante acta* [i.e., the life led so far] reveals the nature of the act.[107]

Thus, theft may, Bang argues, in almost every instance be traced back to a self-inflicted and gradual decline into immorality. Clearly, it was for this very reason that the 1789 decree stipulated that judges should modulate the length of the sentence to the criminal's "prior life [*foregående levned*]",[108] to his *vita ante acta*, as Bang had proposed. Once again, just like the severity and repetition of the crime, the purpose of assessing the criminal's 'prior life' was to 'reveal' to the judge 'the degree of evil' residing in the criminal.

According to Bang's analysis, therefore, those who should suffer infamy and permanent ostracization from society are those whose crime and prior conduct reveal an irreparable fall into immorality. For him, it appears, the law must punish not only dangerous acts, but also the gradual fall into immorality that produces the dangerous persons who commit them. To be sure, Bang's position was not the only one taken by the penal reformers of the time. Rather, as I have sought to show in this section, it was one of the positions that penal reformers oscillated between. At the other end of the spectrum was Frederik Moltke, who wished to focus solely on the act and entirely ignore the character of the criminal. But Moltke's position was clearly, as we have seen, a minority opinion among the reformers explored here. Much more widespread, it seems, was the idea that the penal laws ought to be proportional to both the dangerousness of the act and the immorality of the offender. In my view, this was the key characteristic of the art of punishing that was generally accepted in Denmark in the late eighteenth century, and one with which contemporary Danish West Indian officials would have been familiar. In fact, as I will now argue, it was an art with which these officials were not only familiar, but which was also absolutely central to their own efforts to reform colonial justice. Not least, it was central to their efforts to determine who ought to be spared and who ought to suffer the full pain and infamy of the gallows.

[107] Ibid., pp. 6-7
[108] Decree of February 20, 1789, §1 (printed in *Chronologisk Register*, vol. 10, 10-12).

Punishing slaves: Danger and evil in colonial penality

To explore the art of punishing that was essential to colonial justice, I will once again focus on the crime of theft. As in the metropole, theft was absolutely central to colonial penal reform. Theft was, without comparison, the most common charge in the colonial courts during the later decades of the eighteenth century.[109] In the eyes of the penal reformers, the laws of theft as stipulated in the 1733 Gardelin Code were also among those most in need of reform. As briefly noted already, Gardelin's clauses on theft emphasized the value stolen and made frequent use of horrific, deadly, and mutilating violence. More precisely, theft with a value of more than four rixdollars was to be punished at the gallows with glowing pincers followed by hanging, while all thieves who stole less were to be branded on the forehead and given 150 lashes.[110]

These laws on theft were central to colonial penal reformers from the very beginning. In 1775, the Colonial Government reported that it aimed to replace Gardelin's principles with a more multifaceted distinction between various degrees of theft, accompanied by more restrained use of capital punishment. For one thing, it wished – as was also the rule in the metropole – to exclude minor thefts or "pilfering" from the death penalty, "however often they are repeated", while keeping this and other brutal measures in place for more "severe and qualified" thefts, such as those committed collectively, during the nighttime, with murderous instruments, or involving breaking into and entering white domiciles.[111] Later on, in the mid-1780s, Gardelin's laws on theft were also central to the discussions on Lindemann's draft. In these laws, Lindemann saw "absolutely no proportion between the crime and the punishment", not least due to their complete lack of concern for recidivism and other mitigating or attenuating circumstances.[112] But more than anything, Gardelin's laws on theft were criticized and – as I will explore – partially replaced during the daily practices of colonial justice, with theft – as noted above – being the most widespread charge against enslaved persons in the jurisdiction of Christiansted.

In the following, I will explore the art of punishing that is found in these deliberating and practical engagements with the laws of theft. First, I will examine Lindemann's draft and the discussions it occasioned among colonial officials in the mid-1780s. Here, I argue, one finds a rather narrow and thoroughly Beccarian focus on the dangerousness of theft and little interest, if any, in the morality of the criminal. This, however, was absolutely central in colonial justice as colonial judges and Governors

[109] Simonsen, *Slave Stories*, 57-58 (Figures B and C).
[110] CC. 390, pp. 359-363, Gardelin Code, §6.
[111] WIG. 3.16.1. Letter to the Danish Chancellery (September 25, 1775).
[112] CC. 419. No. 24: Lindemann's *Forslag*, book 1, art. 44 (comment)

General sought in various ways to circumvent the Gardelin Code. To explore the art of punishing that was central to these penal practices, I have examined the handling by the ordinary court (*bytinget*) of thefts committed by slaves from 1786 to 1795, but have also paid particular attention to two shorter periods: firstly the years 1778-1782 during Peter Clausen's second governorship, and secondly the years 1794-1795, when Lindemann served as Acting Governor General (in Walterstorff's absence).[113] Besides the fact that these two periods include detailed records from the Governor General's office, they are interesting because they witnessed a change involving the problematization of infamy. Whereas proportionality in punishment used to have little to do with the distinction between dishonest and honest crime, by the 1790s, this distinction had become essential.

Debating the dangers of slave crime

As noted, Gardelin's clause on theft was fiercely criticized in Lindemann's *code noir*. In its place, he proposed a complex table of different kinds of theft that not only took into account various mitigating circumstances, but also wished to remove the stain of dishonor from lesser thieves. In his draft, only third-time offenders of small-time theft or pilfering (i.e., of less than a patacon[114]) should be "known as a thief", and only third-time minor theft (i.e., of less than 10 rixdollars) and second-time major theft would suffer infamy and ultimately hanging at the gallows.[115]

Compared to the art of punishing that was generally accepted among his metropolitan colleagues, however, Lindemann's table of punishment was more thoroughly Beccarian.[116] To him, what was important was not the morality of the criminal, but a number of quantifiable elements that made it possible to determine with great exactitude how "harmful" each kind of act was to society, or more precisely, to white society.[117] What mattered to him was the amount stolen, the status and race of the victim, whether it was a first-, second-, or third-time occurrence, whether it was committed after dark or during fires, alone or with others, with or

[113] More concretely, the sources on colonial justice investigated here are primarily 1) the Governor General's copybooks (GG 2.5.1-2 and GG 2.16.1), and 2) verdicts (and in some cases police examinations) of the *byfoged* in Christiansted that constituted the object of the Governor General's decisions on cases between 1778-1782 and 1794-95 (CCB 38.6.13-14, 18). Besides this, the analysis also explores several cases of theft from the period 1785-1795 by studying verdicts and the correspondence between judges and Governors General.

[114] A small coin at the time worth roughly two thirds of a rixdollar (see Hans West, *Bidrag til Beskrivelse over St Croix med et Kort Udsigt over St. Thomas, St. Jean, Tortola, Spanishtown og Crabeneiland* (Copenhagen: Friderik Wilhelm Thiele, 1793), 177, 197-198).

[115] CC. 419. No. 24: Lindemann's *Forslag*, book 1, arts. 44-55.

[116] Naturally, as the erudite penal reformer he aimed to be, Lindemann was well-versed in Beccaria's philosophy of punishment (see, e.g., ibid., book 1, art. 70).

[117] Ibid., comment on book 1, art. 45.

without a lockpick, deadly weapons, or violence, and so forth.[118] But he did not, like Oluf Lundt Bang and other metropolitan penal reformers, seem interested in these specifics because they might reveal the immorality of the criminal, and nor did he list the *vita ante acta* as grounds for sentencing. What was relevant was merely to consider "the criminal's more or less evil will [*ond vilje*]",[119] by which he meant the more or less "evil intention" behind the act.[120] In other words, the essential question for Lindemann was not whether the criminal was morally corrupt, but whether the criminal committed the crime deliberately and with bad intentions. Rather than an assessment of the moral state of a subject, what appeared central was an assessment of the subject's intentions.

Among his colonial peers, Lindemann's Beccarian slant did not raise any significant objections, and the same was true among the commissioners in Copenhagen.[121] In my view, this was the case for at least two important reasons. First of all, if neither Lindemann nor his colonial colleagues saw the morality of enslaved black criminals as important in sentencing, this was not primarily out of any doctrinaire devotion to Beccaria, but just as importantly due to an already well-established West Indian and even typically colonial proclivity of ignoring, denying, and even erasing the individuality of 'the colonial other'. In studies of nineteenth-century colonial penal practices, for instance, it has been thoroughly established how 'the criminal' came to stand in for the colonial population as a whole, and how examining and transforming his or her individual 'soul' was rarely the central object.[122] As suggested by Diana Paton with regard to nineteenth-century Jamaica, it may have been a "common aspect of colonial discourse [that] division and distinctions within the colonized population were erased."[123] In any case, this description would certainly apply in the context of the eighteenth-century Danish West Indies. Here, as in other slave colonies, a common representation of the "slave figure" was one

[118] Ibid., book 1, arts. 44-68.
[119] Ibid., book 4, art. 6.
[120] The phrase "evil intention [*ond hensigt*]" is found in various place in Lindemann's book on slave crime (see, e.g., ibid., book 1, arts. 7, 12, 63, 65-66).
[121] In the colonial discussion in 1784, the morality of the criminal only vaguely surfaced as something to be considered when State Councilor Laurberg proposed that, to punish theft, one should look to a plurality of factors; to "the person [*personen*], the value of the things, the method, the place, as well as the time." (CC. 421. Laurberg's *Erindringer* (January 12, 1784), p. 6). Although Oluf Lundt Bang agreed with this sentiment, to judge from the drafts and discussions in the Slave Law Commission, neither he nor his fellow commissioners took it mean that the morality of the offender was central to sentencing, nor did they aim to give it a role in their various drafts (see esp., CC. 419. No. 28: O. L. Bang's undated *Nota*, *sub* 'The fourth book of the Danish project compared with the first book of the West Indian project', §44-68.)
[122] See for instance Arnold, "The Colonial Prison: Power, Knowledge and Penology in Nineteenth-Century India." In a Danish West Indian context, see Sielemann, *Natures of Conduct*, 166-181.
[123] Paton, *No Bond but the Law*, 151. For a similar understanding, see Loomba, *Colonialism/Postcolonialism*, 66-69.

with "no biography".[124] Indeed, as Gunvor Simonsen has argued, what was conjured up by the figure of the slave was typically a homogeneous category bereft of internal divisions along the lines of gender, ethnicity, or status, and totally defined by the quality of being both 'negro' and 'property'.[125]

But if Lindemann could so easily exclude the criminal's morality from the domain of the penal laws, it was also because this collectivized slave figure had long been associated with a particular propensity for crime and evil. Perhaps more than anywhere else, this understanding was epitomized in Gardelin's 1733 code. Here, the slave was not only defined as his "master's money", but was also conceived as essentially a rogue, disposed by his racial nature to "evil" in all its forms.[126] Indeed, in the words of Simonsen, in Gardelin's code, the slave figure was essentially "a criminal subject" acting out of "a hodgepodge of dangerous emotions and inabilities."[127]

Fifty years later, as Lindemann's draft was discussed, this understanding of the slave as essentially criminal was still alive and well. Indeed, it was the basis on which Lindemann's choice of punishments was criticized as too gentle and therefore inadequately deterring.[128] In the words of one of his sternest critics, Thomas de Malleville, Lindemann had been misled by his "sensitive heart" to misrecognize the true nature of the governed. For as long as "the greater lot" of the slaves are "still immersed in evil [*liggende i det onde*]", and as long as they still greatly outnumber their white masters, it is necessary "to keep them in check with stern means of force."[129] No doubt, this mode of thinking was widespread in all ranks of the colonial state. In a 1784 case, for instance, Judge Lundby of the lower court in Christiansted offered the following assessment of the predicament of colonial justice:

> If this mass of slaves shall be governed, and rebellion, murder, and destruction be prevented, the slaves must show the most perfect obedience and reverence for the whites, and every offense against this be punished with the utmost sternness, and this all the more seeing as it is only a fear of punishment and not religion or upbringing that may keep the wild and unenlightened negro from committing crime.[130]

While this understanding of the slave as essentially evil and criminal was certainly foreign to Lindemann's draft, at some level it did fit together with his Beccarian exclusion of individual ethics and exclusive focus on the question of societal danger.

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[124] Simonsen, *Slave Stories*, 51.
[125] Ibid., 30-35, 50-52.
[126] CC. 390, p. 359-363.
[127] Simonsen, *Slave Stories*, 51.
[128] See, e.g., CC. 421. Schimmelmann's *Anmærkninger* (April 20, 1784), p. 35; ibid., Clausen's *Anmærkninger* (May 4, 1784), p. 40 (book 1, arts. 47 and 53).
[129] CC. 421. Malleville's *Skrivelse* (February 26, 1784), p. 21.
[130] CCB. 38.6.15, fols. 137-138: The state vs. Jochum and Sam (December 13, 1784), quotation fol. 137.

For, if every slave was, in his or her heart, incorrigibly evil and criminal, what would be the purpose of a biographic approach to slave crime? What would it show other than the shared immorality of their 'nature'? Moreover, if the only effective means by which to limit crime was to instill fear in the mind of the would-be-offender, why should punishment be proportional to the morality of the individual rather than to the danger of his offense?

In any case, albeit for very different reasons, Lindemann and his critics found some common ground in their focus on the danger of the act, as opposed to the morality of the individual. Yet, as I will now argue, this was not the only position that was taken among colonial officials, and not the only one that that would shape the practices of colonial justice. Here, in the rulings of judges and Governors General, one instead finds a sustained attention to precisely what both Lindemann and his critics tended to ignore: namely the morality of the individual offender. Indeed, by exploring these practices one finds, I would argue, an art of punishing that strongly resembles the art of punishing that was generally accepted in Denmark in the late eighteenth century, one that combined the idea of deterring future criminals in proportion to the societal danger of crimes and the idea of ridding society of those who had fallen into irreparable immorality.

Danger and evil in colonial justice, c. 1778-1782

In many ways, this attention to the morality of the offender was crucial and self-evident from the early beginnings of penal reform. The 1779 conviction of two male slaves named Quamina and Thom offers a good example. As Judge Alex Cooper reviewed the case, he believed their guilt proven beyond doubt. Quamina and Thom had, by their own admission, stolen and butchered a sheep belonging to a free-colored man in Christiansted during the night. Even so, Cooper found it pertinent to paint a picture of their respective "characters". Relying on the statements from Quamina's master, one Jacob Cantor, Cooper described him as "a major thief and marooner", one who was totally incorrigible and immune to the admonishments of his owner, and in all things one who "would never do good [*ville aldrig gøre godt*]".[131] Indeed, during his initial investigation, Cooper had focused much of his attention on discovering the state of Quamina's overall morality, directly asking his master "how the character of said negro was [*hvorledes bemeldte negers karakter var*]". In his response, as written down by justice clerk Ewald, Cantor described Quamina as "the greatest thief inhabiting planet Earth, he never wants to work and instead runs maroon for six to eight or even twelve months at a time". After detailing a long criminal record of thefts, primarily of sheep and cattle, Cantor also offered a more personal testimony on the incorrigibility of his slave. Describing how he had

[131] CCB. 38.6.13. Case 154/1779: The State vs. Quamina and Thom (July 27, 1779).

admonished Quamina to change his ways on an earlier occasion, Cantor was paraphrased in the following way:

> Quamina had replied 'Why should I care and how should one live well without stealing?', and that when another of Cantor's negroes some time ago was hanged, and he [i.e., Cantor] had told Quamina to go to the gallows to look himself in the mirror so not to end up in the gallows with said negro, Quamina had replied that he did not care […].[132]

Seemingly, it was not only Quamina's crime, but also his morals that were on trial. The same was true of his accomplice Thom, but for him it worked more to his advantage. In spite of his "obstinacy" in court, the judge noted that Thom had no priors and that nothing prejudicial had been uncovered as to his "character" or "conduct in life". While Cooper had few scruples about having Quamina – this "scoundrel and wretched negro" – hanged and tortured in accordance with Gardelin's punishment for major theft (the stolen sheep was conveniently valued at four rixdollars), he therefore believed there was reason to show mercy to Thom.[133] As it appears, Governor General Clausen agreed. In accordance with the "milder principles" now favored by the Colonial Government,[134] Clausen in fact reduced the sentence of both, but presumably it was these considerations that led him to show greater lenience toward Thom than Quamina. For, while the latter had his sentence commuted to 200 lashes at the gallows followed by banishment, the former's sentence was reduced to 100 lashes followed by fortress labor.[135]

In many ways, this case was rather typical. First of all, it followed the general pattern of gubernatorial pardoning of the period, briefly mentioned at the beginning of this chapter. Like many of the 34 percent of the cases (between 1776-1823) in which Governors General mitigated the punishment, this case involved commuting a capital sentence to a heavy flogging (up to 200 lashes) followed by transportation or fortress labor (and sometimes branding).[136] Sometimes, as Simonsen has

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[132] CCB. 38.9.4, fol. 208, police examination, June 3, 1779.
[133] CCB. 38.6.13. Case 154/1779: The State vs. Quamina and Thom (July 27, 1779).
[134] WIG. 3.16.1. Letter to the Danish Chancellery (October 15, 1778).
[135] GG. 2.5.1, pp. 225-226, entry August 5, 1779. It is unclear for how long Thom was sentenced to fortress labor, but it is not impossible that it was for life. Even so, at the time colonial officials tended to view fortress labor, even for life, as in reality a milder punishment than banishment. For whereas the latter meant an irrevocable breaking of all social ties (see e.g., Edvard Røring Colbjørnsen's description of the practice in CUC. 37.7.8. The State vs. Jochum and Sam (September 3, 1785), fol. 44), the enslaved often experienced penal labor in irons, they argued, as less strenuous than plantation labor. Lindemann's efforts to harshen the punishment of penal labor hoped to reverse this, so that enslaved penal laborers would "no longer prefer to remain in this condition than to be sold out of the country" (CC. 421. Lindemann's *Supplement til Neger-Loven* (July 8, 1784), p. 48; see also ibid. Malleville's *Betænkninger* (February 26, 1784), pp. 21-22).
[136] Simonsen, *Slave Stories*, 163-164.

demonstrated, gubernatorial pardon was preceded by the intercession of the owner or other whites concerned with the case.[137] But generally, and certainly in Quamina's and Thom's case, whether the Governor General found an individual worthy of being spared or deserving of the full force of the law was primarily informed, I will argue, by his and the judges' assessment of the danger of the crime and the morality of its author.

During Clausen's second governorship, we have access to 18 gubernatorial decisions from the period 1778-1782.[138] Of the cases concerning theft, Clausen mitigated five convictions of theft and confirmed eight. By comparing these decisions with the verdicts from each conviction, it becomes clear that capital sentences or sentences involving branding and mutilation were only mitigated when the verdict had not portrayed the crime as highly dangerous and the criminal as highly immoral. In these instances, the thefts concerned minor values and were committed by slaves who neither had priors nor were believed to possess an evil character.[139] On the other hand, Clausen's will to pardon the punishments of death, branding, or banishment did not extend to crimes involving larger sums, taking place at night, or in a white residence, nor to recidivist criminals whose history, conduct, and reputation showed them to be evil-minded, incorrigible, and overall menaces to society.[140]

For instance, this was the case for another of Jacob Cantor's slaves by the name of Ewan. In 1778, Ewan was sentenced to suffer Gardelin's punishment for major theft

[137] Ibid., 84. See for instance GG. 2.5.1. Entry January 1, 1782.

[138] For the gubernatorial decisions on other crimes, such as marronage and murder, see GG. 2.5.1. Entries June 5, 1778; August 18, 1778; November 18, 1778; December 19, 1778; March 2, 1779; January 31, 1781; April 27, 1781.

[139] In 1779, for instance, Governor General Clausen chose to pardon two male slaves, Lorentz and Nero, from being branded as thieves as a punishment for having, by their own admission, stolen two turkeys, two ducks, and a few coins from Lucas de Bretton's plantation, and instead chose to sentence them to 150 lashes at the gallows followed by transportation (GG. 2.5.1. Entry June 29, 1779, p. 223). In the verdict, the judge had underlined the insignificance of the actual stolen goods and offered nothing prejudicial as to their characters (CCB. 38.6.13, case 1779/120, dated June 23, 1779). For other examples, see the cases against the slave Polidore (gubernatorial decision: GG. 2.5.1. Entry April 7, 1779; verdict: CCB. 38.6.13, case 1779/30, dated April 7, 1779) and the case against Quamina and Thom mentioned above.

[140] For examples of capital punishment for theft confirmed by the Governor General, see the cases against Chub (gubernatorial decision: GG. 2.5.1. Entry March 27, 1781; verdict: 38.6.14, fol. 46, dated March 24, 1781) and Juba and Valentin (gubernatorial decision: GG. 2.5.1. Entry December 24, 1781; verdict: CCB. 38.6.14, fols. 93-94, dated December 22, 1781). For cases of theft where the Governor General either confirmed or commuted the sentence to the punishment of branding, flogging, and transportation, see the case against the enslaved man Will Coggin (gubernatorial decision: GG. 2.5.1. Entry November 12, 1778; verdict: CCB. 38.6.13, case 1778/344, dated November 2, 1778), against a slave named "George or Jack" (gubernatorial decision: GG. 2.5.1. Entry November 3, 1778; verdict: CCB. 38.6.13, case 1778/328, dated October 20, 1778), and against Atty and Tiago (gubernatorial decision: GG. 2.5.1. Entry July 27, 1778; verdict: CUC. 37.7.6, fols. 210-211, dated July 18, 1778).

(perhaps Ewan was the hanged slave Quamina was warned about). In his verdict, Judge Peter Rogiers made it clear that not only had Ewan been caught and admitted to having stolen from both his master and others on "numerous occasions", but he had also proven himself totally incorrigible. In fact, in Rogiers' eyes, Ewan's life was nothing but "a chain of pure thievery", and despite his master's best attempts he had "not improved himself, but continue his evil career".[141] Having read the verdict, Clausen unsurprisingly felt no reason to mitigate the sentence.[142]

As it appears, this attention to 'character' and 'evil' was not merely supplementary to colonial justice. That is, establishing the 'character' of the criminal was not something that was relevant only when guilt or innocence was difficult to establish, but rather a self-evidently meaningful and sometimes dominant element in the calculus of proportionality. Indeed, in some cases, such as Ewan's, it even appears as if the judge believed that more than the offense itself, it was the criminal's character and not least his proven incorrigibility that called for penal severity.

In many ways, this of course echoes the growing metropolitan interests in the morality of the offender, not least as articulated by a penal reformer like Oluf Lundt Bang. Similarly, for colonial judges and a Governor General like Peter Clausen, what mattered was to read the various signs that showed whether or not the individual was 'good' or 'evil', and whether or not he or she was beyond improvement. As in the metropole, these signs were objective, as judges took account of priors, the amount stolen, and other circumstances of the case, but they were also of a more subjective nature, as judges looked to the suspect's conduct in court and sought to assess his or her moral habitus by inquiring into the *vita ante acta*. From the above, it is of course impossible to say precisely how similar these colonial practices of 'reading' the morality of criminals actually were to contemporary metropolitan ones. Yet, one may speculate that colonial judges likely placed a comparatively greater weight on the testimonies of masters and other whites than their metropolitan peers would have placed on seigneurs or other social superiors.

But what is significant is that the art of punishing that one finds in colonial justice under Peter Clausen largely overlapped with the art that one finds among contemporary penal reformers in the metropole. As in the metropole, this was an art that aimed to punish in accordance with the dangerousness of crimes *and* the immorality of criminals. And again, to do the latter was not to conduct a complex psychological assessment of the personality of the offender, but simply to assess, on a very simple scale, the 'degree of evil' residing in the offender. As I will now argue, much the same was true in the decade following Clausen's death in 1784. But here, this art of punishing was reorganized according to the problematization of infamy

[141] CCB. 38.6.13. Case 349/1778: The State vs. Ewan.
[142] GG. 2.5.1. Entry November 18, 1778.

that now began to demand a greater distinction between the honest and the dishonest realms of punishment.

Honest and dishonest punishment, c. 1785-1795

As noted, Governor General Clausen had not seen the passion of honor as an effective mechanism of conduct among the enslaved. Accordingly, when he mitigated the punishments of lesser offenders, he did not necessarily exempt them from the gallows, or from the hangman, and did not find it problematic to return them to their masters.[143] In the decade after his death, however, colonial justice began to carve out a clearer distinction between honest and dishonest punishments. Quite systematically, lesser thieves were now whipped at the whipping post and spared from the gallows, which were instead reserved for those criminals whose dangerous actions and immorality made them deserving of permanent infamy, ostracization, and sometimes death.

The colonial distinction between honest and dishonest punishment, however, was not as sharp or complete as an official like Lindemann had originally envisioned. To recall, in his draft the idea was to spare the lesser criminals not only from the gallows, but also from encountering the hangman. Accordingly, he had proposed that the whipping post should be administered by an 'honest' slave.[144] However, during the period 1785-1795 explored here, this part of his plan remained unrealized, although it was certainly not forgotten.

In fact, during this period there was at least one time when the idea was about to materialize. In early 1788, the Government received a request from the college overseeing the Lutheran church in the colony. In order to further conversion among the enslaved, it proposed that Christian slaves were spared the punishment of the whipping post, where they risked, it said, being made the equals of "thieves, deserters, and other equally serious criminals".[145] In his response, which was passed on by the local Lutheran pastor in July 1788, Walterstorff could not consent to this, but offered a compromise. Recycling Lindemann's previous suggestion, he

[143] Note for instance Clausen's response to Lindemann after having pardoned the slave woman Nanny from branding and transportation as a punishment for running maroon and instead sentenced her to 150 lashes at the gallows before being returned to her owner: "The punishment of every slave convicted of a crime by the courts should be carried out at the gallows as an example to others, and across the country there are many such negroes whose verdicts have been mitigated in this way, and who now live on their masters' plantations." (GG. 2.5.1. Entry March 31, 1781, fols. 177-178; see also CCB. 38.6.14. The State vs. Nanny (January 16, 1781).

[144] See pp. 118-119.

[145] WIG. 3.29.1. File titled *Breve fra Gen. Kirke Inspektions Collegiet 1759-94*, the collegia's memorandum of January 11, 1788.

promised to command that "no dishonest slave may in the future be used to whip criminals of the lesser sort", meaning at the whipping post.[146]

Yet, as early as October, Walterstorff seemed to have changed his mind. Here, Edvard Røring Colbiørnsen had proposed that whippings at the whipping post, which "truly have something dishonoring [*vanærende*] about them", should be reserved for those suffering public punishment, and that a separate and "less public place" of punishment, free of the hangman, should be set up for those who were whipped merely at the behest of their master for some minor domestic infraction.[147] In his response, Walterstorff flat out rejected this idea. In his view, it would make the enslaved less fearful of their masters if they could no longer sentence them to suffer disgrace. Or, as he worded it, "the negroes have a certain dread for the way that punishment now occurs at the whipping post, and this should be a reason to keep it."[148] It was likely for this reason that it remained customary to use the hangman as executioner at both the gallows and the whipping post in Christiansted, at least until the end of Walterstorff's governorship in 1796.[149]

In the eyes of some metropolitan penal reformers, not least the members of the Criminal Law Commission of the early 1800s, this would certainly have appeared to be an excessive use of penal infamy. For others, however, it would have made sense. To recall, in the Theft Commission at least, some believed that to ensure adequate deterrence a certain measure of disgrace should remain a quality and effect of every punishment of theft. Accordingly, the essential distinction in the 1789 Decree on Theft was not, as we saw, between honest and dishonest punishment, but between different degrees of dishonor: between what was merely shameful and what led to permanent ostracization. Much the same, although on a bigger scale, was true in the colony as Walterstorff chose to involve the defamed hangman in all punishments of slaves. Here, too, the problematization of infamy did not lead to a sharp distinction between honest and dishonest punishment. Rather, as I will now argue, it led judges and Governors General to exempt minor thieves from the gallows and to reserve this disgraceful place of punishment for those criminals whose actions, morality, or both made them deserving of permanent infamy and exclusion.

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[146] Walterstorff's promise was reported by Pastor Augustus Krejdal in a letter to his superiors in Copenhagen. Krejdal himself believed Walterstorff's proposal was sound because encountering the hangman "is just what the Christians so intensely fear" (see GC. F4-8-20-21. File titled *Indkomne sager 1784-1791*, *sub* 1788, Krejdal's memorandum of July 31, 1788).

[147] CC. 421. E. R. Colbiørnsen's *Anmærkninger* (September 24, 1788), p. 103 (book 1, art. 14).

[148] CC. 421. Walterstorff's *Betænkninger* (October 8, 1788), p. 127 (book 1, arts. 14-15).

[149] At least, this was clearly still the custom in 1790, when Lindemann was Acting Governor General in Walterstorff's absence (see GG 2.16.1, pp. 39, 47, entries October 21 and November 15, 1790). See also Simonsen, "Slave Stories, 1780s-1820s," 49.

The latter category usually included those who were tried in the ordinary courts, or the 'city court'. During the period from 1785 to 1795, this setting was almost exclusively reserved for those offenders whose suspected offense was so grave that judges deemed it less necessary to circumvent the horrors of the Gardelin Code or to assess their moral character. Accordingly, in most cases that came before the city court, judges did not hesitate to impose the punishment of hanging, public torture, and branding at the gallows, and they generally appear to have believed that the severity of the offense was more than adequate proof of the criminal's immorality.[150] For instance, this was so in the 1787 verdict on the slave Mingo. As several witnesses confirmed Mingo's involvement in "several severe thefts", in one instance of sixteen pounds of sugar, the judge believed it adequately proven that he was "a gross and daring thief" who ought to suffer hanging and public torture "as a well-deserved punishment and as an example and deterrence to others".[151]

But if judges did not hesitate to sentence dangerous crimes and criminals to the gallows, they increasingly began to spare the lesser offenders from the same fate. Sometimes, this occurred in the city court. In 1787, for instance, the slave Kisla was sentenced to suffer 150 lashes by the hangman at the whipping post and then to be released to his owner. The grounds for this punishment and for bypassing Gardelin's code was the fact that Kisla's theft (and breaking and entering) involved only little value, and had been committed during daylight in the backyard of a butcher's shop.[152]

Most often, however, what were described as lesser thefts and thieves did not make it to the city court. Instead, such cases were settled more summarily by the *byfoged*, often following the orders of the Governor General. To be sure, by the mid-1780s, this practice was not entirely new, but to judge from the weekly reports from the Christiansted Chief of Police it appears to have become more regular over the course of the period 1777-1787 for which records are extant.[153] The reports themselves are too laconic, however, to reveal much about their grounds for circumventing the

[150] See for instance CCB. 38.6.17, fol. 203: The State vs. Jonathan and Claus (April 15, 1790); fol. 276: The State vs. Maria (March 12, 1792); fol. 279: The State vs. Harry, Boatswain, Emanuel, and Cato (April 10, 1792); fol. 290: The State vs. Cully (July 2, 1792).

[151] CCB. 38.6.16, fol. 83: The State vs. Mingo (September 19, 1787).

[152] Instead of Gardelin's code, the judge more precisely invoked the authority of a metropolitan decree of March 4, 1690, which defined it as a mitigating circumstance if a theft had not been committed during the night or inside a domicile (CCB. 38.6.16, fol. 89. The State vs. Kisla, December 22, 1787).

[153] The practice is not mentioned in the reports from the 1770s, and appears to have risen steadily during the 1780s (with two instances in 1781 and 1783, and five, three and seven in 1785, 1786, and 1787, respectively). Some caution is necessary, however, since the reports from the 1781-87 period, discounting 1784, are much more well-preserved (rarely fewer than 30 per year), while the reports from the late 1770s are usually no more than five in number per year. See GG. 2.49. Reports of September 9, 1781; December 9, 1781; January 13, 1782; March 9, 1783; January 12, 1783; November 27, 1785; December 3, 1785; October 29, 1786; November 19, 1786; February 25, 1787; March 10, 1787; April 28, 1787; May 13, 1787; and July 22, 1787.

Gardelin Code. In a typical instance from 1787, the report merely stated that "the negro Mingo belonging to John Towers was punished with 100 lashes for small theft".[154] Yet, from the few cases where the preceding correspondence between judges and Governors General is preserved, it is clear that in their eyes it was not only the objective circumstances – such as the amount stolen – that qualified these cases for lenience. Often, it was also knowledge of the slaves' morality and criminal history that determined whether the case would end up in the courts (and be judged in accordance with Gardelin's code) or be handled less formally and harshly at the whipping post.

In 1785, for instance, this led Judge Lundby of Frederiksted to recommend that Marianne, found guilty of handling stolen goods (*hæleri*), should be relieved of the punishment of branding and 150 lashes at the gallows as stipulated by the Gardelin Code.[155] The reason Lundby recommended sending her to the whipping post instead was not only that Marianne had always, according to her master, been "a good and loyal negress", but also that she had been driven to the crime by her "wretch" of a husband, Printz, himself "a gross and reckless thief" who did not deserve any degree of mercy.[156] The same emphasis on the offender's morality or criminal history is also found in the correspondence that is preserved from 1794-1796 when Lindemann was Acting Governor General. In 1795, for instance, it was presumably the fact that the slave Bristed's theft of a copper kettle was his first that made Lindemann acquiesce to have him "punished, without law and verdict, with 150 lashes at the whipping post and, this one time, be free from further charges".[157]

Likely, it was also this lenience toward first-time minor thieves that made Judge Winding propose that the slave Adam should be whipped at the whipping post for having stolen some bread and money from the slave Minima which belonged to her mistress Madame Brewer.[158] Although Lindemann was naturally sympathetic to such a bypassing of Gardelin's code,[159] in his reading, the case did not call for leniency. For, as he argued, it was "not long ago that Adam was let off with an arbitrary punishment", when almost a year earlier Governor General Walterstorff had sentenced him to 50 lashes for assisting in the rather "insignificant" theft of two

[154] GG. 2.49. Report of March 10, 1787. Note that this Mingo was presumably not the Mingo who suffered Gardelin punishment for major theft later this year, as the two Mingos had different masters.
[155] CC. 390, pp. 359-363, Gardelin Code, §7.
[156] WIG. 3.81.73. Lundby's memorandum to Governor General Schimmelmann (February 13, 1785). We do not know the Governor General's response. For another example, see GG. 2.17.5. Lundby's memorandum to Schimmelmann (August 26, 1785).
[157] GG. 2.5.2, p. 88, Lindemann's instruction to Judge Winding (March 7, 1795). Winding's initial letter is paraphrased in GG 2.16.1. No. 175/1795 (February 21, 1795), fol. 258.
[158] GG 2.16.1. No. 176/1794 (November 24, 1794), fol. 229.
[159] See for instance Lindemann's handling of the cases against Jonas and Frederich (GG. 2.5.2, p. 86, Lindemann's letter to Winding (March 7, 1795); GG. 2.16.1. No. 177/1795, fol. 297).

skins from two Spaniards. On these grounds, Lindemann therefore ordered Winding to treat the case in the city court.[160]

Being informed (or reminded) of Adam's history of crime, Winding suddenly saw a danger and immorality in Adam's act and character that he had not seen initially. As he noted in his verdict, "the law punishes the second crime more severely than the first, and no doubt does so because the criminal hereby shows a proclivity for harm, contempt for his prior sentence, and in general a poor morality [*i det hele en slet moralitet*]". But more than demonstrating merely "his sinful proclivity to steal the goods of others", the ways in which he had not only stolen but had also violently robbed Minima – apparently having hidden himself in a sugarcane field and then assaulted her with beatings, threats, and drawing a knife – prompted the judge to conclude that Adam's actions were both "dangerous and disgraceful [*farlige og skændige*]". In fact, his actions made the judge mindful that what was being punished was not "the more or less that is being taken" but "the danger that is connected to the crime", no doubt a reference to the failure of Gardelin's code to consider anything but the stolen amount. Furthermore, rather than basing his verdict on the Gardelin Code, Winding invoked the punishment for highway robbery as stipulated in the Danish Code to sentence Adam to pre-mortem mutilation on the wheel (*hjul og stegle*).[161] As the case returned to Lindemann's desk, he decided – as had become customary – to commute Adam's sentence to branding on the forehead and 150 lashes under the gallows followed by banishment.[162]

The governmentality of colonial penal reform

As it seems, one finds in these practices of colonial justice from the later decades of the eighteenth century an *art of governing* that would have appeared familiar to most metropolitan penal reformers. As in the metropole, this art oscillated between two distinct ways of acting on crime and criminals. On the one hand, this was an art of *deterring* future criminals from crimes in proportion to the societal danger of their acts. On the other, it was an *individualizing* art of punishing offenders in proportion to their degree of immorality. Moreover, the distinction that between 1785 and 1795 had become essential to this art of governing was, more clearly than ever before, the familiar distinction – found, for instance, in the 1789 Decree on Theft – between moderate disgrace and permanent ostracization. That is, the essential questions in colonial justice were now these: Ought the theft and the thief to be punished at the

[160] Winding's letter is paraphrased in GG 2.16.1. No. 176/1794 (November 24, 1794), fol. 229. The details of Adam's earlier conviction were given in CCB. 38.6.18. No. 92/1794: The State vs. Adam (December 3, 1794), fol. 410.
[161] CCB. 38.6.18. No. 92/1794: The State vs. Adam (December 3, 1794), fols. 410-411. The clause invoked from the Danish Code was 6-16-1.
[162] GG. 2.16.1. No. 212/1794 (December 13, 1794), fol. 239.

whipping post and incur only a lesser degree of dishonor? Or is the act and its author so dangerous and immoral that it is necessary to kill, banish, or otherwise permanently ostracize the criminal so as to both deter others and relieve society of the danger and immorality he or she represents?

There were also significant overlaps in regard to the *problematizations* that made it meaningful to reform colonial penality in the first place. As shown in the first sections of the chapter, colonial penal reformers oscillated between two distinct ways of defining the problem of penal excess: On the one hand, there was *the liberal problematization of infamy* that defined punishment as excessive if it unduly corrupted the convicted's and his peer's sense of honor; on the other, there was *the biopolitical problematization of cost* that defined punishment as excessive if it did too much physical harm to the labor capacity or the market value of the convicted. Although these problematizations painted the problem of penal excess in very different colors, in practice they were – I have argued – closely interrelated. For instance, if it was costly to subject convicted slaves to the extraordinary violence of the gallows, this was not only because it decreased or completely annihilated the value of their bodies, but also because it was simply out of the question to allow such defamed individuals to return to their peers. In any case, together these problematizations urged colonial penality to carve up a clearer distinction between the lesser and greater crimes and criminals, and to spare the former from the permanent infamy and costly violence of the gallows suffered by the latter.

For all these reasons, it is clear that colonial penal reformers also shared a number of *knowledges* with their peers back home. For one thing, there was the familiar political philosophical conception of the passions, more precisely *the passion of honor*, as an inborn, but also corruptible mainspring of good conduct and subject formation. Secondly, there was a *biopolitical* knowledge of the number and worth of enslaved bodies, one that found a sort of match in the metropole's knowledge of how *social conventions in Denmark* made it almost impossible for ostracized individuals to find legal work and thus to be a useful and self-sustaining member of society. Thirdly, there were also significant overlaps in the knowledge that buttressed the individualizing art of punishing. As in the metropole, this individualization of punishment did not rely upon an in-depth knowledge of the individual's personality, but upon *a knowledge of the degree of 'evil' or immorality residing in the criminal*. Sometimes, this involved a reading of the objective signs of immorality. In Adam's case, for instance, it was his criminal history as well as the violence he used that revealed his 'poor morality' and the 'dangerous and disgraceful' nature of his act. But in other cases, as in Marianne's or Quamina's cases as explored above, this knowledge involved a reading of the criminal's

character and conduct in general, one with which Oluf Lundt Bang would not least have been familiar.[163]

The overlaps were less pronounced, however, in regard to the knowledge that buttressed the art of deterring. Although there were some, not least Lindemann, who meant to fit punishments exclusively to the inherent societal danger of the act (much as in Beccaria's philosophy of punishment), there were many others who meant to fit punishment to the supposed racial nature of the enslaved – a people, for instance, that Thomas de Malleville believed so 'immersed in evil' that extraordinary deterrence was necessary 'to keep them in check'. Here, *a knowledge of the supposed racial nature of blacks* clearly played an important role.

Very likely, it was the supposedly 'evil nature' of blacks in general that ensured that colonial penality would retain much more of its horrific and deadly violence than their peers back home were willing to allow. But likely, it was also one of the main reasons that the colonial penality of the period never distinguished sharply between the honest and the dishonest domains of punishment, as the members of Criminal Law Commission of the early 1800s so strongly emphasized. Although steps were taken to keep the infamous hangman away from the whipping post, these plans never materialized, most likely because it was believed to be more important, as for instance Governor General Walterstorff did, to maintain the 'dread' of the whipping post.

Yet, this did not mean that the problematization of infamy had no real effects on colonial penal reform. Indeed, as I have argued, if one is to grasp why it had become self-evident to colonial judges and governors that the gallows should be reserved for those to be killed or permanently excluded and the whipping post for those who could be returned to their masters, one must consider these mid-1780s colonial critiques of the disproportional use of penal infamy; more precisely, of how the indiscriminate use of infamy and the intermixing of lesser and greater crimes and criminals, at the gallows and in the fortress, worked against slaves ever gaining a sense of shame, a love for honor, and generally a desire for what was good.

To illustrate this point and sum up the general workings of this governmentality of colonial penal reform, it is useful to return to the case of the unfortunate enslaved man Adam. To recall, for Adam's first and rather insignificant crime of theft, it was

[163] For a notable instance of how this focus on character was sometimes so dominant in colonial justice that suspects could be punished as dangerously immoral even if their identity as 'criminals' was impossible to prove, see the 1794 case against Bucan who was suspected of major theft. Although his guilt could not be proven, Lindemann had him banished since he would "act against conviction and duty if Bucan was released and as a dangerous-looking subject [*farligt synende subjekt*] was to remain in the country" (GG 2.16.1. No. 79/1794 (September 16, 1794), fol. 205). In court, Winding believed Bucan had "shown an obstinacy that is particular to a criminal" (CCB. 38.6.18. No. 43/1794: The State vs. Bucan, Anna Maria, and Thom Craven (September 12, 1794), fols. 393-394).

deemed meaningful to spare him from the gallows. Not only because it was costly to enforce Gardelin's code strictly in every instance, nor only because it was his first offense, but also out of concern for his sense of honor and indeed for the ability of this passion to set in motion a profound improvement in conduct and self-formation. However, once Adam erred again and did so in a way that confirmed his 'poor morality', it was now deemed vital to separate him off from the lesser offenders and to treat him as a dangerous, immoral, and disgraceful criminal worthy of the gallows. This was meaningful both in order to deter others and in order to awaken among those who witnessed his fate, and perhaps in Adam as well, a general association of the evil and the disgraceful. Otherwise, if Adam was merely whipped at the whipping post and then allowed to intermix with his peers, or if he was whipped and branded at the gallows and then allowed to return, how would they be deterred from similar acts and how would they, or Adam himself, understand the particular evil and disgrace of his crime and conduct? Without these penal distinctions, how would they come to feel repulsed by such evil?

Therefore, if by 1795 it was self-evident that a recidivist and 'immoral' thief like Adam could not once again be returned to his masters, but ought to be punished at the gallows and be completely ostracized from society, this was not only because of the need to set deterring examples, and not only because of his supposed proclivity for crime, but also because he had, by virtue of his action and immorality, crossed into a distinct domain of criminality: the dishonest. Bearing witness to the general colonial effort to carve up a clearer distinction between the lesser and greater crimes and criminals, to rid society of the immoral, dangerous, and incorrigible, to imprint on them a permanent stain of infamy, and to spare their less dangerous and fallen peers from a similar treatment, Adam's fate was sealed by a complex transformation in colonial governmentality.

As I have shown above, many aspects of the problematizations, knowledges, and arts of governing that defined this colonial governmentality of penal reforms were far from foreign to contemporary penal reformers back home. Indeed, while the concrete manifestations of this colonial governmentality were certainly distinct (and no doubt horrible from the point of view of those slaves who felt and witnessed them), it was not a wholly singular colonial governmentality, tailormade for a colonial population of enslaved blacks. Rather, punishing white and black criminals allowed for a significant degree of overlap and commensurability between metropole and colony. To continue exploring these overlaps, as well as their limits, the next chapter will turn to the question of 'otherness' and the art of making slaves and peasants accept their position as inferior others.

CHAPTER 4: HIERARCHIES OF DIFFERENCE

As in other colonial contexts, governing black slaves in the Danish West Indies involved the making and remaking of 'racial' hierarchies – in this case, a rather binary hierarchy between people known as 'negroes' and 'whites'. As Gunvor Simonsen has shown, in the eighteenth-century Danish West Indies the production of such hierarchies – or what she calls the "encoloring" of social reality – operated across many different dimensions at the same time. Through social segregation, sexual practices, sumptuary laws, and punishment, to name a few examples, there emerged – she shows – thoroughly racialized world in which blackness was associated with slavery and obedience, whiteness with freedom and power, and their colored intermixture – the freed or freeborn descendant of slaves – with something in between.[1] In this chapter, I will focus on this process of 'encoloring', but will do so by exploring its underlying governmentality. In other words, the question is not how hierarchies were made, but rather which governmental rationalities – which problematizations, knowledges, and arts of governing – gave meaning, necessity, and shape to their making. To do so, the first part of this chapter will focus on two domains of governing that colonial officials saw as vital to the making and re-making of the racial hierarchy, namely the domains of punishment and education. After that, the analysis will turn to the role of these same domains in contemporary efforts in the metropole to put the lower orders of Danish society in their place, more precisely the peasant estate. Did colonial efforts to encolor reality rely on a governmentality that was similar to that behind these efforts back home, or did the making of colonial hierarchies involve a singular form of governing?

Producing colonial hierarchies

When colonial authorities of the later eighteenth century sought to maintain the racial hierarchies of black and white, they tended to approach the slave as essentially

[1] Gunvor Simonsen, "Skin Colour as a Tool of Regulation and Power in the Danish West Indies in the Eighteenth Century," *Journal of Caribbean History* 37, no. 2 (2003).

a creature of habit. Thus, to recall the distinction presented in chapter 2, rather than viewing slaves as 'economic' subjects – constantly calculating the pain and pleasure of obedience versus resistance – these efforts to encolor reality viewed the enslaved through a 'psychological' lens. In these efforts, therefore, the enslaved were understood as a collective who were and should remain accustomed to a certain kind of normalcy, a certain set of expectations, and should ideally experience colonial hierarchies of slavery as natural, just, or at least bearable (or, in their terms, *tåleligt*).[2]

But while colonial officials considered this ideal state of experience to be widespread among the enslaved, they also suspected slaves of being forgetful of not only the hierarchies themselves, but also of their inferior place within them. What colonial officials thereby problematized was what postcolonial scholars often describe as 'hybridity', a term that is used to describe the point at which distinctions become ambiguous and thus allow for the dissolution, mixing, and recrafting of identities and categories that power aims to essentialize, separate, and hierarchize.[3] Within studies of colonial discourse, hybridity has therefore been seen as that which challenges colonialism's desire for "a reformed, recognizable Other", namely "*a subject of a difference that is almost the same, but not quite*."[4] And within studies of colonial projects of rule, scholars have pointed toward the way that colonial power found it necessary to deploy carefully choreographed processes of othering. For, as pointed out by Ann L. Stoler and Frederick Cooper, "the otherness of colonized persons was neither inherent nor stable; his or her difference had to be defined and maintained".[5]

This was all too clear to Danish West Indian officials. In fact, it was so clear to them that they rarely felt a need to discuss or reflect more deeply on the best ways to keep hybridity from taking root. To be sure, they sometimes disagreed about how particular problematic instances should be handled, but even then, they acted as if they possessed an almost instinctive psychological knowledge of how a particular act or sight would likely be experienced by the enslaved. Indeed, much unlike the governmentalities that shaped their reforms of master-slave relations and colonial

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[2] See for instance the Colonial Government's claim that "the condition of the slaves is not generally as unbearable (*utålelig*) as it is often imagined back home and as it might appear to a visiting, unaccustomed European. For the condition of man must be judged according to the opinions that he himself holds and not according to the impressions that his state might bring about in others." (WIG 3.8.6. Government letter to the Chamber of Customs (September 30, 1783), pp. 253-254). For a later example, see CC. 424. Bentzon's letter to Ernst von Schimmelmann (July 24, 1802), pp. 4-5.

[3] Loomba, *Colonialism/Postcolonialism*, 171-180.

[4] Homi Bhabha, "Of Mimicry and Man," in *The Location of Culture*, ed. Homi Bhabha (Routledge, 1994), 112 (original emphasis).

[5] Frederick Cooper and Ann Laura Stoler, "Between Metropole and Colony – Rethinking a Research Agenda," in *Tensions of Empire – Colonial Cultures in a Bourgeois World* ed. Frederick Cooper and Ann Laura Stoler (Berkeley: California Press, 1997), 7.

penality, the *art of governing* that shaped this engagement with the *problem of hybridity* did not have a clear theoretical correlate. Its underlying *knowledge* is not traceable, it seems, to the great thinkers of the Enlightenment – Montesquieu, Beccaria, etc. – but took the form of a kind of know-how, a wisdom or prudence, growing out of a long history of managing dissatisfied inferiors.[6] In the next section, I will explore the manifestations of this problematization, this knowledge, and this art of governing in the field of colonial punishment.

Law, punishment, and "all the honorary signs of the world"

In the very first clauses of his *code noir*, in his book on slave crime, Lindemann specified how slaves ought to show humility and deference to their masters and to whites in general. When in the presence of whites, it specified, the slave should present himself with head bared, without a pipe in his mouth, and while carrying neither cane nor a pointy instrument of any kind he should step aside, dismount his horse, and calmly make room for white passersby, all the while desisting from all forms of whistling, screaming, singing, and noise of any other kind. Also, "in every instance they ought to obey the commands of whites and respect them, even if they are not their owners", and as a punishment for "rudeness or disobedience" all whites were authorized to have them punished with twenty to fifty lashes at the whipping post. Furthermore, if followed by "cursing or defamatory words", the punishment could be up to 150 lashes and, if it involved accusations, for instance about having had sexual relations with a white, the punishment would be whipping under the gallows and life-long fortress labor.[7]

At the time, there was nothing controversial or original about these rules.[8] At least since the Gardelin Code of 1733, Danish West Indian slave law had called for the utmost signs of humility and subservience, for instance by requiring that "when a negro encounters a white on his path, he must step aside and stand still while the white passes unless he wishes to suffer his beatings". Even worse, for menacing gestures or insults directed toward whites, Gardelin's code prescribed the punishment of hanging preceded by the application of glowing pincers, but left it to

[6] If anything, this knowledge prefigures sociologist Gustave le Bon's late nineteenth-century work on the "psychology of the crowd". Here le Bon decried his time's loss of an "unconscious" psychological knowledge that was once possessed by "all the world's masters", "an instinctive and often very sure knowledge of the character of crowds, and it is their accurate knowledge of this character that has enabled them to so easily establish their mastery." (*The Crowd – A Study of the Popular Mind* (UK: The Echo Library, 2009 [1895]), 11).

[7] CC. 419. No. 24: Lindemann's *Forslag*, book 1, arts. 1-6.

[8] Accordingly, they were generally supported by the other colonial commentators (see CC. 421, pp. 1-2, 39).

the insulted party to decide whether the punishment should be reduced to the amputation of the slave's right hand.[9]

Although Lindemann's punishments were more lenient or at least more graduated, the underlying rationality behind his rules on the proper display of deference appears to have been the same. Unlike many other aspects of slave law, these rules had little directly to do with protecting the apparatus of production or the property and bodies of whites. Rather, their purpose was to construct an entire language of *signs*, whereby modes of bodily comportment, facial composure, arrangements of objects, and speaking and non-speaking would serve to bring to life and manifest – in a very ritualized way – a 'truth' that was supposed to exist independently of the law: namely, the truth of the colonial hierarchy. Indeed, as argued by Lindemann, the purpose of this language of signs was precisely to bring to mind and impress on the senses of blacks what they might otherwise be prone to forget and ignore when interacting with their racial superiors. As he explained in the comments to his code:

> It may seem ridiculous that what is insignificant among whites is here made into a thing of importance. But experience teaches that the reverence [*ærbødighed*], which the inferior owes his superior, must be buttressed through certain signs that are observable by the senses and which rekindle and bring it to mind. This is the purpose of all the honorary signs of the world [*alle ærestegn i verden*], from the royal scepter to the drum used for envoys of the Guinean nations as they embark for other nations.[10]

This comment is interesting for several reasons. Firstly, it makes it clear that, to Lindemann at least, the purpose of these rules is to make all these arranged bodies, faces, objects, and words function as 'signs' that constantly manifest and 'rekindle' the 'reverence' that 'the inferior' naturally owes to his 'superiors'. Secondly, more than just any kind of sign, these are essentially 'honorary signs'. Or, to be precise, they are *vertical* honorary signs that ideally establish difference and hierarchy, bestowing esteem on superiors and infusing inferiors with humility and awe. Thirdly, the comment is interesting because it claims that the need for such vertical honorary signs it is not unique to the colonial context, but is merely an instance of something that is universal to human society, whether they be 'savage' African nations or 'enlightened' European monarchies.

Yet, as Lindemann's comment also suggests, the need to uphold these vertical honorary signs was likely felt more strongly in the eighteenth-century Danish West Indies than it was 'among whites' and in the metropolitan society inhabited by the legal experts at home whom he addressed. In any case, this need was something that shaped many distinct aspects of colonial governing in the late eighteenth century and in fact did so, it seems, more and more strongly as the century progressed. Not

[9] CC. 390. The Gardelin Code of September 5, 1733, §§ 9, 11 (pp. 361-62).
[10] CC. 419. No. 24: Lindemann's *Forslag*, book 1, art. 1 (comment).

least, it shaped how masters and whites in general could be punished, for instance for abusing slaves. But also, as I will start with, it gave a profound urgency to the daily task of punishing those slaves who failed to reproduce these honorary signs as required.

Punishing black impertinence

In the late eighteenth century, it seems, most cases of 'disobedience' or 'impertinence' against whites were punished outside the courtroom. For one thing, masters and other whites likely judged and punished such acts themselves, a practice Lindemann's draft took as customary. But also, to judge from the extant police reports, it was a crime that chiefs of police sometimes settled rather summarily, without formal interrogation or procedures, usually with 100 lashes at the whipping post.[11] Sometimes, however, it was settled in the police court. In one such case, which also makes it clear that these rules were directed against all blacks, both slave and free, the free colored man Samuel Wright was sentenced to thirty lashes. His crime: Taking hold of a white sea captain who had sought to keep Wright from fighting with the captain's slave. In his verdict, the judge added that:

> [Wright's] crime goes against the reverence [*ærbødighed*] that people of color owe to whites, and which would have the most dangerous consequence for this country if it was allowed to pass with impunity.[12]

The same sense of danger was also strongly present in the cases that reached the desk of the Governor General. During Lindemann's stints as Governor General in the 1790s, "disrespect" and "impudence" were usually punished with 100 or 150 lashes at the whipping post, but in more severe cases also with banishment.[13] One of these more severe cases was against the slave David, who was accused of verbally and physically abusing the white man Christian Dirck. From the police interrogation conducted by the Chief of Police in Frederiksted, Lindemann did not believe it was proven that David had actually laid hands on Dirck. But to him it was clear that David had by his conduct "disregarded the reverence [*ærbødighed*] that slaves in general, and in accordance with the ordinances of the country, owe every white".

[11] GG. 2.49. Police reports of July 1, 1781; September 9, 1781; and July 30, 1781.
[12] CCB. 38.9.9, fol 30, police verdict of February 26, 1789. Wright's punishment was not administered at the whipping post, but in the quarters of the 'free captain' (*frikaptajnen*), as was customary for freedmen. For a case against a slave, see CCB. 38.9.10, fol. 447, police verdict of December 9, 1795.
[13] See GG. 2.16.1. Entries August 22, 1794; June 6, 1795; and October 13, 1795.

Even worse, as he added, he had done so in the presence of other slaves and thereby given cause to "scandal [*forargelse*]".[14]

What Lindemann meant by 'scandal' was how examples of bad conduct risked making others prone to similar acts of immorality, in this case by questioning the naturalness of the racial hierarchy. (This idea of 'scandal' will be addressed at greater length in chapter 5.) In other words, what Lindemann feared was not so much how disrespect damaged the honor of individual whites, but rather how it filled the social sphere with 'signs' that challenged the strict divisions of the racial hierarchy. To grasp this way of problematizing hybridity, I will turn to the ongoing and, I argue, intensifying attempts to distinguish between white and black criminals in colonial justice.

Distinguishing between black and white criminals

The eighteenth century is often described as a time when more fluid conceptions of racial difference were challenged by the idea that differences between races were inherent and permanent.[15] This was certainly true in the Danish West Indies. Here, the eighteenth century – it has been shown – witnessed a rather typical movement from understanding bodily, intellectual, and moral differences between whites and blacks as superficial or at least malleable effects of difference in religion, culture, and climate, to seeing these same differences as essential and permanent.[16]

Among colonial officials, this transformation was matched by a growing focus on using what I, drawing on Lindemann, have described as 'vertical honorary signs' to give these racial differences and the hierarchy between them their naturalness. Before proceeding, however, it is useful to reflect on the peculiar role of 'honor' in this encoloring of social relations. For unlike the efforts to protect and harness the enslaved's supposedly inborn love of an image of themselves to produce moral conduct and subjects, as was central to the penal reform (chapter 3), in this domain of governing, honor was instead understood as a good that some possess and others lack, as something that is vertically or unequally distributed in accordance with 'race'. As it appears, this good of honor, which essentially belongs only to whites, is not so much a mechanism that produces ethical individuals choosing good over evil, but one that ideally renders slaves and other blacks subservient and accepting

[14] GG. 2.5.2. Entry 53/1791: Lindemann's letter to Attorney Garp of Frederiksted (March 15, 1791). Neither the police interrogation nor the verdict reached by Frederiksted City Court on March 29, 1791 are extant. Being found guilty of laying hands on a white, the court had sentenced David to be given 150 lashes under the gallows and banished. Lindemann reduced the whipping two times 51 lashes, but otherwise confirmed the verdict (see ibid. Entry 93/1791, letter of April 9, 1791).

[15] See for instance Roxann Wheeler, *The Complexion of Race – Categories of Difference in Eighteenth-Century British Culture* (Philadelphia: University of Pennsylvania Press 2000).

[16] Simonsen and Olsen, "Slavesamfundet konsolideres, 1740-1802," 134-137; Ipsen, *Daughters of the Trade*, esp. 46-52.

of the hierarchy and their place within it. Furthermore, in this domain of governing, 'honor' is not understood as an autonomous mechanism that must be protected and utilized, but as a 'truth' that must be represented through signs. It is part of an art, therefore, which is not liberal, but *semiotic*.

One expression of this semiotic art was, of course, as shown above, the rules on deference that reach back at least as far as Gardelin's 1733 code. But in the second half of the century in particular, it also seems to have spread to other fields of governing. Around the middle of the century, it was part of what made it essential for the Colonial Government to put a stop to the practice of sending dishonored white convicts from the metropole to the colonies to work as indentured servants (or *servinger*) alongside black slaves.[17] As the Colonial Government informed the company directors back home in the 1740s, on seeing whites being "treated in the same way and with as much humiliation as the negroes" they would lose the "great awe" that they generally held for whites, and which currently kept them in their place.[18] That is, slaves would be exposed to signs that filled the racial hierarchy with ambiguity, as they seemed to level distinctions between blacks and whites by humiliating those who should ideally be the objects of 'awe'.

With time, a similar concern with 'awe' also became essential to the wider penal domain, as colonial officials increasingly distinguished between black and white offenders and criminals. As Gunvor Simonsen has argued, this distinction was growing and cementing over the course of the second half of the eighteenth century. As she shows, local police ordinances from the 1750s began sparing white offenders from public whippings and instead prescribed fines and imprisonment on bread and water, and from the 1780s the same applied to white military personal. Naturally, the same curtesy was not extended to slaves or the free colored. In the case of the latter, officials in fact implemented new and demeaning modes of punishment for minor infractions, such as walking the streets in 'the Spanish cape' (*den spanske kappe*).[19]

In Simonsen's analysis, these growing racial distinctions in punishment are significant because of their effects: They helped consolidate the racial hierarchy of white and black. Yet, they were also significant, I will argue, due to the historically specific governmentality that shaped this process and made it meaningful and necessary. Moreover, by exploring this governmentality and thus how colonial

[17] For more on this practice, see Mirjam Louise Hvid, "Indentured servitude and convict labour in the Danish-Norwegian West Indies, 1671–1755," *Scandinavian Journal of History* 41, nos. 4-5 (2016).

[18] Quotation in Heinsen, *Mutiny*, 173. For the original Danish quotation, see his "Stemme og flugt - Tvangsgeografier i koloni og metropol," in *Globale og postkoloniale perspektiver på dansk kolonihistorie*, ed. Søren Rud and Søren Ivarsson (Denmark: Aarhus Universitetsforlag, 2021), 72. See also Simonsen, "Skin Colour," 267-268.

[19] ———, "Skin Colour," 268-272.

governors reflected on these racial distinctions in punishment during the later decades of the century, it also becomes clear that this transformation was much less frictionless than Simonsen's account suggests. Particularly during the period from 1775 to 1785, it seems, officials on the different administrative levels – the local, colonial, and imperial scales – could take up very different positions and often disagreed about how to proceed. Not least, this was true when it came to the punishment of white criminals (including slave abusers), a subject that has not previously been explored in much depth in the context of the eighteenth-century Danish West Indies.[20]

During this period, however, some things were of course settled and beyond discussion. For instance, there was no doubt about the need for a separate penal code for slaves. In 1775, as Peter Clausen and the rest of the Colonial Government began the process of drafting a *code noir*, this was explicitly seen as a way to avoid muddying the divisions of the racial hierarchy. For, as it informed the Danish Chancellery, "if slaves and the free born were to be judged according to the same law, this could easily bring the former to the belief that they were the equals of the latter", a state of mind that would surely have "dangerous consequences" for the colony.[21] A similar worry was also what caused the Government to emphasize the importance of having separate hangmen for white and black convicts. In 1777, for instance, the Colonial Government explained to the Danish Chancellery that to have a black hangman carry out capital punishment over a white offender would "undeniably cause an inappropriate chain of reasoning among the blacks."[22]

But on this occasion, in its 1777 letter to the Danish Chancellery, the Colonial Government was nonetheless hesitant about making the distinction between white and black too wide. In this letter, the Government placed itself in opposition to some unnamed locals who believed it was best not to have a white hangman or public executions of whites at all, but to have white convicts serve their sentence in the metropole instead. For, in the view of these locals, the Government reported that if blacks witnessed the execution of whites:

> it could easily weaken their awe for whites [*ærefrygt imod de blanke*], which ought always, as a first principle, be maintained if one wishes not to be exposed to danger, and that they might arrive at the thought that they are as good as them [i.e., whites].[23]

Yet, although the Government certainly agreed that slaves should not have occasion to consider themselves the equal of their superiors, it did not wish to extend this

[20] The few studies that touch upon the punishment of white criminals have focused on slave abusers and only do so in passing. See ibid.; Olsen, "Danske Lov på de vestindiske øer," 305-316.
[21] WIG. 3.16.1. Letter to the Danish Chancellery (September 25, 1775).
[22] Ibid. Letter to the Danish Chancellery (August 21, 1777).
[23] Ibid.

logic so far as to exempt all white criminals from public punishment. In its view, to have white criminals punished and even executed in public would more effectively raise "fear and horror" among their white peers. But also, it would:

> give negroes a better estimation than they commonly possess for the justice of whites, when they see that they hate and punish evil as much among their own as among them.[24]

Thus, on this occasion, the concern to impose strict distinctions that kept slaves in 'awe' did not trump all other concerns, such as to have 'the justice of whites' appear fair and just. True to this logic, in the late 1770s, it was still not uncommon to have white criminals executed or serve life sentences in the colony. In July 1779, for instance, the white man George Elias Langdon was publicly decapitated in Christiansted for the murder of a local overseer. And in September 1778, another white man by the name of Henry Perry was placed in lifetime "slavery" in the fortress on St. Thomas on a similar charge.[25]

Yet in other instances, white offenders were exempted from public punishment. often following internal disagreements among officials.[26] The case against Richard Brown, convicted in 1781 and 1782 for his abuse and suspected murder of two of his slaves, offers a good example. As shown at the beginning of chapter 2, both the city court and the upper court had sentenced Brown to years of penal labor in the local fortress of Christiansværn, to suffer and work alongside convicted slaves. To some degree, this sentence was supported by the Colonial Government, at the time consisting of both Governor General Peter Clausen and State Councilor Lindemann. At least by September 1783, sometime after Brown's death while in captivity in March, it expressed its hope that "Richard Brown's fate will long remain a deterring warning for those equally malevolent".[27] At this time, however, the Supreme Court had already changed Brown's sentence to two years of fortress labor in Copenhagen. From its protocol, it is clear that this was done, as one judge put it, "for the sake of the negroes",[28] presumably to keep them from seeing, as Gunvor Simonsen had

[24] Ibid.

[25] This analysis is based on the extant copies of Supreme Court cases from 1775 to 1780 that were forwarded to the Colonial Government, upon which the execution of the punishment is often confirmed by date (WIG. 3.81.98. Supreme Court verdict on Johan Siegman (January 23, 1775), Adrian Marche (January 8, 1778), Henry Perry (January 5, 1778), and George Elias Langdon (December 23, 1778)).

[26] See for instance the case against Johan Siegman (note above). He was spared the loss of his hand for giving false testimony by royal decree, and was instead sentenced to lifetime fortress labor (WIG. 3.3.1. Royal rescript of April 18, 1775) and subsequently shipped to Copenhagen to serve his sentence there (WIG. 3.16.1. Letter to the Danish Chancellery, July 26, 1776).

[27] WIG. 3.8.6. Entry 140: Letter to the Chamber of Customs (September 30, 1783), p. 255.

[28] The quotation stems from Supreme Court Judge Peter Feddersen's vote. See SC. 1782 A 473 – 1782 A 535, case 235/1782, verdict of March 17, 1783, pp. 515-519, quotation 518.

argued, "a white man working as an enslaved person".[29] In any case, this was what colonial officials would have understood it to mean. In Lindemann's *code noir*, he and his colonial commentators had in fact agreed that it was generally preferable that abusers like Brown served their sentence in the metropole. In his words, "it might have harmful effects on the negro slaves if such crimes are subject to any public punishment."[30]

In other words, within a very short time span, it appears that officials at the local, colonial, and imperial scales could entertain very conflicting notions about how to punish white criminals. For some, the most vital issues were deterrence and principles of justice. For others, the focus was on imposing strict distinctions that kept slaves in 'awe'. In cases of such disagreement, it was naturally often the courts that took the former position and the Government that took the latter. For instance, this was the case when the sailor Isaac Briggs and another white man, Hans Olsen, were sentenced to branding and life-long fortress labor on St. Thomas for major theft in 1783 and 1784, respectively. In both cases, the Colonial Government – under Clausen and, in the second case, under Schimmelmann – now took the position it had rejected in 1777 and recommended that both served their sentence in the metropole.[31] In regard to Briggs, one of the reasons was that:

> it must be feared that the negroes' respect for whites [*anseelse for de blanke*], which must here in every possible way be maintained, will be weakened when one of these [i.e., whites] would work among them or be seen working in irons.[32]

To judge from these instances, officials often weighed the needs of the moment quite differently during the period from 1775 to 1785. In the next ten years, however, these disagreements became much less pronounced. Or at least, this was so in regard to the punishment of slave abusers. Here, as shown in chapter 2, judges and governors appear to have settled for a practice of issuing warnings and fines instead of penal labor or other forms of public punishment. For both judges and governors, I argue, this practice reflected how the problem of hybridity – the risk of confusing racial distinctions and undermining 'awe' – now tended to outweigh all other considerations.

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[29] Simonsen, "Skin Colour," 271.

[30] CC. 419. No. 24: Lindemann's *Forslag*, book 3, art. 13 (commentary). This aspect of the article was not discussed by the colonial commentators (see CC. 421).

[31] WIG. 3.16.2. Entry 4/1784: Letter to the king of March 31, 1784; Entry 14/1784: Letter of July 31, 1784. In Olsen's case, the Supreme Court had previously ruled that he should serve his sentence in the colony and, unlike its verdict on Richard Brown, none of the judges argued against this (SC. 1784, litra A, pp. 20-22, verdict of March 10, 1784). In 1785, the monarch accepted that both Olsen and Briggs should serve their sentences on the fortress of Cronborg in Elsingore, but at this point Briggs had already died (WIG. 3.3.1. Royal rescript of January 7, 1785).

[32] WIG. 3.16.2. Entry 4/1784: Letter to the king of March 31, 1784.

This was clearly the case in several verdicts on slave abuse. In 1786, for instance, it was primarily to maintain racial distinctions that Judge Ewald recommended that Robert Christie, overseer at Mount Pleasant plantation, should be spared from being punished as a major thief. By Christie's own admission in court, he had stolen no less than a hundred rixdollars from a safe at the plantation, an amount belonging to one of the plantation slaves by the name of Jenny.[33] Since then, Jenny's owner had agreed to drop the charges on her behalf if Christie left the colony for good. And in Judge Ewald's mind, Christie's youth was another reason to show lenience. But as he explained to Governor General Schimmelmann, the most important reason for exempting Christie from the disgrace and pain of the punishment was that:

> the local circumstances of the country, in consideration of the negro slaves residing in this place, cannot bear that ordinary rules of justice are applied to a white like the beforementioned Christie.[34]

In this case, the problem of hybridity and maintaining 'awe' clearly outweighed all other concerns, over deterrence, over rules of justice, and of course over the dangers of slave abuse. The same was sometimes also true even in more serious cases of abuse. In 1793, for instance, Judge Winding did something very similar in his verdict on Philip McKenna, overseer at the Hermann Hill plantation, who was accused of mutilating the slave Francis by cutting off a part of his right ear. In his verdict, Winding was convinced of McKenna's "gruesomeness", how it affronted "humanity", and even how it endangered "public security". Yet, in a striking change of emphasis, Winding's verdict turned from notions of justice and prudence to the question of race as he added:

> But the letter of the law cannot be followed strictly. The necessary distance that separates whites and negroes as well as the analogy to numerous placards of the country leads the court to decide on an arbitrary punishment.[35]

More precisely, Winding issued a fine of 200 rixdollars, but since all the incriminating witnesses were slaves, he allowed McKenna to completely acquit himself of all charges if he merely swore a formal oath on his complete innocence in the matter.[36] Presumably, McKenna did not hesitate to use this privileged possibility of acquitting himself and confirming the superiority of whites.

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[33] CCB. 38.9.7, fols. 95-97, police interrogation (October 28, 1787).
[34] WIG 3.81.73. Ewald's letter to Governor General Schimmelmann (October 28, 1786).
[35] CCB. 38.6.18, fols. 338-339 (August 12, 1793).
[36] Presumably, in ordinary circumstances, Winding would have applied article 6-7-1 of the Danish Code on intentional dismemberment. This is supported by the fact that Winding's verdict explicitly noted how the punishment of banishment (*landflygtighed*), as prescribed by this article and as proposed by the public prosecutor seemed "too harsh" (CCB. 38.616, fol. 339, August 12, 1793).

It is unknown how Governors General Schimmelmann and Walterstorff reacted to this complete overturning of all other concerns that took place in Christie's and McKenna's cases in 1786 and 1793. They would likely have preferred deterrence to have been given a greater role. In any case, as noted above, it was much more typical for judges and Governors General to issue an unconditional fine and thereby seek to provide some degree of deterrence against slave abuse without unsettling the racial hierarchy too much.

The 1796 case against William Smith, mentioned in chapter 2, offers a good example of this balancing act. To recall, Smith was suspected of having his slave Dirck disciplined so excessively that he died shortly thereafter. As Governor General Lindemann was informed of the case, his immediate reaction was to avoid unnecessary publicity. In his view, as he informed the judge, considering "the local circumstances" and the difficulty of proving Smith's guilt, it was best to settle the matter without "public prosecution of the white individuals involved", preferably by having Smith request that his crime be punished with an arbitrary fine.[37] But once this less public arrangement was secured, Lindemann and the rest of the Government did not constrain their wish to reprimand and punish Smith's "excessive harshness". As noted in chapter 2, the Government issued a fine of 200 rixdollars in order to deter others from such cruel acts that risked "awakening […] dangerous thoughts" among the enslaved.[38]

In sum, what was gaining more and more ground during the later decades of the century was a governmentality that made it meaningful and necessary to impose a strict and almost complete distinction between the punishment of blacks and whites. The *problematization* at its heart was one that was able to recognize the risks of hybridity in almost every act and sphere of life, from a slave's failure to stand aside for a white passerby to the public punishment of whites. The *knowledge* it relied upon was assumed to be an instinctive psychological insight into how the enslaved would react to such sights and experiences. And the *art of governing* through which it acted on reality was a semiotic one that aimed to fill the social sphere only with those 'honorary signs' that naturalized the racial hierarchy, and ideally fill its inferiors with awe.

But the history of this governmentality was also one of friction. Although it is clear that it gradually expanded and strengthened its hold over the course of the eighteenth century, it was also often in tension with other imperatives and governmentalities, and various officials at the local, colonial, and imperial scales often had very different ideas about what was most important in particular situations.

[37] GG. 2.5.2. Entry January 30, 1796: Lindemann to Judge Eylitz.
[38] WIG. 3.31.25. Entry 80/1796: letter to William Smith (February 19, 1796).

Education and fears of hybridity

Another governmental domain that was heavily influenced by this governmentality was that of education. To explore this, I will focus on the 1790s when the Government made efforts to organize a system of public instruction for slave children. The immediate occasion for these plans was to prepare for the coming abolition of the slave trade. Believing that the slave population's low birth rates were caused by "the negroes' ways of thought",[39] and in particular by their promiscuity and lack of orderly monogamous unions, the Colonial Government and its superiors in Copenhagen believed it was necessary to work toward "the improvement of the negroes".[40] But believing the problem to be so deeply entrenched, the Government found it best to focus its attention on those groups who were still malleable. As it noted in 1798, this generally ruled out adults above the age of twenty or thirty, a group too set in its ways to be able to "receive any significant degree of improvement". Instead, to ensure "the promotion of enlightenment and morality" among future generations, it was better to focus on "the instruction of youth".[41]

Ultimately, little came of these plans, and the idea of public schooling for slave children did not materialize in the colony until the 1830s.[42] The plans are interesting nonetheless in view of the problems and possibilities they foresaw. To start with, they are interesting because of the central role they gave to the Moravians as those deemed best suited to organize the system and teach the slaves. As noted in chapter 3, the Moravians were broadly admired in the 1780s for the morality of their adherents and their success in attracting them. By Neville T. Hall's account, it was this success that made the Government turn to the Moravians, as opposed to the much less successful Danish Lutheran Mission.[43] Yet, if the Moravians seemed such a natural choice, this was also, I would add, due to the content and method of their teachings.

As scholars like Jon F. Sensbach and Katharina Gerbner have shown, over the eighteenth century the Moravian church gradually moved closer to the sharp racial distinctions that were favored by colonial governors, slave owners, and settlers in

[39] CC. 424. Report to the Chamber of Customs (December 29, 1792), *sub* § 8. This part of the report was authored by Governor General Walterstorff (see CC. 423. Walterstorff's *Foreløbige Anmærkninger* (September 21, 1792), *sub* § 8).

[40] WIG. 3.13.38. Copy of the Chamber of Customs' report to the West Indian Government (August 10, 1796).

[41] CC. 314. File 431/1798: The West Indian Government's *Udkast til […] Forslag til Oplysnings og Sædeligheds Fremme imellem Negerne* (May 7, 1798).

[42] Hall, *Slave Society*, 192-207; Julie Fryd Johansen, "Landskolerne - Skoler for slavebørn på landet," in *Skoler i palmernes skygge*, ed. Julie Fryd Johansen, Jesper Eckhardt Larsen, and Vagn Skovgaard-Petersen (Denmark: Syddansk Universitetsforlag, 2008).

[43] Hall, *Slave Society*, 193.

the Caribbean and across the Americas more generally.[44] During earlier phases of the mission, however, the church was often seen more as undermining than supporting racial hierarchies. In the Danish West Indies, the origin of its mission in the Americas, things came to a head during its first years, in the late 1730s, when several missionaries were imprisoned and almost exiled. Although the missionaries had never questioned the institution of slavery and even owned slaves and a plantation of their own, Gerbner and Sensbach have shown how governors and planters perceived their activities as undermining racial hierarchies.[45] Not only had they married one of their missionaries to a 'mixed-race' member of the Church, appointed converts to positions of leadership within their congregation, and taught slaves to read and write, but by their very proselytization they had made heathens into Christians and thereby given slaves a basis for viewing themselves as the equals of their masters. As local missionary August Gottlieb Spangenberg reported "a certain gentleman" as saying in 1736: "If the negroes were told that all men were the same before God, it would weaken their respect for the whites. And our lives would not be safe."[46]

To appease their critics, the Moravians made a number of important changes that would eventually transform their church into "a vital ideological tool for slave control" in the Danish West Indies.[47] By the 1790s, when they were hand-picked to organize a public school system, the Moravians had preached for decades that conversion did nothing to change one's godly assigned place on Earth. As Spangenberg, now a bishop and leader of the mission in America, reassured the readers of his *Account* (originally published in 1780):

> We will never omit diligently to set before the negro slaves the doctrines which the apostles preached to servants. Servants in those days were almost universally slaves. We will put them in mind that it is not by chance, but it is of God, that one man is master and another a slave, and that therefore they ought to acquiesce with the ways of God; nay, that their service, if done with all faithfulness for the sake of Jesus, is

[44] Katharine Gerbner, *Christian Slavery – Conversion and Race in the Protestant Atlantic World* (Philadelphia: University of Pennsylvania Press, 2018), esp. chapter 8; Jon F. Sensbach, *A Separate Canaan – The Making of an Afro-Moravian World in North Carolina, 1763-1840* (Chapel Hill: University of North Carolina Press, 1997).

[45] Gerbner, *Christian Slavery*, 171-178; Christina Petterson, Sigrid Nielsby-Christensen, and Tine Ravnsted-Larsen Reeh, *Brødremenigheden - Hernnhuterne i København og Christiansfeld, samt missionen i Dansk Vestindien, Grønland og Trankebar* (Copenhagen: Forlaget Vandkusten, 2022), 66-71; Sensbach, *A Separate Canaan*, 31-43.

[46] Quoted in Gerbner, *Christian Slavery*, 173.

[47] This assessment is given in Sensbach, *A Separate Canaan*, 35.

> looked upon as though they were serving Lord Jesus Christ. This we have indeed done hitherto, and, God be praised, with good effect.[48]

Considering this emphasis on the divine and just nature of the racial hierarchy, it is little wonder that the Colonial Government considered the Moravians well-suited to the task.[49] Like the form of Christianity that officials had hoped to provide for slaves in the mid-1780s, namely one that "eases the condition of the slave" and renders "excessive coercion and harshness more bearable",[50] what the Moravians now taught slaves was to direct their attention toward spiritual matters and to calmly accept the inequalities and injustices of this world.[51]

Clearly, for the Government, the ways and teachings of the Moravians offered a possibility not only of improving the 'negroes' way of thinking', but also of keeping them from questioning and challenging the racial hierarchy. But while education thus offered a way to avert hybridity, the Government also feared it might have the opposite effect. For one thing, it believed it would be risky to have missionaries instruct slaves at the plantations, as previously suggested by the Chamber of Customs. At it reported to the Chamber in 1792, slaves would likely perceive such itinerant teachers as alternative authority figures, whom they could use to subvert their masters' authority. Their presence would likely therefore cause "a kind of fermentation [*gæring*]" among the slaves, whose "consequences are easier to predict than to quench". Therefore, as the chamber would later agree, the Government found it better to reserve instruction to "public places at particular times" by expanding the number of schools on the islands, initially by adding two new schools to the two existing mission schools, but later by providing one school in each district or 'quarter' (17 in total).[52]

Such fears were not confined to questions of time and place, but also revolved around the content of instruction. In 1798, as the Government moved forward with its plans under Governor General Thomas de Malleville, it posed some revealing questions in this regard to a local head of the Moravians in the colony, one Johannes

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[48] August Gottlieb Spangenberg, *An Account of the Manner in which the Protestant Church of the Unitas Fratrum, or United Brethren, Preach the Gospel, and Carry on Their Missions among the Heathen* (London: H. Trapp, 1788 [1780]), 42.

[49] CC. 314. File 431/1798: The West Indian Government's *Udkast til […] Forslag til Oplysnings og Sædeligheds Fremme imellem Negerne* (May 7, 1798), § 1.

[50] WIG. 3.8.6. Entry 140: Letter to the Chamber of Customs (September 30, 1783), p. 257

[51] Sebro, "Brødremenigheden," 22-25. This was also evident to contemporaries, for instance to Schimmelmann's Commission on the Slave Trade. In its 1791 report, the message of the Moravians was described as "the most appropriate and consoling for the negroes": "The disregard for all temporal sufferings, the incessant appeals to an improved future state, and the purity of the heart that they stress, these are teachings that will render the negro less dissatisfied with his destiny and thereby improve his conduct." (Gøbel, *Det danske slavehandelsforbud*, 230.)

[52] WIG. 3.8.19. Letter to the Chamber of Customs (December 31, 1792), p. 530. See also Hall, *Slave Society*, 193-194.

Renatus Verbeek. Appealing to his long-term experience in the West Indies, the Government asked him three questions:

> Would it be advisable to give the negroes knowledge other than religion, would it not be safest to do so with oral instruction, and was it perhaps dangerous to allow them to read and write?[53]

In his reply, however, Verbeek would not dare to offer his view on the subject. Besides noting that the Moravians would not, as a rule, commit themselves to instruct slave children in fields other than religion and would only offer lessons in reading to a small number of capable children, he believed that these matters were best decided by the Government itself.[54] According to Neville T. Hall, Verbeek's reply showed that the Government had greater educational ambitions than the Moravians, who now foresaw the immensity of organizing "a general education system" with "secular instruction in reading and writing".[55] Yet, to judge from the way the Government phrased its questions and the absence of any reference to secular education in its previous deliberations,[56] it instead seems clear that the Government already foresaw that it might be 'dangerous' to provide slaves with a more expansive and secular education, for instance in reading and writing.

From the extant files, however, it is impossible to say what precisely it believed these 'dangers' were. But to judge from previous conflicts on slave education that took place in the colony around the middle of the century, it seems likely that the 'dangers' referred to by the Government involved the risk that education might lead slaves to question or challenge the racial hierarchy. In her detailed account of the local resistance to the Moravians in the 1730-40s, Katharina Gerbner has shown the great suspicion with which locals viewed the Moravians' eagerness to teach their enslaved followers to read and write. From the point of view of the Moravians, Gerbner argues, literacy and an intimate personal relationship with scripture were central aspects of Christian piety and necessary preconditions for a heartfelt conversion. For local elites and governors, however, teaching slaves to read, write, and interpret texts appeared highly dangerous. Not only did it enable slaves to forge documents and communicate more secretly, but it also risked giving them cause to experience themselves as the equals of whites. In response to these fears, the Moravians decided in 1740 to suspend all lessons in reading and writing, and

[53] The Government's questions were quoted in CC. 314. No. 743/1798. Verbeek's *Gegenstände* (June 15, 1798).
[54] Ibid., § 2.
[55] Hall, *Slave Society*, 194.
[56] Besides the files mentioned in the preceding discussion, see also CC. 203-204. Entries 195/1797, 431/1797.

generally became careful – Gerbner shows – not to make slaves too wise and learned.[57]

In my view, it was likely such fears that were behind the Government's hesitant attitude toward teaching reading and writing to the enslaved, as reflected in its 1798 letter to Verbeek. Thus, just as in the domain of punishment, the domain of education was, it seems, organized by a governmentality that made it meaningful and necessary to maintain distinctions at all costs. It was one that was able to recognize risks of hybridity even in such a seemingly innocent activity as teaching children to read the Bible. But it was one that used the *verbal* signs of instruction, and less the visual signs of everyday practices, to represent and bring to life the 'truth' of the racial hierarchy.

The specter of slave revolt

But to account for the governmentality that filled the domains of punishment and education, it is no doubt necessary to look not only to its prehistory (in the 1730s and 1740s), but also to the more contemporary forces that sustained and even intensified it. Not least, it is useful to tie it to two factors, both of which have been explored by Neville T. Hall.

For one thing, Hall argues, with the expansion of the plantation economy and the ever-rising demand for slaves, the eighteenth century saw a widening "demographic imbalance […] between ruler and ruled, black and white, slave and master". In his view, this rising imbalance in fact led to nothing less than a "state-of-siege-psychosis", as slave revolt, rather than foreign invasion, became the most acute security problem in the colony.[58] But also, as Hall adds, these fears of rebellion rose to new levels in the 1790s as the Caribbean witnessed sustained and sometimes successful slave rebellions, in Martinique, Guadeloupe, and most famously St. Domingue (the future Haiti). In the Danish colony, he argues, officials cast their suspicions not least on resident Frenchmen and French freedmen, who were feared to organize a rebellion and "foment unrest among the slaves".[59]

The same concern with subversive ideas and people – in particular of French origin – is also found, I would add, in the records of judges and Governors General from the mid-1790s.[60] Here, their concern was, as in other Caribbean colonies, to identify and contain the spread of revolutionary ideas and sympathizers, in particular from

[57] Gerbner, *Christian Slavery*, chapter 8.
[58] Hall, *Slave Society*, quotation 36, see also 23-30.
[59] Ibid., 25.
[60] See for instance CCB. 38.6.18, fols. 408-409: The state vs. Anthony Behagen (verdict of December 1, 1794); CCB. 38.9.9, fols. 357-359, 363-364: Police interrogation (January 1795); GG. 2.5.2. Lindemann's letter to Judge Eilitz (May 9, 1795).

St. Domingue, located a few hundred miles to the west of the colony.[61] In many ways, these efforts of containment grew naturally out of the governmentality explored above. Like it, their underlying logic was to prevent the enslaved from encountering visual and verbal signs or representations that might give them cause to experience themselves as the equals of whites.

Thus, it was far from accidental that the governmentality that gave meaning and shape to the encoloring of social reality became increasingly foundational in the Danish West Indies as the century wore on. Not only had it been thoroughly entrenched at least since the 1730s or 1740s, but it was also strengthened by rising fears over slave rebellion. But does this also mean that this governmentality was a uniquely *colonial* governmentality? And should its roots only be traced to local practices and factors, as I have done so far? To explore these questions, the rest of this chapter will turn to the metropole and the comparable domains of punishment and education. Essentially, I will argue that, although this colonial governmentality was of an intensity that was altogether unique, many aspects of its way of problematizing, knowing, and governing or 'encoloring' reality may be found in the metropole. In particular, as I will argue, this was true in regard to the governing of the newly liberated peasantry.

Peasants and the social hierarchy

In eighteenth-century Denmark, the problem of maintaining social distinctions and hierarchies between the 'estates' (*stænder*) was an ongoing concern for elites and state officials.[62] Late in the century, as the peasantry's freedom from adscription was discussed and confirmed, these concerns were perhaps stronger, or at least more forcefully articulated, than ever before. In any case, just as in the colony, the problem of maintaining distinctions left a significant imprint on the penal and educational regimes governing the peasantry. But the governmentality behind these regimes was far from identical. In the domain of law, I argue, the problem of hybridity was essential only when governing peasants in their capacity as seigneurial subjects, but not in their general capacity as legal subjects. And in the domain of education, the comparable fear of making peasants too learned was less pronounced and involved a somewhat different problem. Generally, in the metropole, the problem was not to prevent anything that might allow peasants to experience themselves as rights-bearing and honorable members of society. Rather,

[61] On the Spanish attempts to control this spread of revolutionary news, ideas, and people to Cuba, see Ferrer, *Freedom's Mirror*, chapter 2.

[62] The importance of these distinctions between the estates in eighteenth-century Denmark has been thoroughly explored by Henningsen, *I sansernes vold*, chapters 9-17.

it was to make peasants experience themselves as honorable, rights-bearing, *and* inferior members of society.

Peasants and the law

Peasants as criminals

As in every other early modern European society, Danish law had for centuries both reflected and buttressed the profound distinctions that appeared to distinguish the various estates from one another. In Danish law, there were four estates (in descending order of dignity): the noblemen, the clergy, the burghers, and finally the peasantry. In principle, all subjects were equal before the law regardless of their estate, but in practice each estate had what were known as 'privileges' that ensured that its members were, to a certain extent, governed by its own particular laws, in regard to such things as work, trade, clothing, consumption, and education. In the case of the peasantry, however, these laws followed not from the privileges they enjoyed but, as Henningsen has noted, from their "total lack of privileges".[63] Taking stock of the legal situation at the close of the eighteenth century, the political economist and long-time administrator Jacob Mandix offered the following assessment of the peasantry's peculiar legal position:

> Besides the obligation to serve in the army that falls upon the peasantry, but not upon the other estates, there is also something in our laws, whereby the lawgiver appears to have concern for the lower level of means and enlightenment in which this estate generally stands in comparison to other estates, and due to which individuals of the peasantry are in numerous ways conceived of and treated differently than the other citizens of the state.[64]

In some cases, Mandix argued, this tendency took the form of a kind of preferential treatment or, in present day terms, 'positive discrimination'. For instance, the law sometimes prescribed lower fines for peasants and set up special formalities of state oversight for contracts between landlords and peasants, so as to protect the presumably poor and ignorant peasant from economic ruin and seigniorial manipulation.[65] In other cases, however, "the supposedly inferior means and enlightenment of the estate as well as the lower esteem [*ringere agtelse*] that follows therefrom" were visible, Mandix argued, in the more frequent use of corporal punishments for crimes committed by peasants. More precisely, they were reflected

[63] Ibid., vol. 1, 186-213 (quotation 188).
[64] Jacob Mandix, *Forsøg til en systematisk Haandbog over den danske Landvæsensret eller den Deel af den danske Lovkyndighed som egentlig og nærmest angaar Landboerne og Landbruget i Danmark*, 2 vols. (Copenhagen: Gyldendals Forlag, 1800), vol. 1, 119.
[65] Ibid., vol. 1, 119-121.

in the fact that "for the same crimes, individuals of the peasantry are, in some cases, more often sentenced to the fortress or correctional labor [*fæstningsstraf og tugthusarbejde*] than people of any other estate."[66]

As a noteworthy example of this tendency, Mandix mentioned a 1786 decree on the illegal distillation of aquavit (*brændevin*) in the countryside. As a rule, anyone distilling aquavit without special privilege or anyone merely possessing the tools to do so would be fined in accordance with their estate or, sometimes, occupation. Thus, a fine of thirty rixdollars for peasants, a fine of sixty rixdollars for millers and innkeepers, and a fine of one hundred rixdollars for anyone from "outside the peasantry". But in the event that a peasant was unable to pay the fine and if his landlord did not wish to pay it for him, he would not (as would a person of a higher estate) be sentenced to incarceration on bread and water for a period of four to twenty-eight days. Rather, for a first-time offense, he would be sentenced to one month of penal labor in a fortress and, for a second-time offense, to a period of two to six months, depending on "circumstances and the discretion of the judge."[67]

Of course, in pointing out such obvious examples of discrimination, Mandix did not intend to be critical of 'the lawgiver' or, at least, his contemporaries would most likely not have read him in this way. To them, Mandix was merely observing the continuing existence of the well-established and still meaningful idea that the law sometimes had to be fitted, as he put it, to the 'means, enlightenment, and esteem' of the individuals in question. No doubt this was also obvious to those who crafted the 1786 decree mentioned above. Authored under the leadership of Christian Ditlev Reventlow, then recently made the Head of the Exchequer (*Rentekammeret*), the detailed proposal behind the decree did not find it necessary to reflect upon this principle.[68] Most likely, this was because the principle was already in use within the field of aquavit suppression,[69] and in any case was entirely in keeping with how unpaid fines were commonly handled.

More precisely, it was in keeping with the common practice of what jurists called 'subsidiary punishment' (*subsidiær straf*), i.e., 'replacement punishment', as it was defined in a 1743 decree still regulating the practice. Here, the punishment of penal labor was reserved for people of lower standing (*almuen*), the men serving their sentence in the fortress and women in the spinning house (*spindehuset*). Those spared from this harsh and, as seen in chapter 3, at least moderately dishonoring treatment were not only members of the nobility and other equally privileged persons, whose subsidiary punishment was instead to be personally decided on by the King, but also individuals of "such circumstances that their well-being and honor

[66] Ibid., vol. 1, 121-122, 136.
[67] Decree of August 2, 1786, §3, 13 (printed in *Chronologisk Register*, vol. 9, 104-117).
[68] CR. 2411-22. No. 153/1786: *Allernaadigst Forestilling* (April 25, 1786), §5.
[69] See for instance the proposal behind the decree it replaced, namely the decree of September 2, 1773, found in CR. 2411-1. No. 141/1773: *Allernaadigst Forestilling* (August 24, 1773).

[*velfærd og lempe*[70]] would be ruined by such public punishment". Their 'honor' and 'well-being' (here meaning their overall 'happiness' in life) being in jeopardy, this 'middling' group in between 'the low' and the nobility were instead, as noted above, to suffer short-term incarceration in a city jail, in an "isolated and honest room [*ærligt værelse*]" enjoying only "clean healthy water and good and proper rye bread".[71]

Of course, one might seek to establish which groups these categories of 'the low' (or *almue*) and 'the middling' more precisely referred to. (Quite possibly, the latter would often refer to the respectable burgher class.)[72] But what is more relevant here is the problematization at the heart of this discriminatory practice that was well-entrenched in late eighteenth-century Danish penal law. For it seems clear from the above that fears of hybridity had little to do with it directly. Instead, it was a concern over disproportional punishment, as explored in chapter 3, that made it meaningful and necessary to spare those of a higher standing from suffering excessively in comparison to their inferiors, whose 'honor' and 'well-being' would not suffer to the same degree by being sentenced to penal labor. Thus, although the effect of the practice was surely to maintain social distinctions, it was not driven by a problematization that feared, as officials did in the colony, the unraveling of the naturalness of the hierarchy. Rather, its underlying problem was how to punish in proportion to those distinctions that were already established. The same, however, was much less true in seigneurial relations.

Peasants as seigneurial subjects

Even after the rural reforms, the great majority of the peasantry were still essentially seigneurial subjects. That is, discounting the few who became self-owners during the 1790s, most farmers, cottagers, and rural laborers were still bound to carry out corvée on manorial lands and, as tenants, still had to consider their seigneur as their *husbond*. In many ways, the continuation of this state of affairs was the work of the rural reformers who crafted the new legal order, as explored in chapter 2. Their idea of 'freedom' was not, as noted, that one should do as one pleased, but rather that one should do as one ought. And to judge from the deliberations among rural reformers in the late 1780s and early 1790s, for peasants to do what they ought was not only to be industrious, pious, and so forth, but also to treat "their lordships and landlords with the appropriate reverence and esteem".

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[70] *Ordbog over det danske Sprog (ODS)*, ed. Harald Juul-Jensen et al. (Det Danske Sprog- og Litteraturselskab, 1918-1956), *s.v.* Velfærd 1.
[71] Decree of December 6, 1743, §13-15 (printed in *Chronologisk Register*, vol. 3, 547-559).
[72] This interpretation is suggested in Holmboe, "Højesteret og strafferetten," 87-88.

This quotation stems from the decree of June 8, 1787 that regulated many aspects of landlord-peasant relations, and which among other things illegalized the seigneurial use of various 'debasing' punishments, as discussed in chapter 2.[73] In this decree, one also finds a strong emphasis on the display of 'vertical honorary signs' that should ideally be enacted in every interaction between peasants and seigneurs. In the decree, the following was demanded:

> Just as the King will on the one hand protect the copyholders in their rights as are appropriate to their condition, he will on the other hand maintain the seigniors and landlords in the authority that they […] hold over these. It is therefore proclaimed that all copyholders […] should not only demonstrate obedience to their lords and their representatives, as *husbonds*, as they perform the work by which they are to be conceived of as all servants [*tjenere*] as per the law; but also that those of the peasantry in particular, who reside on estates where their lordships are also, as a consequence of their privileges, their magistrate [*øvrighed*], should with appropriate obedience and without contradiction do what is demanded of them for the fulfilment of the royal decrees and the maintenance of good order; as well as on all occasions treat their lordships and landlords with the appropriate reverence and esteem [*ærbødighed og agtelse*].[74]

As explained a year before by Christian Ditlev Colbjørnsen, one of the main architects behind this decree, these performances of unconditional obedience, subservience, and reverence were crucial for the maintenance of "good order". For, as he claimed, if the landlord did not at all times and in all places, even when acting in a private capacity, enjoy "the distinguished esteem" and "the utmost reverence of those he commands", the peasantry could easily come to "entertain wrong notions about the position [*gøre sig urigtige begreber om den stilling*] which they now occupy in relation to their lordships and landlords".[75] That is, without the unceasing performance of acts and other signs that manifested and naturalized the hierarchy, peasants would likely come to forget their place, wrongly consider themselves the equals of their seigneurs, and therefore become disobedient.

As in the colony, in other words, 'good order' in rural society appeared to depend on an art of governing that produced those vertical honorary signs that would be necessary to buttress the hierarchy and fill its inferiors with awe. Unlike the draconic and often detailed colonial prescriptions on proper shows of deference, however, the 1787 decree did not explicitly define how this recognition of difference and hierarchy should be performed or how disrespect should be punished. Instead, those who crafted it had been content to specify that it made a peasant particularly culpable if he erred in defiance of his lordship's explicit warning and admonishment. In this case, the judge should issue "an appropriate and severe

[73] Decree of June 8, 1787 (printed in *Chronologisk Register*, vol. 9, 176-190, quotation §16).
[74] Decree of June 8, 1787, § 16 (printed in ibid., vol. 9, 176-190).
[75] *Forhandlinger*, vol. 1, 252-253.

punishment in proportion to the importance of the matter and the greater or lesser degree of defiance that characterizes his crime."[76]

A few years later, however, the rural reformers felt obliged to provide greater specification. In the March 25, 1791 decree on The Execution of Good Order during Corvée, originally authored by Christian Ditlev Reventlow, it was determined that any displays of "disobedience and defiance" should, for a first-time offense, be fined with up to two rixdollars (but less for cottagers and servants), while a third-time offense, if committed by a copyholder or a cottager, would ultimately cost him his leasehold (*fæste*). Moreover, if such an offense was committed in the presence of other peasants, to whom the wrongdoer would "thereby be setting an evil example", the fine would be doubled. Even worse, if a peasant went so far as to "seek to seduce" others to similar disobedience, the landlord could have him immediately arrested and issued with a fine of up to ten rixdollars or, if "the crime is adequately great", have the courts sentence him to months or years in the nearest prison facility, indeed even in a fortress. Moreover, if someone was to verbally or physically abuse the landlord or his representatives, he should be given "a significant fine", or in more serious cases, for instance of violence against their lordship, be sentenced to prison, even for life.[77]

As historians agree, the immediate purpose of the 1791 decree was to appease and support the many landlords across the country who experienced increasing difficulties keeping their peasants compliant and obedient.[78] As Claus Bjørn has shown, the years 1789 and 1790 had seen a steep rise in peasants and entire villages complaining to the authorities, usually about excessive corvée, and in many cases they simply went on strike.[79] For this purpose, the decree provided the landlord with the right to have corvée peasants fined for poor work, lateness, absence, and of course disrespect and disobedience. Furthermore, whereas peasants should first carry out all orders and then, in all humility, seek redress, landlords not only retained their rights to discipline corvée workers (except farmers), but could also count on the fact that any "altogether unfounded complaints" from their tenants would be severely punished.[80]

To judge from the decree itself, as well as the discussions that preceded it, the problem it hoped to fix was thus the related problem of peasants neglecting their work and challenging the naturalness of the hierarchy that demands their obedience

[76] Decree of June 8, 1787, § 16 (printed in *Chronologisk Register*, vol. 9, 176-190).
[77] Decree of March 25, 1791, § 9-12 (printed in ibid., vol. 10, 134-142). For C. D. Reventlow's drafts, see CR. 434.4. No. 175 (undated) and 180 (March 7, 1791).
[78] Thus, the decree is usually understood as part of the more 'landlord-friendly' turn in rural policy identified with the 1790s. See for instance Jacobsen, *Husbondret*, 123-124.
[79] Claus Bjørn, "Den jyske proprietærfejde - En studie over godsejerpolitik og bondeholdninger omkring 1790," *Historie/Jyske Samlinger* 13 (1979): 12-22.
[80] Decree of March 25, 1791, § 6-8, 13-16 (printed in *Chronologisk Register*, vol. 10, 134-142).

and humility.[81] But the problem did not go further than this. Much unlike the colonial governing of black slaves, the danger that Danish rural reformers recognized in such acts of hybridity was not how they might set in motion a chain of thought whose ultimate result was revolution and a complete overturning of social hierarchies. Thus, although the specter of revolution was occasionally aired by opponents of rural reform in the years after the French Revolution of 1789,[82] it was not part of what made such subversive acts problematic for rural reformers.

But even if the danger or problem that rural reformers recognized in such acts was specific to the metropole, there was much of the above that would have been familiar to colonial officials. For one thing, just like disrespectful conduct toward whites, a peasant's show of disrespect toward his lordship was not to do wrong against an individual, much less an equal, but rather to do wrong against the social order. Thus, whereas the landlord should, for any offenses on his part, merely offer compensation and redress to the offended party, for the peasant, wrongdoing amounted to an essentially criminal act subject to fines, the loss of one's lease, and ultimately fortress labor. Secondly, as in the colony, the 1791 decree placed special emphasis on the effects such scandalous acts might have on others. As noted above, the decree made disobedient subjects particularly culpable if they exposed others to 'bad examples' or, even worse, tried to 'seduce' them to follow suit. Thus, as in the colony, the 1791 decree intended to cleanse social life of such 'signs' that would allow peasants to entertain 'wrong notions', forget their place, and experience themselves as the equals of their lords.

In other words, as colonial officials placed more and more emphasis on the honorary signs that ideally filled blacks with awe and whites with esteem, they were not doing anything singularly colonial. Certainly, in the colony, this art was not contained within the sphere of seigneurial relations, but tended to dominate most, if not all, aspects of colonial law. And certainly, its underlying problem was not simply to make subjects industrious and obedient, but also the more expansive problem of avoiding the frightening scenario of a full-blown slave revolt. But even so, in metropole and colony one finds an essentially similar *problematization* of disrespect (as a source of hybridity) and a semiotic *art* hoping to fill social life with the required vertical honorary signs. But also, it is important to note, one finds in metropole and colony a very similar and quite instinctive psychological *knowledge* of how inferiors will likely react if they are exposed to 'bad examples'. To further explore these overlaps as well as their limits, the last section of this chapter will turn to the domain of education.

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[81] For the various drafts and memoranda submitted prior to the 1791 decree, see CR. 434.4. Nos. 175, 176, 177, 178a, 179, and 180. Besides Reventlow's drafts (Nos. 175 and 180), the extant files contain memoranda by J. Bartholin-Eichel, M. Quistgaard, and P. A. Lehn.

[82] Jacobsen, *Husbondret*, 124; Bjørn, "Den jyske proprietærfejde," 29.

Ambiguous education

As in the colony, educating society's inferiors, and not least its children, was high on the political agenda in 1790s Denmark. Here, however, the task was not to create a wholly new educational infrastructure, but to reform the existing one. As Ingrid Markussen has shown, some of the early traces of these reforms, namely the school laws of 1806 and 1814 that took form under the so-called Great School Commission (*Den store skolekommission*, in session between 1789 and 1814), are found in the 1760s and 1770s. Not least, she shows, they may be traced to Andreas Schytte, professor at Sorø Academy and one of the most influential voices in educational reform.[83]

In his works and lectures during the 1760s and 1770s, Andreas Schytte called for profound improvements of the pre-existing and, in his view, grossly inadequate system of rural schooling. Education, he believed, was far too important a matter to leave to parents, not least in order to ensure that every citizen received the upbringing that is suited to their estate and to the particular "task" or "purpose" (*bestemmelse*) each estate has been given.[84] As he noted:

> from the division of the citizens into classes we realize the purpose of each; from the purpose we conclude as to their duties and labors: and from this we know the nature of the education each of them should receive.[85]

Among the audience attending Schytte's lectures, carefully writing down what he heard, was a young Johan Ludvig Reventlow, the brother of the rural reformer Christian Ditlev Reventlow. In the 1780s, the Reventlow brothers would emerge as central figures in educational reform, first on their private estates and then through their various contributions, not least during the 1790s, to the commissions in which the school laws of 1806 and 1814 were drawn up. Although they were among the most progressive forces of reform and held high hopes for the enlightenment of the peasantry, like everyone else they accepted the basic thought of Schytte's dictum. For them as for anyone else, the peasantry's education had to be particular to its pre-assigned role in society.[86]

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[83] Markussen, *Til Skaberens Ære*, chapter 2.

[84] Ibid., 106-116.

[85] Andreas Schytte, *Staternes indvortes Regiering*, 5 vols. (Copenhagen: Gyldendals Forlag, 1773-1776), vol. 4, 161.

[86] Christian Larsen, Erik Nørr, and Pernille Sonne, *Da skolen tog form, 1780-1850*, ed. Charlotte Appel and Ning de Coninck-Smith, 5 vols., Dansk skolehistorie (Aarhus Universitetsforlag, 2013), 54, 69-79; Ingrid Markussen, *Visdommens Lænker - Studier i enevældens skolereformer fra Reventlow til skolelov* (Odense: Landbohistorisk Selskab, 1988), esp. 111-129. As noted by Markussen, J. L. Reventlow's notes from Schytte's lectures are now kept in the archive of his estate of Brahetrolleborg.

However, unlike Schytte who had both spoken rather vaguely about 'duty' and 'purpose', Johan Ludvig Reventlow referred to it as a "calling" (*kald*) and emphasized the divine origin of this calling in "providence" (*forsynet*).[87] As in the colony, Reventlow believed that it was vital that peasants accepted the divinely ordained nature of their calling if they and other less fortunate individuals should humbly accept the inequalities of the world. As he explained in his 1790 memorandum to the Great School Commission, giving everyone the same education was not only impossible, but also a usurpation of God's power to "place one person in happy circumstances and burden another". Moreover, by usurping this power for itself, the state risked upsetting the ability of the less fortunate to enjoy life. Indeed, by undermining the divine basis of social distinctions and inequalities, "he who bears the burden" would lose "the greatest comfort" he now enjoys. Thus, rather than reminding inferiors of the divine origin of their lowliness, what was vital was to give them an education that would allow them to experience their 'calling' as existentially satisfying. As he observed:

> One estate has greater privileges than another, and a great number of the citizens of the state are destined for inferiority and to bear burdens, but it would be gruesome if the Government did not ensure that he who shall carry the burden is at least brought up in such a way that he will, if possible, not feel the burden, but find happiness [*lykke*] in fulfilling the duties imposed on him by his calling [*kald*].[88]

Thus, for Johan Ludvig Reventlow, it was vital to arrange the education of peasants in such a way that it would make their 'calling' less burdensome. As has been demonstrated by Ingrid Markussen, there was nothing exceptional about this invocation of providence. In fact, as she shows, in the educational material in use in Danish schools at the end of the century, the virtue of humbly and happily accepting one's pre-assigned place in this world was both foundational and universal.[89] For instance, it was essential to Bishop Nicolai Edinger Balle's *Lærebog* (literally: 'Learning book'). Published in 1791 at the behest of the Great School Commission, Balle's book was mandatory reading in rural schools in the decades to come. In it, he proclaimed that "everyone should consider the estate, in which he is placed, as a calling from God", and warned his readers that "whoever is displeased with his estate is thereby casting reproaches upon God's good providence".[90]

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[87] Reventlow's memorandum of September 26, 1790 to the Great School Commission (printed in Joakim Larsen, *Pædagogiske Afhandlinger af L. Reventlow* (Copenhagen: Det Nordiske Forlag, 1900), 44-89, quotations 53. For more on J. L. Reventlow's sources of inspiration, see Markussen, *Til Skaberens Ære*, chapter 2.

[88] Quoted in Larsen, *Pædagogiske Afhandlinger*, 53.

[89] Markussen, *Til Skaberens Ære*, chapter 6.

[90] Nicolai Edinger Balle, *Lærebog i den Evangelisk-christelige Religion indrettet til Brug i de danske Skoler* (Copenhagen: Joh. F. Schultz, 1792), 24.

Among educational reformers, however, there was less agreement about a problem that also appeared central as colonial officials made plans for 'the improvement of the negroes'. For how precisely should one educate and improve the peasantry without making them too learned to humbly accept their natural place in the hierarchy?

Some years earlier, the former leader of government, Ove Høegh-Guldberg, had taken a very minimalist position. In his view, to teach a peasant more than his duties in life, to read the Bible, and to do some simple calculus would not only be unnecessary but would "make his estate unpleasant and produce nothing but dislike and boredom for the harsh and monotonous work in which his days must be spent".[91] Compared to Høegh-Guldberg, the Reventlows were less cautious. In their respective proposals from the mid-1790s, they proposed that, besides teaching the basics of reading, writing, and calculus, schools with adequately trained teachers should also offer instruction in history, geography, natural history, mathematics, and other subjects that would help to eradicate superstition and prejudice, and raise their general state of enlightenment.[92] Yet, at least by the late 1790s, Johan Ludvig Reventlow became concerned that their plans risked igniting, as one of their commentators put it, "the fear, so often expressed, of making peasants learned".[93] And as a 1799 proposal produced almost entirely in accordance with their plans reached the desk of the state council, this was exactly what happened.[94]

This concern was expressed most clearly of all by Duke Frederich Christian of Augustenborg, himself a long-time leader of the Commission on 'the Learned Schools'. In 1802, having given himself plenty of time to reflect on the 1799 proposal, he described the ambitious range of teaching subjects as "harmful". In his words:

> Every education that goes beyond the domain in which one shall function in the future is harmful [*schädlich*], seeing as it will lay a seed of dissatisfaction with one's estate, awaken a restless desire to raise oneself above it, produce an aversion to physical work, and become a source of delusional hopes and decisions. So indisputable as these consequences of excessive schooling are, the more appropriate is the wish that the educational limits by which the teacher is bound, and which he may not exceed, are determined with the greatest possible care.[95]

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[91] Cited in Markussen, *Visdommens lænker*, 104.
[92] Larsen, Nørr, and Sonne, *Da skolen tog form, 1780-1850*, 82-84.
[93] This risk was noted by commentators on C. D. Reventlow's 1793 proposal and later taken into consideration by J. L. Reventlow in his 1798 comments, quoted in Joakim Larsen, *Skolelovene af 1814 og deres tilblivelse aktmæssigt fremstillet* (Copenhagen: J. H. Schultz Forlagsboghandel, 1914), 120; see also 86 and 149.
[94] The 1799 Commission's proposal is printed in ibid., 155-164.
[95] Duke Friederich Christian's memorandum of April 6, 1802, printed in ibid., 201-257, quotation 205.

In the years that followed, such concerns profoundly influenced the direction of educational reform. In fact, together with the country's unfortunate participation in the Napoleonic Wars (1801-1814), historians agree that this concern with excessive learning contributed to a significant reduction in the teaching subjects included in the school laws of 1806 and 1814. Whereas the Reventlow plan of 1799 had allowed for a broad number of subjects, these laws limited peasant education to the subjects of religion and morals, the skills of reading, writing, and calculus, and gymnastics and singing.[96]

Of course, it is undeniable that even this reduced curriculum made for a very different school than the one that was planned in the colony. Yet, from the above it seems clear these very different educational regimes were nonetheless shaped by somewhat similar governmentalities. For both, the aim was to make inferiors humbly accept their inferior role in life; first, by informing them about the just and divine nature of the hierarchy and their place within it, and second, by not making them so learned that they might wish to alter their fate.

Yet, there were also important differences. For one thing, as was also true in regard to the domain of law, the problem that was foreseen by metropolitan educational reformers was not a general overthrow of the social order. Rather, if it was vital to keep peasants from questioning their inferior role in life, it was in order to keep them industrious and obedient. Secondly, both legal and educational reformers clearly presupposed that the peasantry could handle a much greater degree of ambiguity. Thus, whereas colonial officials believed it was necessary to make the racial hierarchy crystal clear and to constantly remind blacks of their place, in the metropole the problem was instead to maintain the peasantry as both honorable, rights-bearing, *and* inferior members of society. Indeed, considering the steps taken by rural reformers to restore to the peasantry their rights as citizens (as explored in chapter 2) and their relative equality as legal subjects (as explored above), it seems to have been presupposed that the peasantry could, or should learn to, manage a certain degree of ambiguity; that even when being recognized and treated as citizens, they would not, if properly managed, fall into chains of reasoning that would make them question their inferior role in life.

The governmentality of encoloring

Apparently, encoloring social relations in the late eighteenth-century Danish West Indies did not involve a uniquely colonial governmentality. This governmentality was certainly specific, more intense, grew out of earlier colonial practices, and was

[96] Markussen, *Visdommens lænker*, 258-298; Larsen, Nørr, and Sonne, *Da skolen tog form, 1780-1850*, 127-129.

strengthened in response to local and regional developments. Thus, risks of hybridity were identified everywhere, they were understood as existential threats to the colonial order, they harked back at least as far as the days of Philip Gardelin and mid-century discussions about education, and they were strengthened by rising fears of slave revolt, not least following the outbreak of the Haitian Revolution. But in some ways, the governmentality that gave meaning and shape to this process of encoloring was also a seamless extension of the ways of problematizing, knowing, and governing social hierarchies that were meaningful to late-century rural and educational reformers in the metropole.

As in the metropole, maintaining colonial racial hierarchies essentially involved three things: Firstly, it worked through *a semiotic art* that used vertical honorary signs – both visual and verbal – to naturalize the racial hierarchy; secondly, it considered those acts *problematic* that somehow allowed these hierarchies to lose their hold over the experience of inferiors; and thirdly, it relied on an instinctive psychological knowledge of how these inferiors would experience different acts and sights, such as the public execution of a white man. To expand on this latter point, it is thus questionable whether one should define this knowledge as 'racial'. For even as colonial officials used their experience of blacks to determine, for instance, whether or not it was best to spare whites from public punishment, it was a very similar form of reasoning that made a rural reformer like Christian Ditlev Colbiørnsen worry that, without unceasing displays of deference, peasants could come to 'entertain wrong notions about their position'.

CHAPTER 5: POLICE AND PUBLIC DISORDER

Between 1400 and 1800, much of Europe witnessed what has been called "the rise of the disciplinary society".[1] That is, it saw the gradual becoming of a society more intensively preoccupied than ever before with the taming or disciplining of the base, unruly and disorderly in oneself and others, and with doing so in ways that were co-extensive with society in its entirety. Within the field of governance, this found concrete expression in what Gerhard Oestreich has called "regulation mania".[2] Under the heading of "police ordinances" or simply "police" (a term largely synonymous with "good order" itself), state and local authorities ventured on an almost unlimited regulation of the life of their subjects, embracing everything from public order and decency, to blasphemy and the sabbath, food and drink, games and entertainment, health and cleanliness, vagrancy and master-servant relations; in fact, everything that might somehow satisfy "this all-embracing passion for order".[3]

In eighteenth-century Denmark, as elsewhere in Europe, a key object of this 'passion for order' was what one might simply call 'immorality'. That is, a key object of this 'regulation mania' was to impose and uphold a certain code of conduct, a code that now embraced, in greater breadth and detail than ever before, the domains of work, consumption, entertainment, religion, and sexuality, as well as the manners and mores of social and public life in general. What gave meaning and shape to this all-embracing regulation of the minutiae of public and social life was, as I will explore in this chapter, a governmentality that was intensively preoccupied with all those moments in life when subjects were at risk of succumbing to the baser passions within. Following the terminology of contemporaries and drawing on the work of Michael Foucault, I will call this a governmentality of 'police'.

But what about the Danish West Indies? Did it experience the rise of a similar governmentality of police and, with it, the coming of an intrusive regulation of the minutiae of slave existence? From a mere glance at the objects of eighteenth-century slave regulation in the Danish West Indies, it is difficult to tell. Between 1755 and

[1] Charles Taylor, *A Secular Age* (Cambridge, MA: Harvard University Press, 2007), esp. 99-112.
[2] Gerhard Oestriech, *Neostoicism and the early modern state*, trans. David McLintock (Cambridge: Cambridge University Press, 1982), 157.
[3] Ibid., 155-165, citation 159.

1803, Governors General issued no fewer than 300 police ordinances or 'placards' on matters as diverse as public order, alcohol consumption, games, dances, clothing, and many other matters that were also of concern in the metropole. From this list, however, many familiar elements are missing, in regard not only to matters that would too directly infringe on the integrity of the plantation or slave ownership as such, but also to some that would have been central to the moral disciplining of metropolitan subjects, such as rules on sexual propriety, the Sabbath, and the Christian religion more generally.[4]

Generally speaking, the established understandings of eighteenth-century Caribbean slave law would lean toward seeing this colonial regulation of slave existence as a singular phenomenon. In her classic article on the subject, Elsa V. Goveia has referred to it as a legal "superstructure" that was "essential for the continued existence of slavery as an institution".[5] And with a similar emphasis on singularity, scholars of the Danish West Indies have generally portrayed this legal apparatus as an aberration from the metropolitan norm: not only by constituting "a confusing collection of older laws and local ad hoc legislation",[6] but also, as Gunvor Simonsen has argued, because its primary purpose was not "to ensure that the populace behaved according to good Christian morals", but to keep slaves from "interfering with the security and comfort of the Euro-Caribbean population."[7]

This chapter similarly stresses the strangeness of this colonial regulation of everyday slave life, but also adds to these views in two ways. Firstly, this chapter will argue that these colonial and metropolitan regimes tended to rely on a similar art of governing, one that I will here refer to as the 'art of police'. To put it briefly, this art of police entailed a distinctive way of imposing and upholding a code of moral conduct. But secondly, the chapter also makes the claim that what was distinctive about this colonial regime was not only that it often focused more on the security of whites than on the morality of the enslaved; what was distinctive was also that colonial police tended to rely on a different problematization and knowledge. But before delving into this comparative analysis, the first part of this chapter will turn to the metropole and its distinctive governmentality of police.

[4] For a thorough treatment of this legal complex, see Gunvor Simonsen's unpublished master thesis "En fortræffelig Constitution – om konstruktion af social orden på de Dansk Vestindiske Øer i sidste halvdel af 1700-tallet" (Roskilde University, 2000).
[5] Goveia, "The West Indian Slave Laws of the Eighteenth Century," 75.
[6] Jensen, *For the Health of the Enslaved*, 132.
[7] Simonsen, "Slave Stories, 1780s-1820s," 36-37.

Police in Denmark

It was during the course of the Middle Ages that the term 'police' first made its way into the common parlance of European legislators, administrators, and others preoccupied with 'order'. Being derived from the Greek term *politeia* (meaning 'things concerning the citizen'), 'police' gradually came to designate not only an institution and activity through which 'good order' was ensured, but also that very condition of order in and of itself. Thus, in the eighteenth century, 'police' could refer to an administrative department of the state ('the police'), a certain kind of regulation ('police' or 'police laws'), and the condition ('good order and police') that these regulations and their due execution were supposed to ensure and maintain. In the words of Markus D. Dubber, "police was an end, the means to that end, and the institution enforcing the means".[8]

In Denmark, where the term was rendered as *politi* or *politie*, its earliest known occurrence dates to 1522. As was the case all across of Europe, the early usages of 'police' in a Danish context primarily dealt with the urban sphere, not least with the regulation of its economic circuits of trade and consumption and the procurement of adequate subsistence. By the early eighteenth century, however, the domain of 'police' had been greatly expanded in terms of the spaces and aspects of life with which it dealt.[9] Thus, police had not only begun what Foucault termed an "urbanization of the territory", encroaching on the traditional authorities of manors and village communities and seeking to organize the entire territory "on the model of a town";[10] it had also assumed a more overarching concern with 'order', one that knew few limits and regulated and surveilled everything from religious observances, consumption, socializing, vagrancy, prices, salaries, and markets to roads, fire safety, and public health.

In the 1701 Police Ordinance, which would constitute the foundation for 'the administration of police' (*politiens administration*) in both metropole and colony until the end of absolutism in 1848, this expansive domain of police was divided into twelve sections on such diverse subjects as 'ecclesiastical matters', 'holidays', 'chastity and good manners', 'strangers and vagrants', 'customs and order', 'markets', 'streets', 'water services', 'purchases and sales', 'guilds', 'night watchmen, lights, and the fire protection services' and, finally, 'travelers'.[11] To

[8] Markus Dirk Dubber, *The Police Power – Patriarchy and the Foundations of American Government* (New York: Columbia University Press, 2006), 72.

[9] Jørgen Mührmann-Lund, *Borgerligt Regimente - Politiforvaltningen i købstæderne og på landet under den danske enevælde* (Copenhagen: Museum Tusculanums Forlag, 2019), 23-31, 54-74, 333-342.

[10] Foucault, *Security, Territory, Population*, 336.

[11] The 1701 Police Ordinance is printed in *Chronologisk Register*, vol. 2, 39-57. On its role in the Danish West Indies, see Simonsen, "Slave Stories, 1780s-1820s," 35.

present-day observers, this taxonomy of police appears not only to be strangely vague and ill-defined, but also as a confused hotchpotch of activities having too little in common to be considered as parts of the same kind of activity. Not least, what baffles the eye is the strange (but, for the time, entirely typical) absence of precisely those tasks that have, since the nineteenth century, appeared as the most essential tasks of police, namely the prevention of what is known as 'crime' and the enforcement of what is known as 'justice'.

In Danish historiography, the strangeness of early modern police began to attract attention during the 1970s and 1980s. Since then, scholars have usually followed two distinct approaches, both of which draw heavily on German historiography. The first of these approaches is conceptual, one that examines the various and shifting meanings and ideologies embodied by the term 'police' as it evolved through early modern and modern history. Perhaps the most important contribution of this approach has been to point out how Danish notions of police were inseparable from wider European and not least German ideas about the well-ordered state.[12] The second approach, which is usually combined with the first, we might call functionalist, because it examines how these ideas of 'police' were utilized and shaped by various agents with their often conflicting agendas and interests.[13] Among historians working within this second approach, the most important debate is whether early modern police regulation should be viewed as a part of a larger process of 'social disciplining' (meaning a thorough transformation of conduct designed to expand state power) or as an expression of 'communalism' (seeing police as an institution of welfare and social control that is responsive to the local needs of communities and elites).[14]

However, in neither of these approaches have scholars sought, as Foucault has done and as this chapter does, to examine 'police' as a particular governmentality.[15] The

[12] Henning Koch, "Politimyndighedens oprindelse (1681-1684)," *Historisk Tidsskrift (Denmark)* 82, no. 1 (1982): 27-34; Ditlev Tamm, "Gute Sitte und Ordnung: Zur Entwicklung und Funktion der Polizeigesetzgebung in Dänemark," in *Policey im Europa der Frühen Neuzeit*, ed. Michael Stolleis, Karl Härter, and Lothar Schilling, IUS COMMUNE - Studien zur Europäischen Rechtsgeschichte vol. 83 (Frankfurt am Main: Vottorio Klostermann, 1996); Mikkel Jarle Christensen, "Da politien blev til politiet," in *Liber Amicorum Ditlev Tamm – Law, History and Culture*, ed. Per Andersen, et al. (Denmark: DJØF Publishing, 2011); Mührmann-Lund, *Borgerligt Regimente*, 23-31.

[13] See for instance Thomas Munch, "Keeping the Peace – 'Good police' and civic order in 18th century Copenhagen," *Scandinavian Journal of History* 32, no. 1 (2007); Jørgen Mührmann-Lund, "'Good order and police' – Policing in the towns and the countryside during Danish absolutism (1660—1800)," ibid. 41 (2016).

[14] To measure the importance of these debates for current Danish studies of police, consult Mührmann-Lund, *Borgerligt Regimente*, in particular 32-51; Henrik Stevnsborg, *Politi - 1682-2007* (Copenhagen: Samfundslitteratur, 2010), 16-17.

[15] For an exception to this rule, which pertains however to a different aspect than the one considered in this chapter, namely the biopolitical, see Tine Damsholt, "'At overskue, tilfredsstille og

following section will draw selectively on Michel Foucault's work on police, but also on his later work on Christianity, to identify the essential characteristics of the governmentality that gave meaning and shape to the expansive and almost limitless regulation of everyday life that took place in late eighteenth-century Denmark.

A governmentality of police

Unlike much other work on 'police', Foucault examined it not as an actual regulative apparatus, nor as an idea or doctrine that may be more or less perfectly applied, but as a governmentality through which it becomes meaningful and necessary to govern conduct in particular ways. To define the particularity of this governmentality, which he saw as a key part of what defined the early modern state, Foucault turned to sixteenth-, seventeenth-, and eighteenth-century texts, in particular by French and German writers, written within the new discipline of 'police science' or *Polizeiwissenschaft*. What he discovered here – and what took up most of his writing and lecturing on the subject – was essentially the rise of a particular modality of government, one whose key characteristic was a totalitarian and potentially unlimited preoccupation with the augmentation of "life", the aim being not merely to keep men alive, but to see to all that might "supply them with a little extra life" and, in so doing, "supply the state with a little extra strength."[16]

Thus, Foucault essentially offered a biopolitical reading of police. Accordingly, his basic idea was to situate police in the wider history of how the lives of individuals came to be ruled in "a continuous and permanent way" and how, in the process, "we have been led to recognize ourselves as a society, as part of a social entity, as a part of a nation or a state".[17] While this focus certainly colored his reading of police, or at least made it less attentive to other aspects of police (more on this below), his account nonetheless offers a useful foundation for examining the governmentality that gave meaning and shape to the expansive and almost limitless regulation of everyday life that took place in late eighteenth-century Denmark. Not least, it offers an insightful account of what I would refer to as the *art of police*.

lyksaliggjøre' - Lykke og politividenskab i det sene 1700-tals sognetopografi," *Kultur & Klasse* 121 (2016).

[16] Michel Foucault, "'Omnes et Singulatim': Toward a Critique of Political Reason," in *Power – Essential Works of Foucault 1954-1984, vol. 3*, ed. James D. Faubion (London: Penguin Books, 2001), 319. See also ———, *Security, Territory, Population*, 311-361.

[17] Ibid., 300; Michel Foucault, "The Political Technology of Individuals," in *Technologies of the Self – A Seminar with Michel Foucault*, ed. Luther H. Martin, Huck Gutman, and Patrick H. Hutton (USA: Tavistock Publications, 1988), 146.

The art of police

In a 1978 lecture, Foucault spoke briefly about what he called "the methods used by police". In his words, these methods were in many ways "entirely traditional" in the sense that they take the form of sovereign commands. But at the same time, he noted, every early modern writer on police would agree that the commands of 'police' constitute a distinct form of governing, most essentially by being different from the civil and penal laws administered by the apparatus of 'justice'. Thus, while they both of course derive from the same source, namely royal power, 'police' is not seen as "an extension of justice" but rather as "a non-juridical" or "regulatory" mode of intervention. To explain the difference, Foucault quoted from the *Instructions* by Catherine II from 1768:

> Police regulations are of a completely different kind than other civil laws. The things of police are things of each moment, whereas the things of the law are definitive and permanent. Police is concerned with little things, whereas the laws are concerned with important things. Police is perpetually concerned with details [and Foucault paraphrases] and finally it can only act promptly and immediately.[18]

Thus, Foucault explained, police is 'regulatory' rather than 'juridical'. For although it is a kind of 'law', it deals not with what is ideally permanent and general and does not have to bind itself to complex juridical procedures, but rather takes as its object all those needs of the moment that require, no matter how infinitely insignificant they may be, an immediate response. In Foucault's words, with police "we are in a world of indefinite regulation, of permanent, continually renewed, and increasingly detailed regulation". Police is law functioning in "a mobile, permanent, and detailed way".[19]

In many ways, this account of the art of police fits well in a Danish context. For instance, one recognizes some of its key elements in the preamble to the Danish Code of 1683. As the country's civil and penal code, this was a work which quite deliberately, in its own wording, aimed not to touch on "all that in actual fact concerns police [*alt hvis politien egentlig vedkommer*]". For the things that concern police, it argued, are not ideally governable through a set of "permanent laws or statutes", but require a more flexible management. Indeed, the stuff of police requires "changeable" regulations that may be altered "according to the circumstances of the times [*efter tidernes lejlighed*]". Therefore, instead of etching the changeable ordinances of police in the ideally eternal letters of the law, the Danish Code announced the future publication of a separate police code, one that the code's crafters imagined as dealing with such things as coinage, religious

[18] ———, *Security, Territory, Population*, 340.
[19] Ibid.

observances, private festivities, clothing, vagrants, hunting, trade in oxen, roads, taverns, and the salaries of servants.[20]

As I will show later in this chapter, this art of police – this detailed, flexible, and prompt regulation of life – was no less foundational in the later decades of the eighteenth century.[21] Yet, at this point at least, its underlying problem was not only, as Foucault argues, the biopolitical problem of augmenting and utilizing life. In late eighteenth-century Denmark, this art of police was also and perhaps even more importantly tied to the problem of assisting man in his inner battle against the baser desires within. To explore this problematization, the next section will begin by turning to the thoughts of Andreas Schytte, the Sorø philosopher who was briefly mentioned in chapter 4. For here, I argue, one finds a clear formulation of what was foundational in the late-century regulation of everyday life.

The problem: immoral acts and vices

Among the five volumes of his grand opus on *The Internal Government of States* (*Staternes Indvortes Regiering*), Andreas Schytte included the most detailed and theoretical discussion of 'police' that would be published in the Danish language in the eighteenth century. It was published in 1775, took up over six hundred pages, and covered the entire fourth volume of his series. The first volume had examined the origins of states and the qualities of the three constitutions – republics, monarchies, and despotisms – as described by Montesquieu. The second and third volumes covered the 'cameral science' (*kameralvidenskaben*) that Schytte defined as dealing with the proper management of the state's revenue and expenses, a science that therefore constituted, he argued, the public economy side of the more general 'art of economy' (*husholdsningskunst*) through which man learns how to create and maintain wealth.[22] Following the volume on 'police', the last volume of the series, published in 1776, dealt with the science and apparatus of civil and criminal justice.

While Schytte's *opus* arranged these four sciences or arts in a lateral series – constitution, public economy, police, and justice, side by side – he was at pains to point out the absolutely foundational role of police. For instance, while public economy informs the state of the priorities to be pursued, it is only through the art

[20] Quoted and discussed in Inger Dübeck, "»alt hvis Politien egentlig vedkommer«: Forholdet mellem Danske Lov og den såkaldte politiordning," in *Danske og Norske Lov i 300 år*, ed. Ditlev Tamm (Denmark: Jurist- og Økonomforbundets Forlag, 1983), 168-172. For more on this projected police code, see Koch, "Politimyndighedens oprindelse."

[21] One example that will be taken up later is Christen Klarup, *Forordningen om Politiets Administration af 22 October 1701 igiennemgaaet og henviist til Loven og Forordningerne*, 2 vols. (Copenhagen: Marten Hallager, 1777), see esp. vol. 1, 24-29.

[22] Schytte, *Staternes indvortes Regiering*, vol. 2, 5.

of police that they may in fact be put into practice. As he argued, "the science of police [*politividenskaben*] teaches us how princes, through good laws and arrangements, ought to govern every kind of business in the state to the particular benefit of both the state and its citizens."[23] Similarly, while the field of law and justice encourages man to be virtuous and deters him from vice, only police is able to provide for the basic constitution of the virtuous and useful citizen. For, he argues, the basic objects of police concern "religion, virtue, and knowledges", the only things able to render "life pleasant and happy", the only things able to "found friendships between the souls and the souls' creator", and indeed the only things able:

> to control the thoughts, to dampen the noise of the passions in the hearts of men [*lægge bidsler på tankerne, dæmpe passionernes støjen i hjerterne*], to reconcile man to his conscience and to hinder that we might, under the same mask, discover both the evil man and the good citizen.[24]

In other words, for Schytte, one of the essential tasks of police is to assist man in his inner battle against his base 'thoughts' and 'passions'. Indeed, more than merely suppressing illegality and all kinds of disorderly acts, police is the ideally permanent and all-encompassing activity of taking charge of this deep interiority of 'thoughts' and 'passions' so as to ensure the very formation of the moral subject. To accomplish this task, which may only be carried out imperfectly by the arts of 'public economy' and 'justice', Schytte proposed a number of general principles or modes of intervention.

First of all, police must concern itself with the use and display of things, not least through sumptuary regulation. More than anything, it must regulate in great detail what may be owned, shown, worn, or otherwise consumed by what kind of people, at which times, and in which social contexts. The purpose of this, he explains, is to contain the "mother of vice" he referred to as "luxury [*overdådighed*]", which he defined as the vice of desiring "more than our nature and circumstances demand".[25] As the mother of vice, luxury is nothing less than "contagious disease", one that corrupts the very character of the population, making it "indolent, spoiled, lazy, negligent, proud, passionate, and unjust" and prone to "licentiousness, fornication, drunkenness, gambling, poverty, deception, despair, robbery, violence, murder, etc.".[26] Not least, he adds, this is a vice that thrives in social and public life, where our "pride and vanity" easily overcome us, make us take pleasure in luxury, and

[23] Ibid.
[24] Ibid., vol. 4, preface.
[25] Ibid., vol. 4, 46-56.
[26] Ibid., vol. 4, 50, 52, 67. In his words, "among the vices […] to which police attends, we most essentially count luxury as well as sexual indecency, idleness, and drunkenness, vices which are so closely related to the first that they call it 'mother'." (ibid., vol. 4, 46).

make us forgetful of virtue.[27] For this reason, Schytte deemed it particularly vital for police to tend to social and public life, to taverns, to public and private festivities, and to all contexts where examples of and occasions for luxury might tempt the subject to abandon the virtues of simplicity and moderation, and to desire things and comforts which it otherwise would never have dreamed of.[28]

Secondly, police must tend to all those innumerable activities and occasions in the lives of men and women through which they are at risk of being tempted and the base desires within them are allowed to flow freely. Indeed, it will have to engage in a generalized moralization and take charge of all those things, acts, and occasions that might make room for vice in the hearts of the governed. For instance, it should keep a vigilant eye on all means of pleasure and entertainment, allowing only those games, dances, or theatrical performances that would not – such as games of hazard – awaken "great passions" and bring "the soul to oscillate between hope and fear, greed, hate, and envy".[29]

In all things, he explained, police must stem the "flood of vice", and to do so it must assume a role that is complementary to that of the church. As he explained, "the lawgivers of states have rarely trusted their citizens to such a degree that they have allowed them to be without supervision in regard to the mores [*sæderne*]", but have typically given over this "supervision":

> to the ecclesiastical and the temporal authorities, but without being able to perfectly determine the boundaries of each. It is true that the clergy is preoccupied with the mores of the people insofar as they are contrary to religion, and that the temporal chiefs and officers of police are preoccupied with those that are contrary to the state. But show me one single fault that is not contrary to the both the honor of religion and the good of the state! Police is the moralist in the state, just as the clergy, but with a difference: whereas the ecclesiastical power uses the smooth polishing iron, the temporal uses the rough iron and the whip.

More than anything, although they employ different means, church and police find a common ground in the Biblical imagery of 'a flood of vice':

> Commonly, our dike inspectors do not concern themselves with anything besides maintaining the dams that hinder the water, the flood, from flooding the lands. In the state, the task of police goes no further than this: to curb the floods of vice [*lasternes syndfloder*], to hold them within limits, and to hinder them from overflowing.[30]

[27] Ibid., vol. 4, 78.
[28] Ibid., vol. 4, 46-95.
[29] Ibid., vol. 4, 126-154, quotation 151.
[30] Ibid., vol. 4, 46.

In short, for Schytte, the problem handled by the detailed, flexible, and prompt art of police is not simply immoral acts, but the deep interiority of 'thoughts' and 'passions' from where immoral acts emerge. Indeed, just as it is for the church, its essential task is to 'curb the floods of vice', although by different means.[31] But the church analogy goes further than this. For even though Schytte himself primarily cited heathen Greco-Roman authors as his main sources of inspiration,[32] in his account one finds assumptions and ideas about governing that are instead part of a long Christian genealogy. At least this is so if one places his account within Foucault's history of Christianity and of the flesh. It is within this theological tradition of knowledge that Schytte and the late-century Danish governmentality of police more generally ought to be placed.

The theology at the heart of police

As noted above, if it was necessary to take charge of the deep interiority of man, for Schytte it was essentially because, by himself, man was weak in his moral defenses. Indeed, if left unassisted by police, Schytte assumed man to be constantly exposed, not least in social and public life, to sights, ideas, sounds, tastes, thrills, pleasure, and all manner of agitations and forms of sensory experience that would, like a 'contagious disease', seep into his soul and awaken in him desires and thoughts, which would make it difficult for him to walk the virtuous path. And to assist man in this inner battle against his weaknesses within, he would require more than occasional spiritual guidance, but permanent and detailed supervision and direction by an authority, which was responsible for the subject's entire well-being and in exchange demanded a total obedience to its commands.

Essentially, these assumptions correspond to two terms that are foundational to Foucault's work on the early history of Christianity, namely 'the flesh' and 'pastoral power'. To begin with the latter, Foucault sought in his governmentality lectures of 1978 to identify how the early Christian church invented ways of governing that

[31] I am not in a position to say how original or typical Schytte's thoughts on police were in Europe more broadly, although at least they seem to have a parallel in eighteenth-century Sweden. According to Leif Runefelt, the basis of the country's discipline of police science was exactly the idea of "curtailing the desires" of those who were not governed by "virtue" (*Att hasta mot undergången - Anspråk, flyktighet, förställning i debatten om konsumtion i Sverige 1730-1830* (Lund: Nordic Academic Press, 2015), 257).

[32] Throughout his account of police in general and of luxury in particular, he refers again and again to classic authors like Plato, Socrates, Xenophon, Cicero, and Seneca. For instance, with reference to an uncited Platonic dialogue, Schytte likened the "extravagant and luxurious man" to one who uses "like whores […] the three Graces, these divine blessings derived from the earth and the sea, yes abuses them in dining, drinking, attire, furniture, etc." (Schytte, *Staternes indvortes Regiering*, vol. 4, 46-47).

were absent in the Greco-Roman world.[33] Before the church, he argued, this world did not think of governing as:

> an art of conducting, directing, leading, guiding, taking in hand, and manipulating men, an art of monitoring them and urging them on step by step, an art with the function of taking charge of men collectively and individually throughout their life and at every moment of their existence.[34]

For the ancients, governing took the form of civic laws and convincing arguments, not of a 'pastor' keeping watch over his 'flock', requiring of it general and total obedience, imposing on it the rules and principles of its entire existence, and taking upon himself both total and individualizing "responsibility for each soul and for the sickness of each soul".[35] Historically, this pastoral form of governing essentially emerged, Foucault claimed, during the early centuries of Christianity and has, since then, been intimately tied to the history of governmentality in the West.

Schytte's account of police clearly belongs to this pastoral genealogy. Here, his ideal of a detailed, unceasing, and prompt taking charge of the deep interiority of thoughts and passions finds a point of origin. But at the same time, his account also belongs to the broader history of 'desiring man' through which Foucault reorganized the last three volumes of his *History of Sexuality* in the later years of his life. In the fourth volume, titled *Confessions of the Flesh*, Foucault traced the rise of a profoundly new way of experiencing the self and governing desire. Not least, out of a Greco-Roman ideal of self-mastery – of the will mastering the passions so as to restore the soul's sovereignty over itself – in early Christianity there arose, Foucault explained, a keen sense of man's weakness to temptation and inability to walk the path of virtue without total and permanent spiritual direction by and obedience to authoritative others. Indeed, as one reaches the time of Augustin of Hippo in the early fifth century, there had developed a complex pastoral institution whose objective it was to be that 'other' who would ideally, by the grace of God, bring man to recognize this incapacity and subject himself – his actions, but more importantly, his thoughts and hidden desires – to an unceasing scrutiny, examination, guidance, and ultimately penance.[36]

One of the key terms early Christians used for the object that required such distrust and overall renunciation was 'the flesh' (in Latin *caro*). In Foucault's work, the 'fleshy' aspects of existence are primarily analyzed as sexual lust. But as Foucault was well aware, contemporaries usually gave this term a much wider meaning,

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[33] Foucault, *Security, Territory, Population*, 122-185.
[34] Ibid., 165.
[35] Ibid., 174.
[36] Foucault, *Confessions of the Flesh*, esp. 79-110, 158-189, 256-285. For an account of Foucault's larger argument in his *History of Sexuality*, see Daniele Lorenzini, "The Emergence of Desire: Notes Toward a Political History of the Will," *Critical Inquiry* 45, Winter issue (2019).

considering a life led 'in accordance with the flesh' (*secundum carnem*) to be a life devoted to 'the world' as such: taking pleasure in eating, drinking, and life in general, taking pride in and loving oneself, and seeing oneself as one's own master. In this sense, it was the very opposite of living 'in accordance with the spirit' (*secundum spiritus*): in contemplation and subservience of God and his commands.[37] But to live this ideal spiritual life of the true Christian would require constant spiritual struggle and vigilance. Being easily tempted and misled, by the Devil, by one's senses, and by evil thoughts in general, man had to view himself with suspicion, never trust himself, and always suspect that even behind what appeared to him most noble and true, there may very well reside impure thoughts and a desire for life in accordance with the flesh. Therefore, to prevent oneself from falling into sin, each individual would have to submit to never-ending supervision and direction.

According to Foucault, this pastoral governmentality of the flesh was long-lived. In his view, its traces could still be felt in his own lifetime in the widespread idea of identity as requiring self-interpretation (rather than self-invention) and of government as totalitarian (rather than emancipatory).[38] Here, however, it is enough to note its relevance for a deeper conception of the late eighteenth-century Danish police. Staying for now with Schytte's conception of police, it is clear that his text bears an intimate kinship with this theological tradition.[39] Not only does he think of police as a kind of temporal pastoral governing of the soul, he also bases the urgency of this pastoral governing not merely in the inherent goodness of this end, but also in men's vulnerability to the temptations of the flesh. Thus, without arguing that Schytte and Augustine of Hippo were one and the same, or for that matter that Foucault's account captures the full complexity of how Christianity has historically engaged with 'the flesh', there were certainly a number of shared themes. Most importantly, there was a shared idea of governing as the detailed and unceasing taking charge of man's baser passions *and* a shared problematization of man as easily tempted and misled.

But here, these theological roots of police are also important for historiographical reasons. For among Danish – and to some extent also international – scholars on

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[37] Christopher Brooke, *Philosophic Pride – Stoicism and Political Thought from Lipsius to Rousseau* (Princeton & Oxford: Princeton University Press, 2012), 1-11. Reference to this wider understanding of 'the flesh' is scattered across Foucault's *Confessions*.

[38] Mitchell Dean and Daniel Zamora, *The Last Man Takes LSD – Foucault and the End of Revolution* (London & New York: Verso, 2021), 88-104.

[39] The same could be said for many other contemporary texts that were printed or reprinted in the late eighteenth century, and which explicitly – and in great detail – warned about man's vulnerability to 'the flesh' (*kødet*) and his need for guidance by others. See for instance Hermann August Francke, *Skriftmæssige Levnets-Regler, hvorledes man saavel i, som uden Selskab, kan holde over Kierlighed og Venlighed imod Næsten, en roelig Samvittighed imod Gud, og voxe og tiltage i sin Christendom*, 13th ed. (Copenhagen: N. C. Høpffner, 1775), esp. 92-93; Balle, *Lærebog*, esp. 26-34, 97-98.

early modern police, it is often assumed that its 'all-embracing passion for order' was a thoroughly secular phenomenon, or at least one that may be grasped without considering the possible role of such Christian ideas as temptation and the flesh. In my view, however, this theological genealogy of police is vital in order to grasp what was essential and different about the late-century governmentalities of police in metropole and colony.[40] To examine the practical manifestations of governmentality in the metropole, I will now turn to the regulation of luxury and, after that, the broader regulation of public life.

Regulating luxury in the peasantry

As was the case all across Europe, in Denmark this concern with luxury and luxurious living was a key aspect of police from its early origins in the late medieval period, but appears to have intensified with the coming of absolutism in 1660. In the eighteenth century, this was manifested in the frequent publication of ordinances regulating in great detail the purchase and consumption of food, drinking, and clothing, and the private and public events and contexts in which such usage was displayed and practiced.[41] Usually, Danish historians have studied the sentiments and motives that organized this domain of sumptuary law. Some have shown how luxury offended Christian morals and social divisions, while others have shown how sumptuary law served elite efforts to buttress status and rank, how it served the urban interests of innkeepers and manufacturers fearful of rural competition, and how it was used by the state to make its subjects healthier and more productive, and to protect domestic industries and the balance of payments from excessive import of foreign luxuries.[42]

But the governing of luxury is not exhaustively accounted for if one limits the analysis to this order of sentiments and motives, and ignores the particular governmentality that gave it urgency and shape. To explore this, I will examine a classic example of police regulation: The 1783 Ordinance on the Limitation of

[40] The Danish historiography will be treated in the following. For international scholars who have emphasized the role of Christianity in police or in the broader rise of 'the disciplinary society', see Philip S. Gorski, *The Disciplinary Revolution – Calvinism and the Rise of the State in Early Modern Europe* (Chicago & London: The University of Chicago Press, 2003); Pasquale Pasquino, "Spiritual and Earthly Police – Theories of the State in Early-Modern Europe," in *The New Police Science – The Police Power in Domestic and International Governance*, ed. Markus Dirk Dubber and Mariana Valverde (Stanford: Stanford University Press, 2006); Taylor, *A Secular Age*, 99-112. To my knowledge, however, the role of pastoral governing or the problem of the flesh in early modern police has not previously been explored in any detail (see however Oestriech, *Neostoicism and the early modern state*, 164).

[41] See Koch, "Politimyndighedens oprindelse"; Leon Jespersen, "At være, at ville og at have - Træk af luksuslovgivningen i Danmark i 15-1600-tallet," *temp: tidsskrift for historie* 1, no. 1 (2010).

[42] Besides the works mentioned above, see historiographical overview in Mührmann-Lund, *Borgerligt Regimente*, 179-187.

Luxury in the Peasant Estate (*Overdådigheds indskrænkning i bondestanden*). Presenting itself as a response to a recent upsurge of vice among a certain group of people requiring immediate and detailed action, the ordinance observed how:

> luxury [*overdådighed*] among the peasantry has now for a time increased, both in Denmark and in Norway, in terms of both food and drink as well as in apparel, so that the peasants are no longer content with the things brought forth in the country, but in certain places have become luxurious [*yppige*] with wine, coffee and clothing of foreign garments, as a result of which this estate is impoverished and the country's money is given to foreigners.[43]

From these statements, as argued by historians, it is immediately apparent that this Luxury Ordinance responded to certain mercantilist and social concerns over the balance of payments and the material well-being of the inhabitants.[44] In the ordinance, these concerns were most clearly reflected in severe restrictions on the use of wine and an absolute ban on coffee as well as certain foreign garments.[45] Nevertheless, from the particular form through which the ordinance sought to govern luxury, it is clear that something more is at play. Of special interest is not least the emphasis this ordinance gives to the social contexts of consumption and the self-evidence with which it treats luxury as a social phenomenon.

Indeed, as a reminder of Schytte's caveat that luxury is most likely to thrive and cause temptation in social and public contexts, the ordinance spent most of its energy restricting the number of guests and courses – as well as the length of time for which peasants were allowed to entertain guests – at larger social events such as weddings, baptisms, childbirths, and funerals. For instance, it stipulated that wedding celebrations may be attended by no more than 32 guests, may serve no more than four courses, may serve neither wine nor coffee, and may last no longer than one day, yet allowed for 16 of the guests to return the following day for dancing, but then without dining. The ban on serving wine and coffee also covered baptisms and funerals where, moreover, it was completely illegal to treat anyone except people from out of town with a meal.[46]

Thus, while a number of motives doubtless spurred the ordinance, the self-evidence with which it saw the problem of luxury as a vice, as a vice that thrived in social

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[43] Decree of May 12, 1783, printed in *Chronologisk Register*, vol. 8, 378-381, quotation 378.

[44] See for instance Mührmann-Lund, *Borgerligt Regimente*, 350; Anette Hoff, *Den danske kaffehistorie* (Aarhus: Wormianum, 2015), 104. Anette Hoff sees a sharp increase in the import of coffee as the most immediate occasion and cause of the ordinance.

[45] More precisely, the ordinance prohibited the use of silken shirts and scarfs by women, as well as the stipulation that no peasant must wear any clothes other than those made from domestic – and therefore simple – materials (known as *vadmel*). It did however allow women to wear silk hats (*silkehue*) and, together with men, to wear a manufactured shirt or vest, called *kramtøj* (Decree of May 12, 1783, §3).

[46] Decree of May 12, 1783, § 1-2.

contexts, and as one that required detailed and flexible regulation to be uprooted, all points to the authority of the governmentality of police explored above. This claim is further supported by considering the thoughts of the individual who was most likely one of its main architects, the unofficial leader of government prior to the 1784 coup, Ove Høegh-Guldberg. While the preliminary discussions and drafts for the ordinance appear to be lost,[47] Høegh-Guldberg published a text in 1770 in which he offered his views on the problem of luxury.

In this text, Høegh-Guldberg starts out by framing the problem of luxury in familiar mercantilist terms, as a threat to the balance of payments. Yet, he also goes well beyond this theme as he portrays the problem as a vice to be rooted out. Rather than a willed act, excessive consumption or luxuriousness comes out of unwilled habits, or what he calls a rising "inclination toward luxury".[48] To root it out, therefore, it is not enough to bend the will of subjects. Rather, one must act against a less tangible reality: an entrenched desire for the ostentatious and excessive use of things, one that has imperceptibly seeped into the habits of both rich and poor, in particularly in the urban environments "infected by the airs of Copenhagen". Secondly, the reason for this rising 'inclination' has to do with the frequency and nature of the examples and representations of conduct that people encounter in the course of their social and public life. In particular, Høegh-Guldberg singles out the excessive and ostentatious spending by the elite and public officials, but also their much more frequent social intercourse with relative strangers, for instance as men "drag along their women in triumph", much unlike before where they were "domestic, quiet, industrious, and virtuous" and "only rarely took part in social life".[49]

Thus, to account for how the ordinance framed and reacted to the problem of luxury, it is necessary to consider its underlying governmentality, one that framed luxury as a vice to be rooted out through the detailed regulation of those social contexts in which it exposed vulnerable men to temptations and moral corruption. Thus, although this Luxury Ordinance was clearly produced for 'secular' reasons, it was given its concrete shape by a governmentality that relied, it seems, on a theological knowledge of how easily man may fall for the temptations of the flesh without proper supervision and direction.[50] I will now show that the case was also much the same in regard to the broader regulation of morality in the public sphere.

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[47] I thank Tyge Krogh, Senior Archivist at the Danish National Archive, for trying to locate the file in the archive of the Danish Chancellery.

[48] Ove Høegh-Guldberg, *Philodani Undersøgelse af Philopatriases Anmærkninger* (Copenhagen: August Friderich Stein, 1770), 30.

[49] Ibid., 29-31.

[50] In making this argument, I have been inspired not least by Juliane Engelhardt's work on the late eighteenth-century English and Danish debate on luxury. In her argument, the values of moderation, self-denial, and self-examination, which were lauded among late eighteenth-century bourgeoisie in Denmark, were 'secularized' values that came out of earlier ascetic ideals of Puritans and Pietists (see her "From Abundance to Asceticism: Religious influences on

Regulating public morals

As noted already, to Schytte, the problem of luxury was only one part of a much more general preoccupation with the public manifestations of immorality: immorality in speech, in socializing, in modes of entertainment, in sexual life, and so on. As Schytte was lecturing future administrators and reformers on the science of police, his audience would likely have recognized its ideally all-encompassing regulation of public life in the existing corpus of police law. To examine the governmentality at the heart of this domain of regulation as it appeared around the time of Schytte's account, it is useful to turn to a more practical manual on police, namely Christen Klarup's summary of the Danish police complex anno 1777. Unlike Schytte's highly theoretical and learned account of the science of police, Klarup's work was meant for what he calls "the common reader", for the practitioner of police, or in any case for anyone who did not possess a comprehensive knowledge of all the confusing hotchpotch of ordinances and decrees belonging to the domain of police. Besides a few introductory comments on the nature of police, Klarup therefore did little more than compile and usually replicated the most essential words and phrases he found in this legal field.

One of the significant words Klarup found and used most frequently was his terms for 'scandal', namely *forargelig* and *forargelse*. In present-day Danish these terms mean, respectively, what is 'offensive' and the act or state of being 'offended' or causing an 'outrage'. In the eighteenth century, however, these terms and the verb from which they derived – *at forarge* – could also denote what brought one to question one's belief and what therefore led to delusion and sin.[51] In other words, it could denote a scandalous action that threatened to contaminate others with wicked thoughts and inclinations. Indeed, the fact that the same term could mean both what is offensive and what may bring others to offend suggests that there was no clear distinction between the performance of wicked deeds and leading others, by example, to do the same. In any case, from Klarup's distillation of Danish police law, one recognizes the familiar idea that one of the central tasks of police is to limit

perceptions of luxury in Denmark and Great Britain in the 18th century," in *Fashionable Encounters – Perspectives and Trends in Textile and Dress in the Early Modern Nordic World*, ed. Tove Engelhardt Mathiassen, et al. (Oxford & Philadelphia: Oxbow Books, 2015).

[51] *ODS*, s.v. Forargelse 1.2. The dictionary defines *forargelse* as "condition, action, etc., through which one is brought to fall or uncertainty in one's religious beliefs; cause of delusion or sin". This sense of the word is for instance found in Schytte as he presents education as "a shield against being misled [*et skjold mod forargelse*]" (*Staternes indvortes Regiering*, vol. 4, 493). This peculiar meaning of the term has also been noted by Jørgen Mührmann-Lund, but without occasioning any examination of its relationship to a particular way of governing (see his *Borgerligt Regimente*, 134). On the concept of 'scandal' in early modern penality, see Michel Foucault, *History of Madness* (London & New York: Routledge, 2006 [1961]), 141-145.

all those sources of temptation that might allow vice to thrive and spread. To argue this point, I will attend to the central role of the concept of *forargelse*.

In his work, Klarup offered the following examples of 'scandalous' actions that must be dealt with by police. Police must suppress the publication and sale of "scandalous writings [*forargelige skrifter*]" that go against "religion, the government, and the customs" and which, among their other "dangerous consequences", risk giving rise to religious "doubts".[52] In the case of marital disagreements, police must seek to reconcile the parties, but if their disagreements have gone so far that the situation "gives scandal [*giver forargelse*]" – for instance, if they have taken their marital troubles into the public sphere by choosing to separate, or if one of them has removed items from the household – the guilty party or parties may risk going to prison.[53] Police must strongly suppress all forms of swearing and such speech which is an affront to God and "gives scandal".[54] It must not allow people to "cause scandal with drunkenness in taverns and basements", and must ensure that such places do not become sites of "games and comedies" which "with vanity, frivolity, and the like give scandal".[55] In general, it must either drive away or incarcerate all "licentious persons" such as vagrants and others who "without shame commit or are prone to vices and mischiefs whose only outcome is that they will sink deeper and deeper, or that they will contaminate and mislead others".[56] It must severely punish "those who mislead young people to drink, gambling, and other scandalous modes of living".[57] Not least, in order to "hinder all occasion for frivolity", police must suppress the owners, employees, and customers of houses of ill repute and keep a vigilant eye on all "loose women", put them to work if possible, but at least ensure that they do not frequent taverns and dances, and do not in other ways "seduce young people".[58]

Thus, in Danish police law, one of the most essential tasks is to cleanse public life of such persons, displays, representations, offers, and all manner of bad examples lying there in the open, for anyone to witness and indulge in. Thus, much unlike the domain of penal justice, for police it is not primarily a question of the individuality of the crime or the criminal – the danger of the act and the evil of the criminal – but of the wider environment. Ultimately, police – to use Schytte's biblical metaphors – would have to view every incident of immorality as so many streams and rivers

[52] Klarup, *Politiets Administration*, vol. 1, 105-106.
[53] Ibid., vol. 1, 152-153.
[54] Ibid., vol. 1, 157-160.
[55] Ibid., vol. 1, 160, 185.
[56] Ibid., vol. 1, 162-163, 189.
[57] Ibid., vol. 1, 171.
[58] Ibid., vol. 1, 166-169, 235-236. In a Danish context, 'loose women' (*løse* or *ledige fruentimmere*) were unmarried women who were not servants or otherwise part of a household, and who did not, in the eyes of the state, possess the monetary means to ensure that they were not engaged in anything illegal and immoral such as prostitution.

feeding a much greater 'flood of vice'. With all this in mind, it is now time to return to the colony.

Police in the West Indies

Interestingly enough, the sustained historiographical engagement with early modern European 'police' does not find an equal match in the early modern Americas. Here, scholars generally prefer to speak of 'policing' rather than 'police', and when they do not, they typically have in mind the much more modern sense of word: namely, a body of 'police measures' or, alternatively, an institution seeing to public order and enforcing those rules, like curfew and restrictions on slave sociability, which are deemed necessary to maintain the security of Europeans and of colonial society in general.[59] The same also applies to histories of the eighteenth-century Danish West Indies. Here, 'police' usually refers to measures of repression and social control that are put in place by governors, supported by local elites, and administered by officers 'on the beat', but without the notion (and much less the governmentality) of 'police' itself receiving any attention.[60]

But among Danish West Indian officials, the word 'police' referred not only to an institution, but also to a particular way of governing. Indeed, just as in the metropole, 'police' could denote a detailed, flexible, and prompt governing of both immoral acts and the deep interiority of thoughts and vice from which they came. A clear expression of this idea of police was given in 1788 by Governor General Walterstorff. The occasion was the deliberations on the proposed *code noir*. For in its third book on "the slaves' relationship to their masters and good conduct and order among them", Walterstorff recognized much that did not, in his mind, belong in a civil and penal code. Invoking the well-known distinction between permanent and changeable laws, Walterstorff explained that while the civil and penal laws regulating "the conditions of the unfree negroes" should "remain the same" and their "benevolent effects" be allowed to gradually spread their positive influence among

[59] See for instance Goveia, "The West Indian Slave Laws of the Eighteenth Century"; Jonathan A. Bush, "Free to Enslave: The Foundations of Colonial American Slave Law," *Yale Journal of Law & the Humanities* 5, no. 2 (1993); Pepijn Brandon, "Between the Plantation and the Port: Racialization and Social Control in Eighteenth-Century Paramaribo," *International Review of Social History* 64 (2019). An exception is Markus D. Dubber's work on how European ideas of 'police' travelled to colonial America and made a lasting impact on American ideas of government (*The Police Power*, esp. 59-62).

[60] Simonsen, "Slave Stories, 1780s-1820s," 33-60. An exception to this rule is Rasmus Sielemann, who has proposed that 'police' was a key element in the rationalities of colonial governing, not least as reflected in its aim of organizing, vitalizing, and utilizing the life of the enslaved (*Natures of Conduct*, 80-104). Since it offers, as Foucault does, a biopolitical reading of police, it will be treated in chapter 6.

the slaves from generation to generation, there was another species of law – namely "police laws" (*politilove*) – with which these ideally permanent laws should not be confused. Indeed, as he explained:

> it is necessary to distinguish between such laws which are not subject to change and such that need to be changed, mitigated, sharpened, or entirely lifted in accordance with the local or due to the changing times and the greater or lesser influence of luxury and corrupted morals [*efter det lokale eller formedelst tidernes afveksling og yppigheds og bedærvede sæders større eller mindre indflydelse*].[61]

Thus, in these comments, colonial 'police' refers not so much to a singular institution seeing to the security of colonial slavery, but rather to a form of governing that would have been perfectly familiar to a metropolitan audience. For one thing, it is a form of governing whose problem is not to punish individual acts and criminals, but to see to the larger domain of morality from which such acts spring. Secondly, it is a form whose knowledge is not, as Walterstorff added, general principles of prudence or what he calls "wisdom", but instead an understanding of the current state of "the local", meaning "the particular constitution of each place" and "the mode of thinking of the inhabitants". And thirdly, rather than permanent and general laws written with the "brevity, clarity, and firmness" that is appropriate for laws based on wisdom, police laws have, by implication, to be detailed, flexible, and prompt enough to govern this changing domain of morality as effectively as possible.[62]

Clearly, there are many overlaps between this formulation and the contemporary metropolitan governmentality of police. But how much did these overlaps in governmentality actually influence and shape the colonial regulation of the public lives of the enslaved in the late eighteenth century? Was it shaped by the same problematization of temptation and scandal, or by a concern with public or white security? Was its knowledge a theological one, or was this knowledge of the weaknesses of 'man' overshadowed by a racial knowledge of 'the negro'? And finally, was its art of governing primarily, then, about saving subjects from falling prey to these weaknesses, or was it to repress a population that was generally disposed to crime?

In my view, these questions cannot be answered in any simple manner. Instead, what characterized colonial regulation was a tension: a tension between problematizing acts for demoralizing subjects and for endangering security; between a theological and racial knowledge; and between 'saving' and 'repressing' the subject. To examine this tension within colonial police, the following will explore three domains of regulation that were essential elements of colonial governing, namely

[61] CC. 421. Walterstorff's *Bemærkninger* (October 8, 1788), p. 122.
[62] Ibid., pp. 122-123.

the regulation of luxury, alcohol consumption, and gaming. Compared to the subjects treated in the previous chapters – master-slave relations, slave crime, and the racial hierarchy – this field of regulation left fewer traces in the colonial archive. Of course, there are the collections of *placards* or police ordinances that were issued by the Governors General. But to explore the governmentality that gave meaning and shape to these ordinances and to the way they were administered in practice, I have also drawn on the few textual traces that can be found in the police reports from Christiansted jurisdiction (c. 1775-1787), in its police interrogations and verdicts (c. 1785-1795), in correspondence between judges and Governors General (c. 1785-1795), and in discussions among colonial officials about these ordinances during the drafting of the *code noir* (1783-1784, 1787-1788).

Luxury among slaves and freedmen

In 1786, Governor General von Schimmelmann published an Ordinance on the Excessive Luxury among Slaves and Free Colored. As with many other local pieces of colonial regulation, and just as with the 1783 Ordinance on Luxury in the Peasantry, Schimmelmann's Luxury Ordinance presented itself as a reaction to the recent rise of some disorder or nuisance. In this case, it was a reaction to:

> the dangerous influence that excessive luxury [*overdrevne yppighed*], which has in recent years crept in among people of color, among both free and slaves, has come to exert on the public.[63]

Like his contemporaries, Schimmelmann understood 'luxury' as a desire for things, or in this case a "desire for finery and splendor", in excess of what was necessary or appropriate to one's social station. And as in the 1783 Luxury Ordinance, Schimmelmann described how this vice led many into poverty and general immorality. To some extent, however, he believed that this problem was confined to those 'free-colored' women whose efforts to attract white lovers had made them desirous of "ornaments of magnificent and expensive garments" and devoted to "a despicable way of life". But unlike the 1783 ordinance, Schimmelmann also described how the rise of this desire risked leading all blacks, not least those without monetary means, to crimes such as theft and fraud in order to obtain "finery and splendor".[64] Thus, for Schimmelmann, the desire for luxury was problematic both because it led some into poverty and other vice, but also because it led many more to endanger public security.

[63] GG. 2.1.4. Placard of May 26, 1786, preamble (pp. 383-384).
[64] Ibid.

The same oscillation between two 'poles' is also observable in regard to the means with which Schimmelmann hoped to solve the problem. On the one hand, his ordinance was entirely typical and even an extreme instance of the art of police. For one thing, it subjected blacks of different distinctions to extremely detailed rules about what they could wear. His plan was to impose "a more modest and decent attire", and for this reason he banned a long list of jewelry, garments, and coiffure,[65] and specified what field slaves, house slaves, and finally the 'free-colored' were allowed to wear.[66] But the ordinance was also similar to metropolitan police regulation due to the self-evident way it sought to limit not only luxury items themselves, but also the social contexts where the desire for luxury was presumed to thrive and spread. For this reason, it defined in great detail the number of guests, courses, hours, and so forth that would be allowed at all those social events, such as "dances, tea parties, or other such kinds of entertainment" at which "their desire for luxury commonly comes to light".[67] For slaves, the only festivities allowed were "dances" attended by no more than ten and ending no later than eight o'clock. [68]

At the same time, however, the ordinance was also quite different. For one thing, it was more typical of contemporary colonial sumptuary law because it used 'race' as the overarching category and merely used social and legal distinctions – field or house slaves, free or unfree – as intermediary distinctions.[69] But it was also different because of the strict control it set up over those social settings in which luxury might thrive. Thus, while peasants in the metropole could organize their own events without requiring permission or supervision, Schimmelmann's ordinance required all events for blacks to have formal permission from – and be supervised by – their masters (in the case of slaves) or the police (in case of freedmen). And as Schimmelmann explained, this was not only to contain luxury, but also to hinder "disorders".[70]

The same oscillation between different ways of framing and treating the problem of luxury was also evident in the implementation of the ordinance. During Governor

[65] Ibid., §1. For instance, the ordinance prohibited all use of gems, gold, or silver, all garments of silk, and cloths embroidered or woven with gold or silver, as well as "all kinds of coiffure with styled hair".

[66] Ibid., §1-2. Field slaves were allowed to wear only coarse and unbleached garments made from wool or cotton, except on Sundays and other holidays, when they were also allowed to wear a simple scarf around the head or neck, or a coarse hat or old and used cloths of little value. House slaves, including craftsmen, could wear certain kinds of jewelry, finer kinds of scarfs, coarse socks, leather shoes, barrettes of base metals, and some other items, but left it to masters to determine the livery of the slaves in their immediate personal service.

[67] Ibid., preamble, §3.

[68] Ibid., §3.

[69] See Robert S. DuPlessis, "Sartorial Sorting in the Colonial Caribbean and North America," in *The Right to Dress – Sumptuary Laws in a Global Perspective, c. 1200-1800*, ed. Giorgio Riello and Ulinka Rublack (Cambridge: Cambridge University Press, 2019), 350-357.

[70] Ibid., §3.

General Walterstorff's years in office, he appears to have focused primarily on the ordinance's regulation of social settings and its focus on public security.[71] In 1790, he in fact ordered *byfoged* Johannes Poppe of Christiansted to put a stop to all "negro dances [*negerballer*]", seemingly among both free and slave.[72] For, as he wrote, "I cannot presume otherwise than that the many negro dances that are currently held are for the most part the cause of the many thefts that are now committed".[73]

However, the following year, when Lindemann was Acting Governor General, he appears to have put greater emphasis on limiting the use and displays of luxury items among blacks. Anticipating Walterstorff's recent return to the colony, he wrote to Johannes Poppe to complain about how the ban against 'negro dances' was not being upheld and how he now:

> on a weekly basis hears rumors that here and there dances are held and that it even goes so far that the negroes walk in parade, two by two, adorned to the extreme, to such solemnities as well as to tea and coffee parties.[74]

Thus, it seems that for Lindemann, on this occasion at least, the problem was not so much how social events led to disorder and crime among blacks, but rather how they provided an outlet for their desire for luxury to thrive and spread.

Generally speaking, however, this was not the way the problem was framed in colonial justice. To judge from the few extant cases where Schimmelmann's Luxury Ordinance was invoked in Christiansted Police Court, it was not the use and display of luxury items that was punished, but rather the very fact that blacks had socialized or, even worse, danced without supervision and permission. In particular what interested judges was whether plantation and city slaves had socialized with each other or with freedmen, and whether they had done so after eight o'clock.[75] Taken together, it seems that the colonial regulation of luxury was, in both theory and practice, more concerned with public security than it was with saving slaves from succumbing to luxury, this great 'mother of vice'. The same seems even more true when turning to the regulation of alcohol consumption and gaming.

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[71] See for instance how in 1788 he approved of the ordinance's limitations on social events, but failed to mention its detailed attention to apparel and luxury items more generally (CC. 421. Walterstorff's *Bemærkninger* (October 8, 1788), pp. 134 (book 3, arts. 100-101)).

[72] At least, this was what Judge Poppe took it to mean (WIG. 3.81.73. Poppe's letter to Governor General Walterstorff of March 28, 1790).

[73] WIG. 3.81.73. Document titled *Politie Forhøret i Anledning Neger Ball paa Plantagen Salomons Hill*, containing a transcript of Walterstorff's memorandum of March 21, 1790.

[74] GG. 2.5.2. Entry 176/1791: Lindemann's letter to Judge Poppe (July 23, 1791).

[75] See for instance CCB. 38.9.9, fols. 72-73, 77-78, police interrogation and verdict of April 19, 1790,; fols. 168-170, police interrogation and verdict of August 23, 1792; fols. 198-199, police verdict of March 20, 1793. See also GG. 2.49. Police report of January 4, 1784.

Slaves drinking

In the Danish West Indies, the regulation of slaves' consumption of alcohol, which effectively meant rum, dates at least as far back as 1756 and was frequently renewed or modified thereafter.[76] In general, these regulations sought to limit the purchase of alcohol to certain carefully defined points in time and space. In 1756, Governor General von Pröck did this by illegalizing the sale of all kinds of alcohol to all blacks on Sundays and holidays, the days when plantation slaves were usually able to visit the cities.[77] In 1766, however, the Government gave up an all-out ban and instead began restricting the number of bars and their opening hours to no later than 6 o'clock, the latter in order to avoid serving drinks after sundown, which involved, as Governor General Clausen explained, a serious fire hazard. At the same time, slaves were also prohibited from drinking inside bars; they had to drink outside, and only until they had finished their drink so as to avoid slaves standing around "in myriads".[78] In 1774, Clausen published this regulation once again, as it had apparently "fallen into oblivion or been disdained out of insubordination".[79]

What stands out from these regulations is the strong emphasis on public order, but also the complete absence of the problematization that was essential to the eighteenth-century metropolitan regulation of alcohol production and consumption among peasants. As in the colony, Danish regulation had long focused on limiting access to alcohol. Since 1689, it had been illegal for peasants to distil aquavit (*brændevin*), and rural innkeeping (*krohold*) had been severely limited and regulated.[80] Yet, the problematization at the heart of this regime was very different. Throughout the century, what was problematized was essentially how easy access led to temptation, and thus to a general decline into vice. In Jens Holmgaard's detailed article on this regulatory regime, he provides a number of examples of how Danish officials, to quote one example from 1772, feared that easier access to alcohol would lead lower orders to:

> fall completely into drunkenness, boozing, and bad mores [*slette sæder*], to profane the sabbath, to neglect the decent upbringing of the young, to neglect agriculture, and to lose the mental strength necessary for domestic care, things that it is now highly

[76] Simonsen, "En fortræffelig Constitution," 42-43.
[77] GG. 2.1.4. Placard of May 17, 1756, §11 (pp. 64-65).
[78] GG. 2.1.4. Placard of October 18, 1766, § 2 (pp. 132-136).
[79] GG. 2.1.4. Placard of October 5, 1774, § 4 (pp. 211-223, citation p. 213).
[80] On eighteenth-century Danish ordinances on alcohol production and consumption, see Jens Holmgaard, "Brændevinspolitikken i Danmark 1757-1776," in *Alt på sin rette plads - Afhandlinger om konjunkturer, statsfinanser og reformer i Danmark i 1700-tallet*, ed. Jens Holmgaard (Viborg: Udgiverselskabet ved Landsarkivet for Nørrejylland, 1990).

> necessary to attend to now that vices and poverty struggle for dominance with decent living and wealth.[81]

This view of the problem was still essential in 1786 when Christian Ditlev Reventlow, as Head of the Exchequer, authored a new ordinance that kept the essential regulations in place.[82] Here, as Reventlow's former teacher Schytte would have agreed, what was essential was to keep people from consuming "more than what is necessary or recreational" in inns, and to tolerate only modest consumption in private, most importantly at weddings, childbirths, and so forth.[83]

In the colony, on the other hand, alcohol consumption among the enslaved was primarily a problem of public order. At least, this was the view of the colonial officials who commented on the draft *code noir* in the late 1780s. Here, they emphasized how serving after sundown entailed a fire hazard,[84] but also how drunkenness was a source of general disorder that deserved to be seriously punished. In response to Oluf Lundt Bang's suggestion that "a slave found drunk in the streets" should be arrested and then turned over to his master who might punish him as and if he pleased,[85] colonial authorities recommended a public whipping of fifty lashes. According to Thomas de Malleville, this was in line with current practices, which was a fitting response to the nature of the offense. For, as he argued, "it is not easy to distinguish between being found drunk on the street and acting contrary to good custom and order [*god skik og orden*]".[86]

But more than public disorder in itself, alcohol consumption was also tied together to crime and even open insurrection. This was clearly expressed by Edvard Røring Colbiørnsen when he spoke against allowing free coloreds to gain licenses to serve alcohol. For, he argued:

> one may be fairly certain that such establishments would become warehouses for all kinds of stolen goods, and what is even more to be feared, give rise to gatherings that could have the most dangerous consequences for the internal security of the country and the inhabitants.[87]

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[81] Quoted in ibid., 157.

[82] In its explication of its draft proposal, this policy of limiting "the superfluous consumption of aquavit" was deemed vital if the state was ever to put a stop to "a use equally detrimental for the balance of the state and the morals [*for statens balance og for sæderne lige skadelig forbrug*]". The draft proposal is located in CR. 2411-22: No. 153: *Allernaadigst Forestilling* (April 25, 1786). The proposal was approved by the King a few months later on August 2.

[83] Cited in decree of August 2, 1786, printed in *Chronologisk Register*, vol. 9, 104-117, §19.

[84] See for instance E. R. Colbiørnsen's comments on "the fear of fire" being the cause of the current closing hours (CC. 421. Colbiørnsen's *Anmærkninger* (September 24, 1788), p. 114 (book 3, art. 98)).

[85] CC. 419. No. 30: O. L. Bang's *Neger-Lov*, book 3, art. 79.

[86] CC. 421. Malleville's *Betænkninger* (October 19, 1787), p. 91 (book 3, art. 76).

[87] Ibid. Colbiørnsen's *Anmærkninger* (September 24, 1788), p. 106 (book 2, arts. 39-40).

Agreeing with Colbiørnsen's view, Governor General Walterstorff vouched that he had worked hard during his time in office to diminish the number of rum bars, and had strictly followed "the principle that no one except the most civilized of the free colored" were granted such a license.[88] Thus, rather than the idea that alcohol consumption involves temptations that might set in motion a general fall into vice, what shaped the ordinances and discussions on the subject was instead how it risked leading to disorder, theft, and possibly even rebellion.

Slaves gaming

While alcohol had, by the 1780s, long been subject to colonial regulation, the problem of games and gambling was, it appears, a much more recent but no less serious one. Apparently, the regulation of games and gambling dates to 1774, when Governor General Clausen, in his Ordinance on the Administration of Public Tranquility, felt the need to act against this rising problem.[89] Presenting the problem in the typical vocabulary of police, he stipulated that:

> Since daily experience teaches how the negroes' insatiable desire for games [*umættelig lyst til spil*], which leads to nothing but theft, fraud, and trickeries, is getting out of hand, I have found it highly necessary to seriously forbid all gaming among the negroes, in the streets, in galleries, and in the houses, and that all negroes caught gaming are immediately seized and given 150 lashes at the whipping post.[90]

In the following years, slaves playing cards or dice – for pleasure or for money, in the streets or in bars – were among the offenses that were most often noted in the Christiansted police reports. Between 1777 and 1787, the reports mention 16 adult slaves and a few minors who were caught gaming, as well as a considerable number who managed to flee without being caught. In most cases, however, offenders were let off more easily than prescribed by the 1774 ordinance, usually with 50 or 100 lashes and fewer for minors.[91] It is unclear, however, why some offenders received greater leniency than others. Perhaps the chiefs of police saw some acts of gaming as more worthy of punishment than others.

At least, this was Lindemann's position. In his proposed *code noir*, he wished to introduce some measure of proportionality to the punishments for slaves gaming. When initially caught, gamers should be given a beating and disbanded, while the

[88] Ibid. Walterstorff's *Bemærkninger* (October 8, 1788), p. 131 (book 2, art. 39).
[89] Previously, only gambling had been illegal, under punishment of fifty lashes. See GG. 2.1.4. Placard of December 23, 1759, § 9 (pp. 108-123).
[90] GG. 2.1.4. Placard of October 5, 1774, §3 (pp. 211-223).
[91] GG. 2.49. Police reports of March 30, 1777; April 29, 1781; May 13, 1781; December 9, 1781; January 21, 1782; June 23, 1782; December 25, 1785; May 7, 1786; and June 19, 1787. See also CCB. 38.9.7, fol. 89, police verdict of March 30, 1787.

maximum punishment of 150 lashes would be reserved for those who protested or were caught reconvening to play for money.[92] His colonial colleagues, however, were less inclined to distinguish between degrees of gaming. In the late 1780s, they opposed a similar proposal and spoke in favor of a firm and uniform punishment for all instances of gaming.[93] According to Thomas de Malleville, as "carding, dice, and all manners of games are getting out of hand", there was no room for being "lenient", not least, as Edvard Røring Colbiørnsen added, because "the negroes' secret gatherings during the night to play cards, dice, and the like is generally the occasion of most of the thefts being committed".[94]

Once again, the purpose of regulating the everyday lives of slaves was not to cleanse social and public life of 'scandal', and thus of those temptations that led subjects into vice. Apparently, slaves or 'negroes' simply had, to quote Clausen's 1774 ordinance, an 'insatiable desire for games', and what was vital for the state was therefore to repress this desire, not to save slaves from 'falling'.

This was also evident in their discussions in the late 1780s about how to minimize those occasions and contexts that allowed slaves to satisfy this desire. Not least, they agreed, it was necessary to pay close attention to those backdoor stores in the colonial towns that provided a kind of safe haven for gaming. This fact was an unfortunate consequence of a 1756 ordinance that had only allowed stores to service slaves "through their backdoors".[95] When Oluf Lundt Bang and the slave law commissioners included this stipulation in their third draft,[96] it therefore brought some of their colonial commentators to complain that the practice of backdoor sales served "an occasion for games of hazard and illegal gambling among the negroes" and for the sale of stolen goods.[97] Governor General Walterstorff largely shared these sentiments, but still he felt that a total ban would be counterproductive. In his view, the current regulations had already determined what was necessary, and the problem was primarily a matter of their due execution by the officers of police.[98]

As it appears, what is peculiar about this area of colonial regulation is not only the relative strictness of the code being upheld (in the metropole, it was only gambling (*dobbel*) and never gaming as such, which was subject to regulation), but also the way the problem is defined and treated. To recall, in the metropole, practices like

[92] CC. 419. No. 24: Lindemann's *Forslag*, book 1, art. 77.
[93] Lindemann's proposal had made its way into the Slave Law Commission's third draft (CC. 419. No. 30: Bang's *Neger-Lov*, book 3, art. 76).
[94] CC. 421. Malleville's *Betænkninger* (October 19, 1787), p. 91 (book 3, art. 73); ibid., Colbiørnsen's *Anmærkninger* (September 24, 1788), p. 113 (book 3, art. 73). See also ibid., Walterstorff's *Bemærkninger* (October 8, 1788), p. 133 (book 3, art. 73).
[95] GG. 2.1.4, pp. 64-65: Placard of May 17, 1756, §11.
[96] CC. 419: No. 30: Bang's *Neger-Lov* (book 3, art. 102).
[97] CC. 421. The St. Croix Burgher Council's *Betænkninger* (August 1, 1787), pp. 77 (book 3, art. 98); ibid., E. R. Colbiørnsen's *Anmærkninger* (September 24, 1788), p. 114 (book 3, art. 98).
[98] Ibid. Walterstorff's *Bemærkninger* (October 8, 1788), p. 134 (book 3, art. 98).

carding, gambling, etc. were, like all other modes of entertainment and enjoyment, problematic because of man's weakness in the face of temptation: they brought vexations to the passions, they offered scandalous examples to others, and to assist man against his weaknesses, police would therefore have to cleanse public life of all that led men into vice. But in the colony, the problem was much more concrete and even isolatable. It was, to quote Clausen, how "an insatiable desire for games" was the source of acts that were inimical to public order and security.

The governmentality of colonial police

To judge from these three areas of colonial regulation – luxury, alcohol, and gaming – the underlying governmentality would, in most respects, have appeared strange and unfamiliar to a metropolitan audience. Of course, in terms of its *art of governing*, there were considerable overlaps. As in the metropole, governing the everyday lives of slaves was understood to require a particular form of law, namely a detailed, flexible, and prompt mode of justice that took charge of both immoral acts and all those contexts and settings that provoked them. Yet, it is also clear that this art of governing was often turned in a strange and unrecognizable direction as it reached West Indian shores.

First, it was directed at problems of a very different order. Although it was not impossible for colonial governing to *problematize*, for instance, the desire for luxury as a vice that thrived through the temptations of social life, in both theory and practice it tended to focus on acts that somehow threatened public order – either by being a nuisance in of themselves or, more often, by leading slaves to crimes such as theft, fraud, and ultimately rebellion. Secondly, this art of police did not primarily rely on a theological *knowledge* of 'the flesh' and thus of man's vulnerability in the face of temptation and scandal.[99] Rather, in most ways, it appears to have relied on a racial knowledge of the presumably stronger desires of blacks and their inability to control them. Thus, unlike the governmentality of encoloring explored in the last chapter, this governmentality of police more clearly relied on a distinctly colonial form of knowledge: not of 'man', but of 'blacks'. And for these reasons, the overall purpose of colonial police was not primarily to save individuals from themselves, but rather to repress the desires of their 'race'.

[99] In fact, the term 'scandal' (*forargelse*) was almost never used among colonial officials and seemingly never in the sense it had in metropolitan police law. For instance, it is not found in the Police Ordinance that pertains to 'good order' (GG. 2.1.4-5). When it is used within colonial justice, it has a very different meaning. As exemplified in chapter 4, it might refer to an act than lessens the 'awe' blacks should feel toward whites (GG. 2.5.2. Entry 53/1791: Lindemann's letter to attorney Garp of Frederiksted, March 15, 1791). Alternatively, it might refer to verdicts that produce outrage and confusion because they fail to punish with appropriate rigor (see, e.g., CC. 38.6.18., fol. 433: The State vs. Juba, verdict of March 21, 1793).

Of course, one might speculate about the reasons for the distinct character of colonial police. Surely, it was shaped by a racial discourse that portrayed all blacks as criminals at heart (see for instance chapter 3), as well as by the same anxieties about white security, crime, and rebellion that informed the governmentalities of master-slave relations, slave crime, and racial hierarchies and led colonial officials to view the enslaved as potential 'domestic enemies'. But still, considering the state's rising interest in the Christianization and the moral improvement of the enslaved, for instance in schooling and in cultivating a sense of honor among them, it is peculiar nonetheless that colonial governors in the later decades of the century did not to a greater degree begin to rethink police as a way to thoroughly reform their conduct and morality.

But rather than speculating about the reasons for the unfamiliarity of Danish West Indian police, it is worth pointing out what it shows. For one thing, it adds further evidence to what previous scholars have long argued: that colonial regulation served to buttress the institution of slavery and the security of whites. But rather than a pure dichotomy of metropole and colony, it has also shown the possibility of overlaps and commensurability, not least in their capacity to think about 'police' as a particular form of law. But in light of the analyses of the preceding chapters, it also indicates that colonial officials were comparatively less able or willing to see their colonized subjects as beings with deep, complex, and potentially self-governing selves: as selves that are to be governed through rather than in spite of their passions (chapter 2-3), as selves to be respected and educated rather than humiliated and indoctrinated (chapter 4), and finally as vulnerable selves to be saved from themselves rather than repressed.

In many ways, the same approach to the slave as less deep, complex, and self-governing will be found as one turns to the governmentality that was at the heart of the colonial state's concern with the numbers and productivity of the enslaved. But rather than a somewhat distinct colonial way of governing, the next chapter will stress how this attention to the slave as a passive being to be nourished and utilized was largely similar to the ways the laboring population was generally understood and governed in the metropole. In the words of contemporaries, the name of this governmentality is 'economy'.

CHAPTER 6: ECONOMY AND PRODUCTION

By all accounts, in the late eighteenth century, the Danish state was less prone to view and treat black slaves as beings with deep, complex, and potentially self-governing selves than it was in regard to its white subjects in Europe. Even so, it would be too simplistic to say that they were considered little more than 'property', or, as Governor Gardelin argued in 1733, as their "master's money". Besides being understood as governable through 'economic' or 'psychological' mechanisms and even through the passion of honor, they were also, as will be explored in this chapter, understood as members of a 'population' – an assemblage of individuals living, working, producing, consuming, and eventually dying in accordance with certain regularities that governors cannot afford to ignore.

This fact is central to Rasmus Sielemann's work on the colonial governmentality of the eighteenth-century Danish West Indies. In his argument, he uses Michel Foucault's reading of 'police' to distinguish between a form of sovereign power that treat individuals primarily as juridical persons (or, in this case, as juridical non-persons) and a biopolitical power that treats them as living, working, and social beings to be nurtured, regulated, and utilized for the sake of the state. To recall, for Foucault, what is of concern for police is not merely to keep men alive, but to see to all that might "supply them with a little extra life" and, in so doing, to "supply the state with a little extra strength."[1] In Sielemann's argument, this biopolitical logic of police is found in the unpublished Royal Slave Code of 1755 and the 1792 abolition of the slave trade. In the former, one finds sustained attention to the religious education of slaves, to their morality (not least in regard to sexuality), and to the master's duties toward the health and well-being of their slaves. And in the latter, one finds, as noted in chapter 2, the aim of incentivizing masters to take a greater interest in the well-being, health, and reproduction of the enslaved population.[2] Reflecting a new biopolitical concern for "the lives of slaves in the administration of society", these legislative acts thereby assumed, Sielemann shows:

[1] Foucault, "Omnes et Singulatim," 319. See also ———, *Security, Territory, Population*, 311-361.
[2] Sielemann, *Natures of Conduct*, esp. 80-112.

> an effect of causation between the social, commercial, moral, religious, and reproductive lives of slaves and the general condition of order and thus of prosperity within the state.[3]

In many ways, the various findings of this book add further support to this idea that, over the eighteenth century, governing slaves was increasingly a matter of governing and optimizing the 'life' of a population. As witnessed in the chapters so far, there was clearly a many-sided engagement with the slaves' social, public, commercial, reproductive, and religious relations, their health, morals, experiences, and mental states, and the effects of all these things on the overall order and prosperity of the state. In this chapter, this list will be broadened to consider the colonial state's engagement with *the productive lives of the enslaved* and its aim of multiplying and utilizing these productive lives for its own sake. But for this purpose, and for the sake of comparison, it is not enough to demonstrate, as Sielemann does, that this involved a biopolitical as opposed to a juridical (or non-juridical) approach to governing. To determine whether and how this colonial concern with nurturing and utilizing the slave population overlapped with contemporary metropolitan models of governing, one must go beyond this overly general juxtaposition. To do so, I will look to a form of governing which has also been examined by Foucault, but which has generally – at least among colonial scholars – received much less attention, namely that of 'economy' or what may be called the 'governmentality of economy'.

To put it briefly, the governmentality of economy, as described by Foucault, had as its basic model the idea of 'the household' (note that 'economy' originally derives from the Greek word *oikonomia*, the proper administration of 'the house' or *oikos*). Accordingly, for a state engaged in 'economic government', the basic problem will be how best to imitate "the management of a family by a father who knows how to direct his wife, his children, and his servants". That is, the central question is "how to introduce this meticulous attention, this type of relationship between father and family, into the management of the state".[4] More than anything, 'economy' is therefore the art of nourishing and commanding obedient inferiors, but also of doing so in a manner that ignores the wants and desires of individuals, sees only to their needs, and does so in order to utilize them as resources for the sake of the greater good. For this reason, what is opposed to economy is not only the juridical subject, but also the liberal notion that individuals ought to be governed through their autonomous desires, their passions, or even through the larger economic laws that organize their conduct. From this perspective of economy, therefore, police is not only opposed to 'sovereignty', but also to 'liberalism'.

[3] Ibid., 89.
[4] Foucault, *Security, Territory, Population*, 94-95.

To compare this art of economy or 'householding' in metropole and colony, this chapter focuses on two matters that were essentially, at the time, two sides of the same coin: to sustain or possibly increase the numbers and vitality of the population, and to utilize its productive powers as much as possible. More precisely, it compares the governmentalities through which the Danish state, in metropole and colony, sought to multiply and harness the productive powers of those segments of the population who were forced by situation and circumstance into strenuous bodily exertion in order to subsist and survive. In the West Indies, the group in question is once again the enslaved, both plantation slaves as well as domestics and urban laborers. In Denmark, it once again concerns the peasants, although not all of them – only those groups who had to offer their labor to others in order to earn their keep, such as servants or day laborers.

As in the last chapter, I will begin by examining the basic elements of the governmentality of economy that was authoritative in the metropole. After that, the analysis will move more freely between metropole and colony. First, I will explore the role of these 'economic' rationalities in the colonial discussions in the 1790s about enslaved domestics and urban workers. After that, I will turn to its role in the metropolitan laws on vagrancy (1791) and poor relief (1803), and lastly, the chapter will return to the colony to explore the late eighteenth-century governing of marronage (the crime of running away).

A governmentality of economy

In order to grasp the basic elements of the governmentality of 'economy' that was, as I argue, essential in both Danish metropole and colony, it is useful first to introduce Mitchell Dean's account of the changing ways the laboring classes were governed in early modern England.[5] Without arguing that the Danish and English transformations in this regard were completely the same, Dean's account offers much that resonates with the Danish case and not least, as I will show, with an influential contemporary articulation of 'economy' from the Danish context.

In the seventeenth and eighteenth centuries, Dean argues, the governing of the laboring classes, or 'the laboring poor' as they were often called, was organized according to an *art of householding*. This art, he argues, found support and direction in the contemporary science of 'political economy', a *knowledge* that was based on an implicit denial of the notion of autonomous economic laws. Accordingly, for this art of householding there was no autonomous reality according to which the governing of the laboring poor had to be organized. Instead, like any other element in the production and circulation of wealth, the poor constituted a population

[5] Dean, *The Constitution of Poverty*, in particular chapters 1-5.

segment – indeed an absolutely vital one – whose capacity to contribute to the wealth of the state had to be fostered and utilized as much as possible. Thus, rather than being governed by its own autonomous laws, the population was essentially a household writ large. As underlined by Foucault, the general problem was therefore how best to apply the meticulous attention and paternal measures of 'the father' in the effort of turning, as far as possible, the idle into the productive poor. Besides the suppression of beggary, vagrancy, and other unproductive and demoralizing forms of conduct, the primary tools of this paternal attention were to offer relief, often through deinstitutionalized outdoor relief, and to set the idle poor to work.

But this way of governing began to lose its self-evidence and necessity, Dean argues, during the early nineteenth century. The important change was not, however, the emergence of liberal governmentality itself, but the emergence of a particular kind of liberalism. Inspired by Karl Polanyi, Dean distinguishes between two liberal conceptions of 'economic government' that may be called 'humanist' and 'naturalist', depending on their idea of 'economic man'.[6] The first kind – the 'humanist' – is considered typical of the late eighteenth-century thought of Adam Smith and was briefly introduced in chapter 2. According to this, economic man is governed by his self-interest or, in Smith's classic formula, by his innate and natural propensity to truck, barter, and better his condition. But it was not the arrival of this idea of man, Dean argues, that eventually replaced the art of householding. Rather, this was the accomplished by the 'naturalist' idea of 'economic man' as found not least in Thomas Malthus's *Essay on The Principle of Population* (first published in 1799). Here, man is understood as governed by laws at work in his environment, indeed as condemned to labor under the constant threat of scarcity and want in a world of finite resources and diminishing returns.

During the early nineteenth century, this new liberal rationality profoundly changed the governing of English (and Danish) labor. Not least, and as will be explored in more detail in chapter 7, to govern economically now meant to set up the conditions that would expose individuals to the possibilities and insecurities of economic life. More than anything, Dean shows, this involved a new view of 'scarcity' as natural, indeed as nothing less than a law devised by God to teach man the values of self-restraint, providence, and independence in economic as well as sexual matters. Thus, where the English had earlier found it meaningful to protect the poor from want and to put them to work as exhaustively as possible, they now found it necessary to allow the natural economic law of scarcity to play out. Accordingly, the problem was no longer to foster and appropriate the productive powers of the poor as perfectly as possible, but to avoid blocking the lessons of nature from teaching individuals the importance of steady industry, frugal consumption, and

[6] Karl Polanyi, *The Great Transformation – The Political and Economic Origins of Our Time*, 2nd ed. (Boston, MA: Beacon Press, 2001 [1944]), 116-135; Mitchell Dean, *The Signature of Power – Sovereignty, Governmentality, and Biopolitics* (Los Angeles: Sage, 2013), 76-86.

foresight in saving, as well as the prudence of deferring marriage if they would not be able to support a family by themselves.

In late eighteenth-century Denmark, this Malthusian idea of economic government was still far off. Here, as in England, it was not a matter of governing labor through the economy, but of *subjecting labor to economy*. To illustrate with greater clarity what Danish contemporaries understood as this practice of 'economy', it is useful to turn to one of the most influential authors on 'economy' active in Denmark at the time, Johann Christian Fabricius, who – between 1775 and his death in 1808 – was Professor of Economics, Cameral Sciences, and Natural History at Kiel University, which was then a part of Denmark-Norway.[7] The Danish edition of his popular textbook *The Principles of the Economic Sciences* (*Begyndelsesgrundene i de oekonomiske Videnskaber*), originally published in German in 1783, appeared in the same year (1799) that Malthus' *Essay* first appeared, but other than this, these texts had very little in common.

In his *Principles*, Fabricius begins by defining 'the economy' (*oekonomien*) as the knowledge or art that "teaches the principles according to which the wealth of the inhabitants and the state must be organized and increased". He then partitions this art into 'the particular economy' and 'the public economy', the former teaching the rules for increasing the inhabitant's wealth, with the latter showing how to organize things "for the benefit of the entire state". But to carry out the latter, he adds, 'public economy' must rely on two additional 'sciences': 'cameral science', which concerns public finances, and 'police science', whose object is above all else to remove, as he wrote, "the obstacles" that hinder the multiplication of the inhabitants and keeps them from being industrious.[8] But in tending to such 'obstacles', Fabricius was not conceptualizing police as what allowed some autonomous economic mechanism – such as self-interest or scarcity – to organize 'the economy'. Rather, as his exposition makes clear, he was thinking of an active and all-embracing arrangement and appropriation of men and things, entities which are, from his perspective, essentially the same as objects.

Thus, to ensure "the multiplications of the inhabitants", police must not only ensure what the French called *bon marché*, namely the ready availability of heathy foodstuffs at an affordable price,[9] but must also look to all the causes of ill health or low birth rates as found in the environment or in the immoral habits of the people,

[7] On Fabricius' academic life and work, see Dominik Hünniger, "What is a Useful University? Knowledge Economies and Higher Education in Late Eighteenth-Century Denmark and Central Europe," *Notes and Records* 72 (2018).

[8] Johann Christian Fabricius, *Begyndelsesgrundene i de oekonomiske Videnskaber* (Copenhagen: J. M. Stadthagens Forlag, 1799), 7-10.

[9] On the centrality of this idea of *bon marché* to eighteenth-century economic thought, see Harcourt, *The Illusion of Free Markets*, 18-25, 69-73.

for instance their luxury or sexual frivolity.[10] Furthermore, it must take particular care to sustain the segment of the population that Fabricius quite self-evidently refers to as "the poor" (*de fattige*), by which he simply meant 'laborers', or in any case all those people "who support manufactures, factories, and every other business", and whose "maintenance must therefore all the more be cared for by police". But of course, as Fabricius made clear, the purpose of caring for the poor whenever they lack what they need is not "to sustain a bunch of licentious idlers". Rather, through a detailed administration of the poor, the purpose is that "the forces of the poor are used for the utility and benefit of the country", so that the poor will never lack either support or work. Indeed, if their labor is not in demand and no employment is to be found, police must "arrange work and give an adequate reward for their toil". And to hinder individuals from evading this ideal of steady industry, police must forcefully suppress all alternative forms of subsistence, be it in the form of vagrancy, begging, thefts, or whatever else allows one "to live off the work and sweat of others" and become "devoted to laziness and vices".[11]

As I will show later in this chapter, Fabricius' conception of 'economy' was largely representative of the way the metropole aimed to govern 'the poor' in the later decades of the century. Here, one finds an expression of its essential problematization (i.e., the lack or waste of useful bodies), its essential knowledge (i.e., a political economy that grasps governing as a kind of householding), and its essential art of governing (i.e., providing as exhaustively as possible for the needs of this household and utilizing its forces as perfectively as possible). Accordingly, for Danish governors in the late eighteenth century, governing labor meant making it into a passive object: a being without 'passions' to be harnessed, without 'weaknesses' to be shielded, and without any other form of inner depth. To these domestic lawgivers, the nation's laborers were therefore little more than an assemblage of unthinking bodies to be multiplied and utilized as perfectly as possible. But, naturally, all this begs the question: Was this governmentality of economy also foundational in the colony? Was the governing of slaves also modelled on this idea of governing as a father would his household?

Colonial economy in the 1790s

In the words of Fabricius, "the strength of the state consists in the number of inhabitants and the circulation of wealth, both of which economy aims to sustain".[12] On the other side of the Atlantic, few would have disagreed, but of course not

[10] Fabricius, *Begyndelsesgrundene*, 283-306.
[11] Ibid., 315-322.
[12] Ibid., 10.

without adding the important caveat that, in the West Indies, 'the inhabitants' were not, strictly speaking, there of their own free will and they did not partake in 'the circulation of wealth' on their own initiative or benefit from it in any obvious way. But these matters aside, like any other early modern colonial power, the Danish West Indies had, from its inception as a commercial venture, been concerned with the adequate "planting and peopling" of its lands.[13] Following several decades of rather unsuccessful attempts to ship in and utilize convicts and indentured servants from its European lands, from the late seventeenth century onwards Company rule (and later on the Crown) focused its efforts on procuring labor in the form of African slaves.[14] Still, in the 1780s, little had changed in this regard. Even if the Colonial Government now had qualms about the moral righteousness of the slave trade and slavery in general, the central problem was still, it reported in 1787, to have the islands "regularly and directly" supplied "with the required negroes" at reasonable prices.[15] Indeed, if colonial officials worried about the adequate availability of foodstuffs and rations for slaves, they primarily did so out of fear that hunger and famine might incite a revolt, and not out of concern for the nutritional needs of a population.[16]

But following the 1792 abolition of the slave trade, the problem of 'peopling' the colony changed significantly. From 1803, the slave population would have to be able to sustain its numbers without fresh imports and not least the birth rate would have to increase significantly. As noted in chapter 2, the first step in this direction was to promote orderly unions, both in order to increase the birth rate and to put a stop to those promiscuous lifestyles which the Colonial Government suspected of leaving slaves infertile, sick, and eventually dead.[17] And in the early nineteenth century, as not least Niklas Thode Jensen has shown, this engagement with 'the health of the enslaved' was greatly expanded to include a sustained focus on vaccination, improved midwifery, plantation hospitals, and improved nutrition.[18]

But while it is obvious, then, that the preconditions for sustaining or even increasing the numbers and vitality of the enslaved were now high on the Government's

[13] This expression is borrowed from Philip J. Stern, *The Company-State – Corporate Sovereignty and the Early Modern Foundations of the British Empire in India* (Oxford: Oxford University Press, 2011), chapter 2.

[14] Heinsen, *Mutiny*; Hvid, "Indentured servitude and convict labour in the Danish-Norwegian West Indies, 1671–1755."

[15] WIG. 3.8.17. No. 153: report to the Chamber of Customs (October 15, 1787), pp. 351-360.

[16] At least, this view was clearly expressed in the 1784 memoranda submitted to the Slave Law Commission by two experienced colonial officials and former Governors General, Frederik Moth and Ulrich Wilhelm von Roepstorff. In the words of the latter: "Only tyranny and famine can cause a rebellion: the former we seek to hinder here [through law], the latter the Government must prevent." (CC. 419. No. 17: Roepstorff's memorandum (February 7, 1784), p. 5. See also ibid. No. 20: Frederik Moth's memorandum (May 12, 1784), book 1, art. 2).

[17] See pp. 86-88.

[18] Jensen, *For the Health of the Enslaved*, chapter 4.

agenda, did it also find it imperative, as Fabricius would have, to subject these bodies to a kind of 'economy' that would render them as useful and industrious as possible? To explore this, the following will turn to the deliberations that took place among colonial and imperial authorities in 1792 and 1793 on the subject of the excessive number of slaves who were currently, in their view, used for absolutely useless purposes. Although these deliberations did not lead to any direct transformations in colonial policy, and have perhaps for this reason not previously been studied in detail,[19] they offer an interesting glimpse into what colonial officials found imperative, took for granted, and in fact practiced in other areas of government; most importantly, as I will argue in the final section of this chapter, in regard to the problem of marronage.

Useless slaves: Domestics and urban laborers

While the deliberations in 1792-93 were not the first to touch on this problem of the useless use of the enslaved, at the time they were certainly the most comprehensive.[20] As mentioned, the immediate occasion for this was the abolition of the slave trade. Following the act itself, the Colonial Government was ordered to draw up plans for its practical execution. Besides organizing a loan scheme to finance a massive import of new slaves in the decade up to 1803, and besides caring for the moral improvement and education of the enslaved,[21] it was also asked to deal with the supposedly excessive number of slave domestics or 'house negroes' (*husnegere*) employed in Euro-Caribbean households.[22] According to the Schimmelmann report that led to the act of abolition, many Euro-Caribbeans in the Danish West Indies now saw it as a necessary luxury to have an abundance of such servants. There were even examples, it noted, of households with no fewer than fifty.[23] In line with the recommendations of the report, in February 1792 the King therefore decreed a future increase in head tax (*kopskat*) on all excessive domestics.[24] And shortly thereafter, the Chamber of Customs requested the Colonial Government's views on what number and kind of domestics should count as too

[19] For a short treatment of the matter, see Gøbel, *Det danske slavehandelsforbud*, 113.
[20] For instance, in his *code noir*, Lindemann had instructed masters to "keep their slaves working so that they that are not, in idleness [*ørkesløshed*], led to evil" (see CC. 419. No. 24: Lindemann's *Forslag*, book 3, art. 3). As in the discussion in the 1790s, for Lindemann the problem was primarily the excessive use of slaves as domestics.
[21] See chapter 4, pp. 171-175.
[22] Gøbel, *Det danske slavehandelsforbud*, 111-121.
[23] Cited in the original German in ibid., 207.
[24] Ibid., 272-273.

many, and how much their owners should be taxed for employing such superfluous domestics.[25]

However, as the Chamber of Customs turned to the Colonial Government, the nature of the problem seems to have shifted. Originally, the Schimmelmann report had presented the problem of excess domestics as purely one of propagation. It had argued that slave domestics usually remained unmarried and by implication childless, and that bringing down their numbers would therefore limit one of the causes of the population's inadequate birth rate.[26] However, when the Chamber explained the matter to the Colonial Government, the problem was suddenly one of utility and industry. As it was careful to specify, the state-sponsored loans concerned only the purchase of "such negroes that are used or intended for the plantations and the cultivation of the country", and for this purpose "mere house negroes" are not strictly speaking "necessary". Therefore, while one could not of course completely do without them, for the sake of "the progress of the colonies" it would be "useful that only few of them are maintained".[27] Quite evidently, for the Chamber, it was not enough to merely people the colony with an ample number of slaves and then leave the rest to the masters. Even in a slave colony, the waste or misuse of vital forces was not only the master's problem, but also the state's.

The Colonial Government readily concurred with this. As it weighed in on the matter of excessive domestics in late 1792, it noted that in the West Indies, even more so than in Europe, many families employ "an extraordinary number of servants". To a degree, it admitted, this comparative difference was warranted, both because of a greater need for dusting as the climate required that windows and doors be kept continually open, but also because "the negroes are generally very lazy". In fact, "here," it argued, "three domestics do not even accomplish as much as one does in Europe". But even so, it believed the superabundance of domestics was primarily a reflection of "old custom and vanity", but also of the fact that many families, in particular the wealthy ones, preferred to keep the offspring of their servants rather than selling them off. As a result, many families "eventually find themselves surrounded by a hoard of useless people [*en hoben unyttige mennesker*] who do not cost little to feed and clothe".[28]

But as the Government was careful to point out, this waste of useful people was countervailed by another mechanism, namely interest. In this regard, it agreed with

[25] WIG. 3.13.33. No. 29: Copy of the Chamber of Customs' report to the West Indian Government (March 24, 1792).
[26] Gøbel, *Det danske slavehandelsforbud*, 207.
[27] WIG. 3.13.33. No. 29: Copy of the Chamber of Customs' report to the West Indian Government (March 24, 1792).
[28] CC. 424. The West Indian Government's report (December 29, 1792), § 11. In large parts, this was a copy of Governor General Walterstorff's previous memorandum on the subject, see CC. 423. Walterstorff's memorandum (September 21, 1792), § 11.

what Peter Lotharius Oxholm, the Chief of the Burgher Militia on St. Croix, had argued a few months earlier. In his view, it was generally rare to find a planter "so inconsiderate and careless of his interest that he would transfer more negroes from his field work to his house or to some other use than was absolutely necessary".[29] To this, the Colonial Government – now consisting of Walterstorff, Lindemann, and Niels Urban Aarestrup – added that generally, the problem was less a rural than an urban one. For, as it noted, by being more "aware" of the needs of production, plantation families were brought to practice "greater thrift" and therefore did not generally shy away from reducing their number of domestics or from occasionally using them for some useful non-domestic task if and when necessary, particularly during harvest.[30]

But while the Government agreed with Peter Lotharius Oxholm that the countervailing function of interest made the problem of waste less acute than it would otherwise have been, it did not share his attitude to the problem that remained. For his part, Oxholm very much favored a *laissez-faire* approach. In his mind, even if there were doubtlessly – even in the countryside – many cases of "misuse", it was best to leave things be. As he said: "Not everything can be perfect, and every evil cannot be prevented".[31] Quite evidently, however, the Colonial Government did not share this view of things. As it assured it superiors, it had "long worked on a plan to set limits to this evil", also for the sake of "liberating the cities of the many idlers [*dagdrivere*] among the negroes that one meets on the streets".[32]

For this purpose, it reported being in dialogue with local authorities on the islands, asking them not only what number of domestics would be appropriate for various sizes and kinds of households, but also how to "rid the cities of such negroes who have no steady work but go around earning a coin only on occasion".[33] Thus, rather than proposing, as Oxholm had done, that things were best left to follow their natural course, the Government's ambition was to 'perfect' things as much as possible: to both limit the employment of useful people in useless tasks and suppress this problem of unsteady employment, or what Danish contemporaries commonly knew as vagrancy (*løsgængeri*). As it appears, not only could the problem of the luxurious use of slaves not be left alone, but by virtue of its utter uselessness, it could not conceptually be separated from the very different problem of vagrancy. Thus, for

[29] CC. 424. P. L. Oxholm's memorandum to the West Indian Government (August 1, 1792), § 11.
[30] CC. 424. The West Indian Government's report (December 29, 1792), § 11.
[31] CC. 424. P. L. Oxholm's memorandum to the West Indian Government (August 1, 1792), § 11.
[32] CC. 424. The West Indian Government's report (December 29, 1792), § 11.
[33] The original letter, which was send to the Council of St. Thomas and St. John and the St. Croix Burgher Council in July 1792, is no longer extant (see WIG. 3.31.19. Nos. 536 and 537/1792, pp. 336-337), but its questions were reproduced in the response of the latter, see CC. 424. St. Croix Burgher Council's letter (September 5, 1792).

the Government, all this was part of the familiar 'economic' problem of turning, as far as possible, the useless and idle into the useful and industrious.

In the colony, the Colonial Government was not alone in seeing things in this light. In its response to its request, the local administrative Council of St. Thomas and St. John, then consisting of Thomas de Malleville and Jacob Anthon de Lillienskjold, suggested setting a number of six domestics as the standard above which the head tax would be higher. Furthermore, they proposed setting an upper limit on the number of slaves who should be allowed to hire themselves out for minor tasks. In regard to the latter, it recognized that, in a port city like St. Thomas, it would be impossible to do without a flexible labor pool, for instance for unloading cargo from ships. Yet, it did not doubt "that many negroes go around idle [*ørkesløse*] and that these give cause to many disorders". To avoid this, the Council suggested organizing this labor pool on the model of the dock workers (*strandkadetter*) of Copenhagen. Accordingly, such laborers should be in possession of a document with explicit permission from their masters, they should be bound to remain in a certain location, for instance at the customs office, their total number should not exceed a certain limit, and: "all other slave negroes drifting around the streets should be considered vagrants [*lediggængere*], be punished as such and then brought home to their master".[34]

In its deliberations a few months previously, the St. Croix Burgher Council had suggested something very similar. In regard to the appropriate number of domestics, it was of course, as Malleville and Lillienskjold had also admitted, very difficult to define in a general manner what would be necessary in each and every case. But the burgher council nonetheless believed that a number of between four and six would not be unreasonable. And in regard to the problem of vagrancy, "this great evil", it similarly proposed a system of surveillance, documentation, and limitation; in fact, the use of a visible emblem inscribed with their master's name for those who were authorized to hire out their services.[35]

But what, more precisely, was the problem with this useless use of useful people? At first glance, the problem appears to have been many things at once. In the words of the Government, the purpose of taxing the number of domestics, not least those of a lighter complexion who merely "served vanity and splendor", was to avoid the possibility "that the slavery of blacks should increase the luxury of whites".[36] And in the words of the local authorities, the problem with having such enslaved idlers and vagrants in the cities was how they caused "many disorders". For instance, as the St. Croix Burgher Council argued, the phenomenon provided a cover for

[34] CC. 424. The Council of St. Thomas and St. John's memorandum to the West Indian Government (November 9, 1792).
[35] CC. 424. St. Croix Burgher Council's letter (September 5, 1792).
[36] WIG. 3.8.19. Memorandum to the Chamber of Customs (December 31, 1792), p. 529.

marronage, as run-aways from the countryside "hide themselves under this pretense".[37]

But in general, idleness and uselessness appear to have been problematic in and of themselves. That is, while the unnecessary domestic and the idle vagrant were clearly problematic for giving cause to many other problems, they were also deemed problematic for the very reason of belonging to the category of useless rather than useful people in the first place. In many ways, therefore, the lens through which colonial authorities looked at these matters would have been familiar to their metropolitan peers. Like them, as I will argue in the following section, they took it for granted that industry, besides being a virtue in and of itself, was something which the state should maximize as much as possible and do so by arranging men as perfectly as possible: surveilling meticulously, demanding documentation, distributing people in space, setting maximums, and in all things ensuring that useful people were put to useful work.

Moreover, what ultimately limited these measures was not the notion that there should be an inherent or immanent limit to this utilization of colonial labor. Thus, the fact that the plans for raising taxes for domestics was quickly shelved and that there is little indication that any of the police regulations suggested to fight vagrancy ever materialized into anything concrete does not indicate that the Colonial Government had somehow come to favor the idea, which was implicitly floated by Oxholm, that trusting in the self-interest of planters and tolerating the exceptional 'misuses' would, at the end of the day, be preferable to detailed, but unavoidably imperfect regulation. Instead, when the Government reported in 1793 the reservations that had made it less than fully favorable toward the idea, and which probably made the home authorities lose further interest in the matter, it was out of concern for the needs of employers and the well-being and reactions of the slave owners. For, as the Government now reported, regulating vagrancy risked making it difficult for merchants and others to find laborers when they happened to need them, but would also strike a financial blow to the many petty slave owners who depended on whatever their slaves earned by themselves.[38] Furthermore, taxing excessive domestics would in all likelihood, it argued, accomplish little except upsetting their owners and turning them against the Government.[39] Thus, what limited this ambition of perfecting the utilization of labor was not a liberal rationality that problematized how it would treat laborers as little more than bodies to be arranged. Rather, it was limited by the practical problems of meeting a demand for flexible labor and maintaining local alliances.

[37] CC. 424. St. Croix Burgher Council's letter (September 5, 1792), § 3.
[38] CC. 199-200. No. 139/1793: Summary of the West Indian Government's memorandum (undated).
[39] CC. 199-200. No. 911/1793: Summary of the West Indian Government's memorandum of September 4, 1793.

In other words, colonial authorities agreed on two ideas that were essential to the governmentality of economy: First, that the state should ensure that slaves were numerous and healthy, and second, that the state should ensure that as many as possible remained industrious by imposing an order on men and things that was as perfect and complete as possible. But if, by the late eighteenth century, colonial governmentality thus conforms in a rather general way to an idea of 'economy', in the concrete form it assumed it was also rather distinct, at least in comparison with the form it would assume in the metropole.

First of all, compared to its metropolitan counterpart, which will be examined below, this colonial 'economy' had a much narrower domain of operation. Doubtless, the problematic of nourishing and utilizing labor was less urgent in a slave colony where the majority of the laboring population was permanently attached to a master whose obligation and interest it generally was, as least as far as the Government was concerned, to both sustain and utilize every slave for the sake of his household. For this reason, colonial economy was not the 'primary householder', and was not itself in charge of nourishing and setting labor to work. Rather, as in the cases studied above, colonial economy would primarily concern itself with the *preconditions* for having a numerous and useful population, of which masters could then assume charge.[40] The same was also true in regard to the problem of marronage, which will be explored later in the chapter. First, I will turn in greater detail to the manifestations of 'economy' in contemporary Denmark.

Economy in Denmark

Unlike the rather late colonial interest in having a self-sustaining population, in the metropole, the biopolitical concern to vitalize the population was much older and broader in scope. Further, the numbers it sought to increase and sustain were of course not a rather homogenous category of 'slaves', but involved many different kinds of potentially useful people: soldiers, consumers, taxpayers, farmers, and of course common laborers. As in the colony, however, these were increasingly being conceived of as a resource to be multiplied and utilized for the sake of the state.

In the field of statistics, for instance, the second half of the century witnessed the first systematic attempts to enumerate the population according to age, gender, and occupational and civil status in the form of census-taking.[41] At the same time, in a relatively new subcategory of police known as 'the medicinal police', there was

[40] Some of the aspects of this concern have already been studied, for instance in chapter 3 in the analysis of how colonial justice began problematizing how the gallows made "slaves useless for their work", as Edvard Røring Colbiørnsen worded it in 1788.

[41] Hans Christian Johansen, "Early Danish census taking," *History of the Family* 9 (2004).

growing public interest in – and state initiatives aimed at – rooting out the various causes of child mortality, malnutrition, ill health, and whatever diminished the vital forces of the greater mass of the population.[42] In the 1780s, this biopolitical concern influenced both economic policies, as "the maintenance of the people" was now considered "the most important law of the state",[43] as well as the rural reform movement (as explored in chapter 2).[44] In 1786, for instance, Oluf Lundt Bang problematized excessive corvée and other forms of seigneurial excess as harming the peasantry's production of foodstuffs. It was therefore, he argued:

> an injustice against the King who could, through improved cultivation of the farmlands, have received, from the land, many more people and many more products than he has.[45]

But what applied to the population in general applied to 'the poor' to an even greater degree. For individuals who belonged to this segment more than any other, to be governed was to be conceived of, as Fabricius had done, as "forces" to be "used for the utility and benefit of the country", much as a father would maintain and utilize every individual under his charge for the good of the household. To investigate the 'economic' governing of this group, which offers the best parallel to the colonial case, it is first necessary to define in more detail who would belong to this class of individuals who did not own their own means of production and had, like 'the poor', to sell their services to others in order to subsist.

Here, I have chosen to refer to them as 'the unpropertied'. This is also the term used by Tyge Krogh, the author of the most in-depth account of how the early modern Danish state sought to nurture and utilize the productive capacities of the laboring population. As he explains, in this period, the category of the unpropertied (*besiddelsesløse* in Danish) would have included a wide variety of individuals: cottagers with little or no land (*jordløse husmænd)*, lodgers living with farmers or cottagers (*inderster*), servants (*tyende, tjenestefolk*), day laborers (*daglejere*), and wandering people like peddlers and beggars, as well as ostracized or generally dishonorable individuals. Steadily growing in number during the seventeenth and eighteenth centuries, this group played a crucial role in the eighteenth-century rural

[42] Gerda Bonderup, *Det medicinske politi - Sundhedspolitikken i Danmark 1750-1860* (Aarhus: Aarhus Universitetsforlag, 2006); Signe Mellemgaard, *Kroppens natur - Sundhedsoplysning og naturidealer i 250 år* (Copenhagen: Museum Tusculanums Forlag, 2001).

[43] SCF. 20. Commission proposal of May 26, 1788. As Hans Christian Johansen has shown, in practice this 'law' meant that the state should ensure ample and affordable foodstuff, partly in order to sustain the masses, but also in order to lower wages, reduce production costs, and thus strengthen the overall competitiveness of national industry that would guarantee the continuing domestic circulation of money and goods (*Dansk økonomisk politik i årene efter 1784*, vol. 1: Reformår 1784-88 (Aarhus: Universitetsforlag i Aarhus, 1968), 217-226).

[44] Ibid., 219-220.

[45] Bang, *Afhandling*, 35.

economy. In fact, by 1801, the number of cottagers and servants alone was double that of the farmer class.[46]

As Krogh has shown, what occurred between 1500 and 1800 was that the state increasingly took charge of the lives of the unpropertied – both by providing for their basic needs, but also by enveloping them with ever more pervasive measures of control, discipline, and exploitation. In Krogh's account, as in this chapter, the laws on poor relief and vagrancy are central to the story. The overall purpose of this legal and administrative apparatus was to aid disabled or less than fully able individuals and to put all others to useful work. The first to suffer this increasing control over the unproductive, idle, or merely undomesticated forms of life were unauthorized (i.e., able-bodied and out-of-parish) beggars, who were, from 1708, sentenced to penal labor in a house of correction in Copenhagen.[47] Next came the vagrants (*løsgængere*), who were usually defined as unmarried adults or village cottagers who had not entered service (as a *tyende*) in spite of such a position being available in the community. Thus, to be a vagrant was not only to be idle or wandering, but also to shun the permanent direction of a master. Until 1791, the punishment for vagrancy was working in irons for as long as one had failed to serve.[48]

Somewhat reformulating Krogh's narrative, what it shows is how the state gradually became the householder *par excellence*: the figure who cares for and manages the lives of the unpropertied in a much more direct and exhaustive way than would the colonial state in the Danish West Indies. The following will explore the governmentality that was at the heart of this metropolitan regime of 'householding' in the late eighteenth and early nineteenth centuries, as expressed in the 1791 Vagrancy Law and the 1803 Poor Law. In so doing, the chapter offers a new interpretation of the period's mode of governing the unpropertied. Rather than reflecting changing ideals about the rights and obligations of state, church, and society,[49] or the need to exploit a group that tended to slip through the cracks of feudal exploitation (as Krogh, for instance, argues),[50] I will argue that these laws express the authority of a particular governmentality of economy. In pursuing this

[46] Krogh, *Staten og de besiddelsesløse*, 10-12, 27-43.
[47] Ibid., 51-57, 97-102, 139-146.
[48] Ibid., 57-61, 103, 146-153.
[49] See for instance Harald Jørgensen, *Studier over det offentlige fattigvæsens historiske udvikling i Danmark i det 19. århundrede* (Copenhagen: Nordisk Forlag, 1940); Johansen, *Dansk økonomisk politik i årene efter 1784*, 1: Reformår 1784-88, 264-276; Hans Chr. Johansen and Søren Kolstrup, "Dansk fattiglovgivning indtil 1803," in *Frem mod socialhjælpsstaten, perioden 1536-1898*, ed. Jørn Henrik Petersen, Klaus Petersen, and Niels Finn Christiansen (Odense: Syddansk Universitetsforlag, 2010), 180-197; Nina Javette Koefoed, "En luthersk velfærdsstat?," in *Pligt og omsorg - velfærdsstatens lutherske rødder*, ed. Nina Javette Koefoed and Bo Kristian Holm (Denmark: Gads Forlag, 2021), 251-254.
[50] Krogh, *Staten og de besiddelsesløse*, esp., 139-154, 169-173. For a related materialist analysis, see also Kjærgaard, *The Danish Revolution*, 145-154.

line of interpretation, I have of course drawn on Mitchell Dean's work on England, but also on Kaspar Villadsen's work on the eighteenth-century public debates in Denmark about the poor and the changing ideas of governing they express.[51] Unlike Villadsen, however, the focus here is not public discussion, but the deliberations among those reformers who shaped the laws on vagrancy and poor relief.

The Poor Law of 1803

To examine the governmentality of the poor laws of the period, the central piece of legislation is an 1802 decree on the Provisional Organization and Administration of Rural Poor Relief in Zeeland.[52] In 1803, this territorially limited poor law was extended to the entire country as a 'provisional ordinance',[53] which would – in spite of its name – remain the foundational legal and administrative framework until the Poor Law of 1891. With good reason, the law has been described as both a child of the enlightenment and a continuation of Lutheran ideals from previous centuries. Thus, unlike the rather punitive and insufficient apparatus of poor relief of the eighteenth century,[54] the 1803 law strengthened the parish's duty to care for all its own poor, while confirming the recipient's obligation to work as much as they could.[55] But the law was also, I would argue, emblematic of the governmentality of economy.

A clear of sign of this was how quickly it would be criticized and turned in a new direction by the liberal governmentality that emerged during the early nineteenth century, and which will be discussed at length in chapter 7. Here, to put it briefly, the 1803 Poor Law was seen to demoralize laborers because it freed them from the want and scarcity that would ideally teach them the virtues of independence and self-preservation. Indeed, by turning relief into a right for anyone in need, it was seen, as one critic argued in 1836, to remove "every motive of economy and industry". This critic offered the following assessment of the law:

> that relief must, as it is understood, be offered to anyone who demands it, and that in an equal fashion regardless of whether they are innocent or have themselves to blame for their need; that anyone, being sure to receive relief, may devote himself to laziness

[51] Kaspar Villadsen, *Det sociale arbejdes genealogi - Om kampen for at gøre fattige og udstødte til frie mennesker* (Copenhagen: Hans Reitzels Forlag, 2004), esp. chapters 2-7.
[52] Decree of June 15, 1802 (printed in *Chronologisk Register*, vol. 10, 453-469).
[53] Decree of July 5, 1803 (printed ibid., vol. 10, 663-681).
[54] Harald Jørgensen, "Det offentlige fattigvæsen i Danmark, 1708-1770," in *Oppdaginga av fattigdomen - Sosial lovgivning i Norden på 1700-tallet* (Oslo: Universitetsforlaget, 1982), 86-91.
[55] For these divergent interpretations, see for instance Johansen and Kolstrup, "Dansk fattiglovgivning indtil 1803," 180-197; Koefoed, "En luthersk velfærdsstat?," 251-254.

> and dissipation; yes that he may marry and be supported by public relief, and in fact live better than many of those who must pay [in poor tax] what little they have.[56]

To the men behind the 1803 Poor Law, however, such arguments would have appeared strange and perhaps even meaningless. Thus, what was of concern during the many years – in fact, more than a decade – of deliberation that had preceded the law was not the risk of disrupting the natural mechanisms of a self-regulating economy. Rather, the problem in question was to maximize the vitality and utility of the laboring poor through the perfect application of economy.

At the center of this process of deliberation stood a commission appointed in 1787 to revise the apparatus of poor relief. Among its members were a number of familiar names, like the brothers Reventlow and Oluf Lundt Bang.[57] Before making its formal recommendations in a 1791 report, the Commission's secretary, Johan Hendrich Bärens, authored a publication that documented the views and experiences of local administrators of poor relief – such as priests, bishops, and county prefects – and provided detailed statistics on the numbers of the poor and the income and expenses of the administration of poor relief in each parish. Besides gaining a clearer understanding of the actual state of poor relief in the country, the purpose of these local inquiries, Bärens explained, had been to identify possible solutions to the main problem as conceived by the Commission, namely:

> the means through which industry and thrift could be promoted, beggary be suppressed, and the poor who are either totally unable to work or at least not so able that they can themselves earn their living, are given what is necessary in a way least expensive and most useful to the state.[58]

During its investigations, the Commission found the country's poor relief to be in a sorry state. On the basis of the statistical information collected from local authorities, the Commission concluded that the countryside had a total of 32,505 people fitting the category of "poor and consequently in need of support", a segment constituting roughly 4-5 percent of the rural population. In this group, two thirds were categorized as 'cripples', 'bedridden', or 'old', or as 'fatherless' and 'other children', while the last third were more or less able-bodied adults and households. Of all these people, however, only 12,767 received alms, and these alms were of a value that the Commission found highly unsatisfactory. As a result, the Commission concluded that the existing apparatus severely failed to accomplish the basic task of

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[56] *Viborg Stændertidende [Tidende for Forhandlingerne ved Provindsialstænderne for Nørre-Jylland]* (Viborg, 1836-1848), 1836, col. 118. On this debate, see Jørgensen, *Studier*, 59-70.

[57] For the Poor Commission's vital role for the 1803 Poor Law, see also Krogh, *Staten og de besiddelsesløse*, 139, note 4.

[58] J. H. Bärens, *Efterretning om Fattigvæsenets Tilstand i Dannemark* (Copenhagen: Johan Frederik Schultz, 1790), III.

any "well-organized system of poor relief", namely to relieve "all true want [*al virkelig trang*]".[59]

By this category of 'true want', the Commission conceived of 'want' in a way entirely typical of the governmentality of economy. Indeed, rather than viewing 'want' as something that is natural in human society, as Thomas Malthus had argued, or as something that reflected the individual failings of those in want, the Commission thought of want simply as an objective lack of the absolute necessities of life. Thus, in order to distinguish between deserving and undeserving recipients, it was simply a question of whether individuals or families lacked the ability to procure, by their own efforts or with the help of relatives, the basic necessities of life. Indeed, relief should function, the Commission argued, as "a supplement of all that is lacking in providing for the absolute necessities of life, among which is included also the cure and care of the ill, the raising and education of poor children, and provisions for work".[60] It should not, however, allow the recipient to "live well", but should only provide as much as "the upkeep of life and the mean covering of the body [*legemets tarvelige skjul*] absolutely demands".[61]

In the report, therefore, the laboring poor were not approached as self-governing beings with complex inner lives, making choices that would make them more or less appropriate recipients of relief. Rather, in seeing its task as to alleviate 'all true want', the Commission came to define the worthy recipient of relief as a one-dimensional being, indeed as little more than a body being weighed down by external circumstances. Accordingly, in its report, the Commission offered the following instructions for the parish commission's examination of the applicant for poor relief, namely that it "should carefully examine all the circumstances on the basis of which to judge whether and what kind of relief he needs, such as his age, bodily forces, large family, lack of relations or occasion to utilize the forces at his disposal, etc."[62] In this examination, the moral shortcomings of the poor only entered into the equation once they were on the ledger, and then only in order to supervise their proper use of the relief received.[63]

In approaching the laboring poor in this way, the Poor Commission was in line with contemporary public debate. Here, as Kaspar Villadsen has shown, it was still conventional to think of the poor as "a totality of productive bodies" to be

[59] DC. F81: The Poor Commission's *Allerunderdanigst Forestilling* (hereafter '*Forestilling*', dated December 16, 1791).
[60] Ibid., I.
[61] Ibid., III.
[62] Ibid., I.
[63] As the proposal noted, the inspectors of the poor should "see to the appropriate use of relief", and if they found it squandered or sold for money, they should be allowed to punish the offender with the pillory or with one to three days of prison on bread and water (ibid.).

maintained.[64] In the Commission's report, this notion was most clearly expressed in connection with the suggestion that relief should be given not only on a more or less permanent basis, but also temporarily whenever the state was at risk of 'losing' one of its 'laboring limbs'. Indeed, in explaining the purpose of caring for all in need, the report made it clear that:

> since the primary strength of the state consists in the quantity of its laboring limbs [*arbejdende lemmer*], it is extremely urgent that those who belong to this class and who, in case of illness, lack the means to procure necessary and useful aid, receive it through public measures so that the part they are able to contribute to the commonwealth is not lost.[65]

In particular, with 'this class' the paragraph had in mind "healthy laborers [*friske arbejdere*]", a group the Commission – without showing any signs of moral disapproval – generally presumed to be living from hand to mouth. Rather than allowing a temporary misgiving – such as illness – suffered by such a laborer to become a permanent loss to the public, the Commission deemed it prudent to obligate the parish to provide the necessary help. For, as it said:

> experience teaches us daily examples of how healthy laborers, whose earnings while they were healthy did not go beyond their daily necessities, in case of illness come to lack the ability or occasion to procure the suitable means, and of how they, even if they avoid becoming a casualty of these privations, end up losing their health – not to mention that the state loses their forces [*staten tabte deres kræfter*] – and thereby become a burden to the parish for the rest of their lives.[66]

But more than maintaining the numbers of the poor, the purpose of alleviating 'all true want' was also, the Commission argued, to limit more effectively that most extreme expression of idleness: beggary. In its view, without a properly organized system of public relief, beggary would remain the unavoidable consequence.[67] No matter how much registration, control, and deterrence were exercised, some would be forced to beg through no fault of their own, and beggary would therefore come to enjoy a certain measure of tolerance among state authorities and local communities and might thereby, for the laborer, appear preferable to a life of hard work.[68] Compared to earlier ways of understanding and handling the problem of

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[64] Villadsen, *Det sociale arbejdes genealogi*, 25-35, quotation 26.
[65] DC. F81: *Forestilling*, II.
[66] Ibid.
[67] Bärens, *Efterretning om Fattigvæsenets Tilstand i Dannemark*, v.
[68] While the relationship between the institution of beggary and inadequate poor relief was often described in rather self-evident terms, in 1801 and 1802, County Prefect Stemann of Sorø offered the following thoughts: On the one hand, he emphasized that "the relief should be so considerable for the recipients that they may, without cruelty, be forbidden to beg"; on the other, that "as long as beggary is tolerated, many will choose this way of living". See DC. I11: No. 686: Stemann's letter to the Danish Chancellery of March 12, 1801, and his *Forsøg til et Forslag til nogle*

beggary, the thoughts of the Commission stand out in three key ways. To show this, I will compare its suggestions to those that were presented in a key text from fifty years before, authored in 1730 by the Bishop of Zeeland, Christen Worm.

In this text, which among other things initiated a new wave in the enlargement of the workhouse prison system,[69] Worm described beggary as "a burden and a disgrace to the country". It was a burden because the entire country was swarming, he claimed, with idle, habitual, and often able-bodied beggars who harassed, threatened, and stole from hard-working people who had only little to spare. And it was a disgrace, he added, because each and every one of these people "know less than nothing of God", that is, they had no conception of their duties to themselves and others.[70] Accordingly, the root of this serious problem was not an imperfect alleviation of want, as it was for the poor commissioners in the 1790s. Instead of thinking in terms of a material cause with unavoidable effects, Worm noted how the most significant "source" of beggary would be "extinguished" once the young – that is, the offspring of the poor – had all, at some point in the future, been taught to "know God" and how to "earn their bread".[71] For this young class of future or actual beggars, the foundational cure, the one that treated the problem at its source, was therefore the same kind as for adults and hardened beggars: institutionalization in schools and workhouse prisons.

But Worm's text also constitutes something of a contrast in regard to its problematization of beggary. In his view, beggary was essentially problematic due to its relationship with the vice of idleness and thus with a general demoralization of the subject.[72] Of course, by then there was also a long-standing agreement, at least since the Reformation, on seeing idleness as the root of all evil and work as the cure for all sorts of moral failings.[73] Next to luxury, "idleness" was also the essential problem of Schytte's police. Indeed, as the "stepmother of all vices", not least vanity and laziness, he deemed it a chief purpose of police to ensure that everyone learns a trade and is kept to it.[74]

But the Poor Commission of the 1790s followed a very different problematization. Rather than reflecting a vice that would unavoidably spread sin and criminality, the Commission essentially problematized beggary as an act that confounded the

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foreløbige Foranstaltninger til Fattigvæsenets bedre Indretning paa Landet (hereafter '*Forsøg*', May 5, 1802), III.

[69] Jørgensen, "Det offentlige fattigvæsen," 49. See also Smith, *Moralske hospitaler*, 60-64.

[70] DC. D19-49. No. 330: Christen Worm's proposal (submitted January 12, 1730).

[71] Ibid., §18.

[72] Thus, the stated aim of the decree that came out of Worm's proposal was that the poor would "earn their bread by themselves and not spend their lives in idleness and in the gross and great vices that follow" (DC. D18 O. No. 330, fols. 258-260). For some reason, this part of the decree was not included in the later printed edition (see *Chronologisk Register*, vol. 3, 16-20).

[73] Foucault, *History of Madness*, 69-77.

[74] Schytte, *Staternes indvortes Regiering*, vol. 4, 95-103.

mechanisms of production. Thus, while the Commission's report certainly underlined how beggary has the "most harmful influence on the thinking and morality of the commoner", the purpose of suppressing beggary was not essentially to suppress a vice, but to utilize labor to the fullest. In its view, to allow individuals to "demand from their fellow citizens a direct contribution to their upkeep" would entirely annul the "intention" of public relief, namely that "no poor person should enjoy greater support than what is required to replace that lack of earning […] whose reason lies in the inability of his forces."[75] Thus, in the 1790s, to suppress beggary was no longer primarily to suppress a mother of vice, but rather to short-circuit attempts to withdraw one's labor from the mechanisms of production.[76]

In this light, it makes a lot of sense that what came out of the Commission's deliberations was not, as in Worm's case, a strengthening of existing measures of suppression.[77] In its view, all instances of beggary should not be met with the severe punishment of penal labor at a house of correction. Seeking to make the punishment more proportional to the crime, the Commission proposed that first-time beggars should be let off with a warning, and that only third-time offenders should be sent to a house of correction.[78] But also, more than merely deterring beggars or would-be-beggars from begging, the Commission proposed that the parish should actively put the fully or partly able-bodied poor to some useful work, preferably in "field, garden, house, or manufacturing work".[79] With the 1803 Poor Law, this provision became crucial in regard to the so-called third class of recipients, namely those "families or individuals who, due to weakness, many children, old age, or other such causes, are unable to earn what is needed". In relief, these were first of all to be "helped to a kind of work suitable to their strengths to be renumerated according to customary prices". Only in the event that the earnings from such work were inadequate were they to be given just enough money, food, clothes, etc., as a

[75] DC. F81: *Forestilling*, IV.

[76] A similar transformation in the eighteenth-century problematization of beggary has also been observed by Foucault in the case of vagabondage in France. Analyzing a 1764 text by Le Trosne, a physiocratic writer, Foucault notes a shift from treating vagabondage as an expression of the vice of idleness, the vice from which "every other form of deviation or crime derives," to seeing the practice as something that "disrupts production" (*The Punitive Society – Lectures at the Collège de France 1972-1973* (UK: Palgrave Macmillan, 2015), 45-49.

[77] Jørgensen, "Det offentlige fattigvæsen," 48-71. On houses of correction as the "general solution to all the problems associated with disorderly populations" in the era of police, see Dean, *The Constitution of Poverty*, 63-67; Foucault, *History of Madness*, 69-77.

[78] The Commission proposed that persons begging in their own parish should first be given a warning, then placed in a pillory outside church during Sunday Mass, and for a third offense sent to a house of correction, first for three months, then for a year, then for two years, and so on. Begging in other parishes, however, was defined as a qualified offense and repetition therefore showed "a greater degree of evil and an ingrained habit of vagabondage and vagrancy" (DC. F81: *Forestilling*, IV). The 1803 decree adopted a slightly different penal graduation (see Krogh, *Staten og de besiddelsesløse*, 144).

[79] DC. F81: *Forestilling*, III. For more on these measures, see ibid., 140-144.

supplement to ensure they do not "suffer a want of the necessary and are thereby given occasion to beg".[80]

Thus, to effectively limit beggary and perfectly nurture and utilize every 'laboring limb', the report of the Poor Commission and the 1803 Poor Law found it best to do three things: Alleviate 'all true want', moderate punishments, and put all able-bodied to work. Accordingly, the 1803 law perceived want as the objective lack of the absolute necessities of life, and relief as the supplement filling the gap between abilities and need;[81] it defined the 'false' nature of the want or improved conditions as the true grounds for denying relief;[82] it included in the group of worthy recipients not only the disabled and children, but also those healthy laborers who had too many dependents or were in temporary need;[83] and finally, it did not primarily intend to root out a vice, but merely to keep laborers from withdrawing their labor from the labor pool.[84] Thus, for these reformers, the poor were essentially a collection of bodies: a collection of unthinking objects, bereft of any inner life or depth, to be nurtured and utilized by the state. It would be hard to find a clearer example of what Fabricius and his contemporaries defined as economy.

The 1791 Ordinance on Rural Police: Vagrancy

Like beggary, vagrancy had long been a subject of suspicion and often ruthless suppression. But unlike the beggar who lived off the work of others, the crime of the vagrant was simply the failure to work as expected. For centuries, the vagrant had been defined, as noted above, as a masterless person, one who shunned his or her obligation to enter service under the permanent direction of a master. In the earliest bans on vagrancy from the late sixteenth century, vagrancy was usually defined, as Krogh explains, rather vaguely and appears to have been problematic primarily from the point of view of employers. Bans on vagrancy were therefore typically followed by bans on day labor and the setting of maximum salaries for

[80] Decree of July 5, 1803, §§ 11, 14 (printed in *Chronologisk Register*, vol. 10, 663-681).

[81] The law defined the truly wanting as "those poor who cannot, through their own efforts, in a legal fashion acquire what is necessary and who must therefore, without the help of others, either totally or partially lack the food, clothing, shelter, warmth, and care in sickness, which is indispensable for the maintenance of life and health" (ibid., §5).

[82] In fact, the law merely instructed the priests to inform the local Poor Commission on the "conduct" of the applicant and the recipients' "way of life so far", but without specifying this as a legitimate reason for denying relief (ibid., §§33-34).

[83] More precisely, in the so-called group 3, the law included "families or individual persons who, due to weakness, many children, increasing age, or some other similar causes, are unable to earn all that is necessary for themselves and their children" (ibid., §11), and stipulated temporary assistance, for instance in the case of serious illness (ibid., §§19-22).

[84] Accordingly, except for the correctional punishment for qualified begging, the aim of moralizing and disciplining the poor was limited to recipients who turned to begging or squandered their relief (ibid., §§62-74).

servants, all of which was designed to strengthen the position of employers *vis-à-vis* those who wished to remain independent and knew what their services were worth.[85]

By the 1790s, however, the category of vagrancy was changing. More than simply the failure to enter service, it now also – or more importantly, perhaps - meant being completely or partly idle, not unlike those "negroes" who, as the Colonial Government complained in 1792, "have no steady work but go around earning a coin only on occasion". The changing conception of the problem of vagrancy was clearly reflected in a 1791 proposal authored by the Great Agrarian Commission (*Den store landbokommission*), which led to the March 25, 1791 Ordinance on Rural Police. In its proposal, the Commission defined vagrants rather broadly as "loose and free persons who live by their own hand without entering service", but also exempted a great number of people from the obligation to enter service. It applied only to those who were unmarried, who lodged with others, and who were not employed with a craft or, as it stated, "continually employed with day labor".[86] In practice, in the final ordinance that followed the proposal word for word, it was specified that anyone with a proper passport from their home county was allowed to travel around the country and employ themselves "with threshing, digging, harvesting, and the like" for a daily wage.[87] It appears that, like the slaves who strolled around the colonial town, what a vagrant lacked was not so much a master as steady work.

Thus, much like the beggar, the vagrant was now problematized as an idler who withdrew his or her labor from the labor pool. Indeed, just like the beggar, the problem with this expression of idleness was not primarily, as for Andreas Schytte in the 1770s, the vices and demoralization it produced, but rather the waste of forces it represented. For this reason, the Commission found that the fact of being without steady work was less something that that required harsh punishments and re-education in houses of correction, but rather an imperfection that called for a more exhaustive administration of the idle.

In the 1791 Ordinance on Rural Police, as in the 1803 Poor Laws on Beggary, this more exhaustive administration of the idle was reflected in its greater leniency in punishments and its measures of labor activation. Thus, rather than responding to vagrancy by sentencing the offender to work in irons for as long as he or she had been a vagrant, the ordinance put in place a detailed procedure for how local authorities should initially assist idle persons to find service. After that, it defined the punishment of an idle person who failed to seek assistance in due time as only

[85] Krogh, *Staten og de besiddelsesløse*, 57-61.
[86] DC. F10-73. No. 234/1791: 'Allerunderdanigst Forestilling' (March 7, 1791), *sub* I.
[87] Decree of March 25, 1791, § 1 (printed in *Chronologisk Register*, vol. 10, 142-152). Besides those mentioned above, the same freedom from service was also extended to all soldiers returning from military service until the next change day, as well as to fishermen and sailors during the winter.

eight days on bread and water, while long-term incarceration in a house of correction was reserved, as with the beggar, for the repeated offender.[88] As it appears, in metropolitan law, the initial response to the idler was to think of him or her not as a subject of penal justice, but as an object of administration; to see the idler not as guilty of a crime inimical to society and morality, but as representing an imperfection calling for even more sustained measures of economy.

The essential role of this governmentality of economy may also be measured by the absence of liberal ideas of governing. To be sure, as Krogh has argued, it is true that by allowing greater scope for day labor, the 1791 ordinance was part of a general move toward "freer terms for the sale of labor".[89] As he argues, by this point, maximum wage restrictions had imperceptibly fallen out of use and were not reinvoked; with the abolition of adscription in 1788, individuals were gradually allowed to seek employment outside their manor of birth; and with the 1791 revision of the vagrancy laws, as seen above, the state recognized a wide number of exceptions to the general obligation to enter service. But while this certainly constituted, in Krogh's words, a "liberalization",[90] it is important to add that this by no means reflected the emergence of a liberal mode of governing, one in which 'free labor' was fully or partly preferred because it accorded better with the nature of 'economic man'.

Generally speaking, the members of the Greater Agrarian Commission were not supporters of the Smithian idea of setting laborers free to follow their interests.[91] Instead, they tended to problematize such freedom as a source of idleness. Thus, in the mid-1780s when they insisted on giving peasants only an appropriate modicum of choice, as explored in chapter 2, it was precisely to keep them from falling into wanton wandering and idleness.[92] In a similar fashion, in their 1791 proposal on rural police and vagrancy, they found it entirely self-evident that the state would have to take an active role to ensure both that "there is not a lack of servants in the country and that idleness does not creep in under the cover of day labor".[93] A key instrument in this regard was the measures of activation mentioned above. In any case, for the commissioners, there was no question of the state stepping back, allowing 'the market' to work for itself and limiting itself to punishing those who bypassed this domain of compensated exchange, for instance those who stole,

[88] More precisely, the second-time offender was to be sentenced to penitentiary work for as many months as he or she had been a vagrant (Decree of March 25, 1791, §§2-3, printed in ibid.).
[89] Krogh, *Staten og de besiddelsesløse*, 170.
[90] Ibid.
[91] Smith, *Wealth of Nations*, 124-129 (book 1, chapter 2, part 2).
[92] For Christian Ditlev Reventlow's and Christian Ditlev Colbiørnsen's very similar views on this matter, see *Forhandlinger*, vol. 1, 202-205; 244-245; vol. 2, 481-482. See also Jørgensen, *Breaking the Chains*, 107-113.
[93] DC. F10-73. No. 234/1791: 'Allerunderdanigst Forestilling' (March 7, 1791), *sub* I.

begged, or otherwise lived off the work of others. No, the state would have to *make* each and every one of them as industrious as possible.

Furthermore, what made them limit the all-embracing duty to enter steady service was not the liberal idea that it somehow blocked some autonomous economic principle that would by itself guide laborers to industry. Rather, as was also the case as the Colonial Government began to have doubts about the regulation of slave domestics and vagrancy, what limited regulation were concerns of a different order. In the 1791 proposal, these concerns were twofold. First, there was the question of the integrity of marriage and family life, as it was seen as inappropriate to force married couples to enter service just because they had no independent home, but lodged with others. And secondly, there was a problem that would have been familiar in the West Indies: the needs of the employers. Indeed, as the Commission suggested relaxing the rules on day labor, it only did so because "it would be wrong, in a time when much work is spent on the improvements of agriculture, to obstruct the agriculturalist from the use of the working hands, which are offered to him."[94]

Thus, while it is true that the late eighteenth century, as Krogh argues, witnessed a move toward 'freer terms for the sale of labor', this did not reflect the coming of a liberal governmentality. For one thing, it shows how the governmentality of economy was modulated by the concerns mentioned above. But also, to judge from the overall direction of the 1803 Poor Law and the 1791 Vagrancy Law, what is clear is the foundational role of a governmentality of economy, whose main problem is the waste of 'laboring limbs', whose art it is to nurture and utilize these 'limbs' as perfectly as possible, and finally whose knowledge is a form of political economy that sees the state as essentially a household writ large. With this in mind, the last section of the chapter will return to the colony and perhaps its clearest expression of idleness: marronage.

Marronage and the problem of idleness

As noted already, in the 1790s, the Colonial Government began to think of the enslaved in a distinctly 'economic' way as bodies to be nurtured and utilized. This governmentality does not seem, however, to have had much impact in regard to enslaved domestics and urban laborers. Yet, as I will now argue, it did profoundly

[94] Ibid. Moreover, as the Commission relaxed these rules on day laborers, it does not even appear to have had the regular sedentary working man in mind, but instead referred to those bands of workers who travelled longer distances into or across the country – e.g., from Scania, Holstein, and Jutland – in order to work with "threshing or ditch-digging".

influence the way it began to treat the crime of marronage in the later decades of the century.

As noted above, the metropole's initial response to the idler was increasingly, and at least by the 1790s, to think of him or her not as a subject of penal justice, but as an object of administration; to see the idler not as guilty of a crime and vice that is inimical to society and morality, but as representing an imperfection calling for even more sustained measures of economy. Over the course of the later eighteenth century, one can observe a very similar – but not identical – transformation in the colonial attitude to the crime of marronage. Of course, in itself, the act of running away from one's master was very different from begging or from the mere failure to find steady work. No doubt, it was a response to a predicament that is beyond compare. But even so, by the 1780s, one notices a similar tendency among colonial officials to treat marronage as an administrative problem calling for economy rather than harsh justice.

In his *code noir*, for instance, Lindemann noted that, in his time, marronage was far from being the dangerous crime it once was. In the early days of the colonies, back when the islands were still full of forests and other hiding places, he explained, marronage was "easier" for the slaves and more "dangerous" and a greater "loss" for the islands' few white colonists, who so sorely needed their labor and had little protection against attacks from the "bushes".[95] Considering this change of circumstances, Lindemann believed it fitting to forgo the harsh punishments for marronage as defined by Gardelin's 1733 placard, namely 150 lashes for having run away for less than three months, losing a leg for having done so for between three and six months, and losing one's life for having run away for more than six months. In their place, Lindemann proposed leaving greater scope for "moderation", not least in cases where the enslaved returned to his or her master freely and did so with genuine remorse within eight days, but also to adjust the punishment to both the length and the number of offenses. For instance, a first-time offender gone for ten days would qualify for a hundred lashes at the whipping post, while a third-time runaway would be whipped at the gallows, branded on the back, and banished. Before being banished, the offender would moreover work in irons for as long as he or she had run away, a sentence strongly reminiscent of the metropolitan vagrancy laws.[96]

[95] CC. 419. No. 24: Lindemann's *Forslag*, book 1, arts. 39-40 (commentary).

[96] Ibid., book 1, arts. 32, 37-40 (incl. commentary); Lindemann's *Supplement*, book 1, arts. 39-40. As noted above, this punishment for vagrancy was slightly modulated in 1791 as the second-time offender was to be sentenced to penitentiary work for as many months as he or she had been a vagrant (Decree of March 25, 1791, §§2-3, printed in *Chronologisk Register*, vol. 10, 142-152).

Generally, Lindemann's greater leniency toward marronage was shared by his commentators in colony and metropole,[97] but was also in keeping, it seems, with transformations taking place in colonial justice. In fact, during the 1770s and 1780s, Governors General published several placards promising groups or individuals freedom from prosecution if they returned to their masters within a certain time.[98] And in the colonial courts, it was increasingly rare to see marronage, even long-term repeated marronage, as the main or even secondary charge. In fact, it seems that the late 1770s and early 1780s saw the last prosecutions in Christiansted City Court in which marronage was the primary charge. In one such case, from 1778, the enslaved man Marcus was sentenced to lose a leg at the gallows for "his constant running away". For even if it could not be proven that he had in fact been maroon for three consecutive months, in the judge's mind, penal severity was necessary seeing as it had "continually been [Marcus'] intention to cheat his masters of his labor as a slave" and out of consideration for "the many evil consequence that are caused by such marooning, such as theft, etc.".[99] But in entire period from 1786 to 1795, cases of marronage rarely went as far in the Christiansted judicial system and were typically, it seems, never more than a secondary charge.[100]

Instead, it had become customary for the state to deal with marronage on a much more informal level, either by leaving it to the masters, or by examining and punishing marronage as minor police offenses, not unlike that of minor theft. As early as 1761, a placard categorized marronage as one among "other minor offenses". Indeed, as the placard complained, it had apparently become customary to take runaways to the fortress and, out of administrative lethargy, to keep them there for so long that their masters no longer wished to cover the cost of their incarceration and instead preferred to have the state sell them off, "to the loss and expense of the country".[101]

In the 1780s, it was still customary to treat marronage outside the courts, but at this point the state appears to have adopted a much more effective and summary process. Indeed, if one looks at the many reports from the Christiansted police chamber, which are extant for the period from 1777 to 1787, it is clear that the colonial state's

[97] See CC. 419. No. 30: Bang's *Neger-Lov*, book 3, arts. 42-44. For more on the colonial discussion of marronage, see below.

[98] See for instance GG. 2.1.4. Placard of November 25, 1784 (pp. 344-345). For more examples, see Simonsen, "En fortræffelig Constitution," 55.

[99] CCB. 38.6.13. No. 348/1778: The State vs. Marcus (November 13, 1778). For similar cases, see ibid. No. 23/1779: The State vs. Plymouth (February 26, 1779); ibid., 38.6.14. The State vs. Nanny (January 16, 1781), fol. 31.

[100] See for instance CCB. 38.6.16, fols. 82-83: The State vs. Jack, Jacky, and Stepney (September 19, 1787). Although the suspicions against the latter of having set fire to their master's plantation could not be proven, the judge convicted him of the secondary charge of marronage and sentenced him to be whipped and branded under the gallows for having been maroon for almost a year.

[101] GG. 2.1.4. Placard of February 19, 1761 (pp. 126-129).

initial response to marronage, as it was to vagrancy in the metropole, was now to treat it as an administrative matter that called for speedy and effective measures rather than thorough and strict penal justice. As mentioned, in these reports – which were sent to the Governor General on a weekly basis – the Chief of Police described the essentials of what he and his officers had been up to, usually in a very summary fashion. Along with slaves stealing, gaming, horseback riding, and disturbing public order in general, marronage was among the issues which were mentioned most often. In total, the reports between 1781 and 1787 mention 25 individual cases of marronage.[102] In one of these, in a typical week in April 1782, Chief of Police Ewald reported to Governor General Clausen that "a negro belonging to Major Coakley was caught in the house of Mr. Towers, where he hid himself, and was brought to the fortress." As his report specified, two days later, "Major Coakley's negro was returned to his owner following a beating of 100 lashes at the [justice] pole".[103]

During the 1780s, this punishment appears to have been widespread, but not universal. In some cases, the runaway was returned either immediately or following a few days in the fortress, and in others, the report entirely failed to note what happened to those who were caught. But what almost every case had in common was that they did not call upon any detailed investigation. In fact, of all the cases of marronage mentioned in the reports, only in one instance did the Chief of Police believe it necessary to subject the offender to a thorough examination in the police court. And this was the rather exceptional case involving the slaves Jeffrey and Cesar, the former a year-long runaway caught during the course of a maroon hunt in the countryside.[104] In every other case, the reports merely noted that a slave had been caught being maroon, usually without offering any means of identification other than the name of his or her owner, and apparently without it mattering how often, for how long, or for what reasons the offense was committed. An exception to this rule was "the negro Quacon", who was punished for "frequently running maroon", but was nonetheless given the usual punishment of 100 lashes.[105]

With this summary procedure, the Chief of Police was backed by the higher officials of the colonial administration, not least when it concerned marronage of less than six months. Commenting on Oluf Lundt Bang's *code noir*, Malleville specified that, as a rule, each slave who had run away for between eight days and six months should be handed over to the police and punished "in accordance with the verdict of the Chief of Police, which must be given immediately and as soon as the negro is

[102] Besides those mentioned below, these were GG. 2.49. Police reports of May 13, 1781; July 22, 1781; August 12, 1781; March 31, 1782; August 25, 1782; October 27, 1782; June 1, 1783; January 4, 1784; April 9, 1786; August 13, 1786; February 25, 1787; and July 8, 1787.
[103] Ibid. Police report of April 14, 1782.
[104] Ibid. Police report of October 13, 1782. For the interrogations of Jeffrey and Cesar, see CCB. 38.9.5., fols. 151-154, police interrogations (October 1782). It is unclear what happened to Jeffrey and Cesar after the interrogations.
[105] Ibid. Police report of February 25, 1787.

brought before him by his master or his messenger".[106] While his colleagues did not disagree with the summary nature of this practice, they did not agree that the danger of the offense warranted the master being obligated to hand over every slave to the police regardless of the particularities of each case. In Walterstorff's mind, this should only be demanded whenever marronage was "connected with major theft or other crimes [*forbrydelser*]".[107]

But of course, all this did not mean that marronage had somehow ceased to be a problem altogether. It is unlikely that anyone would have disagreed with Malleville's conviction that "marronage occurs far too often and has much too harmful consequences for the master" to allow for any milder punishments than those suggested by Lindemann.[108] Quite evidently, to judge from the police reports, it was a problem that warranted a firm response and one that was roughly equivalent to the offense of minor theft. But unlike previously, there was no need to treat all or even most offenders as dangerous criminals, as immoral individuals whose conduct showed them to be evil and worthy of penal severity. Instead, it was enough to treat them as laboring bodies (as their master's property, as persons without names, pasts, intentions, or proclivities), bodies which were to experience the pain of the whip and then be returned as fast as possible to the place where they were most useful: their master's household.

As it appears, for the colonial state, the maroon increasingly represented something very different than an evil criminal or societal threat, namely the misuse and waste of laboring bodies. In this sense, much like the vagrant, the maroon became problematized from the point of view of governmentality of economy, one which viewed him or her as little more than an idler who disrupted the apparatus of production, and who must therefore be rendered useful again as quickly as possible.

Of course, colony and metropole moved toward this view of the maroon/vagrant along very different paths. In the metropole, it occurred through a gradual displacement of the idea that idleness constitutes a mother of vice and a principle of demoralization (a conception of man as weak in his moral defenses which never, as argued in the last chapter, had much traction in the colony). And in the colony, it occurred, as noted above, as marronage increasingly ceased to represent a danger to colonial security and instead tended, just as the useless domestics and idlers did in the early 1790s, to become the object of a governmentality, whose goal it was to subject every 'laboring limb' to a perfect 'economy'.

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[106] CC. 421. Malleville's *Betænkninger* (October 19, 1787), p. 89 (book 3, arts. 42-43).
[107] Ibid. Walterstorff's *Betænkninger* (October 8, 1788), p. 133 (book 3, art. 44). See also ibid. The St. Croix Burgher Council's *Betænkninger* (August 1, 1787), p. 74 (book 3, art. 44).
[108] Ibid. Malleville's *Betænkninger* (October 19, 1787), p. 89 (book 3, arts. 42-43).

The colonial governmentality of economy

The colonial state was not a 'householder' in a sense that would have made sense to contemporaries like Fabricius or other writers of police and economy. Generally speaking, it neither could nor wished to assume the role of primary caretaker and manager of the laboring population. Accordingly, when it came to the question of nourishing and vitalizing labor, the colonial state was no more than secondary to the slave master, and would look only to the preconditions that would allow this primary 'householder' to do what was necessary. But in itself, this fact did not keep the colonial state from acting like a householder in the narrow domains and spaces where masters needed assistance (as in the case of marronage) or where their ability to care for and utilize could legitimately be questioned (as in their useless use of useful people).

For in these domains and spaces, one finds, first of all, a familiar *problematization*, one that defined such instances as slaves being left idle or being used unproductively as representing an imperfect utilization of useful bodies. Secondly, one discovers the foundational role of the typically eighteenth-century *knowledge* or science of 'economy'; one that saw the population and 'the economy' as such as essentially a household writ-large: an entity without inborn or natural mechanisms to be harnessed or protected, little different from an unthinking assemblage of bodies to be nurtured and utilized. Lastly, one finds what has here variously been called the *art of householding* or *economy*. Accordingly, the meaningful and obvious way to deal with the waste of the productive powers of the enslaved was to enforce a more perfect, immediate, and exhaustive administration of the labor capacities of the enslaved. Thus, as colonial governors approached the enslaved as bodies to be multiplied and utilized, they did not rely on a radically different governmentality, nor do anything that would have appeared strange or backward in the metropole. Indeed, they were even, as we saw, prone to treat the offense of marronage – colonial idleness *par excellence* – much like metropolitan vagrancy: as calling for effective economy rather than remedial justice.

SUB-CONCLUSION: GOVERNING BLACK AND WHITE, C. 1770-1800

Clearly, in this period, the Danish West Indies was a distinct governmental space, one whose ways of problematizing, knowing, and governing made the lives of the enslaved and black subjects of the Danish Empire radically different and, by any standard of measurement, much worse than those of its white subjects in the metropole. For instance, if it was vital to set limits on the seigneurial powers of masters over their slaves, it was not in order to free up the slaves' inborn love for the common good or for themselves and their honor, but rather to keep them from rising up against the colonial order of slavery (chapter 2). If it was vital to 'humanize' the penal laws, this did not eclipse the need for horrific public torture to keep the 'evil' and 'criminal' character of 'the negroes' in check (chapter 3), or make it any less essential to discriminate between black and white offenders or to teach the enslaved to passively accept the injustices of the world (chapter 4). Similarly, if it was vital to exhaustively regulate many aspects of the everyday existence of the enslaved, it was not so much to save them from scandal and temptation, but to repress their otherwise uncontrollable desires and general proneness to disorder and crime (chapter 5). And finally, even if slaves were now to be nurtured and utilized, much like the 'laboring limbs' in the metropole, their primary 'householder' was still their master (chapter 6).

But even so, as I have sought to show, one should not study this distinct governmental space in isolation or in a purely colonial framework, as if its forms of power or governing primarily grew out of its internal dynamics and in response to larger Caribbean, American, or more general colonial trends. Instead, in the Danish West Indies at least, slavery entailed a form of governing that was profoundly shaped by the metropolitan governmentalities with which colonial officials were at some level familiar. Of course, this claim is in keeping with what many scholars of colonial governmentality, such as David Scott, have long argued: that changes in European forms of governing "generated changing ways of impacting the non-Western world, changing ways of imposing and maintaining rule over the colonized, and therefore changing terrains within which to respond."[1] But what I would add is

[1] Scott, "Colonial Governmentality," 198.

that the only way to assess Europe's effects on colonial governing is not, as Scott and other scholars have usually done, to see the latter in light of Foucault's history of governmentality and to explore the applicability or non-applicability of his concepts in colonial settings. Rather, one might fruitfully explore this, as I have aimed to, through a more even and open-ended form of comparison that sees colonial governing in the light of concrete, parallel, and contemporary modes of governing that were of authority in that delimited part of the world from which the majority of colonial officials derived.

From this comparative perspective, it is not only possible to assess with greater clarity what was distinct about the governing of black slaves in the late eighteenth-century Danish West Indies. But also, it allows one to identify important overlaps and continuities. Most importantly, it has shown how the figure of the *husbond* could serve as a model for making slave masters 'humane' (chapter 2); how the passion of honor, distinctions between dishonest and honest punishment, and notions of 'danger' and 'evil' became central to colonial penal reform (chapter 3); how the familiar assumption that filling inferiors with awe and superiors with esteem was essential for the maintenance of racial hierarchies (chapter 4); how an idea of police as an exhaustive, flexible, and prompt taking charge of life and morals came to shape the governing of the everyday public lives of the enslaved (chapter 5); and finally how 'economy', and thus an ideally perfect nurturing and utilization of laborers simply as bodies or objects, seamlessly overlapped with a growing colonial problematization of idleness among the enslaved (chapter 6).

In this book's closing chapter, I will present and reflect upon this complex mosaic of differences and similarities in more detail. Here, I will merely add an important point about the role of race, which paves the way for the second part of the book. As noted in chapter 1, a central point made by many scholars of colonial governmentality is that one should avoid seeing colonial governing as a manifestation of a static and generic state of 'coloniality'; one that is ultimately defined, as for instance Partha Chatterjee has argued, by racial discrimination and the maintenance of racial hierarchies. Of course, as noted above, there is no denying that the making of racial hierarchies and subjectivities was central at the time and in the place studied here. But still, it is vital to explore through what forms of governing racial hierarchies and subjectivities were made (as argued, for instance, by David Scott[2]), but also whether 'race' was always the central epistemological category.

As Mark Brown has argued in his study on crime and criminals in nineteenth-century colonial India, behind "race-talk" there often lay much more complex discourses – for instance on morality, character, and virtue – that rendered colonial differentiation more multi-dimensional than a simple dichotomy between black and

[2] Ibid., 196-197.

white.[3] In a similar vein, the preceding chapters have shown the multiple ways that the category of 'blacks' could be understood and sometimes divided internally (as fallen and incorrigible individuals or as persons of good morals, as a people generally disposed to evil or one that is in love with honor). But the previous chapters have also shown that it was not always a racial knowledge that was most essential to the late eighteenth-century governing of colonized blacks. Just as often, what was in play was a more universalist knowledge of human beings – calculating possible losses and gains, habituated to a certain normalcy, in love with honor, or inferiors filled with awe for their superiors – and a knowledge of how such beings would experience and react to tyrannical treatment, dishonoring punishment, or the public humiliation of a superior. Thus, to imagine the workings of the colonized mind, colonial officials were not necessarily drawing on a knowledge of 'the nature' or 'psychology of blacks', but often on a much wider grid of interpretation.

In many ways, this conclusion resonates with a number of works that show how, in the eighteenth century, 'race' had still not monopolized the European's understanding of the colonial other, as it would in the nineteenth century. Rather than determining almost everything about his being, conduct, and potential, the 'race' of non-European others was, as for instance Roxanne Wheeler and Vanita Seth have shown, seen as malleable and only superficially different, precisely because this otherness was not seen to derive from an internal bodily and mental essence, but from a range of external forces, like religion, politics, diet, and climate.[4] Therefore, if white Danish West Indian officials often interpreted the thinking and conduct of Afro-Caribbeans as reflective of something other or more than their 'race' – through more universal categories like 'slaves', 'human beings', and 'inferiors' – and if their ways of governing this colonial other sometimes relied on what was used to govern white metropolitan criminals, inferiors, and laborers, it was in keeping with this larger tendency to think of the colonized other not as a completely different being, but as a less civilized version of themselves.

But over the course of the nineteenth century, I will argue, the space for thinking about the Danish West Indies and Denmark as commensurable versions of one another became much narrower, and in the process, the boundaries of 'the colonial' became clearer than ever before. Indeed, by the late nineteenth century, when the colonial state was governing blacks as 'free laborers', a racial knowledge of the nature and inclinations of 'negroes' had, more than ever before, become the epistemological foundation of colonial governing, and colonial governmentality had become, I argue, a thoroughly singular phenomenon.

[3] Brown, *Penal Power and Colonial Rule*, 13-14.
[4] Wheeler, *The Complexion of Race*; Vanita Seth, *Europe's Indians – Producing Racial Difference, 1500-1900* (Durham & London: Duke University Press, 2010), chapter 4.

PART II: WORLDS BEYOND COMPARE, C. 1840-1900

The subject of this second part of the book is the governing of a post-slavery society in the Danish West Indies, following the abolition of slavery in 1848. A central part of this story and of the governmentalities that now gave meaning and shape to the governing of emancipated black laborers was the gradual emergence of a 'free labor market', not least in the decade following 1878, the year of the labor riots that have since been known as the 'Fireburn riots'. Examining the colonial governing of blacks in their capacity as free laborers and as potential vagrants, beggars, and thieves, and to do so in the light of contemporary metropolitan developments, is the subject of the last two chapters of this book.

The period between roughly 1840 and 1900, in which the plans and regulations for the governing of free black laborers were made and remade, was a time of profound transformations in the colony and its mother country, but also in the relations between them. Denmark lost control of Norway in 1814, and of the southern duchies of Schleswig, Holstein, and Lauenburg in 1864. During the 1840s, it ceded its colonies in India and Africa to the British, and from the 1860s onwards, the state made plans to sell off the Danish West Indies. Clearly, while other European powers were partitioning the world between them and entering the time of high imperialism (c. 1870-1914), "Denmark had for a long time," as noted by Michael Bregnsbo, "been in the process of dismantling its small and modest colonial empire."[1] After its defeat in the Second Schleswig War in 1864 in particular, the Danish state turned inward and lost much of its interest in whatever lay beyond the borders of 'the nation'.[2]

But the idea of selling the Danish West Indies was not only a reflection of receding imperial ambitions; it was also – as scholars have argued – caused by financial considerations. Whereas the Danish West Indies had once been a valuable asset for the metropole, due to falling global prices of sugar, the plantation economy was now in decay, the colony as a whole was no longer turning a profit, and from the 1860s

[1] Michael Bregnsbo, "Kolonirige under afvikling", in *Danmark - En kolonimagt*, ed. Niels Brimnes, et al., Danmark og kolonierne (Gads Forlag, 2017), 197.
[2] Ibid., 156-160.

onwards various attempts were made to sell it to other colonial powers.[3] On St. Thomas and St. John, sugar production almost came to halt. But on St. Croix, which is also at the center of this part of this book, improved methods for cultivating and processing sugar cane allowed sugar production to continue, albeit with declining yields. The decline was also demographic, particularly in St. Croix's countryside. Here, due to emigration, urbanization, and excess mortality caused by poor living and health conditions, the rural population fell from 15,000 on the eve of abolition to around 8,000 in 1917.[4]

Other important changes occurred in the political domain. In 1849, Denmark became a constitutional monarchy and, for its time, fairly wide suffrage was now enjoyed by all adult males above the age of thirty who were not servants or paupers. (Women and servants gained the right to vote in 1915, and paupers in 1933.) Naturally, this raised the question of whether this right and the new constitutional liberties – e.g., to free speech, to public relief, and to free enterprise – should be extended to the colony and its black population. In line with the wishes of many colonial officials and elites, the Danish Parliament passed the so-called Colonial Law (*Koloniallov*) in 1852, which did what it could to limit such rights as far as possible. As Astrid Nonbo Andersen has argued, the new parliamentarians did not "consider the large black working class as potential Danish citizens".[5] Therefore, instead of extending the constitution or parliamentary representation to the colony, the law placed the legislative power in the hands of the King and the Minister of Finance, who were entrusted with issuing local regulations and extending metropolitan law to the colony as they saw fit, but only after having consulted the colony's newly established municipal body, known as the Colonial Council (*Kolonialråd*). The right to vote and the right to be elected to this council, which would hold a vital role in the making of new local legislation, was given to any resident adult man with a fortune of at least 500 West Indian dollars. Without formally discriminating in accordance with 'race', this measure effectively excluded about 95 percent of the residents, most of them formerly enslaved blacks, from having any recognized say in politics.[6]

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[3] Niklas Thode Jensen and Poul Erik Olsen, "Frihed under tvang og nedgang, 1848-78," in *Vestindien - St. Croix, St. Thomas og St. Jan*, ed. Poul Erik Olsen, Danmark og kolonierne (Bosnia-Herzegovina: Gads Forlag, 2017), 284-287.

[4] Peter Hoxcer Jensen, *From Serfdom to Fireburn and Strike – The History of Black Labor in the Danish West Indies 1848-1919* (Christiansted, St. Croix: Antilles Press, 1998), 25-42, 71-73, 81-95.

[5] Astrid Nonbo Andersen, *Ingen undskyldning - Erindringer om Dansk Vestindien og kravet om erstatninger for slaveriet* (Copenhagen: Gyldendal, 2017), 44.

[6] The most detailed analysis of the making of the 1852 and later 1863 colonial laws is Poul Erik Olsen, "De dansk-vestindiske øer og junigrundloven," *Historie/Jyske Samlinger* 18, no. 1 (1991). See also Skrubbeltrang, *Dansk Vestindien 1848-1880*, 34-45; Andersen, *Ingen undskyldning*, 42-44.

Figure 6: *Photograph of rural laborers on St. Croix, c. 1910. National Museum of Denmark.*

Thus, in the Danish context, the coming of liberal democracy led to a sharper distinction between white citizens and black colonized subjects.[7] With the revision of the Colonial Law in 1863, the distinction was maintained, but also somewhat loosened, as the law extended a number of constitutional rights to the colony, such as the *habeas corpus*. But it did not extend the right to free enterprise, which would likely have clashed with the colony's rather coercive labor regulations. And although the law formally extended the right to free speech and the right to form religious congregations, it also made it possible for the Governor to revoke them in order to hinder "dangerous publications" and for those groups whose religious teachings were "dangerous to the state or public welfare". As the Ministry's motives for the 1863 Colonial Law made clear, this was necessary because the "lower population" in the colony did not "compare with the lower classes in European states either in regard to Enlightenment or moderation [*oplysning eller besindighed*]".[8]

[7] As for instance Frederick Cooper has shown, there was nothing extraordinary in the nineteenth century about universalist notions of political and civil rights leading to the further exclusion or differentiation of colonized subjects. Yet, as he emphasizes, exclusion was sometimes followed by various means of inclusion and incorporation, as seen for instance in the French Empire (*Colonialism in Question – Theory, Knowledge, History*, 153-154, 173-177).

[8] *Departementstidende* (1848-1870), 1863, 805-25, 887-901, 985-99, quotation 998. The revocable rights from the 1849 Constitution were § 81 and 91, while § 84-85, which guaranteed non-discrimination on religious grounds and the right to be placed before a judge or released within 24 hours (or *habeas corpus*), were extended without revision (the November 27, 1863 Colonial

Thus, contrary to those who have argued that the 1863 revision was about settling financial matters,[9] it was clearly also – as it was in 1852 – about striking the right balance between the inclusion and exclusion of colonized blacks.

Of course, it was not democracy itself that gave rise to such attempts to strike the right balance between racial inclusion and exclusion. As Christian Damm Pedersen has shown, this was also an ongoing exercise in the first half of the century, as the free-colored in the Danish West Indies began to claim the rights that colonial and metropolitan authorities often preferred to reserve for whites. However, at a time during the 1830s and 1840s, Pedersen shows, there were also many Danes who spoke warmly in favor of inclusion and an ethnically neutral definition of citizenship.[10] Yet, as indicated above, this more neutral idea of citizenship appears to have lost momentum by the 1850s and 1860s, possibly because citizenship was now more valuable, but possibly also due to the kind of nationalism that was growing in strength over the course of the nineteenth century, not least from the middle of the century onwards. As Ove Korsgaard has shown, this was a nationalism that reserved 'Danishness' for those who had descended from the supposedly ancient ethno-linguistic community of 'Danes', a criterion that for instance excluded individuals of Jewish descent.[11] Furthermore, as other scholars have added, this ethno-linguistic definition of belonging gradually gained a more obviously racial dimension in the later decades of the century. By distinguishing themselves, along with other Europeans, from those 'Orientals', Inuits, Africans, etc., whose skulls were compared by scientists, and whose entire being was stereotyped in newspapers or through the public displays of 'exotic peoples', Danes were now constructing their identity by differentiating themselves from various 'non-white races'.[12]

In the Danish West Indies, of course, racial differentiation was an even more essential part of daily life and identity. As others have shown, abolition did little to alter or soften whites' attitudes toward blacks.[13] On the contrary, as I will argue in chapter 8, race and racial knowledge in fact acquired an even stronger significance in colonial governing in the decades after abolition. Somewhat paradoxically perhaps, this occurred just as colonial governing was becoming less openly discriminatory. After 1848, colonial laws were no longer given for 'negroes', but

Law is printed in *Love og Anordninger samt andre offentlige Kundgjørelser* (1851-1886), 1863, 383-404).

[9] This argument has been made by Olsen, "De dansk-vestindiske øer og junigrundloven," 28.

[10] Pedersen, "The Question of Rights," especially 173-180.

[11] Korsgaard, *Kampen om folket*, 268-306.

[12] Elisabeth Oxfeldt, *Nordic Orientalism – Paris and the Cosmopolitan Imagination 1800-1900* (Copenhagen: Museum Tusculanum Press, 2005); Rikke Andreasen, "Danish Perceptions of Race and Anthropological Science at the Turn of the Twentieth Century," in *The Invention of Race – Scientific and Popular Representations*, ed. Nicolas Bancel, Thomas David, and Dominic Thomas (New York: Routledge, 2015).

[13] Jensen and Olsen, "Frihed under tvang og nedgang, 1848-78," 287-290.

for ideally neutral categories such as 'rural laborers' (effectively all of them former slaves or descendants of slaves). Furthermore, as noted above, political rights were not formally speaking based on race, but on sufficient property ownership. Clearly, colonial officials no longer had quite the same need to ensure that the racial hierarchy was constantly and unambiguously reproduced and reenacted in every part of colonial life.

Studying post-slavery labor policy

Among historians of the Danish West Indies, the period after abolition has generally attracted less attention than the period before. But the subject of post-slavery labor policy, which is central here, has been addressed in a number of accounts, in most detail by Peder Hoxcer Jensen in his book *From Serfdom to Fireburn and Strike* (1998), and more recently by Rasmus Sielemann in his dissertation *Natures of Conduct* (2015). The former is a detailed empirical study of the political, economic, and social transformations and conditions that shaped the lives of black laborers from 1848 until the colony was ceded to the US in 1917. The latter is a more theoretical account of how post-slavery labor policy fits into Foucault's account of liberal governmentality. Thus, while the first offers a detailed overview of the material conditions, the policies, and the discussions among colonial officials and legislators that shape these conditions and policies, the latter offers a systematic attempt to think of the governmentality that was at the heart of the post-slavery regime governing emancipated blacks.

However, my approach differs from these works, and from the others that exist on the subject, in important ways.[14] First, it does so by being comparative and aiming to explore colonial policies in light of what happened in the metropole. Secondly, unlike Jensen, who tends to see the changes in colonial labor policy as a reflection of the relative strengths of the Colonial Government and the plantocracy, and their capacity to bend labor policy in a direction that suited their respective needs, this study follows Sielemann in seeking to identify the governmentalities that gave meaning and shape to these policies.[15] But thirdly, and unlike Sielemann, my focus is not primarily on the period from 1848 to 1878, but on the regime that replaced it. And rather than seeing the governmentality that gave shape to the regime after 1878 in light of Foucault's account of liberal governmentality, as Sielemann does, I

[14] See also Georg Nørregaard, *Vore gamle tropekolonier. Bd. 4: Dansk Vestindien 1880-1917*, ed. Johannes Brønsted, 8 vols. (Denmark: Fremad, 1952-53), 12-30; Poul Erik Olsen, "Mellem Danmark og USA, 1879-1960," in *Vestindien - St. Croix, St. Thomas og St. Jan*, ed. Poul Erik Olsen, Danmark og kolonierne (Bosnia-Herzegovina: Gads Forlag, 2017), 333-335.

[15] Jensen, *From Serfdom to Fireburn and Strike*, chapter 4.

explore it in light of the particular liberal governmentality that emerged in the Danish metropole over the course of the nineteenth century.[16]

However, in comparing metropole and colony, I follow a somewhat different approach than in the first part of this book. Unlike part I, the analysis here is more mono-scalar in its treatment of the colony, as it primarily focuses on the deliberations and law-making that took place on the colonial scale – in particular through discussions within and between the Colonial Government and the Colonial Council. As a result, it is less attentive to possible disagreements and tensions that surfaced between officials and legislators on the local, colonial, and imperial scales. Yet, by focusing on the colonial scale, the analysis does deal with a level of governing that had a profound influence on the lives of the colonized, and perhaps even more so than it did in the late eighteenth century when so many aspects of colonial governing did not, as we saw, take the form of law, but instead unfolded through a more flexible and case-by-case handling of issues as they arose (not least as explored in chapters 2 and 3).

Furthermore, the analysis also covers less ground. Rather than exploring five distinct domains of governing and their underlying governmentalities, the primary focus here is on the making of a 'free labor market' for blacks, principally after the Fireburn riots of 1878. As a result, the analysis does not deal with the maintenance of racial hierarchies or with the regulation of the everyday public lives of emancipated blacks in any detail. Yet, by exploring the governing of blacks in their capacity as laborers and as possible vagrants, beggars, and thieves, I have sought to cover many of the other domains of governing that were explored in part I: how blacks were to be nurtured, protected, utilized, punished, and 'civilized'. The rest of this introduction to part II will provide a prologue to this many-sided colonial governing of black laborers and the colonial making of a 'free labor market'.

From 'Fireburn' to 'free labor'

During the first days of October 1878, the laboring population of St. Croix rose up in what became known as the Fireburn riots. The underlying cause was their frustration with the island's labor regulation that, since 1849, had forced all rural laborers to live and work on the island's plantations on year-long contracts as servants for a fixed and meagre wage. The uprising, which derived its name from the many properties and plantations that were burned down by the insurgents (reportedly resulting in $600,000 of damage), lasted almost ten days until it was brutally repressed by colonial military forces under the command of Governor Janus August Garde. According to George F. Tyson, the death toll from the largely

[16] Sielemann, *Natures of Conduct*, chapter 5.

indiscriminate suppression of the insurgents was likely close to 250, not counting the 400 arrests and 40 death sentences (later commuted to prison) that accompanied it.[17]

Although brutally suppressed, the uprisings eventually led the colonial state to revise its labor policies in a more liberal direction. As per October 1, 1879, the hated Labor Act of 1849 was abolished, and laborers and employers were largely free to mutually negotiate terms of payment and conditions as they saw best. On the islands, this liberalization became known as 'the second free', 'the first free' referring to the formal abolition of slavery in 1848. But 'the second free' was not only a reaction to the revolt and pressure from the colonized, as historians often argue.[18] It also grew out of – and was profoundly shaped by – forces from inside the state.

Most importantly, it grew out of a critique, arising in both metropole and colony, that the existing labor regulations were a direct violation of the principles and benefits of 'free labor' (in Danish, *frit arbejde*). In fact, the Fireburn riots themselves were preceded by a law passed by the Danish Parliament in 1876, which ordered the termination of the 1849 labor regulations within three years and at least partially did so in the hope of realizing the supposed benefits of a free markets and free enterprise.[19] As noted in the parliamentary report advocating for the motion:

> An assumption on the part of the legislature to deprive the employer and laborer of their liberty to fix the remuneration for labor, either in money or other emoluments, on such terms as they mutually agree upon, is so entirely opposed to natural right, so demoralizing on account of the accompanying attempts at evasion, so detrimental to the production to be obtained from the co-operation of labor, capital, and industrial skills, and therefore so injurious to the public revenue as well as to individual prosperity.[20]

To the members of the Danish Parliament in the 1870s, there was nothing controversial about such an uncompromising idealization of free markets and enterprise. By then, the fruitful effects of 'free labor' on just about anything had long been well-established, as will be further explored in chapter 7. But by then, the

[17] George F. Tyson, "'Our Side': Caribbean Immigrant Labourers and the Transition to Free Labour on St. Croix, 1849-79," in *Small Islands, Large Questions – Society, Culture and Resistance in the Post-Emancipation Caribbean*, ed. Karen Fog Olwig (London: Frank Cass, 1995), 146-150. The 1849 Labor Act is printed in Danish in *Departementstidende*, 1849, 301-307.

[18] Jensen and Olsen, "Frihed under tvang og nedgang, 1848-78," 310-317; Jensen, *From Serfdom to Fireburn and Strike*, 130-135; Tyson, "'Our Side'," 150-151.

[19] Peter Hoxner Jensen sees the news of the 1876 act as part of what ignited the revolt, but does not discuss its underlying rationalities (*From Serfdom to Fireburn and Strike*, 130-135).

[20] *Rigsdagstidende, Folketingets forhandlinger* (1850-1953), 1875-76, Tillæg B, cols. 57-58. The English translation used here is the one originally printed in the *Proceedings of the Colonial Council (Colonialraadets Forhandlinger)* (1852-1917), St. Croix, 1866, XXXV (see below).

question that had become pressing in both metropole and colony was whether black laborers ought similarly to be governed as 'free' laborers.

The words of the parliamentary report cited above were in fact the words of a West Indian official, the Police Chief in Frederiksted, C. F. V. Sarauw, who had uttered them ten years previously during a debate in the Colonial Council of St. Croix. Back then, however, Sarauw's notion that even colonial labor relations should be based on "free labor" was still a minority opinion,[21] although it was certainly not new. As early as 1849, for instance, Upper Court Judge C. F. Kunzen had opposed the then recently passed Labor Act by similarly invoking the universal applicability and benefits of 'free labor'. In his words, which – like Sarauw's – ultimately failed to sway the rest of colonial officialdom, the Labor Act was guilty of hindering:

> the progress in order, parsimoniousness, and overall civilization that the public could otherwise reasonably expect from the negro population's transition toward free labor.[22]

In the 1870s, however, the adherents of liberalization were gradually gaining ground. With the arrival in 1872 of Julius August Garde as the new Governor, the Colonial Government came to be headed by a man who saw a state of "free labor" as "the point at which St. Croix as well as every other place in the world ultimately will arrive", the only question being whether it would happen through legislation or by itself.[23] And in a 1879 report written by a parliamentary committee sent to the Danish West Indies to investigate the causes of the labor riot in 1878, the 1849 Labor Act was seen to have not only caused the riots, but to have had negative effects on the industry and subjectivity of black laborers. In the words of the committee, which was headed by former Governor Frederik Schlegel – who, during his years in office between 1855 and 1860, had once been one of its strongest supporters[24] – the Labor Act was now charged with giving rise to an "unreasonable", "depressing and dulling" state of affairs. A state of affairs, in which "the more powerful laborer's superior work is not paid better than the inferior work of the weak", and where

[21] *Proceedings of the Colonial Council (Colonialraadets Forhandlinger)* (1852-1917), St. Croix, 1866, XXXV-XXXVI). Sarauw's ideals of "true political economy" fared little better when he aired them in 1872 as a member of a commission suggesting modifications to the 1849 Labor Act (Ph. Rosenstand et al., *Draft of Labor Regulations for the Sugar Estates of St. Croix* (St. Croix, 1872), 17-19).

[22] CDC. 905. File 1164/1849: Copy of Kunzen's letter to Governor Hansen (November 6, 1849).

[23] The words were spoken during a closed meeting in the Colonial Council of St. Croix in 1875, see CDC. 906. *Supplement to the Proceedings of the Colonial Council* (the meeting of January 4, 1875), pp. 10-11.

[24] For more on Schlegel's defense of the 1849 Labor Act, see chapter 8, pp. 321-322.

"industry and competence" therefore "lacks a greater reward than what is obtained by the lazy and incompetent".[25]

With the backing of the committee and fearful of new labor riots, Governor Janus August Garde and the Colonial Government began reconstructing the entire legal and administrative apparatus governing black labor on St. Croix. In the summer of 1879, it publicly announced the abolition of the Labor Act as per October 1,[26] and forwarded its proposals for those three pieces of legislation to the Ministry of Finance that would become the basis for the future organization of black labor, namely a new Master and Servant Act, a Vagrancy and Beggary Act, and an Ordinance on the Administration of Poor Relief. With these three interventions, the Government assured the Ministry that it hoped to ensure "a free and modern [*tidssvarende*] development of rural relations", for which reason it had modelled, as far as possible, the proposals on "the respective legislation in the mother country".[27]

The content and making of these acts will be addressed in more detail in chapter 8. For now, it is enough to note that what came out of these acts was a regime whose basic structure would have been familiar in the metropole (see chapter 7). Essentially, this was a regime that confirmed the right to sell one's labor as one pleased, but also one that tied this right first to the obligation to work and maintain oneself, and second to criminal penalties for failing to comply with this new order, be it as a servant, a vagrant, a beggar, or a thief.

But of course, this structural resemblance between metropole and colony does not in itself mean that their respective regimes of 'free labor' were objectively speaking identical, that they were enforced in similar ways, or that they would have been experienced as even remotely related by those who toiled under their watchful eye. But nor does it mean – and here, this is the central point – that they were based on governmentalities that were similar in terms of their ways of problematizing, knowing, and governing reality. It is with this in mind that this part of the book will explore whether and how the new colonial regime of 'free labor' relied upon a governmentality that was similar to that of the metropole, *and* whether and what kind of change had occurred in the relationship between governmentalities in metropole and colony since the late eighteenth century.

In order to pave the way for this comparative analysis, the next chapter will therefore offer an analysis of the governmentality through which the metropolitan state created its regime of 'free labor' or, as it will now be called, its 'capitalist labor

[25] *Betænkning afgivet til Finantsministeriet af den i Anledning af Oprøret paa St. Croix i Oktober 1878 udnævnte Kongelige Commission*, 8-9 (1879). On the committee's members and proposals, see Nørregaard, *Dansk Vestindien 1880-1917*, 7-12.

[26] CDC. 906. Stakemann's letter to the Government (July 24, 1879). A clipping from the July 31, 1879 publication in a local newspaper is found among the appendages to this letter.

[27] CDC. 906. Garde's letter to the Ministry of Finance (August 12, 1879).

market'. Throughout, the analysis will rely on Michel Foucault's concept of liberal governmentality, but will also follow later contributions that make it possible to see in a clearer light what was peculiar about the nineteenth century's conception of how to govern 'economic man'.

CHAPTER 7: ECONOMIC MAN

This chapter tells the story of the formation of a capitalist labor market in the metropole of Denmark. Understood as an ideal type, as defined by Mitchell Dean, a capitalist labor market is a domain in which "the sale of labour-power must be the means by which the class of laborers subsist so that their own labour-power, as well as that of a future generation of laborers, is reproduced." It is a market, therefore, in which those who are capable of working maintain themselves and their families exclusively by selling their services for a wage, without alternative non-wage sources of subsistence, such as poor relief, alms, theft, or even housing, food, or medical care obtained as a remuneration for work. Furthermore, it is also a market peopled by "free laborers" who are "in the formal sense" selling their labor-power "voluntarily" – that is, according to their own free will – but who in actuality do so "under the compulsion of the whip of hunger."[1] Although neither metropole nor colony would, according to this ideal type definition, possess a fully-fledged capitalist labor market, by the time of 'the second free' they were nonetheless clearly moving toward making the voluntary sale of labor power on market terms the sole means with which the laboring class should ideally reproduce itself.

As already mentioned, this is far from the first attempt to examine the formation of such a market in the context of nineteenth-century Denmark,[2] but it is pioneering in writing this history from the point of view of the governmentality that gave meaning and shape to the formation of capitalist labor relations. In so doing, it goes beyond the interpretative framework that is usually applied; one that sees the rise of 'free labor' not as the unfolding of a coherent governmentality, but as the story of the shifting and often contradictory 'ideologies' (usually in the shape of 'liberalist', 'socialist', and 'conservatist' ideals or concerns) that are seen to have dominated the course of things at various points during the century.

To do so, I will return to the concept of liberalism or liberal governmentality that was introduced in chapters 2 and 6 in the first part of this book. In the former, liberalism was understood as a way of governing through 'the passions' of self-interest, civic virtue, and honor. In the latter, it was understood as a part of what was

[1] Dean, *The Constitution of Poverty*, 163-164.
[2] See for instance Ove K. Pedersen, *Markedsstaten* (Latvia: Hans Reitzels Forlag, 2014); Per Boje, *Vejen til velstand - marked, stat og utopi: Tiden 1850-1930* (Odense: Syddansk Universitetsforlag, 2020).

absent from the 'economic' governing of 'the laboring poor', namely the idea that laborers ought to be governed through the autonomous mechanisms of 'the economy'. It is this second and more typically Foucauldian notion of liberalism that is central to this part of the book. Indeed, by drawing upon what Foucault and later scholars have understood as liberal governmentality, I will argue that liberalism was not one 'ideology' among others, but the foundational governmentality that shaped the formation of a Danish capitalist labor market. But before turning to the historical manifestation of this art of governing through the economy in nineteenth-century Denmark, it is necessary to say a few more words on this concept of 'liberal governmentality' and what it has to do with the title of this chapter, 'Economic man'.

Liberal governmentality – with and beyond Foucault

Naturally, any reference to the history of liberalism – or liberal thought, the liberal tradition, etc. – is faced with the problem of the "dizzying variety of ways" in which the term and the phenomenon behind it are understood and employed.[3] Nevertheless, what appears common to many histories of liberalism, Danish included, is to approach it as embodying a distinct set of beliefs, ideals, or normative commitments (for instance, to individual autonomy, rule of law, division of powers, or free speech) which at certain points in time and space achieve hegemony, become more or less manifest in law and practice, and usually do so at least in part because groups and institutions perceive them as favorable to their interests.[4]

For Michel Foucault, however, liberalism was something very different. As noted by Colin Gordon, Foucault sought "to understand liberalism not simply as a doctrine, or set of doctrines, of political and economic theory, but as a style of thinking quintessentially concerned with the art of governing."[5] Thus, rather than interrogating liberalism as a set of ideals or beliefs in favor of certain forms of government that may be applied more or less coherently in actual practice, Foucault – in his own words – interrogated liberalism as "a principle and method of the rationalization of the exercise of government."[6] For Foucault, what was crucial

[3] Duncan Bell, "What is Liberalism?," *Political Theory* 42, no. 6 (2014): 682.
[4] See for instance Joseph Heath, *The Machinery of Government: Public Administration and the Liberal State* (Oxford: Oxford University Press, 2020), chap. 3. For a notable Danish example of this approach to liberalism, see Niels Finn Christiansen, Hans Chr. Johansen, and Jørn Henrik Petersen, "Periodens idéstrømninger," in *Frem mod socialhjælpsstaten, perioden 1536-1898*, ed. Jørn Henrik Petersen, Klaus Petersen, and Niels Finn Christiansen, Dansk velfærdshistorie (Odense: Syddansk Universitetsforlag, 2010), 59-79.
[5] Gordon, "Governmental Rationality," 14.
[6] Foucault, *The Birth of Biopolitics*, 318.

about liberalism was the unique ways in which it brought reflection to bear on the Government of others by state sovereigns.

For Foucault, as briefly noted in chapters 2 and 6, a key part of what is unique about liberalism is what sets it apart from 'police', 'economy', and what he himself also referred to as 'reason of state' (or *raison d'état*). Of course, Foucault's account of the differences between liberalism and these earlier governmentalities is rich in detail. For the purposes of this analysis, however, it is enough to draw out two key characteristics, one concerning the knowledge(s) liberalism involves, and the other the art through which it governs reality.

Prior to liberalism, Foucault argued, the *knowledge* required of the statesman was either 'wisdom' (meaning the positive or divine laws, the natural order of things, or examples of virtue handed down by tradition) or, as was more typical of 'reason of state', a knowledge of the state itself (meaning the natural resources of the land, the number of its subjects, their wealth and its circulation, the balance of trade and the levying of taxation and duties, and so forth). But with liberalism there arose, he argued, a new kind of knowledge, namely a knowledge of those natural or quasi-natural processes that seem to govern populations, societies, and economies independently of the sovereign's will. In chapter 2, I argued that 'the passions' could be understood as one of these autonomous realities that the liberal statesman now sought knowledge of. In Foucault's lectures on governmentality, however, the knowledge that became crucial to liberalism was something else, namely the discipline of modern political economy and its knowledge of 'economic man' that arose in the second half of the eighteenth century, chiefly through the works of figures like Adam Smith.[7]

But this eighteenth-century knowledge of 'economic man' was not the only one that would characterize liberal governing. To recall one of the arguments presented in chapter 6, Mitchell Dean has, following Karl Polanyi, argued for the importance of distinguishing between an eighteenth-century 'humanist' and a nineteenth-century 'naturalist' understanding 'economic man'.[8] In the former, which would dominate Foucault's account of liberal governmentality, economic man is one who is driven by his natural and human propensity to truck, barter, and follow his self-interest. But in the latter, which was articulated in Thomas Malthus's *Essay on The Principle of Population* (1799), economic man is understood as governed by laws at work in his environment, indeed as condemned to labor under the constant threat of scarcity and want in a world of finite resources and diminishing returns.[9] Thus, according to

[7] Ibid., 267-313.

[8] Polanyi, *The Great Transformation*, 116-135; Dean, *The Signature of Power*, 76-86.

[9] As Dean has noted, Foucault had previously been very aware of this distinction (*The Signature of Power*, 79-80). Little more than a decade earlier, Foucault had offered the following description of nineteenth-century 'economic man': "*Homo œconomicus* is not the human being who represents his own needs to himself, and the objects capable of satisfying them, he is the human

Malthus, if man exhibits the economic virtues of industry, providence, and independence, it is not so much an expression of his inner nature as an effect of his surroundings.

In nineteenth-century Danish liberalism, it was this second knowledge of 'economic man' that was essential. Yet, in the making of a capitalist labor market in Denmark, it was often accompanied, as I will show, by another idea of 'economic man'; one that is found in neither Foucault's nor Dean's work, but which may be traced to the late eighteenth-century rural reforms and their focus on civil rights. According to this idea, men become economic not so much out of necessity, nor because they are allowed to follow their interest, but rather by virtue of being recognized as full citizens who are vested with such protections and liberties that allow them to sovereignly decide how to utilize their labor-power.

The other key characteristic of Foucault's account of liberalism concerns its particular *art of governing*. Whereas previous governmentalities had in various ways conceived of governing as the art of commanding or putting everyone and everything in their rightful place, for instance by ensuring a perfect utilization of the labor force, Foucault argued that liberalism would instead aim to govern by setting up the conditions that would allow economic autonomies to guide the conduct of the governed. In his account, it was therefore a matter of producing a field of freedom in which self-interested desires and inclinations would thrive and disorderly and uneconomic forms of conduct would be repressed by the state.[10]

In nineteenth-century Denmark, however, the liberal art of setting up these conditions would be somewhat different. In keeping with the conceptions of economic man mentioned above, nineteenth-century Danish liberalism would not primarily set up the conditions that allowed man to follow his interest, but rather those that made him precarious and sovereign at the same time – that is, conditions that both forced him to be economic and recognized his sovereign right over his labor-power. Relying once again on Mitchell Dean's work on liberal governmentality in the English context, I will argue that the conditions through which liberalism aimed to govern men and make them economic, as noted already, were those of a capitalist labor market; an environment in which man was both in sovereign possession of his labor-power, but also solely dependent for his upkeep on selling this for wages on market terms.

being who spends, wears out, and wastes his life in the imminence of death." (*The Order of Things – An Archaeology of the Human Sciences* (London: Routledge, 1970), 257).

[10] Foucault, *Security, Territory, Population*, especially 61-66, 353-354.

Studying the rise of liberal governmentality in Denmark

In a Danish context, this liberal governing through a capitalist labor market began to make its imprint on labor legislation during the last decades before absolutism ended in 1849. Not least, it was clearly articulated during the debates of the so-called Estate Assemblies (*stænderforsamlinger*) that had been set up in 1834 to act in an advisory capacity to the state. Later on, following the coming of democracy, the deliberations and discussions leading to new legislation no longer took place in royal chancelleries, but in ministries and of course in the two houses of Parliament (*Rigsdagen*), not least in the so-called *Folketing*. It is by turning to the material from the discussions that shaped this legislative process that the chapter will examine the emergence of liberal governmentality in Denmark.

As noted already, there is of course a sizeable historiography on the various aspects of the Danish formation of a capitalist labor market, even if it is rarely designated as such. Instead, following nineteenth-century nomenclature, it is usually referred to as a "free" or sometimes "liberal labor market working through free contracts between formally equal parties".[11] Furthermore, it is usually understood in a way that conceives of 'liberalism' (sometimes labelled 'economic' as opposed to 'political' liberalism) as an ideology that favors individual liberty, property rights, and *laissez-faire* economics, and is therefore deeply averse to state interference.[12] For this reason, it is common among Danish historians to note how liberalism was often resisted and halted by all sorts of traditional and social concerns over the dangers of instituting entirely free contractual relations among laborers and employers.[13]

But what is overlooked by seeing the rise of a capitalist labor market as an effect of the hegemony of or compromises between various ideological positions is the nature and existence of the liberal governmentality which provided the common ground upon which compromises could be built. In order to examine this common ground, the following will analyze a number of legislative transformations, each of which have been studied in great detail by others, but rarely together or for their joint role in producing and reproducing a liberal governmentality. More precisely, the chapter will begin by turning to the reforms of poor relief (*fattigvæsenet*) that took place throughout the century, not least from the 1830s to the 1890s. Following this, it will

[11] Boje, *Vejen til velstand, 1850-1930*, 295, 297.

[12] See for instance Feldbæk, *Den lange fred*, 9, 285-295; Karin Lützen, *Byen tæmmes - Kernefamilie, sociale reformer og velgørenhed i 1800-tallets København*, 2nd ed. (Denmark: Hans Reitzels Forlag, 2013), 137-138. As Jeppe Nevers has shown, in nineteenth-century Denmark, the identification of liberalism and *laissez-faire* was not least the work of liberalism's mid-century critics; see his "The Rise of Danish Agrarian Liberalism," *Contributions to the History of Concepts* 8, no. 2 (2013): 98-99.

[13] See for instance Annette Faye Jacobsen's analysis of the 1854 Servant Law, which will also be discussed below, *Husbondret*, 311-342.

study two key legal transformations of the 1840s and 1850s toward capitalist labor relations, namely the abolition of smallholder corvée (*husmandshoveri*) and the restriction and later abolition of service coercion (*tjenestetvang*). Lastly, the chapter will examine the new regime policing beggary, vagrancy, and theft that was formulated during the 1860s.

Of course, even this broad approach by no means offers an exhaustive account of the rise of the capitalist labor market or the liberal governmentality underneath it. For instance, it leaves out the abolition of 'public corvée' (*offentligt hoveri*), the introduction of free enterprise in business (*næringsfriheden*), and the many transformations of land policy, all of which would no doubt have provided more nuance and detail.[14] However, it is important to note that the goal of this chapter is not to write an exhaustive account of the rise of the capitalist labor market in Denmark, but rather to identify the main characteristics of the governmentality it reflected. And again, the purpose of doing so is ultimately to be able to explore the colonial governmentality of 'free labor' in a clearer comparative light.

Paupers and poor relief

In Karl Polanyi's classic account of the rise of market capitalism, one of the key arguments was how the social policies of nineteenth-century England, poor relief included, underwent a "double movement" between a "self-regulating market system" and a "society" seeking to protect itself from the ravages this market system brought to the lives of those it reduced to little more than things to be sold and bought like any other commodity.[15] Like Polanyi's, histories of nineteenth-century Danish poor relief are usually organized around what a recent detailed study on the subject calls "an ongoing dialectical game" between "two organizing principles", each with its respective goals, ideas, and driving forces.[16] In the various varieties of this narrative, which may be traced back to Harald Jørgensen's ground-breaking study on nineteenth-century Danish poor policy published in 1940,[17] the main engine of the story is, as it was for Polanyi, the tension between rising 'liberal' ideals of *laissez-faire*, which are said to have peaked around the middle of the century, and a counter movement that would, not least toward the very end of the century, aim – and at least partially succeed – to utilize the state to protect and assist the individual against the perils of economic competition, material destitution, and social

[14] On these subjects, see for instance Jensen, *Dansk Jordpolitik*, vol. 2; Boje, *Vejen til velstand, 1850-1930*.
[15] Polanyi, *The Great Transformation*, 76-80.
[16] Christiansen, Johansen, and Petersen, "Periodens idéstrømninger," 77-78.
[17] Jørgensen, *Studier*.

atomization. Thus, rather than being either 'liberal' or 'social' (a term that here includes a wide group of communist, social democratic, so-called 'bourgeois socialist', and even conservatist ideals), nineteenth-century poor policy was a kind of mixture of many different things. It was, it has recently been claimed, "a product of the opposing wills of different groups" and the story of how "new ideas gained support" because "people of power" believed them to "correspond to their material interests".[18]

While there is certainly much that commends this dialectical or conflict-oriented perspective, it also suffers from the problem that it reduces policies to little more than compromises between ideologies and interests, and therefore obscures how these compromises found support in certain already well-established rationalities of government. Most importantly, what this approach has failed to appreciate is how the poor policies of the nineteenth century were not primarily, I would argue, the result of a stand-off between a liberal and a social paradigm, but rather something that was formulated *within* the new liberal governmentality. In other words, rather than viewing poor policy as oscillating between two opposite poles or 'paradigms', I will try to demonstrate the foundational coherency which is to be found at its basis.

In making this argument, I rely on three key insights, which are found in Mitchell Dean's book *The Constitution of Poverty* and its analysis of the liberal governmentality that shaped English poor policy in the first half of the nineteenth century, some of which were briefly introduced in chapter 6. The first of these insights concerns the notion of poverty and a new ideal of self-preservation. In Dean's account, the thought of Thomas Malthus, most importantly his *Essay on the Principle of Population* (1799), played a key role in fashioning a new understanding of 'poverty' as a natural fact of life, as the true source of labor and industry, and therefore as the primal engine of civilizational progress. Thus, in this new way of thinking, 'the poor' are no longer a passive assemblage of bodies to be multiplied and utilized by a perfect 'economy' as it was in the eighteenth century, including in Denmark (chapter 6). Rather, 'the poor' are now seen as governed by a natural condition of scarcity, which would, if it was only set free, teach them to conduct themselves like 'economic men' – i.e., like individuals who used the virtues of industry, frugality, and providence to preserve themselves and their families.[19]

[18] Christiansen, Johansen, and Petersen, "Periodens idéstrømninger," 82.

[19] Dean, *The Constitution of Poverty*, 75-86, 137-155. As Dean makes clear, it was not strictly speaking 'man' or even 'the laboring poor', but 'men' as opposed to 'women' who were primarily expected to be the agents responsible for carrying the burden of independence: postponing marriage, practicing frugality, and laboring under the threat of a future scarcity. Although Danish legislators appear to have shared a similar gender-specific understanding of 'economic man' as essentially or at least primarily a 'man', it has been beyond the scope of this analysis to determine the extent and ways this was so.

According to Dean, the Malthusian influence on English poor policy was to redefine its objective: to produce economic men. But Malthusianism did not, Dean insists, inform how poor policies aimed to reach this objective. For whereas Malthus wished to abolish state-sponsored relief altogether so as to fully expose man to the insecurities of life, the means with which the English Poor Law of 1834 sought to produce economic men was instead to make relief appear less attractive. More precisely, Dean shows, this law aimed to deprive those who were now deemed economically responsible for themselves – namely able-bodied men and their families – of "assistance outside the deterrent institution of the workhouse". Thus, rather than abolishing relief for those deemed responsible for themselves – and this is the second insight to be drawn – a key means through which liberalism sought to produce economic men was to offer relief only under the less eligible conditions of a closed institution, one in which strict discipline and demeaning conditions would make the life of independence, no matter how destitute, appear much more attractive and honorable.[20]

But more than merely leaving the able-bodied to the insecurity of a life outside such institutions or the shame of a life inside them, another important aspect of this liberal governmentality was, Dean argues, its attention to the social problem of 'pauperism'. For while the condition of 'poverty' was, as noted above, understood as a natural and necessary source of labor and civilizational progress, 'pauperism' (or sometimes 'indigence') was understood as a materially and morally impoverished state of being that had the very opposite effects; one in which the able-bodied poor became unwilling to take care of themselves and in which poverty therefore did not improve, but significantly worsened the subject. Besides subjecting the already demoralized individuals to the stern discipline of a workhouse, the liberal art of governing therefore posed to itself, Dean argues, the task of acting on "those circumstances, conditions, and behaviors of the poor which constitute the genesis of pauperism", such as drinking, unsanitary living conditions, or the dangers or monotony of work itself. In this way, while poverty should be left alone, the notion of pauperism vested liberalism with "a legitimate realm of governmental […] intervention" into the social problems of the poor.[21] Thus, rather than a Polanyian confrontation between liberalism and a self-protecting society, Dean shows – and this is the third and final insight – how liberal governmentality, without being inconsistent in its basic objectives, had the capacity to intervene against 'social problems' insofar as they hindered the capitalist labor market from teaching the poor the virtues of independence.[22]

In applying these insights to Danish material, this analysis has once again drawn upon Kaspar Villadsen's study of Danish discourses on poor relief and how in the

[20] Ibid., 87-105, quotation 96.
[21] Ibid., 173-210, quotation 175.
[22] Ibid., 217-219.

early nineteenth century, as he argues, they began leaning heavily toward the kind of liberal governmentality Dean has identified in England.[23] But unlike Villadsen's study, which focuses on the ways the poor were understood and how proposals for reform were discussed among the learned public, the focus of the following is on the deliberations and discussions that gave rise to concrete transformations in laws and administrative practices.

Like most other works on nineteenth-century Danish poor polices, the analysis spans the entire century and treats it as a whole. Yet, in order to tease out the essential, it will limit itself to considering three important moments of transition, namely: i) the 1810-20s, in which one finds the early signs of a new and distinctly liberal problematization of the demoralizing effects of relief; ii) the 1840-60s, which saw the rise of the workhouse as the universal solution to the object of producing economic men; and finally iii) the late 1880s and early 1890s, in which a new concern with the social problems of the poor offered a way to distinguish between those who were autonomously governed, as true economic men, by the possibilities and insecurities of the capitalist labor market, and those who would have to be deterred to self-preservation.

New problems, old solutions

The central event of the first phase was an 1819 report authored by a government commission that had been set up by the Danish Chancellery to suggest ways to decrease the growing municipal expenses for such things as poor relief. Among its members were the jurist Anders Sandøe Ørsted (1778-1860), who would play an important role in the legislative process at least until the 1840s. The general backdrop to the financial problems that Ørsted and the rest of the Commission should look into was the economic and not least agricultural crisis that had, since the end of the Napoleonic war, pushed many into destitution and significantly strained the finances of the parish ratepayers who bore the tax burden of public relief.[24] But the Commission was also occasioned by a growing conviction that the rising expenses for poor relief were the effect not merely of an economic crisis, but also of the existing principles of relief. As it informed local authorities in 1817, the Danish Chancellery had come to suspect that:

> the recently instituted arrangement, in which everyone found to be in need shall immediately receive relief, is causing the numbers of the poor, in particular in the

[23] Villadsen, *Det sociale arbejdes genealogi*, chapters 1-7.
[24] Jørgensen, *Studier*, 49-53.

> countryside, to increase to such a troubling degree that the parish districts will possibly, with time, be unable to offer what is needed for their maintenance.[25]

What was referred to here was the Poor Law instituted in 1803. As noted in chapter 6, this law obligated every parish to alleviate 'all true want' by offering in-house relief to those who were unable to support themselves and, if possible, put them to work. And the purpose of this had been to nurture and utilize all 'laboring limbs' as perfectly as possible. Back then, everyone found this to be a prudent response to poverty and the poor. But now, less than twenty years later, it was suddenly seen to worsen the problem it was intended to solve. In the words of the 1819 report, it was indisputable that:

> an administration of the poor, which is built on the principle that everyone in true need should be relieved, could easily […] have the corruptive effect that someone, putting his trust in relief, will disregard the care he should take to maintain himself and his family and be tempted to settle down [i.e., enter marriage and father children] without being able to fulfill this natural obligation.[26]

By 1819, it appears, the main problematic was no longer keeping laborers numerous and useful. Rather, what was now being problematized and what would in fact continue to be problematized for the rest of century was how laborers, if they could safely 'trust in relief', would come to disregard their 'natural obligation' to be frugal and provident enough in economic and sexual matters to take care of themselves and their families and, if necessary, to avoid settling down altogether. Seen in the light of Dean's and Villadsen's accounts, what were gradually appearing on the horizon were the early signs of a liberal problematization, which saw poor relief as a possible hindrance to the autonomous ways in which the reality or fear of poverty would positively influence the conduct and subjectivity of laborers.

But even so, it would be wrong to presume, as Villadsen for instance has done, that Danish poor policy somehow turned 'liberal' and 'Malthusian' overnight,[27] or that deterrence had suddenly, as Søren Kolstrup finds, become the essential solution to this problem.[28] In fact, in the 1819 report – the suggestions in which would, as Harald Jørgensen has argued, be the guiding thread for coming the decade[29] – there was little that tied this problematization together with a liberal art of governing.

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[25] DC. I48-35. Entry 2274: Chancellery circular to county prefects (July 8, 1817).
[26] CR. 2411-89. No. 404: Commission proposal (November 10, 1819), § 2.
[27] Villadsen, *Det sociale arbejdes genealogi*, 41.
[28] According to Kolstrup, the goal of the various poor relief reforms in the first half of the nineteenth century was "always to reduce expenses by deterring the poor from seeking help" ("Fattiglovgivningen 1803-1891," in *Frem mod socialhjælpsstaten, perioden 1536-1898*, ed. Jørn Henrik Petersen, Klaus Petersen, and Niels Finn Christiansen, Dansk velfærdshistorie (Odense: Syddansk Universitetsforlag, 2010), 208).
[29] Jørgensen, *Studier*, 49-56.

Instead, what was suggested by the report was broadly in line with existing rationalities of 'economy' explored in chapter 6. Accordingly, rather than looking for ways to produce the conditions that would encourage laborers to honor their 'natural obligation' toward themselves and any dependents, for instance by restricting access to relief or by making it shameful or otherwise deterring to receive it, the Commission simply approached the poor as unthinking bodies who should be kept from falling into poverty or idleness. In its view, too many smallholders had too little land to sustain themselves, too many people wandered around begging, and too many rushed into marriage without being able to take care of a family. The solution was therefore to restrict the parceling out of land, to suppress vagrancy, and to limit poor people's access to marriage, but not to change the principles of relief themselves. Still, relief should be offered in the home and to anyone, including able-bodied workers, who lacked what was necessary to maintain themselves and their family.[30]

In fact, there is nothing in the report – or in the legislative work immediately prior and subsequent to it – which indicates that the influential figures in the central administration of the time saw the principle of less-eligibility as essential to the administration of relief. Of course, as Søren Kolstrup as others have argued, it is true that the first decades of the century saw recipients of poor relief being reduced to 'second-class citizens'. In 1810, for instance, the parish poor commissions were given the right to register and assume a kind of ownership over the recipient's belongings, and to fine and discipline those who squandered their relief or acted contrary to good order; and from 1824, recipients or former recipients in debt to the parish were barred from entering marriage without the Poor Commission's explicit approval.[31] But in the writings of those who authored these disenfranchising inroads into the rights of the poor, these were not understood as means by which to deter possible future recipients. It was a matter of keeping current recipients in order and hindering paupers from raising families they would be unable to support, but not of acting on the imagination of possible future recipients.[32]

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[30] CR. 2411-89. No. 404: Commission proposal (November 10, 1819), § 2. In this regard, Søren Kolstrup has wrongly claimed that the Danish Chancellery's reaction to the Commission's report was to limit relief to those unable to work and to put all others to work ("Fattiglovgivningen 1803-1891," 209). But as Harald Jørgensen has rightly noted, the Chancellery's reaction was simply – as it also proposed in the 1819 report – to continue the existing practice of supplementing what someone could earn by himself with what was necessary for him and his family to subsist, if possible but not necessarily by putting such able-bodied persons to work (*Studier*, 53).

[31] Kolstrup, "Fattiglovgivningen 1803-1891," 208-210.

[32] For the proposals behind the 1810 and 1824 decrees, see respectively DC. I8-106. No. 1787b: 'Allerunderdanigst Forestilling' (December 14, 1810); DC. H6-14. No. 52: 'Allerunderdanigst Forestilling', § 3 (April 14, 1824).

Governing through deterrence

From the late 1830s, however, the liberal art of deterring future recipients toward a life of independence gained ground as the state became supportive of the idea of replacing in-house with institutionalized relief, to be given to recipients and their families in closed, disciplinary, and inhospitable workhouses, or 'poor farms' (*fattiggårde*) as they would later be known. In 1838, the state promised that parishes could be granted loans to erect such workhouses.[33] By the 1860s, workhouses were spreading quickly across the countryside, going from one hundred workhouses in 1869 to more than three hundred by the 1880s.[34] Although recipients of in-house and various forms of supplementary, extra-institutional relief, such as food and firewood, still surpassed the number of those who were housed in workhouses,[35] by the middle of the century, the workhouse was quickly becoming the ideal.

As in Dean's description of England, the idea of the workhouse was, as Villadsen has shown, associated with the principle of less-eligibility from the early decades of the century. More than merely disciplining and sustaining those on the inside, its Danish proponent often saw its central function as deterring those on the outside.[36] This was certainly also true of the many members of the estate assemblies who pushed for making workhouses the primary mode of relief during the late 1830s and early 1840s.[37] In 1836, for instance, it was suggested that in the current system, which tended to remove "every motive of economy and industry", only the threat of the workhouse could keep a "lazy, drunken, and disorderly" person from "devoting himself to his passions".[38] In a similar vein, another speaker was sure that "such a workhouse would ensure that many who would otherwise never think twice before throwing themselves on relief, would refrain from doing so and instead take care of themselves."[39] And a few years later, even Anders Sandøe Ørsted, who had once as a member of the 1819 Commission supported the established modes of relief, had jumped on board, suggesting that even if workhouses might in themselves be unprofitable, their real use was how they would keep away "many, who could desire to ask for help".[40]

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[33] Jørgensen, *Studier*, 68-69.
[34] Ibid., 287-289.
[35] Koefoed, "En luthersk velfærdsstat?," 260-263; Kolstrup, "Fattiglovgivningen 1803-1891," 264-265.
[36] Villadsen, *Det sociale arbejdes genealogi*, 83-88; see also Kolstrup, "Fattiglovgivningen 1803-1891," 259-263.
[37] For an overview of the estate assemblies' debates on the matter of poor relief, see Jørgensen, *Studier*, 63-80. Not least, the workhouse was essential in the 1836 debate in the Viborg Assembly (see *Viborg Stændertidende*, 1836, I, cols. 117-135, II, cols. 927-989).
[38] *Viborg Stændertidende*, 1836, I, cols. 118-120.
[39] Ibid., 1836, II, col. 953.
[40] Ibid., 1844, col. 930.

As these telling and altogether typical examples indicate, as a means of governing the able-bodied laboring poor, the workhouse was associated with a particular conception of their nature and the cause of their need. As Søren Kolstrup has persuasively argued, the individual who applied for relief could be imagined both as "a corrupt and fallen human being" who ultimately had himself to thank for the state he found himself in, but also as a "calculating subject" who would, if faced with the unattractive prospect of living and toiling in a workhouse, prefer the life of independence.[41] But more than this, what was presupposed in statements such as those quoted above was, of course, also the very Malthusian notion, as explained by Dean, that what governs man and makes him 'economic' is essentially his exposure to the reality and the threat of poverty. Accordingly, for those who began to favor the workhouse as the key means to govern the poor, it was the economic circumstance of poverty, and not some supposedly inborn human mechanism or principle (such as self-interest, pride, or ambition), that stood at the origin of industry and therefore of all moral progress. And as a means to push the laborer to engage in this natural and universally beneficial struggle with poverty, the workhouse had become the key and universal solution to the problem of the demoralizing effects of relief.

The worthy and the unworthy

But if the liberal principle of less-eligibility had thus, by the middle of the century, become a cornerstone of the governing of the poor, it would not remain the only essential liberal strategy. For alongside the uniform practice of deterring the poor through the shame and pain of workhouses and through the pauper's status as second-class citizens (with the constitutional changes of 1849 they were also excluded from right to vote), there arose the idea that not all poor people were the same, and that some, if not the majority, were in fact honest and hard-working people whom it would be neither fair nor prudent to treat the same way as the rest.

As many studies have already shown, this new distinction, which would gradually gain ground throughout the second half of the century, was between the so-called 'worthy' and 'unworthy' (*de værdige og de uværdige*).[42] Generally, and certainly by the 1860s, the unworthy were understood as those who had themselves to thank for their destitution: those who were lazy, were drunkards, or had some other moral deficiency which had caused them to fall into need. The worthy, on other hand, were usually split into two subcategories: first, there were of course children, the old, the infirm, and generally anyone who was physically or mentally unable to provide for himself; but also, there was the class of able-bodied adults who had become destitute

[41] Kolstrup, "Fattiglovgivningen 1803-1891," 205-207.
[42] Ibid., 244-252, 268-290; Lützen, *Byen tæmmes*, 160-161.

in spite of their best efforts and due to no fault of their own, for instance because of some unforeseeable accident. But more than the temporary or innocent nature of their want, what distinguished the worthy able-bodied laborer from the 'corrupt and fallen' was that he possessed the will and determination to remain independent, or what contemporaries usually referred to as having "self-feeling" (*selvfølelse*) or "a will to self-preservation" (*selvopholdelsesdrift*).[43] In other words, unlike those who responded only to deterrence, the class of the worthy poor was seen to possess an inner mechanism or principle, in this case a will of self-preservation, which spurred them to live as economic men navigating the insecure, but natural condition of poverty.

In the legislative realm, this distinction was enshrined more clearly than ever before in the Poor Law of 1891 and its associated laws on retirement and health insurance that were passed shortly thereafter.[44] As the proposed Poor Law was brought before Parliament in 1890, it was unanimously praised as expressing the "humanitarian feeling that has fortunately now been adopted by our society", most essentially by instituting "a more modern treatment of 'the worthy needy'".[45] In the final legislation, this found expression in the attempt to offer or sponsor non-declassing forms of relief to a number of ideally 'worthy' categories of the poor. In-house relief should be the primary mode of relief for anyone whose 'conduct' did not qualify them for a workhouse, and if it was necessary to institutionalize children and the elderly this should only be in care houses (*forsørgelsesanstalter*) far away from those who were prone to "unsociableness, laziness, drunkenness, or disorder".[46] Former recipients who had managed to take care of themselves for five years without turning to the parish had a right to have their debt and status as paupers cancelled.[47] Members of a health insurance association (*sygekasse*) would be monetarily supported by the state and would, if their health benefits ran out, receive public relief without being classed as paupers.[48] And so would any person above the

[43] See in particular Villadsen, *Det sociale arbejdes genealogi*, 93-97.

[44] To this should be added the emergency amendments of the 1850s, which offered temporary relief to victims of rising prices (*dyrtid*) without disenfranchisement and institutionalization, as well as the largely unsuccessful 1856 attempt to organize a similar non-declassing system of relief for people in extraordinary need, known as *De fattiges kasse*, see Jørgensen, *Studier*, 98-111; Kolstrup, "Fattiglovgivningen 1803-1891," 245-250. But prior to the 1891 Poor Law, the legal or administrative distinction between the 'worthy' and the 'unworthy' was primarily an urban or non-state phenomenon (as explored for instance in Lützen, *Byen tæmmes*, chapters 8-10; Søren Rud, "Subjektiveringsprocesser i metropol og koloni - København og Grønland i 1800-tallet," (Copenhagen: University of Copenhagen, 2010), 67-86; Villadsen, *Det sociale arbejdes genealogi*, chapters 4-7).

[45] *Rigsdagstidende, Folketingets forhandlinger*, tillæg B, col. 411.

[46] The April 9, 1891 Poor Law (*Lov om det offentlige fattigvæsen*), §§28, 30, printed in *Lovtidende for Kongeriget Danmark* (1871-1901), 1891, 199-218.

[47] Ibid., § 35.

[48] Ibid., § 63; The April 12, 1892 Law on Health Benefit Associations (*Lov om anerkendte sygekasser*), printed in *Lovtidende*, 1892, 413-421.

age of 60 who had not received relief within the preceding ten years, had not been found guilty of beggary or vagrancy, and had not become destitute due to "disorderly and wasteful conduct".[49]

With good reason, the new social laws of the early 1890s are often described as the effect of a long and hard-won compromise between the two key political parties of the era: the conservative party known as 'the Right' (*Højre*), who headed the Government and held a majority in one parliamentary chamber (*landstinget*), and the more progressive party who spearheaded social reform in the other chamber (*folketinget*) known as 'the Left' (*Venstre*), or more formally as 'the united Left' (*Det forenede venstre*).[50] But more than a compromise between political parties, it is also often described as a compromise between opposing ideologies or discourses. In Søren Kolstrup's analysis, it is emphasized, firstly, how the social laws both bore a strong "liberal" imprint but were also colored by "social" movements that sought to provide "a corrective to the free system of competition"; and secondly, how a compromise ultimately came about due to the conservative party's fear of socialist agitation and worker emigration.[51] In a somewhat similar vein, Kaspar Villadsen places the social laws at the intersection of a number of discourses, which criticized the existing system of poor relief from various perspectives, but he similarly avoids portraying either of them as the laws' sole or essential foundation. Just as in Kolstrup's analysis, Villadsen therefore argues that the end result was a kind of compromise between "liberal principles" and "social" demands for state intervention.[52]

In my view, what is obscured by this mode of analysis is the foundational, but metamorphosing presence of liberal governmentality. For, with their newfound attention to those social evils that might befall the 'worthy needy' – such as temporary unemployment, sickness, or old age – the social laws of the early 1890s did not, as the interpretations above appear to suggest, introduce new 'social' principles that imposed an external corrective or limit to the liberal art of government. Rather, in line with Mitchell Dean's reading of the English case, what occurred toward the end of the century was that the liberal art of governing gained

[49] The April 9, 1891 Pension Law (*Lov om alderdomsunderstøttelse*), §§ 1-2, printed in ibid., 1891, 225-228.

[50] On the long and winding parliamentary road toward the 1891 Poor Law, see Jørgensen, *Studier*, chapters 9-10, 12.

[51] Kolstrup, "Fattiglovgivningen 1803-1891," 268, 279, 295-306.

[52] Villadsen, *Det sociale arbejdes genealogi*, 119-141. Besides the so-called Christian-conservative and socialist discourses, neither of which played an important role, Villadsen describes the pragmatic-philanthropic discourse and its critique of public relief as humiliating the worthy poor and corrupting their will to independence as the most important. Without exploring the parliamentary debate, Villadsen suggests that the compromise was made possible by the rise of "insurance techniques", more precisely by the rise of self-help associations that allowed the responsible and provident laborers, who joined and paid to such collectives, to protect themselves from social evils.

a new 'realm of governmental intervention' as it became concerned with those 'social' threats that now appeared to subvert rather than support its objective of creating economic men. But whereas Dean's analysis shows how mid-century English liberalism began problematizing various forms and effects of poverty – in the guise of immorality, unsanitary living conditions, degenerating family life, etc. – as threatening the production of responsible and provident Malthusian wage-earners, what occurred in Denmark toward the end of the century was instead a kind of liberal self-criticism: namely a critique of the detrimental effects of those harsh practices of deterrence liberalism had introduced to produce economic men.

More precisely, what was problematized again and again during the lengthy parliamentary debate in the *Folketing* on the new Poor Law between 1888 and 1891, which is the subject of this analysis, was how the existing principle of less-eligibility – of deterrence, disenfranchisement, workhouses, etc. – tended to demoralize those 'worthy' laborers who were forced by chance and circumstance to ask for relief. Usually, this demoralization was described, for instance by the parliamentary committee reviewing the proposed law in 1891, as an effect of how public relief extinguished that "feeling of independence" (*selvstændighedsfølelsen*) that was, as noted above, now seen as the hallmark of 'the worthy' poor. In this committee report, which very much set the scene for the subsequent debate, a unanimous committee in which the entire political spectrum was represented in fact described this feeling or will to self-preservation as "the best and most indispensable force in man's activity", indeed as the force without which the laborer could never remain in "the position of a free man".[53]

In the course of the subsequent parliamentary debate, two causes of such an unfortunate loss of the 'feeling' or will to independence received particular attention. For one thing, there was the case of how temporary misfortune, for instance in the case of sickness, made it necessary to ask for relief and thus to suffer the demeaning disenfranchisement of being classed as a pauper and perhaps even placed in a workhouse. In the words of the committee report, "it is a well-known fact that sickness is very often the only reason that a brave and honest person becomes a burden to the public funds" and that, by having been classed as a pauper, "his feeling of independence has received such a blow that for the rest of his life, he will lack the power and means to pick himself up".[54] But also, there was the equally common case that the difficulty of ever paying back the parish and thus regaining one's full civil rights effectively hindered recipients and even ex-recipients from ever regaining this most necessary will to independence. For this reason, a unanimous committee proposed that after a certain time without relief a person should have a right to have his debt to the parish cancelled so as to help along "the

[53] *Rigsdagstidende, Folketingets forhandlinger*, 1890-1891, tillæg B, col. 411. On the members and discussion of the committee, see Jørgensen, *Studier*, 196-200.
[54] *Rigsdagstidende, Folketingets forhandlinger*, 1890-1891, tillæg B, col. 426.

reawakening feeling of independence that is and must always be the driving force in a person's activity".[55]

But although the men behind the new law shared the same view of the problem at hand, they often disagreed about how it should be solved. Essentially, this was due to the fact that the problematization surrounding the demoralization of the 'worthy' had to be balanced against the problematization that was instituted earlier in the century and which the workhouse and disenfranchisement provided a solution to: namely that a life on relief should appear much less attractive than a life of independence. Time and time again, it was the question of how to reconcile these two distinct ways of governing the poor that split the Members of Parliament.

For instance, this was the case in regard to the matter of cancelling those debts a former recipient might owe for the relief he or she had previously received. The majority of the fifteen-man committee, namely ten members of the Left, proposed making it legal, as was already customary in certain parts of the country, for parishes to cancel the debts of individuals who were believed to be on the right path, but also to make this a right for anyone who had lived without relief for two years.[56] Besides helping along the reawakening of the will to independence, the proponents believed this promise of debt cancellation would incentivize current and indebted recipients to become or remain independent.[57] Furthermore, as noted by Christian Ravn, the committee speaker and MP for the Left, the choice of two years (or less if deemed appropriate by the parish) was made because:

> such an effort as to keep free of relief for two years should prove that the person in question wishes to remain independent [*vil stå på egne ben*], and that he should therefore as soon as possible be brought to be so, once it is known that he is really driven by his feeling of independence to become an industrious and useful human being for himself and for society.[58]

On the other end of the aisle, the members of the Right fully supported the general idea and its underlying reasons, but believed that two years (or less) risked making relief insufficiently deterring. That is, it risked striking a poor balance between the twin problem of deterring the unworthy and protecting the worthy. For, while the Right MPs argued that it was certainly:

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[55] Ibid., tillæg B, cols. 418-419.
[56] Ibid.
[57] Note for instance Bertsen's (MP for the Left) comment that "once a family comes under public relief and is dependent on the mercy of the parish in regard to whether it can have the debt cancelled or not, there is no incentive [*spore*] for them to strive to maintain themselves and keep free of public relief. But once they know that they, after a given time without public relief, have a right to have it cancelled, they will make an effort to maintain themselves" (ibid., 1890-1891, cols. 2685-2686).
[58] Ibid., 1890-1891, col. 2739.

> of the greatest importance that the poor maintains his feeling of independence, [it must nonetheless] be emphasized that one should not overlook the fact that the Poor Law must put such demands on his personal activities [*selvvirksomhed*] that one does not weaken his interest in maintaining his independence by his own means.[59]

For this reason, the members of the Right proposed to abolish the parishes' right to cancel debts as they pleased, and to set five rather than two years as the required minimum amount of time living without relief. For besides making it unlikely that such an arrangement would weaken peoples' interest in keeping themselves entirely free of relief, even a five-year period would still, it was suggested during the debate by Hans Christian Holch (MP for the Right), incentivize current recipients and debtors to maintain their independence in the future. Moreover, as opposed to two years (or less) without relief, only the fact of having lived for five years without relief would, Holch continued, provide "adequate proof that the individual has in mind to keep his independence".[60]

In the end, the law adopted the five-year minimum, but gave the parishes the right to cancel debts after one year.[61] Undoubtedly, this compromise was preceded by protracted backroom dealings.[62] But it also reflected, I would add, that both sides not only shared the underlying problematic of deterring the unworthy without demoralizing the worthy, but also that they responded in ways that differed only in terms of their relative weighing up of these two concerns.

This fact was made very clear only a few years before as the Left and the Right stood relatively united against a proposal made by the Social Democrats (at the time holding only a few seats in Parliament). According to this proposal, a person's initial time receiving public support (for less than four months) would not class the recipient as a pauper, and neither would public assistance to medical care, medicine, or hospitalization.[63] The Commission members from the Right could see nothing wrong with the latter proposal, but feared that the former would cross a dangerous line. In their view, giving such a right to non-declassing relief would "in many cases tempt the propertyless to demand help from the public without it being strictly necessary".[64] This view was largely shared by the MPs from the Left, who would not accept such a universal right, but instead voted to allow the local boards to disregard "those they consider unworthy", a stipulation that would hopefully "strengthen the weak in the struggle to maintain themselves."[65] So, by taking this

[59] Ibid., 1890-1891, tillæg B, cols. 418-419.
[60] Ibid., 1890-1891, cols. 2592-2593.
[61] The April 9, 1891 Poor Law (*Lov om det offentlige fattigvæsen*), § 35, printed in *Lovtidende*, 1891, 199-218.
[62] Jørgensen, *Studier*, 205-206; Kolstrup, "Fattiglovgivningen 1803-1891," 304-305.
[63] *Rigsdagstidende, Folketingets forhandlinger*, 1886-1887, Tillæg A, cols. 2149-2150, §§ 1, 3.
[64] Ibid., 1886-1887, Tillæg B, cols. 1734-1735.
[65] Ibid.

position, the members of the Left, including Christian Ravn, not only distanced themselves from those who downplayed the importance of deterrence,[66] but also confirmed that they, like the Right, were engaged in the same kind of balancing act. Although they had different answers, what they were posing was the same question: How to provide adequate deterrence without demoralizing those who were truly committed, as true economic men, to preserving their independence in the face of adversity.

It was also in response to this question that the Right and the Left eventually settled the matter of offering non-declassing help in the case of sickness. During the discussions in the committee, the Left had proposed making it possible for individuals who were not already recipients of poor relief to receive assistance to pay for medicine, treatment, and hospitalization, as well as funeral costs, without being classed as paupers. As noted above, the idea was to avoid the recipients of such assistance would lose their 'feeling of independence'; to save them from taking, as Christian Ravn phrased it during the debate, "the first step and turn to relief and with time lose the force to pull themselves up again".[67]

Once again, however, the Right believed this took things too far. It would, as it was phrased, "weaken the self-help efforts" (*selvhjælpsbestræbelserne*), not only by making it less vital for laborers to insure themselves through health benefits associations, but also because it would undermine the laborers' reason for being responsible and provident caretakers of themselves and their families.[68] Of course, it was vital, as Hans Christian Holch explained during the debate, to keep worthy individuals off public relief as far as possible, but it would not be right to do so by a law that:

> says once and for all: in regard to this matter there is no longer any trouble; doctor, medicine, hospitalization, and funeral, a person will get all of that without conditions; it is his right, no effort is demanded of him, it is all free.[69]

Unavoidably, Holch claimed, such a right would therefore make laborers indisposed to join and pay to health benefit associations. In his view:

> one does not really know human beings if one does not presume that once all of this is free, they will not become careless and say: I will manage without it [i.e., health insurance].[70]

[66] This is Søren Kolstrup's reading ("Fattiglovgivningen 1803-1891," 281).
[67] *Rigsdagstidende, Folketingets forhandlinger*, 1890-1891, col. 2810.
[68] Ibid., 1890-1891, tillæg B, col. 428.
[69] Ibid., 1890-1891, cols. 2816-1817.
[70] Ibid., 1890-1891, col. 1817.

In the end, Holck and the Right managed to sway the Left to give up the provision and to limit non-declassing relief in sickness to those who were members of a health benefit association, but who were still in want after the help had run out (and only for a period or value equal to what the association had paid).[71] Naturally, as noted above, along with many other elements of the final law, this was the result of political struggles and bargains. But just as importantly, it also reflected that the majority of the Parliament already shared a common ground upon which bargains could be struck and agreements reached.

Thus, from a governmentality point of view, the new Poor Law was not so much a Polanyian confrontation between liberalism and a self-protecting society, but instead reflected the rise within liberalism of a new problematization (of providing deterrence without excessive demoralization), as well as a new way of dealing with this problem. Essentially, the solution was to distinguish the worthy from the unworthy, in this case by instructing local administrators to provide institutionalized relief only to those whose 'conduct' disqualified them as unworthy, and by setting up some carefully defined rights to non-declassing relief for those whose conduct indicated their 'will to independence', for instance due to time spent without relief or being a member of a self-help association. And through it all, the underlying logic was this: to protect those who already lived as economic men from falling, due to no fault of their own, into the ranks of those who had given up, but also to do so without limiting the deterring push that some needed to devote themselves to the natural and beneficial struggle with poverty. In other words, what occurred was how liberalism became self-critical and tried to compensate for those practices that subverted rather than furthered its objective of creating economic men.

Precarious and sovereign laborers

Along with the development of these new ways of governing the poor, there was a gradual movement toward freer contractual relations between employers and laborers. To examine the governmentality that stood behind this movement, the following will concentrate on two key legislative transformations that occurred during the 1840s and 1850s, namely the gradual abolition of what was known as 'smallholder corvée' (*husmandshoveri*[72]) and the gradual limitation of so-called 'service coercion' (*tjenestetvang*).

[71] The April 9, 1891 Poor Law (*Lov om det offentlige fattigvæsen*), § 63, printed in *Lovtidende*, 1891, 199-218.

[72] Also known as 'weekday' or 'duty work' (*uge- og pligtarbejde*).

Abolishing smallholder corvée

The term 'smallholder corvée' designated the labor services that owners of cottages levied from their occupants (*husmænd*) as a part of their rent and in accordance with their lease. Thus, by allowing smallholders to maintain themselves and pay for housing by working a certain amount of time for the owner of their house, smallholder corvée represented, like poor relief, another non-wage form of subsistence that went against the logic of a capitalist labor market.

Since the rural reforms, both landlords and farmers had grown increasingly dependent on this source of labor as they, with the state's blessing and support, began to parcel out minor plots of land and erect small houses and sometimes entire villages, in which this class of laborers could settle down. This quickly led to a steep rise in the number of smallholder households, growing from roughly 57,000 in 1805 to 90,000 in the 1837, at which point they strongly outnumbered farmer households (approximately 66,000). Their numbers grew to 110,000 in the 1850s, with about fifty percent of them being tenants forced by contract to render corvée to the owner of their house. (The other fifty percent owned their houses by themselves and therefore did not owe corvée.)[73]

During the later phases of the earlier rural reforms in the late eighteenth and early nineteenth centuries, the state had chosen to leave the amount, terms, and kind of smallholder corvée to the voluntary contractual agreements between the individual owners and tenants. In light of the many protections that had been instituted for the benefit of the farmers *vis-à-vis* their seigneurs, as explored in chapter 2, this preference for entirely free contractual arrangements was, as Hans Jensen has argued, rather striking, as it did very little to protect the growing numbers of increasingly desperate smallholders from having to accept whatever terms they were offered.[74] But instead of a purely contractual relationship founded, as Jensen has proposed, on a principled "liberal" aversion to the state's "meddling in the private agreements of citizens",[75] the relationship that was set up between landowners and smallholders was more precisely, as Anette Faye Jacobsen has argued, the patrimonial one typical of *husbond* law: one in which smallholders possessed few if any legal protections against being evicted, disciplined, and punished as their landlords pleased.[76]

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[73] This statistical information is taken from Hans Jensen, *De danske stænderforsamlingers historie 1830-1848*, 2 vols. (Copenhagen: J.H. Schultz Forlag, 1931-1934), vol. 2, 501-502; Jacobsen, *Husbondret*, 223-225.

[74] Jensen, *Dansk Jordpolitik*, vol. 1, 206-211.

[75] Ibid., vol. 1, 210-211. The latter quotation is from the Great Rural Commission's reply to the Danish Chancellery, while its designation as 'liberal' is Jensen's.

[76] Jacobsen, *Husbondret*, 143-146.

In the 1830s, the life and labor of the smallholders increasingly became a political concern, not least due to the campaigns organized by farmers and the smallholders themselves, as members of the Estate Assemblies proposed measures of amelioration, such as the abolition of smallholder corvée and of the patrimonial relations mentioned above.[77] In spite of the strong agitation from various sides, the state and its new representative organs were initially against taking action. Besides the lingering idea that smallholders should rightly be viewed as a kind of servant and therefore as belonging to a patrimonial sphere of power,[78] the motion was initially defeated, Jensen has argued, by "the power which liberal economic ideas" held over "the Danish mind", and certainly over the majority of the Roskilde Estate Assembly that very strongly favored a *laissez-faire* approach.[79] In 1840, for instance, the later Minster of the Interior Peter Georg Bang (1797-1861) made the argument that, since:

> the state of the worker must depend on the competition among the workers so that their conditions will inevitably worsen as competition increases, the whole thing involved a task that cannot, due to its nature, be carried out.[80]

And with similar antipathy toward 'artificial' meddling in the economy, in 1842, another member of the Roskilde Estate Assembly, the landlord Caspar Holten Grevencop-Castenskjold (1784-1854), vehemently protested the call to subject smallholder contracts to state regulation. For, while it was certainly imperative that the state of pauperism be diminished to a degree, one should not forget, he said, that:

> pauperism is something that belongs to social relations as clothes do to men: it is that which keeps the whole in motion, brings the worker down the mines, the sailor to the sea, and the garbage man to his cart.[81]

Yet, in 1842, as Grevencop-Castenskjold spoke for *laissez-faire*, a majority of the Roskilde Estate Assembly had in fact come to the conclusion that it was necessary to regulate and eventually abolish smallholder corvée. Among the proponents of this legislation was now also Peter Georg Bang, who joined a committee which proposed that a maximum be set on the number and the length of the days that smallholders could be obliged to work, and that the amount and kind of work to be carried out should be clearly defined in the contract. At the same time, the committee also suggested that smallholders should enjoy at least six months' notice before being

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[77] Jensen, *Dansk Jordpolitik*, vol. 2, 186-190.
[78] Jacobsen, *Husbondret*, 224-234.
[79] Jensen, *Dansk Jordpolitik*, vol. 2, 188. For a thorough discussion of the debate, see also ———, *De danske stænderforsamlinger*, vol. 2, 485-503.
[80] *Roskilde Stændertidende [Tidende for Forhandlingerne ved Provindsialstænderne for Sjællands, Fyens og Lollands-Falsters Stifter samt for Island og Færøerne]* (1836-1848), 1840, cols. 615-616.
[81] Ibid., 1842, col. 2935.

evicted, and should be completely free from suffering domestic discipline during the performance of corvée.[82]

Following a few years of deliberations, within the estate assemblies and within the central administration, in 1848 the King signed a decree aiming for "the improvement of the condition of smallholders and lodgers".[83] Among its provisions was not only that pre-existing corvée agreements had to be limited to one day's work per week, but also a general ban against all future agreements involving any form of unremunerated labor service.[84] The decree also stipulated the maximum length of a working day (no earlier than sunrise, no later than sunset, and in no case more than ten hours), a minimum of six months' notice before eviction, and ban on the owner's use of domestic discipline over any married smallholder or lodgers, and over any other kind of laborer who had reached the age of twenty, if male, or sixteen, if female.[85] A few years later, in 1850, the 1848 decree was supplemented with a law passed by the Parliament stipulating that all pre-existing corvée should henceforth be converted into a fixed yearly payment in money or in kind, if and when the worker so desired.[86]

According to the historiography, this is essentially the story of a liberal defeat. For Hans Jensen, it reflected how an ingrained liberal aversion to state interference in landowner-smallholder relations eventually gave way to a strong agitation for social improvement.[87] Anette Faye Jacobsen's more recent different account adds that this liberal defeat was also helped along by the now widely shared conviction that work measured in time, as smallholder corvée usually was, was less efficient than other forms of work, such as work on piece rates (*akkordarbejde*).[88] But in my view, while it is true that the principles of free contracts and *laissez-faire* had to give way to other concerns, it would nonetheless be wrong to see this as a liberal defeat, at least as far as the underlying governmentality is concerned. Indeed, if one turns to deliberations among central state officials leading up to the 1848 decree mentioned above, it is clear that this is yet another example of liberal governmentality acting on those 'social problems' that risk subverting the capitalist labor market's ability to produce economic men.

The presence of this social-liberal concern is easily seen in the motives behind the 1848 decree that were subsequently printed in the government journal *Departementstidende*. Here, it was emphasized in rather brief terms how smallholder corvée in itself constituted "a considerable loss for the country as a

[82] Jensen, *De danske stænderforsamlinger*, vol. 2, 489.
[83] Decree of May 27, 1848, printed in *Departementstidende*, 1848, 145-153.
[84] Decree of May 27, 1848, § 5-6.
[85] Decree of May 27, 1848, § 4, 6, 9.
[86] Jensen, *Dansk Jordpolitik*, 259-260.
[87] ———, *De danske stænderforsamlinger*, vol. 2, 485-503.
[88] Jacobsen, *Husbondret*, 228-244.

whole and could not help but have an unfortunate influence on the development of the working class", but also that:

> by attaining free disposal over its labor power, the working class will rise to a greater level of independence and moral dignity and will, more than anything, acquire a greater capability to combat, with their own forces, the dangers of poverty and to work for their own preservation and progress.[89]

Quite evidently, there was something more at play than a mere concern to improve social conditions and to utilize labor-power more economically, namely the idea that by ensuring its 'total disposal over its labor' and freeing it of unreasonable and arbitrary demands on its labor-power, this class of smallholders would acquire the virtues of economic men, who proudly and skillfully navigated 'the dangers of poverty'. But how more precisely was this understood to take place? Was it purely a matter of exposing them to the insecurities of the capitalist labor market, as the preceding analysis of poor relief might indicate, or was there also something else at play?

Firstly, it is important to emphasize that to give smallholders 'free disposal over their labor' was not to provide them with the freedom to sell their labor as they pleased. On the contrary, the central idea of the 1848 law and the 1850 revision was clearly to limit their ability to choose other arrangements than to sell their labor for a wage on market terms. To borrow the words of Mitchell Dean, it meant "the removal of an alternative to wage labor as the means of procuring the means of subsistence for workers and their dependents".[90] Instead of rent being paid with labor-time, it was now to be paid with money acquired through wage-labor.

There were many reasons for this preference of money over time. On the one hand, measuring the value of work in money was preferred because unlike the measure of time, it was believed to ensure that the laborer would receive exactly what his individual labor was worth in market terms. As explained in the 1846 majority statement of the Roskilde Estate Assembly, whose views were largely adopted in the final decree, money is:

> the safest and most appropriate measure of all values, while labor, and in particular the now common weekday work [*ugedagsarbejde*], is the poorest, and that not only because the price of labor is in itself a much more fluctuating thing than the rent of land, but especially because both the work of various persons and that of the same person at various ages is of a highly unequal value.[91]

[89] *Departementstidende*, 1848, 323-324.
[90] Dean, *The Constitution of Poverty*, 165.
[91] *Roskilde Stændertidende*, LXXXI. In the 1848 motives, this idea was paraphrased in the statement that labor-time constitutes "the poorest of all measures of value" (*Departementstidende*, 323).

Thus, unlike a worker who receives the same (in this case a place to live) even though the market value of what he offers and what he receives will fluctuate in time, the worker who sells his labor on market terms will ideally be rewarded with no more and no less than what his labor is worth in market terms. In other words, what is proposed is that there should ideally be a certain transparency to labor relations, one in which every laborer is rewarded exactly as the market dictates.

But more than a question of everyone getting their due, this preference for money over time was also supported by the idea that the latter was a source of idleness and therefore both a waste of labor and a source of immorality. In the original draft for the 1848 decree, this was indeed the main idea. Authored in 1845 by the aforementioned Peter Georg Bang, who was then a deputy member of the Exchequer (*Rentekammeret*) that brought forth the decree, this draft confidently declared that:

> In the opinion of the Exchequer, it is a great loss and harm for the country that such a great part of the labor force is being reserved for the smallholder corvée in question. For it is undeniable that these compulsory laborers do not even accomplish half as much on such a working day as the rented, voluntary laborers, and even less in comparison with a laborer who works by the piece. […] The laziness that is hereby displayed everywhere during the performance of this work therefore has a demoralizing influence on the working class as a whole.[92]

In the subsequent debate in the Roskilde Estate Assembly in 1846, no one denied the superior efficiency of wage labor over corvée, although some denied that the difference was as great as Bang suggested.[93] What raised discussion was instead whether this in itself made it prudent to terminate it. In the opposition to the proposed limitations on corvée, a large minority (of 29 votes against 35) believed it was better for things to work themselves out. It being obvious to everyone that corvée was contrary to the interests of both the owner, who received poor work, and the worker, who wasted his time doing much less than he otherwise would have, it would eventually, by itself, be replaced by wage-labor. Furthermore, while denying that corvée was generally an excessive burden that led smallholders into destitution, the minority argued that by making it impossible for future smallholders to pay rent in labor, the decree would force many smallholders into a state of independence for which they were not ready.[94]

In many ways, the proponents of state intervention did not disagree that some, if not most, were unprepared for independence, but from this they drew a very different conclusion. In the eyes of the assembly majority, there was no denying that "the level of culture and economic condition [*kulturtrin og økonomiske forfatning*] of the

[92] CR. 254-194. P.G. Bang's proposal, also titled 'Allernaadigst Forestilling' (December 22, 1845), p. 40.
[93] See for instance C. N. David's comments, *Roskilde Stændertidende*, 1846, col. 2593.
[94] Ibid., 1846, LXXXII-LXXXVII.

laboring class is so poor that it will often be difficult for them" to acquire enough money through wage labor to pay rent,[95] a point that had also been raised by Peter Georg Bang in his original draft. But whereas Bang, like the assembly minority, had originally sought to defend the smallholders against the precariousness of being completely dependent on wage-labor,[96] the majority of the assembly now took the position that their lack of 'cultural' abilities to live independent lives was in fact caused by their very dependence on the non-wage-labor form of corvée in the first place. In its view, it is:

> exactly that sluggishness [*sløvhed*], which arise as a consequence of corvée, that for a great part is the cause of the difficulty which the smallholders now have with paying rent.[97]

Therefore, rather than seeking to protect a helplessly dependent class of laborers from the insecurities of a capitalist labor market, the majority confidently proposed that as corvée gradually disappeared and as the working class attained "free disposal over its labor", it would gradually, as it was slightly rephrased in the 1848 motives quoted earlier, "rise to a greater level of independence and moral dignity" and "acquire a greater capability to fight, with their own forces, against the dangers of pauperism and to work for their own preservation and progress."[98]

Of course, this idea, which eventually trumped all other concerns and put an effective stop to smallholder corvée, is a good example of how liberalism did not see capitalist labor markets as natural instances of *laissez-faire*. Rather, capitalist labor relations – viz. wage-labor relations – are sometimes something that the state must enforce.

But still the question remains: How, more exactly, was this 'artificially' produced capitalist labor market understood to fashion economic men? Generally, it appears that the positive effects of the capitalist labor market on conduct and subjectivity were too self-evident to require any elaboration. But from the deliberations leading up to 1848 law, there are a few arguments – all of them made by members of the Danish Chancellery – that indicate what was assumed. And as opposed to what one might expect, what was deemed transformative of conduct and subjectivity in the few traces we possess was not the fact of laborers being exposed to the economic insecurities of the capitalist labor market, but rather how being sovereign over one's

[95] Ibid., 1846, LXXXI.
[96] In his draft, rather than terminating corvée, P. G. Bang had merely proposed limiting it to a maximum of one day per week, a maximum that would make it possible to pay rent *in natura* without posing "an inappropriate hindrance to the maintenance of the working class and the possible progression for the better" (CR. 254-194. P.G. Bang's proposal, also titled 'Allernaadigste Forestilling' (December 22, 1845), pp. 40-41).
[97] *Roskilde Stændertidende*, 1846, LXXXI.
[98] Ibid., 1846, LXXXII.

time and energies in this market would strengthen one's self-respect and thus one's overall conduct. In a sense, therefore, it is not a story of those who are only governed by deterrence – the true objects of the workhouse – but rather those who would by themselves and without deterrence seek to preserve their independence in the face of adversity.

One sees this understanding in the Danish Chancellery's 1846 memorandum on Bang's 1845 draft. Under the signature of its four directors, among them Chancellery President Poul Christian Stemann (1764-1855) and Anders Sandøe Ørsted, the memorandum first of all recognized the very real risks that a total reliance on wage-labor would expose smallholders to. But in spite of such reservations, the Chancellery was able to dismiss the significance of these concerns by referring to the way that this state of affairs would favor 'the capable and industrious' and generally incite laborers to industry. In its words:

> it is to be presumed that a smallholder or lodger, if he is merely capable and industrious, will be able to earn what is necessary to pay his dues in a shorter time than that which he used to spend in compulsory service, just as the greater dominion that the class will thereby acquire over its labor power in itself constitutes an improvement of their personal legal standing that will presumably incite them to an appropriate use of their abilities.[99]

In other words, what the Chancellery described as transformative was not, strictly speaking, how the insecurities and possibilities of a capitalist labor market would incite laborers to industry, frugality, and providence. In its description, there are those who 'are capable and industrious' and those who are less so, and while free competition clearly favored the former, it is not in itself what transforms conduct and subjects. Instead, to the extent laborers are not already capable and industrious, this positive role is played by 'the greater dominion' laborers would possess over their time and energies, and which will 'incite them to an appropriate use of their abilities'. In other words, for the members of the Chancellery at least, what improves man is not his exposure to the capitalist labor market, but the fact of being in sovereign possession of his labor-power as he sells it for wages in the market.

Indeed, the kind of laborer who is being referred to here is essentially the correlate of the 'worthy' recipient of relief. He is a laborer with a mental disposition that will, by itself, guide him toward economic living and self-preservation, but also one which is fragile and corruptible if the laborer is reduced to degradation, in this case by experiencing excessive and arbitrary restrictions on his ability to sell his labor-power as he pleases. This is also what was expressed when Poul Christian Stemann described the corruptible effects of corvée during the 1846 Roskilde Estate Assembly debate. In his mind, seeing as corvée tied the laborer's forces and time to

[99] CR. 254-194. The Danish Chancellery's memorandum (May 23, 1846), pp. 15-16.

a stable price that was often lower than what the fluctuating market would offer, it was:

> highly corruptive because in the labor class it must feed disregard [*ringeagt*] for the only thing he [i.e., the laborer] has the ability to command, his time and his forces, and thereby lead to all kinds of material and spiritual misfortune.[100]

Thus, not unlike the proud laborer who lost his will to independence by being forced, by no fault of his own, to submit to the disgrace of being a pauper, a laborer who was hindered from enjoying the benefits of wage-labor was led to disdain those very things which alone would allow him to preserve his independence; in fact, his only real 'capital': namely his time and his forces.

Abolishing service coercion

During the 1840s and 1850s, the state also removed another important hindrance to the formation of capitalist labor market when it abolished the last remnants of service coercion (*tjenestetvang*) which, since 1791, had obliged all unmarried adults who did not have their own household, did not manage a craft, and were not continually employed with day labor, to sell their labor as servants to a master (or *husbond*) on six-month contracts.[101] It is unclear how many people had been legally obligated to enter service, but to judge from the intense interest the matter received it was clearly a significant part of the work force, who were now allowed to work as independent wage-laborers. The first step in this direction was taken in 1840 when the King, with the support of the Estate Assemblies, abolished this obligation for all males aged 28, and with the passing of the Servant Act in 1854, it was entirely removed, also for women.

As a result of these reforms, a significant part of the work force was now free to sell its labor for wages if they and their employers so desired, while those who still preferred service were put in a more independent position *vis-à-vis* their masters. In this sense, these laws were clearly reflective, as historians have pointed out, of "the ideas of freedom" that so influenced the time, in this case, "the freedom to dispose over one's labor power and the employer's freedom to employ his people as it suits his business",[102] a freedom which the proponents of abolition quite self-evidently referred to as a "natural freedom".[103] But more than simply being in favor of 'freedom' in economic affairs, the efforts to abolish service coercion also rested, I

[100] *Roskilde Stændertidende*, 1846, cols. 2610-2611.
[101] See chapter 6, pp. 238-241.
[102] Jacobsen, *Husbondret*, 256-259, 311-342, quotation 311. See also Boje, *Vejen til velstand, 1850-1930*, 293-296.
[103] *Roskilde Stændertidende*, 1840, col. 1224; *Collegial-Tidende* (1798-1848), 1841, 1.

argue, on a very particular way of thinking about governing, namely on a liberal governmentality that understood both the laborer's sovereignty over his labor *and* his exposure to the realm of competition as positive sources of conduct and subject formation. To argue this point, this section will focus on the debates in the estate assemblies prior to the 1840 revision.[104]

Of course, the abolition of service coercion did not mean an abolition of service itself. Thus, unlike the abolition of smallholder corvée, it did not entail a direct imposition of wage-labor as the sole source of the worker's subsistence, but was rather conceived as a way of allowing the capitalist labor market to expand at a pace dictated by the preferences of workers and employers. In the minds of some of its supporters, for instance Anders Sandøe Ørsted, ending the obligation would not have any revolutionary effects. It would only urge those with "superior ability and skill" to choose day labor and piecework, while "those in possession of the common capabilities", presumably the majority, would prefer the secure income and support of a master to the insecurities of wage-labor.[105] But in the minds of others, such as Peter Georg Bang, abolishing the obligation would lead to the gradual replacement of service with wage-labor as agriculture progressed and employers came to require a more flexible and mobile labor force to construct new buildings, canals, and other large-scale improvements.[106]

But in 1840, as Ørsted and Bang offered their different views on the future of service, there were still many who hoped to keep things as they were. In fact, the idea of loosening the grip on the unmarried had already shipwrecked on several occasions since it was first debated in 1836.[107] Among many of its opponents, this was out of concern to protect the laborers from the insecurities of the life of the independent wage-earner, as this life would leave them defenseless in times of unemployment (in particular during winter) and without supervision to keep them from squandering their earnings. Moreover, it was sure – in the view of many county prefects and members of the Estate Assemblies – to be a great source of vagrancy

[104] Besides the overview of the debates offered in the motives behind the 1840 decree, the materials used are the debates in the Viborg Estate Assembly in 1836 and in the Roskilde Estate Assembly in 1840 (*Viborg Stændertidende*, 1836, I: cols. 150-160, II: cols. 716-752; *Roskilde Stændertidende*, 1840, cols. 1223-1265, 1432-1488).

[105] *Roskilde Stændertidende*, 1840, col. 1259.

[106] Ibid., 1840, col. 1250. This opinion was also shared by the landlord Peter Adolph Tutein, another member of the Roskilde Estate Assembly. In his view, as long as agriculture was on a "low step" and there was therefore roughly the same need for labor all year long, employers would prefer to have permanent servants. But "as agriculture develops toward greater perfection they will at various points in time need a greater labor force than otherwise, and the desire for servants will thereby diminish in the same proportion as the desire for day laborers and pieceworkers will grow" (ibid., 1840, col. 1456).

[107] Jensen, *De danske stænderforsamlinger*, vol. 2, 485-503.

and its associated vices.[108] Indeed, at the first sign of need, many believed, such a free laborer would:

> take refuge by travelling around, selling pots and other items, and this being on the road, which demands neither effort nor diligence, only leads to boozing, the corruption of morality, and even criminality.[109]

In 1840, there was little that was new about such arguments. Rather, they reach at least as far back as the eighteenth century, whose general suspicion against 'free labor' and the immorality and uselessness of idleness was explored in the first part of this book and in chapter 6. However, what was new in the 1830s and 1840s was that this way of governing was now seen by many as a hindrance to the effects that a capitalist labor market would have on the conduct and subjectivities of the laboring population. In the debates of the Estate Assemblies prior to the 1840 decree, this criticism of service coercion took two distinct forms, which roughly mirror the two variations of the liberal art discussed in the last section; namely a mode of thinking which saw the positive effects of the market as the result of being free to sell one's labor as one wished, and another which saw these same effects as the result of being exposed to the competitive and precarious milieu of the labor market.

When the idea of restricting service coercion was first brought up in 1836, a clear majority in the Viborg Estate Assembly (45 votes against four) essentially backed it because of the positive effects the expansion of a competitive and precarious milieu would have on the conduct of the laboring population.[110] In its view, for instance, it was not a legitimate worry, as some had claimed, that leaving the unmarried free to work for piece-work rates and wages would diminish the work available for smallholders and other married men. First of all, the majority claimed, there would not be less work to be done, just more work remunerated with wages. And since this would incentivize the laborer to greater industry and diligence, as the pay would match the quantity and quality of his work, there would arise a "spirit of competition" among the day laborers, one which would "have a positive influence on agriculture as more and better work would get done".[111] But since there would be greater competition for work, it would also produce a situation which would positively transform conduct. In the words of the majority:

> The effect would most likely be that everyone was paid in accordance with his work, and that the industrious would hereby be encouraged to great efforts, while the lazy,

[108] These views were summed up in motives behind the 1840 decree, see *Collegial-Tidende*, 1841, 2-5.
[109] Ibid., 1841, 5.
[110] For the full debate, see *Viborg Stændertidende*, 1836, I, cols. 150-160; II, cols. 715-152.
[111] Ibid., 1836, II, col. 749.

> who used to have a meagre but secure income as a permanent servant, would have to make an effort in order to live.[112]

When the matter was discussed by the Roskilde Estate Assembly in 1840, this positive appraisal of competition was duly noted, but was apparently not the most essential point. Rather, just as they would do some years later as they weighed in on the abolition of smallholder corvée as examined above, the proponents of restricting service coercion took the position that it was really the fact of being free to sell one's labor-power as one saw fit that would awaken a new class of economic men. Rather than the dynamics of competition, what was central was once again the fact of being sovereign over one's decisions. Again and again, therefore, proponents of the motion stressed that the unmarried farmhands who had reached the age when one naturally acquires "the feeling of independence" (*selvstændighedsfølelsen*) must be left free to decide for themselves whether it is more in their interests to try their luck as wage-laborers or to live a more secure life as servants.[113] Peter Georg Bang, for instance, deemed it highly unreasonable for anyone who had reached the age of maturity, which for him in this case meant 28, to be denied "the ability to judge what most serves his own good" and be forced to enter a form of employment that so clearly made the laborer a less than full equal of his employer, most essentially by subjecting him to the master's power of domestic discipline.[114] In other words, what was problematic for Bang and for every other proponent of the motion in the Roskilde Estate Assembly was not how service coercion hindered or lessened competition, but rather how it subjected adult laborers to an involuntary form of tutelage, which deprived them of the status and agency of responsible and sovereign economic agents.

Thus, those who influenced the making of a capitalist labor market did not always share the same vision of how it actually produced economic men. In the eyes of some, making laborers dependent on wage-labor would work in ways similar to how the risk of poverty and the threat of the workhouse encouraged 'the lazy' to make 'an effort in order to live' (as described in the Viborg Assembly in 1836). But in the eyes of others, it was the fact of being recognized as a sovereign individual – 'worthy' of using his labor power as he pleased – that would allow a new mental disposition to arise.

But this did not mean that there were two distinct kinds of liberal governmentality. Rather, as was the case with poor policy, these two ways of imagining the production of economic men were not mutually exclusive, but could appear as two sides of the same coin. To judge from the motives of the 1840 decree, this was also the case with the limitation of service coercion. Here, Anders Sandøe Ørsted

[112] Ibid., 1836, II, cols. 749-750.
[113] *Roskilde Stændertidende*, 1840, col. 1469, see also cols. 1238, 1455, 1458-1459.
[114] Ibid., 1840, cols. 1460-1463.

carefully summed up the various arguments offered in favor of the act, but without indicating that he saw anything contradictory in them.[115] To him, as to his contemporaries, these were merely the poles of a liberal continuum of governmentality.

Suppressing vagrants, beggars, and thieves

But even if laborers were now primarily to be governed through the autonomous spur to industry, frugality, and providence that was found both inside and outside of them, legislators did not think they could do without such means of surveillance and punishment that would keep individuals within the domain of the capitalist labor market. Not least, what was needed was to suppress that unholy trinity of vagrancy, beggary, and theft that more than anything reflected an unwillingness to sustain oneself and one's family through honest and steady wage-labor.

Of course, nineteenth-century liberalism was far from the first to problematize the three figures of the vagrant (*løsgænger*), the beggar (*betler*), and the thief (*tyv*). But what was particular about liberalism was its conception of the problems they entailed and of the means to suppress them, a particularity that is best illustrated by its distinct conception of 'police'. In the eighteenth century, as explored in chapters 5-6, 'police' (and its associated term 'economy') referred to a particular form of governing and a key part of what made individuals useful and moral members of society. Yet, in nineteenth-century Denmark, 'police' would – as it would across Europe – come to refer to an institution suppressing crime and disorder, not least whatever threatened the workings of the market.[116] In the words of Mitchell Dean, "while police had earlier been the condition of order of a well-governed community, and the regulation which establish this condition, it now became the techniques for the preservation of order ('keeping the peace') by the prevention and detection of dangers to that order ('crimes')."[117]

In other words, prior to the nineteenth century, 'police' had been the primary source of good conduct and the foundation of the 'well-governed community'. But with liberalism, there arose the idea that certain areas of life already possessed their own inner mechanisms of order, not least of which was of course the sphere of 'the economy'. And out of this, there arose the idea that the role of 'police' was not so much to bring order out of chaos, but to buttress that mechanism of order which was

[115] *Collegial-Tidende*, 1841, 1-12.
[116] On this conceptual development, see Christensen, "Da politien blev til politiet." For broader European changes in 'police', see Mark Neocleous, *The Fabrication of Social Order – A Critical Theory of Police Power* (London: Pluto Press, 2000).
[117] Dean, *The Constitution of Poverty*, 196.

already in operation across society. From now on, one of its primary roles would therefore be to close off the possibility of living in ways that were contrary to those of a capitalist labor market. In this closing section of the chapter, this liberal mode of problematizing and governing the three distinct but, in the mind of contemporaries, practically overlapping figures of the vagrant, beggar, and thief will be investigated through a brief analysis of important legislative transformations taking place in the middle of the century.

Vagrancy

In the late eighteenth century, vagrancy was, as shown in chapter 6, defined as being partly or fully idle, and was problematized for the waste of laboring forces it represented (and sometimes for the vices it gave rise to). In the nineteenth century, idleness was still at the heart of the matter, but the problem with idleness was rather how it risked making laborers unable to take care of themselves and their families as they rightly should.

For one thing, this change of focus was reflected in the definition of vagrancy that was adopted in the 1829 and 1860 revisions of the laws on vagrancy. Rather than targeting those who were not exempted from the service obligation and who should therefore enter service, as was the case in 1791, the law now applied, to quote from the 1860 law, firstly to those vagabonds who were found "roaming around unemployed" and "without means of subsistence", and secondly to "anyone not known to have property, trade, or any such position that reassures that he may maintain himself without harm to the public".[118] Thus, the problem that was foreseen was not how some laborers withdrew from the labor pool and thereby denied society and the state the use of their 'laboring limbs', but rather the possibility that individuals whose only real and legal source of subsistence was the sale of their labor power would fail in their obligation to 'maintain themselves without harm to the public'.

Secondly, the state's response to such people who showed signs of vagrancy was no longer to push them into steady service, but simply to push them into steady employment. In keeping with the loosening and abolition of service coercion in 1840 and 1854, the new Vagrancy Law of 1860 instructed the police to question such persons about their means of subsistence, and if there was reason to doubt that they did so in a legal manner – i.e., by working – the police should order such persons to find steady employment. If they could not find any by themselves, they should be put to work with the help of the poor administration, and for failing to

[118] The March 3, 1860 Law on the Punishment for Vagrancy and Beggary, § 1-2, printed in *Love og Anordninger*, 1860, 331-333. The decree of August 21, 1829, § 1 contained an almost identical formulation (see *Chronologisk Register*, vol. 20, 71-75).

comply, they would be punished – as would vagabonds – with imprisonment on bread and water or, where possible, with six days of compulsory labor in a workhouse.[119]

These punitive measures were, as noted above, needed to ensure that laborers 'maintained themselves without harm to the public'. But what was inferred by this idea of 'public harm'? Neither the wordings of the 1829 and 1860 laws nor the motives explaining their purpose offer much in this regard.[120] However, during the parliamentary debate that led to the 1860 law, it becomes clear that, to the legislators, these harms were primarily of two kinds.

For one thing, vagrancy was perceived, in particular in the form of vagabondage, to bring about disorders and crimes, which were "dangerous" or at least "unpleasant for society".[121] In the words of Frederik Vilhelm Schytte (1800-1873), "such a person's wandering about is a mother and product of many crimes".[122] And in a similar vein, Christian Sophus Klein (1824-1900), jurist and later Minister of Justice, found it self-evident that even though such people, by their omission to find employment, in principle merely did something that was "contrary to good police order" and "not a crime in itself", they should nonetheless "be presumed to harbor intentions that are very dangerous for the public and public security".[123]

But more than a source of crime, vagrancy could also be harmful for society because such persons, who worked only occasionally or not at all, could easily become a financial burden on the public. As Christian Sophus Klein added:

> Just as it is a constitutional right for citizens of this country to receive public relief when they are needy, so it is also everyone's duty to work and do what one can to maintain oneself and one's family and not become a burden on the state or the municipality. It is the police's job to ensure that this happens, to assist people to find work when they cannot themselves, but also to punish such a person who seeks to evade the police's assistance and orders.[124]

Thus, the key problem with vagrancy was no longer, as in the late eighteenth century, how it represented a waste of laboring forces. Rather, in the 1860s, the problem with vagrancy was how fully or partly unemployment people endangered

[119] The 1860 law (see above), § 1-2. These punishments replaced the much stricter ones enforced with the 1829 decree (see above), according to which each repetition would double the time served, in principle indefinitely (cf. § 2-3).
[120] For the official motives to the 1829 and 1860 revisions, see *Collegial-Tidende*, 1829, 729-745; *Departementstidende*, 1859, 874-879.
[121] These words were spoken during the second session of the debate by Member of Parliament Anton Frederik Tscherning (1795-1874), see *Rigsdagstidende, Folketingets forhandlinger*, 1859-1860, col. 598.
[122] Ibid., 1859-1860, col. 586.
[123] Ibid., 1859-1860, col. 562.
[124] Ibid., 1859-1860, col. 291.

the security or property of others, or at least disturbed the public peace, but also how, due to their lack of employment, they failed to maintain themselves as they should. But a third problem with vagrancy was also, as will be studied below, its intimate association with beggary.

Beggary

In fact, in both the nineteenth-century vagrancy laws mentioned above, vagrancy and beggary were self-evidently treated together as two sides of the same coin: the former representing a person's refusal to (or lack of) work, the latter being one of the means through which such a person would usually seek to subsist without selling his or her labor-power for wages. In the 1860 parliamentary debate, this connection was for the most part assumed, but occasionally made explicit. Niels Andersen (1826-1907), for instance, complained about how many strong and able-bodied workers ended up turning to begging, and usually did so in very aggressive ways, because of their own lack of frugality and providence. In his words:

> In this country there are a bunch of people, both nationals and foreigners, who come here [i.e., Copenhagen County] during certain times of the year to earn a good pay, but while they earn well, they forget to save what would be adequate for their daily needs during the remaining time of the year when they have no income and cannot get any.[125]

To effectively close off the possibility that allowed such improvidence to escape unpunished, Niels Andersen agreed with the majority that it was necessary to make it possible for the police, as confirmed in the 1860 revision, to arrest and charge vagabonds on the spot, even without a prior police injunction to seek employment and without such a person having been caught in the actual act of begging.[126]

But the intimate relation between vagrancy (as unemployment) and begging was also reflected in the particular conception legislators had of begging. Quite intentionally, the 1860 law itself contained no definition of beggary, but aimed to rely on "the conception of this offense that has been established by the courts through years of practice".[127] And as the Minister of Justice Andreas Lorenz Casse (1803-1866) made clear, in the eyes of the courts and the police, the offense of begging did not refer to those "who go around calmly asking for a loaf of bread or a few shillings [*en skilling*] from a friend or from some acquaintance". Rather, it is generally speaking only those who either "harass" their fellow citizens or "will not

[125] Ibid., 1859-1860, col. 603.
[126] The March 3, 1860 Law on the Punishment for Vagrancy and Beggary, § 1, printed in *Love og Anordninger*, 1860, 331-333.
[127] *Departementstidende*, 1859, 877, sub ad § 3.

work, even though they could" who will be charged and convicted of beggary.[128] Thus, besides punishing those disorderly people who asked for help in an importunate and harassing manner, the suppression of begging was ideally directed toward those sorts of people who appeared to lack the virtues of industry, frugality, and providence, and who were therefore in need of deterrence to keep them from preying on private charity.

As it appears, the problem of beggary was no longer, as it was in the Poor Law of 1803, how it short-circuited production and represented a waste of laboring forces. Now, the problem was more precisely how it allowed a specific type of person – namely those 'who will not work, even though they could' – to neglect their obligation to maintain themselves. Accordingly, its objective was not to hinder everyone from asking others for a little contribution, as the Poor Law of 1803 had sought to.[129] Rather, its objective was merely to punish those whose conduct made it clear to the police and the courts that they were not true economic men. Thus, much like those who needed to be deterred by the workhouse to prefer independence over relief, the aim behind the suppression of beggary was to deter those demoralized, dangerous, and therefore abnormal individuals who had somehow lost their will to independence and self-preservation. To explore this further, the last section of this chapter will consider the deliberations surrounding the revision of the laws about theft later in the decade, during the drafting of the 1866 Penal Code.

Theft

In the drafting of the 1866 Penal Code (*Borgerlig straffelov af 1866*), the provisions on theft were not the ones that drew the most attention among Members of Parliament.[130] Unlike many other aspects of the Penal Code, the laws on theft had been revised in 1789, as was explored in chapter 3, and also as recently as 1840, with a decree authored largely by Anders Sandøe Ørsted.[131] In large part, it was in line with the principles of Ørsted's decree that the Penal Law Commission, which authored the draft for the new Penal Code, drew up its provisions on theft.[132]

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[128] *Rigsdagstidende, Folketingets forhandlinger*, 1859-1860, col. 615.

[129] To recall, in the 1803 Poor Law, the ban on beggary was framed as a way to avoid some people enjoying more of the fruits of other people's labor – through relief – than was absolutely necessary to supplement what they might be able to earn by working (see chapter 6).

[130] According to Rune Holst Scherg, the most heated subjects of the parliamentary debate in 1864-65 were the possible abolition of capital punishment and the punishments for dueling and treason ("Synd, Forbrydelser og Laster," 83-85).

[131] For the long road toward the April 11, 1840 decree, see Karl Peder Pedersen, "Den store tyveridebat 1813-17," *Historisk Tidsskrift (Denmark)* 113, no. 1 (2013).

[132] See the Penal Commission's motives on the crime of theft as presented to Parliament in 1864, printed in *Rigsdagstidende, Folketingets forhandlinger*, 1864-1865, Tillæg A, cols. 820-858.

In accordance with Ørsted's Decree on Theft (as well as the 1789 decree), the aim of this Penal Law Commission – which had worked since 1859 and in which for instance Christian Sophus Klein was given a seat – was to make the punishment proportional to the 'danger' of the crime and the immorality of the criminal.[133] For this reason, it adopted the distinction between simple and major theft and gave a special emphasis to recidivism, as well as to the particular circumstances of the case. However, the commissioners generally wished to soften the punishments,[134] but also to broaden the application of a special provision included in the 1840 decree, namely the category of so-called "exempted thefts" (*undtagne tyverier*) that should never be punished with more than a fine of 20 rixdollars or 14 days of imprisonment.[135] In this category, the 1840 decree included such acts that were objectively speaking acts of theft, but which did not indicate that the criminal was generally disposed to live off the property of others. According to Ørsted's explanation, these were acts which involved only "an insignificant value" and which were carried out in a way that "did not indicate that will to take the property of others, which pertains to the true nature of thievery".[136]

In the eyes of the penal law commissioners, this was a useful distinction. In its own draft, and in the final code, the provision would refer to those acts "that are much less worthy of punishment [*væsentlig ringere grad af strafværdighed*] than theft in general".[137] Ideally, it would refer to such acts in which there is therefore "an inadequate basis for assuming that the culprit would generally and in other instances lack the appropriate respect of the property rights of others".[138] The challenge, however, was to find a way to make room in the law for this less immoral offender, who should of course not be totally exempted from punishment, without making the law inadequately deterring for those who would not by themselves keep away from the property of others.

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[133] Like the 1789 Decree on Theft, Ørsted's decree of April 11, 1840 distinguished between simple and major theft and between different first-, second-, and third-time offenders, but specified that the punishment should vary in accordance with the particularity of the act and the morality of the offender, e.g., "when the criminal's overall conduct shows that harsher punishment is needed to overcome his criminal disposition". (Decree of April 11, 1840, §§ 1-20, quotation § 3, printed in *Chronologisk Register*, vol. 23, 54-89.)

[134] The Commission's suggestions, which would eventually be adopted in the final code, were for instance to lower the minimum punishment for second-/third- and fourth-time simple theft to 15 days on bread and water and one year of penitentiary labor (*strafarbejde*) respectively (*Rigsdagstidende, Folketingets forhandlinger*, 1864-1865, Tillæg A, cols. 460-461, 820-838). For these same punishments, the 1840 decree set a minimum of one, four, and eight years of penitentiary labor (Decree of April 11, 1840, §§ 13-15).

[135] Decree of April 11, 1840, § 30.

[136] Cited in the Penal Commission's motives for their draft (*Rigsdagstidende, Folketingets forhandlinger*, 1864-1865, Tillæg A, col. 844).

[137] Ibid., 1864-1865, Tillæg A, cols. 460-461 (§ 231).

[138] Ibid., 1864-1865, Tillæg A, col. 844.

During the parliamentary debate, there were some, for instance Carthon Kristoffer Valdemar Nyholm (1829-1912), who proposed to distinguish in accordance with the value stolen, so thefts of less than one rixdollar could qualify for exemption.[139] For it was true, he believed, that those who stole amounts smaller than this were generally "driven to the crime by need and want rather than by some inborn disposition for thieving [*medfødt tyvagtigt anlæg*]". Indeed:

> these who will perhaps never again enter the path of the criminal limit themselves to these petty thefts, if I may say so, out of a feeling of modesty, as opposed to those who steal out of some inborn drive and who will usually continue and enter the criminal class [*forbryderklassen*] once they have begun.[140]

Nyholm's proposal did not find much favor during the debate, however.[141] In fact, a similar idea had already been dismissed during the deliberations of the Penal Law Commission. In its motives, it agreed:

> that it is far from always the small thefts which are the least dangerous; on the contrary, a hardened thieving disposition [*et forhærdet tyvagtigt sindelag*] usually appears through a series of thefts, each of which concerns an object of a value below what could be considered as a fixed boundary[.][142]

No doubt, what was being feared here was that a provision such as Nyholm's would allow thieves of 'the criminal class' to escape the severity of the law and become classed together with those who were not 'true thieves'.

To avoid this, the commissioners followed Ørsted, who had originally specified that exemption could only be made for acts that not only involved "insignificant value", for instance stealing "fruit in another man's garden or food and drink from his field for immediate consumption", but which were also carried out without breaking or entering and under conditions that would not generally indicate that "no genuine thieving will [*egentlig tyvagtig vilje*] had been present".[143] During the parliamentary debates on the new penal laws of the mid-1860s, most members, including Minister of Justice Carl Leuning (1820-1867), took a very similar view, but were also willing, as were the commissioners, to loosen the definition a little so that it might apply to more cases.[144] Accordingly, in the final code, a more open definition was adopted, but also one that allowed judges to issue somewhat greater punishments for 'exempted theft' than before (now set at a fine of up to fifty rixdollars or one month

[139] Ibid., 1865-1866, cols. 1407-1408. For Nyholm's proposed ammendment, see col. 916.
[140] Ibid., 1865-1866, col. 1408.
[141] Ibid., 1865-1866, cols. 1420, 1430, 1438, 1469.
[142] Ibid., 1864-1865, Tillæg A, col. 843.
[143] *Collegial-Tidende*, 1840, 444.
[144] *Rigsdagstidende, Folketingets forhandlinger*, 1865-1866, cols. 915-916, 1382-1383, 1420.

in prison).[145] With this, Danish legislators once again aimed to distinguish – as they had done in laws on poor relief, vagrancy, and beggary – between those abnormal and uneconomic individuals who preferred to prey on others rather than maintain themselves, and those who were, although not entirely blameless, at least far removed from those fallen individuals who had lost their will to independence.

In summation, what took form during the 1860s revision of the laws of vagrancy, beggary, and theft was essentially a regime that aimed to support the production of economic men. It was a regime that targeted those who would, without the deterrence of policing and punishment, tend to prey on the general public for their maintenance. But at the same time, it was also a regime that sought to make room for the less immoral or 'unworthy'; those who had not made a habit of preying on or being dangerous to society, such as the person who received a little support from friends and relatives or who stole only out of hunger and for immediate consumption. Because it the law failed to exempt these individuals from the severity of the law, it is tempting to say, it would only degrade and corrupt a class of persons who had not, unlike the abnormals, completely lost their will to independence. Thus, just as the workhouse, smallholder corvée, or service coercion did, the law would tend to subvert the objective of liberal governmentality: the production of economic men.

The governmentality of 'free labor'

The above has aimed to tell the story of the governmentality that buttressed the legislative transformations toward the making of a Danish capitalist labor market during the nineteenth century. As I have tried to show, this was a liberal governmentality that tended to oscillate between two poles. First, it oscillated between two *problematizations*: on one side, how too easy access to poor relief and other non-wage forms of subsistence (like corvée, begging, or theft) reduced the risk and reality of poverty that should ideally teach laborers the economic virtues of independence, frugality, and providence; and on the other, how demeaning forms of relief (i.e., workhouses and loss of civil rights) and coercive labor relations (i.e., service coercion) risked corrupting the will to independence that some 'worthy' laborers already possessed. Secondly, it oscillated between two *knowledges*: on one side, a typically nineteenth-century political economy that understood exposure to poverty as natural and as the source of progress; and on the other, an older knowledge (related to the rural reforms of the late eighteenth century) of how being recognized as a sovereign subject will vest individuals with a sense of self-worth, which in this case will make them committed to maintain their independence at all costs. Thirdly, it oscillated between two *arts*: on one side, an art using civil rights

[145] Penal Code of February 10, 1866, §235, printed in *Love og Anordninger*, 1866, 57-122.

(e.g., the freedom to choose service) and various forms of deterrence (e.g., the workhouse) to place laborers in a both sovereign and precarious position that would make them into economic men; and on the other, a more individualizing art that distinguished the 'worthy' from the 'unworthy' and the 'normal' from the 'abnormal', and made special arrangements for the former.

Admittedly, this analysis is not based on a full and exhaustive account of all the many major and minor legislative transformations that were part of the making of the Danish capitalist labor market. Yet, for the purposes of this book, I believe it provides an adequate basis for exploring the singularity of colonial governmentality in a clearer comparative light. For, as the analysis turns back to post-emancipation Danish West Indies, it is exactly these domains of governing that are of the greatest importance, namely the parallel domains of poor relief, employment relations, and the suppression of vagrancy, beggary, and theft. The essential question is now: Were these parallel colonial domains also organized in accordance with a liberal governmentality like the one studied here?

CHAPTER 8: A DISLOCATED LIBERALISM

In autumn 1879, almost one year after the Fireburn uprising, the Colonial Government and the Colonial Council of St. Croix were discussing and finalizing plans for the new regime of 'free labor'. The process had been rather a brief one. In August, Governor Janus August Garde reported to the Ministry of Finance that until recently the majority of the locals, in particular the planters, had not looked favorably on the proposed "transition toward free labor". In their view, he reported, "the laboring population's unwillingness and lack of desire for work" would mean a significant loss of labor supply. Yet, by August, Garde claimed to have won over "many of the island's influential men", and – confident that he would be able to pass the new policies through the Colonial Council – he forwarded to the Ministry the three pieces of legislation that would define this order: a Master and Servant Act, an Act on Vagrancy and Beggary, and finally a new administrative ordering of poor relief.[1]

By early September these legislative acts had all passed through the Colonial Council, and by late October they had been approved by the home authorities. In the years that followed, Governor Garde – and, from 1882, his successor Governor Christian Henrik Arendrup – were therefore at the helm of a colonial labor regime that was, at least formally speaking, 'free', and which was to some extent, as it was claimed, modelled after "the respective legislation in the mother country".[2]

Even so, there were also some important differences that are worth pointing out. For one thing, although the duration, wage, and terms of employment were now left to the voluntary and mutual agreements of laborers and employers, with the new Master and Servant Act, the relationship between them was classified as a kind a master-servant relation. In the colony, therefore, the patrimonial powers of masters over their servants did not only apply to the particular group of people who had chosen to enter service, but automatically applied to all labor relations, regardless of whether they involved work as a domestic, a rural laborer, or a craftsman.[3]

[1] CDC. 906. Garde's letter to the Ministry of Finance (August 12, 1879).
[2] Ibid.
[3] CDC. 906. The provisional Master and Servant Ordinance of September 13, 1879 (*Foreløbig Anordning angaaende Tyendevæsenet paa de Dansk-Vestindiske Øer*), § 1. In the ordinance,

Accordingly, for disobedience, repeated failure to appear for work, and generally disorderly conduct, black laborers were subject to a form of criminal prosecution that was reserved for a particular group of workers in the metropole. And for non-compliance they could be – depending on the case – issued a fine, imprisoned on bread and water, or even sentenced to 'compulsory labor' (*tvangsarbejde*), a particular colonial form of punishment that combined incarceration with various forms of public work, as will be explored later in the chapter.[4] From this comparative perspective, therefore, it is questionable whether this ordinance was "reasonably fair and equitable", as argued by some.[5]

However, the new colonial order was more closely aligned with the metropole's when it came to the 1879 Vagrancy and Beggary Act, which more or less copied, with some additions, the metropole's law on this subject from 1860. Accordingly, a colonial vagrant was now defined both as one who was found "roaming around without employment and without being able to show that he possesses means of subsistence" *and* as one who had, after the police's injunction, failed to find adequate work.[6] But the punishments for colonial vagrancy were somewhat stricter. While metropolitan judges could never sentence vagrants to more than eight weeks of prison or six months of penitentiary labor, in the colony the maximum was now two years of 'compulsory labor'.[7] For reasons that will be explored later, the same relative harshness did not apply to those found guilty of asking others for alms (including letting or ordering one's dependents to beg).[8]

Finally, the colonial realm of 'free labor' was surrounded by a very different administration of the poor. Although there were some who spoke for the introduction of workhouses and generally for making relief a shameful and deterring thing to receive, in 1879 and on later occasions, the goal of the Colonial Government was instead to provide outdoor relief in accordance with the extent of the want (although this relief was in itself, as the Government was well-aware, entirely insufficient). In 1879, it therefore encouraged the planters to continue, as was the

"immorality or other vicious conduct, going out at night, or allowing strangers to stay in the house without permission" were defined as legitimate grounds for having a contract cancelled and a fine issued (§ 4, 6). See also Jensen, *From Serfdom to Fireburn and Strike*, 138-139. The final law of October 23, 1879 is printed in *Love og Anordninger*, 1879, 471-478.

[4] Ibid., § 11-12. In the Danish master-servant legislation, disobedience was punishable with a fine or bread and water for up to twenty days (*Tyendeloven* of May 11, 1854, § 26, printed in *Love og Anordninger*, 1854, 530-549). The punishment of 'compulsory labor' will be addressed later in the chapter, pp. 339-349.

[5] Tyson, "'Our Side'," 151.

[6] CDC. 906. The provisional Vagrancy and Beggary Ordinance of September 13, 1879 (*Foreløbig Anordning for de Dansk Vestindiske Øer om Straffen for Løsgængeri og Betleri m.m.*), § 1-2. The final law of October 23, 1879 is printed in *Love og Anordninger*, 1879, 478-480. Cf. the March 3, 1860 Law on the Punishment for Vagrancy and Beggary, § 1-2, printed in ibid., 1860, 331-333.

[7] Ibid., § 6.

[8] Ibid., § 7-8.

rule under the 1849 Labor Act, to care for the elderly and infirm of their former employees, while it ordered the Public Poor Commissions on St. Croix to offer relief to those who needed it.[9]

In other words, there was much in this legal regime of 'free labor' that was very different. For the purposes of this analysis, however, the point is not only that this regime was not really as "free and modern" as Governor Garde claimed it was.[10] Rather, the central problem here is to assess the singularity of the governmentality which was at the heart of this colonial regime, and to do so in light of the liberal governmentality that was examined in the last chapter. And essentially, what emerges through such a comparative analysis is, I would argue, the workings of a radically different governmentality; one that was never meaningfully 'liberal', but took the form of a kind of coercive and protective guardianship. Indeed, rather than seeking to produce the conditions that would autonomously encourage or force black laborers to become economic men, what was foundational from the very beginning of the 'second free', and what had in fact emerged even prior to the abolition of slavery in 1848, was instead a governmentality aiming to produce healthy and industrious laborers and to do so through a number of punitive, pedagogical, and social means that had little or nothing to do with the ideally transformative effects of a capitalist labor market.

But all this does not mean that the colony was entirely closed off and unaffected by the rise of liberalism, in the metropole or elsewhere. Rather, the story of this colonial regime of 'free labor' is, to borrow the words of Patrick Joyce, the story of a "dislocated liberalism",[11] one that was out of joint, but still retained a kind of lingering presence. To begin to flesh out what this 'dislocation' entailed in the case of the Danish West Indies, but also to place the argument of this chapter in the context of related work on colonial liberalism more generally, the next section will introduce what I consider to be a rather typical example of the kind of reasoning that was foundational to the colonial governmentality in the years after the 'second free'. After this, and in order to pave the ground for a thorough analysis of this governmentality, the analysis will turn to the period immediately before and after

[9] A draft for an 'Ordinance containing enactments concerning the providing of maintenance for poor and infirm labourers of the Rural Labouring Population in St. Croix' was submitted for debate in the Colonial Council in November 1879, proposing to retain the planters' obligation to care for the elderly and infirm, but with suitable assistance from public funds (see *Proceedings of the Colonial Council*, 1878-1879, cols. 282-283). At this point, however, the Government had already decided to make this legal obligation voluntary, and to have the Public Poor Commissions relieve the rest (see CDC. 906. The West Indian Government's letter to the Ministry of Finance (October 7, 1879); Governor Garde's letter to President Stakemann (September 11, 1879); Upper Court Judge Rosenstand's letter to the Colonial Government (September 3, 1879)).

[10] CDC. 906. Garde's letter to the Ministry of Finance (August 12, 1879).

[11] Patrick Joyce, *The Rule of Freedom – Liberalism and the Modern City* (London: Verso, 2003), 244-257.

the abolition of slavery in 1848, a time which saw the formation and consolidation of those problematizations, knowledges, and arts of government that had at the time of 'the second free' become so widely accepted that there was rarely a need to articulate them clearly. Lastly, the chapter moves on to the deliberations and discussions forming the post-1878 regime, looking not only to servant and poor policy, but also to the suppression of vagrancy, beggary, and theft.

The 1879 report

The example I wish to draw upon to flesh out the fundamental elements of the colonial governmentality of 'the second free' is a text that was briefly mentioned in the introduction to this part of the book, namely the report by the parliamentary committee sent out following the labor riots in 1878. Besides Frederik Schlegel, the former Governor, the committee consisted of two Members of Parliament, Martin Levy (the Left) and Carl Tvermoes (the Right). All three had spent two months on St. Croix investigating the causes of the riot and its resulting damage,[12] while acclimating, it appears, to the governmental rationalities that were already held among a good many of the colony's officials and elites.

As noted already, the committee recommended abolishing the 1849 Labor Act. Not only did this act and its later amendments contain many intolerable coercions and restrictions, stipulating as they did a fixed and uniform wage as well as very inflexible terms for the duration and termination of contracts; but the grievances the system had caused among the laboring population were also, the committee argued, a function of its inconsistencies. For in practice, they argued, the system did little to hinder laborers from escaping its restrictions and obtaining wages and freer conditions as day laborers or task-workers, or 'porters' as they were commonly known. Living in the cities, but working side by side with tied rural laborers, the numbers of 'porters' had surged in the 1870s, although it is difficult to say by how much.[13] In any case, for the committee, they were now so numerous that they gave rise to "envy and a deeply felt dissatisfaction" among those who had not escaped the restrictions of the labor regulations.[14]

But more than giving rise to dissatisfaction, the committee also criticized the labor regulations for their effects on the conduct and subjectivity of laborers. In its view, as noted already, they produced a "depressing and dulling" state of affairs where "industry and competence lacks a greater reward than that obtained by the lazy and competent".[15] Yet, what is peculiar but also typical about the committee's

[12] Nørregaard, *Dansk Vestindien 1880-1917*, 7-12.
[13] Jensen, *From Serfdom to Fireburn and Strike*, 64.
[14] *Betænkning afgivet til Finantsministeriet*, 9.
[15] Ibid., 8-9.

denunciation of the demoralizing effects of 'unfree labor' was that it did not conceive of its opposite, namely 'free labor', as a means to improve the conduct and subjectivity of black laborers. Indeed, while the committee was certainly recommending liberalization, it framed it as a step to accommodate to a widely held dissatisfaction, but not as a mechanism that promised economic, moral, and overall societal improvement. For the purpose of improvement, which "for the great majority of the rural laborers" could not be expected to progress with anything but "few and slow" steps, the committee instead thought in more coercive and educational terms, putting its trust in a harsh suppression of vagrancy coupled with an improved system of public instruction ensuring "the acquisition of sound moral notions".[16]

Although the report did not discuss the reasons why black laborers would not generally be positively transformed by their exposure to 'free labor', it did make it clear that they generally lacked the qualities that would allow them to be drawn by the possibilities of a free labor market. Indeed, in the words of the Commission, black laborers generally possessed:

> a quite salient inclination to work only a few days of the week so as to obtain what little they require for the maintenance of life and to spend the rest in idleness and enjoyment.[17]

On the one hand, this lazy and careless way of life was portrayed as a function of "the negro's overall character", which meant their lack of parsimony, providence, and in fact even the desire for material betterment.[18] To be sure, there were some who possessed "a desire to rise above the generally low material conditions". But for the most part, this desire was merely an expression of "vanity" and not of the true virtues of 'economic man', namely "foresight" and "parsimony", which the Commission deemed exclusive to the very select few who managed to become smallholders who owned some land for themselves, a class locally known as 'squatters' (in 1915, smallholding still covered only three percent of the cultivated land on St. Croix).[19] The laziness and carelessness that characterized black laborers was therefore seen to reflect both a lack of economically informed wants and desires, but also the kind of "savagery" that a man like Thomas Malthus had described as the uncivilized and improvident immediacy of "living from hand to mouth" and of "enjoying oneself while one can".[20]

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[16] Ibid., 19.
[17] Ibid., 10.
[18] Ibid.
[19] Ibid., 19. On squatters, see Jensen, *From Serfdom to Fireburn and Strike*, 56.
[20] See Ute Tellmann, "Catastrophic Populations and the Fear of the Future: Malthus and the Genealogy of Liberal Economy," *Theory, Culture & Society* 30, no. 2 (2013).

But unlike the 'domestic savages' in European metropoles, who would – either permanently or at regular intervals – come to experience the tough realities of scarcity in a competitive milieu pressing against the limits of subsistence, in the Danish West Indies – the Commission suggested – the improvident immediacy of 'savage life' would not be met by a similar mechanism of autonomous deterrence and punishment. Instead, since the climate offered an abundance of easily obtainable nourishment in the shape of fruits and sugar cane and allowed "the indigene to spend the night under the open sky", it was assumed that the black population was not generally exposed to any pressures of scarcity, at least not to the same degree as in the metropole, whose cold climate and niggardly land would not, without a great deal of effort, yield a subsistence.[21] In sum, not only were black laborers on St. Croix generally too careless and improvident to be governable as 'economic man', but they also inhabited an environment that was free of the state of scarcity that would ideally teach men to be economic in the first place.

As it appears, in this way of reasoning, liberal governmentality played an ambiguous role. On the one hand, in waiving the idea of shaping the conduct and subjectivity of laborers through the formation of a capitalist labor market, the liberal art of governing was in a sense absent or at least perceived as insignificant. But at the same time, liberalism was also very much at the basis of the views of the commissions. After all, how could it have problematized colonial laborers as uneconomic and the colonial context as radically abnormal if it had somehow stepped outside 'the liberal gaze'; that is, if it had not presupposed as a norm the kind of economic subjectivities and mechanisms – of poverty, scarcity, competition, and so forth – through which liberal governmentality would seek to govern?

Studying liberalism's colonial career on St. Croix

In viewing liberalism's colonial career as an ambiguous or 'dislocated' one, this chapter owes much to the voluminous historiography on the relationship between liberalism and colonialism. Not least, it owes much to those scholars who have sought to show how liberalism's ideology and modes of government were not so much, as some have claimed, blocked by colonialism and "the colonial rule of difference",[22] but rather something that influenced colonial rule in a number of intricate ways.

Not least, it relies on a body of scholarship that has shown how liberal rationalities could, as exemplified above, furnish colonial regimes with particular ways of problematizing and governing those they deemed 'abnormal'. According to some,

[21] *Betænkning afgivet til Finantsministeriet*, 15-16.
[22] Chatterjee, *The Nation and its Fragments*, 21. See also Prakash, *Another Reason*, 125-126.

this followed from a deep inner tension within the intellectual tradition of liberalism. For Uday Singh Mehta, for instance, the tendency of key liberal thinkers such as John Locke or John Stuart Mill to exempt colonial populations from universal liberal principles – such as man's supposedly innate capacity for reason and natural rights of liberty and political representation – should not be understood as a rupture within liberalism, but rather as entirely consistent with liberalism's "exclusionary impulse" – that is, its inclination to deploy particularistic exceptions to universalist principles whenever and wherever individuals and communities have failed to elicit sufficient evidence for their ability 'to reason' and to govern themselves in a civilized manner.[23]

But for others, for instance Barry Hindess and Mitchell Dean, this had less to do with liberal philosophy than with a form of calculation constantly operating within liberal rationalities of rule. Thus, rather than conceptualizing colonial authoritarianism – in the shape of paternalism, exceptionalism, and the suspension of rights suffered by non-Western peoples – as an alien element that marks the limits of liberal governmentality, Hindess and Dean show in various ways how it might be an extension of a familiar liberal distinction between those individuals or groups who are capable of governing themselves in accordance with the norms of economic men and those 'abnormals' – be they women, children, madmen, paupers, or colonial subjects – who are not.[24]

Yet, where this analysis departs from these approaches is that its focus is not so much on how liberalism might have shaped colonial authoritarianism, but rather on how it might have shaped a colonial regime of 'free labor'. Thus, what is being argued here is not how a liberal definition of colonial subjects and conditions as 'abnormal' made it necessary to suppress 'freedom', but rather how it made it meaningless to assume that one could in fact govern black laborers through a liberal art of governing, setting up the conditions that would allow autonomous economic mechanisms to produce industrious, frugal, and provident wage-laborers. In other words – as briefly exemplified above – in the Danish West Indies following 1878, the role of liberalism was not so much to disqualify 'free labor', but rather to wrest it of any positive role in the refashioning of conduct and subjectivity.

For this reason, the argument of this chapter is also somewhat different from another important body of scholarship on liberalism's colonial career, namely one that shows how liberal arts of government were not so much, as I will argue, ousted or made irrelevant, but rather tended to seep into the into colonial governmentality in all sorts of ways, for instance as colonial regimes aimed at governing their subjects

[23] Uday Singh Mehta, *Liberalism and Empire – A Study in Nineteenth-Century British Liberal Thought* (Chicago & London: The University of Chicago Press, 1999), 47.

[24] Barry Hindess, "The Liberal Government of Unfreedom," *Alternatives: Global, Local, Political* 26, no. 2 (2001); Mitchell Dean, "Liberal Government and Authoritarianism," *Economy and Society* 31, no. 1 (2002).

by harnessing their material self-interest.[25] Not least, what is presented here is different from a version of this argument which is found in Rasmus Sielemann's work on the labor regulations in effect between 1849 and 1879 and in the Colonial Government's late-century attempt to promote smallholding – or "squatters" – among the Afro-Caribbean population. In his view, both of these measures were characterized by a "search for the fabled *homo oeconomicus*", the aim being to "gradually introduce 'subjects of interests' into economic life".[26]

The following draws on many of Sielemann's insights (not least in regard to the labor regulations prior to 1879; more on this below), but as noted already, my approach and larger argument are somewhat different. Rather than examining colonial governing in light of Foucault's eighteenth-century conception of liberalism as a matter of governing through interest, I do so in light of the typically nineteenth-century liberal governmentality that emerged in the metropole. Furthermore, my main focus is not on the labor regulations prior to 1879 or the admittedly marginal – and in any case rather unsuccessful – attempt to promote smallholding on St. Croix. Rather, my focus is on the making of a free labor market after 1879 and the larger question of how nineteenth-century liberalism shaped or failed to shape colonial governmentality.

Lastly, my analysis deals with a greater number and variety of sources. While Sielemann draws on a rather narrow number of published texts, the following draws on the much more compendious material that has also been used by Peder Hoxcer Jensen in his book *From Serfdom to Fireburn and Strike*. As in Jensen's book, much of my empirical material on labor policy derives from two source groups. First, there is a collection of archival material on 'labor conditions' (*arbejdsforhold*), making up around 1,500 usually hand-written pages authored by colonial officials, which were received and filed together by the central authorities (i.e., the Colonial Directorate of Colonies) in order to keep track of developments in the Danish West Indies.[27] Besides memoranda on and drafts for colonial ordinances and copies of these in both Danish and English, the files on 'labor conditions' also contain lengthy

[25] See for instance Scott, "Colonial Governmentality"; Joyce, *The Rule of Freedom – Liberalism and the Modern City*, 244-257; Rud, *Colonialism in Greenland – Tradition, Governance and Legacy*, 41-51.
[26] Sielemann, *Natures of Conduct*, chapter 5, citation 235.
[27] These files are located in CDC. 905-906.

Figure 7: *The Colonial Council of St. Croix in session in the Government Hall, Christiansted, undated. National Museum of Denmark.*

correspondence between Crucian officials and the Governor, from 1871 residing on St. Thomas.

Second, there are the sources that came out of the debates taking place in the Colonial Council (Figure 7). As previously mentioned, the Colonial Council was set up following the Colonial Law of 1852 to serve in an advisory capacity. Originally, it had twenty members, sixteen of whom were elected on the islands and four by the King. After the revision of the Colonial Law in 1863, however, the Council was split in two, with one for St. Croix and one for St. Thomas and St. John. Each council now gained a formal legislative mandate on 'internal matters', and therefore also on labor policy. On St. Croix, the Colonial Council would henceforth consist of 13 locally elected and five royally elected members (many of whom would be Danish colonial officials).[28] After each session, minutes would be published in the series *Proceedings from the Colonial Council* (in Danish *Kolonialrådets Forhandlinger*). Here one finds transcripts, usually verbatim and highly detailed, of the debates and the various motions considered. The *Proceedings* were originally bilingual, with one column in Danish and another in English, but at least by the 1870s, the

[28] 'Internal matters' (*indre anliggender*) meant whatever occurred within the borders of the colony, along with its harbors and naval territory (Olsen, "De dansk-vestindiske øer og junigrundloven," 24). On the 1852 and 1863 colonial laws, see also Skrubbeltrang, *Dansk Vestindien 1848-1880*, 43-45, 58-60.

transcripts are only in English, most likely because this was the only language used during the meetings. As a rule, I have read and cited the English version.

It is primarily on the basis of these sources that the following analyzes the colonial governmentality that gave meaning and shape to the colonial regime of 'free labor'.[29] But to do so, it is first necessary to turn to the period just before and after the abolition of slavery in 1848. For even though much of the legal and administrative regime from this period was abolished in 1879, what remained in place was a particular kind of problematization, a particular kind of knowledge, and the broad contours of an art that aimed to govern laborers not as one would govern 'economic men', but through a whole number of coercive and protectionist measures that in fact have much more in common, I will argue, with the governmentality of 'economy' explored in chapter 6.

Governing without 'economic man', c. 1840-1870

On July 3, 1848, Governor General Peter von Scholten (1784-1854) officially proclaimed the emancipation of the Afro-Caribbean slaves of the Danish West Indian islands. As he did so, he also introduced the first of many models for the organization of labor in post-emancipation society that were to be discussed, contradicted, and implemented during the rest of the century. In von Scholten's proclamation, the principle of this organization of labor would be voluntary contractual relations. Thus, in the future, "labor" was to be "paid for by agreement", and the planter's obligation to provide allowance and housing on plantations should cease; the former immediately, and the latter three months following the proclamation. Henceforth, only the "old and infirm who are not able to work" would be entitled to the support of their former masters, while all others – it was implied – should ideally live as free independent laborers.[30] But even if von Scholten's program for emancipation appeared to aim, as some have argued, to establish a "free labor market" and transform "slaves into free laborers",[31] in the eyes of colonial authorities more generally, it was self-evident that black labor required a very particular kind of management.

[29] Besides these two source groups, I have also explored sources on colonial penality. For more on this material, see later in this chapter, pp. 339-349.

[30] The July 3, 1848 proclamation is printed in Vibæk, *Dansk Vestindien 1755-1848*, 293.

[31] Niklas Thode Jensen, Gunvor Simonsen, and Poul Erik Olsen, "Reform eller revolution, 1803-48," in *Vestindien – St. Croix, St. Thomas og St. Jan*, ed. Poul Erik Olsen. Danmark og kolonierne (Bosnia-Herzegovina: Gads Forlag, 2017), 220-223; Jensen and Olsen, "Frihed under tvang og nedgang, 1848-78," 298-299.

Some years prior to von Scholten's sudden Act of Emancipation, the Colonial Government had started work on new labor legislation in preparation for the seemingly inevitable dissolution of slavery, a work that received extra impetus following the Royal Proclamation of July 27, 1847 that had decreed a gradual emancipation over a 12-year period.[32] A few months later, Governor von Scholten appointed a number of colonial officials, planters, and other West Indian civilians to form a commission with the purpose of preparing the necessary reforms.[33]

At some point prior to the sudden Act of Emancipation in July 1848, this commission presented the metropolitan authorities with a draft for a new Vagrancy Ordinance (*Løsgængeriforordning*).[34] In essence, the draft ordinance presented itself as an adoption of the principle of the metropolitan vagrancy laws, as found in the Vagrancy Act of 1829.[35] But rather than prescribing service, as the metropolitan law did, as one among many legitimate forms of employment for those who possessed no other capital than their labor-power, the colonial draft proposed to make service the rule. The only persons who would be exempted from the obligation to enter service would be the wives and widows of laborers, as well as minor property owners.[36]

Yet for the large majority of future emancipated laborers, a much more careful and totalitarian regulation of labor relations was necessary, most importantly because of "the inclination to unemployment that characterizes the free colored population".[37] Indeed, just as it was true forty years later when the 1879 Commission lamented blacks' "quite salient inclination to work only a few days of the week",[38] so too for von Scholten's Commission, it was the problem of idleness that seemed the most

[32] Jensen, *From Serfdom to Fireburn and Strike*, 96.

[33] A copy of the royal terms of reference for the Commission can be found in CC. 435. File *ad* 810/1847, containing a copy of Christian VIII's letter to Peter von Scholten dated July 28, 1847 as well as von Scolten's subsequent letter to the commission appointees dated September 18, 1847. The individuals appointed to the Commission were two upper court judges (C. F. Kunzen (as President) and Louis Rothe), two chiefs of police (H. H. Berg from St. Thomas and Frederichsen from Christiansted), two lawyers (Arnesen and Bahneberg), and four planters (Joseph Abbott, Logan, John Gorden McCaul, W. A. Walker).

[34] CDC. 905. File *ad* 563/1848, containing two undated, unsigned, and unpaginated manuscripts titled *Anmærkninger til Udkast* [Notes on draft] and *Udkast* [Draft]. The manuscripts are enclosed in a letter by Peter von Scholten dated August 29, 1848 to the Minister of Trade, Christian Albrecht Bluhme (see file 563/1848).

[35] CDC. 905. File *ad* 563/1848. *Anmærkninger til Udkast,* introduction. The August 21, 1829 Vagrancy Act (*Forordning ang. Løsgængeri og Betleri*) is printed in *Chronologisk Register*, vol. 20, 71-75.

[36] CDC. 905. File *ad* 563/1848. *Anmærkninger til Udkast*, § 2-3. The purpose of exempting wives and widows was to provide "the negroes with a concept of family life and especially of the dignity of the married wives," while making concessions to the hopefully rising "class of small property owners" to promote that kind of domesticated and propertied "independence that promotes family life and increases the desire for the conveniences of life".

[37] Ibid., introduction.

[38] *Betænkning afgivet til Finantsministeriet*, 10.

acute and singular challenge facing a colonial regime of 'free labor'. But what, more precisely, was the nature of the problematization through which idleness was conceptualized as problematic, and upon what kind of knowledge did this problematization rely?

Political economy and the problem of idleness

For one thing, this problematization naturally relied on a racial discourse that portrayed Afro-Caribbeans as generally primitive and therefore naturally lazy and careless. But more than a readiness to generalize and classify all blacks as essentially the same, what was particular about both the Commission's and later attempts to account for this 'inclination to unemployment' was the kind of political economy it presupposed. As in the 1879 report, von Scholten's Commission did not in fact ground this inclination in any inherent or genetic disposition, but rather framed it as a matter of the climatic and economic circumstances. More precisely, the draft for a Vagrancy Ordinance referred to the fact that "the bare necessities for the maintenance of life are so easily attainable in these parts of the world" that the environment within which the laborer finds himself generally demanded of him only a very limited effort. On the one hand, this was fortunate in the sense that it significantly lowered the economic motives for crimes such as theft and made poor relief almost unnecessary. But on the other, by freeing laborers from the threat of poverty, it also made it possible for laborers to commit to an idle life in which they were "of no use either to themselves or to society".[39]

Thus, prior to emancipation, a commission consisting of West Indian officials and civilians had arrived at the position that governing Afro-Caribbean labor in a post-emancipation scenario required a particular kind of approach, one which was cognizant of the fact that the governed were neither 'economic' nor located in an environment that operated according to the normal dynamics of 'economy'. One of the most important genealogical threads in the consolidation of this understanding was, I would argue, the lessons Danish West Indian officials drew from the English 'experiment' with emancipation during the 1830s and 1840s. In this regard, one member of von Scholten's Commission, Upper Court Judge Louis Rothe (1811-1871), played a key role.

As a member of the Commission, Rothe submitted three voluminous tracts that displayed his keen attention to matters of demography, statistics, and political economy, but also his strong immersion in the history of the English abolitionist project and what he took to be its largely detrimental effects on both the colonial

[39] CDC. 905. File *ad* 563/1848, *Anmærkninger til Udkast*, introduction.

economy and the morality of the emancipated.[40] In this respect, Rothe's *Description of Antigua*, which he had finished prior to his appointment while in Copenhagen in early December 1846, is of particular interest, since it served as an occasion to reflect on the particular problematics of free labor in a tropical colony inhabited by what he perceived as a less civilized race.

Unlike many other British Caribbean post-slavery colonies in the mid 1840s, Antigua was considered a notable success in terms of sugar production and was often portrayed as the jewel of the emancipationist project, not least on account of the decision on the part of the local authorities to skip the four-year period of apprenticeship and proceed directly to emancipation in 1834.[41] Most likely, it was the relative success of post-slavery Antigua that drove Rothe to immerse himself in its history and affairs. Yet, the main thrust of Rothe's reading was not that the Antiguan Government should be emulated, but rather that even this supposedly successful ex-slave colony was pregnant with the problems facing all tropical and colonial economies that attempted to rely on free labor.

As in any other ex-slave colony, Rothe argued, the disintegration of planter rule had urged the Colonial Government of Antigua to establish a more organized and resourceful apparatus of policing and imprisonment. Yet, for all its success in curbing and punishing public disorder and criminality, the colonial state had ultimately failed, Rothe claimed, to lead the laboring population to an industrious and steady application of its labor. Unsurprisingly, considering the Vagrancy Ordinance proposed by von Scholten's Commission, Rothe saw this as an effect of the fact that laborers were not obligated to assume steady employment as servants, a policy which utterly failed to appreciate the particularity of life:

> in tropical countries, where the requirements of the lower classes are extremely few and in general so easily obtainable, and where the climate through its softness and monotony produces laziness, while offering little or no encouragement to economy and providence.[42]

However, compared to many other colonies in the British Caribbean, Rothe continued, the governmental failure to adapt to the particular conditions of 'the tropics' had been much less pronounced in Antigua's case. The reason for this, he

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[40] Besides his 1846 *Description of Antigua* [*Beskrivelse af Antigua*], which is the focus here, Rothe also submitted an 1846 *Report on the most important moments of the English emancipation history* [*Fremstilling af de vigtigste momenter i den engelske emancipations historie,* etc.] and an 1847 treatise titled *On Population Conditions in the Danish West Indian Colonies, especially on St Croix* [*Om befolkningsforholdene i de danske vestindiske kolonier, fornemmelig på St Croix*]. All of these are found in CC. 435.

[41] Seymour Drescher, *The Mighty Experiment: Free Labor versus Slavery in British Emancipation* (Oxford: Oxford University Press, 2002), 147-149.

[42] DNA. CC. 435. *Beskrivelse over Antigua, fornemmelig med Hensyn til Resultaterne af Emancipationen* (December 1, 1846), sub *Løsgængeranordning*.

claimed, was that Antigua possessed a much larger supply relative to the demand of labor than most other colonies in the region, and certainly, he argued, than St. Croix. Moreover, unlike many other tropical colonies, St. Croix included, the island of Antigua regularly experienced long periods of drought that only sugar cane was able to survive, a fact which often made it quite difficult for laborers to subsist without regular plantation employment for wages. As a result, in Antigua, Rothe found that the relations between proprietors and laborers were comparatively less abnormal in the sense that they approximated, much more than in any other place in the Caribbean, the familiar European model insofar as the laborer's welfare – due to competition and scarcity – at least partially depended on the availability of work. But even in Antigua, Rothe claimed, there was none of "the undeserved want and wretchedness that so often is the inevitable destiny of the laboring population in Europe".[43]

Quite clearly, Rothe did not share the kind of political economy that was foundational, as Seymour Drescher has argued, to the British abolitionist movement of the 1830s.[44] To him it was delusional to assume, as British abolitionists did, that 'free labor' would lead to the same progress in industry and civilization in a colonial post-emancipation scenario as it had done in Europe. Instead, Rothe's analysis had much more in common with the kind of political economy that developed alongside – and partly in opposition to – the British emancipation. Unlike Smithian economics, which Drescher identifies with the British 'experiment', from the beginning of the nineteenth century there gradually arose, as he and Onur Ulas Ince have shown, a kind of analysis which defended slavery – or at least a strong form of coercion – as necessary considering the exceptional circumstances of many colonial economies, such as abnormal land-to-labor ratios, lack of competition and scarcity, and in general the want of all those spurs that a capitalist labor market would usually provide to work and civilizational improvement.[45] Not least, Rothe's analysis resembles what the English economist Edward Gibbon Wakefield argued on a much more grander scale in the 1830s and 1840s, namely that considering the colonial abnormalities that he saw in places as diverse as Oceania, North America, and the Caribbean, it was vital that the state took a much more active and coercive role than usual in constructing those conditions that would force laborers to depend on continuous wage-labor, this being the only true source of productivity and civilization.[46]

[43] Ibid., sub *Befolkningens materielle velvære.*
[44] Drescher, *The Mighty Experiment*, chapters 4, 8-9.
[45] Ibid.; Onur Ulas Ince, *Colonial Capitalism and the Dilemmas of Liberalism* (Oxford: Oxford University Press, 2018), chapter 5.
[46] For more on Edward Gibbon Wakefield's political economy, see also Duncan Bell, "John Stuart Mill on Colonies," *Political Theory* 38, no. 1 (2010).

In the Danish West Indies, this mode of reasoning quickly assumed a certain self-evidence and became applicable to all sorts of questions.[47] But more than anything, it became foundational to the reordering of labor relations that followed in the wake of abolition, namely in the 1849 Labor Act and the ordinances on vagrancy and beggary that were meant to buttress it. It is to this art of governing, which was at the heart of this regime, that the following will turn.

The 1849 Labor Act as an art of governing

As noted already, according to the 1849 Labor Act, all rural laborers on St. Croix – both men and women – were obligated to enter year-long contracts as servants on plantations. All contracts would begin on the first of October, a day henceforth known as 'change day' (*skiftedag*), and a contract could only be annulled during the course of August. If the contract was not formally annulled during this period, unless through the mutual consent of both the employer and the laborer, the contract would automatically be renewed for another year. Besides the duration of the contract, the act fixed not only the wages and other remunerations, but also the general terms for the work itself. All workers were to be distributed into three classes, depending on their fitness for work. The first class, it was stipulated, should be paid 15 cents a day, the second class 10 cents, and the third class – consisting of children and invalids – 5 cents.[48] Yet, during the duration of the contract, the employer was vested with the right to withhold payment as a punishment for lateness or absence, although complaints about repeated absence, negligence, and insubordination on the part of the laborer should be handled by the authorities.[49]

But even if the Labor Act certainly excelled in measures of control and coercion, it also provided laborers with a number of rights and social securities which metropolitan laborers would not generally have enjoyed, and which observers at home would likely have problematized as paternalist and demoralizing for independent laborers who should ideally help themselves. Besides enjoying the right

[47] See for instance Governor Hans Ditmar Fritz Feddersen's (1805-1863) account from 1852 on why rural laborers preferred cattle farming over plantation work or why parceling out land was sure to reduce the island to "the raw and wild state, in which they were discovered by Europeans," leaving behind only "a small population of that kind of people that is able and willing to content themselves with what the generous nature offers them without labor and effort" (CDC. 905. File 803/1852: Governor Feddersen's letter to the Ministry of Finance, September 25, 1852).

[48] In Governor Peder Hansen's report of September 27, 1850 to the Ministry of Finance, he explained that the classification of laborers into the three distinct classes solely depended on their respective physical capacities, the first class designating those able to carry out "all sorts of heavy labor, not least holing," the second those who "due to youth, old age or some weakness can only carry out light work," and the third class being reserved for children and invalids (CDC. 905. File 1002/1850).

[49] The Danish version of the 1849 Labor Act is printed in *Departementstidende*, 1849, 301-307.

to receive daily provisions of food, all rural laborers were entitled to a house on the plantation for themselves and their children, and the first and second classes were given a right to use a minor plot of land on the plantation. And awaiting the promulgation of measures to deal with the maintenance and medical treatment of the sick, the disabled, and those otherwise unable to work, the act also confirmed the planter's obligation to provide all laborers with medicine and professional medical care.

As already noted, the workings of the Labor Act constitute one of the more thoroughly examined parts of the island's post-slavery history. In the most thorough treatment of the history of the act, Peter Hoxner Jensen finds that it reflected the local plantocracy's urgent need for a stable supply of subdued laborers in a potentially chaotic post-slavery environment, but also its deep-seated disbelief in the Afro-Caribbeans' fitness for freedom.[50] In a response to this interpretation of the act as a coercive tool serving the interests of a racist and powerful plantocracy, Rasmus Sielemann has aimed to carve out the governmental rationalities that led the Colonial Government not only to support it, but also to view it as what he calls a tool of "human engineering", one which was, in spite of all its coercions, in fact entirely consistent with liberalism.[51] Indeed, invoking Barry Hindess' and Mitchell Dean's conception of liberal governmentality as capable of governing through a coercive guardianship, Sielemann argues for seeing the act as being based on the liberal rationale that "only by limiting and guiding the exercise of the emancipated's freedom would they be able to develop their character toward a level of civilization that would allow that new state of freedom to become sustainable and not degrade into a primitive and savage condition of disorderly idleness and debasement."[52]

Generally, I share Sielemann's analysis of the Labor Act as a tool of civilizational improvement, which was consistent with the coercive and tutelary potential of liberalism. Certainly, the many colonial officials and councilmen who favored it wholeheartedly, and even those who believed it went too far, could agree that a certain measure of unfreedom was necessary to ensure "the moral progress of the negro population".[53] Yet, as already noted, in my view, the role of liberalism was not merely to call forth the coercive tutelage of the Labor Act; for if this was so, the illiberal influence of liberalism would of course have disappeared together with the act in 1879. Rather, the role of liberalism was how it furnished a particular

[50] Jensen, *From Serfdom to Fireburn and Strike*, in particular chap. 4.
[51] Sielemann, *Natures of Conduct*, 197-214, quotation 236.
[52] Ibid., 236.
[53] These are the words of Governor Bille, a principled defender – as already noted – of free labor, who nevertheless did not call for a complete deregulation of Cruzian labor relations. Rather, relying on the example of the abolition of slavery in the former Confederate states following the American Civil War, Bille proposed, for the sake of "moral progress", to keep in place the obligation to enter year-long contracts as servants (CDC. 906. File 673/1871: Governor Bille's letter to the Government of St. Croix, October 2, 1871).

knowledge – namely colonial political economy *à la* Louis Rothe – that effectively disqualified the possibility of governing through 'free labor' and instead demanded an art that was suited to the particularity of the colonial context.

And what came out of this demand was an art that did not, as in the metropole, govern by setting up the conditions that would allow autonomous mechanisms located inside and outside of man to spur individuals toward industry, frugality, and providence. Rather, what was developed, I would argue, was an art that responded to the more limited problem of overcoming idleness (as opposed to that of producing economic men) and did so by setting up a coercive and protectionist structure, one that not only forced laborers to commit to steady wage-labor, but also sought to provide the social security and stability that would allow Afro-Caribbean laborers to constitute a healthy and happy community. To study the formation of this art, the following will examine the deliberations and legislative revisions that took place as the Colonial Government proposed amendments to the existing labor and vagrancy ordinances during the early 1850s. The first and longest section will study the coercive production of industrious wage-laborers, while the second will address the paternalist cultivation of a 'healthy and happy' community.

Producing industrious wage-laborers

In order to buttress the obligation to enter service, the provisions of the 1849 Labor Act were supplemented in 1853 by a Vagrancy Ordinance.[54] In the formal motives to the Vagrancy Ordinance authored by the Colonial Government, now under the leadership of Governor Hans Ditmar Fritz Feddersen (1805-1863), the ordinance served a number of very practical purposes. Most importantly, it would ensure a tighter control of the many vagabonds who "live in these islands for a long time without having any fixed abode". But it would also more effectively prevent city dwellers, who were typically not "reared and accustomed to regular labor and occupation", from loitering around in the countryside and corrupting rural laborers with their desire for leisure and occasional work.[55]

As the proposed act was discussed in the Colonial Council, it was generally approved, but was also placed in a much larger narrative of civilizational progress. In fact, just as Rothe and von Scholten's Commission had argued some years before in its report on the draft, the Colonial Council found that a vigilant suppression of colonial vagrancy was essential if the state was to overcome the population's

[54] The March 1, 1853 Ordinance to Hinder Vagrancy in the Danish West Indian Possessions is printed in *Departementstidende*, 1854, 285-288. The ordinance will be treated at greater length later in the chapter, p. 335.

[55] CDC. 636. File ad 846/1852, *Motives to the draft of the Ordinance regarding Vagrancy in the Danish West India Possessions*, pp. 3, 7-9.

"predilection for idleness" and counteract the peculiarly uneconomic conditions that allowed this predilection to flourish. Furthermore, like Rothe and his fellow commissioners, the Council described the source of the problem of idleness in terms of "the nature of the climate" and "the manner of livelihood and the propensities of the poor classes". For, while nature made it possible to subsist "by trifling and casual work", the character of the laborers ensured that they would not desire anything else than what nature had to offer. Indeed, living in such an "undisturbed indolent state" without a care in the world, the laborers embodied the very opposite of "European and Anglo-American ambition". In fact, they consider this careless life to be such a blessing that it was "the only condition, which the parents of the lower classes try to secure for their children". As a result, if the population was left to its own devices, its "predilection for idleness" would be passed down from generation to generation and thereby effectively ruin all hopes of promoting "the population's progress towards European civilization".[56]

Gradually, a very similar kind of analysis became the foundation for the 1849 Labor Act itself. The original author of the act, Governor General Peder Hansen, appear to have understood it as a necessary and prudent response to the population's unfamiliarity with free contractual relations and its "congenital African and Oriental" servility.[57] But during the early 1850s, the Government and the Council instead described the Labor Act as a prudent response to the problem of idleness, the truths of political economy, and as the best means to ensure that level of industry and stability which alone could ensure the population's progress in civilization.

The initial steps toward this agreement were taken in the early 1850s as the Colonial Government proposed some minor modifications to the Labor Act, modifications that would provide legal clarification on some points left mute in the original act, but would also allow planters to do something new, namely to employ laborers as task-workers performing "a certain quantity of work within a certain period of

[56] *Proceedings of the Colonial Council*, 1852, 31.

[57] Besides the population's unfamiliarity with contractual relations, as a long-time East India official and former Governor of the Danish colony of Tranquebar in south India, Governor Hansen also reported to the Ministry of Finance that he was confident that due to "their congenital, African, and Oriental respect for the commandments of the highest authority," laborers would generally obey the law "even if they do not comprehend the underlying reasons" (CDC. 905. File 194/1849: Governor Hansen's report of January 30, 1849 to the Ministry of Finance, § 3). Excerpts from this report were printed in the government publication *Departementstidende*, but here without Hansen's reference to the congenital (*medfødte*) source of the population's respect of authority (*Departementstidende*, 1849, 298-299). On the process leading up to 1849 Labor Act, see also Jensen, *From Serfdom to Fireburn and Strike*, 97-102. On Peder Hansen's colonial career, see Verner Madsen, "En dansk koloniembedsmand. Guvernør Peder Hansen i Ost- og Vestindien 1826-51," in *Dansk kolonihistorie: Indføring og studier*, ed. Peter Hoxcer Jensen, et al. (Aarhus: HISTORIA, 1983).

time".[58] As a precautionary measure, the Government had specified that the salary should at least be equal to what a rural servant would receive for a day's wages, hoping that this would keep planters from employing laborers for minor task that would leave them idle for the rest of the day.[59] To the Government's great surprise, however, this provision was fiercely criticized by the majority of the Colonial Council,[60] in whose view it would:

> tend to nullify entirely the fixed working-hours of about nine hours daily, a rule which without doubt is far more important than the fixed payment, if the laborers are gradually to be trained to steady and proper labor.[61]

In many ways, these very different views about the effect of legalizing task-work reflected the different rationalities through which the Colonial Government and the Council initially approached the Labor Act. As it drew up its suggestions, the Government had originally followed a kind of political economy upon which a racial knowledge of the supposed nature of blacks had little bearing. Presenting Upper Court Judge C. F. Kunzen with an early draft of the motion in 1852, Governor Feddersen spoke for the continuation of the Labor Act due to the colony's unfortunate land-to-labor ratio. For, he explained, free labor relations were only feasible if society possessed a superabundance of labor relative to demand. He grounded this insight both in abstract reasoning and in the historical argument that the gradual increase in contractual freedom the metropole of Denmark had experienced during the preceding century was predicated on a steady increase in the size of its population. With reference to the available statistical material regarding the Danish population's development between 1769 and 1801, which he reports saw a rise from 815,000 to 926,000 individuals, Feddersen therefore presented the metropolitan supersession of principles of bondage, wage-fixing, and other forms of contractual unfreedom as preconditioned on the availability of a labor force that was adequate for the needs of production.[62] And this, as he argued, was clearly not

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[58] CDC. 905. File ad VJ 846/1852. *Draft of an Ordinance regarding the relations between the proprietors of landed estates and their labourers in the Danish West India Possessions* (undated), § 7, section 3.

[59] CDC. 905. File ad VJ 846/1852, *Motives to the Draft of an ordinance regarding the relations between proprietors of landed estates and their laborers* (undated), pp. 7-8.

[60] Jensen, *From Serfdom to Fireburn and Strike*, 107.

[61] *Proceedings of the Colonial Council*, 1852, 57.

[62] CDC. 905. File *ad* 508/1853: Copy of Governor Feddersen's letter to C. F. Kunzen (June 22, 1852), originally marked as 'Bilag b'. More precisely, Feddersen referred to the February 19, 1701 Passport Act, the February 21, 1702 Abolition of Serfdom Act (section IV) and the March 21, 1791 Police Act, which had limited mobility and contractual freedom in Denmark (printed in *Chronologisk Register*, vol. 2, 20-23, 65-71; vol. 9, 142-152), as well as the August 9, 1754 Peasantry Act (§10) and the August 20, 1778 Finnmark Customs and Trade Act (§44), which had stipulated the customary and maximum remuneration for servants in Norway and Finnmark respectively (printed in ibid., vol. 4, 390-397; vol. 7, 75-101).

the case in the Danish West Indies. Here, freer labor relations would therefore lead to rising wages that would put many plantations out of business.[63]

As it appears, in 1852, the Colonial Government's favoring of the Labor Act had little to do with the notion that labor relations had to be fitted to the particular racial character of the governed.[64] Rather, it was couched in a kind of political economy that recognized the peculiar conditions of the colony's land-to-labor ratio but did not see these or any other extraordinary economic conditions as giving rise to radically uneconomic forms of conduct and subjectivity. Presumably, this is also the reason why the Government had originally proposed to legalize task-work in the first place. For assuming that the labor output of Afro-Caribbeans would remain the same or perhaps even increase if employed as task-workers, the Government had proposed that even though a move toward task-work would in the short term lead to a rise in wages, which would force less competitive planters to give up production, the resultant decrease in the demand for labor would eventually lead to "a reduction of wages to the real value of labor".[65] In other words, in the eyes of the Government, even in the West Indies there was a kind of spontaneous harmony of supply meeting demand and of wages reflecting 'real value'.

Essentially, it was this tacit universalism that spurred the criticism of the Colonial Council. In its view, the Government had erroneously presumed that the labor output would remain constant or perhaps even be expected to rise through the niche of task-work, and had forgotten that the colony's laborers generally lacked the desire to earn more than the bare minimum. Legalizing task-work in the way proposed by the Government would therefore mean that "almost no workers" would agree to work more than was necessary to obtain a day's wage in accordance with the minimum wage requirement set by the Government's proposal.[66] Generally, therefore, it would not lead to a more extensive and qualified application of industry, but rather to "irregular hours of labor" as well as "bad and hurried work," all of which could not fail to have a negative influence on all laborers and "prevent their progress in delivering good and proper work."[67] In other words, task-work would upset the gradual inculcation of the habits of industry, which the Council saw as one of the key virtues of the Labor Act:

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[63] CDC. 905. File *ad* VJ 846/1852: *Motives to the Draft of an ordinance regarding the relations between proprietors of landed estates and their laborers*, pp. 2-3.

[64] In the Government's motives, the particular character of Afro-Caribbean labor only entered the arguments against contractual freedom with reference to their "well-known predilection for being on an equal footing with their peers", a fact which would make it even more difficult to keep wages down. Perhaps indicative of the perceived insignificance of this point, it was not translated into the English version (ibid., p. 2).

[65] Ibid., pp. 2-3.

[66] *Proceedings of the Colonial Council*, 1852, 57.

[67] Ibid.

> In as far as the legislative power has to follow a distinct principle and tendency in regulating these matters, it ought unquestionably to be bent upon inducing the rural laboring population to remain settled in a certain place and to accustom themselves to regular work, and thus to prevent them from wandering about from one place to another and thereby to acquire the habit of only working occasionally.[68]

In the following years, the Colonial Government gradually adopted the Colonial Council's position on the matter of task-work, and came to accept its interpretation of the unconditionally negative effects associated with freer contractual relations. In 1856, following a debate in the Colonial Council on the apparently now widespread use of task-workers on the island's plantations,[69] the Government in fact launched a campaign to suppress various forms of 'overpay' by issuing suits against planters suspected of contracting labor through illegal wages.[70] This was at the behest of Governor Frederik Schlegel, later the leading member of the 1879 committee. In 1857, he reported home that he had become convinced that task-work generally led to what he called a "demoralizing" idleness, one arising from the fact that the work agreed upon was often so limited that "the laborer has been able to finish it in a few hours and subsequently has wandered in idleness and thereby given a bad example to the other plantation workers".[71]

In contrast to what has been claimed by Peter Hoxcer Jensen, in my view, there is no reason to see this state campaign as a disingenuous attempt to strong-arm the many planters, who were against legalizing task-work, but nonetheless made use of it when they sought to acquire more laborers. Since the Colonial Council was unwilling to legalize task-work, which the Colonial Government had previously favored, Jensen finds that the idea behind the campaign must have been to make the planters and their supporters in the Council realize their interest in having task-work legalized.[72] Yet, to judge from Governor Schlegel's communication with the Ministry and local authorities in 1857,[73] the local court rulings that followed in the wake of the campaign,[74] not to mention the ultimate decision by the upper court to

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[68] Ibid., 1852, 48.

[69] See ibid., 1856, 48-56.

[70] Skrubbeltrang, *Dansk Vestindien 1848-1880*, 166-170.

[71] CDC. 905. File *ad* 632/1857: Copy of the Government's letter to the chiefs of police on St. Croix (June 24, 1857). See also Schlegel's letter to the Ministry for the Monarchy's Joint Internal Affairs (*Ministeriet for monarkiets fælles indre anliggender*) of June 13, 1857 (Ibid. File 632/1857).

[72] Jensen, *From Serfdom to Fireburn and Strike*, 113.

[73] Besides the letter to the chiefs of police on St. Croix (see note above), see also the Government's previous instructions of April 4, 1857 to C. F. V. Sarauw, the lower court judge and Chief of Police in Frederiksted, admonishing him to give up his "misguided philanthropy" and favoring of freer labor relations (CDC. 905. File *ad* 632/1857).

[74] See for instance Judge Johan August Stakeman's ruling in September 1856 in the case against J. P. Dam, co-owner and manager of the Coackley Bay plantation. According to this, "the tacit and ultimate purpose" of the labor regulations was to prevent the "destruction" and "ruin" that would surely follow if task-work was legalized, as it would bring about "a form of competition whose

rule task-work illegal in 1860,[75] it instead seems clear that the Government now had severe concerns about task-work. In other words, there is every reason to see this campaign against task-work as the Colonial Government's genuine adoption of the rationality the Colonial Council had followed only a few years before: that it inevitably promotes idleness.

In other words, what was now set in stone was that it was vital to suppress forms of employment that allowed black laborers to work less than they would as servants. Otherwise, due to their 'racially determined' predilection for idleness, and possibly also due to a relative absence of scarcity, they would work only occasionally and never acquire the habits of industry. Along with the suppression of vagrancy, the 1849 Labor Act was the name of the art of governing that would avoid this and habituate black idlers to industry and hard work. But at the same time, the Labor Act also embodied another art of governing, namely an art of social protection.

Protection and the threat of poverty

Considering how often colonial officials and councilmen agreed that the local climate had freed black laborers on St. Croix from the threat of poverty, it is curious how often they praised the Labor Act for saving laborers from this very threat. In its 1852 report discussed above, the Colonial Council for instance praised the act for putting the common laborer in such a position that he is free from any anxiety of falling into poverty; in fact in a position that "enables him to marry at any time he chooses, free from material cares or the dread of having to apply to any poor fund."[76] Indeed, by securing the laborer from the insecurities of the labor market, by providing him and his family with a certain income and guaranteed provisions, housing, and medical care in the case of sickness and old age, the act was "well adapted to and in harmony with the real interests of the community and particularly with those of the laborers."[77]

Two decades later, in 1872, another commission report – this one appointed by Governor Bille to suggest modifications to the Labor Act – made a very similar point. Here, a clear majority of the Commission, which consisted of both state officials and local civilians,[78] not only rehearsed many of the now familiar

nature is much more harmful than exorbitant wages" because it does not in itself guarantee "any quantity of labor for the cultivation of the country" (CDC. 905. File 673/1856. Copy of Christiansted Police Court verdict on J.P. Dam, September 9, 1856).

[75] CDC. 905. File 673/1856. Copy of Upper Court Judge Kunzen's verdict in the case verdict on William Mayne (September, 1860).

[76] *Proceedings of the Colonial Council*, 1852, 46.

[77] Ibid.

[78] Besides Philip Rosenstand, who chaired the Commission, it also consisted of Chief of Police Forsberg, Reverend Du Bois, three local planters (Georg Elliott, J. Coulter, and R. Skeoch) and

arguments against task-work and other looser forms of employment, but also praised the Labor Act for protecting laborers from the state of poverty and indigence suffered by the European working classes. In its words, rural laborers were not "an indigent, depressed, and dejected population, from whom is extorted the greatest possible amount of labor for the lowest possible amount of wages". Rather, being guaranteed wages, provisions, shelter, and medical attention all year long, rural laborers were well-fed, "free of cares for their existence", and in general placed in a position that:

> afforded better conditions for a laborer's progress towards becoming a better man than would be the case under a system, where the rates of wages are regulated simply by the demand and supply of labor, and where the laborer is halfway home-less.[79]

In other words, just as the lack of poverty and scarcity was portrayed as the unfortunate cause of the population's lack of economic conduct, these very mechanisms could also be portrayed as what hindered 'a laborer's progress towards becoming a better man'. From the look of it, this easily appears to be a paradoxical inconsistency in colonial thought. Yet, this inconsistency disappears once one realizes that the kind of 'man' which colonial authorities hoped to produce was not, as hinted at already, the kind of economic man who proudly and skillfully upholds his independence in the face of adversity. In fact, the 'man' in question is not essentially an individual, much less a self-preserving one, but rather a member of a collective that thrives first and foremost thanks to the great care and interest the Government takes in its well-being. To exemplify this tacit colonial understanding of the kind of subject it hoped to produce, it is instructive to turn to the Government's reaction to the 1872 report by the Commission mentioned above, as formulated by Vice-Governor Johannes August Stakemann during the proceedings of the Colonial Council.

Like Governor Bille, Stakemann had hoped the Commission would have looked more favorably on their proposal of abandoning fixed wages,[80] but other than this the position of the Government was largely on par with that of the Commission. In the Government's view, one should not make rash changes to a system that worked so well, not least considering that "there are but few places where the laborers are as well off as here". Referring to the opinion of visitors from abroad, Stakemann took pride in the "orderly conduct and good positions of the laborers here", a state of affairs he, citing a description of foreign visitor to island, ascribed to:

C. F. V. Sarauw, who contributed his own minority statement. On the appointment of the Commission, see CDC. 906. File 673/1871: Bille's letter to the Government of St. Croix (October 2, 1871).

[79] Rosenstand et al., *Draft of Labor Regulations*, 3.

[80] See Jensen, *From Serfdom to Fireburn and Strike*, 127-130.

> the manner in which they are here treated and cared for, and the way in which they are provided with comfortable homes and conveniences on the estates, care in sickness and for the aged and infirm; all of which he [i.e., the foreign visitor] ascribed to the favorable workings of our labor-regulations and to the care jealously taken by the Government in watching over the interests of the people.[81]

As it appears, if all these measures of social protection appeared meaningful – if it was necessary to secure the laborer "a kind of careless and independent life" as Bille's successor Governor Garde also believed it was[82] – it was essentially because the kind of 'man' who was hoped for was not an 'economic man', who was willing and able to fend for himself and his family, but rather a healthy, orderly, and industrious member of a community that would make no progress without the guardianship of the state.

Thus, while the Labor Act was clearly understood, as Sielemann has shown, as a 'tool of improvement', the man it should produce was not, as he claims, an 'economic man', or at least not the kind of 'economic man' that metropolitan reformers hoped to produce, namely the industrious and provident worker who was governed by hunger, pride, and a will to self-preservation. Rather, what was sought was a population that was nurtured and habituated to industry by a coercive, but also caring art of governing. In a way, this art was similar to the art of 'economy' in the sense that it made laborers the passive objects of an ideally perfect arrangement of men and things. But it was distinct in the sense that its goal was not simply to nurture and utilize, but also to ensure the population's general progress in civilization.

The governmentality before the 'second free'

The analysis above has presented an outline of the governmentality which was at the heart of the labor regime that governed rural laborers on St. Croix in the first thirty years after emancipation. Quite intentionally, it has not aimed to cover everything, but has merely sought to identify those elements that remained in place and influenced the governmentality after the labor riots in 1878. More than anything, what was inherited and would remain self-evident was a *problematization* of idleness as a waste of labor force and as a hindrance to black laborers' progress in civilization; a racially inflected *knowledge* of political economy that grasped the population's 'predilection for idleness' as a racial characteristic that the colony's peculiar economic conditions – one without the pressures of scarcity, poverty, and competition of the European economy – not only failed to punish, but even encouraged; and lastly, what was inherited was an *art of governing* that therefore considered it unthinkable or at least unpromising to govern black laborers through

[81] *Proceedings of the Colonial Council*, 1872-73, 192-193.
[82] CDC. 906. Copy of the Government's report to the Ministry of Finance (January 14, 1874).

the possibilities and pressures of a capitalist labor market or to make them into true 'economic men', and instead used coercive and paternalist means to habituate them to industry.

Governing black laborers, c. 1879-1885

With this in mind, the rest of the chapter will turn to the governmentality that gave meaning and shape to the regime of 'free labor' that emerged in 1879 and which had received its final form at least by the mid-1880s. The structure is roughly the same as in the preceding chapter, going from poor relief to employment relations (i.e., master and servant law), and finally to the suppression of vagrancy, beggary, and theft.

Colonial paupers and the question of the workhouse

With the liberalization of labor relations in 1879, the Colonial Government rightly feared that the burden of maintaining "the sick and the weak", which had previously fallen on the planters,[83] would now fall on the public coffers. But without knowing the degree and kind of relief that would be appropriate for the freer conditions in which the laborers would soon find themselves, the Government initially preferred, as already noted, to handle the matter administratively by urging planters to relieve the needy domiciled on their estates and by instructing the island's two Public Poor Commissions to provide aid and housing for the rest.[84] As early as 1882, however, this financial burden had risen to such an extent that the Colonial Council demanded that something be done "to remedy this constantly increasing evil".[85] According to its estimates, the public was currently providing monetary support for almost seven hundred persons and bore "considerable" expenses for hospitalization and medicine for "the sick poor".[86]

To remedy the situation, a committee overseeing St. Croix's public budgets proposed in 1882 "the establishment of a poor house with compulsory work". Besides securing a "better order than is at present possible when paupers wander about without any control or supervision", the primary purpose of this was, as it said, "moral". In its words:

[83] The 1849 Labor Act, §§ 9, 17 (printed in *Departementstidende*, 1849, 303, 306).
[84] CDC. 906. Governor Garde's letter to President Stakemann (September 11, 1879).
[85] *Proceedings of the Colonial Council*, 1882-1883, col. 127.
[86] Ibid., 1882-1883, cols. 126-129.

> As matters now are, the rule is that aged labourers, when they become in any way unfit for labour, at once throw themselves on the public, without it being really necessary, and never do the grown up children of such persons acknowledge or feel any obligation to spare their parents having to fall back on public support. Neither parents nor offspring find any disgrace in this; they do not look upon it as a thing to which they should have recourse only in the most dire necessity.[87]

However, by making institutionalization in a 'poor house with compulsory work' the sole form of public relief, the paupers and their relatives would "in a short time", it was believed, change their views. The "paupers" would quickly "be against coming to the poor house without necessity", and their relatives would "acknowledge their natural obligation to render assistance themselves".[88]

Following these suggestions, the Government appointed a commission to consider a possible reform of the administration of poor relief. Eight members were appointed to this commission. Five of them were the members of the Colonial Council, who had spoken for the introduction of workhouses, four of whom were English nationals serving in various private capacities as planters and lawyers.[89] The remaining three were Danish state officials, one from each of three administrative branches represented in the island's Public Poor Commissions, namely Chief Medical Officer P. E. Kalmer, Chief of Police J. Duus, and Pastor E. V. Lose. When the Commission finalized its lengthy report on the matter in January 1884, the five councilmen maintained their position, while the officials spoke for keeping things more or less as they were.

As the councilmen explained in the 1884 report, the current public system of relief was deficient for "giving both too much and too little".[90] It gave too little because, due to budgetary limitations, it provided the needy with a stipend that was entirely insufficient to cover even their most elemental needs, usually between two and four cents a day. But although relief was insufficient, considering the way it was given, it was at the same time too generous. For, by offering it as in-house relief without any of the usual discomforts and disadvantages, relief was generally considered desirable and therefore had an "effect on the population" that was "highly unfortunate from a moral point of view", since it urged the population to ask for relief "as soon as possible":

> In other places, turning to poor relief generally brings about significant inconveniences for the concerned; their whole life and being is subjected to the

[87] Ibid., 1882-1883, col. 127.
[88] Ibid.
[89] These councilmen were two upper court attorneys, P. Lemming and C. L. Wassard, two local planters, J. W. Willard and F. Raphael, and the Danish pharmacist in Frederiksted, Lorenz Jacob Benzon Faber (1828-1903).
[90] CDC. 906. Commission report on poor relief (January 26, 1884, p. 11).

> control of the public; they must work as much as they are able and generally suffer significant limitations in their personal freedom. But here there is no impediment for the desire to throw oneself at the public; our system much more encourages individuals to strive for public assistance as something desirable; this small monthly pension, which brings about no inconveniences, everyone seek to acquire as much as they are able.[91]

In the eyes of the councilmen, the workhouse therefore offered the natural solution. On the one hand, this would be a place in which paupers would have all their needs covered without having to turn to beggary and private charity. But on the other, it would also be a place of "strict control and discipline", which would be modelled on the regime of metropolitan workhouses: with harsh labor, curfew, and punishments for drunkenness, insubordination, and other disorders that would make many potential applicants think twice before throwing themselves on the public. In fact, according to their estimates, no less than fifty percent of those currently on relief would prefer to maintain themselves as best they could, and their relatives would be much more disposed to help their relatives stay clear of relief.[92]

But the Danish state officials begged to differ with this estimate. In its view, many paupers and their relatives had no real alternative but to turn to the workhouse. But more than this, relying on the views of an English doctor from the neighboring island of Antigua, one of the few Caribbean islands that possessed such an institution, the officials also argued that even under its unpleasant conditions, the workhouse's promise of covering every need would make black laborers even less economic than they already were. Referring to the "common opinion" on Antiqua, a "poor house" would generally have:

> a very unfortunate effect on the many of our laborers who have no higher ambition than of gravitating towards it in order to be supported in idleness, and who would never in their good years consider it necessary to think of illness and old age. And when one urges them to do so they are always ready with a response: "me go poor house".[93]

After having considered the pros and cons of the workhouse, Governor Arendrup ended up supporting the views of the three Danish officials. As he informed the Ministry in August 1884, he believed it would be inappropriate to apply to the West Indies what was "considered right not only in Denmark, but even in a great part of the civilized world". For, seeing as so many of the potential inmates were fully or partly disabled, it would be difficult to organize a deterring regime of labor, and even if this succeeded, he was far from sure it would make any real difference:

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[91] Ibid., p. 13.
[92] Ibid., pp. 22-27.
[93] CDC. 906. Commission report on poor relief (January 26, 1884), p. 54.

> considering the negro population's well-known carelessness and lack of providence, it appears highly doubtful whether the establishment of workhouses, in which everyone in need, who cannot earn his living, will receive this for free, would not contribute to render them even more careless of the future.[94]

In a sense, the history of colonial poor relief in the 1880s Danish West Indies is therefore the history of how a metropolitan and liberal art of governing – through the deterrence and shame of a workhouse – was blocked by a racial knowledge of how black laborers would likely react to such an institution. Thus, whereas metropolitan poor relief utilized the workhouse as a means of producing economic men, in the colony, poor relief was divested of any such role.

Rather, for the Colonial Government, poor relief primarily fulfilled a social function. In Governor Arendrup's view, he reported in 1884, it was therefore better to improve than to completely reform the current system of relief. For although it was not perfect, it did provide a useful supplement to those who could do some work, for instance on the plantations where they could easily and cheaply be housed with their relatives or in the many vacant houses. And with the establishment of a care house (*lemmestiftelse*), the Government proposed that one could correct what it took to be the primary fault of the system, namely that it failed to help the many "helpless wretches" found across the island, those completely destitute individuals "who nobody cares for and who starves to death and, at least when they are sick, die from want of nourishment, care, and medical assistance".[95] In other words, in the eyes of the Government, relief was primarily a response to social concerns, and to make it the handmaiden of liberal fashioning of economic men was to go down a road that was, considering the nature of the governed, unlikely to yield satisfactory results.

Yet, it would be simplistic to say that this clash between the councilmen and the Colonial Government was simply the clash between universalism and particularism – between those who saw no deep gulf between the governing of black and white and those who did. Rather, to judge from their discussions, it is clear that even those who spoke for the workhouse had a distinctly colonial approach to the governing of poor blacks.

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[94] CDC. 906. The West Indian Government's memorandum on poor relief (August 30, 1884), pp. 13-15. Governor Arendrup's views were also in line with the those of his predecessor, Governor Garde. In 1879, Garde had dismissed the idea of erecting two workhouses on St. Croix, then floated by Vice-Governor Stakemann, as practically "an encouragement to idleness". Besides it being difficult to organize adequate work for the inmates, with the "humane spirit of the time", Garde believed such an institution would unavoidably come to offer a quality of food, clothing, and lodging that would be too attractive for the populace (Ibid. Governor Garde's letter to Vice-Governor Stakemann (September 11, 1879).

[95] Ibid., p. 18.

For one thing, both sides had a rather unfamiliar conception of the potential recipients of relief. In the reordering of poor relief in 1879, the relevant provision referred to these as the "truly needy" (*sande trængende*).[96] And for both the Colonial Government and those who favored the establishment of a workhouse, this effectively meant those old and infirm individuals who were fully or partly unable to work.[97] Thus, the distinction that organized these colonial deliberations on poor relief was not the distinction between the 'worthy' and the 'unworthy' that had at this point become foundational in the metropole. Or to be precise, although this distinction was often used, it did not carry the same meaning. In colonial usage, those deemed the 'worthy poor' were not those who possessed 'self-feeling' and 'a will to independence', and who had come into destitution through no fault of their own and in spite of their best efforts. Rather, in their terms, the "worthy" were those who were fully or partly unable to work, while the "unworthy" were "those who could generally take care of themselves".[98] Apparently, in the colony, there was no need for a taxonomy that was able to distinguish between different kinds of able-bodied laborers. Instead, as it was in the 1803 Poor Law (chapter 6), the question was simply whether and how badly an applicant lacked the ability to maintain himself.

But this conception of who qualified for relief also colored the conception of what a workhouse should ideally accomplish. For, to judge from the descriptions of the councilmen who spoke in its favor, those who were to be deterred were not able-bodied laborers, but the aged and infirm as well as those who currently failed to take care of their needy family members and friends. To recall their statements in the Colonial Council in 1882 and in the 1884 report, the hope was that such aged and infirm people would prefer to rely on their families and friends, and that these would be pushed to honor their "natural obligation" to support them.[99] This emphasis on

[96] This term stems from the Royal Ordinance of April 13, 1825, § 5 (printed in *Kongelige Reskripter, Resolutioner og Kollegiebreve for Danmark og Norge, udtogsviis udgave i Chronologisk Orden* (1786-1865), 1825, 143-149), which formed the basis for the Colonial Ordinance on Poor Relief of December 23, 1865 (CDC. 906. *Anordning indeholdende nogle Forandringer […] for Fattigvæsenet paa St. Croix*), which was extended from the city to the countryside in 1879 (see ibid., Governor Garde's letter to Vice-Governor Stakemann (September 11, 1879)).

[97] In its report to the Ministry of Finance, the Government defined the qualified recipients as those who were deemed "unable to work and accordingly worthy of relief", see CDC. 906. The West Indian Government's letter to the Ministry of Finance (October 7, 1879).

[98] These were the words of the Colonial Government as it informed the Ministry of Finance of its view of the 1884 commission report examined below (CDC. 906. The Government's memorandum on poor relief (August 30, 1884), p. 5). In the report itself, the worthy applicants were similarly defined as "such paupers who cannot themselves acquire anything or more than little to the upkeep of life" (ibid. Commission report on poor relief (January 26, 1884, p. 11)).

[99] CDC. 906. Commission report on poor relief (January 26, 1884), pp. 13-14. In a separate statement, one member of the Commission, Councilman L. J. B. Faber, did however see the poor house as a possible counter to "the habit of idleness and carelessness of the future" that had, in his view, been on the rise since the time when "the population was forced and trained to work hard", presumably meaning prior to 1879 (ibid., p. 15).

the responsibilities of families and the larger community was also shared by the three officials who spoked for the status quo. In their view, it was of "great ethical and moral importance" that families and friends supported the needy, as the current system urged them to.[100]

Thus, although the idea of introducing workhouses was presented by both its promoters and critics as merely the application of a Danish or European way of governing the poor, their idea of its purpose was profoundly shaped by the distinct colonial governmentality that was already in place. Accordingly, since it was difficult or even impossible to govern blacks as economic men, the purpose of a workhouse or poor relief in general was not to deter black laborers to be industrious, frugal, and provident, and to do whatever they could to maintain their independence. Rather, the purpose of the workhouse as an art of governing was to strengthen familial and community ties, while the purpose of giving alms to the 'truly needy', as favored by the Colonial Government, was to alleviate the worst cases of poverty. In either case, liberal ways of governing were not only blocked, but also took on a different appearance in the colony. This was also true in the field of employment relations – between 'masters' and 'servants' – that will now be explored.

Masters and servants

As previously noted, some colonial officials saw 'free labor' as a possible or even sure source of civilization improvement. In 1849, for instance, Upper Court Judge C. F. Kunzen criticized the Labor Act for hindering that "progress in order, parsimoniousness, and overall civilization that the public could otherwise reasonably expect from the negro population's transition toward free labor".[101] And some thirty years later, Governor Franz Ernst Bille decried how it failed to "stimulate the individual laborer's desire to work and thereby make him a better man and a more valuable member of this little society".[102]

Yet, what was striking about the deliberations in 1879 that led to the liberalization of labor relations is the absence of any confident belief in the universal benefits of 'free labor'. Indeed, as Governor Garde brought a draft for the new Master and Servant Act before the Colonial Council in August 1879 and presented his motives for proposing it, what was on his mind that was not the promises of 'free labor', but the impossibility of postponing change any further. As he explained to the members of the Council, not only was it necessary to satisfy the many black laborers eager for change and in the process to "obtain and secure sympathy outside the islands, especially in the mother country"; the very idea of forcing rural laborers to work as

[100] See also ibid., pp. 49-50.
[101] CDC. 905. File 1164/1849: Copy of Kunzen's letter to Governor Hansen (November 6, 1849).
[102] CDC. 906. File 673/1871: Bille's letter to the Government of St. Croix (October 2, 1871).

permanent servants was also out of touch with the direction in which rural production was heading.[103] As Garde had claimed three years before, as in "every other place in the world", Cruzian labor relations were inevitably heading toward "free labor".[104] And now, as more and more planters were circumventing the regulations and hiring 'porters' to do the work of servants, but also as the establishment of a central sugar factory in March 1878 had further opened the gate to day labor and other short-term employments, the point had finally arrived when the requirements of rural production made it necessary to allow things to follow their natural course.[105] For the Governor, as it appears, the liberalization of colonial labor relations was a reaction to political and economic necessities, and had little immediately to do with any beneficial effects 'free labor' was supposed to have at the level of conduct and subjectivity.

Of course, it cannot be ruled out that the great deal of stress the Government and the Council were under to pass the new Master and Servant Act before October 1, 1879 made everyone taking part in these deliberations, the Governor included, less inclined to take a broader view of the profound and long-term benefits of 'free labor'. But even so, what does become clear as one examines the views for and against the proposed act is that their understanding of its purpose not only had very little to do with the liberal art of governing, but was in some senses even entirely incompatible with it.

First of all, what becomes clear is that whenever the question of shaping the conduct and subjectivity of black laborers entered the discussions surrounding the Master and Servant Act (which, in fact, they only rarely did), the Government and the members of the Council did not look to the power of 'free labor', but to that of 'the law'. That is, rather than seeing colonized man as governable and improvable by exposing him to the possibilities and insecurities of a capitalist labor market, what they pondered was how best to set up a structure of rights and punishments that would, in a very direct and even pedagogical manner, teach subjects how they were supposed to act.

Not least, this was so in regard to the question of employment contracts. In the eyes of many members of the Council, among them the Chief Medical Officer P. E. Kalmer, the Government's draft contained entirely inadequate punishments if laborers were ever to be taught the importance of respecting employment contracts. Speaking for a five-man committee, Kalmer more precisely believed that it was too lenient to punish the failure to enter service as agreed with no more than a fine, as

[103] *Proceedings of the Colonial Council*, 1878-1879, cols. 228-232.
[104] CDC. 906. *Supplement to the Proceedings of the Colonial Council* (the meeting of January 4, 1875), pp. 10-11.
[105] *Proceedings of the Colonial Council*, 1878-1879, col. 228.

the draft did, and not – as he and the committee proposed – with compulsory labor or imprisonment on bread or water. For although:

> you cannot compel a man to serve another, still if the class of men in question are free men, they must be taught to know what they [i.e., contracts] are about and they must be liable to the consequences of a breach of contract. Besides the punishing effect of the law, it has a higher purpose, namely an educational; this has been the prevailing principle of all good laws, from the oldest and greatest, the Mosaic law, and down to this.[106]

Although Governor Garde believed that such a punishment would be excessive and would only be fitting for those who committed the much more serious offense of leaving service without reasonable cause, he was not, however, adverse to a very similar kind of argument, made by H. A. Jürs, Chief of Police and Chairman of the Committee. According to Jürs, if parents were allowed, as per the draft, to annul any service contract entered into by their children (below 18) without the police having any say in the matter, some would abuse this right and discredit the sanctity with which minors (and everyone else) should consider a contractual agreement. In the words of Jürs, it could not be "to the benefit of the minors that they should learn just how easy it is to dissolve a contract".[107]

But besides these discussions on the upholding of contracts, liberalization was not tied to any possibility of positively shaping conduct and subjectivity. If anything, by opening a door to vagrancy and idleness, it was, as will be explored later on, seen as a possible source of demoralization. Indeed, rather than thinking about how to transform conduct and subjectivity, and much less about how to produce economic men, what shaped the Government's deliberations was an art of governing that was once again similar to the late eighteenth-century governmentality of 'economy'; one that treated the population as a passive object to be vitalized, multiplied, and utilized.

For one thing, this was reflected in the idea that all laborers should be legally classed as 'servants' and that it was apparently not important, as it was in the metropole, for laborers to be recognized as sovereign and independent. In Upper Court Judge Philip Rosenstand's comments from July 1879 on an early draft for the Master and Servant Act, he found this highly problematic. Under the Labor Act, he argued, a rural laborer was not, at least legally speaking, placed in the kind of "dependency" that he would be under the new act, where his "husbond" would hold power over his "overall conduct, for instance over his morality, going out at night", etc.[108] In

[106] Ibid., 1878-1879, col. 260.
[107] Ibid., 1878-1879, col. 253.
[108] CDC. 906. Philip Rosenstand's comments to a draft for the Master and Servant Act (July 25, 1879). Rosenstand was referring to a provision of the act that authorized the master to have the police annul a contract due to the servant's "immorality or other sinful conduct [*usædelighed*

Rosenstand's view, the laborer's new legal standing, although formally speaking free, would therefore likely "bring him down rather than raise him up", just as "the designation of 'servant' would likely offend him".[109] However, Rosenstand's objections were brushed aside and with them the idea that it was vital that laborers could themselves sovereignly decide whether or not they wished to become servants.

But the absence of the familiar liberal art of governing was also clear in the discussion regarding health care provisions. To recall, under the 1849 Labor Act, planters had been obligated to provide medicine and medical care to the laborers (including their families) who resided on their plantation and worked under mandatory one-year contracts. Anticipating its abolition, in the new Master and Servant Act, the Government sought to retain this obligation, even when the sickness was caused by the servant himself, and to extend it also to non-plantation laborers (but not those who had themselves to thank for being sick).[110] For Governor Garde, the benefits of this health care provision were self-evident from the point of view of "public welfare". Without it, laborers would be unwilling or unable to defray medical costs, and the medical profession would gradually disappear from the islands – and, with it, trusted personnel who would be able to determine "whether the labourers when complaining of sickness, really are so or not".[111]

In the final Master and Servant Act, however, this obligation was replaced with a rather vague stipulation, which was quickly interpretated to mean that laborers and planters were free to waive the latter's obligation to provide medical care if the parties so agreed.[112] But the reason for this, and for the great resistance the original stipulation met during the 1879 debate in the Colonial Council, was not – as it would have been in the metropole – that it would demoralize the laborers, since it relieved them of the need to be frugal and provident enough to take care of themselves in the event of sickness. While a majority of the five-man committee reviewing the draft did hold on to the principle that "free servants should provide themselves aid and medicine in case of sickness", for them the crux of the problem was how the

eller andet lastværdigt forhold]" (CDC. 906. The provisional Master and Servant Ordinance of September 13, 1879, § 6).

[109] Ibid.

[110] *Proceedings of the Colonial Council*, 1878-1879, cols. 226-227 (§ 16). Unlike metropolitan service law, the laborer would not have to pay for the cure, but would not receive any wages while sick, a measure that was taken suspecting that servants would otherwise pretend to be sick or forgo treatment in the hope of prolonging time off work. It was added following High Court Judge Philip Rosenstand's concern with "shirking sickness" (*skulkesyge*) among rural laborers (CDC. 906. Rosenstand's comments on the Servant Act draft (July 25, 1879), §15).

[111] Ibid., 1878-1879, col. 234.

[112] Most essentially, it was the English translation of the act that allowed this scope for interpretation. In the Danish version, the planter was under all circumstances obligated to provide medical aid, but could – as per contractual agreement – deduct some of the expenses from the worker's salary (ibid., 1878-1879, cols. 270-280).

provision would unfairly make planters responsible for something that other employers were not.[113]

Much the same was still true a few years later as the Government, now headed by Governor Arendrup, sought revise the Master and Servant Act. Here, health care provisions were once again an important point of contention. Informing the Ministry of Finance of its plans in October 1884, the Governor explained that too many laborers and their families did not get any medical care from their planters and other employers. The result was excessive mortality among "the laboring population", which is "under the current system completely unable to maintain itself and therefore diminishes more and more".[114] Thinking once again of black labor as a passive object to be nurtured and maintained, Governor Arendrup subsequently presented the Colonial Council with a draft with much more specific and ironclad obligations for planters to assist the laborers and their families residing on their plantations, seeing as these were not generally, as the Government explained to the Ministry, able to take care of themselves:

> What the public must under all circumstances demand is that it will not occur that sick laborers and children lie around on plantations without getting the medical care they need, and as the laborers commonly do not know where to turn, it must be a distinct obligation for the planter or his administrators to promptly organize medical care when required[.][115]

Once again, however, the Government's concern to vitalize a population deemed 'unable to maintain itself' was ultimately defeated, not out of a liberal fear of demoralizing those who enjoyed it for free and without the familiar inconveniences of relief, but by the Council's unwillingness to force planters to assume a responsibility they did not believe was theirs.[116] Thus, even though these health provisions were never successful, the Government's recurring attempts clearly show how the art of protecting laborers from poverty, so central to the 1849 Labor Act, was still vital and completely ousted the liberal problematization of how relief might obstruct the production of economic men.

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[113] For the lengthy discussion on this provision and its amendment (§16), see ibid., 1878-1879, cols. 230-241, 267-280, citation col. 247.

[114] CDC. 906. The Government's letter to the Ministry of Finance regarding a revision of the Master and Servant Act (October 22, 1884, marked 918/1884), pp. 4-6.

[115] Ibid., pp. 14-15. For the proposed revision of the Master and Servant Act, see *Proceedings of the Colonial Council*, 1885-1886, cols. 270-279, esp. § 17.

[116] See ibid., 1885-1886, cols. 284-291; 1887-1888, cols. 42-45. For a short overview of the debate on the proposed revision of the Master and Servant Act in the 1880s, see Jensen, *From Serfdom to Fireburn and Strike*, 142-143.

Vagrants and the problem of idleness

Considering the population's general 'predilection for idleness', another cornerstone of the new legal order was naturally a revision of the island's laws on vagrancy. In the existing Vagrancy Act of August 18, 1853, those persons who fell under the stipulations of the law were formally the same as in the metropole, namely such "persons who do not have property, trade or any such position with which to maintain themselves without harm or danger to the public".[117] In the new colonial Vagrancy Act of 1879, this definition was kept in place, but as in the 1860 metropolitan law, vagrancy was now of two kinds: on the one hand, vagabonds "wandering around unemployed"; on the other, individuals who failed to follow the police's order to assume adequate employment.[118]

As noted already, the new colonial Vagrancy Act had not, however, adopted the much more lenient punishments of the 1860 metropolitan law. With this revision, the Danish Parliament had abandoned the principle of penal doubling found in the 1829 decree, according to which a second conviction would issue in penal labor of up to one year, a third conviction between one and two years, a fourth between two and four, and so forth, potentially indefinitely.[119] Instead, the new law set the maximum punishment as one month on bread and water or, alternatively, six months of penal labor if local facilities made this possible,[120] a transformation that Danish legislators saw as "a great step in a more human direction",[121] but also one that would significantly lower the state's penitentiary expenses.[122]

But in the West Indies, the Colonial Government argued, a similar leniency would be entirely misplaced. As Governor Garde explained before the Council:

> considering that the laboring population here is more tempted than is the laboring population in the mother-country to fall into idleness, and that the lower degrees of the punishments consisting in temporary deprivation of liberty are proportionally too lenient to make themselves properly felt, it has been deemed necessary to retain the

[117] The August 18, 1853 Ordinance to Hinder Vagrancy in the Danish West Indian Possessions, §1 (printed in *Departementstidende*, 1854, 285-288).
[118] Law on Vagrancy and Beggary of October 23, 1879, § 1-2, printed in *Love og Anordninger*, 1879, 478-480.
[119] The decree of August 21, 1829, §§ 2-3, printed in *Chronologisk Register*, vol. 20, 71-75.
[120] The March 3, 1860 Law on the Punishment for Vagrancy and Beggary, § 1, printed in *Love og Anordninger*, 1860, 331-333., cf. with specifications given in *Departementstidende*, 1859, 877, sub ad § 3.
[121] This description was given by Christian Carl Alberti (1814-1890) during the 1860 debate on the new Vagrancy and Beggary Act (see *Rigsdagstidende, Folketingets forhandlinger*, 1859-1860, col. 278).
[122] *Departementstidende*, 1859, 875-876.

> penal clauses in the ordinance of 18th August 1853 rather than adopt the somewhat lighter penalties enacted in the law of 3rd March 1860.[123]

Thus, instead of prescribing imprisonment on bread and water as the rule, a 'temporary deprivation of liberty' that colonial officials and legislators considered much less deterring for the black population than penal labor carried out in public,[124] the Government proposed to keep the preexisting norm that even a first-time offense would issue in 'compulsory labor' (*tvangsarbejde*) of up to one and a half months, a second-time offense of up to four months, but never, even after the fifth offense, of more than two years.[125]

Unlike the Master and Servant Act, the proposed revision of the Vagrancy Act was approved almost immediately and with almost no discussion.[126] To everyone concerned, it was still self-evident that black laborers were prone to idleness and that without effective suppression they would simply continue to do as little as possible. This understanding was also expressed in the 1879 parliamentary report on the Fireburn riots. In its view, the most likely occurrence following the abolition of the Labor Act would be:

> a big increase in the number of vagrants, as the lazy and bad elements in the laboring population – whose numbers are unfortunately far from small – will avoid committing themselves to any steady employment and will instead follow their previously mentioned inclination to subsist by a few days of work a week and spend the rest of their time in idleness and with the immoralities that follow in its wake [*lediggang og de af denne ofte følgende udskejelser*].[127]

This did not only mean that the problem of vagrancy was more acute than in the metropole, but also that it was of a particular kind. To recall, in the metropole at the time of the 1860 revision, the problem of vagrancy was the harms unemployment and vagabondage posed to the public, in the shape of either poor relief or crimes such as theft, beggary, or other lesser forms of public disorder. But in the West Indies, suppressing vagrancy was first and foremost a matter of putting an entire

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[123] *Proceedings of the Colonial Council*, 1878-1879, col. 244. It is unclear at what point the Colonial Government came to this conclusion considering that the draft, motives, and comments that circulated two months before the debate in the Colonial Council in September 1879 contained no stipulations to this effect and had in fact adopted the punishments of the law of 1860 wholesale (see CDC. 906. *Udkast til Anordning for […] Løsgængeri og Betleri m.m.*, undated, but attached to ibid., Philip Rosenstand's comments on the draft (July 25, 1879, marked *ad* 678/1879)).

[124] See later in the chapter, pp. 339-349.

[125] In the act itself, the punishments were formally defined in days on bread and water, but with the addition that it was left to the court's discretion to substitute it, as was customary, for penal labor according to the established scale of six days of penal labor for one day on bread and water (The 1879 Ordinance on the Punishment for Vagrancy and Beggary, etc. in the Danish West Indian Islands, § 6).

[126] *Proceedings of the Colonial Council*, 1878-1879, cols. 241-245, 269-270.

[127] *Betænkning afgivet til Finantsministeriet*, 15.

population on the right track toward acquiring the habits of industry, and only secondarily a question of protecting society from the burdens or disorders vagrancy might produce. In fact, in the 1879 report, Schlegel and his committee did not even consider those burdens poor relief might pose to the public, and mentioned only in passing the threat stemming from those "who do not even care to earn the little they need through work but prefer to do so through theft".[128]

As noted above, this way of problematizing idleness as relatively harmless to the public, but as a threat to civilizational progress, was already well-entrenched. In fact, it may be traced as far back as the von Scholten Commission's plans for emancipation. In the draft for a Vagrancy Ordinance drawn up in 1847, this commission had in fact argued that:

> considering that the bare necessities for the maintenance of life are so easily attainable in these parts of the world, there is no reason to presume that he who live idly and is without property or a steady trade does so at the expense of society[.][129]

But even as the relative absence of poverty severely reduced the motives for theft or any real need for relief, it was nonetheless obvious to the Commission that such idlers were "of no use either to themselves or to society", but also that their idle way of life was a mother of vice, leading as it did to "immoralities, vices, and offenses [*udskejelser, laster og lovovertrædelser*]".[130] In 1852, the Colonial Council took a very similar stance when commenting on a possible revision of the Vagrancy Ordinance. Here, it argued that to suppress vagrancy in the West Indies was not to ensure "the prevention of those practices with which persons without occupation endanger the public security", a purpose it instead, with good reason, associated with the "Danish legislation relative to vagrancy". Rather, as also noted by von Scholten's Commission, it was to suppress something that was "an evil in and of itself": indeed, it was to keep an immoral habit obstructing "the population's progress toward European civilization" from being passed from generation to generation.[131]

As the Government proposed the new Vagrancy Act in 1879, it was most likely for very similar reasons. Although the sources are sparse on this point, the Government certainly shared the understanding, as noted above, that "the laboring population here is more tempted than is the laboring population in the mother country to fall into idleness", and that the great challenge following liberalization was therefore to keep laborers steadily employed.[132] Clearly, they assumed that suppressing colonial

[128] Ibid.
[129] CDC. 905. File *ad* 563/1848, *Anmærkninger til Udkast,* introduction.
[130] Ibid.
[131] *Proceedings of the Colonial Council*, 1852, 31.
[132] This opinion was often expressed immediately prior to liberalization. See, e.g., Vice-Governor Stakemann's reference to the laborers' "desire for vagrancy" (CDC. 906. File *ad* 152/1879: Copy

vagrancy was a very different and much more essential task than it was in a European setting, in which laborers would ideally be driven by autonomous mechanisms operating inside or outside of them – in their desires or in the pressures of poverty – to prefer steady employment over idleness. Accordingly, in the colony, the suppression of vagrancy and thus the enforcement of steady wage-labor was not a means by which to support the autonomous mechanisms of the capitalist labor market. Rather, it was itself the primary means that would keep black laborers on the right path to acquire the habits of industry. Another instrument that was essential in this regard was the suppression of beggary.

Beggars and laborers

As in the metropole, colonial authorities tended to see vagrancy and beggary as two sides of the same coin. Accordingly, the full title of the Vagrancy Act of 1879 was in fact an *Ordinance for the Danish West Indies Concerning Penalties for Vagrancy and Beggary*. Like the 1860 metropolitan law, it did not define beggary and prescribed the same punishment of up to eight weeks of simple prison or two weeks on bread and water, which could be converted to six months of 'compulsory labor'.[133] Yet, from the deliberations on the Government's draft prior to and during the debate in the Colonial Council, it becomes clear that although the suppression of beggary was clearly, as in the metropole, a matter of minimizing the possibility of subsisting without wage-labor, it was not understood as a means by which to force or deter individuals to become 'economic men'.

In the eyes of some, it was not even practically possible to criminalize begging. One of these was Upper Court Judge Philip Rosenstand. In his view:

> there can be no doubt that begging is contrary to a perfectly good societal order, but I have much doubt whether ours is as good that it can be enforced or that it is even reasonable to define begging as a crime.[134]

From his point of view, the problem was that, seeing as poor relief was only a supplement to the alms that paupers acquired through private charity, it would be both impossible and unreasonable to invoke a general ban on beggary. During the debate in the Colonial Council, many expressed similar concerns. Yet, Governor Garde and councilman and Chief of Police H. A. Jürs laid these concerns to rest as

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of Stakemann's letter to the Government, November 27, 1878) or Chief of Police H. A. Jürs' conviction that "after the change in the labor regulations […] many individuals will especially at first be prone to roam around without work" (ibid., 1878-1879, col. 245).

[133] CDC. 906. The provisional Vagrancy and Beggary Ordinance of September 13, 1879 (*Foreløbig Anordning for de Dansk Vestindiske Øer om Straffen for Løsgængeri og Betleri m.m.*), § 7.

[134] CDC. 906. File *ad* 678/1879: Copy of Philip Rosenstand's report on the draft for a Vagrancy Ordinance (July 25, 1879).

they assured the Council that the act would not be enforced on the "old and infirm persons whom we are all accustomed to see come at regular times for their little help", but only on "other individuals found begging", not least those "who make it a regular business to send out children a-begging".[135]

As it appears, the distinction that was crucial to the colonial suppression of beggary was slightly different than in the metropole. There, the only form of 'begging' that could be tolerated was that which was carried out between friends and relatives. But in the colony, it would be perfectly legal for everyone deemed 'old and infirm' to acquire from everyone else, even complete strangers, relief in the form of private alms. Thus, unlike in the metropole where everyone in need, even the old and weak, would ideally have to turn to the demeaning and disenfranchising system of public relief and would ideally, knowing this, seek to insure themselves for the future while they still could, in the colony, the laws on begging practically buttressed the right to 'throw oneself' on the public as soon as a person was no longer able to help himself. Quite clearly, the suppression of beggary was not a question of producing 'economic men', but simply the more limited question of forcing laborers to work for as long as they were able.

Idle thieves

With 'the second free', the suppression of vagrancy and beggary had clearly become more acute than ever before; not because this bypassing of wage-labor was feared to obstruct the formation of economic men, but rather because it fed the population's already ingrained "predilection for idleness" and thus disturbed its progress toward habits of industry. Much the same occurred in regard to the suppression of theft, as it and the general apparatus of colonial justice were taken up for revision in the early 1880s.

The occasion for these renewed deliberations on the problem of theft and the overarching purpose of colonial penality was the question of the possible implementation of the Danish Penal Code of 1866 in the Danish West Indies.[136] In 1882, Governor Arendrup sent home a draft with the modifications that had been drawn up in collaboration with the islands' top legal authorities, the two upper court judges P. M. Andersen and Philip Rosenstand.[137] Generally, the Governor and the legal experts were ready to implement most of the code, but found that the two forms

[135] *Proceedings of the Colonial Council*, 1878-1879, col. 244.
[136] For a short overview of the colonial deliberations on the possible implementation of the Penal Code, see Olsen, "Danske Lov på de vestindiske øer," 316-319. Olsen's account has not, however, addressed the West Indian reports and deliberations on the matter during the 1870s and 1880s that will be examined here (found in WIG 3.81.14).
[137] CDC. 467. File 1269/1907. The Government's letter to the Ministry of Finance (March 24, 1882).

Figure 8: *Photograph titled "Prison-Gang in the Sugerfield, St. Croix", undated. Likely, the prisoners depicted were sentenced to 'compulsory labor' (*tvangsarbejde*). National Museum of Denmark.*

of prison sentence that were authorized in the code, namely the so-called 'correctional punishment' (*forbedringshusstraf*) and '*zuchthaus* punishment' (*tugtshusstraf*), would be inadequate. To supplement this penal arsenal, they wished to include a somewhat milder kind of penal labor that had been widely used since emancipation, namely what they knew as 'compulsory labor' (*tvangsarbejde*).

Since emancipation, compulsory labor (Figure 8) had, the Government reported, become the standard punishment for a whole number of less serious offenses, not least of which were theft and other property-related offenses, but also – as briefly noted above – for vagrancy, beggary, and certain violations of the Master and Servant Act. Between 1877 and 1879, the colony's three prison facilities – one on St. Thomas and one in Christiansted and Frederikssted on St. Croix – held an average of 28 offenders sentenced to compulsory labor (but at one point had held no fewer than 64 inmates). The number of inmates sentenced to 'correctional punishment' (*forbedringshusstraf*) was about the same, namely 29 on average, while the colony at this point had zero *zuchthaus* prisoners, most likely because it was the practice to send these, the most hardened criminals, to serve their sentence in the metropole.[138] Unlike these, compulsory laborers were usually put to work

[138] WIG. 3.81.14. P. M. S. Andersen's *Oversigt over det daglige Giennemsnitsantal […] af Tugthus, Forbedringshus- og Tvangsarbejdsfanger […] 1877-1879* (February 9, 1881). For more on the practice of sending inmates to Danish prisons, see Sielemann, *Natures of Conduct*, 124-128, 162-166.

outside the walls of the penitentiary, with street-cleaning and other forms of public works, and their sentence would last no more than two years.

The reason the Government proposed this kind of punishment was to adapt to the typical West Indian offender and the crimes most frequently committed, not least "the lesser forms of theft, especially those concerning edible things". Being convinced that most such thefts were committed in order avoid work, the Government believed that work was also the best kind of deterrence. In the words of the Government:

> numerous thefts must be considered as the more or less direct effect of idleness and laziness; many steal only so as to live without working, and for such individuals this punishment will have a highly beneficial influence due to its specific enforcement of work.[139]

Thus, thievery was not, as metropolitan legislators presumed, the property of abnormal individuals, but was instead reflective of the population's general inclination to idleness. Or, as Philip Rosenstand had argued in his report from 1881, although many of the individuals who received a sentence of compulsory labor certainly belonged to "the class of the incorrigible", these were not exceptions to the rule, but were naturally found in plenty among "a population so different and pilfering".[140] Naturally, a punishment of compulsory labor for even a first and minor offense of theft was therefore, everyone agreed, a much more effective deterrence against this widespread and uncivilized inclination than was the punishment of bread and water, as the 1866 Penal Code made possible for first- and second-time simple theft.[141] Indeed, "due to the work itself and the shame of working in public" coercive labor would not only deter the 'the class of the incorrigible', but have "a significant deterring effect on the entire population".[142]

Of course, this understanding of theft as the property of a 'race' rather an exceptional 'criminal class' was far from unique at the time. In Diana Paton's work on nineteenth-century post-slavery Jamaica, for instance, she similarly notes that, whereas in the British metropole crime was the property of "a hardened criminal

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[139] CDC. 467. File 1269/1907. The Government's letter to the Ministry of Finance (March 24, 1882).
[140] WIG. 3.81.14. Rosenstand's report to the Government (August 5, 1881).
[141] In the words of the Government, many West Indian offenders, in particular those with "a raw and energetic character and powerful constitution", were not "particularly affected even by a prolonged sentence of bread and water" (CDC. 467. File 1269/1907. The Government's letter to the Ministry of Finance (March 24, 1882)). As Upper Court Judge P. M. S. Andersen chimed in, many were already too used to poor nutrition for confinement on bread and water to make an adequate impression (WIG 3.81.14. Andersen's report to the Government (February 9, 1881)). According to § 228 and 230 of the 1866 Penal Code, the punishment for first- and second-time crimes of simple theft would range from imprisonment on bread and water, up to two or four years of 'correctional punishment' (*forbedringshusarbejde*).
[142] CDC. 467. File 1269/1907: The Government's letter to the Ministry of Finance (March 24, 1882).

minority", in nineteenth-century colonial Jamaica "the criminal was meant to stand in for the population as a whole".[143] Moreover, in the 1880s Danish West Indies, it was hardly novel to view blacks as racially disposed to crime. As explored in chapter 3, one finds a similar tendency to see all blacks as evil-minded and inherently criminal in eighteenth-century colonial justice, although toward the end of the century there was also a growing interest in the individuality of the criminal, for instance by distinguishing the evil and incorrigible from the less serious thief. With time, however, this interest in the individuality of the offender tended to fade, at least in regard to the crime of theft. At least by the mid-nineteenth century, the black thief had become little more than his 'race'. To explore this unequivocal racialization of the thief and also to better grasp what was new about the suppression of theft in 1880s, the following will return to the first years and decades after the abolition of slavery.

Suppressing theft after 1848

The key principles of the suppression of theft are found in a revised Police Ordinance from 1852. In the original version of this ordinance, passed in 1849, Governor General Peder Hansen had broadened the familiar category of 'exempted theft' almost beyond recognition. In order to exempt simple theft and other property-related offenses from the severe and accumulating punishments of Ørsted's 1840 decree, Hansen instead prescribed a maximum punishment of up to six months of compulsory labor, even for repeated offenders.[144] Thus, much unlike Ørsted's decree or the later Penal Code of 1866, Hansen was not content to exempt only those cases that bordered on theft (for instance, plucking an apple from a tree for immediate consumption), but also aimed to punish these exempted offenders in a different and more severe way than a fine or a prison sentence on bread and water.

Besides his concern to minimize public expenses for lawyers and prison facilities, Governor Hansen had come up with this rather wide exemption because, "in the West Indian colonies", crimes against property rarely reflected, as he explained in 1851, "the same dangerous character as they are presumed to among a European population". For not only did such crimes rarely involve significant values or the use of violence or artfulness, but as a rule they were not even "directed toward the possession of property".[145] Thus, rather than being motivated by a deranged but ultimately rational desire for self-enrichment, or what Ørsted had called a "genuine thieving will",[146] blacks committed theft out of:

[143] Paton, *No Bond but the Law*, 150-151.
[144] The January 4, 1849 Police Ordinance is found in CDC. 402. File 475/1889
[145] Ibid. Governor Hansen's letter to the Ministry of Finance (February 12, 1851), originally filed as 223/1851.
[146] *Collegial-Tidende*, 1840, 444.

> a predilection for the immediate satisfaction of a desire for pilfering and for obtaining some pleasure without being preceded by any consideration as to the consequences.[147]

When the ordinance received its final form in 1852 at the hands of Upper Court Judge C. F. Kunzen, Hansen's very wide scope for exemption was made somewhat narrower, but without discarding the basic logic.[148] Thus, despite arguing that the previous ordinance from 1849 had been wrong to exempt almost all kinds of theft, even the more serious cases involving violence and breaking and entering, Kunzen was clear that minor theft, which in any case constituted the great majority of cases, should continue to be exempted from the regular principles of the penal laws. For, as he argued, while in the West Indies these crimes certainly reflected "the individual's deficient understanding of the inviolability of property rights," this did not mean that "the criminal is dangerous to the security of property in the stricter sense".[149] Like Governor Hansen, Kunzen grounded this interpretation in the savage, but relatively harmless and even childish motives that supposedly led Afro-Caribbeans to commit property-related crimes. For, he stated, "it is rather the satisfaction of an ingrained disposition to engage in the pilfering of minor objects [*en indgroet tilbøjelighed til rapseri af småting*] around which the matter revolves". So, even though this racially-specific inclination made property-related offenses both frequent and frequently repeated by the same offenders, it would be wrong, he argued, "to say that the danger that the thief poses to society has grown with each repetition".[150]

Of course, there was a limit to this logic of exemption. By its own provisions, the 1852 ordinance did not cover what was known as 'qualified theft': thefts involving significant values, violence, or breaking and entering. But also, from within the colonial justice system, there was a countermovement that wished to make room within the law for a different kind of 'thief', one whose habit of pilfering did not reflect a harmless and innocent state of savagery, but a deranged and criminal individuality that called for a severe and deterring response.

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[147] Ibid. Governor Hansen's letter to the Ministry of Finance (February 12, 1851), originally filed as 223/1851.

[148] More precisely, the January 6, 1852 Police Ordinance departed from Hansen's provisional ordinance by exempting only those property-related offenses that the April 11, 1840 Criminal Code recognized as 'simple theft' (cf. the 1840 Criminal Code §1-4). The 1852 Police Ordinance, however, retained the principle that the judge could, "according to the circumstances", revert the sentence to compulsory labor at a rate of 12 days of labor per 48-hour sentence (as stipulated in the 1853 Vagrancy Act §11). The 1852 ordinance is printed in *Departementstidende*, 1852, 191-194, esp. §2.

[149] CDC. 402. File 475/1889. C. F. Kunzen's letter to Governor Hansen (November 2, 1850), originally filed 'Bilag B' to file 223/1851.

[150] Ibid.

The tension between these distinct understandings was clearly brought into the open during the prosecution in 1864 and 1865 of a young Afro-Caribbean man by the name of Henry Roebuch. A seventeen-year-old native of Christiansted, Roebuch had already served the maximum punishment of six months of compulsory labor for stealing eighty cents from a shopkeeper when he was once again – six months after his release – charged with the crime of theft, now of a calfskin valued at two dollars and fifty cents. Despite falling within the category of simple theft and thus under the exemptions of the Police Ordinance, the Chief of Police in Christiansted, the later Vice-Governor Johan August Stakemann, had initially refused to treat the case as a police matter. Referring to the fact that this would be Roebuch's fourth conviction for simple theft, Stakemann was convinced that "the delinquent was deserving of a greater punishment than can be issued by the police court".[151] Following Governor Birch's instructions, Stakemann was nonetheless ordered to judge it as a police matter, handing down the maximum punishment of six months of compulsory labor, but not without noting that as "an incorrigible larcenous subject" Roebuch rightly deserved a much greater punishment.[152]

The matter did not end there, however. The case was appealed to the West Indian Upper Court, where the author of the 1852 Police Ordinance, C. F. Kunzen, was still presiding. Here, Kunzen found Stakemann's sentence to be "excessively harsh" and changed it to eighty-four days of compulsory labor, citing in particular the defendant's young age as well as the "logic and intention" of the ordinance as grounds for leniency.[153] Reporting the matter to the Ministry of Finance later in 1865, Governor Birch completely shared this view, seeing the verdict and the ordinance upon which it was based as an eminently prudent response to the population's "predilection for pilfering", a predilection which the penal laws of the metropole would punish with "disproportional severity" and in a way that would overburden the courts, overcrowd the penal institutions, and thereby serve to further diminish the already shrinking labor pool.[154]

In arguing this way, the Government made its views quite clear: Against the logic that repeated acts of simple theft reflected a dangerous criminal individuality (or in Roebuch's case 'an incorrigible larcenous subject') that called for the full severity of the law, the Government took the position that the usual means of penal deterrence and improvement had to be displaced when it came to a certain kind of offender, namely the many who had 'no thieving will'.

Indeed, in the eyes of some officials, for instance Governor General Hansen, black criminals were generally of a much more harmless nature than metropolitan

[151] CCB. 38.10.2. No. 650/1864: The Police vs. Henry Roebuch (November 19, 1864), p. 345.
[152] Ibid. No. 731/1864: The Police vs. Henry Roebuch (December 30, 1864), pp. 357-359.
[153] WUP. 5.5.10. No. 3/1865: Verdict on Henry Roebuch (January 18, 1865), pp. 306-307.
[154] CDC. 402. File 475/1889: The Government's letter to the Ministry of Finance (May 27, 1865), originally filed as 380/1865.

criminals. Thus, although Hansen did not believe that it was pointless to utilize punishments to deter or improve the conduct of actual or would-be offenders,[155] he did believe that black offenders were not generally "reared and hardened for crimes". As was true of theft, so was it generally true of even the serious offenses: In his experience, even arson or breaking and entering were rarely committed with the intent of killing or in inhabited places. Generally, even the more serious offenders were "no more dangerous to society […] than those who repeatedly commit less serious crimes".[156]

But this did not mean that the category of the 'dangerous' criminal was entirely empty in colonial justice. For instance, there is the case of Joseph Henry Dennis, a native of Barbados who was no more than seventeen years old when he was sent to Denmark to serve a nine-year prison sentence in 1866. Prior to this, Dennis had been in and out of the colonial penal system ever since he had arrived in St. Croix in 1859.[157] Indeed, when he was issued with his nine-year sentence, he had already been punished three times for illegally leaving his service as a field laborer, five times for minor theft, and finally one time for the more serious crime of qualified theft, which the 1852 Police Ordinance did not exempt. This latter sentence, namely three years of correctional labor, prompted the Government – headed by Governor Birch – to remark that Dennis' "inclination for vagrancy and theft" made it reasonable to "characterize him as an individual which society must seek to free itself of".[158] This characterization only received further confirmation when Dennis shortly thereafter managed to escape his captivity and went on yet another rampage of theft that clearly showed him to be "a particularly corrupted individual". In fact, the Government described him as "a human being who is extremely dangerous to society", and whose only hope of ever becoming "a good and useful" member of society solely relied on the promise of rehabilitation in a European prison.[159]

In Rasmus Sielemann's analysis of Dennis' case, his verdict and subsequent sojourn in the domestic penitentiary system is taken to illustrate the ambiguous role of imprisonment in the Danish West Indies. On the one hand, Sielemann argues, colonial authorities believed in the possibility of rehabilitation through cellular confinement, and for that reason sometimes either opted to send convicts to the more

[155] On various occasions, Hansen praised the colony's penitentiary system, not least its "prescription of continuous labor", both for offering "sufficient motives to stay away from crime" and for functioning as "a school from which a kind of diligence and industry, previously unknown here, will emanate" (CDC. 912. File 721/1850: Hansen's letter to the Ministry of Finance (July 4, 1850)); ibid. File 1142/1849: Hansen's letter to the Ministry of Finance (September 27, 1849).

[156] Ibid. File 721/1850: Governor Hansen's letter to the Ministry of Finance (July 4, 1850).

[157] For copies of the various verdicts and government files on the criminal record of Joseph Henry Dennis, including documents pertaining to his time in the metropolitan prison facilities, see CDC. 912.

[158] CDC. 912. File 171/1865: The Government's letter to the Ministry of Finance (February 27, 1865).

[159] CDC. 912. File 627/1866: The Government's letter to the Ministry of Finance (July 18, 1866).

well-equipped Danish prisons or drew up plans to improve the sub-optimal local facilities for the purpose of cellular rehabilitation. But on the other hand, in actual practice, they often gave priority to the work inmates could perform, together, often in public, and in any case under circumstances that lacked surveillance and control, and were generally unamenable to the intense isolation and introspection that metropolitan penal reformers saw as necessary means of rehabilitation.[160]

This is no doubt very true, but the case of Joseph Henry Dennis also shows something else. More than the ambiguous role of the practice of penitentiary rehabilitation, what is illustrated by the case is also, I would argue, the relatively late stage in the continuum of criminality at which offenses and offenders were even considered 'dangerous' and regular penal principles were understood as meaningful. Indeed, in light of the much more typical case of Dennis' close contemporary and possible cellmate Henry Roebuch, and thus in light of the way colonial penality quite systematically and intentionally exempted a whole number of offenders – even recidivists like Roebuch – from the epithet 'dangerous' and instead preferred to view them as no more than harmless savages, what is striking is how systematically colonial authorities intensified and gave great priority to a distinction that was no more than secondary to the penal laws back home: namely the distinction between those offenders who did not act out of 'a genuine thieving will' (but out of a racial 'predilection for pilfering') and those hardened and dangerous individuals who possessed such a will in spades. Whereas criminals back home were, as a rule, seen to belong to the latter category, in the colony, the great majority presumably belonged to the former. For this reason, the distinction mattered a great deal.

Suppressing theft in the 1880s

Most essentially, what was new in the 1880s was the Colonial Government's wish to narrow the very broad space of exemption that the 1852 Police Ordinance had carved up for the 'harmless' thief. Not least, in the deliberations among the Government and the colony's legal experts on the possible implementation of the Penal Code of 1866, what was problematized was exactly what Stakemann had pointed to in the mid-1860s, namely that the 1852 ordinance failed to take recidivism into account and that, for instance, even a fifth-time offender of simple theft could not be punished with more than six months of compulsory labor. But the authorities were not completely willing to replace the ordinance with the 1866 Penal Code outright. As noted above, they wished to ensure that most thieves, as well as other minor offenders, would be sentenced to compulsory labor, a punishment it deemed much more deterring and fitting to a population so prone to idleness. For this reason, it proposed to supplement the provisions of the 1866 Penal Code with

[160] Sielemann, *Natures of Conduct*, 124-131.

an ordinance that made sure that even a first-time thief could be sentenced to six months of compulsory labor, and that only offenders with two prior convictions for theft would be judged in accordance with the Penal Code and sentenced to 'correctional punishment' (*forbedringshusstraf*).[161]

Thus, what colonial authorities aimed for was to punish the lower degrees of theft with the deterring punishment of compulsory labor, but also to punish more serious and multiple offenders with longer prison sentences. In regard to the latter, Governor Arendrup therefore also proposed a reorganization of the islands' prison facilities that would allow the colony to fully adopt the practice of cellular confinement and moral rehabilitation for those who would be sentenced to correctional punishment.[162] In the eyes of Upper Court Judge Rosenstand, this would make punishment much more effective as a means of both improvement and deterrence. Although it was not without challenges, he had:

> no doubt that the cellular system will be beneficial in many cases, as the thought of a long time of loneliness and separation from the world will appear deterring on the would-be criminal, while it could also give rise to self-reflection and improve those who have walked the path of the criminal and who must now suffer the penalty for it[.][163]

But with this greater emphasis on individual rehabilitation, colonial officials did not mean that this should be the primary focus of colonial punishment. Rather, these plans for cellular confinement – which in any case did not lead to any concrete transformations, and were far from universally approved[164]– were intended for the worst cases and the multiple recidivists, while the great majority were to be governed through a very different art of punishing, namely by deterring would-be offenders. As is clear from a transcript of a conversation between Governor Arendrup and Upper Court Judge Andersen in early 1882, this art of punishing in fact tended to dominate their ideas of what individual rehabilitation or improvement

[161] The use of compulsory labor would be conditional, however, on the offender already having suffered the punishment of bread and water or compulsory labor on a previous occasion, possibly on a different charge (as explained in CDC. 467. File 1269/1907. The Government's letter to the Ministry of Finance, March 24, 1882). See also the statements to this effect by P. M. S. Andersen and Philip Rosenstand (WIG. 3.81.14. Their reports of February 9 and August 5, 1881, respectively, especially concerning chapter 23 of the Penal Code) as well as the undated draft for a special ordinance found later in the same file (titled *Udkast til Anordning om Behandlingen af nogle i […] almindelig borgerlig Straffelov af 10 Februar 1866 […] omhandlede Forbrydelser*, § 2-4). It is thus too simplistic to argue, as Poul Erik Olsen has done, that colonial authorities simply wished to keep the 1852 Police Ordinance in place as it was (Olsen, "Danske Lov på de vestindiske øer," 318).

[162] CDC. 467. File 1269/1907. The Government's letter to the Ministry of Finance (March 24, 1882).

[163] WIG. 3.81.14. Rosenstand's report to the Government (August 5, 1881).

[164] For instance Upper Court Judge P. M. Andersen believed that cellular confinement was contrary to "the nature of the negroes" (WIG. 3.81.14. Andersen's report to the Government, dated February 9, 1881).

even meant. In the words of the Governor, the value of compulsory labor was exactly that it deterred the criminal to improve his ways:

> The improvement that the state should strive for with punishment may only mean that the criminal will in the future behave in accordance with the law and coercive labor is commonly recognized as a very effective punishment.[165]

Seemingly, when Governor Arendrup thought about how punishment might improve the colonial subject, he tended to emphasize how it would encourage actual or future criminals to behave in accordance with law, but not how it might put in motion a deep transformation in their subjectivity. Quite succinctly, Judge Andersen's response to Arendrup's statement was that, from his point of view, its reasoning was closer to "the theory of deterrence than to that of improvement", although he believed that in practice "it was difficult to draw a sharp line".[166]

Furthermore, despite their greater focus on cellular confinement and individual rehabilitation, colonial officials were no less disposed to grasp theft among blacks as caused by their racial predilections, as opposed to their than individual failings. Accordingly, the growing willingness to punish recidivist thieves on a rising punitive scale (from compulsory labor to correctional punishment) should not be taken as evidence that colonial penality was now mainly focused on the rehabilitation of individuals. Rather, this change in policy was, I would argue, a response to a new way of problematizing the supposedly inherent criminality of blacks, namely the same issue that breathed new life into the suppression of vagrancy and theft: the problem of blacks' predilection for idleness.

Immediately after abolition, Governor General Hansen and Upper Court Judge Kunzen had understood the inherent criminality of blacks as a relatively harmless 'predilection of pilfering', and in their respective descriptions it had nothing directly to do with the problem of idleness. Of course, at a time when rural laborers were forced under the Labor Act to enter service on one-year contracts and their 'predilection of idleness' was thus safely countered, it was only natural that Hansen and Kunzen would fail to make any connection between theft and idleness. However, to Governor Arendrup writing in the early 1880s and seeking to suppress the rising threat of vagrancy and beggary in a population he understood as easily tempted to fall into idleness, this connection was entirely self-evident. In his description from 1882 cited above, crimes of "lesser theft", and not least those of "edible things", were typically "the more or less direct effect of idleness and laziness", committed by people who "steal only so as to live without working".[167]

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[165] WIG. 3.81.14. Transcript of conversation in the Governor's mansion on February 7, 1882 between Governor Arendrup and Upper Court Judge P. M. Andersen (undated and unsigned).
[166] Ibid.
[167] CDC. 467. File 1269/1907: The Government's letter to the Ministry of Finance (March 24, 1882).

In other words, whereas theft had once been an isolatable problem that had little to do with idleness, this great hindrance to the population's civilizational progress, it now had everything to do with it. Theft was essentially something that allowed black laborers to bypass their already limited need for steady industry and revel in their savage habits.

But if the purpose of suppressing theft was now to push laborers toward wage-labor, was it then part of the same governmentality that was at the heart of the domestic suppression of theft? In my view, it was not. Much unlike the liberal governmentality of the metropole, in the West Indies, the potential or actual thief was not the exceptional and fallen individual who had, like the 'unworthy' pauper, fallen to such a degree that neither his insides nor his outsides provided an autonomous spur to industry, frugality, and providence. Rather, the typical thief was a natural extension of the population or 'race' to which he belonged: he shared its distaste for work and had only taken this at little further than usual. Thus, the colonial suppression of theft was not only much more acute, seeing as it should ideally, to recall the words of the Colonial Government, have 'a significant deterring effect on the entire population'.[168] But it was also different from the point of view of the kind of subjectivity punishment sought to suppress. Taken together with all that has been said about the colonial governmentality after 1879 over the course of this chapter, it is clear that it was far from coincidental that the colonial punishment of even lesser thefts would not be the pain of hunger and malnutrition – the primal fears of economic man – that was essential to imprisonment on bread and water, but rather the pain of work: the primal fear of the idler. What the suppression of theft should accomplish was not to produce economic men, but to provide one more means by which to render idle laborers industrious for as long and as much as they were able.

The colonial governmentality of 'free labor'

The regime of 'free labor' that emerged with 'the second free' was not founded on the liberal governmentality that was at the heart of metropole's capitalist labor market and its legal-administrative regime governing paupers, vagrants, beggars, and thieves. Surely, in the West Indies, black laborers experienced the coming of the ideal of 'free labor' and a regime for keeping laborers employed as wage-laborers, but this regime's underlying governmentality – its way of problematizing, knowing, and acting on reality – was so very different from the metropole's. Indeed, this is the story of a profound 'dislocation' of liberal governmentality: For the *problematizations* of giving the 'unworthy' too easy access to relief and exposing the 'worthy' to too much coercion and shame, it substituted a problematization of

[168] See p. 341.

an idling population unable to care for itself; out of the *knowledges* of 'the sovereign individual' and of 'economic man', it arrived at a *racial* knowledge of an abnormal uneconomic population and a *biopolitical* knowledge of its state of health and exposure to poverty; and instead of aiming to produce economic men through a capitalist labor market, it intervened in reality through an *paternalist art* of nurturing, utilizing, and punishing laborers and, in the process, of *habituating* them to industry. In fact, through all these liberal displacements, what is found is a governmentality that speaks not to the will, but to those unwilled and supposedly racially determined habits and predilections that confound the power to will. Rather than targeting the abnormal will of individuals – the criminal will, the absent will to self-preservation – it was a question of transforming the habits of an entire population, one that remained untouched by the fear of hunger and shame of the workhouse, and instead had to be reached through a whole number of caring, coercive, and punitive means. Even in a regime of 'free labor', it was not 'free labor' itself, but all these paternalist means that would ideally set the laboring classes on the road to improvement.

As it appears, in the late nineteenth-century Danish West Indies, governing colonial labor called upon a singular kind of governmentality. Certainly, there were some who spoke for the direct introduction of metropolitan laws and of supposedly universal forms and categories of governing – like 'the workhouse', 'the economy', or 'free labor' as such. But generally, these voices were either ignored by the Danish colonial officials or were already, perhaps in ways unknown to themselves, thinking in ways that would have appeared unfamiliar in the metropole. (The discussion of the workhouse offers the best example of this.) Apparently, to Danish West Indies authorities, the metropole – or Europe more broadly – no longer offered a model or basis for dealing with colonial realities. What it did offer was a knowledge – nineteenth-century political economy *à la* Malthus – that allowed them to identify parts of what was abnormal about the colonial contexts – namely the lack of scarcity and want. But other than this, the space for overlaps was very narrow. A knowledge of the supposed racial character or nature of blacks had ousted those claims to universality and commensurability that were still meaningful a hundred years before.

CHAPTER 9: CONCLUSIONS

To what extent and in what ways did colonial governing rely on distinctive governmentalities? In what ways were these similar to or different from those used in Europe? Did these European rationalities or governmentalities hold any relevance for the governing of the colonized, or did colonial governors feel or believe they needed to go beyond what was authoritative back home? Furthermore, was there a change over time in the relationship between metropole and colony in this regard?

These are the broader questions that have been examined in this book, with the Danish West Indies and the metropole of Denmark from 1770 to 1900 as the empirical cases. As noted in the introduction, I have posed these questions in the expectation that they, and the comparative method I have employed to pursue them, would add valuable insights to the history of colonial governing, in the Danish West Indies and hopefully also more broadly. Not least, they grew out of an engagement with the historiography of the field of colonial governmentality studies. This field, I have argued, shares two tendencies: First, an inclination toward uneven, dichotomic, and endogenous ways of comparing metropole and colony; and second, a lack of interest in the exploration of historical variation in the degree to which colonial governmentalities were singularly 'colonial'. Possibly, I hypothesized, a more even, in-depth, and open-ended form of comparison sensitive to changes over time would therefore be able to explore on a more solid foundation what was unique (and what was not unique) about colonial governing at particular points in time and space. In this final chapter, I will first present and reflect on the findings that came out of this analysis. After that, I will discuss the possibilities and limitations of its underlying methodological and theoretical framework as a tool to compare and historicize the practices of colonial governing.

The argument

Part I: Overlapping worlds, c. 1770-1800

In the first part of the book, covering the period c. 1770-1800, I explored five distinct domains of governing: seigneurial relations, punishment, social hierarchies, public

life, and production. In Table 1, the main results of this analysis are expressed for each domain through the three categories of problematization, knowledge, and art of governing, which I have drawn from the larger Foucauldian framework of governmentality. The color grey has been used where the analysis has identified significant overlaps between colony and metropole, or where colonial officials tended to understand the enslaved through seemingly universal (and thus non-racial) categories like 'humans' or 'inferiors'. White is used for those aspects where colonial governing had very little in common with the metropole.

One way to summarize these findings is to say that, at the end of the eighteenth century, colonial governing in the Danish West Indies was becoming increasingly *biopolitical*. This is also a key point in Rasmus Sielemann's work on the era's colonial governmentality, as mentioned in chapters 2 and 6. Drawing on Foucault's distinction between sovereign and biopolitical power, Sielemann argues that, over the century, colonial governing increasingly approached the enslaved as something more than juridical persons (or, in this case, as persons without legal personhood), namely as members of a population of living, working, and social beings. His basis for this reading, as noted, is the (unpublished) Royal Slave Code of 1755 and the 1792 abolition of the slave trade. But, as argued in chapter 6, this tendency toward grasping and treating slaves as something more than lifeless property is also visible in the five domains investigated here. In a sense, therefore, this book adds further detail and nuance to this many-sided colonial engagement with the 'lives' of the enslaved.

For one thing, it traces this biopolitical tendency back to the 1730s and 1740s. Even while Governor Gardelin, in his 1733 code, was defining each slave as legally speaking his 'master's money', his contemporaries were already deeply preoccupied with such things as the enslaved's perceptions of their place in society. For instance, they reflected on how the enslaved might react to the sight of white indentured servants working among them, or to whites being publicly punished and disgraced, or even how they might react if they learned how to read and write, or somehow got the impression that, as Christians, they would be the equal of their masters (chapter 4). With time, this engagement with the inner thought processes of slaves was broadened to include how the conduct of the enslaved was affected and worsened by various forms of maltreatment on the part of their masters or other whites (chapter 2), by excessive and demeaning punishments at the gallows or at the whipping post (chapter 3), or by reveling in luxury, gambling, drinking, or other public vices (chapter 5). Through these problematizations of slave abuse, penal excess, hybridity, and public disorder, the colonial state got involved with the religious and moral 'improvement' of the enslaved, with efforts to maintain their health and their numbers, and eventually also with an effort to optimize and utilize their working or productive lives (chapter 6). In regard to the latter, however, the problem was less how slaves being maroon, idle, or otherwise engaged in useless

Table 1: Overview of part I, 1770-1800. The colonial governmentalities particular to each of the five domains of governing studied in chapters 2-6. Fields marked grey signify significant overlaps between metropole and colony or a tendency to grasp slaves through non-racial categories, while the color white signifies their absence.

Domains	Problematization		Knowledge		Art	
	Colony	*Metropole*	*Colony*	*Metropole*	*Colony*	*Metropole*
Seigneurial relations	Slave abuse as a security problem	Despotism corrupts the passions of interest, civic virtue, and honor	Economic, psychological, and racial knowledge of blacks	Political philosophy of the passions	Disciplinary imposition of the norms of 'humanity'	Liberal governing through the passions
Punish-ment	Liberal: Indiscriminate infamy corrupts the passion of honor Biopolitical: Excessive violence is costly to state and society	Liberal: Indiscriminate infamy corrupts the passion of honor Biopolitical: Infamy makes it almost impossible to subsist legally	The passion of honor + biopolitical knowledge of the value of bodies + the immorality of individuals + 'the racial nature' of 'evil' blacks	The passion of honor + the side-effects of ostracization in Denmark + the immorality of individuals + Beccaria's philosophy	Deterring 'evil' blacks + individualizing punishments. Distinguishing the whipping post from the permanent ostracization of the gallows	Deterring 'evil' + individualizing punishments. Distiguishing the honest from the dishonest punishments
Social hierarchies	Hybridity: Signs or representations making racial distinctions ambiguous, leading to slave revolt	Hybridity (as in the colony), but a less omnipresent and acute problem; not revolt, but peasants desiring a different life	A presumably instinctive knowledge of how 'social inferiors' experienced their world	A presumably instinctive knowledge of how 'social inferiors' experienced their world	A semiotic art naturalizing hierarchies through visual and verbal signs	A semiotic art naturalizing hierarchies through visual and verbal signs
Public life	Public vices primarily problematized as a security problem and only rarely as a moral one	Public vices as a source of scandal, temptation, and demoralization	Racial knowledge of the criminal nature of blacks	Theological knowledge of 'the flesh'	The art of police: Flexible and exhaustive regulation according to local morals and conditions	The art of police: Flexible and exhaustive regulation according to local morals and conditions
Production	Excessive house servants and marronage as a waste of useful bodies	Poverty, vagrancy, and idleness as an imperfect nurturing and utilization of useful bodies	The science of economy: Seeing the enslaved population as a household writ-large	The science of economy: Seeing the laboring population (the unpropertied) as a household writ-large	The art of householding (or economy): Perfect administration placing slaves where they are most useful	The art of householding (or economy): An exhaustive administration of the unpropertied

activities worsened their morals, but rather how it represented a loss for the economy and thus for the state. Taken together, it is clear that to govern slaves in the late eighteenth century entailed much more than simply suppressing a colonized population without rights.

From a comparative perspective, however, this biopolitical narrative is far from satisfactory. By adopting Foucault's highly abstract or simplifying distinction between sovereign and biopolitical power, it categorizes everything as either one or the other, giving no space to the comparative question of what was unique or not unique about this history of colonial governing. It is for this reason that this book has conducted a number of in-depth and even comparative analyses of the governmentalities of metropole and colony, which I will know present in greater detail. But rather than repeating the findings chapter by chapter, I will organize them around three key themes: liberalism, selves, and slavery.

In the first two chapters, the focal point of this comparative engagement was the role of *liberalism*. In chapter 2, the growing state-sponsored interventions against 'inhumane' slave masters were compared to the contemporary metropolitan project of limiting the seigneurial powers of landlords over their rural tenants. As argued, this metropolitan project – a well-trodden path in Danish historiography – should be viewed as relying on a liberal governmentality, but not the one that Foucault and many others have associated with the science of political economy, as variously found for instance in the works of Adam Smith or Thomas Malthus. Instead, by seeing this metropolitan project in the light of an older tradition in political philosophy that grasped man as governed by 'the passions', I demonstrated how Danish rural reformers presumed that the peasantry would be governable through three autonomous mechanisms that derived from their inborn human nature, namely their love for the common good of society (the passion of civic virtue), their love for an estate-specific image of themselves (the passion of honor), and to a lesser degree their love for themselves (the passion of interest). For rural reformers, the essential problem with seigneurial power was therefore, much as it was for Montesquieu, how it corrupted or hindered the flowering of these benign passions. And their way of intervening in reality relied on the essentially liberal art of setting up the perfect conditions for these natural autonomies to guide and improve the conduct and subjectivity of the governed.

In the colony, on the other hand, colonial governors arrived at the problem of the master's unlimited power over the enslaved via a very different trajectory. Certainly, it was not impossible for them to conceive of this power as a source of demoralization that made the enslaved careless to the voice of virtue or honor. But generally, this way of problematizing slave abuse was of marginal importance to the colonial campaign against slave abuse. And much the same could be said, I argued, for the biopolitical and liberal problematization suggested by previous scholarship.

Instead of grasping slave abuse as a systemic threat to the reproduction of the enslaved that stemmed from the master's insufficient incentives to treat them well, colonial governors in the period up to and immediately after the 1792 abolition of the trans-Atlantic slave trade (effectuated in 1803) tended to view abusive conduct as the property of cruel individuals who had not, for whatever reason, matured in the ethical mastering of themselves. Furthermore, the problem caused by such unethical individuals was not, it seems, the harm they did to useful bodies, but how they in various way brought slaves to entertain the notion that resistance to the colonial order would serve their interests better than humble obeyance. And to keep this from happening, the colonial state intervened through a disciplinary art of imposing the norms (but not laws) of 'humanity' on 'inhumane' whites.

But this did not mean that the history of late eighteenth-century colonial governing in the Danish West Indies is, as chapter 2 would suggest, a history of a full-blown liberal 'dislocation', as told in the second part of this book: a history of how governors dismissed liberal ways of governing as unsuitable in the colonial context. For, as shown in chapter 3, although colonial governors were clearly *less disposed to treat the enslaved as governable through the benign passions within*, in their attempts to 'humanize' the penal laws of slavery, the passion of honor nonetheless played a foundational role. As argued, this familiar knowledge of man's natural love of a certain self-image in fact shaped an essential feature of how penal excess was problematized and countered in the colony. On the basis of this knowledge, penal excess could be defined as an indiscriminative use of infamy that extinguished the slaves' ability to be guided by what was honorable – what I called the liberal problematization of infamy. And on the basis of this problematization, the solution that became meaningful was to refashion colonial penality into an instrument that would protect the lesser offenders from permanent infamy and teach all to be repulsed by the disgrace and evil of the serious criminals. Supported by a growing biopolitical concern with the costs of excessively wasting the bodies of the enslaved, it was therefore this liberal emphasis on using an inner passion to turn slaves toward what was good and honorable which made it meaningful for colonial judges and officials to carve out a clearer distinction between the more moderate and deterring disgrace and pain at the whipping post and the permanent annihilation or ostracization of the evil and dangerous offenders at the gallows.

Furthermore, the governmentality at the heart of these changes in colonial penality was intimately linked to and closely overlapped with contemporary changes in the metropole, but without ever being entirely identical. Firstly, the colonial liberal problematization of infamy was very similar to what was foundational to the Criminal Law Commission in the early 1800s (and even seems to prefigure it), but appears to have carried less weight. At least, colonial officials seemed less willing to impose a strict separation of honest and dishonest punishment (recall that the whipping post would continue to be administered by 'the negro hangman').

Secondly, when metropolitan penal reformers, for instance in the Theft Commission in the mid-1780s, lamented how costly penal excess was to society, they did not primarily mean the way in which it diminished the value of laboring bodies, but rather how the social dynamics of Danish society made it impossible for ostracized individuals to subsist without resorting to public support or illegal means. Lastly, in terms of the underlying knowledges and arts, colonial penal reformers placed an unparalleled emphasis on the supposed racial nature of the governed. Thus, even as colonial judges and Governors General increasingly distinguished between different degrees of immorality and danger and between the whipping post and the gallows, for many it was also an indisputable truth that the 'evil' which resided in all enslaved blacks made all these distinctions less relevant and instead called for extraordinary measures of deterrence.

In sum, although liberal rationalities of governing were far from absent or insignificant in the colony, they clearly played a much smaller role than they did in the metropole. For one thing, they were limited to the domain of punishment and had little or no influence on the campaign against slave abuse. Secondly, where they did matter, their influence was undermined, it seems, by the 'truths' of race. From this, and as I will expand on below, it seems true that colonial governmentalities were *less disposed to treat blacks as beings with deep, complex, and potentially self-governing selves*.

To expand on this point, it useful to turn to another recuring theme of the book, namely the *selves* or kind of subjects that governors presumed they were governing. In chapter 2's analysis of slave abuse, I introduced the important role of two knowledges I called the 'psychological' and 'economic': In the former, the enslaved were understood as collectively habituated to a certain normalcy or delusion, from which they should never be awakened; in the latter, the enslaved were understood as calculating opportunists who would only obey as long as each of them perceived this as preferable to the potential cost of resistance. Chapter 2 thereby underlined that the colonial selves that were to be protected from their masters were not primarily understood as racially-specific subjects, but as instances of more universally applicable categories.

But of course, this does not mean that these conceptions of the colonized subject were merely an extension of how governors back home imagined the peasantry or other white subjects. Clearly, in regard to the economic knowledge mentioned above, it seems difficult to find an obvious metropolitan parallel. One possibility would be the Beccarian conception of 'the criminal' as an essentially economic agent, constantly calculating the potential gains and losses of either respecting or transgressing the laws. Yet, as shown in chapter 3, this conception had little influence over late-eighteenth century Danish penal reformers. And among rural

reformers, as shown in chapter 2, self-interest was not what kept peasants lawful and obedient, but a part of what spurred them to industry.

With the psychological knowledge, however, it is a different story. This was discussed at length in chapter 4. Through an investigation of the governmentalities that gave meaning and urgency to the making of social hierarchies, this chapter documented the presence of a broadly similar kind of knowledge in metropole and colony. The essence of this knowledge was a presumably instinctive psychological insight into how the governed would react to verbal and visual signs that somehow gave rise to hybridity, in the sense that these signs pushed the governed to question the naturalness or normalcy of the social hierarchies they had ideally come to take for granted. In chapter 4, it was further shown how this knowledge, in both metropole and colony, hung together with a semiotic art that sought to contain this problem of hybridity by exposing the governed only to such signs that would remind them of the naturalness and even divinely ordained origin of the social hierarchy.

But this did not mean that governors in metropole and colony assumed they were dealing with the same kind of selves. In chapter 4, it was argued that white subjects were generally presumed to possess a greater capacity to handle ambiguity in regard to the social hierarchy. Unlike black slaves, peasants and other metropolitan subjects were generally presumed to be able to respect their complex role as honorable, rights-bearing, and inferior members of society without being unequivocally reminded of their inferior status at every instance and in every domain of life. Clearly, their selves were seen as more intellectually malleable, advanced, and self-directing than those who would presumably get the wrong impression if allowed even the smallest scope for interpretation.

The same presumption of greater depth, complexity, and capacities for self-government was of course also reflected in the metropole's greater reliance on liberal governing through the passions, which was noted above. While these passions – these complex mechanisms of self-government, discovered in the very depths of humanity by the theoretical work of political philosophers – required only to be protected and harnessed when it came to white subjects, among the colonized they were more difficult to see, clouded it seems by the 'evil' that was presumably a shared feature of their 'race'.

Finally, the particularity of 'the black self' was clearly reflected in chapter 5's comparison of the governmentalities, which were at the heart of the regulation of public life. Certainly, these governmentalities in metropole and colony shared a tendency to think of regulation as a flexible and exhaustive rooting out of vice, or what I referred to as the art of police. But in the colony, this regulatory apparatus relied on a problematization and knowledge that had a much more simplistic conception of the governed. Rather than vulnerable individuals in need of permanent assistance to be kept from 'falling' and succumbing to temptation, in the

colony, the governed were in most instances simply deemed unable to control their presumably much stronger desire for all kinds of public vice, be it luxury, gambling, or drinking. Only in regard to the colonial problematization of 'luxury', referring rather broadly to excessive consumption and sociability, can one find a trace of the familiar theological engagement with the deep interiors of 'the flesh'. But even in the case of luxury – 'this mother of vice', in the words of Andreas Schytte – colonial governors leaned toward seeing the public vices of the colonized simply as nuisances or threats, and therefore as acts in need of effective surveillance, deterrence, and punishment.

But metropole and colony had much more in common in this regard when it came to the domain of production. Here, governmentalities in both metropole and colony tended to grasp enslaved blacks and unpropertied whites as little more than unthinking bodies, without any depth, complexity, or rich inner life to speak of. Indeed, as late-century colonial officials and domestic legislators problematized how slaves and the unpropertied remained idle or were employed in useless activities, they tended less and less to see this as something other than a waste of forces. Runaways and other idle slaves were no longer first of all a public nuisance or threat to society; vagrants, idleness, and the poverty it engendered were no longer first of all a mother of vice. Rather, from the point of view of the state, these modes of being primarily represented a waste of useful bodily forces, or what some contemporaries referred to as 'laboring limbs'. The correlative of this problematization was, as argued, a typically eighteenth-century knowledge of 'economy', understood – as theorized in the science of political economy – as an art of governing rather than a distinct sphere into which governing intervenes. This was an art of governing, moreover, that took the shape of a kind of 'householding': administering the energies of a population much like a father directing his household.

In the domain of production, therefore, black and white selves were grasped in broadly similar ways. But in all other domains, and whenever white selves were presumed to possess some kind of inner depth, complexity, or capacity for self-government, black selves were in every instance grasped through more simplistic models – sometimes as little more than 'disorderly', 'criminal', or simply 'evil'. The difference, however, was often one of degree rather than kind. This was most clearly the case in the domain of punishment and to a lesser extent in the domain of social hierarchies. The differences were much starker, however, in the domains of seigneurial relations and public life.

Clearly, in this period, colony and metropole were neither identical nor opposites. Rather, as illustrated by Table 1, the relationship was characterized by a certain muddiness, with the governmentalities in some domains being starkly different (the white fields) and in others, in fact in the majority, somewhat commensurable and

overlapping, although never the same (and therefore shaded in grey). Arguably, colonial governors were not so averse to rely on what was familiar back home as they would later become. But nor was the colony simply an extension of the metropole. As noted above, the presumed 'racial' nature of blacks clearly had much to do with this fact. But another important set of convictions, which also made metropole and colony seem less commensurable, relates to the third theme dealt with here: *slavery*.

As documented throughout the first part of this book, Danish West Indian officials unanimously found, and likely with good reason, that the colony's heavy reliance on ownership of human beings posed some very distinct challenges. For one thing, there was the uninfringeable property rights of slave masters over their slaves. No doubt, as argued in chapter 2, one of the reasons for intervening in the seigneurial relation without recourse to positive laws and civil rights, as rural reformers did in the metropole, was to avoid upsetting the powerful plantocracy. But another essential idea that made colonial officials see some aspects of colonial governing in a different or incommensurable light was their conviction that the colony was the home of an extraordinary and dangerous tension: a tension between a few omnipotent masters and a mass of rightless slaves, a mass who were easily driven to resistance, crime, and open revolt by their desperate hope of fleeing their masters, gaining their freedom, or avenging the hardships they suffered.

In all domains, but less so in that of production[1], this conviction or awareness seems to have left a deep imprint on colonial governing, although its effects are often difficult to distinguish from those of racism. Thus, if it was essential that the enslaved did not gain a sense of entitlement (chapter 2), and if it was in all things essential to leave no room for ambiguity as to their natural place in society (chapter 4), it was not only because they were deemed less reasonable, but also because so much was at stake. (In the metropole, by contrast, the essential problem was how hybridity made peasants dissatisfied with their vocation.) Furthermore, if it was deemed necessary to use greater penal deterrence than in the metropole, it was not only due to the greater 'evil' supposedly residing in all or most blacks, but also due to the greater difficulty in keeping such great numbers of 'domestic enemies' in check (chapter 3). Finally, if it was considered less important to shield slaves from the temptations and scandals of public life, it was not only because blacks were deemed less able to control the desires within, but also because the ultimate risk was not simply the spread of vice, but the very survival of the colonial order (chapter 5).

[1] Here, to recall, the maroon was no longer primarily a threat to society, but one more unproductive category of people. However, the special challenge involved in governing the productive lives of slaves, as opposed to non-slaves, would likely have been more obvious to the masters themselves than they were from the perspective of late-century colonial officials.

Clearly, the presumed particularity of a colonial context of race-based slavery – inhabited by 'black selves' and 'domestic enemies' – made colony and metropole quite distinct places. But did it also make colonial governmentalities into a radically different kind, a kind which required, in a manner of speaking, its own unique 'manual' or 'toolbox'? To judge from the findings presented above, I believe such an analogy would be misleading. If anything, it seems more precise to say that late-eighteenth century colonial governors presumed that the familiar know-how or tools from back home were generally relevant, but had to be partially rewritten or replaced in order to fit with the colonial context of the Danish West Indies. A hundred years later, however, this was no longer the case.

Part II: Worlds beyond compare, c. 1840-1900

In Table 2, I present the main findings from the second part of the book, covering the period c. 1840-1900. In this period, there was still a clear parallelity between metropole and colony in terms of their respective domains of governing. Or at least this was so in the case of the many-sided making of 'free labor' that has been the focal point of the comparative analysis in this part of the book. Here, the three essential domains were those of 'labor relations', 'poor relief', and 'vagrancy, beggary, and theft'. In spite of this continued parallelity, however, there were no longer any significant points of overlap between metropole and colony in terms of their respective underlying problematizations, knowledges, and arts. For this reason, the table is now uniformly white. To reflect on its content, the following will go through three themes: liberalism, selves, and singularization.

One way to summarize this rather different relationship between governmentalities in metropole and colony is once again to focus on *liberalism*. As argued in chapter 7, the distinctive transformation in nineteenth-century Danish legislation in the three domains in question was the many-sided attempts to build a capitalist labor market, a domain in which laborers are forced to subsist solely by selling their labor-power for a wage on market terms. To be sure, this ideal type never took perfect shape. But in the metropole, this rise of a new liberal governmentality clearly made things move in its direction.

Like the liberalism that informed the rural reforms in the late eighteenth century, this liberalism saw civil rights and individual dignity as key springs or preconditions of good conduct. But unlike it, it did not see the virtues of industry and hard work as stemming from the nature of man, or from his 'passions', as a 'humanist' economist like Adam Smith believed. Rather, these virtues were assumed to be acquired through man's exposure to his environment, more precisely to the natural and essentially civilizing pressures of scarcity, just as a 'naturalist' economist like Thomas Malthus began to propose. Furthermore, productiveness was no longer the

Table 2: Overview of part II, 1840-1900. The colonial and metropolitan governmentalities particular to each of the three domains of governing studied in chapters 7-8.

Domains	Problematization		Knowledge		Art	
	Colony	*Metropole*	*Colony*	*Metropole*	*Colony*	*Metropole*
Labor relations	Idleness blocks civilizational progress	Coercion and non-wage sub-sistence blocks economic man	A racially inflected political economy	Political economy and individual autonomy	Enforcing service contracts, protecting from sickness and want	Making laborers sovereign and pre-carious
Poor relief	The black community' s failure to take care of their own poor	Ineffective deterrence or excessive demorali-zation	Bio-political knowledge of the population (health)	Political economy and individual dignity	Outdoor relief for the old and infirm	Universal deter-rence, exemp-tions for the 'worthy'
Vagrancy, beggary, and theft	Allow blacks to satisfy their inclination to idleness	Bypasses the capitalist labor market, punishes some to excessively	Racial knowledge of black laziness	Knowledge of the abnormal individual	Deterring to indus-try, com-pulsory labor	Universal deter-rence, exemp-tions for the 'normal'

main point. Just as important was the laborer's will and ability to preserve his independence, navigating the insecure but natural condition of poverty as a true 'economic man'.

In nineteenth-century Denmark, this idea that laborers must be placed in conditions in which they are both sovereign and precarious was reflected in a governmentality that sought to find the right balance between two potentially conflicting poles. In terms of problematizations, there was, on one side, the problem of how too easy access to poor relief and other forms of non-wage forms of subsistence placed laborers in a less precarious position, one in which they did not have to navigate the labor market by themselves, either because they survived without work (i.e., paupers, beggars, or thieves) or because their position protected them against the ups and downs of the labor market (i.e., servants or smallholders paying rent in kind or labor). But on the other side, there was the problem of how too demeaning forms of relief (i.e., workhouses or loss of civil rights), too coercive labor relations (i.e., service coercion or domestic discipline), and too harsh punishments (i.e., punishing all beggars and thieves alike) risked demoralizing that class of laborers – the 'worthy', the 'normal' – who already played their part as righteous economic men, fighting for self-preservation in accordance with the rules of the capitalist labor market.

In response to these problematizations, Danish legislators sought to combine two distinct arts of governing. One the one hand, there was an art that targeted all laborers indiscriminately: this was the art of securing the civil rights of laborers and

of setting up various forms of deterrence that placed laborers in a position of both sovereignty and precarity. On the other hand, there was an art that distinguished between different kinds of subjects and made special arrangement for some. In the domain of labor relations, the emphasis was on the first art. Thus, what occurred was that a number of coercive, demeaning, but also non-capitalist labor relations were either abolished (as was smallholder corvée) or made voluntary (as was service) so that a greater mass of laboring hands would be both sovereign and precarious. In the other two domains, however, the two arts were being combined. In the domain of poor relief, this meant that while relief was made deterring and demeaning, the laws and administration of poor relief began exempting those who showed signs of possessing a will to self-preservation (e.g., through membership of self-help associations). In the domain of vagrancy, beggary, and theft, this meant that while harsh measures were taken against such unproductive and non-capitalist ways of life, there was also a growing interest in exempting those who did not show signs of being of a 'true criminal' or in other ways possessing an 'abnormal' disposition (e.g., by begging strangers for alms or by repeated significant thefts). Taken together, the various rationalities that organized these metropolitan domains made up *an over-arching liberal governmentality* – one whose main operation was to craft economic men through the workings of a capitalist labor market.

In the colony, on the other hand, the history of liberalism is, as argued in chapter 8, the history of a profound dislocation. Indeed, rather than being merely less relevant as it was in the late eighteenth century, *liberalism was now perceived as irrelevant to colonial governing*. Certainly, after the abolition of slavery in 1848, the colony experienced the slow coming of a free labor market and a regime for keeping laborers employed as wage-laborers. But the governmentality that gave meaning to the making of this regime was not one that aimed to produce economic men, nor one that believed that a capitalist labor market would be the means for achieving this aim. What liberalism did was instead to provide colonial governors with a knowledge of the 'normal' shape of economic conditions, selves, and progress.

In the post-slavery Danish West Indies and in particular in the years after 1879, this liberal dislocation played out in a number of ways. For one thing, it gave rise to very different problematizations. In the domain of labor relations, the problem was not how laborers were placed in a condition of indignity and dependence that kept them from becoming economic men, but rather how the supposed racial nature of blacks, together with the less hostile climate they inhabited, inclined laborers to idleness and therefore hindered the overall progress in 'civilization' that could generally be expected from 'free labor'. In the domain of poor relief, the problem was not that it gave too much help to some or was too demeaning to others, but rather that the system was unable to care for all in want, or alternatively that it tended to deprive black families and the black community more generally of their 'responsibility' to care for their own poor. And in the last domain, the problem with vagrants, beggars,

and thieves was not how they bypassed capitalist labor relations or how some offenders were punished excessively. Rather, the problem was how such acts allowed blacks a chance to revel in the desire that more than anything kept them from progressing and acquiring habits of industry: their supposedly racially-determined inclination to idleness.

Furthermore, the dislocation of liberalism was reflected in the very different arts of colonial governing. Thus, the way to respond to the problems in the domain of labor relations was not to place black laborers in a sovereign and precarious position, but quite the opposite: to place them in master-servant relations that ideally protected them (and even their families) against want and sickness. Similarly, the response to the problems of poor relief was not to deter the 'unworthy' and exempt 'the worthy', but simply to provide relief to those who were too old or infirm to take care of themselves. Lastly, to suppress vagrancy, beggary, and theft was not to deter and punish those 'abnormals' who did not play by the rules of the capitalist labor market. Rather, it was to intervene against the supposed inclinations of 'the black race'.

Taken together, the governmentality that gave meaning and urgency to the colonial making of 'free labor' was far from liberal. Its essential operation was not to craft economic men through a capitalist labor market, but to use a whole number of paternalist means to *habituate* laborers to industry. Indeed, rather than taking charge of the will of the governed – be it the 'normal' will to self-preservation or the 'abnormal' will of the 'unworthy' and 'criminal' – this colonial governmentality targeted all those unwilled and supposedly racially determined habits and predilections that confound the power to will.

Another way to synthesize these findings is therefore to say that the colonized were now presumed to possess radically different *selves*. Rather than a subject governed by his or her will, 'the black self' was now largely seen as powerless to control its ingrained habits and desires, for idleness, for pilfering, and so forth. Of course, it was far from new to colonial governors that blacks and whites were not the same. In the late eighteenth century, there was also, as noted above, a clear tendency to grasp blacks as beings with lesser depth, complexity, and capacity for self-government. But at that point, it was still a question of degree rather than kind: blacks were comparatively *less* advanced, but not *altogether* different from white subjects back home. A hundred years later, however, the distinction became a much more dichotomic one. Now, blacks were will-less beings 'enslaved' to their desires, while whites had, in the meantime and for better or for worse, become the lone masters of themselves.

More than anything, what all this shows is the rising dominance of a racialized conception of the colonized. To recall, in the late eighteenth century, it was not uncommon to approach the governing of blacks through non-racial and potentially universal categories, as beings with passions, economic calculating gains and losses,

beings with minds accustomed to certain collective delusions, and as beings with useful bodies. At that point, it seems, racial knowledge had not monopolized the epistemological field. Still, it was meaningful to approach the black self as somehow an extension of the common humanity to which whites belonged as well. A hundred years later, however, colonial governors presumed that black selves and the climate they inhabited was so radically different as to warrant its own and unique epistemological basis. In so doing, they erected a wall around 'the colonial', one that made it meaningless for colonial officials to incorporate the familiar and to govern the black laboring classes as one would govern white laborers, as 'economic men'.

Essentially, therefore, the story told here is the story of how, over the course of a century, colonial ways of conceiving the governing of the colonized became unequivocally singular. Thus, this book does not describe the 'birth' of something entirely new, but rather what could be called a *singularization* of colonial governing as it came to rely more clearly than before on its own unique and typically 'colonial' governmentality. For this reason, this is also the story of a changing relationship between metropole and colony. While in the late eighteenth century the metropole offered a kind of pool of thought and practices, some of which were able to insert themselves seamlessly into practices of colonial governing, a century later the metropole was much more clearly a world apart.

Reflections on theory and method

As mentioned, the aim of this book has been to compare and historicize colonial governing in novel ways – more precisely by employing a non-dichotomic and more even and open-ended form of comparison to trace potential shifts in the degree to which colonial governmentality was a singular phenomenon. In so doing, it has drawn heavily on Michel Foucault's concepts and insights from his work on power and governmentality (which in itself is of course hardly novel), and has sought to use these as analytical 'toolboxes', but also to refashion them when necessary (for instance to account for the central role of 'honor' and 'the flesh' in the late 1700s). Throughout, the aim has been to avoid the analytical blind spots that arise from comparing metropole and colony in a way that is uneven (with little empirical work on the former), dichotomic (by establishing binaries of norm and deviation), and endogenous (invoking some colonial essence), or from utilizing the governmentality perspective in a way that is guilty of applicationism or Eurocentrism. Even so, my framework is not without its own pitfalls and issues. Some stem from my comparative method, others from the way I have utilized the governmentality perspective.

The comparative method

One set of issues arise from the comparative method employed here. As mentioned in chapter 1, my declared focus on identifying both similarities and differences requires that metropole and colony are understood on the basis of a *tertium comparationis* or 'shared ground', for instance by viewing the very different 'crimes' of marronage and vagrancy as different instances of the larger category of 'idleness' (or of shunning work for and subjection to a master). But if the comparison requires that a shared ground can be identified, there is of course the risk that one becomes blind to unique and unparalleled colonial phenomena. For instance, in the case of Denmark at least, it seems difficult to find a meaningful contemporary and domestic parallel to, say, the bloody suppression of the Fireburn uprising in 1878, or to the governing of persons known as 'busal negroes' at the time of slavery (i.e., first-generation slaves brought to the colony from another continent, many of whom had until recently led their life in freedom and even in positions of power). Due to the need to find a meaningful *tertium*, such domains or instances of exceptional colonial governing easily become less suitable for analysis than they would have been if the colony was explored from a different point of view. That is not to say that one could not compare the suppression of late nineteenth-century labor riots or the governing of *busals* and life-sentence convicts (or 'slaves') in metropole and colony, but merely that out of the many different phenomena that could be compared I chose those domains of governing that, on the one hand, appeared most vital and even connected among contemporaries and which, on the other, seemed to share a significant number of qualities.

Although this choice of course springs naturally from my comparative method, one could argue that it has an in-built element of Eurocentrism. Not in the sense that it unreflectively compares metropole and colony on the basis of categories and theories derived from the history of the metropole or Europe more broadly, a danger I have sought to avoid as best I could. Rather, this comparative approach risks being Eurocentric insofar as the need to find a suitable parallel in the metropole excludes some colonial phenomena from being analyzed. In a sense, therefore, it is the metropole that offers a measure of what will be compared.

Potentially, the same risk that the metropole limits what can be said about the colony could also apply to those colonial phenomena which I have actually compared. Not least, this would have been a very real problem if this book had examined metropole and colony in equal depth and through what could be called a symmetric or one-to-one comparison. For in that case, colonial governmentalities would primarily be analyzed for the sake of discovering similarities and differences vis-à-vis the metropole's, and the governmentality of the metropole would therefore inadvertently structure the analytical gaze and determine which aspects of colonial realities would be relevant. Here, I have sought to avoid such Eurocentric bias by

placing the colony at the center, and the metropole has only been studied in order to explore whether and how colonial governing relied upon governmentalities that were similar to those in use back home.

But of course, the methodological drawback of comparing in this way is that the comparison becomes more biased toward the colony. As explained in the introduction, this book has explored metropole and colony through distinct modes of analysis. In the colony, there is a multi-scalar focus on the local, colonial, and imperial scales, while the focus in the metropole is mono-scalar and tends less toward heterogeneity than toward what was generally accepted among legislators and other figures of authority. Quite possibly, a more multi-scalar focus on the metropole would have yielded greater nuance and richness to the comparative analysis.

It is likely that the same would also have been the effect of giving greater attention to the nineteenth century. Here, as noted, the analysis is not only less multi-scalar when it comes to the colony, but also treats a smaller number of governmental domains. Possibly, a more in-depth analysis focusing on more domains and scales of governing would have painted a more complex picture. For instance, an analysis of the material from the colonial courts, from the administration of poor relief at the local scale, or from an entirely different domain might have disclosed that a racial knowledge had a smaller role here than it did on the colonial scale, or that judges and administrators on St. Croix sometimes governed the colonial thief or poor in ways that would have been familiar back home. No doubt, this is a methodological failing that further studies will have to correct.

The governmentality framework

Lastly, it is worth reflecting on the potential and drawbacks of the theoretical framework of governmentality as it has been used here. Hopefully, the chapters so far have exemplified how this framework allows for novel readings of the regimes that have governed the lives of men in the past. In the case of the Danish metropole, it provides an alternative to the predominant historiographical focus on individuals, ideas, motives, or forces, as it explores the problematizations, knowledges, and arts through which particular practices or changes in governing became rational and necessary. And in the case of the Danish West Indies, it has built on existing accounts to further show that colonial governing, both during and after slavery, was not so much a 'superstructure' answering to some more profound necessity – i.e., the reproduction of the colonial order – but a historically contingent assemblage of different and sometimes contradictory 'programs' for governing; programs whose history is one of complex genealogies, of ceaseless flux, and in this case at least, of complex entanglements between metropole and colony. By exploring these

entanglements, moreover, the comparative governmentality framework used here has deepened the understanding of inter-imperial connections in the Danish context. For besides tracing the movements of governmentalities across imperial space, it has documented a qualitative shift in the nature of Danish intra-imperial connections over time, as these increasingly came to constitute metropole and colony as distinct and incommensurable spaces.

Even so, there are also some limitations with this framework, all of which have to do with the larger question of causation. First of all, there is the problem that it is difficult to say anything definite about the causal or determinative force of a governmentality. For instance, while it is possible to identify the main features of, say, the late 1700s colonial governmentality behind the campaign against slave abuse, the extent to which it was this governmentality in itself that produced or caused the campaign is more uncertain. To say that it was authorless, emerging not from one person but out of complex genealogies, does not in itself make it the primary cause of everything. Thus, although it would of course be wrong to disregard the rationalities of a governmentality as simply a way for colonial governors to legitimate already fully-formed ways of governing, it is still unclear how free they were to do otherwise. Not least, it is unclear to what extent they could consciously pick between different available alternatives (e.g., between different ways of problematizing abuse), to what extent their choices were shaped or determined by objective external circumstances (e.g., the very real threat of slave revolt), and to what extent they were conditioned or even pre-determined by the weight and authority of emerging or established governmentalities. Of course, the anti-universalist Foucauldian perspective tends to foreground the latter, and the ways governmentalities 'speak' through agents, as a force of its own. But as the preceding chapters have made clear on a number of occasions, there were also many instances when colonial officials disagreed among themselves and thereby exercised a kind of agency. In fact, the direction of colonial governing sometimes depended on the choices of a very small group of men, and the question of why some preferred 'a' over 'b' is one that the framework used here cannot answer satisfactorily.

Moreover, this framework is not suited to explain why it was that some, but not all, colonial governmentalities drew heavily on metropolitan ones in the eighteenth century and why they rarely did so a century later. If anything, one might have expected the opposite to occur with the abolition of slavery in 1848. To properly explain this process of *singularization*, this book should have offered a much deeper investigation of the political, social, and economic mechanisms at play at the local, colonial, and imperial scales than it has. Some things may be said, though. In the introductions to parts I and II, I have shown the very different contexts of the late eighteenth-century and nineteenth-century Danish metropole and colony, and how these circumstances likely made it more or less meaningful for Danish West Indian

officials to perceive the colony and the metropole as commensurable extensions or versions of each other.

In the early period, the Danish West Indies was of course already a very different place and an extreme instance of the heterogeneity of the conglomerate state. With its creolized culture and dominance of the British and Dutch, its racialized social relations, its lack of an inherited nobility, not to mention its strange legal architecture surrounding the institution of racialized slavery, there were plenty of reasons for colonial officials to perceive this as a world beyond compare. Furthermore, to recall some of the important findings of the analysis, the exceptional threat of slave revolt coupled with the powerful position of the plantocracy were clearly two important reasons for colonial officials to see some things in a singularly colonial light.

But of course, in the late eighteenth century, it was also possible for colonial officials to think of metropole and colony in less dichotomous ways. For one thing, this was because, in the eyes of governing elites, 'home' was still not peopled by nationals, but by 'inferiors' or even 'savages' who were believed to have more in common with the colonized than with their social superiors. Furthermore, in the plantation system, colonial officials could – and sometimes did – recognize an extreme version of the kind of domestic sovereignty that Danish lords enjoyed over the peasantry (until it was largely abolished toward the end of the century). Lastly, as noted in the sub-conclusion to part I, to the extent that Danish West Indian officials shared the racial 'truths' that were entertained by many Europeans of the time, they would likely have understood the otherness of blacks as more superficial and changeable than would have been possible a century later.

In the second half of the nineteenth century, the context was a very different one. As democracy and nationalism arose in the metropole, the social hierarchies of estate society and the distinction between elite and 'savage' became less acute or even dissolved. The vital boundary was now between white citizens/nationals and black subjects. Furthermore, with the gradual dismantling of the empire, and with the economic decay of the colony, the state lost much of its previous interest, ambition, and ability to engage in the development of the colony. Yet even so, it was not written in stone that colonial governmentality would therefore become unequivocally singular. As noted in chapter 8, there were some who proposed to govern the colonized through the familiar means of 'the workhouse', 'the economy' and 'free labor'. And the fact that these voices were silenced or marginalized by the colonial state possibly speaks as much to the changing circumstances as it does to the personal inclinations of those few powerful colonial officials who effectively steered the course of colonial governing.

Of course, the above is no more than a rough explanatory sketch of what must – at least partially – have occasioned this shift in the relationship between metropole and

colony. Not least, it is problematic because it is limited to the context of the Danish Empire. Without comparison with other times and places, it would naturally be very difficult to say with any degree of certainty whether the mechanisms behind the observed singularization of colonial governmentality were particular to the Danish context, to the Caribbean, or to the colonial world more broadly. For this purpose, more research and a more multi-tiered methodological and theoretical framework would be required.

Here, as explained in chapter 1, my aim has simply been to study governing practices by deciphering the underlying rationalities that made them appear meaningful and rational to colonial governors. For all its limitations, I believe this book has illustrated the value of using a more even and non-dichotomic form of comparison to historicize the category of 'the colonial': to explore the degree to which, and the steps through which, colonial governmentality was or became essentially and typically colonial. In so doing, this book has argued for the importance of exploring not only the distinction between the historical governing of black and white, but also the history of the distinction itself.

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420. Genpart af anmærkninger og plakater ang. slaver m.v., 1672-1787

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424. Dokumenter vedr. kommissionen for negerhandlens bedre indretning, 1783-1806

435. Negeremancipationen efter reskript af 27. juli 1847, 1847-1853

CCB: Christiansted City Bailiff (*Christiansted Byfoged*)

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38.6.14. Domprotokol 1780-1783

38.6.15. Domprotokol 1783-1786

38.6.16. Domprotokol 1786-1795 (part I)

38.6.17. Domprotokol 1786-1795 (part II)

38.6.18. Domprotokol 1786-1795 (part III)

38.9.4. Politiretsprotokol 1777-1781

38.9.5. Politiretsprotokol 1781-1785 (part I)

38.9.7. Politiretsprotokol 1785-1789 (part I)

38.9.8. Politiretsprotokol 1785-1789 (part II)

38.9.9. Politiretsprotokol 1789-1800 (part I)

38.9.10. Politiretsprotokol 1789-1800 (part II)

38.10.2. Domprotokoller for politiretten 1857-1865

CDC: Central Directorate for the Colonies (*Koloniernes Centralbestyrelse*)

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37.7.6. Domprotokol 1774-1779

37.7.7. Domprotokol 1780-1784

37.7.8. Domprotokol 1784-1795

DC: Danish Chancellery (*Danske Kancelli*)

D18 O. Sjællandske registre 1730-1732

D19-49. Koncepter og indlæg til sjællandske registre 1731 (Nos. 181-)

F10-65. Koncepter og indlæg til sjællandske registre 1789 (Nos. 1-170)

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I11. Registrantsager/Udtagne sager (2. departement) 1802

I48-35. Brevbog (2. departement) 1817 (2. halvår)

GC: General Church Inspection Collegium (*Generalkirkeinspektionskollegiet*)

F4-8-20-21. Indkomne sager 1784-1791

GG: The Office of the Governor General (*Generalguvernementet*)

2.1.4. Plakatbøger 1744-1791

2.1.5. Plakatbøger 1791-1823

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2.5.2. Kopibog til lokale myndigheder og personer 1790-1796

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2.17.11. Journaliserede og ikke-journaliserede skrivelser fra Vestindien 1796

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What was distinctive about colonial power and governing? To what extent did colonial officials rely upon rationalities that were authoritative in their European homelands? And was there change over time in the relationship between colonial and European rationalities of governing? This dissertation takes up these broad questions in the context of the Danish West Indies and its metropole of Denmark in the eighteenth and nineteenth centuries, before and after the Danish abolition of slavery in 1848. Through a novel, in-depth comparison of the so-called 'governmentalities' that guided Danish state officials in metropole and colony, this book shines a new light on the historical relationship between colonial and non-colonial forms of governing.

Printed by Media-Tryck, Lund 2023 NORDIC SWAN ECOLABEL 3041 0903

LUNDS UNIVERSITET

Joint Faculties of Humanities and Theology
Department of History

ISBN 978-91-89415-70-6