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- 1 Introduction: The freedom of working people between the law of labour before and labour law since 1900

In Germany, the termination of employment contracts is a central and often intensely debated legal issue today. This is not surprising since employment termination entails substantial risks for the person affected and threatens the very foundation of his or her economic existence. This is why both politics and legal dogmatics place the individual engaged in dependent work at the centre of concern as a subject requiring protection. In Germany, labour law (»Arbeitsrecht«) emerged as an independent field of law focusing on the persona of the dependent worker (»Arbeitnehmer«) and its typified normative ascriptions. This process took place in the course of the 20th century, as the concept of the principal requirement that employees be protected against unforeseen or unjustified dismissal became increasingly established, giving rise to very intricate regulations. Social security is a guiding motif of this legislation which regards contract termination primarily as a risk. It is often not considered that this constellation is a very new one. Defined conceptions of the interests of the parties to labour contracts also existed before 1900, but social security was then not a central criterion. At that time, many people perceived the termination of their employment as an opportunity rather than primarily as a risk. Employers, on the other hand, aimed to keep people in their service for as long as possible. In the late 19th century, the enforcement of labour performance by legal means and normative instruments, which no longer plays any role today, was still an important issue.¹ This provides occasion to investigate the freedom of working people from the perspective of the history of law, whereby this article focuses on the history of the German-speaking territories.

Legal history reflections on the freedom of labour relations often focused on the dichotomy of contract labour and slavery. Since most analyses of the issue linked the question of freedom closely to the status of the working individual, the potentials for autonomy within labour contracts voluntarily entered into by people tended to receive little attention.² This was the theme of a study undertaken by myself at the University of Frankfurt am Main in 2007–2010 whose results form the basis of the following comments.³ This analysis of freedom and coercion in the employment of people bound by contract attempted to explore a sphere between the free labour contract and slavery in a manner similar to work on the United States already published.⁴ This article argues that the labour relationships of people engaged in physical work were also bonded and unfree in the German-speaking regions before 1919. The analysis focused mainly on the world of craftsmen, servants, day labourers and factory workers which was subdivided into many normative spheres bound to status in the German territories since around 1500 and then also in the states of the German Confederation after 1815 and the German Reich from 1871 to 1919. The decisive criteria for determination of the autonomy potential of working people are their opportunities for repression-free market access and their equality as contract parties. Both were suppressed by authoritarian norms. In the early modern period, comprehensive access of employers to the labour power of their subordinates formed part of the prevailing conception of the common good. Police sanctions and punishment threatened those who failed to comply. These regulations interacted with a restrictive set of norms which sought to suppress the social and physical mobility of those performing physical labour. These conditions are examined here in interaction with the findings of social history

1 See the examples in the following section.

2 See, however, the principal study: STEINFELD (1991), and STEINFELD (2006).

3 KEISER (2013).

4 See the comments in STEINFELD (1991).

research. What emerges is a »law of labour« (»Recht der Arbeit«) which remained stable for centuries. The aim is to show that it also remained largely unaffected by the shifts occurring during the period of transition (»Sattelzeit«) around 1800 which saw major conceptual changes in legal thought. The repressive system only began to be overcome by the late 19th century. Unfree labour now began to be viewed as problematic in the field of tension between private and public law. The key question was whether a service contract law was conceivable which would principally recognise freedom and equality for all and be freed of its incorporation into public law. What is presented here is a history of the liberation of service contracts from paternalistic police norms which ends with the (perhaps too) late triumph of an equality-oriented conception of private law in the 20th century.

We can distinguish between two major normative areas defined by different premises which are incisive for investigating the freedom potentials of working people. The law as it existed before 1919 differed in design depending on the specific status and professional environment, but tended to be grounded in paternalistic and police concepts and oriented towards suppressing labour market dynamism. The term »law of labour« appears historically appropriate to this law. It must be demarcated from the now current »labour law« which affirms the free labour market, while seeking to mitigate its risks to the individual employee by social protection norms.

2 Examples: Coercion in industrial and agricultural labour relationships in the late 19th century

As suggested above, the attitude of the legal system to the problem of non-performance is a key criterion for the autonomy of individuals in their contractual labour relationships. What happens if people do not wish to obey the instructions of their employers and perhaps even leave their work to

look for a different position? If people are constrained by coercion and punishment to perform their labour and have no opportunity to offer their labour power on the market for alternative employment, they are in a situation of dependency, even if they are free to choose their employer. Freedom of choice, as is well known, is only real freedom if sufficient alternatives are available. If people are also denied opportunities for social advance, for example due to lack of education or mobility, dependence is intensified. We now present a brief description of two areas in which such situations existed.

2.1 Industry

The files of the Prussian Ministry for Trade and Commerce in the Prussian Privy State Archive in Berlin-Dahlem (Geheimes Staatsarchiv Preußischer Kulturbesitz, Berlin-Dahlem) are a highly interesting source of information on labour conflicts in 19th century Germany. The ministry was the highest of the Prussian authorities concerned with the activities of the trade inspectorate (»Gewerbepolizei«). They sent reports on their daily work to the ministry as the superior authority along with inquiries requesting decisions or legal information. The reports offer fascinating insights into the practical problems and conflicts of German industrial workers and craftsmen with their employers.⁵

One case we encounter in these files concerns a factory worker called Rostenstengel. In 1881, he left his previous employer in Düsseldorf and started working in a new factory.⁶ The local police authority issued a personal detention order for eight days imprisonment against him because he had broken his contract. Since Rosenstengel disregarded this order and did not return to his previous job, a new order was issued raising the threatened period of detention to 14 days, should the worker not resume his previous employment after the end of his eight-day incarceration. Rosenstengel was arrested and detained for eight days in the district prison, after which he still did not wish to continue working for his previous employer.

⁵ They are accessible in the repertory by BUCK (1960), (1970).

⁶ The entire case is presented in: Prussian Privy State Archive I HA Rep. 120 BB VII 1, No. 5 vol. 3, pp. 241–246, see KEISER (2013) 301 ff.

His dilemma was evidently that he had committed himself by contract to two employers and hence fallen into the trap of non-performance. At the time, none of the authorities involved appears to have considered the option of requiring the culprit to pay damages. Instead, they regarded it as their duty to enforce specific performance and issued orders for corresponding restraint. »Specific performance« took priority here. It was a common procedure in Prussia when enforcing a police order for contract breach (so-called »Resolut«) to first order eight days detention and then extend that period to 14 days in the case of continuing non-performance.⁷ Accordingly, Rosenstengel was arrested again to undergo the 14-day personal detention. His wife then intervened before the authority and requested that her husband be released, arguing that as he earned no income during his detention, she and her seven small children were more or less breadless for two weeks.⁸ The police authority released the worker and postponed enforcement of the arrest until the end of his new labour contract because the new employer declared that he had bound Rosenstengel by contract for another several months. Rosenstengel was granted stay of detention until 24 December. This postponed the family's problem, but did not necessarily solve it because the threat of imprisonment and loss of income remained. The wife presented a further complaint to the Royal Public Prosecutor against the sanction of 14 days detention and Rosenstengel himself submitted an immediate petition (»Immediatgesuch«), i. e. an urgent appeal, to the Ministry of Justice, in which he described the detention as an illegal order and requested its rescission. However, these were always acts of grace beyond the strict regulations of law. No report of the legal arguments has been preserved. The files unfortunately also do not indicate how the case was

eventually decided. The ministry declared to the appellant that he could bring about a judicial decision regarding the order and that enforcement would be suspended until such time.

What is interesting here in terms of social history is, first of all: Rosenstengel's problem does not appear to have been unemployment. He has opportunities to offer his labour power, but can evidently not use them as he would like to. Termination is not a danger, but an opportunity. The labour market must have been rather unfavourable for an employer who takes recourse to the police to force an obviously unreliable person like Rosenstengel to return to his job.

In legal history perspective, the question is what the legal foundations for these decisions were. Why were the administrative authorities competent in the matter of contract breaches? After all, these were private matters between an employee and employer – in other words a matter of private law. Yet this was not so under the 19th century legal system. The files of the ministry include a great number of executive orders to resume work such as those issued against Rosenstengel. They are designated there primarily as orders under Section 108 of the Trade Regulation Act (»Gewerbeordnung« – GewO). This was a comprehensive statute which governed the position of craftsmen and industrial workers in the North German Confederation since 1869 and was extended to the German Reich in 1871. It was amended repeatedly. On the resumption of work, however, it included a regulation which remained largely unchanged, i. e. Section 108 GewO:

»Disputes of independent businessmen with their journeymen, sub-operatives or apprentices concerning the commencement, continuation or rescission of the employment contract or

7 Regarding the same approach in a termination conflict involving a metalworker: Prussian Privy State Archive I HA Rep. 120 BB VII 1, No. 5 vol. 2, pp. 16 ff. This case concerned a complaint against the refusal of a district police president to enforce an executive penalty determined in a commercial lawsuit of September 05, 1873. The metalworker Carl Bärker had taken up work at the firm of the factory owner Beiersmann and committed himself in writing to provide

service for an advance payment received and thereafter leave the job only subject to a notice period of 14 days. Bärker ceased work without fulfilling this performance obligation and without notice and moved to a different district. An order (»Resolut«) for continuation of service was then issued. As usual, eight days in prison were threatened, should the order not be obeyed. After serving his imprisonment, the metalworker again refused to take up his work.

Another 14 days detention had been threatened for that event. The police authority refused to enforce this punishment because Bärker had taken legal recourse in the interim. The dispute concerned the admissibility of enforcement and the suspensive effect of legal recourse against executive penalties (»Exekutivstrafen«). KEISER (2013) 302.

8 Prussian Privy State Archive I HA Rep. 120 BB VII 1, No. 5 vol. 3, top of p. 242.

apprenticeship, the performance mutually due for the duration of the same or the issue or content of the certificates specified in Sections 113 and 124 are, to the extent that special authorities for such matters exist, to be presented for decision to them. To the extent that such special authorities do not exist, the decisions will be taken by the local police authorities.«

This was a norm governing competency, but not a legal regulation defining the material preconditions for police orders enforcing a duty to work. From the point of view of today, it appears like a self-propelled extension of a competency norm into a material empowerment. However, the problem was not perceived as such at the time. It appeared clear that the work obligation came into force by contract as its legal foundation, while the norm mentioned above only described the legal process. What was regarded as problematic at the time was that a contractual duty to work such as Rosenstengel's was founded on private law, whereas public executive institutions were competent to enforce it – not the courts. A principal distinction between private law disputes to be heard before ordinary courts and public law for which other courts and administrative authorities were competent was already known in Germany at the time. This distinction was very important to German law; reflecting the claims of a liberal movement since around 1800 which aimed to demarcate private law as a law of citizens principally exempt from state intrusion from the public law of the state. Freedom of contract and property were the main principles of private law. And under freedom of contract, the civil courts should really be competent. That they were not is confirmed by the peculiar intermediate position of labour relations such as those described which were rooted in a free contract, but whose enforcement was nonetheless governed by the norms of police coercion.

Some police orders, however, did not order workers to continue in a given job as in the case of Rosenstengel, but required journeymen or workers to start working after they had closed a

contract. This happened in the case of the brothers Uriankowsky who had contracted as glass painters and factory workers with a factory owner in Nienburg on the Weser, a small town in northern Germany in 1893, but then did not present themselves for work because they had unexpectedly agreed a continuation of employment with their previous employer.⁹ The new master was not inclined to accept that and determined to employ the people in his business. He therefore approached the mayor with a complaint for non-commencement of work. The mayor of Nienburg as the competent local police authority then decided as follows:

»The defendant Carl Uriankowsky is obliged to commence work immediately for the plaintiff as a worker, the defendants August and Robert Uriankowsky are obliged to commence work immediately for the plaintiff as glass painters.«¹⁰

This was, in other words, a police order for commencing a contractually agreed employment relationship. However, it was not enforceable in this form just yet. To enforce it, another organ of the local police ordered that the persons concerned:

»must take up work in the Heyesche Glass Factory within 3 days of delivery of this order under penalty of a fine of 30 Marks or 6 days detention.«¹¹

Here, too, it is remarkable that private work obligations were to be enforced by public coercion. The astonishing fact is: private law disputes were not brought to court, but to the mayor who was an executive organ and acted as the police. But did this police coercion really differ substantially from the compulsion exerted in court proceedings? Very similar titles to enforcement could be obtained there. Labour disputes, even if heard by police authorities, were evidently conducted like adversarial proceedings. There was at least the opportunity to hear witnesses and assess evidence, as in a court.

9 See the report of the Lord President (»Oberpräsident«) of the Province of Hanover in: Prussian Privy State Archive I HA Rep. 120 BB VII 1, No. 28 d. KEISER (2013) 295 ff.

10 Ibid., No. 1 f. of the relevant document.

11 Ibid., No. 2 of the relevant document.

If workers in breach of contract did not appear for a hearing, however, they had no hope of reprieve. But the authorities did not act as symbolic representatives of the employers equating their interests with those of the public order, but as litigation adjudicators between two parties. The mere breach of a labour contract was not treated like a breach of interests of state, and the hearings with journeymen and workers appear to have been conducted open-ended. Although lawyers may not necessarily have been present in these hearings, strict legal requirements do appear to have been observed. The intervention of public authorities is, when viewed anachronistically before the background of German law, in and of itself a breach of the principal demarcation between public and private law. But it did not have to entail a grave restriction of freedom for workers in real terms.

This had been different before 1869. Breaches of their contractual duties by workers were then still subject to penal prosecution. Penal sentences and coercive measures were indeed employed. They were not *dead letter law*. A letter of the Berlin Magistrate of 1824 contained in the ministry files reports on measures taken against a silk-making journeyman.¹² He had a real career of contract breaches and was said to be »already notorious in the trade«, as a »slovenly person and disorderly worker«.¹³ He had therefore already been sentenced repeatedly for ceasing work, once to three days detention and thereafter to a 14-day prison term for repeated misdemeanour. He had then left the work at his current silk-making master »secretly« because »the work had not been to his liking and he did not wish to do it«.¹⁴ The Berlin Magistrate therefore wanted to sentence him to a jail sentence of four weeks and confiscate his professional qualification certificates until he promised improvement in performing his work duties.¹⁵ The magistrate asked for authorisation by the ministry. As a marginal note on the file shows, this authorisation was granted,¹⁶ which was not surprising. The magistrate's approach, after all, corresponded precisely to Sections 360, 361, Part 2, Tit. 8 of the Prussian General State Law (»Preußisches Allgemeines Landrecht« – ALR), a compre-

hensive statute dating from 1793. The scale of the penalties applied, from three-day detention to imprisonment for repeat offenders also follows the legal stipulations precisely (ALR II 8, Section 359). Why ministerial authorisation of this approach, which was quite evidently covered by the wording of the statute, was requested is unclear. The magistrate evidently aimed at deterrence and wanted to let the silk-maker journeyman concerned feel »the severity of the law«,¹⁷ so that others be warned. According to the wording of the ALR, the journeyman could also not avert the punishment imposed by subsequent performance of his work duty. ALR II 8, Section 359 merely stipulates:

»Journeymen who avoid work on the days designated for it by state statute are to be punished to imprisonment with water and bread, the first time for three days and, in the case of recurrence, for 14 days.«

So, here we have clear examples of unfree labour contracts. This is the case not only because of the executive competency but also in view of the nature of the sanction against breach of contract. Until 1869, non-performance of labour contracts was a penal offence.

2.2 Agriculture

Let us now look at some examples from the sphere of agriculture, but remaining in the same period. The Prussian manorial estates of the 19th century were complex economic enterprises. The daily routine was characterised by specialisation and a division of labour. Forest wardens, gardeners, barn-maids, coachmen, managers, storekeepers and people in many other roles were employed by the lord of the manor. They lived in the direct vicinity of their employer or even under the same roof.¹⁸ The social microcosm of such estates was described impressively by Max Weber in his farmworker studies.¹⁹ The legal norms were laid down in the Farmworker Law (»Landarbeiterrecht«), a complex of norms which governed the specific

12 Prussian Privy State Archive, Ministerium für Handel und Gewerbe, I HA Rep. 120, B V 2 No. 1, vol. 2, pp. 49–50 (manuscript). KEISER (2013) 264 f.

13 Ibid., p. 49.

14 Ibid., p. 49 rs.

15 Ibid.

16 Ibid., p. 49, marginal instruction.

17 Ibid., p. 50.

18 KOCKA (1990) 158. On the legal aspects see KEISER (2013) 337–368.

19 WEBER (1899–1902); WEBER (1892).

conditions on the large, mostly Eastelbian estates and has received little attention to date. One central aim of the Farmworker Law was to secure worker obedience. This had also already been the regulation objective of the Law of Servants (»Gesinderecht«) which found wide application in Germany and applied both to domestic servants and to the farmhands employed during sowing and harvesting. The Farmworker Law partly overlapped with the Law of Servants, but was designed specifically for the labourers in Prussia's larger agricultural estates. In contrast to employees (»Arbeitnehmer«) after World War I, the Prussian farmworkers of the 19th and early 20th century were not regarded as subjects principally requiring protection, but as beings tending to obstruction and hence a threat to farm operations, which had to be constrained by strict rules to perform their duties. One such regulation, for example, was a Prussian law of 24 April 1854. Its central regulation, Section 1, stated:

»Farmworkers guilty of sustained disobedience or recalcitrance against the orders of their master or the person appointed to oversee them or who refuse or quit service without lawful cause are, at the request of their masters, subject to a fine of up to five Thalers or up to three days detention, regardless of the master's right to either dismiss or retain them.«²⁰

If, for example, a farmhand left his workplace temporarily, this was a penal offence. A man who left his workplace on Sunday and only returned Monday evening was punished for »deserting the master«. ²¹ This event occurred in 1887.

The collections of Prussian penal sentences ²² are full of lawsuits against farmworkers who were taken to court for poor and above all non-performance of their labour contracts. Looking through the court rulings, we encounter a farmhand who wanted to leave his position with a manorial lord

prematurely to look after his infirm parents. ²³ This was not recognised as a valid cause for termination, and the farmhand was forced back into service and punished. Whether minors wished to return to their parents ²⁴ or farmworkers desired to quit their service due to poor nourishment – a clearly defined conflict was always at issue: Workers wanted to terminate their employ, while their masters wished to prevent termination. People were compelled by police coercion to continue in service or punished by state institutions in legal proceedings. The legal system provided a detailed set of public-law instruments for this purpose. Private-law damages claims against those bound by service contract were not a major theme before 1900. The people could therefore hardly have been more distant from the later protective »labour law« than they were. Their main problem was not market turbulence, and the elimination of jobs by economic change not their greatest concern. Work appears to have been available, only not on terms regarded as acceptable. Prussian manorial labourers seem to have been presented by market opportunities, rather than market risks. Their muscle power was evidently in demand, but they were not intended to derive much gain from it. To that extent, there are clear parallels to the cases of the industrial workers described above. In both spheres, highly developed norm systems were in place to induce people to perform their work duties. One difference, however, is that punishment played a far greater role for farmworkers, even in the late 19th century, whereas it had been abolished for workers in trade and industry, i. e. factory workers and craftsmen, in 1869. The penal law characteristics of farmworker labour relations (which varied in intensity), were clearly more pronounced.

It was even discussed whether manorial lords were entitled themselves to prevent their workers from quitting service. If breach of contract was to be a penal offence, this notion was not far-fetched. A need for rights of lien will have existed among

20 Gesetz-Sammlung für die Königlich Preußischen Staaten, 1854, No. 16, p. 214 ff.

21 Superior Court, Judgement of 19 March 1888, JOHOW (1889) 185 f. KEISER (2013) 377.

22 For example, in: Goldammers Archiv für Strafrecht und Strafprozess, General Register (1908); JOHOW

(1889–1893). For a general assessment see KEISER (2013) 352 ff.

23 Superior Court, Judgement of 25 September 1890, JOHOW (1892) 258 f.

24 Superior Court, Judgement of 12 Dezember 1889, JOHOW (1891) 224 f.

employers especially as regards their unbound »free« day labourers and migrant workers. In the 19th and early 20th century, the labour market was influenced by strong migration flows. Lack of contract loyalty was a conduct attributed especially to unbound seasonal workers at the time. The »working class of migrant workers« was described as the »main source of breach of contract as a mass phenomenon«. ²⁵ Here, sections of the legal literature saw an extremely urgent need for the use of coercion by employers to prevent worker abscondence. ²⁶ A danger of departure from service, however, also existed among locally resident workers. In 1883, the Prussian Ministry of the Interior therefore issued a circular to the heads of the administrative authorities (Lord Presidents) of a range of eastern provinces and in Brandenburg and Saxony, which listed the legal measures against non-performance of rural labour contracts. ²⁷ This was a response to an allegedly widespread inclination among workers to quit service prematurely if they planned to emigrate from Germany. Indeed, once aboard an emigration ship headed for America, people no longer had to fear the damages claims and penal sanctions of the German authorities. As a remedy, the Prussian Ministry of the Interior pointed, among other options, to rights of detention which could be enacted by employers or, indeed, by for everyone who could seize a farmworker discovered absconding from service. ²⁸ This is principally possible under German penal law. Anyone considering emigration and ceasing work would therefore have been presented to a custodial judge directly by his employer. Whether such use of rights of self-defence was practiced is difficult to determine, but should have been rather unlikely. At least towards rights of self-defence (against breaches of contract), the judicature had adopted a reserved position. In a judgement of 1892 concerning an absconded maid, the Supreme Court of

the German Reich ruled that the masters were not entitled to retain the maid's property in the house if her departure from service – whether lawful or not – caused no damage, which will often have been the case. ²⁹ This assessment was based on consistent application of the regulations of the Prussian Servant Law (»Gesindeordnung«). Had one wished to apply a criminal procedure right of detention alongside these regulations, the result would have been a contradiction in evaluation: If compulsory violence was only permissible to secure damages claims, but not to secure the main performance claim under the service contract, the use of absolute force, which moreover circumvents the state monopoly of violence, should certainly be precluded in cases of this kind. This argument is likely to have corresponded to the judicature. In 1890, the Supreme Court had already declared the use of personal compulsion by employers against absconded servants or servants considering abscondence inadmissible and advised the employers concerned of the services of the police authorities. ³⁰ It is likely that the same conclusions were drawn as regards farmworkers. Yet, although the judicature restricted personal coercion by employers and, in doing so, defended a constitutional monopoly of violence, punishment and coercion clearly played a major role in dealing with non-performance of work obligations.

2.3 Conclusion

Overall, the above examples show that the departure of workers from service was still a real problem in the late 19th century. When dissatisfied with their working conditions, many people not only made use of the option to protest. Leaving service with the aim of re-entry into the market also played a major role. The termination options available to workers were an expression of free-

25 EHRENBURG (1907) 11 ff. Statistical data also in MANKOWSKI (1909) 694 ff. This work states that, »according to a cursory summary«, there had been 5991 agricultural breaches of contract in Prussia in 1907. According to a survey by the Prussian State Economic Collegiate (Preußisches Landes-Ökonomie-Kollegium), the share of »free foreign agricultural workers« in these contract breaches was especially high and far higher than that of the

day labourers (»Inste«) and other »agricultural workers in fixed employment«. See MANKOWSKI (1909) 695. On the institutional history of the collegiate, see HANSEL (2006) 50–76. KEISER (2013) 351 f.

26 SCHLEGELBERGER (1907) 199.

27 Circular of 16 November 1883, in: Ministerialblatt für die gesamte innere Verwaltung in den Königlich Preußischen Staaten, 1883, pp. 255 f.

28 Circular of 16 November 1883, p. 256.

29 Entscheidungen des Reichsgerichts in Strafsachen, RGSt 23, 356 f.

30 Entscheidung des Reichsgerichts, in: Juristische Wochenschrift 19 (1890) 229.

dom. In 1970, the economist Albert Hirschman designed an abstract economic-sociological model for the reaction to performance decline in enterprises, organisations or states.³¹ His theory distinguishes between *voice*, opposition, and *exit* – leaving – as the possible reactions of individuals who find themselves in an exchange relationship with a stable form of organisation due to arbitrary coercion or by birth. Certainly, *exit* could only have been the preferred option if *voice* had failed or was impossible. For the history of employment relations this means that the opportunities of workers to communicate and protest must also be included in the analysis. Strikes tended to be rare among farmworkers. Here, there was less organisation and class-consciousness. Among industrial workers, the history of the sanctions against breach of contract is closely intermeshed with the history of the right to strike, especially since the 1870ies.³² The option of swift and easy termination could have been less relevant for workers once they had the opportunity to effect improvements in their workplaces by trade union activity. This, too, renders it astonishing that so many cases of labour contract breaches are on the record and employers made such efforts to prevent them. After all, workers could terminate their employment with a notice term of 14 days (Section 122 »Gewerbeordnung«) in any case. Looked at retrospectively, the economic problems caused by premature contract termination do not appear to have been all that considerable. Nonetheless – and this is a general problem in the legal history of human labour power – such normative findings can have very different meanings, depending on the respective economic context. A strict or liberal right of termination has different effects in different economic sectors and supply constellations which depend on many factors. The market opportunities of workers may have changed rapidly and at short intervals, depending on demographic and economic developments. In other periods, people may not have been able to afford disobedience or termination for poor food and accommodation simply for economic reasons, since alternatives were not available. Perhaps workers then even had to call for protection against

dismissal. The economic situation of the Prussian agricultural estates was, indeed, problematic in the second half of the 19th century, at least judging by the commentary from the associations of the big Prussian landowners. Shortage of labour was an issue because large areas had to be cultivated in this region, while migration flows to the emerging industrial regions to the west or into the New World depleted labour supply. At first sight, this appears to be a plausible explanation for the repressive character of farmworker law, all the more so since a work regime as the normative backbone of real labour contract situations can only be analysed as part of a complex web of very diverse economic and social factors. However, if we look at other historical constellations, we do find similar phenomena. Coercion in the case of non-performance by sanctions or police enforcement of labour existed in the early modern Holy Roman Empire, in the states of the German Confederation and in the German Reich until 1919.³³ The day labourers of the early modern era in the Free Imperial City Frankfurt am Main,³⁴ male and female servants in Bavaria, Prussia or Württemberg,³⁵ manufacture workers (i. e. factory workers in the pre-industrial period),³⁶ craftsmen³⁷ and industrial workers in the 19th century – almost all confronted elaborate regulations protecting their masters against termination, but not to protect workers against unjustified or untimely dismissal. These norms are described in the following chapters to take a closer look at the phenomenon of the »unfree service contract«. It will become clear that it was a central normative instrument for the allocation of labour power as a vital resource for centuries.

3 »Master and Servant Law« in Germany?

Unfree service contracts existed not only under different historical and political conditions. Very similar regulation patterns also occurred in other legal cultures. One study has provided many indications for comparisons with France, whose Code Civil was criticised for providing a socially

31 HIRSCHMAN (1970).

32 KEISER (2013) 284 ff., 286 ff.

33 In detail: KEISER (2013) 35–192; pp. 241–393.

34 KEISER (2013) 35 ff.

35 KEISER (2013) 63 ff.

36 KEISER (2013) 164 ff.

37 KEISER (2013) 143 ff.

indifferent labour contract design, which in reality was, however, integrated into special regimes of a police and possibly even paternalistic-repressive nature.³⁸ Coercion in service contracts played a major role, above all in English and US-American labour history. The examples of legislative sources best known to date derive from England. The Statute of Labourers of 1349 contains a kind of archetypal formulation of legally unfree service contracts.³⁹ Imprisonment for premature termination of service without justification, prohibition of the employment of workers who had breached their contract, the obligation to contract subject to penalty for unemployed servants, penalties against paying more than the going local wage and other characteristic elements scattered among thousands of imperative laws (»Gebotsgesetze«) across the territories of the Holy Roman Empire are already present in these statutes Edwards III.⁴⁰ which were a response to population losses and labour shortages caused by the Black Death epidemics which raged from 1347 to 1349.⁴¹ In the Elizabethan period, the normative core of this legislation was taken up and laid down afresh in the Statute of Artificers (1562–1563).⁴² These Tudor statutes evolved further by case law and were supplemented by further legislation. A law of labour thereby emerged which was characterised by coercion and control and was summarised in the »Master and Servant« law.⁴³ In contrast to the German-speaking territories, servants here meant a range of manual labourers, i. e. above all servants, agricultural labourers and craftsmen. The major professional cleavages which separated servants and craftsmen in the Holy Roman Empire of the German Nation were non-existent in the English legislation. The Master and Servant laws nonetheless included the figure of a farmworker bound by contract for one year who had to complete his year of service subject to penal sanction.⁴⁴ To that extent, parallels to the German Law of Servants (»Gesinderecht«) are in evidence. In procedural terms, too, there are many shared characteristics between English manual labourers and their col-

leagues in the German territories. In England too, summary procedures tended to be provided for disputes in service relationships. The »remedies« of the master against non-performing servants were implemented by »borough magistrates« and »county justices of the peace«. As in the Holy Roman Empire, professional jurists were therefore not involved in these cases.⁴⁵ In England, the sanctions handed down by such arbitration organs in cases of contract breach are nonetheless likely to have been more stringent than in the Old Empire.

Due to the influence and long history of the Master and Servant legislation, it is not surprising that unfree service contracts played a not inconsiderable role in the historiography of the Common Law. The US legal historian Robert J. Steinfield displays an acute sensitivity for the conflicts caused by the dissolution of labour contracts in the context of his studies about »Coercion, Contract and Free Labour in the Nineteenth Century«.⁴⁶ His comments aim to relativise conventional views about free and unfree labour in England and the United States by complex analyses of the judicature and laws.⁴⁷ He criticises generalising assignment of the attributes »free« or »unfree« to certain forms of labour relationships, wage labour, servitude, slavery, contract labour etc. and seeks to describe the normative genotype of these relationships in greater depth. A focus of his work is the analysis of unfreedom in contractual labour relationships. Steinfield thereby points to an instrument of coercion applied since the Middle Ages and then mitigated and reactivated in different epochs, which – indeed – affected labourers bound by contract: penal sanction in the case of contract breach.⁴⁸ Along with the labour contract, breach of contract emerged as an increasingly important legal figure and corrective. »Criminal sanctions« had survived in England until the 19th century, so that one could speak of »unfree wage labour« during this period.⁴⁹ Steinfield also investigated to what extent the delivery of labour performance could be achieved by compulsory enforcement, i. e. whether a contractual work duty could be directly

38 BÜRGE (1991) esp. 4 ff.

39 Text cf. Statutes of the Realm (1810) 307 f.

40 Ibid., see also: STEINFELD (1991) 22 ff.

41 In detail on plague epidemics and the labour market: SCHRÖDER (1984) 59 ff.

42 STEINFELD (1991) 22 ff.

43 HAY (2000) 227.

44 HAY (2000) 228, on certain differentiations of the concept »servant«, e. g. covenant servants or husbandry servants.

45 HAY (2000) 229.

46 This is the title of a relevant study by STEINFELD (2001), see also STEINFELD (1991) and (2006).

47 See STEINFELD (2001) 4 ff., 26.

48 STEINFELD (2001) 39 ff.

49 Ibid.

enforced as »specific performance« or converted into a damages claim for non-performance.⁵⁰ For Steinfeld, these are decisive criteria for defining »free labour« beyond the conventional categories of slavery, servitude and the like. He shows that the analysis of the freedom potentials of working people must take account of the legal options for enforcing work duties as an indicator. This is a potent instrument for realistic recognition of factual unfreedom in the sphere of contractual labour relationships. Freedom can, indeed, be determined very well on the basis of its limits.⁵¹ A key criterion here is to what extent people can withdraw from labour relationships and, above all, which consequences they must expect if that fails. The English Common Law denotes these consequences with the terms »specific performance« and »criminal sanctions«.

4 Administrative coercion in the early modern law of services in Germany

A comprehensive legal history of unfree service contracts in the German territories confronts far greater difficulties of a technical nature than the study of the Common Law. The latter possesses a large body of case law in which legal practice was conserved and the social background of normative decisions is also presented, albeit only in the form of the »procedural truth« of judicially generated facts. These do, however, possess a special salience. Here, access to the practical application of statutes is therefore not too difficult. In Germany, on the other hand, there are a large number of statutes, but barely any decisions. This raises many questions regarding the application and function of statutes. In addition, the normative material is highly dispersed. In the early modern period, service contracts were not classified legally according to a defined pattern. The Old Reich and its territories were regions of plural, decentralised law making, in which the otherwise often unifying framework of Roman law also played only a minor role. Information about service contracts can therefore

only be obtained in specific contexts, i. e. as regards the service contracts of servants, farmhands, day labourers, manufacture workers, etc. From about 1400, a new strong permeation of such service relationships by administrative norms occurred in the German territories and cities. The state of the early modern period projected its conceptions of the common good onto the service status of dependent workers. The smooth operation of agriculture and production became an important concern for the authorities. Service contracts were therefore not a matter between two parties, but a highly political issue which directly affected superior interests. The consequence was the application of legal coercion to enforce the specific performance of service contract duties. This »administrative coercion« is a key attribute of legally »unfree service contracts« and the equivalent of the 19th century police coercion described by the introductory examples. The presence of administrative coercion shows that even service relationships created by acts of will were subject to multiple restraints. These had naturally already existed in the Middle Ages. In the legal history literature of the 19th century, above all Otto Stobbe,⁵² Richard Loening⁵³ and Gustaf Hertz,⁵⁴ a student of Gierke, examined the legal problems of coercion in medieval service contract relationships. Coercion to enforce specific performance of the service contract was a topic in medieval law books, but coercion was usually applied by damages claims.⁵⁵ From the point of view of today, it therefore took effect at the level of contract law. More systematic administrative direction and control of the law of labour appears to have begun only in the late mediaeval era on the threshold of the early modern period.

4.1 *The »Gesindevertrag« as a prototype of the unfree service contract*

The state intervened most severely in servant law (»Gesinderecht«). »Gesinde« is a term designating the professional category of servants from the early modern period until the 20th century. Servants had to perform different duties in the house

50 STEINFELD (2001) 51 ff.

51 As a successful example of such a determination of the freedom content of private-law institutions, see HOFER (2001).

52 STOBBE (1855) 34 ff.

53 LOENING (1876).

54 HERTZ (1879).

55 KEISER (2013) 44–55.

or on the fields.⁵⁶ Farmhands and maids formed a major part of this class of workers who worked mainly for farmers, craftsmen, burghers, aristocrats or in the catering sector. Their position is regarded by German law as the relationship of servitude par excellence. The relationship to the master was a very close one here, too, since servants had to live in their master's home. This integration into the domestic community was associated with many normative connotations until the early part of the 19th century. The »house« of early modernity was a major projection surface for popular-romantic conceptions of freedom and commitment.⁵⁷ A typical service contract was closed for one year. Problems arose if a servant wished to quit service before this term had expired.⁵⁸ The start and end of the service year were aligned to ensure that sufficient people were always available during sowing and harvesting, i.e. that no changes were to occur during the times of intensive labour. It therefore suggested itself to punish »Gesinde« for breach of the service contract. In most cases, these were so-called »arbitrary penalties«⁵⁹ which had to be defined by officials in the individual case. The direct return of a person to their place of work with the aid of the officials of an authority, on the other hand, such as practised with servants in the 19th century was less significant in the early modern period. This procedure was then mainly applied in the so-called »Gesindezwangsdienst«, i.e. the coercive service duties arising from the status of the children of bondservants which were to be rendered directly to the manorial lord. The relevant laws show, however, that labourers contractually employed by burghers or farmers were not forced into service with absolute coercion by the organs of authority. In the early modern period, masters who did not wish to rely on the deterring effect of administrative punishment, could take recourse against labourers in breach of contract before a forum in common law proceedings. For example, they could obtain judgements ordering direct specific performance of the service duty, whose execution would result in direct return of absconded manual labourers by analogous application of the

rules of Roman slave law. Alongside the thousands of criminal regulations of the police law (»Policeygesetzgebung«), however, these common law instruments probably played only a minor role. Recourse to the courts may have been too time-consuming and expensive for all parties involved. The law of labour was focused instead on swift decisions and swift execution for which the officials of cities and territories appeared as suitable agents. In almost all cases, these were also the people who decided about conflicts in service relationships. The law of dependent manual labour was a police matter with all the associated procedural consequences.

In addition to the penalty for »absconding«, many indirect coercive measures to enforce specific performance of contractual labour existed. Wage fixing in the form of tariff regulations (»Taxordnungen«) was widely used.⁶⁰ This was part of a comprehensive economic policy which aimed both to keep wages low and permit people to live on their wages. In addition, obligatory work certificates were an indirect means of coercion in all sectors, except for day labourers. These certificates served less as proof of qualification to facilitate a decision in the market than as a means of police control. They served to confirm that a service relationship had been terminated permissibly. Taking up a new position was to be permissible only upon presentation of such evidence. Certificates therefore also served as legal security for potential new masters, since they were not permitted to employ people bound by other service contracts. If they breached this rule, they themselves were subject to penalty. It was also attempted to ensure specific performance of service contract duties by eliminating refuge areas for absconded persons.

In addition, obligations to contract partly existed in the form of prohibitions of idleness (»Müßiggangverbote«)⁶¹ which obliged people to close service contracts. The independent existence of unmarried people often met with disapproval. It was attempted to coerce them into service by application of penal norms. A latent scarcity of labour in the early modern period can be suspected

56 For the extensive social history literature on *Gesinde*, see SAGARRA (1995), RÜCKERT (1996) 119 ff. and SCHRÖDER (1992) 49 ff.

57 SCHRÖDER (1992) 51 ff.

58 In detail: KEISER (2013) 60 ff.

59 See KEISER (2013) 87 ff.

60 KEISER (2013) 113 ff.

61 KEISER (2013) 186 ff.

as the background for all these norms. How serious it really was cannot be said. It can only occasionally be associated with certain economic cycles. Overall, however, there is a clear impression that scarcity of labour, especially of *Gesinde* was a factor during the entire early modern period. The big problem for regulation was not to protect working people against dismissal, but to protect masters against illicit premature contract termination by their workers.

4.2 *Unfreedom among day labourers, craftsmen and manufacture workers*

Day labourers were also of central importance to agricultural resource allocation.⁶² Their far more flexible service relationship – the work obligation generally applied for only one day – offered far less scope for the application of coercive norms. Here, the key means of exerting pressure was the duty to observe the tariff regulations, i.e. the administrative wage prescriptions. Nonetheless, some laws did attempt to take influence on the daily performance of day labourers by threatening sanctions. In contrast to service workers whose responsibilities were less clearly defined, the requirements to be met by day labourers as regards punctuality, precision and speed were defined by the authorities in a number of laws. Clockwork-type work rhythms such as those in modern factories are likely to have already existed on the fields of the early modern era.

As regards the service contracts of craftsmen,⁶³ a clear distinction must be made between journeymen and apprentices. Journeymen contracts could vary in duration and were principally far more flexible than the contracts of servants, since they were often closed for an indefinite term and could be terminated with two weeks' notice. Although ending a dissatisfying relationship between masters and journeymen was therefore relatively easy, here, too, many penal regulations against non-performance were in place. They were often stipulated by guild laws for the different trades, but often also by administrative laws, some of which placed absconded journeymen on the same level as absconded servants. If only a guild penalty in the

form of a fine was applicable, it may have been milder than an administrative penalty. In contrast to the »arbitrary sanctions« of the authorities, it was certainly always clearly defined. But this was due, above all, to the limited discretion of the guild courts which, in contrast to the authorities, were permitted to impose fines up to a certain amount. Banishment as a sanction aimed at ensuring the culprit could no longer ply his trade in a particular region are likely to have had a greater deterring effect. For apprentices, on the other hand, labour contract entitlements of the master were combined with quasi-parental rights. The unfreedom and restriction under parental authority thus continued in the apprenticeship, where the master figured as a substitute father.

For workers, the situation in centralised as well as decentralised manufacturing was very varied.⁶⁴ In the factories of the proto-industrial period, these workers were often subject to similar coercive sanctions for non-performance as the guild craftsmen. The applicable norms were found not only in the guild laws, but also in imperative laws (»Gebotsgesetze«) and privileges. The service relationship of manufacture workers was not a reserve of »free service contracts« in an environment of bound private law. They may have enjoyed more freedoms and negotiating power as regards contract contents such as wages, contract term and the like. But they, too, were subject to administrative sanctions in the case of non-performance and to a special extent to the »house regulations« of a factory owner. It should be noted, however, that highly qualified workers were required in manufacturing more than in any other economic sector of the early modern period. It is likely that these workers always had good opportunities to negotiate favourable contract terms; their labour power was probably mobilised primarily by incentives rather than coercion. They occupied a special position among the manual labourers of that time.

4.3 *Conclusion*

There is therefore no doubt that, according to the conceptualisation presented here, almost every service contract of manual workers in the early

62 KEISER (2013) 134 ff.

63 KEISER (2013) 143 ff.

64 KEISER (2013) 164 ff.

modern period was to a certain extent legally and factually unfree. Even in relations of service which were not founded on status like slavery or serfdom, coercion by legal regulations designed to enforce the specific performance of service played a major role. The economic compulsion to make a living was always accompanied by the normative coercion of state authority. The mobilisation of labour power relied on the interaction of both factors, which could also be mutually reinforcing because economic potentials were also governed by administrative norms. Depending on the individual case, the professional character of a particular field of law and the subjective perception of the person affected, the economic or the political-normative factor could have carried more or less weight. Men and women were equally affected by administrative coercion. This impression certainly arises when looking at the surface structure of the law; whether officials used their discretion in individual case decisions, e. g. regarding »arbitrary sanctions«, to different degrees cannot be determined here. Differences between the sexes generally applied only to wages which were lower for women under the tariff regulations if they performed work on the same hierarchy level.

A clear differentiation is evident, however, as regards the age of working people. Stricter compulsion was generally applied to younger, unmarried people than those older and married. This also relates to the residential situation. Single persons who lived in the house of their master as a servant or apprentice tended to be subject to stricter coercive legal regulation – even leaving aside the relations of authority in the master's house. There appears to have been a subliminal relationship between physical proximity and the desire for discipline. This began to take an effect on juridical discourse as an explicit argument in the 19th century.

5 The period around 1800 as a watershed in the law of labour?

A fundamental shift occurred in continental European political and legal thought from app. 1750 to 1850 which was reinforced by the ideas of freedom which spread in the course of the French Revolution. This period of transition (»Sattelzeit«⁶⁵) is characterised to significant extent by the unleashing of economic potentials. Servitude was abolished, and agricultural reforms and land mobilisation began.⁶⁶ And although they may not have brought true liberation for all, they were backed by a remarkable principle. Labour productivity was to be increased by the incentive to create personal prosperity rather than by coercion.⁶⁷ An awareness of the market as an alternative for efficient allocation of labour power emerged. »Happiness« no longer meant merely the peace of mind engendered by a pattern of life based on uncritical acceptance of one's position, but increasingly also worldly personal prosperity. Such views made the theologically founded ethics of duty, which assigned to people unchanging functions in an order ordained by God, appear as an element of the »gothic monster«⁶⁸ to which the Old Empire had, in the eyes of many, already degenerated. In this context, an »unleashing of labour power« has also rightly been diagnosed for the period around 1800.⁶⁹ But how did it take place in practice? It could be assumed that unfreedom in labour contracts had been abolished, markets opened and mobility opportunities created for people and that the private-law ideas of freedom and equality such as those of the French Code Civil had found entry into service contract law. But this was not the case. The major shift in the history of ideas around 1800 had only limited effect on the rights of dependent workers. In the laboratory of the emerging bourgeois society, weight was given above all to freedom of commerce. The relationship between freedom and work was perceived mainly as the right to choose a particular career, to free personal development and to benefit from the fruits of one's own work. This resulted in the

65 Theoretically pioneering on the »Sattelzeit« from app. 1750 to 1850, in which old words acquired a new »Zukunftshorizont« (future horizon) and »Begriffsgehalt« (conceptual content): KOSELLECK (1972) 14 f.

66 See DIPPER (1980). An up to date presentation of the literature now in: BRAKENSIEK/MALERWEIN (2005).

67 KEISER (2013).

68 On the metaphors of domination see STOLLBERG RILLINGER (2008) 12.

69 STEINDL (1984).

abolishment of the guild strictures and administrative fixing of wages. The abolishment of the tariff regulations, in particular, created an increase in contract freedom for simple craftsmen and servants. This increased contract freedom which was also laid down in servant ordinances and commercial ordinances of the German Confederation with more or less principal status initially did not, however, take influence on the penal sanctions for non-performance of labour duties. Even in this period of liberalised contract closing and contractual contents people continued to be punished if they left their place of work without permission. Corresponding regulations exist in not all, but many commercial ordinances of the German Confederation. An analysis of source material from Prussia has shown that such sanctions were also employed in practice by the competent police organs, as shown in the first chapter.

6 The critique of unfreedom in the law of labour in the second half of the 19th century

The situation described above began to be regarded as problematic in the second half of the 19th century, above all among liberal and social democratic politicians. The Marxist Karl Liebknecht who was murdered in 1919 worked as a lawyer at the end of the 19th century and knew the difficult situation of agricultural workers on the Prussian manorial estates from practical observation.⁷⁰ Their capacity for resistance was weaker than among industrial workers. But the attention of politically interested circles was increasingly drawn to the problems of unfree labour contracts and the often harsh patriarchal manorial estate economy by politicians like Liebknecht.

But not only Social Democrats criticised the lack of equality in service contract relationships of manual labourers. It was regarded as especially intolerable that workers could be punished for breach of contract (i. e. abscondence, excessively long breaks, late arrival at work, etc.), whereas employers could not, for example if they were if

default with wage payments. This disparity was criticised in the Reichstag of the North German Confederation since 1867. Delegates from the liberal parties demanded the abolishment of all contract breach sanctions for all service contracts.⁷¹ These initiatives aimed not only at restricting employer claims for private damages in the case of personal contract breaches, but also the legalisation of strikes and coalitions to improve working conditions. Both objectives intertwined in the vehement discussions about breach of contract during the years from 1867 onwards, for which the reform association »Verein für Socialpolitik« – which we would describe as a think-tank for policy consulting today – repeatedly created a platform by organising conferences and studies on the theme. But the radical opponents of sanctions against breach of contract could only prevail in part. The Trade Regulation Act (»Gewerbeordnung«) of the North German Confederation of 1869 finally no longer included penal sanctions against non-performance of service contracts. However, this improvement only affected »commercial« labourers, i. e. journeymen and factory workers. Their contractual relationships were reformulated using the grammar of private law, albeit not by a general codification, but in the Trade Regulation Act. Special laws which still laid down penal sanctions applied to servants and agricultural workers. In Prussia, conservative circles even repeatedly demanded that they be tightened, also and especially in the second half of the 19th century. A revolution was required before the free labour contract, understood as a free contract between equals which covered every professional category and provided principally the same conditions for employers and the employed was established. It was ultimately only the Council of People's Deputies created after the overthrow of the Kaiser at the end of World War I which abolished the last special laws for servants and agricultural labourers.⁷² The last remnants of juridically codified status differences between service contract parties were no longer to exist in the democratic Germany of the Weimar Republic.

70 LIEBKNECHT (1983) 114. Further statements by Karl Liebknecht on the law of service in SCHRÖDER (1992) 163, footnote 21.

71 KEISER (2013) 276 ff.

72 See Declaration of the Council of People's Deputies, in: HUBER (1992) 6–7. Also: VORMBAUM (1980) 382 ff.

7 Conclusion – Coercion enforcing contractual work performance in the past and present

What is special about this history? Looking at the world of work in the early modern period and the 19th century opens up a surprising discovery. The labour relationship aimed at the greatest possible security which is generally recognised as desirable today and forms part of the canon of social policy demands, does not appear to have corresponded to the interests of many employees at all times. What they lacked was often not security, but freedom. Even when people were able to close their labour contracts themselves this did not mean that they had full access to freedom of contract. The service relationships established by agreement in the early modern era also combined status and contract. A favourable market situation will often have existed for many workers which they could have used to their advantage had they had greater freedom of contract. But the legal order repeatedly attempted to prevent that by stipulating unequal conditions for employees and employers. This situation changed fundamentally after 1919, however, when mass unemployment became a problem in the troubled Weimar Republic. The history of the service relationship as an originally unequal contract relationship receded into the background. Security now became the central theme, and freedom tended to be viewed as a risk.

»Unfree labour« is a theme that generally triggers associations with the contemporary world. Reports on the exploitation of workers abound, especially as regards women and children in developing and emerging countries. What is lacking there is evidently not the opportunity to work, but the opportunity to work in humane conditions and at adequate wages. Voice, i. e. resistance and exit, the capacity to resist and, associated with it,

the chance to quit service, appear to be lacking – for example among Indian indentured workers in textile manufacturing or Chinese brickyard workers who produce the building materials for China's rapidly growing megacities in conditions that strike us as antediluvian. At first sight, this calls to mind part of the story related here. However, compared to the forms of coercion of the early modern territorial states or the Prussian Trade Regulation Act of the 19th century, the differences are considerable. The coercion to work was generated here in police and legal proceedings, under conditions of inequality, but still with transparent procedural structures and formal options for resistance in the form of legal remedies. Many contemporary coercive systems will tend to be arbitrary systems which are difficult to account for in terms of a history of law and in which coercion is used more or less directly by employers and – which is the big difference – illegally. Coercion is exercised behind the scenes or tolerated by corrupt authorities.

But these distinctions and the identification of the differences between the past of our own life world and a (foreign) present produce valuable new insights. Studying the parallels between our own past and the present of others is an important task for a history of law that needs to confront the challenges and knowledge requirements of the globalised economy. The investigation of norms of freedom and unfreedom in labour relationships in their respective economic environments is thereby an especially important subject since it points to a general core problem of human livelihood which will present itself again and again in different constellations and hence transcends historical epochs.

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