Protection and Exploitation: Indentured Servants and the Law in 17th Century Virginia

Brent T. Sielinski

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The indentured labor system surged into the New World from Europe starting in the seventeenth century. About 116,000 British migrants arrived in the southern colonies throughout this period.[[1]](#footnote-1) Eighty-percent of all migrants to the Chesapeake region during the seventeenth century were indentured servants.[[2]](#footnote-2) A 1625 census demonstrated a servant population in excess of forty-percent the colony’s total population specifically within Virginia.[[3]](#footnote-3) The indentured labor force immersed itself within Virginia’s socioeconomic society. Historian Wesley Frank Craven estimated in a 1947 study that seventy-five percent or more of Virginia’s settlers in the seventeenth century were servants.[[4]](#footnote-4) Within the colonies, merchants sold servants upon arrival to port. Indentured servitude was a large business in colonial America. The use of indentured servants preceded the use of African slaves in every British American colony. Wherever there was slavery in the New World, there once was an indentured servant labor structure. An indenture did not make the servant a slave, as it “was the servant’s labor, rather than the person, that was temporarily owned by the master.”[[5]](#footnote-5) The need for labor within Virginia was apparent.

Starting around 1620, Virginia began experiencing an immense amount of dependence on indentured labor. According to eighteenth century writer William Douglass, “property and jurisdiction became vested in the crown,” around 1626, due to bad conduct of the managers of the original Virginia joint-stock company.[[6]](#footnote-6) As the crown was looking to resettle Virginia, 2,871 different recruiters in London sought to acquire indentured servants.[[7]](#footnote-7) With the large influx of voluntarily consenting servants that contributed to sixty-five percent of the indentured servant population in Virginia, one may wonder just how much freedom they had.[[8]](#footnote-8) What specific rights under the law did Virginia’s indentured servants have in the seventeenth century, and did they obtain more or less rights as the century progressed? The answer to this research question is that Virginia’s indentured servants encountered fewer rights as the seventeenth century progressed. Ultimately, in the second half of the seventeenth century, indentured servants experienced longer life expectancies, and posed a threat to the political power of the Virginia elites. These wealthy, landholding elites ensured ways that kept indentured servants inferior to them by criminalizing certain behaviors with harsher laws.

There are two main schools of thought regarding indentured servants’ rights during the latter half of the seventeenth century which focused on indentured servants’ rights as well as made comparisons to African slavery. The first school of thought stated that indentured servants received more rights during the second half of the century because of the increased arrival of African slaves. One notable historian within this school is Winthrop Jordan who argued that “beginning about 1640 the legislative assemblies of the two colonies (Virginia and Maryland) passed numerous acts prescribing maximum terms of service and requiring masters to pay the customary freedom dues at the end of the servants time.”[[9]](#footnote-9) In Jordan’s view this was largely due to the importation of African slaves, and was enacted to “attract more immigrants with guarantees of good treatment” from Europe.[[10]](#footnote-10) Historians within this school of thought argued that as slaves arrived, a European servant received more rights than the slaves did. This was because these indentured servants were Christians, and thus more superior to the non-Christian Africans.

There is fault within this first school of thought, as historians did not compare indentured servants with other indentured servants from previous decades. This scholarly argument only looked through the lens of the importation of African slavery while drawing comparisons to indentured servants within the colonies. However, if you compare only the rights of European indentured servants to that of other European indentured servants who arrived in previous decades, one can see how their rights actually decreased. Historians such as Edmund Morgan, James Ballagh, David Galanson, and Darrett and Anita Rutman, all argued that indentured servants experienced fewer rights, and increased hardships after 1650, support this argument.

The second school of thought argued that indentured servants’ rights decreased during the latter half of the seventeenth century. Multiple historians wrote about how indentured servants rights decreased in the latter half of the seventeenth century. Edmund Morgan in *American Freedom, American Slavery: The Ordeal of Colonial Virginia* asserted that the latter half of the century provided fewer rights and more hardships for indentured servants.[[11]](#footnote-11) Likewise, Ballagh argued that legal systems used the laws unfavorably toward indentured servants in the second half of the century in his monograph *White Servitude in the Colony of Virginia*.[[12]](#footnote-12) Other scholars within this second school of thought have also made the argument that indentured servants received less rights during the latter half of the century through looking through an economic lens, and using data such as tobacco prices to illustrate how valuable servants were to their masters.

Historians looked through this economic viewpoint as they demonstrated how valuable indentured servants became in the colonial labor system as well as how their rights diminished throughout the seventeenth century. One particular scholar who used economic reasoning within his scope of scholarship was David Galenson. In *White Servitude in Colonial America: An Economic Analysis*, Galenson focused on the tobacco industry and argued that indentured servants were pivotal to a master’s profit. In realizing how valuable these servants were to profits, Galenson argued the laws during the tobacco boom toward the end of the seventeenth century sought to extend servant’s terms of service as the economy prospered.[[13]](#footnote-13) Likewise, the Rutman’s argued in *A Place and Time* that as tobacco productivity increased after 1670, masters and the courts frequently extended indentured servant’s contacts. In addition, *A Place and Time* argued that the debts servants owed masters greatly increased after 1670.[[14]](#footnote-14) These economic analyses cited tobacco prices and the overall greed of colonial Virginia’s landholding elite as the predominant reason to give indentured servants less rights.

The second school of thought supports the arguments made within the scope of this paper and asserted that the rights of indentured servants decreased as the seventeenth century progressed. Virginia laws during 1620-1650 protected indentured servants from the abuses of their masters. Laws began to change as time progressed within Virginia. Indentured servants, specifically servants that found themselves in Virginia due to their own free will, had their rights negatively impacted from 1650-1700. During this latter half of the century, the Virginia colony contained well-defined, uniform legislation that explicitly limited the rights and freedoms of indentured servants. Elite landowners passed rigid laws because of a combination of servants' increased life expectancies and their own fear that those servants would become free landowner who would pose a threat to their domination. Voluntary indentured servants saw their lives negatively impacted by the arrival of large amounts of captive servants and by the formation of these laws. Virginia colonial elites used such laws that included harsher punishments for servants arriving without indentures, marriages, runaway servants, and “forbidden pleasures,” as a means to keep an indentured servant in service, as well as a means to prevent them from becoming free. These laws, justified by scapegoating the “immoral” demeanors of captive servants, discouraged voluntary indentured servants from obtaining the freedoms they agreed to by signing an indentured contract. It is important to understand how indentured servants received fewer rights later in the seventeenth century by first examining what a servant’s conditions and rights consisted of during the first half.

The first half of the seventeenth century contained poor health conditions and lower life expectancies for indentured servants, which resulted in landowners not having to provide any freedom dues to their servants. In April 1623, Virginia indentured servant Richard Frethorne wrote, “I have nothing to comfort me, nor is there anything to be gotten here but sickness and death.”[[15]](#footnote-15) In this letter, it was Frethorne’s “humble duty” to inform his parents that “I your child am in the most heavy case by reason of country…that it causeth much sickness, as the scurvy and the bloody flux.”[[16]](#footnote-16) This letter illustrated the deplorable conditions in the early seventeenth century Virginia. Likewise, in 1624 Captain John Smith wrote a letter to London. The harsh conditions for servants within the colonies appalled the captain. Smith exclaimed that the trade of indentured servants was “sufficient to bring a well settled Common-wealth to misery, much more Virginia!”[[17]](#footnote-17) The lower life expectancy during this early period, due to the ravishing of disease, contributed to economic benefits of the servant’s masters. Frethorne hoped to have his parents pay off the terms of his indenture before disease took another victim. In pleading to his father, he stated “do not forget me, but have mercy and pity my miserable case.”[[18]](#footnote-18) For it was due to this lower life expectancy, that owners were most certain they would not have to pay give freedom or land to their servant’s because their servants died while still in bondage.[[19]](#footnote-19)

Laws regarding indentured servitude actually granted servants more rights during this period of lower life expectancies. Laws during 1620-1650 lagged as indentured servitude grew in importance because tobacco cultivation swept the land. The elitist lawmakers, and landowners did not have to worry about taking away servant’s rights and ensuring them longer indentures because their servant would die from such prevalent diseases such as the “bloody flux…the dry gripes, and malaria” before an indenture agreement ended.[[20]](#footnote-20) Environmental conditions and harsh working conditions led to high mortality rates in Virginia. As indentured servitude was at its peak numbers within Virginia, legislatures also lacked uniformity within its laws to define the relationship between master and servant.

New incentives and marketing techniques provided reasons for Europeans to travel to the New World as indentured servants. Starting in the 1620’s a large influx of servant’s came to the colonies. The availability of these servants offered a low price to masters who wanted extra labor to settle what appeared to be never-ending land. Landowners of the early Virginia Company paid twelve pounds to receive an “adventurer” in the New World. These “adventurers,” as recruiters coined the term as a recruiting effort to get an indentured servant to agree to come to the New World, had recruiters tell them they were entitled to a single share in a division of land and profits.[[21]](#footnote-21) Indentures throughout the seventeenth century granted servants permission for “to be retained to serve in his majesties plantations in America.”[[22]](#footnote-22) The distinct directions to masters contained in an indenture contract stated the master must “allow him meat, drink, apparel, lodging, and washing necessary during the said term.”[[23]](#footnote-23) With these agreed upon orders, it became very appealing for an “adventurer” to “interchangeably have put their hands and seals” upon the contract, and enter themselves into an agreement to serve as a laborer in Virginia.[[24]](#footnote-24) Seventeenth century writer William Bullock documented that servants about to immigrate to the colony believed it was a “place in where food shall drop into their mouthes.”[[25]](#footnote-25) Appealing wording in indentured contracts, and the hopes of a better life stimulated a widespread immigration of laborers to the Chesapeake region.

Early court depositions demonstrated indentured servants having the right to take their masters to court while also receiving a favorable verdict from the court. There is succinct evidence that demonstrated how early seventeenth century Virginia law established more rights toward servants. Upon arrival in Virginia, the earliest indentured servants received various protections under the law. Early colonial laws limited masters in their use of corporal punishment, and even empowered political oversight to make sure masters treated servants well. In 1621, for example, the legislation instructed Governor Wyatt to see that all servants fared alike in the colony and that their punishments were justifiable.[[26]](#footnote-26) In the mid-1630s in Accomack County, Virginia, an indentured servant named Henry Boston went to court claiming he carried out his service to his owner. The court ordered that Boston “shalbee Freed and sett at Large and that the said Mr. Robins (owner) shall at the next Cropp pay and deliver unto the said Boston 3 barrells of Corne and Cloathes according to the custome of the Countrey having served his full tyme with the said Mr. Robins.”[[27]](#footnote-27) This court case is an example of just how indentured servants had rights within the Virginia courtroom. Other cases emerged that also demonstrated the rights of indentured servants.

The Dixson and Moye cases demonstrated evidence of the court system granting rights to indentured servants during the first half of the seventeenth century. In 1643, an indentured servant named John Dixson filed a complaint to the Northampton, Virginia County Court complaining that his master William Andrewes did not provide him with adequate clothing during his service. The court ordered, “Mr. Andrewes shall satisfy and deliver unto the said Dixson his cloathes dew by his service.”[[28]](#footnote-28) Likewise, in the same year, Roger Moye, another indentured servant complained he lacked socks. The court ordered that his master Mathew Pett “shall within one Month pay unto Roger Moye one new paire of mens shoes and stockings.”[[29]](#footnote-29) The county court also threatened to remove three-hundred pounds of tobacco debt from indentured servants should their masters refuse to follow the orders of the court. In a case between George Hall and his indentured servant John Greene, the court ruled that it was “thought Fitt that the said John Greene shall forth have satisfaction from his sayde debt of 300 pounds of tobacco.”[[30]](#footnote-30) The second half of the century, however, would not provide as many legal rights for indentured servants as was demonstrated through these courtroom rulings. The legal system during 1650-1700 colluded wih landowning masters by forming universal laws, as the threats of fatal illnesses significantly declined.

Indentured servants lost legal rights during the second half of the seventeenth century despite the previous formation of clearer uniform laws that defined the rights of the master and servant. Indentured servants received fewer rights because the landholding elite and governmental elite, which oftentimes could be the same group of people, feared having too many freedmen to compete within the marketplace now that life expectancies have increased. In an agricultural economy such as that within Virginia, “in which land and labor are the only factors of production, free land, free workers, and a leisure class of non-working landowners cannot exist together.”[[31]](#footnote-31) The landholding elite turned to Virginia courts for relief from having too many freedmen within society. The courts required “little probing to action” because they themselves were the “colony’s largest employers of servant labor.”[[32]](#footnote-32) Elite people within Virginia society colluded to use legal means to punish indentured servants in ways to keep them inferior within the colonial social hierarchy and prevented indentured servants from obtaining their own land.

Evidence exists that illustrate an increased life expectancy among indentured servants living within colonial Virginia. Before the latter half of the century, male mortality rates were astounding. In February 1624, a Virginia list comprised of death records indicated that 35 out of 279 women had died with the last ten months compared to 294 out of 1,299 men.[[33]](#footnote-33) Elite landowner Sir Francis Wyatt asserted that “the weaker sexe…escape better than men, either that their worke lies chiefly within doors, or because they are colder temper.”[[34]](#footnote-34) Under his lens, males, especially outdoor laborers, became more susceptible to disease and death. Within the landowner’s perspective, an increase of service by an indentured servant represented the potential solution to a higher life expectancy and the availability of free land.[[35]](#footnote-35)

An economic shift toward tobacco cultivation led to an increase in servants life expectancies. The decline in the price of labor-intensive sugar led planters to switch from cultivating sugar to increasing the production of tobacco. In the 1650s and 1660s, the price of sugar dropped to about 30 shillings in the 1670s to about 15 shillings. In the 1680s, sugar prices dropped to as low as 10 shillings whereas tobacco became more profitable in the 1660s. The increased profits within the tobacco industry continued for a half century.[[36]](#footnote-36) As this shift occurred, mortality rates for indentured servants decreased toward the year 1660. As indentured servants to Virginia decreased and became tougher to purchase, landowners purposely enacted habits to keep their servants alive longer due to higher prices and their overall scarcity within Virginia. Between 1650 and 1697, the price of servants per pounds of tobacco rose from 1900 pounds to 3050 pounds.[[37]](#footnote-37) Tobacco cultivation was now dominant and created new demands for labor.

Virginia landholders and legislatures enacted practices to ensure lower mortality rates among servants that created the need of landholders to ensure servants remained in servitude. During a servant’s first few years of service, landowners considered it safer not to work him in hot weather.[[38]](#footnote-38) The Virginia House of Burgesses knowingly passed a law making it harder for a landowner to sell their indentured servant to another landowner. The law stated, “Nevertheless it shall be lawful…for any person haveing bought a servant and undergone the charge and hazard of seasoning of any such servant, to make his best advantage by putting off or bartering such servant to any other inhabitant of the colony.”[[39]](#footnote-39) The legislature enacted laws like this to protect the servants from having too much mobility and increase their mortality risk. In protecting their investments due to the decrease of available servants in Virginia, however, servants’ longer lives posed a threat that the landowner would have to give them freedom dues such as land, and crops. The decrease of indentured servants was evident in Virginia as the prices per servant skyrocketed due to scarcity. In the 1640’s it cost 1,100 pounds of tobacco for a servant, whereas by 1689 it cost 3,800 pounds of tobacco for a servant.[[40]](#footnote-40) Servants became a much valuable commodity that landowners did not want to lose. Landowners in colonial Virginia society needed to work together to “restrict the economic mobility of the worker by preventing his escape from the landlord’s grip,” and discovered means in which they could prevent a servant’s acquisition of land.[[41]](#footnote-41)

As life expectancies increased, the landholding elite needed to figure out a way in which the laws within Virginia worked in their favor to ensure that indentured servants did not receive freedom dues. Before the Virginia legislature enacted stricter laws, more indentured servants who lived longer than previous decades began to obtain their freedom and obtain land. This posed a problem to the landowners who originally brought these servants to Virginia, as their ex-servants continued as freemen to make tobacco and would compete against their former owners.[[42]](#footnote-42) The freemen would now produce more tobacco which could increase the supply, create a surplus, and lower the overall prices within the industry. The elite landowners, fearful of losing profits, knew they had to do something to curtail this problem and keep servants under service longer to prevent such competition.

The elite colluded to use the law in ways that favored increasing the terms of servants agreed upon length of servitude and enabled their stability within the Virginia social hierarchy. The higher life expectancy and fear of indentured servants one day owning their own land presented the gentry class of Virginians with “peculiar problems.”[[43]](#footnote-43) The Virginia landowners established distinct ranks within colonial society. The highest class of the wealthiest landowners, who tended to own vast amounts of indentured servants, were also Virginia justices or worked with the court system through various other roles.[[44]](#footnote-44) By 1642, the General Court of Virginia decreased the meeting of the local courts to avoid hearing cases “tending to the molestation and ruine of divers poor men for pettie and trivial debts.”[[45]](#footnote-45) A reason for this decision was to prevent the number of appeals made by people such as indentured servants. Later, between 1660 and 1680 “a sifting process” occurred that defined who would sit upon local courts and on the Council.[[46]](#footnote-46)

The justices appointed to the courts were the richest landowners within Virginia who could selfishly enact laws that favored themselves within the robust tobacco economy. A succinct example of justices using the law to favor themselves economically was evident in Middlesex County, Virginia. The justices within this county agreed unanimously upon levying a salary of five-hundred pounds of tobacco.[[47]](#footnote-47) It was also quite common for justices to be “coroners, sheriffs, escheat masters, public notaries, and attorneys all at the same time during the late seventeenth century.”[[48]](#footnote-48) These justices, through their various roles, fined people pounds of tobacco and ensured their economic success. During the last forty to fifty years of the seventeenth century, these Virginia elites colluded within the legal system in order to gain assurance that indentured servants would stay in service and remain inferior within the Virginia social hierarchy.

A way in which the elite estate owners and government officials could curtail the problem of having too many freemen competing against them in colonial society was to pass laws, which extended servitude for indentured servants. In 1666, a new law amended a previous Virginia law. This previous 1642 law stated, “if they be above twenty years old to serve fowre year, if they shall be above twelve and vnder twenty to serve five years, And if under twelve to serve seaven years.”[[49]](#footnote-49) The terms of this previous law provided shorter service than a new law passed in 1666. This 1666 law, “An Act Concerning Servants Coming without Indentures” sought to increase the terms of service for the few migrant servants coming from Europe.[[50]](#footnote-50) This law increased the terms of indenture for those coming into Virginia to larger terms of service than in the previous half of the century. It stated that “henceforth persons nineteen or over when they arrived would serve five years, and persons under nineteen would serve until they were twenty-four.”[[51]](#footnote-51) This new law meant that most servants who came into Virginia would have to serve an additional three years as opposed to the terms of service before its’ ratification. This revised law clearly demonstrated the courts use of extending servitude when compared to a law concerning the same issue in 1642.

Laws ensuring indentured contracts contained extended service continued to pass through Virginia courts throughout the latter half of the century. In 1705, “An Act Concerning Servants and Slaves” was perhaps the most intensive as well as elaborate law passed to ensure indentured inferiority.[[52]](#footnote-52) This law stated, “That every such servant be carried to the county court, within six months after his or her arrival into this colony, to have his or her age adjudged by the court…and be accounted, deemed, and taken, for the true age of the said servant, in relation to the time of service aforesaid.”[[53]](#footnote-53) Though seemingly consistent to the earlier 1666 law, this particular law sped up the timeframe a new servant should report before the court to receive an indenture and ensured landowners laborers.

The Virginia legislature continued to pass laws to extend indentured servitude to servants without an official indenture contract. Laws such as Article Two elaborated on the process in which the court system would provide indentures if a servant should not have one. It explicitly stated, “That when any servant sold for the custom, shall pretend to have indentures, the master or owner of such servant…may bring the said servant before a justice of the peace.”[[54]](#footnote-54) The court system had dominance over the indentured terms in colonial Virginia. The law also elaborate that “if the said servant shall not produce his or her indenture, it shall be taken for granted that there never was one, and should be a bar to his or her claim of making use of one afterwards.”[[55]](#footnote-55) The courts could assume an indenture was non-existent and produce new indentures with longer terms based off the age of the servant in this quick way. In doing so, indentured terms that may have been established beforehand in Europe could be extended in Virginia should a contract not be provided.

The influx of felons to the Virginia labor force created morality laws that hurt the rights of indentured servants already in Virginia. An indefinite number of felon servants arrived to Virginia during the 1660s because of a shortage of indentured servants who freely chose to enter the indentured labor system.[[56]](#footnote-56) A Virginia court extract recorded in 1670 proved the number of felons that arrived in Virginia was not small.[[57]](#footnote-57) The record indicated a “great number of felons and other desperate villains sent hither from the several prisons of England” began to emerge within their colonial society.[[58]](#footnote-58) The idea to import convicted felons to Virginia from Europe, and place them into servitude made sense due to this shortage. It also made sense due to previous laws passed that made it more difficult to sell servants from one owner to another, as well as the increased prices to purchase servants. Due to their importation, however, the colonial elite felt fearful about the behavior of these captives within the Virginia colonial society. The colonial elite saw captive labor as leading to an increase in runaway incidences and causing a rise in immoralities such as offenses regarding feasting, marriage, fornication, and other “forbidden” pleasures. As one Virginian candidly put it, the arrival of convicts led Virginia to becoming “a sinke to drayen England of her filth and scum.”[[59]](#footnote-59) The General Court, “upon the petition of the counties of Gloucester, and Middlesex, issued an order prohibiting any further importation of them after the twentieth of January, 1671.”[[60]](#footnote-60) English Parliament, however, “passed a statute over the most vigorous protests from the Virginia merchants…making the American colonies practically a reformatory and a dumping-ground for the felons of England.”[[61]](#footnote-61) Due to the importation of these captives from England, the House of Burgesses enacted laws to prevent further encroachment on landowners from the wild convicts brought into their society.

The House of Burgesses passed laws established to protect the colony against immoral conduct by felon servants that in turn hurt all indentured servants within the colonial labor force. The lives of non-convict indentured servants grew more difficult under Virginia legislature. Elite landowners feared convict laborers encroaching upon their land but more importantly, they feared other indentured servants would follow convicts’ examples and may commit immoral crimes. The elite passed laws that lessened the rights of indentured servants during the second half of the seventeenth century. In doing so, these laws also increased terms of indentures and became a combative way for the colonial elite to limit the amount of freedmen within their society who may cause competition and threaten their economic well-being.

The laws that provided the harshest punishments and adequately kept indentured servants under servitude longer were those dealing with runaway servants as well as those suspected of plotting to flee. In the first half of the seventeenth century, laws were already in place that established consequences for runaway servants. Early laws, such as the one passed in March 1642, stated, “All runaways that shall absent themselves from their said masters service shall be lyable to make satisfaction by service at the end of their tymes by indenture double the tyme of service soe neglected.”[[62]](#footnote-62) As earlier laws stated that an indentured servants terms would be doubled, later laws became harsher toward the servants and further limited their rights to acquire land as their servitude became extended. Starting in 1655, corporal punishment became associated with the offense of running away. A 1655 act added an amendment to the 1642 law. It vividly stated that “he shall be branded with the letter R and pass vnder the statute for an unrecognizable rogue, but also double his time of service so neglected, and soe likewise double the time that any time afterwards he shall neglect, and in some cases more if the commissioners think fit.”[[63]](#footnote-63) This illustrated the continuation of severe punishments toward indentured servants. Laws used to protect against corporal punishment but now the courts permitted it.

Virginia legislature enacted other laws that continued to extend indenture terms for servants accused of running away. A law passed in 1657 also sought to make it clear that indentured servants could serve more than double their agreed upon service if viewed as running away from their master. This law entitled “Against Runnaway Servants” stated that “all runnawayes that shall absent themselves from their said master’s service shall be liable to make satisfaction by service at the end of their times by indenture double the time of service so neglected and in some cases more.”[[64]](#footnote-64) These laws that enacted harsher punishments for indentured servants could be used in court by any master who suspected an indentured servant of running away. The landowners could use the court system as a way to try to punish their servant, a way to extend their service, and a way to limit the amount of freedmen in the marketplace that may deprive the landowner of profits.

Laws against runaway servants grew even harsher in the late 1660s and 1670s as Virginia landholders continued to ensure the presence of exploited labor. In 1666, a law was passed that could punish anyone that assisted indentured servants in staying away from their master for any particular amount of time. This “Act Imposing a Fine for Entertaining Runaways" sought to make sure any servant viewed as running away from their master was returned to them right away.[[65]](#footnote-65) The law states that “what person…shall harbour or entertain any servant, shall be fined and pay sixty pounds of tobacco, for each day and night he shall so harbor him.”[[66]](#footnote-66) The law also extended the terms of an indenture by more than the double amount defined in the first half of the century.

Runaway servant laws continued enforcing harsher punishments to protect the superiority of wealthy Virginia landholder. A 1669 law illustrated that previous legislative action against runaways was not enough. This particular law stated that “whereas diverse good lawes have been made to prevent runaway servants which have hitherto in great parte proved ineffectuall” more needed to be done.[[67]](#footnote-67) This law enacted that “whosoever apprehends any runaways whither servant by indenture…shall be appointed to gives passes…from his master, shall have one-thousand pounds of tobacco allowed him…which tobacco shall be repaid by the service of the servant.”[[68]](#footnote-68) The law also elaborated that in additional to a servant providing payment to the apprehender. The law stated in no way “doth not repeale the clause of any act” regarding indentured servants that had been already passed in Virginia.[[69]](#footnote-69) The importance of this law was the additional amounts of tobacco a servant had to pay back to their master and apprehender. As the century progressed, the punishments toward runaway slaves increased.

A 1670 law increased the punishment a master may evoke upon an indentured servant. This act, passed in December, continued the trend of furthering limiting the rights of servants by its inclusion of more corporal punishment. The act stated that “any constable whose hands the said ffugitive shall by any commissioners warrant be first committed…hereby is enjoyned by vertue of this act to whip them severely, and then convey him to the next constable who is to give him the like correction.”[[70]](#footnote-70) This particular law also increased the amount of payment an indentured servant paid to the public for their time of capturing him, as well as the payment made to the master for the amount of time they were absent.

The second half of the seventeenth century, because of these laws, saw harsher punishments for servants accused of running away. The court system limited the rights of indentured servants during this time as well as found ways in which the elite extended the servant’s service. Landowners oftentimes could simply accuse a servant of running away, and could use the court system as a means to keep the servant within their service for a longer period of time. The court system “favored masters by allowing the high recovery charges usually claimed by a man who pursued and caught his servant.” In many instances, however, the person who caught the servant running away was the master himself.[[71]](#footnote-71) In these particular instances, the servant would have to pay back the captor, who was the master, additional service of providing a penalty payment of 1,000 pounds of tobacco, as well as additional service to the master. The landowner, in cases where they captured their own servant, would get double the reward under the scope of these laws. However, if another person claimed credit for catching a runaway, the landowner would still win, as the servant would be working his land longer.

Specific cases, such as one in Lancaster County, Virginia, demonstrated how Virginia courts carried out harsh punishments for indentured servants accused of running away and ensured an indentured servant had to pay more debt to their master. In Lancaster County, Christopher Adams, who was absent for six months, “was required to serve three years extra; one year for the six months’ absence, one year for the loss of the crop that he would otherwise have made, and one year for 1,300 pounds of tobacco expended in recovering him.”[[72]](#footnote-72) Likewise, other county records indicated, “three servants absent for 34 days were required to serve 68 days for the 34, eight months for the loss of crop, and four months, ten days for the cost of recovery.”[[73]](#footnote-73) It was not surprising that an indentured servant felt the urge to run away. If a servant became indebted to anyone, a landowner posted it in a public place, where “anyone can claim their just demands, which usually means additional required work: in effect, extension of term.”[[74]](#footnote-74) Under such a labor-intensive lifestyle, with years of servitude and laws “designed to entrap you into more, with small prospect of ever gaining your own independent farm when your time was served”, it is no wonder that servants felt the need to run away.[[75]](#footnote-75) The laws regarding runaway servants in the second half of the seventeenth century illustrated how landowners and the court system could enact measures to hold servants under extended terms of service.

Virginia legislature passed other harsh laws in the latter half of the century that used the lens of morality as justification in enacting punishments which extended a servants time of service. The laws considered certain “forbidden pleasures” as means of punishing servants. “Forbidden pleasures” included things such as feasting in the woods, killing hogs, fornication, and producing bastard children. Some masters inadequately fed their servants, or consistently fed their servants the same type of food. In turn, servants occasionally tried to find other means of food than what their masters served them. Due to their temptation for food indulgence, the Virginia legislature passed applicable laws which carried with them severe punishments.

Specific Virginia laws demonstrated punishments for indentured servants accused of feasting. A law passed in March 1661 described the punishment for any servant found guilty of stealing and consuming a hog. It was not uncommon for servants “to indulge themselves” in a “surreptitious feast” due to their need of hunger.[[76]](#footnote-76) This specific law stated that “whosoever shall steale or unlawfully kill any hogg which is not his owne…shall pay to the owner of the said hogg one thousand pounds of tobacco and one thousand pounds of tobacco to the informer, and in case of inability to pay and satisfye the said summes the person soe offending shall serve two yeares.”[[77]](#footnote-77) Oftentimes, the owner and the farmer, as was the case of the master and the captor, was the same person.

Servants, who still may have been hungry, could also receive further punishment if they broke feasting laws a second time. In 1679, the Virginia legislature passed another law regarding servants, and their need to consume food which they did not legally own. In “An Additional Act for the better preventing stealing of Hoggs,” the legislature added additional punishment to the former 1661 law.[[78]](#footnote-78) This law stated that if a servant “shall a second tyme be convict thereof, then for such his default he shall stand in the pillory two howres, and have both his eares nailed thereto,” and at the end of the two hours, “have his eares cut loose from the nailes.”[[79]](#footnote-79) This addition to the original law, provided means of corporal punishment on indentured servants. A later law passed at the Council at Yorke Court House further confirmed punishment for not only runaway servants, but more specifically those engaging in “feasts” in the forests. This particular law, enacted in 1690, stated that servants who “lie in ye woods & comitt divers felonies and outrages by robbing of houses killing of hogs” shall be put in custody “in Irons” and “be well whipp’d and deliver’d or sent to their masters.”[[80]](#footnote-80) Laws, during the latter half of the century, consistently elaborated on punishments toward indentured servants for “feasting.”

The laws against the “forbidden pleasures” of feasting provided means in which landowners could extend an indentured servant’s term of service. Landowners could easily accuse an indentured servant of killing one of their hogs. The same landowner could then use the court system to punish his accused indentured servant. The way in which the elite used the court system in regards to feasting, was yet another way in which indentured servants remained in service longer, while their owners limited the amount of competition from freedmen. However, there was yet another way in which masters could extend the terms of a servant’s service.

Fornication laws created another way for landholders to exploit their labor force, as was seen with wealthy landowner Henry Smith. Smith was perhaps the best example of how Virginia courts ensured the enforcement of specific fornication laws against indentured servants. Arriving in Virginia in 1664, Smith paid for the indentures of approximately 160 servants, while owning about 8,000 acres of land.[[81]](#footnote-81) Three months after Smith’s arrival, an indentured servant and Smith’s mistress, Elizabeth Carter gave birth to a child. Fearing the harsh fornication laws, Carter murdered the infant child. An indentured servant during the latter half of the seventeenth century who gave birth to an illegitimate child “faced a whipping, and a fine to compensate her master for the time off she would spend caring for the infant.”[[82]](#footnote-82) Virginia law also stated that this fine included an extension of two years of service. If Carter left the child alive, the child according to Virginia law would also become a servant until the age of twenty-four.[[83]](#footnote-83)

Further evidence illustrated the collusion between masters and the courts to create Virginia statutes that kept indentured servants inferior within Virginia’s social hierarchy. Upon her arrest, Carter listed the deceased child as the child of Henry Smith. Even though Carter was the mother of the child to her master, she still had to pay the penalty for fornication, and serve two extra years.[[84]](#footnote-84) Henry Smith did not receive any punishment from this particular episode. Smith and Governor Berkeley were friends whom shared political influence with one another.[[85]](#footnote-85) The courts labeled Smith a “gentleman” within Virginia society, and exempted him from any jail term or fines.[[86]](#footnote-86)

Virginia laws continued the harsh punishment of servants giving birth to illegitimate children, or fornicating with their master. A 1696 law stated that if it happen that “a child be gotten in such fornication, than the servant if a woman…shall serve after her time of indenture or pay one-thousand pounds of tobacco to her master” besides the extended service.[[87]](#footnote-87) Even if the master impregnated the servant, the servant under the score of this later law had to pay an additional one-thousand pounds of tobacco. Virginia laws against servants having bastard children remained just as harsh. Another 1696 law stated that “a servant woman thus having a bastard” served another “5 years beyond the expiration of their time.”[[88]](#footnote-88) Laws such as these remained in the master’s favor.

Henry Smith also experienced other occasions, which demonstrated his “friendliness” with the court system. Throughout Smith’s life, there were allegations made toward him regarding beating, and raping servants. Two of his servants, Mary Jones and Mary Hues, took Smith to court on accounts Smith beat and raped them. The court quickly ruled they were lying, and ordered the two servants to serve double the time for their false allegations.[[89]](#footnote-89) For Smith, and other elites like him, Virginia laws remained favorable to the elite landowners throughout the second half of the seventeenth century.

There are stark differences in legal rights for indentured servants between the first and second half of the seventeenth century. Historians have argued that indentured servants actually gained better treatment in the latter half of the century because of the prominence of African slaves. They argue that since laws differentiated between white Christian servants and black slaves that the result was indentured servants got the better end of the deal. When looking only through the lens of strictly white, indentured servants who voluntarily came to the colonies it is apparent that their rights got worse during the latter half of the century. One could blame this on the increasing number of captive servants, whom colonial elites scapegoated as a reason for harsher laws against servants in order to insure a “moral society.” In reality, indentured servants had fewer rights in the second half of the century due to greed, and insistence among the elite class to prevent them from becoming free, and harming the social hierarchy, as well as preventing them from becoming any formidable competition to land owners.

The arrival of African slaves provided a new labor force that was entirely dedicated to elements of unfreedom as landowners did not need to utilize the law to keep their workers inferior to themselves or worried about a freeman becoming an economical competitor. As English policy forced slavery upon the Virginia colony, historians such as Ballagh, argued it “cut off the supply of indentured servants and the decline of the system after the last quarter of the century was very rapid.”[[90]](#footnote-90) Slaves became increasing in demand for supplying older plantations or beginning new ones, as compared to indentured servants. The only remnants of indentured servitude that survived into the eighteenth century was through apprenticeships and artisans, which rose in prevalence predominately in the Northeast.[[91]](#footnote-91) This system, however, gradually faded away in the means of wage labor.

Despite legal inequalities, a minority of indentured servants gained their freedom throughout the seventeenth century but faced socioeconomic hurdles. Colonial laws remained stacked against them, and favorable to their former master. Wealthy colonial landowners bought large amounts of land, which they sought to give as inheritance to their family. Many landowners also bought massive quantities of land so they could rent it out to former servants, and still exploit their former laborer for monetary gain. Headright laws changed in a way to provide ease to wealthy planters to acquire more land. Landowners, who once were required to build a house and plant crops on land in order for it to be “seated” or claimed, could now claim the land simply by “cutting down a few trees, and building a sufficient hut.”[[92]](#footnote-92) These procedures sufficed a man’s claim to land. By about 1660, it became difficult for any of the few freed servants to locate workable land that wealthy landowners did not already claim.

Elite landowners made it very difficult for a freed indentured servant to find any land to purchase. A vast amount of land “seated” by the elite caused freed servants to rent land, and pay their property owner by means of crops. This repeated the cycle of a freed servant ultimately acting once again as an indentured servant. If his rent payments of crops did not suffice due to a bad harvest, they would once again become indebted to their landowner. If a freed servant could not find land to rent, they would most likely work for someone again, and further have their labor exploited.[[93]](#footnote-93)

Disenfranchising former servants ensured that wealthy planters maintained dominance and limited social mobility for freed indentured servants. The House of Burgesses, in yet another way to favor the elite landowners, passed laws that hurt the few freed servants in colonial society. The House of Burgesses established voting rights only for those that owned land.[[94]](#footnote-94) The government found ways to hold freed indentured servants socioeconomically inferior to that of the landowners. As the institution waned in colonial Virginia, because of a shift to slavery, there remained indentured servants whose terms of services increased due to laws passed in the latter half of the century. Should they see their freedom, the colonial government ensured them to be inferior. The cards remained stacked against the exploited labor class.

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