

Crime in Nordhordland 1742-1792

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Preface

I have had the joy of examining the *tingbøker* from *Nordhordland*, a source I would recommend any other historian of crime and culture to take a closer look at. Digitally available -and easily searchable- they are well worth studying. This thesis being written in English, will aid fellow historians outside of Norway in reaching their potential.

I would like to thank my supervisor, Hilde Sandvik, for her patience and insightful advice. Always at the ready, with a real dedication towards her students. The University of Oslo is lucky to have her guide us students. Sören Dopker, always willing to read through my various drafts and notes, I owe a great deal.

All of this would have been impossible without the invaluable, and unending, support of my parents. Thank you Robert & Fiona. I am both glad, and lucky to be your son.

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Alexander John Smith-Hald

Content

Preface p. 2

Content p. 3

Chapters

1. Introduction	p. 7
1.1 Introduction	p. 7
1.2 Sources	p. 8
1.3 Literature and theory	p. 12
1.4 Method	p. 20
1.5 The function of the <i>ting</i> in defining crime	p. 22
2. Background	p. 25
2.1 Nordhordland	p. 25
2.2 Local officialdom and their national background	p. 29
2.3 <i>Sorenskriver</i>	p. 29
2.4 <i>Fogd</i>	p. 30
2.5 <i>Lensmann</i>	p. 30
2.6 <i>Lagmann</i>	p. 30
2.7 <i>Lagrettemann</i>	p. 31
3. <i>Tingbøkene</i>	p. 33
3.1 Using the <i>Tingbøker</i>	p. 33
3.2 Settling disputes at the <i>ting</i>	p. 35
3.3 The disappearance of cases	p. 36
3.4 Kings and Civil cases	p. 37
3.5 Punishment	p. 38
3.6 Legal fees	p. 41
3.7 Presentation of data	p. 42
3.7.1 1742-1752	p. 42
3.7.2 1762-1772	p. 43
3.7.3 1782-1792	p. 44
3.8 Analysis	p. 44
4. Crimes against authority	p. 47
4.1 Crimes against authority	p. 47
4.2 Accusing the <i>fogd</i>	p. 49
4.3 Not appearing before the <i>ting</i>	p. 49
4.4 Relevant data found in the <i>tingbøker</i>	p. 50
4.5 Relevant data found in the slave protocols	p. 51

4.6	<u>Who accused whom?</u>	p. 51
4.7	<u>Case examples</u>	p. 52
4.7.1	<u>The case of Ole and Anders Heggøens 1747</u>	p. 52
4.7.2	<u>The case of Michel Winzenson Tøsøen 1770</u>	p. 53
4.7.3	<u>The case of Michel Rasmusen Indre Lyhren 1788</u>	p. 53
4.8	<u>The lack of crimes against authority within the <i>tingbøker</i></u>	p. 54
4.9	<u>Disturbing the peace, social control at the <i>ting</i></u>	p. 56
4.10	<u>Dealing with the peasant leadership in the 1760s</u>	p. 56
4.11	<u>Insurrection at the <i>ting</i> – A form of dialogue</u>	p. 57
4.12	<u>Uprisings in 18th century Norway</u>	p. 59
4.13	<u>Conclusion</u>	p. 59
5.	<u>Crimes against person</u>	p. 61
5.1	<u>Crimes against person</u>	p. 61
5.2	<u>Relevant data found in the <i>tingbøker</i></u>	p. 62
5.3	<u>Who accused whom?</u>	p. 63
5.4	<u>Case examples</u>	p. 64
5.4.1	<u>The case of Brithe Sieursdatter and Marie Nielsdatter 1744</u>	p. 64
5.4.2	<u>The case of Simon Monsøn Østreim 1771</u>	p. 65
5.4.3	<u>The case of Johannes Andersen Gierstad 1785</u>	p. 65
5.5	<u>Denmark-Norway – a violent society?</u>	p. 66
5.6	<u>Violence – a sign of not accepting norms?</u>	p. 67
5.7	<u>The importance of <i>ære</i></u>	p. 68
5.8	<u>Murder- a fight gone awry?</u>	p. 69
5.9	<u>Violence against the newly born</u>	p. 70
5.10	<u>The role of less serious violence</u>	p. 71
5.11	<u>The gradual decline in violence</u>	p. 72
5.12	<u>Conclusion</u>	p. 73
6.	<u>Crimes against property</u>	p. 75
6.1	<u>Crimes against property</u>	p. 75
6.2	<u>More than just thievery?</u>	p. 76
6.3	<u>Relevant data found in the <i>tingbøker</i></u>	p. 76
6.4	<u>Who accused whom?</u>	p. 78
6.5	<u>Case examples</u>	p. 79
6.5.1	<u>The case of Christine Tørresdatter 1748</u>	p. 79
6.5.2	<u>The case of Ole Olsen Sæboe 1765</u>	p. 80
6.5.3	<u>The case of Lars Christensen 1787</u>	p. 80
6.6	<u>The size of the fines</u>	p. 81
6.7	<u>What was thievery?</u>	p. 81
6.8	<u>Who was the thief, a poor vagrant?</u>	p. 82
6.9	<u>Punishment of thievery</u>	p. 83

6.10	<u>Smuggling</u>	p. 84
6.11	<u>Not reporting a wreck or whale</u>	p. 85
6.12	<u>Organized crime</u>	p. 86
6.13	<u>Conclusion</u>	p. 86
7.	<u>Crimes against morality</u>	p. 89
7.1	<u>Crimes against morality</u>	p. 89
7.2	<u>Relevant data found in the <i>tingbøker</i></u>	p. 91
7.3	<u>Who accused whom?</u>	p. 92
7.4	<u>The legal status of women in 18th century Denmark-Norway</u>	p. 93
7.5	<u>Case examples</u>	p. 94
7.5.1	<u>The case of Niels and Jacob Holmes 1746</u>	p. 94
7.5.2	<u>The case of Christen Olsøn Wirchesdal and Karie Hansdatter 1769</u>	p. 94
7.5.3	<u>The case of Ole Michelsen Tidtland 1787</u>	p. 95
7.6	<u>Moral crimes in Sartor 1789</u>	p. 95
7.7	<u>Why was sexuality criminalized?</u>	p. 96
7.8	<u>Illegitimate children</u>	p. 97
7.9	<u>Social control at the <i>ting</i></u>	p. 97
7.11	<u>Alcohol as a catalyst of crime</u>	p. 98
7.12	<u>Conclusion</u>	p. 99
8.	<u>Conclusion</u>	p. 101
8.1	<u>Conclusion</u>	p. 101
9.	<u>Appendix</u>	p. 107
9.1	<u>Glossary of Norwegian terms used in this thesis</u>	p. 107
9.2	<u>Sources</u>	p. 109
9.3	<u>Literature</u>	p. 111
9.4	<u>Tables, figures & maps</u>	p. 115
9.5	<u>Graphs</u>	p. 115
9.6	<u>Coded data by year</u>	p. 125

1.1 Introduction

In this thesis, I will be exploring the history of 18th century peasant crime in an area in the modern county of *Hordaland* in Western Norway known as *Nordhordland*. The term *Nordhordland* today refers to an area much smaller than the area the contemporary local law enforcement would have had in mind. For the purpose of this thesis, the term will be used as it was understood in the 1700s, and thus be taken to denote the area which was a part of *Nordhordland Sorenskriveri*.

The reason *Nordhordland* is of particular interest is that the *Tingbøker*¹ or the lower court transcripts are easily available online in transcription. This allows for a far broader approach when exploring crime and punishment in all of *Nordhordland*, as opposed to a much smaller study of a certain municipality. Due to time constraints I will be focusing on focusing on three sets of years in this thesis: 1742-52, 1762-72 and 1782-92. These are of particular interest when studying crime and society as the three periods are before, during and after the popular rebellion of 1765: *strilekrigen*². This insurrection began following introduction of a new tax, the extra-tax, an unpopular innovation. It broke with the previous pattern in Norway based on raising tax through the value of farms, by settling on the use of a simple poll tax.³ As will be seen below, this conflict was dominant at the *ting*.

Towards the end of June 1765 a royal order to the *stiftamtman* was published, and the population in Bergen was given information as to what the response from Copenhagen would be.⁴ The King had decided that a commission was to be sent to Bergen, and that they were to hear the arguments of both sides involved in the conflict.⁵ Thus, the commission was to both investigate the actions of both the peasants and the local officials.⁶

The commission arrived on the 12th of July and began its work by renovating the fortress.⁷ Later, statements from those who had been involved were gathered. This commission would lead to the imprisonment of a few key peasant leaders. Slettebø claims that the way the *strilekrig* was handled by the authorities was motivated by a wish to conserve the Norwegian

¹ Norwegian, (-øker pl.): the court protocol used for recording what happened and what was discussed at the *ting*

² Norwegian, a peasant uprising that took place in 1765 in Western Norway challenging a new tax.

³ Rian, Øystein, *Sensuren i Danmark-Norge : Vilkårerne for offentlige ytringer 1536-1814*. Universitetsforlaget, Oslo, 2014, p. 597

⁴ Slettebø, Thomas Ewen Daltveit, *Strilekrigen i Bergen i 1765: Improvisasjon i eneveldets politiske teater*, Knut Dørum & Hilde Sandvik [red], *Opptøyer i Norge 1750-1850*, Oslo 2012, p. 64

⁵ Slettebø, *Strilekrigen i Bergen i 1765*. 2012, p. 64

⁶ Slettebø, *Strilekrigen i Bergen i 1765*. 2012, p. 65

⁷ Slettebø, *Strilekrigen i Bergen i 1765*. 2012, p. 66

loyalty, and a fear of losing face.⁸ Not using the *ting* could have been a method for conserving royal authority.

Along with the city of Bergen which it surrounds, *Nordhordland* is a region of significance in Norwegian history. While most of the political power in Denmark-Norway⁹ was gathered in Copenhagen, and most institutions in Norway were shifted eastwards, Bergen remained an important center of trade. The term Denmark-Norway will be used throughout this thesis to refer to the areas controlled by the Danish Crown in the 18th century.¹⁰

1.2 Sources

To this end, the digitally available and transcribed *tingbøker* for *Nordhordland*, which are available through the platform Digitalarkivet, are used. The *tingbøker*, transcripts from legal cases, are an interesting source of information about how crime was treated in the *ting*¹¹. They help shed light on how crime was interpreted by contemporaries due to their high level of detail. The main issue when working with these texts is in finding the facts themselves hidden in the sometimes very contradictory defenses and accusations.

Questions of classification arise immediately. Even at a cursory glance, it is clear that the material found here contains large variations in scope. A possible solution is to trust in the verdicts handed out in the courts. It is reasonable to trust a judge who worked with the law on a daily basis, rather than attempting to classify each case individually based on all the information available.

Several cases within the *Tingbøker* are deferred several times before, if at all, reaching a verdict. There was also a system of *soning*¹², or settling out of court, which further diminishes the verdicts available for analysis. Such settlements represented the outcome of 92% of all cases in Råbyggelaget between 1611-12, it is clear that this could lead to a large amount of conflicts never making it to the *ting*.¹³ However, this practice fell out of favor and is thought to have become less common in the 18th century.¹⁴ This is an important factor to keep in mind

⁸ Slettebø, *Strilekrigen i Bergen i 1765*. 2012, p. 90

⁹ Denmark-Norway refers to the lands held by the Oldenburger dynasty.

¹⁰ As it is used by the Norwegian historian Ståle Dyrvik in Dyrvik, Ståle, *Den Lange Fredstiden 1720-1814*, in *Norges Historie*, Mykland, Knut[red], Vol. 8. Cappelen 6th ed. 1978

¹¹ Norwegian, a courthouse. Within this thesis the word *ting* will be used to signify the village courts which the peasant's brought their grievances before.

¹² Norwegian, a system for settling matters outside of court through paying a fine.

¹³ Næss, Hans Eyvind, *Fiat Justitia! Lagmennene i Norge 1607-1797*. Riksarkivaren Skriftserie 42, 2014, p. 319

¹⁴ Sandmo, Erling, *Slagsbrøde : En studie av vold i to norske regioner i tiden fram mot eneveldet*. Universitetsforlaget, Oslo 1999, p.33

when analyzing the numbers later. In particular, cases which could be expected to have clearer proof or relatively light sentences, such as minor violence, would therefore be expected to more rarely reach a verdict.

The laws themselves are also an important source of knowledge. In this period the laws were based on *Christian den femtes Norske Lov fra 1687* and *forordninger*¹⁵, or regulations which built upon or interpreted this law book. Within the laws, different perspectives on crime can be observed. In particular one can use the punishments prescribed by the law to see what constituted a punishment, such as losing one's honor, or even gauge the severity of a particular crime.

Fogderegnskaper, or *sakefallslister*¹⁶, are a possible source for uncovering cases where the case was settled by *soning*. They also provide an overview of the possible fines and punishments one could expect to receive for committing a crime. As opposed to the *tingbøker* these sources were written to be used for accounting; and because *soning* usually required the paying of a fine, one can expect most of these cases to be uncovered in these books.

Within the *sakefallslister* it would be expected that several cases appear which never appeared at the *ting*. As it was required that the records of the *fogd* would include details about the various forms of income he raised, it is possible to use these in turn to gain a vast amount of data regarding the fines people paid for crimes committed. With the framework presented by *soning*, it is probable that a vast amount of crimes did not appear at the *ting*.

As Dobbe has shown the *sakefallslister* can provide a very different image of criminal patterns in *Nordhordland* from what appears at the *ting*.¹⁷ In her investigation, covering 1642-55, the *sakefallslister* provided her with 422 cases that would have otherwise gone without registration. These cases were spread out across all forms of crime investigated by Dobbe. However, there was a rather large amount of cases in relation to sexuality with 105 cases appearing against the 12 in the *tingbøker* (of which 8 were found in both sources).¹⁸ Dobbe offers the possible explanation that the shame of appearing before the *ting* with such a case was what lead so many to settle through *soning*.¹⁹ Another possibility is that such cases were

¹⁵ Norwegian, statute/regulation

¹⁶ Norwegian, the record kept by the *fogd* wherein it was registered what sources of income came from where.

¹⁷ Dobbe, Jorunn, *Blant Granner og Myndigheter - Konfliktløsning og disiplinering på bygdetinget i Nordhordland 1642-55*. Tingbokprosjektet, Oslo 1996, p. 33-37

¹⁸ Dobbe, *Blant Granner og Myndigheter* 1996, p. 29

¹⁹ Dobbe, *Blant Granner og Myndigheter* 1996, p. 31

so clear, or even routine, that one simply did not expect any other outcome and accepted the sentence without bringing it before the *ting*.

That these are not investigated, and have not been investigated before, does represent an issue in regards to the ability of the data provided through the *tingbøker* to be quantitatively significant representations of the crimes committed in *Nordhordland* for the periods examined here. Though this remains as a limitation of this thesis, such an undertaking was deemed beyond the scope of this work. However, because the *sakefallslist* are mainly a source of numbers, not containing the rich descriptions found in the *tingbøker*, they remain of secondary interest for the questions posed here when exploring the attitudes towards crime, as shown by Dobbe.²⁰

What about other sources present in the archives that might also help shed light on the state of crime in Nordhordland? *Stiftamtmannens kopibok* is such a source. It contains copies of the letters written by the *Stiftamtman*²¹, and as he was sometimes called on to decide or advise in some legal cases, with a legal position on his own, it contains several comments on how the law should be used or interpreted. As an example, from a letter dated August 14th 1711, the *Stiftamtman* advised that four people who had been apprehended by the *Fut*²² Søren Glad due to a brawl should not be prosecuted for their actions.²³ Thus the *kopibok* could be a potential source for insights into how the authorities would view certain forms of criminal cases. Sadly, this material has not been transcribed yet for the period which will be treated in this thesis.

An additional method for measuring the amount of serious crime present in Nordhordland is by looking at the amount of people put to work in Bergenhus Fortress as slave labour.²⁴ As has been seen by the forms of punishment presented above, lifetime service -or even a limited time- was a sentence, which the authorities would give for serious crime or if someone failed to pay their fine. The names of these people, and some detail about them, are available online on arkivverket.no through a database named “*Slaver ved Bergenhus festning 1767 – 1810*”. This covers roughly half of the time span treated in this thesis, 1767 – 1772 and 1782-1792,

²⁰ Dobbe, *Blant Granner og Myndigheter* 1996, p. 22

²¹ Norwegian, the highest public official in a *stift*. The *stift* was the largest administrative unit in Norway during the 18th century.

²² Norwegian, *fut* and *fogd* are interchangeable terms for a Norwegian-Danish sheriff with wide responsibilities

²³ Conrad Clausen, “*Stiftamtmannens kopibok a nr. 6, 15. August 1711 - 2. Februar, 1712*”, Ættehistorisk Institutt, Bergen Nr. 273 Fol. 239 a, s6 *Kopibok*, Ættehistorisk Institutt Bergen, 1988

²⁴ People forcibly put to work at the Fortress will be referred to as slaves throughout this thesis.

and is therefore useful for providing the wider picture often absent from the the *tingbøker*. Because the military and the city also had the possibility of punishing people through life service on the fortress it is expected to find more people here being sentenced than uncovered in the *tingbøker*. Thus, it not only helps show how representative the *tingbøker* are, but it also puts crime in *Hordaland* into a larger perspective.

There are several reservations one should keep in mind when attempting to use data from the slave protocols. *Bergenhus* was a fortress where slave labor arrived from all of Denmark, as seen by the many foreign names of people who ended up working there. Even within Norway, it is clear that not everyone working there came from the immediate vicinity. Therefore, many of the names are not to be expected to show up at a regional *ting*. Furthermore, many of those sentenced to slave labor of any kind at the *ting* where put to work at the *tukthus*²⁵ or elsewhere. Thus, one can expect more of the slaves at the fortress to originate from military courts.

Interestingly, a minimum of only 6, with a possible additional 4, of the slaves registered here appear at the *ting*. Slave labor was a punishment used at the *ting* 22 times. However, a lot of these were women who were sent to the *tukthus*. If one keeps in mind that even though someone might be punished at an earlier date than we are able to find in the protocols. Furthermore, that they could be from an earlier date at the *ting*, only appearing as they died or attempted to escape. It is clear that the cases found at the *ting* only offer us a fraction of those who were sentenced to slave labor.

It is important to take a closer look at the tool used by the government in Copenhagen to amend the laws, the passing of *forordninger* through *supplikkvesenet*, and how it was used within the four forms of crime which we will return to in later chapters. Initially, a brief overview will be given of these petitions and what they were. In Norway appeals were at considered by the *lagting*, subsequently by the supreme court known as the Council of the Realm.²⁶ After 1660 town courts, acting beneath the *lagting* and a Norwegian Court of Appeals based in Christiania, were added to this system.²⁷

²⁵ Norwegian, the workhouse used for forced labor.

²⁶ Österberg, Eva and Sogner, Sølvi, (eds.), *People Meet the Law: Control and conflict-handling in the courts. The Nordic countries in the post-Reformation and pre-industrial period*. Oslo 2000, pp. 44

²⁷ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 45

Forordninger on the other hand were either laws themselves or offered an interpretation of existing laws. Thankfully, many of them are available digitally through digital reproductions of a register developed by Jacob Henric Schou in the late 19th century. Within the context of this thesis, the *forordninger* from the years 1746-52, 1766-72 & 1781-84 were seen as the most relevant and have been reviewed. They are a varied source, but significantly they offer possible explanations for why certain practices changed over time at the *ting*. It is important to bear in mind that these reforms were usually the result of much work. Introducing new laws was no trifling matter.

1.3 Literature and theory

The history of a crime is a field where several different theories have been proposed as to how we should interpret crime in the past. In this thesis, the material from *Nordhordland* will be used to help evaluate these theories. Other point surveys will also be used to help establish whether or not *Nordhordland* can be said to be representative or not for crime in the 18th century in Norway or in Western Europe.

The master's thesis written by Crone deals with the *tyveriforordning* on the 20th of February 1789 which regulated how thievery was to be treated judicially. He also deliberates on the English debate surrounding the purpose of punishment in the courts at that time. The *tyveriforordning* in itself is interesting, as it is a clear example of how a change of the practice of law took place during this period; but the debate on the purpose behind this practice is of particular interest. It is essential to create a framework for understanding what the relationship between the defendant and the plaintiff was and how punishment was to be understood. Furthermore, Crone demonstrates in his thesis that thievery in Christiania in the late 18th century was a form of crime which was committed by the disadvantaged against all forms of people within this society.²⁸

Sharpe offers the following definition of crime: "behaviour which is regarded as illegal and which, if detected, would lead to prosecution in a court of law or summarily before an accredited agent of law enforcement".²⁹ This is a useful definition as it also includes the role played by the authorities when dealing with crime. It also includes cases which did not end with a verdict and cases which would normally not be thought of as crime today, and thus

²⁸ Crone, Stein Vegard Holmli, *Tyveri og straff i Christiania 1789-1801 : Tyveriforordningen av 20.februar 1789. Hensikter og praksis i Christiania*. Oslo, 2011 p. 54

²⁹ Sharpe, J. A., *Crime in Early Modern England*. New York, 1984, p. 4

broadens the perspective of my investigation.

Within the work of Sharpe on crime in Early Modern England an important theory for this thesis is proposed. Namely that the early modernization of society created a marked increase in crimes against property relative to crimes against person in the Early Modern period. In “People Meet The Law” one encounters the following theory regarding patterns of crimes in Scandinavia: “The greatest difference between the crime structure of the Nordic countries and that of Central Europe is considered to be that theft was much less common”.³⁰ There exists, in other words, a perception that the pattern of crime in Scandinavia was different from Europe, and thus one should be able to expect that an examination of *Nordhordland* would lead to the same conclusion.

Foucault offers some interesting perspectives on punishment. Interested in the “power of normalization” and the “formation of knowledge in modern society” he develops perspectives for how it is possible to understand state administered punishment.³¹ Here punishment is seen as the means by which the authorities use to control its population through control in itself and defining certain members as criminals. In “*People Meet the Law*” punishment is also understood as the way the state practices discipline.³² Österberg and Sogner observe here that the growth of the judiciary body can be seen in relation to the growth of a state power wishing to control the population. Sharpe also supports this view, claiming that “the essential objective of law enforcement was the control, or at least curbing, of all forms of criminal and delinquent behaviour”.³³ This is a view echoed by Hay who further argues that “the rulers of eighteenth-century England cherished the death sentence” and represents a view that punishment, and for thievery in particular, was a tool used by the upper classes to cement their social position.³⁴

Mathiesen describes the history of criminal policy as a series of waves of moral panic.³⁵ Within this view, changes of policy are brought about as a response to events happening

³⁰ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 98

³¹ Foucault, Michael, *Discipline and Punish, The Birth of the Prison*. New York, 1995, Translated by Alan Sheridan, p. 308

³² Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 116

³³ Sharpe, *Crime in Early Modern England*. 1984, p. 7

³⁴ Hay, Douglas, Property, Authority and the Criminal Law, in *Albion's fatal tree : crime and society in eighteenth-century England*. Hay, Douglas et.[red], New York, 1975, p. 17

³⁵ Mathiesen, Thomas, Straffepolitikken mellom avsindighet og sindighet, in *Rapport II: Normer og sosial kontroll i Norden ca. 1550-1850*, Oslo 1994, pp. 9

within the nation: law makers located in Copenhagen, hearing of the use of whipping and reacting with dread before deciding to change the laws to better fit their moral perspective.

The use of the death sentence is explored in detail by Linebaugh in “*The London Hanged*” which offers many valuable perspectives on how the use of capital punishment can be understood. The death penalty in England is a topic on which much has been written, but in the context of *Nordhordland* the most valuable insight is in how the death penalty became a common sentence for a large variety of crimes. The basic reasoning behind the increased use of the death sentence throughout our period is explained by Linebaugh as an effect of the death penalty itself as it “devalues life”.³⁶ It will be of interest to see whether or not this is reflected in *Nordhordland*.

Another, albeit secondary, question is how those who commit crimes themselves should be understood. While outside the scope of this thesis, it ought to be noted that one should not be too hasty in assuming that every person who was punished for a crime was ousted by society as a criminal. One need only look at the popular representations of criminals that one can meet in literature to see that even the unlawful, scandalous and immoral characters could be portrayed as heroes, with examples including Moll Flanders as written by Daniel Defoe or the Noble Outlaw found in the works of Lord Byron.³⁷ In “*Albion’s Fatal Tree*” there even exists a dichotomy of “good criminals, who are premature revolutionaries or reformers, forerunners of popular movements - all kinds of rioters, smugglers, poachers, primitive rebels” as opposed to “those who commit crime without qualification: thieves, robbers, highwaymen, forgers, arsonists and murderers.”³⁸ However, it is problematical to try find these “good” criminals, as this – even when properly defined, is not a binary value. As we shall see, honor played an important part in defining the role of individuals in society.

Among the literature on crime in Norway Dobbe has written in detail regarding how the *bygdeting* in *Nordhordland* functioned as a disciplinary body during the 17th century in “*Blant Granner og Myndigheter*”. Dobbe also offers important insight into how one should use the *tingbøker* and *sakefallslister* to create an image of society within *Nordhordland* by demonstrating that these two sources, when used alone, can give two completely different

³⁶ Linebaugh, Peter, *The London Hanged: Crime and Civil Society in the Eighteenth Century*. London, 1993, pp. 445

³⁷ Peter L. Thorslev Jr., ‘*The Byronic Hero, Types and Prototypes*’, University of Minnesota Press, 1962 pp. 66

³⁸ Hay, Douglas et.[red], *Albion’s fatal tree : crime and society in eighteenth-century England*. New York, 1975, pp. xvi

interpretations.³⁹ Dobbe has also shown that there existed a divide between thievery on the one hand and *ulovlig tak*⁴⁰ on the other, when a plaintiff accused a defendant.⁴¹ It was thus a way of suing your neighbors without having to claim that they were a thief, a serious allegation which could lead to a trial against the plaintiff in return as the defendant might want to defend his or her honor. The punishment for thievery was also much harsher and it can be imagined that it was not desirable to have the full force of the law brought down on your neighbors. Furthermore this shows that, even while something might be thievery, the local society would not always wish to have it punished that way. This demonstrates how the population was aware of legal subtleties and would use that to their advantage to solve conflicts. Dobbe supports this argument by showing that it was normally the *fogd*⁴² himself who would sue people for thievery, people who would typically be vagabonds and other outsiders.⁴³

In “*Tingets tenkemåter*”, examining *Rendalen* in the period from 1763-97, Sandmo has worked with how the *bygdeting* functioned as an organ. He also deals with theoretical problems in relation to the use of *tingbøker* as a primary source. In Sandmo’s view the *bygdeting* was an “arena” where ideas and arguments would both go between the authorities on the one hand and the local population on the other hand, even wandering internally among the locals.⁴⁴ Furthermore, thievery is here seen as a question, which must then be answered by the victim. Material, social and cultural factors all color this decision, and make the *ting* the place where the final answer is given. It is only through the *tingbøker*, Sandmo argues, that we can find out how such crimes such as thievery were understood.

Furthermore, in his thesis, “*Slagsbrødre*”, Sandmo has examined how violence appears at the *ting* in the two regions Jæren & Dalane and Solør & Østerdalen. He does this by considering both the role of honor and how different forms of violence were viewed at the *ting*. One important argument is that the decrease of cases related to violence following the year 1630 was caused by the strengthened *sorenskriver*⁴⁵ reducing the possibility of discussion at the

³⁹ Jorunn Dobbe, ‘*Blant Granner og Myndigheter*’ 1996 pp. 33-38

⁴⁰ Norwegian, a legal definition which in practice was an illegal borrowing.

⁴¹ Jorunn Dobbe, ‘*Blant Granner og Myndigheter*’ 1996 p. 124

⁴² Norwegian, *fit* and *fogd* are interchangeable terms for a Norwegian-Danish sheriff with wide responsibilities

⁴³ Jorunn Dobbe, ‘*Blant Granner og Myndigheter*’ 1996 p. 138

⁴⁴ Sandmo, Erling, *Tingets tenkemåter. Kriminalitet og rettsaker i Rendalen 1763-97*, Oslo, 1992, p. 32

⁴⁵ Norwegian, the public official originally responsible for writing the court protocol who later also took on the role of judge.

ting.⁴⁶ Furthermore, that from a peasants perspective in the early 17th century the key element in defining an act as criminal is that relationship between the two people affected by it.⁴⁷

Sandnes has classified crime in Norway following the reformation as reflecting a traditional peasant society with conservative social conditions and a traditional mentality.⁴⁸ He argues that one of the main factors that drove this mentality was that of fear, as it was a basic emotion felt by all peasants as a response to both the threat of natural disasters, and the unnatural threat offered by trolls and other such monsters.⁴⁹ Fear of feuds and of nefarious intent necessitated that the peasants used the *ting* as a public forum for resolving conflicts, before they could get out of hand and cause unrest.

There are several case studies which deal with specific topics in both *Bergen* and *Nordhordland* in the 18th century. In “*Norske Trolldomskonflikter i Opplysningstiden*” Chan has dealt with cases of witchcraft in the *tingbøker*. Chan has also used the textbooks of law from the 18th century to better understand the ideas behind the way authorities advised that the laws of witchcraft should be enforced.⁵⁰ This is a very inspiring approach which could also be applied to other forms of crime. Slettebø has explored *Strilekrigen*, or the war of the Strils, in 1765 as a form of political action committed by farmers from *Nordhordland*. In particular Slettebø examines the way in which the Strils followed the norms governing popular rebellion within the the Oldenborgerstate by in the aftermath presenting themselves as simple supplicants wishing to know what the will of the King was. He does this by looking at both “Public transcripts” and “Hidden transcripts”, respectively the official contact between the ruled and the ruler and the unofficial contact.⁵¹ The question remains whether or not crime can be seen as a form of hidden transcript.

Antun has examined the role of women at the *ting* in 17th century *Nordhordland* in her master’s thesis “*Kvinnene på bygdetinget I Nordhordland midt på 1600-tallet*”.⁵² She finds the social position of women crucial in determining the role taken at the *ting*.⁵³ However, men dominated at the *ting* with only 432 women present as opposed to the 1407 men who

⁴⁶ Sandmo, *Slagsbrøde*. 1999, pp. 234-6

⁴⁷ Sandmo, *Slagsbrøde*. 1999, p. 216

⁴⁸ Sandnes, Jørn, *Kniven, ølet, og æren. Kriminalitet og samfunn i Norge på 1500- og 1600-tallet*. Oslo 1990, p. 118

⁴⁹ Sandnes, *Kniven, ølet, og æren*. 1990, p. 112

⁵⁰ Chan, Jia Mink, *Norske trolldomskonflikter i opplysningstiden*. Master thesis. Oslo, 2009, p. 28

⁵¹ Slettebø, *Strilekrigen i Bergen i 1765*. 2012, p. 53

⁵² Antun, Monika, *Kvinnene på bygdetinget i Nordhordland midt på 1600-tallet*. Master thesis. Bergen, 1999.

⁵³ Antun, *Kvinnene på bygdetinget i Nordhordland midt på 1600-tallet*. 1999, p. 110

appeared in the middle 16th century.⁵⁴

Augestad has examined the difference between local participants and vagrants at the *ting* in her master thesis “*Omstreifere, almue og tinget på 16-1700 tallet*”.⁵⁵ She connects accusations of thievery with general distrust of strangers.⁵⁶ These strangers are shown to be mostly Norwegian vagrants.⁵⁷ Here we find the local inhabitants utilizing the *ting*, and their experience with it, to protect their own communities.

Næshagen has examined the claim that there can be seen a decrease in crimes against people, starting about the 16th century until today in his article “*Den kriminelle voldens U-kurve fra 1500-tall til nåtid*”. By using data from American social science he aims to show that this is not correct. Rather than an “L-curve” he proposes a “U-curve” as he convincingly demonstrates that violence sank towards the 18th century only to be seen increasing again up to the present day.⁵⁸ Importantly, he also argues that, based on research done by Grossmann, one should be careful when comparing numbers regarding violence in two different periods. Further, he claims that without modern medical aid the rate of murders would be threefold or fourfold of its actual present rate, making it even higher than the possible rate of murders in the 16th century.⁵⁹

Rian has examined the political system within Denmark-Norway from 1536 until 1814, and in particular the importance of censorship as a political tool, in his book “*Sensuren i Danmark-Norge*”.⁶⁰ Here he argues that the stability of the government during the *enevelde*(1660-1814) led to a reduced active use of state violence, but that the threat of violence remained ever-present.⁶¹ Within this view, the *ting* becomes a tool for exercising state violence.

Steven Pinker has proposed that violence has decreased towards the 21st century. In his book “*The Better Angels of our Nature*” he claims that states using a “monopoly on force to protect its citizens from one another may be the most consistent violence-reducer”.⁶² As will be further explained below, protecting citizens from aggression was also a key argument used by

⁵⁴ Antun, *Kvinnene på bygdetinget i Nordhordland midt på 1600-tallet*. 1999, p. 107

⁵⁵ Augestad, Birte, *Omstreiferere, almue og tinget på 16-1700 tallet*. Master thesis. Bergen, 2004.

⁵⁶ Augestad, *Omstreiferere, almue og tinget på 16-1700 tallet*. 2004, p. 109-11

⁵⁷ Augestad, *Omstreiferere, almue og tinget på 16-1700 tallet*. 2004, p. 110

⁵⁸ Næshagen, Ferdinand Linthoe, Den kriminelle voldens U-kurve fra 1500-tall til nåtid. in *Historisk tidsskrift* Oslo, 03/2005, p. 413

⁵⁹ Næshagen, Den kriminelle voldens U-kurve fra 1500-tall til nåtid. 2005, p419

⁶⁰ Rian, *Sensuren i Danmark-Norge*. 2014

⁶¹ Rian, *Sensuren i Danmark-Norge*. 2014, p. 31

⁶² Pinker, Steven, *The Better Angels Of Our Nature : Why Violence Has Declined*. Viking, United States of America, 2011, p. 680

the authorities in justifying the laws laid out by Christian V. He also argues that the reduction in violence was in part caused by what he labels the “Civilizing Process”.⁶³

Sætra concluded in his assessment of peasant uprisings in the 18th century that there were six main waves of uprisings.⁶⁴ First the conflicts related to *Dagskatten*⁶⁵ and the *Store Nordiske Krig*⁶⁶ in 1709-20, *Ekstraskatten*⁶⁷ (1763-65), the uprising at Kongsberg quarry (1771-72), *Lofthusreisninga*⁶⁸ (1786-87), the *Haugianerne* (1796 - 1804) and finally the corn riots in relation to the Napoleonic war (1813-14). He concludes that there was a growing consciousness among the peasants leading to increased organization during the 18th century.⁶⁹

That the tax introduced in 1763 was unpopular is clear both from the sources and from the literature. In *Nordhordland* maintaining the tax generated a large amount of cases on the *ting*. If someone failed to pay, the *Fogd* was authorized to go to their farm and seize parts of their property as tax. However, he had to have this approved later by the *ting*. Therefore, there is a large amount of such cases are found in this period.

Sætra emphasizes that the peasants were mobile and that, possibly influenced by ideologies from the continent, their uprisings were seen as a threat to Denmark-Norway.⁷⁰ The uprising against *ekstraskatten* was not merely violent; it was also successful in achieving the major goal of having the tax repealed. The reasons that this uprising did not increase further in size and provoke further attacks on the state was that the government gave in and reduced its tax demands. As pointed out by Sætra this represents a concession that the peasants had managed to create a united front against the new tax demands.⁷¹ This was a dramatic occurrence which would be expected to leave a mark in the *tingbøker* examined below. The animosity towards the extra tax was widespread in Norway, and it was finally discontinued in year 1772 largely as a result of this pressure.⁷²

⁶³ Pinker, *The Better Angels Of Our Nature*. 2011, p. 81

⁶⁴ Sætra, Gustav, ‘*Norske Bondeopprør på 1700-tallet, en trussel mot den Dansk-Norske helstaten?*’, in ‘*Historisk Tidsskrift*’ 3/1998 Vol.77, Oslo, 1998 p. 304

⁶⁵ Norwegian, a tax introduced in the period 1712-1715 to help finance the war against Sweden.

⁶⁶ Norwegian, the war that took place between 1700 – 1721 where Swedish power was contested and suffered a defeat.

⁶⁷ Norwegian, a poll tax for everyone above the age of 12 introduced in 1762.

⁶⁸ A peasant rising that took place in 1786-87 in Eastern and Southern Norway which challenged public officials.

⁶⁹ Sætra, Gustav, ‘*Norske Bondeopprør på 1700-tallet, en trussel mot den Dansk-Norske helstaten?*’, in ‘*Historisk Tidsskrift*’ 3/1998 Vol.77, Oslo, 1998 p. 315

⁷⁰ Sætra, Gustav, *Norske Bondeopprør på 1700-tallet, en trussel mot den Dansk-Norske helstaten?*, in *Historisk Tidsskrift* 3/1998 Vol.77, Oslo, 1998, p. 314

⁷¹ Sætra, Gustav, *Norske Bondeopprør på 1700-tallet*. 1998, p. 310

⁷² Dyrvik, *Den Lange Fredstiden 1720-1814*. 1978, p. 431

Hobberstad has shown in his master thesis “*Ulovlig tileigning av annan manns egedom*” that there was great variation in the way cases were dealt with and sentenced at the *ting*.⁷³

Primarily concerned with thievery, he shows that these discrepancies cannot be explained due to variation in value or the action itself, but rather as a result of the person on trial.⁷⁴

Vagrants could be both Norwegian citizens travelling from their home region, or foreign nationals travelling from afar. Finns, vagrants seeking work and *tatere*⁷⁵ and their travelling lifestyle represented a challenge in the 18th century to the attempt to establish state control of where people lived. From a local perspective they represented ungrounded strangers, who had not built up the level of trust that a neighbor could enjoy. This is also seen in the way they are described by contemporaries.⁷⁶ However, as shown by Johansen one should be careful in assuming that the picture painted by these descriptions is truthful. In her examination of the *skogfinner*⁷⁷ in 17th century Eastern Norway she demonstrates that while some of them committed crimes, the Finnish immigrants were not all violent.⁷⁸

Rule has examined wrecking as a form of crime in detail in “*Wrecking and Coastal Plunder*”. Here we meet a set of people defined as criminals by the law, namely wreckers, who come together in looting a ship that has struck ground near land.⁷⁹ Importantly, this is also a form of crime that was present in *Nordhordland*, as it was in most coastal communities, and thus it becomes possible later in this thesis to cross-examine how the authorities dealt with this particular form of crime.

Higher rates of crime in certain municipalities, such as in Sartor, could have been caused by several factors. Proximity to the city Bergen, placement alongside popular sea lanes, poverty, and vagrants are all factors which may or may not have influenced the population into committing transgressions. It is important to note that *Nordhordland* had varying rates of crime that did not correlate with the size of the population in each *skiprede*. Or in other words,

⁷³ Hobberstad, Øyvind, *Ulovlig tileigning av annan manns egedom*. Master thesis, Bergen, 1997, p. 5

⁷⁴ Hobberstad, *Ulovlig tileigning av annan manns egedom*. 1997, p. 98

⁷⁵ Norwegian, a group of travelers with a long history of travelling within Norway.

⁷⁶ Svensson, Birgitta Tattare i 1700-talets samhälle. in *Bortom all äre och redlighet. Tattarnas spel med rättvisan*. Nordiska Museet, 1993, p. 95

⁷⁷ Norwegian, an immigration group in Eastern-Norway comprised of Finnish speaking people.

⁷⁸ Johansen, Annikken, *At sådan ukrutt måtte ganske utryddes: Om de finske innvandrerne på Østlandet på 1600-tallet, og deres møte med det norske bondesamfunnet*. Master thesis, Oslo, 2014, p. 102

⁷⁹ Rule, John G, *Wrecking and Coastal Plunder* in Hay, Douglas et.[red], *Albion's fatal tree : crime and society in eighteenth-century England*. New York, p. 167

the size of the population was not the main factor influencing the amount of crimes that the *ting* passed sentence on.

1.4 Method

In the report on norms and social control in Scandinavia, Österberg presents 4 main thematic approaches to the history of crime. The (1) long-term tendencies, (2) crime in a sex, class or people/elite perspective, (3) the court function and total activity and finally (4) as an alternative arena for social control and/or resolving conflicts.⁸⁰ This thesis will mainly be focused on the third and fourth approach, but the second topic will also be deliberated upon.

A qualitative approach would not be able to utilize the complete transcription of the *tingbøker*. By focusing on only a few years, one loses sight of trends or the proper context within which these sentences must be understood. It is only through the span of 50 years, preferably even more, that such trends appear. It is also important to treat the *ting* as a unit, and not lose sight of the fact that it was a complex organization that dealt with many topics.

Therefore, a mainly quantitative approach will be taken here to treat the information found within the *tingbøker*. Quantifying sentences and treating them within different contexts will be used to gain insights into how the *ting* met and dealt with crime. The computer program Spreadsheets will be used extensively to create graphs and sort data. The precise method for sorting the data will be presented in chapter 3. This data will in turn be treated as useful sources of insight into the various forms of crime that received a response at the *ting*. These are grouped into 4 main categories, each with a separate chapter.

However, it is important to note the limitations of such an approach. First of all, the *tingbøker* do not represent an optimal source of quantifiable data: too many factors influence what cases appear. This leads to variations over time caused by changing practices or personnel, as opposed to actual variations in the crime taking place in Nordhordland. Thus, a statistical approach is not ideal here. This is also reflected by the many compound cases where a defendant is sentenced for a string of crimes. However, as a system for analyzing the entirety of the Danish-Norwegian legal system it is questionable if such an approach would offer much insight.

⁸⁰ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 17

Furthermore, as shown by Sunde, viewing the *tingbøker* as a trustworthy source, and accepting the claims put forth there at face value, may not be as straightforward as one would expect at the outset. On one hand, they contain court transcripts and there would not exist much reason to falsify what happened at the *ting*. On the other hand, the *ting* was not a neutral ground for discussion. Both defendant and plaintiff had the possibility of manipulating information and communication, even outright lying, in an attempt to reach the verdict they wished for. However, Sandmo has emphasized that the strict rules governing how the *tingbøker* were to be kept ensured that the accounts found within reflect what was actually said at the *ting*.⁸¹ Furthermore, that these transcripts were trusted when they were used as evidence in later cases of what a person had said demonstrates their value.⁸²

At any rate, the *tingbøker* remain a valuable source for those wishing to approach the mentality and culture of smaller communities. At the very least a lie can tell us something about how someone wants the world to be. The *ting* was an important arena for discussing and defining both truth and norms. In turn, it also served as a way of correcting breaches of those norms.

Studies from other regions, such as England, are used comparatively to gain insights into the patterns of crime investigated as they appear. Such comparative questions, as argued to Kaelble, need to be comparative by nature;⁸³ or in other words, not be possible to answer without a comparison. Furthermore, it is important to keep in mind that one needs to be careful when assuming that countries or areas have equally developed histories or source databases which one can draw upon.⁸⁴ As will be seen below, it is no easy matter to compare cases found in the *tingbøker* with numbers extracted from an Essex tax protocol.

Remaining objective and not letting modern values interpret the actions observable at the *ting* is essential when quantifying the information available. However, as pointed out by historian Ottar Dahl it is merely the unconditional and personal judgments put forward by a historian which are unwanted as they have no empirical basis.⁸⁵ On the other hand, he emphasizes that allowing personal values to interact with the source material, referred to as *verdiengasjement*

⁸¹ Sandmo, *Slagsbrøde*. 1999, p. 37

⁸² Sandmo, *Slagsbrøde*. 1999, p. 40

⁸³ Kaelble, Hartmut, *Der historische Vergleich : Eine Einführung zum 19. und 20. Jahrhundert*, Campus, Frankfurt/New York, 1999, p. 120

⁸⁴ Kaelble, *Der historische Vergleich*, 1999, p. 148

⁸⁵ Dahl, Ottar, *Grunntrekk i historie-forskningens metodelære*. Universitetsforlaget 1967, 2nd edition 2002, p. 91

by Dahl, can stimulate and promote both the creation of theories and the wish to undertake the research.⁸⁶

1.5 The function of the *ting* in defining crime

Dobbe emphasizes that the *ting* was a cooperative institution, existing to solve conflicts and discipline local peasants, where the local authorities and peasants worked together with the accused to find solutions.⁸⁷ This discipline was intended to mold peasants into loyal citizens.⁸⁸ That conflicts should be solved through the *ting* was also important for maintaining the peace.⁸⁹ The discrepancies between what the law prescribed and what the *sorenskriver* actually mandated, in the *ting* is explained by Dobbe as a result of the cooperative nature of the *ting*.⁹⁰ In her view, the locals used the *ting* actively to defend their own honor and to control each other.⁹¹ Through the *lagrettemenn*⁹² they also enjoyed influence through direct participation.⁹³ She places heavy emphasis on the role played by *soning* together with and as an alternative to letting a case develop at the *ting*.⁹⁴

Sandmo emphasizes the different functions that the *ting* dealt with and demonstrates that it was an inefficient body for handing out sentences.⁹⁵ Rather than being simply a tool for prosecuting criminals, Sandmo claims that the *ting* acted as a forum for discussion.⁹⁶ Furthermore, the local authorities actively took part in these discussions; as a result, strong variations exist between the amount of cases presented and the amount of cases which end in a sentence at the *ting*.⁹⁷ He places heavy emphasis on the role played by honor, the *ting* being merely the public forum in which people defended theirs.⁹⁸

That the function of the *ting* ought to include an element of conflict resolution is clear. After all, by punishing an alleged thief for stealing cloth, the *ting* provides justice through punitive punishment for the defendant. Thus, grudges are settled. The question answered by Sandmo is

⁸⁶ Dahl, *Grunntrekk i historie-forskningens metodelære*. 2002, p. 129

⁸⁷ Dobbe, *Blant Granner og Myndigheter*. 1996, p. 203

⁸⁸ Dobbe, *Blant Granner og Myndigheter*. 1996, p. 203

⁸⁹ Dobbe, *Blant Granner og Myndigheter*. 1996, p. 204

⁹⁰ Dobbe, *Blant Granner og Myndigheter*. 1996, p. 205

⁹¹ Dobbe, *Blant Granner og Myndigheter*. 1996, p. 206-07

⁹² Norwegian, a lay judge who was to assist in private cases and otherwise act as witness.

⁹³ Dobbe, *Blant Granner og Myndigheter*. 1996, p. 207

⁹⁴ Dobbe, *Blant Granner og Myndigheter*. 1996, p. 209

⁹⁵ Sandmo, *Tingets tenkemåter*. 1992, p. 122

⁹⁶ Sandmo, *Tingets tenkemåter*. 1992, p. 123

⁹⁷ Sandmo, *Tingets tenkemåter*. 1992, p. 124

⁹⁸ Sandmo, *Tingets tenkemåter*. 1992, p. 125

to which extent this is achieved in conjunction with the local population. As shown by Sandmo, several mechanisms for allowing cases to not end in a sentence were in place. Thus, most cases would be resolved before reaching a sentence. That the act of sentencing was only one function of the *ting*, or rather that the *ting* incorporated far more functions than a modern court would is an insight that must be kept in mind. This thesis adds to this question by exploring which forms of crime were brought before and sentenced at the *ting*. In short, what activity could be resolved there, and to which extent this was the result of local or government pressure.

The content of the *tingbøker* will be expanded upon in chapter 3, but it remains important to note here that by focusing on the actions which were sentenced this thesis necessarily treats only part of what the *tingbøker* have to offer. However, by focusing on these it may be possible to evaluate the conclusions drawn by Sandmo and Dobbe. In later chapters it will be explored how certain forms of crimes were sentenced at the *ting*. Variations here would indicate that the spirit of cooperation, which they both emphasize, might have been weaker in the context of certain forms of crime.

Chapter 2. Background

2.1 Nordhordland

Today *Nordhordland* would encompass the modern municipalities Fedje, Austrheim, Lindås, Masfjorden, Osterøy, Modalen, Radøy, Askøy, Meland, Øygarden, Fjell, Sund and Bergen.⁹⁹ As mentioned, *Nordhordland* is of particular interest as the *Tingbøker*, the lower court transcripts, are readily available online and transcribed. This allows for a far broader approach when exploring crime and punishment in *Nordhordland*. This will in turn shed light on how the local authorities met with, and dealt with, crime in Denmark-Norway.

Between the 16th and 18th centuries Norway was a province ruled from Copenhagen. This period oversaw a fourfold growth in the population of Norway, from about 150-200 000 to 900 000 thousand.¹⁰⁰ Significantly, it was also a period with real economic growth.¹⁰¹

It is possible to indicate the population of *Nordhordland* itself during the period treated here based on the 1769 census, the first census conducted in Norway. Within Bergen *stift*¹⁰² there were 7 *Sorenskriveri*: *Sondmøre*, *Nordfjord*, *Søndfjord*, *Sogn*, *Hardanger*, *Søndhordaland* and finally *Nordhordland*. In each of these the *Sorenskriver* would travel from *ting* to *ting* while maintaining the law. Some numbers on the population in *Nordhordland* as recorded in this census:¹⁰³

⁹⁹ Dobbe, *Blant Granner og Myndigheter* 1996, p. 18

¹⁰⁰ Sandvik, Hilde, Tidlig moderne tid i Norge. 1500-1800. in Blom, Ida and Sogner, Sølvi [red], *Med kjønnspektiv på norsk historie*. Cappelen, Oslo 2005, p. 125

¹⁰¹ Sandvik, Tidlig moderne tid i Norge. 2005, p. 125

¹⁰² Norwegian, the largest administrative unit in Norway during the 18th century.

¹⁰³ Based on data found in Statistisk Sentralbyrå, 'Norges Første Folketelling 1769', Oslo 1980

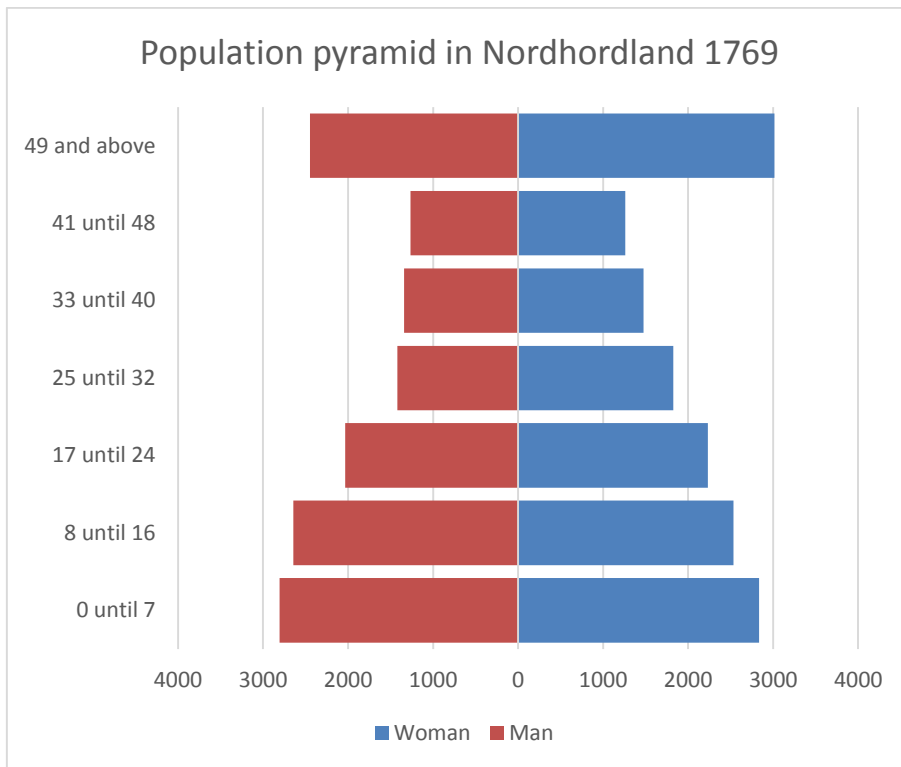


Fig. 1.

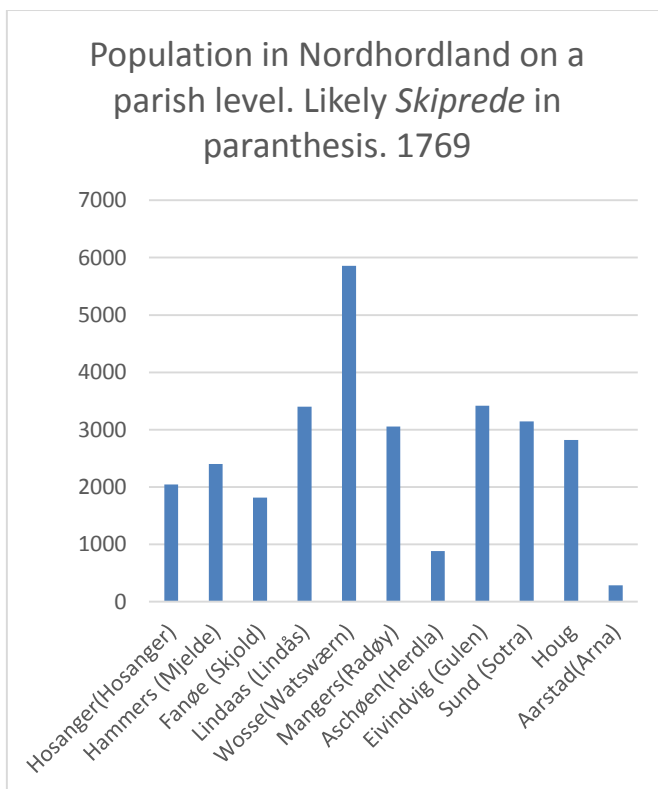
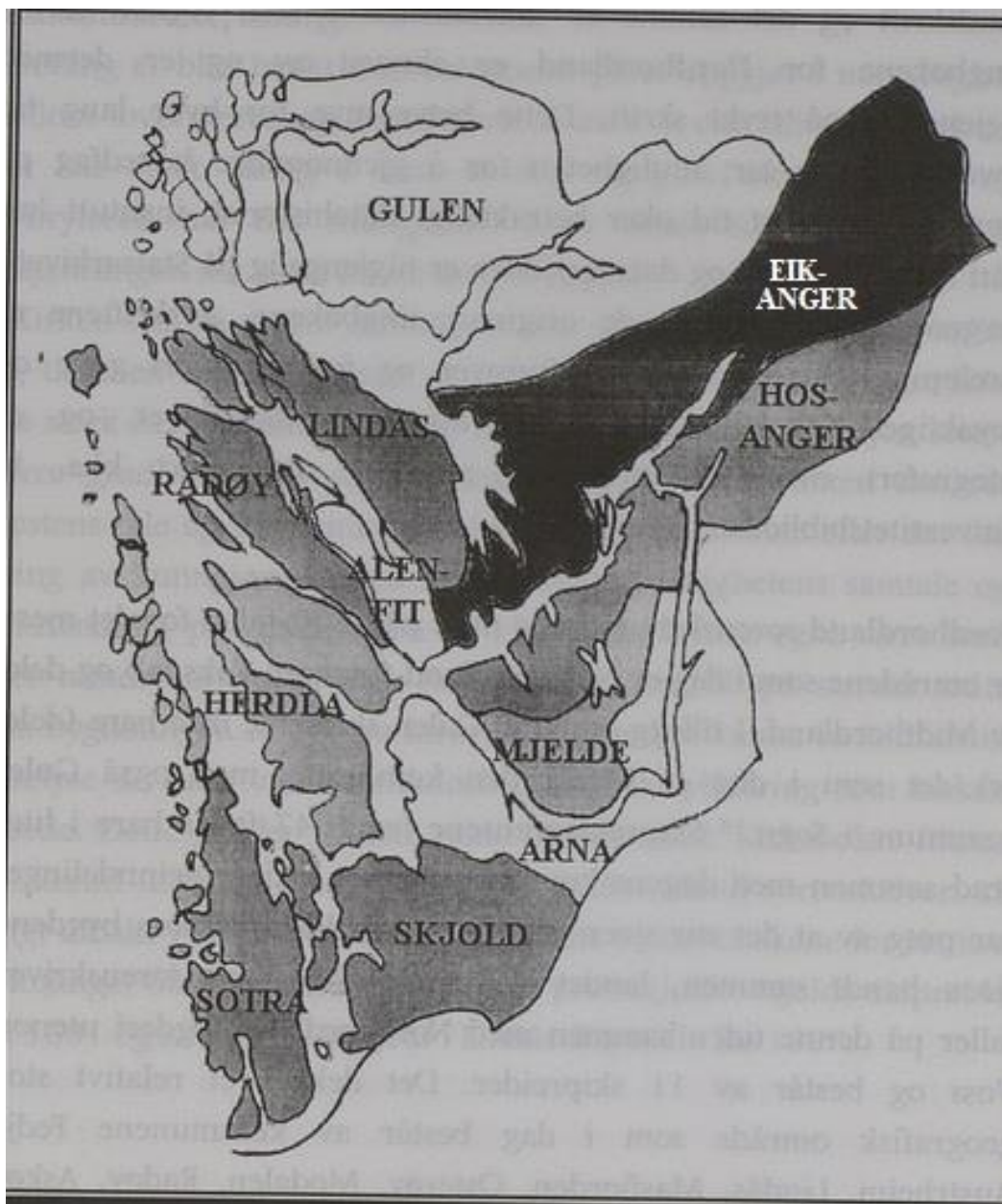


Fig. 2.

The total population of Bergen *stift* was 116 705. Of this, the population of *Nordhordland*, 29 133, represented roughly a fourth. The proportion of men and women was mostly constant, other than a significant rise of women proportional to men after age 48. This is expected, as women tend to live longer than men do.

On a parish level, it is clear that most of these administrative units hovered between 2 and 3 thousand inhabitants, the exception being *Wosse*, with almost 6000 inhabitants, as well as the smaller *Aschøen* and *Aarstad*. It may be a possible line of enquiry to ask whether areas with larger concentrations of people had higher rates of crime; and conversely, if certain types of crime would be expected to appear more often in less densely populated areas. For example, it may be possible to claim that refusing to transport a higher official is less likely to occur in areas with larger populations, since there would be more people able to carry out the order and thus less pressure on each individual farm to do so. This is a line of arguing which will be evaluated later as these numbers are compared to the information extracted from the *tingbøker*. For now, it suffices to note that there were differences in populations within *Nordhordland*.

It should also be noted that the parishes presented above do not represent the same sizes as the individual *skiprede*, the administrative unit where the *ting* took place, within the *Sorenskriveri*. These *skiprede* are depicted on the map below. Given the nature of the census it is impossible to precisely provide the population of each. However, some are more clear than others: for example, *Aschøen*, modern day *Askøy*, could be expected to be part of Herdla. The parish *Sund* was probably part of *Sotra* and so forth. *Houg* has on the other hand been impossible to place.



Map 1. As represented by Dobbe 1995.¹⁰⁴

Dybdahl has that there were certain years in Norway during 17th century with bad harvests caused by climactic change. As Dybdahl bases this conclusion partly on data extracted from Bergen *stift*, his work is of significance for this thesis as well. Here the periods 1740-42, 1771-73 and 1782-86 are shown to have yielded particularly bad harvests.¹⁰⁵ Bad harvests, with the following increase in hardship for the peasants, are easily linked to an idea of

¹⁰⁴ Shows the location of *Gulen, Eikanger, Lindås, Hosanger, Radøy, Alenfit, Herdla, Mjelde, Arna, Sotra* and *Skjold*. The map has been lightly edited in Paint to make the writing for Eikanger more visible Dobbe, *Blant Granner og Myndigheter*. 1996, p. 17

¹⁰⁵ Dybdahl, Audun, *Klimatiske sjokk, uår, sykdom og demografiske kriser i Trøndelag på 1600- og 1700-tallet*, in *Historisk Tidsskrift*, bind 93. Universitetsforlaget 2014, p. 263

growing unrest and crime among the general population. Thus, it is important to consider this when examining the data. For example, it would help explain why many peasants failed to pay their taxes, following a year with a bad harvest.

2.2 Local officialdom and their national background

The government residing in Copenhagen during the period 1660 – 1814 known as *eneveldet*,¹⁰⁶ projected their power locally through officials who acted on behalf of the majesty. This included the representatives - the *fogd* and *sorenskriver* - we meet at the *ting*. These were all placed directly beneath the king.¹⁰⁷

Ascertaining the national background of these officials has been an important topic in Norwegian history. Rian claims that it is not possible to create a complete statistical overview, but that there was an increased amount of Norwegians following the introduction of the *enevelde* in 1660.¹⁰⁸ However, this also varied based on what type of official one decides to investigate. Rian demonstrates that there was a higher amount of *fogder* that were Danish than *sorenskrivere* in 1650-1700, but that the Norwegian presence grew in the 18th century.¹⁰⁹

2.3 Sorenskriver

In the periods covered here there were two different *sorenskrivere*. Johan Garmann (1742-68) and Johannes Haberdorph (1771-98) who were both born in Bergen.¹¹⁰ They acted as both judge and court report. At the *ting* it was he who led the proceedings. Each *sorenskriver* had judicial responsibility for several districts, and they were required to undertake much travelling to fulfill this role.¹¹¹ They also had to keep a court record by writing into the *tingbok*. It was an important role, and those who held office had an important social position.

The *sorenskriver* did not work alone. He could draw on support from the *fogd*, local priests, *lagrettemenn* and his superior the *stiftamtman*n if he chose to do so. However, he did have legal authority and could act as a mediator. Legal education was required after 1736, something they could only get in Copenhagen, and they represented the judicial side of the

¹⁰⁶ Norwegian, the term used by Norwegian historians when referring to the absolute monarchy of Denmark-Norway.

¹⁰⁷ Rian, Øystein, *Embetsstanden i Dansketida*. Samlaget, Oslo 2003, p. 50

¹⁰⁸ Rian, *Embetsstanden i Dansketida*. 2003, p. 50

¹⁰⁹ Rian, *Embetsstanden i Dansketida*. 2003, pp. 50-51

¹¹⁰ Næss, Hans Eyvind, red. *For rett og rettferdighet i 400 år. Sorenskriverne i Norge 1591-1991*. Fabritius, Oslo, 1991, p. 224

¹¹¹ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 46

government.¹¹²

2.4 *Fogd*

The *fogd*, also known as *fut*, acted as a sheriff, and cooperated with the *sorenskriver* in solving conflicts. Officially he represented royal authority, and his tasks included, but were not limited to, collecting tax, administering the *ting*, keeping the peace and prosecuting.¹¹³ As Sandnes shows he could even act as detective upon a murder, taking testimonies and surveying the scene.¹¹⁴ Rian places emphasis on low salaries to explain why these officials would actively embezzle.¹¹⁵

2.5 *Lensmann*

The *lensmann* was the lowest public official within the legal system, in the unenviable position between serving the *fogd* as an ombudsman and trustee of the local peasants.¹¹⁶ He also acted as a right hand man of the *fogd*, taking care of many of the legal responsibilities held by that office; such as suing, investigating, recording testimonies and setting the *ting*.¹¹⁷ In many cases where the records show that the *fogd* has sued someone and brought them before the *ting*, it is in fact the *lensmann* who has done this work.

2.6 *Lagmann*

A *lagmann* was a person who served as a judge for the first court of appeals. After 1607 they were also responsible for the sentence handed out, and since medieval age the *lagmann* had acted as an advisor in legal matters.¹¹⁸ While the first court of appeals, the *lagting*¹¹⁹, was his main responsibility, he can also be seen working as part of other commissions handling appeals.¹²⁰ As a group the professional competence held by these judges was never as high as when they were dissolved in 1797.¹²¹

¹¹² Næss, *For rett og rettferdighet i 400 år*. 1991, p. 136

¹¹³ Dahl, Svein Tore, *Embetsmenn i Midt-Norge i tiden 1536-1660: en liste over de forskjellige lensherrer, lagmenn, borgermestere, rådmenn, byfogder, tollere, fogder, sorenskrivere etc som var i funksjon i Midt-Norge i tiden 1536-1660*. Trondheim, 1999, p. 114

¹¹⁴ Sandnes, *Kniven, ølet, og æren*. 1990, p. 65

¹¹⁵ Rian, *Embetsstanden i Dansketida*. 2003, p. 91

¹¹⁶ Sandmo, *Slagsbrøde*. 1999, p. 35

¹¹⁷ Sandmo, *Slagsbrøde*. 1999, p. 35

¹¹⁸ Næss, *Fiat Justitia!* 2014, p. 448

¹¹⁹ Norwegian, The first court of appeals.

¹²⁰ Næss, *Fiat Justitia!* 2014, p. 448

¹²¹ Næss, *Fiat Justitia!* 2014, p. 450

For the local *ting* the *lagmann* represented a higher public official who influenced the decisions made by both the *fogd* and the *sorenskriver*. The power of such social bonds should not be underestimated as they defined how certain cases could develop at the *ting*.

2.7 Lagrettemann

A *lagrettemann* was a person who was appointed to participate at the *ting*. The law prescribed that they were to act as lay judges in cases regarding property, life or honor and otherwise act as witness to what took place.¹²² They were chosen, by the *amtman* or by the *fogd* and *sorenskriver* if he was not present, for one-year periods, though it has been observed that certain peasants held their positions for several years and that a core of peasants dominated this social position.¹²³

Failure to perform this duty was punishable by a fine. However, it is not clear how often this law was practiced. It seems to have been the norm that when someone was not able to make an appearance, a replacement was found without further reprisals for the absentee. As with many other laws that were not often or at all put into use though, their existence should be taken as evidence of the wish to criminalize such actions from an official standpoint.

¹²² Christian V's First book, chapter 7

¹²³ Rian, *Embetsstanden i Dansketida*. 2003, p. 102

Chapter 3. *Tingbøkene*

3.1 Using the *tingbøker*

The *tingbøker* taken as a whole are too unwieldy and complex at first for a historian to find an answer to any question he or she wishes to pose. Finding ways to structure the possible information within them is therefore essential if they are to be of much use. Searching for individual stories, which can be illustrative for points that a historian wishes to make, is possible on a case by case basis, but to create a context within which these stories can be better understood a quantitative approach must first be undertaken. To this end the cases are examined and abstracted into comparable data.

Creating this comparable data is the main challenge when quantifying this source material. As discussed above laws underwent change as they were revised by the authorities during our period, and punishments could very well vary on an individual basis depending on which *sorenskriver* or *fut* was currently working in the area. There are many factors that could influence the outcome of an individual case. However, by dealing with many cases at once it is possible to identify general trends.

The approach undertaken in this thesis is to evaluate the material for three data points and then to categorize this data. Attention will be paid to which form of crime is being sentenced, what punishment the sentence passes, and finally what type of person is being sentenced. This is all information present in the *tingbøker*; by abstracting it into categories which can be treated as one it should be possible to make sense of what they have to offer as a source of information and what can be claimed about *Nordhordland* in the period being examined.

Based on my own review of Christian V's Norwegian Law of 1687 the following is a proposed grouping of the crimes found at the *ting*. Thievery, or other forms of making financial gain on the expense of others, is categorized as a crime against property. Not paying tax or otherwise hindering government activities, such as refusing transport, is categorized as a crime against authority. Extramarital sex or other forms of moral crime I will categorize as a crime against religion. Violent crimes, or other forms of personal attack such as insults, I will categorize as a crime against person.¹²⁴ While a simplification, as it will always be possible to

¹²⁴ As emphasized by Næss in Næss, Hans Eyvind, Vold, in Tønnesson, Kåre, Red. *Rapport II: Normer og sosial kontroll i norden ca. 1550-1850*. Oslo 1994, p. 63, counting insults as a crime against person can be counter-productive as it dilutes the traditional category of violence in modern society today. Insults have been included as part of violence in this thesis, given that the contemporary definition of what constituted an attack on someone

make more fine-grained categories, these four will serve as the basis for discussions within this thesis. However, one should not be blinded by these categories, as they are merely blunt tools for treating the data extracted below.

To this end, the sentences handed out at the *ting* will be the object of inquiry for this thesis. While the many cases obtainable through this work are far more complex and offer much information through how the case proceeded, there are some limitations on this material that hinders it from being easily quantifiable. On one hand, they are superficially complex and not easily defined as one type of case or the other: it was not uncommon for a case that began as an indictment of thievery to end in the sentencing of the plaintiff for insults. On the other hand, as shown by Sunde, these legal proceedings were also colored by the use of language, such as lying or omitting certain things, to reach a certain verdict.¹²⁵ To accept these records without reservation would be to disregard the vast amount of legal experience that the participants utilized to their best ability.

A few forms of crime, most notably witchery, are hard to strictly define within one category. Is a man preying on the fears of peasants to make money of anti-witchery charms committing the religious crime of witchery, or simply fraud and thus a property crime?¹²⁶ The cases have been categorized to the best of my ability, but it is important to keep in mind that many cases are not of a clear character. This is not unexpected, and in keeping with the distinctive character of the *ting* which sets it apart from the modern court and makes it worthy of study.

The categories of crimes against person, authority and property are given the most space within this text. However, it is important to note that this does not mean that crimes against morality were less important. As we shall see they carry strict sentences. Such strict measures underline that contemporaries did not see these as trifling actions. It would be a mistake to regard them as such. For the purpose of this thesis, it will remain an important point to keep in mind that such cases were given much space at the *ting*.

else also included, as we shall see later below, attacks upon honor.

¹²⁵ Sunde, Jørn Øyrehagen, *Den Juridiske Komædien: Ein antologi over tanke og praksis I den norske rettskulturen si historie*. Fagbokforlaget, Bergen, 2007, pp. 149-64

¹²⁶ This example is drawn from that of Ole Knudsen Kleven as found in Chan, *Norske trolldomskonflikter i opplysningstiden*. 2009, p. 87 This case also appears in the material covered here as the sentence is handed out in 1771. Here it is given the code MI 1314 : 2345 underneath the heading of 1771, and is thus treated as witchery. The issue is, as shown by Chan, mainly treated as an elaborate gift by the authorities. See the appendix for the reference.

As it is the interest of this thesis to examine the people who were sentenced in the *ting*, a search engine will be used to go through the *tingbøker* looking for words which indicate that a sentence was given. In particular the phrases “*dom afsagt*” and “*lovlige forkynnelser*”, appear in the *tingbøker* where a sentence was given and are possible to find in such a search. Various alternative forms of writing are also covered. Finally, records registered within a tenth of the years examined are through in great detail as a control mechanism.

Furthermore, the instances appearing in the *tingbøker* sometimes vary from, or are sentenced differently from, what is described in Christian V’s Norwegian Law of 1687. This, as described above, is partly due to *forordninger*. It is also an example of the challenge posed by the period itself where the center of authority was not always able to fully control the exterior. However, it is still possible in such cases to compare and group them together with cases closer to what the law actually described. After all, this thesis is primarily concerned with the actions and conflicts which were dealt with at the *ting*.

Hence, whether or not some variations are caused by the practice of the *ting* being altered by the authorities is of a secondary interest. These variations are not to be ignored and possible explanations for them will be offered when they appear. Yet what is of particular interest is how actions were sentenced, and what forms of crime actually appeared, at the *ting*. This is a topic which will be addressed below.

3.2 Settling disputes at the *ting*

Conflicts over property were more common than cases regarding thievery throughout the periods examined. Commonly, these cases represented conflicts between peasants regarding inheritance or how a plot of land was to be used or divided. However, sometimes they were caused by a failed payment, either of tax or of debt, and represented the attempt of the aggrieved party to gain economic compensation.

These were cases where the *sorenskriver* could use mediation, oaths and other demands in an attempt to solve the conflict. As an example, the case of the bell-ringer Jacob Ibsen who sued the peasants Michel Olsen and Ole Monsen may be used.¹²⁷ In this case, Ibsen had put forth a claim on the farm Hundhammer as he now wished to use it himself and live there. Therefore, he wished to renege on the contract he had with Olsen and Monsen and pay them out. Due to their refusal, Ibsen had decided to bring the matter before the *ting*. The *sorenskriver*

¹²⁷TB, Nh1789 b47, pp. 347 – 347b

concluded that if Ibsen could make an oath stating that he was intending to live and work the farm himself, then Olsen and Monsen would have to move from the farm and pay the legal fees of 14rdr¹²⁸.

Such cases present an insight into what seems to have been one of the main functions held by the *ting*, namely, that of defining what was true and what was not. Even if the contract between Olsen, Monsen and Ibsen was clear and if the involved parties were well aware of the legal right of Ibsen to annul it, it was through the *ting* that Ibsen made his actions just and legally binding. The many property and debt cases represent cases where the involved parties are not only seeking justice, but also cases where they are seeking a solution. The use of mediation in such cases, where the *sorenskriver* offers a solution or compromise, also points in this direction.

Reaching a verdict was important in such cases. This is especially clear in cases regarding debt or insults. To call in a debt that a debtor refused to pay; one possible way to force the issue was to have it confirmed by the *ting*. Insults were rendered false upon verdict, and this was thus an effective way of dealing with these. We will explore the issue of insults later. Property and debt disputes will not be treated within this thesis as they did not represent crime, but rather conflicts taking place between neighbors. However, it is important to note that such cases took up much space, and thus probably time, in the *tingbøger* that are examined here.

3.3 The disappearance of cases

A multitude of cases were drawn before the *ting* only to simply disappear or end in postponement without being brought up again. It is important to help explain the mechanisms that cause this, as it has an impact on the possible information extracted from working with the *tingbøger*. In some cases even though it is clear that the case reached a verdict, the decision is not possible to find. Settling out of court through *soning* always remains a limiting factor.

A fundamental mechanism is that it could be in the interest of both parties that a lawsuit did not end in a verdict. If the crime regarded values higher than the fine itself, it would be in the interest of both parties to settle out of court. Furthermore, due to the heavy fines incurred for

¹²⁸ Rdr, Abbr. Riksdaler. The currency in use in Denmark-Norway throughout this period. A riksdaler was further divided into mark(mrk) and skilling(s)

such actions as violence, it is easy to understand that letting a matter be settled by a judge was best avoided by the participants themselves. The *fogd* was important here as both prosecutor and detective forcing locals to bring their matter to court.

In 1787, the example of a joint *ting* being held for the *skiprede*¹²⁹ Schiold and Sartor in the home of the *sorenskriver* in Bergen appears. At this instance the *lagmenn* from Schiold came to his house and were allowed to bear witness on the behalf of Sartor and Schiold. It is unclear whether this represents an innovation or if this could be expected to have occurred before. At any rate, this underlines the pragmatic nature of the *ting* and the freedom of the *sorenskriver* to seek practical solutions.

3.4 Kings and Civil cases

There was a divide between cases that were part of kings law¹³⁰, and civil law. Both peasants and public officials could make accusations of any form of crime at the *ting*. In the main, these two types signified whether or not a matter was private and concerned a conflict with individuals, or if the matter represented a breach of the law of the land. Mediation and oaths were ways of solving civil conflicts, and it is observable that more discussion between the parties took place in such cases. Furthermore, oaths were used by the government as a method for promoting loyalty to the king.¹³¹

As an example, the difference between cases regarding thievery and property can be considered. Whereas thievery represented a claim that someone had wrongfully taken possession of goods that did not belong to them, property conflicts contained a claim that someone had wrongfully taken control of land, a farm or inheritance and thus prevented the plaintiff from enjoying the value presented by such possessions. The difference is subtle, but while the thief was a dishonorable character to be loathed by society; the punishments for civil cases regarding property were far lighter.

Most civil cases were related to debt.¹³² Within the examination of the *tingbøker* many such cases have been uncovered. For the purpose of this thesis these cases have been left out as they were not treated as crimes, but rather as an issue to be resolved at the *ting*. This also applies to the various property conflicts which were brought before the *ting*. It is important to

¹²⁹ Norwegian, the smallest administrative unit.

¹³⁰ In Norwegian *kongesaker*

¹³¹ Rian, *Sensuren i Danmark-Norge*. 2014, p. 121

¹³² Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 102

note, however, that such cases must have taken up a large amount of time and that much effort was spent on resolving them. They separate themselves from other crimes in that they did not end in a punishment being handed out. However, they did receive a sentence which was to resolve the issue.

To a certain extent this divide is representative of a public and a private sphere. The cases concerning the peace of the land and breaches against religious norms were separated from those that mainly went against social norms. Insults clearly belonged to the private sphere and were dealt with as such - unless they were directed against the majesty or a public person, whereupon strict punishments were given. As pointed out by Sandmo, the existence of public and private spheres, though mainly claimed to be in the mid 18th century, seem to go back further.¹³³

3.5 Punishment

Within the preamble of Christian V's law the following justification is given for the punishments to be handed out at the *ting*:

«Ti dersom et hvert Menniske var retsindigt og vilde nøjjs med det ham med rette tilkom, og ikke søge sin Næstis Skade, men gjøre hannem den samme Ret, hand ville sig selv skulle vederfari, da giordis ingen Lov fornøden, men derfor sættis Loven, at de Retvise og Fredsommelige maa nyde deris Ret og de Uretvise og Uretfærdige, som ikke ville gjøre ret efter det, som i Loven skrevet er, kand vorde ved den Straf, som i Loven sat er»¹³⁴

In short: if each human were right-minded and would be satisfied with what he had and follow the golden rule, then there would be no need for laws; but that the laws are important to protect the righteous from those who would do evil.

It is possible to distill the various forms of punishments given out at the *ting* into 11 broad categories. Monetary punishment was by far the most preferred form of punishment. By paying a fine the defendant not only suffered for the crime committed, but also helped finance the legal system. Legal fees, which will be expanded upon below, were a subcategory of monetary punishment concerned with addressing the running costs of an accusation. However, these fees were also required as a cost of bringing a matter before the *ting*. Declaring the land of the defendant forfeit, in whole or in part, was also a heavy economic

¹³³ Sandmo, *Slagsbrøde*. 1999, p. 230

¹³⁴ Chr. V's *Norske Lov*, Fortale p. 11

punishment. Note that failure to pay a prescribed fine would lead to a corporal sentence, or even slave labor.

For certain crimes, such as thievery, corporal punishments, such as but not limited to whipping or jailtime, were used. Other forms of physical punishment were those of imposed penal labor or even death. Expulsion was also a way for the *ting* to remove an unwanted defendant from *Nordhordland*. Open confession in the church in front of the congregation could also be used as both a religious and social punishment. The use of the death penalty for thievery was limited by the introduction of Christian V's law.¹³⁵

The findings from the slave protocols, grouped into two sets of years, 1767-72 & 1782-1792, produce two tables of data. This shows what the likely outcomes of penal labor were. It is clear from the table below that in part penal labor could in practice become a death sentence; however the majority of slaves did end up being freed. Five of the deaths recorded below can with certainty be claimed to have been civilian.

Military	Unspecified	Civilian	Freed	Unknown fate	Died	Deserted	Expelled
16	39	21	48	9	6	6	7

Tab. 1: Slave backgrounds and fates 1767-72 (Total: 76 men)

Military	Unspecified	Civilian	Freed	Unknown fate	Died	Deserted	Expelled
18	37	39	68	3	3	11	9

Tab. 2: Slave backgrounds and fates 1782-92 (Total: 94 men)

Physical punishment, such as whipping, was also to be administered for certain crimes according to the King Christian the V's law of 1687. For example if a person was to be punished for a third case of thievery the law mandated that they would suffer a form of whipping called *kakstryking* and be branded on their forehead.¹³⁶ What made *kakstryking* unique, as opposed to common whipping, was that the person who was to be punished was bound to a pole, called *kak*, and that it took place in public.¹³⁷

¹³⁵ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 31

¹³⁶ Christian V's law 1687, 06/17/35

¹³⁷ Dobbe, *Blant Granner og Myndigheter* 1996, p. 124

However, this was ceased upon the introduction of a new *forordning* in 1751 on the 19th of November. Now people sentenced to be punished by *Kakstrykning*, or branding, were to be punished with forced labour instead.¹³⁸ While forced labor contains an important element of physical punishment, it is a form of punishment which is markedly less “brutal”, if such a word can be used, than *kakstrykning*.

The *forordning* was also followed in Nordhordland, with Christine Tørresdatter being the last person to receive this punishment. This illustrates that it was possible to alter practices within Denmark-Norway through the work of officials seated in Copenhagen. While it is possible that this reform reflected changing practices in the field, it remained a popular punishment elsewhere.

That is not to say that this change was caused directly through Copenhagen. The background for this change is not altogether clear. It is possible that it was brought about by the majesty deciding to alter this practice, reports of its use in the field or perhaps simply due to an increased need for slave labor. This remains a speculative attempt for now, but it is important to note that there are several possible reasons for this reform. At any rate it reflects a very real change being made to the form of corporal punishments to be given out at the *ting*.

However, the *ting* could also resort to direct mediation, warnings or oaths to settle disputes. An example of a warning being used can be seen in 1751 where two peasants are not sentenced for violence, but warned to not continue their conflict.¹³⁹ Oaths required the defendant to pay a fine if he or she should fail to deliver an oath at the next *ting*. While mediation could incur a heavy loss on one part, it is a form of punishment where the *sorenskriver* could use pragmatic ability to settle disputes.

This shows that the *sorenskriver* at the *ting* had several tools at his disposal for solving disputes. In cases that lead to a sentence, there were plenty of different possible punishments that to be doled out. The laws themselves in part successfully limit this, but mainly due to the relative freedom of the *sorenskriver* to find individual judgment. An interesting idea is that

¹³⁸ Schous Forordninger Vol. 4. p. 232

¹³⁹ TB, Nh1751 b42, p. 183b

harsher punishments were easier to give outsiders, while familiar people within the community could expect milder sentences. This is supported by Hobberstad's findings.¹⁴⁰

3.6 Legal fees

Legal fees were both simply a cost of running a justice system, and a method for punishing people who went against the law. The plaintiff had to carry the legal fees involved in a case at first. Thus, if the case was justified, the accused should reimburse this cost. However, what did these legal fees then consist of? An example can be found in a sample case from 1751 where the debtor Severin Weiner is required to not only repay his debt, but also the legal fees of 9rdr 5mrk 8s incurred during his trial. What follows is a detailed list provided by the *Sorenskriver* detailing what this total consisted of:

Sorenskriverens diet og Reyse Pænge til og fra Aastæden som er 8 Miil 3 rdr 2 mrk, Dom og forseigings pænge 5 mrk 4 sk En dags forretning paa Aastæden 3 rdr Fogden for Laug Rættes opnevneelse og til sigelse 2 mrk de 6 Laug Rættes Mænd for Reyse forretning paa deres egen kost á 1 mrk 8 sk er 1 rdr 3 mrk Stemplet Papier til Doms Acten 4 mrk 8 sk til 2de støcker stemplet Papier at belægge Stevningen og den producerede Copie bøkelsæddel 12 sk¹⁴¹

In other words, legal fees could include travel costs, material costs and costs related to how the *ting* itself was run. Travel costs were both based on the distance travelled by the *sorenskriver*, and his need for food. Material costs included the cost of stamped paper, seals and copies. The other members of the *ting* also received an economic compensation. In the case of Severin the legal fees were especially high as this was a case which was settled on the farm itself. However, this list provides a good overview of what legal fees constituted. That legal fees could grow exponentially as the case grew in size, or through being postponed several times, was a consequence of this system.

Furthermore, if both parties were found to be not guilty, the legal fees could be lifted.¹⁴² However, cases –such as that of Mons Endresen in 1751 - illustrate that an accuser seen to make untrue accusations, or lying, could be imposed a fine by the *ting*.¹⁴³ In the end, someone had to pay the cost of running the *ting* even if it was the *sorenskriver* himself.

¹⁴⁰ As written by Hobberstad: «Hovedsaka er ikkje kva ein gjer, men kven ein er». Hobberstad, *Ulovlig tileigning av annan manns eigedom*. 1997, p. 102

¹⁴¹ TB, Nh1751 b42, p. 194b

¹⁴² Or indeed as in, TB, Nh1772 b46, pp. 106b-107b, be lifted at the discretion of the *sorenskriver* even with a sentence being handed out

¹⁴³ TB , Nh1751 b42, p. 183b

As a form of punishment, legal fees sometimes appear in addition to the fine prescribed by the *ting*. However, this is not as a rule. In most cases where a monetary punishment is given it may be possible that it was expected that legal fees would be deducted from the fine itself. Another possible explanation is simply that legal fees were so common that they were expected to follow a verdict, thus not needing to always be included in the sentence itself as it appears in the records. In the data which will be presented below, monetary fines were given out more commonly than prescribed legal fees.

3.7 Presentation of data¹⁴⁴

From the protocols, it is possible to extract information in cases where a sentence is given and thus create a picture of those cases that reached a verdict. The information that is relevant for this thesis is who accused whom, what form of crime was committed and finally what punishment was given. Whether the accused was female or male is also of interest. Further, it is interesting to see if geographical differences within *Nordhordland* can be found. The information is treated within the sets of years laid out above. Finally, an analytical foundation for later discussion within the thematic chapters 5, 6, 7 & 8 is given.

This information is coded and can be found, along with an explanation of the method used, in the appendix. These codes are drawn from the information retrieved from the raw text of the *tingbøker* themselves. It follows that they are not objective, but reflect the subjective reading of both the historian attempting to translate the cases into code and the *sorenskriver* recording proceedings. Care must be taken to not trust these numbers blindly when putting them into use.

3.7.1 1742-52:

For the period between 1742-52, seventy-five cases with a sentence are found in the *tingbøker*. In the control no missing cases appeared. On the other hand, several cases upon reaching judgment simply refer to missing folios that I have not been able to uncover. These cases are more or less equally distributed among the individual *skiprede*, the only outliers being Herløe and Mjelde with 9 and 2 sentences handed out respectively. An average of about 6 sentences are handed out in each. The plaintiff is almost as likely to have been a public accuser as a private one. However, of 53 individuals sentenced at the *ting* only 8 were female.

¹⁴⁴ For ease of reading the following does not include any graphs. They are all to be found in section 9.5 of the appendix.

Kings cases were also in the majority, as only 9 suits were civil. This is, however, only after cases concerning debt and property are taken out of the picture.

Most kings cases are related to violence(19), disobedience(12) and morality(13) follow. Economic (8) and vagrancy (5) were less frequent at the *ting*. No cases of witchcraft or peace disturbance are registered in this period. Private cases are chiefly insults (3), compensation (2) or privileges (3). Labor or family issues never appear.

The main form of punishment was monetary. Out of 103 individual punishments, an entire 50 of those were monetary. Legal fees, although also monetary, were also given 27 times. Other forms of punishment were simply not as common. Corporal punishments were only given 5 times. Death was almost as common, being handed out 4 times. As was penal labor.

Religious(2), expulsion (3), warning (1), mediation(2) and loss of land (5) were also in use. It is clear that in this period it was preferred to settle matters through use of fines, rather than use of public force.

3.7.2 1762-72:

For the period between 1762-72, 124 cases where a sentence was given were found in the *tingbøker*. In the control 5 cases appeared for the year 1762. However, no additional cases appear for the year 1769. It is probable that there are at least 10 cases missing in total for this period. These sentences are well spread out, the only outlier being Sartor(16). However, it is not possible to determine at which *ting* 13 of the sentences were handed out. Discounting these give an average of 9 cases a year across the other *ting*. In this period also, the main plaintiff was public, of 74 only 11 were private. However, there are 23 cases where it is not possible to ascertain whether or not the accuser was public or private. Assuming that these were all private, which is not at all certain, we are still left with the conclusion that most cases which reached a verdict were public. The defendant was in this period almost 6 times as likely to be male (61) as female (11). An interesting feature of this period is the large amount of group accusations. Most cases were kings cases (95) rather than civil cases (14).

The most common type of kings case are those related to disobedience (36) or moral (27). In this period there are no cases related to vagrancy. Economic (11) and violence (16) crime is also present, while witchcraft (2) and disturbance of peace (2) are rare. Private cases are only in relation to insults (14).

Most punishments doled out in this period are monetary (87) or legal fees (34). The third most common punishment is penal labor (14). Otherwise corporal (6), death (5) and mediation (2) are utilized sparingly. A religious punishment, open confession, is mandated by the court only once. It is clear that in this period monetary measures remained the preferred form of punishment.

3.7.3 1782-92

For the period between 1782-1792, there are 68 cases where a sentence was given were found in the *tingbøker*. In the control only 1 additional case appeared. Geographically most of these sentences were handed out at Sartor (15) and Schiold (8). No sentences are found for Gulen. Watswærn, near Voss today, also appears as a *ting* in this period with 7 cases. An average just above of 5 sentences were handed out at each *ting*. The main plaintiff was public (39), with only 12 private plaintiffs recorded in this survey. In this period 9 females are sentenced, compared to 49 men. Kings cases are two times as common as civil cases with 49 against 25 cases.

Most kings cases were moral (28), with only 21 other cases in total. Economic (9), violence (6), peace disturbance (2), disobedience (3) and (1) case of vagrancy. As we shall see, this is because of the introduction of stricter measures in regards to children born out of wedlock as prosecution of cases based on report of priests on children born less than 5 months after marriage in Sartor. No cases related to witchcraft appear. In this period economic (9) cases outnumber violence (6). One case related to vagrancy also appears. The most common form of private case was that of property (12) in this period. Otherwise the cases were related to insults (5) or privileges (2).

The most common forms of punishment doled out at the *ting* was that of legal fees (38) and monetary(42) punishment. On the other hand, other more physical punishments such as corporal (5), penal labor (8), death (2), expulsion (1) and loss of land (1) were in limited use. In this period, no punishments of a religious nature are recorded.

3.8 Analysis

A more detailed analysis is to come in the following chapters. However, it is possible to make some initial observations regarding the *ting* based on these findings at this stage. It is clear that violence, the most common sentence between 1742-52, was later replaced by moral cases as the prevalent issue at the *ting*. Disobedience was important in 1762-72, but this is to be

expected given the issues related to raising the tax and *Strilekrigen*. It would be unreasonable to assume that this was caused by less violence taking place in the daily life. Perhaps, it reflects a shift in focus of the *ting*.

However, a good example of the way one should always take the insights offered by this presentation with a large grain of salt is that of cases related to vagrancy. An important topic within 1742-52 with 6 cases registered, it disappears in 1762-72 and there is only one case registered in 1782-92. The problem is that one would not expect vagrancy, which was often caused by Norwegians travelling from poorer parts of the land either drifting or in search of work, to disappear in this period. Absence of evidence is not evidence of absence, and it is clear from the work done by both Hobbestad and Augerstad that there were several ways of prosecuting these people other than through vagrancy laws. The lack of such cases between 1762-72 could simply be that the *fogd* decided to sue such people for thievery or other laws that they may have been breaking rather than the act of vagrancy itself.

In private law insults were the main issue. This remained an important function of the *ting* across the entire period dealt with in this thesis. It is clear that the *ting* played an important part in settling private disputes between people. Within this thesis conflicts related to debts or property have been left out as they were not treated as crimes. However, much time was spent discussing and resolving such matters before the *ting*.

That cases presented here were mainly equally distributed among the *skiprede* support the claim that this information is representative. Large variations would be a possible indication of problems within registration. The appearance of Watswærn, and disappearance of Gulen, as a *skiprede* is simply the result of the area of *Nordhordland sorenskriveri* being altered. However, there were certainly more sentences handed out at certain *skiprede*. Sartor is an example of this, being only once close to the average in the period 1742-52. On the other hand Gulen, with a population roughly as large as Sartor, was a bit below average in both 1742-52 and 1762-72.

In 1762-72 the average of sentences handed out in each *skiprede* was 9, as compared to 6 in 1742-52 and 5 in 1782-92. While one should always be careful when using numbers in this way, it seems clear that 1762-72 was a period where the *ting* was in use a lot more. The reasons behind this will be explored in detail in later chapters, but from what we know about *Strilekrigen* this is to be expected. It is possible that the *tingbøker* can thus tell us something about the relative amount of conflict in a given community.

Individual differences, such as that of Hosanger always being beneath the average, are best explained through varying practice and space of interpretation at the various *ting*. As we have seen, the size of the population was not a central determining factor. Both the *sorenskriver* and the *fogd* had ample opportunity to influence the flow of an individual case. Due to the many unique social, cultural and situational factors that influence the decision made by a person to commit an action which later ends in a sentence, it is to be expected that such differences occur. Interestingly, as shown by Næss, regional differences existed within all of Norway in regards to the development of crime.¹⁴⁵

Monetary punishment was by far the preferred method of punishment at the *ting*. This remains the most common form punishment throughout the period treated here. Death was used sparingly as a punishment, only put into use 11 times in total and even being recorded at its lowest in the latest period. This is in stark contrast to the development observable in London where the use of the death penalty grew over time.¹⁴⁶

It should be kept in mind that running such an extensive legal system was not cheap. Thus, it can be assumed that monetary punishments were useful for keeping the legal system well oiled. The personal suffering induced by dealing out a heavy fine is also something to keep in mind. Finally, for the government fines represented a form of income. Løyland has shown that these fines could reach a considerable amount, but that the income through fines fell towards the 18th century as fewer people were able to pay them.¹⁴⁷ As we shall see later, the *sorenskriver* reserved stricter measures only those actions which were interpreted as serious crime.

Most women who received a sentence were on put trial for moral transgressions. It is however clear that women could appear on trial for a variety of different cases.. For the purposes of this thesis it is important to keep in mind that 18th century crime in *Nordhordland* was not a male-only pursuit.

¹⁴⁵ Næss, *Vold*, 1994, p. 68

¹⁴⁶ For an excellent book about how this development took place in England see: Linebaugh, *The London Hanged*, 1993

¹⁴⁷ Løyland, Margit, *Slagsmål, leiermål og bøtlagte egder 1600-1700*. Oslo 1992, p. 54

Chapter 4. Crimes against authority

4.1 Crimes against authority

Crimes against authority will be taken in this context to mean crimes which were committed by individuals against the state, rather than against property or other people. These are crimes such as *skysnekt*¹⁴⁸ and failure to pay tax as discussed in section 2.5. Not respecting the *ting* by giving a false testimony, or never even appearing before it, was also a challenge towards the state, which considered these crimes challenges against their own authority. Thus, one would expect these to not be taken lightly.

In this chapter, both *tingbøker* and the slave protocols from *Bergenhus* will be used to explore whether or not the government used law to defend itself. It is important to present exemplary cases that illustrates how the government could use the *ting* to punish people who went against the state and this will be provided initially. Subsequently, data from the *tingbøker* and slave protocols will be presented and analyzed.

This chapter will mainly be focused on the period 1762-72. This is because of the many cases that appear as part of the conflict which has later been labelled as *strilekrigen*. Such cases could potentially serve an important function for the state, both to punish those who went against the state and to state an example. People present at such a proceeding would certainly understand the lesson given. A few years before and following the *Strilekrigen* it is to be expected that more such crimes appear at the *ting* as unrest grows. These are questions which will be answered in the following, after a presentation of such a case as found in the *tingbøker*.

While a failure to pay tax is evidence of simple poverty, it also represents a direct challenge to the government. That most such cases in this period are related to people failing to pay an extra tax also shows that it should not be disregarded as simple poverty. If a tax was considered unjust, refusing to pay it was a way for peasants to express themselves. The peasants in 18th century Norway represented a group that had managed to make the government dependent on their support to successfully manage the province of Norway.¹⁴⁹

¹⁴⁸ Norwegian, the act of refusing to transport someone. Transporting people, especially officials, was a duty of peasants

¹⁴⁹ Dyrvik, Den Lange Fredstiden 1720-1814. 1978, p. 430

However, the choice to not pay a tax may have reflected real poverty as that claimed by Michel Winzenzøn Tøsøen below.

Other actions that are possible to see as disobedience towards the state are those of smuggling, not reporting a wreck or violence against superiors. These will be returned to in later chapters. For now it is important to make some further remarks on the limitations imposed by the classification in use here. Other forms of categorization, perhaps allowing for the possibility of classifying a case doubly as both a form of moral and authority crime, would have avoided this issue.

Among the 18 articles detailing the punishments to be given for different forms of attacking the monarch or otherwise going against royal power we find the crime of wishing to take the life of someone from the royal family.¹⁵⁰ This was to be punished heavily, by declaring both life and honor of the defendant forfeit. The death penalty was to be painful. At first losing their right hand, before being quartered and finally having both head and hand staked. Furthermore, if the defendant was a member of the nobility then the coat of arms was forfeit and the family and heirs would lose their social position. This was the sentence handed out to Struensee in 1772.¹⁵¹ Rian emphasizes that such laws were an innovation in a Norwegian context which acts as a feature of the law codes of the *enevelde*.¹⁵²

It is such an expression of force we see in 1765 in Bergen. For any government it is important to meet such challenges, and in this chapter it will be explored how they also used the *ting* to accomplish this. It should also be noted, that from a peasant perspective an armed rising was a desperate measure, only to be turned to when the peaceful measures had been exhausted.¹⁵³ However, it is clear that the government lacked the tools and power to make the peasants accept resolving the conflict without an element of reconciliation.¹⁵⁴ As we shall see below this was certainly the case in regards to *Strilekrigen*.

¹⁵⁰ Christian V's Cap 4, Sixth book

¹⁵¹ For more on Struensee and his career see: Amdisen, Asser, *Til nytte og fornøjelse : Johann Friedrich Struensee (1737-1772)*. Akademisk Forlag, 2002.

¹⁵² Rian, *Sensuren i Danmark-Norge*. 2014, p. 122

¹⁵³ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 98

¹⁵⁴ Dyrvik, Den Lange Fredstiden 1720-1814. 1978, p. 431

4.2 Accusing the *fogd*

It is important to note that the *fogd* could himself be put on trial by the local population. As seen in 1746 when the widow of Otthe Edvarsen sued the *fogd* Hans Thies Nagel for making false accusations during a property conflict.¹⁵⁵ She succeeds, and the *fogd* is convicted.

This is the only such case that I have successfully identified. Three possible reasons for this being such a rare occurrence would be the possible issue of making an enemy out of the *fogd*, the possible difficulty of winning a case against someone who worked with the *ting* and that if one could instead forward any complaints about the *fogd* to the *stiftamtman*n rather than try one's luck at the *ting*.

4.3 Not appearing before the *ting*

Not all put on trial actually appeared before the *ting* to defend themselves. In 1762 it was common that someone would not turn up if sued for not paying the extra tax. When dealing with other forms of failure to pay tenure, such as *landsskyld*, people appear. By not appearing for the court, the defendant is unable to admit guilt or be forced to defend himself.

The assumption that not appearing was a form of protest is one that is not possible to support given the available evidence. Furthermore, there are several other reasons why someone would ignore their summons. For example, they could be trying to avoid the shame of appearing on trial, experience geographical difficulties or be wishing to postpone the case to help gather witnesses or evidence.

On the other hand, not appearing or otherwise deciding not to defend oneself can also be interpreted as a form of self-censorship. As underlined out by Rian, the fear of expressing oneself is an important tool for the ruling classes.¹⁵⁶ By not defending their case, defendants gave the representatives of local authority the power to define what had transpired before the *ting*.

However, even if it is accepted that this represented a form of disobedience it is very difficult to register it as such. For the purposes of this investigation, it must remain a *possible* sign of growing resentment and/or lack of respect for the *ting* - a sign that it is sadly not possible to

¹⁵⁵ TB, Nh1746 b41, pp. 204-204b

¹⁵⁶ Rian, *Sensuren i Danmark-Norge*. 2014, p. 29

investigate further. On the other hand, the fact that such actions were criminalized, on pain of a monetary fine, does help shed some light on the view taken by the authorities.

4.4 Relevant data found in the *tingbøker*

From the data presented in chapter 3, the following can be extracted which is directly related to the way disobedience was dealt with in the *tingbøker*. The following tables show the spread of cases over time, the second what type of punishment the *sorenskriver* would give for such cases. As discussed above such crimes were not all that common: they make up 29% of all cases in 1762-72, but only 16% in 1742-52 and 4% in 1782-92. The clear increase in 1762-72 are best understood as a result of the fact that many cases regarding the *ekstraskatt* were dealt with in the *ting*. That people related to *Strilekrigen* do not appear in the source material is a point I will revisit later. For now it is important to note that there were relatively few such cases at the *ting* overall.

Tab. 3: Number of crimes against authority

1742-1752	12
1762-1772	36
1782-1792	3

Tab. 4: Sentence given for crimes against authority:¹⁵⁷

Authority punishment	1742 - 1752	1762 - 1772	1782 - 1792
Corporal	0	1	0
Monetary	11	35	3
Legal fees	3	8	1
Penal Labor	0	0	0
Death	0	0	0
Mediation	0	0	0
Loss of land	0	0	1
Warning	0	0	0
Oath	0	0	1

¹⁵⁷ Note that a double, or even triple, sentence was not at all uncommon.

That the heavier punishments, such as death or other disciplinary corporal punishments such as whipping were not doled out for such signs of disobedience is interesting. At the outset, I assumed that such crimes would be punished heavily. Instead, it is clear that monetary punishment was preferred. As most of these cases are linked to tax it is possible that monetary punishments were simply preferred because the aim of the tax was to finance the state. However, if one is to assume that the authorities saw such actions as disobedience towards the state it is interesting that they were not punished more heavily. This goes against assumptions made earlier regarding how the authorities used the *ting*.

4.5 Relevant data found in the slave protocols

As shown above the slave protocols offer some insight into other forms of disobedience that appeared in the period 1767-72 which did not appear at the *ting*. This is not altogether unexpected, as we know that a commission represented the government in this conflict. However, it should be noted that two noted leaders of the peasants are put to work at Bergenhus without prosecution at the *ting*. That they do not appear at the *ting* would support the hypothesis that it was a body to solve conflict between people at a local level, but not between state and person for such large matters.

Of these two leaders, Ole Swindahl and Ole Heivig, it is possible that Swindahl was supposed to make an appearance at the *ting* only once in the period 1762 -72. Here Ole Monsen is recorded as filling in for him due to his absence as a *lagrettemann*. This would be in keeping with the image of Swindahl as a leader, but it on the other hand Heivig makes no such appearance. That is not to say that one would have to be active at the *ting* to be important within peasant society, but it does go against the idea that the *ting* was the main arena for solving conflicts.

4.6 Who accused whom?

An important question here is whether or not these accusations represented the work of public officials, and thus the government, or if local peasants were also involved in dealing with such actions. The following tables demonstrate the trend here.

1742-52 Accused:	Authority
Public Accuser	6
Private Accuser	6
Unknown Accuser	0
Total	12

1762-72 Accused:	Authority
Public Accuser	31
Private Accuser	0
Unknown Accuser	5
Total	36

1782-92 Accused:	Authority
Public Accuser	2
Private Accuser	1
Unknown Accuser	0
Total	3

Tab. 5: Accusers of authority crime

Clearly, it was in the interest of both local individuals and public officials to bring such matters before the *ting*. However, this clearly demonstrates the conflict which took place in 1762-72 where seemingly all such cases were initiated by public officials. It is possible that the 5 unaccounted accusers were all private in this period, but even then it would follow that only 6% of of these cases were brought before the *ting* by locals.

4.7 Case examples

4.7.1 The case of Ole and Anders Heggøen 1747

At the autumn *ting* in Sartor on the 13th of December in 1747 the two brothers Ole and Anders were both sentenced to a monetary punishment.¹⁵⁸ They were sued by Christian Dreyer as they had failed to assist him in his making an arrest. Failing to convince the *ting* that they had not known that the *fogd* had appointed them to give assistance at such proceedings or that they had rightfully registered themselves as *loser*; a person who worked with guiding ships in difficult waters and therefore enjoyed certain rights and privileges. Thus, the *sorenskriver* argues that they had “quietly acquiesced” to their appointment and are therefore guilty in refusing to assist in the arrest.

¹⁵⁸ TB, Nh1747 b41, pp. 303b-304

For this they both had to pay a fine together to *Bergenshospitalet*, 7rdr, as well as the legal fees, 8rdr, incurred by Dreyer. This case, the only of its kind that I have been able to find in the *tingbøker*, illustrates one of the methods for punishing those who hindered legal proceedings. That Dreyer, who was working for the *fogd*, pursued this into the *ting* shows that it was not taken lightly by people working for the authorities, when peasants did not give assistance. On the other hand, it is possible that the reason such cases do not appear elsewhere is that they would be settled out of court when the defendants did not feel that they had had a right to refuse. The Heggøen brothers had put emphasis on their belief that people who assisted and helped ships unload had the right not to assist the authorities in such tasks.

4.7.2 The case of Michel Winzensøn Tøsøen 1770

At the summer *ting* in Sartor, beginning on the first of May in 1770, three sentences were passed against people who had failed to pay their extra tax. They were all sued by the *Fogd* Hejberg and in each case an action already undertaken by the *Fogd*, confiscating 2mrk butter, was upheld by the *ting*. Tøsøen was one of those three brought before the *ting*.¹⁵⁹ He was there together with his brother who was also on trial for not paying tax in his own separate trial. When brought before the *ting* he is recorded as saying that he did not have any explanation for what he had done, other than his poverty and weak body: furthermore, that he humbly hopes that the king can take pity in his situation and relieve him of tax.

The *Fogd* is then recorded as saying that while he was aware that Michel was poor, he must nevertheless claim verdict. There would be no pity for Michel and the acquisition was confirmed. Claiming poverty was clearly not enough to avoid the law. The Michel we meet in the sources is also very humble, merely hoping for mercy. This goes against the violence shown during *Strilekrigen*, but suits the role taken by the peasants following it. However, Tøsøen serves as a reminder that one of the main reasons peasants would try to avoid paying tax was simply to improve their livelihood. At the very least it was the reason they gave when defending themselves at the *ting*.

4.7.3 The case of Michel Rasmusen Indre Lyhren 1788

At the autumn *ting* for Lindås on the 16th of October in the year 1788 Lyhren was involved in a case related to *skyssnekt*.¹⁶⁰ He had refused to transport the Capitaine von Brügger because

¹⁵⁹ TB, Nh1770 b45, pp. 152-152b

¹⁶⁰ TB, Nh1788 b47, pp. 313-313b

he had corn to cut for harvest. This excuse is seen as unacceptable by the *ting*. It is emphasized that it was wrong to hinder a man on the King's business and that this must take priority above the concerns of the peasant. He is sentenced to a monetary fine and to pay the legal fees incurred by Brügger who has sued him. In part this reflects how the *ting* could discipline the population.

However, Lyhren is given the chance to avoid his punishment by delivering an oath at the next *ting* stating that he knew that the transport that was being requested would have been free. Here we find the *ting* making an example, demonstrating that for peasants such as Lyhren that transport was a service which people living in areas such as these were expected to provide as they were *afsiides* and *uden for den almindelige vej*.

4.8 The lack of crimes against authority within the *Tingbøger*

Interestingly, there is a relative lack of crimes against authority in the data presented above. However, it should be noted that crimes of disobedience are more common during times of war.¹⁶¹ This also goes against the idea that it was the most serious crimes that appeared at the *ting*. However, the years 1762-72 make up the period with the most cases connected to disobedience. It is possible that this could indicate a period of wide-spread unrest which culminated in the uprising, though this remains speculation: to test this hypothesis one would have to undertake a similar investigation in a contemporary uprising elsewhere within Denmark-Norway elsewhere.

That the authorities decided not to prosecute rebels through the *ting* is significant. One would assume it to be important to use the *ting* to defame those who dared rebel publicly. That they chose not to, is possible evidence that the authorities did not see the *ting* as their own institution. Possibly, the *ting* was simply far too slow moving for officials wishing for swift justice. The lack of people recorded as receiving any sentence at the *ting* shows that the material treated within this thesis is not representative of all legal proceedings that took place in *Nordhordland*. It is possible that a wider investigation, such as looking at the *Stiftamtman* records, would show other ways that the state could mete out punishments.

Foremost, it is clear that while certain crimes such as *skysnekt* are clear challenges to local authority they are lacking in the source material dealt with here. It is possible that it is a question of chance that no more cases are present. In any case, there are far fewer occurrences

¹⁶¹ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 93

than expected at the outset. There are only two forms of crime that appear in all sets of data: failure to pay tax and refusing transport. This shows that while the authorities did use the *ting* to punish certain forms of disobedience; it was a relatively rare occurrence that actions such as *skysnekt* were dealt with at the *ting*.

Furthermore, raising taxes in itself, presented a formidable challenge to the early modern state. After all, given the extent the lands contained within Denmark-Norway it was no easy task to ensure that everyone contributed to taxes as they were introduced. To ensure that their citizens cooperated states could use a variety of tools. Threatening confiscation or other forms of utilizing state force were accepted forms of problem solving. Dørum and Sandvik emphasize that the use of strict measures such as mortgages, and forcing such debtors to allow soldiers to billet on their land, led to a high rate of confrontation.¹⁶²

Supplikker were the main method of appeal. Summarily, they were letters written to the king wherein he was asked to respond to a question. These *supplikker* were sent by the local population to the majesty in the hope that he would intercede on their behalf. A significant amount of such material was written and sent to Copenhagen, though most of these were sent by citizens dwelling in cities.¹⁶³ Rian illustrates the nature of these petitions by referring to them as prayer letters.¹⁶⁴ Such appeals could potentially lead to an alternate sentence and thus represented an alternative to the justice found at the *ting*. It is telling that all death penalties needed to be confirmed by the first court of appeals.¹⁶⁵ It is nonetheless important to keep in mind that the peasants were well aware that such measures existed. Successful appeals demonstrate that the solutions found at the *ting* could be challenged and be resolved by other means later.

However, these letters also represented attempts by people to make the majesty help them reach their goals. This view should not be overestimated; the king was very much in control of how these appeals took place and could make decisions that went against the wishes of the peasants.¹⁶⁶ The *tingbøker* help provide part of this picture as it is here we find the fates of

¹⁶² Dørum, Knut og Sandvik, Hilde, Nytt om opptøyer og opprør, in *Opptøyer i Norge 1750-1850*, Oslo, 2012, p. 41

¹⁶³ Sandvik, Tidlig moderne tid i Norge. 2005, p. 131

¹⁶⁴ Rian, *Embetsstanden i Dansketida*. 2003, p. 9

¹⁶⁵ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 47

¹⁶⁶ Rian, *Sensuren i Danmark-Norge*. 2014, p. 59

people being sentenced for minor forms of crime. Whether inspired by avarice or villainy, people decided to go against the state and commit acts which could aid them.

4.9 Disturbing the peace, social control at the *ting*

Another form of disobedience, that of disturbing the peace, is exemplary of the form of social control which took place at the *ting*. Among these cases, examples are found of people who are put on trial for going against both the social codes of their neighbors and other laws. It is possible that these cases represent situations where the local community reacts towards an individual, whom they had wished to pursue over a prolonged period of time. That these cases involve several allegations being made, before the defendant is finally sentenced for disturbing the peace, would seem to indicate their controversial standing in society.

In 1762, Joen Nielsen was put in trial following an incident where he had seemingly contributed to a fire breaking out.¹⁶⁷ Along with this allegation came that of Nielsen having lead a sinful life as a drunk and for having treated his wife badly. It is clear from the proceedings that Nielsen was a person who had not managed to stay afloat in life and struggled with possible alcoholism. Finally, he was sentenced to three years of slave labor at the fortress of Bergenhus.

Another example of using the *ting* as a tool for social control is seen by the two sentences handed out to Ingebor Tostensdatter. In the years 1767 and 1769 she was sued by the *fogd* Hejberg for leading an ungodly life and keeping an unruly house. On the first trial, which took place in Arne, she was sentenced to 6 months of labor at the Bergen *tukthus* and for a monetary fine of 3rdr 9mrk in total.¹⁶⁸ However, on the second trial, in Herløe, it was emphasized that she had continued to keep an unruly house and she was sentenced to a further 6 months of slave labor.¹⁶⁹ Tostensdatter illustrates clearly that if an individual continued to commit a transgression following a sentence further punishments would be handed out.

4.10 Dealing with the peasant leadership in the 1760s

From an official perspective, it was imperative that the challenge posed by the peasants was dealt with. Having refused to pay their tax, they had gone on to physically beat a public

¹⁶⁷ TB, Nh1762 b44, pp. 120-120b

¹⁶⁸ TB, Nh1767 b44, p. 417

¹⁶⁹ TB, Nh1769 b45, pp. 114b-115b

official. Use of judicial punishment represented one possible tool for facing them. What is noteworthy is that the *ting*, as an established institution, was not used to deal with those who had fought in Bergen. This supports the conclusion drawn by Sandmo & Dobbe that the *ting* was primarily used to solve conflicts between peasants.

Slettebø has examined the local officials' reaction in Bergen by taking a closer look at the letters sent by the contemporary mayor of Bergen, Hildebrandt Meyer, to the official Bolle Willem Luxdorff in Copenhagen. These indicate that they took steps to restore order, in concord with those soldiers they trusted both through security measures and dialogue, but that order was only restored through the peasants leaving after being paid their money back.¹⁷⁰

That the peasant leaders would appear in the slave protocols, but not in the *tingbøker*, is thus to be expected. Forced labor provided a heavy punishment, which could be thought to prevent future insurrection. Having identified key leaders, the commission had the authority to punish them as they saw fit. It also prevented the peasant leadership from getting a chance to speak out at the *ting*. Rian concludes that the commission was successful in reaching the goals of the government.¹⁷¹

4.11 Insurrection at the *ting* – A form of dialogue

As noted above, crime against authority being treated at the *ting* was only commonplace in 1762-72. If the *ting* is to represent the institution where the locals debated important matters with officials, then it would be expected to follow that issues that arose between them would often appear. However, this does not seem to be the case. Such cases appear sparingly. *Skysstekt* for example, such a common case in the 17th century almost entirely absent in the material covered here.

In the many cases regarding the extra-tax they are handled swiftly and sometimes even with a large number of people on trial at the same time. Most appear as Michel Winzensøn in 1770 before the *ting*, and plead their poverty as the cause of their failure to pay the tax.¹⁷² To Michel the *fogd* Hejberg simply answered that he was aware of his poverty, but that he had to sue him on the behalf of his duty. On the other hand, it is clear that many chose not to appear before the court at all. This is illustrated by a case appearing in 1771 when Hejberg having

¹⁷⁰ Slettebø, *Strilekrigen i Bergen i 1765*. 2012, pp. 60-64

¹⁷¹ Rian, *Sensuren i Danmark-Norge*. 2014, p. 606

¹⁷² TB, Nh1770 b45, p. 150

sued Bratetougle, Carl Kaalsaas, Jon Kaalsaas and Kolstad, for failure to pay tax is forced to have them sentenced *in absentia*.¹⁷³

That it was at all possible to seize property to pay off the tax would seem to indicate that it was monetarily possible for at least most of the accused to actually pay their tax, but that they chose not to. That this was a decision taken due to conviction rather than necessity is further supported by what we know of what transpired during *Strilekrigen* and the argumentation laid forth by the rebels. Thus, we are left with the conclusion that the refusal to pay the extra tax commonly was a willed challenge to central authority. Couched in arguments of loyalty towards the king, this represented a challenge towards local authority acting.

As discussed above, failing to appear before the *ting* was a sign of resistance, which was itself punishable. Thus, such cases as that of Bratetougle do represent a wide spread resistance towards the enforcement of the extra-tax. However, this is at best a poor form of dialogue. That many were opposed to the introduction of a new tax during the 1760s is clear; that they actively used the *ting* to make their complaints heard is not apparent.

A closer examination of all the forms of defense offered by peasants during *strilekrigen*, in part as offered by Slettebø, would be required if one wished to examine forms of resistance against the extra-tax. In this context, it provides clear insight into how the *ting* was in use during important conflicts between peasants and the local officials.

It should be noted that these numbers are based on the definition of crimes against authority as offered here: it is clear that these numbers are not exact. However, they are what appear in the *tingbøker*. As such, they represent those cases that were important enough to be on trial. As we have seen, a trial could be a very costly affair. Thus, these numbers can be said to be representative or at least to represent a conservative estimate. It is possible that other sources would yield more cases.

A possible explanation could be found in the *sakefallslister*. They have not been covered in this survey. However, as noted above in chapter 3. they offer the records held by the *fogd*. It is possible that by the 18th century cases such as *skyssnekt* were quickly dealt with through *soning*.

¹⁷³ TB, Nh1771 b45, pp. 269b-270

4.12 Uprisings in 18th century Norway

That such uprisings took place is clear. A secondary question is whom the peasants were rising against. Slettebo and Sætra have both investigated these insurrections as challenges to the Danish-Norwegian state. Another possibility could be that they rose against local officials, remaining loyal to the king. As seen above the *tingbøker* offer limited insight into this question. The majority of the cases that do appear are related to failure to pay tax, an action that was traditionally dealt with by the *fogd* through the *ting*.

On the other hand, as pointed out by Sandnes, the resistance shown by peasants was towards *new* taxes and were caused by the perceived lack of legitimacy they carried.¹⁷⁴ One should be careful in drawing the conclusion that the insurrections described here represented widespread resentment of the Danish-Norwegian state. That they did not protest against existing taxes would seem to support the conclusion that the peasants were responding to changes in their daily life, as opposed to peasants organizing themselves against an oppressive regime. Within this view, the violence used by the peasants from Nordhordland becomes a form of communication.

As discussed above investigating the *tingbøker* from places where insurrections took place, in the relevant periods, would be a possible way of exploring how the *ting* was used to deal with insurrections, or how the *tingbøker* can be used to find traces of resentment. This would help shed light on how we are to interpret the data found in *Nordhordland*.

4.13 Conclusion

The *ting* largely reflected the needs of the local population wanting social control than as a means for the authorities to punish the population. The lack of cases outside of 1762-1772 demonstrates this, but even in this period there were very few cases not related to the paying of tax itself. It is very difficult to separate certain forms of crime from others. It could be seen as disobedience to not register a beached whale. A crime that has been labelled here as economic given the incentives to do so. This is a question which will be returned too in chapter 7.

Within this thesis, it is argued that not paying tax can be considered an act of defiance. However, it is a question worthy of further research whether or not it simply reflected a farm

¹⁷⁴ Sandnes, *Kniven, ølet, og æren*. 1990, p. 106

or peasant falling on hard times. As mentioned above, the quantitative approach taken here does not lend itself particularly well to such qualifying information. Dybdahl has determined that there were three sets of years with particularly bad harvests. However, these have not correlated with cases of people not paying tax.

Before starting this project, I had expected to find traces of the uprising that took place in 1765. The growth of cases caused by the introduction of a new tax also correlates with this. Furthermore, the conflict was caused by a disagreement over these taxes and in that regard, my hypothesis was correct. However, that so few cases appear related to other forms of disobedience, such as refusing transport, in a period where one would have expected a growth of resentment among the peasants, speaks against the way such crimes are viewed here.

It is especially significant that those who were sentenced for their role in the insurrection were given their sentence by a commission and do not appear at the *ting*. An important claim laid out in the introduction is that it ought to be possible to identify signs of insurrection or rejection of local authority at the *ting*. On the other hand, the possibility of dealing with such insurrections outside of the *ting* shows that this may not be the case.

Chapter 5. Crimes against person

5.1 Crimes against person

Crimes against person is a category encompassing all forms of violent actions made towards a person's body and social standing. This includes more mundane conflicts, such as disagreements where two people throw insults at each other, to more severe actions such as murder. No attempt has been made to separate between an action done by hand or with a weapon. This is a common distinction to make for those primarily interested in how violence appears to be altered through a civilizing process.

However, here the main focus is on the number of such occurrences; and though the punishment given can lend us some aid in ascertaining the relative severity of the action being sentenced, the primary interest of this chapter will be to what extent such crimes were resolved at the *ting*. Thus, both the sentences and punishments given will be explored below.

Crimes committed against a person are of particular interest as they represent those actions that are particularly exciting to the modern imagination. The idea that 18th century peasants were more violent than the people we encounter in *Nordhordland* today is one that is worth discussing. Furthermore, as discussed above, violence reflects thievery. It is important to keep in mind that the contemporary definition of violence also included actions we would today define as vandalism.¹⁷⁵ Here the contemporary definition is accepted.

There were several articles in the law regarding the various forms of violence that could occur.¹⁷⁶ A differentiation was made between those wounds caused that were visible, for example by removing an ear, and those that were not. However, the main rule is laid out in the 2nd article that if someone causes superficial physical wounds, that person must pay three measurements of silver. Monetary punishments were the main form of punishment for such acts and with the severity of the action they increased threefold.

In this chapter, the information extracted from the *tingbøker* will be used to explore the extent to which the *ting* was used to defend personal rights. Some exemplary cases will also be presented initially, to better illustrate what type of action we are interested in here.

¹⁷⁵ Sandmo, *Slagsbrøde*. 1999, p. 169

¹⁷⁶ Christian V's Norske lov cap.7, Sixth book

It is important to keep in mind the issues related to defining a case as a crime against person. It is possible that the violence recorded here only reflects a by-product of an attempt to steal, work on a holy day or refuse someone transport. By only focusing on the action of violence itself, the surroundings are easily lost and it is possible that some cases are too hastily added to this category. If someone were to strike a superior, for example a tax collector, it will be placed in this category. However, such an action would also be able to belong among the category of disobedience.

Given the common expectation that people were more violent in the 17th century, one would expect such cases to be prevalent at the *ting* well into the 18th century. Since fines were a common punishment for violence there were strong incentives in place for the *fogd* to bring such a case to the *ting*. However, if it really was such a common occurrence, this would point towards other expedients, such as *soning*, being used. Furthermore, even in cases where one party ended up worse off than the other, most people would benefit monetarily from not bringing such a case before the *ting* as both parties could be prescribed a fine.

5.2 Relevant data found in the *tingbøker*

From the data presented above in chapter 3, the following data can be extracted which is directly relevant for the discussion which will be undertaken in this chapter. The following tables show the spread of cases over time, and what type of sentence the *sorenskriver* would pass for such cases. These cases were often present at the *ting* in each set with and represented roughly 30% in 1742-52, 24% in 1762-72 and 16% in 1782-92 of all cases.

Tab. 6. :Number of crimes against person

1742 - 1752	22
1762 - 1772	30
1782 - 1792	11

Tab. 7: Sentences given for crimes against person:¹⁷⁷

Person punishment			
	1742 - 1752	1762 - 1772	1782 - 1792
Corporal	0	2	0
Monetary	22	28	10
Legal fees	13	14	10
Penal Labor	0	4	1
Death	1	2	0
Mediation	1	1	0
Loss of land	0	0	0
Warning	0	0	0
Oath	0	0	1

The death penalty was given in those cases that ended in the murder of another person. However, the main penalty remained monetary with set fines for being involved in a fight. In 1762-72 there was a rise in how many defendants received the punishment of penal labor. This increase was caused by limited penal labor being administered to those who were found guilty of insults. Slave labor was a possible fate awaiting those who settled their scores by force, but without the means to pay the resulting fines. It should be noted that while murder carried the heavy sentence of death, there remains the question of intent which would be relevant in a modern court. In contemporary courts a murder remained a murder. Conversely, if someone did not actually kill someone in a situation where they very well could have such as with a knife, the defendant would receive a monetary fine. However, all cases that ended in a death sentence were appealed and could receive a milder sentence in a higher court.

5.3 Who accused whom?

A possible line of inquiry towards the question of whether or not Nordhordland was a violent society is to examine who it was who accused people in cases related to violence. Doing this produces the following tables (note that the larger total is influenced by the number of cases where it is not possible to assert who the accuser was) :

¹⁷⁷ Note that a double, or even triple, sentence was not at all uncommon

1742-52 Accused:	Violence	Insults
Public Accuser	8	0
Private Accuser	11	3
Unknown Accuser	0	0
Total	19	3

1762-72 Accused:	Violence	Insults
Public Accuser	8	4
Private Accuser	3	6
Unknown Accuser	5	4
Total	16	14

1782-92 Accused:	Violence	Insults
Public Accuser	5	0
Private Accuser	0	5
Unknown Accuser	1	0
Total	6	5

Tab. 8: Accusers of person crime

What these totals demonstrate is that insults were largely brought before the *ting* by private people intent on defending their honor. Violence was more commonly publicly accused by the *fogd*, but, especially seen in 1742-52, private people could also choose to bring such a case before the *ting*. The reasons for someone to decide not to bring a case before the *ting* have been deliberated upon in chapter 3. However, this shows that physical violence was something that the *fogd* wished to prosecute more than the local population.

5.4 Case examples

5.4.1 The case of Brithe Sieursdatter and Marie Nielsdatter 1744

In 1744 Giert Henrich Schriver, a local living in Herløe, sued his two servants Brithe Sieursdatter and Marie Nielsdatter for their violent actions which had caused him economic damage to the roof of his boathouse.¹⁷⁸ The claim was laid forth that they had often thrown stones on the roof, and a witness was brought in who could testify that she had seen them perform the action. The accused appear at the *ting* and confess to having performed the deed.

¹⁷⁸ TB, Nh1744 b.41, pp. 61b-62

They are sentenced to both compensate Schriver his economic loss of 6rdr, but furthermore to pay violence fines of a total of 30rdr due to the violent nature of their actions. Legal fees of a total of 1rdr are also to be owed. The heavy fine is asked for as a warning to other “evil humans”. Upon failing to pay the fine, as is expected given their social rank, it is mandated that the defendants are to be put to slave labor in the *tukthus*.

5.4.2 The case of Simon Monsøn Østreim 1771

In 1771, the *fogd* Hejberg sued Simon Monsøn Østreim for violence and drunkenness.¹⁷⁹ As in 1770 where he was also put on trial Østreim decided not to appear before the *ting*. Furthermore, no one appeared to provide a defense. The *sorenskriver* thus decided to pass a judgment on him *in absentia*. He emphasized the testimony provided by four witnesses which made it clear that Østreim had been both drunk and violent in an inn near Kiilstrømmen. Attacking two men with his fists he was seen as guilty of fighting. It was emphasized that he had not been provoked. Furthermore, these actions had been performed during the *ting* that had been held the same place.

Thus, the *sorenskriver* concluded that Østreim had to pay a double violence fine of 18rdr. Once for the attack itself, and once further due to his being drunk. Finally, he also had to pay the legal fees of 3rdr. If he were to fail to pay this fine, he would have to suffer the penalty on his body. This could either be jail or other corporal punishments.

5.4.3 The case of Johannes Andersen Gierstad 1785

In 1785 the *fogd* Wangenstein sued Johannes Andersen Gierstad, from Mielde, for having attacked Johannes Monsen.¹⁸⁰ This was a case from the previous year, and as in 1784 Gierstad had decided to provide no form of defense. Wangenstein used the testimony from two witnesses to prove his case.

Finally, Gierstad was sentenced for having grabbed Monsen by the hair, and throwing him on the ground. For this he was sentenced by having to pay a 18rdr violence fine and 4rdr in legal fees. He was sentenced *in absentia*. A possible show of disregard for the *ting*, it could also be possible that Gierstad had given up on being able to defend himself.

¹⁷⁹ TB, Nh1771 b45, pp. 278-278b

¹⁸⁰ TB, Nh1785 b47, p. 59b

5.5 Denmark-Norway – a violent society?

Næss has investigated several point surveys undertaken in Scandinavia to establish patterns of violence. He concludes that violence reached a zenith in the early 17th century, before dropping dramatically towards the beginning of the 19th century when it began to slowly rise again.¹⁸¹ Næss claims that this was caused by increased, and more effective, state control and military conscription.¹⁸²

Sandnes has evaluated the claim as to whether or not 16th century Norway can be said to have been a “*voldssamfunn*¹⁸³”.¹⁸⁴ He concludes that even though violent actions, and particularly the use of knives, were widespread a growing civilization process can be seen from the 15th to the 16th century.¹⁸⁵

On the other hand, Sandmo has emphasized that violence was not a mental category with which peasants could label certain actions.¹⁸⁶ Rather, their focus remained on the peace and friendship between others and it was rare that anyone was labelled as violent as such.¹⁸⁷ On the whole, Sandmo warns that using the modern definition of violence on past actions is to rob the perpetrators of the cultural frame of reference from which they performed these actions.¹⁸⁸ This would be to not afford sufficient understanding towards how certain actions, such as that of stabbing someone, may have been used as a form of discourse.

A difference between the city and the countryside has been observed by other historians who have worked with violent crimes in 17th century Norway. In their view, the cities contained more violence than the comparatively peaceful countryside.¹⁸⁹ While numbers from either Bergen or Christiania are not available for this thesis, the rate of about 20 violent crimes in the first two periods would be expected to be relatively low.

Based on the numbers extracted for this thesis and presented above, it can be claimed that violence became less frequent towards the 18th century. This would support the conclusions drawn by both Næss and Sandvik. However, one should be careful to make such claims based

¹⁸¹ Næss, *Vold*, 1994, p. 77

¹⁸² Næss, *Vold*, 1994, p. 78

¹⁸³ Norwegian, literally translated as a society of violence, a term used by Norwegian historians.

¹⁸⁴ Sandnes, *Kniven, ølet, og æren*. 1990, p. 64

¹⁸⁵ Sandnes, *Kniven, ølet, og æren*. 1990, p. 84

¹⁸⁶ Sandmo, *Slagsbrøde*. 1999, p. 216

¹⁸⁷ Sandmo, *Slagsbrøde*. 1999, p. 217

¹⁸⁸ Sandmo, *Slagsbrøde*. 1999, pp. 219-20

¹⁸⁹ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 71

on the limited amount of data that has actually been quantified here. On the other hand, for Nordhordland the trend does seem clear. Even if it is possible that violence remained a significant part of life elsewhere, at the *ting* it became a less frequent topic.

5.6 Violence – a sign of not accepting norms?

It is possible to take the view that by committing a violent attack a person decides to go against the norms of society. To see whether or not this is the case in regards to 18th century Nordhordland one must look at the punishments it would incur compared to other actions punished at the *ting*.

The person physically attacked was important in determining the punishment to be given. After all, what made *strilekrigen* such a dramatic conflict was that the peasants had gone as far as physically attacking a *stiftamtman* and threatening to take his life.¹⁹⁰ This is also reflected in the laws, where attacking public officials carried firm punishments. It is these instances which stand out when looked upon through modern eyes. However, it was far more common that people attacked others within their own social class. Many cases found at the *ting* also reference alcohol being involved. Such cases carried a set fine which was due to the majesty for breaking the peace. It could be increased based on the severity of the action, or in other words whether or not weapons had been used or if the defendant had drawn blood.

After all, violence could also lead to worsened interpersonal relations. Sandmo illustrates how this could take place through the example of Olav Mydland and Jakob Hauge who only managed to resolve their conflict through use of the *ting* 20 years later.¹⁹¹ That is not to say that Mydland and Hauge necessarily represented a norm, but it certainly shows that conflicts could last for a long time.

When one compares a set fine, for example the normal rate of 9rdr in 1762, to the corporal punishments administered for other transgressions it is clear that contemporaries less stigmatized the use of violence. Furthermore, the fine for pre-marital sex, or *leiermål*, was set to be 12 rdr and also points towards the relative acceptance of violence. It is important to turn towards the question of *ære*¹⁹² and see how the local population defended theirs. Why the fine for *leiermål* was set so high is a question we will return to in chapter 7.

¹⁹⁰ Slettebø, *Strilekrigen i Bergen i 1765*. 2012, pp. 55-56

¹⁹¹ Sandmo, *Slagsbrøde*. 1999, p. 204

¹⁹² Norwegian, honor

5.7 The importance of *ære*

As we have seen violence did not carry a heavy punishment. It is important to turn to the second form of activity included within the umbrella of crimes against person, namely insults. Insults constituted an attack on the honor of a person rather than his or her body. In other words, the public persona and their social standing was under attack. Sandmo offers the possible explanation that honor defined *tilhørighet*, affiliation being a viable translation, of a person.¹⁹³ On the one hand honor represented a fundamental social and cultural aspect of the character of any given person. A person who had this was better off than a person who did not, and it is clear that people saw it as important to defend theirs from outside attack. However, what it actually was and what it represented is far from clear.

However, handing out frequent insults and thus losing friends in the local community could lead to a reaction in the *ting*. This can be seen in 1766 where Sylvi Joensdatter was sentenced to slave labor in the *tukthus* for 3 years as an evil woman.¹⁹⁴ This was a reaction brought about by her repeated offence of insulting others.

Sandmo also argues that honor was important in defining what was true, in the sense that an honorable person's word carried more value.¹⁹⁵ It was the *ting* which determined what was true when a person was under such an attack on his or her veracity, thus both resolving the conflict and conferring truthfulness.¹⁹⁶ The many cases related to violence in the early 17th century have been linked with honor as resorting to violent force was a method for defending oneself from false accusations.¹⁹⁷

Losing honor was no trifling matter. Legally one stood to lose rights and freedoms within society, such as but not limited to that of bearing witness, gaining citizenship in a city or bringing someone before the court.¹⁹⁸ However, even in cases that ended in a sentence it was possible for the King to later restore a person's honor.¹⁹⁹ Sandmo has emphasized the importance of honor in pre-modern society in determining what he describes as "samfunnets

¹⁹³ Sandmo, Erling, *Æren og Ærekrenkelsen*. in Tønnesson, Kåre, Red. Det 22. nordiske historikermøte, *Rapport II: Normer og sosial kontroll i Norden ca. 1550-1850*. Oslo 1994, p. 82

¹⁹⁴ TB, Nh1766 b44, pp. 326-326b

¹⁹⁵ Sandmo, *Slagsbrøde*. 1999, p. 113

¹⁹⁶ Sandmo, *Slagsbrøde*. 1999, p. 124

¹⁹⁷ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 98

¹⁹⁸ Sandmo, *Æren og Ærekrenkelsen*. 1994, p. 82

¹⁹⁹ Rian, *Sensuren i Danmark-Norge*. 2014, p. 535

grenser” or the community boundaries as I will translate it here.²⁰⁰ He has also concluded that the question of honor became less common towards the end of the 18th century as the judicial authorities attempted to reduce local norms regarding honor through the law codes.²⁰¹

How attacks on a person’s honor should be defended by the law is laid out in the 21st chapter of Christian V’s law. The punishments prescribed are monetary and corporal. Honor was also to be restored to the injured party. For a person accused of something dishonorable, such as being a thief, bringing the case before the *ting* was important in order to not lose this social construction. Furthermore, it follows that not bringing such cases before the *ting* could be interpreted as tacit acceptance.²⁰²

It is important to keep in mind that honor was by no means only an exclusively Norwegian phenomenon. Various forms of personal honor, and methods for defending it, are found in Europe and America and defending honor through dueling continued well into the 19th century.²⁰³ What is significant to note here, is that treating the *ting* without keeping in mind the differing cultural understanding of certain actions, such as insults, from the modern era is an exercise in futility.

5.8 Murder –a fight gone awry?

Næshagen, discussed above in chapter 2, has emphasized the role played by modern medicine in limiting the likelihood of death following violent attacks.²⁰⁴ However, contemporary medicine, or rather the lack thereof, also helps explain why some of these murders occurred in the first place. Due to the lack of knowledge of how to treat infections, it is probable that some murders simply took place as an unhappy result of a brawl.

Arguing the intent of the perpetrator of various violent actions is not the purpose of this chapter. However, when exploring the past it is important not to let modern attitudes color the interpretation of the data available. It is possible that the image of the early modern period as a particularly violent time is brought about by an exaggeration of the severity of actions found in the *tingbøker* and other available source material. That is not to say that these murders were

²⁰⁰ Sandmo, *Æren og Ærekrenkelsen*. 1994, p. 84

²⁰¹ Sandmo, *Æren og Ærekrenkelsen*. 1994, p. 85

²⁰² Sandmo, *Slagsbrøde*. 1999, p. 162

²⁰³ Pinker, *The Better Angels Of Our Nature*. 2011, p. 22

²⁰⁴ Næshagen, *Den kriminelle voldens U-kurve fra 1500-tall til nåtid*. 2005, p. 418

trivial or not intentional, the intent to harm was certainly in place, but that murders were simply a more probable outcome from such a fight.

However, the cases of murder that do appear were given severe punishments. Such as that of Johannes Olsen Nesseim in 1765.²⁰⁵ Having murdered a farmer with an axe as he lay in bed, and later tried to hide his body by dropping it in a lake he was sentenced to be held with red-hot tongs three times, have his right hand cut off afterwards his head by axe. Afterwards his body was to be lain on *steyle* and his head and hand put on a stake. This is very similar to the sentence mandated for attacking the majesty. As with all death sentences, this sentence would be appealed.

In this sense, it is almost surprising that so few deaths occurred. Of the forty-two cases of violence registered here, only three of those were in fact murders. Two of these were mothers who had killed their babies. As many of these cases involved objects and people being hit until they bled, there is no clear reason why they did not end in a murder. It is possible that murderers were prosecuted elsewhere, such as in the city of Bergen. However, the case that does appear does demonstrate that such issues could be brought before the *ting*.

On the other hand, Sandmo has emphasized that in the early 16th century the *ting* showed less tolerance towards cases of fighting than that of actual murders.²⁰⁶ This was no longer the case by the 18th century, most murders ending in execution.

On the 7th of February 1749 a *forordning* was introduced which harshened the punishment that rough murderers were to receive.²⁰⁷ A murderer was here defined as rough, *grov*, if he or she were to have committed the murder of an innocent person without mercy or any reasonable cause. Rather, they were to be carried out in the clothes they had used in captivity, without a hat and with bound hands. It is explained this is to make a mockery of the defendant and prevent others from committing such actions.

5.9 Violence against the newly born

Another form of murder, namely giving birth in *dølgsmål*, was the killing of babies at an early age by their mothers. Specifically, babies who died without their mothers reporting their deaths or birth at all. In the time periods covered here two such cases appear. That of Elen

²⁰⁵ TB, Nh1765 b44, pp. 284-284b

²⁰⁶ Sandmo, *Slagsbrøde*. 1999, p. 193

²⁰⁷ Schous forordninger, Vol.4. pp. 110-111

Maria Olsdatter²⁰⁸ in 1746 and Cristence Nielsdatter²⁰⁹ in 1764 in Arne and Schiold respectively. They both received the same punishment: decapitation and having their heads put on a stake and their bodies buried at the place of execution. Their possessions, in Olsdatters case only half, were forfeit to the majesty. Often hard to prove, given that a baby can die of many causes, the instances where someone was found guilty of this action were punished heavily. Hence, it was important to involve both the legal arm the state, often through the *fogd*, and the religious arm in investigating such deaths.

Hoff argues that a high rate of child murder is to be expected to be found in areas with a low acceptance of illegitimate children.²¹⁰ However, even in Kristiansund where no such criminal cases appeared, there were children who died because of sleeping in their parent's bed and being strangled by unknowing and sleeping parents.²¹¹ However, in both of the cases that appeared in Nordhordland the child was illegitimate. This is a topic which we will return to in below.

5.10 The role of less serious violence

It is important not to assume that all of the violence we encounter at the *ting* was of a serious manner. There were many fights that ended in no permanent bodily harm, or in the two parties reconciling themselves later. As pointed out by Sandnes, such relatively minor cases made up the great majority of criminal cases related to violence.²¹² Indeed, many such cases of violence never even made it to the *ting* precisely because the parties were willing to admit their actions and settle the matter with the *fogd* through *soning*.

A way of testing this is to take a closer look at the number of people accused of violence by their peers, and those who were sued by the *fogd*. It would be a reasonable assumption that a person who has been injured by someone else, would be willing to sue that person for the damages done. On the other hand, if the fight occurs in such a way that not much harm is done, or even in such a way that both parties decide to accept the outcome as part of a social ritual, one would expect such a case to only come before the *ting* due to public involvement.

²⁰⁸ TB, Nh1746 b41, pp. 176-177

²⁰⁹ TB, Nh1764 b44, pp. 236-236b

²¹⁰ Hoff, Randi Holden, *Avlet i Synd og Ondskap : En sosial- og rettshistorisk undersøkelse av fødsler utenfor ekteskap i Kristiansund 1742-1801*. Tingbokprosjektet, 1996, p. 82

²¹¹ Hoff, *Avlet i Synd og Ondskap*, 1996, p. 84

²¹² Sandnes, *Kniven, ølet, og æren*. 1990, p. 80

Certainly, many of the lawsuits instigated by the *fogd* relied on local participation in creating witnesses and information, so this is not a clear-cut definition.

5.11 The gradual decline in violence

As made clear in chapter 1, the gradual decline in violence, which can be tracked throughout the early modern period, has been commented on by several historians and even some psychologists in recent time. Pinker has attempted to explain this through the growth of what he calls the better angels, such as empathy, of our nature at the expense of what he terms the demons, such as vengeance, of our nature. The way violence was dealt with at the *ting* helps shed some light on this discussion and offer insight into how this development took place. As emphasized by Sogner, the early-modern state with its growing authority “could not accept rampant violence”.²¹³

Significantly, this decline took place throughout Scandinavia.²¹⁴ Næss argues that this could have been caused as an after-effect of increased control on both a state and local level.²¹⁵ That is to say, that as the presence of control grew both the opportunity and desire to cause others physical harm decreased. Næss points to both the use of conscription of young men and the use of disciplinary punishment by both the state and church against those who went against norms, as examples of how this control contributed to this decline.²¹⁶ Furthermore, Næss argues, as violence ceased to be a tool used by the higher strata of the population; the violence that did take place was contained within lower social groups becoming relatively rarer as fewer turned to violence.²¹⁷

Behrisch, in his work on the city of Goerlitz in the fifteenth and sixteenth century, has shown how the form of government influenced the legal system and rates of violence. He demonstrates the link between this government not being “politically responsible” to its citizens, and the lesser need for legitimacy which then leads to less legal reform and higher rates of violence.²¹⁸ This presents us with an alternate model for criminal development, one in which the rates of violence increased. It is important to keep in mind that it was always

²¹³ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 275

²¹⁴ Næss, *Vold*, 1994, p. 79

²¹⁵ Næss, *Vold*, 1994, p. 78

²¹⁶ Næss, *Vold*, 1994, p. 78

²¹⁷ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 77

²¹⁸ Behrisch, *Social control and urban government: the case of Goerlitz*. 2007

possible that such a development could have taken place in Nordhordland too. Why it did not remains to be examined.

5.12 Conclusion

In the above chapter we have explored how violence, both as a physical action upon another person and as a verbal insult, was met and resolved at the *ting*. We have also seen that violence upon a person could take several forms. Before we turn to sexuality and moral in chapter 8, some concluding remarks will be made.

It is clear that the *fogd* mainly sued in cases related to violence when they had taken place between two combatants who had made no attempt to sue each other. It was not uncommon for aggrieved parties to bring a matter before the *ting*. However, as shown above there were motivations for combatants, such as the shared responsibility of having created a conflict, to attempt to avoid involvement from public officials. As emphasized by Sandmo, the *ting* as it developed in the 18th century was active in defining violence as a crime and punishing it as such.²¹⁹

In regards to verbal insults the local population can be seen defending themselves, and their honor, much more actively. This is in part caused by the way insults were understood on a public level. The *ting* was an important arena in which one could establish what was publicly true and real.²²⁰ If a person did not make attempts to defend themselves from accusations of being a thief or worse, it was possible to interpret this as a tacit agreement with the claim put forth.

On the topic of violence against the person at the *ting* it is fundamental that one keeps the role of honor in mind. The work on this topic is lacking, but it is clear that it played part in how people understood themselves as their person on both a social level as they interacted with their local community and on a public level as they interacted with public officials and at the *ting*. As shown by Sandmo the *ting* was a public sphere within which truth, and in turn honor, could be defined.²²¹

²¹⁹ Sandmo, *Slagsbrøde*. 1999, p. 265

²²⁰ For an example of how the *ting* could define what had really happened in regards to a murder trial see: Sandmo, *Slagsbrøde*. 1999, p. 185

²²¹ Sandmo, *Slagsbrøde*. 1999, p. 146

A secondary explanation of why peasants sought to sue others for insults, but laid off in relation to violence can also be found through the role of honor. It is altogether possible that, during a fight, both parties could have successfully upheld their honor upon coming to blows. Thus, the need to bring the matter before the *ting* would not be one felt by the combatants.

Chapter 6. Crimes against property

6.1 Crimes against property

Crimes against property represent actions committed by someone to acquire a material gain on the expense of someone else. However, they are limited in the sense that they do not utilize physical attack on a person. While robbery could certainly include physical force, the actions that were punished for their violent nature received violence fines and will be dealt with as violent crime. Hence, the crimes dealt with here are mainly various forms of thievery. On the other hand, other actions that would lead to economic gain, such as not reporting a wreck, are also included. Cases regarding property of economic value are also included here.

Österberg and Sogner have claimed that “the greatest difference between the crime structure of the Nordic countries and that of Central Europe is considered to be that theft was much less common”.²²² It would be of interest to see whether or not this also holds true for *Nordhordland*. In this chapter, the information extracted from the *tingbøker* will be used to explore to what extent the *ting* was used to defend property and other economic rights. Some exemplary cases will also be presented to better illustrate what type of action we are interested in here.

Committing a crime against property rather than a person is of particular interest as it shows an interest in material possessions as opposed to personal ties. As a sign of possible poverty or avarice, it is also interesting to explore to what extent such crimes were present in *Nordhordland*. As noted in chapter 2, the popular notion that the rate of violence decreased towards the modern era as the importance of property increased must also be considered. While some criticism of this view has also been presented, e.g. Næshagen, it remains an important idea to explore.

For the sentencing of thievery it was important whether or not the act was a first time occurrence.²²³ For a first-time offender the law mandated that the defendant should be whipped. A second and third time would result in *kakstryking* and branding. However, on a fourth time the defendant would be branded a thief and put to slave labor for a lifetime. In other words, thievery was an action that became worse as the perpetrator showed that he or she would not relent.

²²² Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 98

²²³ Christian V's Norske lov cap.17, Sixth book

It is important to keep in mind the issues related to defining a case as a crime against property. For example, as noted above, there are examples of charges of thievery being brought on undesirable people in the local community. Given the focus of this thesis, such cases are seen as property crimes. However, it remains vital that such factors are kept in mind before making broad general conclusion based on the data provided here. This is why it is important to not limit this category to thievery itself, as many were sued for less serious transgressions due to the heavy punishment associated with thievery.

It is to be expected that such cases would be given much space at the *ting*. Property is of importance to the individuals that suffer from such actions, and for the *fogd* such cases could certainly lead to lucrative punishments. However, due to the way the *ting* was financed through private means, it was seldom worth prosecuting poor people - precisely the people we would expect to commit such crimes in their need to survive. Thus, there exists a powerful limiting factor towards how many of such cases would actually be brought before the *ting* or reach a final verdict.

6.2 More than just thievery?

In the introduction the claim was made that crimes against property included more than just thievery. Yet all the examples above are all of people who were sentenced as thieves. This might appear an oversight, yet thievery remained the main form of economic crime for which people were sentenced. From the cases reviewed within these periods there is only one instances of people being sentenced for robbery or other actions which deprived others of their personal belongings.

We will return to consider some other forms of economic crime which were not thievery. For now it is merely important to note that thievery, in its various forms committed by people from a seemingly varied background, remained a common feature of the 18th century *ting*.

6.3 Relevant data found in the *tingbøker*

From the data presented above in chapter 3, the following data can be extracted which bears expanding upon here. What is of primary interest here is how common property crimes were, how many times someone was sentenced for such an action and what type of punishment was handed out for such actions. This will be expanded upon below.

As a form of crimes against the government, property crimes comprised 22% of the total amount of sentences handed out in 1742-52, 21% in 1762-72 and 30% in 1782-92. Rising by 9% towards the end of the periods treated here, it remained a relatively common form of crime in all periods. The 9% rise is significant, and indicates that there was a rise towards the amount of cases regarding property crime in the last period.

Combining the data gives the following table.

Tab. 9: Number of crimes against property

1742 - 1752	8
1762 - 1772	11
1782 - 1792	9

A large variety of punishments could be doled out for crimes against property. Below is an overview of those spread out within the years dealt with here. These were punishments such as corporal or monetary sentences *and* penal labor, but mediation or loss of land could also be used to solve conflicts.²²⁴

Tab. 10: Sentences given for crimes against property
Property punishment

	1742 - 1752	1762 - 1772	1782 - 1792
Corporal	3	3	5
Monetary	6	7	6
Legal fees	3	2	3
Penal Labor	0	2	5
Death	1	1	0
Mediation	1	0	0
Loss of land	1	0	0
Warning	0	0	0
Oath	0	0	0

As is clear the preferred punishment was monetary. The other variations are too small to be of significance, though it is still possible to make some comment on them. That mediation is in use at the *ting* is interesting, as it shows that in some cases regarding property the question of

²²⁴ Note that a double, or even triple, sentence could be handed out for a single crime.

ownership was first settled through the *sorenskriver*. It also indicates the cooperative nature of the *ting*.

It is to be expected that in cases regarding property, a monetary punishment, such as compensation, would be used. The presence of other punishments, even death, is best explained by the contemporary understanding of thievery as something not to be taken lightly. Corporal punishments, such as branding, were also utilized to shame those who were punished. Physical punishments also included much personal pain which could act as a deterrent. In other crimes of economic nature, such as illegal fishing, monetary punishments were by far preferred such as in the case of Ole Olsøn Langøen in 1772.²²⁵

The *tingbøker* can thus help us find and locate cases of economic crime. Still, it remained at most just short of a third of the cases sentenced at the *ting*. As has been discussed above, many reasons existed for why so few cases appear. However, the fact remains that it was never the primary form of crime sentenced at the *ting*. The image of economic crime rising as violent crime falls fails to find its mirror in 18th century *Nordhordland*. However, the cases that remain bear expanding upon. If nothing else they shed an important light on social history.

6.4 Who accused whom?

Finding out who accused whom is important if one wishes to establish whether or not the people who were sentenced for these actions were targeted by the local officials or the locals themselves. Doing so produces the following tables.

1742-52 Accused:	Economic
Public Accuser	4
Private Accuser	4
Unknown Accuser	0
Total	8

1762-72 Accused:	Economic
Public Accuser	9
Private Accuser	0
Unknown Accuser	2
Total	11

²²⁵ TB, Nh1772 b46, pp. 70-71b

1782-92 Accused:	Economic
PublicA Property	4
PrivateA Property	2
Unknown Accuser	3
Total	9

Tab. 11: Accusers of property crime

As can be seen here there is no clear trend in regards to economic crime. With 1762-72 being the only exception, many cases were first brought before the *ting* by a local.

However, this indicates that economic crime was an issue that both the public officials and local peasants were interested in dealing with at the *ting*. This would support the idea that thievery was one of the most socially ostracized acts where one risked incurring the anger of the local community.

6.5 Case examples

6.5.1 The case of Christine Tørresdatter 1748

In 1748 Christine Tørresdatter was sued by *fogd* Smith for thievery.²²⁶ This took place in *Herløe* and she is defended by Lars Storoxe. Implicit in a thievery on the farm *Refskår* where a chest of valuables, silver, has been taken, she confesses that she was a participant and to receiving a share of the money gained. She also claims that she does not know where the remaining money has gone. She describes that she was to convince the wife to open the door, and that upon failing to do this she joined the others when the door was broken down and showed where the chest lay. Johannes Tendre later brings the chest to a goldsmith in Bergen. Whereupon the goldsmith refuses to return the chest if he cannot prove where he has been received it. In total she confesses to having received 1rdr 3mrk 4sk of the total 69rdr 2mrk 12sk that Mons Refskår claims has been taken.

Storoxe asks for a mild sentence because she is a woman who has been seduced into joining the others who committed this thievery. However, she is sentenced to be whipped, *kakstrykning*, branded a thief and pay a compensation. She decides to appeal the case upon where the case disappears from the *tingbøker*, probably to be settled in the Bergen *ting*.

²²⁶ TB, Nh1748 b41, pp. 332b-333

6.5.2 The case of Ole Olsen Sæbøe 1765

In 1765 at Schiold *skiprede* Ole Olsen Sæbøe was on trial after having been sued by the *fogd* Bildsøe as a thief.²²⁷ He was a repeat offender which mandated a heavier sentence from the *ting* if he were to be found guilty. He confessed to breaking into farm Solemsvigen and stealing some sailing equipment. Some of this he has sold for 2rdr 4mrk 8s to a person from the north, but the rest has been returned following his capture. Furthermore, emphasis is placed on the fact that he has made several attempts to escape. He pleads guilty, hoping for a mild sentence.

In the end, he is sentenced to suffer *kakstrygning* and to be branded a thief, before being sent to Munchholm as a slave for life. The lifetime sentence is given as a previous sentence, of three years work, failed to reform Sæbøe. That he confesses to have committed several other thieveries following his release did not help him reach a milder sentence.

6.5.3 The case of Lars Christensen 1787

In 1787 Lars Christensen first appears before the court on the 23rd of July to defend himself from the accusation laid out by *fogd* Wangensten that he is a thief.²²⁸ The claim is that he has stolen a silver spoon, which was found on his person, worth 5mrk from his former employer. The evidence and testimony is presented, but as Wangensten lacks a testimonial from a priest, he requests that the case be postponed. In the defense, the claim is laid out that he had never attempted to steal the spoon. Rather, he had been at most playing a childish prank and had always intended to return it. That he has not confessed to stealing it, and that there are no witnesses claiming that he did try to steal it is highlighted.

The case reappears on the 10th of September where Wangensten presents several testimonials regarding the character of the defendant. It is clear that at this point the *sorenskriver* has weighed the evidence in favor of the plaintiff. Christensen is sentenced as a thief to be whipped, pay a 1rdr 4mrk fine to *Majestetskassen* and to lose any *Boeslod*²²⁹ that he might have had.

²²⁷ TB, Nh1765 b44, pp. 281-282b

²²⁸ TB, Nh1787 b47, p. 219

²²⁹ Norwegian, all possessions owned by a person, their net wealth

6.6 The size of the fines

As shown above anyone convicted of thievery could expect to lose any values that they had gained through their actions. Even after suffering whipping and losing his *boeslod* it is expected that Christensen should pay a fine amounting to almost a riksdaler²³⁰ higher than the value of the item he first stole. This shows that while a monetary fine can seem like a light punishment, a convicted defendant was expected to pay a high sum. For many paying such a fine could be far from an easy task. It is sometimes noted in the *tingbøker* that repeat offenders are people continuing to suffer economic issues.

If someone was not able to pay the fine, it was common that they either suffered a physical punishment or worked as slaves. As we have seen the government in Copenhagen made moves towards unpaid fines being paid through slave labor, and this became the norm towards the end of the 18th century. That is to say, many of the monetary fines seen above were *de facto* corporal punishments as it was not to be expected that the defendants would be able to pay.

6.7 What was thievery?

In the late-medieval period, thievery was seen as one of the worst possible crimes.²³¹ It is probable, especially given the heavy punishments mandated for it, that this was a view that continued well into the 18th century. However, the background for the reform of the laws governing thievery in 1789 was that the punishments in use were seen as driving up the rate of appeals due to their harshness.²³²

In the view of Crone the main difference between thievery, and other forms of robbery and economic crime, was that thievery was something committed in secrecy.²³³ Sandmo emphasizes the social dimension of crime in the 18th century and sees the difference between thievery and other forms of crime as the answer to a question which the offended party had to decide.²³⁴ It is clear that thievery represented, on its most basic level, the transfer of property from one person to another. However, it is important to keep in mind the way these actions were interpreted at the *ting*.

²³⁰ Norwegian, the Danish-Norwegian currency.

²³¹ Sandnes, *Kniven, ølet, og æren*. 1990, p. 85

²³² Crone, *Tyveri og straff i Christiania 1789-1801*. 2011, pp. 28-9

²³³ Crone, *Tyveri og straff i Christiania 1789-1801*. 2011, p. 7

²³⁴ Sandmo, *Tingets tenkemåter*. 1992, p. 118

Dobbe has emphasized that people reacted strongly when they were robbed, but that a distinction was drawn between thievery and *ulovlig tak*.²³⁵ *Ulovlig tak* was borrowing without permission and was a possible method when someone wanted to avoid accusing their neighbor for something as severe as thievery. An example of this can be seen in 1770 when Halvor Rasmussen Schurtvedt from Herløe was sentenced for having illegally borrowed a copper pan.²³⁶ Schurtvedt, a farmer, claimed that he had found the pan in the sea and simply kept it upon retrieving it.²³⁷ He is sentenced to return it and pay a small fine, but it carried a milder punishment than thievery would have. This was a possible way of solving conflicts regarding property with neighbors, without harming them with the heavy punishments which followed a sentence for thievery.

Hay makes the claim that as property grew in importance within society, it also became the standard of measurement for social standing.²³⁸ On the other hand, Sandmo points out based on his exploration of Rendalen that property cannot have undergone this process of deification as it was only in some exceptions that the local community met abuses against property rights with real sanctions.²³⁹ It is possible that this is a distinguishing feature between thievery in 18th century Norway and England.

It is clear that thievery remains the action of taking possessions that belong legally to someone else. As is demonstrated by the codes within Christian V's law, it was an action that received a heavy punishment, in part heavier than that of violence. However, the heavy punishments, such as death, should not be interpreted too strictly as they were often not carried out upon successful appeals.²⁴⁰

6.8 Who was the thief - a poor vagrant?

The question of who these thieves were is one that has been followed up by several historians. Hobbestad has investigated thievery in the early 18th century in *Nordhordland*.²⁴¹ He demonstrates that many thieves were vagabonds attempting to sustain themselves as they travelled. However, as Behrisch has emphasized, "strangers were much more likely to be detected, reported and finally prosecuted than ordinary citizens, and as a consequence, they

²³⁵ Dobbe, *Blant Granner og Myndigheter* 1996, p. 124

²³⁶ TB, Nh1770 b45, pp. 165b-166

²³⁷ TB, Nh1770 b45, p. 164

²³⁸ Hay, *Property, Authority and the Criminal Law*. 1975, p. 19

²³⁹ Sandmo, *Tingets tenkemåter*. 1992, p. 118

²⁴⁰ Crone, *Tyveri og straff i Christiania 1789-1801*. 2011, p. 30

²⁴¹ Hobbestad, *Ulovlig tileigning av annan manns egedom*. 1997

are often overrepresented in the legal documents”.²⁴² Keeping in mind the high risk of losing much money by bringing a case before the *ting*, it is clear that there existed many incentives not to prosecute people from the local community.

Crone has demonstrated that thievery in Christiania during the 18th century was a form of crime which was committed by disadvantaged people, but against people from different social backgrounds.²⁴³ That is to say that those who committed thievery did not necessarily differ between poor and rich when choosing the victims for their actions. This is also a conclusion supported by other historians who have shown that from the seventeenth century most people who were punished for thievery were from the lower strata.²⁴⁴

6.9 Punishment of thievery

The sentencing of a thief in Denmark-Norway during the 18th century was based on corporal punishments which increased in severity upon repeated offense. Monetary punishments were also important to act as a deterrent and offer compensation to those who had been dispossessed of their belongings. This was altered by the introduction of a thievery-*forordning* in 1789 which alleviated the punishment for the first instance of thievery to forced labor in the *tukthus*, the second instance to forced labor at the fortress and a lifetime of slave labor at the fortress upon a third sentence.²⁴⁵

Crone, mentioned above in chapter 1, has examined how the laws regarding thievery were reformed in 1789. Within this new interpretation of the law, the goal was to reform thieves and make them productive citizens.²⁴⁶ Those convicted of a first-time thievery were to not receive corporal punishments, such as whipping, but rather they were to be put to slave labor at the *tukthus*.²⁴⁷ Second-time thievery was to be punished with a longer spell.²⁴⁸ However, for the more serious forms of thievery corporal, punishments were upheld and combined with a lifetime of slave labor at either the fortress or *tukthus*.²⁴⁹

²⁴² Behrisch, *Social control and urban government: the case of Goerlitz*. 2007, p. 45

²⁴³ Crone, *Tyveri og straff i Christiania 1789-1801*. 2011, p. 54

²⁴⁴ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 101

²⁴⁵ Crone, *Tyveri og straff i Christiania 1789-1801*. 2011, p. 30

²⁴⁶ Crone, *Tyveri og straff i Christiania 1789-1801*. 2011, p. 29

²⁴⁷ Crone, *Tyveri og straff i Christiania 1789-1801*. 2011, p. 30

²⁴⁸ Crone, *Tyveri og straff i Christiania 1789-1801*. 2011, p. 30

²⁴⁹ Crone, *Tyveri og straff i Christiania 1789-1801*. 2011, p. 31

In his study of the sentences handed out in Norfolk and Suffolk between 1734-1737 Sharpe has shown that thieves in England could be hanged, transported, branded, fined and whipped.²⁵⁰ In comparison with the sentences handed out at the *ting* in Nordhordland it is only that of transportation which is markedly different. The deportation of convicted felons out of the country, as a Moll Flanders in the writing of Defoe, was a decidedly strict punishment where a person was cast out of society. However, as can be seen through the slave protocols, transportation was a fate possible for someone put to slave labor.

However, some room for compassion did exist. In 1769, Siri Monsdatter was not sentenced at the *ting* following the accusation of committing a thievery because of the time had spent in prison compared to the value of the items she had taken.²⁵¹ It is possible that more such cases exist, and that the reason they do not appear in the *tingbøker* is that the *fogd* could make such a decision before the case was brought before the *ting*. However, this case does demonstrate that even thieves could be released if the *sorenskriver* argued that it was justified to do so.

6.10 Smuggling

Smuggling, either out or in, of goods to avoid paying the state taxes was a form of economic crime on which a lot of material exists in England. Løyland has also shown how smuggling was an important and common part of the trade which Norwegians took part in.²⁵² For cities such as Bergen and the regions surrounding them, one would expect to find evidence of wide spread smuggling, especially in regards to timber. From the cases examined here, the only cases of smuggling to appear have been concerned with French spirits and tobacco. For anyone that walks the ground in *Nordhordland* it should also be clear that the terrain presented many possibilities for hiding activities that one would wish to keep away from public officials.

It is important to note that the inhabitants of *Nordhordland* did not live isolated from the outside world. While the levels of communication cannot be said to have been high, foreign traders were part of the world they lived in. Given their proximity to Bergen many trading ships would be observable throughout the year.

In the *tingbøker* I have only been able to find a single example of such a case. In 1763 Endre Erichsen, Thomas Sibrantsen and Knud Nielsen were together sentenced for attempting to

²⁵⁰ Sharpe, J. A., *Crime in seventeenth-century England: A county study*. Cambridge, 1983

²⁵¹ TB, Nh1769 b45, pp. 113b-114b

²⁵² Løyland, Margit, *Hollendartida i Norge 1550-1750*. Spartacus, Oslo, 2012 p. 40

avoid customs by smuggling 1000 liters of French spirits through storing it on a small island before making port in Bergen.²⁵³ Their monetary punishment was significant: 100rdr for Erichsen and Zibrantsen, and 50 rdr for Knud Nielsen. The person who had informed the authorities of them was to receive half of this sum. A possible explanation is that such actions were dealt with in the city. For now it remains a conspicuous hole in the material presented here, which will see some discussion later in the discussion of actions not found in the *tingbøker*.

6.11 Not reporting a wreck or whale

Another interesting form of economic crime that illustrates the contrasting opinions held by the authorities and the peasants on the ground is that of not reporting a wreck. The same laws also applied to when someone failed to report a beached whale. These wrecks offered local communities a boost in their economy, as the valuables contained within, not to mention the wood from the ship itself, would be split between the locals and the king. Whales were similar to wrecks, and provided a boost in the form of food and oil. However, by simply not reporting such an occurrence the locals stood to gain. A sentence is handed out in Herløe for such a crime in 1769 when Ole Jaensen, Hans Johannesen and Magne Christiansen Hennøe lose their share of the whale they have found without reporting to the majesty.²⁵⁴

As has been shown by Rule, this activity was also common in England. As a crowd activity, requiring many hands to empty the ship before it sank or authorities appeared, it raises the question whether or not entire communities can be seen as criminals.²⁵⁵ In regards to a whale, there was also much work to be done if all the meat, bone and oil were to be removed before anyone else found the beached animal.

It follows that it ought to be possible to examine the rate of registration to find out to what extent the locals gave in and reported such wrecks; conversely, to what extent the locals expected to be caught if they attempted otherwise. As seen with smuggling above, a decision had to be made to either tell the authorities and lose part of the treasure but gain something, or to not tell the authorities and risk losing everything. Thus, this was a form of crime, which not only reflected contemporary attitudes towards the effectiveness of local authority, but also sheds light on the type of risk vs reward calculations that they undertook. The defense laid out

²⁵³ TB, Nh1763 b44, pp. 193-193b

²⁵⁴ TB, Nh1769 b45, pp. 98b-99

²⁵⁵ Rule, *Wrecking and Coastal Plunder*. 1975, p. 174

by two of the smugglers above that they were poor people who had been enticed into making a mistake by Sibrantsen was not strong enough to convince the *ting*.²⁵⁶

6.12 Organized crime

A question that has not been explored here is that of organized crime. Especially in regards to cooperatives wherein people attempt to gain economic benefits through helping each other commit crimes. This includes a wide variety of possible individual actions. At its simplest it could be a helper keeping watch, but it could be a wide network of people distributing information and helping each other.

The divide between organized crime on one hand, and fellow conspirators on the other, is not altogether clear. As with the possibly intentional failure to report beached whales discussed above, or the 19th century robbery of the Norwegian central bank, most actions which were later defined and punished as crimes would be easier to commit if one had help.²⁵⁷ In part, such actions also demonstrate the grey areas within which local norms and practices might have gone against those upheld by the law itself.

6.13 Conclusion

The extent to which actions prosecuted at the *ting* were related to the loss of possessions has been presented: never dominant at the *ting*, such cases were an ever-present form of activity which was struck down upon through both a local and official reactions: the loss of honor the punishment itself. Here the *ting* functioned as an arena for resolving such conflicts.

As has been demonstrated, a divide between those cases related to property and thievery can be traced. While both were in essence the loss of a possession or the attempt to gain a possession, the conflicts surrounding property were of a more formal contractual nature. They should be considered separate issues.

Based on the material investigated here it has not been possible to determine the social background of all those who were put on trial for such cases. However, as can be seen in the three cases presented above, many of those who were put on trial were from what appears to be a disadvantaged social background. Tørresdatter was seemingly a vagrant, Sæbøe had

²⁵⁶ TB, Nh1763 b44, p. 192b

²⁵⁷ Sandtveit, Bernhard, Ole Pedersen Høiland. in *Øiamo, Arne[red] 'Norske Forbrytere 1: Fra Ole Høiland till David Toska'*, Nordisk Kriminalkrønike A/S, 2011, p. 11

struggled to pay his fines and Christensen had made his living as a servant.²⁵⁸ Other travelers or immigrants, lacking contacts and standing within the local community, would also be from a poorer background.

The role of debt at the *ting* is impossible to overestimate. It remained a focal point of proceedings and a large swathe of such cases have been left out of this analysis. A future examination of the role played by debt, both as a tactic to gain money and as a real sign of poverty, would be useful for understanding how debt functioned in 18th century society.

The existence of certain forms of organized crime show that in certain areas the local interpretation of the law could differ from what the *fogd* thought was justified.

²⁵⁸ It should be noted that being a servant was a common career for youth.

Chapter 7. Crimes against morality

7.1 Crimes against morality

Crimes against morality are those actions which are sentenced at the *ting* which are possible to see as being against the moral codes prescribed by religion. However, contemporaries grouped these actions together with all other transgressions in the law codes where they feature in the 6th book alongside thievery and violence. It is important to keep in mind that seeing these actions as less harmful than, for example, thievery is a modern interpretation. At the *ting* they were certainly not seen as trifles.

These are the crimes, seen as such due to their going against rules and ideas which represented a religious and moral ideal rather than an attack upon a person's personal integrity. In part, this may have been an attempt to maintain religious doctrine. But, it was also a way of ensuring that the local population followed a social norm that the government wished to project. Rian has gone so far as to claim that the 18th century state church was a “*kongekirke*”, a church that existed to support the king as an unassailable ruler.²⁵⁹

Pouring beer by the church day was a punishable action that would appear not to harm people directly. As with the Holmes brothers below, it was a popular enough to create an economic gain. However, it went against church doctrine regarding work on a holy day and could be defined as promoting sinful behavior. The subject of alcohol and drunkenness in 18th century Norwegian culture is one that would benefit from further investigation.

Crimes committed against morality are important as they represent actions that were clearly defined as wrong by both the church and the law code. It would not be a far stretch to assume that local and Christian inhabitants accepted such actions as wrong and thus such examples of these regulations being broken represent a possible challenge towards traditional morals. How these actions were dealt with at the *ting* helps explain how law was used to correct rebellious behavior.

In this chapter, the information extracted from the *tingbøker* will be used to explore to what extent the *ting* was used to defend religious and moral codes. Some exemplary cases are presented to better illustrate what type of action we are interested in here. Such a case will also be the starting point for this chapter.

²⁵⁹ Rian, *Sensuren i Danmark-Norge*. 2014, p. 649

It is important to keep in mind the issues related to defining a case as a crime against morality. In general, sentences handed out regarding sexual activity, blasphemy or working on holy days are dealt with here. However, actions such as incest that remain illegal today are also included here.

The *ting* was certainly an arena mainly used by men in various positions. On the other hand Sandvik has shown that women also took part in proceedings as both defendants and plaintiffs, present in roughly 10-30% of all cases where counts have been made.²⁶⁰ It is important to note that Antun, working on the 17th century, determines that the social position of the woman crucial in determining the role taken at the *ting*.²⁶¹

For *leiermål* it was important which sex the defendant was and what their marital status was from before.²⁶² The punishment for intercourse between two unmarried people was that the man was to pay 24 measurements of silver, and the woman pay 12 measurements of silver. Furthermore, they were both to make an open confession. Upon marriage, these fines were to be halved, and the defendants would be free from confession.

Two cases which followed each other in 1768 help illustrate this. On one hand, Larsen Tvedten and Marthe Christiansdatter were sentenced to pay a fine of 12 rdr and 6 rdr respectively for their pre-marital affair.²⁶³ On the other, in the case involving Mons Monsen Hopes and Aagaathe Nielsdatter a heavier fine of 24rdr is given to Hopes as he was already married.²⁶⁴

It is to be expected that many such cases appear at the *ting*. In part this is due to the way priests would cooperate with the *fogd* to prosecute people. With the heavy fine due in such cases it would also be very much in the interest of the *fogd* to bring such a case before the *ting*. If one keeps in mind the disciplining function of the *ting* it is clear that it would be in the interest of the local inhabitants as well to see these cases brought to their conclusion. However, due to the heavy fines it is clear that it would be in the interest of the defendant to settle before being sentenced. It is possible that not many such cases would end in a sentence.

²⁶⁰ Sandvik, Tidlig moderne tid i Norge. 2005, p. 131

²⁶¹ Antun, *Kvinnene på bygdetinget i Nordhordland midt på 1600-tallet*. 1999, p. 110

²⁶² Christian V's Norske lov cap 13, Sixth book

²⁶³ TB, Nh1768 b45, p. 17

²⁶⁴ TB, Nh1768 b45, p. 17

7.2 Relevant data found in the *tingbøger*

From the data presented above in chapter 3, the following can be extracted which is directly related to the way morals and religion was dealt with in the *tingbøger*. The following tables show the spread of cases over time, the second what type of sentence the *sorenskriver* would pass in such cases. As discussed above such crimes grew in significance towards the 19th century, making up 9% of all cases in 1742-1752, up to 21% in 1762-1772, and finally 41% in 1782-1792. It should be kept in mind that a high amount of cases in 1782-1792 were brought about by the work of a priest in Sartor; however the trend is clear.

Tab. 12: Number of crimes against morality

1742 - 1752	13
1762 - 1772	27
1782 - 1792	28

Tab. 13: Sentences given for crimes against morality:²⁶⁵

Moral punishment	1742 - 1752	1762 - 1772	1782 - 1792
Corporal	0	0	0
Religious	1	0	0
Monetary	9	23	25
Legal fees	4	8	20
Penal Labor	1	6	1
Expulsion	1	0	1
Death	2	2	2
Mediation	0	1	0
Loss of land	3	0	0
Warning	0	0	0
Oath	0	0	1

²⁶⁵ Note that double, or even triple, punishments could be handed out as part of a sentence for a single crime.

The use of the death sentence was tied to those cases of incest that were brought before the *ting*. The religious punishment observed in 1742-1752 was that of an open confession. That is not to say that such a punishment was only used once, but rather that it was handed out by the *sorenskriver* once. However, it seems to have been a punishment which fell out of favor.

7.3 Who accused whom?

As with the other forms of crime that are investigated here, it is an important question who the accuser was in each case. After all, if these actions were sanctioned by both the government and the local peasants one would expect both to bring such cases before the *ting*. The following tables illustrate whether this was the case.

1742-52 Accused:	Moral	
Public Accuser		12
Private Accuser		1
Unknown Accuser		0
Total		13

1762-72 Accused:	Moral	
Public Accuser		20
Private Accuser		2
Unknown Accuser		5
Total		27

1782-92 Accused:	Moral	
PublicA Moral		26
PrivateA Moral		1
Unknown Accuser		1
Total		28

Tab.14: Accusers of morality crime

As these tables clearly demonstrate, such cases were mainly brought before the *ting* by the public authority. Private people, and priests who certainly had a public office, only sparingly

accused anyone of such actions. Often priests would work in coordination with the *fogd* to prosecute people of moral crimes. Many of the cases, for example where a married woman conceived less than 9 months following her marriage, were only possible to raise due to the registration work that was being done by the priests.

7.4 The legal status of women in 18th century Denmark-Norway

Above it was presented if such cases were chiefly privately or publicly initiated. Using the same data it is possible to ascertain what women were sentenced for. Note that these numbers do not include the women sentenced while part of a larger group, or the women indirectly sentenced through men representing the household being sentenced.

Tab. 15: Women sentenced **alone** at the *ting*, by case-type:²⁶⁶

	1742-52	1762-72	1782-92
Moral	3	8	0
Property	2	1	0
Violence	2	2	2
Authority	0	1	0

As seen above, fewer women were sentenced on their own towards the end of this period. However, that there were always some women being sentenced for violence, more specifically insults, suggests that it remained important throughout this period to sue women personally for making accusations and rumors.

As we shall see in the case of Tidtland below, women were certainly accused of moral transgressions in the final period.²⁶⁷ Here the woman acts as a passive observer. Significantly, she is asked whether or not she offers any protest to the facts of the matter presented. This

²⁶⁶ As will be expanded upon below, most women sentenced for moral transgressions were sentenced alongside the man in question. Furthermore, women were often tried as part of their household, of which the man was the head.

²⁶⁷ TB, Nh1787 b47, p. 236

would seem to indicate that it would have been possible for a woman to have her voice heard if she were to try to deny the accusations made. In the final period it was either the man who alone had to stand trial and accept punishment, or they stood together before the *ting*. The years 1762-72 mark a strong exception to this pattern, and a change in practice is observable here. That the man had to stand trial on behalf of the woman is representative of the way the family was viewed by contemporaries viewed as a household with the man as its head.²⁶⁸

This is a topic which Sandvik has pursued. While examining women's legal status in both 17th and 18th century Denmark-Norway in her doctoral thesis, she has shown that a discrepancy existed between how the laws mandated that women act and be treated, and what the actual practice at the *ting* was.²⁶⁹ Here it is demonstrated that women could make contracts, appear before the *ting*, and work; and until the mid-18th century, a husband had to seek the assent of his wife before selling her property.²⁷⁰ However, a development towards increasing the relative subordination of women took place towards the 19th century.²⁷¹

7.5 Case examples

7.5.1 The case of Niels and Jacob Holmes 1746

In 1746 *fogd* Hans Thies Nagel accused the brothers Niels and Jacob Holmes for having both run an illegal inn and for serving beer on holy days at the *tingsted* Hossanger.²⁷² They had been serving beer by the church, serving those who attended service. The Holmes brothers were actually not present at the *ting*, but the *fogd* requested that they could be sentenced anyway given their confession the previous year. They were given a monetary sentence. One fine of 1rdr 3mrk for sacrilege, and two fines of 2mrk owed to *fattigkassen*. It was also mandated that they cease serving beer and spirits in front of the church.

7.5.2 The case of Christen Olsøn Wirchesdal and Karie Hansdatter 1769

In 1769, the *fogd* Hejberg sued Christen Olsøn Wirchesdal and Karie Hansdatter for having sexual intercourse in forbidden bonds.²⁷³ Hansdatter was the stepdaughter of Wirchesdal. Christian V's law defined this as incest by seeing non-blood family relations as blood

²⁶⁸ Sandmo, *Slagsbrøde*. 1999, p. 230

²⁶⁹ Sandvik, Hilde, *Kvinnens rettslige handleevne på 1600- og 1700-tallet, med linjer fram til gifte kvinners myndighet i 1888*. Unipub Forlag, Oslo, 2001, p. 257

²⁷⁰ Sandvik, *Kvinnens rettslige handleevne på 1600- og 1700-tallet..* 2001, pp. 258-262

²⁷¹ Sandvik, *Kvinnens rettslige handleevne på 1600- og 1700-tallet..* 2001, p. 263

²⁷² TB, Nh1746 b41, pp. 228-228b

²⁷³ TB, Nh1769 b45, pp. 82b-83

relatives. The trial took place in Guulen, which was set up as an extraordinary *ting* to deal with this one case. Finally, they were found guilty and sentenced to death by decapitation by sword and to be buried without ceremony. They both appealed to royal mercy.

7.5.3 The case of Ole Michelsen Tidtland 1787

In 1787 at the *tingsted* Radøe Ole Michelsen Tidtland was given a retrial, following a previous postponement, for extra-marital intercourse.²⁷⁴ As he had confessed, and a minister had borne witness towards his character, he was sentenced to paying a double *leiermål* fine of 24rdr. Due to his poverty he received no further monetary punishment. The woman in question, Ingebor LassesDotter Houcheland, is also reported as being present at the *ting* where she gives no protest. In this case it was the *Fogd* who accused him.

7.6 Moral crimes in Sartor in 1789

In the year 1789, a marked shift in the amount of sentences handed out in *Nordhordland* for moral transgressions is found. Significantly, these all take place in the *skiprede* Sartor. A total of 12 sentences were handed out to couples who had managed to become pregnant before marriage.²⁷⁵ These 12 were a significant part of the 28 cases recorded between 1782-92.

It is not clear what precisely brought about this change. It could reflect a change in practice, a zealous priest or that this had been a growing problem in Sartor which the authorities decided to combat publicly to state an example. Another possibility is that such cases had not been brought before the *ting* before as people were willing to settle through *soning* directly, and that the peasants had decided to refuse to do so in later years. However, it remains possible that these were cases finally brought before the *ting* as an exception.

Furthermore, for all of these 12 cases the women stood trial alongside their man. It was the household which was to be sentenced for this transgression. As we have seen above, the increasing role of the household on the expense of the woman herself which carried into the end of the 19th century.

²⁷⁴ TB, Nh1787 b47, p. 236

²⁷⁵ TB, Nh1788 b47, pp. 359b-360

7.7 Why was sexuality criminalized?

A fundamental question to this topic is why the authorities in 18th century Denmark-Norway saw it as necessary to criminalize the sexuality of its population. In modern-day Norway many sexual transgressions such as that of pre- and extra-marital sex, while in part socially unacceptable, are not punished through the use of law. This was in part a continuation of earlier legal practices, but following the Lutheran reformation it increased in scope as both the church and state went together to control the morals of its population.²⁷⁶

In part a result of Lutheran doctrine, it was also a way of ensuring that the local population remained stable and self-sufficient. After all, if every child was ensured a mother and a father the need for orphanages was reduced. Thus, criminalizing extra-marital sex was a reflection of a social policy intended to lead to a strong population where every child had parents. However, it is important to note that such developments also took place in Catholic countries.²⁷⁷ Fundamentally, the increased social control through use of law meant that more rigorous control was possible.²⁷⁸

As opposed to earlier periods when men were often put on trial for such transgressions, the increased focus on criminalizing sexuality largely targeted women.²⁷⁹ In part this reflected the view that the reproductive system of the woman had to be controlled so that it could meet the needs of society.²⁸⁰ The increased amount of sexuality cases should be seen in relation to this. However, it was also a result of the income from such fines being given to the *fogd* after 1723.²⁸¹

Fathers had much responsibility for their child, and determining who the father was represented an important part of the legal proceedings surrounding such a case. Furthermore, men continued to be on trial for a variety of sexual cases. However, it is clear that 18th century developments in legal codes were less harmful for male defendants in regards to such sexuality cases. On the whole, the criminalization of sexuality led to increased legal scrutiny

²⁷⁶ Gunnlaugsson, Gísli Ágúst, Sedlighetsbrott I Norden 1550 – 1850, in *Rapport II, Normer og sosial kontroll i Norden ca. 1550-1850*. Oslo 1994, p. 103

²⁷⁷ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 116

²⁷⁸ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 86

²⁷⁹ Gunnlaugsson, Sedlighetsbrott I Norden 1550 – 1850 1994, p. 112

²⁸⁰ Gunnlaugsson, Sedlighetsbrott I Norden 1550 – 1850 1994, p. 113

²⁸¹ Sandvik, Tidlig moderne tid i Norge. 2005, p. 141

of the personal life of both sexes, but one that in particular targeted women in the early part of the 18th century.

7.8 Illegitimate children

As pointed out above, the main goal of these strict laws regarding sexuality was ostensibly to ensure that children did not grow up outside of wedlock or without parents. In Norway in the 18th century as a whole the rate of illegitimate birth was about 3-4%.²⁸² Cities had comparatively higher rates, with Bergen at 6%.²⁸³ However, the question remains what actually happened to those children who were born without married parents.

As shown by Sandvik, illegitimate children and their mothers were a large part of the poverty stricken population within Denmark-Norway.²⁸⁴ Even if a woman was able to find an income from which she could potentially support herself, the fine given for such acts was substantial. Making ends meet was not easy with such an outset. However, as shown by Hoff many women in Kristiansund were still able to compete in the marriage market.²⁸⁵ Furthermore, she concludes that these mothers did not suffer greatly from social consequences.²⁸⁶ On the whole, proving their fertility was not a negative influence on their chances of getting married.²⁸⁷

The fathers of these children were mainly sailors, soldiers, serving men and other representatives of the lower classes.²⁸⁸ However, Hoff has shown that at least in Kristiansund the fathers could represent society as a whole.²⁸⁹ Following the introduction of law-mandated child support in 1763, it became increasingly important for the mothers to determine who the father was legally.²⁹⁰

Many brides, as in Sartor in 1789 above, were pregnant by the time of marriage. Hagemann argues that this was caused by the vow being the starting point for life as a couple, not the marriage itself.²⁹¹ An important reason why these brides-to-be ended up not being married

²⁸² Hoff, *Avlet i Synd og Ondskap*, 1996, p. 46

²⁸³ Hoff, *Avlet i Synd og Ondskap*, 1996, pp. 46-47

²⁸⁴ Sandvik, *Tidlig moderne tid i Norge*. 2005, p. 141

²⁸⁵ Hoff, *Avlet i Synd og Ondskap*, 1996, p. 90

²⁸⁶ Hoff, *Avlet i Synd og Ondskap*, 1996, p. 91

²⁸⁷ Hoff, *Avlet i Synd og Ondskap*, 1996, p. 87

²⁸⁸ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 88

²⁸⁹ Hoff, *Avlet i Synd og Ondskap*, 1996, p. 65

²⁹⁰ Hoff, *Avlet i Synd og Ondskap*, 1996, p. 66

²⁹¹ Hagemann, Gro, De stummes leir? 1800-1900. in Blom, Ida and Sogner, Sølvi [red], *Med kjønnsperspektiv på*

was that it became common for men to disappear from their commitment, a trend which grew into the 19th century.²⁹²

7.9 Social control at the *ting*

From a local perspective the criminalization of sexuality was useful as a way of exercising social control. This social control often took the form of punishments intended to dominate people through discipline.²⁹³ Through prosecuting social deviants, actions that were frowned upon were unwanted by the local community could be curbed through the expectation of punishment. Whether or not the punishments given actually successfully curbed unwanted activity is irrelevant here, what is important is how such laws could serve the wishes of the local population.

However, achieving social control was helpful from a government perspective. After all, a calm population without vagrants or social conflict could be expected to be more effective at paying taxes and offering the army willing recruits. The many fines that it was possible to raise from these actions, were also a powerful incentive towards attempting to control such behavior through the *ting*.

Furthermore, as shown by Rian, the 18th century Danish-Norwegian government actively attempted to systematize church doctrine to help establish control.²⁹⁴ It is important to note the importance this held to the absolutist regime. The introduction of confirmation was another step towards religious indoctrination of state citizens, especially given the link between confirmation and certain legal rights.²⁹⁵

7.10 Alcohol as a catalyst of crime

While alcohol is perhaps the most visible in crimes related to violence with inebriated participants, it played a large part in the way laws governing social behavior were practiced. Furthermore, the use of alcohol represented a breach of laws concerning religious concerns in itself when it broke with resting days. As we have seen above, alcoholism –ever the cause for

norsk historie, Cappelen, Oslo 2005, p. 174

²⁹² Hagemann, *De stummes leir?* s2005, p. 175

²⁹³ Österberg, Sogner(eds.), *People Meet the Law*. 2000, p. 116

²⁹⁴ Rian, *Sensuren i Danmark-Norge*. 2014, pp. 350-51

²⁹⁵ Rian, *Sensuren i Danmark-Norge*. 2014, p. 400

social concern- could be sentenced as a crime at the *ting*, as an example of someone failing to perform their duties as a husband or as a servant.

Such laws governing when, and where, alcohol could be sold reflected concerns of officials both public and religious. For the local priest it was important that the peasants were sober and attentive while attending church. For the local *sorenskriver* it was important that the peasants were sober and attentive while attending the *ting*.

In 1765 Ole Rasmusen Øfremanger was convicted of having lead youth into drinking, gambling and dancing before their confirmation.²⁹⁶ This was interpreted as an act of blasphemy and ill moral, and he was given a total fine of 3rdr 3mrk. He was sentenced alongside the youth who had to pay 1/4th of the fine separately. Here the *ting* can be seen as active in attempting to prevent the young from turning to behavior which was unwanted.

Alcohol can also be seen as criminalizing otherwise legal activity. In 1772 Michel Høgh from Sandviken was sentenced due to having given a loan to the minor Anthon Günther while he was under the influence of alcohol.²⁹⁷ This is an illustrative case, as it demonstrates that the issue was not the loan itself –it is specified in the sentence that his work had otherwise been without blame- but that the loan had been given to someone under the influence of alcohol. The *ting* was an important arena for limiting the harmful aspects of the vice of drinking.

7.11 Conclusion

As we have seen above certain actions we would today consider moral faults were defined through the *ting* as criminal actions which required a legal response. It is not an easy task to determine whether this was a response to church, local or government pressure. However, it did represent the criminalization of a large swathe of conflicts related to sexuality or other social issues. Thus, local officials were able to bring many social conflicts into the public sphere and administer justice.

That religious institutions wished to ensure a morally strong population which followed religious doctrine should also not be ignored. In many ways, the many laws governing behavior which we view today private matters not to be handled by courts directly represented the success of religious institutions in shaping what the government would be concerned with.

²⁹⁶ TB, Nh1765 b44, p. 299

²⁹⁷ TB, Nh1772 b46, p. 112b

Furthermore, this helped the government achieve social control of its population through use of the *ting*. As we have seen above, this was a policy that was also pursued through church reform. Unwed mothers and others who fell outside of the prescribed norms of society with wed Christian couples raising their children represented a challenge.

As we have seen unwed mothers and their children were also a weak social class. Steps were taken by the government to attempt to alleviate the situation, mainly by making the father legally responsible for more of the child's care.²⁹⁸ However, the main issue remained the same. These were people who did not have the support of a male working wage, which was expected to fund any child's upbringing.

²⁹⁸ Sandvik, *Tidlig moderne tid i Norge*. 2005, p. 141

Chapter 8. Conclusion

8.1 Conclusion

A major problem that must be confronted by any historian wishing to write about the *tingbøker* is that of classification. It is very difficult to separate certain forms of crime from others. For example, it could be seen as a form of disobedience to not register a beached whale with the authorities. Here this crime has been labelled economic. Furthermore, when one takes into consideration the scarce amount of cases it is clear that such choices have made an impact on the data presented here. However, all the cases used and categorized can be found in the appendix.

As we have seen, the *ting* was an important arena for defining privilege and personal rights in 18th century Nordhordland. The case types that have been the focus of this thesis –personal, religious, property and authority- reflect this. Both peasants and public officials used the law actively to protect their rights and pursue their interests. As demonstrated, especially in regards to the conflict surrounding the extra-tax, the topics discussed at the *ting* reflected local events and developments. For the purpose of this thesis the categories employed have been useful.

A further issue is that of parallel courts, such as that of the military class and the use of commissions. Related to this is also the ever-present possibility of a royal pardon. What is observable at the *ting* remains just part of the legal system that was in place in Denmark-Norway during the 18th century. Within the context of this thesis I have argued that the *tingbøker* offer sufficient material for an analysis, though this remains an important limitation.

In regards to the question of authority and control, I would argue that the *ting* in this period was more important for the local population and authority wanting social control, rather than by the state wishing to punish them. As has been demonstrated above, most cases were related to resolving conflicts or followed the interest of public officials. This supports the conclusion reached by Sandmo when dealing with the *ting* in Rendalen. The lack of cases outside of 1762-72 demonstrates this. Even in this period there were very few cases not related to the paying of tax itself, and the punishment given out at the *ting* was monetary.

Furthermore, as the legal aftermath of *Strilekrigen* was solved by use of commission it is clear that the *ting* was not the central organ for discipline. The absence of sentences to slave work

in the *tingbøker* underlines this. This thesis does shed light on one of the ways peasants could be active participants in public debate. As expanded upon by Sandmo, the *ting* had an important part in both resolving conflicts and in reconciling those who had been part of one.²⁹⁹ This underlines the importance of culture and belief in shaping how the *ting* and law codes were utilized by those present. As we have seen in the preceding chapters there were several actions which could be defined as criminal and reach a verdict at the *ting*.

At the *ting*, changing attitudes brought about changes in the type of cases that were deliberated upon. It is not clear whether this was brought about through changing personnel, philosophical convictions or even a moral panic. However, this can be seen taking place in chapter 8 where the actions being targeted can be seen to change towards the end of the 18th century. For example, as in Sartor in 1789, where those who had married but conceived children before the marriage itself were stamped down upon. Whether this was the result of a moral panic or a zealous priest, this represented a real change in what type of cases were brought before the *ting*.

This thesis began at the outset with the aim of exploring what forms of conflict the *ting* actively resolved, and to what extent this reflected local or government pressure. It has been seen throughout chapters 4.-7. that several forms of activity were dealt with by handing out sentences and punishing those who went against the law codes. That some crime, of any category, was present in each period is clear. However, it can be seen that certain activities were more prevalent in some periods, and that the activity at the *ting* reflected the current concerns held by both the officials and peasants present there. Focusing on the sentences, rather than individual cases, has been useful in determining this.

As explored in chapter 3 monetary punishments were the most common form of punishment at the *ting*. It is clear that raising money both for the government and for the local justice system itself was an important function of law enforcement. At the outset, I assumed that refusal to pay the tax would be met with severe punishment. However, as it has been demonstrated here in regards to the conflict surrounding *ekstraskatten*, the main goal of the public officials remained collecting the tax itself and thus raising money.

Physical punishments were largely reserved for crimes which were seen as more severe. However, death penalties, loss of land and expulsions were the exception rather than the rule.

²⁹⁹ Sandmo, *Slagsbrøde*. 1999, p. 189

That is not to say that the death penalty did not follow the most severe crimes, such as attacking the majesty, but that there were several crimes that also received monetary punishment despite being concerned with property and other severe matters.

The reasons for wishing to settle a matter publicly would bear expanding upon and are a worthy topic for further inquiry. It could be suggested that it was important to bring matters before the *ting* where one wished to make an example of the defendant. In certain conflicts, such as insults, it was also important to have the matter settled before the *ting* to make the conviction official. On the other hand, if someone was to feel that there was little evidence against them, letting the matter reach the *ting* might be a risk worth taking. In kings cases it was often the individual *fogd* who decided what matters he wanted to bring before the *ting*. As we have seen, there was a shift towards more crimes against morality reaching the *ting* in the final period 1782-92. It is clear that the *ting* was an arena that could serve the needs of both the population and the state in different ways for different forms of crime.

How did the *ting* define an action as a crime? In the main this fell into three main models which can be summarized as such: Model 1: A person commits an action which the state detects and decides to sentence as a crime through the use of law. Model 2: A person commits an action which the local society detects, appeals to the law for help at the *ting*, where it is then sentenced as a crime. Model 3: A person commits an action that creates a victim, who appeals to the law for help at the *ting*, where it is then sentenced as a crime.

All of these models rely on an official response through the *ting*. This is keeping with the previously quoted definition of crime. However, it seems to go against a common sense approach where an action such as murder would always be a crime, even when the perpetrator manages to avoid detection. Within such a view there could be no ‘hidden’ statistics of crimes that went on without registration. Thus, these models do help explain how the *ting* functioned as a fluid entity that could define what was true and not and if a crime had taken place.

An in-depth comparison is required if a context is to be found within which the results presented in this thesis can be placed. A comparison on both a regional and international level would be very useful in determining whether the shift that took place in *Nordhordland* was a regional quirk or a result of a widespread change, in what matters the justice system in Denmark-Norway was concerned. Ideas from the enlightenment found their way to the *ting* in *Hosanger* through a *sorenskriver* who had been educated in Copenhagen. It would be of

interest to see whether or not changes that took place within Denmark-Norway were reflected in England, Scandinavia or Germany. Some work has been done to create a basis of comparison with Scandinavia, but a bridge to Germany and England is particularly lacking. Hopefully this thesis can help remedy this.

9. Appendix

9.1 Glossary of Norwegian terms used in this thesis

Boeslod: All possessions owned by a person, net wealth.

Dagskatten: A tax introduced in the period 1712-1715 to help finance the war against Sweden.

Ekstraskatten: A poll tax for everyone above the age of 12 introduced in 1762.

Enevelde: The term used by Norwegian historians when referring to the absolute monarchy of Denmark-Norway.

Fut/Fogd: A Norwegian-Danish sheriff with wide responsibilities.

Forordning: Statute.

Kakstryking: A form of punishment wherein a person was tied a pole and whipped.

Lagmann: A judge who served for the first court of appeals.

Lagrettemenn: A lay judge who was to assist in private cases and otherwise act as witness.

Landskyld: Originally the yearly duty owed to the owner of the land that a tenant held, it grew into a measure of the value of individual farms.³⁰⁰

Leilending: A tenant.

Lofthusreisninga: A peasant rising that took place in 1786-87 in Eastern and Southern Norway which challenged public officials.

Riksdaler: The Danish-Norwegian currency.

Sakefallsliste: The record kept by the *fogd* wherein it was registered what sources of income came from where.

Skiprede: The smallest administrative unit.

Skogfinner: A immigration group in Eastern-Norway comprised of Finnish speaking people.

Skyssekt: The act of refusing to transport someone. Transporting people, especially officials, was a responsibility of peasants

³⁰⁰ Falkanger, Thor. (2009, 14. februar). Landskyld. I Store norske leksikon. Hentet 17. mars 2015 fra <https://snl.no/landskyld>.

Soning: A system for settling matters outside of court through paying a fine.

Sorenskriver: The public official originally responsible for writing the court protocol who later also took on the role of judge.

Stift: The largest administrative unit in Norway during the 18th century.

Stiftamtman: The highest public official in a *stift*.

Store Nordiske Krig: A war that took place between 1700 – 1721 where Swedish power was contested and suffered a defeat.

Strilekrigen: A peasant rising that took place in 1765 in Western Norway which challenged a new tax.

Supplikker: Petitions which were sent to the King.

Tater: A group of travelers with a long history of travelling within Norway.

Ting: A courthouse. Within this thesis the word *Ting* will be used to signify the village courts which the peasant's brought their grievances before.

Tingbok(-øker pl.): The court protocol used for recording what happened and what was discussed at the *ting*

Tukthus: The workhouse used for forced labor

Voldssamfunn: Literally translated as a society of violence, a term used by Norwegian historians.

Ulovlig tak: A legal definition which in practice was an illegal borrowing.

Ære: Honor

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9.4 Tables, figures & maps

List of tables included in this thesis

Table 1: Slave backgrounds and fates 1767-82, p. 39

Table 2: Slave backgrounds and fates 1782-92, p. 39

Table 3: Number of crimes against authority, p. 50

Table 4: Sentence given for crimes against authority, p. 50

Table 5: Accusers of authority crime, p. 52

Table 6: Number of crimes against person, p. 62

Table 7: Sentences given for crimes against person, p. 63

Table 8: Accusers of person crime, p. 64

Table 9: Number of crimes against property, p. 72

Table 10: Sentences given for crimes against property, p.72

Table 11: Accusers of property crime, p. 79

Table 12: Number of crimes against morality, p. 91

Table 13: Sentences given for crimes against morality, p. 91

Table 14: Accusers of morality crime, p. 92

Table 15: Women sentenced alone at the ting, p. 93

List of figures included in this thesis

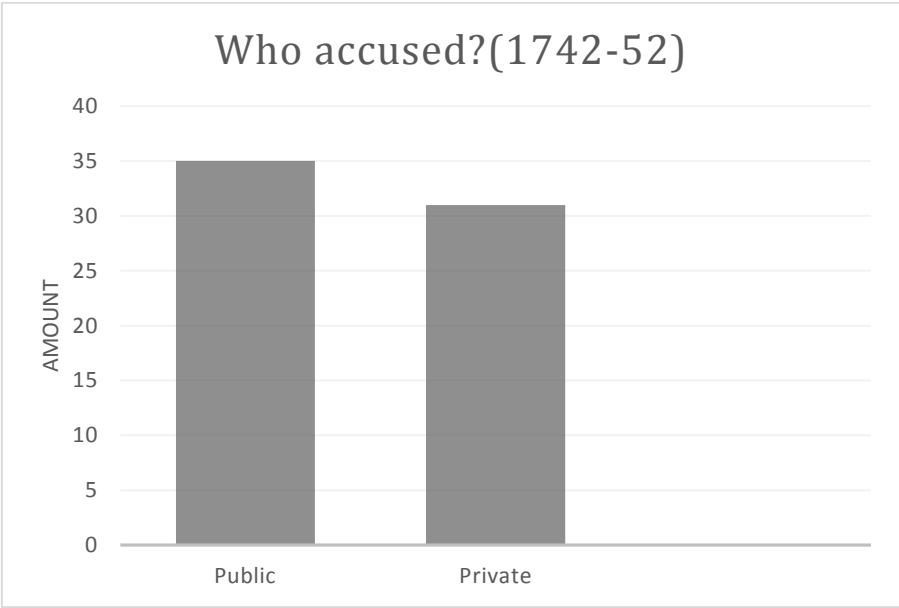
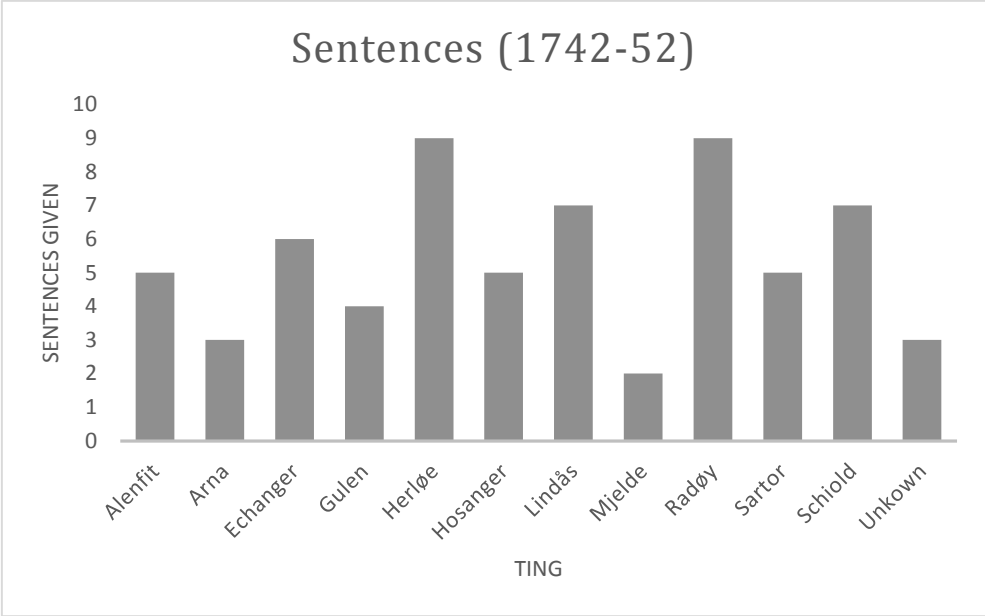
Figure 1: Population pyramid in Nordhordland 1769, p. 26

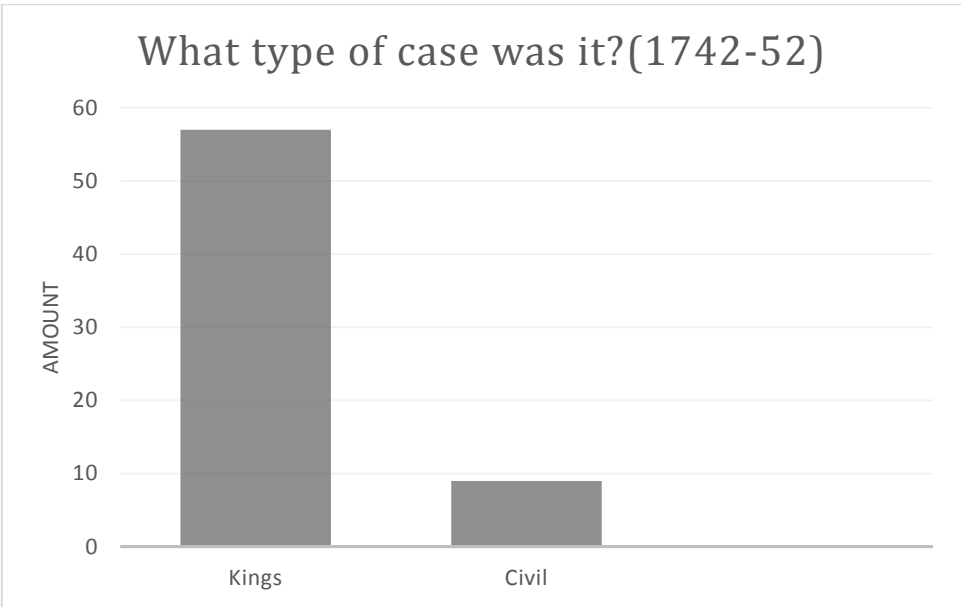
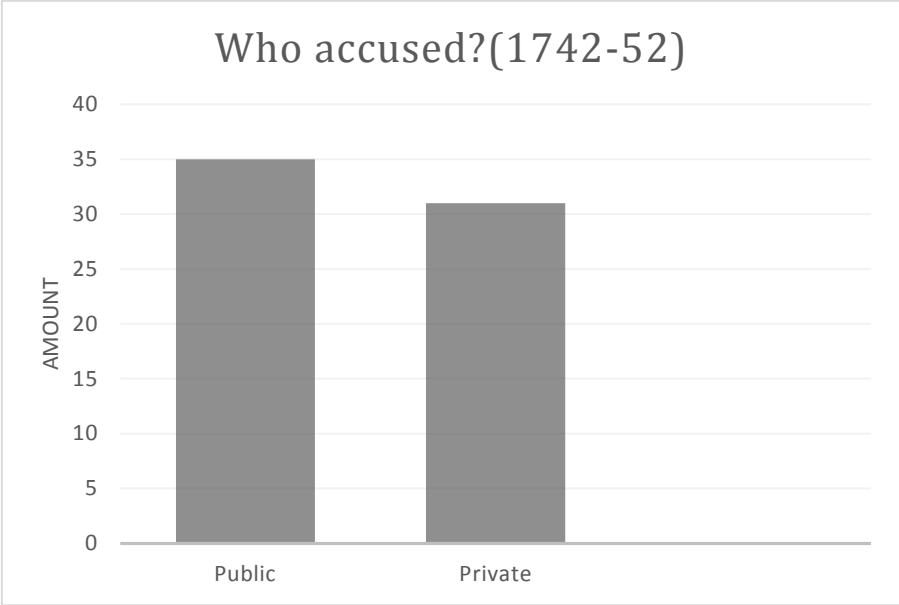
Figure 2: Population in Nordhordland on a parish level, p. 26

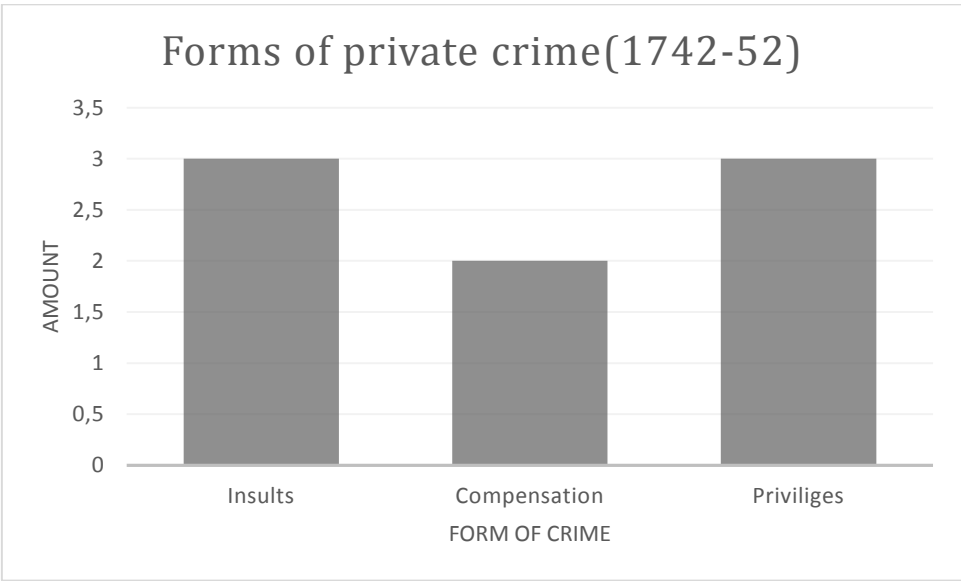
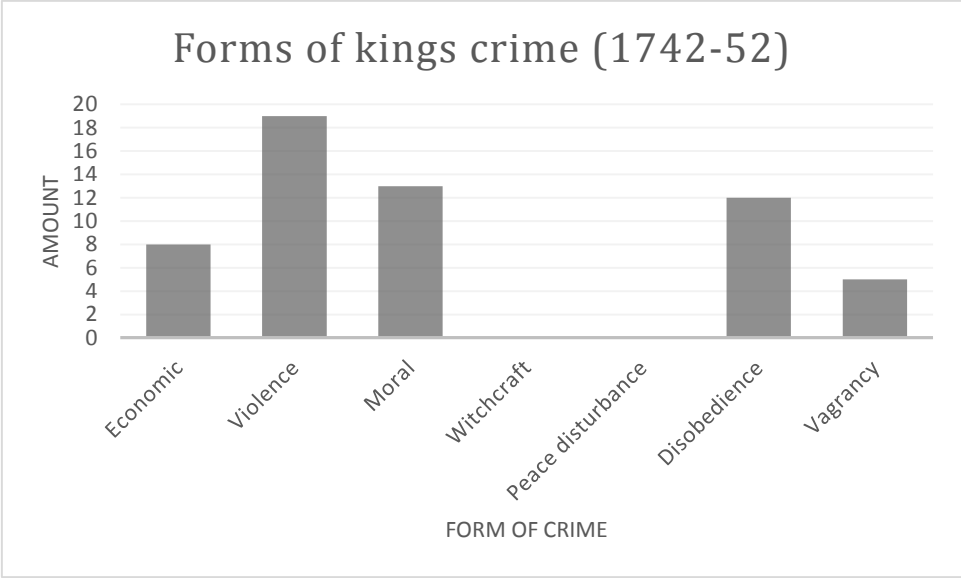
List of maps included in this thesis

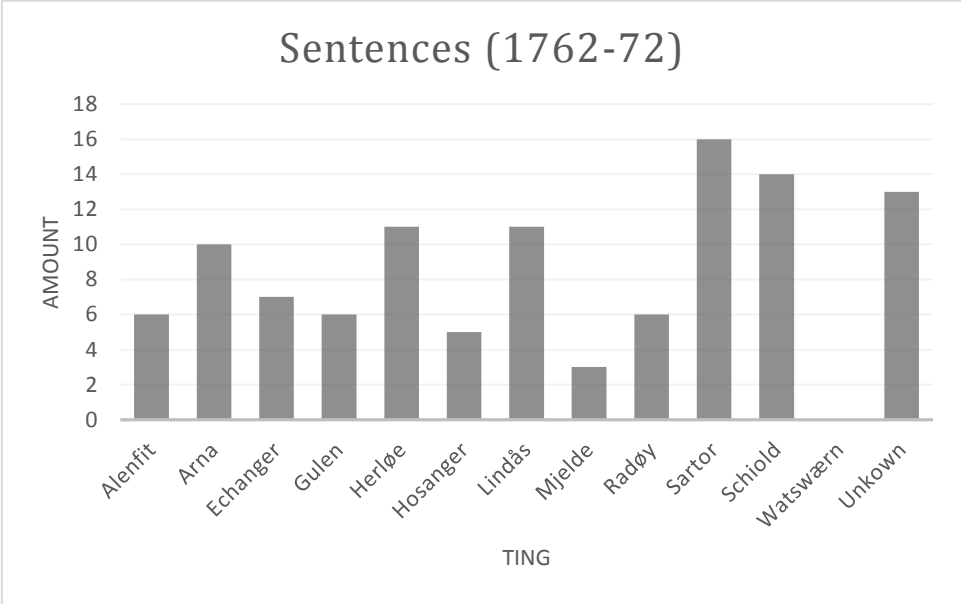
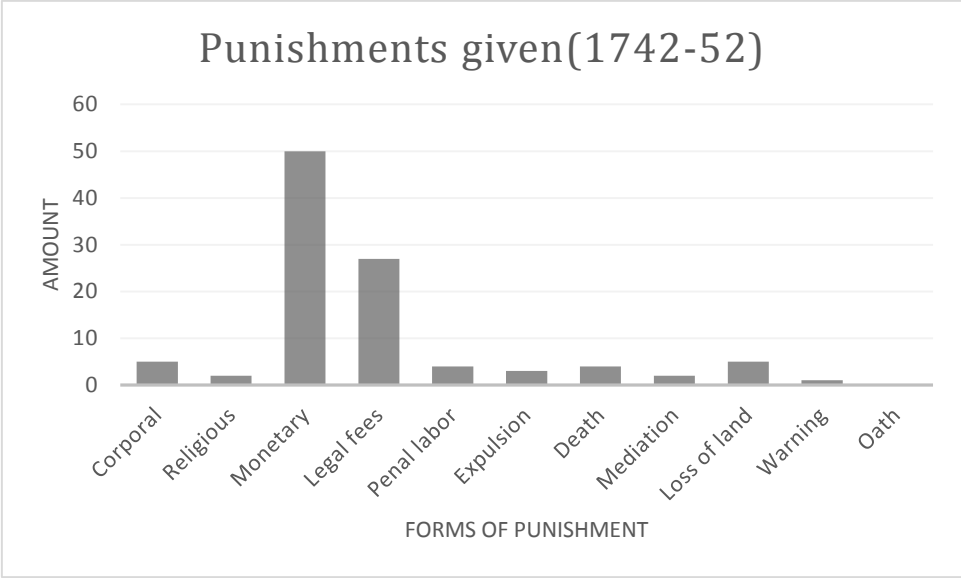
Map 1: Nordhordland, p. 28

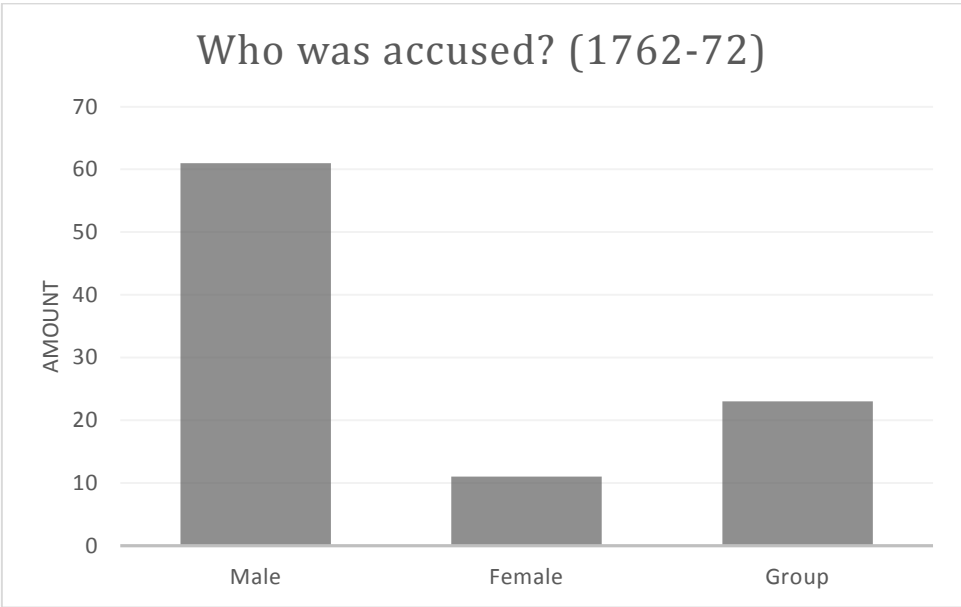
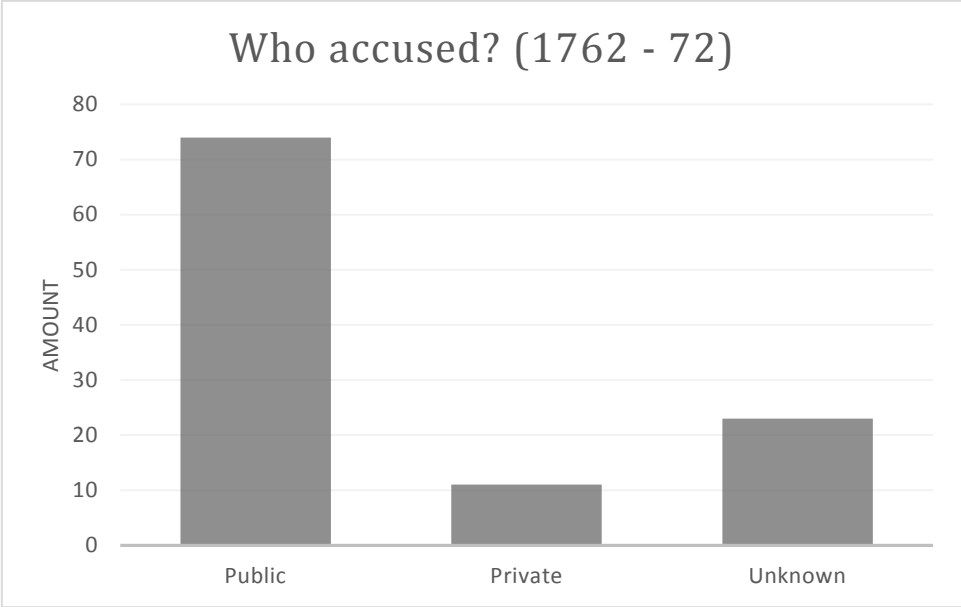
9.5 Graphs

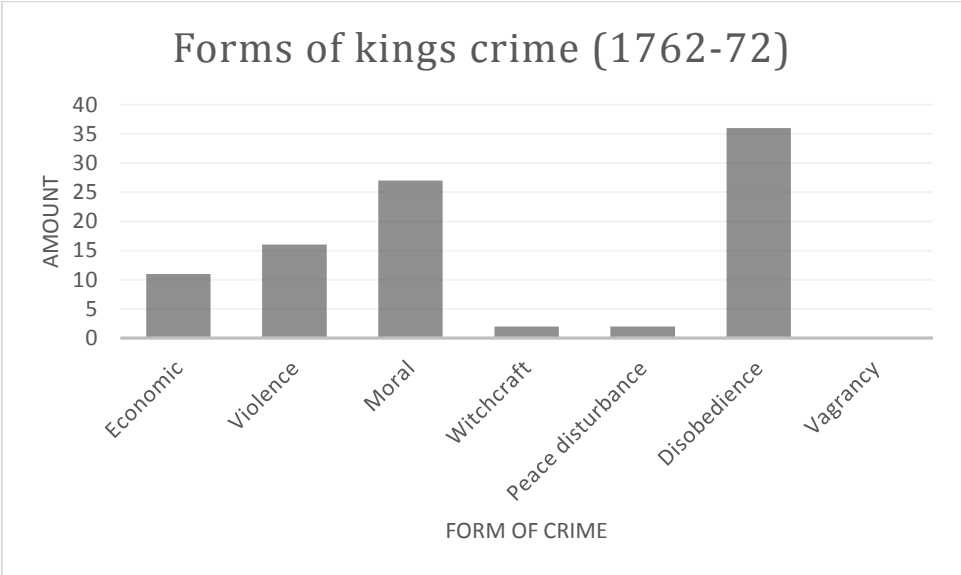
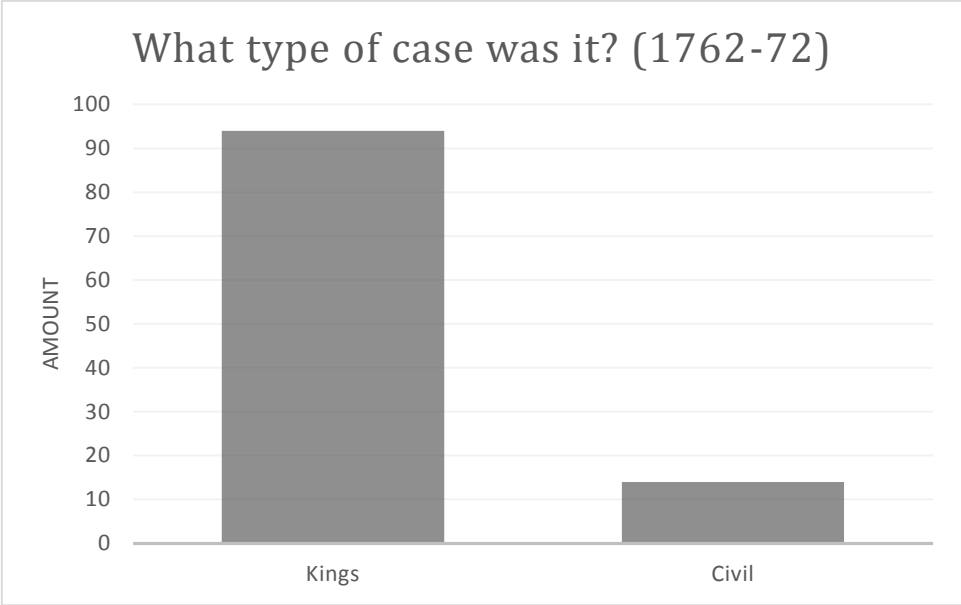


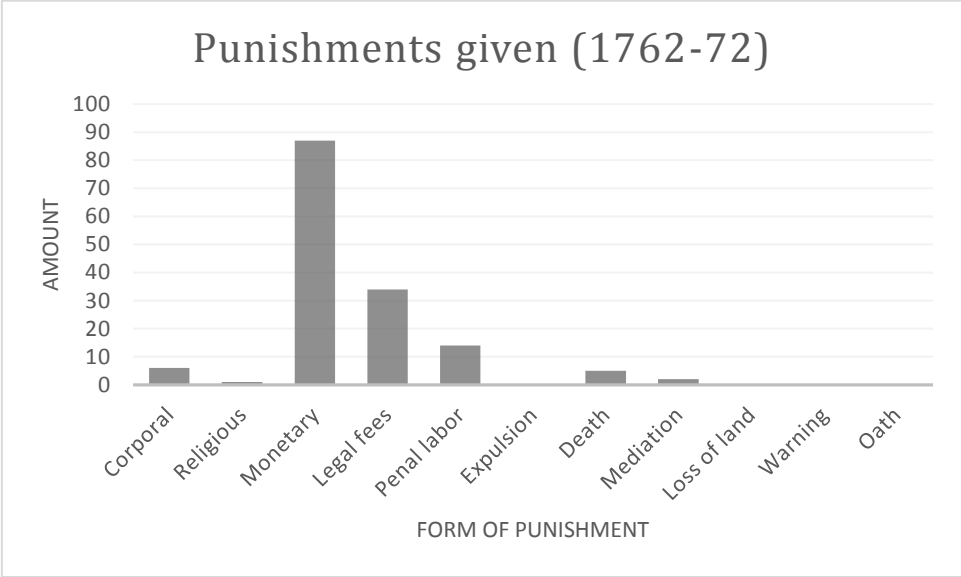
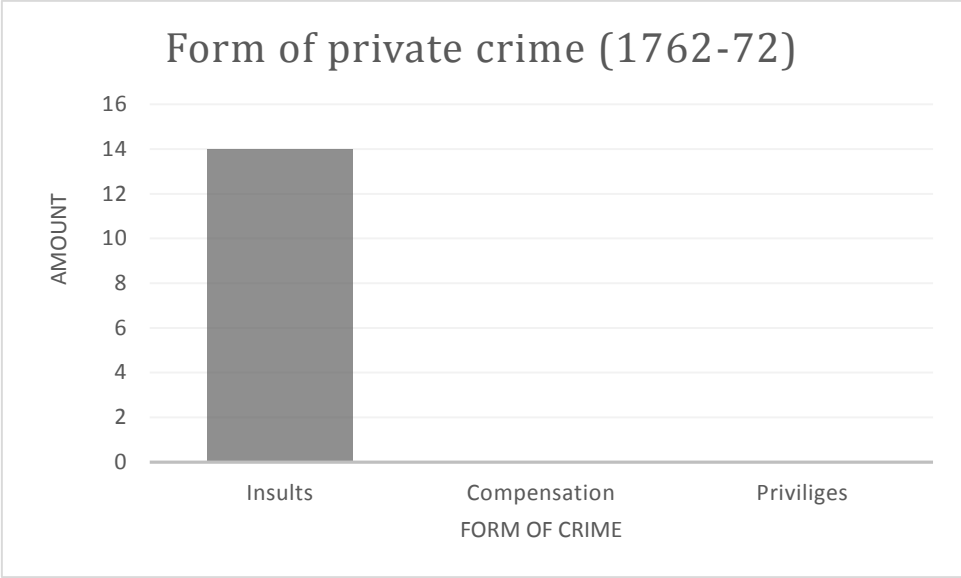


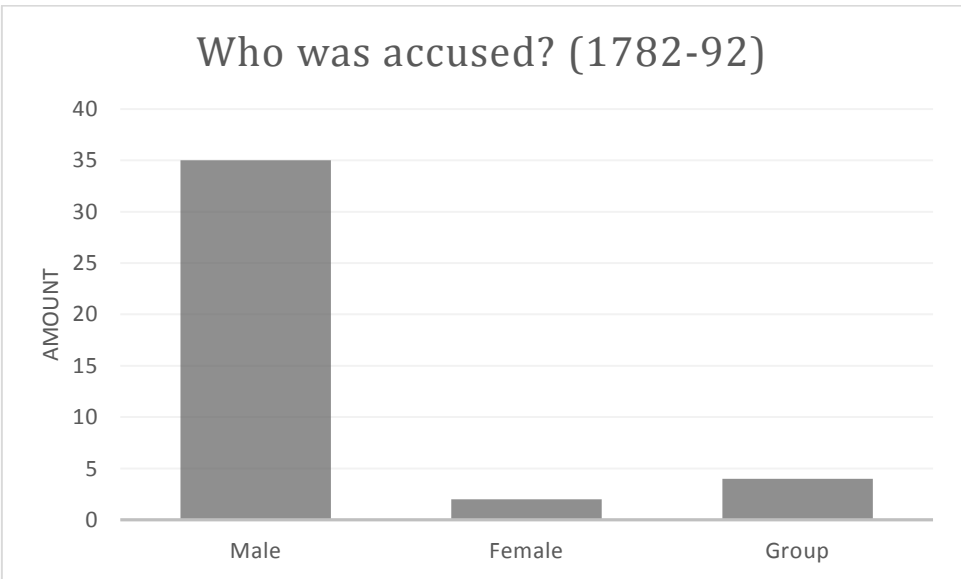
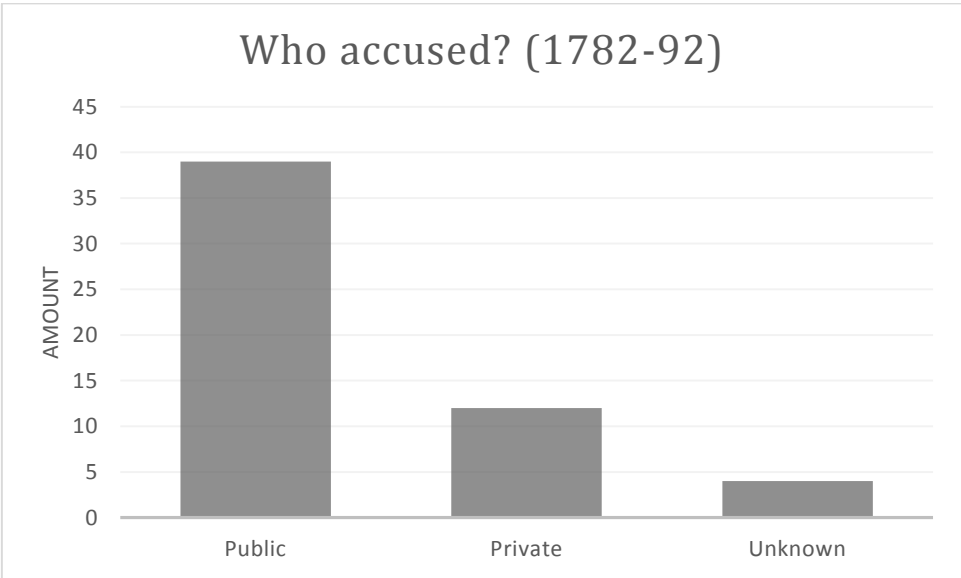
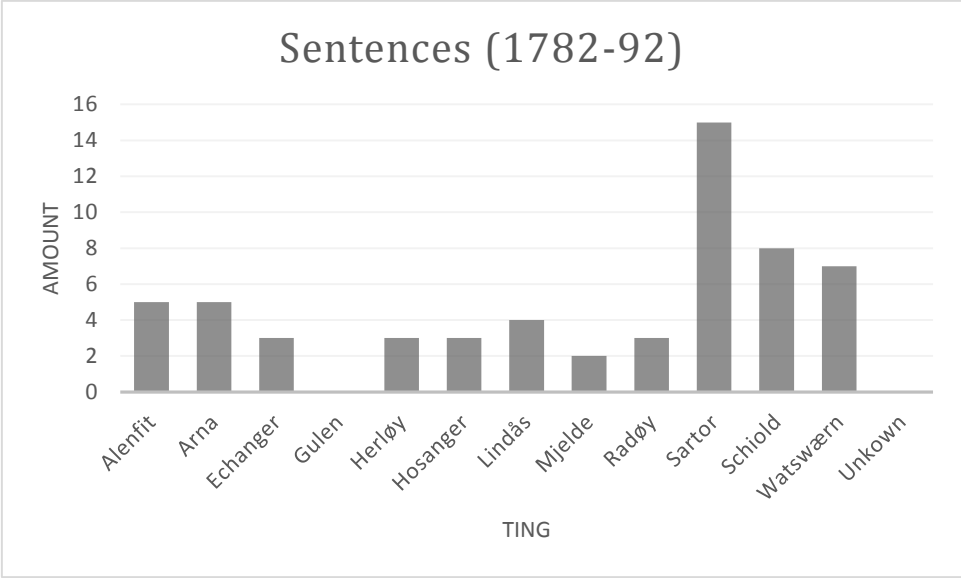


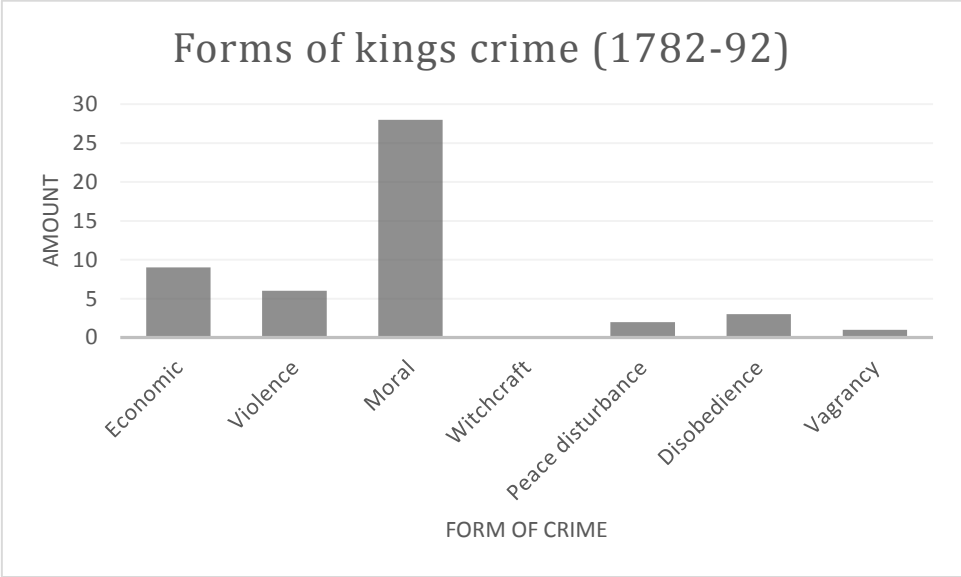
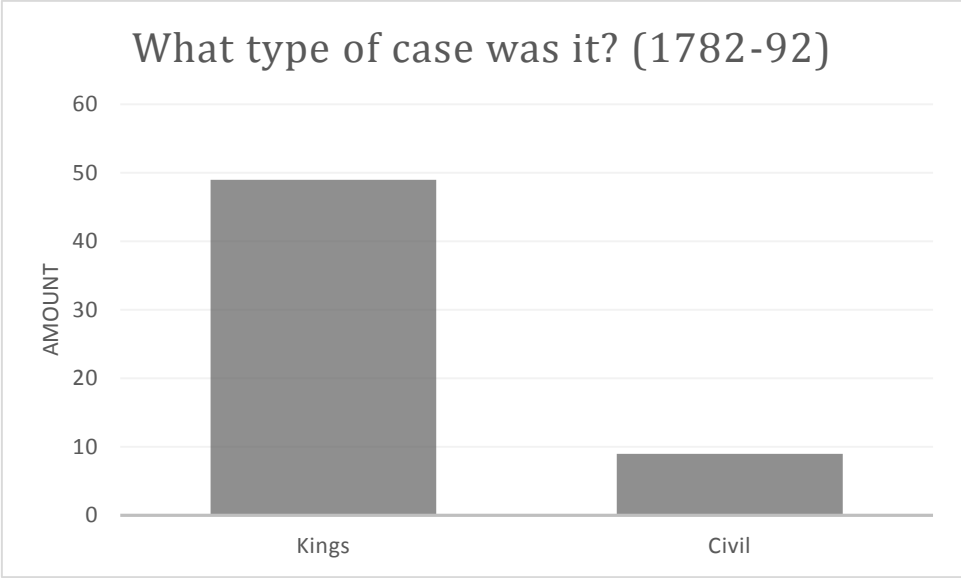


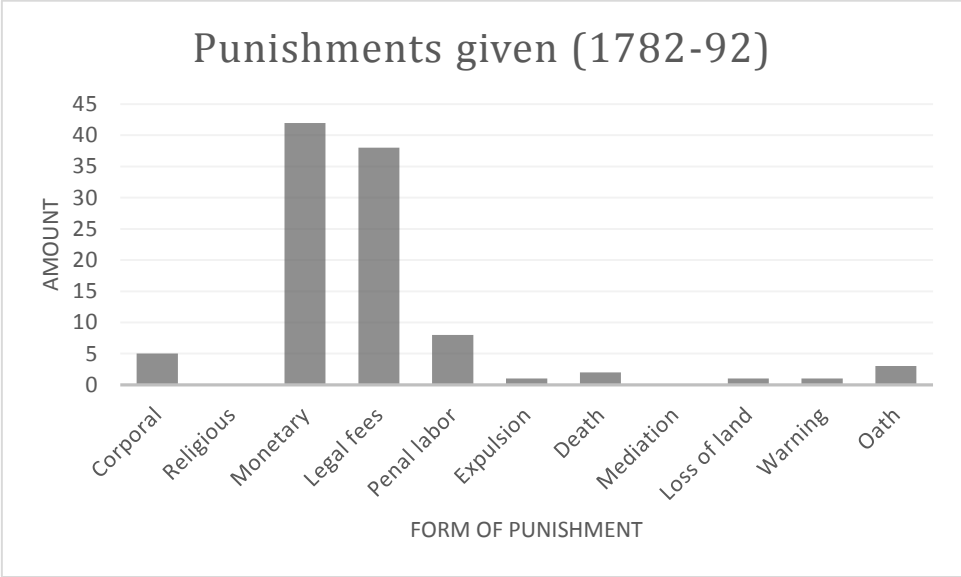
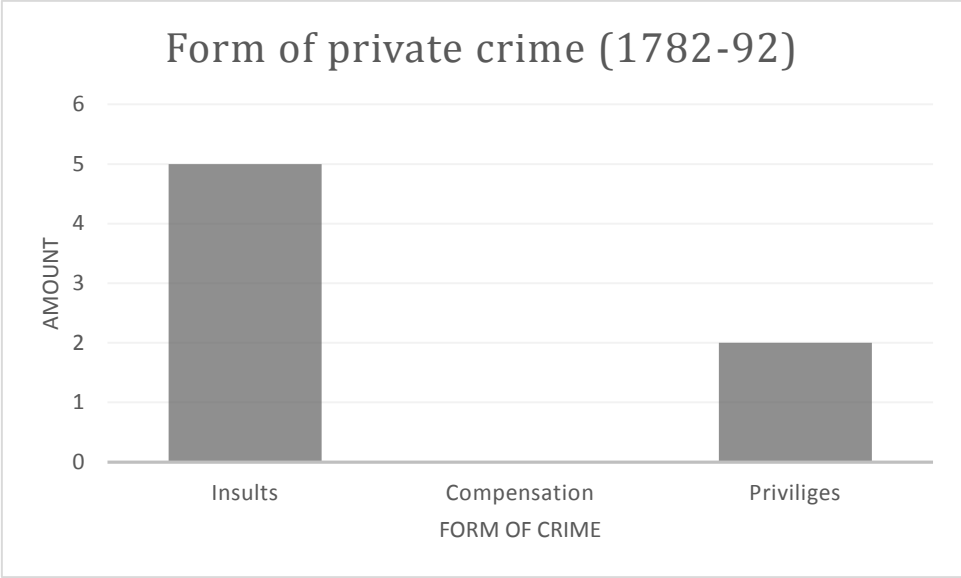












9.6 Coded data by year

For this project I have used a four digit system to register the cases which appear in the *tingbøker*. This has enabled me to analyze what I have found using spreadsheets. The two first digits shows who was the prosecutor and who was sued. The third and fourth digit show what kind of criminal case it is. For the grouping of criminal cases, I will be largely build upon the work found in '*Tingbøker og Edb registrering*'.³⁰¹ Finally, a second register will be used to track what kind of punishment one could receive at the *ting*. Thus, the letters belonging to the *skiprede* where the case took place followed by the two registers will note each case.

There are 12 *skiprede* encountered in the *tingbøker* and they are as follows in alphabetical order, with the letter code in parenthesis,: Alenfit (AH), Arna (AR), Echanger (EC), Gulen (GU), Herløe (HE), Hosanger (HO), Lindås (LI), Mjelde (MI), Radøy (RA), Sartor (SA), Schiold (SC), Watswærn(WA) or unkown (XX).

There are three forms of prosecution , used to form the first digit. Public (1), private (2) and undefined (3). The second digit signifies who was sued. Man (1), woman (2), group (3). Within the category group no difference is made between groups composed of several individuals, a man and a woman or inhabitants of a certain farm.

The third and fourth digit lets us know what type of case was at hand. It is a binary system where the first digit contains information regarding if the case is a kings case (1) or a civil case (2). Finally, the fourth digit denotes what form of crime it was. Economic crime (1), violence (2), moral (3), witchcraft (4), peace disturbance (5), disobedience (6) and vagrancy (7) in kings cases. Property (1), family (2), debt (3), insults (4), labor (5), compensation (6), privileges (7) and legal fees (8) in civil cases.

The second register defines what type of punishment was given by the court. Corporal (1), religious (2), monetary(3), legal fees (4), penal labor(5), expulsion(6), death (7), mediation (8) or loss of land(9). Two further categories, warned (W) and oath (O), will also be included. The *ting* would often hand out punishments that included several of these categories. Therefore, this register has a variable number of digits on a case-by-case basis.

This system has resulted in codes that look like this: GU 1213 : 34. In this case it is the area Gulen(GU) a public accuser (1), a woman being accused (2) for a kings case (1) in relation to

³⁰¹ Liv Marthinsen og Hilde Sandvik (red), *Tingbøker og EDB Avskrivning og Registrering*. Norsk Lokalhistorisk Institutt, Oslo 1991

a matter of moral (3). Her punishment is both monetary(3) and legal fees (4). These in turn refer to pages in a *tingbok* which is referenced like this: TB,Nh1742 b.40, pp. 285b. Here TB indicates that it refers to something from a *TingBok*, Nh denotes the area (*Nordhordland*), which year, which book and finally what page. Each case is easily accessible online following the link given in the list of sources.

1742	1743	1744	1745	1746
GU 1213 : 34 ³⁰² AH 1213 : 324 ³⁰³ GU 1113 : 34 ³⁰⁴ HO 1111 : 7 ³⁰⁵ SC 2316 : 3 ³⁰⁶ SA 1116 : 4 ³⁰⁷ AL 2111 : 13 ³⁰⁸	Lacune	XX 1217 : 16 ³⁰⁹ HE 2312 : 34 ³¹⁰ LI 2112 : 34 ³¹¹	SC 2126 : 3 ³¹² GU 1116 : 3 ³¹³ GU 1316 : 3 ³¹⁴ LI 2112 : 34 ³¹⁵ LI 1116 : 3 ³¹⁶ HE 2113 : 34 ³¹⁷ RA 2112 : 34 ³¹⁸ HE 2316 : 34 ³¹⁹ HE 1111 : 139 ³²⁰ EC 1113 : 3 ³²¹	AR 1212 : 37 ³²² SA 1311 : 34 ³²³ RA 2112 : 34 ³²⁴ EC 2116 : 3 ³²⁵ RA 2124 : 38 ³²⁶ HO 1313 : 3 ³²⁷

³⁰² TB,Nh1742 b.40, p. 285b

³⁰³ TB, Nh1742 b.40, p. 296

³⁰⁴ TB, Nh1742 b.40, p. 296b

³⁰⁵ TB, Nh1742 b.40, pp. 304- 305

³⁰⁶ TB, Nh1742 b.40, pp. 309b-310

³⁰⁷ TB, Nh1742 b.40, p. 311b

³⁰⁸ TB, Nh1742 b.40, p. 316

³⁰⁹ TB, Nh1744 b.41, pp. 54-54b

³¹⁰ TB, Nh1744 b.41, pp. 61b-62

³¹¹ TB, Nh1744 b.41, p. 77

³¹² TB, Nh1745 b41, pp. 128-128b

³¹³ TB, Nh1745 b41, p. 132b

³¹⁴ TB, Nh1745 b41, p. 134b

³¹⁵ TB, Nh1745 b41, pp. 137b-138

³¹⁶ TB, Nh1745 b41, p. 139

³¹⁷ TB, Nh1745 b41, pp. 144-144b

³¹⁸ TB, Nh1745 b41, pp. 146-146b

³¹⁹ TB, Nh1745 b41, pp. 160-160b

³²⁰ TB, Nh1745 b41, p. 166b

³²¹ TB, Nh1745 b41, p. 170b

³²² TB, Nh1746 b41, pp. 176-177

³²³ TB, Nh1746 b41, pp.190-190b

³²⁴ TB, Nh1746 b41, p. 202

³²⁵ TB, Nh1746 b41, pp. 204-204b

³²⁶ TB, Nh1746 b41, p. 225

³²⁷ TB, Nh1746 b41, pp. 228-228b

1747	1748	1749
XX 1313 : 69 ³²⁸	EC 1317 : 16 ³³⁸	SC 1317 : 59 ³⁴⁷
AR 2111 : 34 ³²⁹	EC 1217 : 25 ³³⁹	LI 1312 : 3 ³⁴⁸
SC 2111 : 48 ³³⁰	SC 2311 : 3 ³⁴⁰	HO 1112 : 3 ³⁴⁹
LI 1112 : 34 ³³¹	RA 1112 : 3 ³⁴¹	HO 1113 : 3 ³⁵⁰
AH 2112 : 34 ³³²	XX 1117 : 5 ³⁴²	MI 2112 : 34 ³⁵¹
AH 2112 : 34 ³³³	HE 1211 : 13 ³⁴³	
HE 1313 : 79 ³³⁴	LI 2116 : 3 ³⁴⁴	
RA 1312 : 3 ³³⁵	HE 2327 : 34 ³⁴⁵	
EC 2112 : 34 ³³⁶	HE 2327 : 3 ³⁴⁶	
SA 2316 : 34 ³³⁷		

³²⁸ TB, Nh1747 b41, pp. 236-237b

³²⁹ TB, Nh1747 b41, p. 248b

³³⁰ TB, Nh1747 b41, pp. 254b-255

³³¹ TB, Nh1747 b41, pp. 285b-289

³³² TB, Nh1747 b41, p. 273b

³³³ TB, Nh1747 b41, pp. 273b-274

³³⁴ TB, Nh1747 b41, pp. 280b-281

³³⁵ TB, Nh1747 b41, pp. 286b-287

³³⁶ TB, Nh1747 b41, pp. 291-291b

³³⁷ TB, Nh1747 b41, pp. 303b-304

³³⁸ TB, Nh1748 b41, pp. 307b-308

³³⁹ TB, Nh1748 b41, p. 308

³⁴⁰ TB, Nh1748 b41, p. 313

³⁴¹ TB, Nh1748 b41, pp. 322b-323

³⁴² TB, Nh1748 b41, p. 329b

³⁴³ TB, Nh1748 b41, pp. 332b-333

³⁴⁴ TB, Nh1748 b41, p. 333b

³⁴⁵ TB, Nh1748 b41, pp. 33b-335

³⁴⁶ TB, Nh1748 b41, p. 335b

³⁴⁷ TB, Nh1749 b42, p. 20

³⁴⁸ TB, Nh1749 b42, pp. 51b-52

³⁴⁹ TB, Nh1749 b42, pp. 92-92b

³⁵⁰ TB, Nh1749 b42, pp. 93-93b

³⁵¹ TB, Nh1749 b42, pp. 97b-98

1750	1751	1752
LI 1113 : 3 ³⁵² RA 2112 : 3W ³⁵³ MI 1212 : 3 ³⁵⁴ SA 2124 : 34 ³⁵⁵ SA 1313 : 5 ³⁵⁶ RA 1312 : 3 ³⁵⁷ HE 2327 : 34 ³⁵⁸ AH 2126 : 34 ³⁵⁹ HO 1313 : 79 ³⁶⁰	SA 2327 : 3W ³⁶¹ RA 1116 : 3 ³⁶²	SC 2112 : 34 ³⁶³ AR 2116 : 3 ³⁶⁴ RA 2124 : 34 ³⁶⁵ AH 1316 : 3 ³⁶⁶ EC 1213 : 3 ³⁶⁷

1762	1763	1764	1765
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³⁵² TB, Nh1750 b42, pp. 106-106b

³⁵³ TB, Nh1750 b42, p. 110

³⁵⁴ TB, Nh1750 b42, pp. 118-119

³⁵⁵ TB, Nh1750 b42, pp. 146b-147

³⁵⁶ TB, Nh1750 b42, pp. 147-147b

³⁵⁷ TB, Nh1750 b42, p. 157

³⁵⁸ TB, Nh1750 b42, pp. 158-159

³⁵⁹ TB, Nh1750 b42, pp. 163b-164

³⁶⁰ TB, Nh1750 b42, p. 167

³⁶¹ TB, Nh1751 b42, pp. 180-180b

³⁶² TB, Nh1751 b42, p. 183b

³⁶³ TB, Nh1752 b42, pp 229b-230

³⁶⁴ TB, Nh1752 b42, pp 241-241b

³⁶⁵ TB, Nh1752 b42, pp 258-258b

³⁶⁶ TB, Nh1752 b42, pp 261-262

³⁶⁷ TB, Nh1752 b42, p 267

XX 3213 : 3 ³⁶⁸ XX 3115 : 5 ³⁶⁹ XX 3111 : 37 ³⁷⁰ XX 3313 : 5 ³⁷¹ XX 3116 : 3 ³⁷²	XX 3116 : 34 ³⁷³ XX 3124 : 34 ³⁷⁴ HE 3116 : 3 ³⁷⁵ XX 3124 : 34 ³⁷⁶ XX 3311 : 34 ³⁷⁷ XX 3124 : 34 ³⁷⁸ XX 3113 : 38 ³⁷⁹ XX 3312 : 3 ³⁸⁰ XX 3312 : 3 ³⁸¹	SA 3112 : 34 ³⁸² SA 3116 : 3 ³⁸³ SA 3312 : 3 ³⁸⁴ SC 3212 : 37 ³⁸⁵ RA 3324 : 134 ³⁸⁶ GU 3313 : 37 ³⁸⁷ LI 3116 : 34 ³⁸⁸ LI 3314 : 34 ³⁸⁹ HO 3113 : 3 ³⁹⁰	SC 1111 : 15 ³⁹¹ HE 1112 : 157 ³⁹² HE 1213 : 35 ³⁹³ RA 1313 : 34 ³⁹⁴
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1766	1767	1768	1769
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- ³⁶⁸ TB, Nh1762 b44, p. 110b
³⁶⁹ TB, Nh1762 b44, pp. 120-120b
³⁷⁰ TB, Nh1762 b44, pp. 131-131b
³⁷¹ TB, Nh1762 b44, pp. 135b-136
³⁷² TB, Nh1762 b44, pp. 140-140b
³⁷³ TB, Nh1763 b44, pp. 169b-170
³⁷⁴ TB, Nh1763 b44, p. 172b
³⁷⁵ TB, Nh1763 b44, p. 179
³⁷⁶ TB, Nh1763 b44, p. 182
³⁷⁷ TB, Nh1763 b44, pp. 193-193b
³⁷⁸ TB, Nh1763 b44, pp. 198b-199b
³⁷⁹ TB, Nh1763 b44, pp. 213-213b
³⁸⁰ TB, Nh1763 b44, pp. 216b-217
³⁸¹ TB, Nh1763 b44, pp. 221b-222
³⁸² TB, Nh1764 b44, p. 227b
³⁸³ TB, Nh1764 b44, p. 228
³⁸⁴ TB, Nh1764 b44, pp. 228-228b
³⁸⁵ TB, Nh1764 b44, pp. 236-236b
³⁸⁶ TB, Nh1764 b44, pp. 244-224b
³⁸⁷ TB, Nh1764 b44, p. 247b
³⁸⁸ TB, Nh1764 b44, p. 268
³⁸⁹ TB, Nh1764 b44, pp. 268-268b
³⁹⁰ TB, Nh1764 b44, p. 272
³⁹¹ TB, Nh1765 b44, pp. 281-282b
³⁹² TB, Nh1765 b44, pp. 284-284b
³⁹³ TB, Nh1765 b44, pp. 292b-293
³⁹⁴ TB, Nh1765 b44, p. 299

SA 2124 : 3 ³⁹⁵ GU 1112 : 3 ³⁹⁶ MI 1213 : 3 ³⁹⁷ AR 1224 : 5 ³⁹⁸	SC 1116 : 34 ³⁹⁹ RA 2112 : 3 ⁴⁰⁰ RA 1115 : 3 ⁴⁰¹ AR 1112 : 35 ⁴⁰² SA 1312 : 3 ⁴⁰³ SC 1112 : 3 ⁴⁰⁴ AR 1213 : 35 ⁴⁰⁵ AR 2112 : 3 ⁴⁰⁶ AR 1116 : 34 ⁴⁰⁷	SC 1112 : 3 ⁴⁰⁸ RA 1313 : 3 ⁴⁰⁹ GU 1313 : 3 ⁴¹⁰ HE 2113 : 3 ⁴¹¹ HE 2124 : 3 ⁴¹² AR 1116 : 34 ⁴¹³ AR 1116 : 34 ⁴¹⁴ SC 2113 : 34 ⁴¹⁵ AH 1111 : 5 ⁴¹⁶ SC 1213 : 3 ⁴¹⁷ AH 1311 : 3 ⁴¹⁸ AR 1124 : 38 ⁴¹⁹	GU 1313 : 5 ⁴²⁰ SC 1213 : 3 ⁴²¹ HE 1311 : 3 ⁴²² HE 1213 : 5 ⁴²³
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1770

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- ³⁹⁵ TB, Nh1766 b44, p. 307
³⁹⁶ TB, Nh1766 b44, pp. 312b-313
³⁹⁷ TB, Nh1766 b44, p. 315b
³⁹⁸ TB, Nh1766 b44, pp. 326-326b
³⁹⁹ TB, Nh1767 b44, p. 357b
⁴⁰⁰ TB, Nh1767 b44, pp. 365b-366
⁴⁰¹ TB, Nh1767 b44, pp. 365b-366
⁴⁰² TB, Nh1767 b44, pp. 381-382b
⁴⁰³ TB, Nh1767 b44, p. 386b
⁴⁰⁴ TB, Nh1767 b44, pp. 408b-409
⁴⁰⁵ TB, Nh1767 b44, p. 417
⁴⁰⁶ TB, Nh1767 b44, pp. 417b-418
⁴⁰⁷ TB, Nh1767 b44, p. 418
⁴⁰⁸ TB, Nh1768 b44, pp. 431b
⁴⁰⁹ TB, Nh1768 b45, p. 12
⁴¹⁰ TB, Nh1768 b45, p. 17
⁴¹¹ TB, Nh1768 b45, p. 20b
⁴¹² TB, Nh1768 b45, p. 20b
⁴¹³ TB, Nh1768 b45, pp. 22-22b
⁴¹⁴ TB, Nh1768 b45, p. 26b
⁴¹⁵ TB, Nh1768 b45, p. 27
⁴¹⁶ TB, Nh1768 b45, pp. 34-35b
⁴¹⁷ TB, Nh1768 b45, p. 41
⁴¹⁸ TB, Nh1768 b45, pp. 68-69
⁴¹⁹ TB, Nh1768 b45, p. 81
⁴²⁰ TB, Nh1769 b45, pp. 82b-83
⁴²¹ TB, Nh1769 b45, pp. 94b-95
⁴²² TB, Nh1769 b45, pp. 98b-99
⁴²³ TB, Nh1769 b45, pp.114b-115b

SA 1116 :3⁴²⁴
SA 1116 :3⁴²⁵
SA 1116 :3⁴²⁶
HE 1113 : 3⁴²⁷
HE 1111 : 34⁴²⁸
AH 1116 : 3⁴²⁹
AH 1213 : 3⁴³⁰
SC 1113 : 3⁴³¹
GU 1111 : 1⁴³²
HE 1116 : 3⁴³³
LI 1311 : 1⁴³⁴
SC 1312 : 34⁴³⁵
SA 1116 :3⁴³⁶
SA 1116 :3⁴³⁷
SA 1111 : 3⁴³⁸
SA 1311 : 3⁴³⁹
SC 2124 : 34⁴⁴⁰

1771

⁴²⁴ TB, Nh1770 b45, p.152

⁴²⁵ TB, Nh1770 b45, pp. 152-152b

⁴²⁶ TB, Nh1770 b45, p. 152b

⁴²⁷ TB, Nh1770 b45, p. 165b

⁴²⁸ TB, Nh1770 b45, pp. 165b-166

⁴²⁹ TB, Nh1770 b45, p. 168

⁴³⁰ TB, Nh1770 b45, pp. 168-168b

⁴³¹ TB, Nh1770 b45, pp. 186b-187

⁴³² TB, Nh1770 b45, pp. 196b-197b

⁴³³ TB, Nh1770 b45, pp. 218b-219

⁴³⁴ TB, Nh1770 b45, pp. 226b-228

⁴³⁵ TB, Nh1770 b45, pp. 236b-237b

⁴³⁶ TB, Nh1770 b45, p. 238

⁴³⁷ TB, Nh1770 b45, p. 238

⁴³⁸ TB, Nh1770 b45, pp. 240-240b

⁴³⁹ TB, Nh1770 b45, pp. 240b-241

⁴⁴⁰ TB, Nh1770 b45, pp. 251-254

MI 1314 : 2345⁴⁴¹
SA 2124 : 34⁴⁴²
RA 1316 : 3⁴⁴³
AH 1113 : 34⁴⁴⁴
AH 1113 : 34⁴⁴⁵
GU 1313 : 345⁴⁴⁶
LI 1116 : 3⁴⁴⁷
LI 1316 : 3⁴⁴⁸
LI 1116 : 3⁴⁴⁹
LI 1316 : 3⁴⁵⁰
LI 1316 : 3⁴⁵¹
LI 1112 : 34⁴⁵²
HO 1316 : 3⁴⁵³
HO 1316 : 3⁴⁵⁴
HO 1116 : 3⁴⁵⁵
HO 1316 : 3⁴⁵⁶
EC 1116 : 3⁴⁵⁷
EC 1316 : 3⁴⁵⁸
EC 1316 : 3⁴⁵⁹
EC 1116 : 3⁴⁶⁰
EC 1316 : 3⁴⁶¹
SC 2124 : 34⁴⁶²
SC 1124 : 34⁴⁶³

1772

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- ⁴⁴¹ TB, Nh1771 b45, pp. 254b-257
⁴⁴² TB, Nh1771 b45, pp. 259b-260
⁴⁴³ TB, Nh1771 b45, pp. 269-269b
⁴⁴⁴ TB, Nh1771 b45, pp. 269b-270
⁴⁴⁵ TB, Nh1771 b45, p. 271
⁴⁴⁶ TB, Nh1771 b45, p. 271
⁴⁴⁷ TB, Nh1771 b45, pp. 273-273b
⁴⁴⁸ TB, Nh1771 b45, pp. 276-276b
⁴⁴⁹ TB, Nh1771 b45, p. 276b
⁴⁵⁰ TB, Nh1771 b45, pp. 276b-277
⁴⁵¹ TB, Nh1771 b45, p. 277
⁴⁵² TB, Nh1771 b45, p. 277b
⁴⁵³ TB, Nh1771 b45, pp. 278-278b
⁴⁵⁴ TB, Nh1771 b45, pp. 279b-280
⁴⁵⁵ TB, Nh1771 b45, pp. 280b-281
⁴⁵⁶ TB, Nh1771 b45, p. 281
⁴⁵⁷ TB, Nh1771 b45, p. 281b
⁴⁵⁸ TB, Nh1771 b45, p. 282b
⁴⁵⁹ TB, Nh1771 b45, pp. 282b-283
⁴⁶⁰ TB, Nh1771 b45, pp. 283-283b
⁴⁶¹ TB, Nh1771 b45, p. 283b
⁴⁶² TB, Nh1771 b46, p. 16
⁴⁶³ TB, Nh1771 b46, p. 29

AR 1324 : 34 ⁴⁶⁴
LI 1316 : 3 ⁴⁶⁵
EC 1316 : 3 ⁴⁶⁶
HE 1216 : 14 ⁴⁶⁷
SA 1313 : 7 ⁴⁶⁸
SC 2312 : 34 ⁴⁶⁹
LI 1116 : 34 ⁴⁷⁰
EC 1313 : 34 ⁴⁷¹
SA 2124 : 34 ⁴⁷²
MI 1113 : 34 ⁴⁷³
AR 1113 : 34 ⁴⁷⁴

1782	1783	1784	1785	1786
Lacune	Lacune	Lacune	RA 1112 : 35 ⁴⁷⁵ WA 2311 : 34 ⁴⁷⁶ MI 1112 : 34 ⁴⁷⁷	SC 2127 : 34 ⁴⁷⁸ WA 3111 : 15 ⁴⁷⁹ AR 3113 : 5 ⁴⁸⁰ SA 2124 : 4 ⁴⁸¹ AH 2127 : 4W ⁴⁸²

1787	1788
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⁴⁶⁴ TB, Nh1772 b46, pp. 38-39
⁴⁶⁵ TB, Nh1772 b46, p. 41
⁴⁶⁶ TB, Nh1772 b46, p. 42
⁴⁶⁷ TB, Nh1772 b46, pp. 58b-59
⁴⁶⁸ TB, Nh1772 b46, p. 69
⁴⁶⁹ TB, Nh1772 b46, pp. 69b-70
⁴⁷⁰ TB, Nh1772 b46, pp. 70-71b
⁴⁷¹ TB, Nh1772 b46, p. 103
⁴⁷² TB, Nh1772 b46, pp. 106b-107b
⁴⁷³ TB, Nh1772 b46, p. 109b
⁴⁷⁴ TB, Nh1772 b46, p. 112b
⁴⁷⁵ TB, Nh1785 b47, p. 9b
⁴⁷⁶ TB, Nh1785 b47, p. 21
⁴⁷⁷ TB, Nh1785 b47, p. 59b
⁴⁷⁸ TB, Nh1785 b47, pp. 102b-103
⁴⁷⁹ TB, Nh1785 b47, pp. 111-112b
⁴⁸⁰ TB, Nh1785 b47, pp. 117b-118b
⁴⁸¹ TB, Nh1785 b47, pp. 125b-126
⁴⁸² TB, Nh1785 b47, p. 143

AH 2124 : 34 ⁴⁸³	SC 1115 : 3 ⁴⁹⁸
AH 1113 : 3 ⁴⁸⁴	RA 3317 : 5 ⁴⁹⁹
HO 1116 : 3 ⁴⁸⁵	EC 1113 : 3 ⁵⁰⁰
SC 1111 : 135 ⁴⁸⁶	AH 2224 : 34 ⁵⁰¹
SCSA 2124 : 4 ⁴⁸⁷	LI 2116 : 340 ⁵⁰²
SCSA 1213 : 34 ⁴⁸⁸	HO 1313 : 34 ⁵⁰³
SCSA 1113 : 34 ⁴⁸⁹	WA 1112 : 34 ⁵⁰⁴
WA 2111 : 13 ⁴⁹⁰	
AR 3111 : 13 ⁴⁹¹	
HE 1112 : 34 ⁴⁹²	
RA 1113 : 3 ⁴⁹³	
LI 1111 : 5 ⁴⁹⁴	
EC 1313 : 34 ⁴⁹⁵	
WA 2115 : 34 ⁴⁹⁶	
MI 1313 : 3 ⁴⁹⁷	

1789	1790	1791	1792
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⁴⁸³ TB, Nh1787 b47 pp. 197-197b
⁴⁸⁴ TB, Nh1787 b47 pp. 197b-198
⁴⁸⁵ TB, Nh1787 b47, p. 201b
⁴⁸⁶ TB, Nh1787 b47, p. 204b
⁴⁸⁷ TB, Nh1787 b47, pp. 211b-212
⁴⁸⁸ TB, Nh1787 b47, p. 211b
⁴⁸⁹ TB, Nh1787 b47, p. 212
⁴⁹⁰ TB, Nh1787 b47, pp. 213-213b
⁴⁹¹ TB, Nh1787 b47, p. 219
⁴⁹² TB, Nh1787 b47, pp. 233-233b
⁴⁹³ TB, Nh1787 b47, p. 236
⁴⁹⁴ TB, Nh1787 b47, pp. 238-238b
⁴⁹⁵ TB, Nh1787 b47, p. 240b
⁴⁹⁶ TB, Nh1787 b47, pp. 245b-246
⁴⁹⁷ TB, Nh1787 b47, p. 255
⁴⁹⁸ TB, Nh1788 b47, pp. 261b-262
⁴⁹⁹ TB, Nh1788 b47, p. 263
⁵⁰⁰ TB, Nh1788 b47, p. 282
⁵⁰¹ TB, Nh1788 b47, pp. 311b-312
⁵⁰² TB, Nh1788 b47, pp. 313-313b
⁵⁰³ TB, Nh1788 b47, pp. 318-318b
⁵⁰⁴ TB, Nh1788 b47, p. 328

SA 1313 : 7 ⁵⁰⁵ SA 1113 : 34 ⁵⁰⁶ LI 1111 : 135 ⁵⁰⁷ LI 1313 : 34 ⁵⁰⁸ AR 2124 : 34 ⁵⁰⁹ AR 2224 : 34 ⁵¹⁰ SC 1112 : 340 ⁵¹¹ WA 2113 : 346 ⁵¹² WA 1113 : 7 ⁵¹³ SA 1113 : 34 ⁵¹⁴ SA 1313 : 34 ⁵¹⁵ SA 1313 : 34 ⁵¹⁶ SA 1313 : 34 ⁵¹⁷ SA 1313 : 34 ⁵¹⁸ SA 1313 : 34 ⁵¹⁹ SA 1313 : 34 ⁵²⁰ SA 1313 : 34 ⁵²¹ SA 1313 : 34 ⁵²² SA 1313 : 34 ⁵²³ SA 1313 : 34 ⁵²⁴ SA 1313 : 34 ⁵²⁵ SA 1313 : 34 ⁵²⁶ SC 1111 : 5 ⁵²⁷ HE 1113 : 34 ⁵²⁸ HE 1113 : 34 ⁵²⁹ EC 1113 : 3 ⁵³⁰	Lacune	Lacune	Lacune
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⁵⁰⁵ TB, Nh1788 b47, p. 331
⁵⁰⁶ TB, Nh1788 b47, p. 331b
⁵⁰⁷ TB, Nh1788 b47, pp. 342b-343
⁵⁰⁸ TB, Nh1788 b47, pp. 344-344b
⁵⁰⁹ TB, Nh1788 b47, pp. 350-350b
⁵¹⁰ TB, Nh1788 b47, p. 350b
⁵¹¹ TB, Nh1788 b47, pp. 352-352b
⁵¹² TB, Nh1788 b47, pp. 353-354
⁵¹³ TB, Nh1788 b47, p. 354b
⁵¹⁴ TB, Nh1788 b47, p. 359b
⁵¹⁵ TB, Nh1788 b47, p. 359b
⁵¹⁶ TB, Nh1788 b47, p. 360
⁵¹⁷ TB, Nh1788 b47, p. 360
⁵¹⁸ TB, Nh1788 b47, p. 360
⁵¹⁹ TB, Nh1788 b47, p. 360
⁵²⁰ TB, Nh1788 b47, p. 360
⁵²¹ TB, Nh1788 b47, p. 360
⁵²² TB, Nh1788 b47, p. 360b
⁵²³ TB, Nh1788 b47, p. 360b
⁵²⁴ TB, Nh1788 b47, p. 360b
⁵²⁵ TB, Nh1788 b47, p. 360b
⁵²⁶ TB, Nh1788 b47, p. 360b
⁵²⁷ TB, Nh1788 b47, p. 364b
⁵²⁸ TB, Nh1788 b47, p. 367b
⁵²⁹ TB, Nh1788 b47, p. 367b
⁵³⁰ TB, Nh1788 b47, p. 378

HO 1116 : 39 ⁵³¹ AR 1113 : 340 ⁵³²			
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⁵³¹ TB, Nh1788 b47, pp. 378b-379

⁵³² TB, Nh1788 b47, pp. 385-385b