Courting conflict : managing Dutch East and West India Company disputes in the Dutch Republic

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Introduction

The Dutch East India Company (VOC) and Dutch West India Company (WIC) are not often considered as litigants. Principally, the companies are renowned as instruments of war, trade and colonisation in the Indian and Atlantic Oceans.[1] In the Republic, they were investment opportunities and the VOC in particular embodied and encouraged innovation in corporate form and financial instruments.[2] The companies were major employers of Dutch and migrant labour in the Republic: millions of employees set sail on company ships as sailors and soldiers, and the minority took up positions as high-ranking functionaries to administer company rule and conduct trade. In the company ports, towns and lodges established in their charter areas, both companies profited from the forced labour of enslaved people.[3] Through free and forced labour, and via exchange and trade conducted worlds away, the companies supplied luxury goods, exotic artefacts and diverse merchandise to markets in the Republic and across Europe, facilitating changes in European production and consumption.[4] These undertakings produced tension and outright opposition, which to date has received little scholarly attention.[5] Yet, just in the

[1] Femme S. Gaastra, *The Dutch East India Company: Expansion and Decline* (Zutphen: Walberg Pers, 2003); Henk den Heijer, *De geschiedenis van de WIC* (Zutphen: Walberg Pers, 2002); Charles R. Boxer, *The Dutch Seaborne Empire 1600-1800* (London: Hutchinson & Co, 1977); Piet Emmer and Jos Gommans, *Rijk aan de rand van de wereld: De geschiedenis van Nederland overzee 1600-1800* (Amsterdam: Uitgeverij Bert Bakker, 2012); Gerrit Knaap, "De 'core business' van de VOC. Markt, macht en mentaliteit vanuit overzees perspectief," (Universiteit Utrecht Oratie, 2014).

[2] J. G. van Dillen, *Het oudste aandeelhoudersregister van de kamer Amsterdam der Oost-Indische Compagnie* ('s-Gravenhage: Martinus Nijhoff, 1958); Oscar Gelderblom, Abe de Jong, and Joost Jonker, "An Admiralty for Asia: Business organization and the evolution of corporate governance in the Dutch Republic, 1590-1640. Isaac le Maire and conflicting conceptions about the corporate governance of the VOC," in *Origins of shareholder advocacy*, ed. Jonathan Koppell (New York: Palgrave Macmillan, 2011); Guiseppe Dari-Mattiacci et al., "The Emergence of the Corporate Form," *Journal of Law, Economics and Organization* 32, no. 2 (2017); Lodewijk Petram, "The world's first stock exchange: How the Amsterdam market for Dutch East India Company shares became a modern securities market, 1602-1700" (PhD, University of Amsterdam, 2011).

[3] Jan Lucassen, "A Multinational and its Labor Force: The Dutch East India Company, 1595-1795," *International Labor and Working-Class History* 66 (2004); Roelof van Gelder, *Het Oost-Indisch avontuur: Duitsers in dienst van de VOC (1600-1800)* (Nijmegen: SUN, 1997); Kerry Ward, *Networks of Empire: Forced Migration in the Dutch East India Company* (New York: Cambridge University press, 2009); Nigel Worden, *Slavery in Dutch South Africa* (Cambridge: Cambridge University Press, 1985). W. Klooster, "De bootsgezellen van Brazilië," *Tijdschrift voor Zeegeschiedenis* 33, no. 2 (2014); Henk den Heijer, *Goud, ivoor en slaven. Scheepvaart en handel van de Tweede Westindische Compagnie op Afrika, 1674-1740* (Zutphen: Walburg Pers, 1997); Cornelis Ch. Goslinga, *The Dutch in the Caribbean and in the Guianas, 1680-1791* (Assen/Maastricht: Van Gorcum, 1985).

[4] Maxine Berg et al., eds., *Goods from the East, 1600-1800: Trading Eurasia* (Basingstoke: Palgrave Macmillan, 2015); Janet Blyberg et al., eds., *Asia in Amsterdam: The culture of luxury in the Golden Age* (Salem/Amsterdam: Peabody Essex Museum/Rijksmuseum, 2015); Daniel Strum, *The Sugar Trade: Brazil, Portugal and The Netherlands (1595-1630)* (Stanford: Stanford University Press, 2013).

[5] Research on the ways in which the companies were challenged has tended to focus on illegality and in particular, on the ways in which private merchants and company employees eroded the VOC and WIC's monopolies. For a recent contribution, see Karwan Fatah-Black and Matthias van Rossum, "De Nederlandse smokkelhandel, 1600-1800," *TSEG/Low Countries Journal of Social and Economic History* 13, no. 1 (2016). This is discussed at length in Chapter 3.

Republic alone, the companies faced opposition to their creation, to the shape in which they were maintained by charter, and to their dealings with competitors, employees, shareholders, and merchants. One expression of this opposition was litigation. Men and women sued and were sued by the VOC and the WIC in the courts in Holland and Zeeland. It is these cases which the following chapters address.

That both companies were embroiled in legal disputes is evident from the records of the municipal, provincial and supra-provincial courts in Holland and Zeeland. While company histories run into the millions of pages, these histories have generally ignored the court records. Dutch overseas expansion, as conducted by the VOC from its inception in 1602 and the WIC from 1621 onwards, precipitated conflicts which were pursued to the highest judicial level in Holland and Zeeland. What types of conflicts arose from the Dutch Republic's overseas expansion? And how were they managed in the Republic? In the chapters which follow I will answer these questions focussing on a specific court, namely the High Court of Holland, Zeeland and West- Friesland, and a specific set of court cases, being those which involved the Dutch East or West India Companies as one of the parties.

From conflict resolution to conflict management

Scholars of legal and economic history have analysed mechanisms of conflict resolution, and in particular conflicts of a commercial nature. Generally, as Alain Wijffels points out, how conflicts were ended has been the focus amongst economic historians, based on the understanding that conflicts had to be resolved in order for merchants to continue and indeed expand their trade.[6] Formal and informal institutions played a crucial role in reducing transaction costs and facilitating commercial exchange by providing the means of resolving conflicts.

Scholars debate why certain institutions emerged when they did and what drives institutional change. Douglass North's work has been field-defining. He famously defined institutions as

> the humanly devised constraints that structure political, economic and social interaction. They consist of both informal constraints (sanctions, taboos, customs, traditions, and codes of conduct), and formal rules (constitutions, laws, property rights). Throughout history, institutions have been devised by human beings to create order and reduce uncertainty in exchange.[7]

Why such institutions emerge, and change, has been ascribed to conflict by some scholars, and competition by others. Sheilagh Ogilvie has argued that conflicts over the distributive

[6] Alain Wijffels, "Introduction: Commercial quarrels - and how (not) to handle them," *Continuity and Change* 32, no. 1 (2017).
[7] Douglass North, "Institutions," *Journal of Economic Perspectives* 5, no. 1 (1991): 97.

effects of institutions affected which institutions emerged and survived.[8] The critical junctures approach, of Darren Acemoglu and James A. Robinson, also highlights the importance of conflict and the role of politics in which institutions are present.[9] Critical junctures are periods of uncertainty during which there is the opportunity for radical institutional change. According to Giovanni Capoccia, during these relatively short periods of contingency, agency is very important in bringing about change. Agents and political decision-making during critical junctures shape the institutional direction which is chosen.[10]

Some scholars contend that the state plays a crucial role in the emergence and maintenance of institutions. A strong state is central to both North's and Ogilvie's arguments. Other scholars have argued that institutions developed in the absence of strong states. Avner Greif argues that private order solutions emerged to solve commercial conflicts within a coalition, in the absence of third party contract enforcement, namely a court system.[11] Ogilvie and Jeremy Edwards contend that it was not an either or: private order institutions operated in concert with a legal system.[12]

Recently, Oscar Gelderblom has entered this debate: he argues that competition between cities to provide an environment attractive to merchants drove institutional development. His argument brings specificity to North's suggestion that competition was an important factor in institutional development and the consequent lowering of transaction costs in The Netherlands and England.[13] Gelderblom argues that urban governments were motivated to adapt their legal, commercial and financial institutions by the potential benefits – market concentration, and taxation opportunities among them – of attracting merchants to and keeping them in their cities.[14] In this way, competition among cities drove institutional adaptation. Gelderblom points out that Amsterdam did not follow the institutional path chosen by other commercial cities. Rather than allowing foreign merchants to settle disputes according to the laws of their home countries, in consular courts, Amsterdam responded to the influx of merchants in the late sixteenth and early seventeenth century by setting up institutions that were open-access, also

[8] Sheilagh Ogilvie, *Institutions and European Trade: Merchant guilds, 1000-1800* (Cambridge: Cambridge University Press, 2011), 2, 39, 40, 417.
[9] Daron Acemoglu and James Robinson, *Why Nations Fail: The origins of power, prosperity and poverty* (London: Profile, 2013), Ch. 3.
[10] Giovanni Capoccia, "Critical junctures and institutional change," in *Advances in Comparative-Historical Analysis*, ed. James Mahoney and Kathleen Thelen (Cambridge: Cambridge University Press, 2015), esp. 147-151.
[11] Avner Greif, "Reputation and coalitions in Medieval Trade: Evidence on the Maghribi traders," *Journal of Economic History* 49, no. 1 (1989). Avner Greif, "The Maghribi traders: A reappraisal?," *Economic History Review* 65, no. 2 (2012).
[12] Jeremy Edwards and Sheilagh Ogilvie, "Contract Enforcement, Institutions, and Social Capital: The Maghribi traders reappraised," ibid.
[13] Douglass C. North, "Institutions, transaction costs, and the rise of merchant empires," in *The Rise of Merchant Empires: Long-distance trade in the Early Modern World, 1350-1750*, ed. James D. Tracy (Cambridge: Cambridge University Press, 1990), 26-27. North contrasts the path chosen in England and The Netherlands to Spain and Portugal and France.
[14] Oscar Gelderblom, *Cities of Commerce: The institutional foundations of international trade in the Low Countries, 1250-1650* (Princeton: Princeton University Press, 2013).

termed generalised, meaning that they were not limited to certain groups of people based on profession, creed, or ethnicity.[15] One such institution was the Amsterdam Chamber of Insurance and Average, discussed below.

Oscar Gelderblom makes these arguments specifically for the city of Amsterdam. However, open-access courts were not limited to Amsterdam, or even Holland. The legal system in both Holland and Zeeland was constituted by open-access courts at municipal, provincial and supra-provincial level. This may have been the result of following Amsterdam's lead. On the use of these institutions, Gelderblom makes the point that legal proceedings were costly to merchants, in terms of time and money, and possibly also reputation. Thus, he claims that merchants avoided using courts to settle their disputes, choosing instead other formal and informal mechanisms of commercial conflict resolution. One of the popular choices was arbitration which Gelderblom categorises as non-judicial. Not only was arbitration quicker and cheaper than a lawsuit, but it was also an arena in which the arbiters could follow legal prescriptions, or not, according to their discretion. Gelderblom contends that merchants would have valued this flexibility.[16] The idea that merchants seldom went to court to resolve their disputes is often repeated, but infrequently proven, as Alain Wijffels hinted when he questioned just how widespread avoidance was among disputing merchants.[17]

Gelderblom argues that central courts were marginal to commercial conflict resolution; instead it was city courts in commercial centres which played the important role of innovation and adaptation to new trade structures, new financial instruments, and a heterogeneous pool of litigants. He thus assigns to cities the initiatives which North has argued were characteristic of increasingly strong central governments – "the adaptation of institutional arrangements to the needs of merchants."[18] Based on notarial deeds relating to the business transactions of the Portuguese Nation in Amsterdam, Gelderblom has suggested that the central courts were not of great importance for commercial conflict resolution. Merchants proceeded to the central courts, namely the Grand Council in Malines and the High Court in The Hague, only infrequently, despite the privileges granted to foreign merchants to commence litigation in first instance in higher courts. Based on the notarial deeds, he concludes that the number of merchants who resolved disputes in the High Court was "very small".[19] Recent research in the archive of the High Court has brought new insight into how and over which issues the Nation proceeded in the High Court. In that court they sued fellow members of the Nation as well as others, in cases which ranged from small financial stakes to much weightier conflicts.[20]

Consultation of the High Court sentences might go some way in reducing Gelderblom's pessimism about the role of central courts in commercial conflict resolution.

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[15] Ibid.

[16] Ibid., 105, 108. Gelderblom adds that urban governments would have favoured arbitration because it relieved the court system of cases.

[17] Wijffels, "Commercial quarrels," 1-2.

[18] Gelderblom, *Cities of Commerce*, 126.

[19] Ibid., 132.

[20] Rob Post, "De Portugese natie voor de Hoge Raad. De rol van identiteit, netwerken, conflictbeslechting en instituties in de periode 1675-1725" (MA, Universiteit Leiden, 2015).

Merchants resident in the Dutch Republic, and beyond, used the High Court to appeal sentences of lower courts, and less frequently, to hear cases in first instance. In addition, the court was an important arena of conflict resolution for commercial companies.[21] Disputes involving the Dutch East and West India Companies produced over one hundred and fifty High Court sentences in the seventeenth and eighteenth centuries.[22] Based on the High Court's records themselves, then, there is an indication that the court was an important location of conflict resolution for commercial disputes.

While economic historians have been concerned with the relationship between conflict resolution, institutions, the state, and economic growth, legal historians have a different approach. From the point of view of legal historians, conflict resolution has been the focus of studies on the development of law in the context of plurality, and on procedure, overlapping and competing jurisdictions.[23] An enduring debate among legal scholars and historians has been whether or not *lex mercatoria* existed as a customary, private legal system across Europe in the early modern period. The recent consensus is that it did not.[24] Scholars have pointed to the existence of consular courts in which foreign merchants resolved conflicts among themselves according to their own customs and laws as evidence of the lack of the so-called law merchant.[25]

In a recent special issue of *Continuity and Change*, Alain Wijffels, Justyna Wubs-Mrozewicz, and contributors implement the idea of conflict management, rather than conflict resolution, as a more inclusive way of analysing commercial conflicts. This is based on the premise that even if particular conflicts between parties are ostensibly resolved by means of formal or informal mechanisms, the underlying conflict of interest is not necessarily resolved, leaving the potential for the same point of conflict to arise again in future. Conflict management, thus defined, involves ways of dealing with the underlying conflict so that the parties can continue their commercial activities. In the introduction to the special issue, Alain Wijffels states that conflict management is "a process imposing restraint on the opposing parties while allowing sufficient leeway for business to be continued."[26] According to Wijffels, conflict management encompasses

[21] In the early seventeenth century, parties named in sentences included the United Company Zeeland which preceded the VOC, the Magellan Company, the Australia Company, the Northern Company (*Noordsche Compagnie*) and the VOC and the WIC.

[22] That is not to say that there were over 150 discrete cases. The breakdown of sentences and litigants is dealt with in Chapter 2.

[23] Wijffels, "Commercial quarrels," 2.

[24] Ibid. Justyna Wubs-Mrozewicz also states this. Justyna Wubs-Mrozewicz, "Conflict Management and Interdisciplinary History: Presentation of a new project and an analytical model," *TSEG/Low Countries Journal of Social and Economic History* 15, no. 1 (2018): 97. According to Emily Kadens, proponents of the *lex mercatoria* myth, as she calls it, have been slow to accept historians' research showing that it did not in fact exist. She goes so far as to argue that merchants did not actually need a transnational law because they could make use of brokers. Emily Kadens, "The myth of the customary law merchant," *Texas Law Review* 90 (2012). See also Francesca Trivellato, "'Amphibious Power': The law of wreck, maritime customs, and sovereignty in Richelieu's France," *Law and History Review* 33, no. 4 (2015): esp. 919 n. 919. Compare Vito Piergiovanni, ed. *From lex mercatoria to commercial law* (Berlin: Duncker & Humbolt, 2005).

[25] Sabine C. P. J. Go, "The Amsterdam Chamber of Insurance and Average: A new phase in formal contract enforcement (late sixteenth and seventeenth centuries)," *Enterprise & Society* 14, no. 3 (2013): 523-524.

[26] Wijffels, "Commercial quarrels," 1 (Abstract).

resolution, but is broader. In this view, arbitration is not necessarily a non-institutionalised alternative to conflict resolution. In practice, arbitration, mediation and litigation could be part of the same strategy of conflict management.[27]

Current research projects led by Justyna Wubs-Mrozewicz and Louis Sicking implement this concept of conflict management. Wubs-Mrozewicz's NWO-funded research project focuses on conflicts which arose in the commercial cities of northern Europe in the thirteenth to sixteenth centuries.[28] To analyse commercial conflicts, Wubs-Mrozewicz has developed a "process-oriented model of historical conflict management". Conflict management, in her view, consists of five elements, which could occur and reoccur in different combinations: prevention, provocation, maintenance of status quo, escalation and de-escalation, and resolution. Wubs-Mrozewicz is clear that these were options that could be employed at different points in a conflict; they were not stages of a conflict. She comments that "[c]onflicts, when seen from a historical perspective, often appear to be highly complex or even messy."[29] In his research project, Louis Sicking focuses on Atlantic Europe in the same period. His project utilises the concept conflict management but he defines it in terms of strategies. According to Sicking, conflict management consists of three elements: conflict resolution via formal or informal mechanisms; conflict enforcement; and conflict avoidance.[30]

Conflict management is a useful concept to apply to the way in which the Dutch East and West India companies dealt with disputes in the political and legal institutions of the Dutch Republic. Firstly, the insight that conflicts were not necessarily resolved, even by sentences in formal legal proceedings, is applied to company related conflicts. The same conflict, or type of conflict, could reocur. Secondly, that conflicts did not progress through stages but were managed by the use of various elements which were part of a strategy helps to explain the different ways in which disputes unfolded. In the chapters which follow the focus is, for the main part, on litigation, but where possible the formal legal proceedings are placed in the context of other tools employed by the disputants. How the conflict was managed before and/or after legal proceedings is brought into view. Taking this wider view of conflict which goes beyond resolution brings to the fore the role of the States General in company conflicts which arose out of overseas expansion.

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[27] Ibid., 6.

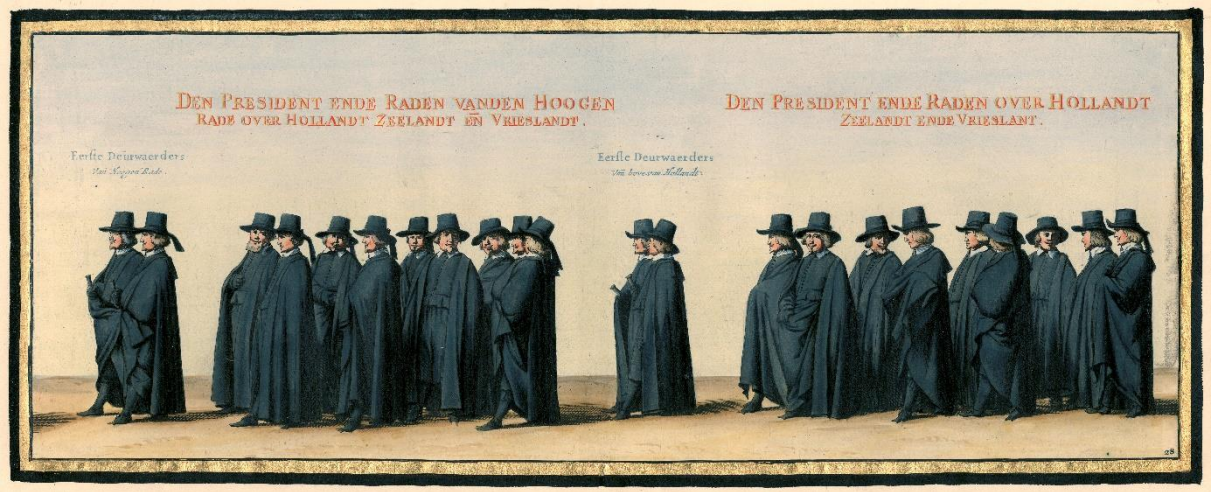
[28] Justyna Wubs-Mrozewicz's NWO-funded research project is entitled 'Managing multi-level conflicts in commercial cities in northern Europe (1250-1570)' http://justynawubs-mrozewicz.blogspot.nl/ (accessed 2017-10-13).

[29] Wubs-Mrozewicz, "Conflict Management and Interdisciplinary History," 92, 102-103. Wubs-Mroewicz's research places an important and innovative emphasis on the actors who were instrumental in managing conflict. These conflict managers were successful multi-taskers who combined commercial and political roles and could draw on networks of men who did the same. This comes to the fore in her case-study of the Giese family. Justyna Wubs-Mrozewicz, "Conflict Managers in Medieval and Early Modern Northern Europe: Maritime networks of knowhow (1300-1600)," in *Datini-Ester Advanced Seminar* (Prato, Italy: Unpublished conference paper, 2018).

[30] Louis Sicking's NWO-funded research is entitled 'Maritime conflict management in Atlantic Europe'. See https://www.universiteitleiden.nl/en/research/research-projects/humanities/maritime-conflict-management-in-atlantic-europe (accessed 2017-10-13) for the project description.

Importantly, research in conflict management is at the interface of economic, legal and political history. Bridging the gaps between the fields is needful: Wubs-Mrozewicz laments the "strikingly little dialogue" between them.[31] The High Court archive is the ideal place to explore this interaction for the case of the Dutch Republic.

Figure 1: The President and Councillors of the High Court and the Court of Holland



Pieter Nolpe, De begrafenisstoet van Frederik Hendrik, 1647. After Pieter Jansz Post, 1651. Rijksmuseum, Amsterdam.

The High Court of Holland, Zeeland and West-Friesland

The High Court (*Hoge Raad van Holland, Zeeland en West-Friesland*) was established in 1582 and existed until 1795.[32] It was established as the successor to the Great Council of Malines (*Grote Raad van Mechelen*) which had become almost inaccessible during the Dutch Revolt.[33] Lack of access to a high court was borne heavily by the people of Holland and Zeeland who had enjoyed the right to appeal to the court since the early fifteenth century. Marie-Charlotte LeBailly and Christel Verhas point out that Hollanders and Zeelanders had a propensity to be strongly litigious. The number of appeals to the Great Council was relatively high in relation to other provinces; during the fifteenth and sixteenth centuries the number of appeals per capita was twice as high in Holland compared with Flanders.[34] The States General intended that the High Court (*Hoge Raad*)

[31] Wubs-Mrozewicz, "Conflict Management and Interdisciplinary History," 99.

[32] It is necessary to clarify that the *Hoge Raad* under discussion here is not the same court as the *Hoge Raad* which exists in the Netherlands today. As van Rhee states, they have only the name in common. The present *Hoge Raad* was established during the nineteenth century. Van Rhee, 'Foreword' in M.-Ch. LeBailly and Chr. M. O. Verhas, *Hoge Raad van Holland, Zeeland en West-Friesland (1582-1795). De hoofdlijnen van het procederen in civiele zaken voor de Hoge Raad zowel in eerste instantie als in hoger beroep* (Hilversum: Verloren, 2006), 7.

[33] Ibid., 9.

[34] Ibid., 9-10. How this interacts with the reputation of the Portuguese Nation of Amsterdam as being a particularly litigious group warrants scrutiny. Who were the Hollanders who went to court so frequently? Was

function as the replacement of the Great Council in both competence and jurisdictional reach. This should have had as consequence that people from all the provinces of the Northern Netherlands could appeal to the High Court, meaning the court would be in effect a supra-provincial judge. But the States of Holland established the High Court as the highest court in that province, with the view to allowing other provinces to recognise the jurisdiction if they wished. Zeeland did officially in 1586.[35] According to Remco van Rhee, "[b]ecause they never succeeded in giving the High Court the same function as the Great Council the position of the High Court remained rather unclear" until its removal in the late 1700s.[36] In this vein, there was competition between the High Court and its neighbour, the Court of Holland.[37] Verhas notes that the judicial organisation of each province within the Union of Utrecht was different and in combination with the situation of Revolt against the Spanish, it is not surprising that the High Court never functioned as the appellate and highest court of the whole Dutch Republic.[38] While the High Court was intended to have jurisdiction over all the provinces in the Northern Netherlands, that jurisdiction was not recognised or utilised in practice.[39]

The judicial organisation of the provinces which together formed the Dutch Republic differed from province to province, with the exception of Holland and Zeeland.[40] Justice in those two provinces comprised four levels. The lower courts consisted of, among others, the village or town courts (*dorpsgerechten*). The next rung comprised the Aldermen (*schepenbanken*), sheriff courts (*baljuwshoven*) and courts of the high Lords (*hoge heerlijkheden*). The third layer was the provincial court, that is the Court of Holland (*Hof van Holland*), while the very highest level was the appellate High Court.[41] To this hierarchy of courts must be added the subsidiary specialised courts established in Amsterdam in the first half of the seventeenth century. They were subsidiary to the

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it a specific group of people or social class? The litigious nature of the Portuguese of Amsterdam can be explained not by their Jewish heritage but by the tradition of Iberian litigation.

[35] Ibid., 11-12. Hendrik Martijn Punt, "Het vennootschapsrecht van Holland. Het vennootschapsrecht van Holland, Zeeland en West-Friesland in de rechtspraak van de Hoge Raad van Holland, Zeeland en West-Friesland" (PhD, Universiteit Leiden, 2010), 7.

[36] Original: "*Aangezien men er uiteindelijk niet in slaagde de Hoge Raad eenzelfde functie te geven als de Grote Raad bleef de positie van de Hoge Raad enigzins onduidelijk*" van Rhee's foreword in LeBailly and Verhas, *Hoge Raad*, 7.

[37] Ibid., 14.

[38] C. M. O. Verhas, "De beginjaren van de Hoge Raad van Holland, Zeeland en West-Friesland" (PhD, Universiteit Leiden, 1997), 33. It seems that the court's legitimacy was not fully accepted.

[39] On the judicial organisation of other provinces and Generality lands see B. S. Hempenius-van Dijk, *Hof van Friesland. De hoofdlijnen van het procederen in civiele zaken voor het Hof van Friesland zowel in eerste instantie als in appel*, Procesgids (Hilversum: Verloren, 2004); P. Brood and E. Schut, *Hoofdmannenkamer, sinds 1749 Hoge Justitiekamer van Stad en Lande van Groningen. De civiele procesgang ten tijde van de Republiek der Verenigde Nederlanden* (Hilversum: Verloren, 2006); Marie-Charlotte LeBailly, *Staatse Raad van Vlaanderen te Middelburg (1599-1795). De hoofdlijnen van het procederen in civiele zaken voor de Staatse Raad van Vlaanderen zowel in eerste instantie als in hoger beroep* (Hilversum: Verloren, 2007); E. J. M. F. C. Broers and B.C.M Jacobs, *Staatse Raad van Brabant* (Hilversum: Verloren, 2000).

[40] Punt emphasises the relative independence of the provinces within the Union, which was mirrored by the same loose association of cities and towns within each of those provinces. Punt, "Het vennootschapsrecht," 3-5.

[41] LeBailly and Verhas, *Hoge Raad*, 12-14. Punt, "Het vennootschapsrecht," 3-7.

Aldermen, to which bench the sentences of those courts were appealed.[42] How the jurisdictions of the Admiralties (*Admiraliteiten*) intersected with the legal framework of Holland and Zeeland was not clearly defined.[43]

Martijn Punt indicates that the competences of the High Court, which were set out in the 1582 instruction on which the court was constituted, followed the pattern of the Great Council. The High Court was principally a court of appeal against sentences passed by the Court of Holland. The court's competence also covered five other areas. Firstly, the bench heard cases in first instance between foreign merchants not resident in Holland and Zeeland. Secondly, the High Court heard cases related to shipping, but according to Punt, access to specialised subsidiary courts established in cities such as Amsterdam and Rotterdam meant that the court did not develop this competence.[44] Oscar Gelderblom's earlier mentioned conclusion that the central courts were not favoured by merchants is in line with Punt's second point. Thirdly, the High Court also dealt with property disputes (*bezitsvorderingen*) in first and last instance. In the fourth place, Punt mentions that the High Court had a role in adjudicating colonial cases, that is the cases which originated in the WIC courts and were sent to the States General for review (*herziening*). "In practice," he notes, "these review cases were referred to the High Court by the States General."[45] Finally, the High Court played a role in voluntary judgments (*willige condemnaties*). The court examined notarised contracts and then gave its approval. These were not lawsuits; rather, Punt suggests, this function of the High Court limited the number of contractual disputes which ended in litigation.[46] LeBailly and Verhas clarify the underlying cause for this reduction: the 1582 Instruction prohibited appeals of voluntary judgments.[47]

In all matters, of whatever instance, the High Court's sentence was final. Litigants did not have the opportunity to appeal against a sentence in a higher jurisdiction. However, there was a path to review open for those who felt aggrieved by the bench's decisions. Marie-Charlotte LeBailly and Christel Verhas indicate that it was the States General which provided this check on sentences passed by the High Court. However, according to Martijn Punt it was the States of Holland which granted reviews (*revisie*) of sentences, for which purpose the States commissioned an *ad hoc* bench consisting of seven legal scholars, five city pensionaries (*stadspensionarissen*), two judges from the Court of Holland, and the full bench of the High Court.[48] Sentences in revision cases from

[42] This is clear in the cases discussed in later chapters. See for instance the case involving VOC Chamber Zeeland and Jan Maertens' heirs in Chapter 6.

[43] The five Admiralties were located in Amsterdam, Rotterdam, the North Quarter (Hoorn and Enkhuizen), Zeeland (in Middelburg), and Friesland (in Dokkum). Jonathan I. Israel, *The Dutch Republic: Its rise, greatness and fall, 1477-1806*, The Oxford history of Early Modern Europe (Oxford: Oxford University Press, 1998), 295-297.

[44] Punt, "Het vennootschapsrecht," 7-8. The courts he refers to are those generalised courts for specific matters: the Chamber of Insolvencies (1643), the Chamber of Insurance and Average (1598). On the insurance chamber, and generalised as opposed to particularised courts, see Go, "Amsterdam Chamber of Insurance and Average," 515.

[45] Original: "In de praktijk werden deze revisiezaken door de Staten-Generaal doorverwezen naar de Hoge Raad." Punt, "Het vennootschapsrecht," 8.

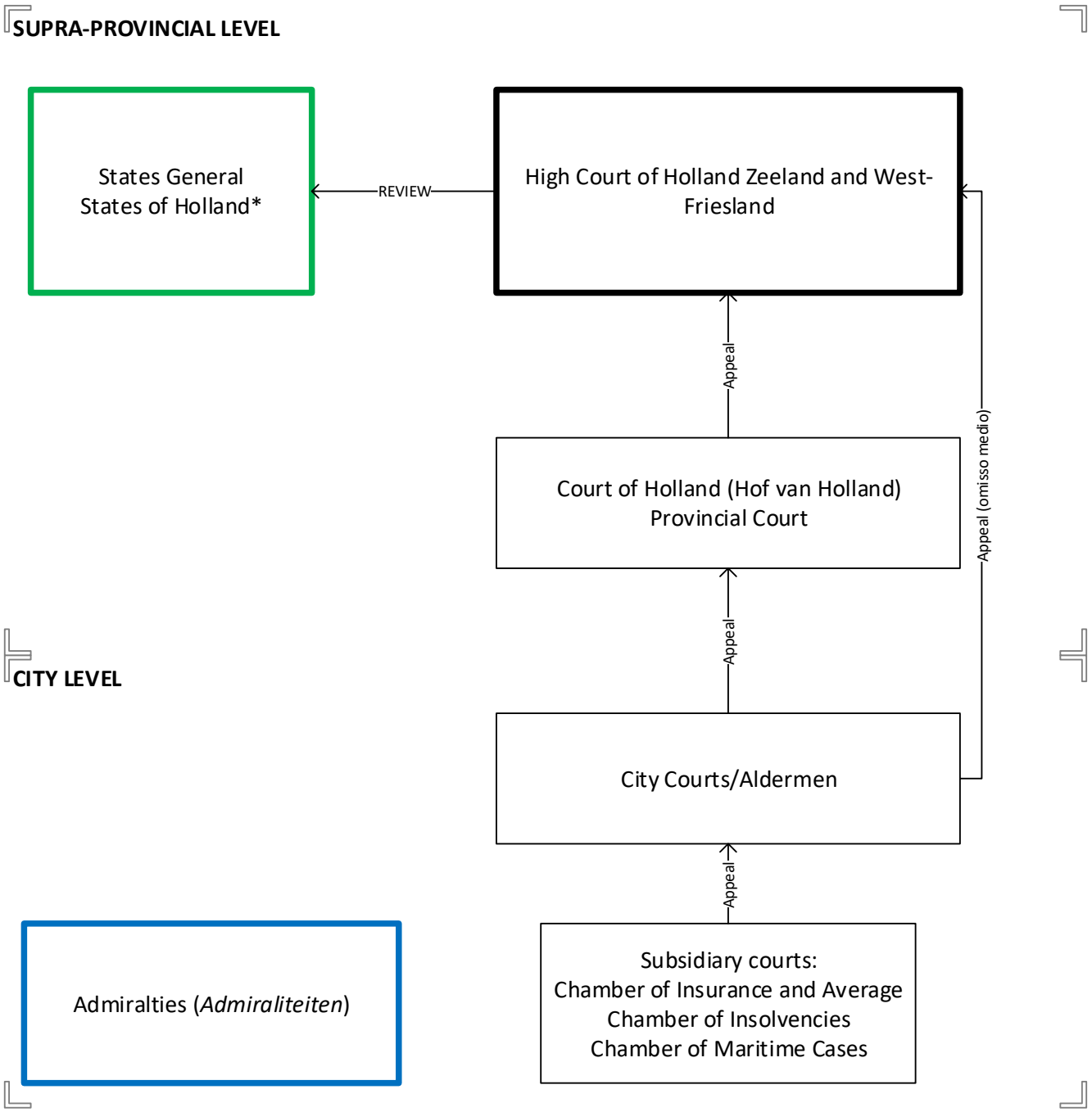
[46] Ibid., 12-13.

[47] LeBailly and Verhas, *Hoge Raad*, 14.

[48] Ibid., 12; Punt, "Het vennootschapsrecht," 8.

the 1620s and 1630s were passed in the name of the States of Holland, confirming Punt's description of the revision process.[49]

Figure 2: The legal framework of Holland and Zeeland



Based on LeBailly and Verhas, *Hoge Raad;* Punt, *Het vennootschapsrecht*. *While LeBailly and Verhas write that High Court sentences were reviewed by the States General, Punt states that it was the States of Holland which reviewed them

[49] These sentences were passed in the case between the Magellan Company and the VOC which is discussed in Chapter 2.

The bench of the High Court consisted of the president and his nine councillors (*raadsheren*), later increased to ten, assisted by two bailiffs (*deurwaarders*) and supported in administration by a clerk (*griffier*) and his substitute.[50] After the extension of the court's jurisdiction to include Zeeland, tensions arose regarding the representation of Zeeland amongst the staff. Previously, all personnel had been Hollanders but that was no longer satisfactory. The number of Zeelanders on staff was a sensitive point which hampered the nomination process.[51] Judges were appointed by the Stadholder from a list of candidates nominated by the Provincial States of Holland and Zeeland, and occupied a seat until their death, or until they took up the position of President, also a life-long appointment.[52] These men all had law degrees, most of them having received their legal training at Leiden University, fewer from the University of Utrecht, and the famous judge Cornelis van Bijnkershoek the exception, with a degree from Franeker.[53] Taking into account these three factors – appointment by the Stadholder, for life, and with legal training – the High Court bench can be considered a bench of professional judges.

One of the functions of the councillors of the High Court was to settle disputes between parties. According to LeBailly and Verhas, judges would try to bring the parties to an "amicable settlement" before the case was pending in the court.[54] This indicates that mediation was in fact institutionalised. So too was arbitration: LeBailly and Verhas indicate that settlement remained a possibility during an ongoing case.[55] This is confirmed by preliminary sentences drawn up by the court in which parties were ordered to appear before two High Court judges in order to come to an agreement. The bench recommended a sentence for the eventuality that no agreement could be reached. That the parties reach a settlement in the presence of two judges was ordered by the bench in the case between William Carmichael and the VOC which is discussed in Chapter 2. While mediation took place outside of the court and, if successful kept disputes from becoming lawsuits, it is worth reiterating that mediation and arbitration as outlined here were not extra-judicial processes but embedded within the functioning of the High Court and undertaken by the judges involved in the cases.

As an appellate court, the High Court in The Hague functioned differently to supreme courts of today. The High Court heard both appeal cases and cases in first instance. The court's examination of cases was not limited to legal technicalities but included examining facts.[56] The court required that parties substantiate their claims with evidence, the exact form of which would surely have differed depending on the nature of the case in question. But three general categories existed: *inspectie oculair*, that is

[50] LeBailly and Verhas, *Hoge Raad*, 15-17. In order to have legitimate deliberations and sentencing at least seven votes were needed; in case of absence, the bench could be completed by the Judge Advocate (*advocaat-fiscaal*), the Attorney General (*procureur-generaal*) or a member of the *Hof van Holland*.
[51] Ibid., 16. Punt also notes the very difficult negotiations around the extension of jurisdiction to cover Zeeland too. Punt, "Het vennootschapsrecht," 7.
[52] http://resources.huygens.knaw.nl/repertoriumambtsdragersambtenaren1428-1861/app/instellingen/117/# (accessed 2017-10-30).
[53] Punt, "Het vennootschapsrecht," 17.
[54] Original: "*minnelijke schikking*", LeBailly and Verhas, *Hoge Raad*, 15.
[55] Ibid.
[56] Punt, "Het vennootschapsrecht," 11-12.

inspection of the 'scene'; interrogation of witnesses; and submission of documents.[57] LeBailly and Verhas note that "[i]n the High Court the oath was also of deciding importance for establishing foundational facts." [58] Beyond that, the authors comment that the sources and founding Instruction of 1582 give no further specifications regarding acceptable evidence or the value attached to different forms.

During the seventeenth and eighteenth centuries the law by which court cases were judged was composite: regional common law was in force, as was Roman law to varying degrees in different localities. According to Ella Gepken-Jager, common law was consulted first. Only in the event that no relevant legal provisos existed there, would Roman law be applied.[59] According to Sabine Go, generalised courts, which in theory had jurisdiction over insurance and commercial disputes involving foreigners, were reluctant to apply foreign laws and so allowed the creation of particularised courts.[60]

In her research on the Chamber of Insurance and Average, Go argues that the creation of the chamber in Amsterdam marks a time of transition from particularised to generalised courts. Particularised courts, which existed in Amsterdam in the late sixteenth century, were those which served a specific group of people bound by a commonality such as religion, profession or nationality. Guild and consular courts are examples of such. Generalised courts, in contrast, served a diverse population of litigants, including foreigners. The Amsterdam Aldermen (*schepenbank*) was one such institution in the city. In other cities in the Low Countries – for instance Bruges – commercial disputes were resolved in particularised courts but as the insurance market in Amsterdam grew, the city authorities made the choice to create a generalised court to handle the conflicts rather than follow the institutional pattern of other cities. This choice was deliberate and marks a new phase in institutional arrangements for conflict resolution in the city of Amsterdam, according to Go.[61]

The High Court of Holland, Zeeland and West-Friesland was a generalised court from its inception. But it is worth noting that it functioned in a legal system which comprised generalised courts specialising in particular types of conflict. In this sense, jurisdictions at city level were not only fragmentary, but also likely overlapping. In Amsterdam in particular a number of specialised subsidiary courts were established in the early seventeenth century to lighten the load of the Amsterdam Aldermen. The Chamber of Insurance and Average was the first such court, later followed by the Chamber for Maritime Cases (*Kamer van Zeezaken*, 1641) and the Insolvency Chamber (*Desolate boedelskamer*, 1643).[62] Similar generalised but specialised courts were established in

[57] LeBailly and Verhas, *Hoge Raad*, 46.
[58] Original: "*Bij de Hoge Raad was ook de eed van doorslaggevend belang als bewijsgrond*." Ibid.
[59] Ella Gepken-Jager, "Verenigde Oost-Indische Compagnie (VOC): The Dutch East India Company," in *VOC 1602-2002: 400 Years of company law*, ed. Ella Gepken-Jager, Gerard van Solinge, and Levinus Timmerman (Deventer: Kluwer Legal Publishers, 2005), 45. For a more detailed overview of the development of law in the Dutch Republic see Randall Lesaffer, "A short legal history of the Netherlands," in *Understanding Dutch Law*, ed. S. Taekema (Den Haag: Boom Juridische uitgevers, 2004).
[60] Go, "Amsterdam Chamber of Insurance and Average," 523.
[61] Ibid., 515, 516.
[62] Goswin Moll, *De desolate boedelskamer te Amsterdam. Bijdrage tot de kennis van het Oud-Hollandsch failliten-recht* (Amsterdam: De Roever-Kröber-Bakels, 1879), 16-18. The Insolvency Chamber existed until 1811.

other cities.[63] Appeals against sentences passed by these courts are addressed in the chapters which follow, and show the way in which these courts formed part of the legal structure in Holland and Zeeland, culminating in the High Court.

The court records

The records of disputes in the High Court of Holland, Zeeland and West-Friesland have remained largely untouched by historians interested in the nature and activities of the Dutch East and West India Companies, in the Republic and overseas. The companies' own internally-generated records are voluminous, as are the States General's papers relating to the companies. These sources, occasionally supplemented by family archives, have formed the basis of company-focussed colonial histories. The court records analysed in the following chapters are more than merely a new source: they provide a new perspective on conflict management in the Dutch Republic and on the VOC and WIC as legal actors who were summoned to court to defend their very constitution, their corporate governance and their relationship with employees. The main body of sources for this research is the High Court's own records comprising legal documents generated by the third party to which parties turned in the management of their conflicts.

There are at least three reasons to focus on the High Court. Firstly, it was a supra-provincial court. The court's jurisdiction extended over Holland and Zeeland: the disputes which were heard in the court were not limited to one city or to one province. This is significant because all the chambers of the VOC and the WIC were established in cities across Holland and Zeeland. The only exception was the WIC Chamber *Stad en Lande*, located in the province of Groningen. A supra-provincial court thus encompasses the cities where the chambers were located and goes some way in breaking the historiographical hegemony of Amsterdam. Amsterdam was undoubtedly the economic heart of the Republic, and at least the VOC Chamber in that city was relatively more influential than the company structure would indicate.[64] Examining conflicts which arose in that city, as well as in other towns, brings chambers which have been treated as marginal to the fore. In addition, types of issues and litigants can be compared by chamber and by province. This justifies focussing on a supra-provincial court.

The second reason to focus on the High Court is the court's competences. As mentioned earlier, the High Court was not the only supra-provincial court: the Court of Holland (*Hof van Holland*) also had jurisdiction over both Holland and Zeeland. The High Court's competences set it apart from the Court of Holland. The High Court was

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Christiaan van Bochove and Heleen Kole, "Uncovering private credit markets: Amsterdam, 1660-1809," *TSEG/Low Countries Journal of Social and Economic History* 11, no. 3 (2014): 50.

[63] Go, "Amsterdam Chamber of Insurance and Average," 534 n. 115. She clarifies that cases were heard in the Amsterdam Insurance court which had actually originated in other cities, but there were also similar courts established on the Amsterdam model in other cities including Rotterdam and Middelburg. Cases involving Zeeland bankruptcies show that the same is true of the Insolvency chamber – one was established in Middelburg at some point, against which chamber's sentence litigants appealed to the High Court. See Chapter 6.

[64] Gaastra, *The Dutch East India Company*, 21.

established as an appeals court for cases which had been heard in the Court of Holland. Therefore, in the High Court we see cases which had been pursued to their fullest extent, exhausting the legal options available. These cases were the endpoints of formal litigation.

Thirdly, the States General chose to delegate cases to the High Court. Cases involving the VOC and the WIC were delegated by the States General to the High Court. These cases bypassed the city and provincial court structures set out in Figure 1. Delegation was the mechanism by which the States General connected VOC and WIC jurisdictions with the legal system in the Republic, which argument is fleshed out in Chapter 1. It is thus in the records of the High Court that the dynamics between both companies and the States General become clear, and the histories of east and west enter the same framework.

The particular organisation of the High Court archives shapes and constrains the options the historian has in approaching the records. The cases which were dealt with by the High Court have not been preserved in dossiers; rather, the records are kept in chronological series by type of document. There are two options when working with the records – to start with the requests, marking the beginning points of cases in the court; or to start with the sentences, ostensibly the endpoints of the legal proceedings.[65] For reasons of accessibility and feasibility, I have chosen the latter approach. The analyses of cases which follow in the chapters are based on the so-called short sentences as they were resolved and pronounced, and on the extended sentences, when they exist.[66] Only some of the cases which the court sentenced have corresponding extended sentences (*geextendeerde sententies*). The reason for and pattern behind the incomplete series of extended sentences are still unclear. But of the court's records it is the extended sentences which provide the most detail of the parties, their dispute, how the case progressed through the courts, and the parties' claims and counter claims in those instances.

The resolutions which accompany the sentences (*resoluties tot de sententies*) supplement the details which emerge in the sentences. In particular, resolutions drawn up from the late seventeenth century onwards are more detailed than the earlier resolutions. In addition to naming the parties and the court's ruling (but not necessarily the dispute), the later resolutions name the judges involved in adjudicating the case and give an indication of whether or not they agreed with their fellow judge who, as reporter, drafted the sentence. Extensive reasoning behind the judges' rulings is not included in these concise records; High Court judges including Cornelis van Bijnkershoek recorded their legal opinions in *Observationes* and in their own scholarly legal texts.[67] However, the details provided by the resolutions are sufficient for this research.

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[65] The court also passed interlocutory sentences (*interlocutoir vonnis*) which did not include a judgment but required parties to take some action – arbitration, submission of documents to the court, or a decision on admittance of facts or requests. These were not filed separately from the bench's final sentences in which they adjudicated the litigants' claims.

[66] The short sentences as they were resolved (*zoals ze zijn geresolveerd*) and as they were pronounced (*zoals ze zijn gepronuncieert*) constitute two distinct series in the High Court records.

[67] Van Bijnkershoek wrote four volumes entitled *Observationes Tumultuariae*. On the *Observationes* and van Bijnkershoek's other writing, see Boudewijn Sirks, "Bijnkershoek as author and elegant jurist," *Tijdschrift voor Rechtsgeschiedenis/ The Legal History Review* 79 (2011).

A drawback of this approach is that the use of requests to reach out of court settlement is not captured. It is possible that disputing parties threatened a suit in order to put pressure on the other party to settle. Parties likely went so far as to submit a request to the court and received permission to sue, but did not exploit the opportunity. The difference in number of requests submitted to the court and cases sentenced by the court would indicate which disputes were settled. Settlement as a mechanism of conflict management is not, however, the focus of this study. Future research based on the requests could build on the foundation which this study lays.

In addition to the High Court's various sentences and resolutions, I have made use of complementary sources from other institutions. Resolutions taken by the States General illuminate phases and mechanisms of conflict management that were beyond the purview of the court. The cases which are analysed in Chapters 2 and 3 bring this point to bear. A pertinent example is the dispute between Olivier van Noort's Magellan Company and the VOC which was mediated by the States General before it entered the High Court. (Chapter 2). Records generated by the VOC and the WIC themselves have been used to a lesser extent, to sketch the wider patterns of dispute management. In particular, chamber resolutions show the initial phases of claims against the directors, before they entered the legal arena. For instance, in Chapter 4 on wage litigation, claimants first approached chambers to make claims before going to court. These requests are recorded in Chamber directors' resolutions.

Two problematic sources are also used in the following chapters to provide context, namely the Furley collection and Trans-Atlantic Slave Trade Database (TASTD). These two sources provide helpful context for the activities undertaken by WIC servants and illegal traders on the West Coast of Africa and in Atlantic shipping. The Furley collection – Dutch West India Company sources translated from Dutch into English by early twentieth-century Secretary of Native Affairs in colonial Ghana, John Talbot Furley – has received scathing criticism. Albert van Danzig is not only critical of the quality of the translations but also notes the difficulty of tracing the originals from the location details recorded by Furley.[68] While recognising that the TASTD is an incredibly rich and transformative tool, scholars have criticised the database. Julie Svalastog has highlighted the problematic estimates of enslaved people transhipped, while Filipa Ribeiro da Silva and Stacey Sommerdyk have shown that the categorisation of merchants and mariners involved in the trade obscures some of the finer distinctions of roles on board ships, and does not extend to those men who were indirectly involved in the trade, as financiers and investors.[69] These shortcomings of the Furley collection and TASTD do not preclude their use in this research. They are reliable sources for corroborating the presence of ships on the West Coast of Africa, and for providing the details of captains' and ships' involvement

[68] Albert van Dantzig, "The Furley collection: Its value and limitations for the study of Ghana's history," *Paideuma: Mitteilungen zur Kulturkunde* 33 (1987).

[69] Filipa Ribeiro da Silva and Stacey Sommerdyk, "Reexamining the geography and merchants of the West Central African slave trade: Looking behind the numbers," *African Economic History* 38 (2010): 89-98; Julie Svalastog, "The Transatlantic Slave Trade Database: Qualitative possibilities and quantitative limitations" (MA, King's College London, 2012).

in the trade over a longer term than is in view in the court cases. In this way, the two sources are used to provide context rather than as the basis for arguments.

The High Court records of court cases constitute the main source in the chapters which follow. When using such cases, the issue of representativeness must be addressed. Were only exceptional cases pursued to the High Court, in which there were large sums of money at stake? The competence of the High Court as an appeal court means that the cases which have entered the records are those which litigants considered important enough (however they defined the stakes) to warrant the time, expense, and perhaps even publicity, that would have accompanied litigation. This certainly privileges the 'important' cases – but that does mean only infrequent *causes célèbre*. The court was used by individuals and groups of various social ranks, as the chapters which follow demonstrate. This included both locals and foreigners. Not only did the sums of money at stake in the cases which they pursued range from paltry to staggering, but also the profiles of the litigants reinforce the idea that access to the High Court was not the preserve of a wealthy, well-connected, male elite. The High Court of Holland, Zeeland and West-Friesland was, in this way, an accessible, inclusive institution.[70]

There has been no similar, systematic research on cases against other colonial companies which operated in a similar period.[71] Multiple French companies were granted rights to trade, but they did not face court cases of a similar nature to those against the VOC and the WIC.[72] Research on court cases against English companies has been conducted in the context of topics other than conflict management and litigation.[73] This

[70] On inclusive institutions see Acemoglu and Robinson, *Why Nations Fail*.

[71] There is much excellent scholarship on court cases which unfolded in courts established by companies and colonial governments overseas, both for the VOC and the WIC, as well as within other 'national' empires. These cases did not involve companies as litigants; they were cases adjudicated in company courts. See for instance Robert Ross' and Nigel Worden's research on the Cape Council of Justice cases: Robert Ross, *Cape of Torments: Slavery and resistance in South Africa* (London: Routledge & Kegan Paul, 1983); Worden, *Slavery in Dutch South Africa*. On cases in the Colombo Council of Justice see Boudewijn Sirks and Jan Hallebeek, "Uit het archief van de Raad van Justitie te Colombo: Rechtsbedeling in Ceylon in de 18e eeuw," *Fundamina* 16, no. 1 (2010); Kate J. Ekama, "Slavery in Dutch Colombo" (ResMA thesis, Leiden University, 2012). On court cases in Suriname see Karwan Fatah-Black, "Between the plantation and the States General: the revisions court as part of Paramaribo's legal system," in *12th International Conference on Urban History: Cities in Europe, Cities in the World* (Lisbon, Portugal: Unpublished conference paper, 2014). This list of works is far from exhaustive.

[72] Thanks to Elisabeth Heijmans for pointing this out. Personal Communication, May 2018. On jurisdictional disputes between parties overseas and how they played out in France see Helen Dewar's work: Helen Dewar, "Government by trading company?: The corporate legal status of the Company of New France and colonial governance," *Nuevo mundo mundos nuevos* (2018); Helen Dewar, "Litigating Empire: The role of French courts in establishing colonial sovereignties," in *Legal Pluralism and Empires, 1500-1850*, ed. Richard J. Ross and Lauren Benton (New York: New York University Press, 2013).

[73] In her doctoral research, Julie Svalastog unravels the intricacies of internal strife over financial woes of the Guinea Company which disputes were heard in court in early seventeenth-century England. Julie Svalastog, "Mastering the Worst of Trades: England's early Africa companies and their traders, 1618-1672" (Unpublished PhD, Universiteit Leiden, forthcoming 2018), esp. ch 1 and 2. Philip Stern addresses the famous Sandys case of the early 1680s in which Thomas Sandys sued the EIC, arguing that its monopoly was illegal. Philip J. Stern, *The Company State: Corporate sovereignty and the Early Modern foundations of the British Empire in India* (Oxford: Oxford University Press, 2011), 46-60. William Pettigrew addresses court cases between the Royal African Company and interlopers which were dealt with in England during the political upheaval later that decade. In particular he mentions the case which slave trading interloper Jeffrey Nightingale brought against the company in the Court of the King's Bench. That case, from 1689, just one year after the Glorious Revolution, was one of a

study of conflict management in the Dutch Republic as it pertained to the VOC and the WIC is an innovative study both as far as historiography of the Dutch companies is concerned, as well as scholarship on other European trade and colonisation companies in the Indian and Atlantic Oceans.

Beyond East and West

One of the striking features of the histories of the Dutch East and West India Companies is the stark divide between the two geographical areas and the activities of these Dutch companies. The companies' histories have largely been treated separately. In the last few decades, the WIC has emerged from the VOC's historiographical shadow. Dutch Atlantic history has gained momentum in the Netherlands and United States. Some of this new research on the Dutch in the Atlantic is helping to get beyond the simplistic success/failure conclusion of comparative studies and instead has gone a long way in embedding the WIC Atlantic colonies in local, regional and Atlantic-wide networks.[74] The rise of Atlantic, transnational and global history in the recent past has seen a vigorous increase in research on connections, links, webs, and circuits along which people, goods and ideas were transported. Traditionally studied within the frame of a nation, empires are now recognised to have been interdependent, and embedded in connections on multiple levels.[75]

The effect of the rise of Atlantic History is to right the historiographical imbalance, which for a long time resulted in more scholarly attention on the VOC than the WIC. With

number in which interlopers argued that the company's seizure of their goods was illegal because it was based on royal prerogative as opposed to statute. Of the Nightingale case in particular, Pettigrew states that "Chief Justice John Holt turned this case into a trial of the legal powers of the African Company's vice-admiralty courts and the legality of their forfeiture power." William A. Pettigrew, *Freedom's Debt: The Royal African Company and the politics of the Atlantic slave trade, 1672-1752* (Chapel Hill: University of North Carolina Press, 2014), 31, 32. Quote 31.

[74] See for instance Gert Oostindie and Jessica Vance Roitman, "Repositioning the Dutch in the Atlantic, 1680-1800," *Itinerario* 36, no. 2 (2012); Gert Oostindie and Jessica V. Roitman, eds., *Dutch Atlantic Connections, 1680-1800: Linking empires, bridging borders* (Leiden and Boston: Brill, 2014); Karwan Fatah-Black, *White Lies and Black Markets: Evading metropolitan authority in Colonial Suriname, 1650-1800* (Leiden: Brill, 2015); Wim Klooster, *The Dutch Moment: War, trade and settlement in the seventeenth-century Altantic World* (Ithaca: Cornell University Press, 2016); Bram M. Hoonhout, "The West Indian Web: Improvising colonial survival in Essequibo and Demerara, 1750-1800" (PhD, European University Institute, 2017).

[75] Cátia Antunes and Filipa Ribeiro da Silva, "Cross-cultural Entrepreneurship in the Atlantic: Africans, Dutch and Sephardic Jews in Western Africa, 1580-1674," *Itinerario* 35, no. 1 (2011). Wim Klooster, "Inter-imperial smuggling in the Americas, 1600-1800," in *Soundings in Atlantic History: Latent structures and intellectual currents, 1500-1830*, ed. Bernard Bailyn and Patricia L. Denault (Cambridge, MA: Harvard University Press, 2009). Claudia Schnurmann, "Representative Atlantic entrepreneur: Jacob Leisler, 1640-1691," in *Riches from Atlantic Commerce: Dutch Transatlantic trade and shipping, 1585-1817*, ed. Victor Enthoven and Johannes Postma (Leiden: Brill, 2003). For studies of empire beyond the Atlantic see Alison Games, *The Web of Empire: English Cosmopolitans in the Age of Expansion, 1560-1660* (New York: Oxford University Press, 2008); Ward, *Networks of Empire*.

this has come efforts to draw east and west into the same analytical frame.[76] I will follow this approach, in line with recent developments in the historiography.

The High Court of Holland and Zeeland was an arena in which both companies were active, providing a wide-angle view of the engagement between the companies, their opponents, and the States General. Comparing this engagement brings new insights on a range of topics, as the chapters to follow will bear out. But comparative approaches to VOC and WIC history are not without their critics. Victor Enthoven, for one, has declared comparing the VOC and the WIC to be useless, because the Indian and Atlantic Oceans are too different to warrant a comparison of the activities of the companies which operated there.[77] He is correct that the companies and the charter areas in which they operated were significantly different. However, at the creation of the VOC and the WIC in 1602 and 1621 respectively, there were many similarities between the companies and scholars have debated to what extent the WIC charter was modelled on the VOC's founding charter.[78] Over the course of the seventeenth and eighteenth centuries the companies' differences became more and more pronounced in their form, operations, and structure overseas, as over time the WIC contracted out and lost its monopolies.[79] That the companies were different does not negate the benefits of drawing the two companies into the same analysis with careful consideration of their differences. The reason for this is to consider questions of empire – not empires, one in the Atlantic and one in the Indian Ocean, but a single Dutch empire in the early modern period.[80] The Indian and Atlantic Ocean spheres of the early modern Dutch empire come into the same view in the High Court in The Hague. To understand how the different parts interacted, it is necessary to examine the legal structures of the Dutch empire.

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[76] A recent example of this trend is Jos Gommans and Cátia Antunes, eds., *Exploring the Dutch Empire: Agents, networks and institutions, 1600-2000* (London: Bloomsbury, 2015). See also Emmer and Gommans, *Rijk aan de rand van de wereld*.

[77] Victor Enthoven, "An assessment of Dutch Transatlantic commerce, 1585-1817," in *Riches from Atlantic Commerce: Dutch Transatlantic trade and shipping, 1585-1817*, ed. Victor Enthoven and Johannes Postma (Leiden: Brill, 2003), 386-387.

[78] Alexander Bick, "Governing the Free Sea: The Dutch West India Company and commercial politics, 1618-1645" (Unpublished PhD, Princeton University, 2012), 99-100. Here Bick comments on the points of similarity and difference between the VOC and WIC founding charters. See also Henk den Heijer, *De geoctrooieerde compagnie. De VOC en de WIC als voorlopers van de naamloze vennootschap*, Ars Notariatus 128 (Deventer: Kluwer, 2005), esp. 3.3.

[79] Victor Enthoven and Johannes Postma, "Introduction," in *Riches from Atlantic Commerce: Dutch Transatlantic trade and shipping, 1585-1817*, ed. Victor Enthoven and Johannes Postma (Leiden: Brill, 2003), 2.

[80] Famously, Piet Emmer and Wim Klooster argued that there was no Dutch Atlantic empire, see Pieter C. Emmer and Wim Klooster, "The Dutch Atlantic, 1600-1800 Expansion without empire," *Itinerario* 23, no. 2 (1999). Klooster has since changed his mind, see Klooster, *The Dutch Moment*. In the Indian Ocean, Dutch colonial history tends to be limited to Indonesia after 1800, when it became a colony of the Dutch state. Remco Raben addresses this in Remco Raben, "A New Dutch Imperial History? Perambulations in a prospective field," *Low Countries Historical Review* 128, no. 1 (2013). Studies which theorise and conceptualise a Dutch empire which spans the Atlantic and Indian Oceans are still lacking. Bridging east and west is one of the goals of the NWO project as a whole of which my research forms one part. Challenging Monopolies, Building Global Empires in the Early Modern Period. See http://www.hum.leiden.edu/history/research/projects-mgi/challenging-monopolies.html for further details of the project.

Company law and company courts

The foundational monopoly charters of 1602 and 1621 did not only grant the companies monopolies on trade and routes, but also invested the two companies with the rights to establish their own legal systems. For the VOC this was imparted on the company in the often-quoted Article 35; for the WIC it was phrased in the exact same terms and set out in Article 2.[81] Both companies could thus exercise delegated sovereignty. But the extent to which they did so differed between the companies, and within each charter area.

In the VOC charter area, shipboard justice based on the letters of articles (*artikelbrieven*) gave way to a hierarchy of company courts as the company made territorial gains.[82] In 1619, the VOC conquered Jayakarta and established the company's Indian Ocean headquarters there, named Batavia. The following year, Governor General Coen separated the company government and judicial structures in Batavia. What emerged in Batavia over time was a system of company courts, atop which sat the Council of Justice. That court functioned as the appellate court in Batavia as well as for all courts in the VOC legal framework in the charter area.[83] As permitted by the charter and instructions, the VOC appointed legal personnel to adjudicate matters in these company courts.[84] In Batavia, for reasons of pragmatism, the company was happy for a plural legal order to exist. While all company servants, European free burghers and foreign Europeans, people of mixed European and Asian parentage and Eurasian children recognised by their European fathers were subject to company law, jurisdiction over the large Chinese population, indigenous Javanese, and other Asian ethnic groups was less clear.[85] According to Raben, the VOC "was neither able nor willing to impose its legal system on the Asian population and left complicated issues such as civil jurisdiction to indigenous political leaders."[86] The position of company law and company courts was not uniform across the company's charter area because the company by no means exercised

[81] VOC: Menno Witteveen, *Een onderneming van landsbelang: De oprichting van de Verenigde Oost-Indische Compagnie in 1602* (Amsterdam: Amsterdam University Press, 2002), 94-95. WIC: J. De Laet, *Historie ofte iaerlijck verhael van de verrichtinghen der geoctroyeerde West-Indische Compagnie, zedert haer begin, tot het eynde van 't jaer sesthien-hondert ses-en-dertich; begrepen in derthien boecken, ende met verscheyden koperen platen verciert.* (Leyden: Elsevier, 1644), 8-9.

[82] The letter of articles (*artikelbrief*) was the basis of shipboard justice. H. Hoogenberk, *De rechtsvoorschriften voor de vaart op Oost-Indië. 1595-1620* (Utrecht: Kemink en Zoon). Kerry Ward discusses the VOC legal framework in the early seventeenth-century in Ward, *Networks of Empire*, 66-77. Nigel Worden and Gerald Groenewald present a helpful summary of the Cape's legal structure in the introduction to the source publication: Nigel Worden and Gerald Groenewald, eds., *Trials of Slavery: Selected documents concerning slaves from the criminal records of the Council of Justice at the Cape of Good Hope, 1705-1794* (Cape Town: Van Riebeeck Society, 2005), xix-xxvii.

[83] Jacobus la Bree, *De rechterlijke organisatie en rechtsbedeling te Batavia in de XVIIe eeuw* (Rotterdam: Nijgh & van Ditmar, 1951), 25-26, 54-55; Ward, *Networks of Empire*, 68-70.

[84] Article 35 in Witteveen, *Een onderneming*, 94-95. La Bree notes that 'love of justice' was specified as a qualification in 1650 for the men appointed as commissioners but that over time the number of academicly trained legal scholars increased so that by 1656 the majority eld doctorates. He adds that contemporary commentators despaired that academic training was no guarantee of knowledge. Bree, *De rechterljke organisatie*, 56.

[85] Ward, *Networks of Empire*, 71-73.

[86] Remco Raben, "Batavia and Colombo: The ethnic and spatial order of two colonial cities, 1600-1800" (PhD, Leiden University, 1996).

the same degree of sovereignty in those places. Direct sovereignty of conquered territories was one end of what Kerry Ward identifies as a continuum; the opposite side of the spectrum was those places where indigenous polities permitted a company warehouse on their terms.[87]

Similarly, the WIC charter area comprised a patchwork of different legal spaces. The short-lived colony in Brazil was taken by conquest from the Portuguese, as was the fort in Elmina. The Caribbean islands Curaçao, Aruba and Bonaire were also conquests. These territories were under direct company control. In contrast, the company permitted private colonisation efforts within its charter area in patroonships. For instance, the Zeelander Abraham van Pere established a private colony along the Berbice river (in current-day Guyana). Moreover, there were also colonies which were run by a private society (*societeit*), for instance Suriname from 1682, where the WIC, the city of Amsterdam and the family van Aerssen van Sommelsdijk jointly administered the colony.[88]

It was also on the grounds of the charters that both the VOC and the WIC had the power to publish ordinances, write law and enforce it. This was done on a local level in response to the peculiarities of local settings in the context of the law of Holland not dealing with all the matters with which company governments were faced. In the VOC area, the Statutes of Batavia, compiled in 1642, formed the basis of company rule across the Indian Ocean. These were then augmented at a local level in response to specific circumstances.[89] In the West India Company charter area, ordinances responsive to local peculiarities were drawn up to govern these areas too.[90]

The VOC and the WIC established the rule of law in their colonies in the name of the States General. Ordinances issued at local level and sentences passed by the companies' Councils of Justice were explicit in their reference to the government of the Dutch Republic as the highest authority. Sentences passed by the VOC's Cape Council of Justice were passed "in the name and on behalf of the high and mighty Lords States General of the free United Netherlands."[91] The VOC derived its sovereignty by grant from the States General, and remained subordinate to the States General in the exercise of that

[87] Ward, *Networks of Empire*, 74-75.

[88] Han Jordaan and Marijcke Schillings, "Organisatie van bestuur en rechtspraak in de Nederlandse Caraïbische wereld," (2006), 1, 2, 4, 6-9. On Dutch Brazil see Cátia Antunes, Erik Odegard, and Joris van den Tol, "The networks of Dutch Brazil: Rise, entanglement and fall of a colonial dream," in *Exploring the Dutch Empire: Agents, networks and institutions, 1600-2000*, ed. Cátia Antunes and Jos Gommans (London etc: Bloomsbury), 82-86. On the institutional set-up in Elmina see Henk den Heijer, "Institutional interaction on the Gold Coast: African and Dutch institutional cooperation in Elmina, 1600-1800," ibid. (London: 2015), 213-218. On Suriname, see Fatah-Black, *White Lies and Black Markets*, Ch. 2. See also Jacob A. Schiltkamp, "On Common Ground: Legislation, Government, Jurisprudence, and Law in the Dutch West Indian Colonies: the Order of Government of 1629," *De Halve Maen* 70, no. 4 (1997).

[89] Ward, *Networks of Empire*, 68-74. The text of the ordinances themselves demonstrate their reactive and very local qualities. Ordinances from VOC Colombo have been published in the volumes by Hovy. See Lodewijk Hovy, *Ceylonees Plakkaatboek: Plakkaten en andere wetten uitgevaardigd door het Nederlandse bestuur op Ceylon, 1638-1796.*, 2 vols. (Hilversum Verloren, 1991).

[90] Jacob A. Schiltkamp, Jacobus T. de Smidt, and To van der Lee, eds., *West Indisch Plakaatboek*, 3 vols. (Amsterdam: Emmering, 1973-9).

[91] Translation in Worden and Groenewald, *Trials of Slavery*, 15 [1707 Jan de Thuilot].

sovereignty. J. A. Somers noted that scholars have recognised that the VOC was granted "'state' authority"; however, as he helpfully reminds readers, the charter "was only a national, public law document, without international collateral effect or effect in international law."[92] But this did not prevent the VOC from at the very least acting like a state at the Cape and in parts of Asia.

The debate around the form that the VOC took in Asia regarding its operation as a state has been going for a while. Kerry Ward has argued that the VOC empire was constituted by multiple and intersecting networks, through which the company developed and exercised sovereignty. She argues that those networks "amalgamated spatially and over time into an imperial web whose sovereignty was effectively created and maintained but always partial and contingent."[93] Gerrit Knaap takes this a step further by recognising that sovereignty – whether partial and contingent or otherwise – was one of three forms which the VOC state took in Asia. He argues that in its power relations with Asian rulers, the VOC state in Asia took the forms of extraterritoriality, suzerainty and sovereignty. War, he points out, was central to the creation and maintenance of these different relationships. Violence was, Knaap says, part of the 'core-business' of the company until the late seventeenth century.[94] Henk den Heijer conceives of the company somewhat differently. According to him, the VOC – and the WIC – were extensions of the Dutch state. He writes:

> Both companies could exercise important sovereign rights in the name of the States General in their charter areas..... In many aspects, government tasks and those of the companies were difficult, if not impossible to separate. In particular in the matter of government, issuing regulations, and administering justice overseas the trading companies functioned as extensions of the state.[95]

A third contribution to this debate comes in the form of the application of Philip Stern's company state idea to the VOC. Stern argues that the English East India Company (EIC) was "a form of government, state, and sovereign in Asia" before it became a territorial power after the Battle of Plassey (1757). His approach is to consider the EIC as a form of early modern government, not as a commercial enterprise with state-like attributes.[96]

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[92] Original: "*'statelijke' volmachten*"; "*het octrooi slechts een nationaal, publiekrechtelijk document was, zonder internationale derdenwerking of doorwerking in het volkenrecht."* J. A. Somers, *De VOC als volkenrechtelijke actor* (Hilversum: Verloren, 2003), 16. Kerry Ward, Julia Adams and Carla van Wamelen's work also deals with the issues regarding the VOC as a state, or state-like actor.

[93] Ward, *Networks of Empire*, 6. Lauren Benton's work has been particularly influential on the topic of establishing imperial sovereignty. Lauren Benton, *A Search for Sovereignty: Law and geography in European Empires, 1400-1900* (New York: Cambridge University Press, 2010); Lauren Benton, *Law and Colonial Cultures: Legal regimes in world history, 1400-1900* (New York: Cambridge University Press, 2002).

[94] Knaap, "De 'core business' van de VOC," 13-20.

[95] Original: "*Beide compagnieën mochten in hun octrooigebieden in naam van de Staten-generaal belangrijke soevereine rechten uitoefenen.. Op veel terreinen ware overheidstaken en die van de compagnieën moeilijk, zo niet onmogelijk van elkaar te scheiden. Met name op het terrein van bestuur, regelgeving en rechtspraak overzee fungeerden de handelscompagnieën als verlengstukken van de staat."* Heijer, *De geoctrooieerde compagnie*, 216.

[96] Stern, *The Company State*, 3, 6.

Arthur Weststeijn follows Stern's recent argument, and claims that the VOC should "be considered a particular political institution in its own terms, one that challenged its critics to think about it as a body politic that was neither corporation nor empire, but rather a company-state."[97]

Part of evaluating how the VOC state operated in its charter area is understanding the legal system which the company created and sustained overseas. But that is not enough – how the companies engaged with the Dutch state and its institutions needs to be part of this analysis. The conflicts brought to the High Court touch on issues of company sovereignty, jurisdiction and reach, both overseas and in the Republic.

There has been no equivalent debate around the position of the WIC in the Atlantic. In contrast to the VOC, scholars have argued that the WIC did not operate as a sovereign within its charter area. Wim Klooster states:

> The West India Company might have been in charge of Dutch America, but its position was not that of a sovereign. That is to say, it remained accountable to the States General, which interfered more in Atlantic matters than it did in the affairs of the VOC.[98]

According to Klooster, the company's subordination to the States General is evidenced by the fact that the verdicts passed by company courts in Suriname could be reviewed by juridical institutions in the Republic. Han Jordaan and Marijcke Schillings make the same point, that colonial cases could be reviewed by the States General. They state that "[the States General] delegated part of its sovereignty to the WIC, but maintained ultimate sovereignty over the areas taken into possession."[99] The exercise and limits of the companies' sovereignty were issues which swirled beneath the surface in the High Court cases in which the companies were litigants. Discussions around the companies as legal and political corporations in their charter areas needs to be connected to how the companies acted as legal and political corporations in the Republic. The company-court-States General dynamic is a crucial part of adding another layer to what constituted the companies.

Suing the Companies

Neither the VOC nor the WIC managed to deal with the overseas expansion-related disputes entirely outside of the legal arena in the Republic. At first, this seems to be a somewhat banal observation. Yet the potential for conflict in the Republic was already

[97] Arthur Weststeijn, "The VOC as Company-State: Debating seventeenth-century Dutch colonial expansion," *Itinerario* 38, no. 1 (2014): 15.

[98] Wim Klooster, "Other Netherlands beyond the sea: Dutch America between metropolitan control and divergence, 1600-1795," in *Negotiated Empires: Centers and peripheries in the Americas, 1500-1820*, ed. Christine Daniels and Michael V. Kennedy (London: Routledge, 2002), 173.

[99] Original: "*delegeerde een deel van zijn soevereiniteit aan de WIC, maar behield de uiteindelijke oppersoevereinitieit over de in bezit genomen gebieden*." Jordaan and Schillings, "Organisatie van bestuur en rechtspraak," 1.

acknowledged in the companies' founding charters. Article 42 of the 1602 VOC charter, which limited the liability of the directors, also paved the way for those directors to be sued. These two issues were of course linked – if claims against the directors arose, the directors' personal assets would not be vulnerable to seizure. Importantly, the charter article added that the directors could be summoned to court.[100] The 1621 WIC charter replicated this article, almost to the letter. Article 36 of the WIC's founding charter indicated that the directors of that company could be summoned to court.[101] These charter articles point to an early awareness of potential expansion-related conflicts.

The fact that the companies used the courts in the Republic, and the High Court in The Hague in particular, to manage various conflicts has two profound implications. Firstly, both the VOC and the WIC were subject to the law in the Republic, as pronounced by the judges of the courts at municipal, provincial and supra-provincial level. Both companies had to comply with the verdicts which the bench of the High Court pronounced, and when they did not, faced court orders compelling them to do so.[102] This indicates that while there may be debate over whether or not the VOC acted like, or was a sovereign in its charter area, there is no doubt that the VOC in the Republic was subordinate to the States General and the legal system. Neither the VOC nor the WIC was above the law.

Like the companies themselves, the judicial system of Holland and Zeeland to which the companies submitted was not free of political influence. High Court records attest to the interference of the States General. The States General issued civil requests which litigants handed over to the court as a show of political backing for their claims. These were not always accepted by the judges of the High Court but were likely used by litigants in attempts to shore up their claims.[103] Moreover, the records point to the crucial role which the States General played as connector of otherwise insulated jurisdictions (Chapter 1). The States General was involved in the legal arena in these ways.

The second important implication of the companies' appearance in the High Court records is how litigants perceived the companies. Men and women did not perceive the companies as unstoppable and untouchable giants in society; individuals could pursue their interests against the companies. The companies instigated legal proceedings against parties but also submitted to the summonses issued by claimants. That is, both companies were vulnerable to litigation in the Dutch Republic. The litigants who populate the High Court records are diverse – from the wealthiest of the Amsterdam merchant elite to those who at the time had little or no social standing.[104] The cases which the companies initiated

[100] Article 42 in Witteveen, *Een onderneming*, 96.

[101] Article 36 in Laet, *Iaerlijck Verhael*, 19.

[102] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *660* (1690), Korte sententie...geresolveerd, scan 29; inv. nr. *905* (1690), Resoluties, scan 19. The case was between Maria van Halewijn and the First WIC Chamber Amsterdam. The court determined that the sentence had not been fulfilled.

[103] *Requeste civile* is defined in LeBailly and Verhas, *Hoge Raad*, 93. For use in a case, see for instance, Chapter 4, the case involving Neeltje Claes, and the Bartolotti case discussed in Chapter 5. The Bartolotti case records refer to the High Government (*hooge Overicheijt*) as the issuer of the requests, understood as a reference to the States General.

[104] The High Court also conducted *pro deo* cases. In the case involving Neeltje Claes (Chapter 4) the sentence specifically notes her poverty. See also the requests on which *pro deo* was requested and/or granted, for

and those which were brought against them were a combination of *causes célèbre* and mundane commercial conflicts. This would not have been the case had the companies been perceived as untouchable or above the law.

Company conflicts

Detailed analyses of the High Court cases are central to the six chapters which follow. The first chapter presents an overview of the companies in court. First, I sketch the relationship between company courts and the courts in Holland and Zeeland. The central question is how did the companies' legal structures intersect with the courts in the Republic? I will show that the companies' legal structures differed significantly in the way their relationship with the courts in Holland and Zeeland was envisioned. While the VOC's legal system was set up as an insulated system with no line of appeal to the Republic, the WIC's was not. The States General played the role of connector of judicial systems. I then turn to analysing the litigants involved in High Court cases against the companies, showing the diversity of parties who opposed the VOC and the WIC. Finally, I turn to categorising the cases which were heard in the court. The companies faced similar types of conflicts in the High Court but there are noticeable differences too, not least in the numbers of cases.

Each of the subsequent five chapters addresses the company-court-States General dynamic by taking up one of the categories of cases identified in Chapter 1. The aim of each chapter is twofold. On the one hand, I trace how and why a particular kind of dispute was heard in the High Court in order to better understand company conflict management in the Republic. On the other hand, the substance of the cases provides insight into each specific category of cases. The division of chapters below introduces and pre-empts the categorisation of cases which is presented in Chapter 1.

Chapter 2 addresses cases relating to competitors entering the VOC and WIC charter areas. It deals with cases against each company which related to the permeability and protection of the exclusivity of their charter areas. It argues that the VOC defended its monopolies against competitors in the years after its creation, to the point where such cases did not arise again after the 1640s. The VOC's competitors had tried to maintain privileges granted to them, or to acquire privileges, on the basis of charters granted by the States General. In contrast, the WIC's monopolies were whittled away over time as the company leased out and lost its monopolies to private merchants, both within and outside of the company. The WIC monopolies were permeable via legal means, namely contracts. The WIC allowed competitors into its charter area by drawing up contracts for private trade. In the two cases examined in the chapter, there were disputes with the contract holders regarding their activities in the charter area. Grouping together the cases

instance NL-HaNA, Hoge Raad Holland and Zeeland, 3.03.02, inv. nr. *145* (1749), Rekesten, unpaginated [1749-07-01]; inv. nr. *146* (1750), Rekesten, unpaginated [1750-06-13]; inv. nr. *158* (1775), Rekesten, unpaginated [1775-03-30].

concerning entrance into the companies' charter areas shows that while the VOC tried to keep competitors out, the WIC let them in on the basis of contracts.

Chapter 3 continues on the theme of exclusivity and monopoly from the point of view of private trade conducted by company employees. Both the VOC and the WIC allowed, and tolerated, private trade by company employees; permitted private trade was distinguished in regulations from illegal private trade. Offshoots of criminal private trade cases which were heard in VOC courts arose in the Republic when company servants escaped the jurisdiction of Batavia. The VOC tried to have the accused extradited to Batavia, sparking conflicts between the legal institutions in the Republic. Extradition was a distinctly VOC problem. A distinctly WIC problem was voyages equipped for the purpose of breaking the company monopolies in the Atlantic, where the threshold for such voyages was lower than in the Indian Ocean. The VOC and WIC cases together contribute to scholarship on illegal private trade and smuggling by analysing the mechanisms of smuggling revealed in the cases and highlighting the actors who were involved in a case-study based approach.

Chapter 4 delves more deeply into the relationship between the two companies and their employees, specifically those taken into company employ in the Republic. The focus in this chapter is on wage disputes based on claims to employees' wages. The chapter shows that the transferability of wage accounts resulted in a wide pool of claimants against the companies. Litigants encompassed not only employees, but also their kin, heirs, creditors and holders of accounts bought on the secondary market. That a secondary market for wages existed in the Republic is not a novel argument, but notarial deeds and High Court proceedings indicate that there were secondary markets for wages in the colonies too. The wages at stake in these cases were most often those earned by sailors and soldiers, those on the lowest rungs of the company employment ladder. These cases highlight the point that the High Court was accessible for ordinary people who made claims to rather small sums of money. The VOC Chamber Amsterdam directors also disputed remuneration with the city auctioneers who assisted at the chamber sales. The case sheds light on how the dispute was managed over a period of a century, after which the changing organisation of company trade reignited the conflict and it was taken to court. Together, the cases demonstrate that salary disputes were not dealt with in-house, but adjudicated by the High Court in proceedings brought by a range of litigants, individually and collectively.

In Chapter 5 the focus shifts from company employ to company shareholding. The cases analysed in this chapter, all of which relate to shareholding in the VOC chambers, show that disputes arose out of specific elements of share ownership. Firstly, the VOC chambers seized shares from defaulting purchasers of company goods, which action the chambers justified on the grounds of their regulations. Heirs disputed this in court. Secondly, a case with bearing on the liability of chamber directors arose when a bookkeeper mistakenly transferred shares from the wrong account into a new owner's name. The original owner of the shares, the new owner, and the chamber directors were all involved in suits against each other, in varying constellations of parties. And thirdly, executors of an estate proceeded against the company with claims to have freedom to sell

shares in the estate. The dispute was about the role of the chamber directors to oversee the executors' decisions. Perhaps heightening the tension was the fact that the shares comprised part of the estate of a member of the well-known De Pinto family, who were well-connected, wealthy members of the Portuguese Nation in Amsterdam. Some of these elements are picked up in the detailed analysis of the case between the Bartolotti family members and the VOC over shares in the Hoorn Chamber. The case brings to the fore numerous issues relating to investing in the VOC and presents the opportunity to piece together a portrait of a shareholding family's diverse trade interests and foreign connections. To date, research on company shareholding has focussed on corporate governance, on the origins of investors and magnitude of investments, and on disputes among shareholders. This chapter contributes a new element to this research by focussing on disputes between the directors and shareholders.

Chapter 6 focusses on the issue of property rights. The role of the state in securing property rights, and when this occurred has been the topic of much debate. Commercial disputes over property rights arose around buying, selling and seizing colonial imports. These cases bring insight into property rights-related issues: based on the cases, I will argue that the High Court played a role in securing property rights from the early seventeenth century. After setting out the ways in which the companies sold goods, and to whom, the focus turns to the disputes. The first concerns access to the market for private merchants who bought up VOC spices. The case between the merchants and the chamber provides insight into how sale from a chamber took place, and the company's concerns over private merchants capturing the profit from resale that would otherwise fill the chambers' treasuries. The sale and delivery of spices from the Delft chamber to the Amsterdam merchants did not proceed as it should have, and so the parties proceeded to court. The second set of cases relates to the maintenance of property rights seen from the perspective of bankruptcy cases. Bankruptcy, debt and liability were interwoven issues. Based on the cases, we can see that the VOC was not treated as a preferential creditor of insolvent estates. Finally, property rights are considered via cases regarding sale and seizure of goods. Three cases involving private merchants, resident in the Republic and foreigners, show the WIC's engagement with shipowners, freighters and buyers of goods in the context of maritime law, subjection and good faith. The High Court sentences passed in these cases secured property rights against the predatory tendencies of the companies.

To conclude I return to the concept of conflict management and the implications of the cases involving the companies which were heard in the High Court. In particular, the High Court as an arena of expansion-related conflicts adds another layer to discussions of the working of the VOC as a company state. By bringing the focus to the disputes in *patria*, I have shown the importance of the States General in conflict management. The relationship between companies, courts, and States General was certainly not always a straightforward one, as the chapters will show. Furthermore, this analysis of company conflict management in the Republic brings new depth to understanding the contours of the early modern Dutch empire.