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

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1. The Companies in Court

The legal framework, litigants and categorisation of conflicts

Court cases regarding colonial expansion were pursued in the High Court in The Hague. The cases were part of managing conflicts which arose in the Republic as well as conflicts which were rooted in events in the companies' charter areas. This chapter presents a three-part overview of the companies in court. Firstly, in order to establish the judicial framework in which these cases unfolded, this chapter sets out the relationship between the High Court in The Hague and the companies' courts established in their respective charter areas. The States General played an important role in connecting jurisdictions. The second part of this chapter focusses on the actors who appeared as litigants in the High Court. Who were the parties named in sentences against the VOC and the WIC? Thirdly, I turn to the content of the cases and present an overview of all the cases involving the VOC and the WIC in the form of a categorisation. The categorisation establishes the thematic division of the chapters which follow. This chapter provides the groundwork for the detailed analysis of cases to come.

The legal framework

From company court to High Court: the VOC

On the grounds of the sovereignty delegated to them by the States General in their charters, the VOC and the WIC constructed legal systems in their respective charter areas. Within those legal systems, the company was judge. The VOC's legal system did not intersect with the court system in the Republic; the company's judicial system can be thought of as insulated.

The Council of Justice in Batavia was the highest and appellate court in the VOC charter area. Established in 1620, and named the Council of Justice from 1626, the court functioned as an appeals court for cases from subsidiary courts in Batavia, such as the Aldermen (*schepenbank*), as well as for sentences passed in Councils of Justice throughout the VOC's charter area.[1] According to Nigel Worden and Gerald Groenewald, while theoretically Cape Council of Justice sentences could be appealed in Batavia, in practice it was too expensive.[2] The right to appeal to the Council of Justice in Batavia was based on the fact that all company colonies and factories fell under the legal administration of Batavia. The Council of Justice in Batavia ruled in final instance. Cases sentenced in

[1] Bree, *De rechterljke organisatie*, 25-26, 54-84. See also D. J. Kortlang, "Raad van Justitie: Inventaris van het Hooggerechtshof van Nederlands-Indië (Hoge Raad van Justitie) 1620 - 1809," Arsip Nasional Republik Indonesia.[webpage]

[2] Interestingly, one of the grievances which were put forward by the Patriots in the 1770s and 1780s was their desire to appeal in Holland rather than in Batavia. But this was not granted to them. Worden and Groenewald, *Trials of Slavery*, xx, xx n.10.

Batavia could not be appealed in the Republic.[3] The company's jurisdiction did not overlap or intersect with jurisdictions in the Republic. As Kerry Ward stated, "[t]he legal network of the Dutch East India Company empire, while based in the laws of the United Provinces, operated separately from the exercise of law in the Netherlands."[4]

Yet, there are cases in the High Court records which were rooted in disputes in the VOC's charter areas. These cases entered the legal system in Holland and Zeeland, and were heard by the High Court in particular, for one of two reasons. The first route to the High Court was via lodging a complaint with the States General, which I have called redress. The same charter article which granted the VOC the right to appoint officials, and dismiss them, also granted those high company officials the right to complain to the States General in the event that they were fired.[5] This was not a formal appeal against a sentence in a higher court; in the way it was set out in the VOC's charter, it was an opportunity for a high-ranking official to make his grievances known to the highest political authority in the Republic, the States General.[6]

The second route into the legal system of Holland and Zeeland was more conniving. Individuals escaped the jurisdiction of Batavia and made their way to the Republic. There, litigants claimed recourse to the courts in the Republic as their competent judges.[7] For their part, VOC directors tried to shore up the jurisdiction of the court in Batavia. Proceedings in the city, provincial and High Court in these cases reveal a legal strategy employed by the VOC which amounted to extradition. The company sought permission to have litigants sent back to Batavia to face ongoing legal proceedings there or to face execution of sentences which had been passed in their absence. Extradition cases sparked conflicts between judicial and political institutions in the Republic over which body was competent to decide whether or not someone should be forcibly transported to Batavia. These cases make clear the duality of the VOC, as judge in its charter area and subject to the judgments of the court in the Republic.

A Scot in The Hague

William Carmichael, a Scot, was one of a number of foreigners who took up the opportunity to pursue litigation in the courts in The Hague.[8] But beyond highlighting the

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[3] Bree, *De rechterljke organisatie*, 82; Ward, *Networks of Empire*, 17.

[4] Ward, *Networks of Empire*, 15.

[5] Article 35 published in Witteveen, *Een onderneming*, 94-95.

[6] Original: "*doleantien, ofte clachten... aen ons te doen*." Ibid., 95. Matthijs de Jongh put this right to complain to the States General in the context of the large degree of influence which the States General exerted on the functioning of the company in the Republic. Johan Matthijs de Jongh, "Tussen *societas* en *universitas.* De beursvennootschap en haar aandeelhouders in historisch perspectief" (PhD, Erasmus Universiteit Rotterdam, 2014), 65.

[7] This was the strategy pursued by litigants in the case between husband and wife Joan Bitter and Cornelia van Nijenroode and in the dispute between the Canter family and the VOC. See respectively Leonard Blussé, *Bitters Bruid. Een koloniaal huwelijksdrama in de Gouden Eeuw* (Amsterdam: Balans, 1997); Roelof van Gelder, "De kas van de compagnie. Liefde, geld en recht in de achttiende eeuw," *Mededelingen van de Stichting Jacob Campo Weyerman* 38, no. 1 (2015).

[8] Other examples include Isaac Minet of Dover (vs. WIC, 1735); Samuel and Metgen Elders resident in Hamburg (vs. VOC, 1686), Martin Barts of Gluckstad (vs. WIC, 1660) and Thomas Laleij English merchant in Middelburg (vs. VOC, 1621).

access to the court enjoyed by foreigners, the case Carmichael brought against the VOC illuminates the relationship between the political and juridical institutions in the Republic as they dealt with conflicts arising from colonial expansion in Asia. The early seventeenth-century case between Carmichael and the VOC was fraught with issues of war, diplomacy and inter-imperial struggle. Litigation was one element of the conflict management strategies used by Carmichael and the VOC. What emerges from the legal proceedings and government records is the role of questions of state in conflict management, matters of subjection, and the role of the States General in the legal arena.

Carmichael's case against the VOC was rooted in actions that took place in Asia. In 1612, in Ambon, the VOC seized goods he was transporting. The context of the seizure was hostilities between the Dutch and the Portuguese in Asia.[9] The Twelve Years Truce (1609-21) brought a temporary end to hostilities between the rebel provinces of the Northern Netherlands and the unified crowns of Spain and Portugal, but did not halt fighting in the Atlantic and Indian Oceans.[10] This context was relevant because Carmichael had spent the three decades before the seizure of his property in service of the Portuguese, under the name Guiliaume Jorge de Schorsia.[11] In 1612, VOC Governor Caspar (Jasper) Janszoon arrested Carmichael and his goods. Carmichael had no recourse to a VOC court at that time – the Council of Justice in Batavia was only set up in 1620, as was discussed earlier. Carmichael managed to make his way to The Hague where he used the political and legal institutions to reclaim his goods. While the court records are not explicit about it, the dispute must have been over the legitimacy of his property as good prize, as Steve Murdoch has suggested.[12]

William Carmichael petitioned the States General in an effort to see his goods returned. This he did with the support of the King of Scotland, James VI. After consulting the directors of the VOC on the matter of Carmichael's claim, the States General was convinced of the need for litigation in the case, however, they expressed their desire to see the matter resolved amicably, presumably for reasons of diplomacy. In January 1615, the States General granted Carmichael permission to pursue a court case against the VOC in the Court of Holland.[13]

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[9] This was during the period which Femme Gaastra has labelled "continual war". From 1602-1684 the VOC was engaged in battles with the Portuguese, broken by periods of truce and reduced hostilities, as well as in fighting with Asian polities as the company strove to establish dominance in the spice trade. Gaastra, *The Dutch East India Company*, 37.

[10] On the truce, and the context of the Dutch Revolt, see Israel, *The Dutch Republic: Its rise, greatness and fall, 1477-1806*, Part I&II.

[11] At the request of the VOC directors, former VOC-employees attested to his employment in Asia and subsequent role as factor for Portuguese merchants before notaries in Amsterdam. Stadsarchief Amsterdam (SAA), Notariële Akte (NA), 273, f. 189-93. Many thanks to Mark Ponte and Matthias van Rossum for pointing out these documents and generously sharing transcriptions with me.

[12] Steve Murdoch, *Network North: Scottish kin, commercial and covert associations in Northern Europe, 1603-1746* (Leiden: Brill, 2005), 208 n. 205.

[13] A. Th. van Deursen, J. G. Smit, and J. Roelevink, eds., *Resolutiën der Staten-Generaal, 1610-1670*, 7 vols., Rijks Geschiedkundige Publicatiën (Den Haag: Martinus Nijhoff/ Instituut voor Nederlandse Geschiedenis, 1971-94), II: 313 [315 September 1614]; 1387 [1622 January 1615].

By December 1616 the case had not been resolved. In fact, it is unclear whether or not proceedings had been undertaken in the Court of Holland at all.[14] But the States General had by that time received another letter from James VI, King of Scotland. The States General forwarded the letter to the VOC to peruse, along with the idea that it might be better to come to an agreement with Carmichael that would not cost the company too much rather than wait for a verdict from the court.[15] By 'the court' it is possible that the States General meant the Court of Holland before which they had given Carmichael permission to proceed. If the case followed normal procedure, it would have been heard in the Court of Holland in first instance, and from there progressed to the High Court in the event that one party appealed against the sentence. However, the 1618 sentence which is part of the High Court records indicates that the States General delegated the case to a specially constituted bench in the High Court. The opening statement of the short sentence states:

> Seen by the president and councillors from the High and Provincial Council delegated by the High Mighty Gentlemen States General of the United Netherlands, the case outstanding before the same [Gentlemen States General] between Willem Carmichael Scotsman... and the directors of the chartered East India Company of the United Netherlands.[16]

The High Court's resolution confirms that the case was delegated by the States General.[17] Of the seven judges whose opinions were recorded in the resolution, four were councillors in the Court of Holland, and the other three were from the High Court, most likely including the president.[18] The States General's initial granting of permission to pursue litigation in the Court of Holland would indicate that prior to the creation of a VOC court in Batavia, cases followed the normal progression through courts in the Republic, as depicted in Figure 2 (Introduction). However, the High Court's sentence is explicit on the involvement of the States General: it was the States General's act of delegation by which Carmichael's case was heard by the High Court judges, with judges from the Court of Holland.

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[14] Searches in the digital indexes of Court of Holland records gave no results.

[15] Deursen, Smit, and Roelevink, *Resolutiën*, II: 733 [733 December 1616].

[16] Original: "*Gesien bij den President en Raden ~~van den~~ vuijten Hogen en Prouintiaelen Ra[de] ~~ter delegatie van de~~ bijde hooch moogen. Heeren Staten Gen. vande vereenichde nederlanden gedelegeert t'process voorde selue vuijtstaende tusschen Willem Carmichel Schotsman... En de Bewinthebbers van de geoctroijeerde Oostindische Compagnie van de vereenichde Nederlanden.*" NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *887* (1618), Register der dictums... geresolveerd, unpaginated.

[17] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *642* (1618), Resoluties, unpaginated. *Delegatie* is written across the top of the resolution.

[18] Veer and Asperen were named in the resolution. According to the Huygens online database of councillors of the High Court, these two names belong to the same person. Both were known as Ellert de Veer. But it is entirely impossible from the way the resolutie is drawn up that these names belong to the same person. Regarding the president, this was most likely esquire (*Jonkheer*) Reinoud van Brederode who was president of the High Court from 1616-1620. Convincing evidence of his involvement in the case is that he signed the short sentence. NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *887* (1618), Register der dictums ...geresolveerd, unpaginated.

A crucial point in the case must have been the matter of subjection. Could the goods of a man who claimed to be the subject of the King of Scotland and England, an ally of the fledgling Dutch Republic, be seized in the context of war between the Republic and Spain and Portugal? It is likely that Carmichael's claim of subjection to James VI was countered by the VOC by pointing to his work for the Portuguese, but this is not explicit in the High Court's records.

In 1618 the bench passed an interlocutory sentence. The two parties, Carmichael and the VOC directors, were ordered to appear before two councillors from the delegated bench in order to come to a settlement. That is, the bench ordered arbitration. In the event that the two parties could not be united, the VOC was required to provide the court with evidence that when the company seized Carmichael's assets in Ambon, hostilities between the Dutch and the Portuguese were already underway. If the company could prove this, then Carmichael's claim to restitution of his goods, or their value, would be denied; if the company could not provide evidence of the timing, then the company would be sentenced to return the goods, or their value, to Carmichael.[19] There are no further records in the High Court of the dispute between the two parties. But Murdoch has found evidence that the matter remained unresolved in 1622. At that point Carmichael requested letters of reprisal from James VI in order that he might regain his fortune by attacking Dutch ships.[20]

In this particular case the States General played the determining role in how a dispute over events in Ambon was brought into the legal arena in the Republic. The case was delegated to a specially constituted bench of judges from the Court of Holland and the High Court. It is likely that the case did not follow the normal procedure of justice – first instance in the provincial court, followed by appeal in the High Court – because of the issues of war and diplomacy which were in play. But if the matter was the legitimacy of prize, then the question is why the States General did not refer the case to the Admiralty board which had jurisdiction over the adjudication of prize cases.[21] Perhaps it was the pressure from James VI that led the States General to decide to delegate the case.[22] Whatever the motivation behind it, the role of the States General was decisive in the course the case followed. It is also possible that the diplomatic pressure exerted by James VI's letters prompted the States General's recommendation that the case be settled rather than taken to the end point of sentencing. Matters of war and state, subjection and prize were all at stake in the case which the States General delegated to the judges of the Court of Holland and High Court.

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[19] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *642* (1618), Resoluties, unpaginated.

[20] Murdoch, *Network North*, 208.

[21] On the admiralty boards and their jurisdiction see Louis Sicking, *Neptune and the Netherlands: State, economy and war at sea in the Renaissance* (Leiden: Brill, 2004); R. B. Prud'homme van Reine and E. W. van der Oest, eds., *Kapers op de kust. Nederlandse kaapvaart en piraterij 1500-1800* (Vlissingen: ADZ, 1991).

[22] On the role of diplomacy in prize cases see recent contributions by Thierry Allain, "International treaties versus 'bonne prise': the case of the Dutch merchant ship De Vriendschap in the Mediterranean in 1745," *Comparative legal history* 5, no. 1 (2017); Hielke van Nieuwenhuize, "Prize law, international diplomacy and the treatment of foreign prizes in the seventeenth century: a case study," ibid.

Seeking redress: Goodschalk vs. VOC

A case which took place a century later highlights the second mechanism by which the States General was involved in cases in the High Court: redress. In November 1714 the High Court passed a resolution in the case between the VOC employee Pieter Goodschalk and the Directors of the VOC. Pieter Goodschalk was a high-ranking VOC official in Java in the late seventeenth century. He was in charge (*gezaghebber*/*offerhoofd*) of the north coast of the island, at Japara. In 1697 he was appointed as the VOC deputy authority (*secunde*) in Surat, a position which he declined to take up as reported in the VOC's correspondence with the company directors in the Republic. When Goodschalk later acquiesced to go to Surat after all, his services were no longer desired: the public prosecutor, the Fiscal (*fiscaal*) was preparing charges of corruption (*knoeierijen*) against him.[23] The case that ensued is related in the High Court's resolution of 1714 but no detail of Goodschalk's alleged misdeeds were included. What is clear from the resolution is that the Fiscal, following orders from the Governor and Council, brought criminal charges against Goodschalk. The Fiscal recommended that Goodschalk be forcefully deported and declared incompetent, whipped on the gallows, banished for six years and charged a fine (*amende*) of 4000 *Rijksdaalders* (approximately *f*10,000). In the meantime, Goodschalk's goods and he himself should be seized by the company and held in custody. Goodschalk responded by requesting permission to see the papers relating to the case and asked for a month to build his defence. On 5 July 1699 the Council ordered Goodschalk be detained and his goods seized. But they were too late: Goodschalk had departed for the Republic. On 10 October 1699 he was sentenced by the Council of Justice *in absentia*. His punishment was eternal banishment from Asia (*uijt Indien*), being declared unfit for company service, a fine of 764 *Rijksdaalders* (*f*1,910), the confiscation of his goods, and the costs of the legal proceedings.[24]

Pieter Goodschalk managed to return to the Republic where he heard about the sentence passed against him in Batavia. He sought redress, first from the VOC directors, and then from the States General. Redress was not appeal: sentences passed by Council of Justice in Batavia could not be appealed in the courts in the Republic. Rather, redress was an extra-judicial right granted to high-ranking company servants in the first VOC charter. The possibility to lodge complaints with the States General followed on from the delegation of authority to the company to hire and fire governors and officers of justice. These men, the charter required, had to pledge oaths of loyalty to the States General as well as to the company. If they were found to have broken those oaths, then they could be dismissed. But it was specified that they should not be impeded from returning to the Republic where they could lodge their complaints with the States General.[25] Offering the opportunity to lodge complaints could be seen as a way for the States General to reinforce

[23] W. P. Coolhaas et al., *Generale Missiven van Gouverneurs-Generaal en raden aan Heren XVII der Verenigde Oostindische Compagnie*, 13 vols., Rijks Geschiedkundige Publikatiën (Den Haag: Martinus Nijhoff, 1960-2007), VI: 41, 45 (46 December 1698). What the corruption charge was about is not specified in the Generale Missiven, neither in the case in the High Court.

[24] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *666* (1714), Resoluties, scan 31.

[25] Article 35 published in Witteveen, *Een onderneming*, 95.

the loyalty of high-ranking company men to the States General, as well as a means to impose checks and balances on the company. The States General did not deal with the matter themselves but directed (*renvoij*) Goodschalk to the institutions of justice, specifically the High Court which was requested to take the matter under examination.[26] This has at least two important implications. Firstly, the States General took on the role of connecting separate jurisdictions. Secondly, the States General effectively imposed limits on the VOC's exercise of sovereignty manifest in competence and jurisdiction of the Council of Justice in Batavia. Via the extra-judicial channel of complaint to the States General, the VOC's delegated sovereignty was constrained.

The States General's decision to direct Goodschalk to the High Court rather than to the Court of Holland can perhaps be explained by the States General's position in the Republic constituted by powerful, sovereign provinces. Choosing the High Court was possibly a powerplay of their own in a federalised, republican system in which the provinces in the Republic had great power, and the central governing institution, relatively little.

According to the High Court records, Pieter Goodschalk was the claimant in a case in first instance against the directors of the VOC, that is the directors of the company as a whole, not of a specific chamber. For their part, the directors were recorded as the party that entered an official protest (*excipienten*).[27] It is very clear from this that the case between Goodschalk and the VOC was not an appeal case. This is underscored by the legal provision that appeal can only be sought if the parties are present for sentencing, which Goodschalk was not.[28] What was at stake in the case was the validity of the Batavia sentence which was passed on 10 October 1699 and the implications of whether or not the High Court recognised the sentence as valid or voided it. How the VOC in particular went about making these arguments reveals a larger problem of the Batavia Council of Justice's competence and jurisdiction and brings to the fore the company's legal strategy.

In first instance, Goodschalk made claims to have the Batavia sentence against him nullified and the situation remedied as if the sentence had not been passed or executed. He alleged that the Council of Justice in Batavia did not have the competences to judge his case, that is, did not have the legal ability to exert jurisdiction over him. In consequence of the court's lack of competences, he claimed that the sentence against him was null and void, and that it was against the law. In addition, he claimed his previously seized goods and wages, and that the company compensate costs.[29]

That the company entered a protest has already been mentioned, but the substance of that protest brings to light a strategy which appears in other cases too. The company

[26] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *666* (1714), Resoluties, scan 31. In legal terms, *renvoij*/*renvoy* was to direct a case to a different court. More specifically, it was a protest by a party which had been summoned to court to be released from proceedings there and face litigation before his ordinary judge (*dagelykzen Rechter*). Franciscus Lievens Kersteman, *Practisyns woordenboekje, of verzameling van meest alle de woorden in de rechtskunde gebruikelyk* (Dordrecht/ Den Haag: Ab. Blussé en zoon/ Centraal Bureau voor Genealogie, 1785/ 2005), 94.

[27] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *666* (1714), Resoluties, scan 31.

[28] Thanks to Harry Dondorp for making this difference so clear. Personal communication, Jan/Feb 2016.

[29] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *666 (1714),* Resoluties, scan 31.

directors argued *litisfinitie* and *incompetentie*. *Litisfinitie* meant that the dispute between the litigants had already been finalised in legal proceedings in another court, referring to the fact that the Council of Justice had already passed a sentence and thus concluded the case.[30] But in order for this argument to hold, the sentence of the Batavia court had to be declared valid. If it was valid, then the legal proceedings were finalised by the 1699 Council of Justice sentence. *Incompetentie* was the argument that the High Court in The Hague did not have the competence to adjudicate the matter. The grounds for this were not detailed. What the company sought essentially amounted to extradition.[31] There were a number of cases in which the company argued for extradition to Batavia on the grounds of *litispendentie* – that a litigant return to face ongoing legal proceedings – or *litisfinitie* – face the execution of a sentence which had already been passed. The high-profile case between Frans Canter's family and the VOC in the 1750s was one such case. In that case not only did the VOC argue that Canter should be extradited, but a jurisdictional dispute erupted between the courts in Holland over which institution had the competence to make the decision whether or not he should be sent to Batavia as the company had claimed. That particular case was unusual in that it became a *cause célèbre* but the legal strategy was certainly not unique.[32] Other cases in which the VOC argued for extradition to Batavia are discussed in later chapters.

In the Goodschalk case, both parties argued that certain courts were not competent to deal with the case. Goodschalk's claim that the Batavia sentence against him was invalid was surely predicated on his argument that that court did not have the jurisdiction and competence to hear and determine the case. In contrast, the VOC directors' claim that Goodschalk should be extradited was connected to their argument that the High Court was not the court in which the case should be judged. The VOC employed this legal strategy in a number of cases, which indicates that the company was trying to keep conflict resolution in-house, that is, within the company's own legal system where the Batavia Council of Justice sat atop a hierarchy of company courts. But the company did not succeed in managing and resolving conflict internally. The jurisdiction of the Batavia court and the insulation of the company's legal system was not consistently reinforced, neither by the States General nor by the High Court. In responding to Goodschalk's complaint by directing him to the High Court, the States General played the determining role in connecting otherwise separate and insulated legal systems.

Both William Carmichael and Pieter Goodschalk succeeded in turning their personal conflicts with the VOC into significant questions of sovereignty and jurisdiction, played out on a global scale. They escaped the VOC in Asia – Ambon and Batavia respectively – to return to the Republic and leverage the States General in their favour. Carmichael made use of diplomacy and subjection in his claim to goods seized from him, while Goodschalk's case touched on the very limits of company sovereignty and jurisdiction. Individuals transported their disputes to the Republic, and the States General transferred them – via delegation and redress – to the High Court.

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[30] *Litisfinitie* is defined in Kersteman, *Practisyns*, 60.

[31] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *666 (1714),* Resoluties, scan 31.

[32] Gelder, "De kas van de compagnie."

From company court to High Court: the WIC

The relationship between company courts in the Atlantic and the High Court of Holland, Zeeland and West-Friesland was fundamentally different from the relationship between the High Court and the Council of Justice in Batavia outlined earlier. In spite of attempts to create central nodes in the Atlantic, there was no WIC Atlantic equivalent of Batavia. There was not a single, WIC headquarters which functioned as the administrative and judicial authority over company ports and posts and their local institutions.[33] The Council of Justice in Batavia was, at least in theory, a court in which sentences from the Councils of Justice elsewhere could be appealed. There was no such WIC court in the Atlantic. Rather, the States General Court of Appeal for West Indian cases (*Hof van Appél*) functioned as an Atlantic version of the Council of Justice in Batavia. In contrast to the insulated VOC judicial system, WIC company courts were connected to the judicial system in the Republic.

At some point in the early eighteenth century, the States General established a Court of Appeal for West Indian Cases. The court may have existed before then, but the earliest records which exist in the collection are dated 1716. The Court of Appeal was less a separate legal institution than a function of the States General. Through the Court of Appeal the States General received two kinds of cases from courts in the Atlantic colonies: cases which a company court could not rule on, and cases in which one of the parties sought revision of a company court's sentence.[34] It is the revision cases which are relevant to understanding the role of the States General in connecting jurisdictions.

The relationship which was established between WIC courts and the High Court in the Republic was not a direct line of appeal – the States General played the role of connector of jurisdictions. Aggrieved parties could seek revision – understood as a form of appeal – from the States General Court of Appeal.[35] The States General then delegated the cases to the High Court. The records of the Court of Appeal, while likely incomplete, show that it was specifically the High Court that was used by the States General. The

[33] During the seventeenth century there were attempts to establish central nodes. Thus, the small Caribbean islands Aruba and Bonaire were subordinate to nearby Curaçao. Likewise, the Caribbean islands St. Maarten and Saba fell under nearby St. Eustatius. In the mid-1600s, the WIC directors, with the approval of the States General, chose to bring Curaçao and New Netherland under the same governor, for which position Pieter Stuyvesant was chosen. Cornelis Ch. Goslinga, *The Dutch in the Caribbean and on the Wild Coast, 1580-1680* (Assen: van Gorcum, 1971), 280-281; Jordaan and Schillings, "Organisatie van bestuur en rechtspraak," 4, 6. Around the same time, in the 1640s, Johan Maurits was governor of Dutch Brazil. Following conquests on the West Coast of Africa, he suggested that they be placed under the administration of Recife, that is, under his control. However, Charles Boxer notes, Maurits's suggestion was not taken up. Rather, the new conquests were controlled by the WIC via a General at Elmina and a factor at Loanda. Charles R. Boxer, *The Dutch in Brazil, 1624-1654* (Oxford: Clarendon Press, 1957), 108. While there was some hierarchy in the charter area, the jurisdictions were not all subordinated to one appellate company court.

[34] Karwan Fatah-Black analyses the legal system and gives examples of cases in Fatah-Black, "Between the plantation and the States General: the revisions court as part of Paramaribo's legal system."

[35] N. M. Japikse and A. van der Poest Clement, *Inventaris van het archief van de Staten-Generaal, (1431) 1576-1796* (Den Haag: Nationaal Archief, 1969; 2010), 375.

register of cases comprises those “before the States General” and those “before the High Court on order of the States General.”[36]

The High Court judges acted in an advisory capacity, as Karwan Fatah-Black has pointed out.[37] The States General delegated the writing of a sentence to the judges, who then forwarded the sentence to the States General. The judgments passed by the States General in cases of appeal from company courts in the Atlantic were always based on the sentences written by the judges of the High Court or specially constituted benches.[38] The States General recorded the sentences in their resolutions (*resoluties*) and they thus became legally-binding.[39] According to the High Court records then, there seems to be a difference between the writing of the sentence and the passing of the sentence, which were done by the High Court and the States General respectively. That distinction would also explain why the sentences drawn up for the States General Court of Appeal do not appear in the registers of sentences in the High Court records.

Karwan Fatah-Black has analysed the cases in the Court of Appeal records and the relationship between colonial courts and courts in the Republic, focussing specifically on Suriname. He indicates that, via the States General’s Court of Appeal, the High Court essentially functioned as a court in second instance for cases which originated in the Atlantic colonies while it was a court in third instance in the legal framework of the Dutch Republic, as was discussed in the Introduction (see Figure 1).[40]

The records of the Court of Appeal include 104 cases of revision which came to the court from Suriname, Curaçao, and colonies such as Demerary and St. Eustatius.[41] Interestingly, there are no cases from the WIC’s colony on the West Coast of Africa, Elmina. This may be a feature of the Court of Appeal’s competence and jurisdiction – that it was only for cases which came from WIC courts in the Americas. It may also be the consequence of the limited survival of sources.

A case between Isaac Minet of Dover, freighter of *The Happy Return*, and the directors of the WIC shows exactly how the relationship between the States General and the High Court worked in the acquisition of advisory sentences for Atlantic cases. The case does not feature in the Court of Appeal records, but appears in the register of delegated cases in the High Court records.

The dispute between Minet and the WIC was rooted in an incident which took place off the West Coast of Africa. The WIC seized a ship named *The Happy Return* which was

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[36] An example of the former is NL-HaNA, Staten-Generaal, 1.01.02, inv. nr. 9495, Dossier betreffende het proces voor de Staten-Generaal van Marcelis Jacobi.... An example of the latter is NL-HaNA, Staten-Generaal, 1.01.02, inv. nrs. 9491-2, Dossiers betreffende het proces voor de Hoge Raad van Holland in opdracht van de Saten-Generaal van Abraham ter Borch.

[37] Fatah-Black, "Between the plantation and the States General: the revisions court as part of Paramaribo's legal system," 10.

[38] In fact, this was also the same process which was followed for cases which came from courts in the Generality Lands (*Generaliteitslanden*). Japikse and Clement, *Inventaris van het archief van de Staten-Generaal*, 24 n. 43.

[39] Ibid.

[40] Fatah-Black, "Between the plantation and the States General: the revisions court as part of Paramaribo's legal system," 10.

[41] Ibid., 10-11.

(allegedly) trading illegally within the company's monopoly area.[42] The ship was taken to Elmina where legal proceedings followed. The Elmina court, that is the Director General and Council, passed a sentence against *The Happy Return* in 1730.[43] The freighter of the vessel, Isaac Minet of Dover, was displeased with the verdict. He addressed himself to the States General where he appealed the verdict of the Elmina Court. The States General then asked the High Court to draw up a sentence in the case, communicating with the court via letters.[44] The court's letter dated 5 December 1736 recounts that the States General sent a letter (11 December 1732) to the court

> with the request that we [the High Court] would bring the case between parties before the learned men to examine the same and thereupon formulate a sentence and send [it] to Your High Mightiness [the States General] to be approved, given out and executed without any changes as it should be.[45]

The sentence was drawn up as requested, and sent back to the States General with the polite hope to have fulfilled the wishes of the States General satisfactorily.[46] The States General passed a resolution which was in effect, the passing of the sentence drafted by the High Court. The States General used the same language as the High Court did in making sentences binding: "The aforementioned High and Mighty States General pronounce justice."[47] The sentence which was passed by the States General judged the Elmina Court's decision of 24 July 1730 to be fair. Isaac Minet, as the losing party of the appeal case, was condemned to pay the fees of the legal proceedings as determined by the States General.[48]

In this particular case, the High Court sentence was passed by the States General with no alterations. This may have been a general pattern in delegated cases where the States General differentiated between writing and passing sentences. If so, the passing into law of advisory sentences would indicate that the States Genereal was claiming direct sovereignty over the Atlantic sphere. That the States General was also asked to adjudicate cases which the company court judges could not rule on – did not know how to or were split in their votes – reinforces this idea. If, however, the States General altered advisory sentences drawn up by the High Court for delegated cases, the changes made would

[42] This particular case is discussed further in Chapter 3 on the breaching of monopolies through illegal private trade.

[43] It is likely that this sentence was passed against the captain of the vessel but this is not explicit in the High Court records. On the WIC court in Elmina see Heijer, "Institutional interaction on the Gold Coast."

[44] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *968* Sententies in gedelegeerde sake, scan 9.

[45] Original: "*met versoek dat wy de voorsz. zake tusschen partyen verder in state van wyzen wilden doen brengen, dezelve examineren, en daar op een Dictum van Sententie formeren, en aan U Ho: Mo: laten toekomen, om zonder eenige verandering gearresteert, uitgegeven en geexecuteert te werden naar behoren.*" NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *968* Sententies in gedelegeerde sake, scan 9.

[46] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *968* Sententies in gedelegeerde sake, scan 9.

[47] Original: *"De Hoog gem[elde] Heeren Staten Generael doende Regt"* NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *968* Sententies in gedelegeerde sake, scan 9.

[48] Original: "*te weezen niet bezwaart*; *Condemneert den zelven in de kosten van den Processe tot taxatie van haar Ho[og] Mo[gende].*" NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *968* Sententies in gedelegeerde sake, scan 9.

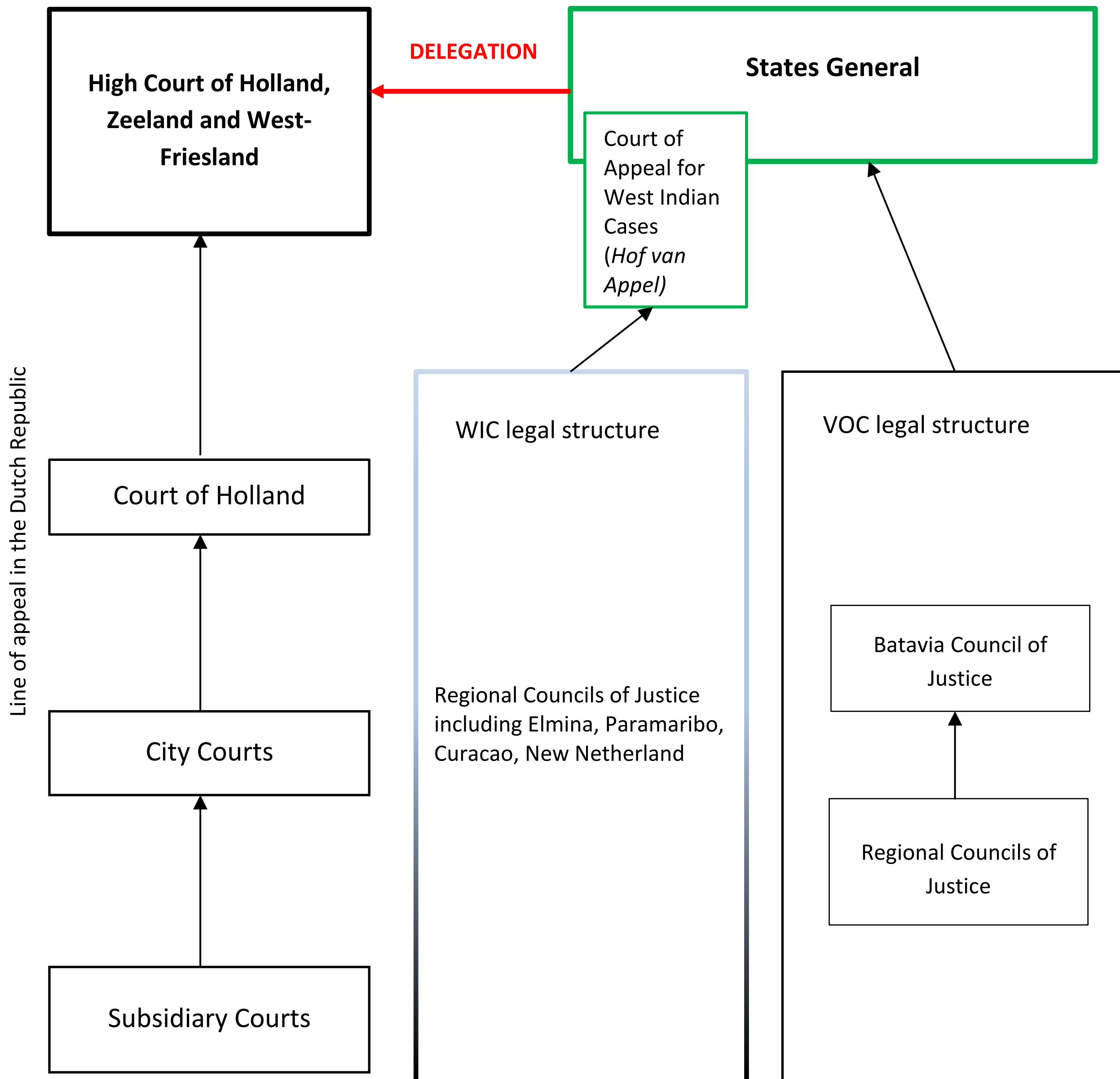
illuminate the States General's political and legal position on Atlantic conflicts. Further research in the Court of Appeal records would deepen the understanding of the extent to which the States General delved into Atlantic legal issues.

It is clear that the States General played a very important role in providing a way for cases from the Atlantic courts of the WIC to be appealed when there was no single company court which held jurisdiction over the Councils of Justice established in different locations. The Court of Appeal fulfilled this function, in which the States General acted as judges by passing sentences which had been drawn up by the High Court. The relationship set out between WIC courts and the courts in the Republic on the one hand, and the VOC courts and the courts in the Republic on the other hand, was very different. The VOC legal system was set up as an insulated, company structure with no connection to the courts in the Republic. The WIC legal system was not sealed off in this way. In spite of the different set-up in the charter area, the mechanism of delegation by which the States General connected jurisdictions was the same for both east and west. The nature of the VOC legal system as insulated in design, if not in practice, raises the question whether or not the VOC was better equipped or perhaps even more successful at keeping disputes in-house. An indication that this was a legal strategy pursued by the company is the reocurring request to have cases sent back to Batavia based on arguments that the High Court did not have the competence to deal with the cases in question. The structure of each company's legal framework and the role of the States General is depicted in Figure 3.

The Litigants

There have already been hints from the foregoing cases that the structure of the companies – being based on Chambers in specific cities – was significant in the bringing of suits against the VOC and the WIC. In fact, it is clear from the cases against the companies that an individual chamber was a party more frequently than a company as a whole. This is explained by the way that the companies were organised around city-based chambers to which administration, authority and liability were devolved. The cases against the companies involved a range of litigants. The main distinction is between corporate and individual litigants: corporate litigants were Dutch and foreign companies; individual litigants were organised as collectives or sued individually. Cutting across these categories, were men and women, insiders and outsiders, subjects of the States General and foreigners. The wide range of litigants who used the court points to the accessibility of the institution. Furthermore, that litigants of different social strata summoned the VOC and WIC to court indicates that the companies were not perceived as too strong or embedded in political and legal circles to warrant opposing them.

Figure 3: Company courts and the courts in the Republic, connected by the States General



The VOC and WIC, taken together, were parties in 158 sentences over the seventeenth and eighteenth centuries. It was more often the directors of individual chambers who were named as the litigants than the board of directors of the whole company.[49] The federalised company structure meant that chambers were responsible for the employment of crews, the building and equipping of ships, share subscriptions, and the sale of return goods.[50] Jan de Vries and Ad van der Woude have commented on the structure of the VOC, noting the decentralisation which characterised the company organisation in the Republic.[51] The WIC was similarly decentralised in the Republic. Over the course of the seventeenth century, Henk den Heijer claims, each company began to function more as a unit, but not to the extent where we could consider either organisation to have developed into a centrally directed company.[52] The companies remained decentralised in structure. It follows that disputes relating to any of the tasks devolved to chamber level would involve a specific chamber rather than the company as a whole. For instance, when the Bartolotti family used the court to claim shares in the VOC Chamber Hoorn, they sued the directors of that chamber specifically, rather than the Gentlemen Seventeen of the company as a legal entity. The litigants were recorded as "the directors of the East India Company here of the chamber of Hoorn."[53]

Determining the difference between suing the board of directors of a company and suing chamber directors is hampered by the number of sentences which do not specify a chamber, but just record the litigants as the directors of the company. Those may be indications that all the chambers, represented by the board of directors, were being sued. While this is a possibility, it is unlikely given that there were also cases in which litigants were recorded as the "Directors of the general East India Company."[54] The inclusion of 'general' in those formulations is a better indicator that the company as a whole was being sued rather than the directors of one of the chambers. Furthermore, there were four cases in which reference to the board of directors and all directors was made in naming the litigants. Two VOC cases named the Gentlemen Seventeen as the party, and both dealt with bills of exchange for large sums of money which the directors suspected were the proceeds of illegal private trade conducted by high-ranking administrators in Asia; the third VOC case named the representative of the Prince of Orange as chief director (*opperbewindhebber*), the Chamber Amsterdam and other directors as the litigant, and

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[49] Martijn Punt comments on this too. He states: "The concept of the Dutch East India Company possessing legal personality is contradicted by the fact that the Dutch East India Company did not usually act as a participant of proceedings itself. Legal proceedings usually took place in the name of the administrators [directors; *bewindhebbers*] and judgement was also passed upon them." Punt, "Het vennootschapsrecht," 290.

[50] On the various tasks which the chamber directors undertook, and the commissions in wich they were organised, see Heijer, *De geoctrooieerde compagnie*, 129-139.

[51] They contrast this to centralisation which characterised the VOC overseas. The locus in the Indian Ocean was, from 1619/20, Batavia. Jan de Vries and Ad van der Woude, *The First Modern Economy: Success, failure, and perseverance of the Dutch economy, 1500-1815* (Cambridge: Cambridge University Press, 1997), 387.

[52] Heijer, *De geoctrooieerde compagnie*, 122.

[53] Original: "*De Bewinthebbers van[de] Oostind[ische] comp[agnie] alhier ter camere van Hoorn*." NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *651* (1655), Resoluties, scan 93.

[54] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *665* (1713), Resoluties, scan 137; inv. nr. *666* (1714), Resoluties, scan 32; inv. nr. *667* (1721), Resoluties, scan 125.

that case too involved large sums of money, likely from illegal private trade or other forms of corruption in Asia.[55] There is a single WIC case which named Jacob de Peterson as the party, as representative of the Prince of Orange and directors of the WIC. This case was about how prize should be divided between the different company actors, and was likely about reigning in the power of a colonial administrator who was overstepping the limits of his office.[56] On the basis of these cases it is difficult to pinpoint a clear distinction between cases against the company as a whole and those against a specific chamber. The role of the boards of directors of each company as deciding the policy which the chambers would then implement would indicate that matters to do with what constituted the companies would be pursued against the directors, matters which related to the activities of the companies would name chamber directors as the party. The distinction would thus be between what the companies were and what the companies did. But the cases mentioned above, and discussed in the following section do not appear to bear this out.

In terms of liability, it is significant to try to disentangle cases against private individuals who held a directorship and cases against chamber directors as representatives of the companies. According to both Matthijs de Jong and Martijn Punt, the VOC and WIC held assets which were separate from the assets of directors and investors. The companies as they were established in public law were liable to third parties; directors were representatives of the companies and were not liable in their private capacity.[57] This clarity was not immediately apparent from the founding charter of the VOC but, as Guiseppe Dari-Mattiacci *et al* point out, was a contractual innovation which developed in the period up to late 1623.[58]

Patterns in the recording of litigants give clear indications of when a case was brought against a company and when a case was against an individual who held a company directorship in his private capacity. In the former, the litigant was recorded as company directors of a chamber, for instance 'The directors of the East India Company, of the chamber resident in Middelburg'. In contrast, when a case was recorded against an individual in his private capacity he was named, and the fact that he was a director in a company chamber was added as a further clarification. Cases which involved men who were company directors acting in their capacity as private individuals have not been included in this analysis due to the personal, rather than corporate nature of those cases.[59] That is not to say that the matter of liability was clear-cut: whether or not directors' assets were vulnerable to claims against the companies took time to clarify, as discussed above and is revisited in the cases in later chapters.

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[55] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *809* (1705), Register der dictums... geresolveerd, scan 267; inv. nr. *647* (1743), Resoluties, scan 80; inv. nr. *922* (1768), Register der dictums...geresolveerd, scan 173.

[56] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *864* (1782), Geextendeerde sententie, scan 31, f. 30r.

[57] Jongh, "Tussen *societas* en *universitas*," 126; Punt, "Het vennootschapsrecht," 289-291.

[58] Dari-Mattiacci et al., "Corporate Form."

[59] A case like Jacob Pergens, WIC director in Amsterdam chamber versus Johan Beck, of Middelburg, is not part of my analysis of company cases. For this case see NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *978* (1660), Register der dictums ....geresolveerd, scan 375-6. There are many more examples of directors as litigants in their private capacity.

The VOC's own records indicate that there were at least some cases for which the chambers solicited advice on whether or not to pursue an appeal. In the second half of the eighteenth century, perhaps before, the chambers consulted with one another and with the company's legal team in The Hague. For instance, the Amsterdam and Rotterdam Chambers of the VOC exchanged letters regarding whether or not to appeal against a sentence passed by the Maritime Court (*Zeerecht*).[60] The Chambers also consulted with the company lawyers in The Hague who advised on whether or not to appeal sentences or seek revision of cases. During the 1780s, the Amsterdam Chamber sought the company lawyers' advice on whether or not to appeal against a sentence passed by the Court of Holland which the chamber felt was unfair. The matter was discussed and the chamber directors decided not to appeal the provincial court's ruling.[61] This has two important implications. Firstly, that the VOC kept a team of lawyers on retainer in The Hague indicates that the company expected continual litigation. Secondly, it is possible that the company's legal strategy was given some coherence by the fact that it was directed from The Hague. Pursuing litigation was not a matter solely for a specific chamber; it involved interaction with other chambers and, importantly, communication with the company's lawyers in The Hague. These men advised the chambers in legal matters: that they were asked to advise the chambers on whether or not to pursue appeals and revision indicates that part of their job was to weigh up the likelihood of a successful overturning of the previous sentence, factor in the costs, and draw up a recommendation. Chambers do not seem to have made decisions regarding progression of cases independent of other chambers and the company's lawyers. This likely led to some coherence in legal strategy.

It was not only the VOC which had a legal team at the ready. According to Alexander Bick, the board of directors of the WIC, the Gentlemen Nineteen, had a team of lawyers employed to deal with lawsuits brought against the company specifically by foreign merchants and governments. Simon van Beaumont who was the secretary to the city of Middelburg and a company director himself, was one such lawyer, as was Amsterdam lawyer Gijsbert Rudolphi.[62] The latter took up a seat on the bench of the High Court later in his career and in that capacity was involved in adjudicating cases which involved the WIC.[63] It is likely that the WIC's involvement in privateering and cruising against illegal private traders warranted this team of lawyers who could advise the company in matters relating to the legitimacy of prize and confiscated goods.[64]

Who were the opponents which the companies faced in court? Among the VOC's and WIC's opponents, I have identified corporate and individual litigants. Within these

[60] NL-HaNA, VOC, 1.04.02, inv. nr. *308,* scan 710, f. 436.
[61] NL-HaNA, VOC, 1.04.02, inv. nr. *308,* scan 710, f. 436.
[62] Bick, "Governing the Free Sea," 129.
[63] Gijsbert Rudolphi van Nideck: http://resources.huygens.knaw.nl/repertoriumambtsdragersambtenaren1428-1861/app/personen/8728 (accessed 2017-12-06).
[64] That legal men were salaried employees of the company is clear from WIC Chamber Zeeland resolutions of 1672. The directors agreed to pay Advocate Miller's salary for the cases he had served on in the courts of Holland. The record does not specify if he was in full-time employ in this capacity. Nationaal Archief, Den Haag, Oude West-Indische Compagnie (OWIC), nummer toegang 1.05.01.01, inventaris nummer *31*, Notulen K. Zeeland, scans 84-5 (26 May 1672).

categories, there were men and women, insiders and outsiders, subjects of the States General and foreigners. These litigants populate the cases in subsequent chapters; a short overview of each category of litigants follows here.

The VOC and the WIC were both involved in court cases against corporate litigants, namely rival companies. In the early years after the chartering of the VOC, the company faced protracted legal action from Olivier van Noort's Magellan Company and Isaac Le Maire's Australia Company.[65] These companies were both based in Holland and sought the maintenance or acquisition of trading privileges which infringed on the VOC's monopoly, resulting in disputes which were taken to the High Court. These disputes were concluded by the 1630s. Litigation between the WIC and rival companies came in a different form: the WIC was involved in legal disputes with foreign companies represented by individuals who had power of attorney, that is, from factors who represented foreign principals. These cases arose as a result of entering the WIC's monopoly charter area, ostensibly with permission. The unnamed proxy of the French West India Company was recorded as a litigant in a sentence against the WIC in 1667. The case was about the seizure of the ship *Europa* which was trading on the West Coast of Africa, allegedly with permission from the States General to set sail from the Republic.[66] Similarly, Henrij Momber, the Amsterdam factor of the Courland Company, was named as a party in High Court sentences dated 1666, 1669 and 1670.[67] Momber claimed to have entered into a contractual agreement with two chambers of the WIC granting access to certain parts of the West Coast of Africa for Courtonian ships.[68] These cases involving the WIC were about entrance into the company monopoly area by foreign companies, pursued by factors in Holland. Both disputes took place in the 1660s; the contested trade was that on the West Coast of Africa; and each case involved the seizure of a ship. This leads to the conclusion that the VOC and WIC faced different types of opposition from rival companies. The VOC faced challenges from Dutch rival companies which tried to constrain the VOC's monopolies. In contrast, the WIC dealt with foreign rival companies which entered its charter area by contract.

In addition to corporate litigants, the VOC and WIC sued and were sued by individuals, who undertook collective action or sued alone. The quintessential example of collective action was a wage dispute brought by the surviving officers and crew of the WIC ship *Arnemuijden.* Together, they sued the Zeeland chamber for themselves and represented the heirs of their deceased fellow seamen. As Chapter 4 details, they claimed

[65] This is discussed in detail in Chapter 2. For scholarly work on these two men and their undertakings see J. W. Ijzerman, ed. *De reis om de wereld door Olivier van Noort, 1598-1601*, 2 vols., Werken uitgegeven door de Linschoten-vereeniging ('s-Gravenhage: Martinus Nijhoff, 1926). And Dirk Jan Barreveld, *Tegen de Heeren van de VOC. Isaac Le Maire en de ontdekking van Kaap Hoorn* (Den Haag: Sdu Uitgevers, 2002).

[66] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *654* (1666), Resoluties, scans 132-3.

[67] 1666: NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *758,* Geextenteerde sententies, scan 131-41; inv. nr. *654,* Resoluties, scans 52-3.
1669: NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *654*, Resoluties, scan 255.
1670: NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *655*, Resoluties, scan 27.

[68] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *758* (1666), Geextenteerde sententies, scan 131-41.

their wages from the WIC Chamber Zeeland.[69] That such a case was heard in the High Court of Holland and Zeeland indicates that collective legal action was permitted.[70] Other examples of collective action cases also involved wages: holders of VOC servants' wage accounts sued for payment together, as did some heirs in inheritance cases.[71]

There were also heirs who sued the company individually. Hans Boije, whose case against the VOC is discussed in Chapter 4, is one such man. He was a relative of a VOC employee whose wages he claimed from the company chamber. A further example of this kind of individual litigation is the two cases over inheritance from the deceased estate of Jan Maertens. Two heirs, both young women, sued individually for their portion of the estate. However, they were represented in court by men – guardians or husband. Analysis of these two cases of preference in bankruptcy relating to inheritance are part of Chapter 6.

The people who make up the categories corporate and individual litigants were mostly men. The women who were named in cases ranged from company servants' family members to owners of cargo on board seized vessels. An example of the former was Neeltje Claes, mother and heir of deceased VOC skipper Claes Boudewijns de Vlaming. She was involved in litigation against the VOC, which is discussed in Chapter 4. The woman who was named as an owner of cargo was an English noblewoman resident in Lisbon, according to the court records. She was one of a number of individuals represented by Captain Jan Daniels who reclaimed goods sold by the WIC at auction. This case, which dealt with property rights in the context of prize and subjection, is discussed in Chapter 6.

Corporate and individual litigants were both insiders and outsiders. By insiders I mean the men who were company employees or shareholders. These men had a direct link to the VOC and WIC chambers. Outsiders were those people who did not have such a link to one of the companies' chambers. Men and women who sued for wages and inheritance were the family members or creditors of company employees but were themselves not in direct company service. Such individuals can be seen as outsiders. Furthermore, a man such as Olivier van Noort, mentioned above, is also categorised as an outsider – he was certainly not a company employee or investor; rather he was an outside rival.

Foreigners can be identified among the corporate and individual litigants who appeared in court against the companies. For instance, Samuel and Metgens Elders, relatives of a company servant who died while in company employ, sued the VOC over

[69] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *726* (1634), Geextenteerde Sententies, scans 89-90; inv. nr. *646* (1634), Resoluties, scan 42; inv. nr. *891* (1634), Register der dictums ...geresolveerd.

[70] See Merulæ on intervention, joining a suit (*voegen*), and holding power of attorney (*procuratie*) for multiple people: Pauli Merulæ, *Manier van procederen, in de provintien Holland, Zeeland ende West-Vriesland, belangende Civile saken* (Delft: Adriaan Beman, 1705), 273-285, 445-276.

[71] A group of 12 men sued the VOC collectively for payment of wage accounts. NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *833* (1741), Geextendeerde sententies, scans 2-22 ff. 1r-20v; inv. nr. *673* (1741), Resoluties, scan 5-6. Samuel and Metgen Elders, siblings, sued for their inheritance together. NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *778* (1686), Geextendeerde sententies, f. xxxiii v-cxxxvii r. Both of these cases feature in Chapter 4.

what they claimed as their inheritance from their brother's estate. The court records note that they were from Hamburg.[72] The case between the Elders and the VOC Chamber Amsterdam is an example of two individuals, a man and woman, both 'outsiders' and foreigners, who used the courts in the Republic to claim wages they believed were due to them as their inheritance. That the High Court was accessible to those neither originating from nor resident in the Dutch Republic is clear. Cases of various kinds involved foreign litigants.[73] One of the reasons why foreigners were drawn into legal disputes with the companies was both the VOC and WIC's employment of foreigners, particularly as soldiers and sailors. Based on company administration records, scholars have shown that the VOC employed numerous men from outside the Dutch Republic, in particular soldiers from the German lands, and Scandinavia.[74] In addition, foreigners invested in the companies. Foreigners were also involved in cases that were unrelated to company employment and shareholding: the case between Scotsman William Carmichael and the VOC, which was discussed earlier, demonstrates this point.[75]

The corporate and individual litigants who opposed the VOC and the WIC in the High Court were a diverse group which encompassed men and women, insiders and outsiders, locals and foreigners. This indicates that the High Court was accessible to a wide range of people. Moreover, wealth, familial and political connections, or the lack thereof, can reasonably be used as indicators of social standing. Based on these factors, we can add that the litigants who appeared in court came from a range of social strata. On one end of the scale were wealthy, politically-connected men such as Isaac Le Maire, Olivier van Noort who were involved in corporate litigation (Chapter 2) and the Bartolotti family of company investors (Chapter 5). Men such as Laurens Verpoorten and his son Michiel Verpoorten were likely men of high standing and means too, as they held civic positions in Rotterdam and were involved in mercantile activities including sending ships to trade in the Atlantic and buying colonial goods in the Republic (Chapters 2 and 6). For some VOC and WIC servants company employ was their route to greater wealth: Jan Schull is an example of a man who started his VOC career at the very bottom of the shipboard hierarchy and over the course of a career made his way up to the position of supercargo where his salary was higher and his opportunities for personal enrichment greater (Chapter 4). On the other end of the scale were relatives of low-ranked company servants, who likely had no political connections and little financial and material wealth. The collective action wage claim by the officers and crew of the *Arnemuijden* must have involved at least some litigants of meagre means who were sailors themselves and

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[72] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *778* (1686), Geextendeerde sententies, f. xxxiii v-cxxxvii r. Samuel and Metgen's brother Fredrich Elders is not in the VOC database of employees. However, there is a record of the ship *Het Witte Peert* on which he sailed: http://vocsite.nl/schepen/detail.html?id=11998 (accessed 2015-06-13).

[73] The case involving Isaac Minet of Dover, England, is discussed in Chapter 3. Other foreigners in the High Court include Samuel and Metgen Elders resident in Hamburg (vs. VOC, 1686), Martin Barts of Gluckstad (vs. WIC, 1660) and Thomas Laleij, English merchant in Middelburg (vs. VOC, 1621).

[74] Gaastra, *The Dutch East India Company*, 88-92; Gelder, *Het Oost-Indisch avontuur*; Lucassen, "A Multinational."

[75] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv.nr. *887* (1618), Register der dictums...geresolveerd; inv. nr. *642* (1618), Resoluties, scans 3-4.

widows and relatives of deceased crew (Chapter 4). An explicit reference to the poverty of a litigant can be found in another wage claim case: Neeltje Claes was granted the opportunity to proceed against the VOC Chamber Amsterdam pro deo and the chamber directors from whom she claimed her deceased son's wages took her poverty into consideration in their argument (Chapter 4). Tracing familial alliances, political connections and the financial resources of the High Court litigants is not always possible but where such detail is available, it is incoporated in the case analyses in each chapter. The above examples, which are fleshed out later, give sufficient evidence to conclude that litigants came from a range of social strata.

Within the wide range of people involved in court cases are some repeated litigants – men or women who were named as a party in multiple sentences.[76] Were they involved in more than one case against a company, or were multiple sentences drawn up in a single dispute? It is to this question that we now turn.

Categorisation of cases

Over the almost two centuries that the Dutch East and West India Companies existed, they were named in 158 sentences in the High Court of Holland, Zeeland and West-Friesland. That each of these sentences does not represent the end point of a discrete case was first indicated by the fact that the same litigants are named in multiple sentences and confirmed by examining what each case is about. There were at least two circumstances in which multiple sentences could be passed in a single dispute. Firstly, a sentence could be passed containing the judges' decision regarding new facts, the submission of an exception, court-ordered arbitration and similar pronouncements. These decisions did not necessarily terminate a case; such a sentence was referred to as an interlocutory decision (*interlocutoire sententie*).[77] Secondly, appeal cases which were heard in the High Court could undergo revision (*revisie*) in the same court.[78] Thus there are more sentences than distinct cases. The number of cases which the companies faced numbered 106.

The sentences passed by the High Court and by specially constituted, combined benches of the Court of Holland and the High Court, were spread over the two centuries of the companies' existence. Figure 4 shows distribution of sentences in periods of a decade. The difference in number of sentences in which the two companies were named is striking. The VOC was named in far more sentences than the WIC. Specifically, the VOC was named as a party in 112 sentences (71%) while the WIC was named in 46 (29%). In addition, Figure 4 shows the clustering of sentences in certain periods. What exactly the clustering means is difficult to interpret for two reasons. Firstly, the sentences represented here do not mark the beginning of legal proceedings in the High Court, but a point during the court case or its end. Secondly, the variance in length of time that

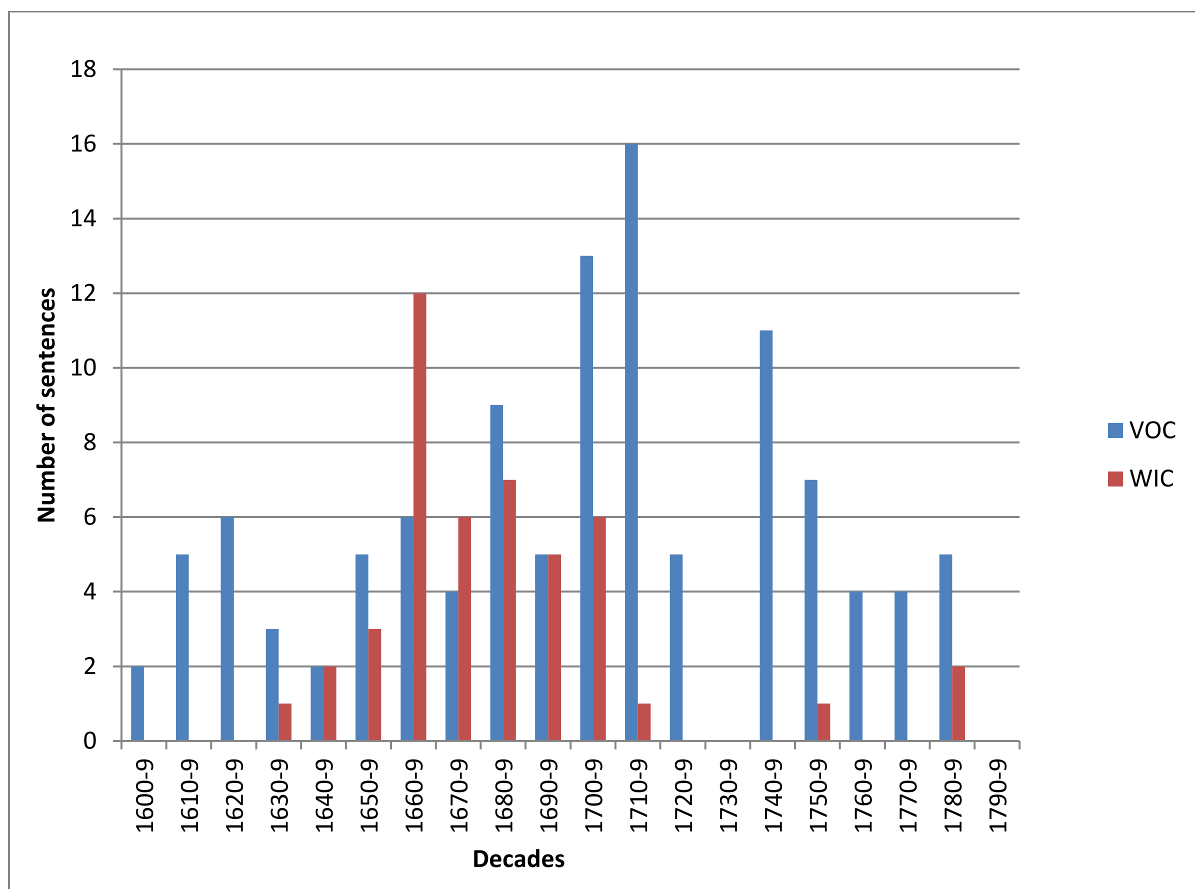
[76] For instance, Neeltje Claes was named as a party in 2 sentences (1699, 1700, vs. VOC Chamber Amsterdam). Ida Hochepied was named in three sentences (1713, 1714, 1721, vs. VOC Gentlemen Seventeen).

[77] Defined in LeBailly and Verhas, *Hoge Raad*, 92.

[78] Ibid., 20. The authors note that for cases of revision the bench was augmented with seven legal scholars (*rechtsgeleerden*) who had not been part of the earlier deliberations on the case.

litigation took in the High Court was large: some cases were concluded in a few years, others in decades.[79] This means that estimating beginning points of cases in the High Court, let alone in lower courts, is subject to too large a margin of error to be meaningful. These are deficiencies of using the court's sentences. Further research, using the requests (*rekesten*) to pinpoint the start of cases in the High Court could be done in order to identify periods in which litigation against either of the companies was more likely. Such research could test the idea that the years leading up to charter renewals were periods of greater activity. The role of warfare and political shifts in influencing which kinds of cases arose when, could be another avenue of research to pursue. The purpose of Figure 4 here is to show that the VOC was involved in far more sentences than was the WIC.

Figure 4: Distribution of VOC and WIC sentences by decade



Source: Compiled from NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02.

When reducing the 158 sentences to discrete cases, the same pattern holds. As mentioned, I have identified 106 individual High Court cases involving the companies. The VOC was involved in 70% (74 of 106) of the cases while 30% involved the WIC (32 of

[79] For instance, the Bartolotti family received a sentence 11 years after they had first been granted permission to appeal in the High Court (Chapter 5). A far speedier case was the collective action wage case (Chapter 4) involving Carstens and de Wolff which was sentenced under two years after permission to appeal was granted.

106).[80] How can that difference be explained? Looking for answers begins with a categorisation of the cases to see what the legal disputes were actually about.

I have chosen to categorise cases by identifying one core element of the dispute and categorising the case accordingly. However, there are cases which could fall into multiple categories. To avoid double-counting, I have chosen to focus on one issue. In the detailed analyses of cases in the later chapters I make clear the complex and intertwined issues. Some cases provide tantalising details but not enough to be able to make a firm categorisation. For instance, the request submitted to the High Court to begin proceedings between Hillebrant van der Sluijs, director of the WIC Chamber of the Northern Quarter (*Noorder Quartier*), indicates that his dispute with that chamber concerned accounts for equipping and sending ships to the West Coast of Africa, of which he was in charge. But what exactly the dispute was about is unclear. It may have been about suspected fraud in the accounts. The request for legal proceedings was submitted in 1700, and the High Court passed a sentence that same year, and another the following year. But the sentences only indicate the court's decision and not what the dispute was actually about.[81] This case is one of ten (<10%) which I have been unable to categorise.[82]

The first category of cases that can be identified in the High Court records are those which dealt with entrance into the companies' monopolies. Attempts at entering the monopolies of the VOC took a different form to entering the WIC monopolies, which argument is fleshed out in Chapter 2. The VOC faced litigation from the Magellan Company which had been established by Olivier van Noort, as well as from Isaac Le Maire's Australia Company. Both of these disputes were attempts to impinge on the monopolies held by the VOC by claiming charters of their own. Together there were five sentences recorded in the two drawn-out legal disputes. While I have identified the core issue in these disputes as attempted entrance into the VOC monopolies, and would thus label both van Noort and Le Maire as serious rivals of the VOC, both cases involved numerous other issues including the seizure of ships, and breach of agreements, which are discussed in more detail in the following chapter.

Cases regarding entrance into the WIC charter area constitute the largest category of WIC cases. These cases include disputes related to contracted entrance into the charter area and recognition fees, the arrest of ships and goods allegedly from illegal private trade, and issues of legitimate prize and the rights over the goods confiscated. Altogether, these cases account for 22 of the 32 cases (69%) against the WIC. That the majority of cases involving the WIC related to such matters will not be a surprise to readers familiar with the fraught history of the WIC in the Atlantic where it struggled to enforce its monopoly charter. In terms of the litigants, the WIC cases were spread over the chambers as follows: the Chamber Amsterdam (3), Zeeland (5), Maze (4) and Northern Quarter

[80] This does however include a case which was heard by the High Court but not technically sentenced by that court, namely the case that involved Minet and the WIC. The court drew up a sentence but it was sent to the States General to be passed. See Chapter 3.

[81] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *907* (1700) Register der dictums...geresolveerd, scan 246; inv. nr. *907* (1701), Register der dictums... geresolveerd, scan 322; inv. nr. *104* (1700), Rekesten, unpaginated.

[82] There were six VOC cases and four WIC cases which eluded categorisation.

(2).[83] Noticeably, the only Chamber not involved in litigation of this kind was the Groningen Chamber, known as *Stad en Lande*.[84] The rest of the cases did not mention a chamber as the litigant. One case named the party as Jacob de Petterson, proxy (*representant*) of the Prince of Orange (the stadholder) and the rest of the directors of the WIC.[85] Since 1749, the stadholder – first William IV and then his successor William V – had been the director-general (*opperbewindhebber*) of both the VOC and the WIC.[86] The final seven cases referred only to the company directors. It is also noteworthy that the cases regarding private trade and related issues were clustered in a reasonably short time period: they were sentenced between 1659 and the 1710s. There were outliers in 1736, 1751 and 1782. Some of these disputes are analysed in the context of illegal private trade conducted by company employees (Chapter 3), while others are dealt with in the context of property rights disputes (Chapter 6) stemming from confiscation, prize and illegal trade.

The VOC was involved in disputes regarding prize too, but to a much lesser degree in the High Court than the WIC. The case discussed earlier in this chapter in which Carmichael tried to reclaim his goods seized in Ambon is one of them. The second was a resolution which the High Court passed to advise the States General in a dispute between the VOC and the English East India Company after the latter had seized a VOC ship named *De Zwarte Leeuw*.[87] Both of these cases around the confiscation of foreign ships and/or goods took place in the second decade of the seventeenth-century; similar issues do not resurface in the High Court records later in the seventeenth and eighteenth-centuries.

The High Court records contain ten cases in which private trade was a central matter in a lawsuit involving the VOC. Three of these cases involved the Chamber Amsterdam, one the Chamber Hoorn, in three no chamber was specified, and in three the Directors of the company as a whole, the Gentlemen Seventeen, were the litigants. These cases touch on a different cluster of issues to the issues with which the WIC dealt. VOC servants who had been accused of private trade, or of some other misdeeds, escaped the jurisdiction of the Batavia court and the company tried to have them extradited citing

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[83] One of the sentences which I have counted as a distinct case was a case of infighting within the WIC Chamber Maze: the sentence named the parties as directors of the Chambers Delft and Rotterdam against the directors of the Chamber Dordrecht. The sentence was passed in relation to a case involving a man named Pieter Jans Boeije, and connected to a ship named *Bontekoe.* NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *897* (1660), Register der dictums...geresolveerd, scan 293.

[84] Groningen was not technically under the jurisdiction of the High Court which covered Holland and Zeeland and West-Friesland. See Introduction. The *Hoofdmannenkamer* and its 1749 successor the *Hoge Justitiekamer* functioned as an appeals court for cases whih were pursued from lower courts in Groningen, city jurisdictions and the Ommelanden. Brood and Schut, *Hoofdmannenkamer*, chapter 1.

[85] The case dealt with the division of prize taken in the Atlantic and who got what share. Nl-HaNA, Hoge Raad Holland en Zeeland, inv. nr. *864* (1782), Geextendeerde sententie, scans 31-43.

[86] Heijer, *De geoctrooieerde compagnie*, 165; Femme S. Gaastra, "The Organization of the VOC," in *The Archives of the Dutch East India Company (VOC) and the Local Institutions in Batavia (Jakarta)*, ed. G. L. Balk, et al. (Leiden: Brill, 2007), 18. Taking up the position of director-general in 1749 was part of the consolidation of power by the Oranges which was taking place at the time.

[87] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *642* (1621), Resoluties, scan 127; inv. nr. *1000* (1621), Brieven Boek, ff. 116v-118v. The EIC had captured and burnt a VOC ship for which the VOC claimed compensation, on the grounds of the 1619 agreement signed between the two companies. The High Court of Holland and Zeeland agreed to back up the VOC's claim to compensation for the loss of the ship and cargo.

ongoing or completed legal proceedings in Batavia. Private trade cases involving the VOC took the form of disputes over bills of exchange (*wisselbrieven*) when the sum to be drawn was, the company alleged, the proceeds of illegal private trade. Because the company punished its servants by withholding their wages, private trade and wage disputes could become intertwined, as happened when Jan Schull, a VOC supercargo, sued the company for confiscating his wages when it was discovered he conducted illegal private trade between Canton, the Cape and the Republic. This case is dealt with in Chapter 3, on illegal private trade.

One of the ways in which the VOC and the WIC punished their employees for conducting illegal private trade was by confiscating their wages. Thus, questions of private trade also appear in cases in Chapter 4 on wage litigation. That chapter deals with disputes between the chambers and the company men themselves, or those to whom their wages were owed. There were 29 individual sentences involving the VOC in which wages were identified as being at stake in the dispute which were connected to 17 court cases (23%). It is the largest category of cases against the VOC. In contrast, there was only one wage case pursued to the High Court against the WIC, and that was a case of collective action in which the officers and crew of a company vessel sued for their wages.[88] The lack of wage claims against the WIC is surprising given the company's reputation as a terrible employer.[89] However, over time the company leased out its monopolies, likely resulting in the company itself equipping fewer ships, and in consequence, the chambers were less likely to be the direct employers responsible for payment of wages. As shipping was devolved onto private merchants, so too was the role of wage payer.[90]

Returning to wage litigation against the VOC, I have identified 17 distinct cases, the majority of which (nine of 17) involved the Chamber Amsterdam. Zeeland was named in two cases, Delft in one and there was no chamber mentioned in three of the cases. Two of the cases included a slightly different formulation for the company as a party. A 1768 sentence named the proxy of the Prince of Orange as the party, representing the prince, Amsterdam chamber, and the other directors.[91] From 1766, Stadholder William V was the director-general (*opperbewindhebber*) of the VOC and exerted influence on the company via his proxy (*representant*), merchant banker Thomas Hope.[92] A few years later, a sentence named the VOC *hoofdofficierenfonds* as the party in a case against the widow of a VOC employee who had died indebted while in company service in Asia.[93]

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[88] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *726* (1634), scan 89-90. This case, about the sinking of the *Arnemuijden* in the Channel and subsequent collective action wage suit, is dealt with in detail in Chapter 4.

[89] The WIC was notorious for not paying its soldiers and sailors well, if at all. This is addressed in Chapter 4.

[90] Enthoven and Postma, "Introduction," 2.

[91] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *922* (1768), Register der dictums... geresolveerd, scan 173; inv. nr. *678* (1768), Resoluties, scans 187-8.

[92] Femme S. Gaastra, "Overheid en VOC," in *Roemrucht verleden. De Staten-Generaal en de VOC,* ed. Jaap R. Bruijn, et al. (Den Haag: Tweede Kamer der Staten Generaal, 2002), 36.

[93] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *922* (1771), Register der dictums...geresolveerd, scan 236; inv. nr. *679* (1771), Resoluties, scan 99. The *hoofdofficierenfonds* may have been a committee or subcommittee which dealt with wage related issues for one or all of the chambers. The judges in the High Court

Wages were likely part of disputed estates. The VOC was involved in six cases regarding inheritance matters. The WIC was involved in one case. From the court records it appears that dealing with inheritance was a matter which required legal innovation and there was much uncertainty about which laws to apply and how to settle estates when the assets as well as the heirs were spread across different locations in the Republic, and neighbouring states, as well as in Asia.

In addition to wage credit, company shares were transferable. Both VOC and WIC shares could be bought and sold, and passed on to heirs. Strikingly, disputes over ownership of shares related to inheritance, buying and selling of shares, and the company's procedure for transferring ownership only involved the VOC. The High Court records do not include any cases against the WIC on the matter of share ownership. The VOC was involved in nine cases which dealt with conflicts related to the ownership of shares in which the Chambers Amsterdam (3), Zeeland (4), and Hoorn (1) were summoned to court. The Gentlemen Seventeen were the party in the ninth case which was specifically about the payment of dividends to the King of England. In 1675 the Gentlemen Seventeen awarded William of Orange, later William III King of England, a 1/33 part of the dividends to honour him for his protection and assistance. He received dividends until his death in 1702 after which his heirs claimed the dividend. The "Councillors and Masters of the Accounts of Great Britain" were named as the party, and sued on behalf of the deceased king's heirs.[94]

Bankruptcy is an issue which arose in some cases related to shareholding as well as buying merchandise from the companies. Bankruptcy cases are discussed in the context of share disputes in Chapter 5 as well as in Chapter 6 on property rights.

Compensation claims form a small category of cases. There were seven sentences, from four separate cases, three against the VOC Chamber Amsterdam and one against the chamber Zeeland. Compensation was demanded from the chambers following damage caused by VOC ships or assistance given to a company vessel. A VOC ship sailed over the fishing nets in the North Sea which precipitated damages claims in court.[95] Similarly, the shipowners of a vessel damaged in a collision with a VOC ship also sought compensation for the damage done.[96] The third case in this category was a claim to be compensated for assistance given to a large VOC return ship (*spiegelretourschip*) in 1692. The VOC ship was richly laden, carrying cargo apparently valued at *f*2 million. The ship which had assisted the VOC return ship sank. The ship owners were awarded *f*25,000 compensation.[97]

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discussed whether or not there were legal proceedings undertaken in Batavia and the difficulty that widow Christina would have in pursuing legal action there.

[94] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *664* (1709), Resoluties, scan 210; inv. nr. *665* (1713), Resoluties, scan 152; inv. nr. *910* (1713), Register der dictums...geresolveerd, scan 278.

[95] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *818* (1726), Geextendeerde sententie, scans 22-5; inv. nr. *669* (1726), Resoluties, scan 7.

[96] The shipowners were from Hamburg, and the vessel was named *Elisabeth*. NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *809* (1717), Geextendeerde sententie, scans 19-30.

[97] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *908* (1705), Register der dictums... geresolveerd, scan 288; inv. nr. *798* (1706), Geextendeerde sententie, scans 13-32. Jacob and Jan Sautijn were the litigants named. The 1705 court records reveal that the court was willing to take time over the case because of its importance.

Similarly, a privateering vessel claimed compensation from the Amsterdam Chamber of the VOC for providing an allegedly distressed East Indiaman with assistance, including protection of return ship and valuable cargo from French privateers in the Channel. The helpful privateer was Pieter de la Rue, who appears in Chapter 3.[98] Interestingly, all of these cases were sentenced by the High Court between 1705 and 1726. Wars in Europe – which pitted the Dutch Republic against France (Nine Years' War, 1688-97 and War of Spanish Succession, 1701-13) – were the backdrop of the two cases in which compensation was claimed for assisting VOC return ships.

Bills of exchange (*wisselbrieven*) were one of the financial instruments over which conflict arose involving the VOC. There were eight cases involving the VOC which dealt with bills of exchange, company debt sold off in bonds (*obligatien*), and the difference in value of certain coins between Asia and the Republic.[99] Bills of exchange were the financial instruments which company employees used to send their sometimes ill-gotten fortunes back to the Republic. The provenance of the sums sent home concerned the directors, resulting in private trade, corruption and bills of exchange disputes becoming intertwined. The WIC was involved in two cases in the High Court that had at their core financial instruments crucial to trade and exchange, namely bottomry (*bodemrij*). Both cases, sentenced in 1680 and 1690, involved the directors of the Zeeland chamber of the WIC and revolved around refusals to pay the bottomry loans on the grounds that the conditions had not been met. In one of the cases, a ship had sailed to the West Coast of Africa, taken on board slaves, sold its human cargo in Suriname and the Caribbean, and taken on board goods there to ship to the Republic. The ship did not deliver its cargo because it sank. In consequence, the bottomry holders refused to pay.[100]

Some of the kinds of disputes which the companies faced can be considered mundane commercial conflicts that were not unique to the businesses which the VOC and the WIC operated. Cases which were sparked by buying spices from the VOC were also of this sort as they revolved around payment for and delivery of goods which had been purchased. The VOC was involved in ten cases related to the buying of spices from the company: four cases involving the Chamber Amsterdam, three cases involving the Chamber Zeeland, two cases involving the Chamber Delft, and one case involving the Chamber Rotterdam. Commercial conflicts involving the WIC chambers are almost impossible to separate from issues of private trade and illegality, as mentioned above. But there were two cases which are easier to categorise as revolving around buying from and selling to the chambers. Both cases involved the Chamber Zeeland. One of them was about

[98] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *811* (1719), Geextendeerde sententie, scans 15-22. He claimed a percentage of the value of the cargo as compensation – perhaps based on maritime law principle of assistance, or a creative way of capturing VOC profit.

[99] The latter case revolved around the valuation of *realen.* On light and heavy money, and the VOC's dual use of Spanish pieces of eight, known as *realen*, see Willem Wolters, "Heavy and light money in the Netherlands Indies and the Dutch Republic: dilemmas of monetary management with unit of account systems," *Financial History Review* 15, no. 1 (2008).

[100] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *782* (1690), Geextendeerde sententie, scans 363-9; inv. nr. *660* (1690), Resoluties, scan 48. The Chamber Zeeland's opponent was Johan Godijn and associates and the ship which sank was named *de Haas.*

the sale of bedsheets to the chamber by a female merchant in Middelburg.[101] The other was about the sale of cochineal in the Republic.[102]

One of the overarching patterns that emerges from the analysis of cases by core disputes and by chamber is the complete lack of cases involving the WIC Chamber which was situated in Groningen, and referred to as *Stad en Lande*. This was the only chamber of either company which was not established in the provinces of Holland and Zeeland. As a province, Groningen was not under the jurisdiction of the High Court with the consequence that *Stad en Lande* was the only chamber outside of the court's purview.

How does this categorisation of cases help to explain the difference in number of cases faced by the chambers of the VOC and the WIC in the Republic? Why did the VOC Chambers face more than twice as many cases as the WIC Chambers did in the High Court? There are three partial explanations which stem from identifiable differences in how the companies structured trade and employment, and in the dynamism of markets for company shares. The first is that the WIC Chambers dealt with a greater number of private trade, prize and recognition fee cases in the High Court as a result of the relative ease of illegally entering Atlantic trade in breach of the WIC's monopoly, the fact that the company allowed participation in its monopoly through granting contracts for legal Atlantic trade and at various points in time the company cracked down on illegal private trade. The second partial explanation is that over time, as the WIC leased out and allowed participation in Atlantic trade, the chambers themselves were less likely to be direct employers of personnel and therefore, I suggest, less likely to be involved in wage cases than the VOC. The third partial explanation relates to the markets for each company's shares in the Republic. While the VOC Chambers faced cases from shareholders in the High Court, the WIC did not which, I propose, could be the result of different investor interests in the companies and different levels of dynamism and vibrancy in the secondary markets for company shares. These explanations are a starting point which can be fleshed out when future studies of company conflict management strategies are conducted. These could explore the possibility that the WIC avoided litigation by agreeing to settled disputes at chamber level and that in the event of litigation, the chambers were more likely to settle out of court before sentencing. In addition, whether or not the VOC faced far more cases than the WIC in other courts in the Dutch Republic is a question which can be pursued in future research.

Conclusion

Neither the VOC nor the WIC successfully managed conflict outside of the legal system in the Republic. Directors of both companies, at the level of chambers and the board of directors, were summoned to court where they faced litigation. For their part, the

[101] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *759* (1667), Geextendeerde sententie, scans 159-68.
[102] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. *646* (1637), Resoluties, scan 193.

directors also summoned people to court where the parties submitted their dispute to the adjudication of the High Court.

The disputes which arose in the VOC's charter area were adjudicated within the legal system which the VOC established. Company courts across the VOC world passed sentences which could then, in theory, be appealed in the Council of Justice in Batavia which sat atop the hierarchy of company courts. From there, there was no appeal to the legal institutions in the Republic. Thus, I have argued that the VOC legal system was set up to be insulated. It did not intersect with the legal system in the Republic. The States General was the body which connected the otherwise separate legal systems. The first VOC charter offered high officials the opportunity to lodge a complaint with the States General and one such episode led to the States General directing the legal proceeding to the High Court.

The States General played a more straightforward role in connecting Atlantic jurisdictions to the legal institutions in the Republic. Cases which had been adjudicated by WIC courts could be appealed in the States General's Court of Appeal for West Indian Cases. This was not a court per se but rather a channel via which cases from the WIC charter area were sent to the High Court. The States General itself passed sentences in these cases once they had received requested advisory sentences from the High Court. The States General thus passed on the role of adjudicating and drawing up the sentence to the judges, but pronounced justice itself.[103]

The High Court records also show that the States General delegated cases to specially constituted benches which consisted of a combination of judges from the Court of Holland and the High Court. In such cases, the records were explicit as to the delegated nature of the case, opening with the statement that it was the States General which had delegated the case to be heard by the combined bench. When the States General's role in delegating WIC cases to the High Court is seen in combination with how the States General also directed VOC cases to the court, and delegated cases to specially constituted benches, it leads to the conclusion that the States General played a crucial role in determining how cases related to overseas expansion and originating outside of the courts of Holland and Zeeland made their way into the High Court.

Examining the cases which were heard by the High Court reveals the diversity of litigants. The companies faced suits from corporate and individual litigants, that is companies, groups of individuals, and individuals. Involved in these cases were men and women, subjects of the States General and foreigners. The implications of the range of litigants were two-fold. Firstly, the diversity of people who appear in High Court cases indicates that the court was a legal institution which was accessible for various people, as individuals and as groups. At one end of the spectrum were the wealthy, well-connected individuals such as Isaac Le Maire; on the other end were the widowed heirs of low-

[103] It is quite possible that this was a similar provision to the role that the States General played in offering appeal for cases which came from the courts in the Generality Lands (*Generaliteitslanden*). The Generality Lands were not provinces; rather they were areas taken from the Spanish during the Dutch Revolt by means of conquest. Israel, *The Dutch Republic: Its rise, greatness and fall, 1477-1806*, 297-300.

ranking company men. This leads to the second implication: the companies faced litigation over a range of issues, and over varying stakes.

Analysing what the cases against the companies were about revealed that the majority of WIC cases (22 of 32) dealt with issues related to illegal trade and confiscation of goods, including prize. These were matters related to the company's monopolies. The VOC too dealt with cases related to the penetrability of its monopolies – from the rival firms already mentioned, as well as the cases against employees who exceeded the limits of permitted private trade. These issues surfaced in the guise of inheritance claims, wage claims, and disputed bills of exchange.

The second striking pattern that emerged from categorising cases was that disputes over company shares in the form of litigation were peculiar to the VOC. High Court cases over shares (which are the focus of Chapter 5) involved the Chambers Amsterdam, Zeeland and Hoorn.

Neither the VOC nor the WIC succeeded in managing conflicts in-house. While the VOC was more self-contained in terms of company jurisdictions, this did not translate into resolving disputes within its own legal framework. The Chambers of the VOC, and the company directors more generally, were named in twice as many cases as the WIC directors over the seventeenth and eighteenth centuries. It is to those disputes which hit at the heart of the company's monopolies – trading within their charter areas – to which we turn in Chapter 2.