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The Power of Procedure

Punishment of Slaves and the Administration of Justice in Suriname, 1669–1869

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Abstract

While contemporary observers judged Suriname's legal system to be extremely cruel, arbitrary, and above all outrageously biased, the written record reveals that its criminal court closely adhered to procedure, weighed slave testimony and did not cast judgement outright. This article asks what place slave punishment and legal procedure had in the Suriname system of slavery, and how and why this changed over time. The Suriname legal system offers an almost continuous record of criminal trials held before its main colonial court as well as a record of its locally passed regulations. Research indicates that the court turned away from severe physical mutilation and capital punishments over the course of the eighteenth and nineteenth centuries. The decline of plantocratic dominance and its overbearing use of force suggests a gradual embedding of the court system, making it a predictable institution promoting (an unequal) social cohesion. This leads us to suggest that the amelioration policies of the nineteenth century were not a transformation in the legal system resulting solely from a metropolitan intervention, but were partly a continuation of a trend in the colony itself.

Keywords

slavery – Suriname – legal history – legal pluralism – slave punishment

1 Introduction¹

[...] the strictest discipline is absolutely necessary, but I ask why in the name of humanity should [slaves] undergo the most cruel racks and tortures entirely depending upon the despotic caprice of their proprietors and overseers [...], and why should their bitter complaints be never heard by the magistrate that has it in its power to redress them? Because his worship himself is a planter, and scorns to be against his own interest [...] but also and chiefly for that of one of the finest colony's in the West Indies being such unfair proceedings put in the utmost danger and difficulty.

JOHN GABRIEL STEDMAN, 1790²

John Gabriel Stedman suggested that justice in Suriname was extremely cruel, arbitrary, and above all outrageously biased. As a lieutenant of the Scottish Brigade of the Dutch Republic, Stedman fought against slave revolts in the Dutch colony and authored an often-cited travelogue that contains gruesome descriptions and illustrations of the punishments and executions of slaves such as hanging by a hook through the ribs.³ Stedman's book influenced both contemporaries and historians with the analysis that the dire state of Suriname justice (in which, as in the quote cited above, the slave's 'bitter complaints be never heard') can be explained by the fact that slave owners acted as magistrates. The reputation of Suriname slavery and its unjust judicial system lasted far into the twentieth century, even if scholars have pointed out that the reputation was in part the result of abolitionists' campaign rhetoric and inter-imperial rivalry.⁴ To this day, historical studies only contain lateral remarks about the

1 This article is based on Canfijn's Master thesis, see I.R. Canfijn, *In search for justice. Legal and judicial inequality in eighteenth-century Suriname* (Online published MA thesis, Leiden University, 2018).

2 John Gabriel Stedman, "Narrative of a five years expedition against the revolted negroes of Suriname," in *Narrative of a five years expedition against the revolted negroes of Suriname. Transcribed for the first time from the original 1790 manuscript*, ed. Richard Price and Sally Price (1790; New York: Johns Hopkins University Press, 2010), 68.

3 J.D. Herlein, *Beschryvinge van de volk-plantinge Zuriname* (Leeuwarden: Meindert Injema, 1718) 84–116; Voltaire, *Candide, or optimism* [*Candide, ou l'optimisme*] (1759; London: Penguin Classics, 2005) 51–55; Jan Jacob Hartsinck, *Beschryving van Guiana, of de wilde kust in Zuid-America* (Amsterdam: Gerrit Tielenburg, 1770), in particular 916–918; See also Stedman, *Narrative of a five years expedition*, *passim*.

4 Gert Oostindie found that contemporary observers were often bent on exaggeration and highlighting spectacular incidents. Gert Oostindie, "Voltaire, Stedman and Suriname slavery," *Slavery and Abolition* 14, no. 2 (1993): 1–34. Already since the work of Aphra Behn the reputation of Suriname and particularly Dutch slave owners has been dire. Aphra Behn, "Oroonoko:

actual administration of criminal justice, and these have mostly been based on testimonies like those of Stedman, rather than an overview of the actual practices of the court.⁵ However, the archive of the colonial court is extensive and

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- Or, the royal slave: A true history," in Philip Henderson, ed., *Shorter Novels: Seventeenth Century* (1668; London: Dent, 1967) 145–224. See also: Marten Douwes Teenstra, *De negerslaven in de kolonie Suriname en de uitbreiding van het Christendom onder de heidensche bevolking* (Dordrecht: H. Lagerweij, 1842), in particular 132–176; W.R. van Hoëvell, *Slaven en vrijen onder de Nederlandse wet* (Zaltbommel: Joh. Noman en Zoon, 1855), 83–104; J. Wolbers, *Geschiedenis van Suriname* (1861; Amsterdam: S. Emmerling, 1970) 128–135; A. de Kom, *Wij slaven van Suriname* (1934; Amsterdam, Contact, 1971) in particular 43–49; Frank Tannenbaum, *Slave and citizen* (1946; Boston: Beacon Press, 1992) 65n153; Rudolf van Lie, *Samenleving in een grensgebied. Een sociaal-historische studie van de maatschappij in Suriname* (The Hague: Martinus Nijhoff, 1949), 132–133 and 137–140; C.R. Boxer, *Zeevarend Nederland en zijn wereldrijk 1600–1800* (1965; Leiden: A.W. Sijthoff 1976) 217–218 and 334–336; Price, Richard and Sally Price, "Introduction," in idem, eds., *Narrative of a five years expedition against the revolted negroes of Suriname. Transcribed for the first time from the original 1790 manuscript*, (1988; New York: Johns Hopkins University Press, 2010) ix–xcvii; Bert Paasman, "Leven als een vorst. De planterdirecteur in de literatuur over Suriname," *Kruispunt* 161, no. 36 (1995): 386–406; P.C. Emmer, *De Nederlandse slavenhandel 1500–1815* (Amsterdam: De Arbeiderspers, 2000), 178–181; Frank Dragtenstein, *'De ondraaglijke stoutheid der wegloopers'. Marronage en koloniaal beleid in Suriname, 1667–1768* (PhD dissertation, Utrecht University, 2002) 221–223; Karwan Fatah-Black, "Met gerechtelijke bronnen naar de achterkant van het koloniale borduurwerk," *Acta Historica* 3, no. 4 (2014): 40–45.
- 5 For contemporary observers, see Hartsinck, *Beschryving van Guiana*, 872–897; Wolbers, *Geschiedenis van Suriname*, 128–136 and 163–170; Stadsarchief Amsterdam (NL-SAA), Archief van de Familie Bicker en Aanverwante Families (AFB), 195, inv. no. 1025B, *Memorie betrekkelijk de colonie van Suriname, eerste redactie van de door Jan Nepveu vervaardigde tekst t.b.v. een geactualiseerde heruitgave van de Beschryvinge van de Volk-Plantinge Zuriname van Herlein uit 1718. Afschrift (ca. 1766)*, fol. nos. 110–121. Studies of primary sources have often remained limited to specific persons, communities or incidents. See e.g. Cynthia McLeod, *Elisabeth Samson. Een vrije zwarte vrouw in het achttiende-eeuwse Suriname* (Schoorl: Conserve, 1996); Frank Dragtenstein, *'Trouw aan de blanken'. Quassie van Nieuw Timotibo, twist en strijd in de 18de eeuw in Suriname* (Amsterdam: KIT Publishers 2004); Jean Jacques Vrij, "Bosheren en konkelaars. Aukaners in Paramaribo 1760–1780," in Peter Meel en Hans Ramsodh, eds., *Ik ben een haan met een kroon op mijn hoofd. Pacificatie en verzet in koloniaal en post-koloniaal Suriname. Opstellen voor Wim Hoogbergen* (Amsterdam: Bakker, 2007), 19–34; An introduction of Surinamese colonial criminal law and procedure has been provided by Wijnholt, but remains fairly superficial with regard to the early modern period. M.R. Wijnholt, *Strafrecht in Suriname* (Deventer: A.E. Kluwer, 1965), 6–40. Research about other mechanisms with respect to Surinamese justice, such as legal protection of citizens, remains unexplored as well, despite that most of the issued local regulations have been made easily accessible by Schiltkamp and De Smidt. J.A. Schiltkamp, and J.Th. de Smidt, *West Indisch plakaatboek. Plakaten, ordonnantiën en andere wetten, uitgevaardigd in Suriname. Delen 1 en 11 1667–1816* (Amsterdam: Emmering 1973). Only the study by Quintus Bosz scrutinized legal positions. A.J.A. Quintus Bosz, "De ontwikkeling van de rechtspositie van de vroegere plantageslaven in Suriname," in Surinaams Historische Kring, eds., *Emancipatie 1863–1963. Biografieën* (Para-

offers a wealth of material to test the observations of Stedman and those who have relied on his analysis. The documents about the court also beg another question: why would a court that was so violent and biased produce such meticulous records?

Historians of colonial courts in slave societies similar to Suriname have also noticed the combination of extremely violent punishments and a striking amount of documentation in the court records. Mindie Lazarus-Black studied the litigiousness of people in Jamaica to understand the place of the court in the slave system. She argues that the ability of free people to take their case to court helped to create a respect for the rule of law and strengthened the class alliance between poor free people and the wealthy planters.⁶ As such, slaveholder hegemony rested at least in part on legal procedure and accessibility of the court, rather than arbitrary violence. Answering to Lazarus-Black, Diana Paton argues that the Jamaican court not only opened up to litigation from below, but in its use of particular forms of violence, emphasized the bodily difference between slave and free.⁷ Extreme and arbitrary violence against slaves was not incidental, but inbuilt and as a practice contributed to the legitimacy of the collective interest of the slave owners. In this article, we revisit this discussion with insights from the Suriname archive and add to this the change over time that we find in the Suriname sources. We doubt that the volume of documentation can be explained by the litigiousness of the free people of the colony, nor did we find that arbitrary violence was an unchanging aspect of the courts practice.

Thanks to the well-preserved records of the colonial court, systematic study of the activities of the court is possible. Differing from earlier studies, we examine a longer period and place the cases (by and) against enslaved people in the context of the other cases held before the court, such as cases by and against whites, Jews and free people of color. We have analyzed more than seven hundred criminal cases from the judicial documents in the Governing Council archives for the years 1722, 1750, 1775 and 1799 as well as a colonial report on

maribo: Surinaams Historische Kring, 1964), 5–22. Ruud Beeldsnijder and Alex van Stipriaan have made important contributions to quantify cases and their outcomes; Van Stipriaan also traced development towards “amelioration” in the nineteenth century. Alex van Stipriaan, *Surinaams contrast. Roofbouw en overleven in een Caraïbische plantagekolonie 1750–1863* (Leiden: KITLV, 1993); Ruud Beeldsnijder, “Om werk van jullie te hebben”. *Plantageslaven in Suriname, 1730–1750* (PhD dissertation, Universiteit Utrecht, 1994).

6 Mindie Lazarus-Black, “John Grant’s Jamaica: Notes Towards a Reassessment of Courts in the Slave Era,” *The Journal of Caribbean History* 27, no. 2 (1993): 144–159.

7 Diana Paton, “Punishment, Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica,” *Journal of Social History* 34, no. 4 (2001): 923–954.



FIGURE 1

The image of Joosje hanging from his ribs has become emblematic of the cruelty of Suriname slavery. This form of punishment was used at least until the second half of the 18th century.

JOHN GABRIEL STEDMAN, *NARRATIVE, OF A FIVE YEARS' EXPEDITION, AGAINST THE REVOLTED NEGROES OF SURINAM* VOL. I (LONDON 1796), P. 167 (JOHN CARTER BROWN LIBRARY AT BROWN UNIVERSITY)

court cases in 1854. These years have been deliberately spread through time to provide a balanced representation of criminal justice over time.⁸ By using these sample years from the eighteenth and nineteenth century, our reassessment of the sources show that the reports of extremely brutal executions cover actual practices in the colony, but that the situation was not static. We find a decline in physical mutilation and capital punishment over the course of the eighteenth century, and a simultaneous increase in the regulation of slave owners' prerogatives. In the context of a changing colonial relation of domination, the legal system seems to have changed accordingly, from a brute force to an institution that naturalized the colonial order through proper procedure. The pressure of abolitionism on Dutch politics strengthened this dynamic towards regularization in the colony.

We argue that despite the clear overlap between the slave-owners, the state and the court, there should be more attention to the autonomous logic of the court as an institution to explain the gradual turn away from extreme mutilation and corporal punishment. Extreme racialized violence was certainly an important aspect of plantocratic justice, but returning to the work of Lazarus-Black on Jamaica, we argue that the insistence on procedure in Suriname provided legitimacy to the court and in turn influenced judicial practice in the colony.

⁸ A regular interval of precisely a quarter-century each turned out to be impossible because the criminal documents have not been preserved for every year entirely.

2 Suriname's Pluralistic Legal System

From its inception in 1669, the colonial administration was formed by the Governing Council (*Hof van Politie en Criminele Justitie*, literally Court of Policy and Criminal Justice), which was chaired by the governor.⁹ The council and governor wielded ecclesiastical influence, issued land grants, decided on military matters, appointed the civil and other minor courts, managed access to the colony, levied local taxes; in short it functioned as the colony's most important legislative, executive and judicial institution.¹⁰ The Governing Council consisted of thirteen persons: the military commander, nine unpaid councilors (mostly prominent plantation owners), one public prosecutor (*raad-fiscaal*), one secretary and the governor. The nine councilors had to be protestants and were nominated by male heads of landowning households. Jews were enfranchised but had no right to stand for election. Out of a double-figured number of nominees the governor selected his preferred candidate(s). In decision-making, the Governing Council usually had ten votes to count: nine of the councilors and one of the military commander. In case of an electoral tie the governor had the casting vote.¹¹ This resulted in an exceptionally influential position of the plantation owners in politics and the criminal court.¹² There clearly is ground for the idea that the plantocracy could bend the judicial system to its will.

Legal protection of slaves in Suriname was initially non-existent. In the Netherlands, slavery had been banned since the rule by French kings in the late medieval period and the States-General never issued any systematic or comprehensive slave regulations. Roman law was deemed applicable in instances where Dutch law did not suffice, and as a result, the Roman *persona-res-*

9 At the basis of the colonial administrative structure in Suriname stood the WIC charter that had been granted by the Dutch States General in 1682. In essence, the 1682 charter remained intact until the Suriname Company was abolished in 1795. According to the charter, the States General held supreme authority. The States' delegates had been allowed to intervene when necessary, were co-responsible for financing the colony's defense and had to approve the governors that had been appointed by the Suriname Company.

10 Karwan Fatah-Black, "The Usurpation of Legal Roles by Suriname's Governing Council, 1667–1815," *Comparative Legal History* 5, no. 2 (2017): 243–261, 248.

11 Fatah-Black, "The Usurpation of Legal Roles," 6.

12 Fatah-Black, "Access to justice. Suriname, 1683–1863: race, class and gender before the court in the 'other Netherlands beyond the sea'," unpublished article (2017), 8. J. Marten W. Schalkwijk, *The colonial state in the Caribbean. Structural analysis and changing elite networks in Suriname 1650–1920* (The Hague: Amrit/Ninsee, 2011).

dominium paradigm became leading in the Dutch colonies.¹³ Under this regime, slaves were not legally capacitated to engage themselves in civil contracts nor in civil lawsuits.¹⁴ This did not imply that they were considered less than fully accountable simply due to their unfree status. Until the end of the eighteenth century, it was customary to prosecute legally incapable forms of *res*, including slaves and cattle.¹⁵ Throughout the colonial period a series of locally issued regulations amended Roman-Dutch law, but it took a long time before it contained any legal protection for slaves.¹⁶ In 1759 and in 1784 some limits were placed on the corporal punishments under domestic jurisdiction.¹⁷ A more fundamental, albeit temporary change came in 1828 when commissioner-general Johannes van den Bosch (1780–1844) initiated a set of reforms for the entire Dutch West-Indies, instructing the government to protect slaves against maltreatment and abuse and ordering that slaves had to be considered “disempowered (*onmondige*) persons,” rather than goods. Planters were dead set against this change and pressured the Dutch government to revoke the article in 1832.¹⁸ The planters were certainly intent on protecting their legal position, including the right to domestic punishment.

Slave owners had the right to adjudicate offenses of their slaves according to the Roman procedure known as “domestic jurisdiction” (*huiselijke jurisdictie*) or “disciplinary jurisdiction” (*tuchtrecht*). Domestic jurisdiction applied to

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- 13 See e.g. Alan Watson, *Slave law in the Americas* (Athens, Georgia: University of Georgia Press, 1989), 102–114.
 - 14 Van Lier, *Samenleving in een grensgebied*, 157–160; cf. Orlando Patterson, *Slavery and Social Death. A Comparative Study* (Cambridge, Massachusetts: Harvard University Press, 1982), 139–141 and Watson, *Slave Law in the Americas*, 30.
 - 15 Wijnhold, *Strafrecht in Suriname*, 31. For instance, when in 1750 an enslaved man named Quassie was condemned for bestiality with a horse, the Governing Council not only sentenced Quassie to death—to be drowned in the sea—but the council held the horse liable as well and therefore condemned it to be shot. Nationaal Archief NL-HaNA, Hof van Politie en Criminele Justitie (HPCJ), 1.05.10.02, inv. no. 756, f. 21–22; inv. no. 801, f. 717–728.
 - 16 Schiltkamp and De Smidt, *West Indisch plakaatboek*, 44–46, 166–169, 209–210, 341–342, 381–384 411–412, 426–428, 666, 832–833 and 1058–1061. Van Stipriaan, *Surinaams contrast*, 369–407; Quintus Bosz, “De ontwikkeling van de rechtspositie,” *passim*.
 - 17 Schiltkamp and De Smidt, *West Indisch plakaatboek*, 666–675, 691, 724, 1066–1075 and 1188–1190.
 - 18 Quintus Bosz, “De ontwikkeling van de rechtspositie,” 16–21; NL-HaNA, Archief van J. van den Bosch, 2.21.028, inv. no. 107, *Verbaal van het verhandelde van de commissaris-generaal, met bijlagen (1828 maart 19–1828 juli 21)*, Reglement opgesteld door Johannes van den Bosch op het beleid der regering van de Nederlandsch West-Indische bezittingen; Sens, Angelie, *De koloniemann. Johannes van den Bosch (1780–1844), volksverheffer in naam van de Koning* (Amsterdam: Balans, 2019), 222–225.

both planters and urban slave owners and allowed them to punish their slaves at their own discretion.¹⁹ Domestic justice on plantations was in the hands of the plantation owner (*eigenaar*) or its representative, such as an administrator (*administrateur*), manager (*directeur*) or white overseer (*blankofficier*). Planters had the mandate to punish slaves under their control by means of almost any kind of punishment. Perceived wrongdoing varied from dereliction of duty, such as indolence, sluggishness, faking indispositions or negligence of tasks; insolence and defamations; to breaking tools, machines or instruments. The administration of domestic justice took place during the planter's daily inspection when the enslaved labourers returned from duty.²⁰ Slaves who had been derelict in their duties were usually reported by an overseer. More serious crimes were reported immediately. The overseer would convey his complaints to the planter in presence of the accused. The subsequent course of the trial fully depended on the urgency of the committed offense. The possibility of a planter to personally shape the procedure was an important feature. The planter could also decide to refer the case to the court in Paramaribo, something that was done when they feared that punishment would escalate a tense situation and lead to violent resistance from the enslaved.²¹

Under domestic justice, punishments mainly consisted of corporal punishments. The planter could sentence any punishment that he saw fit, with the exception of death sentences and extreme mutilations.²² Execution of corporal punishments often took place in front of the planter's house, in the cookhouse or in the factory hangars. The most commonly sentenced corporal punishment was flogging and usually varied between a few to a few hundred lashes. Chaining slaves also occurred on the plantations. During the execution of a flogging, slaves were often tied to a stake or sometimes suspended from a tree. A cruel penalty was known as the Spanish buck (*Spaanse bok*). During this notorious undertaking, the hands of the condemned slave were bound together, through which its legs were thrust, while a stick was put through the tied-up hands and pulled-up knees. After the stick was firmly stabbed into the ground, the slave was flagellated with a whip of knotty tamarind branches. When the slave's skin

19 Wijnholt, *Strafrecht in Suriname*, 35–39; Van Lier, *Samenleving in een grensgebied*, 23–27 and 128–141; Fatah-Black, “The Usurpation of Legal Roles,” 14–18.

20 Schiltkamp and De Smidt, *West Indisch plakaatboek*, 666–675.

21 Fatah-Black, “The Usurpation of Legal Roles,” 15–17; Karwan Fatah-Black, *Eigendomsstrijd. De geschiedenis van slavernij en emancipatie in Suriname* (Amsterdam: Ambo/Anthos, 2018), 27–40.

22 Van Lier, *Samenleving in een grensgebied*, 129; Wijnholt, *Strafrecht in Suriname*, 36; Quintus Bosz, “De ontwikkeling van de rechtspositie,” 11–12.

was flogged sorely, the body was turned over to thrash the other side as well.²³ Several contemporary records make mention of the most horrific atrocities that far exceeded the usual penalties such as flogging or the Spanish buck. Stories of victims that had been deliberately chained to a kettle of a sugar distillery in order to let the heat cause blisters on their bodies. Contemporaries reported that open wounds were rubbed with salt, lime or spices to aggravate the pain of the executed penalties. For attempting to flee, reported punishments were the cutting of achilles tendons or even amputating of legs.²⁴

Those who were enslaved on the plantations often also had their own systems of judicial regulation. Under most circumstances—mainly in case of petty crimes—enslaved communities solved disputes themselves or referred them to the plantation directors. Common offenses that were adjudicated among the enslaved communities were defamation, theft, improper sexual relations or behavior, adultery and physical harm. A priest-diviner or seer (*lukumán*), who in many cases also had a role as overseer, played a key part in procedures. He would identify the suspect, consult spirits and investigate if there was witchcraft in play. Ordeals were often an integral part of such investigations.²⁵ Punishments among slaves were usually of non-corporal character, possibly to avoid the plantation director from taking an interest in the matter. The punishment mostly consisted of compensating victims or suffering humiliations, rather than physically hurting the perpetrator. Enslaved overseers did sometimes use their whip although even in those cases, punishments were less severe than those of the plantation directors.²⁶

The enslaved sometimes reported crimes to the plantation directors, we find this in the records in cases of poisoning (*vergeeven*) or sorcery (*wisi*).²⁷ From the locally issued regulations we learn that slaves sometimes accused fellow slaves of sorcery or poisoning to get rid of adversaries. The court stated that accusations concerning witchcraft and poisoning among the enslaved “were often inspired by hatred and vengeance, whereas allegations were frequently unsub-

23 Hartsinck, *Beschryving van Guiana*, 916.

24 See e.g. Stedman, *Narrative of a five years expedition*, 95–96 and 246; Wolbers, *Geschiedenis van Suriname*, 129; Voltaire, *Candide, or optimism*, 51–55; Hartsinck, *Beschryving van Guiana*, 916.

25 Natalie Zemon Davis, “Judges, Masters, Diviners: Slaves’ Experience of Criminal Justice in Colonial Suriname,” *Law and History Review* 29, no. 4 (2011): 925–984.

26 Ibidem, 947–959.

27 Sorcery was a grave and punishable accusation and, especially when combined with poisoning. Fatah-Black, “The usurpation of legal roles”, 13–14; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 143–144; inv. no. 827, f. 155–158 and 163–166.

stantiated.”²⁸ In several instances, the slave owner also noticed such dynamics and intervened in favor of the accused. The enslaved Quacoe of the plantation *Beekvliet*, for instance, had been accused by four of his fellow slaves in 1775 for poisoning the late Quamina. Plantation manager H.C. Dörfeld sent the four plaintiffs and the accused to the Governing Council to investigate the matter but assured the councilors that he was almost sure of Quacoe’s innocence. Consequently, Quacoe was absolved but placed on another plantation in order to prevent retaliation. Two of the plaintiffs were sentenced to a Spanish buck and the two others to a hexagonal Spanish buck.²⁹ Poisonings or murders by slaves were not limited to the slaves themselves. In some case killing of masters and overseers might be seen as a form of punishment for transgressing rules on the plantation, although it is difficult to get a sense of the process that preceded this or if these were regulated by institutions.

On occasion enslaved people tried to report complaints about plantation directors to the Governing Council. This required an understanding of the colonial legal system, a trust in the functioning of the institution and was risky for the plaintiff. Whenever its claim was deemed unsubstantiated, the plaintiff was often severely punished.³⁰ Enslaved plaintiffs usually petitioned in groups, which suggests that a collective process preceded the decision to go to court. In our samples we find eight trials against free white people that had been brought to court by the enslaved. Of the eight accused, three were condemned to pay fines; the other five were acquitted. In one of the three acquitted cases, retaliatory measures (Spanish bucks) were taken for presenting an unsubstantiated claim. We do not know how many complaints were dismissed before reaching court proceedings, and if and in what way the plaintiffs were punished for their action. The records show that when the Governing Council did decide to take legal action following complaints by slaves, it did not adopt a one-dimensional stance in favor of owners against slaves—although the bias of the court is evident in the verdicts for slave owners, which were exceptionally moderate. The manager of the plantation *La Jalousie*, Barend Hendrik Beekman, was condemned to pay eight hundred guilders in 1775, after eight of his slaves went to Paramaribo to complain about gruesome executions on his plantation. Despite that Beekman’s white overseers had testified in his favor, the Governing Council

28 Schiltkamp and De Smidt, *West Indisch plakaatboek*, inter alia 672 and 1072; cf. Fatah-Black, “The Usurpation of Legal Roles”, 13.

29 The case of Quacoe is also mentioned in Fatah-Black, “The usurpation of legal roles”; NL-HaNA, HPCJ, 1.05.10.02, inv. No. 91, f. 143–144; inv. No. 827, f. 155–158 and 163–166.

30 Beeldsnijder, “Om werk van jullie te hebben,” *passim*, in particular 242–247; Dragtenstein, ‘De ondraaglijke stoutheid der wegloopers’ 221–223.

deemed that he “had gone too far.”³¹ In another case the manager of the plantation *Slootwijk*, Christiaan Smit, was condemned to a monetary fine as well, after the enslaved man named Mars had lodged a complaint about excessive punishments and manslaughter. Smit’s defense was assisted by depositions of his two white overseers.³² Under pressure of amelioration policies in the years before abolition in 1863, slave complaints were institutionalized, alongside government inspections of working conditions on the plantations. In the nineteenth century we find that slaves also reported pettier problems to the police, such as drunkenness and theft.³³

3 Inequities of Race and Legal Status

Fundamental inequities were woven into the system, also at the procedural level. Criminal prosecution of slaves usually started once a slave was handed over to the colonial authorities by its owner, along with a shortly written statement that outlined the committed offense. Other slaves were handed over by third parties, after they had been caught red-handed or after they were found lingering without explanation or note from their overseer. In general, slaves were brought directly to Fort Zeelandia, where interrogations took place, led by the raad-fiscaal in presence of two witnessing members of the governing council and, when necessary, a Sranan or Saramaccan translator.³⁴ Slaves had to be interrogated within twenty-four hours after incarceration.³⁵ This made most slave trials less thorough than a trial of a free suspect, whose trial could take weeks to months due to research and interrogations that were conducted before a prosecution was even initiated. For slaves adjudication was often brief and a verdict would follow quickly. A quarrel in the Governing Council between councilors Hendrik Talbot and Isaak Godefroij, and incumbent raad-fiscaal Samuel Paulus Pichot, in which the formers sued the latter, is a striking example of the paradox of quick trials and the insistence on proper procedure. In 1750 Godefroij accused the raad-fiscaal of prosecuting and executing one of the slaves of Miss Van Hertzbergen on a personal title,

31 NL-HaNA, HPCJ, 1.05.10.02, inv. no. 91, f. 204–205; inv. no. 827, f. 251–282.

32 Ibidem, inv. no. 91, f. 704–705; inv. no. 827, f. 403–438.

33 *Verslag van het beheer en den staat der Kolonien over 1854, wat de West-Indien en Kust van Guiana betreft* (Verslag wegens Suriname), appendix E and F.

34 Davis, “Judges, Masters, Diviners”, 962.

35 NL-HaNA, HPCJ, 1.05.10.02, inv. no. 31, f. 42.

without any form of judicial process. According to Pichot, the enslaved man had been properly prosecuted in court when Godefroi—himself a councilor—had been absent. Governor Mauricius chose the side of the raad-fiscaal and argued that Godefroi's allegations were "of the utmost disregard to the office of justice."³⁶

The use of torture as part of the legal process exemplifies the authority of the Governing Council to enact violence on the enslaved. Rules for the application of torture during investigations distinguished between slave and free. Whenever a slave persisted in claiming its innocence, while the raad-fiscaal had substantial grounds to assume that he or she was guilty, he could ask the Governing Council permission to continue the examination while applying torture (*scherpe examinatie*, literally "sharp examination") to the suspect.³⁷ In 1743 the purview of the raad-fiscaal to torture slaves was increased, while the regulations regarding free people were left untouched.³⁸ The permission of the full court was no longer needed when there were 'sufficient reasons' for suspicion. The sources in the Surinamese archives, contemporary records and the historical literature are fairly silent about torture as a means of interrogation, and how often it was applied.³⁹ Whenever the accused confessed during torture, its confessions had to be repeated after the exposure to torture had ended (*buiten pijn en banden van ijzer*).

Based on the supporting documents, such as examinations, interrogations, witness testimonies, confrontations and written statements, the raad-fiscaal would formulate his indictment (*conclusie van eis*). The indictment contained his demand in accordance with the fixed sentence (here: *strafeis*) of the present local regulation. We have found that regardless of the social status of the suspect, the raad-fiscaal would consider any mitigating or aggravating circumstances. However, the fact that the paperwork in slave trials was significantly less than in trials against free people, does indicate a significant disparity in adjudication. Criminal documents of slave trials often consisted only of the enslaved people's own interrogations, the demand of the raad-fiscaal and sometimes depositions by their owner(s). These documents usually sufficed for the more straight-forward crimes such as marronage, whereas in more complex offenses such as violence or property offences, the criminal files usually con-

36 Ibidem, inv. no. 45, f. 49–50, 80–83, 141–143, 177–176 and 285–296; inv. no. 550, f. 83–84, 89–90 and 95–98.

37 Schiltkamp and De Smidt, *West Indisch plakkaatboek*, 132.

38 NL-HaNA, HPCJ, 1.05.10.02, inv. no. 23, f. 101–103; inv. no. 165, f. 409.

39 In (at least) twenty-four percent of the trials in our samples, enslaved suspects confessed without the application of physical torture.

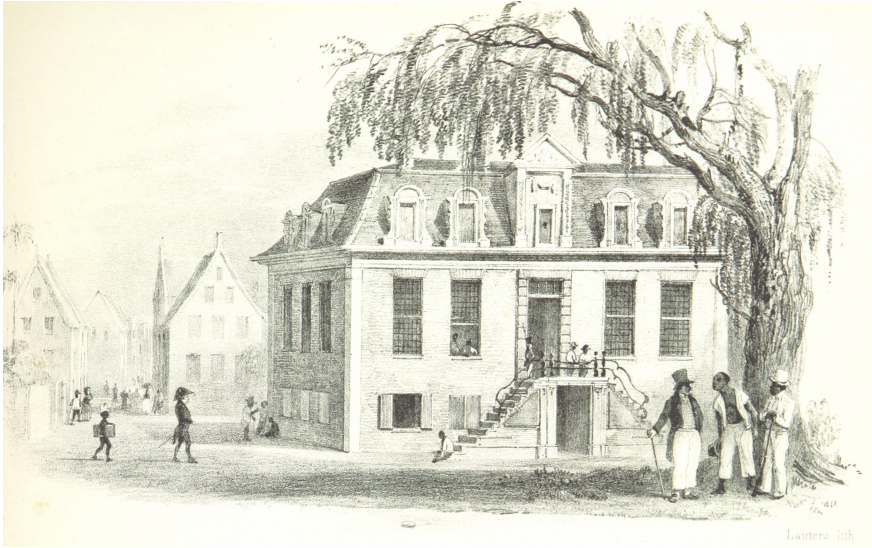


FIGURE 2 The court of justice was built in the late eighteenth century and is still in use today

J.P. BENOIT, *VOYAGE A SURINAM: DESCRIPTION DES POSSESSIONS NÉERLANDAISES DANS LA GUYANE* (BRUSSELS 1839), PLATE 27

tain several testimonies of witnesses as well. Slaves did not have an attorney at their disposal, were not allowed to settle agreements, and, as the majority was not able to read or write, they generally did not submit any additional supporting documents for their defense.

After the raad-fiscaal had presented his indictment to the Governing Council, the councilors would evaluate his plea behind closed doors. After the interrogations, the entire procedure—from demand to verdict—remained opaque not only to the public but also to the suspect itself. In case the councilors could not agree on a fitting sentence, the governor had the casting vote. The verdict was not cast between guilty and not-guilty, but the suspect could be sentenced with a more moderate punishment when proof was lacking but suspicion was high.⁴⁰ Conversely, inconclusiveness of the evidence could also work out in the advantage of the suspect. In our samples sixteen percent of enslaved suspects were exonerated, while free whites were exonerated in twenty-four percent of the trials. These numbers show an inequity in the policy of the court, but also suggest that the Governing Council looked at the available evidence before

40 Cf. Michel Foucault, *Discipline and Punish. The Birth of the Prison* (1975; London: Penguin, 1977), 35–42 and 96–97.

sentencing, rather than punishing the enslaved outright. It suggests that the councilors did not want to punish innocent slaves intentionally, and possibly wanted to uphold the status of the court and their own role within it.

The governor was privileged to mitigate (*mitigeren*), adjust (*altereren*) and pardon (*verlenen van brieven van abolitie*) sentences. Striking is the criminal case in which governor De Friderici had granted mitigation to the enslaved boy called Fortuijn, who belonged to Jansje Rood, widow of Pedel. Fortuijn was tried for having abused and raped Anna Barbara, the five-year-old daughter of the white Victor Willaume, in a “very horrible manner.” On the 27 December 1798, the councilors had sentenced Fortuijn to be hanged, beheaded and his head impaled. Although governor De Friderici initially supported the verdict of the councilors, De Friderici later questioned “his [Fortuijn’s] mental capacity to comprehend the consequences.” Moreover, he wondered “whether the sentence would have been just as severe in case the same crime was perpetrated by a white.” On 4 January 1799, the Governing Council accepted De Friderici’s proposed mitigation and sentenced Fortuijn to be punished with a Spanish buck, to be branded and to be sold abroad. As a reminder of being pardoned from death sentence, he had to undergo his punishment underneath the gallows with a noose around his neck.⁴¹ Both in enacting death and in granting amnesty, the Governing Council made sure its supreme position was emphasized in the rituals that surrounded the procedure.

Slave owners often had a decisive voice in reaching a verdict, and their influence was often to the detriment of the accused slaves. Owners could request the Governing Council for a more severe punishment. These requests betray a vindictive and brutal tendency among the owners and overseers. After the enslaved Ceango of the plantation *Cannawapibo* had been caught after a second attempt to flee, his owners, Jan Willem Engelbert de Man and Coenraad Rappard suspected that he encouraged other slaves to run away and guided them to the routes to the interior of Suriname. The owners therefor requested the Governing Council to condemn Ceango to have one of his legs amputated, a punishment that is reminiscent of the scene described by Voltaire in *Candide*. In this particular case the councilors granted permission to the owners and burdened Ceango with the choice which of his legs he would lose.⁴² Such blatant brutality was uncommon in the verdicts of the Governing Council in those years, and if it occurred it was often related to marronage.⁴³

41 NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 115; inv. no. 665, f. 23–25 and 34–38.

42 NL-HaNA, HPCJ, inv. no. 414, f. 367–376; inv. no. 828, f. 509–512, 519–528 and 542; for another example see e.g. also: inv. no. 414, f. 977–980. Cf. Voltaire, *Candide, or optimism*, 51–52.

43 We have found one similar requests made that same year by administrators Van Heijst and

Although plantation owners mostly figure as those bringing enslaved people to trial, their interference could mitigate sentences as well. The enslaved Tonetta of the plantation *Hamburg*, for instance, had been fully absolved from running away in 1775, after her owner had requested the Governing Council for exoneration. According to her owner, Van Stuyvesant, incumbent governing councilor at that time, Tonetta had perfectly behaved herself in the past and had been seduced to run away by the enslaved man Bastian.⁴⁴ In another trial, also in 1775, five enslaved of the plantation *Cornelis Vriendschap*, who had been accused by a fellow slave of planning a plot to run away and kill their master, had been acquitted as well, after the owner, De Raineval, declared that the allegations were merely an illusion (*"hersenschim"*).⁴⁵

4 The Increasing Role of the Colonial State

From the second half of the eighteenth century, the Governing Council gradually curbed the almost unlimited penal competences of planters, usurping the monopoly on the more severe punishments to the domain of the state.⁴⁶ These measures slightly improved the legal position of the enslaved over time and were part of a slow-moving shift away from physical punishments by owners towards a broader repertoire of punishments, including banishment and extramural convict labor and in the nineteenth century also fines and incarceration. In 1759, the range of penalties that planters could apply was slightly curbed by new plantation regulations. From then on, planters were advised to apply punishments of between twenty-five to fifty lashes, whereas the maximum number of lashes was set at eighty in total. The penalties were to be imposed by either a plantation manager or white overseer and had to be executed by the black overseer. In addition, floggings with sticks (the notorious *hoepelstokken*) were banned, and lashes of the whip had to be aimed at the lower part of the convict's body. More severe punishments could still be imposed but had to be approved by the plantation's administrator or owner. Finally, planters were no longer allowed to threaten their slaves at gunpoint, with the sole exception of self-defense. In the 1784 plantation regulations, the planters' penal compe-

Bekker regarding the enslaved man Crispijn of the planttion Tout Il Lui Faut. The records do not show if this request was granted.

44 NL-HaNA, inv. no. 828, f. 505–506 and 516.

45 Ibidem, HPCJ, inv. no. 827, f. 87–89.

46 Van Stipriaan, *Surinaams contrast*, 369–407; cf. Fatah-Black, "The Usurpation of Legal Roles," 15.

tences were curbed further. From then on, planters had to punish their slaves untied or, at best, tied to a stake in case a slave resisted to stand up straight. It was no longer allowed to flog a slave who was hoisted from the ground. Other forms of tied-up punishments, such as the Spanish buck, were outlawed on plantations and were only allowed to be executed at the Fort Zeelandia by the colonial authorities. Transgression of these limitations were punished with a three-hundred-guilder fine. In case of maltreatment, the owner would be condemned to sell the slave and, in case of detected mutilations, would face criminal charges.⁴⁷ It is hard to gauge how well planters abided by the newly-imposed laws. The fact that the 1759 plantation regulations were reissued several times (respectively in 1760, 1760, 1784 and 1799) could indicate that compliance was limited. Several cases suggest that planters did not always comply with the prohibition to execute a Spanish buck on plantations—nor did the Governing Council deal with these matters unequivocally. The plantation manager Varenhorst, for instance, who had killed one of his slaves during the execution of a Spanish buck in 1799—fifteen years after its abolishment—was exonerated by the governing councilors because he had “merely given the deceased a Spanish buck.”⁴⁸

For each act that was criminalized by law, a (range of) fixed sentence(s) was included in either the Criminal Ordinances or local regulation. However, even for committing similar crimes, punishments could vary. An illustration of the variety of punishments is provided by means of the prosecution of marronage. This shows that adjudication of slaves was more thorough than deemed before. Although marronage was punishable by death since 1721, criminal cases show that certainly not every slave condemned for marronage received capital punishment.⁴⁹ Of the 249 enslaved that had been adjudicated for marronage in our sample years (1722–1799), only sixty-four enslaved had been sentenced to death, usually by hanging or decapitation. This is considerably less than others have found.⁵⁰ Sixty-one marroons had been punished corporally, of which forty-five with a Spanish buck, thirteen with a hexagonal Spanish buck and three with other corporal punishments. Twenty enslaved had been banned and twenty-two sentenced to lifelong extramural convict labor, of which respectively nine and five received corporal punishments as well. Fifty-one of them had been acquitted and thirty-one sentences are unknown. The number of death sentences would have been much higher in case the governing councilors had

47 Schiltkamp and De Smidt, *West Indisch plakaatboek*, 666–675, 763–765 and 1066–1075.

48 NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 362–369 and 378–386; inv. no. 627–664.

49 Schiltkamp and De Smidt, *West Indisch plakaatboek*, 342–343 and 755.

50 Beeldsnijder, “Om werk van jullie te hebben,” 242–247.

complied with the existing penal provisions. However, in practice, the severity of the punishment for someone that had been condemned for marronage depended on the aggravating or mitigating circumstances. For instance, when someone had dwelled in a maroon village or had simultaneously committed other crimes (often conspiring, physical violence and property offences) sentences were more severe. Other circumstances that influenced the sentence were recidivism and the duration of the desertion. Marronage was especially strictly punished once the act had been preceded by a violent offence against a white. The enslaved named Quatre Cheveux, for instance, had been condemned to death in 1750 after he had been found guilty of preparing a plot to kill his owner. Allegedly, he had planned to run away to establish a village in the woods. As a result, Quatre Cheveux had been broken on the wheel until death followed, and subsequently, had been beheaded and its head impaled.⁵¹

Any real impediments on slave punishments were only imposed twelve years before the abolition of slavery.⁵² In 1851, new separate regulations were issued for the urban areas and the plantations. The regulations had always contained clauses regarding the obligation of slave owners and managers as well as those of the enslaved. The description of the tasks per slave per day for the various types of plantations became more extensive, detailing exactly how many holes can be dug for cane planting either in overgrown areas, already planted grounds or loose ground, to give just one example.⁵³ The regulations also instated the *Piket van Justitie* (or: *schoutenhuis*, cf. sheriff's office) for the urban area. In Paramaribo and Nieuw-Rotterdam, slave owners were no longer allowed to physically punish their slaves, with the exception of imprisonment and the "fatherly correction" of children up to the age of 14. If a slave owner wanted to physically punish his slave, since 1851, he had to send the condemned to the *Piket*. The *Piket* merely functioned as executer of the punishments and did not assess the reasonableness and fairness of the imposed sentence by the enslaved person's master.⁵⁴ After having restricted the forms of punishment, the *Piket* was a further step by the colonial state to restrict the purview of the owners. On the plantations, this ban on "domestic" physical punishment was not introduced. Instead, clear outlines were given about the punishment that was

51 NL-HaNA, Sociëteit van Suriname (SvS), 1.05.03, inv. no. 142; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 801, f. 467–474 and 487–491.

52 Wijnholt, *Strafrecht in Suriname*, 36–39.

53 *Reglement op het onderhoud, den arbeid, de huisvesting en de tucht der Slaven op de Plantadjen en Gronden in de Kolonie Suriname* (1851).

54 *Reglement*, 1851; Wijnholt, *Strafrecht in Suriname*, 39.

allowed. Owners and administrators could meet out double the punishment of the directors. The plantations management was expected to keep records of the punishments. Political debates in parliament and an increasing demand for regulatory oversight might have been an important driver behind the changes that took place in these last few years, before slavery was eventually abolished in 1863. The reforms did not silence abolitionist criticism and primarily resulted in an increased formalization and administration in the slave system, giving politicians and colonial administrators the impression of a well-regulated system of slavery.

5 Punishment by the Governing Council

Contemporary observers and historians have vilified domestic jurisdiction and criticized criminal justice for slaves in Suriname by pointing to its cruel and arbitrary nature.⁵⁵ We argue that the contemporary reports cover actual practices in the colony, but that the range of punishments was *de facto* much wider and that the situation was not static. Over the course of the eighteenth century we observe a decline in the frequency of death sentences while the number of slaves banned and sold abroad or condemned to (lifelong) extramural convict labor increased. This development ostensibly occurred simultaneous with the limitation of corporal punishments by slave owners and managers, while the number of corporal punishments imposed by the colonial authorities, mainly (hexagonal) Spanish bucks increased. The extremely brutal death sentences that have been regarded as emblematic for Suriname justice seem to have disappeared over time and evolved into more 'moderate' death sentences such as hanging or breaking on the wheel; capital punishments that were still common in the Dutch Republic as well.⁵⁶

55 Wolbers, *Geschiedenis van Suriname*, 128–135; Stedman, *Narrative of a five years expedition, passim*, inter alia 39, 68–69, 95–96, 102–103, 246, 264–268, 280, 340–341, 472, 408–482, 488, 495, 531–532, 544–550, 554–557 and 571; Herlein, *Beschryving van de volk-plantinge Zuri-name*, 111–114; Hartsinck, *Beschryving van Guiana*, 916; De Kom, *Wij slaven van Suriname*, 43–49; Dragtenstein, 'De ondraaglijke stoutheid der wegloopers', 221–223; Beeldsnijder, "Om werk van jullie te hebben," 242–247.

56 Cf.: Sjoerd Faber, *Strafrechtspleging en criminaliteit te Amsterdam, 1680–1811. De nieuwe menslievendheid*, Dissertation (Arnhem: Gouda Quint, 1983), 151–160; P.C. Spierenburg, *Judicial violence in the Dutch Republic. Corporal punishment, executions and torture in Amsterdam 1650–1750* (PhD dissertation, Universiteit van Amsterdam, 1978), in particular 74–83 and 211–212.

So far, historians have emphasized the high number of capital punishments by the Governing Council. Beeldsnijder found that eighty-two percent of the 146 enslaved suspects in his sample had been condemned to capital punishments.⁵⁷ In contrast, we show that the proportion of capital punishments was much smaller. Of the 370 enslaved suspects in our sample (1722, 1750, 1775, 1799) twenty percent had been sentenced to death. An additional thirty-four percent had been condemned to corporal punishments, twenty-six percent to non-corporal punishments and six percent to a combination of corporal and non-corporal punishments. Fourteen percent of the verdicts is unknown.

Slave punishments were much crueler compared to those for whites and free people of color. Seventy-five percent of the sentenced verdicts in trials against white suspects, as well as seventy-five percent against free colored suspects, contained non-corporal sentences. Only three percent of the white convicts were sentenced to a corporal penalty. Corporal punishments for whites usually consisted of exposure, flogging and in rare (often recidivist) instances branding. Of the 323 trials processed against white suspects, the death sentence had been sentenced only twice. It is questionable whether those punishments were ever executed, as both convicts were at large, and thus, condemned in absence. Our sample did not contain free people of color who received death sentences.

Based on the records of the sentences, it seems as if the Governing Council did not make a clear distinction based on gender when imposing punishments. Although fewer women were registered suspects, once condemned, most often a Spanish buck was sentenced as well. Moreover, in case of multiple suspects of mixed-gender, sentences were often equally severe for both sexes as well. The councilors did differentiate in the execution of the sentences, once a woman claimed to be pregnant. The free colored maid Assiba van Lobo and the enslaved Adoe, for instance, both stood trial in 1799 on suspicion of assault. Assiba was initially sentenced to be flogged, to six years of extramural convict labor and to be banned subsequently. Adoe was sentenced to a hexagonal Spanish buck. As in both cases, the accused claimed to be pregnant, the councilors postponed (*surcheren*) the execution of their corporal sentences until they were examined by a medical doctor and a midwife. Assiba's claim turned out to be unsubstantiated, whereas the sources remain silent about Adoe's condition.⁵⁸

Corporal punishments for slaves mainly consisted of Spanish bucks and hexagonal Spanish bucks; the latter implied a Spanish buck that was executed

57 Beeldsnijder, "Om werk van jullie te hebben," 242–247.

58 NL-HaNA, HPCJ, 1.05.10.02, inv. no. 144, f. 7–8, 23–24, 29–31, 115 and 119; inv. no. 665, f. 22–23 and 34–35; inv. no. 860, f. 65–288; inv. no. 862, f. 441–533; inv. no. 864, f. 433–462.

on six different locations around Paramaribo. Flogging was only sentenced sporadically, which can be explained by the fact that flogging was already a daily practice on the plantations. In the second half of the eighteenth century, slaves were more regularly sentenced to a combination of corporal and non-corporal punishments, which usually consisted of flogging or a Spanish buck together with a lifelong banishment or extramural convict labor. The prohibition of the Spanish buck on plantations since 1784 correlates with the increase of the number of sentenced bucks by the Governing Council. Whereas around the second half of the eighteenth century approximately eight percent of the suspects had been sentenced to a Spanish buck, at the end of the eighteenth century no less than eighty percent of the suspects was sentenced to a buck (or in combination with another punishment).

Visible mutilations, such as cutting off ears and noses, were predominantly a seventeenth-century practice but were still sporadically sentenced during the first half of the eighteenth century, especially with regard to poisoning cases. Initially, in 1743, governor Mauricius attempted to diminish the imposition of capital punishments for enslaved culprits. Instead of imposing death sentences, Mauricius suggested to cut off the slave culprits' tongues, and subsequently, to deploy them to lifelong extramural convict labor.⁵⁹ His proposal was not adopted by the Governing Council. However, two years later, a similar proposal was adopted specifically for poisoning (*vergeeven*). In the 1740s there was a series of (attempted) poisonings and numerous slaves had been prosecuted.⁶⁰ The newly-adopted local regulation stated that poisoner slaves were "not afraid of torture nor death" because of their "pagan delusion," and therefore, they had to be punished severely. Slaves that were found guilty would be branded on the forehead and their tongues and both ears would be cut off. Subsequently, they would be condemned to lifelong extramural convict labor. Suspicion of poisoning was already enough to cut off both ears and to be banished for one to two years.⁶¹ The "witch-hunts" appear to have vanished almost completely after the 1740s. Thereafter, poisoning cases are only found sporadically in the criminal record.⁶² With the exception of the practice of branding, sentencing

59 Wolbers, *Geschiedenis van Suriname*, 134–135.

60 A (randomly taken) sample of the year 1742 indicates the significance of the problem, as nineteen out of the twenty-five slave trials concerned poisoning cases. See: I.R. Canfijn, *Database of sample years in Suriname's Criminal Court* (unpublished 2017).

61 Schiltkamp and De Smidt, *West Indisch plakaatboek*, 550–551.

62 However, witch-hunts do frequently reappear among maroon societies during the nineteenth century, see: Hans Buddingh, *De geschiedenis van Suriname* (1995; Amsterdam: Rainbow/Nieuw Amsterdam 2017), 171.

of mutilations by the court disappeared almost entirely in the second half of the eighteenth century.⁶³

Punishments for slaves were more varied than historians have assumed so far.⁶⁴ Over the course of the eighteenth century, a certain shift is observable from severe capital punishments to alternative punishments. In 1750 one can still observe several extreme forms of death sentences that varied from decapitations, burning slaves alive, to the hanging of slaves by a hook through the ribs. At the end of the eighteenth century, the most extreme variations in capital punishments seem to have been replaced by “regular” hangings (although the executed were still beheaded and impaled). Concurrently, in the second half of the eighteenth century, it became also more common to banish or sentence a slave to extramural convict labor (thirteen to nineteen percent of the total sentences). Whereas initially banishment was more common, in the final quarter convict labor seemed to have replaced banishment entirely.

Exonerations occurred much more frequently than has been assumed.⁶⁵ A total of sixty enslaved people in our samples had been acquitted. The majority of acquitted slaves stood trial for suspicion of marronage, but a few of them were also acquitted after having been found guilty of physical violence and/or property offenses. Acquitted slaves could be retrieved from Fort Zeelandia by the owners, in exchange for the incurred trial costs. Other forms of non-corporal punishments were (lifelong) banishments and extramural convict labor at the fortifications or in the leper colony Voorzorg. In case of banishment, a slave would be sold abroad, often in New England, while its revenues—minus the incurred costs—would be handed over to the owner of the convicted slave.

Unsurprisingly, slave punishments were crueler than those for whites and free people of color. The disparity between the sentences of white citizens and slaves can be illustrated at best by means of a comparison of similarly committed crimes. The following two examples concern both physical violence offences. In 1775, Jan Michiel Thiel, manager of the plantation *Vissershoop*, had been condemned to be pilloried, strictly flogged and banned for life, for

63 This is in accordance with the Dutch Republic, where mutilations had been customary up until the seventeenth century as well and seem to have vanished thereafter. C.L. ten Cate, *Tot glorie der gerechtigheid. De geschiedenis van het brandmerken als lijfstraf in Nederland* (Amsterdam: Wetenschappelijke Uitgeverij, 1975), 99–111; Spierenburg, *Judicial violence*, 76–77 and 113–116.

64 Cf.: Beeldsnijder, “*Om werk van jullie te hebben*,” passim; Davis, “Judges, Masters, Diviners,” 960 and 966–971; Van Lier, *Samenleving in een grensgebied*, 131–140.

65 Beeldsnijder, “*Om werk van jullie te hebben*,” 251–252.

lethally shooting his carpenter enslaved called Prins with a musket.⁶⁶ Three months earlier, another physical offense had been committed; this time by a slave against his master. When the enslaved cooper November had cut his plantation manager, J.D. de Jong, with his cooper's axe and had wounded the latter's foot, knee and arm, November had been condemned to be bound on a cross, where his right hand was cut off, with which he was slapped into his face. Subsequently, he had been broken on the wheel until death followed and was beheaded thereafter. His head was impaled on a stake and his cadaver buried underneath the gallows.⁶⁷ The contrast between the two analogous crimes is irrefutable. Whereas the white plantation manager had been condemned to be flogged and banned for killing one of his slaves, the *attempt* of murder by a slave against his white superior was considered sufficient enough to condemn the enslaved to a horrendous death.

The legal grounds on which slaves were sentenced more severely than whites were embedded in the penal provisions of certain local regulations.⁶⁸ An important factor that determined the severity of the crimes, was the role of the white victim. Crimes in which whites fell victim to violence, theft or uprisings of slaves, had been particularly severely punished. Also in case of free colored suspects, an offense perpetrated against a white was punished strictly. Especially manumitted people—compared to freeborn people of color—were considered obsequious with respect to whites, and punished accordingly. According to the principle of *obsequium et reverentia*, they were constantly reminded of their moral obligation to abide by the rules due to “the irredeemable debt that they owed towards the white community who had granted their freedom,” at the risk of (anew) deprivation of their freedom in case of serious infringement.⁶⁹ Conversely, the relatively moderate punishments for whites signify the limited spectrum of punishments that the Governing Council could impose, especially in cases against enslaved victims. Obviously, it was much harder to prosecute a white person for harming a slave than the other way around. As hardly any acts of injustice against slaves had been criminalized, it was difficult to find sufficient legal grounds to prosecute a white.

Under circumstances, plantation owners could also request the Governing Council to execute slaves' punishments on the plantations in order to set an example. In 1750, Petrus IJver, owner of the plantation *d'Eendragt* and reverend

66 NL-HaNA, HPCJ, 1.05.10.02, inv. no. 92, f. 38–39, 261–262, 268 and 282; inv. no. 828, f. 61–88.

67 Ibidem, inv. no. 91, f. 706–707; inv. no. 92, f. 4–5; inv. no. 827, f. 439–469.

68 Schiltkamp and De Smidt, *West Indisch plakaatboek*, *passim*.

69 Canfijn, “In search for justice,” 130–151; For quote see: Schiltkamp and De Smidt, *West Indisch plakaatboek*, 508–510 and 726–727.

of the Dutch Reformed Church, had requested to punish his enslaved Cezar on his plantation. Cezar had been found guilty of killing his plantation director Hoppe with a knife. After murdering him, he had fed Hoppe's corpse to the pigs. IJver's request had been granted and Cezar was transferred to d'Eendragt, where he was tied to a pole, burned alive, and subsequently, beheaded and his head impaled.⁷⁰ Even more strikingly, in 1722, Gerard de Vree had requested to posthumously mutilate the body of the enslaved Gallant after the latter had attempted to poison seven of his fellow slaves. When De Vree had tried to interrogate Gallant, he had fled into the waters and drowned himself. Not only was De Vree's request granted, the Governing Council also decided that in future cases of suicide, planters were allowed to do "whatever they deemed necessary" with the deceased bodies in order to deter the rest of enslaved population from committing suicide.⁷¹

Other examples of the deterrent character of slave justice have been the displaying of the bodies of executed slaves and the impalement of their decapitated heads on the shoreline next to the gallows or on plantations. The execution of penalties underneath the gallows, sometimes executed with a noose around the culprit's neck, also contained an educative element: it symbolized the punishment that the culprit had actually deserved—namely death sentence—but from which he or she had been granted clemency due to a certain mitigating circumstance (*poena proxima mortis*). In addition, in some instances, the Governing Council incorporated symbolic "mirror punishments" into its sentences as well. This form of redistributive justice implicated that the nature or means of the crime had been incorporated in the nature or means of the corporal punishment.⁷² The enslaved Cojo, for example, who had been found guilty of causing Paramaribo's big fire in 1832, had been condemned to be burned alive at the place where he had initially set fire.⁷³ The previously mentioned enslaved November, who had cut his plantation manager with a cooper's axe had among others been condemned to the amputation of his right hand, with which he was beaten in the face. The Governing Council had deliberately chosen to amputate his right hand because that particular hand had harmed his manager. Other forms of mirror punishments were Achilles tendons that had been cut through or amputations of legs, as a result of repeated marronage.

70 NL-HaNA, SvS, 1.05.03, inv. no. 142; NL-HaNA, HPCJ, 1.05.10.02, inv. no. 801, f. 23–58; Wolbers, *Geschiedenis van Suriname*, 846.

71 NL-HaNA, HPCJ, 1.05.10.02, inv. no. 9, f. 237–238.

72 Wijnholt, *Strafrecht in Suriname*, 28–29.

73 Davis, "Judges, Masters, Diviners," 980–984.

From the late 1820s legislators in the Netherlands had already tightened their grip over colonial affairs, but abolitionist criticism resulted in further regulation regarding the quality of food, medical attention, housing and workload, and punishment. The colonial report of 1854 and 1855 provide many details of how the state intervened in the master-slave relationship in the colony, especially via the courts. Compared to the eighteenth century, punishing the enslaved became more strictly regulated while it was removed from the main courts into specialized forums of a lower order. In 1854, the regular law court dealt with 123 civil cases and 16 criminal cases, all of which were appeal cases from the Court for Minor Cases. That year the Court for Minor Cases adjudicated 296 cases, of which 218 were civil cases and 82 were criminal cases.⁷⁴ In those years, *none* of the trials before the Court of Minor Cases regarded the enslaved and neither did they face the regular court.⁷⁵ Because of the introduction of the *Piket der Justitie* and the *landdrosten* (cf. magistrates) in the plantation areas, the slaves were increasingly kept out of the regular court system. In 1854 and 1855 none of them appeared in either of these two courts.⁷⁶ The punishment at the *Piket* was also registered in excruciating detail. In 1854 a total of 396 people received punishment from the state; 186 plantation slaves, 210 were privately owned. A year later the police punished 282 enslaved people; 197 were privately owned, 85 were plantation slaves.

6 Conclusion

Slaves had an ambivalent legal position that balanced between those of “disempowered persons” and “goods.” Based on the Roman *persona-res-dominium* paradigm, slaves were legally considered “unfree” humans that could not dispose of their own bodies or lives but, in contrast, had to fully obey the (capricious) will of their superiors. The maintenance of formal criminal procedure

⁷⁴ *Verslag van het Beheer* (1854), 8–9.

⁷⁵ From 1828, the Court for Minor Cases in Suriname adjudicated cases that were both civil and criminal in nature as long as they did not exceed a sum of f 300,- for civil cases, and no more than a prison sentence of 10 days, a fine of f 200,- or in the case of the enslaved, a punishment no more than 100 lashes. *Reglement voor de regtbank van kleine zaken*, artikel 1 (1828).

⁷⁶ The prison in Fortress Zeelandia saw 659 different prisoners throughout the year, 13 of which were in the jail at the end of the year. At the fortress Nieuw-Amsterdam, which was where inmates performed forced labor for the upkeep of the defenses there were 116 prisoners that year, with 97 there when the annual accounts were closed. *Verslag van het Beheer* (1854), 9.

seems to be a red thread throughout the history of the legal system of Suriname. Although the practice of the court was utterly unfair, racialized, disparate and biased (also when compared to other sections of the Surinamese population) we did not find that Surinamese justice was completely arbitrary. By studying the practice of the court for a long period, we argue that colonial justice was more thorough than contemporary observers made it out to be. Legal protection for slaves was lacking almost entirely and injustices against slaves were hardly criminalized by law. Punishments were crueler for slaves than for whites and free people of color. Especially crimes in which whites fell victim to violence, theft or uprisings of the enslaved, were particularly severely punished. However, there are no signs that the Governing Council functioned as a kangaroo court. Irrespective of the suspect's social status, religion, ethnicity or racial identification, every suspect had access to basic principles during the process of adjudication. Allegations were examined (to some extent) and defendants were interrogated before a verdict was reached. Witnesses that were put forward were heard and no punishments were meted out without an indictment and condemnation. Moreover, the severity of the punishment depended on a weighing of mitigating or aggravating circumstances. The Governing Council took its role seriously and as a result chose to adhere to proper procedure.

The procedural diligence has resulted in a serial documentation of the brutal violence enacted by the Governing Council. The data cannot lead to any other conclusion than that its violence against enslaved people was extreme in scale and intensity. However, the exaggerations by contemporaries and historians regarding the indiscriminate use of capital punishments, must be corrected. Looking at the trend over the years, we find that the situation was far from static. Modes of punishments varied and the number death sentences was lower than we expected. Over the course of the eighteenth and first half of the nineteenth century, a shift can be observed from severe capital punishments to alternative punishments, such as banishment and extramural convict labor. In addition, capital punishments became relatively more "moderate" over time. As the majority of the governing councilors were planters themselves, this shift did not happen overnight nor without contention. Still, from the second half of the eighteenth century, the Governing Council gradually restricted domestic jurisdiction, and the unrestrained brutality of its repertoire of punishment.

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Appendix

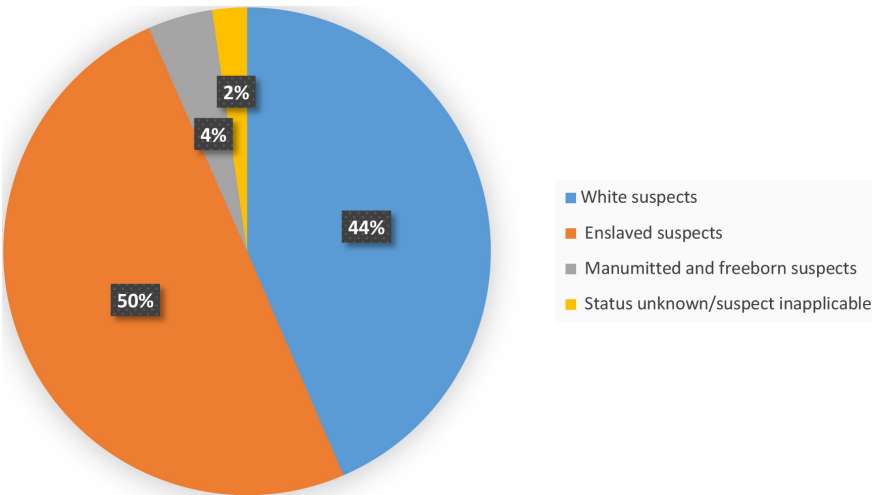


FIGURE 3 Population composition of suspects (n=742)
I.R. CANFIJN, *DATABASE OF SAMPLE YEARS IN SURINAME’S CRIMINAL COURT*

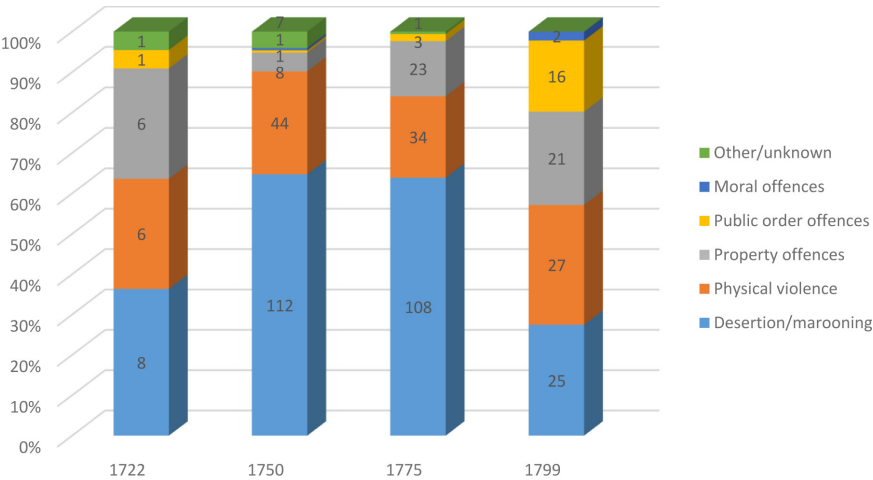


FIGURE 4 Offences of enslaved defendants per year (n=455)
I.R. CANFIJN, *DATABASE OF SAMPLE YEARS IN SURINAME’S CRIMINAL COURT*

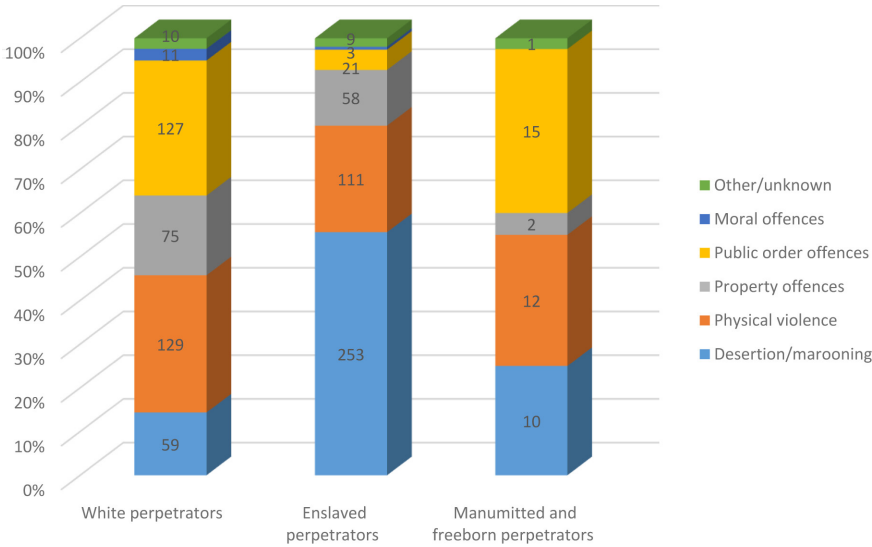


FIGURE 5 Alleged offences per population group (n=906)
I.R. CANFIJN, DATABASE OF SAMPLE YEARS IN SURINAME'S CRIMINAL COURT

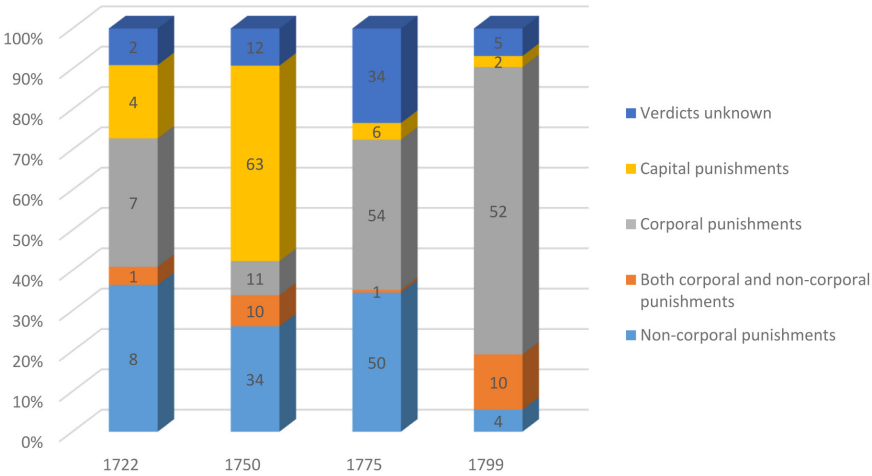


FIGURE 6 Verdicts for enslaved defendants per year (n=370)
I.R. CANFIJN, DATABASE OF SAMPLE YEARS IN SURINAME'S CRIMINAL COURT