Threads of the legal web: Dutch law and everyday colonialism in eighteenth-century Asia

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Dutch law and everyday colonialism in eighteenth-century Asia[1]

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Introduction

In May 1788 Michiel Gomes died bankrupt in Batavia (present-day Jakarta). Six years earlier this Sinhalese man had left his family behind in Colombo, to travel 3000 kilometres to the highest appellate court of Dutch Asia.[2] Back home he had lost the trial before the Dutch *Raad van Justitie* against his brother-in-law Nikolaas Fonseka, owing him over 2000 guilders. When he had arrived in Batavia, Michiel Gomes surprisingly pushed his appeal over the expiration date. In the meantime he pledged some of his property (including two slaves), took his money and left creditor Fonseka frustrated back on the island of Sri Lanka.[3]

In the course of seventeenth and eighteenth centuries the Dutch East India Company (VOC) founded a variety of legal institutions in its factories and colonies, with Company servants acting as judges and persecutors. While these *Stadsraden, Landraden* and *Heemraden* carried distinctive Dutch names, in their daily operation they were highly localized institutes, serving litigants all across the religious and ethnic spectrum. Civil cases on debts, divorces and inheritances demanded an understanding of local customary laws. Despite the fact that the VOC set up these institutions to ensure social control, they simultaneously functioned as sites of mediation and conflict resolution in local societies (Schrikker, 2015; Rupesinghe, 2016). Furthermore, these Dutch judicial bodies operated within and alongside existing legal orders in local society. The story of Michiel Gomes illustrates the thorough intertwinement of legal pluralism and everyday experience in the eighteenth-century Dutch colonial context: why did two Sinhalese men opt for a Dutch court to settle their family feud? Why did Gomes ignore his appeal deadline after travelling across the Indian Ocean to Batavia? And what do intercultural processes such as these reveal about the social function of colonial law courts?

Over the past twenty years law and legal practice have gained prominence in the study of colonial and global history, with Lauren Benton's work on legal pluralism

and colonial cultures as a crucial incentive (Benton, 2002; Benton, 2009; Benton and Ross, 2013). Research has gradually shifted from a more descriptive focus on rules and regulations to a more dynamic perspective on the use of legal institutions as means of control and resistance. Scholars used the prism of legal pluralism to emphasize the imposition of difference in colonial empires, while others have focused on international law- and boundary-making as instances of colonial exertion of power (Benton and Clulow, 2015). In this contribution the concept of legal pluralism itself is not the object of enquiry, but rather used to describe the intersection of and interaction between indigenous and colonial legal bodies and norms. By focusing on the users of justice as actors within the legal web that the VOC created, this contribution will provide insight into legal pluralities at work, both at the institutional and normative level. This approach is inspired by the basic question raised by John Comaroff of why colonial regimes put in place such institutions and kept them operational, a phenomenon which he called 'expensive, expansive and far in excess of functional requirement' (Comaroff, 2001). The real challenge, he pointed out, remained to understand how these institutions worked in day-to-day practice and shaped society–state interaction. In 2015 Yannakakis critically questioned the way historians so far have employed the – European-produced – archives to study law-making in these courts. More particularly, she called for a deeper understanding of the local in the process of crafting legislation and in legal practice, even when engaging in global debates on colonial law (Yannakakis, 2015).

This contribution aims at doing just that by studying the social function of the Dutch legal system in eighteenth-century Asia in general, and the everyday interaction of local populations with colonial normative institutions in particular. In contrast to its Spanish, British and (to a lesser extent) French counterparts, studies of legal practice in Dutch colonial Asia are more limited. The Dutch-Indonesian historiography does offer a number of important leads though. On the one hand the debates among the colonial legal scholars of the early-twentieth-century school of Van Vollenhoven have left a strong influence on this literature (Hooker, 1975; Ball, 1982; Burns, 1989). They focused on law and regulation to reconstruct local customary law (*adat*) among diverse cultural groups in the archipelago. This rich scholarship has highlighted the pluralistic character of both the procedures and laws at work in Indonesian courts, but in general questions were not raised about the practical workings of the law in court and society in the colonial past. Social historians on the other hand have employed early modern legal cases to reconstruct the diverse social relations in port cities such as Batavia, the Cape and Makassar, bringing to light the wealth of everyday societal information these sources contain (Ross, 1983; Worden, 1985; Niemeijer, 2005; Sutherland, 2009). The work of Kerry Ward on the forced migration of criminal convicts and political exiles has showed the extent to which the VOC employed its spatial network across the Indian Ocean to create an effective punishment regime (Ward, 2009). However, the actual function of Dutch colonial law in local societies has received little attention so far.

For too long historians considered colonial law predominantly as a means to regulate the social and political order, ultimately to sustain the empire itself (Roy and Swamy, 2016; Yannakakis, 2015). This contribution therefore aims to set

an agenda for a socio-legal approach to Dutch colonial law in the early modern period, with a focus on civil cases. Conceptually this research was inspired by Dinges' concept of 'uses of justice', to understand how legal courts took root in a society where varieties of dispute resolution existed side by side (Dinges, 2004). In addition, Franz and Keebet von Benda-Beckmann further strengthened our perspective in the horizontal process of law-making with their term 'forum shopping', which they coined to describe their observations of the contemporary interplay of the *adat* and Islamic law among Minangkabau region in West Sumatra. They witnessed a highly dynamic process of interaction between different legal cultures, without one of them imposing on the other. Litigants reverted to either one of these according to their specific needs and societal position (von Benda-Beckmann, 1981; von Benda-Beckmann and von Benda-Beckmann, 2012). The basic question we raise – 'Why did people in Asia opt for Dutch colonial courts?' – mirrors in some way the work of Karen Barkey. In her excellent article on the workings of legal pluralism in the Ottoman Empire she analyzed why Christians and Jews used Muslim Qadi courts to settle their disputes. Barkey first shows that the pluralistic character of the Qadi courts made this possible, as it included secular and local customary law. Secondly, she discusses the role that the courts had in authentication of transactions of commercial goods and land. And thirdly she argues that the Qadi courts could have particular advantages for litigants who preferred to escape the social hierarchies or normative pressures within their own community (Barkey, 2013).

Building on Barkey, Dinges and von Benda-Beckmann, we view the litigators in eighteenth-century Dutch Asia as consumers who had options to settle their civil disputes. This allows us to explore the choices they make both in terms of the venues they utilize and the strategies they pursue. This, in turn, necessitates a re-thinking of the institutions themselves, as they derived a substantial part of their power and legitimacy by structuring and accommodating consumers' choices. This contribution therefore argues for a socio-legal approach that conceptualizes colonial courtrooms not only as instruments of social control, but also as public stages where colonial inhabitants could use them to enforce a social sanction on their peers, and at the same time renegotiate their own social standing within local society.

In order to do so two hundred civil court cases and notarial records from the seventeenth and eighteenth centuries in the Sri Lankan and Indonesian VOC archives are studied. The primary focus is on the judicial courts of Colombo and Makassar (South Sulawesi), but sample material from Batavia and Ambon is introduced as well. Although the analysis relies for the larger part on the qualitative study of several court cases, quantitative explorations on the users of these courts corroborate these first findings. The Indonesian and Sri Lankan court documents provide us with an entry into the world of colonial legal practice, and thanks to existing studies by regional experts they could be thoroughly contextualized within a broader socio-institutional context. In an effort to answer the questions raised above by the case of Michiel Gomes, this article addresses three themes: the first part zooms in on the evolving relationship between Dutch colonial courts and local law systems,

both in terms of overlapping jurisdictions and in terms of interaction of norms. The second part highlights the processes of colonial bureaucratization and registration that reinforced the emergence of a Dutch legal culture across Asia. Finally, the focus will move to the particular strategies of local litigators in navigating Dutch institutions to mediate local conflicts on different sides of the Indian Ocean.

Legal pluralism, encroachment and codification

From the early seventeenth century onwards the Dutch East India Company struck root in diverse cultural environments in monsoon Asia, and the character of the Company's presence in any locality could differ greatly. The Dutchmen acted as mere trading agents in places like Surat in North-West India and Canton in South China, or they controlled fortified port towns like Nagapattinam in South India and Makassar in South Sulawesi. Elsewhere in Asia they claimed territorial sovereignty, and set up fiscal and legal structures geared to ensure revenue from land and labour, with examples such as Banda, Sri Lanka, the Cape and increasingly so Java. Wherever the VOC set up normative institutions, they had to account for both existing native and Portuguese legal heritage (e.g. Cochin and Colombo). These VOC civil courts therefore functioned differently from one region to another, without an absolute blueprint; in addition, they were highly dynamic as the Dutch further encroached upon local societies over time. However, within this moving web of legality that the VOC spanned across the Indian Ocean, a fixed judicial hierarchy existed between the several minor and more central localities, with Batavia as the centre of VOC power in Asia. While the numerous port cities had *Civiele Raden* and appellate *Raden van Justitie* of their own, the *Raad van Justitie* in Batavia functioned as the ultimate court of appeal in Asia.

The legal history of the VOC displays two contradictory tendencies. On the one hand there were attempts to centralize and universalize judicial practices, through the central publication of ordinances (*plakkaten*) and through authorization of Roman Dutch law from Batavia to the factories and settlements (van Kan, 1940; Ball 1982; van Wamelen, 2014). On the other hand these outposts proclaimed ordinances themselves in response to specific norms and practices, and included codification and integration of local customary laws. Such local ordinances were printed not only in Dutch, but also in the relevant local languages (Hovy, 1991). The legal web that the VOC created through its institutions and its Batavian ordinances might have taken the appearance of a relatively uniform legal space; it was in fact a network of plural legal practices that were highly localized in function. To complicate matters, VOC institutions never operated in a legal vacuum, but rather alongside other local normative institutes of conflict mediation, such as royal courts or village councils. The process of law-making in the Dutch empire in Asia should therefore be understood not only as a vertical process of bottom-up and top-down interaction, but also as a horizontal process where different normative institutions operated simultaneously in the social, cultural and religious sphere (Tamanaha, 1993, 2008, 2010).

Historic examples of the way such legal pluralities played out in the early modern Indonesian archipelago are found in Wellen's insightful study of Wajoq in South Sulawesi, a coastal mercantile polity bordering Makassar. Her research is built upon on palm leaf manuscripts in the Wajorese language (*lontara*), complemented by the VOC archives. She argues convincingly that the commercial orientation of this sultanate and its diaspora resulted in a strong legal culture geared towards regulating local commerce. She extensively discusses the Wajorese law code (*Ammana Gappa*), and argues that conflict mediation among the Wajoq functioned well. Interestingly though, Wellen found evidence that Wajoq merchants also made use of legal institutions in neighbouring Dutch Makassar, but not for the intra-Wajoq disputes. In cases over debt the colonial *Raad van Justitie* in Makassar facilitated litigation between Wajoq merchants and parties of different cultural backgrounds, such as Makassarese or Chinese traders, and often involved trade partners on other islands in the archipelago. The VOC court in Makassar was used in particular in such cross-cultural and -regional litigation (Wellen, 2014).

This does not necessarily mean that the laws applied by the Dutchmen presiding in this Makassarese court were always Dutch. In 1785 the village chiefs and family members of two young boys, Tapan and Tjanga, accused several local men of abducting the two boys and selling them off as slaves. More than a month later the children were found living enslaved in Makassar in the house of a European man. As the village fell formally under the authority of the Company and the culprits were not from the village, the chiefs had asked the Company to apprehend them. Once caught, they explicitly asked the Dutch councillors of justice to try the men according to local custom, which they did accordingly. While it was rather unusual that Dutchmen chased slave raiders on behalf of local families, this case exemplifies local people using justice at Dutch legal institutions, and it highlights the fact that these colonial courts could apply – even uncodified – customary laws in an ad hoc manner.[4]

In fact, the Batavian ordinances also reveal fragmented codification of Chinese, Muslim and Hindu family law that was published in the mid-eighteenth century, suggesting a degree of cultural adaptation at work in these courts. Interestingly, these Javanese codifications travelled the archipelago and beyond, with the Muslim code even sent to Colombo (Schrikker, 2015). Thus, even the Batavian ordinances then were not only the product of top-down regulation enforcement, but were also shaped in an interactive process within a Dutch legal web that spanned across the Indian Ocean. Dutch historiography still remains somewhat unclear on how this legal knowledge was produced and who exactly had agency in its production. Research on British India, however, has shown how particular groups in local society benefitted from the collaborative act of legal codification (Cohn, 1996). The same seems to have been true in Dutch Jaffna (North Ceylon), where the codification of Hindu law (*Thesewalamai*) in 1706 served the interest of the Tamil elites of the *Vellalar* caste (Arasaratnam, 1981; Schrikker and Ekama, 2017). A second question that needs to be answered is whether such codifications were actually used in court, and by whom; a first survey of civil cases from the Batavian

Schepenbank archives and the Jaffna *Landraad* suggests that little actual reference was made to these codes in court proceedings.[5]

When the VOC took over territorial power beyond the walls of cities such as Batavia, Makassar or Colombo, the Dutchmen became further entangled in local legal cultures. Java specialist Mason Hoadley has researched the encroachment of Dutch legal culture in the eighteenth-century Priangan region south of Batavia, which resided under the Mataram sultanate of Ceribon (Hoadley, 1994). For legal historians Ceribon is an interesting case, as here too the VOC officials had codified local custom (*Pepakem Ceribon*) in the 1760s. Yet, Hoadley did not focus on the *Pepakem Ceribon* as such, but instead produced a detailed study of legal cases and petitions from the surroundings of Ceribon in the eighteenth century, when the power of the Mataram-court over Ceribon dwindled in favour of the Dutch.[6] Studying a large number of civil and criminal cases from the Ceribon region scattered throughout the VOC archives, Hoadley questioned to what extent the VOC built on local legal structures, and to what extent this intervention resulted in institutional change. In the end Hoadley chose not so much to focus on whether or not local substantive laws were in place (i.e. *Pepakem Ceribon*), instead he found that procedural law witnessed the most striking changes over time. In the early eighteenth century the Dutch developed the practice in Ceribon of organizing a *Landraad* or rural court, which would meet on a yearly basis to settle land and other civil disputes and to try minor criminal offences. Other offences were tried by the Dutch resident in Ceribon, assisted by local advisors. Hoadley argued that over time the local judge (*Jaksa*) lost ground and became a marginalized figure in the court; instead the local regents (Javanese nobility) closest to the Company gained positions as advisors in legal cases. This process resulted in the empowerment of particular noble families. Ravensbergen has shown how this process continued in the nineteenth century and how the actors operating within the institutions were constantly being balanced out vis-à-vis each other and vis-à-vis the state and society (Ravensbergen, 2018). Rupesinghe highlights a similar power play at work between the VOC and the *mudaliyars* (headmen) in the *Landraden* in Galle (southern Sri Lanka) in the eighteenth century (Rupesinghe, 2016). The work of Hoadley, Ravensbergen and Rupesinghe warrants the inclusion of the local actors involved in the operation of the courts in the analysis of the social function of colonial courts in local societies.

This discussion of legal pluralism, codification and colonial encroachment underlines once more that the VOC courts never operated in a legal vacuum. The Dutch were well aware of this, by both translating and codifying indigenous texts and practices. Codified customary laws like the *Ammana Gappa* in Makassar, *Pepakem Ceribon* in Priangan and the *Thesewalamai* in Jaffna (Ceylon) give an impression of the norms at work in non-colonial institutes as well, a theme that certainly requires further comparative research. At the same time such norms were also shaped in interaction with the colonial institutions, as we saw in the Makassarese case against the slave raiders. The VOC courts and offices of registration provided for yet another arena for potential litigants. Thus, the indigenous

agency for which Yannanakis calls should not only be looked for in the production of codified law, but also in the way the Dutch courts were used by local people in relationship to alternative venues of conflict settlement, very similar to Dinges' concept of 'uses of justice'.

Colonial institutions, bureaucratization and the creation of a Dutch legal culture

However, the indigenous agency interacted with the historical evolution of the colonial law system, and their use of justice adapted to changing circumstances. A 1773 case-study from Dutch Ceylon illustrates the internal dynamic of the Dutch legal institutions, with a special role for the growing bureaucratization. In that year Sinhalese villagers Kierie and Poentje Nainde appeared before the *Raad van Justitie* in Colombo, the highest appellate court in Dutch Ceylon. They wanted to take up their mother's appeal from thirty years earlier, to reclaim her husband's land. After their father's death in 1745 another villager, Wijeendre, had somehow obtained this land with an official letter of donation from the Dutch governor, despite the fact that the Dutch land registration of 1721 (*thombo*) had pointed out Kierie's and Poentje's father as the owner. Their mother had gone to two Sinhalese heads of the district to solve this problem (both the *coraal* and *mudaliyar).* But after they had become aware of Wijeendre's Dutch letter of donation, they had declined jurisdiction and told the mother to take the case to the colonial *Landraad*. In 1746 the mother lost this trial, but she wanted to take the case before the appellate *Raad van Justitie*. However, first the rural unrests leading up to the Kandyan wars (Dewasiri, 2008) and later on her passing away made sure that this appeal would never materialize. However nearly 30 years later Kierie and Poentje continued their mother's effort. They insisted that the letter of donation was handed out by the Dutch under false pretences back then, and tried to counter Wijeendre's children with an authenticated transcript of the 1772 Dutch head and land registration (*thombos*) to prove their ownership once and for all.[7]

Similar to the Ceribon example the strengthening and re-instalment of *Landraden* in the 1740s by Ceylonese governor van Imhoff went hand-in-hand with a renewed Dutch interest in this pre-existing land registration (*thombos*). Both were a means to an end for the Dutch East India Company in their search for a more efficient system of land revenue and labour extraction (Dewasiri, 2008; Rupesinghe, 2016). However, the growing importance of the *thombos* for the Dutch was not merely continuing colonial encroachment on everyday village life. This increased Dutch attention for land registration strengthened the legal agency of those same villagers, who could invoke it as evidence in a lawsuit. Kierie and Poentje referred back to a register from 1721 to prove their father's ownership of the land; and at the end of the proceedings they brought in the 1772 head and land *thombos* as a *deus ex machina*. Wijeendre's children on the other hand built their case on the Dutch letter of donation (*giftebrief*), which had caused the local chiefs to redirect the Sinhalese feud to the colonial court, rather than settling it themselves.

The growing importance of the *thombo* registration on Ceylon must be understood within a broader framework, as historians often characterize the Dutchmen in Asia for their rationalistic craze to regulate daily colonial life, while cataloguing and categorizing the inhabitants of their factories and colonies (Raben, 1996, p. 77). The land registration and the *Landraden* were thus but one part of a larger network of normative colonial institutions, fond of thorough registration. The Protestant Church can be seen as the other backbone in the Dutch legal culture of eighteenth-century Ceylon, as their registered marriages, births and deaths could therefore produce evidence in court. Rural Sri Lankans who had access to the Protestant Church would consequently also have a better chance at success in litigation than others. Local claimants tried to get their share of an inheritance with an official proof of marriage, or hoped to persuade the court to deem an inheritance invalid because a baptism was not registered before the Church (Kok et al., 2018).

The influence of these normative institutions ran parallel with a growing emphasis on written over oral evidence in court, as Hoadley already noted for the eighteenth-century sultanate of Ceribon (Hoadley, 1994). For Jaffna too preliminary research strengthens this hypothesis, as in the surviving legal documents of the *Landraad* from the 1740s and 1750s the debate most often came down to a discussion over the evidence. The *Thesewalamai*, codified some four decades earlier, was not explicitly referred to; apparently the court continued to rely on the advice of local members of the *Landraad* on questions about local customs. The available court cases often revolved around discrediting witnesses and each other's evidence. The local Tamil record keepers, or schoolmasters as they were called, of the Dutch Reformed parishes were key persons in the production of this required evidence, be it over slave ownership or land transactions. They were called schoolmasters because they were appointed at the village church to teach children the catechism. But as village recordkeepers they were crucial figures and provided access to justice, through registration and authentication of privately created *ola* (palmleaf) deeds. This situation will surely have given them a powerful position in the parish.[8]

Whereas these *Landraden* mainly served villagers in their uses of justice with the *thombos* as crucial written evidence, the legal courts in the Company port cities catered towards the need of urban and mercantile communities. The *Schepenbank* in Batavia for example was hearing court cases and simultaneously functioned as a notarial office, dealing with the registration of property through the authentication of wills, property transactions and manumission deeds. In addition, Batavia had registered notarial offices as well, that expanded up to six in the middle of the eighteenth century. The extensive notarial records suggest that there was good business in registering. These notarial records were used by many different groups in Batavian society, the growing Chinese population in particular (Kanumoyoso, 2011). A first sample survey into the civil cases from the *Schepenbank* in Batavia in the 1770s–1790s shows that these notarial records, but also *onderhandse* (private) deeds and wills on paper and in different languages and scripts, were used in court as evidence. Here too, just like in Jaffna, the larger part of the legal process was dedicated to discrediting the authenticity of the documents of the opposite

party. Colonial law in Batavia has to be understood in relation to the local notarial practices and the functioning of other institutes involved in forms of registration, such as the parish and the *wees-* and *boedelkamers*. In each colonial setting such inter-institutional relationships will have functioned differently. A question to be further researched is to what extent Dutch practices in registration replaced, complemented or influenced the practice of other local institutes that regulated people and property, such as the mosque or the Chinese council.[9]

The notarial archives of Ambon already point towards a mutual reinforcement between existing registration practices in South-East Asia and the bureaucratization of Dutch institutions. Among the Ambon notarial papers we found transaction notes written in Malay and authorized by the local raja and village elders. Some time afterwards (up to years) these notes were brought before the Dutch notaries, with the request to register and authorize such notes 'for eternal memory'.[10] Boomgaard has argued that registration of debt was already common legal practice in South-East Asia in the early modern period (Boomgaard, 2009). These pre- and co-existing traditions could explain why local inhabitants easily found their way to the Dutch notarial offices in the first place. The importance of registering all sorts of civil documents before Dutch colonial institutions (and notaries) thus seemingly increased all over Asia as the eighteenth century progressed, tapping into existing local practices. In a way this mirrors the process that Barkey has observed for the Ottoman Empire, when she argues that the capacity of the courts to authenticate and authorize transaction deeds was one of the reasons that drew non-Muslims to the Qadi courts (Barkey, 2013).

Navigating the threads of the Dutch legal web

Turning to Dutch colonial institutions thus seems to have been a particular strategy of local inhabitants, reinforcing the hypothesis to study them as users of justice. A first survey of the 111 cases brought before the *Raad van Justitie* in Colombo between 1758 and 1788 reveals that local inhabitants such as Sinhalese, Chetties and Moors made up the lion's share of litigators in Dutch Ceylon, even before this highest appellate court of the island.[11] This high degree of localization of the Dutch legal institutions in Ceylon is perhaps surprising, given the fact that the last available Dutch census indicates that these groups only made up about 10 % of the 3352 inhabitants of the fort and the Old Town in 1694. However, even back then the immediate hinterland, known as Four Gravets, were already social melting pots for Sinhalese and other settlers, such as Chetties, South Asian Muslims (called Moors by the Dutch) and manumitted slaves from South and South-East Asia. Throughout the eighteenth century their number probably rose considerably in these suburbs, where the (partial) liberalisation of the trade ensured a growth of especially the Muslim and Chettiyar communities (Raben, 1996).[12]

In Colombo both the local Sinhalese as well as the Chetty and Muslim traders thus made conscious use of the Dutch legal system in Ceylon not just to fight oppression by the colonial power, but also as a third-party mediation to

resolve inherent local disputes, as in our introductory case of the Sinhalese family feud. Between 1758 and 1788 the *Raad van Justitie* was confronted with a third of all suits where both accuser and defendant were not directly employed by the Company, nor bore Dutch last names. Gomes and Fonseka themselves were avid 'return customers' of the Dutch courts. It turns out that this dispute between two brothers-in-law was not the first feud of the Gomes–Fonseka family that was brought before the *Raad van Justitie*, starting with a lawsuit over the inheritance of Michiel's great-grandfather in the late 1740s. Furthermore, Nicolaas Fonseka returned to the *Raad* ten years later claiming money from Sinhalese and Chetty traders.[13] And after Michiel's passing the family proved to be keen users of justice, when his nephew Joan Fonseka sued the executors of the estate of a late captain Jongbloet in 1793 over a debt.[14]

The *Schepenbank* in Batavia corroborates the Ceylonese story of a high degree of localization, with litigators from a great variety of backgrounds involved in legal disputes, both inter- and intra-community (Blussé, 1986; Raben, 1996; Niemeijer, 2005). In the course of the eighteenth century the population of Batavia and its *Ommelanden* doubled to about 150000 inhabitants, with an exponential growth outside of the city walls. While the numbers of Europeans gradually declined, the share of various groups such as the Chinese, Malay and (former-) enslaved people from the archipelago and the broader Indian Ocean region grew considerably as the century progressed (Raben, 1996). The costs of litigation in Batavia were relatively low, and access to justice was therefore not confined to wealthy entrepreneurs alone (Niemeijer, 2005). In this vibrant ethnic melting pot it was therefore not uncommon that manumitted slaves sued their former masters over property and that Muslim women fought their in-laws over the inheritance of their husbands' estates.

Makassar too functioned as a forum for cross-cultural litigation, even if the relative share of non-Europeans in this court was somewhat lower than in in Colombo and Batavia. Of the litigants involved in the 76 remaining civil cases before the *Raad van Justitie* for the period 1727–1796, around two thirds were European, followed by the Chinese, Makassarese and other local litigants.[15] Makassar was a relatively small Dutch Company town, with about 2500 inhabitants in the fort and nearby service community of Vlaardingen throughout the eighteenth century. However, while its 'European' population consisting mainly of Company officials, their families, Burghers and slaves remained relatively stable at 500 to 700, the Chinese and Malays in the neighbouring kampong rose from about 6000 in 1730 to over 7500 in 1790 (Sutherland, 2010). Sutherland discusses in particular a number of cases from this expanding Chinese community, pointing out that despite the fact that this community had its own provision for conflict resolution, its members increasingly used the VOC courts to settle their disputes. Sutherland puts forward two explanations for this situation that are reminiscent of Barkey's study on the Qadi courts. One is that the VOC institutes could have been attractive for relative outsiders in the communities, or people of lower descent. A second is that because cases brought forward often included commercial transactions in other ports in the

archipelago and China, the VOC network could be used to provide evidence from these different spaces (Sutherland, 2009). The Makassar cases involving Wajoq merchants discussed above further stresses this cross-regional aspect as a particular element in the use of VOC justice (Wellen, 2009, 2014).

Cross-regional litigation was also at work in the Colombo *Raad van Justitie*, and pulled in litigators from the Indian coast. In the summer of 1772 the Dutch court of Colombo received an indictment of Muslim trader Rama Najeker of Nagipattinam, a town on the Coromandel coast. Via his local representatives Rama Najeker claimed 5000 kilos of areca nuts from Frans Quintaal, a businessman from French Pondicherry who resided in Colombo at the time. Over the next year and a half the members of this Dutch court who dealt with this commercial dispute encountered Sinhalese *mudaliyars* (chiefs), Muslim moneylenders, African slaves, Tamil translators and Company personnel, connecting coastal towns under both French and Dutch colonial rule in India and Sri Lanka.[16] Sirks and Hallebeek suggest that the conflict played out in this VOC court because of the role of the VOC in registered transactions and cross-regional remittances (Sirks and Hallebeek, 2010).

This last element points to the importance of the Dutch web of legality that spanned across the Indian Ocean, and probably attracted commercial communities to the Dutch courts. However, the existence of such a legal web equally allowed individual litigators to follow the transregional threads all the way up the centre. Returning to our opening story, the Sinhalese Michiel Gomes went above and beyond the Dutch Ceylonese institutions by appealing in Batavia, seemingly without hesitation and immediately after his sentence was formulated in Colombo. Although some may consider it a desperate tactic to escape his creditors, Gomes showcased his agency as a Sinhalese to adopt an inherent foreign legal system and made effective use of the existing Dutch system of appeal. Gomes was certainly not the only one who climbed the legal ladder up to Batavia; in 1793 a woman named Helena who was claimed as slave by a Chetty trader appealed to Batavia, after the *Raad van Justitie* in Colombo decided against her (Schrikker and Ekama, 2017). The Dutch legal web then was not only shaped by the Batavian ordinances that travelled the Indian Ocean to keep control over the diverse populations under Dutch rule; individual litigators could also use these inherent foreign rules and regulations to further their own interests before VOC courts, which in turn contributed to the further expansion of the Dutch legal web.

Conclusion

Returning to our opening case on Michiel Gomes and his brother-in-law, it seems this can only be understood if we perceive them not as mere victims of a Dutch colonial legal apparatus striving for social control, but as active users of justice in a complex system of legal pluralism. The case of Kierie and Poentje Nainde further strengthens the hypothesis that the Dutch court was hardly the only available venue for conflict settlement, as their mother first turned to two local mediators, and one

of them referred her to the *Landraad*. Colonial subjects could thus consciously choose to opt for the Dutch legal system, which held certain benefits for different interest groups. Surely, this situation of legal pluralism at work was not unique to the world of the VOC, and in the article we have drawn parallels with the situation in the Ottoman Empire and the British Raj. We argue that understanding the workings of legal pluralism in and around the world of the VOC allows us to ask new questions that are relevant to local and global history.

The increased bureaucratization of Dutch normative institutions ran parallel with a growing importance of written over oral evidence in the courts. Colonial registration of marriages, deaths and land ownership unwittingly increased the legal agency of local inhabitants, who could invoke these Dutch documents to support their family feuds and inter-community cases. Dutch efforts to structure the diverse rural and urban societies under their rule should therefore not be analyzed as the mere end result of a fixed power relationship, but as an ongoing negotiation process, which spurred the development of specific colonial legal cultures. The observed connections between institutions of law and registration provide us with a new vantage point to study local society. Qualitative research into both the colonial case files of legal and religious courts as well as the census registers allow us to reconstruct the paths of particular families – such as the Gomes–Fonsekas – in their encounter with the Dutch legal web. A connected quantitative approach to registers and court cases can complement this narrative approach and provide insight in the nature of society-state interaction as a whole and assess the impact this had on family life.[17]

Moreover, the localized legal systems across Dutch Asia were interconnected, with the centrally published Batavian ordinances tying the web together. Foreign commercial communities such as the Chettiyars and Muslims around Colombo, the Chinese and Wajorese of Makassar and tradesmen from all over maritime Asia in Batavia saw the opportunities provided to them by the Dutch web of legality that spanned the Indian Ocean and incorporated partially codified Chinese, Muslim and Hindu family law. In addition, notarial documents and colonial registration could be relatively easily transported between Dutch port cities to serve as evidence in the court of law. Even non-commercial litigators proved to be clever navigators of this transregional network, with the appeal option towards Batavia as a legal strategy to escape local prosecution and, in the case of Helena, enslavement. While the Dutch legal web was spun across the Indian Ocean and forced migration of convicts and exiles away from the centre, simultaneously colonial subjects moved along its threads towards the centre in their uses of justice.

Notes

1 This article is written in the context of the NWO funded project 'Colonialism inside out: everyday experience and plural practice in Dutch Institutions in Sri Lanka, 1700–1800', which is carried out in cooperation between Leiden University, Radboud University Nijmegen and the Sri Lankan National Archives. We would like to thank Nadeera Rupesinghe, Kathryn Wellen and the editors of this volume for their valuable comments.

2 Sri Lanka National Archives (SLNA), 1/4484–4485 and 1/4513: *Documents related to the estate of Michiel Gomes*. In the documents Gomes and Fonseka are both referred to as Sinhalese, the latter as a *wasser* (Dutch name for the *radā* caste). Their Portuguese last name probably refers to an ancestor who was baptized, rather than an actual Portuguese lineage.
3 After Gomes died, his widow in Colombo offered the *Raad van Justitie* a composition to try and cede her husband's inheritance, in order to be freed of his debts, which spurred a new legal suit with Joan Fonseka, Nicolaas' son. In the end the widow was freed of further persecution and could turn to poor relief, and Fonseka and other creditors were compensated for their losses. SLNA, 1/4484.
4 ANRI (Arsip Nasional Republik Indonesia) Makassar, 341/7.
5 SLNA 1/6018–6020; ANRI Schepenbank, 504–608; Merve Tosun, '(Im)Practical pluralism: legal pluralism in Batavia and its environs: from codification to practice (*c.*1750–1800)' (MA thesis Leiden University, May 2018.).
6 In the nineteenth century Priangan became the economic centre of the Dutch colonial agricultural venture, as it was here that they developed a system of labour extraction that was to be converted into the Cultivation System (*cultuurstelsel*).
7 SLNA 1/4405: *Kierie and Poentje Nainde – heirs of Wijeendre Nainde*.
8 A.F. Schrikker, *Litigation and colonialism in eighteenth-century Jaffna: a first exploration*, paper presented at AISLS 'Histories from the margins' workshop in Colombo, 1–2 February 2018.
9 For the latter example, future research can rely on the kong-koan archives, part of the eighteenth- to twentieth-century administration of the Peranakan Chinese community in Batavia, which carries documents relating to conflict mediation over family affairs and business disputes at work within this mercantile community (Blussé and Chen, 2003)
10 ANRI Ambon 911/1/515 and 531.
11 To be precise, of the 111 unique court cases brought before the *Raad van Justitie* between 1758 and 1788 only 38 % of the accusers (n = 42) and 27 % of the defendants (n = 30) were (a direct relative of) Company personnel. The preponderance of local consumers of justice in lower Dutch courts was probably even higher, given the fact that the *Raad van Justitie* in Colombo only took civil lawsuits worth at least 300 rixdaalders, or appeals from the *Raden van Justitie* in the Galle and Jaffna judicial districts.
12 In the eighteenth century the population in and outside the fort grew considerably in size, although exact figures are not available at this point. To give an impression; the 1824 census lists around 5600 inhabitants in the fort and Pettah and another 25000 in the immediate surroundings (Peebles, 2015, p. 86).
13 Nicolaas Fonseka sued Frans Gomes, his father-in-law, in 1749. Six years later his mother-in-law sued the children of her late husband Frans Gomes, among others Anthony Gomes. Nicolaas Fonseka and Michiel Gomes were thus brothers-in-law. SLNA 4265: *Fonseka and Gomes – Gomes*; SLNA 4325: *Fonseka – Fernando and Chenassadij Poelle*.
14 SLNA 1/4493: *Fonseka – executors of the estate of captain Jongbloet*.
15 ANRI Makassar Inventory. The civil cases are listed under the names of the litigants.
16 SLNA 1/4389: *Narajene Pulle and Moettoe Rame – Paans Quintaal*.
17 For a more in-depth overview of the proposed approach, see the project website: www.universiteitleiden.nl/en/research/research-projects/humanities/colonialism-inside-out#tab-1.

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