Regulating relations: controlling sex and marriage in the early modern Dutch empire

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REGULATING RELATIONS

Controlling Sex and Marriage in the Early Modern Dutch Empire

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Controlling Sex and Marriage in the Early Modern Dutch Empire

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Abbreviation	Reference
CivR	*Civiele Rolle* ('Civil Rolls', recording daily summaries of court proceedings in civil cases)
CrimR	*Criminele Rolle* ('Criminal Rolls', recording daily summaries of court proceedings in criminal cases)
CrimPr	Criminele Processtukken (Criminal Case files)
CP	Hovy, L., ed. Ceylonees plakkaatboek: plakkaten en andere wetten, uitgevaardigd door het Nederlandse bestuur op Ceylon, 1638-1796. Hilversum: Verloren, 1991.
NIP	Van der Chijs, J.A., ed., *Nederlandsch-Indisch Plakaatboek 1602-1811* (17 volumes). The Hague: Nijhoff 1885.
PG	Plakaatboek Guyana, http://resources.huygens.knaw.nl/retroboeken/guyana.
WIC-C-I	Schiltkamp, J.A. & J. Th. De Smidt, eds., West Indisch plakaatboek - Publikaties en andere wetten alsmede de oudste resoluties betrekking hebbende og Curaçao, Aruba, Bonnaire. 1638-1782, vol 1. Amsterdam: S. Emmering, 1978.
WIP-C-II	Schiltkamp, J.A. & J. Th. De Smidt, eds., West Indisch plakaatboek - Publikaties en andere wetten alsmede de oudste resoluties betrekking hebbende og Curaçao, Aruba, Bonnaire. 1782-1816, vol 2. Amsterdam: S. Emmering, 1978.
WIP-S-I	Schiltkamp, J.A. & J. Th. De Smidt, eds., West Indisch plakaatboek - lakaten, ordonnantiën en andere wetten, uitgevaardigd in Suriname. Vol 1: 1667-1761. Amsterdam: S. Emmering, 1973.
WIP-S-II	Schiltkamp, J.A. & J. Th. De Smidt, eds., West Indisch plakaatboek - lakaten, ordonnantiën en andere wetten, uitgevaardigd in Suriname. Vol 2: 1761-1816. Amsterdam: S. Emmering, 1973.

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I would not be where I am today without the love an support of friends and family. From the Food Party People, climbing crews, and the Chicago extended Household to my fabulous paranymphs Suus and Juud and other old SGS friends: thanks for helping me *not* think about my dissertation when I needed to at various points throughout the years.

En waar zou ik zijn zonder mijn geweldig lieve en leuke tantes en ooms, neven en nichten, die er altijd zijn om iets te vieren én als het tegen zit. Het overlijden van mijn vader Andreas (die nu ongetwijfeld als de beste had mee gefeest) was een groot verlies, maar lieve mama: jij telt voor tien. Ik prijs me gelukkig dat ik in zo'n fijn, relaxed gezin ben opgegroeid met ouders die me in alles steunden en een broer die alleen ruzie maakte als het om een potje Kolonisten ging.

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Introduction

Batavia, January 1775. Bakira, a free Javanese woman living outside the *Nieuwpoort* in Batavia, the seat of power of the Dutch East India Company (VOC) in Asia, returned home from the bazaar one afternoon and was promptly attacked by Si Nangi of Mandhaar, the man she had been living with. Si, who believed Bakira had been unfaithful to him and wanted revenge, tried to cut her throat with a knife. Bakira cried for help and survived, and Si was put on trial for attempted murder in front of the *Raad van Justitie* (Court of Justice). The status of both individuals featured heavily in the criminal charge put against Nangi by Fiscaal Petrus van der Vorm: Bakira, a free woman, was not Si's wife but rather his *bijzit* (mistress or unmarried partner), "who was at liberty to leave him any day, should she so please."[1] Si Nangi, moreover, was not a free man but enslaved to the Company. As a result, the prosecutor not only took Bakira's testimony as more valid than his – she had denied the infidelity – but also asserted that Nangi should be judged according to Roman law, which clearly stated that any slave attacking a free person in such a way, no matter the circumstances, should be put to death.[2] In a time when women in the Dutch Republic and beyond could be locked up in the workhouse, banished, or sometimes even put to death for extramarital sex and cohabitation, neither Bakira's relationship with Si nor the alleged infidelities seems to have been an issue of concern for the Dutch East India authorities, and certainly did not prevent the law from coming to her defense as a 'free person' in the face of violent crime at the hand of an enslaved man.[3]

Two years earlier, in the Castle of Elmina on the coast of what is now Ghana, an African woman (name unknown) faced a different kind of unwanted surprise in her living quarters. As Dutch West India Company (WIC) assistant Isaac Rigagneau complained in September 1773 to the prosecutor, his partner, whom he described as "his negress", had informed him that the previous night, the Elmina-born assistant Jacobus Ulsen had shown up at his residence in a partly undressed state and kissed her. The kiss itself, the prosecutor later asserted, was not ground for persecution, but served to demonstrate that "the imprisoned defendant most likely attempted, in the absence of Rigagneau, to commit multiple familiarities."[4] Even this would have likely not reached the court were it not for the fact that the next day a brawl broke out between Ulsen, Rigagneau, and Elmina's *vaandrig* (ensign). Again, the issue did not appear to be the perceived sexual immorality itself, but rather in "the disruption of the common peace, and its consequences, rebellion, and a complete turnaround of the Noble Company's Main Castle" that crimes such as this could engender.[5] The fact that Rigagneau lived with "his negress" in the first place and even seems to have had a child with her was at no point presented as a problem.

The case of Anna Maria Koningh, a free woman of color living in Willemstad, Curaçao, shows that this was not always (or everywhere) the case. In 1737, she was called before the court to

[1] Nationaal Archief, Den Haag, Verenigde Oostindische Compagnie (VOC), access number 1.04.02 [hereafter NL-HaNA VOC 1.04.02], inventory number 9503, scan 378.
[2] Ibid, 388. The *fiscaal* explicitly pointed out that the law, as it existed in the Netherlands, did not provide for the issue of slavery, and that "where local laws are silent, the Roman laws will be observed".
[3] Although the court's exact deliberations are not recorded, the councilors seem to at least have agreed with the prosecutor that Si Nangi was guilty, because he was sentenced to public flogging and 50 years of chain labor. NL-HaNA VOC 1.04.02 inv.no. 9503, scan 57.
[4] Nationaal Archief, Den Haag, Nederlandse Bezittingen op de Kust van Guinea, access number 1.05.14 [hereafter NL-HaNA, Kust van Guinea, 1.05.14], inventory number 276, scan 210.
[5] Ibid., scan 212.

prove that she had obtained her fortune through legitimate means, rather than, as the prosecutors suspected, as the mistress of the late David Cohen Henriquez. Koningh objected: she had earned her wealth through business and hard work –by no means through "whoredom" – and she had the paperwork to prove it. The prosecutor's rebuke is curious, for it links the (lack of) credibility of her defense to her racial status: many white women who were in the same business could barely live off it, while Koningh and her nine children lived in splendor. The case not only sheds light on authorities' expectations of socio-economic hierarchies based on racial identification, but also on the interconnections between intimate affairs and matters of money: a mistress, unlike a wife, was not legally liable for a deceased man's debts, and thus the "unseemly" nature of the alleged relationship became both a problem for Henriquez' heirs and creditors and the ground on which charges were levied against her. [6]

The above examples illustrate some of the disparate ways in which issues of sex and marriage could come to the attention of the governing authorities of the eighteenth-century Dutch empire – the global network of scattered colonies controlled largely by the chartered trading companies VOC and WIC. Why and how they did, and what consequences this had the social structure of colonial societies, forms the topic of this study.

To speak of an early modern Dutch 'empire' and to treat it as a geographic framework for examining intimate relations and the formation and policing of norms around it is not necessarily self-explanatory or uncontroversial. The places that will be featured in this study – Batavia, Cochin, and coastal, urban Ceylon within the VOC's charter zone, and Elmina, Surname, Berbice, and Curaçao within the WIC's – are rarely studied in conjunction with each other, governed as they were by different entities under very different conditions.[7] The VOC, which claimed the right, sanctioned by the Dutch States General, to control all trade between the Dutch Republic and the hemisphere east of the Cape of Good Hope, and to act as a state (militarily, diplomatically, judicially, and politically) within this zone, was considerably more formidable during the two centuries it operated (1602-1798) than its West-Indian counterpart (1621-1792), which in theory claimed the same rights over the Western hemisphere. The VOC was wealthier, more powerful, and less hampered by European rivals, and as a result maintained a centralized grip on its expanding network of trade posts and settlements around the Indian Ocean, governed from its central hub in Batavia. The WIC, by contrast, while initially modeled on the East Indian example, emerges in the literature as an entity constantly forced to re-invent itself and cut its losses, going bankrupt in 1674 and unable to maintain many of its seventeenth-century conquests into the eighteenth century (New Netherland and Dutch Brazil being the most prominent examples), nor its monopoly on trade.[8]

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[6] Nationaal Archief, Den Haag, Tweede West-Indische Compagnie (WIC), access number 1.05.01.02 [Hereafter NL-HaNa WIC 1.05.01.02], inventory number 217, 24 June 1737, scan 6-10.

[7] Catia Antunes, "Introduction," in *Exploring the Dutch Empire: Agents, Networks and Institutions, 1600-2000*, ed. Catia Antunes and Jos Gommans (London/New York: Bloomsbury Publishing, 2015), xiii–xiv.

[8] Henk den Heijer, *De geschiedenis van de WIC* (Zutphen: Walburg Pers, 1994); Jan de Vries, "The Dutch Atlantic Economies," in *The Atlantic Economy during the Seventeenth and Eighteenth Centuries : Organization, Operation, Practice, and Personnel*, ed. Peter A. Coclanis (Columbia, S.C.: University of South Carolina Press, 2005), 1–29; Some parallels have been drawn between territorial losses experienced by the two companies, such as between Formosa (Taiwan) and Brazil. See Leonard Blussé, "'Ver Sacrum': Hoe 't Verzuymd Brazil en 't Verwaerloosde Formosa verloren gingen," in *Alle streken van het kompas: maritieme geschiedenis in Nederland*, ed. Maurits Ebben, Henk den Heijer, and Joost Schokkenbroek (Zutphen: Walburg Pers, 2010), 147–73.

This weaker position also meant that there was no centralized network of Dutch colonies in the Atlantic: while some colonies, such as Curaçao and Essequibo and Demerara (in present-day Guyana) remained under direct WIC authority, Suriname and Berbice were each governed a separate corporate entity (*Sociëteit*) in which the West India Company only had a partial stake.[9] In addition to this lack of a central organization, the colonies in the WIC's trade zone were also highly divergent in nature: while Suriname and its smaller Guyanese neighbors on the so-called Wild Coast were predominantly agricultural settlements, with a demographic majority of enslaved Africans laboring on riverside plantations, Curaçao (as one of the small Caribbean islands under Dutch rule, relatively unsuitable for cash crop production), was primarily a hub of trade, seeing a constant coming and going of sailors, merchants, and captives bound for enslavement elsewhere in the Americas. Dutch Elmina and its subsidiary fortifications on the Gold Coast, meanwhile, can only be called a 'colony' in the broadest sense of the word: the WIC only held direct control over the company servants stationed at the fort and those it held in slavery, and was strongly reliant on agreements with local rulers to survive and accomplish its goals.

The settlements under the VOC, its more centralized authority notwithstanding, were no less diverse: while in Batavia and some smaller settlements where the original population had been effectively wiped out (such as Banda) the Company acted as a sovereign state, in others it shared jurisdiction and territorial control with local rulers. In Cochin, for example, the VOC claimed jurisdiction over all Christians (except Saint Thomas Christians) in the region and controlled the fortified city known as *Cochim de Cima*, while the city outside the walls, known as Mattanchery, remained the seat of the Raja of Cochin, a Hindu monarch who ruled over a religiously and ethnically diverse population.[10] In Ceylon, meanwhile, the Company claimed jurisdiction over a considerable swath of (agricultural) land and its inhabitants, but also had to contend with the limits of its power on the island, primarily controlling the coast while the Kingdom of Kandy retained its inland territorial power.[11]

Yet despite these marked differences both between and within the trade companies' territories, remarkable commonalities existed. In addition to all being managed from the coastal provinces of the Dutch Republic and being expected, in principle, to comply with its laws, the companies and their respective colonies each confronted a social diversity that was considerably more complex than that of the Dutch Republic. As the three cases from the Asian, African, and

[9] The *Societeit van Suriname* was jointly owned by the West India Company, the city of Amsterdam, and the Van Aerssen van Sommelsdijck family. Berbice, which had started out as a patroonship (see p. 31) under the Van Peere family, formed a *Sociëteit* modeled on that of Suriname in the early eighteenth century, jointly owned by a group of Amsterdam-based merchants.

[10] Mehrdad Shokoohy, "The Town of Cochin and Its Muslim Heritage on the Malabar Coast, South India," *Journal of the Royal Asiatic Society* 8, no. 03 (November 1998): 351–94; Anjana Singh, *Fort Cochin in Kerala, 1750-1830: The Social Condition of a Dutch Community in an Indian Milieu* (Leiden: Brill, 2010); Jos Gommans, "South Asian Cosmopolitanism and the Dutch Microcosms in Seventeenth-Century Cochin (Kerala)," in *Exploring the Dutch Empire: Agents, Networks and Institutions, 1600-2000*, ed. Catia Antunes and Jos Gommans (London/New York: Bloomsbury Publishing, 2015), 3–26.

[11] Alicia Schrikker, "Conflict-Resolution, Social Control and Law-Making in Eighteenth-Century Dutch Sri Lanka," in *Exploring the Dutch Empire: Agents, Networks and Institutions, 1600-2000*, ed. Catia Antunes and Jos Gommans (London/New York: Bloomsbury Publishing, 2015), 227–44; For a comparison between the social structures of Colombo in Ceylon and Batavia, see Remco Raben, "Batavia and Colombo: The Ethnic and Spatial Order of Two Colonial Cities 1600-1800" (Unpublished PhD Dissertation, Leiden, Universiteit Leiden, 1996).

American continents listed above show, overseas colonial societies were both religiously, linguistically, and ethnically pluriform and in constant flux, with natives and newcomers, free and enslaved, wealthy and poor, forming relations of various sorts. In examining these relations and the moral and legal norms that formed around them in not a singular locality but across the Dutch empire, this study aims to show that, local contingencies notwithstanding, there is something shared about the processes through which colonial power and hierarchies are formed in imperial settings. To a certain extent, these patterns and processes are shared not just within the Dutch empire, but also among European overseas empires more generally: the French, British, Scandinavian, and Iberian empires similarly saw encounters between men and women of various backgrounds and with comparable differences in status and wealth, and so many of the tensions around inter-group sexuality and family formation will ring true for these empires as well. At the same time, however, factors that made the Dutch empire distinct as such can be identified. Aside from the relatively small scale of its colonies (at least in the Americas, and especially compared to the Iberian overseas territories) the fragmented and decentralized nature of the Dutch empire's legal and administrative landscape stands out – something the Dutch Republic shared with its overseas territories. Perhaps most importantly of all, for the regulation of family life, however, was the fact that the Dutch empire was, in its conception, a Protestant empire. This is not to say that its inhabitants were predominantly Protestant – far from it, as Dutch Reformed Protestants, even when joined by other denominations such as Lutherans, never formed more than a small, if privileged, minority among a varying population of Catholics, Jews, Muslims, and other non-Christian groups. The fact that colonial authorities were content with keeping it that way, however, instead of enforcing a more sweeping, universalist Christianization campaign, is arguably what sets Northern-European Protestant empires apart from their Catholic counterparts during the early modern period.[12] We might even draw a parallel between this distinction between 'Protestant-particularism' and 'Catholic-universalism' in the religious sphere and the relative legal fragmentation of the Dutch empire: the early modern Dutch empire never had an equivalent to the French *Code Noir* (1685), for example, which not only offered sweeping legislation regarding enslaved peoples' lives (including sex, marriage and children) and that of free non-whites declared subjects of the Crown, to be applied across the French Caribbean, but also mandated the conversion to Catholicism of enslaved people and the expulsion of Jews from French colonies, and declared all marriages except Catholic ones invalid.[13]

But why make normative practices around sex and family life the center of analysis in a study of colonialism in the first place? Two primary assumptions underlie this focus. One is the centrality of sex, sexuality and gendered relationships to the creation and reproduction of social life, including ethno-religious identification and the hierarchies of race, class, and enslavement

[12] D. L. Noorlander, *Heaven's Wrath: The Protestant Reformation and the Dutch West India Company in the Atlantic World* (Leiden: Leiden University Press, 2019); G. J. Schutte, *Het Indisch Sion: de Gereformeerde kerk onder de Verenigde Oost-Indische Compagnie* (Hilversum: Verloren, 2002); H. E. Niemeijer, "Calvinisme en koloniale stadscultuur, Batavia 1619-1725" (Unpublished PhD Dissertation, Amsterdam, Vrije Universiteit Amsterdam, 1996); For the particularities of Protestant approaches to Atlantic slavery and the conversion of slaves, see Katharine Gerbner, *Christian Slavery: Conversion and Race in the Protestant Atlantic World* (Philadelphia, PA: University of Pennsylvania Press, 2018).
[13] "Le Code noir, ou Recueil d'édits, déclarations et arrêts concernant les esclaves nègres de l'Amérique," 1685, accessible at https://www.axl.cefan.ulaval.ca/amsudant/guyanefr1685.htm.

that shape colonial societies. This connection has been the subject of considerable scholarly attention in the past three decades or so, with feminist scholars scrutinizing the 'private' sphere as a political battleground and proponents of New Imperial History exploring sex and family life in imperial settings as crucial in the formation of bourgeois notions of domesticity and modernity as well as the construction of 'whiteness' and ideologies of race in general. In large part, these studies have focused either exclusively on the Americas or on nineteenth- and twentieth-century colonialism in Africa and Asia.[14] But long before the steamship carrying the white women frequently associated with the start of concerns about racial purity in the tropics, and before a comprehensive notion of 'white man's burden' existed, the factors that fundamentally tied sex to colonial power were at play from Asia to the Americas, and understanding how they played out may be key to explaining these later developments. The institution of slavery not only rendered enslaved women (and sometimes men) particularly vulnerable to sexual exploitation, it also linked sexual reproduction to property and labor extraction in a brutally explicit way: children born to an enslaved mother inherited her status and automatically became her slaveholder's property.[15] Other forms of status, too, were passed primarily through sexual reproduction and parentage – in other words, through family units. In addition to inter-generational transfers of wealth and social class through inheritance and the cultivation of social and cultural capital, husbands could transfer their ethnic status to their wife and children within the institution of legally sanctioned marriage. 'Ethnicity' here, should be read in the context of communal belonging and was strongly tied to religion.[16] The political salience of religion, in turn, cannot be overestimated: in a time when European self-identification was almost synonymous with Christianity, faith determined who could be counted on as an ally or an enemy, an insider or an outsider. Conversion and marriage therefore – and the two often went hand in hand – were not just means of formalizing personal relationships, but also of cementing political and cultural allegiances. Because people within these dynamic imperial settings were constantly moving, inter-marrying, socializing, having legitimate and illegitimate children, and experiencing upward

[14] Anne McClintock, *Imperial Leather Race, Gender, and Sexuality in the Colonial Contest* (New York: Routledge, 1995); Clare Midgley, *Gender and Imperialism* (Manchester: Manchester University Press, 1998); A relatively early example for Asia is Durba Ghosh, "Gender and Colonialism: Expansion or Marginalization?," *Historical Journal* 47, no. 3 (2004): 737–56; Deborah Hamer, "Creating an Orderly Society: The Regulation of Marriage and Sex in the Dutch Atlantic World, 1621-1674" (Unpublished PhD Dissertation, Columbia University, 2014). A good example of feminist scholarship demonstrating the importance of the private household context in the negotiation of colonial hierarchies for the Americas is Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs : Gender, Race, and Power in Colonial Virginia* (Chapel Hill, NC: University of North Carolina Press, 1996).

[15] There is a rich body of literature on this particular aspect of enslaved women's 'labor' with regards to American slavery. See, for example, Hilary Beckles, "Perfect Property: Enslaved Black Women in the Caribbean," in *Confronting Power, Theorizing Gender : Interdisciplinary Perspectives in the Caribbean*, ed. Eudine Barriteau (Kingston: University of the West Indies Press, 2003), 142–58; Jennifer Leyle Morgan, *Laboring Women : Reproduction and Gender in New World Slavery* (Philadelphia, PA: University of Pennsylvania Press, 2004); Sasha Turner, *Contested Bodies: Pregnancy, Childrearing, and Slavery in Jamaica* (Philadelphia, PA: University of Pennsylvania Press, 2017); Camillia Cowling et al., "Mothering Slaves: Comparative Perspectives on Motherhood, Childlessness, and the Care of Children in Atlantic Slave Societies," *Slavery & Abolition* 38, no. 2 (April 3, 2017): 223–31; Jennifer L. Morgan, "Partus Sequitur Ventrem: Law, Race, and Reproduction in Colonial Slavery," *Small Axe: A Caribbean Journal of Criticism* 22, no. 1 (55) (March 1, 2018): 1–17.

[16] Throughout this study, I use both 'race' and 'ethnicity', with 'race' and 'racialization' denoting a specific mode of categorizing individuals, based primarily on color and ancestry, and 'ethnicity' where social identity was more flexibly and communally conceived, with factors determining ethnicity varyingly including religious affiliation, place of origin, education, and family connections.

and downward social mobility, none of the divisions listed above were fixed. This ties in closely to the concept of creolization – the "process of ongoing change and renewal of social and cultural patterns," as Ulbe Bosma and Remco Raben have put it, in the face of migration and inter-cultural sociability, characteristic of colonial societies.[17] The term "Creole" has traditionally been associated with the Caribbean and originally emerged in the Iberian Atlantic world, denoting either European, African, or Eurafrican people born in the Americas – as distinct from those arriving from overseas – and their cultural products.[18] Creolization as a socio-cultural process, however, has relevance to other colonial settings as well, including the various localities in the early modern Dutch empire, and marriage and sexuality across boundaries of status, as well as the policing of these intimacies, are central to this process.

The second key assumption in this study concerns the centrality of morality to colonial power. Morality – personally and communally held beliefs about what is right and wrong, proper and improper – shapes behavior as much as formal laws and their threats of violent or financial retribution do. Unlike laws, however, moral norms cannot easily be shaped at will by legislators: they can primarily be seen as a communal form of social control, with roots in public opinion, social custom, education and (religious) belief. As the literature on social control in Europe attests, at no place or time has there ever been complete consensus on what constitutes appropriate behavior between individuals or groups, or between subjects and rulers.[19] What is distinctive about colonial contexts, however, is the salience and visibility of this divergence in moral foundations for social control, both between colonizer and colonized and between different religious and ethnic groups living in close proximity to each other, and the self-consciousness with which colonial rulers approached this division. Colonial settings can thus be seen as particularly recognizable sites of not just legal pluralism, but more broadly conceived 'normative pluralism'.[20] Taking a morality-centered framework, and thus focusing on *normative* rather than exclusively *legal* pluralism, helps to move beyond formally recognized norms and practices around sexuality and family life, and includes the often unsanctioned norms of subaltern individuals and the (frequently criminalized) actions stemming from them, such as enslaved people's (violent) resistance to sexual exploitation or unsanctioned retributive violence in response to perceived violations of norms, carried out by disempowered individuals such as Si Nangi. It allows us to view the ordering mechanisms of written and customary law in conjunction with the *disorder* posed by daily reality: while Dutch colonial administrations and various communal authorities might have neat conceptions of sexual morality and the social order associated with it, the diverse populations they governed did not necessarily share these norms, let alone abide by them. The colonial situation, with its exaggerated divisions between

[17] Ulbe Bosma and Remco Raben, *Being "Dutch" in the Indies: A History of Creolisation and Empire, 1500-1920*, trans. Wendie Shaffer (Athens, OH: Ohio University Press, 2008), xv.
[18] Tessa Murphy, *The Creole Archipelago: Race and Borders in the Colonial Caribbean* (Philadelphia, PA: University of Pennsylvania Press, 2021), 6.
[19] Herman Roodenburg and Pieter Spierenburg, *Social Control in Europe. Vol. 1: 1500-1800* (Columbus, OH: Ohio State University Press, 2004).
[20] For an exploration of the concept of 'normative pluralism', see Brian Z. Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global," *Sydney Law Review* 30 (2008): 375–411; Michał Piekarski, "One or Many Normativities?," *Studia Philosophiae Christianae* 54, no. 1 (March 29, 2019): 5–24; William Twining, "Normative and Legal Pluralism: A Global Perspective," *Duke Journal of Comparative and International Law* 20 (2009): 45.

communities and their normative systems, to summarize, posed a fundamental problem for colonial authorities: how to govern religiously and culturally heterogeneous populations that were bound to 'mix' both socially and sexually and whose socio-cultural standards of behavior were widely divergent, while maintaining a larger social order congruent with a 'Dutch' Christian conception of (sexual) morality?

Indeed, the world of moral and legal norms about sexuality under the Dutch empire is one full of contradictions. In a time when both religious and secular authorities readily interfered in ordinary people's intimate relations to impose religiously informed moral-sexual order, the Dutch chartered trading companies juggled this moral-political role and a commercial one, as corporations whose primary goal (in theory) was to protect the interests of their employees and especially those of their shareholders (the latter by securing as much revenue as possible), and these two roles did not always neatly align. The very idea of Christianity as a foundation of socially dominant moral norms was challenged, moreover, by the multi-ethnic and multi-religious make-up of most Dutch colonial settlements. Any consistency of norms that might still be envisioned was complicated by the far-reaching differences in power and status that came with the empire-wide ubiquity of slavery and the division between those that were affiliated with the companies that laid down the law and those that were not. Because of these contradictions and tensions, it is not enough to simply describe the laws around sex and marriage to understand the rules that governed intimate relations in VOC and WIC settlements. Rather, this study aims to answer the question how these norms *formed* in the contexts of vertically and horizontally differentiated colonial societies. The use of 'norms' here stretches beyond the meaning of formal legislation to include the ways in which laws were enforced *and* norms as they were varyingly (and not always legally) practiced in communities.

National and international debates

Dutch historiography on the VOC and WIC and on social plurality has traditionally been remarkably disconnected, with the former being confined largely to examinations of the trading companies as commercial and geo-political actors and the latter commonly featuring characterizations of Dutch religious tolerance and cosmopolitanism in the metropolitan Dutch context.[21] Partly under influence of international scholarship and Dutch public discussions about the country's relation to its colonial past, researchers in recent decades have also begun to examine the social ramifications of empire, with particular attention to slavery and racism.[22] This discussion, which initially focused primarily on the Dutch Atlantic, has more recently also extended to Indian Ocean slavery.[23] Parallel to this, a rich body of specialized urban social

[21] Cátia Antunes, "From Binary Narratives to Diversified Tales: Changing the Paradigm in the Study of Dutch Colonial Participation," *Tijdschrift Voor Geschiedenis* 131, no. 3 (October 1, 2018): 393–407.
[22] Allison Blakely, *Blacks in the Dutch World: The Evolution of Racial Imagery in a Modern Society* (Bloomington: Indiana University Press, 1993); Angelie Sens, *"Mensaap, heiden, slaaf": Nederlandse visies op de wereld rond 1800* (The Hague: Sdu, 2001); Bosma and Raben, *Being "Dutch" in the Indies*; Kwame Nimako and Glenn Willemsen, *The Dutch Atlantic: Slavery, Abolition and Emancipation* (London: Pluto Press, 2011); Han Jordaan, *Slavernij en vrijheid op Curaçao: de dynamiek van een achttiende-eeuws Atlantisch handelsknooppunt* (Leiden: Walburg Pers, 2013); Dienke Hondius, *Blackness in Western Europe : Racial Patterns of Paternalism and Exclusion* (London/New Brunswick, NJ: Routledge, 2014); Philomena Essed and Isabel Hoving, eds., *Dutch Racism* (Amsterdam: Rodopi, 2014).
[23] Markus Vink, "'The World's Oldest Trade': Dutch Slavery and Slave Trade in the Indian Ocean in the Seventeenth Century," *Journal of World History* 14, no. 2 (2003): 131–77; Matthias van Rossum, *Kleurrijke*

histories of individual Dutch (and predominantly VOC) settlements has formed, treating the regulation of sex and marriage as key factors in colonial social control.[24] Scholarship connecting these disparate local histories in terms of sex, gender, and familial relationships is scarce, however, especially across the confines of the West and East Indian contexts.[25] Less localized, more theoretically informed analyses of the role of these forms of 'intimacy' in colonial social politics, moreover, has largely sprung from scholarship outside the Netherlands.[26] Again, research in this tradition has most heavily featured the Atlantic world, with the notable exception of Ann Laura Stoler.[27] Although Stoler's work, as mentioned above, focuses mostly on the late nineteenth and early twentieth-century Dutch East Indies, her arguments feature prominently in a series of scholarly debates that are no less relevant for the early modern period. Eric Jones, in his study of the "female underclass in Dutch Asia," characterized Stoler's work as a reading of colonialism as primarily a cultural rather than economic project.[28] While Stoler's work does not ignore economic factors at play in colonial history – her first monograph dealt with labor struggles on Sumatra's plantation belt – she does take a strongly discursive approach to what she calls the "politics of intimacy" in empire.[29] In *Carnal Knowledge and Imperial Power*, Stoler reads in Dutch colonial interventions in matters of intimacy (e.g. sexuality, child-rearing) a profound and racialized anxiety regarding blurring boundaries between ruled and ruler, colonized and colonizer.[30] Critics such as the Dutch historians Frances Gouda, Remco Raben, and Henk Schulte Nordholt have argued that such an anthropological approach, while providing a refreshing perspective to historians, in privileging theory over empirical grounding runs the risk

tragiek: De geschiedenis van slavernij in Azië onder de VOC (Hilversum: Uitgeverij Verloren, 2015); Reggie Baay, *Daar werd wat gruwelijks verricht: slavernij in Nederlands-Indië* (Amsterdam: Athenaeum-Polak & Van Gennep, 2015).

24 H. E. Niemeijer, *Batavia: een koloniale samenleving in de zeventiende eeuw*, Digital edition (Amsterdam: Balans, 2005); Singh, *Fort Cochin in Kerala*; Raben, "Batavia and Colombo"; Leonard Blussé, *Strange Company: Chinese Settlers, Mestizo Women and the Dutch in VOC Batavia* (Dordrecht: Foris, 1986); Natalie Everts, "A Motley Company: Differing Identities among Euro-Africans in Eighteenth-Century Elmina," in *Brokers of Change: Atlantic Commerce and Cultures in Precolonial Western Africa*, ed. Toby Green, vol. 1 (Oxford: Oxford University Press, 2012), 53–70; Hamer, "Creating an Orderly Society"; Bram Hoonhout, *Borderless Empire: Dutch Guiana in the Atlantic World, 1750–1800*, vol. 21 (Athens: University of Georgia Press, 2020).

25 Carla van Wamelen, *Family life onder de VOC: een handelscompagnie in huwelijks- en gezinszaken* (Hilversum: Verloren, 2014); Deborah Hamer, "Marriage and the Construction of Colonial Order: Jurisdiction, Gender and Class in Seventeenth-Century Dutch Batavia," *Gender & History* 29, no. 3 (2017): 622–40.

26 McClintock, *Imperial Leather Race, Gender, and Sexuality in the Colonial Contest*; Saidiya Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York/Oxford: Oxford University Press, 1997); Morgan, *Laboring Women : Reproduction and Gender in New World Slavery*; Sharon Block, *Rape and Sexual Power in Early America* (Chapel Hill, NC: The University of North Carolina Press, 2012); Sharon Block, *Colonial Complexions: Race and Bodies in Eighteenth-Century America*, *Colonial Complexions* (Philadelphia, PA: University of Pennsylvania Press, 2018); Tony Ballantyne and Antoinette M. Burton, *Bodies in Contact : Rethinking Colonial Encounters in World History* (Durham, NC: Duke University Press, 2005); Marisa J. Fuentes, *Dispossessed Lives, Enslaved Women, Violence, and the Archive* (Philadelphia, PA: University of Pennsylvania Press, 2016).

27 Ann Stoler, *Carnal Knowledge and Imperial Power: Race and the Intimate in Colonial Rule* (Los Angeles/Berkeley, CA/London: University of California Press, 2010).

28 Eric Jones, *Wives, Slaves, and Concubines: A History of the Female Underclass in Dutch Asia* (DeKalb, IL: Northern Illinois University Press, 2010), 14–15.

29 Ann Laura Stoler, "Matters of Intimacy as Matters of State: A Response," *The Journal of American History* 88, no. 3 (2001): 893–97.

30 Stoler, *Carnal Knowledge and Imperial Power*.

of effacing historical and geographical specificity and complexity.[31] Schulte Nordholt contrasted Stoler's work to Remco Raben and Ulbe Bosma's book *Being Dutch in the Indies*, which also deals with ethnic classification and family history, but takes a more social-historical approach in emphasizing local agents and local contexts, in contrast to Stoler's "priority to political institutions, cultural discourses and racial categories as structuring force."[32]

This ties into a larger debate around structure and agency, which in postcolonial scholarship is often wrapped up in debates about whether to foreground the experience and resistance of the colonized (or, to paraphrase Spivak, whether representing the perspective of the subaltern is even possible) or instead to scrutinize the mentalities implicated in colonizing institutions. [33] Often placed in the latter category, Stoler, along with others such as John Comaroff has rejected this conflation of two binaries (colonized/agency vs. colonizer/structure) as a "romance of resistance".[34] Historians of colonialism, she argues, "cannot write 'against the grain' of imperial history and state-endorsed archives without attending to the competing logics of those who ruled and the fissures and frictions within their rank."[35] While this strategy, which she expounds in her book *Along the Archival Grain* may be effective in demonstrating the interplay of structure and agency in "the crafts of imperial governance",[36] the question arises whether this is enough to understand the formation of moral norms as lived in local communities. As U.S. historian Lori Ginzberg puts it, "the danger in a global analysis is that empire itself dissolves into power, and all forms of dominance— sexual, racial, and economic—seem to originate in imperial expansion and control, rather than with actual people and the movements they build."[37] Although Ginzberg writes in the context of 19th-century grassroots activism, her appeal to the merits of social history to show how people "impose their moral standards upon others" is pertinent to my questions: how indeed did those living in and administering Dutch colonial societies impose their moral standards on others? And what happened if they could not?

Methodology and conceptual framework

The challenge of my global analytical approach, moving beyond individual localities and hemispheric dichotomies to conceive of Dutch overseas settlements as an empire, then, is to effectively demonstrate the interplay of structure and agency in the formation of moral standards around sex, marriage, and familial life without glossing over local specificity or complexity. While this dissertation, with its emphasis on colonial control and its reliance on the

[31] Frances Gouda et al., "Ann Laura Stoler, Along the Archival Grain; Epistemic Anxieties and Colonial Common Sense.," *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 165, no. 4 (January 1, 2009): 551–67.
[32] Henk Schulte Nordholt, "Review of Ulbe Bosma and Remco Raben (2008) Being 'Dutch' in the Indies: A History of Creolisation and Empire, 1500–1920," *Asian Journal of Social Science* 40, no. 1 (January 1, 2012): 144–45.
[33] Gayatri Chakravorty Spivak, "Can the Subaltern Speak?," in *Marxism and the Interpretation of Culture*, ed. Rosalind C. Nelson and Lawrence Grossberg (Urbana/Chicago, IL: University of Illinois Press, 1988), 271–316.
[34] Stoler, "Matters of Intimacy as Matters of State," 895; John L. Comaroff, "Colonialism, Culture, and the Law: A Foreword," *Law & Social Inquiry* 26, no. 2 (April 1, 2001): 305–14.
[35] Stoler, "Matters of Intimacy as Matters of State," 895.
[36] Gouda et al., "Ann Laura Stoler, Along the Archival Grain; Epistemic Anxieties and Colonial Common Sense.," 564; Ann Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton, NJ: Princeton University Press, 2009).
[37] Lori D. Ginzberg, "Global Goals, Local Acts: Grass-Roots Activism in Imperial Narratives," *Journal of American History* 88, no. 3 (December 1, 2001): 871.

chartered companies and a 'Dutch' colonial presence as a connecting factor between divergent settings, primarily takes a top-down perspective of VOC and WIC administrators, the subject-matter of sex and gender inevitably brings the agency of ordinary people in to the picture: colonial policy was not designed in a vacuum and did not unilaterally shape populations' behavior but was rather formed in response to on-the-ground practices. In order to tackle the interplay between social practice and institutional control, between the micro and macro level, and between continuity and disruption, I will draw on a combination of structuration theory as introduced by Anthony Giddens and an adaptation of Lauren Benton's work on legal pluralism, which I move towards 'normative' pluralism.

Giddens, in his seminal work *The Constitution of Society,* explicitly presents his theory of structuration as a means of overcoming the 'conceptual division of labor' between micro and macro levels of analysis.[38] As with several other erroneous 'dualisms' (e.g. agency vs. structure, subject vs. social object) Giddens proposes the concept of an integrated 'duality' instead. He does this by conceiving of structure as 'rules and resources' which are mobilized by 'knowledgeable social actors' (i.e. all human beings) through recursive *practices*. In and through the reproduction of these practices, social systems form, encompassing both day-to-day practices at the interpersonal level ('micro') and practices which become so spatially and temporally extensive that they can be called institutions ('macro').[39] The rules and resources which bind both into an integrated system, Giddens explains, can be understood through the dimensions of signification (meaning), domination (power), and legitimation (normative sanction). Power is primarily exercised through resources, specifically *allocative* (pertaining to the control over goods) and *authoritative* resources (pertaining to the control over people).[40] Signification and legitimization, by contrast, are aspects of rules, which can thus mean either shared modes through which the social world can be made intelligible by actors, or shared ways in which conduct is judged as permissible, morally right or justified (or not), respectively. While available rules and resources shape and inform action, it is the agency of actors which, in turn, produces and reproduces these same structural elements. This is what Giddens means with the 'duality' of structure. Because this interplay forms a constant process in motion sustained by practice, he speaks of structu*ration* rather than 'structure' as a static entity.

In the Dutch colonial context, we might think of the WIC's and VOC's (and their affiliated institutions such as the churches) plethora of archives and registries, the circulation of (by)laws, and juridical infrastructures as key resources for managing not only goods and finances but also people and their (sexual) behavior. Rules, in the sense of signification, become relevant in the way group identity and belonging became intelligible to members of colonial societies through a web of signifiers (e.g. clothes, hairstyles, names, 'passes'[41]) and relations (e.g. church

[38] Anthony Giddens, *The Constitution of Society: Outline of the Theory of Structuration* (Los Angeles/Berkeley, CA: University of California press, 1984), 139.
[39] The division between 'micro' and 'macro' is thus purely analytical, and depends on where the researcher draws the line. Giddens himself sets the distinction to be between interactions which require 'co-presence' (i.e. face-to-face interaction) and those that can function across larger distances of time and space.
[40] Giddens stresses that the latter is no less 'infrastructural' than the former, pointing to the importance of (containers of) information for the transportability and durability of institutions, 258,262.
[41] In various parts of the empire, permission slips and written passes were used to help identify groups and individuals and control the mobility of various people, from slaves to maritime merchants. For ways

membership, employment, bondage, conjugal bonds). In their normative sense, rules here encompass both various forms of law and moral codes of (sexual) conduct. With Giddens, I will not conceive of these rules and resources as employed unilaterally by the companies over colonial populations. Structural elements only gain and sustain systemic presence (i.e. become and remain part of the social fabric) through the practices of social actors, so the way rules and resources were used by colonial populations is significant, even for groups who held considerably less power than company administrators and whose agency was strongly limited. Here, Giddens' concept of the *dialectic of control* is useful: "all forms of dependence offer some resources whereby those who are subordinate can influence the activities of their superiors."[42] How the less powerful use the resources (and rules, I might add) available to them affects how they are reproduced and in turn steers the conduct of more powerful agents. This helps account for local specificity throughout the Dutch empire, since the institutions formed in specific colonies were always formed to a significant extent out of locally present rules and resources and through local practice.

The chapters that follow, it should be noted, will make no attempt to systematically apply each and every one of Giddens' terms to the Dutch colonial context, but his basic premise, of viewing social structures as a dynamic process co-constituted by multiple agents with various degrees and forms of power, informs my analysis throughout the dissertation.

Although structuration theory, through the tools it provides, in principle lends itself well to analyses of social change, critics such as the Dutch social historian Anton Stuurman have pointed out that Giddens himself pays surprisingly little attention to historical change in favor of an ideal-typical dichotomization between modern and pre-modern societies.[43] To remedy this, I will introduce the use of 'clusters of conflict' as an analytical tool. I take this idea from Lauren Benton, who develops it in her work on legal pluralism in empires.[44] Like structuration theory, Benton's work speaks to the co-constitution of micro- and macro- level structures, but unlike Giddens who presents a generalized social theory vocabulary, Benton, in her book *Law and Colonial Cultures,* temporally and spatially specifies the structural phenomenon she is interested in: the emergence of a global legal order starting in the late eighteenth century in which "routines for subordinating the law of ethnic and religious communities to state law replaced more fluid forms of legal pluralism and began also to be widely replicated." [45] Like Giddens, Benton stresses the importance of local practice in this process, but unlike the former who, in his critique of historical

in which visual and written markers were used to identify and categorize people, see Raben, "Batavia and Colombo," chap. 6; Guido van Meersbergen, *Ethnography and Encounter: The Dutch and English in Seventeenth-Century South Asia* (Leiden: Brill, 2021), 20, 66, 83.

[42] Giddens, *The Constitution of Society,* 16.

[43] Anton J. Stuurman, "Mensen Maken Verschil. Sociale Theorie, Historische Sociologie En Sociale Geschiedenis.," *Tijdschrift Voor Sociale Geschiedenis* 22, no. 2 (1996): 167–204.

[44] The concept of legal pluralism is often defined as "a situation in which two or more legal systems coexist in the same social field." The term originated in early twentieth century social-scientific observations of the co-existence of European and indigenous law among colonized populations, but has since come to be used for a wide range of overlapping normative frameworks which may or may not be defined as 'law' in the formal sense of the word. Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22 (1988): 869–96. See also John Griffiths, "What is Legal Pluralism?," *Journal of Legal Pluralism* 24 (1986). Griffiths presented legal pluralism as a corrective against "the ideology of legal centralisms," i.e. the notion that state law is necessarily central to any legal order.

[45] Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (Cambridge University Press, 2002), 6.

materialism, downplays the role of "conflict in the sense of either division of interest or active struggle,"[46] she emphasizes the crucial methodological value of conflict in understanding tensions and transformations in structure, particularly so in the case of European overseas empires marked by legal pluralism. This is not because legal pluralism was exclusive to European colonialism: "colonies were not distinctive because they contained plural legal orders but *because struggles within them made the structure of the plural legal order more explicit* [my emphasis]."[47] In her introduction to *Legal Pluralism and Empires* with Jeffrey Ross she again stresses the methodological advantage of focusing on (jurisdictional) divides and "clusters of conflicts, rather than elusive and often inconsistently applied rules or norms," because it allows historians to "analyze structural shifts" engendered by the strategies of agents involved in them.[48] Rather than merely focusing on jurisdictional divides, I will use 'clusters of conflict' in the broad sense of the word, using conflicts between local actors (employed by the Dutch companies or not) both inside the colonial courts and in everyday life to observe how standards of conduct in the intimate sphere were negotiated (or rather: fought out – sometimes literally) in daily practice. Adopting a perspective I call 'normative pluralism', we can treat violence and other forms of extra-legal conflict as no less productive sites of analysis than legal conflicts, in which clashes of norms around morality, sex, and social order frequently become visible.

This study faces an issue of scope. The Dutch Asian and Atlantic empire of the VOC and WIC lasted almost two centuries and spanned four continents: how to do justice to this wealth of complexity and temporal shifts? Before explaining the practical measures taken to make this project feasible, it may be helpful to touch upon my rationale for taking a global comparative approach involving both VOC and WIC territories. Empire-wide analysis no doubt has it disadvantages compared to more geographically circumscribed examinations, but at the same time, there is a particular benefit in taking a broader perspective: when examining a single case study, it is tempting (and often productive) to explain change through local particularism and path-dependence, thus making it more difficult to speak to more general developments of global significance. Comparison can, in the words of Jürgen Kocka, offer a way out of this through its "de-provincializing" effect.[49] The aim of this study is not to examine the intricacies any Dutch colony in and of itself, but rather to assess them as vistas onto patterns in Dutch colonial modes of managing diversity, and to track global convergence and divergence in conflicts arising around marriage and sexuality.

To do this, I focus my analysis, primarily, on two overseas settlements for which the most extensive, consistent, and institutionally diverse source material is available – Batavia for the VOC and Suriname for the West Indies – but complement and contrast my findings here with points of conflict and regulation emerging out of smaller settlements where the source material is more spotty but nonetheless extremely rich: Cochin on the Malabar Coast (Kerala) in India, coastal Ceylon, Elmina on the West-African coast, the island Curaçao and Suriname's smaller

[46] Giddens, *The Constitution of Society*, 257.
[47] Benton, *Law and Colonial Cultures*. This ties into my point about normative pluralism, with more explicit divisions in the moral foundations of communal self-control transforming the role of state-led control in colonial contexts.
[48] Lauren A. Benton and Richard Jeffrey Ross, eds., *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013), 6.
[49] Jürgen Kocka, "Comparison and Beyond," *History and Theory* 42, no. 1 (2003): 39–44.

neighbor, Berbice. Jumping from setting to setting, we trace how local colonial authorities addressed specific points of tension around sex and family formation in diverse and unequal settings, and zoom in on colonial residents in different contexts as they confront local social hierarchies and the Dutch colonial legal system in dealing with similar points of conflict emerging around marriage and its dissolution, children, and consensual as well as violent forms of sexual encounters. Particular attention will be paid to the language used by historical actors to assess how those involved, and especially those with the power to make rules and pass life-changing judgments, viewed marriage and sex within the context of colonial hierarchies. For this reason, direct (translated) quotations feature heavily, contextualized through both the existing legal tradition and specific local circumstances. Although the focus of the analysis will be on the eighteenth century, the discussion will occasionally take us back earlier, to show how the institutions and basic regulatory frameworks initially developed.

Research questions and hypotheses

The main research question ("how did norms governing intimate relations form in early modern Dutch colonial settlements?") will be addressed through two primary sub-questions. The first, and most extensive, is "how, when, and why did Dutch colonial authorities interfere in the sexual, marital, and familial lives of colonial populations?" This question explores the differences that emerge in how sexual and familial relations became issues of concern for colonial administrations according to differences in ethnic, religious, and corporate allegiance and status of the people involved and examines how these differences can be explained. I hypothesize that a primary factor in accounting for differences in the ways sex and marriage were problematized and in explaining administrators' attitudes towards sexual norms is 'order' in the dual sense of the word.

In its primary sense – the maintenance of 'the common peace' and absence of violent uproar or revolt – order was a constantly pressing concern for VOC and WIC officials surrounded by populations whom they considered (potential) enemies or untrustworthy allies at best, and relying on the peaceful compliance of free and enslaved laborers for successful profit extraction. Any sexual or conjugal conflict that threatened this order could thus become a problem. In a secondary (if related) sense, 'order' can also refer to the social order of hierarchically segregated groups that characterized most if not all early modern colonial societies, with European colonizers eager to establish and maintain their own social pre-eminence. Here, sex and marriage could be problematized in a more explicitly moralistic sense, because sexual mores often became cultural markers of particular (elite) group identities.[50] In addition, as stated above, sex and marriage themselves are constitutive of group identities and distinctions in a physical rather than merely symbolic sense, because biological reproduction and family formation formed a primary locus of group formation and reproduction, and inter-group contact thus had the potential to blur the boundaries on which this 'pluralist order' rested. This constitutive role of sex and marriage was woven into institutional frameworks, in laws governing the ability of legitimate and illegitimate children to inherit, the transfer of enslaved status from

[50] See, for example, Aviva Ben-Ur and Jessica V. Roitman, "Adultery Here and There: Crossing Sexual Boundaries in the Dutch Jewish Atlantic," in *Dutch Atlantic Connections, 1680-1800*, ed. Gert Oostindie and Jessica V. Roitman (Leiden: Brill, 2014), 193.

mother to child, prohibitions on inter-religious (and sometimes inter-racial) marriage, the convention of wives taking on their husband's ethnic and social status upon marriage, and in requirements on parental status for access to church communities through baptism.

Implicated in this question, but nonetheless worthy of separate expression, is a second: "what role did the actions and expectations of affected communities and individuals play in the formation of norms around intimate relationships?" In other words, how did populations' behavior influence what rules authorities considered enforceable, what actions prompted new intervention, and how did local people of various statuses engage with the systems of control in place, for example by turning to Dutch courts to settle disputes? I hypothesize that company authorities, ethnically or religiously specific communal authorities and subjects alike instrumentalized formal norms (e.g. the illegality of adultery) in strategic and selective ways to pursue pressing political and social ends (e.g. public order, inheritance, status). Thus they contributed to an inconsistently applied set of expectations for what constituted 'honorable' and legitimate conduct, strongly shaped by socio-economic concerns as well as by locally formed practices over which company officials had little control.

Source material

The cross-continental analysis outlined above is made possible, in part, by the existence of sources for both the East and West Indies whose similarity in structure and form (notwithstanding important differences[51]) is a testament to the existence of intra-imperial convergence and connection even in the early modern period. Both the VOC and the WIC (as well as the smaller colonial 'societies' on the Wild Coast) were organizations with an almost obsessive propensity for record-keeping which sent shiploads full of paperwork to their (respectively six and five[52]) chambers in the Netherlands, where substantial portions of both companies' archives, after falling in the hands of the state along with their respective colonial territories, eventually ended up in the *Rijksarchief*, now the *Nationaal Archief*. Not all remaining records are neatly contained within the 'WIC' (access number 1.05.01.02) and 'VOC' (1.04.02) holdings at the national archive in The Hague, although these are substantial (101.5 and 1330 shelf meters, respectively). Several separate collections pertaining to Atlantic colonies can also be found in the Hague, such as for Curaçao,[53] Suriname,[54] Berbice,[55] the Guinean coast.[56] Many of these records have been digitized and are publicly available online.[57] In addition, substantial smaller VOC archives exist across the globe: 15 meters of documents pertaining to Malacca are in the United

[51] The most important difference, and challenge for this project, is the considerably smaller size and more fragmented structure of the WIC archives. In fact, only a relatively small part of relevant archival material from the Atlantic colonies is in the 'WIC' section of the National Archives, with the rest housed in specific, localized archives.
[52] For both companies, interestingly, the archives of the Chamber of Zeeland appears to be the most complete.
[53] Nationaal Archief, Den Haag, Curaçao, Oude Archieven tot 1828, access number 1.05.12.01 [hereafter NL-HaNA, Curaçao, Bonaire en Aruba tot 1828, 1.05.12.01].
[54] Nationaal Archief, Den Haag, Sociëteit van Suriname, access number 1.05.03 [hereafter NL-HaNA, Sociëteit van Suriname, 1.05.03].
[55] Nationaal Archief, Den Haag, Sociëteit van Berbice, access number 1.05.05.
[56] NL-HaNA, Kust van Guinea, 1.05.14.
[57] A range of institutional archives housed in the National Archives of Suriname (in Paramaribo) and Guyana (in Georgetown) have been digitized and are hosted online by the Dutch National Archives, recognizable by the label "*Digitaal Duplicaat*" in the reference.

Kingdom (at the British Library) , as well as a series of records from Guyana from the period of Dutch rule at the British National Archives, 450 shelf meters in South Africa, 350 in Sri Lanka, and 65 in Chennai. Of these, considerable portions have been digitized, including the records of the Court of Justice in Cochin (part of the Chennai archive)[58] and the resolutions of the Cape Colony of which transcriptions are online. The largest collection of VOC records, however, is in the National Archives of the Republic of Indonesia (ANRI, 2500 shelf meters) which contains an abundance of documents from several Batavian urban institutions, such as the *Schepenbank* (the Batavian court for non-VOC residents), the notaries and churches, and the vital records office.[59] Of these records housed outside the Netherlands, I have used the digitized material of the Chennai and Colombo archives, a modest amount of UK-based sources, and a selection of notarial, judicial, and church administration (i.e. baptisms and marriage registrations) records of the ANRI.

This wealth of information provided by the VOC and WIC archives poses both benefits and risks. To begin, the make-up of the archive itself gives a valuable insight into the colonial vision of administrators – for example, the categories along which record-keepers chose to register information about population groups are highly relevant to understanding the regulation of diversity. In a similar vein, since the cost of copying records and sending them to the Netherlands was considerable and local and regional representatives therefore had to choose which documents to send to their superiors, the presence of particular cases in Dutch archives is evidence of their importance to company administrators.[60] This, simultaneously, also poses a disadvantage to the historian: what company administrators considered worthy of preservation may not be in line with what is relevant for research, and vice versa.[61] This bias extends to the colonial perspective too: as the product of Dutch-speaking colonists and company employees, the archives present a rather one-sided vision of colonial society from the point of view of Dutch administrators, effacing the voices of the majority of the population concerned. Nonetheless, I would argue that it possible to 'read between the archival lines' and get glimpses of colonized people's lives and sometimes even voices. Court cases (discussed below) are particularly useful in this respect, because of their inclusion of witness reports, testimonies, and confessions. These testimonies come with limitations however: in many cases, testimonies were not recorded verbatim, but paraphrased by the clerk, and even when they were (or when written testimonies are provided) we often only see them in translation, as many locals did not speak Dutch. A further

[58] Nationaal Archief, Den Haag, Digitaal Duplicaat: Nederlandse bezittingen in India: Archieven aanwezig in de Tamil Nadu Archives te Chennai, access number 1.11.06.11.
[59] An inventory of the VOC records at the Arsip Nasional Republik Indonesia can be found in F.S. Gaastra, "The Archives of the Dutch East India Company (VOC) and the Local Institutions in Batavia (Jakarta)," in *The Archives of the Dutch East India Company (VOC) and the Local Institutions in Batavia (Jakarta)*, by J. Kortlang et al. (Leiden: Brill, 2007), 13–60.
[60] A small caveat in this line of reasoning: as Joyce Pennings points out in her description of the VOC archives' history, the chamber of Amsterdam in particular had trouble keeping its archives complete because documents would not be properly put back in place after use. In this case, something missing from the archives could thus be an indication of relative interest on the part of metropolitan directors or company servants, because frequent consultation raises the chances of misplacement. The archives of the Chamber of Zeeland, which had rules in place against such carelessness, may therefore be a more reliable repository in this respect.
[61] A potentially fruitful way of dealing with this is to compare summarizing lists (such as criminal sentences and resolutions in the case of judicial records) where available (e.g. in the *dagregisters*) to the cases sent to the metropole, in order to get a sense of what proportion and type of cases were omitted.

constraint is the setting of the court room environment: defendants and plaintiffs had a stake in presenting their experience in a way that conformed to the court's expectations and would positively influence the outcome of the case, but even if just acting as a witness it is unlikely that people would speak as they might in their daily lives, when not presented with the full force of Dutch colonial bureaucracy. This in itself is useful for reconstructing reigning (moral) norms, however, because we learn how people viewed authorities' expectations of proper conduct and how they navigated this. In lieu of a direct voice, moreover, the imprint of (marginalized) populations' actions can be read in administrators' reactions thereto (e.g. persecution, the issuing of ordinances, new forms of administration): if these responses were considered necessary, there must have been problems which presented themselves with regards to populations' behavior.

For this reason, a source I draw on heavily is the large body of *plakaten* (ordinances) issued by Dutch colonial authorities throughout the empire, which are reflective of the norms which they considered necessary to articulate or re-affirm. While some of these are only accessible through the VOC and WIC archives in the Hague, a large portion has been published in so-called *plakaatboeken* and online databases. The most extensive is the 17-volume *Nederlands-Indisch Plakaatboek* published in 1885 by J.A. van der Chijs at the initiative of the Batavian Society for the Arts and Sciences in collaboration with the Dutch colonial government. Since all seventeen volumes, spanning from the VOC's beginning in 1602 until the start of the British interregnum in 1811 have been digitized by Google, this collection provides a highly accessible and searchable source facilitating diachronic comparison. The volumes also contain both the 1642 and the 1762 version of the *Statuten van Batavia* and multiple codifications of Chinese, Hindu, and Islamic Javanese law, including marriage law, which offer a way in to tackling the question of Dutch institutional involvement in various population groups' private lives. The *plakaten* of the West Indies are more scattered, with ordinances from Dutch Guyana compiled in an indexed database created by the Huygens Institute,[62] and those for Suriname and the Caribbean islands having both been published (in part) in print.[63] These sources are arguably more useful for examining the perspective and concerns of colonial authorities than more 'constitutional' legal sources such as the *Orde van Politie* issued in Dutch Brazil for the entire WIC-area or Dutch metropolitan law on which the colonial legal order was, in theory, based, because, as Han Jordaan has pointed out for the case of Curaçao, local jurors rarely had access to or even knowledge of codified law.[64] Ordonnances can also point to relevant court cases available in the judicial archives, because

[62] "Plakaatboek Guyana 1670-1816" (Huygens Instituut voor Nederlandse Geschiedenis, 2015).
[63] Jacob Adriaan Schiltkamp and J. Th. de Smidt, eds., *West Indisch plakaatboek. Plakaten, ordonnantiën en andere wetten uitgevaardigd in Suriname, 1667-1816 1 1* (Amsterdam: S. Emmering, 1973); Jacob Adriaan Schiltkamp and J.Th. de Smidt, eds., *West Indisch plakaatboek: publikaties en andere wetten alsmede de oudste resoluties betrekking hebbende op Curaçao, Aruba, Bonaire1638 - 1782* and *West Indisch plakaatboek: publikaties en andere wetten alsmede de oudste resoluties betrekking hebbende op Curaçao, Aruba, Bonaire 1782 -1816*. (Amsterdam: S. Emmering, 1978).
[64] Han Jordaan, "Free Blacks and Coloreds and the Administration of Justice in Eighteenth-Century Curaçao," *New West Indian Guide / Nieuwe West-Indische Gids* 84, no. 1–2 (January 1, 2010): 63–86,. This, simultaneously also points to the limits of the usefulness of the plakatenboeken themselves, for as Jordaan points out, the form of law predominantly followed on the island was customary. On the *Orde van* Politie, see Jacob Schiltkamp, "Legislation, Government, Jurisprudence, and Law in the Dutch West Indian Colonies: The Order of Government of 1629," *Pro Memorie : Bijdragen Tot de Rechtsgeschiedenis Der Nederlanden,* 5, no. 2 (2003): 320–34.

often new by-laws were passed in direct response to a case that the governing council considered particularly salient to the interests of the colony.[65]

The bulk of my empirical research is done with the help of court cases available at the VOC and WIC archives, both from the '*criminele rolle*' and the '*civiele rolle*'.[66] Criminal cases are particularly useful because they offer a rare look into the lives of otherwise often silenced colonial subjects, including women and enslaved people. Whereas wealthy inhabitants of colonies are overrepresented in civil cases, those from the lower ranks of society, including slaves, were much more likely to be persecuted criminally or appear as witnesses in criminal trials.[67] I also include civil court cases and legal (notarized) agreements in my analysis, however, since these are particularly useful in assessing people's engagement with colonial institutions at their own initiative, as well as in examining modes of 'conflict' regarding sex and marriage that do not necessarily involve a crime. In selecting cases to analyze, I not only choose those that directly involve issues of sex or marriage (e.g. persecutions of adultery or concubinage), but also those in which evidence of these factors is mentioned coincidentally and not directly relevant to the case itself. This process has been be aided by the shared labor of indexing juridical sources by the research team of *Resilient Diversity: The Governance of Racial and Religious Plurality in the Dutch* Empire, the joint research project between Leiden University and the International Institute of Social History of which this project is a part, which has indexed criminal court cases for Batavia, Ceylon, Curaçao, Elmina, and Suriname.[68] To compliment this judicial base, I draw on notarial records, governing councils' missives and resolutions, as well as baptismal and marriage records (in the National Archives) and other church records where available.

Structure of the study

The dissertation consists of six chapters, each focusing on a particular theme pertaining to intimate relations within colonial societies, moving from aspects of life over which the chartered companies' local colonial authorities had a relatively strong regulatory grip to phenomena increasingly defying institutional control. The first chapter deals with the regulation of Christian marriage, showing how the companies' marriage policies were foundational to their political and economic endeavors in fostering the formation and reproduction of regulated communities beholden to colonial authorities and Dutch family law, access to which communities could be, to a degree, policed. Highlighted local conflicts around (access to) marriage, however, show how both this regulatory grip and any notion of a clearly delineated, orderly married Christian community was never a given, and stood in constant tension with the realities of colonial social diversity. The second chapter focuses on Christian divorce, exploring the different legal

[65] An example is the ban in Suriname on sex between white women and black men, which was issued after a Dutch woman named Maria Keijser gave birth to the child of an enslaved man with whom she had had an affair. HaNA 1.05.03 inv.no. 129, scan 137.

[66] On the background of this distinction, see Erik-Jan Broers, *Geschiedenis van het straf- en schadevergoedingsrecht: een inleiding* (Maklu, 2012), 67–71.

[67] In addition, Carla Van Wamelen has noted for the VOC-setting that the vast majority of those persecuted or disciplined by the church for sex-related infractions were non-European women. Van Wamelen, *Family life*, 395.

[68] I am indebted to colleagues from the IISH in Amsterdam for the criminal data for Cochin: Matthias van Rossum et al., "The VOC Court Records Cochin, 1681-1792" (Amsterdam: International Institute of Social History, 2018).

possibilities available to Christians who wished to end a valid marriage, and zooming on the legal practice in the VOC and WIC worlds to show how gendered economics, cultural expectations about marriage and conflict resolution, and the law converged to shape the way people in Dutch colonial settlements dealt with breakdowns of conjugal order. Chapter three, then, moves on to norms and practices concerning marriage and divorce among groups over whom Dutch colonial authorities had less direct control, such as Jewish communities in the Dutch Caribbean and Chinese and Muslim groups in the East Indies, showing how legal pluralism in the regulation and arbitration of family life played a vital role in the dynamic power relationship between secular colonial governments, non-sovereign communal authorities, and non-Christian colonial residents.

Chapter four, focusing on illicit sex, explores the tension between the moral-legal framework undergirding the early modern (Christian) world, which criminalized any and all sex outside of legal marriage, and the nearly ubiquitous reality on various forms of non-marital relations in Dutch colonial settlements across the globe. Drawing on local ordinances targeting specific types of transgressions and criminal court records, the chapter sets out to explain why some forms of non-marital sexuality were prosecuted with violent intensity, and others tacitly or even overtly tolerated, thus highlighting the far-reaching implications of colonial power relations and sexuality. Chapter five goes deeper into this relationship between sex and power by focusing specifically on sexual violence and violence around sex in Dutch colonial settings as an explosive window into gendered hierarchies and political calculations. Highlighting the legal and conceptual complexity of 'rape' in the early modern period, an in-depth reading of multiple criminal prosecutions from across the empire will reveal that the meaning and implications of coercive or violent sex, and the outcome of legal action taken in response, depended heavily on both the involved parties' status and position within colonial society and the response of local communities. The sixth and final chapter examines what happened to the children born from the illicit unions explored in the prior two chapters, whose existence frequently challenged colonial modes of classifying subjects along religious and ethnic or racial lines and those of class and legal status. This chapter will explore how these children, their families, and religious and political authorities negotiated their place within colonial hierarchies through means such as testaments, manumission, baptism, and education.

Chapter 1. Christian marriage as a colonial cornerstone

Introduction

It is hard to overstate the power the institution of marriage held in the VOC and WIC world. It could tie men to a continent, make the difference between being considered honorable or a fornicator, change someone's ethnic status, provide social mobility or solidify property arrangements, and even have consequences for one's labor obligations. As the prerequisite for the foundation of a legitimate family, marriage formed a primary vehicle through which wealth was transmitted and communities formed and reproduced themselves. The way in which the institution was governed, therefore, had considerable impact on the way people built a life within the complex multi-ethnic societies that formed in Dutch colonial settlements – and vice versa. This chapter traces how this exchange worked for the communities closest to the Dutch colonial institutions and centers of power: Christians. How did marriage shape the formation, reproduction, and boundaries of Christian colonial communities and thus inform what it meant to be 'European' in these highly mixed and mobile societies? And how did colonial residents and authorities – local and in the Dutch Republic – in turn give shape to Christian marriage? In order to answer these questions, this chapter will begin by exploring the fundamental relationship between marriage, population, and colonial power, before giving an overview of the early modern Dutch marriage legislation that formed the legal framework within which settlements under the VOC and WIC operated. Then, we will turn to an examination of locally issued colonial legislation and on-the-ground conflicts around access to marriage to show how racial and religious diversity, class hierarchies, and the element of slavery complicated questions of what Christian marriage meant, who it could include, and who had the power to decide this.

Marriage and colonization

By the time the Dutch West India Company was founded in 1621, some two decades after the institution of its East Indian counterpart, the VOC, it was clear to those in the Dutch Republic setting their sights overseas – whether they were merchants, politicians, or clergy, and whether they were looking East or West – that the companies' expansion across the Indian and Atlantic oceans would not strictly consist of trade missions. The VOC, in its attempt to establish a monopolistic position in its trade zone, had almost immediately resorted to the non-mercantile practices provided for in the 35th article of its charter – diplomacy and violence – in order to establish a basis of power in South-East Asia.[1] In the 1610s and '20s, as the Company was increasingly supplementing treaties with conquests, debates arose around the role of populations – and specifically Dutch settler populations – as a basis for the company's power.[2] Although there was a general consensus that a loyal, self-sustaining and self-reproducing population base was key in retaining newly conquered lands, it was not a given how this was to

[1] "Octrooi Verleend Aan de VOC Door de Staten Generaal," accessed August 19, 2019.
[2] C. R. Boxer, *The Dutch Seaborne Empire, 1600-1800* (London: Hutchinson, 1977), 215–20; Van Wamelen, *Family life*, 177–80; Jean Gelman Taylor, *The Social World of Batavia ; Europeans and Eurasians in Colonial Indonesia*, 2nd rev. ed. (Madison, WI: University of Wisconsin Press, 2009), 16.

be achieved.[3] On an economic level, settlers presented a dilemma with regards to the company's monopoly position: in order to support themselves (and thus indirectly support the expansion of the VOC's monopolistic power in the trade zone) free settlers needed to be able to engage in a certain amount of private trade, but this went against the Company's founding principle that no Dutchmen were to engage in Asian trade outside the VOC.[4] On a reproductive level, meanwhile, the question arose *who* was to make up the families that would sustain the population base of Dutch colonies. This is where women and marriage come into the picture, because while a steady stream of European men flowed into Asia in service of the Company, the same could not be said for European women.

Faced with the question who company servants wishing to settle down were to marry, Pieter Both, who was Governor-General in the VOC's early years, when the Company was still primarily active in the Moluccas, advocated for what he called a 'Romulus-style' policy, with Dutch men marrying local women, as he judged the small number of Dutch women who came over from the Netherlands to be of ill repute and breeding.[5] This strategy did not just emulate the mythical founding of Rome, but also followed in the footsteps of the Portuguese policy of promoting *casados* (Portuguese men married to Asian women) dating back to the viceroyalty of Albuquerque in the early sixteenth century.[6] Jan Pieterszoon Coen, who oversaw the conquest of Jacatra and subsequent founding of Batavia as the VOC's base of power in Asia in 1617, was among the most vocal proponents of colonization by Dutch settlers – whether they be company servants settling down instead of returning to Europe after their contract ended or Dutch families relocating to Asia. He frequently wrote to his employers in the Dutch Republic to implore them to send either respectable families or young unmarried girls who could be turned into respectable Dutch wives.[7] In Coen's vision, colonial society ought to be headed by virtuous Dutch, Protestant families who could oversee the growing enslaved population being brought in to perform the labor needed to build and sustain it.[8] Coen, too, however, was not satisfied with the Dutch women sent over to Batavia on his request. After the Company Directors responded to his pleas by starting the official policy of recruiting 'Company Daughters' as brides for higher-level company servants, Coen advised his employers against sending women of ill repute, "as there are already enough whores in these lands," and complained that no local women, free or enslaved, were as "unfit and ill-mannered as some of the daughters that arrived on these ships."[9] By 1632 the *Compagniesdogters* project was abandoned and twenty years later, in 1652, single women were even banned from making the voyage to Asia, rendering Dutch-born brides an

[3] Leonard Blussé, "The Caryatids of Batavia: Reproduction, Religion and Acculturation under the V.O.C.," *Itinerario* 7, no. 1 (1983): 62–63.
[4] For more on the debates regarding free trade by *Burghers*, see Arthur Weststeijn, "The VOC as a Company-State: Debating Seventeenth-Century Dutch Colonial Expansion," *Itinerario* 38, no. 1 (April 2014): 13–34; H. E. Niemeijer, "Calvinisme en koloniale stadscultuur, Batavia 1619-1725" (PhD Dissertation, Amsterdam, Vrije Universiteit Amsterdam, 1996), 28–31.
[5] Van Wamelen, *Family life*, 175; Boxer, *The Dutch Seaborne Empire*, 216.
[6] Francisco Bethencourt, *Racisms: From the Crusades to the Twentieth Century* (Princeton, NJ/Oxford: Princeton University Press, 2013), 199; Sanjay Subrahmanyam, *The Portuguese Empire in Asia, 1500-1700: A Political and Economic History* (London: Longman, 1993), 97.
[7] H. T. (Herman Theodoor) Colenbrander, ed., *Jan Pietersz. Coen, bescheiden omtrent zijn bedrijf in Indië*, vol. 1 (The Hague: Nijhoff, 1919), 605, 709–11, 795–96.
[8] Colenbrander, 1:795.
[9] Colenbrander, *Coen* 1, 732.

almost-exclusive privilege of the highest-ranking company servants. Much of the economic backbone of Batavia and many other VOC settlements would be formed not by Dutch settler families, but by Chinese migrants, although the latter would be excluded from both company leadership and military offices.[10] The most powerful and lucrative positions within the company-dominated world of Batavia remained the prerogative of Protestant men, predominantly of Dutch descent and educated in Europe, who exchanged power, wealth and influence among each other through a closely-knit network of Christian but not necessarily European women.[11] The gendered colonisation policy of the Dutch East India Company was thus more informed by a desire for an orderly social hierarchy with a well-behaved and loyal group at the top than color or ethnic background per se, but the new policy did mean that ethnic identification and class became to a certain extent intertwined. The result was a complex, multi-ethnic, and highly creolized but still strongly stratified colonial society.[12]

For the West India Company, which had two decades of VOC-expansion as well as two centuries of Spanish and Portuguese colonization to look back on, it was always clear that the Americas, which formed the major part of its trade zone, would be the site of settlement as well as trade. From the 1620s through the early eighteenth century, the WIC expanded its reach in large part through a policy of allowing wealthy entrepreneurs to settle land in its charter zone and thus found their own, semi-private colonies under the WIC umbrella – a construction known as *patroonschap*.[13] Patroons and WIC officials alike were acutely aware that attracting and maintaining settler populations to populate these fledgling colonies was a key challenge, and that women would have to form a cornerstone of the company's colonization strategy: as Susanah Shaw Romney has argued for the context of New Netherland in North America, early modern ideas of gender rendered women's bodies and homemaking activities key in the claiming of land,

[10] Leonard Blusse, "Batavia, 1619–1740: The Rise and Fall of a Chinese Colonial Town," *Journal of Southeast Asian Studies* 12, no. 1 (March 1981): 170-171.

[11] Only once did the VOC have a Governor-General who had neither been born nor raised in Europe: Ceylon-born P.A. van der Parra, who was in office from 1761 to 1775. Although frequently described as Eurasian, Van der Parra was in fact of fully Dutch descent, having been born to a Dutch mother and a father who hailed from the Dutch, company-employed administrative elite that had established itself on Ceylon since the early years following the VOC's takeover of the island. It is likely that Van der Parra was able to draw on both his ethnic status and his family connections in the VOC world in order to cement his unique position. Although several other company servants who spent their formative years in Asia were able to climb to the highest echelons of VOC power (Notably Rijcklof Van Goens and Joan van Hoorn), they were exceptions to the rule, and often had family that tied them to either the Dutch Republic's olichargic elite or to powerful company servants, or both. Taylor, *The Social World of Batavia*, 58, 118.

[12] Ulbe Bosma and Remco Raben, *Being "Dutch" in the Indies: A History of Creolisation and Empire, 1500-1920*, Research in International Studies. Southeast Asia Series ; No. 116 (Singapore : Athens, OH: NUS Press ; Ohio University Press, 2008), 14–25. See also H. E. Niemeijer, *Batavia: een koloniale samenleving in de zeventiende eeuw*, Digital edition (Amsterdam: Balans, 2005); Jean Gelman Taylor, *The Social World of Batavia ; Europeans and Eurasians in Colonial Indonesia*, 2nd rev. ed.. (Madison: University of Wisconsin Press, 2009).

[13] Examples include Rensselaerswijck in New Netherland, Berbice under the Van Peere Family, and various failed colonization attempts on the Wild Coast. Jaap Jacobs, "Dutch Proprietary Manors In America: The Patroonships In New Netherland," in *Constructing Early Modern Empires*, ed. Louis Roper and Bertrand van Ruymbeke (Leiden: Brill, 2007), 301–26; Henk den Heijer, "'Over Warme En Koude Landen': Mislukte Nederlandse Volksplantingen Op de Wilde Kust in de Zeventiende Eeuw," *De Zeventiende Eeuw* 21 (2005): 79–90; Geert Stroo, "Zeeuwen op de Wilde Kust, Berbice," *Den Spiegel* 37, no. 3 (2019): 8–15.

as their physical presence made the difference between sojourning and a civil, settled territory.[14] Indeed, although Dutch settlements in the Americas, like the Dutch East Indies and many other, non-Dutch American colonies, had trouble attracting (female) settlers from any class other than the lower classes of Europe, the WIC never restricted the migration of European women the way the VOC had done. This choice may have been informed by the experience in Dutch Brazil where, in absence of sufficient Dutch brides, many Dutch WIC employees had married local (Portuguese) women, a fact which would in part be blamed for the failure to create a sufficiently 'Dutch', loyal, and stable community in the colony and subsequent loss of 'New Holland' to Portugal in 1654.[15]

As Dutch colonial efforts shifted from Brazil and New Netherland (where Dutch colonization had been considerably more successful) towards the Caribbean, the WIC and colonial authorities would continue to encourage white female migration, with mixed results. As late as 1762, the Society of Suriname pitched a plan similar to the Company Daughters project of the early seventeenth-century VOC: citing the problem of an insufficient number of "white womenfolk" moving to Suriname, which prevented the colony's growth, the Directors began negotiations with Amsterdam's *Aalmoezeniersweeshuis*, the orphanage for the city's poorest, and devised a plan. An initial number of twelve orphan girls, aged fourteen to twenty, would be sent to Paramaribo under chaperone, where they would reside and be educated in the local Reformed orphanage until they would marry. Upon her marriage, each girl would receive a dowry of 100 acres of land from the Society.[16] Governor Crommelin of Suriname was tentatively enthusiastic upon hearing of the plan, citing the lack of European girls in the colony and the "mixing with black women" that occurred as a result, but consulted with others in the colony.[17] A report that came out of this consultation expressed reservations, writing, in a sentiment that echoed the Batavians' disdain for the lower-class brides that had traveled to the East Indies the century prior, that the children from urban orphanages such as the *Aalmoezeniersweeshuis* were "listless and of unworkable nature due to an overly permissive education." The report did stress that the colony was in dire need of more (skilled) colonists, but that attracting them was difficult, especially since a recent settlement attempt involving a group of Swiss families had ended in disaster, with the newly founded village decimated by disease, starvation, and maroon attacks.[18] There is no evidence that the Society's plan ever came to fruition, although no less than 28 orphan girls volunteered to go.[19] The proposal is emblematic of the fact, however, that colonial authorities, where plantation societies such as Suriname were concerned, never quite let go of

[14] Susanah Shaw Romney, "'With & alongside His Housewife': Claiming Ground in New Netherland and the Early Modern Dutch Empire," *The William and Mary Quarterly* 73, no. 2 (2016): 191.
[15] Boxer, *The Dutch Seaborne Empire*, 227–28; Deborah Hamer, "Creating an Orderly Society: The Regulation of Marriage and Sex in the Dutch Atlantic World, 1621-1674" (Columbia University, 2014), 67.
[16] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 52, 15 December 1762, scan 255-256. Conversely, around the same time, plans were being made to send boys from Suriname to the same orphanage in Amsterdam so they could be raised and educated there. NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 154, 8 February 1762, scan 17.
[17] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 319, 13 July 1763, scan 253.
[18] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 321, December 1763, scan 69-73. See also Karwan Fatah-Black, "A Swiss Village in the Dutch Tropics: The Limitations of Empire-Centred Approaches to the Early Modern Atlantic World," *BMGN - Low Countries Historical Review* 128, no. 1 (March 19, 2013): 31–52.
[19] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 52, scan 75.

the ideal of using racially and culturally white settler families as a tool in maintaining control over land and enslaved workers, even if this ideal was never fully reflected in colonial reality.

Just how closely Dutch women and Dutch families were associated with settlement and territorial control, in contrast to a more transient, male-dominated trade presence, becomes clear from a quickly shut down proposal for Elmina on the African Gold Coast. In 1727, a plan was made by the WIC directors in the Netherlands to found a *volksplanting* [colony – literally, 'planting of people'] on the Gold coast, near castle Hollandia (formerly the Prussian fortress Groß-Friedrichsburg). A "large number of men, women, and children" was to be sent from the Netherlands. Their settlement was to be supported for two years, and any gold mines the settlers would find would belong to them and their descendants, as long as the Company would receive 20 percent of the extracted gold.[20] The plan was proposed to Director-General Robert Norré in Elmina, who gently but firmly robbed his employers of their illusions about the possibility of sending Dutch families into the hinterland. The African inhabitants beyond the coast, he wrote,

> do not care in the least about Europeans unless it is in accordance with their own interests, and Your Honors can be assured that they will never, ever, allow Europeans to insert themselves into the hinterland; undertaking this through violence is impossible, because even if troops were to be sent out, what protection can be offered here? Very little, as the authority of Europeans in these lands does not stretch further than the reach of a cannonball. As a result, one would be surrendering such people to fall victim to a party of cruel Barbarians![21]

Indeed, throughout the WIC's tenure on the West-African coast, very few Dutch women ever traveled to Elmina or any of the Company's other outposts in Africa, and virtually no European man started a Christian family through formal marriage. Thus, if we take Christian marriage and the subsequent perpetuation of settled Christian communities as a marker of colonization, indicative of policy as well as power, then Dutch West-Africa, in this framework, can be seen as the least 'colonial', and marked by the most tenuous Dutch power.[22] On the other side of the spectrum are the early examples of New Netherland and, arguably, the VOC-controlled Cape Colony on the Southern tip of Africa, where a veritable white settler community formed.[23] In-between these two extremes are the VOC settlements in South and Southeast Asia and the WIC-colonies in the Caribbean that form the primary locus of this study and which were marked, in varying degrees, by a combination of settlement and transience, captured in the East Indies

[20] NL-HaNA, WIC, 1.05.01.02, inv.no. 7, Plan to found a colony under Castle Hollandia on the coast of Africa, October 1727, folio 129.
[21] NL-HaNA, WIC, 1.05.01.02, inv.no. 108, Missive from Director-General Robert Norré, 14 April 1728.
[22] We might even suggest, with Pernille Ipsen, that eighteenth-century European (slave) trading posts such as the WIC's did not constitute colonial societies at all. Pernille Ipsen, *Daughters of the Trade: Atlantic Slavers and Interracial Marriage on the Gold Coast* (Philadelphia, PA: University of Pennsylvania Press, 2015), 8.
[23] For more on the process of settlement and the reproduction of the white community in the Cape Colony, see Robert Ross, "The 'White' Population of the Cape Colony in the Eighteenth Century," *The Societies of Southern Africa in the 19th and 20th Centuries*, 1976, 15–23; Gerald Groenewald, "'A Mother Makes No Bastard': Family Law, Sexual Relations and Illegitimacy in Dutch Colonial Cape Town, c. 1652-1795," *African Historical Review* 39, no. 2 (November 2007): 58–90; Laura J. Mitchell, *Belongings: Property, Family, and Identity in Colonial South Africa (an Exploration of Frontiers, 1725-c. 1830)* (New York: Columbia University Press, 2009).

literature in the dual figures of the *blijver* or 'stayer' and the *trekker* or sojourner.[24] We can see some of this dynamic reflected in the marriage data recorded by the Dutch Reformed Church in Batavia, Cochin, Suriname and Curaçao. For each couple that wished to wed in church, local pastors wrote down the bride and groom's names, witnesses, prior marital status, and – usually – place of birth. Although they do not give a comprehensive overview of the entire population, the distinct trends in places of birth in these *ondertrouwregisters* can give an indication of the relative 'localization' and dynamism of the Christian marriage market in these places, and thus of patterns in colonization.

Chart 1.1. Batavia - Place of birth of grooms and brides in Dutch Reformed Church marriage records

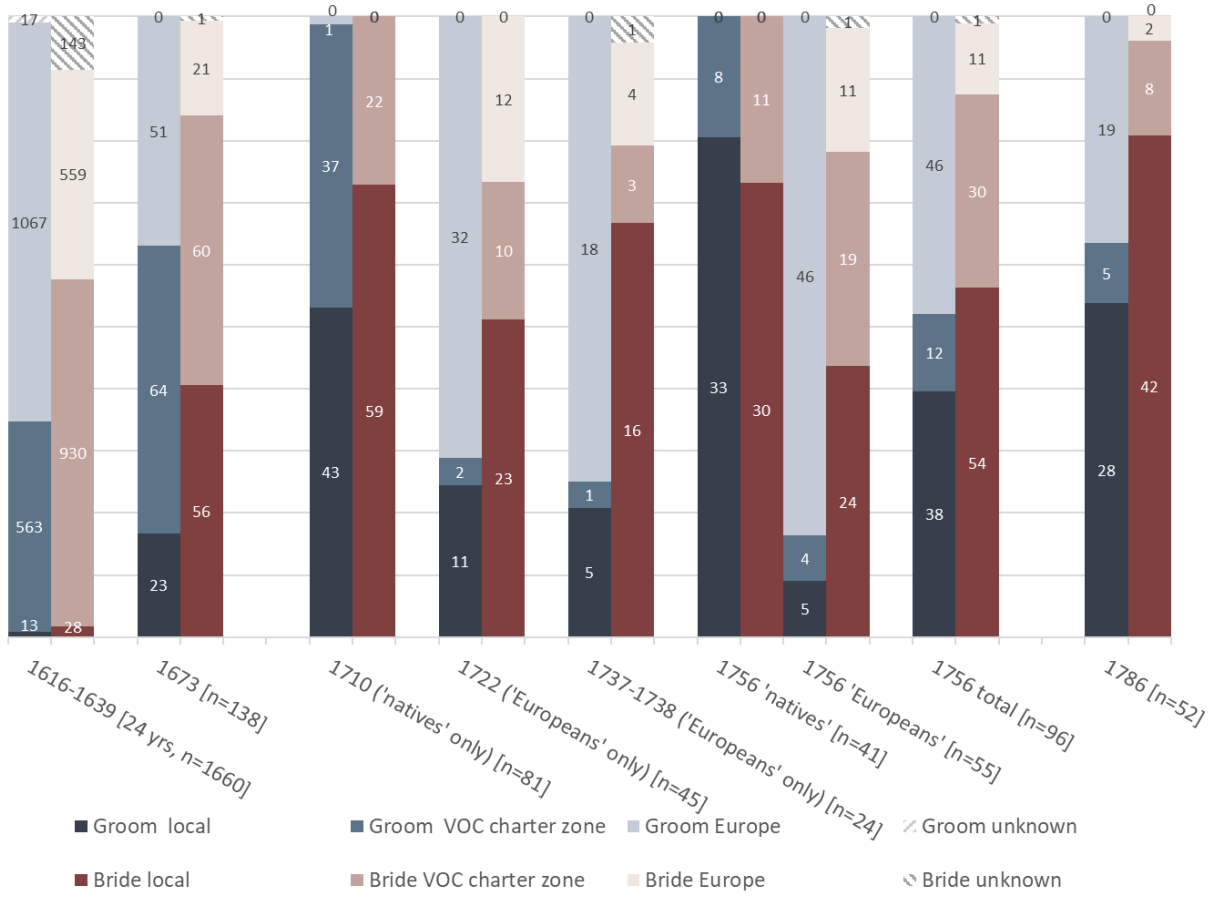

Chart 1.1. *Source 1616-1639*: H. E. Niemeijer, "Calvinisme en koloniale stadscultuur, Batavia 1619-1725" (Unpublished PhD Dissertation, Amsterdam, Vrije Universiteit Amsterdam, 1996), 42–43. Nb the 117 grooms and 43 brides classified by Niemeijer based on their surname or patronym are listed under 'unknown' in this graph, as their place of birth cannot be determined with certainty (although it is likely they were born in Asia). *Source other years*: ANRI Burgerlijke Stand inv.nos. 84, 90, 91, 95, Ondertrouwregisters. 'n' in all tables stands for the total number of couples listed. 'Europeans' and 'natives' refers to distinctions made in the original source (*Europeanen* and *inlanders*).

The data for Batavia (Chart 1.1.) supports the general picture given in the literature of increasing, strongly gendered, creolization: following an initial phase in which the majority of grooms and

[24] This distinction was first coined in the late nineteenth century by planter-turned-activist G.A. Andriesse to disparage the extractive practices of upper-class 'sojourners'. Bosma and Raben, *Being "Dutch" in the Indies*, 302; A comparable bifurcation has been used by Anthony Reid for the Chinese diaspora throughout the early modern to modern period: Anthony Reid, *Sojourners and Settlers: Histories of Southeast Asia and the Chinese* (University of Hawaii Press, 2001).

over a third of brides hailed from Europe, the pattern shifted, starting in the second half of the seventeenth century: with the change in policy regarding European female migration, the proportion of European brides dropped drastically and continued to fall throughout the eighteenth century.[25] The number of European-born grooms also declined in both a relative and an absolute sense, but never dropped below one-third of all Christian men marrying in Batavia. The share of locally-born grooms and especially brides, conversely, grew steadily, in line with Jean Gelman Taylor and Leonard Blussé's identification of Batavian girls – daughters and grand-daughters of VOC servants and earlier generations of European, South Asian, and South-East Asian brides in Batavia – as the 'social glue' of the Christian sub-set of Batavian society.[26]

Notably, in the middle part of the eighteenth century, the church records segregate couples into lists of 'European' and 'native' (*inlandse*) marriages, which offers us a unique insight into institutional perceptions of ethnic belonging. We see that, by the 1720s, European status was not exclusively determined by place of birth, as around a quarter of grooms and three quarters or more of brides on the 'European' list were born either in Batavia or elsewhere within the VOC's charter zone. A closer look at the data, moreover, confirms that while men of European origin and designation married women of a variety of backgrounds, including formerly enslaved women, European women never married men designated as *inlands,* showing Batavian creolization was clearly gendered.

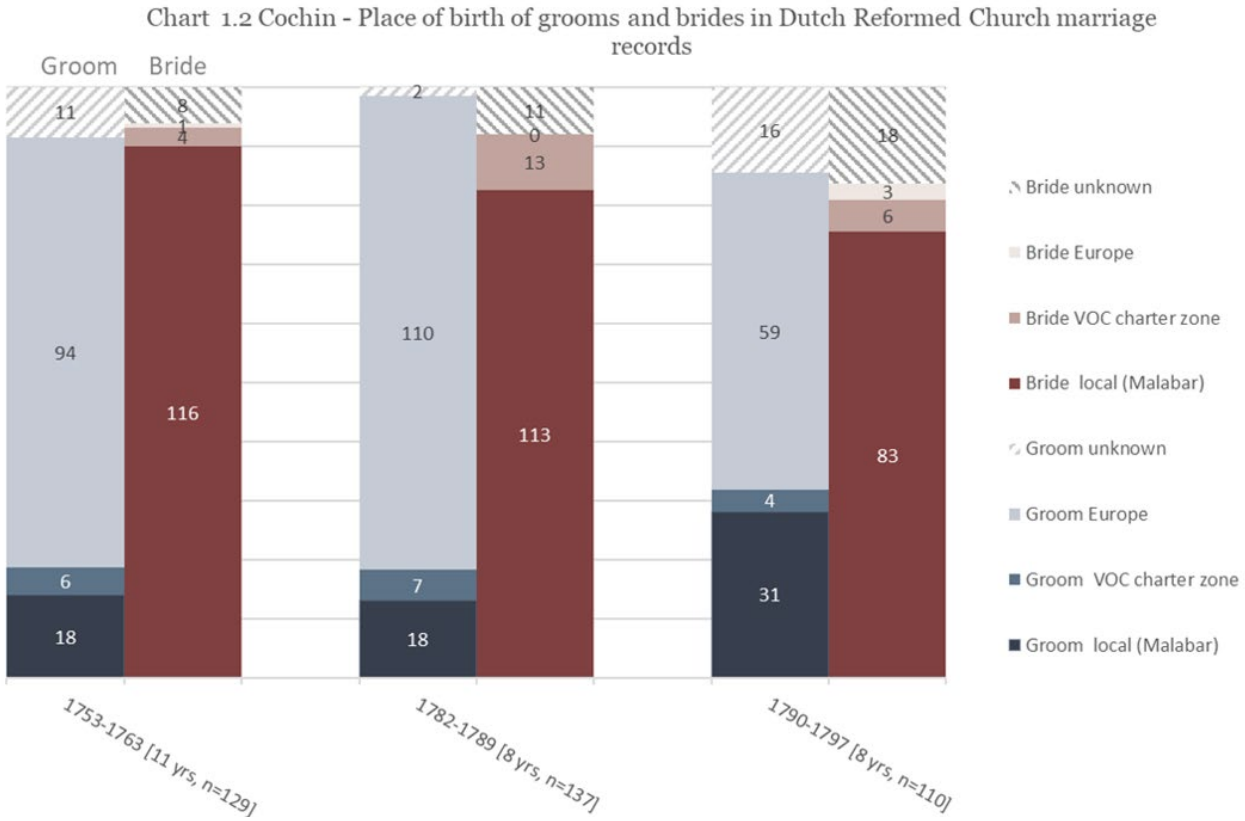

Chart 1.2. *Source*: 'Het Doop/Trouwboek van Cochin,' *Gens Nostra* XLVII (January 1992), 1-31.

[25] Niemeijer, "Calvinisme en koloniale stadscultuur"; Taylor, *The Social World of Batavia*; Van Wamelen, *Family life*; Blussé, "The Caryatids of Batavia"; Michel Ketelaars, *Compagniesdochters: vrouwen en de VOC* (Amsterdam: Uitgeverij Balans, 2014).
[26] Taylor, *The Social World of Batavia*; Blussé, "The Caryatids of Batavia."

The data for Cochin (Chart 1.2), which is only available starting in the mid-eighteenth century, shows a pattern of even stronger (female) 'localization' and gender disparity than Batavia: the vast majority of brides hailed from the city of Cochin or elsewhere on the Malabar coast while the majority of grooms originated from Europe, consistent with the idea of a port city absorbing a steady stream of male newcomers (predominantly company servants), where continuity was provided by locally-born women of mixed descent.[27] A remarkably similar pattern is shown for the port city of Willemstad in Curaçao (chart 1.3) where brides, as early as the 1710s, were overwhelmingly locally born, while grooms were more likely to have crossed the Atlantic, especially in the first half of the eighteenth century. A notable difference between the Cochin and Willemstad records, however, is that while the former never make mention of a couple's ethnicity, the Curaçao register, in the late eighteenth century, occasionally offers racial descriptors (*mestice* or *mulat*) for non-white partners, suggesting inter-racial marriage within the Dutch Reformed community took place but was still considered remarkable, and that most spouses were at least of partially European ancestry. As Han Jordaan has pointed out, it is likely that there were more brides and grooms who had some African or Amerindian ancestry, but that these were considered light-skinned enough (or perhaps of high enough socio-economic status) to 'pass' as white and thus not have their ethnicity remarked upon in the records.[28]

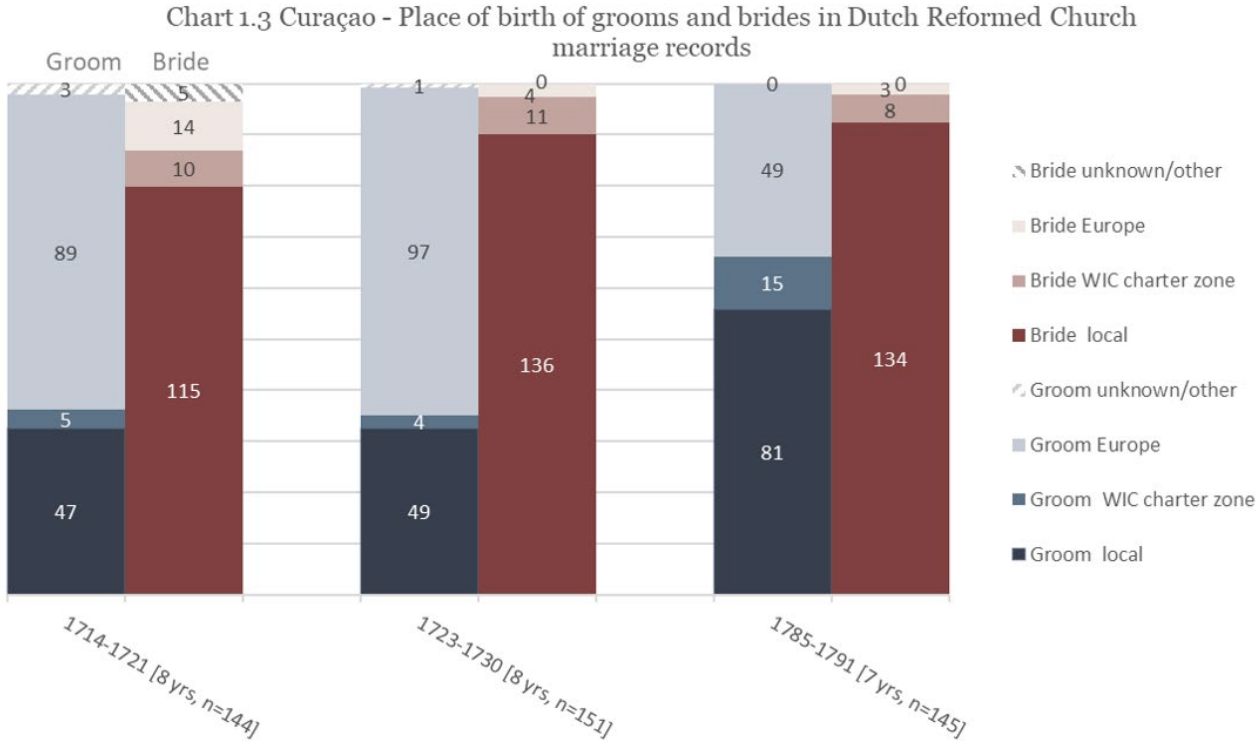

Chart 1.3. *Source 1714-1721*: "Extract Uit Het Trouwboek Der Gereformeerde Gemeente Op Het Eiland Curaçao van de Jaren 1714 Tot En Met 1722.," in *Vijfde Jaarlijksch Verslag van Het Geschied-, Taal-, Land- En Volkenkundig Genootschap, Gevestigd Te Willemstad, Curaçao* (Amsterdam: J.H de Bussy, 1901), 38–50.
Source other years: NL-HaNA, Curaçao, Bonaire en Aruba tot 1828, 1.05.12.01 inv.no. 1468 (1723-1730), inv.no. 1472 (1785-1791).

[27] Singh, *Fort Cochin in Kerala*, 35, 94.
[28] H. R. Jordaan, "Slavernij en vrijheid op Curaçao : de dynamiek van een achttiende-eeuws Atlantisch handelsknooppunt" (PhD Dissertation, Leiden University, 2012), 172.

The marriage records of Suriname's Dutch Reformed Church, meanwhile (chart 1.4), show a different pattern: here, European-born women continued to make up a significant share of brides until well into the eighteenth century, only becoming a minority in its final quarter, a period in which simultaneously the absolute number of marriages dropped.[29] This is consistent with Rudolph van Lier's observation of a shift in Suriname's Dutch Reformed planter elite following the crisis of the 1770s, after which absentee ownership became the norm and plantations were generally managed by bachelor administrators and overseers, giving rise to a wide-spread pattern of unmarried partnership with free or enslaved black women that became colloquially known as 'Surinamese Marriage'.[30]

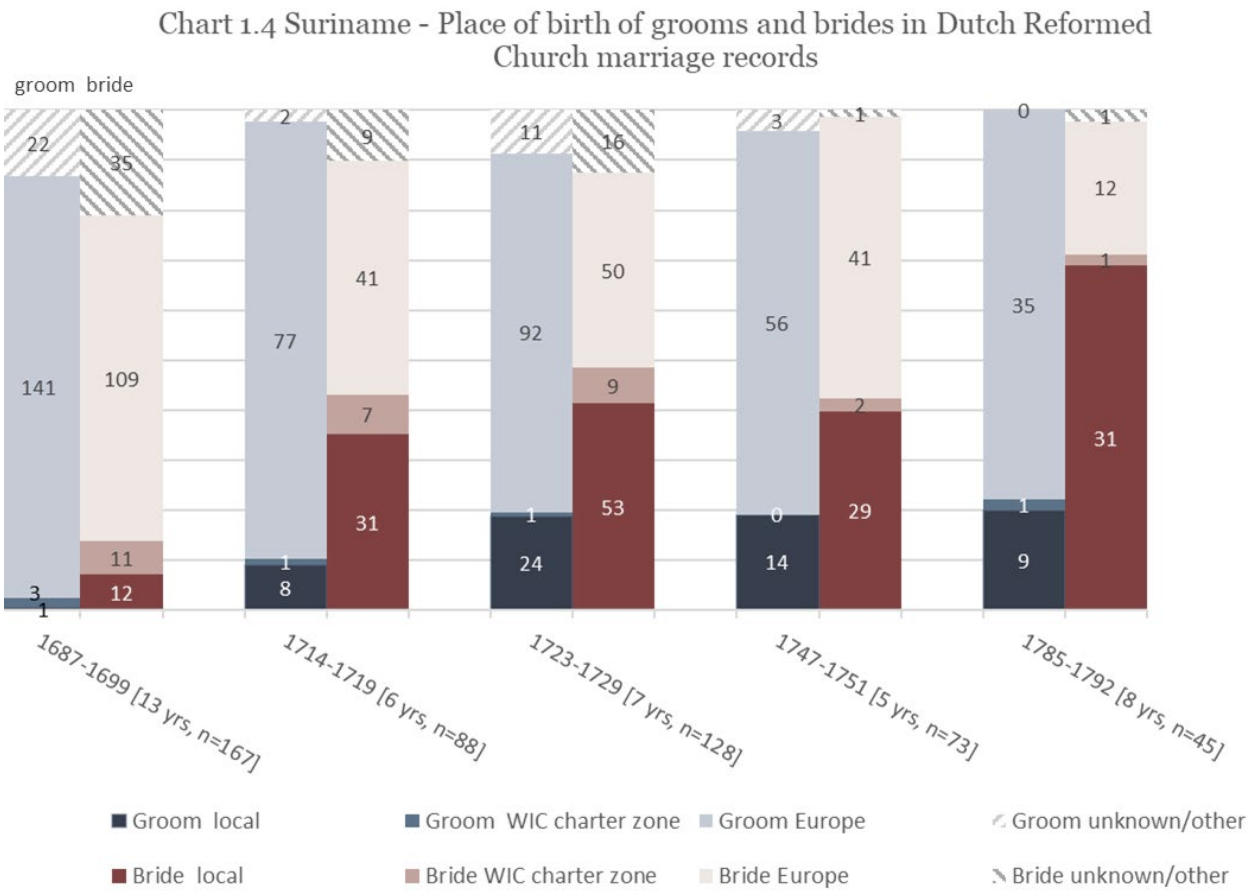

Chart 1.4 *Source*: Nationaal Archief, Den Haag, Digitaal Duplicaat Suriname: Doop-, Trouw- en Begraafboeken (DTB), access number 1.05.11.16, inventory numbers 1 (1747-1766), 2 (1766-1801), 9 (1687-1730).

Although these data give us a first glance into the dynamism of Dutch colonial societies, they only reveal the behavior of a very small portion of their populations, and hide a range of differences even within this select group. At each point along the transience-settlement spectrum, Dutch colonial societies and their respective marriage marts were marked by ethnic, religious, and

[29] It should be noted that the Dutch Reformed congregation represented only a limited portion of the free white population in Suriname: in addition to the substantial Jewish populations of Paramaribo and Jodensavanne, Suriname was also home (from the eighteenth century onwards) to a growing Lutheran congregation as well as several other Christian minorities.
[30] R. A. J. van Lier, *Frontier Society: A Social Analysis of the History of Surinam*, trans. Maria J. L. Yperen (Dordrecht: Springer, 1971), 42–43.

broader social diversity. If marriage was key in the formation of allied communities and the shaping, re-shaping and retaining of social hierarchies, this meant that choices were to be made – about which marriage law would apply to whom, and who would be allowed to marry and to whom – choices that would naturally have consequences for how communities under VOC and WIC rule would develop. Colonial authorities could not build up marriage regimes to shape the populations under their rule from the ground up: as extensions of the Dutch state, the companies and the settlements were beholden to the pre-existing legal framework that shaped marriage in the Dutch Republic, whose foundations dated back to long before the Republic itself, let alone its overseas colonies, existed.

Dutch marriage legislation

The early modern period can be seen as one characterized by an increasing institutionalisation of marriage, with couples facing growing pressure to go through increasingly regulated procedures to formalize their union. In Europe, this transition was closely tied to the Reformation and Counter-Reformation, which radically altered the meaning of marriage in both a theological and a legal sense. In the Catholic doctrine which dominated most of medieval Europe, marriage was a sacrament and therefore under the spiritual jurisdiction of the church. What set it apart from the other six sacraments, however, was that as a contract whose binding nature stemmed from the mutual consent of two willing partners, marriage required no priestly mediation: a simple exchange of vows – even just in the form of a promise to marry – followed by sexual intercourse was enough to irrevocably bind husband and wife together. The church had the power to declare certain marriages illicit, by prohibiting specific people from marrying and punishing transgressors, or even invalid, by setting conditions under which a marriage would be null and void (such as bigamy or an absence of freely given consent). But barring such disqualifying circumstances there was little either secular or clerical authorities could do to keep people from taking their nuptials into their own hands.[31]

The situation changed with the Reformation. Martin Luther explicitly rejected the idea of marriage as a sacrament, and secular authorities of newly Protestant polities were more than willing to draw jurisdiction over marriage from the church to themselves, although they did so to varying degrees. In the Calvinist tradition, marriage became a matter shared between worldly and religious authorities, the latter now in the form of local consistories, although the ultimate *legal* jurisdiction over marriage came to lie with the secular government. Generally speaking, the Reformation opened up avenues for restriction and regulation of marriage through non-religious law. The Catholic Church, meanwhile, passed its own reforms with the council of Trent (1545-1563), which on the one hand formalized the theological doctrines of marriage that had crystalized in the centuries prior, affirming both the consensus doctrine and the sacramental nature of marriage, but on the other hand also introducing institutional requirements that made clandestine marriage impossible. Couples-to-be now had to publicly announce their plans to wed

[31] John Witte, *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition*, First edition (Louisville, KY: Westminster John Knox Press, 1997); Manon van der Heijden, *Huwelijk in Holland : stedelijke rechtspraak en kerkelijke tucht, 1550-1700* (Amsterdam: Bert Bakker, 1998), 30–37.

three subsequent times in church and needed the cooperation of a priest and of two witnesses to make their marriage valid.[32]

Right around this time, in the Netherlands, laws putting restrictions on marriage started emerging, both at the local level and in sweeping top-down edicts, such as that by Charles V in 1540, which stated that brides aged twenty or younger and grooms aged twenty-five or younger had to obtain consent from their parents, family, or magistrates if they wanted to marry, or be denied their inheritance.[33] Although the Edict technically remained in place after the Dutch Republic declared itself independent from the Spanish Crown, the States of Holland soon after the Revolt issued their own sweeping legislation that would be highly influential throughout the entire Dutch Republic. Regarding marriage the 'Political Ordinance' stated that henceforth everyone who wished to get married had to go through the formal channels – they could choose to turn to the local magistrate or the (Dutch Reformed) church – to have their engagement publicly announced on three consecutive Sundays – the so-called *geboden* or 'banns' – so that anyone who knew of any objections, such as prior engagements or forbidden degrees of kinship (which were specified in the Ordinance), could voice them. The Ordinance repeated Charles V's ban on the marriage of minors without parental consent, but now with increased legal thrust: young couples that went against their parents' wishes would now not only lose their inheritance, but their marriage would be null and void. If they proceeded to live like husband and wife they could be prosecuted as fornicators, with punishments ranging from a fine to a ten-year banishment.[34]

Another influential document, that like the Political Ordinance would come to be used in Dutch overseas settlements, was the *Echt-Reglement* ('marriage regulations'), which was enacted by the States-General in 1656 for the non-sovereign territories on the Southern edges of the Republic, the 'Generality Lands'. These regulations were stricter and more extensive than the Political Ordinance: they set more specific demands for the registration of engagements, banned the solemnization of marriages by Catholic priests, and gave explicit instructions for the commissioners in charge of registering couples. They were to record names, ages, 'quality', place of residence and how long the couple had lived there, whether they were "free persons, free from others", whether they had their parents' consent (if they were underage), whether and how they were related to each other, and the details or any prior marriages. The requirements for familial consent for minors, moreover, was expanded: whereas the Political Ordinance only required the consent of any surviving parents, the *Echt-Reglement* specified that underage orphans would need the consent of guardians or other relatives. The Regulations also institutionalized the marriage ceremony itself, including the vows the bride and groom made to each other: the groom was to promise to "never leave [the bride], but stay with her for life, love her, faithfully care and

[32] Rolf Hage, *Eer tegen eer: een cultuurhistorische studie van schaking tijdens de Republiek, 1580-1795* (Hilversum: Verloren, 2019), 60-63

[33] "Eeuwich Edict van Keyser Karel in date den 4 october 1540," in *Groot placaet-boeck, vervattende de placaten, ordonnantien ende edicten van de Staten Generael der Vereenighde Nederlanden, ende van de Staten van Hollandt en West-Vrieslandt, mitsgaders van de Staten van Zeelandt*, vol. Vol 1 (The Hague, 1658).

[34] "Ordonnantie van de Policien binnen Holland, in date den eersen Aprilis 1580," in *Groot placaet-boeck, vervattende de placaten, ordonnantien ende edicten van de Staten Generael der Vereenighde Nederlanden, ende van de Staten van Hollandt en West-Vrieslandt, mitsgaders van de Staten van Zeelandt*, vol. Vol 1 (The Hague, 1658), 329–42. II-III.

provide for her, live and keep a household with her with reason, piety and honor, and be faithful to her in all things, as befits an honest man and as he owes to his housewife." The bride, in this formalization of gender roles in matrimony, also vowed to never leave her husband and keep an honest household with him, and to "obey, serve, and help him in all just and reasonable things".[35]

An aspect of Dutch marriage law that would become particularly important in Dutch overseas settlements was the regulation of 'mixed' marriages, which primarily meant unions between people of different religious denominations. In the Dutch Republic, religious diversity was limited to various Christian confessions and a small Jewish minority. Although the Reformed Church was politically dominant, Calvinists were never an absolute majority, instead living alongside considerable groups of Catholics (especially in the South where Catholics were the majority) and other Protestant denominations (such as Lutherans, Mennonites and Remonstrants). Although marriage between these groups was not the norm, it was also not unheard of, and laws restricting these pairings varied both regionally and based on the denomination involved. The Political Ordinance made no impediments based on religion, but some local legislation did ban marriages between Christians and Jews, and there seems to have been a legal consensus across Holland that such unions were not valid unless the Jewish bride or groom converted to Christianity first.[36] Marriages among different Christian groups were not prohibited, although by the eighteenth century the States of Holland and the States General alike started passing legislation that nonetheless made Catholic-Protestant unions as unattractive as possible.

In Holland, any Protestant man who married a Catholic woman would be excluded from any public office just as Catholics were, and be fired if he was a military officer.[37] The States General, in 1750, banned all minors from forming these mixed unions even if their parents consented, and in Holland the age of majority for women in these situations was put on par with men at 25. Even if these hurdles were met, actually tying the knot was discouraged: whereas normally wedding proclamations were made on three consecutive Sundays, meaning couples could get married on the third week after registering with the authorities, Catholic-Protestant couples had to wait six week between each proclamation, and in Holland both parties were free to walk away from their commitment at any point up until the wedding day.[38]

By the time the States General published the *Echt-Reglement* in 1656, Dutch colonial expansion was already well underway, and indeed overseas circumstances seem to have been on the minds of States General legislators: they banned marriages of Christians to not only Jews, but also to Muslims and "Heathens", on punishment of banishment.[39] There is evidence that (elements of) both the Political Ordinance and the *Echt-Reglement* were used in Dutch overseas

[35] Cornelis Cau, ed., "Echt-Reglement, Over de Steden, ende ten platten Lande inde Heerlijckheden, ende Dorpen, staende onder de Generaliteyt. In Date den 18 Martij 1656," in *Groot placaet-boeck, vervattende de placaten, ordonnantien ende edicten van de Staten Generael der Vereenighde Nederlanden, ende van de Staten van Hollandt en West-Vrieslandt, mitsgaders van de Staten van Zeelandt*, vol. 2 (The Hague, 1664), 2429–48.
[36] Van Wamelen, *Family life*, 222; Haks, *Huwelijk en gezin*, 115; Van der Heijden, *Huwelijk in Holland*, 201–2.
[37] Van Wamelen, *Family life*, 223.
[38] Ibid, 223.
[39] Cau, "Echt-Reglement," sec. L.

settlements, just as other sources of Dutch law were.[40] This is not surprising, as both the VOC and the WIC, beginning with their founding charters, were instituted as extensions of the Dutch State. For the WIC, the principle of legal concordance was made explicit in the 1629 Order of Government, which, although initially designed with Dutch Brazil in mind, would continue to serve as a constitutional document establishing legal uniformity across the WIC charter zone: where family law was concerned, the order stated, the Political Ordinance was to be observed.[41] However, because the Dutch legal tradition that colonies were expected to abide by was highly pluriform and decentralized, with many competing and complementary, locally issued regulations available, colonial authorities, both in governmental and judicial capacities, still had considerable leeway about which legal sources to apply. The governing councils of Berbice and Curaçao, for example, decided in 1736 and 1752, respectively, to henceforth apply the *Echt-Reglement* in the regulation of marriage, rather than just the Political Ordinance.[42] Even where no such decision had been pronounced, prosecutors would make references to it along with other legal sources, such as the work of famous jurists. The decentralized structure of the Dutch Republic and Roman-Dutch law, while establishing certain basic principles, thus translated into local variation in the governance of marriage overseas. This was amplified by the fact that, just as cities issued their own local legislation in the Republic, local colonial governments could respond to specific events and conditions by publishing locally targeted ordinances, or so-called *plakaten*, giving rise to a new body of legislation that was 'Dutch' in form, but specifically colonial in content.

Colonial expansions, marital restrictions

The will of parents and family on the one hand, and legislation issued by secular authorities on the other (entangled through the latter's institutionalization of the former) were the primary modes through which the formation of marriages could be restricted or regulated in the Dutch Republic, and this was no different in Dutch overseas settlements. The way in which they did so, however, took on new meaning in the hierarchically complex, multi-ethnic and multi-religious societies ruled by Dutch colonial authorities. This applies first and foremost to inter-faith marriages, as Christians, and especially Protestants, were usually a minority in 'Dutch' settlements across the globe.

Because religion was a key marker of political allegiance and cultural belonging and because married couples tend to raise their children in their own religious tradition, inter-faith marriages were a battle ground for the reproduction of communities. To have a member of one's religious group marry outside the group and convert to the outsider's religion was to lose people and therefore power. The reverse scenario, on the other hand, meant an expansion of influence, but also potentially a change in the make-up and behavior of the group. This dual concern is reflected in the quick pace at which Dutch legislators started to restrict and regulate religiously mixed marriages, often as one of the first orders of business after arrival. In the early years of the VOC,

[40] Nadeera Rupesinghe, "Navigating Pluralities Reluctantly: The Marriage Contract in Dutch Galle," *Itinerario* 42, no. 2 (August 2018): 225.
[41] "Ordre van Regieringe soo in Policie als Justitie, inde Plaetsen verovert ende te veroveren in West-Indien, IN date den 13 October 1629", art. LIX, in Cau, ed., *Groot placcaet-boeck* vol 2, 1245.
[42] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 13, scan 500; Jordaan, "Slavernij en vrijheid op Curaçao," 2012, 174.

when its fledgling government was still centered on the Moluccas, Governor-General Matelief allowed his soldiers to marry local women on the condition that the brides were Christian, and a 1617 instruction for the Governor and Council asserted that former company servants who stayed in Asia as private citizens would be allowed to wed local women only with permission of the government, after said women were baptized and the couple promised to raise their children in the Christian faith.[43]

By 1621, shortly after the conquest of Jacatra, all inhabitants of the city were required to obtain consent from the government to marry, or face a fine and possible further prosecution.[44] By 1641, after the plan to bring in Dutch 'Company Daughters' as brides had been definitively abandoned in favor of a policy that promoted marriage with converted Asian women, VOC authorities seem to have had some concerns about these unions too, and particularly about the cultural impact of these women as new members and future mothers of the 'Dutch' community in Asia. Governor-General Van Diemen issued a law mandating that "native women, who do not adequately understand and speak our Dutch language" were not allowed to marry Dutch men.[45] This stipulation, which would be included in the first issue of the codification of locally issued laws known as the *Statuten van Batavia*, applicable across the VOC charter zone, was part of a larger effort to promote the use of Dutch among the population in Batavia.[46]

The so-called *Commissarissen* of Matrimonial Affairs (a board of two VOC servants and two *burghers*) were charged with issuing written certification of Dutch proficiency not only to brides, but also to enslaved Batavians who wished to wear hats – a visual marker of social and ethnic status – and to those who were about to be manumitted by Christian owners and thus join the free Christian population.[47] Over time, however, it became clear that the Company's vision of fostering a large Dutch-speaking Eurasian community in VOC settlements was impossible to enforce in practice: generations of Asian-born Christians – the majority of which were women – proved to be culturally more influential than the European newcomers these women married, and creolized Portuguese and Malay became the languages of everyday life.[48] Significantly, by the time the *Statuten* were re-issued in 1766, the Dutch language requirement had disappeared from the marriage prescriptions.[49]

In Curaçao, the very first instructions for a Governor, those for Jacob Pietersz Tolck, mandated that no Christians be allowed to marry indigenous or African women unless the latter had been baptised and incorporated into the Christian community.[50] This was repeated almost verbatim a century later, in the instructions for Isaack Faesch in 1739.[51] Like in many Dutch colonies that had previously been under Iberian control, it was not a given that this Christian community would be Protestant, and Catholicism was perceived as a political threat. Nowhere

[43] NIP vol I, 'Instructie voor den Gouverneur en de Raden van Indië,' 22-08-1617, 46-47.
[44] NIP vol I, 'Verbod tegen het trouwen en doopen zonder consent', 15-01-1612, 89.
[45] NIP vol I, "Middelen tot het bevorderen van de kennis en het gebruik der Nederduitsche Taal," 8/11 June 1641. 459-460.
[46] *Statuten van Batavia* 1642, in NIP vol I p 542.
[47] NIP vol I, 460.
[48] Taylor, *The Social World of Batavia*, 18; in Cochin, Malayam, rather than Malay, formed the main component of the creolized linguistic world along with Portuguese Singh, *Fort Cochin in Kerala*, 117.
[49] NIP vol IX, 88.
[50] 'Instructie voor Jacob Pietersz Tolck, Directeur van Curaçao,' 1638, in WIP-C-I,6.
[51] "Instructie voor Isaack Faesch, aangesteld tot Directeur over de Eylanden van Curaçao", 1739, in WIP-C vol I 187-201.

did local Dutch authorities issue outright bans on marriages between Protestants and Catholics, but in places where significant Catholic populations were already present when the Dutch arrived they did attempt to place Catholic and Catholic-Protestant marriages under Dutch (Reformed) institutional control.

In Dutch-ruled coastal Ceylon, the secular authorities actively joined the church in promoting a 'Reformation' of local people's marriages. Christians living in and around Colombo were repeatedly called on to register their (pre-existing) marriage in the Dutch Reformed Church, and various pressures, from fines to labor requirements, were put on young couples to incentivize them to marry in church.[52] A 1754 ordinance, moreover, mirrored the *Echt-Reglement* in banning Catholic priests from solemnizing marriages, and even went so far as to declare children born of these unions illegitimate and unable to inherit.[53] Instead, Catholics' weddings were to be performed by the worldly authorities, and for a fee.[54] In addition to these attempts to wrest jurisdiction over marriage from the Catholic Church, some measures explicitly addressing inter-confessional marriage also appeared in the eighteenth century: a 1759 ordinance proclaimed that mixed Protestant-Catholic marriages would only be allowed under exceptional circumstances, and only if the children would be raised in the Reformed tradition.[55] In 1788, Ceylon officially took over the regulations issued by the Dutch States-General in 1750, which had raised the minimum age for mixed-faith couples, put six weeks between proclamations, and excluded anyone who married a Catholic from political or military office.[56] As Nadeera Rupesinghe has shown, however, Dutch success at 'reforming' Sri Lankan family formation was limited in practice, with both Catholicism and local customary marriage practices remaining influential.[57]

In Cochin, the VOC took a slightly different approach: it allowed denominationally mixed marriages – in fact the Cochin marriage records show that many weddings officiated in the Reformed Church in the fort were between Catholics and Protestants, as well as between two Catholics – but tried to cut those of European status off from Catholic services, thus institutionally confining them to formally 'Protestant' marriages and baptisms. It did so by coming to an agreement with Catholic priests of the region in 1665: the priests would continue to serve the "*naturellen"* (natives) of the region – notably in Vaipin island just across the estuary on which Cochin lay, where many Luso-Indians and Catholic converts resided – but had to promise to refuse service to "white Portuguese, Dutch, English, Spaniards, Italians, French, or any other European nation."[58] Only an eighteenth-century copy of the agreement remains, but if it is true to the original, it hints at a conception of 'whiteness' and ancestry (rather than just place of origin) as constitutive of European status emerging in VOC parlance as early as 1665.

It is clear, however, that in the years to come, this new view of 'European' belonging would lead to conflicts between the Company and the Catholic priests concerning the status of creolized

[52] CP #15 (08-01-1647), #187 (13-06-1692), #473 (10-12-1762), #502 (11-02-1768), #684 (19-05-1795).
[53] CP vol. II #400 (07-09-1754), 574.
[54] CP vol. II #473 (10-12-1762), 710.
[55] CP vol. II #442 (30-07-1759), 645.
[56] CP vol. II # 624 (18-02-1788), 892-894.
[57] Nadeera Rupesinghe, "Navigating Pluralities Reluctantly: The Marriage Contract in Dutch Galle," *Itinerario* 42, no. 2 (August 2018): 220–37.
[58] NL-HaNA VOC 1.04.02 inv.no. 3668 (1785), Form for Roman Catholic Priests of 12 June 1665, folio 392.

inhabitants of Cochin. In 1717, the Dutch authorities in Cochin complained that the priests of Vaipin had broken the 1665 agreement by welcoming "a mass of castizo and mestizo women from this city" into the Catholic Church. Although these women of combined European and Asian descent were locally born, the Cochin Council was adamant that, at least as far as expectations of religious adherence were concerned, "we do not count Mestizos and Castizos among the natives of the land, but directly among our nation."[59] As such, they were expected to be Protestant. Although the reason the VOC agreed to Catholic priests working with non-European populations outside the citadel was likely pragmatic – the Dutch Reformed Church simply did not have the institutional apparatus to take charge of all Christian congregations in the region, most crucially in the form of ministers who spoke Portuguese or Malayalam – the result was a codification of ethnic difference in religion, with Catholicism increasingly joining Islam and Hinduism as a marker of Asian status and Protestantism as a container for a jealously guarded 'Dutch' community.

A similar divide occurred in Curaçao, although for very different reasons. The island had some Catholic heritage when the Dutch arrived because it had initially been colonized by Spain, but what ultimately cemented Catholic presence on the island was its role in the slave trade. Curaçao's primary economic function for the WIC was as an *entrepot* in the slave trade, a hub from which to re-export captured Africans to various American colonies. By and large the most lucrative export destination was the territory under the Spanish crown, which regulated its supply of enslaved labor through the much-coveted *asiento*. To dip into this market the WIC had to make concessions to Spain, which included allowing Catholic priests on the islands to minister to Africans that were to be sold in Spanish colonies.[60] As a result, Catholics had far more leeway in openly practicing and spreading their religion in Curaçao than in any other Dutch colony.

In theory, Catholics, along with the island's large Jewish population and other non-conformist groups, had to marry either in the Dutch Reformed Church or before the secular authorities, just like in the Dutch Republic and other colonies such as Ceylon.[61] In practice, however, this rule does not seem to have been enforced: when, in 1784, the island's *fiscaal* (being the chief legal officer) reportedly attempted to enforce the requirement, after years of authorities turning a blind eye, and to levy the accompanying fee for courthouse nuptials, the Catholic Church sent a papal nuncio to the States General in The Hague to complain. The nuncio argued that the fees would unfairly burden poorer Catholic residents of the island, and the States General forwarded the matter to the WIC, which immediately began to make inquiries in order to ensure the nuncio that "proper attention is paid to the Roman religion on Curaçao, and its members are not excessively burdened"[62]. Mixed Catholic-Protestant marriages were permitted, with little to no explicit restrictions placed on them through local ordinances. Local church

[59] NL-HaNA VOC inv.no. 8999, "Twee extract Cochimse resoluties wegens de stoutheijt der pausgesinde," April 25, 1717, folio 205-208. There racial classifications – taken over from Portuguese – can also be found in the Dutch Caribbean. A Mestizo was generally understood as someone with one European parent and one 'indigenous' parent, whereas a Castizo was understood as the offspring of a European and a Mestizo.
[60] Linda M. Rupert, *Creolization and Contraband: Curaçao in the Early Modern Atlantic World* (University of Georgia Press, 2012) 87-89.
[61] WIP-C-I, #176 (10-12-1743), 234-235; WIP-C-II, #364 (19004-1785), 435.
[62] NL-HaNA, WIC, 1.05.01.02, inv.no. 439, Amsterdam Chamber resolutions, 30 November 1784, folio 245; inv.no. 440, 16 August 1785, folio 230-231.

leadership, however, did attempt to regulate mixed pairings in such a way that would help preserve the Reformed congregation: the *predikant* Rasvelt wrote to his superiors, the *Classis* of Amsterdam, that he had instituted a policy of making Catholic-Protestant couples who wished to wed in his church swear an oath, promising to baptize and raise their future children in the Calvinist faith.[63] There was little he could do, however, to enforce this promise. Over the centuries, a considerable Catholic population formed, which was largely comprised of manumitted people and their children, along with Catholics of mixed descent from the Spanish-controlled mainland, while the Protestant community remained relatively small and predominantly white.[64]

This raises the question of race and ethnicity in marriage policies: to what extent did they play a role in restrictions placed on who was allowed to marry whom? Was there an attempt by colonial elites and governments to preserve the 'whiteness' of European communities in VOC and Dutch Atlantic settlements through obstructions to inter-racial marriage? Based on strictly legal impediments to marriage itself the answer would seem to be no – or at least, not directly: religion remained the primary lens through which the validity of inter-group unions were judged and although this clearly had ethnic and racial implications – besides Jews, non-Christians and even the majority of Catholics tended to be non-European – no legislation explicitly banning marriages based on racial categorization emerged during the companies' tenure. However, colonial elites and legislators did use other means – more informal and indirect than outright anti-miscegenation laws – to introduce modes of exclusion and restrictions to marriage which ultimately contributed to more or less explicitly racialized social hierarchies. To see how this worked, we will start with a specific case study that has been conspicuously absent in this discussion of marriage legislation so far: eighteenth-century Suriname.

Marriage and race: the case of Suriname

Legislation explicitly addressing inter-group marriage is virtually absent in the *Plakaatboek* of Suriname. This is somewhat surprising considering the colony's sizeable Jewish population living alongside Christian settlers and the colony's tense racial configuration, with a minority of whites (predominantly Northern-European Protestant and Sephardic Jewish) seeking to maintain control over a majority of enslaved Africans, and an ambivalent social position for various Amerindian groups as well as free Africans and Eurafricans. A possible explanation for this absence of formal regulation is the relative strength of indirect and informal control mechanisms, in which communal self-control, religious leadership, and state intervention converged to exclude those considered inferior to join the ranks of white colonial elites through marriage.

A striking example that underscores this theory is the case of a black woman named Isabella, who in 1726 had been one of the first enslaved Africans in Suriname to be baptized and join the Dutch Reformed Church and who had reportedly even visited the Netherlands. She was

[63] Gemeente Archief Amsterdam - Archief van de Nederlandse Hervormde Kerk; Classis Amsterdam, access number 379, inv.no. 224, folio 37-38. The island of Curaçao, as this example shows, was strongly institutionally tied to the city of Amsterdam, with both the Protestant and the Jewish leadership reporting to their respective councils in Amsterdam.
[64] Jordaan, "Slavernij en vrijheid op Curaçao," 2012, 8, 231.

manumitted after her master's death and joined communion at the Cottica-Perica church. Her newly free and Christian status did not mean that she was accepted into the congregation as a full, equal, and marriageable member, however. Instead, as she would relate in 1733 to Jan Willem Kals, a Dutch minister who became famous for his polemic writings advocating for the conversion of enslaved Africans, she was met with scorn and mockery from the white congregants, as well as with sexual advances, but none with the intention to wed. "The whites would not have married me; they only wanted to enact their lust and malevolence with me one after the other," she asserted.[65] After refusing the propositions and being called a "black beast destined for the devil" in response, Isabella had returned to the father of her children, who was unbaptized and still enslaved, and was consequently not only expelled from the church, but also re-enslaved.[66] Her case was used by opponents of Kals, who saw her as proof that Africans, once converted to Christianity, would "inevitably return to their race, and become worse than they were before."[67]

Several factors are at play in this case. One is the role of the church as communal gatekeeper, with the power to set conditions for access to the community, and by extension to marriage. Another is an informal barrier to the marriage market through highly racialized notions of honor and desirability that can be found across Atlantic slavery societies: the white congregants' attitude towards Isabella reflects a well-documented pattern of racial stereotyping of black women as simultaneously hyper-sexualized and unattractive – even monstrous – or as sexually desirable but unfit for the role of virtuous wife.[68] This designation of Isabella as 'unmarriageable' stands in stark contrast with the apparent ease with which, if the comments of several colonial authorities are to be believed, even notoriously unruly young white women found husbands in Suriname, whereas those same girls might have been treated with more derision in the Dutch Republic or in Atlantic colonies where there was a substantial white female underclass.[69] The formal and informal factors were intertwined: as the planters' argument against Christianization shows – and indeed the larger unwillingness of slaveholders to promote Christianity among their enslaved African workforce – exclusion from and by religious institutions was racially informed.[70] Conversely, informal exclusions based on race could turn people away from the

[65] Jan Willem Kals, *Neerlands Hooft- en Wortelsonde, Het verzuym van de Bekeringe der Heydenen* (Leeuwarden: Pieter Koumans, 1756), 84.
[66] Karwan Fatah-Black, *Eigendomsstrijd: De geschiedenis van slavernij en emancipatie in Suriname* (Amsterdam: Ambo|Anthos, 2018), 145-146.
[67] Ibid, 60.
[68] Jennifer Leyle Morgan, "Male Travelers, Female Bodies, and the Gendering of Racial Ideology, 1500-1700," in *Bodies in Contact: Rethinking Colonial Encounters in World History*, ed. Tony Ballantyne and Antoinette Burton (Durham, NC/London: Duke University Press, 2005), 54–66; Beckles, "Perfect Property"; Henrice Altink, "Deviant and Dangerous: Pro-Slavery Representations of Jamaican Slave Women's Sexuality, c. 1780–1834," *Slavery & Abolition* 26, no. 2 (August 1, 2005): 271–88; Brown, *Good Wives,*.
[69] Governor Crommelin, in 1763 when the plan to send Dutch orphan girls to Suriname was under discussion, cited the example of a girl who had misbehaved to such an extent she had been placed under his supervision, but who in a matter of weeks was being courted by "a respectable craftsman". NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 321, scan 12-13. For a comparison to other Atlantic colonies, see Hilde Neus, "Ras of ratio?: verbod op het huwelijk tussen zwarte mannen en blanke vrouwen," 2007, 312–14; Hilary Beckles, "Sex and Gender in the Historiography of Caribbean Slavery," in *Engendering History : Caribbean Women in Historical Perspective* (Kingston: Ian Randle, 1995), 133; Brown, *Good Wives,* 88, 197.
[70] On the ideological connections between race and (Protestant) Christianity as modes of exclusion, see Gerbner, *Christian Slavery*, 11, 74–75.

congregation by making it difficult to build a life within its community. Communally held norms about honor, race, and social status thus resulted in a type of self-segregation in which whites married other whites of their own religion or, if they did not, lost social standing.

This mechanism seems to have been strongest in the seventeenth and early eighteenth centuries, when white settlers almost exclusively married European women. Over the course of the eighteenth century, however, legal marriages between Europeans and daughters of white fathers and African or Eurafrican mothers became an increasingly normal occurrence, seemingly without social repercussions for the husband.[71] This development was not without its discontents, both among Christians and among the white Jewish population. Aviva Ben-Ur lays out how the *Mahamad,* the governing council of the Sephardic Jewish community of Suriname, actively intervened in unions between white Jewish men and *mulatas* by invoking the racial bifurcation of membership already in place in the Surinamese Jewish community: a *jahid*, or full member by virtue of his European descent, would be relegated to the category of *congregante,* lower-ranking members of Eurafrican descent, and even be considered "mulatto" himself, if he married a Eurafrican woman.[72] For some, however, this relegation to lower status did not go far enough. In 1722, a white member of the Jewish community named Juda Abrahams petitioned with Suriname's colonial government, asking them to intervene in the impending nuptials of his cousin, Philip Joseph, a minor whose legal guardians lived in Holland. Philip wished to marry a daughter of Gabriel de Mattos, which outraged Abrahams because, as he wrote, "it is widely known that she is a negress or mulata, and such a marriage could only lead to great disrespect for his family." The Suriname Council agreed with Abrahams that "such marriage can only cause chagrin and sadness among parents and friends in *Patria*". On the ground that minors could not marry without permission from their parents or guardians, "much less with a person of illegitimate birth", the Council ordered the Mahamad to refuse to enact the marriage or, if the pair had already wed, to declare the marriage invalid. Philip Joseph was to be urged "to avoid the mixing of whites and that sort through legal marriage" as much as possible.[73]

The Jewish by-law explicitly mentioned *mulatas*, or women of 'mixed' African and European descent, which Ben-Ur interprets to mean that formal marriage between a white man and black African woman was considered so unspeakable by both the *Mahamad* and the white community that it did not merit being formally addressed. The same applies to formal unions between black men and white women: although *informal* sexual relationships ('fornication') between European women and African men were strictly prohibited under penalty of death in government-issued ordinances in both Suriname and neighboring Guyana, formalizations of these unions in the form of marriage are not mentioned in legislation at all, suggesting that social ostracism – whether in institutionalized form by the Consistory or Mahamad or through public scandal – was so strong

[71] Rudie van van Lier, *Samenleving in een grensgebied: een sociaal-historische studie van de maatschappij in Suriname*, 4th ed. (The Hague: Martinus Nijhoff, 2013), 74; Cynthia McLeod, *Elisabeth Samson: een vrije, zwarte vrouw in het achttiende-eeuwse Suriname* (Schoorl: Conserve, 1997), 46.
[72] Aviva Ben-Ur, "A Matriarchal Matter: Slavery, Conversion, and Upward Mobility in Colonial Suriname," *Atlantic Diasporas: Jews, Conversos, and Crypto-Jews in the Age of Mercantilism, 1500–1800*, 2008, 154-5.
[73] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 131, 29 January 1722, scan 209-211. This was not the first such intervention; a year prior, a married Jewish woman named Mariana Abrahams had intervened in her underage brother's intended nuptials on the same grounds. Nationaal Archief, Den Haag, Digitaal Duplicaat: Oud Archief Suriname: Raad van Politie, access number 1.05.10.02, inventory number 9, 19 April 1721, folio 27-28.

that it rendered these marriages virtually impossible and legislation unnecessary.[74] Only where there was friction between publicly held norms, daily practice, and authorities' expectations do inter-racial relationships pop up in the archive. In this light, the very fact that the *Mahamad* found it necessary to regulate marriages between European men and Eurafrican women shows that these unions were socially acceptable enough to be common, and the same was true among Christians.

As inter-racial relationships became more common, so did institutional responses to them – not just from the church and synagogue, but also from the colony in its capacity as employer. Military officers and plantation directors employed by the colony were arguably less free in their partner choice than private planters, because they could be directly penalized for marrying a mixed-race woman. In both Suriname and in neighboring colonies such as Berbice, officers were occasionally dismissed, demoted, or denied promotion because of the color and ancestry of their (intended) wife. In 1772, Berbice's governor S.H. de la Sabloniere reported to the Society of Berbice, for example, that he had passed on further promoting a capable sergeant named Jacob Zwinne due to the latter's marriage to a *mulattin*, because "the other officers and their wives could not be on equal terms with her".[75] Two years before, De La Sabloniere had moved to dismiss J.F. Eiffel, the director of the sugar plantation Cornelia Jacoba, owned by the Society of Berbice, because Eiffel was about to marry a mixed-race girl whose family lived next to the plantation. This, the governor ensured the colony directors, was detrimental to them because he was certain that "Eiffel will be supporting the entire family of his wife-to-be using the furnace of the Cornelia Jacoba".[76]

The question of the acceptability of inter-racial marriage in West-Indian plantation societies thus was closely intertwined with questions of property and social class. This becomes clear, in a different way, from the famous case of Elisabeth Samson. She was a free-born black woman – her mother had been enslaved but manumitted prior to Elisabeth's birth – who over the course of her life had become extremely wealthy and made plans to marry Christoph Braband, a white man of considerably more modest means and several decades her junior. When the pair turned to the *Commissarissen* to register their intended marriage, the latter were unsure whether such a union would be legal – the fact that Samson was black, rather than mixed-race, was relevant here – and referred the case to the Governor and Council. The magistrates, too, were unsure how to respond, and they forwarded the case to the *Societeit van Suriname* in Amsterdam. The accompanying letter reveals that in all the considerations made by the Governor and Council, both those for and against the marriage, a concern with protecting the socially, politically, and economically dominant position of the white community prevailed. Summarizing their arguments in favor of the marriage, they wrote:

> "[…] this black Elisabeth Samson is already very rich, and stands to get even richer through her sisters and other family, and [these] goods may in time come to be under the

[74] The criminalization of interracial relationships outside of marriage will be discussed in chapter four.
[75] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 149, Letter 2 February 1772, folio 128.
[76] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 194, Letter 28 January 1770, scan 198. Eiffel, who complained about his pending dismissal to the Directors, seems not to have been aware of the reason behind his fall from grace. NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 147, Letter 14 May 1770, #87, scan 232.

> whites because of this marriage, which would not be wrong; for to have overly powerful free people here among the negroes is a thing to be feared, because it gives our slaves the idea that they can rise to our level."[77]

Economically speaking, the match could thus neutralize the threat that Samson and her family posed to the colony's racial hierarchy, in the magistrates' eyes. Theologically, too, there was no objection to the marriage – it should even be encouraged as an alternative to the sin of concubinage. Simultaneously, however, the Council considered the proposed marriage "repugnant" and a threat to social order because it would humiliate Braband, who, as the younger and less powerful partner in the match, would turn the expected schema for inter-racial relationships in the colony (stereotypically involving a wealthier, older white man and a younger woman of color who depended financially on him) on its head. The optics of this reversal of roles was a threat to the dominant position of the white community as a whole, which the magistrates recognized as being based on perception more than reality:

> It is certain that it's more through a sense the negroes have of our pre-eminence over them, that we are people of a better and more noble nature than they, that we must maintain ourselves amidst such a strange twisted race, rather than through any real power we have; and what will they believe of that excellent nature once they see that they just have to be free to form a formal union with us, so that their children are on par with ours, would that lapse of whites who humiliate themselves so not be noted?[78]

The letter named two possible legal grounds on which to block the marriage: an alleged law issued in the seventeenth century by Governor Cornelis van Aerssen van Sommelsdijck, 'founding father' of the Society of Suriname, and the Political Ordinance of Holland.[79] The former was nowhere to be found, however, and the latter required a rather broad interpretation to apply to interracial marriage, based on the fact that it "not only banned marriages which are sinful to God and incestuous, but all marriages that are considered to be harmful to society, both those which are held to be incestuous and those which though God's law or our morals are naturally incestuous." Based on this, the magistrates asserted they could issue an ordinance banning this type of union, but "in a matter as tender and serious as marriage" they thought it best to consult the directors. If no outright ban was to be issued, they proposed an alternative measure comparable to that of the *Mahamad*, demoting white men who married black women to a state of dishonor and ineligibility for public offices reserved for whites.[80] Although no such ordinance remains among Suriname's *plakaten,* the examples cited above show that this idea was occasionally put in practice. As for Samson, she – after three years of litigation and a final ruling

[77] Letter from Governor Crommelin and Council to Society of Suriname, February 23 1764. In McLeod, *Elisabeth Samson,* 93-97.
[78] Ibid.
[79] The letter claims the law banned marriages with blacks, based on a 1718 book on Suriname. The actual publication this likely referred to, however – a body of rules for plantation servants issued by Sommelsdijck in 1686, makes no mention of marriage to free black women, only of sexual relations with enslaved Africans and Amerindians and free Amerindian women. The letter writers seem to have been aware of this ambiguity, however, simply using the reference to illustrate that "since day and age righteous Europeans have abhorred such mixing." For the 1686 rules, see Jacob Adriaan Schiltkamp and J. Th. de Smidt, *West Indisch plakaatboek. Plakaten, ordonnantiën en andere wetten uitgevaardigd in Suriname* (Amsterdam: S. Emmering, 1973) vol I [Hereafter: WIP-S Vol I], #134 (May 1686) 168.
[80] McLeod, *Elisabeth Samson*, 93–97.

by the States General –obtained consent to marry Braband, but by this time the latter had died, and she would marry a different white man.[81]

The case of Samson demonstrates the discretionary power of the colonial authorities within an ambiguous legal landscape to significantly obstruct legal marriages which they considered a threat to the colonial hierarchy, but also shows the ability of those of generous means to challenge this hierarchy and to go over local administrators' heads to do so.

Race across the Dutch empire

The Suriname case shows how the triple force of government intervention, exclusion through religious membership, and informal social control intertwined to govern inter-group marriage in such a way as to sharpen the boundaries between the white elite on the one hand and the free and enslaved black population on the other, while incorporating lighter-skinned individuals of African descent in the former group to a limited degree. Suriname was not unique in this, although the precise ways in which these factors of control functioned in specific settings across the Dutch empire highlight the strongly context-dependent nature of social difference as it was negotiated through marriage.

In Curaçao, like in Suriname and Guyana, no law explicitly banning inter-racial marriage ever materialized. However, as Han Jordaan has shown, white Curaçao elites were most definitely concerned with maintaining the 'whiteness' of their families by preventing marriages with people of color.[82] In the 1750s a group of white islanders lobbied with both the island's council and the States General in the Netherlands to restrict inter-racial marriage by declaring all marriages between a non-white person and a white person without the latter's family's consent to be null and void.[83] After deliberation between the States General, the WIC, and the island council, such a move was deemed too politically risky, because it would affront the significant number of prominent island families whose members were not entirely white. Instead, it was decided that the *Echt-reglement* of the Generality lands would henceforth be applied on the island, which increased the reach of relatives in consenting to or preventing the marriages of young family members (younger than twenty for brides and twenty-five for grooms) without specifying race.[84]

In the years to come, however, white authorities would continue to complain about the growing number, prominence, and self-confidence of free non-white islanders, and link this development to inter-racial marriage. In 1789, in a report commissioned to compile all previously issued local legislation on the island, council member Michiel Römer and prominent *burgher* Gerrard Striddels commented that a 1761 decision to include "*mestiezen, castisen,* and *poestisen*" in the records among the *burghers* (a category that had thus far been synonymous with white islanders) had been a mistake, and wished that "they had always been kept at a

[81] McLeod, *Elisabeth Samson*, 101.
[82] Jordaan, "Slavernij en vrijheid op Curaçao," 2012, 171–74.
[83] NL-HaNA, WIC, 1.05.01.02, inv.no. 475, Letter to the Governor and Council of Curaçao, 22 August 1752, folio 96.
[84] J.A Schiltkamp, *Bestuur en rechtspraak in de Nederlandse Antillen ten tijde van de West-Indische Compagnie* (Willemstad: Rechtshogeschool van de Nederlandse Antillen, 1972); Jordaan, "Slavernij en vrijheid op Curaçao," 2012, 173; Han Jordaan, "Free Blacks and Coloreds and the Administration of Justice in Eighteenth-Century Curaçao," *New West Indian Guide / Nieuwe West-Indische Gids* 84, no. 1–2 (January 1, 2010): 83.

certain distance from the whites".[85] They concluded their findings, moreover, with a note expressing concern over the growing number of manumitted people whom they considered to be useless for the island and "whose white-bastardized offspring is the cause of ruin of many of our incautious youth, and who even seduce them into marriage".[86] This sentiment was echoed by two commissioners sent by Stadtholder William V that same year, who wrote that the large number of non-white islanders was a grave political threat: should the Republic become embroiled in war with Spain, they asserted, "most negros and mestizos should be seen as our enemies," because they were Catholic and thus easily manipulated by Spanish priests. The threat was aggravated by the fact that

> whites are not ashamed to wed women *de couleur*, and because of the familiarity that takes place with the rest of the family of such a woman, they no longer display the subservience for whites that they ought to have. On this island there are no more than seven families that one can count as purely white, which is the reason why those people of color enjoy much protection.[87]

Like in Suriname, the reality of mixed marriage and inter-racial sociability that had become part of daily life on Curaçao clashed with the political concerns of white elites, who saw in the upwards social mobility of formerly enslaved people and their descendants a potential threat to the social order. Where exactly this threat lay, however, differed between Curaçao and the Guyanese mainland. In Curaçao, Catholicism, as a marker of potential political disloyalty, rendered the entire non-white majority – both free and enslaved – a threat in colonial authorities' eyes. In Suriname and the Guyanas, on the other hand, the main concern lay with maintaining control over the enslaved (non-Christian) majority: in Suriname – and even more so in Berbice which unlike Suriname did not form an urban population of freed people – the free, mixed-race group was much smaller than in Willemstad and not predominantly Catholic.

Although they certainly faced discrimination, there seems to have been less concern from Surinamese authorities with keeping these free people of color separate from the enslaved population, rather than separate from whites.[88] This becomes clear from the regulations for manumission issued in 1733, which stipulated that manumitted people were free to marry both each other and others, with the exception of people still enslaved.[89] Those who "mixed" with enslaved men or women and had children with them could even be re-enslaved, as was the case with Isabella who was re-enslaved exactly around this time – if not slightly *before* the manumission rules were published, suggesting her case informed the contents of the new law.[90] A 1761 expansion of the law discouraged socializing between free and enslaved people more broadly, warning manumitted people that if they were caught participating in *balliaren* (dancing

[85] NL-HaNA, WIC, 1.05.01.02, inv.no. 1176, Report Römer and Striddels, 4 November 1789, folio 453.
[86] Ibid., folio 468.
[87] NL-HaNA, WIC, 1.05.01.02, inv.no. 1328, Report by Grovestins en Boeij for William V, 2 December 1789.
[88] Fatah-Black details the ambiguous social position of the small free black community in eighteenth-century Suriname: while they were largely excluded from many aspects of white society and frequently operated outside the control of colonial authorities, free non-whites were nonetheless seen as political allies in the struggle to maintain control over the overwhelming majority of enslaved Africans in the colony. Fatah-Black, *Eigendomsstrijd,* 116.
[89] "Reglement van Manumissie." #350 (July 1733) in WIP-S-I, 411-412.
[90] J.M. van der Linde, *Jan Willem Kals : leraar der Hervormden; advocaat van indiaan en neger* (Kampen: Kok, 1987), 63.

by enslaved people that the colonial authorities designated as a form of "uproar") they would be forced to watch the execution of the enslaved man or woman involved (suggesting the legislators were specifically concerned with interpersonal relationships between free and enslaved people) and if caught a second time they would be re-enslaved.[91] The new law also specified that manumitted people "while enjoying equal rights to those born free in other respects" were expected to behave in a subservient and deferential manner when it came to interacting with whites. Free people of color in the Dutch Guyanas were thus expected to live in a state of 'subservient inclusion' with some – especially those who were well-connected, female, and lighter-skinned – able to integrate into the white community through marriage.[92] In Curaçao, by contrast, the much larger and often economically influential free non-white population lived in what can be described as 'excluded independence' from whites, facing more opposition where they integrated with white families rather than with enslaved populations.[93]

The situation was entirely different on the West-African Gold Coast, where any notion of a self-reproducing 'white' community was absent, and thus the policing of such a community through marriage restrictions was largely irrelevant. This did not mean that concerns about inter-communal parings were not raised, especially where the church was concerned: as will become clear in chapter four, generations of Elmina-based pastors would lament at the pervasive pattern of non-marital sex between Europeans stationed on the West-African coast and local women. Marriage, too, however, could become an object of concern in this setting. Just how different the role of race in and around Elmina was from the Caribbean context becomes clear from the case of Jacobus Elisa Johannes Capitein (1717-1747), the famous black Reformed pastor who was born in West-Africa, captured and enslaved as a child, and who ended up studying Theology in Leiden before returning to his native continent as a *Predikant* in service of the WIC. Capitein was an adamant proponent of marriage as an alternative to the local, non-Christian institution of *calicharen* which he considered a form of concubinage, and in order to set a good example for his flock, set out to marry a local Elminan girl. The idea of a Reformed pastor marrying a 'Heathen' woman, even if Capitein arranged for her to convert to Christianity, however, outraged his superiors in Amsterdam, and arrangements were made for Capitein to marry a European Christian woman, The Hague-born Anthonia Ginderdros.[94] This scenario, of a black man being encouraged to marry a (presumably) white woman rather than an African woman of non-Christian origin, would have been unthinkable in the Caribbean, but because of

[91] "Plakaat. Aanvulling van het reglement van manumissie." #597 (February 1761) in WIP-S-II, 726-727.
[92] Eighteenth-century Suriname, in this sense, fits the pattern that Orlando Patterson has called 'plantocratic co-optation'. Orlando Patterson, "Three Notes of Freedom: The Nature and Consequences of Manumission," in *Paths to Freedom: Manumission in the Atlantic World*, ed. Rosemary Brana-Shute and Randy J. Sparks (Columbia, SC: Univ of South Carolina Press, 2021), 24.
[93] Jessica Vance Roitman, "'A Mass of Mestiezen , Castiezen , and Mulatten': Contending with Color in the Netherlands Antilles, 1750–1850," *Atlantic Studies* 14, no. 3 (July 3, 2017): 399–417. This distinction between Suriname and Curaçao traces back to 1958 with the work of Harmannus Hoetink, who traced Curaçao's social dynamics to its higher manumission rates, arguing that this led to the creation of a free non-white group in an economically precarious position whom whites feared more than slaves. Although recent work (such as by Roitman and Jordaan) has corrected some of Hoetink's assumptions, such as the relative 'mildness' of Curaçao slavery and non-whites' (lack of) economic possibilities, his insight into the subtle differences in the 'color line' still largely hold.
[94] David Nii Anum Kpobi, "Mission in Chains: The Life, Theology and Ministry of the Ex-Slave Jacobus E.J. Capitein (1717-1747) with a Translation of His Major Publications" (Unpublished PhD Dissertation, Zoetermeer, Utrecht University, 1993), 73–74.

the particular status of Capitein as well as the specific social context of Elmina, religious affiliation took precedence over color here: Capitein, for all intents and purposes, was a representative of the Dutch Reformed Church, and his marriage was to reflect that affiliation.

In the East Indies, meanwhile, the role of race was no less intertwined with questions of religion and social class when it came to marriage than in the Atlantic. This becomes clear in a section from the 1642 *Statuten van Batavia* which set rules for the Commissioners of Matrimonial Affairs, who were charged with administering all Christian marriages-to-be.[95] The *Statuten* shared much with the *Echt-Reglement* that would be passed in the Dutch Republic fourteen years later: it banned marriages between Christians and Jews, Muslims, or "Heathens", expanded the information couples registering their banns had to provide, and, significantly, also already contained the sharpened requirements of consent from parents and wider family members that would become crucial in Curaçao a century later. Unlike the *Echt-Reglement* applied in Curaçao which originated in the Netherlands and which made no distinctions based on race or ethnicity, the *Statuten* explicitly considered social hierarchies in both the Indies and in Europe. If the bride or groom was younger than 18 or 21, respectively, and had family in the Indies, the regulations stated, the couple always needed to obtain their family's consent to get married. If the parents lived in Europe and consent was therefore harder to obtain, however, the VOC made a distinction based on social class and nationality:

> In case any young people, not yet of age and having parents in Europe, request to get married, distinction will be made as to whether these reside within the United Netherlands and are honorable people or not; for if they are living elsewhere and are lowly people, the commissioners will approve the request without making it too grave a matter, unless there is any notable reason to the contrary.
>
> But if [the parents] live in the Fatherland and are people of honor, attention will be paid to how he who requests the banns departed from them and what party he wants to wed; because if they came here against their parents' wishes or want to marry an unequal party, black [woman], dishonorable or other lowly [*vuyl*] person, such will not be permitted by the commissioners for weighty reasons.[96]

Communal gate-keeping through marriage restrictions thus primarily targeted a specific sub-section of Europeans: those of higher social status and Dutch origin. In the eighteenth century, however, a more sweeping restriction was issued that suggests an increasing concern with the status and prestige of the European community as a whole: an old requirement that company servants obtain permission from the Governor-General before marrying was expanded in 1773 to "all European *burghers* and those of European blood". The reason given was the scandal caused by "*burghers* of respectable descent" who married "vile and despicable womenfolk to the dishonor and chagrin of their family and to their own misfortune."[97] Notably, while the reference to "European blood" shows that race was far from an irrelevant factor in the eighteenth-century

[95] NIP Vol I, 536-542. Unlike in the Dutch Republic, where couples could choose to register with either the Reformed Church or the secular authorities, as long as the marriage was finalized by the same institution as where the marriage plans were recorded, the VOC made it a rule as of 1636 that for all Christians the *ondertrouw* (initial registration) had to be done at the *Commissarissen* while the wedding had to be performed in church. NIP vol I 227.
[96] NIP Vol I, 540-541.
[97] NIP Vol IIX, 790; Van Wamelen, *Family life*, 252.

VOC-world, the framing of the potential marriage partners in terms of respectability rather than color shows that here, too, the preservation of class hierarchies and familial property was a primary concern.

Deborah Hamer has shown how the VOC's marriage policy aimed to exclude lower-class and 'foreign' Europeans – particularly soldiers who disproportionately hailed from outside the Dutch Republic and were of impoverished background – from the upper echelons of VOC society, while simultaneously fostering a loyal labor force that was bound to the Indies.[98] Key in this policy were decisions by the Supreme Government in Batavia and the Gentlemen XVII in the Netherlands in the 1630s to prevent Europeans married to Asian women to repatriate while their wives were alive and a 1649 law that forbade all *inlandsche* women and their husbands from leaving VOC-controlled territory.[99] Carla van Wamelen has linked this to a larger set of policies blocking non-Europeans' access to Europe which she argued was at least in part motivated by company directors' desire to keep the Dutch Republic white.[100]

Simultaneously, as we have seen, the VOC restricted lower-class white women's access to Asia, only allowing wives, brides, and daughters of higher-ranking company servants to make the passage. The result was a trans-continental racialization of class difference: on one side of the socio-economic spectrum, a mobile company elite formed that in part distinguished itself through its exclusive access to European wives and was able (although with some restrictions) to travel back and forth between Europe and Asia. This mobility was key, because it allowed for 'Europeanness' to be defined through other means than through birth: company elites, as a rule, sent their Asian-born sons to Europe at a young age for their education, and it was this European enculturation, along with the key connections in the Dutch Republic that could be gained, that enabled those who returned to Asia to enjoy the status of a Dutchman and the prospects within the Company that this offered.[101] If they married, their (frequently) locally born-and-raised wives similarly took on 'European' status, despite never having set foot on the continent, their Dutch Christian names belying, as Dutch male travelers frequently bemoaned, a strongly creolized, locally oriented acculturation.[102] On the other side of the spectrum, the VOC promoted the formation of a multi-ethnic lower and middle class of soldiers, burghers, and administrative personnel tied to Asia through either their birth or their marriage. As chapter four will show, however, this policy was only partly effective, as the company's policies rendered marriage so unattractive that many European men opted for alternatives to marriage that did not tie them to the Indies, as can already be observed in the declining absolute number of weddings from the late seventeenth century onward (table 1.1)

[98] Hamer, "Marriage and the Construction of Colonial Order."
[99] NIP Vol II, 132-134.
[100] Van Wamelen, *Family life*, 353. Dienke Hondius has made a similar point for the Dutch Atlantic, arguing that the low number of non-white residents of Dutch colonies that made it to the Netherlands was a result of deliberate policies. Dienke Hondius, "Access to the Netherlands of Enslaved and Free Black Africans: Exploring Legal and Social Historical Practices in the Sixteenth–Nineteenth Centuries," *Slavery & Abolition* 32, no. 3 (September 2011): 377–95.
[101] Bosma and Raben, *Being "Dutch" in the Indies*, 54–59.
[102] Bosma and Raben, 64; Taylor, *The Social World of Batavia*, 39.

Enslaved marriage

As slavery was officially foreign to the Dutch Republic, Dutch overseas settlements relied on Roman law to regulate the institution, and in this legal context slaves were not legal persons with rights. As a result, enslaved marriages had no juridical validity, but this does not mean that they were entirely impossible or of no consequence. Across the Dutch empire, enslaved men and women formed unions – both with each other and with free people – that were met with varying levels of formal recognition that frequently prompted government intervention through legislation. In addition to labor and race relations, religion is – again – key in accounting for differences between different colonies, because even if enslaved marriage was not legally recognized, it could still enjoy a certain level of social recognition by being formalized in church and thus gaining spiritual legitimacy.

In Curaçao, the possibility of enslaved people marrying either each other or a free person was considered early on: in the 1638 instructions for Governor Tolck, along with the demand that black women who wanted to marry a Christian needed to be baptized and educated in the Christian faith, the WIC directors also decreed that the control of enslaved marriages would be in the hands of the island's clerical authorities: no enslaved Africans would be allowed to get married without permission from the consistory, even if they had been baptized. This scenario seems to have remained mostly theoretical for the Dutch Reformed Church, however, for its marriage registers contain no trace of unions involving enslaved people. This is unsurprising considering the Reformed Church on the island, as a rule, did not admit enslaved people to its ranks. As minister Rasvelt wrote in 1742 in response to being admonished by the Classis of Amsterdam for failing to convert "blacks and mulattoes" as the Catholic priest was doing at a rapid pace: "which minister among my predecessors, from 1673 to 1730 has ever made a mulatto or negro a member of the church while these were still slaves?". He blamed the problem on white slaveholders, most of whom refused to allow their slaves to convert, and went on to downplay the priest's achievement, questioning whether his converts could really be called Christians, "who know nothing of the faith in Christ and at most can mutter a handful of prayers without attention and understanding" and implying Africans had a natural inclination towards Catholicism.[103]

Meanwhile, Jewish slaveholders in Curaçao did sometimes allow their slaves to be baptized, but unlike in Suriname, where enslaved people could become Jewish, in Curaçao these baptisms were Catholic.[104] Enslaved marriages in practice therefore largely fell under the jurisdiction of the Catholic Church. By the late eighteenth century the colonial government started expanding its control over these matrimonies. As of 1753, with the application of the *Echt-reglement* in Curaçao, Catholic priests were not authorized to register banns or marry people, but in practice they continued to do so, which resulted in the 1784-1785 conflict with the Catholic Church, finally leading to *fiscaal* (prosecutor) Van Teijlingen prohibiting the local priests Brouwer and

[103] Gemeente Archief Amsterdam - Archief van de Nederlandse Hervormde Kerk; Classis Amsterdam 379, inv.no. 224, 37.
[104] Jordaan, "Slavernij en vrijheid op Curaçao," 2012, 5.

Schenk from marrying free or enslaved non-white islanders without written permission from the Council's secretary.[105]

In Suriname and Guyana the Catholic Church as a vehicle to marriage for enslaved people was largely absent.[106] Berbice especially had limited options, because it also excluded Jews, who were the religious group most likely to convert their slaves in Suriname.[107] In the 1730s the participation of non-whites in Christian institutions became a source of contention between the consistory, colonial government, and the directors of the Society of Berbice in Amsterdam. In June 1737, a schoolmaster for the Dutch Reformed Church in Berbice complained to the Directors that the Governor was refusing to allow slaves to be educated in the Christian faith. The latter represented the perspective of the colony's planters, who saw conversion as a threat to their enslaved workers' productivity. The directors intervened, and decided in March 1738 that the Christian education of slaves should be promoted while making sure that the religion would not be "abused" to get out of work, and asserted that baptism did not make an enslaved person free.[108]

That same year, the Governor and Council of Berbice issued a *plakaat* ordering free Amerindian men who had taken an enslaved Amerindian woman as their wife to stay on the plantation in the service of the woman's master.[109] The ordinance was published on the heels of a legal conflict between two planters two years earlier, involving a free Amerindian Ivericariquammo, referred to as Ante. The latter had worked on the plantation Westzouburg, where he had formed a relationship with an enslaved African woman named Drivke. He had also had sex with an enslaved Amerindian woman on the plantation De Vrijheid, however, and this woman's master, Robertus van Weningen, demanded he come live and work on De Vrijheid. Van Weningen claimed to have a right to keep Ante on the ground that it was possible he had impregnated the enslaved Amerindian woman, which he considered a liability. Ante, when questioned by the court, said he considered neither enslaved woman to be his wife – he already had a wife "at the Indian lodge" – but he was amenable to living at De Vrijheid. A Mr. Chaille, however (likely the Director of Westzouburg), objected to this and demanded that he stay at Westzouburg. The court, judging Ante to be someone who "goes with anyone", decreed that he was to be ordered to live at the fort in service of the colony instead.[110] The 1738 ordinance should therefore not be seen as a regulation of Christian marriages between free and enslaved people, but rather as an attempt at imposing Christian norms of monogamy on free and enslaved workers to prevent conflicts over labour. It enabled planters to tie down 'husbands' as a means

[105] WIP-CU vol II #364, 19 April 1785, 435. Jordaan, *Slavernij en Vrijheid op Curaçao,* 171.
[106] In Suriname this changed in 1785, when the ban on practicing the Roman-Catholic religion was lifted. Van Lier, *Samenleving in een grensgebied*, 2013, 82. The presence of neighboring Spanish colonies, meanwhile meant that conversion to Catholicism – and potentially freedom – was a possibility for enslaved people who were able to cross the border from Suriname or Guyana.
[107] Ben-Ur, "A Matriarchal Matter," 159. In 1736 the Directors of the Society of Berbice affirmed that up to that point no Jews had settled in the colony, and that this was to stay this way, explicitly banning anyone of the Jewish "nation" to move to Berbice from Suriname. NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 13, 18 October 1736, folio 542.
[108] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 14 (Resolutions of the Directors of the Society of Berbice) folio 82-96, 141, 202.
[109] Plakaatboek Guyana, "Verbod aan Amerindianen die met toestemming van de meester een Amerindiaanse slavin trouwen, haar (en de dienst van die meester) weer te verlaten." 09-09-1739. NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 219 folio 38-39.
[110] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 66, folio 11-15.

of tying their labor to the plantation, regardless of whether the so-called husbands considered themselves to be married. Tellingly, the ordinance says nothing about whether the unions were solemnized, nor about any rights the couples could claim from their union – slaveholders were still free to sell enslaved wives and thus separate them from their partners. The ordinance stirred up some controversy in the colony, with some worrying that forcing free men to stay with an enslaved woman against their will might be met with resistance from indigenous groups. The Directors of the colony echoed these concerns, but nonetheless ratified the rule.[111] These worries, however, and the fact that there was no question of enslaving these Amerindian men, highlight the contrast in power positions of Amerindian groups compared to manumitted Africans: the latter were only conditionally free, and could be re-enslaved on the ground of their relationship with an enslaved person, whereas the securing of Amerindian labor was contingent on both free men's relationships and the approval of neighboring tribes with whom they had ties.[112]

In the East Indies, the marriages of enslaved people also became a topic of legal regulation. From the beginning, it was understood that VOC servants could only marry enslaved women after the latter had been manumitted, but beyond the company ranks the rules were not so clearly defined, at least not initially. A 1661 *plakaat* regulating living quarters for enslaved men married to free women states that at least 231 such women (many of whom had likely been initially enslaved as well) lived in Batavia.[113] Four years later, free women were banned from marrying an enslaved man, unless the couple already had children.[114] In 1696, the city's Aldermen (*Schepenen*) issued a more elaborate ruling on enslaved marriage: no slave was allowed to marry a free person, nor were enslaved servants of different masters permitted to wed, and those who could marry had to obtain permission from their master to establish a separate household together, and they would only be allowed to earn the minimum amount of "coolie wages" (i.e. working as a day laborer) outside their master's service as they would need to support their family.[115] This arrangement could, in practice, also involve slaves and their manumitted partners. In 1765 Batavia, for example, the Buginese woman Inting or Ma Duijt and the enslaved bricklayer Elau or Saul had initially been enslaved in the same household, but continued their relationship after Inting was manumitted. Far from leading to her re-enslavement, the union was recognized by Saul's master, the burgher Pistorius, as ground on which to permit the couple to start a household together, and they took up residence south of the city walls, where 'Ma Duijt' earned a living running a food stall. This was not unusual in a city where free and enslaved people intermingled on a daily basis and where the labor demands placed on enslaved workers were not necessarily tied to masters' households.[116]

[111] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 14 folio 256.
[112] For the importance of good relations with Amerindian groups for Guyanese plantation societies, see Bram Michael Hoonhout, "The West Indian Web : Improvising Colonial Survival in Essequibo and Demerara, 1750-1800" (PhD Dissertation, European University Institute, 2017), 41–47; Marjoleine Kars, *Blood on the River: A Chronicle of Mutiny and Freedom on the Wild Coast* (London/New York: The New Press, 2020), 222–25.
[113] NIP Vol. II, 346.
[114] NIP vol. II, 397.
[115] NIP vol. III, 403.
[116] Nationaal Archief, Den Haag, Schepenbank te Batavia, access number 1.04.18.03, inv.no. 11962, interrogations July 25 1765, 15 August 1765.

A notable difference between the Caribbean and Indian ocean context lay in the possibility of enslaved marriages in the Dutch Reformed Church. While in the overwhelmingly white congregations of the Caribbean such formal unions were almost unthinkable (and in this, Dutch colonies differed other Atlantic slave societies, especially those where Catholicism was dominant such as Spanish America and Brazil), the church in Batavia was more open to enslaved congregants and by extension enslaved marriages, although they did become increasingly rare as time progressed.[117] In 1673, 10 of the 150 marriages listed in the marriage registers in Batavia were between people who were enslaved at the time, usually belonging to the same master. By 1756 it was down to two couples among a total of 98 and by 1786 there were none whose enslaved status is mentioned. Christian unions between enslaved people happened at the pleasure of masters, and for a while, it seems to have been a fashionable thing to promote as a display of piety among the upper echelons of VOC society, because the majority of the enslaved brides and grooms registered belonged to high-ranking company servants, such as Joan van Riebeeck, Cornelis Chastelijn, and Jacob Mossel. In 1673, two enslaved women, Thamar and Lea van Tonquin, both in the household of Jacob van Dam, member of the Court of Justice, married two enslaved men from Bengal: Bierom and Anthonij, respectively. Bierom was also a slave of van Dam, Anthonij of Isaack Soolmans, vice president of the Schepenbank. [118]

Conclusion

Marriage, in the Dutch early modern empire, constituted not just a contract between husband and wife and their respective communities, but also a mutual agreement between the spouses and the state, or more broadly the secular and religious authorities: in return for official sanction of their union, the status that may come with this, and the solidification of property rights for spouses and their children, people who marry agree to be recorded within the bureaucratic apparatus of the governing institution and, more importantly, to abide by any legal obligations their marriage may entail. Matrimony was thus a key institution through which an ordered and structured community could proliferate and pass on its wealth *and* through which authorities could maintain order in colonial society.

Because corporate-colonial governance and the Dutch Reformed Church were closely intertwined in the early modern Dutch empire, it is not surprising that it was Christians, and particularly Protestants, over whom colonial authorities exercised the greatest control through marriage. A Christian community of legally married families, loyal to the Dutch Republic and its chartered companies, that could control both land and enslaved workers, then, formed a central part of Dutch authorities' vision for colonial expansion and development.

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[117] For non-Dutch examples of (encouragement of) enslaved marriage in the Americas, see Silke Hensel, "Africans in Spanish-America: Slavery, Freedom and Identities in the Colonial Era," *INDIANA* 24 (January 1, 2007): 15–37; Tera W. Hunter, *Bound in Wedlock: Slave and Free Black Marriage in the Nineteenth Century* (Cambridge, MA: Harvard University Press, 2017); Manolo Florentino and José Roberto Góes, *A paz das senzalas: famílias escravas e tráfico atlântico, Rio de Janeiro, c. 1790-c. 1850* (São Paulo: Editora Unesp, 2017); Ana Silvia Volpi Scott and Dario Scott, "Between Constraint and Desire: Marriage between Enslaved People in Porto Alegre (1772-1850)," *Revista Brasileira de Estudos de População* 38 (July 26, 2021); On the seventeenth-century Dutch Atlantic, see Hamer, "Creating an Orderly Society," 217–42; Andrea C. Mosterman, *Spaces of Enslavement: A History of Slavery and Resistance in Dutch New York* (Ithaca: Cornell University Press, 2021), 39–41.

[118] Arsip Nsional Republik Indonesia, Doop- trouw- en begraafboeken of retroacta Burgerlijke Stand (1616-1829) [hereafter: ANRI Burgerlijke Stand], inv.no. 84.

This imperial vision, however, stood in constant tension with the situation on the ground, as migrations, conversions, mixed marriages, and the social mobility of former outsiders challenged who exactly formed the 'in-group' that colonial authorities relied on and served to protect. Just how indeterminate this phantom of a loyal and stable demographic foundation of power was becomes clear from the varied and shifting terms applied to designate it: Reformed, Christian, Dutch, European, White, or even just 'respectable'. Each of these designations proved to be highly flexible and slippery: what it meant to be 'white', for instance, depended not just on color and birth, but could also be informed by social class, family connections, and education, and these determinations varied both through time and local context, and even locally were not necessarily a point of consensus.

Marriage regulations served to create order in this situation, and to some extent they were successful: in each of the company's colonial settlements (not including the Gold Coast in this designation) hierarchies formed with Christian, slave-owning elites at the top who used marriage to exchange and pass down property and status in a way that was more or less controlled by the colonial authorities. At the same time, however, the influence of local agency was such that these elites were far from completely white, let alone Dutch, of the Reformed faith, and sometimes not even completely Christian. Before we turn to the marriage regulation of this latter, non-Christian group, the following chapter will explore another crack in the phantom vision of orderly, married colonial life: what happened when married life fell apart, spousal conflict arose, and legally married Christians sought divorce?

Chapter 2. Christians and divorce

Introduction

While the joining of people into marriage, as we saw in the previous chapter, is key in the formation and perpetuation of orderly communities, and its regulation served to police the boundaries of those communities, divorce takes place *within* already established families and communities. Frequently taking the form of a conflict, the end of a marriage can reveal much about the institution that stable, enduring marriages do not, from the economic stakes for the parties involved, gendered power (im)balances, and norms for marital conduct that are only spoken when they are broken. Both because of the need for mediation that frequently arose from the antagonistic nature of divorce, and because of governments' own regulatory efforts, divorce formed a key moment in which men and women alike actively engaged with colonial institutions in the early modern Dutch Empire, most prominently the notary and the court system. By examining the records that these institutions produced and zooming in on the ways people in VOC and WIC settlements navigated the end of a marriage, we witness both the fault lines in the ordered way of life offered by marriage in colonial societies, and the new ways in which order was created through the resolution and regulation of divorce. This requires, first, an understanding of the legal framework governing Christian divorce that was applied in the Dutch Republic and its overseas settlements alike, followed by an examination of the ways this played out in practice in the Atlantic and Indian Ocean settings. The focus in this chapter will be on Batavia and Suriname, which produced the most comprehensive institutional records showing the variety of legal solutions to marital strife available.

Christian divorce and the law

Traditionally, Roman Catholicism does not permit divorce in the sense of the dissolution of marriage, because of its conception of marriage as a holy sacrament in which God binds two people together: what God has joined, living human beings cannot separate. Over the course of the church's history, alternative arrangements did develop, most notably annulment and separation. In case of annulment, the church retroactively declared that no valid marriage had been contracted in the first place – for example if the spouses turned out to be related by blood, one partner was already married and bigamy had taken place, or if the marriage could not be consummated. How often such annulments were actually granted in practice is subject to considerable debate: Roderick Philips has refuted the notion that claims of consanguinity were frequently used as a means of getting a *de facto* divorce by means of annulment, showing that these grounds were only rarely accepted.[1] Edward Behrend-Martinez, in his study of early modern Basque Country, however, demonstrated that while consanguinity was rarely accepted, many women were able to successfully petition for annulment on the ground of their husband's impotence, provided they had the support of their community.[2] Separation, in which spouses

[1] Roderick Phillips, *Untying the Knot: A Short History of Divorce* (Cambridge: Cambridge University Press, 1991), 5.
[2] Edward J. Behrend-Martinez and Edward J. Behrend-Martínez, *Unfit For Marriage: Impotent Spouses On Trial In The Basque Region Of Spain, 1650-1750* (Reno, NV: University of Nevada Press, 2014), 144–45.

were permitted to live apart but remained married before God and the law, and thus unable to remarry, was another frequently used solution in many Catholic jurisdictions.[3]

One of the most consequential innovations of the Protestant Reformation was that, with marriage now a worldly affair rather than a sacrament, it made divorce – the dissolution of a legal, valid marriage – possible. With the Dutch Revolt and the new Republic's embrace of Calvinism, two legal grounds for divorce came to be recognized: adultery and the malicious desertion of one spouse by the other. The justification for these grounds was given by Protestant theologians, who argued that after these events the bond of marriage had already been broken, and the innocent party should thus be permitted to remarry.[4] The Political Ordinance of 1580 listed adultery as the only legitimate reason for the dissolution of a marriage and as a crime punishable by banishment.[5] Malicious desertion, or purposefully abandoning a spouse with no intention of returning, became accepted as a second legitimate reason a few decades later, becoming a point of consensus for Dutch legal scholars over the course of the seventeenth century. The degree to which it was a punishable offense varied regionally, however, as did the time which the abandoned party had to wait before filing for divorce.[6] The concept of separation of 'table and bed' remained largely the same as it had been under Catholicism: the 1656 *Echt-Reglement* prescribed that "in case the domestic discord runs too high, and lasts too long, and the applied legal measures fail to help, in such case the justices may consent to separation of Bed, Table, and Cohabitation, but not of the bonds of marriage, nor other than with the objective always to reunite the parties again."[7] Many Catholics living in the Dutch Republic, however, continued to avoid both divorce and separation wherever possible, disproportionally opting for alternative solutions such as petitioning to have spouses temporarily locked up, as Dini Helmers has shown.[8]

Divorce and separation in the VOC-world

All divorce of Christians living under VOC rule (including, theoretically, Catholics but excluding St. Thomas Christians in Malabar) fell under the jurisdiction of the Dutch colonial courts. Christians in Batavia who wanted an officially sanctioned separation needed to turn to either the *Schepenbank* (if they were free *burghers*) or the Court of Justice (for company servants and all appeal cases).[9] In smaller settlements, which did not have a separate *Schepenbank*, Christian divorce generally fell under the jurisdiction of the VOC's local *Raad van Justitie.* The VOC court in Cochin, for example, served not just Company servants and their members, but also Catholic Luso-Indians - frequently referred to as *Toepassen* – who lived in the area, particularly those

[3] Dini Helmers, *Gescheurde bedden: oplossingen voor gestrande huwelijken, Amsterdam 1753-1810* (Hilversum: Uitgeverij Verloren, 2002), 19.
[4] Donald Haks, *Huwelijk En Gezin in Holland in de 17de En 18de Eeuw* (Utrecht: HES Uitgevers, 1985), 178-179.
[5] Cau, "Ordonnantie vande Policien binnen Holland, in date den eersen Aprilis 1580," sec. XVIII.
[6] The 1656 *Echt-Reglement,* marriage regulations issued for the *Generaliteitslanden,* the unrepresented territories in the Dutch Republic directly ruled by the States General, stated that malicious deserters would be banished for life and the innocent part permitted to remarry, after all possible means had been employed to convince the guilty party to return. Cau, "Echt-Reglement," sec. XC–XCI.
[7] "Echt-reglement," sec. XCII.
[8] Helmers, *Gescheurde Bedden*, 377.
[9] In Dutch: *Raad van Justitie*. This section draws on civil cases presented before the Court of Justice, which are available in the Dutch National Archives, and thus primarily reflects the situation among VOC personnel and their families. NL-HaNA VOC 1.04.02 inv.nos. 9224-9282, 9329-9331.

from the *Vaipin* peninsula across the estuary from the fort, although it is likely that local Catholics also used the services of the Vicarate of Verapoly, close to Cochin, for matrimonial affairs such as annulments.[10] The records of the Councils of Justice of Colombo and Gale on Ceylon, meanwhile, suggests that where divorce was concerned, these courts primarily served their respective urban populations of Company servants and Dutch and mestizo *burghers,* rather than Sinhalese Christians from the areas further inland.[11] For Christian *burghers* and VOC-personnel alike, the rules governing divorce followed that of the Dutch Republic. In fact, preciously little VOC legislation on the dissolution of Christian marriages was issued between the establishment of territorial rule in the early seventeenth century and 1809, when the first 'modern' divorce was granted in the Dutch East Indies, marking a definitive departure from the VOC regime that had officially ended a decade prior.[12] Up until this point, Christian marriage in Dutch colonies fell under Dutch-Roman law, and indeed, those involved in marital court cases frequently cited Dutch legal scholars such as Grotius and Van Leeuwen.

As with most other aspects of life, local authorities were free to issue ad-hoc legislation in the form of ordinances targeting specific situations not already covered by this jurisprudence. However, unlike non-Christian divorce, which, as we will see in Chapter three, became increasingly regulated in this period, Christian divorce is only addressed in two eighteenth-century ordinances recorded in the *Nederlands-Indisch Plakaatboek:* a 1734 order to the *Schepenbank* to auction off the privilege of running a bakery between a divorcing bakers' couple, and a 1766 exemption for separating couples from the tax for splitting their estate.[13] In Ceylon, an early ordinance reflects the Company's wider attempt at bringing local marriage custom under company control: in 1647 Galle, *inlandse Christenen* were not only called upon to register their marriage, but also, once legally married, banned from informally separating and starting up separate household without the government's knowledge and permission.[14] After this, however, no specific local legislation concerning divorce appears among the island's *plakaten*.

This relative lack of local legislation, however, belies a varied legal practice of divorce in VOC settlements. While the evidence is too spotty to deduce a concrete divorce rate for the VOC-period, there are enough examples in the archives to show that Christian couples from all walks of life petitioned for a broad variety of formal separations, from full divorces involving criminal charges levied against one spouse to voluntary separation agreements.

Quite possibly the most high-profile separation in VOC history is the one extensively documented in the work of Leonard Blussé, between company widow Cornelia van Nijenroode

[10] NL-HaNA, Nederlandse bezittingen India: Chennai [digitaal duplicaat], 1.11.06.11, inv.nos. 91, 136, 138, 307, 430, 486, 523, 560, 575, 645, 940, 956, 1368, 1470. The VOC, which had driven the bishop of Cochin from the city, was acutely aware – and wary – of the developments in clerical politics on the Malabar coast, as can be seen in NL-HaNA VOC 1.04.02 inv.no. 9004, Missive 21 April 1723, scan 49; inv.no 9005, Missive 24 October 1724, scan 123.

[11] National Archives of Sri Lanka, Archives of the Dutch Central Government of Coastal Ceylon, 1640-1796 access number 1.11.06.08 [hereafter: SLNA VOC 1.11.06.08], inventory numbers 4194-4547. Rupesinghe has argued it is unlikely that Sinhalese Christians and other groups beyond the coast frequently engaged in formal divorce proceedings, and that local custom permitted more informal modes of separating. Rupesinghe, "Navigating Pluralities Reluctantly," 227–28.

[12] NIP Vol XV, 460-2. The divorce was 'modern' in the sense that it comprised essentially a no-fault divorce, in which both parties were permitted to remarry.

[13] NIP vol IV, 354; Vol VIII, 145-6.

[14] CP vol. I #15 (01-08-1647), 13.

and her second husband, Court of Justice member Joan Bitter.[15] This battle between Van Nijenroode, daughter of a Japanese woman from the island of Hirado and a VOC-merchant stationed there, fabulously wealthy from her previous marriage to the merchant Pieter Cnoll, and Bitter, a Dutch lawyer who had found in her a solution to his lack of funds following his arrival in Batavia, is notable for a number of reasons. Aside from its dramatic appeal – it caused quite a stir among contemporaries of the influential Batavian couple – the case highlights the precarious position that marriage put even the most well-connected and moneyed women in. As soon as Cornelia van Nijenroode spoke her marital vows to Joan Bitter, she, like all brides, essentially signed over all control over her assets to her husband, despite having drawn up a seemingly iron-clad prenuptial agreement. When, after a very brief honeymoon period, Cornelia became convinced that her husband's true intentions had been to take control of and siphon away as much wealth as possible from her impressive estate, she began a legal battle that would drag on through decades, starting in 1676 when she first petitioned to be allowed to start a legal procedure against her husband and ask for a separation of table, bed, and goods, and ending with her death in 1691. Despite her wealth and her friends in high places – including Cornelis Speelman, who was Governor-General from 1681 to 1684 – she was only granted a provisional separation from Joan Bitter once, in 1671, and this decision was later reversed. On multiple occasions, she was ordered to once again place herself and her assets under her husband's authority under threat of being declared a malicious deserter, which would have forfeited any rights she still had by virtue of her prenuptial agreement, as well as the lion's share of her fortune.[16]

The case highlights the different roles played by the various institutions regulating marriage. The church can be seen prioritizing reconciliation above all else, with less concern for legal aspects, and using exclusion from holy communion as a disciplinary measure.[17] The worldly authorities (i.e., both the Batavian Government and the Court of Justice) on the other hand, primarily acted with the interest of preserving public order, even if this involved a (temporary) legal separation of a pair joined before the law and God. In this latter approach, we can already see the seeds of the reasoning that would result in the expansion of possibilities for divorce in the nineteenth century. In the century in between, however, it would continue to be extremely difficult for Christians, and especially Christian women, to win a divorce or even legal separation in court, as the sixteenth- and seventeenth-century laws governing divorce remained in place, essentially unchanged.[18]

It should be noted that the Bitter-Van Nijenroode case is hardly representative of divorce and separation in the VOC world, or even that among Batavia's elite. Bitter's position on the Court of Justice, his wife's connections to the highest echelons of VOC leadership in Batavia, and the extreme escalations resulting from Joan Bitter's legal manoeuvring all resulted in an extraordinary entanglement of political and judicial authorities' involvement in the case. The conflict even traveled to several courts in the Dutch Republic, including the High Court of

[15] Blussé, *Strange Company*, 172–259; Leonard Blussé, *Bitters Bruid: Een Koloniaal Huwelijksdrama in de Gouden Eeuw* (Amsterdam: Uitgeverij Balans, 1997).
[16] Blussé, *Strange Company*, 225–26.
[17] This is consistent with the attitude of the church consistories in the Dutch Republic in the seventeenth century, as demonstrated by Van der Heijden. Van der Heijden, *Huwelijk in Holland*, 238.
[18] A foundational role was played by the *Politieke Ordonnantie* (1580) and the 1656 *Echt-Reglement*.

Holland.[19] This was highly unusual, as the Court of Justice in Batavia was generally understood as the final appeals court in the Dutch East Indies: whereas litigants in West-Indian jurisdictions could travel to the Netherlands to appeal with the States-General, the highest form of redress those in the East Indies could hope for was a revision of a sentence in Batavia.[20] The 'ordinary' legal practice for ending a marriage in the VOC world, insofar as can be observed in the judicial records, can be divided into three main categories: separation by mutual agreement, separation of table and bed through litigation, and formal dissolution of a marriage through the court ("capital 'D' Divorce").

Separation by mutual agreement

By and large the easiest, fastest, and least costly form of legally separating was for husband and wife to split amicably by means of a separation agreement. As research on divorce and separation in the Dutch Republic has shown, this was a frequently used method in many Dutch cities, and overseas settlements were no different.[21] For Batavia in particular, a wealth of information on divorce agreements is available, due to the extremely well-documented institution of the notary in the city: just as in the Netherlands, Batavian couples who no longer saw a future for their marriage could turn to a notary to draw up the terms of their separation, such as the division of the communal property, care of children, and who was to be liable for past and future debts.[22] To be legally valid, the separation needed to be confirmed by the court: the Court of Justice if the husband worked for the VOC, and the *Schepenbank* for *burghers*.[23] For this reason, both parties specified an attorney that would act as a *procureur* on their behalf in court. One party needed to formally initiate the procedure by filing a suit against the other; if the wife did so, she needed to first petition the government for *veniam agenda* (permission to take independent legal action).[24] Once the soon-to-be separated couple showed up in court, the procedure was simple: because the pair had already come to an agreement, the court generally made no attempt at further mediation and simply rubber-stamped their approval. With the court's judgement, both parties were now legally obliged to comply by the terms of their agreement. To make sure external parties (such as creditors) were aware of the split, the separation would be formally and publicly advertised, "with the ringing of the bells and through placards".[25] As these separations did not constitute a full and final divorce, neither party would be permitted to remarry until the other spouse had died.

[19] Blussé, *Strange Company*, 249–51.
[20] Van Wamelen, *Family life*, 92; NIP vol II, 470, 9 January 1669.
[21] For Amsterdam, see Helmers, *Gescheurde Bedden*, 177–79; For South Holland, see Haks, *Huwelijk en gezin*, 184–206.
[22] The notarial archives of Batavia, consisting of nearly 9000 inventory numbers, can be found at the Indonesian National Archives (ANRI, Notarieel archief van Batavia, 1621-1817, hereafter: ANRI Notarissen).
[23] NIP vol IX, 113-114 (1693).
[24] Unlike in the Republic, where women asked permission from the court, Van Wamelen claims Batavian women were required to turn to the Governor-General and Council. Van Wamelen, *Family life*, 319; Paullus Merula, *Pauli G. F. P. N. Merulae J. C. Manier van procederen, in de provintien van Hollandt, Zeelandt ende West-Vrieslandt, belangende civile zaaken; getrouwlyk en met neerstigheid by een vergadert …* (Leiden: S. & J. Luchtmans, 1781), 417.
[25] ANRI, Archief van de Raad van Justitie, 1620-1809, inv.no. 154, Civil Sentences 1765, folio 177; NL-HaNA VOC 1.04.02 inv.no. 9331 Raad van Justitie Civiele Rolle [hereafter: CivR], 1781, folio 59.

Although confirmation by the court was all but guaranteed, separating couples by no means expected authorities to take the matter lightly: the contracts often went to great lengths to explain the separation was absolutely necessary and took place despite the couple's best efforts and intentions. The Batavian couple Nicolaes Isaaks and Anna Joijia van Toncquin, who formalized their separation in April 1730, devoted almost half of their three-page separation agreement to a preamble that painted their split as inevitable: although the pair had married three years prior "with the hope and expectation of spending and ending their days together under God's blessing, with so much love, affection, and agreement of temperaments as ought to exist between married people," this wish had not come true, they claimed. Even though "heaven had blessed them with a child," they had not found harmony, and their life together had devolved into "an accumulation of bickering and disagreements, highly damaging to body and soul." To prevent "worldly scandal" or even more severe consequences of the "bitterness" that might arise out of continuing cohabitation, the pair saw no other solution than to separate from table and bed. Nicolaes denounced his marital power over Anna Joijia, allowing her to henceforth administer her own affairs, and their assets were to be split in half. Their child would stay with the father, "to be raised and properly educated in the necessary arts, sciences, or trades."[26]

The justifications for parting ways that agreements such as Nicolaes and Anna Joija's gave generally tell us less about the specific couple's marital troubles, and more about what reigning expectations of a 'good' marriage were and what was considered a valid reason for ending it. A contract drawn up by notary Andries Jan Zalle for a separating couple in 1765 makes clear what the ideal was that the two had been woefully unable to meet: "the pleasant fruits that a well-conceived marriage continuously produces through mutual love and accommodation."[27] Since the contracts were to be signed by both parties, they almost never laid the blame with anyone's particular actions to explain the absence of this conjugal bliss, but instead almost invariably used the euphemism of incompatible *humeuren.*[28] By the 1770s, separation agreements began to take on a standardized, almost formulaic form, which may be linked to this type of 'divorce' becoming more common in this period, as it did in the Dutch Republic.[29] With little variation, the same references to "peace, quiet, and good harmony" and, increasingly, an absence of "mutual affection" were repeated almost verbatim. This standardized explanation suggests that legal practice took quite some leeway with the letter of the law to accommodate a notion of marriage that had become dominant by the 1770s in Batavia: whereas the separation of table and bed was

[26] NL-HaNA VOC 1.04.02 inv.no. 9239 CivR, 18 April 1730, folio 785-789.
[27] "de aangename vrugten, die een wel getroffen huwelijk door wedersijdse liefde en toegevendheijd onafscheijdelijk voortbrengt," ANRI Notarissen, inv.no. 6244, #17321 (April 1765).
[28] ANRI Notarissen inv.no. 6242, #17100 (18 February 1765); inv.no. 6244, #17321 (April 1765);
[29] Dini Helmers, for Amsterdam, found an increase in divorce cases, including specifically voluntary separations, in the second half of the eighteenth century, although she attributes this growth primary to an increase in married couples.Helmers, *Gescheurde Bedden*, 203; Donald Haks, for Leiden, Maassluis, and Wassenaar, found both an absolute and a relative increase in separations of table and bed in the period 1771-1791. Haks, *Huwelijk En Gezin*, 184–89. The Batavian court records are more limited than those of Dutch cities, but nonetheless a tentative trend is discernible: whereas in 1730 Nicolaes and Anna Joija were the only couple whose separation agreement is recorded with the Court of Justice, between September 1777 and September 1781 (the latest consecutive period for which civil records of the Court of Justice are available) nine out of a total of thirteen divorce cases were resolved through separation by mutual agreement (the others being a single attempt at annulment, one full and final divorce, and two contentious separations in which no agreement was reached). NL-HaNA VOC 1.04.02 inv.nos. 9239, 9329-9331.

originally conceived as a temporary emergency measure if marital discord threatened to spiral out of control, by now positive feelings of affection were deemed important enough that their absence was recognized as a legitimate factor in justifying a separation. Moreover, whereas the *Echt-reglement* of 1656 stressed that the explicit goal of these separations was always to effect a reconciliation, this intention is by no means present in the Batavian separation agreements, which on the contrary stress the impossibility of such a prospect. Nevertheless, the Court of Justice continued to stress the non-permanent nature of the separations in its sentencings, reminding couples that their marital ties had not been dissolved, and that they were free to reunite at any point. Indeed, some couples did, often through pressure and mediation from the church consistory, which strongly disapproved of any and all separations.[30]

Others chose to reconcile due to practical considerations: a Semarang-based couple, Anthonij Schops and Maria Roode, had been formally separated since September 1772 and were even enmeshed in a court case to dissolve their marriage when, in May 1774, they decided to move back in together, citing the well-being of their children and the untenable cost of maintaining two separate households.[31] Many, however, had no intention of reconciling and never did. The Batavian government seems to have recognized this reality, for it allowed separated husbands, in some cases, to repatriate to Europe, leaving their wives in the Indies.[32] Marten Huijsvoorn, a former sailor who over a 30-year career had climbed to the rank of Senior Merchant, repatriated with the fleet of 1767 after separating from his wife, Maria Herega.[33] Maria remained in Batavia, where, in 1775, following Marten's death, she successfully sued his estate for 1735 rixdollars plus interest, which she claimed she had been entitled to since November 1766 – presumably the date of their formal separation.[34] Otto Hendrik Hoek, a VOC skipper who in 1778 separated from his wife Aaltje Petronella Bliek, also must have considered leaving the Indies without his ex-partner a legitimate possibility, because he made arrangements for it in their separation agreement: the couple's child, over whom he maintained sole custody, was to accompany him to Europe in the event that he repatriated.[35]

Of the voluntary separations that can be found in the Court of Justice records, high-ranking company servants and their wives are strongly overrepresented. The VOC-affiliation is unsurprising, as the only non-employees that appeared before the Court of Justice were those involved in an appeal from the *Schepenbank*. The absence of low-ranking company servants, however, is striking: although soldiers, sailors, and low-ranking clerks made up the vast majority of the company's workforce in Asia, almost all the men drawing up separation agreements belonged to the so-called 'qualified' personnel (merchants, bookkeepers, military and maritime officers, and skilled craftsmen in leadership positions), with the lowest-paid being a medical

[30] Van Wamelen, *Family life*, 319–20.
[31] NL-HaNA VOC 1.04.02 inv.no. 9280 CivR 1773-1774, 8 June 1774, folio 261.
[32] As of 12 August 1728, married company servants were forbidden from returning to Europe without their wives and children, unless the wife gave consent and the husband continued to provide for her. NIP vol IX, 403.
[33] NL-HaNA VOC 1.04.02 inv.no. 5255 Qualified Company Servants 1765-1767, folio 16; inv.no. 12888 Personnel records of *'t Vliegende Hart* 1730-1731, folio 108.
[34] NL-HaNA VOC 1.04.02 inv.no. 9281 CivR 1774-1776, folio 195. Maria Herega, incidentally, seems to have divorced twice, first from senior merchant Abraham de Clercq, as she is described as the latter's separated wife in a court case from 1750: inv.no. 9256 CivR 1749-1750, 12 May 1750, scan 629.
[35] NL-HaNA VOC 1.04.02 inv.no. 9329 CivR 1778-1779, scan 323.

scribe and a *bottelier* (chief steward) both earning 20 rixdollars a month. Among VOC employees, the separation agreement was thus a relatively elite phenomenon. This can be explained, in part, by the fact that many among the rank-and-file never married, avoiding the financial obligations and repatriation prohibitions that came with marriage by opting for concubinage instead, and by the fact that mortality rates for soldiers and sailors were high, making death a more likely end of marriage than divorce. Among those that did marry and whose marriage stranded, moreover, many likely separated informally, without a paper trail. Without assets to divide, a formal separation agreement must have seemed not worth the notarial and judicial costs, even if the alternative was technically illegal.

Indeed, the bulk of the content of the contracts involved the financial arrangements made between the separating parties. These could vary considerably, although in most cases the couples did not opt for a 50/50 division of all their possessions, instead choosing an arrangement in which the husband retained control of the estate along with responsibility for its debts, with the wife taking a specified amount for herself. In some cases (likely when the couple's debts rivalled their assets) this amounted to little more than her personal possessions ("all jewelry and clothing belonging to [her] body").[36] Angelina Anthonia Sijmons, the wife of the abovementioned *bottelier*, did not receive any cash from the marital estate or alimony from her husband, but only her clothes and "necessities of her body", in exchange for her husband taking on their debts and the costs of the divorce.[37]

If the couple was slightly wealthier, the wife also took with her one or more enslaved servants. As we saw in chapter one, the promotion of enslaved marriages was fashionable among elite households, and this seems to have been maintained as well-to-do couples split up: Geertuijda Theodora van Batavia, separating wife of VOC bookkeeper Joan Jochim Plaat, took with her not only a small fortune in jewelry and trinkets, but also several enslaved family units: aside from a cook and a "good houseboy", she left with the enslaved man Februarij "with his wife Soenting and her three daughters Roosje, Leha, and Santje" as well as "Malatie and her daughter Sipiet".[38] Patronella Wintink, wife of the merchant Jan Edzardus Jeremias Verklokke, took seven enslaved men and women with her, among whom were three married couples. Although not at the absolute top of Batavian society (as, for example, Bitter and Van Nijenroode had been), the Verklokke-Wintink household can certainly be considered elite: in addition to her personal possessions and the seven slaves, Jan Edzardus also paid out a sum of 45.000 rixdollars to Petronella, in addition to yearly alimony payments of 1200, to be adjusted to his future earnings.[39] The alimony stipulated for wives was generally proportional to the husband's income: Ida Wilhelmina Bake, whose husband, Councillor of the Indies Johannes Vos earned 350 rixdollars per month, would receive 2000 rixdollars per year from him (just under half his wage per month) in addition to the 500 per year he would pay her in child support for their youngest

[36] "Alle sierraden en kleren tot des impetrantes lijf gehoorende," NL-HaNA VOC 1.04.02 inv.no. 9277 CivR 1770-1771, folio 165.
[37] NL-HaNA VOC 1.04.02 inv.no. 9329 CivR 1777-1778, scan 316.
[38] Note that, although Februarij's marriage to Soenting is seemingly recognized, the phrasing still does not recognize his legitimate paternity of the daughters, who are described as *hers,* not *theirs*. NL-HaNA VOC 1.04.02 inv.no. 9280 CivR 1773-1774, folio 283.
[39] NL-HaNA VOC 1.04.02 inv.no. 9329 CivR 1778-1779, folio 247.

daughter.[40] Joan Joachim Plaat agreed to pay his wife, Geertruijda Theodora, 20 rixdollars a month, two-thirds of his bookkeeper's wage of 30 rixdollars – this payment likely included financial support for the child that the couple had adopted together, Johannes Theodorus.[41] The wealth the wives took from the estate upon separating, however, was not necessarily proportional to their husbands' salary. This is unsurprising since the wealth of upper-level VOC servants only marginally originated from their official salary and in large part from the private trade they were able to (illegally) take part in, their elite-born wives' dowries, or both.[42] When Rachel Sloop and her husband George Bertram Timmerman separated after a brief but unhappy marriage, Rachel took 8000 rixdollars out of the marital estate – an amount that could not possibly have been accumulated from George's bookkeeper salary.[43] Although the sums separating wives were able to negotiate varied as much as couples' financial positions did, it is safe to say that the wives who 'divorced' through this method generally emerged from the separation better-off than other types of divorcées. The same cannot be said of the full dissolution of marriage, or capital-D-Divorce.

Full Divorce

Whereas separations by mutual agreement, by necessity, involved compromise, Divorce in the Early Modern period was considerably more akin to a zero-sum game. No-fault-divorce was not possible until the nineteenth century: if a marriage was dissolved, there was always one innocent and one guilty party, with generally only the former being allowed to remarry. Moreover, because the two legitimate grounds of Divorce, adultery and malicious desertion, were both punishable offences, the guilty party could find themselves facing criminal prosecution in addition to a divorce trial.[44] Sometimes the two went hand in hand, with the criminal verdict of the adulterous or deserting partner simultaneously dissolving the marriage.[45] Alternatively, there could initially be a civil trial that later gave rise to a criminal prosecution, as in the case of junior Merchant Elso Sterrenberg and his wife Metta Christina Woordenberg: Sterrenberg had filed for divorce in 1738 with the Court of Justice in Hougli (Bengal), but when the Hougli court ruled against him, he appealed in Batavia. Here, in April 1740, the Court of Justice overturned the 1738 ruling and dissolved the marriage, after which the Batavian prosecutor picked up the case and tried Metta Christina for adultery, using the evidence from the civil suit. In August 1740, Metta Christina, already a divorced woman, was sentenced to the women's workhouse for fifty

[40] NL-HaNA VOC 1.04.02 inv.no. 9331 CivR 1781-1782, folio 69.
[41] NL-HaNA VOC 1.04.02 inv.no. 9280 CivR 1773-1774, folio 283. Curiously, this boy is not mentioned in the separation agreement, but he does feature prominently in Plaat's 1780 will, which specified that the boy was to inherit 2000 rixdollars from his adoptive father and that he was to live with Geertruijda Theodora until he reached adulthood. Although husband and wife never reconciled, the two households do seem to have remained somewhat intertwined, because the will also mentions Januarij and his wife Soenting: the enslaved couple was to serve and look after Johannes Theodorus until the latter reached adulthood, at which point they would be manumitted. NL-HaNA VOC 1.04.02 inv.no. 6847, folio 334.
[42] F. S. Gaastra, *Geschiedenis van de VOC: opkomst, bloei en ondergang*, Geheel herz., 10e dr. (Zutphen: Walburg Pers, 2009), 106–7.
[43] NL-HaNA VOC 1.04.02 inv.no. 9279 CivR 1772-1773, folio 190.
[44] Van der Heijden, *Huwelijk in Holland*, 45, 158.
[45] An early example is from 1637, when Catharina van Boijeme, who had attempted to flee into the woods outside Batavia with her lover, was sentenced to five years of chained confinement, with confiscation of her possessions and, at the request of her husband, the dissolution of her marriage. NL-HaNA VOC 1.04.02 inv.no. 9338 Criminal Case Files [Hereafter: CrimPr] 1636-1637, scan 1087-1102.

years.[46] In other cases, the marriage was dissolved through a civil procedure following a criminal verdict, which had left the convicted party with little choice.[47] For now, we will focus on the conjugal aspects of these cases, while the criminalization of adultery as an illicit form of sex will be discussed in chapter four.

Not all prosecutions ended in a dissolution of marriage, although very often a de facto divorce was the result. If the accused party was acquitted, a return to conjugal bliss was understandably not always in the stars, especially if the injured partner had played a vital role in the prosecution. This was the case with Otto Hendrik Hoek and Aaltje Petronella Bliek, whose 'voluntary' separation belied a dramatic preamble: Otto had accused Aaltje of adultery with one of their slaves, Sima. Because the only evidence against her was the testimony of enslaved women, however, she could not be convicted, and her husband could not legally divorce her.[48] It was clear to both that the marriage was over, however: less than a month after Aaltje was cleared of her charges, the couple officially separated from table and bed.[49]

Conversely, if the accused *was* found guilty, the injured party did not always feel the need to file for a dissolution of the marriage: since the standard penalty was fifty years – essentially a lifetime – of banishment (or, for women, incarceration in the women's *tuchthuis*), many seem to have been satisfied with simply being rid of their spouse. Military officer Johannes Wassenberg, who had married fifteen-year-old Anna Gijsberta Borwater, only to find her in an affair with one of his colleagues less than a year later, had ample ground on which to divorce his young bride: not only had she and her lover Daniel Godfried Knuttel been caught together in a dramatic fashion, but she also disappeared after Johannes reported her to the authorities, meaning he could petition for divorce on the grounds of adultery as well as desertion.[50] There is no evidence of him having done so, however: in fact, when the still fugitive Anna Gijsberta was sentenced *in absentio* to fifty years banishment a year later, she was still described as his wife [*huijsvrouw*], rather than his *gewesen* or *gesepareerde huijsvrouw* as she would have been labeled post-divorce.[51] Sometimes, men whose wife had been convicted of adultery sued for divorce only years later – likely as they were intending to remarry.[52]

The scenario in which someone successfully petitioned the court to dissolve their marriage without a criminal trial taking place was also possible. Although the 'guilty party' in this case escaped banishment or the workhouse, their prospects were generally still less favorable than those of their now ex-partner. Not only could they not remarry, they also had a weaker position when it came to negotiating the terms of the separation. The marriage of Jacobus Balans and

[46] NL-HaNA VOC 1.04.02 inv.no. 9248 CivR 1739-1740 scan 618; inv.no. 9391 CrimPr 1739-1740 scan 19; inv.no. 9393 CrimPr 1740 scan 95.
[47] This was the case for Johanna Geertruijda La Haija, who on December 2, 1772, was sentenced to 25 years of banishment, a fine of 1000 rixdollars, and the judicial costs, for adultery. Two weeks later her husband Ajuereus van den Bergh filed for divorce and La Haija, who had little to gain from fighting this with another costly trial, consented. NL-HaNA VOC 1.04.02 inv.no. 9279 CivR 1772-1773, folio 62.
[48] NL-HaNA VOC 1.04.02 inv.no. 9507 CrimPr 1778, scan 686.
[49] NL-HaNA VOC 1.04.02 inv.no. 9329 CivR 1778-1779, scan 323.
[50] NL-HaNA VOC 1.04.02 inv.no. 9427 CrimPr 1749, scan 1071-1170.
[51] NL-HaNA VOC 1.04.02 inv.no. 9312 *Crimineele Rolle* [hereafter: CrimR] 1750, scan 232-235.
[52] An example is the former VOC *assistant* Jan Carel de Milaan, who divorced his wife Margaretha de Remedio, ten years after she had filed for separation from him. The dissolution was possible because Margaretha had been found guilty of adultery and banished to the women's workhouse (see chapter four). NL-HaNA VOC 1.04.02 inv.no. 9270, scans 439, 517.

Johanna Suijlkom was dissolved in September 1775, after more than nine months of legal proceedings, with Johanna (the 'guilty' party) sentenced to pay the judicial costs.[53] When the pair came to a settlement on the division of their assets in December, it was agreed that Jacobus would pay the fees instead, but this concession came at a price: Johanna would not receive alimony money, was no longer entitled to a portion of Jacobus' wage (the Delft Chamber of the VOC had previously paid 180 rixdollars, or three months' wages, to her each year) and only received 433 rixdollars from the marital assets, even though a will Jacobus drew up a year later suggests he possessed considerably more.[54] But that was not all: the contract also stated that Johanna no longer had custody over their eleven-year-old son, losing "all rights she had enjoyed as a mother over said son". Indeed, soon after the divorce, Jacobus sent the boy to the Netherlands, and there is no indication he ever returned.[55]

When examining the gender ratio of the divorces enacted by the Court of Justice in Batavia, a remarkable pattern emerges: almost all the spouses who successfully filed for divorce and were given permission to remarry were men. This is quite distinct from the situation in the Netherlands, where wives were just as likely as their husbands to file for divorce, if not more: in eighteenth-century Amsterdam, for example, 48 per cent of divorces on the ground of adultery were initiated by women and 79 percent of those on the ground of desertion.[56] The Batavian judicial record, in some cases, is ambiguous as to whether parties were petitioning for a separation or a full divorce. In the years 1728-1775, judicial clerks used the term *divortie,* for example, for both types, but a closer look at the verdicts reveals a sharp gender divide: out of a total of sixteen identified cases in the *Civiele Rolle* during this period in which the term *divortie* is used, thirteen are initiated by the wife and three by the husband. All three male-initiated divorces resulted in the dissolution of the marriage, with the man permitted to remarry. None of the female-initiated proceedings had this outcome, however: five were denied by the court, with the woman ordered to place herself under her husband's authority once more, and four resulted in a separation without a dissolution.[57] In the same period, the term *dissolutie* was used less unambiguously to refer to a full divorce with permission to remarry for the innocent party. Out of eleven identified cases in which this term is used in the civil records, only one is confirmed to have been initiated by a woman. Notably, although this case – between Maria van Spanjen and junior merchant Nicolaas de Lamotte – was introduced as a *dissolutie,* the verdict could be interpreted as an annulment rather than a divorce: the marriage between Van Spanjen and De Lamotte was declared "null and void" and Maria was permitted to contract a new marriage and retrieve her personal effects from Lamotte.[58] Out of the other cases, nine were initiated by the

[53] NL-HaNA VOC 1.04.02 inv.no. 9281 CivR 1774-1775, folio 108, 350; inv.no. 9282 CivR 1775-1776, folio 331.
[54] NL-HaNA VOC 1.04.02 inv.no. 9282 CivR 1775-1776, folio 58; Jacobus left 200 rixdollars to an enslaved woman who was to be manumitted after his death, 500 to his parents, and the rest of his estate to his son. NL-HaNA VOC 1.04.02 inv.no. 6882 Testament #7782, 23 November 1776.
[55] NL-HaNA VOC 1.04.02 inv.no. 9282 CivR 1775-1776, folio 58; inv.no. 14023 Personnel records of *Hoop* 1763-1764, folio 34, 36, 38.
[56] Helmers, *Gescheurde Bedden*, 207.
[57] In the remaining four cases the outcome is unknown. NL-HaNA VOC 1.04.02 inv.no. 9238, 9243-9247, 9250, 9253, 9255-9259, 9261, 9270, 9281. No eighteenth-century civil records prior to 1728 remain in the archive. After 1775, the term *divortie* is no longer found.
[58] NL-HaNA VOC 1.04.02 inv.no. 9261 CivR 1755, scan 401, 456. Whereas with divorce a marriage that had previously been valid was dissolved, annulment implied that a valid marriage had never come into being, e.g. if it had never been consummated.

husband and of these, two resulted in a reconciliation while at least five resulted in a full divorce.[59] Because the statements of claim are usually missing in the civil records, it is unclear what exactly the women in the cases above had requested (full divorce, separation or annulment) and on what grounds, but the verdicts fit in a larger trend throughout the period in which women either did not try, or did not manage to fully dissolve their marriage. In one case from 1780, a woman named Amelia Olimpia Swart did attempt to obtain an annulment, which like divorce would have allowed her to marry someone else. However, after her husband Jacob van Haak had been examined by a medical practitioner who had determined that Haak was not, as Swart had claimed, impotent, her request was denied, and she was ordered to place herself under her husband's "marital authority" once again.[60] In a rare case where a husband, bookkeeper Johannes Hoffman, was criminally prosecuted for adultery, and his wife thus had demonstrable ground on which to divorce him, she opted for separation instead.[61]

What explains this relative absence of women-led divorces? It seems highly unlikely that Batavian women were not aware of the legal possibilities afforded by Dutch marriage law, considering the sophisticated legal strategies employed by female litigants and their councillors in marital as well as non-marital lawsuits. Was there a stronger social stigma against divorced women in Batavia than in the Dutch Republic? Or was there a reticence (or perceived reticence) among the High Government of Court of Justice to permit this specific type of divorce, perhaps to avoid the friction between company servants that might result if they could marry each other's ex-wives? It is difficult to say, but the lopsided divorce rates do fit in a larger pattern of marital power relations that were marked by greater inequality than in the Netherlands, if we take the extremely young age of the average Batavian bride and the extensive age difference between spouses as a marker for wives' empowerment.[62] Another factor may be the social role of marriage in VOC-circles in Batavia: as Jean Gelman Taylor has shown, higher-ranking Company servants' brides were generally locally-born girls from well connected families, married off at a young age to foster strategic allegiances between VOC men.[63] If such a wife was unhappy in her marriage, she would have faced considerable difficulty divorcing her husband and contracting a new advantageous marriage without the support of her family, who might be less than enthusiastic about such a disruption.[64] Their husbands, on the other hand, were more likely to

[59] In the remaining four, the outcome is unknown. NL-HaNA VOC 1.04.02 inv.no. 9238, 9241, 9244, 9255, 9258, 9261, 9274, 9276, 9279, 9280. The eleventh case concerns an appeal initiated by the wife, but it is unclear who had started the initial divorce proceedings at the Schepenbank, or what the outcome had been.
[60] NL-HaNA VOC 1.04.02 inv.no. 9330 CivR 1779-1780, scan 269; inv.no. 9331 CivR 1780-1781, scan 1218.
[61] VOC 9470 CrimPr 1761-1762, scan 465-514.
[62] The average age gap for VOC couples in Batavia, in 1673, was 8.6 years, considerably higher than the average of one to three years for the European Marriage Pattern. ANRI Burgerlijke Stand inv.no. 84. For the relation between (relative) ages of spouses and female empowerment, see Jan Luiten van Zanden, Tine De Moor, and Sarah Carmichael, *Capital Women: The European Marriage Pattern, Female Empowerment and Economic Development in Western Europe 1300-1800* (Oxford: Oxford University Press, 2019), 8; Sarah Carmichael, "Marriage, Family and Gender Inequality : An Historical Exploration of the Relationship between Family Systems, the Position of Women and Development" (Unpublished PhD Dissertation, Utrecht, Utrecht University, 2016), 214.
[63] Taylor, *The Social World of Batavia*, 71–75.
[64] Helmers makes a similar argument for Amsterdam in explaining why divorce was unpopular among the propertied classes, drawing on the work of Kooijmans, De Jong, and Prak, who have shown the importance eighteenth-century Dutch elites placed in stability and continuity when it came to marriage. Helmers, *Gescheurde Bedden*, 213; J.J. de Jong, *Met Goed Fatsoen. De Elite in Een Hollandse*

have sailed from Europe and thus, without family in the Indies, were more free to weigh the benefits of divorce and remarriage independently.

Litigious separation

In the space between these two alternatives for broken marriages (separation by agreement and Divorce) was litigious separation, in which at least one party wanted to split but the spouses could not agree on the terms, thus necessitating arbitration by the court. Just like full divorces often were, this type of separation was antagonistic in nature (the Bitter-Van Nijenroode case being a prime example) with one party 'winning' at the other's expense. Unlike full divorce, however, the separation was not necessarily permanent and did not dissolve the bonds of marriage. Formally, the procedure started the same way separations by mutual agreement did, with one party, via their attorney or *procureur*, summoning the other before the court. Here too, if the wife initiated the trial, she first needed to obtain *veniam agenda* from the High Government. Unlike in voluntary separations, however, the court would first refer the couple to a designated sub-committee (frequently designated as simply "the commissioners") to see if they could be persuaded to reconcile or at the very least separate by mediation. If this failed, a court case would commence that could drag on for months if not years, with endless back-and-forths between the litigants, delays caused by stalling tactics, and efforts to bring witnesses to court to testify in one's favour, which often proved challenging.

Despite these difficulties, litigious separations were considerably more common than full divorces, being easier to obtain and more morally acceptable for those for whom divorce was anathema. This, combined with the zero-sum aspect of litigious separation making it a prime target for appeals, has resulted in non-VOC couples also appearing in the Court of Justice records as they appealed verdicts from the *Schepenbank*. Roeland Hannibals, described as a mestizo *burgher,* appealed to the Court of Justice in March 1730, after his wife Cornelia Tsiaijnio had filed a suit against him in 1728, with the *Schepenbank* ruling in her favour in 1729. In 1770, Francina van Timor, whose name suggests she was a manumitted woman, filed a suit against her husband, the *leermeester* (i.e. teacher) Salomon Davids. Salomon reported he was "not inclined to separate," which is understandable considering his job was to help convert non-Christians to the Reformed faith, so he could be penalized for not living an exemplary Christian life.[65] Francina anticipated a long and difficult trial, so she requested a temporary disposition by the court, to safeguard her material interests. The court complied: for the duration of the trial, Salomon would not be permitted to "alienate, embezzle or otherwise lose any and all goods or slaves," his wife would not be liable for his debts, and he would be required to pay her half his salary each month and give her access to her clothing and jewelry. Such an *appointement,* as it was called, was quite a common feature of separation procedures by this point in time.[66] Obtaining a separation

Stad. Gouda 1700-1780 (Amsterdam: De Bataafsche Leeuw, 1985); L Kooijmans, *Onder Regenten. De Elite in Een Hollandse Stad. Hoorn 1700-1780* (Amsterdam: De Bataafsche Leeuw, 1985); Maarten Prak, *Gezeten Burgers. De Elite in Een Hollandse Stad. Leiden 1700-1780* (Amsterdam: De Bataafsche Leeuw, 1985).

[65] NL-HaNA VOC 1.04.02 inv.no. 9277 CivR 1770-1771, folio 16; Niemeijer, "Calvinisme en koloniale stadscultuur," 186. Davids was not the only *leermeester* fighting his own wife in court that year: his colleague, Pieter Mattau Saija, was being sued for separation by his wife Aggrippina Lea Valentijn around the same time. NL-HaNA VOC 1.04.02 inv.no. 9277, folio 10.

[66] NL-HaNA VOC 1.04.02 inv.no. 9277, folio 17.

of table and bed, it seems, could be so complex that the legal practice developed a temporary solution in anticipation of a more permanent resolution – one that, in theory, was itself intended as a temporary stop-gap for marital discord.

In contrast to divorce, this type of separation was almost always requested by wives rather than husbands, and here the VOC world did not differ much from the Dutch Republic.[67] As Donald Haks has pointed out, women had more to gain from using legal means to enact a separation, because it was the only way they could compel their husband to pay them a share of his wages while living apart.[68] A court-sanctioned separation could be thus financially empowering for women, especially since they could win independent control of half the marital assets (if they were married under communal property), which otherwise would have been under the legal authority and control of the husband. The precarious position wives were under as a result of their financially dependent position within marriage was a frequent theme that emerged in separation proceedings: financial mishandling on a husband's part was a much-heard complaint levied by women, often accompanied by references to gambling and excessive drinking as the cause of the irresponsible spending. The threat of poverty that this behavior posed to wives was generally taken as a legitimate ground for separation if it could be adequately proven. Many women also strategically emphasized their vulnerable position to obtain advantages over the course of the separation proceedings, such as a provisional appointment of alimony until the case would be decided, and pro bono representation, which men were considerably less likely to get. Husbands were keenly aware of the disadvantage separation could put them at, and some accused their wives of having mercenary intentions in initiating the proceedings. Dominicus van den Bosch, A VOC bookkeeper in 1762 Colombo, for example, claimed that his wife was falsely accusing him of abuse "to make herself the mistress of half his wage to take her pleasure with."[69] Another, in 1786, complained that dividing his assets in two, as his wife was demanding, would lead to the ruin of his household, and that she was only out to make him miserable. [70] In rare cases, a wife could even win complete control of the marital assets, as was the case for Ilaria de Cardoza, a *Toepas* woman from Vypin island near Cochin. Ilaria had turned to the VOC court on multiple occasions between 1743 and 1749, each time complaining of abuse by her husband, a Luso-Indian soldier, but each time the case never made it to a formal separation. It is likely that Ilaria, a Catholic, initially did not intend to divorce her husband, but instead used the court as a way of pressuring him into better behavior. The situation changed in 1749 when Ilaria brought new witnesses to the court and her husband subsequently disappeared and failed to respond to three consecutive court summons, enabling her to claim he had forfeited any rights to their estate. Thus, while Ilaria de Cardoza lost whatever income her husband may have brought to the family, she gained complete independence from him, without a formal divorce being pronounced.[71]

Ilaria was not alone in her complaints of abuse: besides financial mismanagement, the most frequent complaint levied by women in litigious separation cases, from Cochin to Batavia and

[67] Helmers, *Gescheurde Bedden*, 207.
[68] Haks, *Huwelijk en gezin*, 215.
[69] SLNA VOC 1.11.06.08, inv.no. 4336, 3 August 1762, folio 5-7.
[70] SLNA VOC 1.11.06.08, inv.no. 4490, 20 September 1786, folio 5-7.
[71] NL-HaNA, Nederlandse bezittingen India: Chennai [digitaal duplicaat], 1.11.06.11, inv.no. 486, Civil proceedings Ilaria de Cardoza contra Francisco D'Aroeija, 1743-1749.

beyond, was domestic violence. Here, however, debates could arise over what constituted serious enough abuse to warrant a separation. A certain degree of 'correctional' violence from a husband to a wife was considered acceptable, and even where a husband's behavior was indisputably poor, dominant notions of ideal womanhood still expected wives to graciously endure and obey.[72] A *burgher* named Jan Christiaan Greijs in Cochin, for example, did not deny beating his wife when she sued him for separation on the grounds of abuse, but he contested that striking her was a valid ground for separation: citing the seventeenth-century Dutch legal scholar Karel van Aller, Greijs' attorney claimed that "separation occurs for two general reasons and causes, namely a prodigal use of marital goods and cruel treatment," adding that there criteria were not met if "any discord comes to arise and one came to hit the other."[73] It is not surprising, then, that women who petitioned for separation on the ground of violent abuse never did so on account of a single instance of violence or unacceptable treatment, but instead evoked scenes of long, sustained suffering that they had patiently endured until it had either become unbearable or life-threatening. Even then, courts demanded extensive evidence – usually in the form of witness statements – before considering granting a formal separation. Again, these accusations were frequently accompanied by those of excessive drinking, which aided a woman's case because it could serve as an explanation for a husband's poor behavior, emphasized his moral failure, and left the wife free of blame in domestic disputes. Whereas a sober man might claim he was beating his wife as a form of discipline, a drunk who turned to violence was clearly in the wrong. Because men often drank in public, moreover, wives could easily point to their husband's reputation as a heavy drinker as a form of evidence, whereas violence taking place behind closed doors might be more difficult to prove, and not taken as seriously as public misconduct. Thus Amelia Willems, wife of the VOC ship's surgeon Roelof Winterhof, turned to her husband's notoriety for evidence after her chief witness, a VOC Sergeant who had stayed in their home, died before he could testify under oath, claiming that "she had been cruelly treated by her husband and that the latter had frequently been drunk – a fact that all of Colombo knows all too well – and drunkenness frequently leads to disaster, damage, and prodigality."[74]

Domestic violence was not exclusively perpetrated by men against women, and wives were known on occasion to turn violent against their husbands. Husbands, however, were much less likely to file for separation on these grounds, which can partly be explained through a lack of financial incentive: because separation did not dissolve the marriage, a husband would still be financially responsible for his wife. There is also reason to believe that husbands as victims of domestic abuse were not taken as seriously as battered wives, as they did not conform to dominant expectations of masculinity and femininity. The above-mentioned Colombo bookkeeper Dominicus van den Bosch felt the need to explain himself when he claimed that not he, but his wife was physically abusive: she had hit him on multiple occasions and once even dragged him across the room by his hair "while he was lame and had diminished use of his arms

[72] Marianna Muravyeva, "'A King in His Own Household': Domestic Discipline and Family Violence in Early Modern Europe Reconsidered," *The History of the Family* 18, no. 3 (August 1, 2013): 233; Haks, *Huwelijk en gezin*, 153–54; Helmers, *Gescheurde Bedden*, 232; Julie Hardwick, "Early Modern Perspectives on the Long History of Domestic Violence: The Case of Seventeenth-Century France," *The Journal of Modern History* 78, no. 1 (March 1, 2006): 11.
[73] NL-HaNA, Nederlandse bezittingen India: Chennai [digitaal duplicaat], 1.11.06.11, inv.no. 940, scan 413.
[74] SLNA VOC 1.11.06.08, inv.no. 4298, 20 July 1756, folio 12-13.

and legs." This condition, which he claimed to still suffer from (and indeed he would die shortly after, before the completion of the trial) incidentally also caused people to erroneously perceive him to be drunk. He did not, however, petition for a formal separation on the ground of his wife's violence, but rather used it to illustrate her general malice in arguing *she* should not be granted a separation and the benefits that would grant her: "It would go too far for the respondent to have to miss half his wage for the benefit of an evil woman who abuses him and has even hit him, and moreover has smeared his good name without any cause or reason."[75]

While money and violence are nearly universal mainstays of marital disputes and divorce cases throughout history, the VOC separation cases also feature points of conflict that were more particular to the stratified and diverse world of South East Asia under Company rule. The prevalence of domestic slavery, for example, colored perceptions of status in relation to the acceptability of violence in the household. While wives' petitions generally reflected an acquiescence to women's subservient status with regards to their husbands, as 'lady of the house', a married woman the Indies did expect her position in the household to be above that of slaves, and as a result many a battered wife complained that she was treated "worse than a *slavin*" to illustrate that her husband's abuse had gone too far. Acrimonious divorce cases could also illuminate racial and ethnic fault lines in ways that were otherwise not frequently made explicit in the Indies. In the Van Nijenroode case, for example, we learn that Bitter would disparage his half-Japanese wife in strongly racialized terms, calling her a "black devil's head".[76] A specific source of conflict that could arise within the 'typical' mixed VOC marriage between a Dutch male newcomer concerned the shifting power balance between the spouses over the course of the marriage: thus a Colombo-based wife accused her husband of wanting to get rid of her after having taken advantage of her: he had married her when he was penniless, relying on her mother for money and clothes, but had grown bored with her once he had begun to climb in his career thanks to his sycophantic flattery of influential people. She made reference to several racial markers in her sketch of the shift in status taking place within their marriage: "he imagined himself to have risen too highly to keep a house with a woman of low birth, in mestizo clothing, not white and beautiful enough for his vanity […]."[77] European husbands, conversely, would sometimes stress their relative helplessness as newcomers, such as VOC soldier to Jan Ulrich Moeklij who was stationed in Jaffnapatnam, Ceylon, married a local woman named Francina Rodrigues briefly after his arrival, and tried to divorce her for adultery after he found out she had already been pregnant with another man's child at the time of their marriage. When Rodrigues defended herself by stating that Moeklij could have known the condition of the woman he was marrying, he responded by presenting himself as a "poor European" who had been tricked by a woman whose "public whoredom" was not known in the fort, but a well-known fact "among the papists" (i.e. the Catholics living in the surrounding area).[78]

[75] SLNA VOC 1.11.06.08, inv.no. 4336, 3 August 1760, folio 8-9.
[76] Blussé, *Bitters Bruid*, 86.
[77] SLNA VOC 1.11.06.08, inv.no. 4210, 3 July 1742, folio 1-12.
[78] SLNA VOC 1.11.06.08, inv.no. 4346, 20 November 1767, folio 24.

Divorce in the Caribbean

The legal practice concerning divorce in the colonies in the WIC-charter area had much in common with that of the Dutch Republic as well as the VOC world, but the institutional arrangements were distinct. Unlike Batavia, Paramaribo in Suriname, being a separately run colony not directly governed by the WIC, did not have a separate urban court for *burghers* like the *Schepenbank,* but unlike the VOC-settlements, it did have a dual court system for criminal and civil procedures, with its separate *Hof van Civiele Justitie* (Court of Civil Justice) and *Hof van Politie en Crimineele Justitie* (Court of Policy and Criminal Justice, or the Governing Council). While in the Dutch East Indies marital disputes such as divorce were usually handled in the civil sessions of the court, in Suriname it was the Governing Council that handled divorce and separation, and a similar institutional arrangement existed in neighboring colony Berbice, although here marital cases moved from the political and criminal court to the civil court in the 1770s.

Curaçao, by contrast, did not have a dual court system at all, but only had a single legal body that was colloquially know as *De Raad* ('The Council') and that handled governmental matters as well as civil and criminal litigation, including divorce proceedings.[79] The procedure for women taking legal action against their husband, at least in Suriname, was also slightly different: whereas in VOC-Asia a woman could independently appoint an attorney and sign a separation agreement before a notary, only turning to the government to request *veniam agenda* once she wished to start a formal procedure, in Suriname a married woman could not take any action in a divorce process, including drawing up a separation agreement, without a male representative. This *curator ad lites*, who did not have to be a trained attorney but could also be a family member, could be appointed at the woman's request, if she filed a petition with the Governing Council. The Court, in this case, could decide to first send the couple to the 'Commissioners of Marital Affairs' for an attempt at reconciliation, before granting the request, even if husband and wife were in agreement on wanting to separate and ready to draw up a separation contract. Only once the mediation process had proved fruitless was the woman granted a curator and could the separation procedure commence.

In terms of content, however, separations and divorces among the free Christian population of Suriname had much in common with those under the VOC as well as in the Dutch Republic. Formal separations were rare: in the middle of the eighteenth century, on average only around one to three were announced each year, and the same was still true by the 1790s.[80] Dissolutions of marriage were even more uncommon because just as in the Netherlands and VOC-Asia, they were considerably more difficult to obtain. If the court did not find enough evidence for a valid ground for divorce (i.e. adultery or desertion) it often opted for a separation of table and bed instead. Jacobus Cuijlenburg, for example, tried to divorce his wife Maria Pieterse, but was unable

[79] Schiltkamp, *Bestuur en rechtspraak in de Nederlandse Antillen ten tijde van de West-Indische Compagnie*, 39. Although separated spouses are regularly mentioned in the Curaçao records, suggesting separations and divorces were not uncommon on the island, documentation of specific court cases is rare among the Council's judicial record.

[80] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 188, Ordinances and Publications 1740-1763; NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 208, Ordinances and Publications 1793-1797; NL-HaNA, DTB Suriname [digitaal duplicaat], 1.05.11.16, inv.no. 43, Court Rulings on Separations of Table and Bed, 1795-1801.

to convince the Governing Council of her transgressive behavior. However, because the trial had made clear how far the couple's disagreements went, and they were in fact already living apart, the court decided to formally separate them.[81] As in other Dutch settlements, moreover, people sometimes did not even bother to file for a full divorce, even when they had a valid reason to. Barent Casper and Lucia Nawigh separated in 1746, and Nawigh almost immediately moved in with her new partner Willem Benjamin Lindsch, suggesting this relationship had played a part in the separation. Casper knew about this "very familiar and offensive cohabitation", as he would later describe it. He could have filed for divorce on the ground of adultery, but he did not, only turning to the authorities in 1750, when Lucia became pregnant and a violent altercation between her and Lindsch ensued, and she attempted to board a ship for the Netherlands. In reporting what he knew to the Surinamese prosecutor, Casper made sure to assert that he was not the baby's father, saying that since their separation he had not so much as tipped his hat to his ex-wife, much less had intercourse with her.[82] Lindsch, meanwhile, was also still legally married, having separated from his wife Elisabeth Susanne Timmerman in 1745, but there is no evidence that she filed for dissolution of the marriage either.[83]

The most common type of divorce, again, was the voluntary separation by agreement. Although Suriname did not have an official notary, contracts and other forms of notarized documents could be drawn up before sworn secretaries or their clerks. Again, the legal practice here closely resembles that of Batavia and the Dutch Republic, with couples stating they were separating by contract to avoid lengthy and costly legal procedures, and remaining vague on the cause of the separation, euphemistically citing incompatible dispositions. In terms of financial arrangements made in the agreements, there was considerable variation. Christian couples who had not drawn up a prenuptial agreement, in theory, split up their possessions equally upon parting ways. Separating couples who followed this rule often did specify that an independent appraisal of their estate would be made by a local *priseur*, so that a fair division could be made. In many cases, however, couples made their own arrangements. When J.J. Scholten and his wife Johanna Maria Tol separated in 1798, it was agreed that Johanna would keep the house they owned, but buy out her husband for a sum of 3000 guilders.[84] Andries Malenberg and Catharina Planteau, who rented their home, agreed that Catharina could stay in the home with their three children and keep all the goods they had inside with the exception of a few personal items of Andries. He would pay for the rent for the duration of the lease, and pay Catharina a yearly sum of 1000 Dutch guilders for the children's upkeep.[85] Sara Margaretha de Haan, who separated from her husband of two years, Johan Hendrik Thomas Pottendorff, in 1795, received a stake of

[81] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 22, Council Minutes 1742, scan 288, 31 July 1742; NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no.188, Ordinances and Publications 1740-1763, 106.
[82] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 550, Memos to the court, 1750-1753, 17, 10 March 1750; NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 188, Ordinances and Publications 1740-1763, 07 December 1746, folio 227.
[83] Nationaal Archief, Den Haag, Digitaal Duplicaat: Suriname: Oud Notarieel Archief, access number 1.05.11.14, inv.no. 113, 1745-1746, folio 12.
[84] NL-HaNA, DTB Suriname [digitaal duplicaat], 1.05.11.16, inv.no. 43, Separation agreement #7, 28 August 1798.
[85] NL-HaNA, DTB Suriname [digitaal duplicaat], 1.05.11.16, inv.no. 43, #1, 21 April 1795.

25 percent in the couple's plantations.[86] Many separating couples had married with a prenuptial agreement, which meant that upon separating each party took back the property they had brought into the marriage – for separating women this sometimes came down to their dowry – the sum paid by her family to the groom upon marriage. In this sense, Christian divorces in Suriname could be similar to those among Surinamese Jews (see chapter three). In some cases, moreover, one party paid a sum to their partner that had not necessarily originally been the partner's property but ostensibly served to persuade them to agree to the separation – another practice that was known among Jewish couples. Andreas Ridderbag, for example, paid his wife Dorotea van Soestdijk a sum of 2400 guilders, and in exchange she denounced all her claims on the couple's estate and promised to repatriate with the first departing ship to the Netherlands, "without ever returning to him."[87] Catharina Adriana van de Lande, who had started a separation procedure against her husband Willem Pieter Visscher but later decided to come to a settlement with him, "considering the long duration of procedures and their uncertain outcome," agreed to pay him a total of 10.000 guilders, as well as a fee for the administration of her property, and the legal costs of the separation.[88]

It seems to have been considerably less likely for women to receive alimony money from their ex-husbands than in VOC-Asia, even if they had children. Jeannette Emelie de Paravicini, separating from Fredrik Christiaan Roepel, agreed to look after their young son at her own costs, but this did not mean she had unquestioned custody over the child: as soon as the boy reached adolescence (12-14 years old) and his father would find the time ripe, Roepel would be free to "claim" the boy and take charge of his education.[89] The difference with the VOC context can in part be explained by the fact that the majority of husbands in Suriname were not company employees drawing a wage which they would be expected to share with their (ex-)wife. Instead, men and women alike (or at least those of the well-to-do section of society that was most likely to marry) lived off their property, in the form of enslaved human beings, real estate, and financial assets, so for separating wives the question of how much property they left the marriage with was often more relevant than that of monthly payments. In neighboring colony Berbice, there are even some documented instances where the wife was ordered by the court to financially support her husband after a separation, as in the case of Maria Lamarque, who continued her and her husband's inn by herself after the latter was placed under state guardianship as a result of her petitioning the court with evidence of his alcohol abuse and irresponsible behavior.[90]

Another notable difference can be found in the gendered patterns in divorce. Here, Suriname appears to resemble Dutch cities more than Asian settlements such as Batavia or Cochin. Despite the extreme rarity of divorce cases in Suriname, several divorces can be identified that were initiated by the wife. Wilhelmina Schroder filed for dissolution of her marriage to Johannes van Hertsbergen in February of 1750, on the grounds of malicious desertion. The pair had in fact

[86] NL-HaNA, DTB Suriname [digitaal duplicaat], 1.05.11.16, inv.no. 43, #3, 20 May 1795; NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 458 Petitions February 1795, #36, 9 February 1795; NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 208, Publications, #139, 5 June 1795.
[87] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 107, 21 May 1723, scan 63-65.
[88] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 130, 17 December 1783, folio 198.
[89] NL-HaNA, DTB Suriname [digitaal duplicaat], 1.05.11.16, inv.no. 43, #5, 7 November 1797.
[90] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 143, 5 and 8 April 1768, scan 14, 61, 69, 81.

been separated for quite a while already: they had married in 1741, but months after the wedding Wilhelmina found life with him unbearable. Citing abuse, she had managed to obtain a separation of table and bed. Since then, through the mediation of third parties, there had been multiple – unsuccessful – attempts at reconciliation, during which Wilhelmina claimed his comportment had only deteriorated. In early 1750, Johannes had disappeared, and Wilhelmina seized her chance, citing the *Echt-Reglement* to argue that she ought to be declared free to remarry.[91] This plan backfired, however, because Van Hertsbergen re-emerged several months later, claiming he had been upstream on business matters, and went to Paramaribo "in order to reconcile with her and re-unite once again for the reproduction of the human race," which Schroder was loath to do.[92]

More successful was Apolonia Jacoba van der Meulen, a wealthy widow who married Herman Nicolaas van der Schepper (son of the former Governor Gerard van de Schepper) in 1743. Out of affection and trust, she claimed, she had not insisted on a prenuptial agreement, but soon after the wedding her opinion of her groom changed radically. He became abusive, "treating her with extreme contempt," and on top of that had "unseemly and criminal conversation" with enslaved women; this latter accusation she could back up with witnesses.[93] Therefore, citing adultery, Apolonia asked for her marriage to be dissolved, and argued that her adulterous husband had legally forfeited his right to her money which technically fell under their community property. This was not a rule described in the *Politieke Ordonantie* or the *Echt-Reglement*, but it was not entirely without precedent in Dutch legal practice, although it had mostly applied to adulterous wives in the past. Drawing on the *Hollandsche Consultatiën* [Dutch Consultations], a popular body of juridical advisory literature, Apolonia's council Aubin Nepveu cited several sixteenth- and seventeenth-century cases in which Dutch courts had denied an adulterous spouse his or her share of the marital goods, both for community property couples and those who had married under a prenuptial agreement.[94] As a backup, should Van der Meulen's request for dissolution of the marriage be denied, she also asked for a separation of table and bed, but this proved unnecessary, because she won the case: on 5 March 1744 the Governing Council granted her permission to remarry and ordered Nicolaas van de Schepper to return to her the property she had brought into the marriage.[95] Van de Schepper appealed to the States General in the Netherlands, but Apolonia Jacoba was nonetheless able to remarry in 1748.

Although gambling problems were not mentioned as frequently in litigious separation cases as in the East Indies, where predominantly Chinese-run gambling houses were a fixture of every port city, domestic violence and financial mismanagement, both of which frequently accompanied by claims of alcohol abuse, were very commonly heard complaints voiced by

[91] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 346, Petitions February 1750, folio 36.
[92] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 347, Petitions February-June 1750, June 18 1750, scan 569; inv.no. 45, Council Minutes, 18 June 1750, scan 85.
[93] Nationaal Archief, Den Haag, Staten-Generaal, access number 1.01.02, inv.no. 9502, scan 29.
[94] NL-HaNA, Staten-Generaal, 1.01.02, inv.no. 9502, scan 38. It is unclear which version of the *Consultatien* Nepveu used. Although he wrote the statement of claim in 1743, it is unlikely he used the 1741 reprint which included more recent examples from the legal practice. Gerard de Haas, *Nieuwe Hollandsche consultatien, advertissementen van regten, memorien, en andere schrifturen van voorname regtsgeleerden,* (The Hague: Mattheus Gaillard, 1741); Maartje Vermeulen, "Vrij onder Voogdij? Rechtsgeleerden aan het woord over de rechtspositie van de vrouw in de Hollandse Consultatiën (1645-1666)" (Unpublished PhD Dissertation, Utrecht, Universiteit Utrecht, 2009), 7–9.
[95] NL-HaNA, Staten-Generaal, 1.01.02, inv.no. 9502, scan 42.

women seeking a separation through the court in Suriname, Curaçao, and Berbice. If alcoholism or other signs of mental instability threatened to lead to the family's financial ruin, it appears to have been relatively common for men and sometimes women to be placed under a guardianship. The guardian of such a *stadskind* could be either an institution such as the orphan board, or a family member, such as Geertruijd de Bonte in 1740 Suriname, who convinced the Council of Policy that the intellectual deficiencies of her husband Paul des Peyre were such that he could not administer their affairs without being regularly conned and misled, and as a result gained control over their finances along with her father.[96] Thus, although in theory, married women in the Dutch Caribbean, as elsewhere, were legally dependent on and subservient to their husbands, legal practice could diverge from this norm considerably.

Conclusion

Divorce was difficult to obtain for Christians in the early modern world, and Christian communities across the Dutch empire were no exception to this. Once legally married, men and women alike were bound by legal obligations that could only be terminated under exceptional circumstances and only through a legal procedure that could be highly costly, especially if no agreement between the parties could be reached. Both the types of marital discord and the types of divorce and separation proceedings that resulted from them show remarkable consistencies across the Dutch world in the eighteenth century, with variations being attributable to minor institutional differences, socio-cultural specificities such as the particular dynamics of mixed marriages, and differences in the economic foundations shaping men and women's positions in different settlements. Economically speaking, wives generally had most to gain from the most common type of 'divorce', the separation of table and bed, but the degree of financial independence women were able to win varied considerably. Many VOC divorcées continued to rely on their husbands' incomes for their maintenance, and it seems to have been extremely difficult for elite married women in the VOC world to win control of their fortunes through litigious separation, as Cornelia van Nijenroode's unhappy fate shows. The best chance these women had of obtaining financial independence was to either come to a fortuitous agreement or – as many undoubtedly did – to simply wait for a (usually considerably older) husband to die. Less elite women, and especially those whose standard of living did not depend on their husband's VOC employment, were more likely to gain financial independence through separation, even if it was sometimes independence in poverty. This second pattern also seems to have been the norm in Caribbean settlements such as Suriname and Berbice, where women generally did not expect to be supported after a divorce – and sometimes even supported their incapacitated ex-husband – but where wives seem to have had a wider range of options than VOC-wives: some – such as the wealthy and well-connected Apolonia Jacoba van der Meulen – were able to win both full control of their assets and the ability to remarry (for which there was plenty of opportunity in the gender-imbalanced Guyanas). Others were able to repatriate to Europe – an option that was generally not available to Indies-born wives. Others, again, were able to survive off their own property or their own labor, with many a separating woman presenting her husband as more of a (financial) liability than an asset.

[96] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 188, folio 20.

The consistency of the norms regarding a good marriage that are expressed in the legal practice – primarily in the negative, with separating spouses listing the various ways their union failed to live up to the expectation of domestic bliss – can in part be explained as larger cultural norms that transcend the early modern Dutch empire: concerns about violence in the home, financial stability, and mutual affection are not uniquely Christian, Dutch, or colonial, nor are they confined to the eighteenth century. The consistency in solutions for broken marriages, and in the legal and rhetorical strategies levied by husbands and wives when engaging with Dutch colonial institutions, however, suggests that at least for the Christian communities forming around centers of colonial power, the use of Dutch institutions helped advance a surprisingly robust normative order that offered colonial authorities a fairly high degree of control over the intimate and economic lives of these communities. A qualification that needs to be made here, of course, is that this engagement was limited to a relatively small group: not reflected in the records, in addition to those who never married, are the men and women who dealt with marital strife without turning to a Dutch court or notary, which in some places such as rural Ceylon and among the majority of the Catholic population of Curaçao seems to have remained the norm. All this, moreover, elides the significant groups of people who lived, wed, and divorced alongside the separating spouses mentioned in this chapter, under the companies' rule, who were not Christian at all, and whose marital lives thus fell under entirely different normative orders. How these groups navigated marriage and divorce within a Dutch colonial setting, and how VOC and WIC authorities in turn attempted to control this process will be the topic of the next chapter.

Chapter 3. Non-Christian marriage

Introduction

The Dutch chartered companies claimed jurisdiction over a network of cities and territories that were inhabited by religiously and ethnically diverse populations, and this posed a conundrum when it came to the regulation of marriage: how could a 'Dutch' legal order, whose regulation of marriage and divorce was based on a distinctly Christian conception of marriage, be applied to non-Christian communities that had their own norms and regulatory practices with regards to the formation and dissolution of families? Because the Dutch empire, by and large, did not engage in a sweeping proselytization campaign and because colonial authorities recognized that eradicating local communities' traditional normative practices was not possible without causing considerable disorder, Dutch colonial societies were self-consciously 'plural' in multiple ways: ethnically, religiously, legally, and thus, broadly speaking, normatively. This was not a radical departure from legal practice in the Netherlands or elsewhere: what is frequently referred to as 'legal pluralism' in scholarship was not unique to the Dutch world or to the colonial situation, but arguably pervasive feature of the pre- and early modern world.[1] Diverse communities with their own normative practices had lived side by side in the Indian Ocean world for centuries, for example, while in Europe, on top of a range of non-sovereign corporate entities that governed medieval and early modern life, Jewish communities had long operated within Christian-dominated legal systems under varying degrees of communal self-rule, and even this larger legal system did not have a concept of universal equality, applying rules differently to different people depending on their status and position in society.[2]

Colonial expansion, however, did bring with it new modes of inequality as well as tenuous and shifting balances of power, new opportunities in conflict-resolution for colonial subjects, and new conflicts. As a result, where family law was concerned, new questions arose over what constituted a legal marriage and who decided this. In the previous chapters we saw how race, enslavement, denomination (Catholic or Protestant) and other factors of inequality came into play in these questions *within* the subsection of the population that was Christian and thus (strong internal differences notwithstanding) had a more or less shared normative schema for

[1] Michael Barry Hooker, *A Concise Legal History of South-East Asia* (Oxford: Clarendon Press, 1978), 194; John Griffiths, "What Is Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (January 1, 1986): 1–55; Benton and Ross, *Legal Pluralism and Empires, 1500-1850*; Griet Vermeesch, Manon van der Heijden, and Jaco Zuijderduijn, *The Uses of Justice in Global Perspective, 1600–1900* (London: Routledge, 2019). The strategic use of preserving local or indigenous customs, which in the Dutch East Indies would persist in the concept of 'adat', was not unique to the Dutch empire. See, for an example of Spanish America, Nicolás Ceballos-Bedoya, "Usos Indígenas Del Derecho En El Nuevo Reino de Granada: Resistencia y Pluralismo Jurídico En El Derecho Colonial. 1750-1810," *Estudios Socio-Jurídicos* 13, no. 2 (December 2011): 221–48; Catharina Madeira-Santos, "O império português face às instituições indígenas (Estado da Índia, Brasil e Angola, séculos XVI-XVIII)," in *Monarquias ibéricas em perspectiva comparada (sécs. XVI-XVIII): dinâmicas imperiais e circulação de modelos administrativos*, ed. Ângela Barreto Xavier, Federico Palomo, and Roberta Stumpf (Lisbon: Imprensa de Ciências Sociais, 2018), 271–302.

[2] Benton, *Law and Colonial Cultures*; Corinne Lefèvre and Ines G. Zupanov, *Cosmopolitismes En Asie Du Sud. Sources, Itinéraires, Langues (Xvie-Xviiie Siècle). Introduction* (Paris: Éditions EHESS, 2015); William A. Pettigrew, "Corporate Constitutionalism and the Dialogue between the Global and Local in Seventeenth-Century English History," *Itinerario* 39, no. 3 (December 2015): 487–501; Yosef Kaplan, ed., *Religious Changes and Cultural Transformations in the Early Modern Western Sephardic Communities* (Leiden: Brill, 2019).

marriage. This chapter examines how specific, non-Christian ethno-religious communities within the empire, their communal authorities, and Dutch colonial governments under the VOC and WIC approached these same questions, focusing on the (loosely defined and frequently overlapping) Muslim, Chinese, and 'Hindu' communities in the VOC world and the Jewish communities in the Dutch Caribbean, with a particular focus on the unique position of the Sephardim in Suriname.

Legal pluralism, marriage, and power under the VOC

The terminology used in the records of the Dutch East India company suggests that company authorities did not quite view the marriages of Muslim, Hindu, and Chinese men and women as being of equal status to a Christian marriage, at least socially speaking. This becomes particularly clear from descriptors used for married women: VOC judicial records consistently refer to the wives of Muslims, Hindus, and lower-class Chinese men as *wijf,* a term that was also used for wives in enslaved families across the Dutch empire (women in more casual relationships with enslaved men would be called someone's *meijd*), whereas the more honorific term *huijsvrouw* ('house-wife') was reserved for legally married Christian women, Asian aristocracy and, occasionally, wives of wealthy Chinese men, although here it depended on who was writing: Lietjouw Siea, wife of Tan Pinseeng, who was a member of the Board of Trustees for Chinese Deceased Estates *(College van Boedelmeesters*) was referred to as his *huijsvrouw* in a request for legal separation she herself submitted to the *Schepenbank*, but in the court's discussion of the case, she is referred to as his *wijf*.[3] The social hierarchy Dutch authorities envisioned was thus inscribed in the valuation of the legitimacy of marriages, particularly through the honor accorded to married women. At the same time, however, the fact that non-Christian men and women successfully used the Dutch court system to arbitrate divorce, alimony, inheritances, and other marriage-based rights and entitlements demonstrates that, legally, the company did recognize the validity of these marriages. Which standards for a valid marriage, and which rules for dissolving one could be applied, however, varied from community to community and was not set in stone.

Islamic family law and the VOC

The histories of the Dutch East India company and that of Islam are deeply intertwined, and not just because the company regularly came into contact with Muslim merchants and rulers as business partners, rivals, and allies. Throughout the seventeenth and particularly the eighteenth century, as the Company expanded its territorial control, while simultaneously Islam was consolidating its influence in South East Asia, the VOC found itself ruling over a population that was increasingly comprised of Muslims. What this meant for the Muslim men and women living in VOC-occupied territories, however, varied considerably between places and periods. In Cochin, where the Company shared jurisdiction with the Muslim Raja in Mattanchery, Muslim residents might have daily social and commercial contact with Christians but administered their private lives – including the registration of marriage and adjudication in marital conflict and divorce – independently of the company and its institutions. In Ceylon, the company's treatment

[3] ANRI Schepenbank inv.no. 258, #163, 12 April 1790.

of the island's Muslim minority, which was largely comprised of merchants, shifted from largely hostile and exclusionary in the seventeenth century to a more accepting but nonetheless increasingly regulatory approach in the late eighteenth century.[4] Batavia similarly started out with VOC administrators treating Muslims as hostile outsiders, but as the Company's territorial control in Java spread while men and women from across the archipelago moved to the city – both voluntarily and by force – the presence of large numbers of Muslims of a variety of ethnic and social backgrounds under VOC jurisdiction became a fact of life. This meant a change in policy: whereas virtually all seventeenth-century legislation involving Muslims revolved around either promoting conversion to Christianity or banning and restricting the practice of Islam,[5] eighteenth-century legislation focused on institutionalizing (and thus, to a certain extent, homogenizing) existing Islamic practices within the company's legal framework. This began with a recognition of practical necessities, such as the employment of an imam for Muslim witnesses in the *Schepenbank* to take their oaths with, and later expanded to the legalisation of Mosques (more than half a century before Catholic worship was permitted). By the mid-eighteenth century, the Company began to codify Islamic law, to be applied uniformly among the VOC's Muslim subjects.[6]

The most influential of these, with regards to marriage and divorce law, was the Freijer Compendium, published in Dutch and *Jawi* (Malay in Arabic script) in 1760.[7] It was commissioned by Governor-General Mossel and his government in 1754, as part of a series of reforms intended to "improve the upper Jacatran and Preanger lands" – the rural regions surrounding Batavia, predominantly inhabited by Javanese Muslims, alongside other (Islamic) South East Asians and (Peranakan) Chinese. These groups had traditionally handled their own affairs internally, with men and women turning to their respective local headmen to resolve domestic or marital conflicts, disputes regarding inheritance, and other legal matters, although formally these matters had come under the authority of the VOC's [*Gecommitteerde tot den zaken van den Inlander* (Commissioner for Native Affairs). Now, reportedly to prevent "extortions and vexations" by the Javanese officers, the Batavia government decided that "the administration of justice among the natives ought to be regulated more closely and made easier for them."[8] Rather than subject the residents to Dutch law, however – a practice which was expected to elicit resistance from Muslim communities – the Commissioner, D.W. Freijer, was ordered to compile

[4] Karel A. Steenbrink, *Dutch Colonialism and Indonesian Islam: Contacts and Conflicts, 1596-1950* (Rodopi, 2006), 21–22.
[5] J. A. van der Chijs, *Nederlandsch-Indisch plakaatboek, 1602-1811* [Hereafter: NIP] (The Hague: Landsdrukkerij ; Nijhoff, 1885). Vol I, 371, 3 March 1635: Decision to award 2 crowns (80 stuyvers) for each "Indian person" who converted to Christianity; NIP Vol II, 169, 7 March 1651: Ban on Muslims holding "public or secret gatherings to practice their erroneous and Mahomedan worship"; NIP vol II, 572, 24 April 1674: Mandate to "restrict the liberty of gatherings of the priests of the Moorish and Chinese temples" as much as possible.
[6] NIP Vol III, 68, 20 January 1681: the "Mahomedan priest" taking oaths for the *Schepenbank* is awarded a salary; On 28 February 1744, permission was given for the construction of a Mosque for Batavian residents originating from the Coromandel coast in India. NIP Vol V, 548.
[7] Mahmood Kooria, "The Dutch Mogharaer, Arabic Muḥarrar, and Javanese Law Books: A VOC Experiment with Muslim Law in Java, 1747–1767," *Itinerario* 42, no. 2 (August 2018): 206. Other Compenia included that produced by Sulawesi Governor Clookwijck between 1752 and 1755 and the *Mogharraer* produced for the court in Semarang. Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts* (Amsterdam University Press, 2010), 44-45.
[8] NIP vol VI, 739.

the laws regarding inheritance and marriage practiced among the '*inlanders*', in consultation with local leaders and religious scholars.[9] On 7 November 1754, the officers of the various 'nations' living in the *Ommelanden* and the Preanger were ordered to write down the civil laws and customs of their respective nation regarding these aspects of family law, and submit them to Freijer.[10] Almost six years later, after lengthy consultations with "several Mahometan priests and officers of the *kampungs*" and alterations made by both the Commissioner and the Batavian government, the Compendium was approved and published in Dutch and Malay.[11] Presented as a codification of an existing Islamic-Javanese legal reality, the Compendium fits what Mahmood Kooria has termed the "political economy of legalistic discovery": the proclaimed culturally authentic origins of the text allowed the colonial government to considerably expand its regulatory and juridical control over the Javanese population in a way that could be construed as a legitimate 'stream-lining' of self-rule rather than an external imposition.[12] In reality, however, the stipulations of the Compendium often diverged considerably from communities' local legal practice, as it presented one uniform set of rules – largely informed by Islamic scholars of the Shāfiʿī school which was dominant in South East Asia but heavily mediated by colonial authorities – as applicable to all Muslims in the region, regardless of their specific cultural background.[13] This disparity must have been even greater in 1770, when the Compendium was exported to Ceylon, to be applied there to all Muslims on that island.[14]

The first part of the Compendium dealt with inheritance, the second with marriage and divorce. This second section consisted of five pages of laws and regulations that were roughly consistent with the Shafi'i school's stipulations, although in a concise, simplified form that elided some of the complexities and debates in Islamic family law, and incorporating features that facilitated a greater involvement of Dutch authorities. The Compendium recognized the primary importance of the *maskawin,* the Malay version of the *mahr* (مهر) or dower, the price paid by the groom to the bride for her to keep, agreed upon between him and the bride's family. New in the compendium was the requirement for the Governor General, by mouth of the Commissioner, to approve arrangements in which the groom did not pay the dower upon marriage but instead would be held accountable to her.[15] Beside this rule, likely put in place to create a paper trail in case of future lawsuits, the *maskawin* stipulations were in line with the contractual conceptualization of marriage in Islam: unlike in the Catholic notion of marriage as a sacrament in which God forever joined a couple, or the Calvinist marriage as a covenant between two consenting parties, the Islamic legal tradition conceives of marriage as primarily a civil, transactional contract between a groom and his bride and her family, which does not entail

[9] Euis Nurlaelawati, *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts* (Amsterdam University Press, 2010), 45.
[10] NIP vol VI, 753.
[11] NIP vol VII, 392.
[12] Kooria, "The Dutch *Mogharaer,* Arabic *Muḥarrar,* and Javanese Law Books," 210.
[13] R. Supomo, *Sejarah Politik Hukum Adat*, 2nd ed., vol. I, 1609–1848 (Jakarta: Pradnya Paramita, 1982), 29-30.
[14] Kooria, "The Dutch *Mogharaer,* Arabic *Muḥarrar,* and Javanese Law Books," 213.
[15] NIP Vol VII, 25 March 1760, "Compendium der voornaamste Mahomedaansche wetten en gewoonten nopens erfenissen, huwelijken en echtscheidingen, Tweede Titul: Observatien bij of omtrent den huwelijken staat," 405. The *maskawin* would this function as a lien on the husband's property, similarly to the *mohar* in the Jewish *ketubah* (see p. 97).

community property.[16] Through the *mahr* or *maskawin* the groom symbolically 'purchases' the bride's fidelity, while also taking on the duties of a husband: consummation of the marriage and maintenance of his wife through food, clothing, and private quarters, at a standard of living equal to or greater than that of her father's household. In pre-Islamic Arabian law, the *mahr* was paid to the father of the bride. Following the innovations of Muhammad and the Islamic legal scholars in the centuries following his death, the bride became the recipient instead, which was of considerable consequence for married women's position. The *mahr* functioned as an insurance fund in case of a husband's death or his repudiation of his wife, and gave the wife the financial leverage to exit a marriage. These functions were not unimportant, as it was considerably more difficult for a woman to initiate divorce than for her husband.[17]

It is possible to distinguish between three common types of divorce in pre-modern Islamic law. The most straightforward is *talaq* (طلاق) or repudiation, and this was a husband's unilateral prerogative. If a man wished to divorce his wife, he could do so by informing her she was divorced, and after three months the divorce would be final and both were free to remarry.[18] The Freijer Compendium included the 'tallak' but made a number of modifications: it required husbands to notify their wives in writing with a *scheidbrief* (letter of divorce) rather than a performative utterance, and demanded a registration of the divorce with both parties' communal authorities. It also diverged from the Shafi'i school of law in demanding that husbands continue to pay for the upkeep of their soon-to-be ex-wife during the three-month waiting period.[19]

The second type is *khul* (خلع), or divorce through compensation, which is likewise irrevocable and permits remarrying, but requires both parties' consent. It usually applied when the wife wanted out of the marriage and would be final after she had returned the dower, without needing to give a reason. Because *khul* was not possible without the husband's willing participation, a wife could offer more to incentivize him to agree to the separation.[20] In the Compendium, this extra payment was institutionalized: if a wife wished to divorce her husband who was unwilling to do so, she could obtain a divorce through the courts but only if she paid the man double the *maskawin* he had paid for her. If the divorce was consensual, however, the Compendium required husbands to give their wives a *mutah* or parting gift that functioned as alimony, in line with Shafi'i jurisprudence.[21]

A third avenue of divorce, which could overlap with the second, was judicial divorce. *Fasakh* (فسخ, annulment) could be granted by a judge if a husband somehow failed to perform his

[16] Witte, *From Sacrament to Contract*, 43; Murad H. Elsaidi, "Human Rights and Islamic Law: A Legal Analysis Challenging the Husband's Authority to Punish 'Rebellious' Wives"," *Muslim World Journal of Human Rights* 7, no. 2 (February 21, 2011): 5; Judith Romney Wegner, "The Status of Women in Jewish and Islamic Marriage and Divorce Law," *Harvard Women's Law Journal* 5 (1982): 12; Stijn Cornelis van Huis, "Islamic Courts and Women's Divorce Rights in Indonesia: The Cases of Cianjur and Bulukumba" (Unpublished PhD Dissertation, Leiden, Leiden University, 2015), 66.
[17] Wegner, "The Status of Women in Jewish and Islamic Marriage and Divorce Law," 20–21.
[18] If the marriage had not been consummated, the divorce would be final immediately. The man was also free to remarry before the end of the three-month-period, as men were free to take up to four wives provided they could afford their upkeep. Kecia Ali, *Marriage and Slavery in Early Islam* (Cambridge, MA: Harvard University Press, 2010), 142.
[19] This obligation was a source of disagreement between different legal schools: the Hanafis held that the woman could claim financial support during the waiting period; the Shafi'i and Maliki did not. Ali, 89.
[20] Ali, 142–43.
[21] NIP Vol VII, "Compendium," 404; Shagufta Omar, "Dissolution of Marriage: Practices, Laws and Islamic Teachings," *Policy Perspectives* 4, no. 1 (2007): 111.

conjugal duties. Although a multitude of valid grounds for *fasakh* have been recognized in various Islamic jurisdictions throughout the ages, ranging from cruelty to adultery to disreputable behavior,[22] the Freijer Compendium discussed only two. The first was impotence, whether caused by a physical or mental ailment or any other reason. A wife who required an annulment on these grounds was to first consult an imam, who was to report the matter to the couple's communal officers and approve the separation in front of the Commissioner of Native Affairs. If the marriage had already been consummated in the past, the wife would receive her *maskawin.* The second ground was the husband's fall into poverty and subsequent inability to adequately support his wife, in which case the wife could demand a divorce on condition she return the dower. In both cases, either party could turn to the court (in the case of Batavia, this was the *Schepenbank,* which sent a delegation to the *Ommelanden* outside the city once a week) if they felt they had been aggrieved. This was also an option for women who wished to divorce their husbands unilaterally due to marital discord, but who could not come to a consensual separation agreement with their husband or through mediation by local religious or secular authorities.[23]

The Compendium came as part of a greater set of administrative regulations, such as the requirement placed on communal authorities to register marriages and divorces.[24] These measures can at least in part be ascribed to an increased reliance on taxation by the colonial government over an increasing (non-Christian) population, which included a tax on Muslim marriages instituted just two months before the Freijer Compendium was commissioned in 1754.[25] In this case, however, the VOC's emphasis on ruling according to each ethnic group's 'own' laws backfired. In 1766, after the Government had issued a new law putting Muslims on equal foot to Chinese taxpayers with regards to the fee for getting married, the leaders of the Muslim *kampungs* objected that paying a tax to get married went against their "teachings, morals, and customs" and that even the tax issued in 1754 had been impossible to enforce. The Government acquiesced, arguing that it was best "to leave Muhammadans and Moors to their own custom in case of marriage" and both the new law and the 1754 tax requirement were retracted.[26] For Muslims living under Company rule who turned to the courts, however, the Compendium did mean the promotion of marriage regulations disproportionately informed by the perspective of elites: local secular leadership and especially Islamic scholars trained in the Shafi'i school, irrespective of residents' particular cultural background. Thus, while the code was presented as a means of safeguarding Muslim subjects' 'own' legal practices, it did impose a degree of homogenization and increased administrative and juridical involvement by the VOC government.

That said, the contractual nature of Islamic marriage law, combined with the hybrid, pluralistic legal position Muslims in VOC-lands held between the colonial court, Company-sanctioned Islamic law, and communal practice, meant that many Muslim residents arguably had

[22] Huis, "Islamic Courts and Women's Divorce Rights in Indonesia," 66; Omar, "Dissolution of Marriage," 102–3.
[23] NIP vol VII,
[24] NIP vol VI, 753, 7 November 1754.
[25] NIP Vol VI, 702, 27 August 1754. The tax was intended to cover the cost of the Chinese hospital which served Chinese, Muslim, and other non-Christian patients.
[26] NIP Vol VIII, 24 October 1766, 166-168.

more leeway and flexibility in their marriage and divorce arrangements than Christians. In drawing up a marriage contract, brides (or their family) could stipulate their right to divorce in a way that Christian brides beholden to Dutch law and Christian conceptualizations of marriage could not, as well as any other marital conditions they managed to negotiate. An example of such legal creativity is a marriage contract drawn up before a VOC notary in 1764 – just four years after the Compendium was published – between the family of Nadjima, a young bride, and her groom Abdul Rejak. Nadjima, just twelve years old, was the daughter of a widowed *moorinne* (i.e. Muslim woman) and was betrothed to the twenty-three-year-old Abdul, the son of a free woman, also widowed, from Macassar. Because tradition demanded the bride and groom not see each other before the wedding, Abdul and Nadjima, each assisted by their mother, appeared separately before the notary with two witnesses, neighbors of Nadjima. The two families had come to an agreement on the conditions of the marriage and came to affirm and record it before the Dutch notary – likely at the bride's family's behest, because the contract primarily specified rights and protections for Nadjima. The pair would be wed in six months' time, or as soon as "the appropriate time shall arrive" (a crossed-out reference to "the workings of nature" suggests the girl's menarche was a decisive factor) and Abdul would award Nadjima a *maskawin* of two hundred rixdollars. Notably, although the Freijer Compendium explicitly permitted husbands to physically "correct" disobedient wives as long as they did not leave permanent damage, the contract denied the groom the right to hit Nadjima "or abuse her in any other way". In addition, he would not be permitted to leave town without her (the Compendium allowed this as long as husbands left financial support in place for their wives). Finally, although the Compendium permitted men to marry four women at once as long as they could afford to maintain them, the contract stated that Abdul would not be allowed to keep *bijwijwen* (concubines) "much less marry someone else, even though their religion permits this".[27]

Although registrations of the *maskawin* and marriage contracts before the European notary offered an extra insurance to grooms and especially brides, most Muslims continued to handle their marital affairs, including getting divorced, independently of the Company and its affiliated legal institutions. Muslim divorce cases before the *Schepenbank* were rare compared to those between Chinese and Christian couples, which is unsurprising considering Muslims – and especially Muslim husbands – had a considerable range of options to legally dissolve a marriage available that did not involve any costly court proceedings. If it did come to a court case, this often did not center on the dissolution of the marriage itself, but on conflicts around financial arrangements made in the split. Such cases could even move from the Schepenbank to the Court of Justice (serving as a court of appeal), as in the case of Bibie Merbie, who sued her ex-busband Sleman Ismael for the Schepenbank in July 1770 and then appealed before the high VOC court four months later.[28] For most women, however, such a trial would have been prohibitively expensive, and they would have had better chances coming to an amicable divorce agreement with their husband.

[27] ANRI Notarissen inv.no. 6244, Andries Jan Zalle, April 1765, Act 17312; NIP Vol. VII, 406.
[28] NL-HaNA VOC 1.04.02 inv.no. 9277 CivR 1770, 21 November 1770, folio 40.

Chinese marriage and divorce

Besides South East Asian and South Asian Muslims, the numerically and especially economically most influential group living in places under VOC control consisted of Chinese emigrants and their descendants. While the Chinese propertied classes were among the most active users of the VOC legal system – especially in the larger port towns such as Batavia and Malacca, where they formed an important part of the socio-economic urban fabric – the Chinese, like the predominantly Muslim group classified as '*inlanders*', were not subject to European marriage law, but to their own customary law, managed by Chinese officers and, starting in the eighteenth century, in a more institutionalized form by the *Kong Koan* or Chinese council.[29] Chinese family law, under the Qing dynasty, can be seen as strictly patriarchal, with unmarried women, regardless of their age, under the full authority of their father or eldest male relative, and married women entirely subordinate to their husbands. Marriage was contracted not between two individuals, but between two patrilineal families; a bride left her birth family and joined her husband's, meaning her in-laws were now responsible for her maintenance while she owed them dutiful obedience. Like in Islam, a husband could initiate divorce without the mediation of a court: he could "terminate his marriage to her" (休, *xiu*) or "expel" her (出, *chu*) for a variety of reasons, but unlike in Islam Qing law did not set in place financial protections for the wife in such a case; rather than survive off a dower or alimony, she was expected to return to her birth family. Women, by contrast, had essentially no way to terminate a marriage except in extreme cases, and then not by their agency but through dissolution of the marriage by a judge: in case of abandonment that lasted more than three years, or if the husband had caused serious physical injury.[30]

Batavia, however, was not Imperial China. While Chinese authorities in VOC-controlled territories did refer to Imperial law as a foundation for communal rule, both the reality of the social condition of the Chinese diaspora and the community's interaction with Dutch institutions had considerable effects on everyday legal practice. For one, the state-enforced near complete absence of Chinese-born women outside of Chinese soil meant that overseas Chinese communities, by default, were heterogeneous, with male Chinese migrants in South East Asian ports marrying local women or, increasingly, enslaved brides from overseas, purchased and manumitted for the purpose of marriage.[31] Although Hindu women from Bali, due to their tolerance of pork consumption, have been said to have been brides of choice for Chinese men in Batavia, many also married Javanese and other Muslim women, resulting in a so-called Peranakan Chinese community marked by Hindu as well as Islamic Malay influences. Although local Chinese elites expected native women to assimilate into the Chinese community, while never quite attaining 'pure' Chinese status, the direction of this assimilation was not always a

[29] Leonard Blussé and Menghong Chen, *The Archives of the Kong Koan of Batavia*, Sinica Leidensia ; 59. 821604503 (Leiden: Brill, 2003), 1.
[30] Philip C. C. Huang, "Women's Choices under the Law: Marriage, Divorce, and Illicit Sex in the Qing and the Republic," *Modern China* 27, no. 1 (2001): 10–13.
[31] Barbara Watson Andaya, "From Temporary Wife to Prostitute: Sexuality and Economic Change in Early Modern Southeast Asia," *Journal of Women's History* 9, no. 4 (1998): 11–34.

given.[32] Particularly the conversion of Chinese men to Islam in order to marry a local Muslim woman – a sign of cultural assimilation in the opposite direction – was a cause of concern for the Batavian Chinese elites, to the point where in 1766 they complained about it to the VOC government, citing a Chinese law that, on the mainland, punished such conversions with death.[33] Although the colonial government, in response, issued a law that Chinese and Muslim men and women were not to marry "outside their nation," it was not particularly concerned with the practice as long as no Christians were involved, and the Company did not adopt a policy of active prosecution of such cases. A commentary from the Mossel government in 1754 suggests that Chinese-to-Islamic-Malay cultural assimilation was primarily a lower-class phenomenon: because Chinese conversions to Islam primarily occurred among "the vilest sort of folk, that is not esteemed in the slightest among either the Chinese or the Muhammadans," it was "not worth the trouble, nor politically expedient to undertake any action in that regard."[34] It is likely that couples like this, where the husband fully converted to Islam, turned to local imams and Islamic headmen for mediation in their marital affairs, and thus slipped from the institutional control of the Chinese authorities. At the same time, however, a large number of couples involving a Chinese groom and non-Chinese bride continued to be registered in the marital records of the Chinese Council, suggesting they remained at least formally under its jurisdiction.[35]

Because Chinese bridal couples in Batavia were often migrants far from their family and only partly of Chinese ancestry, the traditional Chinese model of marriage as a contract between two patrilineal families could often not apply. Unencumbered by the demands of extended families but also not (yet) beholden to clearly defined marriage regulations from anything resembling a state, Chinese grooms in Batavia were relatively free to set the terms for their unions as they saw fit, especially in the seventeenth and early eighteenth century. For their brides this was not necessarily the case, especially for Southeast Asian wives who had been purchased as slaves and therefore had little more choice in contracting the marriage than did girls in China, while additionally lacking a family to negotiate on their behalf.[36]

For Chinese married couples seeking divorce, however, things could be fairly straightforward. The relative lack of institutional control, up until the first quarter of the eighteenth century, meant that couples who agreed to part ways could simply draw up a contract in which they each released each other of their marital vows and granted the other permission to remarry. Because Chinese marriage knew no community of property in the way Christian marriages did, there was no need for mediation or arbitration in dividing up the marital assets: the wife simply took back whatever goods and funds she had brought into the marriage; the rest was kept by the husband. The divorce contracts drawn up by Chinese couples seem to have been common enough to take on a standardized form: notary Johannes Berghuijsen used the exact same phrasing for multiple couples dissolving their marriage through his services in 1710: after naming the couple and specifying where they lived, the contract stated that

[32] Li Minghuan, "From 'Sons of the Yellow Emperor' to 'Children of Indonesian Soil': Studying Peranakan Chinese Based on the Batavia Kong Koan Archives," *Journal of Southeast Asian Studies* 34, no. 2 (2003): 224–29.
[33] NIP Vol VIII, 25 July 1766, 142.
[34] NIP vol VI, 7 November 1754, 753-754.
[35] Minghuan, "From 'Sons of the Yellow Emperor' to 'Children of Indonesian Soil,'" 223.
[36] Andaya, "From Temporary Wife to Prostitute," 1998.

> some time ago the principals married each other and, having lived as man and wife together, they have since then been unable to get along and agree with one other. Therefore the principals declare to desist of all mutual marital vows and unions they have contracted with each other, having each taken back that which they had brought to the other, such that he principal can take another wife and she principal can take another husband, and neither party will be able to make the slightest claim on the other, whether directly or indirectly, of any nature.[37]

The permission to remarry was crucial: while Christians could also draw up separation agreements and were also free to make their own arrangements regarding the allocation of property as long as they could agree, such an act would not formally dissolve their marriage, and they would be unable to wed until the other party died, meaning women often remained in some relation of financial dependence to their former husband. In the Chinese case, however, divorce posed both a financial risk to married women and an opportunity, as long as they could secure either an independent source of income or a new husband.

Naturally, conflicts could arise over the precise content and value of the dowry the wife had brought in to the marriage, in which case either party could take further legal steps, often through a notary. Thio Soeijnio, a free woman born in Batavia, brought two witnesses, Eva van Batavia and Tsokinjatse van Batavia, to the Dutch notary in 1690 to confirm the list of goods she had brought with as her dowry when she married her Chinese husband Khou Tongko five years prior: a pair of golden arm rings, four silver cups, a silver pipe, three golden rings, and a silver betel set.[38] Chinese husband Lim Poenko, conversely, brought surgeon's widow Magdalena Sitton (an acquaintance of his wife) to the notary in 1730, after his wife, Ang Sieunio, had left him in 1728. Sieunio had temporarily stayed with Magdalena after the marriage had fallen apart, and Tongko claimed (in addition to accusations of immodest behavior) that Sieunio had taken goods with her that belonged to him. Magdalena proved to be an unsatisfactory witness for Tongko, however: she declined to confirm any dishonest behavior on Sieunio's part, and reported that the latter had only brought goods with her that she'd affirmed were part of her dowry.[39]

By the early eighteenth century, the freedom Chinese Batavians had in contracting and dissolving their marriages began to be seen as a problem by Chinese authorities. In 1717, the Chinese officers complained to the VOC government that Chinese men and women were not only getting married without their permission, but also dissolving marriages frivolously without their consent, often as a ploy to avoid creditors or embezzle goods and funds. In response, the Government issued an ordinance stating that any Chinese who wanted to marry had to get permission not only from the Chamber of Curators (*Boedelmeesters*) which had already been the case, but first and foremost from the Chinese officers. Any marriages contracted without a permission slip would be null and void, and subject to arbitrary punishment. In addition, those seeking a divorce needed to either get permission from the officers or secure dissolution of the marriage through the court, and notaries were henceforth prohibited from issuing divorce acts without written consent.[40]

[37] ANRI Notarissen inv.no. 2438, 1710, April 26, Goeij Djimko and Thitsiotse van Batavia; June 16, Lim Tsjoeijko and Lihonio van Batavia.
[38] ANRI Notarissen inv.no. 1838, 11 October 1690, Thio Soeijnio.
[39] ANRI Notarissen inv.no. 3783, 19 March 1730.
[40] NIP vol IV, 31 March 1717, 93-95.

The ordinance can be seen as the first step in the institutionalization of what would become known as the *Kong Koan*, the Chinese Council, with regards to marriage administration. The next major step came in 1742, in the aftermath of the Chinese Massacre. After a revolt had broken out among the impoverished Chinese migrant workers in the countryside outside Batavia, over whom the city's Chinese leadership had very little control, the Dutch had responded by killing thousands of Chinese Batavians, including those who, as established city-dwelling merchants, had very little in common with the revolting workers.[41] After the bloodbath, the Company adopted the stance that the best way to prevent future unrest was to ensure that Chinese authorities held a greater, more expansive grip over their population. Local officers were put in place to administer the Chinese *kampungs* outside the city walls, increased administrative demands were placed on Chinese leadership, and the Kong Koan was given an office, where it was, among other tasks, to administer marriage registrations.[42] This administrative apparatus grew in conjunction with increasing avenues of taxation, including a tax to be paid to the *Boedelmeesters* upon marriage, set in 1747 at three rixdollars for "common" Chinese and eight for the propertied class.[43] In practice, however, it seems that many people continued to contract and dissolve marriages at will without the consent or mediation of Chinese authorities. In 1786, the Chinese captain Swa Thoenko complained to the VOC government that Chinese residents were frequently getting married without his permission and divorcing each other and remarrying as they saw fit, thus costing the *Boedelmeesters* and the Chinese poor the benefits of the taxes and fines to be levied from marriage and divorce. In response, the government issued a renewed ban on weddings or divorces without a permission slip, and instated a fine of fifty rixdollars to those who ignored these requirements.[44]

By this time, the marriage practices of Chinese Batavians had become considerably intertwined with those of the South East Asians they intermarried with, as well as with the Dutch legal system. In a discussion of whether Chinese wives should be liable for the debts of their husbands, the Chinese council acknowledged the complications arising from the Chinese community's embeddedness in South East Asian culture: while in Imperial China the rules were clear-cut (wives had no independent property rights, could not contract debts, and were free to take the property they had brought into the marriage upon their husband's death, without being liable for any of his debt) the Chinese community in Batavia often *did* allow married women to command their own property. Nevertheless, the Chinese Council argued against making them liable for a husband's debts, since many Chinese widows, many of whom had been enslaved prior to marriage, would be left destitute in such a situation. Propertied Chinese wives, however, could volunteer to co-sign on their husbands' debts, thus making themselves liable.[45] In case of divorce, however, this could pose problems. Lie Tjousia [also spelled Lietjouw Siea] wife of the Chinese

[41] Blussé, *Strange Company*, 94–95.
[42] Minghuan, "From 'Sons of the Yellow Emperor' to 'Children of Indonesian Soil,'" 216; Blussé and Chen, *The Archives of the Kong Koan of Batavia*. This promotion of indirect control was accompanied, in the months and years immediately following the massacre, with draconian measures of direct control by the government. In December 1742, for example, the Council of the Indies voted to only allow Chinese people inside the city walls during daylight hours: any Chinese caught in the city after 6 would be flogged, branded, and sentenced to forced labor for 25 years. NIP vol. IV, 586-7.
[43] NIP vol V., 17 November 1747, 497-498.
[44] NIP vol X, May 12 1786, 843-4.
[45] NIP vol XIII, 23 May 1766, 130-1.

member of the Chamber of Curators Tan Piseeng, learned this the hard way when she wished to divorce her husband in 1790. In a request to the *Schepenbank,* she claimed that her husband beat and abused her, failed to adequately provide for her and her children, and abused his marital power to force her to use her wealth to pay off his debts.[46]

As it later turned out, Tjousia had co-signed on several of Piseeng's debts, running in the thousands of rixdollars. In fact, likely not by coincidence, Tjousia issued her request on the same day that the couple was jointly sued by the widow of one of Piseeng's creditors, Petronella Harting. The Schepenbank afforded Tjousia a forum to argue on her own behalf and strengthen her bargaining position for getting out of the marriage and especially the financial liabilities, but it did mean that she now subjected herself to Dutch-colonial legal practices regarding divorce. Just like all Christian couples involved in a separation case before the court, she and her husband were ordered to appear before a subcommittee of the Schepenbank to attempt a reconciliation before being able to proceed with the split. When the case was resolved, moreover, it was not through a revocation of marital vows and a granting of mutual permission to remarry, but through the 'Christian' construct of the separation of table and bed, although under their own stipulated conditions. The pair would live apart and Tjousia would take up residence where she saw fit, but would remain under her husband's marital power, and was obliged to live a "honorable and irreproachable life." If she followed these conditions, Tan Piseeng would pay her a monthly alimony payment of twenty-five rixdollars. The pair's two young sons, aged three and five, would live in the house of Lie Tjousia's mother for the time being, but once they were old enough, they would be sent to China "to get a civilized education." Tjousia would forfeit the thousand rixdollars she had already paid to Petronella Harting – her husband would pay the rest – but she would be off the hook for another debt she had co-signed, worth eleven thousand rixdollars: Piseeng would either pay it off or find another co-signer to take her place.[47]

As was the case with the Muslim population, the second half of the eighteenth century was marked by an increased entanglement of Chinese marriage and divorce with the Dutch legal institutions and increasing efforts on the part of the colonial government to regulate, facilitate, and mandate standardized forms of communal autonomy. This meant that, as in the case of Islamic law, the Company took up an interest in Chinese law, and in in 1754 P. Haksteen, the secretary of the Schepenbbank, was commissioned to produce a compilation of laws practiced in China, in collaboration with the former Chinese Captain Oei Tsi-Lauw. The document was finished in 1761 and distributed to the Schepenbank, the Court of Justice, and the Chamber of Curators.[48] As in the case of the Freijer Compendium, the compilation offered a homogenizing legal standard that privileged an elite perspective and was to some extent external to, or at least inconsistent with, local communal legal practice. Again, as in the case of Muslim Batavians, however, Chinese men and women using the Dutch legal institutions had a considerable amount of space for juridical creativity, especially in voluntary contracts.

A 1770 Chinese prenuptial agreement gives an impression of what this could look like. Louw Samko, a Chinese man, and the Chinese widow Tan Sieunio signed a contract on July 20, three

[46] Arsip Nasional Republik Indonesia, Archief van de Schepenbank van Batavia [hereafter: ANRI Schepenbank], inv.no. 256, April 12 1790, 163.
[47] ANRI Schepenbank inv.no. 256, August 9 1790, 516..
[48] NIP Vol VII, Mau 22 1761, "Chinaas recht," 476.

days before their wedding. In it, Samko promised that he would not take a second wife or any concubines, inside their house or out, even though Chinese law, according to Haksteen's compilation, explicitly permitted a married man to "purchase as many concubines as he can afford to maintain."[49] He would also never gamble. If he broke either of these conditions, he would be obliged to pay Sieunio one hundred rixdollars, and she would be free to marry someone else. Conversely, if Sieunio were to commit adultery (or rather, the more broadly interpretable term *hoererije* was employed) she would have to pay her husband forty rixdollars, and he would be free to remarry – an arrangement more in line with the Islamic construct of *maskawin* than Qing law. In all other aspects, they stated, their marriage would be regulated according to Chinese "laws and maxims."[50]

The above suggests that, with regards to marriage and divorce among the Chinese population of Batavia, a combination of factors and interests converged to create a landscape of possibilities that was quite different from that of mainland China. The Dutch colonial government was primarily concerned with maintaining order among a population that it considered both a threat and a vital economic force and source of taxation income, while the Chinese authorities aimed to secure their legitimacy, the prestige and socio-economic well-being of the Chinese community, and tax revenue. (Peranakan) Chinese men and women, however, developed their own practices and customs to suit their marital needs, drawing as much on the practices of the Malay communities they intermarried with as Chinese law. It appears to have primarily been members of the Chinese elite, meanwhile, who were more likely to resort to the Dutch court system and adopt "European" legal constructs in resolving marital conflicts, while simultaneously deferring to (mainland) Chinese practices and values (such as an emphasis on children getting an education in China), thus creating a legal culture around marriage that was not only unique to Chinese communities in the South East Asian port city, but also internally diverse.

Hindus in Batavia

In addition to the compilations of Chinese and Islamic family law in the mid-eighteenth century, the Batavian government also issued a set of regulations regarding Hindu (*Jentief* or Gentile) marriage. Here, the colonial government made no explicit claims to legal discovery of an existing body of laws, instead simply stating the practical necessity of offering judges a legal guideline for the validity of Hindu marriages in order to prevent them being misled by "false testimony regarding the validity of marriages among those people" and of preventing frivolous dissolutions of marriage. The regulations prescribed the conditions for a wedding ceremony that would be deemed legal (including the tying of a thaali around the bride's neck) and ordered marriages to be recorded with a notary within two weeks after the wedding (although this was not an absolute requirement for validity). Divorce was only permitted in case of adultery committed by the woman, but separations of table and bed could be granted in case of serious abuse, in which case the woman would leave the house with her personal possessions and be awarded alimony payments stipulated by the court. Children, except infants, would remain with the father.

[49] ANRI Notarissen inv.no. 7189, July 1770, #75; NIP Vol VI, 481.
[50] ANRI Notarissen inv.no. 7189, July 1770, #75.

Notably, the regulations specified that legal Hindu marriages could take place between not just two *Jentiven*, but also between Hindu men and "Chinese, Parnakan Chinese, or other non-Christian women," suggesting such mixed marriages were not uncommon, and that the colonial government counted multi-faith pairs under the regulatory category of the husband, not the bride.[51]

Jewish marriage and divorce: Suriname and Curaçao

It is impossible to understand the religious, social, and political dynamics of marriage and divorce under the Dutch West India Company without discussing the Jewish communities of the Dutch Atlantic: while some colonies, such as Berbice, banned settlement by people of the Jewish faith, Suriname and Curaçao (as well as St. Eustacius) both housed Sephardic (i.e. of Iberian origin) and to a lesser extent Ashkenazi (Central and Eastern European) communities that left a significant mark on these colonies' social, cultural, and economic life. Surinamese Jews in particular formed a remarkably entrenched part of the colony, in contrast to other parts of the (Dutch) Atlantic where the Jewish diaspora was more transient. The community retained a separate identity from Christians while simultaneously comprising a substantial (one third to two thirds) portion of Suriname's white settler population.[52] In fact, a Sephardic Jewish community had already been established in Suriname under English rule before the colony came under Dutch control in 1667. Many of the early settlers had been born in Portugal as New Christians and had made it to Suriname by way of Amsterdam and London (where they had returned to their ancestral faith) and in some cases (prior to the 1650s) Brazil. The English and subsequently Dutch colonial administrations, eager to safeguard control over an increasing enslaved population, both recognized their dependence on Jewish settlers for maintaining demographic strength among white colonists, which put Jewish community leaders in a uniquely strong bargaining position with regards to the conditions under which they would be ruled and rule themselves. What resulted was a system of 'privileges', first ratified by the English authorities in 1665, confirmed by the Dutch in 1669, and consistently re-negotiated until 1825, when the principle of formal equality before the law replaced the prior system of communal autonomy.[53]

Generally speaking, 'privileges' were agreements made between Jewish authorities and the secular government, which exempted Jews from specific laws and regulations that applied to other subjects – such as the rule against working on Sundays – and authorized Jewish leaders to exert circumscribed legal and regulatory control over local Jews. The *Mahamad* (i.e. the council of Jewish regents) could, for instance, request the expulsion of disorderly community members from the colony and had its own civil court whose jurisdiction extended over all legal conflicts between Jews concerning sums below 600 Surinamese guilders.[54] The privileges should thus not be seen as rights extended to Jewish individuals, but rather as applying to the community as a whole, and specifically as empowering Jewish elites vis-à-vis the broader Jewish population. The

[51] NIP vol VI, 164.
[52] Aviva Ben-Ur, *Jewish Autonomy in a Slave Society: Suriname in the Atlantic World, 1651-1825* (Philadelphia, PA: University of Pennsylvania Press, 2020), 6, 260.
[53] Ben-Ur, 82–83.
[54] Wieke Vink, *Creole Jews: Negotiating Community in Colonial Suriname* (Leiden: Brill, 2010), 71.

system of privileges was not unique to Suriname, but, as Aviva Ben-Ur has argued, the Surinamese Jewish community's status as a separate, partially self-governed entity did differ significantly from places such as Amsterdam, because its membership was automatic and mandatory, giving it a distinctly 'corporate' rather than voluntary legal status.[55] Surinamese Jews, therefore – whether they belonged to the Sephardic community or to the Ashkenazi ('High German') group whose numbers grew in the eighteenth century, leading to the establishment of a separate congregation in 1734 – had to adhere both to secular Dutch colonial law and to Jewish law and local Jewish by-laws (*askamoth*) in forming and dissolving marriages.

In the Jewish legal tradition, both marriage and divorce come about through a unilateral act – on the part of the husband. Jewish marriage has traditionally been conceived as coming about through the trifecta of a (written) statement by the groom, a financial transaction, and finally by consummation.[56] Essential for the first two of these three elements is the *ketuba* (sometimes spelled as *quetuboth, ketubah,* or variations thereof) or marriage contract. Dating back at least to the start of the first millennium CE, the ketuba consists of the marriage clause – the performative utterance by the husband, stating he takes the bride for his wife – as well as the documentation of the financial arrangements made upon marriage, including the dowry and *mohar* or dower, and any other agreements made between the groom and the bride and her family.[57] This declaration, as it has been uttered for the past two thousand years, translates to "be thou my wife according to the law of Moses and Israel," a formulation that was also used among Surinamese Jews.[58] The financial settlements, in turn, formed such an important part of the contract that the word *ketuba* is often used synonymously with the bride wealth specified in the agreement.[59] Characteristic of the Jewish bride wealth is the fact that is does not just consist of either a dowry (i.e. goods or funds transferred from the bride's father to the bridal pair) or a dower (a bride price paid by the groom to the bride or her family) but a combination of both. Traditionally, a groom was expected to pay a set amount of 200 silver zuz for a virgin bride (or 100 if she was no longer a virgin) to make the marriage official. By the eighteenth century, among Jews in Suriname, this seems to have been included in ketubas only in a symbolic sense, leaving the original ancient currency in the phrase and reserving a separate clause for the actual Surinamese guilders negotiated for the bride in the agreement. This latter amount started from the bride's dowry, originating either from her own funds, her family, or, if she was an orphan,

[55] Ben-Ur, *Jewish Autonomy*, 6. 'Corporate' here refers to a community practicing self-rule and performing state-like functions while remaining subordinate to state authorities. In cities like Amsterdam and London, conversely, Jews were *allowed* to practice their faith but not required to adhere to Jewish law, and *parnassim* had very little control over people who did not willingly take part in the community.

[56] As the Kiddushin (the part of the Talmud that deals with marriage law) puts it: "a woman is acquired by three means, [...] by money and by a writ and by intercourse." Cited in Louis M. Epstein, *The Jewish Marriage Contract: A Study in the Status of the Woman in Jewish Law* (Clark, NJ: The Lawbook Exchange, Ltd., 2004), 11.

[57] Deborah Greniman, "The Origins of the Ketubah: Deferred Payment or Cash up Front?," *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, no. 4 (2001): 84–89.

[58] Epstein, *The Jewish Marriage Contract*, 57. A Portuguese example from an 1800 ketuba in Suriname: "Sé a mi por molher, comforme leij de Moseh & Israel," in Nationaal Archief, Den Haag, Digitaal Duplicaat Suriname: Nederlands-Portugees Israëlitische Gemeente in Suriname, access number 1.05.11.18, inv.no. 411.

[59] Epstein, *The Jewish Marriage Contract*, 4.

from the synagogue's orphan chamber.[60] This dowry could consist of cash, but often brides brought in other forms of wealth, from gold and silver jewelry to land or enslaved servants, in which case the dowry would be inventoried and appraised in guilders. The groom was then expected to increase these funds by 50 percent, so that a bride who brought a total dowry worth 1000 guilders into the marriage, for example, would have a total ketuba of 1500 guilders.[61] This amount was not freely available for the bride to use, however, but functioned as a lien on the husband's property, to be payable to her if the husband died or divorced her.

The ketuba offered a financial opportunity to husbands and provided security to wives. Following the wedding, a husband took full control of his wife's dowry and took on both the risks and all the profits from investing it. For the bride, conversely, the ketuba functioned as a type of 'insurance', providing her with funds to support herself or enter an advantageous new marriage should she lose the support of her husband through death or divorce, and safeguarding her property in case of her husband's bankruptcy. In antiquity, the obligation to pay out the full ketuba was also seen as an important deterrent to husbands who wished to expel their wife without her consent, since there were few legal barriers to men dissolving their marriage unilaterally. By the early modern period, this function of the ketuba appears to have become mostly theoretical, but Jewish divorce nonetheless remained marked by a strongly gendered asymmetry.[62]

Just like its formation, the dissolution of a Jewish marriage comes about through a unilateral act by the husband: without needing to turn to a court, a husband can divorce his wife by presenting her with a *get*, a formal written document releasing her from the marriage bond.[63] Because divorce requires the husband's active participation, obtaining a divorce could be challenging for some Jewish women should their husband be unwilling to cooperate, incapacitated, or absent. The resulting phenomenon of 'chained' wives, or *Agunot,* became more prevalent in the early modern period, as Jessica Roitman has argued, due to increased mobility among Jewish communities – caused in no small part by colonial migration.[64] The requirement

[60] For example, the Portuguese Jewish bride Rahel Abendalak, who wed Selomoh Rodrigues Nunes in September 1800, received two hundred guilders from the orphan chamber of the Beracha Ve Shalom synagogue in Jodensavanne. NL-HaNA, Nederlands-Portugees Israëlitische Gemeente Suriname [digitaal duplicaat], 1.05.11.18, inv.no. 411, Ketuba #68.

[61] The 50% rule seems to have been accepted as "the custom among the people of Israel" by both the Sephardic and the Ashkenazi communities in Suriname by the mid-eighteenth century, and persisted through the end of the century. NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 116 (1754); NL-HaNA, Nederlands-Portugees Israëlitische Gemeente Suriname [digitaal duplicaat], 1.05.11.18, inv.no. 411 (1793-1800).

[62] The risk of involuntary divorce for faultless wives decreased after the Middle Ages, especially for the Ashkenazi diaspora, for whom forced divorce of a faultless wife was banned in the eleventh century along with poygyny. Judith Romney Wegner, "The Status of Women in Jewish and Islamic Marriage and Divorce Law," *Harvard Women's Law Journal* 5 (1982): 21, 29; Greniman, "The Origins of the Ketubah: Deferred Payment or Cash up Front?," 1.

[63] Wegner, "The Status of Women in Jewish and Islamic Marriage and Divorce Law," 16; Samuel Daiches, "Divorce in Jewish Law," *Journal of Comparative Legislation and International Law* 8 (1926): 215–17.

[64] Jessica Vance Roitman, "Feckless Fathers, Fraught Families: Abandonment and Cultural Change in the Early Modern Jewish World," in *Religious Changes and Cultural Transformations in the Early Modern Western Sephardic Communities* (Leiden: Brill, 2019), 554–59; It should be noted that 'anchored' wives who found themselves unable to remarry despite the fact that their husbands had not returned from their voyages with the VOC or WIC, and even being accused of adultery or bigamy if they found a new partner, was not limited to Jewish communities in the Dutch Republic or elsewhere: Herman Roodenburg has shown that a quarter of adultery suspects who faced censure by the Dutch Reformed Consistory in Amsterdam were women in such a situation. Christian women did, however, have better

of the husband's consent also put wives in a relatively weak position when it came to negotiating the terms of the divorce, meaning they might have to make concessions such as renouncing their *ketubah* in order to get their husband to agree to a divorce. To see how this power struggle at the micro level played out in practice in early modern Suriname, we need to first examine the larger process of negotiation taking place in Suriname: that between the Jewish community and the colonial state.

Jewish marriage and the colonial state

David Nassy (1747-1806), scion of the influential Judeo-Surinamese Nassy family, in his 1788 *Essai Historique sur la Colonie de Surinam* (published in Dutch in 1791) sketched an idyllic picture of Suriname's Jewish community in what he termed its 'Golden Age': the 1680s through the early eighteenth century. In this early period, Nassy wrote, Surinamese Jews were prosperous, widely respected, and enjoying considerable communal autonomy, especially with regards to marital affairs: "their marriages, back then, were consecrated among them with the right of complete legality and the marriage agreements [*ketubas*] contracted before their Rabbis with customary ceremony, had preference over all debts, to the advantage of their wives."[65] By the late eighteenth century, in Nassy's narrative, the picture was less rosy: the Jewish community in Suriname had declined both in wealth and in status, and was not treated with the same respect as in its heyday. Notably, however, Nassy was not particularly concerned about government infringement on Jewish privileges, with the exception of one key area: marriage. The watershed, for Nassy, came in 1704, when the Political Ordinance of Holland became applicable to all marriages in Suriname, including Jewish marriages. Prior to this, Nassy wrote, "Jews married among each other according to their own laws with regards to the degrees of kinship."[66] The Ordinance posed a problem to the Jewish practice of Levirate marriage, because it banned marriages between widows and their late husband's brother, demanded by the Jewish custom. As a result, Jewish men intending to wed their brother's widow had to obtain special dispensation by either paying a "voluntary gift" to the *Fiscaal* or, if the latter refused, by turning to the States General in the Netherlands.[67]

The decision – made by the States General in 1703 after the *Mahamad* of Suriname had petitioned them to allow Surinamese Jews to continue to handle marriage and inheritance according to their own laws and customs – was certainly a blow to the Jewish community's autonomy in marital affairs. It also considerably expanded the colonial government's administrative control over Jewish marriages: in addition to specifying forbidden degrees of kinship, the Political Ordinance also mandated registration of marriages with the magistrates.

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chances of dissolving their marriage unilaterally, by filing for divorce on the ground of 'malicious desertion' – the best Jewish women could hope for was for their community to put pressure on the missing husband to either return or divorce. Herman Roodenburg, *Onder censuur: de kerkelijke tucht in de gereformeerde gemeente van Amsterdam, 1578-1700* (Hilversum: Verloren, 1990), 283; Helmers, *Gescheurde Bedden*, 244–46.

[65] David Nassy, *Geschiedenis der kolonie van Suriname Behelzende derzelver opkomst, voortgang, burgerlyke en staatkundige gesteldheid, tegenwoordigen staat van koophandel, en eene volledige en naauwkeurige beschryving van het land, de zeden en gebruiken der ingezetenen.*., vol. II (Amsterdam: 1791), 103, available via https://www.dbnl.org/tekst/nass008gesc01_01/nass008gesc01_01_0001.php.

[66] Nassy, II:105.

[67] Ibid., 105-106.

Although the policy was implemented in early 1704, shortly after the arrival of the news in Suriname, and Jews were given two weeks to register and confirm their marriage with the Governing Council, by January 1705 it became clear almost no one had followed the mandate. As a result, the Council passed a resolution that required Jewish bridal couples to obtain a marriage license for ten guilders, and banned Rabbis from marrying couples who did not have a license from the Council, under penalty of a 200 guilder fine. [68] It should be noted that in principle, as per the 1629 Order of Government, the Political Ordinance had applied to all marriages in Suriname since the moment it became a Dutch colony in 1667 just as it did in other colonies in the WIC charter zone, but Nassy's account suggests that deviation from this principle for Jewish settlers had been tacitly allowed in the early decades following the Dutch takeover. A similar process happened in Curaçao, where the requirement on non-Protestant couples to formalize their union with the magistrate, accompanied by three consecutive proclamations, was rarely followed in practice, and where it was only in the eighteenth century that secular authorities began making attempts to enforce and further regulate this procedure – for Jews as well as Catholics.[69]

One should be cautious, however, in viewing the eighteenth century as one of increasing unilateral encroachment by the Christian government on Jewish communal autonomy. While new regulations would continue to appear in Curaçao and especially in Suriname throughout the eighteenth century that further entangled Jewish marital affairs with the colonial administration, the *Mahamad* and the colonial government were far from always in conflict with each other in this process. Some regulations appear to have come about in anticipation of or in response to legal battles within the community, such as the 1686 mandate, in Suriname, to register ketubas with the colonial secretary or a *jurator* (notary), or the 1735 requirement that Jewish widows and widowers who wished to remarry first needed to make financial arrangements for their prior children.[70] A 1750 ordinance concerning Curaçao, meanwhile, from Stadholder William IV, styling himself as "Governor-General" of the WIC, seems to have been issued on the request of the Willemstad *Mahamad* and can be read as a sign of the Parnassim's reliance on secular powers to assert their authority: following a dispute between the *Mahamad* and the local rabbis on the one hand and "several members of the [Jewish] community" on Curaçao on the other, the ordinance proclaimed that "all dissenting members of the Portuguese Jewish Nation on this island must […] once again join the congregation, in order to be governed by the Parnassims according to the Askamoths of the Portuguese Synagogue, as before."[71] The colonial *Mahamads* also lobbied with the States General to entrench Jewish privileges: in the 1740 the latter passed a resolution which established that ketubas precluded any and all community of goods, thus

[68] NL-HaNA, Nederlands-Portugees Israëlitische Gemeente Suriname [digitaal duplicaat], 1.05.11.18, inv.no. 94, Privileges granted to the Portuguese-Jewish Nation in Suriname, 1754, Tit. V, folio 39-42.
[69] CP vol I #176 (1743); CP vol II #376 (1787); V. van der Velden-Heutger and B. D. van der Velden, "Rechtspluralisme Op Curaçao: Joodse En Rooms-Katholieke Huwelijken," in *Ius Romanum-Ius Commune-Ius Hodiernum: Studies in Honour of Eltjo JH Schrage on the Occasion of His 65th Birthday*, ed. Harry Dondorp et al. (Aalen: Scientia Verlag, 2010), 188.
[70] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 212, Resolution 6 March 1686, folio 6-7; WIP-S-I, 164, 430.
[71] Stadsarchief Amsterdam - Archief van de Portugees-Israëlietische Gemeente, access number 334, inv.no. 1029, Publicatie Curaçao, scan 667-673.

protecting wives entitled to funds from their husbands' estates from their husbands' creditors.[72] This decision had come after the *parnassim* of Amsterdam had petitioned with the Court of Holland on behalf of the Jewish communities in Suriname and Curaçao.[73] While this rule was incorporated in the mid-eighteenth-century compendium of privileges compiled by the Portuguese Jewish community in Suriname, so were rules that effectively brought Jewish marriage more closely into the fold of the non-Jewish Surinamese colonial government. As of 1742, all bridal pairs of non-conformist religious groups, which included Jews, were required to pre-register their marriage in front of two members of the Council of Policy and the colonial secretary, in accordance with the Political Ordinance. This seems to have actually been enacted in practice, because a year later special arrangements were made to accommodate the large number of non-conformists who were using the Council of Policy's chamber for both pre-registrations (*ondertrouw*) and wedding ceremonies (*trouwen*).[74]

The line between affirmations of Jewish privileges and increasing degrees of government control over Jewish marriage arrangements was thus rather blurry. This is perhaps not surprising considering the *Mahamad* in the Caribbean colonies was never sovereign, but ultimately depended on the colonial government's bottom-line enforcement of its communal control: by relying on the secular authorities in the Netherlands and in the colony to safeguard the legality of its marriage practices, the Jewish community ironically saw an increasing mode of control by those same authorities over its members' lives. Moreover, while this process can be seen as a net loss for the *Mahamad*, individual Jewish men and women could potentially benefit from it in practice. The limitations placed on levirate marriage by the Politcal Ordinance, for example, were a blow to the autonomy of the ancient Jewish custom, but only an encroachment to individuals insofar as recently bereaved widows and their brothers-in-law were eager to wed each other. In practice, it seems that many were not, and the Surinamese *askamoth* even made arrangements for this reality: a husband who wished to divorce his wife on his deathbed in order to relieve her from the duty of marrying his brother was allowed to do so, and rabbis were even obligated to provide the *get* for free in this case. The same applied for a *halitsa*, or act through which the brother-in-law could avoid the custom.[75]

Secondly, the pluralistic legal space that Caribbean Jews inhabited, moving between Jewish and gentile legal institutions, arguably gave them a considerable range of choices in making marriage and divorce arrangements. While there were rules in place that restricted so-called "forum shopping" – such as the prohibition on using the colonial civil court for legal conflicts between Jews concerning less than 600 guilders – there were plenty of opportunities for Jewish pairs to use the Dutch colonial legal institutions to their advantage.[76] A key institution was that of the notary – an essential tool for legal creativity and adaptation among Christians and Jews alike. Although as of 1684 the Sephardic community in Suriname had its own *jurator*, those who

[72] The resolution was enacted in Suriname on January 2 1741. WIP-S vol I, 469.
[73] NL-HaNA, Nederlands-Portugees Israëlitische Gemeente Suriname [digitaal duplicaat], 1.05.11.18, inv.no. 94, Privileges 1754, Tit IV, folio 38-39.
[74] Ibid., Tit V, folio 44-46.
[75] Ibid., inv.no. 113, Concept-translation of the Askamoth, 1787, folio 126.
[76] The Curaçao Askamoth did not set a specific financial limit, but stipulated that members were not allowed to sue one another before the island's council without first attempting mediation by the Mahamad, and even after that only with the latter's permission. Stadsarchief Amsterdam - Archief van de Portugees-Israëlietische Gemeente, 334, inv.no. 1029, Askamoth Curaçao, #11, folio 924.

wished to draw up a prenuptial agreement in addition to the ketuba generally did not do so with this Jewish civil notary, but with the secretary or sworn clerk employed by the colonial government.[77] The frequency with which they did so was not fixed: in the period of 1736-1742, nineteen out of twenty-four (79%) Sephardic couples who drew up a ketuba with their rabbi also signed a pre-nuptial agreement before the Dutch notary several weeks or months prior.[78] Half a century later, in 1790, only four out of twelve Sephardic couples did so, while Ashkenazi couples were disproportionately represented among those drawing up a contract.[79] Notably, for all four of these Sephardic couples, the bride brought significantly more wealth into the marriage than the groom, suggesting that by this point in time pre-nuptial agreements before the Dutch notary were primarily seen as an additional legal security for women's fortunes, whereas in other respects the religious ketubas were seen as legally sufficient. The prenuptials also acknowledged that the secular and religious contracts could be at odds with each other, but established the legal pre-eminence of the secular: "if and when a *quetuba* will be made according to Jewish law, the undersigned declare that they will hold this [ketuba] to be valid insofar as it corresponds to this [contract]."[80]

Although most stipulations corresponded to the standard elements of the ketuba (such as the specification of the bride's dowry and the groom's pledge to increase this amount by fifty percent, and inheritance arrangements), in some cases rights were negotiated for the bride that Jewish marriage law did not provide for. Sara Jurgemans, the widow of David Pereira Brandon who remarried with Isaac Capadoce in October 1790, stipulated that the house, land, and the enslaved men, women, and children that she brought into the new marriage would be seen as "paraphernalia" and not under her husband's authority, but under her full control.[81] Another option was to deviate from the ketuba-model in terms of inheritance rights: particularly in cases where grooms were considerably wealthier than their brides, who therefore had rather modest ketubas, a husband could provide his wife with an additional dower (*douarie*) to be paid out to her after his death – a practice that was also common among Christians in both Suriname and Europe.[82] Rachel Robles de Medina, who married Abraham de Mattos in 1736, was granted a

[77] In 1754, the office of the specifically Jewish Jurator was formally instituted. No prenuptial contracts can be found in the records of the Jewish *jurators*, contained in Suriname's old notarial archives: NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 780-801.
[78] For the ketuba data for the years 1702-1743, see: P.A. Hilfman, "Notes on the History of the Jews in Surinam," *Publications of the American Jewish Historical Society*, no. 18 (1909): 179–207. For the pre-nuptial agreements: NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 108-112. Prior to 1736, only fragments of the notarial records containing pre-nuptial agreements remain.
[79] In the two years prior, only two Sephardic couples appear in the prenuptial records of the civil notary. Ashkenazi couples, however, were frequent customers of the Dutch clerk by this point, registering more prenuptial agreements than any other group in Suriname. NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.nos.135-137. A reason for this may be that, because the Ashkenazi community did not have its own juridical privileges to the degree that the Portuguese Jewish group did, Ashkenazi couples saw the colonial clerk as their only option for ensuring the validity of their ketubas in court.
[80] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.nos. 108-112.
[81] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 137, 18 August 1790, folio 164.
[82] Ariadne Schmidt has shown this for Christian prenuptial contracts in the seventeenth-century Dutch Republic: Ariadne Schmidt, *Overleven na de dood: weduwen in Leiden in de Gouden Eeuw* (Amsterdam: Prometheus/Bakker, 2001), 113. Examples of Christian couples stipulating dowers for surviving partners can be found in NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 109 (1737) folios 23, 25, 59.

dower of 3000 guilders in addition to her ketuba of 450 guilders, should her husband die before her. Abraham even designated her as his sole heir in case he would die before the couple had children.[83] In rare cases, such as between the Ashkenazi bride and groom Braente Machielse and Benjamin Polak, a Jewish couple chose to apply the 'Christian' legal notion of community property to their marriage, meaning both would have equal ownership over the marital goods.[84] Even here, however, the ketuba was excluded from the jointly owned assets, as mandated by law since 1740.

Another area in which Surinamese Jews negotiated their own legal solutions in marital matters was divorce. Some husbands, no doubt, took the traditional route by requesting a *get* from their rabbi to present to their wife, but unfortunately no records of these divorces can be found in either the archive of the Portuguese Israelite Community or the Surinamese colonial archives. What does remain, however, are separation agreements drawn up before the colonial secretary or Jewish jurator and presented to the Council of Policy and Criminal Justice to be confirmed by the court.[85] Both in content and in form, these divorces differed from the traditional Jewish model on several important fronts. One was the role of the ketuba: although the bride-wealth (consisting of both the bride's dowry and the groom's addition) is generally understood in the literature on Jewish marriage law as not just a financial security in case of the husband's death, but also a 'divorce price' payable to the wife by the husband, this latter role was not a given among Surinamese Jews. When Moses Nahar and Rachel Jessurun ended their three-year marriage in 1795, for example, Rachel waived her right to her ketuba, including the fifty percent value her husband had promised to add to her dowry. Instead, the couple made their own division of the marital assets: Rachel would keep the house in Paramaribo and its contents, as well as the slaves she had brought into the marriage, while Moses would get to keep the cows that had been part of her dowry.[86] Lea Emanuels, who divorced in 1788, not only had to renounce her ketuba to come to a separation agreement with her husband of eighteen years, Moses Eleazer van Eemden, but make a further concession: her brother Ishak, who had assisted her in negotiating the split, was obliged to pay Moses Eleazer 400 guilders "to further his future enterprises".[87]

Another possible arrangement, slightly more beneficial to the wife, is demonstrated in the divorce agreement between Isak Abraham de Vries and Vroutje Machielsen. After a multi-year legal battle that had started when Vroutje filed a separation suit against Isak Abraham before the Dutch colonial court in 1795, the couple came to a separation agreement in 1798, confirmed by the court in 1799. In it, Vroutje agreed to drop the suit and pay for its judicial costs, while Isak Abraham renounced his marital power over his wife and her possessions. The document does not mention Isak Abraham paying Vroutje the *mohar* (the dower element of the ketuba) which

[83] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 108, prenuptial contract, 23 January 1736, folio 145.
[84] Ibid., inv.no. 116, prenuptial contract, 29 April 1754, folio 12.
[85] These agreements can be found in the digital duplicates of Suriname's baptismal, marriage, and burial records, NL-HaNA, DTB Suriname [digitaal duplicaat], 1.05.11.16, inv.no. 43. Only contracts for the years 1795-1801 remain in this collection.
[86] NL-HaNA, DTB Suriname [digitaal duplicaat], 1.05.11.16, inv.no. 43. The Nahar-Jessurun ketuba (in Hebrew) can be found in NL-HaNA, Nederlands-Portugees Israëlitische Gemeente Suriname [digitaal duplicaat], 1.05.11.18, inv.no. 410, 29 January 1792, folio 25.
[87] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 135, 18 July 1788, folio 141.

according to Jewish divorce law she should be entitled to. It does, however, state that the ketuba would remain fully valid, meaning that Vroutje would be entitled to take the amount she was promised in the ketuba from her husband's estate after his death – and no sooner.[88] Thus, while the marriage was 'terminated' by the agreement in the sense that Isak Abraham could no longer claim any husbandly authority over Vroutje, it would not be *dissolved* until either party's death, at least where the payment owed to Vroutje was concerned. Indeed, the separation effected by the court's confirmation of Vroutje and Isak's agreement, like all the others discussed here, was one of table and bed rather than a full and final divorce. While for Christians, this solution to a broken marriage was often the closest thing to a 'divorce' possible, for Jews a full divorce that would allow both parties to remarry was a relatively simple process. So why did some couples opt for this 'Christian' separation?

One explanation is that the separation agreements found in the Dutch colonial archives were supplementary, meant not to enact the divorce itself but rather make specific arrangements that the *get* process did not provide for. The deviations from the ketuba's function as a divorce price in the examples above underscores this idea, but there were other possible special agreements that couples might want to have affirmed by the court: Vroutje de Vries and Isak Abraham Machielse agreed, for example, that their children would be allowed to choose which parent they would want to live with. The fact that their separation kept the ketuba intact suggests that they did not fully divorce in the Jewish fashion, however, meaning they used the separation as an alternative, rather than compliment, to a *get* divorce. It is possible that Isak Abraham could not afford – or was unwilling – to pay Vroutje the full amount her ketuba entitled her to, and she used the pressure of the court case to come to a settlement with the separation agreement. This, along with the concessions women such as Rachel Jessurun and Lea Emanuels had to make, suggests that the disadvantage women faced as a result of the unilateral divorce process was not just theoretical, and that a separation of table and bed could serve as a compromise where husbands could not or would not finalize a divorce. There are more examples of Jewish women using the Dutch colonial court system to obtain a divorce from an unwilling husband. A particularly acrimonious one took place in Curaçao, between Ribca Lopes de Fonseca and Isaac Haim de Jacob Senior, with the former demanding a formal separation, alimony, and a safeguarding of her ketuba, and the latter asking the court to compel his wife to return to his home and place herself under his marital power again. Isaac had accused Ribca of adultery and in an earlier letter to her, had threatened to leave the island with her ketuba and only send her a letter of divorce, suggesting the court case was primarily about the financial obligations involved in the divorce rather than the end of their marriage itself.[89]

Another explanation for the use of legal separation rather than divorce is socio-cultural: just as many Christians were wary of opting for divorce even if they legally had this option and were encouraged by church authorities to reconcile, Surinamese Jews – and especially the Sephardim who shared many cultural norms with Iberian Catholics – faced considerable social pressure from their community and religious leaders to at least leave the option of reconciliation open. The abovementioned Moses Eliazar van Emden and Lea Emanuels, for example, were persuaded

[88] NL-HaNA, DTB Suriname [digitaal duplicaat], 1.05.11.16, inv.no 43, Separation #4, 16 April 1799, scan 32.
[89] NL-HaNA, Curaçao, Bonaire en Aruba tot 1828, 1.05.12.01 inv.no. 73, Court records Curaçao 1774, folio 232, 243.

by the regents of the German Synagogue "and other right-minded people" to reconcile after they had initially petitioned for separation with the court. Although the pair had acquiesced, they had clearly not been convinced of their marriage's resilience, because they drew up a contract stipulating the conditions under which they could separate "in case, against all hope and expectations – may the supreme being preserve – their respective moods prove unable to sympathize with one another."[90] This proved true within several months, and the separation was finalized after all. Similarly, Abraham Joseph Sarguy and Sara Jona had separated in 1787 but reconciled shortly thereafter, choosing to maintain the validity of their separation agreement, just in case they decided to separate again. In 1790, they did, adding a few extra stipulations to the 1787 agreement. In this separation, too, the ketuba was not returned in its entirety (meaning the wife's dowry plus the husband's dower of a fifty per cent addition). Instead, Sara took back the goods she had brought into the marriage, valued at 2544 guilders, which would be subtracted from the ketuba she would be owed at the moment of Abraham Joseph's death. In addition to this, she would receive alimony on a monthly basis, something that was by no means a given for divorcing wives, whether Jewish or Christian.[91]

The political economy of enslaved reproduction in slave owner marriage

It is clear that the entanglement of Jewish and non-Jewish institutions regulating marriage transformed the marriage and divorce arrangements of the Jewish Surinamese community, giving rise to a highly diverse legal practice with a wide range of options. This process was strongly gendered, affecting men and women in different ways. Theoretically, Jewish women had most to gain from government involvement in marital affairs and especially divorce, since they could use a court case as leverage in a divorce process over which they would otherwise have little control. There were considerable barriers to doing so, however: since these women could not legally represent themselves before the Dutch colonial court, they had to first petition the colonial government for a curator, meaning they were dependent on Governor and Council to be able to take any legal action against their husbands. The legal fees involved, moreover, would have been prohibitively expensive for many, so the 'emancipatory' role of the colonial government for women should not be overstated. The most decisive factor in Jewish women's bargaining position vis-à-vis their husbands, instead, lay in their personal wealth, registered from the start of their marriage in their ketuba, along with the role of family members helping to negotiate marriage contracts and divorce agreements. The vast majority of the Jewish brides and wives who show up in the records were neither penniless nor wealthy plantation owners. Instead, starting (and often ending) their marital lives with ketubas ranging from a few hundred to several thousand guilders, they comprised the closest thing Suriname had to a 'middle class'. Characteristic of Surinamese Jewish women's property, moreover, was that it largely consisted (aside from clothing and jewelry) of enslaved human beings, particularly women and children.

Enslaved people have thus far remained in the background of the discussion, in large part because marriage and divorce were the prerogative of the free and, disproportionately, of well-to-do whites. Both marriage and divorce had tremendous impact on the lives of enslaved men,

[90] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 135, folio 141.
[91] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 137, folio 195.

women and children, however. When young (Jewish) women married, they often brought one or more enslaved women, along with their children, with them from their parental home to their new household, as part of their dowry. Thus, the start of one – white – family meant the tearing apart of another – black – family: while mothers generally were able to take their (infant) children with them, other family bonds, such as those with fathers, grandparents, and siblings were not regarded in this process. Separation could happen again when the marriage ended, whether through divorce or death, and enslaved people were treated as interchangeable parts of estates. In the Sarguy-Jona divorce, for example, Sara Jona stipulated the right to take two enslaved women with her to replace the two women who had been awarded to her in the couple's prior separation agreement, who had since died. She chose a woman named Premiere and her daughter Quasseba.[92]

It is not surprising that the enslaved people listed in ketubas were almost always women and their children: they were to fill domestic functions in the newly formed household and may sometimes even have been the bride's nursemaid, thus providing continuity and familiarity for young brides. There is also an economic dimension imaginable, however, fostered by the particular political economy of Jewish marriage in Suriname: because all interests and profits from the financial assets a Jewish bride brought into her marriage fell to her husband, one of the few ways in which married Jewish women could actually grow their personal property, besides inheritance, was through the natural reproduction of their slaves. Since children automatically followed the status of their mother and became property of their mother's master – or mistress – upon birth, women of child-bearing age and infants whose value would grow as they aged formed the closest thing to 'investments' middle-class married Jewish women could hold. Thus, when Moses Nahar and Rachel Jessurun separated, Rachel took with her not only the enslaved woman Regina who had come with her when she married, but also the latter's son, "a mulatto boy named Friso" who was described as having been "gained" (*aangewonnen*) during the marriage – a euphemism that possibly belies the act of rape by Moses Nahar through which the child had been conceived. If Friso was indeed Moses' son, then keeping him in her property had another material benefit for Rachel, by preventing him from becoming manumitted and a potential beneficiary of her husband's will, at the expense of her own children's inheritance.

There are more examples of expectations of future enslaved offspring as potential capital: the 1789 prenuptial agreement of Hartog Abraham de Vries and Marianna Alexander Salomons specifies the property the bride brought into the marriage as part of her dowry. The greater part of its value, 2650 guilders out of a total of 4850, came from a group of "family slaves": the enslaved woman Medea who had been gifted to Marianna by her father in 1775 when she was a young girl, now appraised along with her children at a value of 1200 guilders, as well as a black woman named Mimie "and her mulatta daughter Antje", together appraised at 1450 guilders. Should Hartog Abraham die before his wife, the contract stipulated, Marianna would have the choice whether to keep "the slaves brought by her, with the children they may come to produce over time" or to keep a claim of equal value on her husband's estate.[93] Long before Marianna's marriage, Medea's reproductive potential had been used by the family as an investment, with her

[92] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 137, folio 195.
[93] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 136, folio 47.

offspring serving to grow Marianna's dowry and therefore her prospects as an eligible bride, just as the enslaved family's future generations held the promise of capital growth for Marianna as a married woman. Hilary Beckles has described this approach to enslaved women's reproductive capacities succinctly:

> The enslaved offspring of black women constituted first and foremost a capital addition to the inventory of assets. […] A common expectation was that the child's market value would increase significantly after the weaning exercise – usually between two and four years of age – to exceed the value of the mother by its mid-teens. In this way an enslaved woman could easily replace several times the capital outlay involved in her purchase.[94]

The majority of scholarship on this phenomenon focuses on the actions of male slave owners, exploiting enslaved women's sexuality in a dual sense, for pleasure and for profit.[95] The discussion, moreover, has primarily been centered on the plantation complex with its need for a constant supply of labor. Jennifer Morgan has observed that "whether laboring among sugar cane, coffee bushes, or rice swamps, the cost-benefit calculations of colonial slaveowners included the speculative value of a reproducing labor force."[96] The above examples show, however, that this speculative logic extended beyond the plantation economy to urban and domestic slavery, and centered not exclusively on productive labor power, but also – or perhaps especially – on increasing personal wealth through the natural reproduction of people seen as assets that could be liquidized. The exploitation of enslaved women's sexual and reproductive capacities is arguably endemic – or even foundational – to chattel slavery, and not confined to any one group of slaveholders or setting of enslavement.[97] It is worth noting, however, that there were particular socio-economic circumstances that made this approach to human sexuality particularly prominent.[98] For eighteenth century Suriname, whose plantation regime was not known for fostering natural reproduction, with little evidence to suggest planters took any effort to stimulate high birth rates as an alternative to a continuous supply of new captives from Africa, the commodification of enslaved women's reproductive capacities is not primarily to be found among plantation owners, but among middle-class urban housewives.[99] Jewish women were not alone in profiting off the children born to women enslaved in their households, but the specific legal and economic regime that governed their marital lives meant that this mode of profit-extraction was of particular economic importance to them. Marriage and divorce thus not only intimately tied men and women's private lives to larger political developments at the communal

[94] Beckles, "Perfect Property," 149.
[95] Some exceptions include Stephanie E. Jones-Rogers, *They Were Her Property: White Women as Slave Owners in the American South* (London/New Haven, CT: Yale University Press, 2019); Marisa J. Fuentes, "Power and Historical Figuring: Rachael Pringle Polgreen's Troubled Archive," *Gender & History* 22, no. 3 (2010): 564–84; Hilde Neus, *Susanna du Plessis: portret van een slavenmeesteres* (Amsterdam: KIT Publishers, 2003).
[96] Morgan, *Laboring Women : Reproduction and Gender in New World Slavery*, 3.
[97] See also Cecily Jones, *Engendering Whiteness: White Women and Colonialism in Barbados and North Carolina, 1627-1865* (Manchester: Manchester University Press, 2007), 159–61; Fuentes, *Dispossessed Lives*, 2016, 74–75, 86.
[98] Sasha Turner has shown this for Jamaica's sugar economy, where planters became concerned with enslaved women's fertility after the abolition of the slave trade threatened to cut off the constant supply of new enslaved labor from Africa. Sasha Turner, "Home-Grown Slaves: Women, Reproduction, and the Abolition of the Slave Trade, Jamaica 1788-1807," *Journal of Women's History* 23, no. 3 (September 3, 2011): 39–62.
[99] Stephanie E. Jones-Rogers has made a similar argument for the U.S. South in *They Were Her Property: White Women as Slave Owners in the American South* (London/New Haven, CT: Yale University Press, 2019).

and colony-wide level, but also linked the lives of free white and enslaved black families in violent and extractive ways.

Conclusion

The property-owning communities that populated Dutch overseas settlements, engaged in trade, labored, and held control over enslaved workers were not exclusively Christian – far from it. Chinese, Muslim, and Hindu populations in the East Indies and Jewish communities in the Dutch Caribbean were excluded from the Christian marriage circuit and elite formation that was part of it, but nonetheless formed influential parts of colonial societies with their own norms and practices.[100] Portions of the Chinese and Jewish groups in the VOC and WIC world, respectively, can be seen as parallel elites to their European Christian counterparts, whose concerns about marriage, property, and hierarchy mirrored those of company elites. For these groups, however, control over communal marriage and divorce practices was not as self-evident as it was for Christians. Jurisdictions over marriage, in these pluralist settings, were far from neatly separated, and were frequently interdependent: Dutch authorities relied on communal authorities to administer and regulate their respective communities, while for the latter – the *Mahamad¸* the Chinese Council, and local headmen and priests – the colonial government formed both a potential threat to and a guarantor of their communal control. Non-Christian individuals could turn this jurisdictional dance to their advantage, moving between institutions to give shape to their married and divorced life with considerably more flexibility than Christians could. A significant shift in this dynamic is noticeable over the course of the eighteenth century, however, with secular governments increasingly expanding their grip on 'corporate' authority structures. In the VOC world, where Dutch family law did not apply to non-Christian populations, this took the form of a mid-century surge in company-ordered codification of specific population groups' 'own' laws, meant to be familiar and 'authentic' enough to not spark widespread resistance but uniform enough to allow for more consistent regulation and judicial practice – accompanied by an intensification of registration requirements, in the face of an expanding taxation regime *and* a growing engagement with the legal system by a variety of colonial residents. In Suriname (and argbuably Curaçao as well), where Jewish colonists were always already (at least theoretically) governed by Dutch family law, the shift was more subtle, but nonetheless noticeable in increasing institutional and regulatory interventions into Jewish marriages, increasing use of secular institutions by Jewish men and women, and a growing reliance by rabbis and Parnassim on secular authorities to assert their communal control.

Marriage and divorce, for Christian as well as other ethno-religious groups, as we now have seen, regulated the formation of families and thus communal reproduction. Secular colonial authorities worked together (not always harmoniously and certainly not on equal terms) with Christian, Jewish, Muslim, Chinese and other, localized, communal authorities to ensure that only authorized pairings cold reproduce in legally sanctioned family units, under pre-determined conditions. But while we have seen that authorities were limited in their ability to control especially non-Christian marriage and divorce in practice, there was even less

[100] Jews, it should be noted, were not absent from the VOC world, but formed a considerably smaller minority than in the Atlantic. Jewish merchants occasionally show up in the civil court records of Cochin, but mainly in commercial, rather than marital, disputes.

institutional grip on the many kinds of *unauthorized* sexual and reproductive unions that formed under the trade companies' rule. In the following chapters, we will turn to these illegal but nonetheless ubiquitous relationships and their consequences, from judicial punishments to illegitimate children and violent uprisings, beginning with an exploration of 'illicit sex' as a problem confronted by colonial authorities.

Chapter 4. Illicit sex

Introduction

In theory, the distinction between permissible and unacceptable forms of sex in the early modern Dutch and larger Christian world was clear: reproductive sex within the bounds of marriage was permitted and even a duty for married couples, while other forms of sexuality were both illegal and immoral. The reality, however, was not so simple. Not only was marriage, as we saw in chapter one, the prerogative of only a select few within colonial societies, but it could even be argued that the social and economic conditions created by chartered trading companies effectively fostered illicit forms of sexuality. Christopher Chitty has made this point for homosexuality, arguing that proto-capitalist economies such as the Netherlands of the seventeenth and eighteenth centuries gave rise to labor regimes that brought unwed young men in a state of proximity together in a way that had rarely been seen before.[1] Indeed, it is not a coincidence that the majority of sodomy prosecutions at the Court of Justice in Batavia, for example, concerned same-sex encounters aboard VOC vessels.[2] This argument, however, can be extended to sexuality at large, beyond the specific phenomenon of sodomy: the social and economic conditions of a global empire that relied on cheap, highly mobile labor strongly limited the possibilities for conjugal, heterosexual family units and instead created a fertile ground for more subversive relations that went directly against the dominant sexual mores of that same empire.

These conditions can be observed working in different ways for different groups. For Europeans, the vast majority of whom were poorly paid single men who lived a transient existence in service of the VOC or WIC, marriage was often not possible (because they had a wife back home in Europe, or because they could not get permission to marry from their superiors) or simply not an attractive option: marriage brought considerable financial responsibilities that other sexual and romantic arrangements did not, in addition to other restrictions such as the ban on repatriation for VOC servants married to Asian women (see chapter one). Opportunities for alternative arrangements, meanwhile, were in considerably greater supply than in Europe, ranging from fleeting encounters under various conditions to concubinage and common-law marriage. The thousands of enslaved men and women, who made up the majority of populations in West-Atlantic plantation societies but also in trade hubs such as Batavia, were denied the possibility of a legally sanctioned marriage in the vast majority of cases, and thus any relations they had, whether monogamous, consensual, casual, or forced, were 'illicit' by default. This did not mean that these forms of intimacy were indiscriminately criminalized, however. The extreme precarity of living in slavery, moreover, made the enslaved vulnerable to various forms of sexual exploitation.

Finally, there were the free Indigenous and creolized populations that formed around Company settlements in the East and West alike: while there were certainly monogamous conjugal units among these groups, often with their own notions of honor and sexual morality,

[1] Christopher Chitty, *Sexual Hegemony: Statecraft, Sodomy, and Capital in the Rise of the World System* (Durham, NC/London: Duke University Press, 2020).
[2] Matthias van Rossum et al., "The VOC Court Records Batavia, 1655-1790" (Amsterdam/Leiden: International Institute of Social History/Leiden University, 2022).

their situation in the colonial empire introduced various degrees of transience that fostered more fleeting, and therefore illicit, sexual relations. Husbands, contracted as soldiers, sailors, or plantation workers, moved away from their wives and families, increasing the likelihood of extra-marital sex among men and women alike. Port cities such as Cochin, Batavia, or Willemstad in Curaçao, meanwhile, saw a constant coming and going of people who needed a place to stay, which frequently ended up being the home of local residents. Economic precarity, here, meant that not everyone was able to afford independent housing, while renting out a room was a convenient way to supplement a household budget. The result was that the intimate space of the home, in many colonial towns, was rarely the exclusive domain of a nuclear family, instead seeing a coming and going of houseguests and lodgers – in addition to a variable staff of enslaved or free live-in servants. As the cases in this chapter will show, it was this porous domestic space – along with ships and other closely quartered places of labor – that formed the primary site of non-marital and thus illegal forms of sexuality. As elsewhere in the early modern world, there was no such thing in the Dutch empire as neatly compartmentalized 'public' and 'private' spheres: work and intimacy were frequently intertwined, and domestic spaces were important sites of communal life and therefore of key concern in questions of social (and sexual) order.

The conditions of empire therefore gave rise to a plethora of encounters and relationships that challenged the vision of moral sexual order that formally governed it. This chapter will trace how colonial inhabitants and authorities negotiated this tension, by examining both the sexual practices that emerged and authorities' response to these practices. Because it is clear that not all non-marital sex was prosecuted and punished equally, asking *which* practices authorities intervened in and *why* tells us a great deal about the specific vision of sexual order wielded by colonial elites that went beyond "reproductive marital sex only", and thus about the entanglements between sex and power in colonial settings. I will argue that, rather than changing the laws to be more permissive of non-marital sex in order to accommodate the social reality or, conversely, universally punishing unsanctioned relations, the trade Companies and local colonial governments instead adopted a policy of selective toleration in which the decisive factor was not (or not exclusively) marital status, but rather the colonial social order and hierarchy: the degree to which a sexual encounter or relationship outside of marriage was scandalous or even criminal depended heavily on who one was, who the partner was, and how these people related to each other in the larger societal context. This chapter will explore these relations in two main parts: the first part will focus on the various types of non-marital relations European men working for the companies and living in Dutch colonies engaged in with women of various backgrounds, and how colonial authorities responded to them. The second part will focus on the modes of criminalization that specifically targeted free and especially white or otherwise Christian women where they engaged in extra-marital or inter-racial sex.

European men's encounters

The ship as site of sexual danger

In both the VOC and the WIC charter zones, thousands of men of various backgrounds took to the seas as sailors, soldiers, and passengers in company employment. Confined in close quarters for weeks or months at a time, ships were sites of violence, comradery and, sometimes, sexual

encounters. It is not surprising that the majority of prosecutions of sodomy – the most heavily criminalized sexual offense, punishable by death – at Batavia's Court of Justice originated from an incident on board a VOC vessel: although ships offered plenty of secluded corners for committing clandestine sexual acts, the risk of being caught was extremely high, as private quarters were the privilege of only the highest-ranking officers and passengers.[3] Out of 118 men and boys prosecuted in Batavia for sodomy in the eighteenth century, 88 were employed aboard VOC vessels. 49 are listed as sailors, of which 15 junior sailors (*jongmatroos*). [4] 4 were ship's boys, 7 were high officers (skipper, first or second mate), and 19 were lower-ranking officers. Most cases involved adults, but many of the junior sailors and all of the ship's boys would have been youths under the age of eighteen. Although 'sodomy' as a legal construct could also mean masturbation, bestiality, or any form of non-reproductive sexuality, the majority of sodomy prosecutions involved sexual relations between men.[5] The VOC, here, did not exclusively prosecute Christians: nine of the sailors on trial were described as a 'Moor' from Bengal. Because in the eighteenth century no concept of a fixed sexual orientation existed, and homosexuality was instead conceived of as simply sinful behavior that potentially anyone could succumb to, and that, moreover, could spread through social contagion, authorities were generally keen to keep any instances of 'sodomy' quiet. This explains why it was frequently termed the *stomme zonde* – the silent sin, along with other obfuscating euphemisms, and why suspects were usually dealt with quickly, discretely, and harshly. Some were tried and sentenced by the captain before the ship even reached land, suggesting actual sodomy prosecutions were considerably more numerous than the Batavia Court of Justice records show.[6]

In addition to same-sex relations, the presence of women aboard vessels was also perceived as a potential sexual danger by company authorities. Although female passengers were generally kept away from the rank-and-file, illicit sexual encounters – both consensual and violent – could not always be prevented on voyages (see also chapter five) and this seems to have played a part in the VOC's decision to restrict female migration from Europe, because the Gentlemen XVII motivated their 1650 ban on female passengers without special dispensation with a reference to the particularly disastrous voyage of the *Batavia¸* aboard which, in 1629, a woman had been sexually assaulted by a group of mutineers, after which the ship had crashed off the coast of Australia where several of the surviving female passengers were raped before rescue arrived.[7] While as we saw in chapter one, even after 1650 small numbers of European women continued to travel across the Indian and Atlantic oceans, a large part – if not the majority – of the women whom men in service of the companies encountered, at sea and especially on land, were not

[3] For an in-depth discussion of the conditions surrounding sodomy cases on VOC ships, see Matthias van Rossum, *Werkers van de wereld: Globalisering, arbeid en interculturele ontmoetingen tussen Aziatische en Europese zeelieden in dienst van de VOC, 1600-1800* (Uitgeverij Verloren, 2014), 319-340.
[4] Rossum et al., "Court Records Batavia."Cases date from (1729-1790 – no data for 1700-1728). Note that 'sodomy' does not necessarily imply homosexuality: the term was used for all sexual acts deemed unnatural, including bestiality, although the majority of cases prosecuted involved two men.
[5] Elwin Hofman, "The End of Sodomy: Law, Prosecution Patterns, and the Evanescent Will to Knowledge in Belgium, France, and the Netherlands, 1770–1830," Journal of Social History 54, no. 2 (November 1, 2020): 483.
[6] T.M. Aerts, "Het verfoeijelijke crimen van sodomie'. Sodomie op VOC-schepen in de 18e eeuw," *Leidschrift* 4 (April 1988): 5–21.
[7] Ketelaars, *Compagniesdochters*, 159–65.

European at all, and were frequently not Christian, resulting in sexual relations that rattled the sensibilities of the empire's moral guardians: Dutch Reformed preachers.

The merchant and the minister

In October 1764, Gerardus Verbeet, Elmina Castle's new pastor, wrote an outraged letter to his employers, the ten directors of the West India Company. Appalled at what he found at the start of his four-year tenure on the West-African coast, he felt forced to send his wife back to Europe, as he found the environment entirely unsuitable for an honorable married woman:

> There is not only not a single legally married woman beside mine in the entire country, but not even a single female who professes to the Christian faith. Meanwhile, not only does every White have a Heathen woman as his concubine or mistress, many are not ashamed to openly boast that they have two, three, or even more.[8]

Several days later, a funerary ritual by several African women who wailed and wept at the body of recently deceased WIC servant Daniel Clockener – seen by Verbeet as an unseemly disturbance of a Christian funeral by "Heathen concubines" – prompted the scandalized pastor to offer his resignation to the Director-General. Although Verbeet later retracted his resignation, the Governor-General and his council would not have been sad to see him go, expressing irritation at his "difficult character and proud nature."[9] In a letter to the Company Directors, they not only questioned Verbeet's sanctimonious attitude, but also defended their tolerance of local social and sexual practices. The funerary rituals, they wrote, were "an old custom that the Natives are strongly attached to, and which cannot but with great difficulty be changed." Eradicating concubinage, they continued, was even more unthinkable:

> [it] is an abuse that has slipped in since time immemorial and that, we dare say, cannot possibly be rooted out. We are all men here, your Honors, and most of the servants, both commercial and military, are young and in their prime, so it would entail greater abuses, yes even horrors, that would make us resemble Sodom more than we do now, God forbid, if we were to deny them the use of women.[10]

The council's perspective reveals both a distinct view of human sexuality and a hierarchy of moral outrage: in their view, men's sexual energy required an outlet, and if they could not find this with women, it was heavily implied, they would find it with men.[11] Whereas for the Reformed Minister Verbeet, any deviation from the Christian marital norms was unacceptable, the colonial administrators were content to opt for what they considered the lesser of two evils. This conflict between 'Merchant and Minister' – between commercially-minded pragmatism and

[8] NL-HaNA, WIC, 1.05.01.02, inv.no. 492, Letter from G. Verbeet 20 October 1764, folio 754.
[9] NL-HaNA, WIC, 1.05.01.02, inv.no. 947, Director-General and Council's response to G. Verbeet's resignation, 23 October 1764, scan 72-73.
[10] NL-HaNA, WIC, 1.05.01.02, inv.no. 929, Documents from the Coast of Guinea, 1763-1768, Letter from Director-General and Council to the Gentlemen X, 23 October 1764, scan 264, folio 99. Translated with added punctuation.
[11] This fits a larger pattern in European ideas on sexuality, which in the sixteenth century began to conceive of a natural human sex drive that required an outlet. Sara F. Mattheus Grieco, "The Body, Appearance, and Sexuality," in *A history of women in the West: III. Renaissance and Enlightenment Paradoxes*, ed. Natalie Zemon Davis and Arlette Farge (Cambridge, MA: Belknap Press of Harvard University Press, 1993), 71.

religious zeal – was perhaps nowhere more pronounced than in Elmina, with its far-reaching integration of Christian men into non-Christian life and its institutionalization of sexual relationships unsanctioned by the church – so-called *calicharen*.[12] It was not, however, unique to the West-African coast. In fact, Gerardus Verbeet himself had fought a similar battle with colonial administrators in the East Indies when he was employed by the VOC, and had even published a polemic about his experiences in 1762: initially employed as a junior naval officer (*adelborst*) and then lay minister (*krankbezoeker*) in the 1740s and, after completing his studies in Europe, as a *predikant* in Batavia and the Moluccas in the 1750s, he made enemies among religious and secular authorities alike. After getting a well-connected junior merchant censured by the Batavian church council for living in concubinage with an enslaved woman, Verbeet was sent to serve on Banda, which he termed "the worst post in the Indies."[13] Here, he continued to ruffle feathers, openly criticizing the lack of political action against "Christians mixing with Heathen women" and refusing communion to prominent VOC employees – including the Governor's brother – whom he called "fornicators" [*hoereerders*].[14] Finally, his continued conflict with Company authorities, both over his salary and what were deemed his defamatory statements, led to a trial before the Batavian Court of Justice which resulted in his dismissal and banishment from the VOC's territories.[15]

Verbeet was appalled at what he saw as moral decay among "so-called Christians" in Southeast Asia as well as West Africa, although he considered the latter the worst of all, even terming it "the seat of Satan".[16] Hoping for better, he pleaded with the WIC to be transferred to Curaçao or Suriname – a request which was denied. The West Indies, however, had its own discontents. Most famous among them was Jan Willem Kals, whom we met in chapter one as a vocal proponent of evangelization among the enslaved population of Suriname. Shortly after his installation in the colony as Reformed *predikant*, Kals made enemies among clerical and secular authorities alike, by criticizing established norms and practices, including those around non-marital sex. In addition to his more famous work *Neerlands Hooft-en Wortelsonde*, which he published some twenty years after his experiences in Suriname (1756), he also published (in 1733, the year he was forced out of the colony) a polemic reminiscent of Verbeet's. This "Complaint on the rotten morals of leadership, in both ecclesiastical and civil administration in a very fertile and only just budding colony" was written as a letter to the *classis* (regional church consistory) of Amsterdam.[17] In addition to detailed descriptions of a range of personal and professional conflicts Kals found himself in during his two years in Suriname – with antagonists

[12] Natalie Everts, "'Huwelijk Naar's Lands Wijze'. Relaties Tussen Afrikaanse Vrouwen En Europeanen Aan de Goudkust (West-Afrika) 1700-1817: Een Aanpassing van de Beeldvorming.'," *Tijdschrift Voor Geschiedenis* 111, no. 4 (1998): 598–616.
[13] Gerardus Verbeet, *Memorie, of, getrouw verhaal van alle de moeilykheden, vervolgingen, en mishandelingen, den persoon van Gerardus Verbeet, laatst geweest predikant tot Banda, in Neerlands Oostindien aangedaan, door hem zelfs opgestelt, en voorzien van daar toe specterende papieren en bewyzen* (Delft: Egbert vander Smout, 1762), 16.
[14] Verbeet, 26–27.
[15] NL-HaNA VOC 1.04.02 inv.no. 9323, Criminal sentencing of Gerardus Verbeet, 22 June 1761, scan 109.
[16] NL-HaNA, WIC, 1.05.01.02, inv.no. 492, Letter from G. Verbeet to WIC Directors, 20 October 1764, folio 757.
[17] Jan Willem Kals, *Klagte over de Bedorvene Zeden Der Voorgangeren, Zoo in't Kerk- Als Burger-Bestuur in Eene Zeer Vrugtbare Ende Eerst Opluikende Colonie, Voorgestelt in Eene Behandelinge, Gepleegt Aan Een Predikant, Aan 't Eerwaarde Classis van Amsterdam - Leiden University Libraries*, 1733.

ranging from the Governor to fellow pastors and church elders to his own wife – the pamphlet contains a damning description of the sexual morals reigning in the colony. Adultery and 'fornication', he wrote, were not just rampant among colonists, but broadly accepted as natural, necessary, and appropriate for the Surinamese setting. He was particularly outraged by the practice among white planters, married or not, of purchasing an enslaved black or indigenous young woman for the express purpose of sex, and proceeding to present the resulting offspring for baptism by Kals. This moral decay started young, he said: "their sons (and who knows what happens to the daughters) if they are not sent abroad, are usually ruined by the female slaves by the time they are fourteen or fifteen years old" (these enslaved women, in Kals' worldview, were ruined from the start, as they were not Christian). When Kals confronted colonial elites with these patterns, he claimed, he was met with mocking indifference: "Well, Reverend, do you really believe that you would change that here? We live in a different world here."[18]

Verbeet and Kals seem to have been among the rare European voices overtly raising objections to European men's non-marital sexual relationships with non-European women in Dutch overseas settlements. As outspoken, seemingly pugnacious characters whose broader patterns of conflict resulted in their eventual expulsion from their colonial postings by colonial authorities, they can be seen as exceptions that prove the rule: in general, eighteenth-century religious, political and military authorities alike accepted non-marital arrangements such as concubinage as a more or less inevitable consequence of situating large numbers of predominantly single men in transient colonial settings. This is not to say that other Reformed ministers stationed across the empire did not express concern over the sexual vices they observed among their flock (as did others who were more removed from colonial society, such as travel writers), but they generally took a more subtle and sympathetic approach.[19] Jacobus Capitein – Verbeet's predecessor in Elmina– also expressed his frustration at what he perceived as the WIC's indifference towards his goals of promoting a Christian way of life in West-Africa and at the deeply entrenched practice of *calicharen.* His approach, however, was more sensitive to the challenges of the local situation, putting his energies in educating (Euro-)African children in the Christian religion and pushing for the possibility of Christian marriage with African women as an alternative to *calicharen*, although these efforts were met with little support from the Company or the *classis* of Amsterdam.[20] Half a century earlier, in 1700, the collaboration between 'state' and church was more harmonious. Eduard van Slangenburg, who was *predikant* at that time, warned of the sins of adultery and fornication, "which are committed as openly here as publicly here as the relations of devoted, legally married people in Europe," but also recognized that preventing non-marital sex altogether might not be realistic, and proposed measures to at least make fathers responsible for the education of their illegitimate children. Director-General Van Sevenhuijsen and his council followed his advice.[21]

[18] Kals, 24.
[19] One contemporary writer who regularly touched on scandals and conflicts surrounding concubinage was François Valentijn. See Van Wamelen, *Family life*, 375–76; François Valentijn, *Oud en nieuw Oost-Indiën, vervattende een naaukeurige en uitvoerige verhandelinge van Nederlands mogentheyd in die gewesten, benevens eene wydluftige beschryvige der Moluccos … en alle de eylanden onder dezelve landbestieringen behoorende; het Nederlands comptoir op Suratte, en de levens der Groote Mogols …*, vol. 2 (Dordrecht/Amsterdam: J. van Braam & Gerard onder de Linden, 1724).
[20] Kpobi, "Mission in Chains," 75, 152–53.
[21] NL-HaNA, WIC, 1.05.01.02, inv.no. 124, Resolutions 10 March 1700, scan 335-339.

Indeed, the tense relation between 'Merchant and Minister' was not fixed throughout the WIC and VOC period. As Danny Noorlander has shown, the commercial and political activities of the seventeenth-century WIC were deeply intertwined with the zealous interests of the Dutch Reformed Church, and WIC authorities were frequently supportive of church authorities' interventions into the moral lives of colonists, soldiers, and sailors.[22] This genuine moral-religious fervor among the first generations of Dutch colonial authorities and company directors can be observed in legislation on non-marital sex issued in Dutch settlements across the globe, not just those held by the WIC. The government of Jan Pieterszoon Coen in 1622 Batavia, expressing a genuine concern for God's wrath over "the horrific sins" of concubinage, adultery, and fornication, especially between people of different religions, prescribed a strict set of punishments for non-marital sex: concubinage was to be punished with a fine or, in case of recidivism, with corporal punishment. Non-Christians who "instigated" sex with a Christian would be sentenced to death, as would be adulterers.[23] Two decades later, as the VOC was in the process of taking power in Ceylon, its leadership in Galle passed an ordinance condemning the widespread habit of living "in public whoredom and concubinage" with local women which had taken hold among soldiers, sailors and officers. Such "vile unchastity" would henceforth be punished arbitrarily. The ordinance gives both political and religious reasons: this "abhorrent lechery" would not only lead to "a reprehensible example among the heathens and weak Roman Catholic Christians and great contempt among them for the true Christian faith, being dishonoring and disreputable to the Dutch nation," but also bring about "the grim wrath of the Almighty, no doubt to the destruction of land and people."[24]

This dual concern, with the threat of disasters as a result of God's wrath on the one hand, and a loss of reputation for Christianity at large in the eyes of foreign peoples on the other, was felt consistently across the globe, from Asia to the Caribbean. Early governors of Curaçao, such as J.P. Tolck in 1638 and Matthias Beck in 1655, were instructed by the WIC to prohibit sexual advances towards indigenous and enslaved African women, so as to prevent friction with these groups.[25] In Suriname, one of the first criminal ordinances issued after the colony passed from British into Dutch hands, dating from 1669, prescribed the death penalty for both blasphemy and adultery, and "rigorous punishment" for "all fornicators and those living in unchastity".[26] Berbice, which in the seventeenth century was a patroonship held by the Van Peere family, received strict instructions from its patroon Abraham van Peere in 1681. No intercourse was to take place with African and Indigenous women, because it was leading to "contempt for God's holy name, repudiation of the Christian Reformed religion, and particular vexation among a Heathen nation that ought to be won over to the light of the Gospel and the righteous path through the godly example of Christians […]". Henceforth, the instructions stated, any of Van Peere's subjects found committing such lechery would be punished with a loss of wages and in case of continued recidivism, banishment from the colony.[27]

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[22] Noorlander, *Heaven's Wrath*, 106.
[23] NIP vol I, Ordinance of 20 july 1622, 99-102.
[24] CP-I, 3-4.
[25] WIP-C-I, 3-8, 52-59.
[26] Ordinance of 19 February 1669, in WIP-S-I, 33-35.
[27] "Instructie betreffende relaties met zwarte of Amerindiaanse vrouwen voor allen die in dienst zijn van Abraham van Pere," May 20, 1681, *Plakaatboek Guyana 1670-1816*, Accesible through

While some of these regulations may sound rather draconian to modern ears – and indeed some punishments, such as the death penalty for adulterers or for inter-ethnic sex were extreme even for contemporary standards – it should be noted that most of the punishments prescribed for unmarried company servants were relatively mild. It seems that VOC and WIC administrators, even early on, when they were arguably at their most zealous, were balancing the importance of maintaining a Christian sense of sexual virtue on the one hand, with that of maintaining a workforce among whom sexual transgressions were ubiquitous on the other. This dilemma was sometimes explicitly verbalized, as in the above-mentioned ban on concubinage in Ceylon, which stipulated that (as elsewhere in VOC-Asia) company servants would be allowed to marry local women "in order to accommodate those who do not have the gift of abstinence in their weakness."[28]

Cross-cultural encounters

These 'weak' servants were not alone: from the companies' very inception, non-marital sex permeated the VOC and WIC worlds from their lowest to their highest ranks. As soldiers, sailors, merchants, and administrators travelled across the Atlantic and Indian oceans – in the vast majority of cases without a wife – they encountered women from a wide range of backgrounds, each with their own norms and expectations around sexuality, and with their own interests. In some places, pre-existing practices meant that local women had little problem forming temporary relationships with foreigners prior to, in lieu of, or next to a formal marriage. An example is the 'temporary marriage' in South East Asia, in which a woman formed an – as the name suggests – temporary, exclusive relationship with a foreigner (often a trader), which could involve domestic work, sexual partnership, an introduction to local networks and local customs, and sometimes a business partnership. In return, the woman could benefit from his connections and receive continuous gifts as a token of an ongoing relationship, or, in some contexts, an agreed-upon financial compensation.[29] In Hirado in Japan, where the VOC had a trading post before being confined to Deshima in 1641, Dutch traders encountered Japanese women for whom a pre-marital sexual relationship with a foreigner was not only not an impediment to a respectable marriage, but a means of accumulating funds for a dowry before returning home and starting a family.[30] After 1641, restrictions on mobility left less room for sustained relationships, and VOC-traders' contact with Japanese women became confined to professional Nagasaki-based sex workers who specifically served the Dutch community (*Oranda-yuki*).[31] In Elmina and elsewhere on the Gold Coast, the matrilineal kinship system centering on the *abusua* meant that marriage was not necessarily the most important factor in a woman's social status and property rights, so that possibilities for relationships with foreigners, where they were advantageous,

http://resources.huygens.knaw.nl/retroboeken/guyana; Original: NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 219, folio 1-4.

[28] CP-I Ordinance of 30 May/3 June 1641, Galle, 3-4.

[29] Andaya, "From Temporary Wife to Prostitute," 1998, 12–15; Anthony Reid, "Female Roles in Pre-Colonial Southeast Asia," *Modern Asian Studies* 22, no. 3 (1988): 629–45.

[30] Bin Mihalopoulos, "The Making of Prostitutes: The Karayuki-San," *Bulletin of Concerned Asian Scholars*, 1993, 41–56; Van Wamelen, *Family life*, 390; Blussé, *Bitters Bruid*, 14.

[31] Gary P. Leupp, *Interracial Intimacy in Japan: Western Men and Japanese Women, 1543-1900* (London/New York: Continuum, 2003), 10.

were relatively open.[32] Since the days of Portuguese presence in Elmina, some Akan women had decided to form relationships of various levels of formality with Europeans – of which the Portuguese-derived *calicharen* was the most formal. These pairings could be useful for women engaged in trade, as a European partner provided access to imported goods, or for women who were unfavorably positioned in their *abusua* and could thus gain property, status, or legal protection through an outsider.[33] For these foreign men – initially Portuguese, later Dutch and from elsewhere in Europe – the benefits of such relationships were clear: in addition to being emotional and sexual partners, these women acted as cultural guides whose local knowledge was crucial to newcomers' survival as well as for the establishment of trade networks, which in turn boosted these men's careers and social standing.[34]

Across the Atlantic, the established frameworks for relations with indigenous women were more fraught: like in many places that would become Dutch colonies, the Dutch arrived onto a scene that had already been shaped by previous experiences with Europeans, most prominently Spanish and Portuguese. And while Amerindians had intermingled with Iberian colonists in marital as well as non-marital unions, the memory of violence and exploitation that prevailed by the time Dutch settlers arrived in places such as Berbice and the Leeward Antilles, combined with the extreme dependence of early Dutch settlers on indigenous groups such as the Arawaks (Lokono) and Caribs (Kali'na), rendered inter-cultural (sexual) contact a highly delicate topic.[35] Due to a dearth of written sources we know very little of how Indigenous women perceived sexual experiences with Dutch colonists, but we can draw our conclusions from the early bans on sexual contact with Indigenous women, which seem to have been prompted by complaints from Amerindian communities, suggesting a pattern of unwanted attention or even rape.[36] In later years, the Amerindian women who show up in the colonial records as sexual partners of colonists were not free women from allied, neighboring communities, but captives transported from further inland and sold into slavery.

In the Dutch cultural imagination, meanwhile, a considerably more simplistic view began to form, of overseas territories as populated by voluptuous, lewd women just waiting for Dutch soldiers and sailors to have a sexual adventure with. This is apparent in both the moralizing literature that warned against the sexual vices of the colonies and in popular songs that effectively served as recruitment propaganda by enticing young men with stories of exotic, sexually available women.[37] A particularly popular trope in sailors' songs about the East indies was that of the seductive *mestiza* who was not only willing to share her bed with her Dutch lover, but paid *him* for the pleasure.[38] The large numbers of poorly paid, poorly connected Europeans

[32] Everts, "'Huwelijk Naar 's Lands Wijze.'"
[33] Everts, "A Motley Company."
[34] Henk den Heijer, "Institutional Interaction on the Gold Coast: African and Dutch Institutional Cooperation in Elmina, 1600–1800," in *Exploring the Dutch Empire: Agents, Networks and Institutions, 1600-2000*, ed. Catia Antunes and Jos Gommans (London: Bloomsbury Publishing, 2015), 203–26.
[35] Kars, *Blood on the River*, 38.
[36] WIP-C-I #1 (1638), 3-8; #39 (1655), 52-59; *Plakaatboek Guyana*, 20 May 1681; 4 September 1700.
[37] Andaya, "From Temporary Wife to Prostitute," 1998, 21–22.
[38] Bert Paasman, "Lof van Oost-Indiën: Liedjes Uit de VOC-Tijd," *Indische Letteren* 6, no. 1 (1991): 6–10. If this image is based on any genuine experiences by Dutch sailors in the Indies, it may be emblematic of the divergent cultural expectations Barbara Watson Andaya describes between European men and Southeast Asian women, with the former coming from a framework of prostitution as sex-for-money (and having his gendered expectations subverted in this scenario) and the latter viewing small

who enlisted in the trade companies' service, however – some, no doubt, lured by this exoticized image – were not necessarily the most attractive partners for women who had the luxury of choosing. Where free, locally embedded women were not interested, foreign men increasingly turned to enslaved women and girls or those otherwise experiencing various degrees of displacement, economic precarity, and bondage, which frequently overlapped.[39]

Concubinage

A ubiquitous arrangement, across the Dutch empire, was enslaved concubinage, in which a man purchased an enslaved woman and started a sexual and sometimes affective relationship with her. Due to the coercive foundation of these unions (i.e., slavery), it is safe to assume they were frequently involuntary on the part of the woman, who was not in a position to decline, even if in some cases a genuine affective bond may have formed. It is extremely difficult to gauge the perspective of women in these situations, as the available sources are largely silent on their experiences. Rare exceptions can be found in judicial sources, when enslaved concubines were questioned as part of a criminal or political investigation. In 1737, for example, a young Amerindian woman – name unknown – was questioned by the Berbice Council of Policy. Philip Broer Junior – himself the mestizo son of an enslaved woman, and now working as a free employee on the Abary outpost alongside his father – was accused of having an extramarital affair with this woman. She had been brought to the fort at the request of Broer's father-in-law, who had complained on behalf of his daughter Mariti – Broer's wife, also of mixed descent.[40] The Amerindian woman faced the Council while holding a two-year-old child in her arms, and explained that the father was Philip Broer, with whom she also had an older child that had been conceived prior to Broer's marriage to Mariti. When asked whether she had always lived with him "like husband and wife" she answered in the affirmative, but also stressed that the relationship had not been voluntary on her part, saying "she had conceived children with him, [but] not wanting to come to him, she had always been forced to do so by him."[41] Following this brief moment, she disappears from the archives again. Mariti and Philip Broer separated a few weeks later, but there is no record of Broer being penalized by the court.[42]

The uniform view of an enslaved woman in a coerced sexual relationship with her master, however, belies the fact that enslavement and coerced sex also worked in other, more indirect ways. Across the Dutch empire, and especially in port cities, enslaved labor was often 'outsourced', and this also applied to sexual labor. As Henk Niemeijer has shown for Batavia, enslaved women were often not working in their master's home, but required to bring in a specified amount in wages earned elsewhere, so-called "coolie money". For many a young woman, the most reliable way to do this was to work as a *bijzit* (concubine) for a man who agreed to pay her for her sexual and domestic labor. In this arrangement, the boundaries between the

(monetary) gifts as a token of an ongoing affective relationship. Andaya, "From Temporary Wife to Prostitute," 1998, 20.

[39] Andaya, "From Temporary Wife to Prostitute," 1998.

[40] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 69, Request to Governor Waterham by Jan Couzijn, 18 July 1737, scan 269-269.

[41] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 69,Council minuites 27 July 1737, scan 251.

[42] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 69, Note from Mariti Broer agreeing to a separation, 11 August 1737, scan 328.

lives of enslaved women, those in debt-related servitude (*pandelingen*) and free but impoverished women was blurry, with the main difference being that the first two had a financial obligation to a third party while free women took on the role simply as a way to survive.[43] For some, concubinage was a means to achieve upward social mobility: for an enslaved woman, it could pave a path to manumission if she could accumulate enough money or convince her partner to buy or grant her freedom. Once free, one of the limited paths to a more secure existence and higher social status was marriage, although this could come with its own sacrifices, such as changing one's faith and giving up prior attachments.

In the Atlantic context, too, men had sex at various degrees of coercion with women who were not always their own property. This contact ranged from fleeting encounters to long-term relationships, the latter of which became known, in Suriname, as 'Surinamese marriage'.[44] At the more fleeting end of the scale, we have traces of evidence of men from all walks of life – free, enslaved, black, white, and Amerindian – visiting enslaved black women living on plantations for sex. The way these encounters show up in the sources, however, are strongly tied to the men's social station. Paradoxically, the sexual encounters of more subaltern men were simultaneously more intensely problematized and discussed more openly than those of elite white colonists. This was (at least in part) because enslaved and impoverished free men's contact with enslaved women across plantation boundaries implied a mobility that was seen as a threat to the colonial order, more so than the sexual contact itself. Planters took action against free Amerindians in their employment, for example, when the latter left the plantation to see women who lived elsewhere. In Paramaribo, nightly amorous visits of lower-class individuals became associated with burglary and trespassing: in 1739 the government issued an ordinance in response to numerous complaints of nightly intruders who, when discovered, claimed they were not thieves, but were there to visit enslaved women living on the property. To prevent this excuse being used to escape prosecution, the new ordinance stated that anyone – black or white, free or enslaved – who would henceforth be caught trespassing on private property would be treated as a thief and prosecuted as such.[45] This law would be applied throughout the eighteenth century, as exemplified by the prosecution of Profijt, an enslaved man in the service of the free black woman Caatje van Stalting, in 1792. Profijt was not tied to Ms. Stalting's home, but earned a wage which his mistress laid a claim to every week. One evening, after having fulfilled his obligations for the week, Profijt got drunk and went to the house of the Widow Fellman to see an enslaved woman he knew, in order to spend the night with her, or at least this is what he told the court after being arrested for trespassing and suspicion of theft. When he arrived at one of the enslaved people's homes on the Fellman estate, an enslaved woman accused him of stealing ducks, and Widow Fellman's son apprehended him and turned him over to the *fiscaal*. Although there was no

[43] Niemeijer, "Calvinisme en koloniale stadscultuur," 257–58.
[44] Gloria Wekker, *White Innocence: Paradoxes of Colonialism and Race* (Durham, NC: Duke University Press, 2016), 43; Van Lier, *Frontier Society*, 78.
[45] Ordinance 382, 19 February 1739, WIP-S-I, 455; NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 20 (1739), scan 43.

further evidence of theft, Profijt's presence on the estate was enough to convict him, and he was sentenced to the harsh physical punishment known as the 'Spanish buck'.[46]

Low-ranking whites such as plantation servants, free artisans, and soldiers, meanwhile, were also seen as a potential threat to the colonial order where they sought out enslaved women who were owned by their patrons or by the colony. Here, the concern was less with these men's mobility and more with plantation discipline, as plantation owners feared that enslaved people's anger over white overseer's sexual advances could lead to revolts and increases in *marronage*. This concern went so far that the Society of Berbice, in 1758, even cautioned the colonial government to limit the required number of whites present on plantations: although a low white-to-black ratio was otherwise seen as dangerous, and white settlers were hotly sought after as a means of maintaining control of the colony, the Directors noted that having more than one white for every twenty slaves was a risk too, as it would lead to "licentiousness" with enslaved black women. This, in turn, they argued, would lead to "great discontent among the slaves and eventually bring about evil consequences."[47] Indeed, most of the legislation issued in Berbice in the eighteenth century which prohibited sex with enslaved women was targeted specifically at rank-and-file colonial employees. The 1741 regulations for plantation servants and free craftsmen, which targeted "disorder and unruliness" threatening the interests of plantation owners, included a stipulation against "carnal conversation" with enslaved African and Amerindian women. The penalty was a fine that increased with each infraction, a portion of which would go to whoever reported it.[48] The 1750 regulations on military discipline set the same rule for soldiers, with an increasing loss of wages and finally physical punishment as the penalty.[49] In Suriname, the 1784 regulations for white plantation workers prohibited sexual contact with enslaved women insofar as it resulted in "any disorder on the plantations".[50]

For wealthy (and predominantly white) men, however, the situation was different. This colonial elite, comprised of plantation owners, administrators, members of government, and other high-ranking colonial officials, did not face the scrutiny that came with plantation and military discipline as their inferiors did. Nor were they likely to be identified as trespassers or thieves. Rather, this group moved freely across the colony, often in groups, visiting others' plantations for both business and pleasure. These men, it seems, could seek out sex with enslaved women – consensual or not, their own property or someone else's – with relative impunity, while simultaneously a code of honor mandated discretion on the topic, resulting in an open secret whose veil was lifted only occasionally.

One of them was Harman Nicolaes van de Schepper, the Governor's son whom we met in chapter two. We learn about his actions because his wife's attorney, aiming to prove cause for divorce, interrogated a whole range of her husband's friends and acquaintances, all young men from the upper crust of Surinamese society, many of them military officers. Each confirmed

[46] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 855, Trial of Profijt, 18 May 1792, scan 381-382. The *Spaanse Bok* involved being whipped with one's hands bound to one's knees and a pole on the ground.
[47] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 2, Minutes of the Directors of the Society of Berbice, 3 May 1758, scan 295.
[48] PG, Regulations for artisans and plantation servants, 5 December 1741.
[49] PG, Regulations on military discipline, 2 September 1750.
[50] WIP-S-II, #876, 31 August 1784, no. 9, 1069-1070.

having gone on various group-based outings with Van der Schepper, where the latter had been accompanied by enslaved women, although most were reticent to provide any explicit details pertaining to Van de Schepper's "carnal conversation" with these women, appealing to the fuzziness of their memory or opting for euphemistic terms such as *badineeren* (teasing) and *stoeien* (frolicking). They described visists to the Governor's mansion and soirées as friends' homes where Van de Schepper would be seen with two different enslaved women, Fortuna and Margo. The group of friends also regularly snuck through the yard of Louis George de Boisguion, whose property neighbored Fortuna's lodgings, in order to discreetly reach her (and, possibly, other enslaved women). One night, as the party was crossing the creek leading to Boisguion's yard, they were apprehended by the proprietor. In contrast to those at whom the 1739 trespassing ordinance was aimed, however, the young men were met with laughter from Boisguion, and an invitation to pass through his house instead. Van de Schepper and friends would also visit various plantations, take pleasure cruises on his tent boat along the Suriname river, and joined the festivities during the Jewish holiday of Sukkot in the village of *Jodensavanne,* where Isaac Cohen Nassy observed him 'frolicking' with various enslaved women and dance with a black woman named Philipa. Harman Nicolaes Van de Schepper was likely not the only one: from his lack of effort to hide his affairs with women such as Margo, Fortuna and Philipa and his willingness to brag about his adventures and his illegitimate children, it is clear that this pattern was quite accepted among men of the planter class. It was quite rare for it to be explicitly discussed – let alone addressed as a problem – in the official discourse that makes up the bulk of the colonial archive, however: Van de Schepper's actions only came to light because he had an extremely wealthy and well-connected wife, who was not amused.[51]

If European men's affairs with free or enslaved women came under judicial attention, it was usually because of a broader conflict taking place. In Berbice of the 1730s and 1740s, for example, a series of labor conflicts flared up on plantations which shed light on various forms of 'concubinage' taking place there. One was between planter Paul Bermond and his subordinate Jean Carles. The two men had been employed in 1734 by the Amsterdam-based owners of the Zeelandia and Hollandia plantations, Josias Belesaigne and Jean-Pierre St. Martin – Bermond as director of the plantations, Carles as surgeon and *neegerofficier* (driver).[52] In 1736, their working relationship soured, as Bermond purchased an Amerindian woman named Wanacqua, in order for her to be his *bijzit* or concubine. Wanacqua had had no choice in the matter, but she did give shape to her new position on her own terms, making it clear to the plantation staff what the limits of her role would be. To the gardener and his wife she reportedly stated: "I did not come here to work, nor do I want to, while I have to play the whore."[53] This outraged Carles, who felt his authority threatened by this *servante* who behaved like a *Mademoiselle* and *Maîtresse*, and who enjoyed far greater luxuries on the plantations than he did, as he would later write to his employers in Amsterdam. When he complained to Bermond, his boss ordered him to "treat that slave woman like his wife," and proceeded to put Wanacqua in charge of "everything, down to

[51] NL-HaNA, Staten-Generaal, 1.01.02, inv.no. 9502 Dossier of the divorce case between Apolonia Jacoba van der Meulen and Herman Nicolaes van de Schepper, 1746.
[52] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 439, List of persons who departed to Berbice as independent planters of employees, scan 92.
[53] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 68, Memo for the Governor issued by Jean Carles, 29 January 1737, scan 69.

the smallest piece of cassava."[54] In January 1737, when trying to convince the Governing Council of Bermond's guilt, Carles characterized the relationship as follows:

> ...he submits himself to the infatuated rule of his slave, puts her above all the whites on the plantation, goes boating with her, asks to be called her husband, sleeps alone with her in a closed room, hangs her hammock close to his, they caress each other without the slightest fear, and regularly shout obscenities at each other and argue about the venereal diseases which each accuses the other of having contracted elsewhere.[55]

The situation escalated, according to Carles, when Wanacqua told Bermond that it was Carles who had infected her with a sexually transmissible condition – a conversation which reached Carles' ears by proxy of Elisabeth, an enslaved African woman living on a neighboring plantation. The resulting confrontation between Bermond and Carles proved to be the final straw for the plantation servant, and Carles left, despite not having served the full term of his contract. He turned to the Berbice Council of Policy, arguing that his working conditions had become intolerable and asking for his contract to be nullified and that he be paid his remaining wages.[56] Unfortunately for Carles, Bermond was considerably better positioned, both institutionally – he was himself a council member on the civil court – and in his informal network. Carles could not afford to guarantee the costs of the trial, and had to personally sequester at the fort, which put him at a disadvantage from the start.[57] Unable to provide enough evidence for his allegations, Carles was declared a liar by the court and sentenced to a fine of 100 guilders.[58] Months later, when Carles joined the service of another planter, Bermond complained to the colony Directors in Amsterdam, who proceeded to forcefully recall Carles from Berbice in 1738.[59] Wanacqua was not mentioned again.

It was not the first time enslaved women found themselves at the center of conflicts over plantation authority entangled with sexual jealousy. Samuel du Thon, friend and neighbor of Bermond, had quarreled with his Swiss plantation servant, Balthazar Ugenin, in the summer of 1736, over Du Thon's friend, the surveyor Jan Daniel Knapp. Knapp, Ugenin alleged, had gone to the slave quarters late at night while staying as a guest on the St. Elisabeth, and sought out enslaved black women, including one woman whom Ugenin was reportedly involved with.[60] There were also rumors that Knapp impregnated her, which were passed on to Ugenin by the enslaved people on the plantation.[61] The nature of her 'relationship' with Balthazar Ugenin leaves some questions open: he himself never mentioned it, but according to his patron he referred to her as "his whore." When Balthazar Ugenin complained to Du Thon, his employer

[54] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 69, Letter written by Jean Carles to Jean Pierre St. Martin, 14 October 1737. Quotes translated from French, scan 279-280.
[55] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 68, Memo for the Governor issued by Jean Carles, 29 January 1737, scan 70.
[56] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 68, Request by Jean Carles, scan 62-63.
[57] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 68, Council minutes February 16 1737, scan 50-51.
[58] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 69, Sentencing of Jean Carles, July 13, 1737, scan 250.
[59] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 14, Resolutions April 1 1738, scan 85; Resolutions April 21, scan 92.
[60] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 65, Interrogation of Balthazar Ugenin, 28 August 1736, scan 362-364.
[61] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 67, Testimony of M. Touschaij, 22 July 1736, scan 94.

chastised him for the impropriety of "keeping a whore," but especially for talking about it.[62] Du Thon did not call out his friend Knapp, however. In fact, when the surveyor visited again and, having been informed of the dispute by his host, wanted to confront the Swiss servant, Du Thon gave Knapp a cane, with permission to give Ugenin a beating. The latter, however, did not accept physical correction from someone who was not his patron, and attacked Knapp with a piece of wood. As a result, Knapp and Du Thon filed charges against him with the Council of Policy. When asked by the court what he had to say in his defense, Ugenin painted a broader picture of sexual abuse and impropriety by Du Thon's friends, which incidentally included an allusion to Bermond and Wannaqua, whom he said had once spent the night at the St. Elisabeth plantation along with Mr. Chaille (another planter) and another enslaved woman:

> when, in the morning, [Ugenin] asked the Indian woman if they had enjoyed themselves, and she only answered with a few regretful words, he responded that such a life was not right and that he would prefer to leave the plantation, and since then Du Thon has been ill-disposed towards him[63]

Ugenin was sentenced to a lashing and eternal banishment from the colony.[64] Surveyor Knapp, on the other hand, would face serious legal repercussions only in 1743, and not for this incident, but for having an affair with multiple married white women, including Jacoba Maria Grevenstein, wife of Bernard Waterham, who had been Governor of Berbice from 1733 to 1740. The charges against him, although centered on his attempt to induce Grevenstein to divorce her husband for him, also alluded to other indiscretions on Knapp's part, as evidence of his lack of respect for worldly or godly laws: not only had he kept an enslaved concubine ("as everyone on this colony knows"), but when he manumitted her prior to leaving for the Dutch Republic, he asked "Mrs. Van der Pijpen, with whom he is currently living in suspect familiarity" to be a witness at the newly free woman's baptism, against Van der Pijpen's husband's wishes.[65] Knapp defended himself by denying the concubinage, and implying that, if everyone suspected him of it, it was only because it was such a common "fashion".[66]

Indeed, the practice was 'fashionable' up to the highest ranks of colonial government, and a popular accusation in political spats. Governor Waterham tried to get the governing council's secretary Jan Valk fired in 1736 by pointing out that he had multiple children with Waterham's enslaved cook, Tannetje (he did allow Valk to purchase the freedom of his children, however, and in 1738 even gave her to Valk in exchange for an enslaved man), and also complained of the

[62] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 65, Request by Jan Daniel Knapp, 30 August 1736, scan 10.
[63] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 65, Interrogation of Bathazar Ugenin, 28 August 1736, scan 362-364. Jean Carles, who had tended to Knapp's wounds after his encounter with Ugenin and provided a witness statement in the case, had been aware of these allegations against Bermond by Ugenin and referred to them in his own case against his employer – to no avail. NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 68, scan 69.
[64] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 67, sentencing of Balthazar Ugenin, 15 October 1736, scan 96.
[65] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 86, Summary of charges against Jan Daniel Knap, by Governor Lösner, 23 October 1743, scan 310-311.
[66] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 86, Protest issued by Jan Daniel Knapp, 30 October 1743, scan 318-329.

clerk Hellenbach who had reportedly impregnated the governor's Amerindian maidservant.[67] A few years later Waterham again wrote to the Society of Berbice directors in Amsterdam to report on "familiarities of whites with black and red women".[68] Waterham himself, however, was involved in his own fair share of scandal, having challenged the same Valk to a duel over the latter's alleged affair with his wife, and having lamentingly confessed his own infidelity with an Amerindian woman to his would-be successor Lossner, who reported everything to the Directors, which eventually contributed to Waterham's demission.[69] Sexual exploits with African and Amerindian women was thus both ubiquitous among white Berbice planters, and a rhetorical stick with which to beat one another in political and labor conflicts. While this occasionally worked for high-ranking officials such as Lossner, those of lower rank were generally unsuccessful in their allegations against superiors.

Coercion and agency

While the cases discussed above describe in detail the judgments, sentiments, and motivations of the men involved, we are left largely in the dark with regards to the experiences of the enslaved women around whom the intrigues revolved. It is clear that being enslaved added a layer of coercion to many a sexual encounter, even when this was not with a woman's own master. A rare documented instance of an enslaved woman explicitly vocalizing this can be found in a criminal court case between the black woman Amimba, enslaved in the household of the Jewish colonist Salomon Junior, and Carel Imbert, a free mixed-race military officer. They had had an altercation on the street in Paramaribo, in which Amimba had reportedly screamed out "you damned wretched mulatto, freedom makes you freemen crazy."[70] When questioned about her behavior by the authorities, Amimba stated that Imbert had repeatedly made unwanted sexual advances at her, and when she had rejected him by saying she already had a partner and wanted nothing to do with him, he had erupted in anger, beaten her with his umbrella, called her a whore, and told her that "she was only a slave, and if he destroyed her not a soul would make an issue of it."[71] Although none of the witnesses who testified in the case (all free people called by Imbert) confirmed this, Amimba's testimony reveals that she herself at least had an acute sense of what historians and theorists of slavery and marginalization have called 'bare life', a state in which one can be killed or harmed with impunity.[72] The fact that she felt emboldened to speak out against Carel, however, may have something to do with his specific status as a manumitted man, meaning she did not owe him quite the same level of deference which she was

[67] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 62, Missive from Bernardt Waterham, 21 August 1735, scan 778; inv.no. 65, Missive from Bernhardt Waterham, 5 May 1736, scan 472; inv.no. 327, act of transport, 7 May 1738, scan 7.
[68] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 73, Missive from Bernhardt Waterham, 6 January 1739, scan 25.
[69] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 72, Missive from Jan Andries Lossner, 6 January 1739, scan 101-112.
[70] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 840, Testimony of Bentie van Sobre, 21 January 1782, folio 18-19.
[71] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 840, Testimony of Amimba, 16 January 1782, folio 20-21.
[72] Giorgi Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford: Stanford University Press, 1998), cited in Felicia Fricke, "The Post-Abolition Period and Slavery in Curaçao: A Postcolonial Perspective on Oral Historical Data," *Basiton: Working Papers on Slavery and Its Afterlives* 1, no. 2 (2020): 3–7.

legally required to show to whites. Indeed, her reported comments to Imbert suggest a certain level of resentment towards someone who was previously of similar social status to herself and was now assuming an attitude of superiority, including a sense of sexual entitlement. Amimba's assumptions were not unfounded, because while Imbert faced virtually no legal repercussions for his violence against her (and Amimba was sentenced to the Spanish Buck for her outburst), his intermediate social status did complicate his legal treatment: the incident drew attention to a pattern of what the governing council called "improper familiarities with slaves": for freedmen like Imbert, who were expected to be loyal to the white slave-owning establishment, such entanglements across the free-enslaved boundary were seen as a political threat, and Carel Imbert was demoted from his rank of sub-lieutenant in the colored militia.[73]

Even in cases of clear coercion, it is still possible to read enslaved women's agency in sexual encounters. We can surmise that Wanaqua, after Jean Carles purchased her, did what she could to turn a situation she was forced into to her advantage. Margo and Fortuna, likewise, were not in a position to say no to the Surinamese Governor's son, even if he was not personally their master, but might have chosen to act agreeably as a way of (temporarily) improving their situation. Sexual and emotional labor could function as an escape from other forms of (often back-breaking) labor, and involve special privileges or material rewards. Just as in the East Indies, (enslaved) concubinage could form a path to freedom – if not for oneself, then for one's children – and thus pose opportunities for upward social mobility that were unavailable for many people in the enslaved population, such as men, elderly women, and women not in proximity to enslavers' domestic spheres.[74] Skin color also seems to have played a decisive role in this, as the majority of enslaved 'concubines' mentioned in the Surinamese and Berbice records are either described as *Moulattin* or as Amerindian (*Indiaenin* or *Bokkin*), with dark-skinned African women being considerably less likely to fulfill this role.[75]

In some cases, formerly enslaved women, through a relationship with a white slaveowner, could end up being slaveowners themselves. An example is the above-mentioned Tannetje, the Berbice governor's former cook, who was baptized Tannetje Hoop after her manumission and whose two sons were recognized by their father Jan Valk and educated as free Christians. Tannetje herself would eventually become the owner of the *Weltevreden* plantation. Records sent to Amsterdam from Berbice suggest that Hoop and Valk each had a share in *Weltevreeden* during his life, and that after he died, she was able to take over the mortgage with a considerable discount (because Valk's estate was insolvent) and take full control of the plantation.[76]

Women who acquired property through a non-marital relationship, however, were sometimes met with pushback from the colonial establishment. An example is L'Esperance, a

[73] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 174, Resolution Governor and Council, 22 February 1782, scan 27-28.
[74] Guno Jones and Betty de Hart, "(Not) Measuring Mixedness in the Netherlands," in *The Palgrave International Handbook of Mixed Racial and Ethnic Classification*, ed. Zarine L. Rocha and Peter J. Aspinall (Cham: Springer International Publishing, 2020), 367–87; Fatah-Black, *Eigendomsstrijd*.
[75] As Guno Jones and Betty de Hart point out, this translated into the racial classifications of free people, with those described as 'colored' far outnumbering those labeled 'black', and the reverse being true for enslaved population numbers documented by Van Lier. Jones and de Hart, '(Not) Measuring Mixedness in the Netherlands'; Lier, *Samenleving in een grensgebied,* 71.
[76] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 15, Resolutions December 5 1748, 613, inv.no. 100, Missive from Johan Christian Frauendorff, as administrator of *Weltevreeden*, 25 August 1749.

manumitted woman in Suriname, who had lived in long-term enslaved concubinage with her master, the plantation director and administrator Hendrik Diereriks. Diereriks manumitted her in his will, "as a reward for her faithful service," and stipulated that she would retain the right to live in his house for the remainder of her life, assisted by an enslaved man named Fortuijn as well as an enslaved woman of her choosing.[77] Diederiks also named his natural son, a mixed-race young man also named Hendrik, whom he likely conceived with L'Esperance, as his heir. The young Hendrik had been sent to Amsterdam to be trained as a millwright. Unbeknownst to his parents, however, Hendrik Jr. died in Amsterdam in 1761, twenty-two months before the death of his father in 1763. Hendrik Senior's will had specified that, should his son pass away before reaching maturity, the entire inheritance would fall to L'Esperance. The executors of Diederiks' will, however, refused to hand over the estate to the newly manumitted woman, initially on the grounds of the technicality that the young Hendrik had died before his father, and had thus never been the heir whose place L'Esperance could take in a legal substitution. When L'Esperance challenged this by suing the executors before the Surinamese civil court, however, the response of their legal counsel, L. Beudt, revealed that their objections went beyond juridical propriety, and concerned L'Esperance's status as a recently manumitted black woman and former concubine. Even if the will had directly instituted L'Esperance as the sole beneficiary, Beudt asserted, it was not clear such a role could legally be applied to concubines, and especially not "black Heathen concubines as those in this land, who make the most cunning whores look faithful." Beudt's argument also linked the case to the social status of enslaved Africans in general, whom he described as rightly being considered *personae indignae*, and to what he perceived as a worrying trend of intermixing in which white fathers recognized their mixed-race children, raised them as their own, and sometimes even attempted to legitimize them by marrying their mothers – all developments which he saw as threatening the dominant status of the white community: "before you know it the blacks are inside the carriage and whites in the driver's seat."[78] The case dragged on for years, but in the end, the Court of Justice ruled in L'Esperance's favor, and ordered the executors to grant her full possession of the estate. Although at this, *fiscaal* Jan Nepveu, outraged that "in absence of a legitimate heir, the inheritance should go to an illegitimate one", tried to intervene, this was to no avail: the case ended up with the Society of Suriname in Amsterdam, whose directors, after consulting a legal scholar in the Hague, decided not to pursue the matter further.[79] L'Esperance had won.[80]

[77] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 320, Testament of Hendrik Diederiks, 25 July 1760, folio 238.
[78] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 320, Legal advice to executors of the Diederiks estate by L. Beudt, 24 October 1763, 256-260.
[79] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 328, Instructive Memo from Second *Fiscaal* Texier, 28 February 1766, folio 176-182; Ibid., Verdict Court of Civil Justice 26 November 1765, folio 188; inv.no. 57, Resolution from Directors, 16 December 1767, folio 358.
[80] The *fiscaal*, notably, stood to gain from L'Esperance being denied her inheritance, because estates for which no legal heir could be identified could fall to his office. What likely helped L'Esperance's case, however, was that, as her legal counsel pointed out, Hendrik Diereriks Senior had himself been the illegitimate child of a white man and an Amerindian woman, and thus *ab intestato* inheritance law did not apply to him, making the question of a legal heir irrelevant. NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 320, Legal advice from J. Bollard, 26 September 1763, folio 250-255.

Christian women, honor, and status

Where European men engaged in non-marital sex with Christian women, the legal practice had many similarities with that of the Dutch Republic. There are several examples of young women taking legal action against men who had 'deflowered' them under promises of marriage, such as Debora Maria van Claveren in Suriname, who sued a young man named J.J. de Cramer in 1780 after she had given birth to his child, hoping to compel him to marry her or otherwise compensate "her tarnished honor" and provide financial support. Although she was unsuccessful in the former pursuit, the court sentenced De Cramer to pay her two hundred guilders for the cost of childbirth, and another two hundred each year for twenty years in child support.[81] In the VOC-world, too, women occasionally filed paternity suits or otherwise demanded compensation for having been 'deflowered'. The main piece of evidence in these cases, similarly to the Dutch Republic, was the child born from the pre-marital encounter, as well as the girl's declaration of the father's identity to the midwife while in labor. This proved to be a problem for Anna Maria Roeloffs, the orphaned daughter of a VOC sailor and a local woman from Colombo. This girl, age 16, had moved between various relatives' and neighbors' homes since the death of her parents, and briefly lived in the Reformed orphanage in 1779. She was evicted from the orphanage, however, when she claimed to have been impregnated by Louis Galus, a sailor who had frequented her grandmother's home outside the city. Months later, however, it became clear that Anna Maria was not pregnant after all, and Colombo's Court of Justice ruled that Galus could not be found liable for 'deflowering' her, because she had no proof, nor could he be compelled to marry her because Galus was a Catholic and Roeloffs a Protestant. Simultaneously, however, Anna Maria was described as a "dishonored daughter" in the court records, and declared to be unworthy of the orphanage's diaconal protection.[82] Anna Maria fit in a larger pattern of orphan girls coming under investigation for premarital sexuality. These cases stand out from other 'defloration' cases where young women, usually assisted by a parent, took legal action themselves and frequently won financial support for themselves. Instead, three incidents from 1721, 1762 and 1772 involving girls from Reformed orphanages in Ceylon led to criminal investigations, with the girls, far from winning financial support, being ousted from the orphanage and receiving corporal punishment. In a particularly high-profile case, from 1773 Gale, a girl named Cicilia had initially pointed to a soldier as the father of her illegitimate child, but later confessed that she had been afraid to name the true father: a married deacon of the orphanage, who then faced prosecution for adultery "with an orphan daughter that must call him father", for attempting to cover up his crime by bribing the soldier, and effectively "turning the Christian orphanage into a brothel".[83] Within Christian communities across the Dutch empire, sexual honor was a jealously guarded resource, but the extent to which young women were able to defend their honor, rather than suffering the consequences of being branded dishonored, varied considerably based on their socio-economic position. This fraught connection between sexual honor and status also becomes apparent with women further down the socio-economic

[81] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 936, folio 129-140.
[82] SLNA VOC 1.11.06.08, inv.no. 4687, scan 2-47.
[83] SLNA VOC 1.11.06.08, inv.no. 4672, folio 5-8.

spectrum, who show up in the records not claiming compensation for loss of virginity, but as engaging, willingly or unwillingly, in sexual labor.

Prostitution

In the Early Modern Period, that which in the historiography has frequently been referred to as 'prostitution' was not a clearly defined crime or economic activity in the way that it would be from the nineteenth century onward. In fact, the Dutch word *prostitueeren*, in the seventeenth and eighteenth centuries, rarely referred explicitly to sex in exchange for money, but rather to a more general exposure to dishonor, either on one's own accord or by someone else.[84] More common were the terms *hoer* (whore) and *hoererij* (whoredom), although these words were not *exclusively* used for women performing sexual labor for payment: *hoererij* included all non-marital, and thus indecent forms of sexuality and a *hoer* was a disreputable woman whose dishonor was tied to her sexual availability outside of marriage, regardless of whether money changed hands.[85] In colonial contexts, definitions became even more hazy because of the institution of slavery, which as we have seen often involved various forms of (forced) sexual labor, both paid and unpaid. In both the East Indies and the Atlantic context, the dishonored status and perceived sexual availability of enslaved women resulted in a conceptual overlap between *slavin* and *hoer*, to the point where they were almost used synonymously in certain contexts.[86]

Despite its fuzzy conceptualization, sex work as an economic activity was most certainly criminalized, although the fervor with which authorities prosecuted it varied strongly. This was true even within the Dutch Republic: in the seventeenth century, Amsterdam, which had already become a major center for sex work, prosecuted thousands of women for prostitution, whereas in other Dutch port cities such prosecutions were rare.[87] Colonial port cities, with their constant influx of soldiers and sailors, saw an enormous demand for sex work, not just in the form of concubinage arrangements, but also more fleeting encounters, often taking place in taverns and brothels, although in some places company slave lodges became known as de facto brothels, such as – infamously – the VOC slave lodge in Cape Town.[88] Just as with concubinage, enslaved women as well as other marginalized (often formerly enslaved) women turned to sex work as a way of making ends meet or to pay a master demanding coolie wages. With the exception of Deshima in Japan, where prostitution became essentially institutionalized, colonial authorities everywhere formally banned the widespread practice, and sometimes took steps to quell it. Company servants at the Cape, for example, were repeatedly forbidden to go to the abovementioned slave

[84] Instituut voor de Nederlandsche Taal, 'Prostitueeren', in *Woordenboek Der Nederlandsche Taal*, 2007, Geïntegreerde Taalbank, https://gtb.ivdnt.org/; Manon Van der Heijden, *Women and Crime in Early Modern Holland*, Crime and City in History (Leiden: Brill, 2016), 101.
[85] Lotte van de Pol, *The Burgher and the Whore: Prostitution in Early Modern Amsterdam*, *The Burgher and the Whore* (Oxford: Oxford University Press), 4--5, accessed June 28, 2021.
[86] Fuentes, *Dispossessed Lives*, 2016, 80; Brown, *Good Wives,* 332; Niemeijer, *Batavia*.
[87] van der Heijden, *Women and Crime*, 101; By the eighteenth century, however, the trend seems to have reversed somewhat, with prosecutions declining in Amsterdam and Rotterdam becoming known for its strict approach. Pol, *The Burgher and the Whore*, 97; Marion Pluskota, "Governing Sexuality: Regulating Prostitution in Early Modern Europe," in *New Approaches to Governance and Rule in Urban Europe Since 1500* (Routledge, 2020), 100.
[88] Elizabeth B. van Heyningen, "The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts," *Journal of Southern African Studies* 10, no. 2 (1984): 170.

lodge to commit "debauchery".[89] In Elmina, authorities tried to restrict both WIC servant's nightly ventures into and beyond the town and ban African women from visiting the fort.[90]

Throughout the Dutch empire, however, colonial judicial apparatuses were hopelessly underequipped to carry out a crackdown on the widespread prostitution taking place at the fringes of colonial societies at the level of a city like Amsterdam.[91] Nor does the prosecution of individual women offering sex for money (let alone their clients) seem to have been a priority. In the rare cases where prosecutions of prostitution show up in the judicial records, it was usually for organized prostitution (i.e., running a brothel) and especially if it was linked to an outbreak of violence or other forms of public disorder. In late-eighteenth-century Makassar, for example, an enslaved woman named Doe van Timor faced charges for "whoredom and the keeping of a whorehouse" after a VOC corporal, Johan Coenraad Eijff, was accidentally killed outside her home by one of her houseguests, a fellow company servant named Jacobus Buttenaer, with whom she was reportedly sexually involved. The incident sparked an investigation, in which neighbors reported that there were regularly fights and arguments in and around the home, and that Doe would arrange for women to come entertain her male guests, mostly soldiers. Doe, who identified herself as the enslaved concubine of another corporal named Johannes Rodius, with whom she had a ten-year-old daughter, denied taking the active role of a madam, but she did confirm that sex for money with enslaved women took place in her (or technically Rodius's) home. Because of this, and her involvement with Buttenaer (which she denied but Buttenaer confirmed) the prosecutor considered her in large part responsible for corporal Eijff's death:

> The many calamities and wretched accidents that have resulted from the unchaste lives, and the keeping of public and especially secret brothels, by womenfolk who have surrendered all honor and shame, are known to all, so it will not be necessary to say any more in this regard. In this case, complete proof can be found of those wretched consequences, with one comrade having taken the life of another, all because of one such lewd woman.[92]

The court agreed that Doe was guilty: although she had begged for a monetary fine rather than physical punishment "out of consideration for the shame brought onto her Christian child" she was sentenced to be lashed on her bare buttocks, followed by twenty-five years of chain labor. Ruttenaer was sentenced to run the gauntlet six times for two days and then sent to Batavia to be dealt with by the High Government.[93] Notably, Doe's master and father of her child, Coporal Rodius, was barely mentioned in the case, despite the fact that the de facto brothel was technically his home. Nor was his long-term non-marital relationship with Doe addressed as a problem: it was only her involvement with third-party men such as Buttenaer, and especially the element of organized prostitution, that the judicial authorities associated with violence and unrest.

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[89] "26 November 1681 – Verbod teen byeenkomste van Kompanjiesdienaars en slavinne, " in S. D. Naudé, *Kaapse plakkaatboek* Vol I, Kaapse argiefstukke 108061515 (Kaapstad: Cape Times, 1951), 179–80.
[90] NL-HaNA, WIC, 1.05.01.02, inv.no. 124, Ordinance 23 June 1692, scan 279.
[91] Bosma and Raben, *Being "Dutch" in the Indies*, 31.
[92] Arsip Nasional Republik Indonesia, Residentiearchief Makassar [hereafter: ANRI Makassar], inv.no. 321.1 (1780), Criminal court proceedings of Jacobus Buttenaer and Doe van Timor, folio 255.
[93] ANRI Makassar, inv.no. 321.1, Sentencing 18 May 1780, folio 190.

This is consistent with prosecution patterns in other settlements, where "unchastity" involving marginalized women generally only came to judicial attention if violence had broken out. The perceived association between prostitution and public disorder can also be seen in a 1682 piece of legislation from Batavia that was later incorporated into the Batavia Statutes. In a lengthy ordinance that addressed knife fights and other disorderly conduct among sailors and other low-ranking VOC servants (defined as anyone below the rank of second mate), violence was linked not just to taphouses and inns and the alcohol that was consumed there, but specifically to prostitutes: "daily experience shows that many accidents also take place in brothels and taverns of ill repute and vile debauchery of whores present there." The ordinance ordered an investigation into such establishments, and declared that all women who frequented or stayed in these places would be taken for whores. If caught, they would be fined twenty rixdollars and if they were unable to pay, they could be detained in a place that would be a threatening specter for many Batavian women, not just those engaged in sex work, in the years to come: the *spinhuis.*[94]

Free women and illicit sex

Dispatch from the women's workhouse

In November 1718, the VOC's newly appointed Governor-General, Hendrick Zwaardecroon, received a petition from Catharina Gabriels, ex-wife of the repatriated *Burgher* Jan Wijnen, begging to be "forgiven and pardoned for her mistakes and missteps," and to be released from the women's work house. Gabriels explained that she had been sent to the *tugthuis* (or *spinhuis*) in 1711, after a conviction from Batavia's *Schepenbank*. In the seven years since then, she explained, she had suffered in abject misery, although she patiently submitted herself to her well-deserved punishment. Now that news had arrived of her husband's passing in Europe, she felt compelled to humbly ask for release, and promised to henceforth always try to live like an honest and virtuous woman.[95]

Catharina Gabriels was not alone. When she filed her petition for release in 1718, she was joined by at least a dozen other women, all of whom had been placed in the disciplinary institution at some point in the first two decades of the 1700s. All the petitions took the same format: the women introduced themselves, explained when they had been placed in the workhouse and by which authority, and described both the extent of their misery and their own patience in enduring it, before addressing the Governor-General as a benevolent, almost God-like father-figure who could redeem and deliver them. Some women were placed in the workhouse by the *Schepenbank* like Catharina was; others, usually wives of VOC servants, were sent to the institution by the Court of Justice, either of Batavia or of one of the smaller VOC establishments, which did not have their own *tugthuis*. Johanna Castersz, for example, wife of a VOC sergeant stationed in Malacca, had been sent to Batavia by the Malaccan Court of Justice to

[94] NIP vol III, 23 January 1682, 85. The article made a distinction in punishment based on ethnic origin: *inlandsche* (i.e. South East Asian) women would be detained there with a chain around the leg.
[95] Arsip Nasional Republik Indonesia, Archief van de gouverneur-generaal en raden van Indië (Hoge Regering) van de Verenigde Oostindische Compagnie en taakopvolgers, 1612-1812 [hereafter ANRI Hoge Regering] inv.no. 1198, Appendices to Resolutions 1718, scan 539. Accessed through https://sejarah-nusantara.anri.go.id/.

serve out her eight-year sentence.[96] It was also possible for a woman to be sent to the *tugthuis* extra-judicially, however. This could be at the request of her husband or at the High Government's own discretion.[97] In July 1713, Governor-General Van Riebeeck had ordered six women to be placed in the workhouse for an indefinite period – including the sister of the well-known minister and author Francois Valentijn with her two daughters, one of whom had had an illegitimate child – on the grounds of being "of very bad behavior and living a reproachful life, even by the standards of Heathens and Mahomedans."[98] For those convicted by a court, sentences varied (ranging from five to twenty-five years) as did the crimes for which they were convicted: Annika Domingos, a *Mardijker* widow, had been sentenced to five years for illegal trade in spices, while Tabita Jansen had been interred because she could not afford to pay a judicial fine.[99] The majority of the *tugtelingen*, however, was there because of a crime or misdemeanor of a sexual nature, with the most serious being adultery. This was in line with the original conception of the institution, in 1641, when the High Government considered it necessary to have one in Batavia because:

> God forbid, it has been found that several married as well as unmarried women within this polity live such scandalous and unfettered lives, that it would not only seduce and spoil many young people, children from honorable homes, and slander the Christian name among Heathens and Moors, but also unleash the wrath of God onto this state.[100]

In a way, the *tugthuis*, or *spinhuis* as it was sometimes called in reference to the mandatory handiwork that was performed there, just as in its Amsterdam-based counterpart, was the closest thing the VOC-world had to a prison in the modern sense of the word, since the jail cells were primarily intended as pre-trial holding facilities, with judicial penalties generally being confined to monetary fines, physical punishment, or banishment, the latter of which could involve chain labor.[101] As the above quote shows, however, the workhouse was also quintessentially an institution of moral discipline tasked with protecting the honor of the Christian community, which for women first and foremost involved sexual propriety. The Batavian women's workhouse seems to have been the only consistent institution of its kind in Dutch overseas colonies during this period: women from across the VOC-world as far as the Cape would occasionally be sent there, while 'troublesome' women from Atlantic colonies such as Suriname would at times be shipped off to the *spinhuis* in Amsterdam.[102] It can be seen as

[96] ANRI Hoge Regering inv.no. 1198, scan 546.
[97] ANRI Hoge Regering inv.no. 1198, Realia 1610-1808, June 3, 1718, "Een wijff van zeker Bouginees Sergeant, word over haar ontuchtig Leven, op de klagte van haar Man, tot nader besluyt in dit huys geplaatst, 3 Juni 1718," scan 507; Accessed through https://sejarah-nusantara.anri.go.id/.
[98] ANRI Hoge Regering inv.no. 936, Resolutions 1713, scan 456.
[99] ANRI Hoge Regering inv.no. 1198, folio 527; inv.no. 1200, folio 49. *Mardijkers* were free Christian South (East) Asians, usually with a (family) background of enslavement.
[100] "Reglement voor het vrouwen-tuchthuis te Batavia," 3 July 1741, in NIP vol. I, 461. This allusion to "children from honorable homes" as being in moral danger was a common theme in Dutch legal scholarship of the seventeenth century, when referring to prostitution. See, for example, Simon van Leeuwen, *Het Rooms-Hollands-Regt, Waar in de Roomse Wetten Met Het Huydendaagse Neerlands Regt … over Een Gebragt Werden …*, 9th ed. (Amsterdam, 1678, 1720), 475.
[101] See also Kerry Ward, *Networks of Empire: Forced Migration in the Dutch East India Company* (Cambridge: Cambridge University Press, 2009), 85–126.
[102] An example is Lucia Nawich in Suriname, who after several run-ins with the law throughout her life (notably for adultery in 1750 at the age of 29) was finally banished from the colony in her old age when she was caught selling moonshine to slaves. She was sent to Amsterdam, where the burgomasters had

emblematic for colonial authorities' attitudes toward policing sexuality, however, with the vast majority of illicit sexual relations being either tacitly condoned or mildly punished, but a small group of women (disproportionately European, Christian, and affiliated with company servants) becoming the target of particularly intense moral policing.

Gender, status, and sexual morality

As we saw in the previous section, VOC and WIC authorities, especially in their early years, were genuinely concerned about the moral implications of the sexual transgressions of men and women alike, but women – and specifically Christian women – became and remained a particular subject of disciplinary intervention. Henk Niemeijer has shown this for the church in Batavia, which disproportionately censured women over men for sexual transgressions (204 compared to 90 in the final quarter of the seventeenth century).[103] The majority of these women were Asian or Eurasian, which can in part be explained by the relatively small number of European-born women in the East Indies, but Niemeijer also points to a difference in attitude, with free European women being much less likely to quietly submit to church authorities than those coming from a background of slavery.[104] No doubt economic factors played a part in this, as formerly enslaved Christian women were more likely to rely on the church for financial assistance, and thus more susceptible to disciplinary action, but white women in colonies across the Dutch empire also seem to have been emboldened by a certain socio-cultural self-confidence, or a sense that the church needed them as much as they needed it. This is illustrated by an incident from Curaçao in 1740, when a group of seventeen members of the Dutch Reformed Church, all women, wrote to the church council of the island that they would refuse to partake in the Lord's Supper while Jan van Schagen, the island's *fiscaal* and a church elder, who had offended them, was present. A denial of the right to partake in the sacrament was one of the chief tools the Reformed Church had at its disposal to discipline its members, but these women collectively turned this threat around, displaying a self-confident awareness of their presence in church as not just a right, but as something the church relied upon for its public credibility, that they could wield as a weapon of their own.[105]

A look at the prosecution rates of the Court of Justice compliments this view of gendered and racialized religious discipline: from Batavia to Cochin to Suriname, free Christian women, and especially the wives and daughters of company servants, were extremely unlikely to be tried before the criminal court, but if they were, it was usually for a sexual offence such as adultery. Of the criminal case proceedings of Batavia's Court of Justice, only 49 out of 2887 defendants are non-enslaved women, and out of the 37 for which charges are known, eleven were on trial for a sexual offence, more than any other category of crime.[106] In Cochin, 16 out of 573 defendants were free women and of these, three faced adultery charges.[107] In Suriname, as in other West-

agreed to place her in a *tugthuis*. NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 109, May 11 1780, scan 127-128; inv.no. 170, January 19 1781, scans 15, 182.

[103] Niemeijer, "Calvinisme en koloniale stadscultuur," 222.

[104] Niemeijer, 225–26.

[105] Gemeente Archief Amsterdam - Archief van de Nederlandse Hervormde Kerk; Classis Amsterdam, 379, inv.no. 225, scan 22-23.

[106] Rossum et al., "Court Records Batavia."

[107] Rossum et al., "Court Records Cochin."

Indian plantation colonies, it was extremely rare to see a free woman, let alone a white woman, tried before the criminal court, with the vast majority of defendants being enslaved people on trial for running away or other forms of resistance against the slavery system. But where there was a criminal prosecution of illicit sex, white women were disproportionately represented. In the year 1750, for example, only 38 out of 235 defendants before the Court of Policy and Criminal Justice were female, and of these, 28 (74%) were enslaved black women. Of the eight white women appearing before the court that year, one was on trial for adultery (the only adultery prosecution the court saw that year), one for slanderous accusations of adultery, one for pre-marital sex, and one for running off with a group of soldiers. Conversely, among other population groups, offences related to sexual morality represented only a tiny fraction of criminal cases.[108]

While the consistent over-representation of sexual offences among (free) female defendants *and* that of female offenders among trials pertaining to sexual morality suggests that women's sexual transgressions were a hot issue for colonial authorities across the empire, the small number of cases, in an absolute sense, leaves us with a problem. It is difficult to say how representative the women in these cases were of the general population, not only because the majority of women having non-marital sex were never prosecuted, but also because those that were did not necessarily get recorded in the judicial archives. The majority of the inmates of the women's workhouse discussed above, for example, do not appear anywhere in the records of Batavia's Court of Justice. As with other criminal offences, the case might be resolved extrajudicially (through an appointment by the political authorities or an agreement with the prosecutor, although no records exist for the latter) or simply not be copied onto the records sent to the Netherlands, so any attempts at quantitative conclusions are compromised. What *is* possible, however, is to take a closer look as some of these cases and thus identify patterns in the circumstances in which women committed sexual crimes (and were caught!) as well as patterns in the attitudes taken by colonial authorities towards these offences.

Adultery in colonial spaces

The colonial historian Frederik de Haan, in his discussion of Batavia's *spinhuis* describes the institution as virtually empty by the late 1700s and explains this as a result of a fading interest in policing women's sexual infractions throughout the eighteenth century due to a loosening of moral standards.[109] While this seems to be true for the final decades of the century, when convictions for sexual offences become rare, around the mid-eighteenth century women were still quite regularly sent to the institution through a judicial sentence, and often for fifty years, longer than any of the women sentenced to the workhouse at the start of the century. One explanation for this is that, by this point, sexual offences that resulted in shorter or indeterminate institutionalisation, such as premarital sex, prostitution, or unspecified 'immodest' behavior, were rarely prosecuted anymore, while adultery was.

[108] Data provided by Karwan Fatah-Black, Imran Canfijn, and Ramona Negrón; NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.nos. 346, 550, 800, 801, NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 142.
[109] F. de Haan, *Oud Batavia: gedenkboek uitgegeven door het Bataviaasch Genootschap van Kunsten en Wetenschappen naar aanleiding van het driehonderdjarig bestaan der stad in 1919* (Batavia: Bataviaasch Genootschap van Kunsten en Wetenschappen, 1922), 295.

Adultery, along with incest, was among the most serious sexual crimes: the Political Ordinance of Holland, the Dutch legal text on marriage and (hetero)sexual offences which was widely applied throughout the Dutch Republic and much of the Dutch overseas world, prescribed a banishment of fifty years for married women who committed infidelity, regardless of whether their lover was also married or not. Married men faced this punishment only if they committed adultery with a married woman, or if they were caught with an unmarried woman multiple times. For singular instances of infidelity of married men with single women the Ordinance was milder, prescribing only a two-week confinement and a monetary fine.[110] Early colonial legislation on the matter was considerably stricter, with seventeenth-century ordinances in Suriname as well as Batavia and Ceylon prescribing the death penalty for adultery.[111] This seems to have been mostly rhetoric, however, and rarely applied in practice. The Batavia Statutes, moreover, of 1642 returned to the level of severity found in the Political Ordinance, prescribing a fine of 100 reals in addition to fifty years of banishment for adultery involving a married woman, specifying that women would be 'banished' to the workhouse while men could either be 'banished' *ad opus publicum* (i.e. sent off for forced labor) or simply banished from VOC-territory.[112] The latter, in practice, was generally applied to VOC servants and other Europeans and the former to Asians and some low-ranking Company servants. Women, if found guilty, were indeed sentenced to a fine and fifty years in the *spinhuis* quite consistently.

Although marital infidelity is a timeless phenomenon, the circumstances under which it comes about and is (or isn't) prosecuted vary historically. Historians of the Dutch Republic such as Manon van der Heijden have shown that the VOC, along with other maritime employers, played a role in the high rates of women on trial for adultery in port cities such as Rotterdam and Amsterdam. Because sailing husbands frequently never returned home or were absent for years, often without their wives receiving word from them, many women ended up in a new relationship without definite proof of their husbands' death, and since divorce was difficult to obtain in this situation, such women could face adultery charges.[113] On the other side of this coin were the Dutch colonial settlements where many of these husbands and their unwed shipmates ended up, whether permanently or temporarily. Although most of them, as we have seen, never married overseas, instead opting for less formal romantic and sexual arrangements or encounters, some did. And although marriage to a local woman to a certain extent served to tie European men to the region they ended up in – a fact which was actively encouraged by particularly the VOC, which put rules in place that prevented employees married to Asian-born women from repatriating – many of these marriages were sill marked by transience and impermanence. This was in part due to the nature of the work in and around many, and

[110] Cornelis Cau, ed., 'Ordonnantie vande Policien binnen Holland, in date den eersen Aprilis 1580', in *Groot placaet-boeck, vervattende de placaten, ordonnantien ende edicten van de Staten Generael der Vereenighde Nederlanden, ende van de Staten van Hollandt en West-Vrieslandt, mitsgaders van de Staten van Zeelandt*, Vol 1 (The Hague, 1658), art. 14–17.
[111] Surinamese Ordinance of 19 February 1669, in *WIP-S*, 33–35; "Renovatie en ampliatie van door verloop van tijt ombedwongenheijt der ingesetenen ofte negligentie der officieren niet achtervolcht worden ordonnantien en plakaten betreffende concubinage overspel en bloedschande," Batavia 20 July 1622, in NIP vol I, 100; "Besluit waarbij de doodstraf ingevoerd wordt voor overspel door inlandse vrouwen van nederlanders gepleegd," Colombo 14 November 1659, in CP vol I, 48–49.
[112] "Van verscheijde misdaeden ende eerst van hoererije ende overspel," in NIP Vol I, 586.
[113] Van der Heijden, *Women and Crime*, 7.

especially trade-based, colonial settlements: whether hailing from Europe or locally born, soldiers, sailors, and to a certain extent also merchants, even when they were married, had a semi-permanent home at best. The result was that colonial port towns, just like cities such as Amsterdam, Hamburg, or Rotterdam, were populated by married women who lived much of their lives alone, often fending for themselves economically and sometimes even conducting trade on behalf of or independently of their husbands.[114]

Among colonial authorities, anxieties about these women's (often precarious) economic situation and their sexual virtue could become intertwined. In Curaçao in the mid-eighteenth century, this resulted in a dramatic investigation and prosecution of two wealthy Jewish islanders, accused of attempting to commit adultery with impoverished Christian women, with one woman accusing one of the suspects of taking advantage of her husband being away at sea, while offering to forgive a debt if she slept with him.[115] Husbands themselves also expressed concerns about their wives' fidelity while they were away at sea, while other men permanently left their wives and repatriated, despite laws that were meant to prevent this. Their (ex-)wives were frequently left in a similarly vulnerable position to the many widows and single women that populated colonial port towns such as Batavia and Willemstad, with the significant difference that the legal authorities still viewed them as married women. This could get them in trouble if they, like so many women, formed a new relationship with a man as an economic strategy.

One such woman was Margaretha Lijpard from Batavia, described in the VOC's records as "the separated wife of the repatriated junior merchant Cornelis Coster." It is not specified what had prompted the separation, but it is clear that Margaretha's standard of living, which previously must have been quite respectable, took a turn for the worse after Cornelis returned to the Netherlands. She received ten rixdollars a month from the Company – likely arranged by her husband, as men who were given permission to repatriate without their wives were required to provide for them financially – but this was considerably less than what a junior merchant's family would have lived on in the second half of the eighteenth century.[116] She was forced to move in with her mother and stepfather, the soldier Matthias Herman. To make ends meet, her parents took in a lodger for twenty rixdollars a month, the German military captain (in VOC employment) Ferdinand Willem Van Leben, who had recently separated from his wife. Van Leben took a liking to Margaretha, and his affections were encouraged by Matthias Herman, who apparently saw them as both an opportunity for his stepdaughter's social advancement and an excuse to ask for more rent from Van Leben.

It all came crashing down when Margaretha sent a note to Ferdinand to inform him she was pregnant with his child. Ferdinand responded by getting on the first ship bound for Europe and once there, ending his fifteen years of company service. Before his departure, however, he had

[114] This was not limited to Europeans: the Chinese-Javanese woman Lim Tjinio, whose husband Pouw Tieko was frequently away from their home in Semarang, traded in ginger opium without her husband's involvement, which only became a problem when Pouw died, and she needed to prove that the property she had amassed was rightfully hers. ANRI Notarissen inv.no. 6390, #1691.
[115] NL-HaNA, WIC, 1.05.01.02, inv.no. 583, Documents regarding the prosecution of Mordechaij Parera, 1737, folio 169-217.
[116] Cornelis Coster's salary had been 40 rixdollars a month, but it is likely his real income was higher than that, as his position would have enabled him to engage in profitable private trade. NL-HaNA VOC 1.04.02 inv.no. 5253, civil servants registry, folio 5.

given a stack of incriminating notes from Margaretha and Matthias to October, an enslaved boy in the service of his mother-in-law, and ordered him to give them to his estranged wife, Anna Christina Hendriks. Confident that, safely on his way to Europe, he would not face prosecution, he thus gave Anna Christina evidence of his adultery, which she could use to file for divorce. This she did, and this brought what had transpired between Margareta and Ferdinand to the attention of the authorities.[117] Both Margareta Lijphard and her stepfather were prosecuted, she for double adultery, and he for "conniving" this offence. Margaretha initially defended herself by claiming that Van Leben had forced her, then that he had seduced her under false pretenses and promised to take her with him to Germany and marry her there. Promises of marriage *could* be a mitigating factor in some circumstances – notably in case of pre-marital carnal conversation, in which young women could frequently avoid punishment if they could prove there had been a mutual agreement to wed. Since Margaretha was still technically a married woman, however, the court did not accept this defense, and she was sentenced to fifty years in the women's workhouse.[118]

Margaretha and Ferdinand met in the domestic sphere while he was a lodger, which was a common pattern in VOC Asia, where people rarely lived in nuclear households, instead sharing their homes with (enslaved) servants, family friends, and long- and short-term guests and lodgers. The social lives of married women, moreover, were largely confined to the domestic space. Elite women in particular lived strongly segregated lives, not participating in the Dutch-speaking, commercially oriented world of their husbands, and with their outings largely confined to church and the homes of female friends.[119] It is thus not surprising that many adultery cases involving the wives of Europeans started in the intimate domestic sphere. In addition to family members and houseguests, the people with whom married couples lived in closest proximity were enslaved domestic servants.

No one knew more about what went on behind closed doors than a *lijfslaaf* or *lijfslavin* (enslaved personal attendants) who frequently even slept in the same room as their master or mistress, served as messengers, and were frequent confidants. As a result of this intimacy, houseslaves were almost invariably involved in cases of adultery coming to light, playing a considerably more important role in adultery cases than neighbors, who were generally a prime factor in prosecutions of sexual transgressions in Europe.[120] Enslaved people who witnessed adultery, and especially enslaved women attending to the lady of the house, faced a delicate dilemma: keep their mistress' secret, or inform the husband, who legally was the ultimate authority in the house. Betraying a mistress' trust could have dire consequences in the form of retribution, but there are also cases of enslaved women who helped cover up their mistress' secret affair being prosecuted as accomplices to adultery. In 1736 Batavia, three enslaved women named Tjindra, Cassandra, and Sitie, who had helped hide their mistress Anna Maria Keppelaer's infidelity from her husband, faced a punishment of lashing and branding under the gallows followed by twenty-five years of chain labor for their complicity and for lying to their master. Other slaves in the household, who had not actively assisted, nonetheless reported that

[117] For the civil divorce proceedings, see NL-HaNA VOC 1.04.02 inv.no. 9268, CivR, scan 537.
[118] NL-HaNA VOC 1.04.02 inv.no. 9323, Sentencing of Margaretha Lijphart, 11 June 1761, scan 97.
[119] Taylor, *The Social World of Batavia*, 59; Singh, *Fort Cochin in Kerala*, 111.
[120] Van der Heijden, *Huwelijk in Holland*, 259.

they had been afraid to tell their master what was going on, and had only told a fellow enslaved man, who had then informed Anna Maria's husband. [121]

A complicating factor was that an enslaved witness' testimony, on its own, was not admissible in court. This becomes clear in the case of Camoenie van Boegis, an enslaved woman who was caught, dressed as a boy, trying to flee from Batavia to Siam. When questioned by the VOC authorities, she related how her mistress Maria Elisabeth Andriesz, the Eurasian wife of *burgher* Carel August Weijsenaar, had committed adultery with the Chinese man Tan Tjauko. An investigation was started, and Camoenie's story was confirmed by Jockiam van Batavia, who had previously been enslaved in the household of Tan but had also spent time working in the Weijsenaar home. Both young women confirmed that they had seen Tan Tjauko on multiple occasions smoking a pipe in the Weijssenaars' living room, after which he went upstairs with Maria Elisabeth Andriesz and spent the night, seemingly with her husband's consent, who went into a different room. It was their word against that of Andriesz, Weijssenaar, and Tan, however, who all denied any allegations of adultery. The prosecutor who handled the case refused to believe their testimony, arguing that while domestic servants could legally testify on what they had witnessed in their employers' homes, *enslaved* servants could not. This was, firstly, because slaves were considered "vile and abject persons" whose testimony, especially when standing on its own, held little weight, and secondly because the law did not allow enslaved servants to testify against their masters. The prosecutor also brought up the fact that Camoenie and Jockiam were Muslims, "whose testimony against Christians cannot stand," and the fact that "these *slavinnen* are Indians, whose mischief and vile nature is known to all" and whose tales must therefore be rejected.[122] Andriesz and Tan were cleared of all charges and Camoenie was sentenced to a lashing for her escape attempt, but she was not returned to her mistress. Instead, she would be sold, with Andriesz banned from purchasing her, "because it is to be feared that her mistress will avenge herself in a cruel manner on this Camoenie over the latter's accusation of illicit conversation between her mistress and the Chinese Tan Tjauko."[123]

These patterns are not unique to Batavia: from the Dutch East Indies to the Caribbean, enslaved people simultaneously took a position of trusted intimacy that frequently made them prime witnesses in adultery cases, and were treated with suspicion and distrust when offering legal testimony, with repudiations of slaves giving incriminating testimony against their masters bleeding over into more generalized ethnic and racial prejudice against non-Christian and non-white witnesses. Jessica Roitman and Aviva Ben-Ur have shown this for Suriname and Curaçao, highlighting how not just enslaved witnesses but also free Afrodescendants who leveled accusations against members of the (white) Sephardic community were both highly knowledgeable due to their intimate entanglement with that community, and in a vulnerable position, risking retribution for going against the colonial and communal hierarchy.[124]

[121] NL-HaNA VOC 1.04.02 inv.no. 9375, Criminal case files Anna Maria Keppelaer, 1 February 1736, scan 349- 413; In the end, they were sentenced to a lashing on the buttocks, after which they were returned to their master's home, who was obliged to send them away from Batavia within six months. NL-HaNA VOC 1.04.02 inv.no. 9300 , 11 February 1736, scan 224.
[122] NL-HaNA VOC 1.04.02 inv.no. 9318, 17 September 1755, scan 20-23.
[123] NL-HaNA VOC 1.04.02 inv.no. 9318, 22 December 1755, scan 140.
[124] Ben-Ur and Roitman, "Adultery Here and There."

Crossing the (racial) line

There is one pattern of prosecutions that stands out, both for its consistency across the early modern Dutch empire and for the intensity of colonial authorities' reactions, and that is that concerning sex (and particularly adultery) between European or European-affiliated women and racialized, non-Christian men. No other sexual transgression elicited such vitriolic outrage from prosecutors and courts, or was punished as harshly, with the exception of sodomy – an act which shocked authorities' sensibilities so much that concerted efforts were made to obscure its existence. Legislation specifically targeting inter-religious and inter-ethnic sex started almost immediately after the start of Dutch colonization, with Jan Pieterzoon Coen in 1622 mandating the death penalty for any "unchristian" who "instigated" sex with a Christian (woman).[125] This rule would become entrenched with the 1642 Batavia Statutes, and remain in place for the duration of VOC rule. The Statutes also specified that an enslaved man who committed "dishonor" with a free woman would be banished *ad opus publicum* for life, unless the woman was Dutch, or the wife or daughter of his master. In that case, and even if it had just been a "solicitation" of unchastity, the enslaved man would be put to death, "without mercy".[126]

The definition of "Dutch", in this context, was flexible. What becomes clear from the cases where, in practice, judicial and administrative authorities decided to act, was that the women whose sexual honor must be guarded from outsiders were those who in some form or another were seen as belonging to the groups whose proliferation and social dominance the companies sought to promote: company servants first and foremost, Europeans in a secondary sense, and to a lesser extent Christians in general. Christian women, even if they had no European relatives, could be prosecuted if they had sex with non-Christian men, because such pairings undermined efforts to grow a Christian community whose religious affiliation facilitated the Company's control over the population.[127] That it was primarily Christian women's promiscuity outside the Christian community that came under scrutiny, and not Christian men's, can be explained in part by traditional notions of women as 'vessels' of the next generation, and in part by the fact that the father and husband's religious and ethnic identity was understood to determine that of the children.

In addition to communal reproduction, a prime factor at play for women affiliated, through marriage or parentage, with VOC servants and other Europeans was honor. A woman's consorting with a man whom the VOC and larger European community considered to be inferior – an enslaved man being the most acute example – was humiliating for both her husband or father and to the Christian, European community at large. Sex with someone identified as an outsider of even an enemy, such as a foreigner or a non-Christian, especially if he was Muslim, was considered outright betrayal.[128] In these cases, questions of individual honor and threats to the larger colonial project intertwined, as becomes clear from a series of cases and ordinances

[125] NIP vol. I, 20 July 1622, 99-101.
[126] NIP vol. I, *Statuten van Batavia,* 5 July 1642, 586-587.
[127] An example is the Christian Malay women Jerisina in Malacca, who was prosecuted for 'carnal converation' with a Chinese man. British Library: India Office Records and Private Papers, Judicial Minutes, IOR/R/9/16/2: "Minutes of the Council of Justice Malacca," August 7–20, 1748. See also Sophie Rose and Elisabeth Heijmans, "From Impropriety to Betrayal: Policing Non-Marital Sex in the Early Modern Dutch Empire," *Journal of Social History* 55, no. 2 (2021): 315–44.
[128] Rose and Heijmans, 325.

from Ceylon in the 1650s when the VOC was establishing and consolidating its territorial control on the island. In 1658, there were multiple complaints from VOC officers stationed on the island who had married local women, that their wives had committed adultery with "native men, who are vile and lowly persons". One woman, the wife of lieutenant Nicolaas Jacobsen, had been whipped as part of her punishment, but Company officials still considered this insufficient. The offense was so serious, they argued, that it required the deterrent of the death penalty:

> Especially since the Company intends to found a colony here with native women, and will never be able to achieve this objective without exterminating that horrible and unbearable crime of adultery, nor can we come to an honorable propagation of our own nation, without first purging the marital state from that evil poison and rigorously eradicating that horrific unchastity once and for all, as an example to others.[129]

A year later, after having consulted with the Gentlemen XVII and the High Government in Batavia, the Colombo council issued a public ordinance on the matter, stating that

> Whenever a native mestiza or black woman who is married to a Dutchman should commit infidelity and thus come to break the dignity of her marriage and the respect of the nation through adultery, [and] have intercourse with a native man, slave or any other black and her equal, that same woman shall be […] punished with death, along with the adulterer.[130]

The Ceylon ordinance was a bit of an anomaly: in most other Dutch overseas settlements, harsh punishments such as the death penalty were reserved for the racialized men who slept with Christian women, with the women themselves generally being punished on equal level to those who committed adultery with Christians. There were cases, however, where prosecutors tried to argue for harsher punishments for women, too, on the ground of the status of those involved. Anna Maria Keppelaer in Batavia (whose three female slaves were convicted as co-conspirators in her adultery) was sentenced to fifty years in the women's workhouse and a fine of one hundred reals, but the prosecutor had argued for the additional punishment of branding and lashing, because the adultery had been with a slave. The standard penalty, he argued, only applied to "adulterers of equal standing, condition, and birth," and this case was worse, because the debased social status of the adulterer made the transgression extra humiliating to Anna Maria's husband, VOC servant Govert Christian van Drammen. Anna Maria's own status was also discussed: she had been born out of wedlock to an enslaved woman and her master, a Dutch Company servant. She was marked as "Dutch," however, because her father had recognized her as his "natural daughter," raised her in the Christian faith, and manumitted her, and especially because she was married to a Dutchman.[131] In the end, Anna Maria was sentenced in the same way as other VOC wives who had committed adultery: she was sent to the women's workhouse for fifty years and had to pay a fine of one hundred reals. Alexander van Boegis, the enslaved man with whom she had had her secret affair, was punished considerably more harshly than her, but

[129] CP-I, Ordinance #39, 19 November 1658.
[130] CP-I, Ordinance #51, 14 November 1659. See also Rose and Heijmans, "From Impropriety to Betrayal," 329.
[131] NL-HaNA VOC 1.04.02 inv.no. 9375 CrimPr 1736, scan 349-413.

not as deadly as some other men of his station: he was lashed and branded and sent off for chain labor for life.[132]

Even when a woman had no formally recognized relationship with a European, sexual encounters across religious lines and boundaries of the colonial social hierarchy could be enough to provoke a prosecution. One example is that of Helena Box, a Christian woman living in Makassar, who had been the concubine of a European Corporal and had taken over his home and his servants after his death. In 1780, it came to light that she had an affair with her Muslim servant Moesoe. Moesoe had been in debt bondage to the Corporal and lived in the house alongside the enslaved servants along with his wife Nieba. After the Corporal died and Helena effectively became the mistress of the house, she ordered Moesoe to divorce his wife and move from the slave quarters to her bedroom. As the enslaved servants would later report, Moesoe and Helena would dine together at her table, and she gave him expensive clothes as gifts. The authorities caught wind of the situation when Moesoe was arrested on a different matter and Helena, afraid that Moesoe would tell the authorities of their relationship, fled the city. She was eventually caught, and was tried for "the most shameful familiarity with a Mahomedan." Moessoe was sentenced to twenty-five years of chain labor, and Helena, whose behavior was said to have "disgraced Christianity," banished for life.[133] It is likely no coincidence that Moessoe's identity as a Muslim was highlighted: in the VOC world but especially in Makassar, Christianity functioned as an important marker of political allegiance and Islam, conversely, was associated with hostile foreign polities surrounding the VOC enclave, so converting to Islam or having a relationship with a Muslim was akin to treason.

Christians with an 'outsider' status could face aggravated charges, too, however, as was the case for a Siam-based Luso-Asian shipbroker who started an affair with a Batavian woman and attempted to transport her outside of VOC-territories, and was sentenced to death: this Anthonio de Britto Lagos spent time in Batavia in 1755 and befriended a local Luso-Asian *burgher* family, the De Remedios. He grew particularly close with Margaretha de Remedio, the eldest daughter, who had recently separated from her husband, a former VOC assistant. The two began a sexual relationship, and Anthonio eventually convinced Margaretha to move to Siam with him, assuring her that with her embroidery skills she could make a good living there. The pair boarded a Siamese ship along with Margaretha's eleven-year-old sister, who had been betrothed to Anthonio's son, and a handful of enslaved servants. The ship was intercepted by VOC authorities and Anthonio and Margaretha were tried in Batavia, both for adultery and for the transport of Margaretha and her sister out of their father's home without his permission. Margaretha was sentenced to twenty-five years in the workhouse, plus a fine of 100 rixdollars; Anthonio, although a Christian, was given a harsher sentence, possibly in part due to his status as a foreigner: he was sentenced to death by hanging.[134]

In the West-Indies, sex between European-identified women and enslaved or otherwise subaltern men was also a far greater threat to colonial authorities' sensibilities than the reverse, but here the emphasis was more explicitly on race and skin color than religion or ethnic

[132] NL-HaNA VOC 1.04.02 inv.no. 9300, Sentencing 11 February 1736, scan 224.
[133] ANRI, Makasar , inv.no. 321.2, Criminal case files 1780.
[134] NL-HaNA VOC 1.04.02 inv.no. 9318, Sentencing of De Britto lagos and De Remedio, 15 May 1756, scan 293.

affiliation. Here, the women whose sexual honor was anxiously protected were *white* women, and the men whose sexual encounters with such women were utterly taboo were those described as "Negroes," "Mulattoes," and "Indians". The first recorded piece of legislation that explicitly targeted this type of interracial sex comes from Suriname, in 1711, and was issued after two white women were found to have given birth to children fathered by black men.[135] "To prevent such disgraceful and unnatural fornication and adultery in the future" it was pronounced that any unmarried white woman caught having "carnal conversation with a Negro," would henceforth be whipped and banished from the colony for life. A married woman would receive the same punishment, in addition to being branded. The black man involved, in either case, would receive a death sentence.[136] The colony of Berbice, in 1741, imported this ordinance from its larger neighbor, but modified it to include Amerindian men who, if enslaved, would receive the same punishment as black men who had "carnal conversation" with a white woman. A free Indian, the Berbice version stated, would not be put to death but instead would be whipped, branded, have his ears cut off and put in chains to work as a slave to the colony.[137] This addition was likely informed by the fact that, earlier that year, an unmarried white girl had been impregnated by an Amerindian man, the revelation of which had caused her fiancé to break off his already pre-registered marriage to her.[138]

Although the Surinamese version of the law did not mention Amerindians, in practice all enslaved men, whether black or Indigenous, were included. Nor was the ban limited to white women of the Christian faith: in 1730, Hanna (or Ganna) Levy, an unmarried Jewish girl belonging to Suriname's Ashkenazi community, was caught by her neighbors having "carnal conversation" with Jan, "an Indian slave of her uncle Jacob Polak".[139] Jan was sentenced to death by hanging and Hanna was banished from the colony for life, although the Government had considerable trouble getting her out: the scandal attached to her was so great that no skipper sailing for Holland was willing to take her aboard, so that the Council had to resort to randomly assigning her to someone, and finding a Jewish family to escort her on the journey.[140]

After this point, however, it seems to have been extremely rare for relationships between white women and non-white men to come to light, and indeed, by the 1760s Surinamese authorities believed that these pairings no longer took place in the colony. This observation was made in the Surinamese Government's written deliberations on whether the free black woman Elisabeth Samson should be allowed to marry her white, considerably younger, intended groom, which included reflections on whether any mixed marriages should be permitted:

> It is also worrisome [...] to approve such marriages without reservations. Would white women, eager to wed, not get the idea to manumit Negroes in order to marry them? And with that, wouldn't they want to marry free Negroes? In our time – God be thanked – we

[135] For the details of this case, see Hilde Neus, "Seksualiteit in Suriname: Tegenverhalen over liefde en 'vleselijke conversatie' in een koloniale samenleving," *De Achttiende Eeuw* 53, no. 1 (January 1, 2021): 176–77; Rose and Heijmans, "From Impropriety to Betrayal," 331–32.
[136] WIP-S vol 1, #277.
[137] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 82, Council Minutes 5 December 1741, folio 274; Ordinance 6 December 1741, folio 412.
[138] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 80, letter from Predikant Frauendorff, 10 May 1741, scan 86.
[139] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 258, scan 260-269.
[140] Ibid., inv.no. 132, Minutes 26 April 1731, scan 654.

> do not see that infamy of mixing, as in the past, when under Governor Jan de Goijer, it was necessary [...] to forbid white women that reprehensible mixing [...] and to institute the death penalty against those Negroes. [141]

It thus seems that the threat of violent punishment, along with social stigma, was a strong enough deterrent to make these types of pairings rare, or at the very least prompted inter-racial couples to take increased efforts to hide their relationship, most crucially through birth control. It is also likely that stigma propelled husbands and other family members finding out about wives' or daughters' affairs to deal with them within the domestic sphere rather than face the public shame that came with turning to the authorities.[142] By the 1760s, moreover, the number of white women in the colony was already significantly less than at the start of the century, meaning the chances of a white woman giving birth to a mixed-race child and thus being caught were smaller.

Conclusion

Sex outside of marriage was ubiquitous across the Dutch empire, and colonial authorities were aware of the limits of their control in this respect. Although Dutch law and Christian morality were in agreement that no form of sexuality other than heterosexual, reproductive intercourse within a legally sanctioned marriage was permitted, it is clear that not all sexual transgressions were policed and punished equally. While some transgressions, such as sodomy, were considered so severe that they were almost always prosecuted harshly when they came to light, for most forms of illicit sex authorities' attentions were selective: 'fornication' that did not involve Christians was rarely the subject of legislation or prosecution, and where Christians were involved a clear hierarchy of severity based on configurations of gender, race, and status is observable. European men's non-marital and inter-ethnic relations were the topic of many a pastor's lamentations, but were largely met with colonial governments' silence or even accommodation, unless there was reason to believe disorder or violence might arise, as with some forms of organized prostitution, unauthorized mobility of low-ranking men, and resistance from enslaved or neighboring non-Christian populations female sexual partners hailed from.

Women classified as white, European, or Christian, however, were the target of considerably more intense control when it came to non-marital sex, just as non-European men they engaged with were targets of often violent – sometimes even deadly – judicial intervention in a way that non-Christian, non-European women rarely were. This came down, in part, to the pragmatics of reproduction: Christian women in Asia, and white Christian and Jewish women in the Caribbean, being relatively in short supply, were expected to have children with men from their own communities, and thus help perpetuate those communities. An illegitimate, mixed-race child born to such women was thus considered unacceptable. The gendered role of honor in communal status and power, however, also played a significant role: women's honor, more so

[141] Ibid., inv.no. 321, 2 February 1764, scan 334.
[142] Judging from the Scottish soldier John Stedman's account, the legal and social norms in late-eighteenth century Suriname were still largely the same as they had been in 1711: "[...] should it be known that an European female had an intercourse with a slave of any denomination, she is for ever detested, and the slave loses his life without mercy – Such are the despotic laws of men in Dutch Guiana over the weaker sex." John Gabriel Stedman, *Narrative, of a Five Years' Expedition against the Revolted Negroes of Surinam in Guiana, on the Wild Coast of South America, from the Year 1772 to 1777* (London: J. Johnson & J. Edwards, 1796), 297.

than men's, was defined by sexual virtue, while simultaneously women's sexual honor reflected on the status and respectability of their husbands, fathers, and even wider communities. In colonial societies where authorities had an interest in maintaining an exclusive free Christian and more-or-less European community whose status was elevated above that of neighboring groups, the dishonoring of one's 'own' women by an outsider or social inferior was particularly offensive.

The sexual encounters discussed in this chapter, whether they were consensual or coercive, were criminalized not as offences against a private victim, but as affronts to the public order. Even in case of adultery, which *was* conceived as a crime with an injured party (i.e. the adulterer's spouse) who could seek justice, prosecutors could take unilateral action, not on behalf of the individual victim, but on behalf of the community and its social order. In the following chapter, this hazy line between 'public' and 'private' conceptions of crime will be explored further, through the lens of rape – a particular form of illicit sex which, due to of its violent or coercive nature, by definition involves a conflict between two or more private individuals, but one with frequently extensive social and political implications. Just as the severity and meaning of sex outside of marriage depended heavily on one's place within (colonial) society, the question which forms of sexual violence constituted rape, and what was to be done about it, was not a given, and not the same for everyone.

Chapter 5. Rape, violence, and power

Introduction

We have seen how colonial authorities and institutions throughout the Dutch empire gave shape to colonial societies by regulating which forms of marriage, sexuality, and intimacy were legitimate and (selectively) policing sexual relations that fell outside those definitions. Sexual violence – rape, sexual assault, or coerced sex – is difficult to place within this framework, because early modern conceptions of sexual misconduct do not align neatly with sexual violence or rape as a contemporary analytical category. Non-consensual sex could be perfectly legal (i.e. within the context of marriage) while in many prosecutions of illicit sexuality violence or coercion played only a secondary role, if any. Nevertheless, examining sexual violence in the early modern Dutch empire – while recognizing that this is an external methodological imposition – is valuable because it allows us a peek into norms governing both sexuality and power in its many facets within diverse colonial societies at a level of intimacy that is rare in historical sources. This chapter therefore will examine how crimes related to sexual violence were conceived and responded to in Dutch colonial settlements: what did 'rape' mean to different communities and institutions, what courses of action could those involved in it take, and what role did prosecutions of offences pertaining to sexual violence play in the social order of strongly hierarchical colonial societies? When did it function as a 'private' legal conflict between an aggrieved and an accused party, and when did authorities treat it as a threat to public order regardless of a whether a victim sought legal recourse? To answer these questions, the first section will establish how the early modern Dutch legal system conceptualized and regulated various forms of what can loosely be grouped as 'rape'. The rest of the chapter, then, will dive into the complexities of the legal practice, beginning with a brief overview of the - highly limited – data available, followed by an examination of specific legal cases highlighting the strong context-dependance of sexual violence and its prosecution. The final section will focus on a particular aspect of colonial societies that strongly shaped the occurrence, meaning, and implications of sexual violence in the early modern period: enslavement.

Conceptualizing rape

The terms on which rape has been defined as a crime have shifted historically and varied depending on context and the social position of the parties involved. The role of consent – so essential in contemporary understandings of sexual violence – has been particularly complex and subject to change. The Middle Ages are often described as a period in which rape was conceived primarily as a property offence, a form of theft not against a woman herself but against the man to whom she belonged (father or husband), with the question of her experience being legally irrelevant.[1] This view has been challenged somewhat recently by Carolyn Conley, who argues that rape and sexual assault were certainly viewed as crimes of violence in the Middle Ages and that the property-oriented legal treatment of rape in the High Middle ages should be

[1] Manon van der Heijden, "Women as Victims of Sexual and Domestic Violence in Seventeenth-Century Holland: Criminal Cases of Rape, Incest, and Maltreatment in Rotterdam and Delft," *Journal of Social History* 33, no. 3 (March 1, 2000): 623–44.

understood in light of increased upper-class concerns with the abduction of heiresses.[2] In Dutch this latter phenomenon is known as *schaking,* defined by Rolf Hage as the act of trafficking a woman away from her family – with or without her consent – against her family's wishes, with consequences not only for the inheritance of wealth and titles, but also the family's honor and reputation. In this context, consent was a qualifying but not a defining factor: if the young woman had eloped on her own volition, the *schaker* was still considered guilty because the damage to the family's (social) capital was no less severe, and families often attempted to paint the man as a scoundrel who got his way through seduction and deceit, in order to paint the daughter as innocent.[3]

The notion of rape as a violation of a woman's individual will, however, did begin to take more hold in jurisprudence starting in the sixteenth and seventeenth centuries, with English Common Law defining rape as "carnal knowledge of a woman forcibly and against her will" and Dutch legal scholar Grotius describing it as "the severest of all injuries," with 'injury' being a crime against freedom.[4] Both due to the pain it caused and due to the damage it caused to their marriage prospects, "because a woman if ravished is less likely to marry her equals," victims were entitled to compensation, either in the form of monetary payment or marriage.[5] Grotius' younger contemporary Simon van Leeuwen used a similar definition to English Common Law, except with an emphasis on the dishonor done to a woman by the act.[6] Similarly, the *Echt-Reglement* of 1656 criminalized the ravishing [*defloratie*] of a virgin, with damage to her honor as a result, through seduction or deceit. For forceful rape [*verkrachten*] and other forms of "qualified fornication" such as incest, sodomy and *schaking*, the Regulations referred to pre-existing bodies of law, including Justinian law and the medieval Joyous Entries.[7] Similarly, the Batavia Statutes issued in 1642 did not discuss violent rape as such, but did ban the "violation" and dishonoring of "young daughters" and other "honorable" women.[8]

The Dutch legal world of the seventeenth and eighteenth centuries thus identified three overlapping concepts of 'rape': violent rape [*verkrachting* or *vrouwekracht*], abduction or elopement [*schaking*], and the ravishing of virgins [*defloratie*]. In the latter two, the woman's consent was not a decisive factor, because the basis of the crime was the dishonor done to the woman and her family, which could occur either through force or seduction. As for coerced sex, Willemijn Ruberg has argued that it took until the nineteenth if not twentieth century for an identifiably 'modern' notion of rape and sexual assault to take shape, which understood the damage done as not just physical or socio-economic, but also psychological, and expanded the meaning of non-consent from strictly physical force to other forms of coercion.[9] This meant that

[2] Carolyn A. Conley, "Sexual Violence in Historical Perspective," in *The Oxford Handbook of Gender, Sex, and Crime*, ed. Rosemary Gartner and Bill McCarthy (Oxford: Oxford University Press, 2014), 207–24.
[3] Hage, *Eer tegen eer*.
[4] Conley, "Sexual Violence in Historical Perspective"; Hugo Grotius, *The Introduction to Dutch Jurisprudence of Hugo Grotius, Now First Rendered Into English*, trans. Charles Herbert (London: John van Voorst, 1845), 445; Van der Heijden, *Women and Crime*, 141–44.
[5] Grotius, *The Introduction to Dutch Jurisprudence*, 445.
[6] Simon van Leeuwen, *Het Rooms-Hollands-Regt* (Amsterdam, 1708), 471, in Van der Heijden, "Women as Victims." note 15.
[7] "Echt-Reglement," sec. LXXXV–LXXXVI.
[8] *Statuten van Batavia* (1766), in NIP vol. 9, 186.
[9] Willemijn Ruberg, "Trauma, Body, and Mind: Forensic Medicine in Nineteenth-Century Dutch Rape Cases," *Journal of the History of Sexuality* 22, no. 1 (January 2013): 85–104.

prior to the nineteenth century, women who could not show evidence of violence on their bodies or clothes had little chance of proving they had been raped.[10] Rape, finally, was a strongly gendered concept: *verkrachting* effectively always implied a woman being raped by a man, not the other way around. Although the concept of a man being forcefully penetrated by another man existed, this was referred to as (coerced) sodomy, not rape.

Rape and criminal prosecution

Rape and other forms of sexual violence are notoriously difficult to trace historically. Social stigma, taboo, and lack of prioritization by authorities obscure the true number of incidents behind extremely limited prosecution numbers. For Early Modern Europe, Julius Ruff has estimated that only around 5% of rape cases were reported.[11] Convictions were even lower: Manon van der Heijden, in her study of Delft and Rotterdam, found that only eight sexual assault convictions and only six rape convictions are recorded for the entire seventeenth century.[12] In Dutch overseas settlements, where court cases in general are more sparse than for the urban courts of the Dutch Republic, rape cases are even fewer and farther between. For Batavia, the Court of Justice court records contain only one case explicitly prosecuted as rape for the entire VOC period, although sexual violence is implied in numerous non-rape cases including sodomy trials and non-specified violent offences. In Cochin, two cases out of a total of 286 criminal cases for the period 1680-1792 involve reported rape, but in neither case did the prosecutor decide to include rape charges in the case presented to the court.[13] For the Court of Policy and Criminal Justice (Governing Council) in Suriname, out of a sample of 856 prosecutions dating from 1718 to 1799, only two include rape in the charges, both dating from the 1790s.[14] In smaller judicial archives, such as that of Elmina and Curaçao, rape trials are absent, although again sexual violence is implied in several non-rape prosecutions. The highest preponderance of rape prosecutions is found in Ceylon: out of 134 criminal cases (involving 221 defendants) recorded in the Colombo criminal court records for the eighteenth century, four cases explicitly address rape and at least two address the related charge of ravishing a virgin (*defloratie*).[15]

Because of their scarcity among a 'dark number' of cases that were either never reported, never prosecuted, or settled out of court, the degree to which broader inferences about the patterns of sexual violence throughout Dutch-ruled colonial societies can be made on the basis of the available cases is limited. They were, by definition, exceptional because they *did* turn into substantial enough cases to be included in the court records. However, this makes them potentially highly productive objects of analysis as sites of exceptional tension or conflict. In asking *why* they appear in the records, we gain insight into what compelled local communities and authorities to take particular crimes to the Dutch legal system, and conversely what

[10] Conley, "Sexual Violence in Historical Perspective," 7.
[11] Julius R. Ruff, *Violence in Early Modern Europe*, 22 (Cambridge: Cambridge University Press, 2001).
[12] Van der Heijden, "Women as Victims," 623–44.
[13] Matthias van Rossum, Alexander Geelen, Bram van den Hout and Merve Tosun, VOC Court Records Cochin, 1681-1792, International Institute of Social History (Amsterdam 2018); NL-HaNA, Nederlandse bezittingen India: Chennai [digitaal duplicaat], 1.11.06.11, inv.no. 114 scan 88-131, inv.no. 249 scan 184-185.
[14] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.nos. 20, 60, 782-789, 793-795, 799-801, 805, 806, 827, 828, 840, 855, 857-861. Sample based on Resilient Diversity dataset, with additional data provided by Karwan Fatah-Black, Imran Canfijn, and Ramona Negrón.
[15] SLNA VOC 1.11.06.08, inv.no. 4631-4750.

prompted the Dutch institutions to get involved. In asking *how* they appear and are discussed, we see instances of sexual violence as sites of conflict between multiple parties and their respective moral viewpoints: the accusers, the defendants, the court and *fiscaal*, and sometimes wider community members. In this sense, rape trials offer a window into the construction – through contention – of meaning and norms surrounding rape, including the meaning and importance of consent, sexual honor, power, and guilt and innocence, within the context of complex social difference.

The complexity of 'victimhood'

One key, characteristically early modern, perspective on (violent) sexual crime is what Florike Egmond and Manon van der Heijden have called an "offence-oriented" legal mentality, which views certain crimes, such as incest and sodomy, not as affronts to a victim but to the laws of nature, God, or the community, regardless of whether both parties had willingly participated. As a result, victims – even those that could not possibly be thought to have knowingly consented to the act, such as little children or animals – were guilty just for being part of the act that had tainted them with sin.[16] This perspective was still very much alive in the eighteenth century and extended to the colonial setting, as becomes evident from a case from 1750 in Suriname involving Quassie, an enslaved young man on the *Vrijheid* plantation who had had intercourse with a horse. The prosecutor and council were so horrified by the "unnatural atrocity" that they decided it must be eradicated from memory entirely: not only was Quassie sentenced to death by being put in a sack and quietly thrown in the ocean – an unusual method in a time when executions were generally public displays – but the horse too, was to be discreetly put down: though it was deemed an "innocent beast", its very existence was now marked by the abomination of bestiality, and could not be allowed to continue.[17]

With human victims, authorities were less likely to use lethal force, but women, men, and children alike could end up in court for sexual acts they had not willingly participated in – not as victims of sexual assault or abuse, but as accomplices in a sexual crime. The extent and manner of these prosecutions varied with age, gender, status, and relationship to the abuser, however. Men, if they became embroiled in a sodomy trial, were extremely unlikely to be considered innocent victims, unless they had managed to fight off their assailant.[18] For young boys, prosecutors' judgment was often more complicated. Examples of this can be found in the sodomy trials of the Batavia Court of Justice. As we saw in chapter four, a small but significant number of defendants on trial for sodomy in Batavia were teenagers or preteens. One of them was Manico van Bengalen, a 'Moor' (i.e. Muslim from India) employed as a ship's boy on the VOC ship Schuijtwijk. Manico was a young teen in 1739 when he experienced what would now be called sexual molestation at the hands of 28-year old Simon van Bengalen, but which resulted in him being tried alongside Simon. The two defendants presented conflicting accounts of what had transpired: Simon, after initially denying the charges altogether, under threat of torture claimed he had drunkenly mistaken Manico for a woman, but later abandoned this defense, claiming

[16] Florike Egmond, "Children in Court: Children and Criminal Justice in the Dutch Republic," *Social & Legal Studies* 2, no. 1 (1993): 73–90; Van der Heijden, "Women as Victims."
[17] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 801 folio 366; inv.no. 752 scan 21-22.
[18] Rossum, *Werkers van de wereld,* 251.

instead that it had been Manico that had taken the initiative, laying down next to him and stroking his penis. Manico, however, defended himself by saying that Simon had offered him a *ropia* to lay down next to him, which he had done, upon which Simon had anally penetrated him. He also claimed that the act had hurt him, that Simon had forced him "with words and beatings" to do it a second time, and that he had forbidden Manico to tell anyone. He further professed not to have known "that there was evil in such things."[19] Nicolaas van Berendrecht, Water Fiscal and prosecutor, recommended a punishment of death by drowning for Simon, but for Manico he expressed hesitation – not because of what he had said in his own defense but because of his age. The court documents listed him as twelve years old, but this was based on an estimation, and Van Berendrecht judged him to be one or two years older, as he seemed to have reached puberty. This was a problem, because fourteen was the age at which young men were considered culpable of capital crimes, including sodomy. Van Berendrecht therefore left it up to the discretion of the court what was to happen to Manico.[20] The court, apparently, was not convinced of his youth and innocence, because it sentenced both sailors to death by drowning.[21]

Leendert Eijtemans, however, had clearly been pre-pubescent when the Provost for whom he served as a cabin boy, Jan de Kree, had used him for sexual gratification in 1742. Prosecutor Nicolas Jongsma explained to the court how what had happened was "the most reprehensible form of sodomy" – not because Leendert could not be much older than ten, but because De Kree had ejaculated into his mouth and thus desecrated what could be seen as one of the "godliest" parts of the human body with one of the vilest. While Leendert's age, or the power De Kree held over him as his direct superior, did not play a role in the charges brought against the Provost, they did matter in the evaluation of Leendert's culpability. Considering these factors, and the fact that the boy seemed to be "ignorant of the evil committed," Jongsma confessed he felt uneasy prosecuting against him. However, the prosecutor added, although the boy was not *doli capax* – capable of intentional, conscious evil – he was *culpa capax* – capable of wrongdoing. He was also by no means *onnosel* (naïve, simple, or innocent) but rather quick-witted and bold. Therefore, Jongsma concluded, Leendert was "not only not unpunishable but also impossible to tolerate in human society." The sexual act that had taken place had forever tainted the boy, in the prosecutor's view, and he recommended that Leendert be forced to watch de Kree's execution (strangulation on the pole) and then sent to Robben Island for a lifetime of convict labor.[22]

The trials of Manico and Leendert, and others like them, stand in stark contrast to another involving children on a VOC ship: Grietje and Petronella Hekelbeeke. Raised in Ter Veer, Zeeland, these girls – twelve and thirteen years old – set out on VOC ship *Sara Jacoba* in 1738, heading towards Batavia with their father, junior merchant Jan Willem Hekelbeeke. The family shared a cabin with the lay minister Marinus Schipper, and soon began to socialize with several of the senior officers, particularly two of the ship's third mates, Carel Samuels and Pieter "Otto" Otte, who regularly drank with Hekelbeeke and were put in charge of protecting the two girls from harassment by the crew. By the time the ship arrived in June 1739, however, each of the two third mates would have had sex with one of the sisters. For Petronella, it started before the ship

[19] NL-HaNA VOC 1.04.02 inv.no. 9390, CrimPr 1739, scan 673-680.
[20] NL-HaNA VOC 1.04.02 inv.no. 9390, scan 645-687.
[21] NL-HaNA VOC 1.04.02 inv.no. 9303, CrimR 1738-1739, sentencing August 10 1739, folio 357-358.
[22] NL-HaNA VOC 1.04.02 inv.no. 9494, 28 November 1742, scan 14-20.

had reached the half-way point at Cape of Good Hope, when Otto, 25, reached under her skirt and told her, she would later relate, that he wanted to teach her "what man and wife do together". Several days later he came into the cabin where she was alone except for her sleeping father, and raped her. This continued on the second leg of the journey; Petronella never told her father, fearing his anger, and soon after the ship's departure from the Cape this ceased to be an option, as Hekelbeeke grew progressively ill. She did, however, turn to the second mate, Cornelis Vis, who referred her to the naval surgeon to check if she might be pregnant. The latter told her this might be possible, but that there was nothing he could do, and recommended that upon arrival in Batavia she consult "black girls" and take something from them (suggesting abortion was a fairly common practice in VOC Asia and that Europeans relied on the medicinal knowledge of Asian women in this respect). Soon, knowledge of what had happened spread among the senior officers, but none were willing to intervene and get their crewmate in trouble. When lay minister Schippers found out and suggested informing the captain, second mate Vis erupted in fury and asked if he was mad: "do you want to be a snitch and wreak havoc on the whole ship?"[23]

A few months later, as the ship was approaching Java, Margaretha "Grietje" Hekelbeeke, twelve years old, now had a similar experience. Third mate Carel Samuels, 30, with whom she had been close throughout the journey, began to seek her out to reach under her skirt, promising to marry her and buy her dresses and presents if she allowed it. He had sex with her on several occasions, telling her that "this is what men and women do, it leads to love and produces children," and even showed her a book in his cabin containing pictures of women giving birth. After the ship arrived in Batavia, the newly orphaned girls – their mother had been dead for years and father Hekelbeeke had succumbed to his illness by the end of the journey – were split up. Petronella was sent to the orphanage and Grietje was taken in by a skipper's wife named Hendrina Jongmans, née Koelhuijsen. It was here that what had transpired came to light: Mrs. Jongmans thought the girl behaved strangely and noticed a stain on her slip. A few weeks later, the enslaved woman whom she had put in charge of dressing Grietje in a corset each day reported that the girl had asked her not to tie it too tightly because her lower abdomen hurt, and that she had proceeded to tell her the whole story. Mrs. Jongmans commissioned a *daya* (a traditional Southeast Asian midwife) to examine the girl, and this woman asserted that Grietje had been "ruined". Now the city's European midwife was brought in and she confirmed the *daya's* judgment, also noting that she had contracted a venereal disease.[24] Scandalized, Mrs. Jongmans refused to raise the 'defiled' girl in her home any longer, and she reported the case to the deacons, who placed Margaretha in the orphanage.[25]

When Carel Samuels showed up to the Jongmans household, he received a verbal lashing from the matron and shortly after both he and Otte were taken into custody, as Grietje had also told what had happened to her sister. The case caused a considerable scandal throughout Batavia, which in part explains why the court records go into so much detail. The prosecutor explained what made the case so particularly outrageous: two "children of the fatherland", too

[23] NL-HaNA, VOC, 1.04.02, inv.no 9390, scan 859.
[24] The infection was likely caused by gonnorhea, as Samuels, in his confession, admitted he had had a "dripper" during the start of the journey from Zeeland to the Cape. NL-HaNA, VOC, 1.04.02, inv.no. 9390 scan 857-858.
[25] NL-HaNA, VOC, 1.04.02, inv.no. 9390, testimony Hendrina Koelhuijsen, scan 845-850; testimony midwife Sluitmans, scan 885-886.

young to protect their honor, and without adequate protection from their father or moral guardianship from a mother, had been ruined for life by the very men that were supposed to look out for their safety and chastity. The prosecutor also discussed the matter of consent, in asking whether a *stuprum* (ravishing) or *stuprum violentum* (rape) had taken place. The latter could not be proven, the prosecutor asserted, because there was no evidence the girls had actively resisted the intercourse. Nevertheless, the *stuprum* was aggravated considering the circumstances and the age and vulnerability of the girls. Especially in the case of the younger sister Grietje, the fiscaal argued, the defendant could not raise her lack of resistance as a defense because as a child "she could not be taken to have any will or desire in such affairs."[26]

This casting of the girls as victims to sexual predators stands in stark contrast to the treatment of the young boys who experienced sexual abuse aboard VOC vessels, and who faced charges as co-defendants alongside their abusers. Put differently, for the girls a victim-oriented legal mentality was applied, whereas in the boys' case an offence-oriented mentality prevailed. This can be explained by the different cultural perceptions of the sexual acts committed: while grown men's 'ravishing' of young girls offended sensibilities of decency and justice, it was not perceived as unnatural because it fit cultural expectations of gendered sexuality, with men as sexually aggressive and women and girls as 'natural' objects of that aggression, susceptible to seduction. Male-on-male sexuality, however, crossed into the territory of the deviant and taboo, making victims, as living testimonies of the unspeakable act that had occurred, guilty by default.

If Margaretha and Petronella were not deemed criminally guilty, they were marked by the events in a social sense. Margaretha was evicted from her adoptive household, Petronella was told by the ship's doctor whom she had turned to for help that she was now a "whore", and neither girl could hope for promising marriage prospects or acceptance in society as 'honorable' women. The question of their honor – or lack thereof – was also used by the defendants and their fellow naval officers who testified in court and stressed the precociousness and bawdy behavior the girls had displayed in an attempt to justify the two third mates' behavior and the officers' failure to intervene. First mate Hendrik Janse remarked how the girls from the start had been "ripe in the mouth and vile in their language" and overly familiar with Otte and Samuels, with whom they would roughhouse and ask for presents. Second mate Evert Blankebijle described the girls as vulgar and prone to heavy drinking. Lay pastor Schippers blamed the girls' behavior on the poor example set by their foul-mouthed, heavy-drinking father, and second mate Vis remarked that he had already heard of Hekelbeeke's poor reputation back home in Zeeland. Both Samuels and Otte named the girls' foul language and the tall tales they told about women's sexual exploits in their hometown as reasons they came to see Grietje and Petronella as viable sexual partners. The seamen's narrative was united: by failing to display the restrained and chaste behavior of well-bred young women, the Hekelbeke sisters had signaled to the seamen that they were sexually available. Taking a 'normative pluralism' perspective, we can conceive of the third mates and the crewmates who had kept their secret as moving between multiple moral universes with their own rules: between the sexually more permissible world of the ship – which itself had multiple 'worlds', with the officers seemingly operating separately from both the rank-and-file

[26] NL-HaNA, VOC, 1.04.02, inv.no. 9390, Statement of Claim against Carel Samuels, November 25, 1739, scan 825-830.

and the skipper – and the world on land, which was more strongly marked by the knowledge, perceptions, and judgments of women and by the laws enforced by the Court. Simultaneously, there were different rules that applied to women considered innocent, honorable, and under the protection of high-ranking men, and those that were not, and the sisters' place along this boundary was contested.

The prosecutor resolutely rejected the officers' attempt to use the girls' reputation as a defense, however, and instead constructed a narrative of consecutive victimization: not only had the girls lost their mother at a young age, they also had a father who had failed to give them a decent education and instead had given a terrible example, so they had no one to warn them of the dangers of their behavior, and the officers had taken advantage of this. The court seems to have agreed, because the men were sentenced as the prosecutor had recommended: Otte, a Dutchman, was deported back to the Republic with forced labor on the journey home and Samuels, a Swede, was banished from the VOC's territories for life, with confiscation of half his possessions and wages.[27]

The chances of sexual violence being prosecuted as a form of injury against a victim – rather than a crime against nature – was thus much higher for women and girls than for men and boys, but not all women were treated equally. The fact that rape and sexual assault of very young virgins was much more likely to be prosecuted and lead to conviction than that of older, sexually experienced women is well-established for early modern Europe, and Dutch overseas settlements are no different.[28] Not only did rape of children lead to more public outrage, it was also most likely to be perceived as rape, rather than an act in which a woman had been a willing agent. Moreover, young girls' bodies were admitted as sites of forensic evidence in a way that sexually experienced women's bodies were not: a standard feature of the documentation supporting rape charges involving children was a surgeon's report of the so-called "visitation" of the young girl, confirming intercourse had taken place. For non-virgins, such a report would have been considered meaningless except in cases of extreme physical damage, and charges had to be based on either a confession from the assailant or credible witness accounts, which often posed problems. Kato van Tjakkengatti, an eighteen-year-old Catholic Malabari woman living outside Cochin, learned this the hard way when she and her husband filed a complaint with the VOC governor against three Lascars (*Lascorijns,* Indian soldiers) in 1792. As the *ola* submitted by her husband Ausepoe stated, on the 18th of August that year, near midnight, three men named Atjoko, Baboe, and Pedro had broken into the couple's house, dragged Ausepo outside, and beaten both him and his grandmother who lived in the adjacent room.[29] Atjoko had then proceeded to rape Kato, despite her protestations that she was eight months pregnant.[30] The three Lascars, when questioned by the VOC prosecutor later, denied the rape allegations, and claimed they had merely come to the house to ask for a torch and dry clothes, as they had been caught in the rain

[27] NL-HaNA, VOC, 1.04.02, inv.no. 9388, Sentencing Carel Samuels and Pieter Otte, November 25 1739 scan 27-31.
[28] Van der Heijden, "Women as Victims," 624; Van der Heijden, *Women and Crime*, 143–44; Anna Clark, *Women's Silence, Men's Violence: Sexual Assault in England, 1770-1845* (London/New York: Pandora, 1987), 42.
[29] *Olas* were palm leaves used in South Asia for a variety of purposes, including as sheets for official documents such as formal petitions or complaints, as in this case.
[30] NL-HaNA, Nederlandse bezittingen India: Chennai [digitaal duplicaat], 1.11.06.11, inv.no. 114 Criminal proceedings Cochin, 1792, folio 215

on their way home from the late-night service at the Saude Catholic church. The violence had started after Atjoko had directly asked Kato for one of her dresses, which had outraged her husband. Ausepo shoved them to push them out the door, and the unwelcome visitors retaliated by hitting him. As there were no other witnesses beyond the couple and the grandmother, it was the family's word against that of the Lascars, and the prosecutor decided the latter's narrative was more credible. It would have been entirely reasonable for the man of the house to be angered at Atjoko's impertinent request, he stated, and to resort to force to evict them from the home, and this turn of events seemed more plausible than the rape of a heavily pregnant woman in front of her grandmother.[31]

Power, space, and jurisdiction

In the end, the Lascars were stripped of their office and convicted, but not on the grounds of rape. Rather, it was the violence against Ausepo – to which they had confessed – aggravated by the fact that they had committed it in his home, "since nothing is more sacred than any citizen or resident's home, and any man's home ought to be a safe harbor for him." The case dates from the late eighteenth century, a time when a more rigid distinction between private and public space than that which marked the early modern period was beginning to take shape, and this may explain the framing of the case. Even though Ausepo initiated the violence, he was deemed entirely justified in doing so as man of the house, and it was the three Lascars who were at fault for violating the sanctity of Ausepo's domestic space. By contrast, in the more typically early modern perception of crime, it was not the physical crossing from the public into the private or domestic sphere that made criminalization likely (in fact, as historians of early modern gendered space have pointed out, this boundary was rather porous) but rather the bleeding of domestic disorder into the public sphere.[32]

The contrast is illustrated by a case from 1740 Ceylon, which structurally has many similarities to Kato and Ausepo's, but where the prosecution played out quite differently. Here too, a group of men forced themselves into a hapless family's home, reportedly with the intent to rape the young woman residing there – in this case the fifteen-year-old daughter of the house, Dimiagy Babbi. Babbi was from a Sinhalese Buddhist family and lived with her brother and mother in Nagam (Nawagamuwa), a village outside Colombo where, one evening, a group of six male villagers – the youngest just twelve years old and the oldest sixty – approached the house. One of them, a man named Bajan Nainde, grabbed Babbi and started pulling her by the arm. Babbi and her mother began to scream, and violence broke out, which intensified once Babbi's brother Babba arrived on the scene. Having been wounded by one of the attackers' knife, Babba ran towards a group of about twenty villagers who were just on their way home from the fields. As one of them – the Christian Sinhalese Jannan Nainde – later related to the court, the neighbors intervened, refusing to let the group of men near Babba. The five eldest proceeded to verbally

[31] NL-HaNA, Nederlandse bezittingen India: Chennai [digitaal duplicaat], 1.11.06.11, inv.no. 114, folio 203.
[32] Jeannette Kamp, *Crime, Gender and Social Control in Early Modern Frankfurt Am Main* (BRILL, 2020), p 7-9 . Kamp stresses the public function of early modern households as primary locations of social order. As such, they were subject to both scrutiny and intervention by neighbors and other community members, and misbehavior in the household reflected on the community as a whole. See also: Manon Van der Heijden, "Women, Violence and Urban Justice in Holland c. 1600-1838," *Crime, Histoire & Sociétés / Crime, History & Societies* 17, no. 2 (2013): 89-92.

abuse the group and ordered the youngest, Battama, to fetch them weapons, hoping to scare the crowd away. When this failed, they dispersed, but later that night the five men lifted Jannan from his bed and beat him until two neighbors came to save him.[33]

Unlike in the case of Kato and her family, here the assault in the home escalated into a public spectacle involving almost the entire village, and it is unclear whether the attack on Babbi would even have come under criminal attention without this communal involvement. It was Jannan, not Babbi and her family, who reported the case to the authorities. Rather than turning to the VOC governor, as the couple in Cochin had done, Jannan Nainde reported the case with the *Modliaar*. This local ruler, in turn, sent his Lascars to arrest the assailants – three, including would-be kidnapper Bajan, managed to avoid arrest and fled from the village – and he decided to send the case to the Dutch court in Colombo. This meant that the three detainees – sixty-year-old Poenahellege Don Paulo (Christian), twenty-something Marco Nainde (non-Christian) and the twelve-year-old boy Poenahellege Battama (Christian) – would be prosecuted based on Dutch law. The Fiscaal decided to charge the defendants with not just public violence, but also rape (*vrouwenkracht*), citing previous cases that had appeared before the Court of Justice as well as Dutch legal scholars.[34]

Two questions arise when examining this case in the wider legal context of VOC South Asia. First, in a world where it was extremely difficult for sexually assaulted women to obtain a conviction of their assailant, why did three men end up being tried for rape when they were not themselves the would-be-rapist, when no intercourse had taken place (only an apparent attempt at kidnapping) and there was no more evidence of sexual violence than in the case of Kato in Cochin, namely the witness accounts of the victim and her direct family? Unlike in Kato's case, moreover, Babbi and her family do not seem to have complained to the court on their own account, instead being called in by the prosecutor as witnesses. The answer may lie, in part, in the function the court had for the VOC in Ceylon. As Alicia Schrikker has argued, courts were not just tools for extending a Dutch vision of (moral) order beyond the company fortresses but also means of legitimizing the company's authority to an expanding group of people.[35] This applied not just to the voluntary use of legal institutions (e.g. in conflicts over land-ownership) but also in criminal cases such as this, where the VOC could step in as an authority bringing peace and justice. In other words, taking on court cases from rural hinterlands allowed the Company to expand its influence by performing the sovereignty that in reality was far from self-evident.

In this particular case, however, there was a factor that challenged that performance of sovereignty: three of the suspects, including the alleged main culprit, had managed to avoid arrest and elude both the Modliaar's forces and the Fiscaal's, highlighting the limits of the Company-sanctioned power structure. To effectively project an image of moral and legal intervention, therefore, the Dutch authorities needed to address the entire series of events, including the grabbing of Babbi which most incriminated the fugitive Bajan Nainde, through their prosecution of Bajan's captured accomplices. The prosecutor made use of the flexibility that the overlapping legal notions of kidnapping and rape provided: even if no forceful intercourse had

[33] SLNA VOC 1.11.06.08 inv.no. 4632, folio 1-5.
[34] SLNA VOC 1.11.06.08 inv.no. 4632, folio 14-24.
[35] Schrikker, "Conflict-Resolution, Social Control and Law-Making in Eighteenth-Century Dutch Sri Lanka."

taken place, the implications of rape in the intention to carry Babbi away was enough to draw on the legal source material referencing the rape of virgins, which included Van Leeuwen's assertion in his work on Roman-Dutch law that those who aided a rapist or kidnapper were equally punishable to the main perpetrator. The fact that the crime had not come to fruition did not matter, as evidenced by a case from the seventeenth century cited by the Fiscaal, concerning a Jan Arjens Cochuk, who had attempted to rape an eighteen year old woman but had been interrupted before he could do so, and who had been sentenced to public flogging and life-long banishment.[36]

Including rape charges in the statement of claim also helped tie the narrative together that depicted the six assailants as the undisputable villains and the family and neighbors as innocent victims, and gave a clear motive to the violence committed. This was not an unheard-of strategy for prosecutors: that same year, in Cochin, the Malabari Christian Domingo de Cruz was convicted for selling a stolen cow. Several months prior, Domingo had been accused of theft and rape by a woman named Elia, but these charges had been dismissed and Elia had even been sentenced to pay the costs of the trial. Now, however, these allegations were brought up in court to paint a picture of Domingo as a suspicious evil-doer in order to discredit his denial in the stolen cow case: even if rape allegations in and of themselves were extremely difficult to prove in court, the threshold for their acceptance in court was much lower if they were presented in conjunction with other crimes and served to paint a larger picture of criminality.[37]

A question that remains to be answered, however, is why the *Modliaar* in the Ceylon case decided to take the case to the Court of Justice in Colombo. This was far from the only or even the default avenue of justice for conflicts and crimes that took place in rural Sri Lanka: as recent research on legal pluralism on the island had shown, a multitude of forums for conflict-resolution, based on different legal traditions and sources existed simultaneously, ranging from the village level to the hybrid institutions of the *Landraden* to the highest appeal court in Batavia (which was only accessible with permission from the Governor) and most conflicts and crimes were dealt with at the local level.[38] Here, the explanation may lie in the public nature and scale of the turmoil involved: a considerable part of Nagam's local community had become directly or indirectly involved in the violence, and the case can be expected to have been a site of great local tension. For the Modliaar, who was much more embedded in the local community than any VOC official, it may well have been politically expedient to 'outsource' the case to the Company court as an external party, thus avoiding any local backlash that might spring from its resolution.

This is consistent with findings for other settings in which the Dutch institutions shared judiciary tasks with local authorities, such as Elmina. Although the WIC was more a trading partner than a colonial power on the West-African coast, relying heavily on alliances with local rulers, these same rulers on occasion sent (criminal) cases to the Dutch castles to be tried at the

[36] SLNA VOC 1.11.06.08, inv.no. 4632, folio 14-22.
[37] NL-HaNA, Nederlandse bezittingen India: Chennai [digitaal duplicaat], 1.11.06.11, inv.no. 238 Cochin criminal sentences 1736-1742, folio 179-181. The initial rape case can be found in inv.no. 249, folio 365-366.
[38] Alicia Schrikker and Dries Lyna, "Threads of the Legal Web: Dutch Law and Everyday Colonialism in Eighteenth-Century Asia," in *The Uses of Justice in Global Perspective, 1600–1900*, ed. Manon Van der Heijden, Griet Vermeesch, and Jaco Zuijderduijn (London: Routledge, 2019), 42–56; Nadeera Rupesinghe, "Negotiating Custom: Colonial Lawmaking in the Galle Landraad" (Unpublished PhD Dissertation, Leiden University, 2016).

WIC court in Elmina. This seems to have been the case particularly for explosive or highly sensitive instances of violence: murder, infanticide, and attempted murder-suicide.[39] For local rulers and their communities, this posed the benefit of externalizing the conflict through a third-party arbitrator, while for the WIC it offered an opportunity to present itself as sovereign in charge of safeguarding order and morality. Highly shocking crimes such as murder lent themselves particularly well to this type of 'performative sovereignty' because they allowed prosecutors to appeal to a universal morality transcending religious or legal differences. As the Dutch prosecutor said in 1764 in his statement of claim against the African woman Kessiba, who had tried to kill herself and her three youngest children out of fear of being sold into slavery:

> In some cases the laws that are in use in our Fatherland cannot always be applied here in these lands, […] but the laws of nature, those that are innate to us, that teach us not to hate ourselves, to spare our own blood, to risk – even sacrifice – our life for that of our children, are common to all peoples, and the punishment deserved by those guilty of suicide, infanticide, and other such horrors, they can and must be punished most rigorously, here as in Europe.[40]

Rape does not seem to have been included in this universalist conception of crime, because the WIC's criminal court did not prosecute Akan rape cases. This is not surprising, as research on Akan legal forums and modes of conflict resolution has shown that rape was traditionally treated as a domestic conflict settled at the family level rather than a criminal offence settled by arbitration in court such as murder, suicide, assault or theft.[41] Considering the limited power of the WIC on the West-African coast, it was not in the position to unilaterally impose its own vision of sexual violence or misconduct in this context, even if it had wanted to.

Contested definitions, contested solutions

A murder case from the late-eighteenth-century Gold Coast highlights the extreme dependence of definitions of rape on historical context and social power relations. It involves a young girl from Axim, in 1790. Her uncle was the broker Comso Quasie, who was in debt to a Quouw Ighie from Amemfi (a region around 100km from the coast). To get Quouw off his back, Comso Quasie had sent his niece to him to serve him as an *Impia* (bondswoman) until her uncle could repay his debt. When she and Quouw Ighie came to visit Axim from Amemfi, she begged her uncle to repay the debt so she would not have to stay with the man, but Comso Quasie pressured her to return to Amemfi with his creditor. On the journey back, Qouow Ighie attempted to have sex with his Impia, which she refused. Upon their return to Amemfi, as he would later confess, "he for a second time tried to sleep with her using violence, which she avoided by fleeing." Angered, he

[39] Henk den Heijer, "Institutional Interaction on the Gold Coast: African and Dutch Institutional Cooperation in Elmina, 1600–1800," in *Exploring the Dutch Empire: Agents, Networks and Institutions, 1600-2000*, ed. Catia Antunes and Jos Gommans (Bloomsbury Publishing, 2015), 217.
[40] "Dat in zeekere gevalle de wetten, bij ons in het vaderland in gebruik, niet altoos konden werden achtervolgt hier te lande, […] maar de wetten der natuur, die wette die ons zijn ingeschaepen, die ons leeren ons zelvs niet te haeten, ons eigen bloed te spaeren, ons leeven voor het behoud van onze kinderen te waegen, ja op te offeren, zijn alle volkeren gemeen, en de straffen die dezulken verdienen, de welke zig een zelvsmoord, kindermoord, en soort gelijke gruuwelen schuldig maeken, kunnen en moeten hier zowel als in Europa, op het rigoureuste worden gestravt." NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 275, Criminal Proceedings Elmina Castle 1761, scan 108.
[41] Kofi Agyekum, "Akan Traditional Arbitration: Its Structure and Language," *Journal of Multilingual and Multicultural Development* 27, no. 5 (September 15, 2006): 359–74.

ran after her with a gun and shot her dead in front of the local Caboceer's (headman's) home. After a failed attempt to shoot himself in the head too, he was seized by the Caboceer's forces and – possibly to avoid a conflict with his or the girl's family – was sent to the Dutch fort Hollandia in Axim.

The case reveals an instance of sexual violence that would have been absent from the archive had it not escalated into murder and which was never formally classified as rape or even attempted rape. It is likely the girl had experienced unwanted sexual attention from Quouw before, and that this played a role in her plea to her uncle. Neither Quouw nor Comso would have considered this a case of sexual violence, however, as the girl was formally under Qouow's authority and control, and he could make use of that relationship as he saw fit. Qouow Ighie himself, when questioned by the court, described the relationship as *gecalichaard,* referring to the local practice of *calisare*, essentially a form of marriage. Just as rape within marriage was not a conceivable concept anywhere in the VOC or WIC world, a man's demands on his impia's sexual services would not have been conceived of as rape; only when he took her life did Ighie cross the limits of what he was in his rights to do, even in his own eyes. The fact that the young woman herself decided to run away and attempted to turn to the village elder, however, suggests that she at least did not consider the situation one which she could or should simply accept, and might have even had some hope the Caboceer would intervene on her behalf.[42]

Norms about the meaning and preferable resolution of sexual violence not only varied between regions and time periods, but also formed a point of contention between local parties. Returning to Ceylon, this was most certainly the case in the rape of 8-year old Petronella Blankenburg. Petronella lived in Galle with her father, the VOC-employed naval carpenter Gerrit Blankenburg, her younger sister, her paternal grandmother Louisa (widow of VOC law enforcement officer Matthijs Blankenburg), and a housemaid named Wattege Annona and her children. Her mother Florentina Jansz, who had been her father's *bijzit* (unmarried partner) had recently separated from Blankenburg and moved out. On 28 October 1750, as Petronella was playing outside with her sister and the housekeeper's son, they were visited by Frans, the fifteen-year-old son of the soldier Gabriel de Lopes. Seeing that no adults were around, Frans convinced the children to play hide and seek and when he was alone with Petronella he raped her, only stopping when the other children re-emerged and threatened to tell. The story came out a few days later when Annona saw the girl walk with a limp and informed Petronella's grandmother, who told her son Gerrit upon his return home. Gerrit, feeling ill-equipped as a father to perform the intimate act of examining his daughter, sent Petronella to her mother Florentina. The latter later showed up at his house, in tears, with their daughter in tow, confirming she had been raped and demanding an explanation, and when Petronella confirmed Frans was the culprit, the two parents took her to Frans' parents' home to confront him.[43]

Here, they found that Frans was not home and related the events to his parents. Frans' father, Gabriel de Lopes, offered to resolve the issue by making sure that Frans, once Petronella had reached the age of maturity, would marry her, and thus ensure "reparation" of her honor. This was not an uncommon attitude to resolving rape accusations in the early modern period,

[42] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 282, Criminal proceedings Elmina Castle, 1790, scan 25-55.
[43] SLNA VOC 1.11.06.08, inv.no. 4643, Criminal proceedings 1751.

both in Europe and Asia, and conforms to Grotius' notion of rape as a crime against a young woman's sexual virtue and her virginity as an asset in the marriage market.[44] For Florentina and Gerrit, however, this was not the issue at stake. They rejected the offer, stating that this was not why they had come, and that the Fiscaal would have to deal with the matter. For the separated parental couple, who had raised their children for years without being married, the key concern was likely not the fact that pre-marital sex had taken place, but rather the sexual violence committed against their young child, and their insistence on turning to the authorities reflects this. Gerrit, as a Dutch-speaking VOC employee and the son of a law enforcement official (*geweldiger*), was familiar with the procedure for reporting a crime to the Dutch authorities, and he took Petronella to the Fiscaal of Galle. [45]

Not everyone in the community seems to have agreed with this way of resolving the matter: after Florentina had loudly expressed her distress over the events to close friends, a local market woman named Anna learned that the family had turned to the authorities and rushed to the De Lopes household to warn Frans and advise him to flee prosecution, which he did. Although everyone in this scenario agreed that a rape had taken place, the community was divided over the appropriate resolution: was there to be an extrajudicial settlement, with compensation for the injury done through marriage, or a criminal prosecution, which could result in anything from a fine to banishment to corporal punishment? Note that, if the Fiscaal had managed to get a hold of Frans, the case might still have been resolved outside of court, but this was precluded by Frans running away. Now, the case became a challenge to public order and the VOC's authority, and the Fiscaal proceeded to take legal steps against Frans, summoning him to court to be tried.[46]

Rape and social hierarchies

Reflecting on the cases discussed so far, we have seen the meaning and legal ramifications of sexual violence being mediated through the factors of gender, age, virginity, honor, space (public and private, shipboard and on land), and localized structures of power and conflict resolution. This leaves open the question of what role the other major factors which were so vital in shaping social difference in Dutch colonial settlements played: social class, religion, race or ethnicity, and slavery. The role of social class is quite well established in the literature: those with more wealth and social status had both more opportunities to successfully take sexual affronts to court *and* to avoid prosecution, either through their connections to those in power or by coming to a financial settlement. Van der Heijden shows how a defendant's good reputation, wealth, citizenship and influential position all significantly affected the outcome of a trial, and notes the additional option that *compositie* – essentially a semi-legalized form of paying off the prosecutor to not take the case to court – offered to those who could afford it in Holland, and there is reason to believe this practice also took place overseas.[47] The accuser's reputation was equally

[44] *The Introduction to Dutch Jurisprudence of Hugo Grotius, Now First Rendered Into English, by Charles Herbert,* 445.
[45] SLNA VOC 1.11.06.08, inv.no. 4643, Criminal proceedings 1751, scan 24-40.
[46] Ibid., scan 50-63.
[47] Van der Heijden, *Huwelijk in Holland*, 82–86; Van der Heijden, *Women and Crime*, 35–37. In 1764, the High Government in Batavia banned prosecutors from independently "smothering" a case through *compositie*, suggesting the practice had been common enough to be a concern. NIP vol VII 775. Even after 1764, however, references to *compositie* continue to appear in the Court of Justice records, usually

important (as we already saw in the case of the Hekelbeeke sisters) and this reputation was deeply wrapped up in class. The accusations made by poor women against wealthy men were also more likely to be treated as spurious, as these women were suspected of having financial interests.[48]

Religious affiliation played an indirect role, by determining whether a sexual encounter – regardless of consent – was defined as deviant or not, and in mediating people's relation to Dutch institutions, but religious identity did not, in and of itself, preclude anyone from seeking legal recourse in case of sexual violence. The same can be said for race and ethnicity: implicitly, color and ethnic background played a role in someone's perceived honor (in the eye of the court), socio-economic status, and by extension their success in the justice system, but no laws explicitly prevented any prosecution for rape solely based on race or ethnicity. Instead, I will argue that it was slavery that fundamentally shaped the legal and social landscape around rape in Dutch overseas settlements.

Slavery and sexual violence

There is a remarkable parallel between slavery and rape in early modern Dutch discourse. Both formed an ideological foil against which Dutch writers defined the Netherlands as a nation. The image of rape, as Amanda Pipkin has shown, formed an important discursive tool in the fashioning of a national identity in the formative years of the Dutch Republic by writers such as Joost van den Vondel and Jacob Cats. Invocations of Dutch maidens being raped by the Spanish enemy fostered a sense of national unity in the face of a reviled common enemy among the institutionally and ethnically diverse provinces – with rape standing in for larger injustices suffered by the Dutch people which merited an uprising against their king. In addition, it was used to sketch a positive patriotic, unified image of a Dutch people and its values, with the image of the morally upstanding husband or father valiantly protecting his wife's or daughters' chastity as a stand-in for the nation as a whole.[49] Simultaneously, Pipkin argued, rape was not universally condemned in every context, but rather framed in such a way as to strengthen and stabilize social hierarchies, by rigorously punishing rape in the sense of *schaking* – where a clandestine marriage to an unsuitable party threatened conjugal arrangements put in place to preserve nepotistic networks of power – while excusing the sexual assault of lower-class women by elite men.[50]

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in the context of financial and administrative crimes, e.g. NL-HaNA VOC 1.04.02 inv.no. 9282 CivR 1776, scan 462.

[48] Grotius talks about this scenario in his discussion of rape, citing it as the reason for a loosening of laws against rape and defloration. Herbert, *The Introduction to Dutch Jurisprudence of Hugo Grotius, Now First Rendered Into English,* 445. See also Amanda C. Pipkin, *Rape in the Republic, 1609-1725: Formulating Dutch Identity* (Leiden: Brill, 2013), 23–24.

[49] The primary example she uses is Vondel's famous play *Gijsbrecht van Amstel,* which she reads as a critique of Spanish tyranny in the Dutch Revolt, with the rape of the nun Claris as "a detestable symbol of the Spanish violation of families, religious freedoms, and political privilege." Vondel, in her reading, used the emotion thrust of rape to unify the inhabitants of the low countries against a common, vilified enemy, overlooking "the multitude of religious, political, linguistic, and ethnic differences that threatened to dismantle the new Dutch State." Pipkin, *Rape in the Republic, 1609-1725*, 37–38.

[50] Here, Pipkin draws on Cats' widely read *Touchstone of the Wedding Band* (*'s Werelts begin, midden, eynde, besloten in den trou-ring, met den proef-steen van den selven*) which called on readers to accept their place in society according to Reformed doctrine, and stressed the divinely sanctioned nature of social hierarchies and power relations, particularly between parents and children, husbands and wives, and wealthy elites and poor commoners. In this context, the rules of rape applied differently to powerful patriarchs than to subordinate members of society. Pipkin, *Rape in the Republic,* 83-93.

Slavery was used discursively in a strikingly similar way along a similar trajectory. The image of slavery appears in Dutch political writing from the late sixteenth century onward as a synonym for tyranny, the antithesis to the natural inclination towards liberty ascribed to the Dutch 'nation' invented in this period. William of Orange, in justifying the revolt he led against Spain, cited the "unbearable slavery" King Philip II had reduced the Dutch people to, in contrast to their former state of freedom.[51] This use of the term caught on, and was further cemented in popular texts such as the twin educational works used to teach schoolchildren throughout the new Dutch Republic, the 1596 *Spieghel der Spaense Tyrannye in West Indien* and the 1620 *Spieghel der Spaense Tyranny, Gheschiet in Nederlant* (Mirror of Spanish Tyranny in the West Indies and the Netherlands, respectively): the enslavement of Native Americans under the Spanish yoke in the New World came to form part of the same 'Black Legend' as the religious and political 'slavery' and military atrocities suffered in the Low Countries.[52] Although the enemies changed, the specter of political slavery as a threat to Dutch freedom continued to be evoked in political discourse throughout the Republic's history, and saw a resurgence in the Patriot movement of the 1780s and 'Batavian Revolution' in the 1790s, when 'slavery' came to stand for the political repression of the *ancien régime* as a foil for the liberty brought by the revolution.

Like rape, slavery was understood as something external and alien to Dutch identity, and the ultimate expression of evil and tyranny – an assault on the people's natural state of liberty – against which the nation could be mobilized as a unity. As in the case of rape however, this mobilization coincided with a simultaneous legitimation within the context of a religiously sanctioned social hierarchy. While any enslavement – spiritual, political, or physical – of a Dutch Christian was anathema, this rule did not apply equally to all of humanity: around the time the revolutionary newspapers were hailing the end of political 'slavery', over 180.000 people were enslaved in Dutch colonies throughout the world.[53] And although the dividing line for who was and was not 'enslaveable' had initially been drawn between Christians and 'Heathens', as more non-European and enslaved people began to convert to Christianity, this distinction shifted, becoming increasingly racialized.[54]

Both slavery and rape involved power relations expressed in terms of property relations, with the property in question being a human being and a woman's sexuality or sexual honor, respectively. This becomes clear in the linguistic parallels in the legal terms used for transgressions of these relations. *Debaucheren* and *seduceren* were both terms with sexual implications, primarily denoting seduction as an illicit means of gaining sexual access to someone to whom one had no rights. In Dutch overseas courts, by contrast, they were mainly

[51] Jonathan I. Author Israel, *The Dutch Republic: Its Rise, Greatness and Fall, 1477-1806* (Oxford: Clarendon Press, 1995), 4.
[52] Markus P.M. Vink, "Freedom and Slavery: The Dutch Republic, the VOC World, and the Debate over the 'World's Oldest Trade,'" *South African Historical Journal* 59, no. 1 (January 2007): 19–46; Israel, *The Dutch Republic*.
[53] Matthias van Rossum, "'Vervloekte Goudzugt'. De VOC, Slavenhandel En Slavernij in Azië," *Tijdschrift Voor Sociale En Economische Geschiedenis/ The Low Countries Journal of Social and Economic History* 12, no. 4 (December 15, 2015), 42.
[54] Katherine Gerbner has pointed to the late seventeenth century as the point at which "whiteness", rather than Christianity, began to take precedence in the language of freedom and mastery. Gerbner, *Christian Slavery*, 11; See also Mikki Stelder, "The Colonial Difference in Hugo Grotius: Rational Man, Slavery and Indigenous Dispossession," *Postcolonial Studies*, October 12, 2021, 9.

used to discuss the illicit transport of someone else's slaves, or the act of convincing enslaved workers to desert their master.

The connection between slavery and rape was more than just discursive, however: in Suriname, as in other Dutch colonies, criminal prosecutions of sexual violence against enslaved women were extremely rare, and charges explicitly framed as rape (*verkrachting*) were essentially non-existent.[55] This is unsurprising as rape, in the definition by Dutch jurists such as Grotius and van Leeuwen, was a crime against freedom – which enslaved women were denied in the first place. As Marisa Fuentes and Saidiya Hartman have both argued, because enslaved women – through their legal status as commodities – could neither consent to nor refuse sexual demands placed on them, their rape was "unimaginable".[56] Put differently, the configurations of the social hierarchy that rendered some people 'enslaveable' in the eyes of the law (and colonial communities) overlapped strongly with those that rendered their rape permissible (and as such, not rape).

Several factors converged to cement this condition. One was the effect of socio-economic status on perceptions of sexual accessibility: even in non-slavery conditions (e.g. in Western Europe) perceived boundaries between poor single women and prostitutes were often blurred, and in colonial settings enslaved status amplified this effect.[57] As Henk Niemeijer has shown for Batavia, '*hoer*' and '*slavin*' were almost synonymous when used pejoratively, and even just a background of slavery – through one's past or one's mother – could be used to associate someone with prostitution or promiscuity.[58] This ties in to the relationship between rape and honor: because rape was conceived as a crime against a woman's honor, those who were already seen as bereft of any honor – prostitutes and slaves – could not be understood as being raped in a meaningful sense.[59] A denial of any honor – or social death, in Orlando Patterson's terms – was an essential characteristic of enslavement, and in a world where women's honor was inextricably tied to their sexuality this meant that enslaved women could be sexually abused with impunity. Fuentes has criticized Patterson for his 'masculinist' reading of honor in the master/slave dialectic – he largely glosses over female honor and instead defines the dishonored condition of slavery as a loss of 'manhood' – and she added an important insight: not only did (male) slaveowners enhance their honor and status through the subjection of their slaves, female slaveholders affirmed their own specifically sexual honor through its opposition to enslaved

[55] There is one case in which an enslaved woman, named Bergere, is kidnapped and raped at knifepoint, but the defendant here, named her '*schaker*' in the records, is an enslaved man who is primary prosecuted for running away from his master, not for rape. NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 861 court proceedings 1798-1799, scan 537-546.
[56] Fuentes, *Dispossessed Lives*, 2016, 83; Hartman, *Scenes of Subjection*, 81.
[57] Pipkin, *Rape in the Republic, 1609-1725*; Ruth Mazo Karras, "Sex and the Single Woman," in *Singlewomen in the European Past, 1250-1800* (University of Pennsylvania Press, 2013), 135.
[58] H. E. Niemeijer, *Batavia: een koloniale samenleving in de zeventiende eeuw*, Digital edition (Amsterdam: Balans, 2005), 72-73.
[59] Here, again, the connection between slavery and rape becomes apparent: as scholars of Atlantic slavery such as Jennifer Morgan and Henrice Altink have shown, representations of black women as sexually deviant and hyper-sexual served as an ideological ground to justify both their enslavement and their sexual abuse. Jennifer Leyle Morgan, *Bodies in Contact: Rethinking Colonial Encounters in World History* (Durham and London: Duke University Press, 2005), 54–66; Henrice Altink, "Deviant and Dangerous: Pro-Slavery Representations of Jamaican Slave Women's Sexuality, c. 1780–1834," *Slavery & Abolition* 26, no. 2 (August 1, 2005): 279.

women's dishonor.[60] While Fuentes stresses this particularly the case for white mistresses, to a certain extent it can be applied to free women more broadly: because enslaved women were by definition marked as unchaste, without honor, and therefore sexually available, free women could contrast themselves to this group and claim legal protection from rape as honorable women. The Batavia statutes demonstrate that this distinction was institutionally entrenched in the East Indies:

> Anyone who attempts to fornicate with or who makes scandalous proposals to an honorable woman, in such a way as can legally be proven, will be punished arbitrarily according to circumstance and person, *taking all free women for honorable unless proven otherwise*.[61]

The West Indies, however, had no such legal code, and the relatively protected position of free women in places such as Curaçao or Suriname needs to be qualified. Because slavery was strongly racialized in the Caribbean, so were the notions of (dis)honor associated with it, and women who were linked to slavery through either their personal past or their color could still be highly vulnerable to sexual assault despite being formally free. The manumitted woman Isabella in Suriname, for example (see chapter one), was clearly not seen as honorable by the white men who harassed her despite being a free member of the Dutch Reformed Church, and Isaacq Godefroij, a prominent Suriname planter and member of the Governing Council, was never prosecuted for allegedly raping a free woman.[62]

Another factor that made it possible to rape unfree women with impunity was enslaved women's deprival of a legally recognized family. In addition to having no legal claim to one's own body, the denial of formally recognized bonds between parents and children or husbands and wives was arguably what set slavery most fundamentally apart from other forms of labor exploitation.[63] For enslaved women this meant being embedded in no other formally recognized patriarchal structure than that of their master, which not only rendered them extremely vulnerable to their masters' whims, but also meant they could not rely on the protection that a husband or father provided in a legal system that conceived of rape in part as an affront to a woman's male authority figure and expected husbands and fathers to litigate on their wives' and daughters' behalf. Strikingly, it had been exactly this type of vulnerability to sexual exploitation as a result of a lack of patriarchal protection that had been such cause for outrage in the case of the Hekelbeeke sisters after their arrival in Batavia: the fact that the preteen girls did not have a capable father to protect their honor added to the criminalization of the defendants who had

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[60] Fuentes, *Dispossessed Lives,* 78-79; Orlando Patterson, *Slavery and Social Death: A Comparative Study*, (Cambridge, MA: Harvard University Press, 1982), 111.

[61] My emphasis. Original: "Die een eerbaare vrouwe tot ontugt aanzoekt of schandelykheeden voorlegt, zodanig, dat daar van in regten kan werden overtuygt, zal arbitralyk, naar geleegentheid van zaaken en perzoon, gestraft werden, moetende alle vrye vrouwen voor eerbaar werden gehouden, waar van 't teegendeel niet komt te blyken." *Statuten van Batavia* (1766), in NIP vol. 9, 186.

[62] Karwan Fatah-Black, *Eigendomsstrijd: De geschiedenis van slavernij en emancipatie in Suriname* (Amsterdam: Ambo|Anthos, 2018), 45.

[63] In Dutch Brazil in the seventeenth century, there was in fact some legal protection for enslaved husbands and wives, as there was in the Iberian world, but no evidence of laws forbidding the separation of couples remains for other Dutch colonies, and the decision whether or not to respect enslaved families seems to have been largely up to masters' discretion. Deborah Hamer, "Creating an Orderly Society: The Regulation of Marriage and Sex in the Dutch Atlantic World, 1621-1674" (Columbia University, 2014), 218-222 .

taken advantage of this situation, rather than decreasing the likelihood of prosecution as it did for enslaved women. European girls – especially if very young – were expected to be embedded in patriarchal structures that protected their honor, warranting institutional intervention if this was not the case. Enslaved African, Amerindian, and Asian girls' position in the social hierarchy, on the other hand, warranted no such outrage or institutional protection.

The spatial displacement that often went along with enslavement, moreover, meant that women could no longer rely on their extended kinship networks for protection if they experienced sexual violence. Barbara Watson Andaya has shown this for South East Asia: while male foreigners in the region initially formed relatively equitable sexual relationships shaped by mutual obligations with women embedded in local communities in the region, they increasingly chose to purchase enslaved and imported 'brides' who could not return home or complain to their family if poorly treated.[64] Similarly, local Akan women on the West-African coast in places like Elmina who formed relationships with European men were in a very different position to captive women who had been transported from further inland to be sold. This applied even to Elminan women who technically had enslaved status: if they were part of a local kinship network or *abusua*, their European partners could be held accountable for their obligations, whereas displaced captive women had essentially no recourse if they were treated poorly.[65]

All these factors help explain why there is such a dearth of rape cases involving enslaved victims in the VOC and WIC archives, and simultaneously suggest that in reality the sexual abuse of enslaved people was ubiquitous. On rare occasions, the veil is lifted, and usually not by accident. In the cases below, sexual violence against enslaved people came under juridical attention because some line had been crossed. Either the sex itself (rather than the exploitation or violence) was deviant – because it was between men – or the abuse threatened the social order somehow, by inciting a revolt or leading to a conflict of jurisdiction between slaveholders. In all, we gain insight into the conditions that shaped enslaved people's sexual experience with masters (including those that remain hidden in the archives) and into the limits of what masters could do.

Van Duijvenvoorde: prosecutor turned defendant

One of the most high-profile cases involving the sexual abuse of enslaved people by their masters involved the criminal prosecutor (*fiscaal*) Willem van Duijvenvoorde. This Dutchman, originally from Katwijk aan Zee, had climbed the company ranks over the course of a thirty-year career, starting as a sailor as a young man in 1714, and finally reaching the rank of Merchant in 1744 as the *fiscaal* of Macassar.[66] The case he became embroiled in offers an intimate look in to the private life of an agent of empire who normally would appear on the other side of the judicial apparatus in a much more anonymous – if influential – capacity, revealing both the extent and limits of his power in his own domestic sphere. Tellingly, the case was not defined as rape, nor did it come to the court's attention because of the exploitative nature of the sexual relations Van Duijvenvoorde had with his slaves. Rather, it was because the people involved were all male: Van

[64] Andaya, "From Temporary Wife to Prostitute," 1998, 20.
[65] Everts, "'Huwelijk Naar 's Lands Wijze,'" 609.
[66] NL-HaNA VOC 1.04.02 inv.no. 5250, List of qualified company servants, 1747-1749, Macassar, folio 57.

Duijvenvoorde was on trial for sodomy, along with his accusers, a group of seven of his male slaves and Samma van Macassar, a bondsman.[67]

It was Samma, the one victim who was not formally enslaved but in debt bondage to Willem Van Duijvenvoorde, along with two enslaved young men named Cupido and October, who brought the matter to light by turning to the authorities in Batavia soon after the Van Duijvenvoorde household had arrived in the colonial capital from Macassar. Samma had pawned himself to Willem for 60 rixdollar ten years prior and had been in his service as a coachman ever since. A few months into his servitude, as he would relate to the Court of Justice in 1748, his master started propositioning him. When Samma refused, Willem would have him bound by his hands and feet the next day, and whipped by his slaves under the pretext of 'disobedience'. Several of the enslaved men in the household told the court similar stories: Cupido van Bengalen, who had come under Van Duijvenvoorde's control after the latter married his mistress Alida van Aldorp several years prior, described how his new master had initially used persuasive tactics, promising him fine clothes, money, and even to adopt him as his own son, and asserting that sex between men was "much more enjoyable than that with the female sex".[68] October van Mangarij, who claimed to have never given in to his master's demands, also cited repeated abuse each time he had refused Willem's advances. The three men also referred to several other enslaved men in the household from whom Van Duijvenvoorde had coerced sex: he had apparently rotated between victims, calling on each one every three to four days. They further asserted that some of the enslaved women, especially a woman named Cleopatra, were aware of the situation. When called in for questioning, however, most of these witnesses were reluctant to say anything incriminating about their master. Two of the men, Pagie van Salaijer and Maart van Mangarij, initially confessed they had had intercourse with Van Duijvenvoorde under promises of gifts and threats of punishment, but later retracted their statement. The rest denied any knowledge or participation altogether. Cleopatra conceded that she had witnessed the occasional harsh punishment, but she and her fellow enslaved women professed ignorance of any sexual activity. Although they may have genuinely not have witnessed anything, the enslaved witnesses had little to gain and everything to lose from testifying against Van Duijvenvoorde, since they were still under the control of his wife, who fervently defended her husband in court, petitioning to have more witnesses in his defense called in for questioning.[69]

The case is a striking example of just how much control masters had over their slaves and bondsmen, with little discrimination between the two in practice. In addition to the sexual demands he placed on the group of young men working in his household, Van Duijvenvoorde also controlled their intimate relationships, deliberately keeping them away from their female partners, citing the risks of venereal disease that sex with women carried with it.[70] Unlike in other master-slave sodomy cases, moreover, such as one involving bookkeeper Willem Bax in 1747, Van Duijvenvoorde did not use direct physical force himself to coerce sex from his dependents, but used the constant indirect threat of physical punishment – his virtually unquestioned prerogative as a slave-owner – as well as his ability to award privileges to get his

[67] NL-HaNA VOC 1.04.02 inv.no. 9421 CrimPr 1748-1749, scan 395-454.
[68] Ibid, October 1, 1748, scan 469.
[69] Ibid., scan 416, scan 487-489.
[70] Ibid., scan 480.

way.[71] As Samma, Cupido, and October would all affirm when questioned about it by prosecutor Waals, Willem was never the active partner in their intercourse, always demanding that they penetrate him. This, incidentally, made their accusations less plausible in Waals' eyes, because the prosecutor simply could not imagine a man desiring such a thing, which he called "inconceivable and against the inborn nature of men".[72] There were, apparently, different degrees of 'unnaturalness' when it came to sodomy: while all its forms were abhorred, the active role to some degree adhered to expectations of masculine sexuality, while the receptive role subverted these expectations altogether.

Samma, October, Cupido, and their companions were acutely aware of the power dynamics that shaped their situation. Throughout the years, they had regularly discussed the abuse amongst each other and debated what their options were. They had considered turning to the authorities in Macassar, but feared doing so considering Van Duijvenvoorde's position as criminal prosecutor in the city, which allowed him to make credible threats that he would have them hanged if they told anyone of what was going on. Once the household arrived in Batavia, however, the men realized they were now outside Van Duijvenvoorde's jurisdiction, and that Batavia had its own *fiscaal* who outranked their master. Not everyone agreed it was a good idea to inform the Batavia *fiscaal's* men, however. Pagie, according to Cupido, had warned him that they would all be sentenced to death if the Batavian authorities found out, but this, Cupido claimed, had not deterred him.[73]

Although the men conceived of themselves as victims to abuse rather than accomplices, Pagie was correct in predicting the court would treat him and his peers as no less guilty of the "reprehensible crime of sodomy" than Van Duijvenvoorde. All men involved were held in civil detention (*gijzeling*) for almost four months, until the prosecutor presented the case in court and recommended the release of Van Duijvenvoorde and the enslaved defendants who had denied any involvement. Samma, Cupido, Pagie, and Maart, who had all confessed at some point, faced a recommended punishment of public humiliation at the gallows, branding, and convict labor at the Cape. Their civil detention was changed to incarceration, and Maart would die in jail in May 1749.[74] Willem van Duijvenvoorde was released not because the prosecutor believed him to be innocent – his accusers have very little reason to lie and incriminate themselves in the process, he asserted, and Van Duijvenvoorde's also had a reputation for living a "rough and intemperate" life that did not do him any favors – but because he denied everything. As Willem's wife Alida reminded the court in his defense, slaves could not legally testify against their master, which meant there was not enough evidence to warrant torture to get a confession out of him, let alone a conviction.[75]

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[71] For the Bax case, see NL-HaNA VOC 1.04.02 inv.no. 9411, scan 279, and Rossum, *Werkers van de wereld,* 323.
[72] NL-HaNA VOC 1.04.02 inv.no. 9421, scan 447. Van Duijvenvoorde and his wife also tried to use this fact in his own defense, even asking the court to commission a physician to inspect an anal fistula he claimed to suffer from, arguing that it would have been impossible to engage in passive anal sex with this condition (scan 925). The court complied, but the prosecutor was not convinced by this defence and even speculated that penetration might have caused the fistula in the first place, scan 439.
[73] Ibid., scan 469.
[74] NL-HaNA VOC 1.04.02 inv.no. 9311 CrimR May 23, 1749. The court records state that "the already convicted slave of the merchant Willem van Duijvenvoorde named Maert van Boegis" had died of a fever and diarrhea, scan 391.
[75] NL-HaNA VOC 1.04.02 inv.no. 9421, scan 430, 446.

Samma, Cupido, Pagie, and Maart paid dearly for their decision to tell the Batavian authorities what had happened to them, while Willem van Duijvenvoorde walked free. Had they not decided to take this drastic step, or had Willem preferred women, the matter would never have appeared before the court. The homosexual nature of the relations rendered them a crime – and a serious one at that – rather than a private affair, but Van Duijvenvoorde's legal privileges as a slave-owner ultimately protected him from the legal consequences of his actions. Enslaved women who experienced sexual exploitation by their masters did not run the additional risk of criminal prosecution that men like Samma and Cupido did, but they also did not have the option of reporting their master to the authorities. Only in exceptional circumstances did the sexual coercion of enslaved women face judicial scrutiny. In Batavia, Cochin, and Ceylon, no such cases appear in the VOC court records. For Atlantic slavery, this type of abuse is more well-documented, but even here prosecution was extremely rare. Its evidence is mostly found in non-judicial sources, such as the infamous diary of the Jamaican planter Thomas Thislewood or the plethora of baptismal records documenting the birth of children born to enslaved mothers conceived by their masters.[76] As sexual relations between white men and black women – often in the coercive framework of master-slave dynamics – were normalized throughout the plantation societies of the Americas, their appearance in government or judicial sources usually indicates that something else was going on that had rendered these intimate affairs a public concern.

Sexual abuse and enslaved resistance in the Caribbean

In August 1792, *fiscaal* L.S. Beth requested permission from the Berbice Council of Policy to arrest Johan Sleger, director of the Johanna, a plantation owned by the colony, for reportedly abusing a young enslaved black girl "in a tyrannical and most punishable manner". Colony clerk Aimé Cartier and Henrietta Bevierre, the wife of a botanist who had been staying at the Johanna, recounted that they had witnessed Sleger erupt in a fit of rage after he learned that this girl, named Mahimba, had lost her virginity, and that he had ordered her to be whipped in a brutal fashion. Upon Bevierre's protestations and questions about the reasons for this punishment, Sleger had reportedly answered that the girl "wants to be with the negroes but not with him, so he would have her whipped to death." He had also, as a horrified Bevierre recounted, penetrated Mahimba with his fingers, after attempting to assault Bevierre herself "in a manner unbefitting decency." Sleger's extreme and sexualized abuse, which seems to have been motivated by a desire for sexual control over the enslaved female population under his watch and that left Mahimba on the verge of death, was described as extremely dangerous by the prosecutor: "the ruin of entire colony could easily be borne from this, because even the most patient slaves could be brought to desperation and moved to enact revenge on the white race over such cruelty." Berbice's Governor and Council agreed, and Sleger was taken into custody, where he would die several weeks later by (suspected) suicide.[77]

[76] Trevor Burnard, *Mastery, Tyranny, and Desire: Thomas Thistlewood and His Slaves in the Anglo-Jamaican World* (The University of North Carolina Press, 2009); Jenny Shaw, "In the Name of the Mother: The Story of Susannah Mingo, a Woman of Color in the Early English Atlantic," *The William and Mary Quarterly* 77, no. 2 (April 25, 2020): 177–210.
[77] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 187, Missives #24-25, August-October 1792.

The colonial authorities' response to this case stands in stark contrast to another report of sexual abuse of enslaved women in Berbice, about half a century before. Planter Gabriel Leroa, in 1735, had recounted a story about an outing to a plantation on the Canje river with several white male colonists, involving "debaucheries" that included penetrating enslaved black women with candlesticks. Rather than these actions themselves resulting in an investigation or prosecution, however, it was Leroa who had been condemned by the court – for slander, after one of the travelers had filed a complaint against him.[78] Much had happened in Berbice between 1735 and 1792: the massive, bloody slave rebellion of 1763 had left a lasting impression among colonial authorities of the dangers of various kinds of abuse by plantation overseers. Physical violence in the form of harsh punishments took center stage in these concerns, but there is evidence that sexual demands on enslaved women were also seen as a pressing concern.

This is illustrated in a legal conflict from 1766, between Emmanuel van den Bergh, director of the Lelienburg plantation, and the director of the neighboring plantation Juliana, named Tiedeman. Tiedeman complained that in his absence, van den Bergh had entered Tiedeman's home on the Juliana and taken two enslaved women – Sebilla, enslaved to Tiedeman's neighbor Jan Brouwer, and Tiedeman's cook Betje, whom he had left in charge in his absence – back to his plantation, where he had spent the night with them in his bedroom, with no other goal, Tiedeman suggested, than to "exert his beastly desires."[79] The next morning he had sent them back to their plantations with a permission slip, admonishing them not to tell their masters.

Tiedeman was primarily incensed that van den Bergh had entered his home without permission and taken Betje with him, thus leaving all his possessions bereft of her supervision, but he added that van den Berg´s behavior was not only an affront to him and his plantation, but also extremely dangerous, "as it might have caused a revolt among the slaves to break out." The enslaved men and women present had been outraged by van den Berg´s conduct, especially the *Bomba* (black driver) who according to Tiedeman would have started an insurrection had Van den Bergh not appeased him with offerings of liquor, and Betje who was deeply concerned about Sebilla, the pregnant woman whom Van den Bergh had tied up.[80] Interestingly, van den Bergh, in his defense, also appealed to concerns with public order and safety, claiming that he had only acted the way he did because Sebilla, who belonged to a neighboring plantation, had been wandering without a permission slip, and that it was every white's duty to apprehend such unauthorized roamers. The cook Betje, he said, had come along on her own volition, refusing to abandon her friend after she had failed to persuade van den Bergh to let Sebilla go. He also insinuated that it had been Betje´s fault that he had had to come to the Juliana in the first place, because one of the Amerindian men married to an enslaved Amerindian woman on his plantation had run off to "fornicate" with her.[81]

Neither Van den Bergh nor Tiedeman were themselves the owners of the plantation or the enslaved people under their control, but directors paid by absentee owners to manage the

[78] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 63, scan 421; inv.no. 66, Missives #45, #48, November 1735-February 1736.
[79] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 347, scan 59-60. He had also taken a young black man named Frans, also from Jan Brouwer's plantation. Frans had not spent the night in the bedroom but with Van den Bergh's slaves.
[80] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 347, scan 59-60.
[81] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 347, scan 61-62.

estates. This had become the norm in Berbice after the revolt of 1763, which left many plantation owners either dead or unwilling to live in the colony. In fact, Lelienburg had been the home of revolt leader Coffy, who had cited his master Anthonij Barkey's cruelty as a primary catalyst for the uprising.[82] With the rebellion still fresh on the colonists' minds by 1766, it is perhaps unsurprising that Lelienburg's Director was under particular scrutiny, and any action of his that might provoke another revolt would have been taken extremely seriously. And indeed, the court sided with Tiedeman, sentencing Van den Bergh to a fine of 200 guilders.[83]

If the planters and colonial authorities were still reeling from the massive revolt three years prior, so were the enslaved people on the Juliana. The bend in the Berbice river they lived on had been at the center of the uprising, so most – except those who had arrived in the last three years – would have experienced the rebellion from its tumultuous start through a grueling year of fighting to its violent end. Many would have lost friends and family members in horrific executions. The actions taken by Betje (who was, judging from her description as a "mulatta", likely born and raised in the colony) should be seen in this light. Likely eager to keep the peace, Betje initially complied with Van den Bergh, reporting the whereabouts of those out without a pass. When Van den Bergh threatened to take the unauthorized visitors to the fort, however, Betje panicked, fearing for the captured Sebilla's life, and began pleading with the visitor – neither her nor Sebilla's master – on behalf of the pregnant young woman. As tensions began to rise, Betje reportedly attempted to de-escalate the situation, inviting Van den Bergh inside and offering him a drink, and finally deciding to come along with Van den Bergh in his boat rather than leave Sebilla alone with him or resist in a way that might cause even more problems.[84] Whether Betje managed to convince him to not take them to the fort or Van der Bergh had always intended to take them to his home to sexually exploit the women at his mercy is unclear, but what is evident is that the terror projected from Fort Nassau was sufficient for a white man to be able subject two women whom he did not own or have formal jurisdiction over to his will. There was little Betje and Sebilla could do except report to their respective masters, which they did. In this case, Van den Bergh actually faced repercussions for his actions, although solely on the grounds of risking another uprising and affronting another planter of the latter's private property. The sexual exploitation of enslaved women, where it was criminalized, was thus not treated as an affront to an individual, but as part of a larger pattern of misconduct that threatened property rights and the social order.

The idea that sexual misconduct could spark dangerous revolts was not new. In 1750 Suriname, when the planter Amand Thoma was killed in a major slave uprising on his plantation, Governor Mauricius – of whom Thoma had been a political adversary – was quick to emphasize that "all the misfortune originated in the cruel treatment of the slaves and fornication with female slaves".[85] Indeed, in the investigation that followed the revolt, much attention was paid to the sexual entanglements between Thoma, an enslaved Amerindian woman named Eva who was reportedly pregnant with his child, the revolt's leader Coridon, and Bellona, an enslaved

[82] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 49. For a detailed account of the uprising, see Kars, *Blood on the River*.
[83] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 347, Minutes of the Council of Policy and Criminal Justice, 7 July 1766, scan 47.
[84] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 347, scan 61-62.
[85] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 201, Governor's journal February 22, 1750, folio 396-7.

woman described as Coridon's wife. According to witnesses, Coridon had harbored vengeful feelings towards Thoma because the latter had "taken up with his wife Bellona".[86] Conversely, Coridon feared his master's wrath because he had possibly impregnated Eva: should the Amerindian woman who was described as Thoma's "favorite" give birth to a dark-skinned child, Coridon feared he might lose his life.

The uprising formed part of a larger pattern of enslaved people's resistance to various forms of abuse and exploitation in Commewijne; in fact, the murder of Thoma had been part of an agreement between enslaved leaders from Bethlehem and those of neighboring plantations, including Killestein Nova where Thoma had taken Coridon and several others several months prior to deal with an uprising against the director and where Coridon hatched a plan with "the mulatto Dirkie" to kill their respective masters.[87] However, for the governor, eager to ascribe the cause of the uprising to Thoma's individual failings rather than a colony-wide problem, the drama involving Eva, Bellona, Coridon and Thoma offered an attractive explanation that emphasized the latter's sexual deviancy. What exactly constituted this deviancy becomes clear from Mauricius' response to Coridon's explanation of the events, shortly after being captured in April 1750: possibly in an attempt to protect Eva and Bellona from prosecution, Coridon told the court that neither woman had been the source of his jealousy regarding Thoma. Eva had never been involved with him, he asserted, and he had not been angry that Thoma had had sex with his wife Bellona – he had even been the one to take her to his master's bedroom. Thoma had 'given' Bellona to him, but Coridon had never been particularly interested in her. Instead, Coridon mentioned a third woman – a certain Bessalina – who had been the source of his jealousy, since Thoma had taken her from him and given her to another enslaved African man, named Hector.[88] Mauricius expressed outrage at this testimony in his journal which he sent to his employers in Amsterdam. What ostensibly scandalized him was not Thoma's interference in slaves' relationships or the fact he had had sex with enslaved women per se, but that he had debased himself to a position of sexual equality and rivalry with a man who was supposed to be his inferior, particularly through his interest in Bellona whom Coridon was apparently happy to share: "What a reprehensible mixing with the *dégoûtante restes* of his black slave!".[89] Thoma's sexual behavior had undermined white dominance over the numerically vastly superior enslaved population, both by inciting resentment and thus provoking rebellion among his slaves, and by weakening the image of a superior, detached master.

The notion that not the coercion of sex from enslaved women in and of itself, but rather the question of the woman's relation to other men was decisive in whether sex between masters and female slaves was acceptable was not just present among white observers such as Mauricius.

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[86] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 801, Criminal case files, 1750, folios 39-40. Most historical accounts of the uprising identify Coridon as the *bassia*, or black driver of the plantation. See, for example, Natalie Zemon Davis, "Judges, Masters, Diviners: Slaves' Experience of Criminal Justice in Colonial Suriname," *Law and History Review* 29, no. 4 (November 2011): 969. In his own testimony on 1 April 1750, Coridon identifies a co-conspirator named Abraham as the driver, and claims his position is that of 'dresser', or lay medic. NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 801, folio 288.
[87] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 801, folio 284.
[88] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 801, folio 284-286. No further trace of this 'Bessalina' appear in the court records, although there was a Messalina among the captured fugitives, see NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 801, folio 309-314.
[89] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 201, folio 435.

Expectations regarding a wife's sexual fidelity and exclusivity were not exclusive to western notions of patriarchy, and enslaved men born in Africa and those born and raised in the colony alike suffered the psychological strain of being unable to intervene when their partners had sex with their white masters or other enslaved men, especially (although not exclusively) if coerced. Thus the African-born Coridon and the creole Dirkie, child of an enslaved black mother and white father, reportedly agreed that "no white ought to have a negro's wife" as part of their justification for the murder plot.[90] Coridon's self-professed anger at Thoma's decision to 'give' his wife Bessalina to someone else fits in a larger pattern of tensions, throughout plantation societies in the Americas, over masters' interference in enslaved men and women's lives through forced coupling and separation.[91] Couples could be separated through the sale of either party, but the Bethlehem captives' testimonies shows that masters like Thoma also had some degree of control over sexual relationships *within* the plantation, forcing couplings that neither party desired and treating sexual access to enslaved women as privileges to be doled out, thus reinforcing women's status as property in a double sense: as chattel that could be bought and sold, and as wives that could be given and taken away.

Two decades later, roughly 400 kilometers westward, a rebellion broke out on a Demerary plantation that in many ways mirrored the Amand Thoma case of Suriname. Here, too, a white master was killed by his slaves, who then proceeded to take over, causing a mass exodus of enslaved men and women – both willingly and unwillingly – into the forest. Again, white authorities scrambled to regain control of the plantation, capture the fugitives, and get a sense of what had happened and why. Again, the causes of the uprising were complex, rooted in a variety of grievances, agreements made between enslaved men from different plantations, and a hope to establish independent control in the region. But again the governor, in reporting back to his superiors in the Netherlands, was quick to latch onto a romantic entanglement as an explanation: governor Laurens Storm van 's Gravesande wrote on 24 September 1772, six weeks after the uprising, that a black woman named Maddelon, "a *bijzit* [concubine] of Pieter Callaert, was the primary cause of the Rebellion".[92] A key difference was that in this case it was not the murder victim – P.C. Hooft, along with his pregnant wife – who was held accountable, but another planter: Pieter Callaert, who had been the prior owner of the Anna Catharina plantation where the murder took place. Callaert had been resentful towards his neighbor Hooft after the latter had taken over his foreclosed-upon plantation, and he was accused of inciting and facilitating the rebellion against Hooft.[93]

Callaert was on trial for a crime so serious he would eventually be executed in a manner that, as Bram Hoonhout points out, was usually reserved for slaves: breaking on the wheel, followed

[90] NL-HaNA, Raad van Politie Suriname, 1.05.10.02, inv.no. 801, folio 88.
[91] Thelma Jennings, "'Us Colored Women Had to Go Through A Plenty': Sexual Exploitation of African-American Slave Women," *Journal of Women's History; Bloomington, Ind.* 1, no. 3 (January 1, 1990): 45–74; Thomas A. Foster, "The Sexual Abuse of Black Men under American Slavery," *Journal of the History of Sexuality* 20, no. 3 (2011): 445–64; Ulrike Schmieder, "Sexual Relations between the Enslaved and between Slaves and Nonslaves in Nineteenth-Century Cuba," in *Sex, Power, and Slavery*, ed. Gwyn editor Campbell and Elizabeth Elbourne (Athens: Ohio University Press, 2014), 227–52; Hunter, *Bound in Wedlock*.
[92] British National Archives, Colonial Office [CO] 116/38 Assorted papers from Essequibo/Demerary 1772-1774, 369.
[93] Bram Michael Hoonhout, "The West Indian Web : Improvising Colonial Survival in Essequibo and Demerara, 1750-1800" (PhD dissertation, 2017), 134.

by beheading and burning.[94] Because of this, we learn a great deal of details about his behavior, including sexual and domestic violence, that would normally be treated with more discretion by his peers and superiors. These details might help explain why, despite ample evidence that Maddelon had not been a major player or even a willing participant in the rebellion, Storm van 's Gravesande felt he could plausibly point to her as its "primary cause". Several testimonies of enslaved witnesses imprisoned at the WIC fortress point to what could be construed as a violent love triangle – or quadrangle – reminiscent of that involving Coridon and Thoma. Silvia, an enslaved woman originally in the property of Callaert, related that Callaert and his *Bomba* named Jacob – who was identified as the key instigator in the uprising – had "had a girl named Maddelon that both of them used". What had driven Jacob to conspire with Hooft's *Bomba* Holstein to kill Hooft according to Silvia, however, had been Maddelon's involvement with another man. A free black man named Anthony, after the plantation had transferred to Hooft, had asked the new owner for a woman, "and received Maddelon for a wife, which Jacob was most discontent about, wanting to keep the girl for him alone with his old master Callaerd." Vigilant, one of Hooft's men, confirmed this story, relating that Anthony had complained to Hooft after Jacob continued to pursue Maddelon, and that Hooft had responded by having Jacob beaten.[95] This testimony served to incriminate Callaert alongside Jacob, having lowered himself to the level of his slave in his sexual exploits just as Thoma had, and offered a motive for Callaert and Jacob to have conspired against Hooft. Maddelon, when asked if she had been Callaert's *bijzit*, answered in the affirmative, but her elaboration suggests that her understanding of this term did not imply concubinage so much as one or more acts of rape: "Callaerd had been with her and used her in his bedroom on a shelf before they had all been sold."[96] Other testimonies revealed more patterns of abusive behavior at the hands of Callaert, both against enslaved women and girls and against his own wife, which likely never would have received judicial attention had it not been for the uprising, but now served to paint a larger pattern of improper conduct.[97]

Conclusion

Rape is a crime that, particularly for the early modern period, defies straightforward categorization as a public or a private offense. While a highly intimate form of violence affecting private individuals, the implications of rape, prior to the nineteenth century, were public, with the damage done to victims understood as not primarily to the victim's psyche, but to her and her family's honor and therefore socio-economic prospects. Nevertheless, it is possible to distinguish, within the eighteenth century Dutch empire (and beyond), between instances of sexual violence that were approached as a 'private' crime – i.e. between two private parties in which the aggrieved party may turn to the judicial authorities in the hopes of getting justice for wrong done – and sexual violence as a public offense attracting the attention of authorities regardless of a victim's legal action, out of broader political or security concerns. In the first case, the cases from this chapter have shown, plaintiffs' chances of success in using the legal system were strongly dependent on how both local norms and legal standards (in our case: Dutch law)

[94] Ibid., 139.
[95] British National Archives, CO 116/38, 320-322.
[96] Ibid., 285-286.
[97] Ibid., 324.

defined and regulated rape and sexual violence, as well as on both the victim's and the perpetrator's status and wealth: wealthy men in powerful positions were more difficult to take legal action against than low-ranking company servants or subaltern men such as slaves. Whether victims were taken seriously as victims, meanwhile, was contingent on their gender, age, virginity, ethnic status, communal support, perceived respectability, and whether they were enslaved or free.

Where rape and other forms of violent or coercive sexuality were involved in 'public' prosecutions because of the (indirect or direct) threat they posed to broader public order and safety and other political concerns, however, these status-based distinctions mattered less. Because sexual violence or misconduct, in these cases, frequently appeared as one among many charges, serving to paint a larger picture of illegal, dangerous, or immoral behavior, the burden of evidence was more loosely conceived. And because not victim's individual interests, but broader political matters such as violent uprisings, jurisdictional conflicts, and property were at stake, forms of sexual violence against marginalized individuals who otherwise would have little chance of success seeking recourse through the justice system could have real consequences for perpetrators who were among the most powerful, elite members of colonial society. Male-on-male sexual abuse can be counted among this category because sodomy, as a potential threat to the sexual morality of *all* men, challenged public order. It should be noted that, although it was the logic of colonial authorities that determined the legal treatment and outcome of these cases, the agency of more marginalized members of colonial society frequently played a key role in the case coming under attention in the first place. This could be judicial agency, as with Samma and the enslaved servants of Van Duijvenvoorde reporting his behavior to Batavia's *fiscaal*, or extra-judicial: it was enslaved people's response to violent, sexualized abuses in plantation societies such as Berbice and Suriname in the form of revolt and resistance that convinced colonial authorities of the dangers of planters acting with impunity. Prosecutions of sexual violence then, in both more 'public' and more 'private' instances, reveal how the colonial justice system across the early modern Dutch empire served to maintain social hierarchies and colonial power structures, but simultaneously how it had to contend with the actions of the groups and individuals that lived under its jurisdiction, who had their own notions of what sexual violence meant and what to do about it.

In the past two chapters, we have seen how sexual encounters within the diverse colonial spaces across the Dutch empire were criminalized and varyingly prosecuted for a range of reasons, from coercion and threats of retaliatory violence to loss of honor and status for individuals and (ethno-religious) communities. A common thread to all these 'illicit' forms of sexuality, however – both those that were intensely policed and those that went largely ignored – was the fact that they took place outside the regulatory framework of marriage. All, with the exception of sodomy cases, therefore had the potential to result in children whose legal, socio-economic and ethno-religious status was not neatly accounted for by wedlock as an ordering mechanism. This raises questions, particularly for the countless children born across some of the many divides that held meaning in the Dutch empire (enslavement, race, religion, class), as a result of the ubiquity of non-marital relationships – consensual and coercive – between European men and non-European women: what was their place within colonial societies, and how accepted were they in it?

Chapter 6. Children and the blurring of colonial categories

Introduction

As we have seen in chapter one, the marriage policies adopted by Dutch colonial authorities across the globe were meant to maintain an orderly social hierarchy within a diverse society. By only allowing Christians to marry other Christians – and this under strict conditions – the companies involved in colonial exploitation hoped to maintain a demographic base on which their power could rest. This population was to be 'Dutch' – if not strictly in terms of ethnic or geographic origin, then at least in terms of political allegiance, behavioral norms, and cultural belonging. As we have also seen, this idea was not easy to enforce in practice, not only because it was difficult to control the behavior of those recruited under the 'Dutch' umbrella, many of whom did not necessarily share the cultural and behavioral norms of colonial elites, but also because deviations from these norms often involved sexual contact with people outside the community. Inevitably, children were born whose very existence defied the boundaries set by colonial policies, and governments and church leaders alike had no choice but to confront this reality. This raises the question what position these individuals of ambiguous status took within colonial hierarchies, and how this position was determined: how did race, religion, wealth and legal status converge for those whose birth did not facilitate a straightforward categorization? To answer this question, this chapter will start with an exploration of illegitimacy, a central concept at play in the status of children born across colonial divides. It will then examine the specific means that parents and wider communities had at their disposal to shape the lives, livelihoods and affiliations of children, starting with manumission (for children born to enslaved mothers) and then focusing on testamentary bequests, followed by baptism and religious education. Finally, the often ambivalent attitudes taken by colonial authorities will be explored.

(il)legitimacy and legal status

Illegitimacy can be defined as the state of children born out of a union unsanctioned by the reigning norms of the society the parents live in. In any society where status or property is transferred from parents to children, families and communal authorities can be expected to have a vested interest in controlling this inheritance and the social order it (re)produced, and thus treat children born from unsanctioned unions as a problem. This is particularly the case in patrilineal kinship systems (traditionally found throughout much of Europe and Asia) in which property and status pass primarily from the father rather than the mother and her (male) relatives, and in which "proper" inheritance is secured through sanctioned unions, such as marriage, in which sexual fidelity is expected.[1] In the Dutch legal system, since the Reformation and especially with the issuing of the Political Ordinance of 1580, reproductive unions were sanctioned through registered and properly formalized marriage, whose procedures (pre-registration, proclamations, and finally the confirmation before secular or church authorities) served to prevent unions deemed undesirable by the authorities (bigamy, forbidden degrees of

[1] John Hartung, "Matrilineal Inheritance: New Theory and Analysis," *Behavioral and Brain Sciences* 8, no. 4 (December 1985): 661–70.

kinship, inter-religious marriage) or by an (underage) bride or groom's family.[2] As we saw in chapter one and three, the colonial context added new dimensions to this dynamic, with Christians now living among not just a Jewish minority, but a majority of people of other religions, whether Muslim or what colonists called "Heathens" (i.e. Animists, Hindus, Buddhists, etc.), and with colonial authorities as well as families interested in retaining racial or ethnic divisions as well as other boundaries of status, such as slavery. This, unsurprisingly, led to conflicts, first of all in places where the Dutch came to rule over populations who had different systems of sanctioning reproductive unions: in Ceylon, for example, where the VOC heavily relied on both taxation and hereditary services and thus had a vested interest in matters of inheritance, authorities had to reconcile Dutch legal norms with Sinhalese practices in which communal approval, rather than registration and marriage formalities, were decisive in sanctioning unions, and thus legitimacy.[3]

If illegitimacy was already a complex matter for children born *within* specific moral and legal communities, the situation was especially complicated for those whose birth transgressed the boundaries (racial, religious, socio-economic) which colonial marriage regulations were meant to police. All three of these boundaries were closely wrapped up in parentage and parenting: racial or ethnic classification occurred based on appearance and who one's parents were, but also secondary factors such as education and broader familial and social connections. Religious affiliation was strongly tied to family, and involved not just a formal initiation (such as baptism or a confession of faith) but also beliefs and practices passed down from parents to children. Socio-economic status, in colonial settings, involved not just inheritable wealth and social capital, but could also mean enslavement and slave-ownership.

Of the above three boundaries, the laws around socio-economic status were the most explicitly defined through the legal concept of (il)legitimacy, although here too, considerable room for variation existed: children born out of wedlock, as per Roman-Dutch law, did not automatically inherit from their father the way legitimate offspring did, unless the latter decided to purposefully make arrangements for them in his will, or unless the children were retroactively legitimated through a special government grant or through the parents' marriage.[4] This latter option was only available to so-called *speelkinderen* (litt. "children of play", natural children) meaning those born from unmarried parents who had no legal impediments to marriage.[5] These children also automatically inherited from their mother, and in this sense were legally equal to a mother's legitimate children.[6] By contrast, so-called *overwonnen kinderen* (litt. "conquered children"), who were born from adultery or incest, could not inherit from either their mother or their father.[7]

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[2] Cau, "Ordonnantie vande Policien binnen Holland, in date den eersen Aprilis 1580."
[3] Luc Bulten et al., "Contested Conjugality? Sinhalese Marriage Practices in Eighteenth-Century Dutch Colonial Sri Lanka," *Annales de Demographie Historique* 135, no. 1 (September 20, 2018): 51–80; Rupesinghe, "Navigating Pluralities Reluctantly."
[4] Van Wamelen, *Family life*.
[5] "Spelen" in the early modern period, could be used to connote intercourse, as also becomes clear from the terms *minnespel* (referring to amorous pursuits) and *overspel* (adultery). T.H. Buser, "Overijselsch taaleigen," *De Taalgids: Tijdschrift tot uitbreiding van de kennis der Nederlandsche taal* 3 (1861): 162.
[6] Gerald Groenewald, '"A Mother Makes No Bastard": Family Law, Sexual Relations and Illegitimacy in Dutch Colonial Cape Town, c. 1652-1795', *African Historical Review* 39, no. 2 (November 2007): 61; Hugo de Groot, *Inleydinge tot de hollandtsche regts-geleertheyt* (Dirk Boom, 1767), 488.
[7] Groot, *Inleydinge tot de Hollandtsche regts-geleertheyt*, 116.

While for children born out of wedlock, illegitimate status had predominantly negative consequences – they were generally stigmatized as bastards or *hoerenkinderen* and did not have the same inheritance rights legitimate children had – for fathers, illegitimacy could actually be advantageous. We have already seen how non-marital sex, for freeborn and especially European men, was rarely prosecuted. Similarly, the fathering of children of out wedlock was unlikely to cause run-ins with the law for European men in colonial settlements, whether criminal or civil: whereas for the seventeenth century, there are some records of women – even those whose name suggests they were of enslaved background – filing for child support at Batavia's Court of Justice, by the eighteenth century such paternity suits become more rare, and are usually limited to 'defloration' suits filed by unmarried Christian girls assisted by their parents. This may in part be explained by the prohibitive cost of filing a civil suit against a company servant before the Court of Justice, which likely prompted many unwed mothers to seek out more informal means of securing support.[8] In some settings, such as Elmina, colonial authorities made legislative attempts at making European fathers financially responsible for their illegitimate offspring, but there is little evidence of these laws being enforced in practice.[9]

Moreover, as will become clear, fathers arguably had more freedom and power in making arrangements for their illegitimate children than they did with regards to their legal offspring: in absence of the legal framework that regulated familial relations within wedlock, which came with obligations of care and mandatory minimums for children's inheritance – the so-called 'legitimate portion' – fathers to illicit children were free to make their own arrangements, or abstain from doing so.[10] This discretionary power went the furthest for men who fathered illegitimate children with women they held in slavery, and whose offspring were thus their property.

Shaping ambiguous lives

Enslaved status and manumission

The inheritance of enslaved status, in contrast to legitimacy, was not dependent on parental marriage, but rather strictly matrilineal: following the principle, derived from Roman civil law and found across every Western-European colonial empire, that "the birth follows the womb" (*partus sequitur ventrem*), children born to enslaved mothers were automatically enslaved themselves (whereas children born to free mothers were born free, regardless of the status of the father).[11] These *huijsboorlingen* (litt. "natives of the house"), as they were called in the VOC

[8] NL-HaNA VOC 1.04.02 inv.no. 9225 (1641), scan 443; , inv.no. 9230 (1655) scan 122; , inv.no. 9242 (1734) scan 645; 9253 (1746) scan 189; , inv.no. 9265 (1759) scan 453. By comparison, Donald Haks has shown how, in the Dutch city of Leiden, several paternity suits were initiated each year, about half of which were resolved extra-judicially. Haks, *Huwelijk en gezin*, 98. See also Christi Boerdam, "Ongehuwd Moederschap Als Sociaal Verschijnsel. Casus: Rotterdam Op Het Einde van de Achttiende Eeuw," *Tijdschrift Voor Geschiedenis* 98 (1985): 165–68; Jeannette Kamp and Ariadne Schmidt, "Getting Justice: A Comparative Perspective on Illegitimacy and the Use of Justice in Holland and Germany, 1600–1800," *Journal of Social History* 51, no. 4 (June 1, 2018): 676–78.

[9] NL-HaNA, WIC, 1.05.01.02, inv.no. 124, Resolutions 10 March 1700, scan 335-339.

[10] Grotius specified this *legitieme portie* that children were entitled to, even in case of alternative testamentary bequests, as at least one third of what they would receive if their mother or legitimate father died *ab intestato*. Groot, *Inleydinge tot de Hollandtsche regts-geleertheyt*, 123.

[11] Markus Vink, '"The World's Oldest Trade": Dutch Slavery and Slave Trade in the Indian Ocean in the Seventeenth Century', *Journal of World History* 14, no. 2 (2003): 131–77; Jennifer L. Morgan, 'Partus

world, were the property of the mother's master. This meant that the fate of children born to enslaved women conceived by their masters depended almost entirely on their father, but in his capacity as owner rather than progenitor: if he wished, he was entirely in his right to treat them just as his other human property, and sell them or draw on their labor, and if he died, his legitimate heirs would inherit them along with the enslaved mother and the rest of his estate.[12] It was only when a father decided to treat his enslaved biological children as more than property – informally recognizing them as his and taking legal steps to express that recognition – that the situation could become complicated, both because of the wide range of options available, and because these children, who skirted the boundary between free and enslaved people, became, as we will see, an object of colonial authorities' concern and active intervention.

When fathers manumitted their enslaved children, whether in life or by testament, authorities' concerns were those regarding manumission in general. The VOC administration was primarily concerned with preventing the formation of a class of financially needy freedmen and -women, and in 1682 mandated that Batavian slaveowners who wished to emancipate their dependents had to guarantee the costs of their livelihood for a period of six years following manumission.[13] In 1753, this was changed to a mandatory payment of 10 rixdollars to the church's charity board upon manumission, as an insurance against future dependence on alms. In 1765, this stipulation was extended to VOC-settlements beyond Batavia.[14]

Regulators in Suriname had similar concerns to the VOC, but took a slightly different approach: a 1670 ordinance required freed people to enter into an employment contract, or risk being whipped.[15] This provision specifically targeted "negroes", however, and likely did not target the mixed-race offspring of well-to-do white men who formed a distinct (albeit small, especially in the seventeenth century) class among the free non-white population that was considerably more privileged than the "urban proletariat" made up of freed black men and women and children of lower-ranking or uninvolved white fathers.[16] In 1733, the Surinamese colonial government issued a more sweeping piece of legislation regarding manumission that explicitly included "mulattoes". These so-called "Manumission Regulations" addressed concerns that went beyond indigency – although the first clause did make provisions for this: manumission could only happen with explicit permission from the Governing Council and only if the freed person was deemed "capable of earning their own keep."[17] The other clauses were

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Sequitur Ventrem: Law, Race, and Reproduction in Colonial Slavery', *Small Axe: A Caribbean Journal of Criticism* 22, no. 1 (55) (1 March 2018): 1–17; Stuart M. McManus, 'Partus Sequitur Ventrem in Theory and Practice: Slavery and Reproduction in Early Modern Portuguese Asia', *Gender & History* 32, no. 3 (2020): 542–61.

[12] Beckles, "Perfect Property"; Ramona Negrón, "The Enslaved Children of the Dutch World: Trade, Plantations, and Households in the Eighteenth Century" (unpublished MA thesis, Leiden, Leiden University, 2020), 38–39.

[13] NIP vol III, 15 January 1682, "Voorschriften nopens emancipatie van lijfeigenen bij acte onder levenden en nopens personen, besmet met de sieckte van lazarije," 75.

[14] NIP vol VIII, 10 December 1765, "Toepassing op de buiten-kantoren van het bepaalde op 13 November 1753 nopens het betalen van 10 rijksdaalders voor elken vrijgegeven slaaf en nopens het onderhoud van dergelijke verminte of zieke slaven," 83.

[15] Fatah-Black, 'The Use of Wills', 626; WIP-S Vol I, #32, 12 March 1670, 56-57.

[16] Ellen Brigitte Aurelia Neslo, "Een ongekende elite : De opkomst van een gekleurde elite in koloniaal Suriname 1800-1863" (Unpublished PhD Dissertation, Utrecht, Universiteit Utrecht, 2016), 29; Rosemary Brana-Shute, "The Manumission of Slaves in Suriname, 1760-1828" (Unpublished PhD Dissertation, The University of Florida, 1985), 101–3.

[17] WIP-S vol I, #350, 28 July 1733, 411.

primarily concerned with regulating the social position of freed people: on the one hand, they were to form a distinct and separate class from the enslaved population, to the point where fraternization with the latter was rigorously punished. On the other hand, the regulations prescribed that freed people owed deference and assistance to their former masters and the latter's descendants.[18] In 1743 these stipulations were expanded, as freed people were ordered to show deference and respect to any and all white people, and a further expansion in 1760 required a guarantor assuring the freed person would be able to support themselves.[19] These laws, along with the requirement that manumission came with instructions in the Christian faith, demonstrate an anxious desire to make freed people, no longer under the direct control of their former masters, conform to the behavioural norms and economic requirements of the free, white-dominated society they joined, without being full and equal members of that society.

These concerns regarding the transition from enslaved to free status were closely entangled with those involving other forms of boundary-crossing embodied in illegitimate children, including those born to free mothers of a different ethno-religious status from the father. Along with a potential for social mobility, these children's lives were marked by *cultural* mobility and ambiguity of status, which colonial authorities could view as both an opportunity to capitalize on, *and* as a threat. Understanding this dynamic requires, first of all, an appreciation of the variety of options available to European fathers and the consequences these had for children: although paternal recognition as a legal construct did not emerge in Dutch jurisprudence until the nineteenth century, early modern fathers in the Dutch world had other, often overlapping, ways of 'recognizing' their children as their own and thus imparting certain elements of their socio-economic and cultural status to them.[20] The most important of these were testamentary bequest, baptism and religious education (which, in the East Indies, was sometimes coupled with adoption). In each of these, questions around ethnic, religious, and socio-economic belonging converged.

Testamentary bequest

A major way for fathers to express any paternal responsibility they might feel towards the children they conceived out of wedlock – whether freeborn or manumitted – was to make financial arrangements for them for after the father's death. As Francisca Hoyer has shown through her analysis of wills issued by Germans in the East Indies (many of them in VOC service), last wills and testaments were a remarkably flexible tool through which fathers could give structure and meaning to their family relationships. They could choose to distribute their property between their legitimate, natural, and adopted children regardless of legal status, or draw lines and hierarchies between them, and indeed, different men took radically different approaches.[21] The fathers in Hoyer's cases are all German, but Christians of various origins took advantage of the institution of the last will and testament as a means of organizing the financial

[18] Ibid.
[19] WIP-S vol I, #419, 8 June 1743, 508-509; #573, 19 May 1760, 690; Camilla de Koning, "Kinship as a Factor in Manumissions and Straatvoogdschap in Suriname, 1765-1795" (Unpublished MA thesis, Leiden, Leiden University, 2022), 71.
[20] Van Wamelen, *Family life*, 453.
[21] Francisca Hoyer, "Relations of Absence: Germans in the East Indies and Their Families c. 1750-1820" (Unpublished PhD Dissertation, Uppsala, Uppsala University, 2020), 200–208.

future of their family, legitimate and illegitimate. There is also evidence, at least for the city of Batavia, which had several urban notaries, that non-Christians, and particularly Chinese and Muslim denizens, drew up testaments as well, although more testaments will need to be uncovered to make any generalizable claims about these testators' provisions for illegitimate children born out of inter-religious or inter-ethnic unions.[22] In this section, I will focus on European fathers and their natural children born to non-European mothers, for whom a relatively substantial body of wills is available.[23]

The practice of organizing difference between children through testaments was not unique to the East Indies: in Elmina, European men rarely left behind legitimate children (by Dutch legal standards), as Christian marriage was almost non-existent on the Gold Coast, but they did sometimes differentiate between their natural children – not just financially, but also in the futures they intended for them. In 1765, for example, former Governor Hendrik Walmbeek bequeathed gold and linen to all six of his children, conceived with two different African women. But his youngest son Willem, the only child he had with a woman named Adjuwa, was the only beneficiary of an additional stipulation: he would receive 250 guilders annually out of Walmbeek's estate for the rest of his life and receive a European education: Walmbeek's colleague Coenraad Willem Roghe would temporarily serve as his guardian, up until the time that Walmbeek's sister Johanna Christina, who lived in Amsterdam with her husband, would be able to take him in.[24] This type of allocation of funds was generally reserved for sons, whereas daughters tended to receive bequests that would serve them in Akan society, rather than in Europe. Gerardus de Kort, commander of the WIC fort Crevecoeur in Accra, specified in his 1770 will – after making various arrangements for African manservants and his African and Eurafrican wives – that his daughter Gerarda Sara would receive "six loyal female slaves at least four foot four inch tall, under age twenty" to be bought with gold or merchandise from his estate. His son Jan Gerardus, by contrast, was to receive a sum of three thousand guilders in gold, and a young slave. The funds were to be held in the Company coffers for the time being, until notice would arrive from Jan Gerardus' intended guardian: De Kort requested the Leiden-based merchant Johannes de Poorter, whom he also appointed as his universal heir (i.e. the person inheriting the remainder of his estate left after the bequests specified in the will), to fulfil this role, and "teach him to read and write in the Christian religion, and raise him into a civil [*burgerlijke*] state."[25]

Cornelis Klok, Governor of the WIC castle St. Sebastian at Chama, left the future of his Eurafrican son Jan Kolk up to the location of his death: if he were to die in Africa, the boy would receive a bequest in the form of merchandise, and be raised by his African maternal grandmother

[22] A 1765 marriage contract between a Muslim couple from Makassar, for example, makes reference to several testaments, and several inheritance disputes before the Court of Justice, within Chinese and Malay Muslim families, refer to family members' wills. ANRI Notarissen inv.no. 6244 [1765] # 17312; ANRI Raad van Justitie inv.no. 154, 15 may 1765, folio 241, 26 June 1765,folio 371. ANRI Notarissen inv.no. 7190 #485 contains a testament by a Muslim couple. Testaments and other acts drawn up by Chinese and Malay Batavians can be found in the notarial archives in the Arsip Nasional in Jakarta, Indonesia. An inventory of this archive can be found in Gaastra, "The Archives of the Dutch East India Company," 404–529.

[23] The testaments contained in NL-HaNA VOC 1.04.02 inv.nos. 6847-6891 ('Oostindische testamenten') are almost exclusively those of European VOC servants, although , inv.nos. 6899-6927 contain the wills of some others, such as two Muslim widows (inv.nos. 6924-6925).

[24] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 335, Testament #17, 10 August 1765, scan 69-71.

[25] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 335, Testament #43, 6 April 1770, scan 201-209.

who lived in Moree; if Klok died in Europe or on his way to Europe (presumably having taken Jan with him), his son would receive a sum of four thousand guilders instead and be raised by his paternal grandmother, Maria Alstorphius in Groningen, whom Cornelis Klok also appointed as his universal heir.[26] Although not explicitly stated in the wills, some of these decisions were likely informed by local circumstance and in particular the agency of the child's mother and her family: depending on the status and kin connections of the mother, it might not be so simple to take a child to Europe. An Akan woman's kin, known as her abusua, could lay a matrilineal claim on her children, either as free members of the community or as slaves taking a subordinate status in the abusua, depending on the mother's status.[27] Nicolaas Heinsius, commander of the WIC fortress Batenstein in Butre, learned this the hard way when he tried to intervene in his deceased partner's abusua claiming her inheritance and proclaiming guardianship of their Eurafrican son – a battle which he lost.[28]

An alternative to testamentary bequest that WIC servants in West Africa sometimes practiced was the *donatio inter vivos*, done when death seemed imminent. Governor Huijdekooper, for example, issued two separate documents on the same day, 7 July 1767. One was his last will and testament, in which he appointed his sister Sophia, who lived in Amsterdam, as his universal heir.[29] In the second document he made arrangements for his family in Africa: while on his deathbed, he gifted four enslaved children – two boys and two girls – to his young son Constantin Ferdinand, who was "conceived with the *Tapoeyerin* Johanna,"[30] and to his son Cudjo, "produced with the *negerin* Abeba," an enslaved man and woman whom he had recently purchased. He also released his two *impias* (female debt-servants) from their debts. The document included a clause, however, that these gifts would be null and void in case he recovered from his illness. In practice the 'donations' thus amounted to testamentary bequests, but because he bestowed them while still alive (even if just barely), Huijdekooper was able to keep them out of the estate he was leaving to his sister in Europe, and thus keep his two worlds separate while shielding his African beneficiaries from any contestation of their legacies.[31]

The above examples are all high-ranking company servants, who generally did not institute their natural children as heirs who would control their estate, opting for bequests instead. Less propertied Europeans, however, were much more likely to leave everything in the hands of their natural children and the latter's mothers. The carpenter Cornelis de Nijs, for example, left everything he owned to his African partner Efuwa and the child he had with her, named Alida.[32] Surgeon Gotlieb Kuhn named his underage son as his universal heir, while leaving his bed to his African partner Abba, presumably the boy's mother.[33] Jan George Schik, lieutenant at Crevecoeur, left one-fourth of his possessions to his African partner Atta, and one-fourth to each of his three sons, but also bequeathed modest amounts of gold to his colleagues: one ounce to

[26] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 335, Testament #26, 22 April 1767 scan 119-122.
[27] Everts, "A Motley Company"; Heijer, "Institutional Interaction on the Gold Coast: African and Dutch Institutional Cooperation in Elmina, 1600–1800."
[28] Natalie Everts, 'Cherchez La Femme: Gender-Related Issues in Eighteenth-Century Elmina1', *Itinerario* 20, no. 1 (March 1996): 45–57.
[29] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 335, Testament #30, 7 July 1767, scan 149-151.
[30] "Tapoeyer" was the term used for people of Mixed African and European ancestry on the Gold Coast.
[31] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 335, Testament #31, 7 July 1767, scan 153-155.
[32] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 335, Testament #20, 18 April 1766, scan 81.
[33] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 336, Testament #13, 14 July 1794, scan 65.

the WIC assistant Hermanus Meijer, one ounce to the sergeant Jan Tobias Schiebel, and one ounce to the garrison as a whole, which was a common practice among the WIC military.[34]

This stark contrast between the testamentary practices of elite and non-elite company servants suggests that the European community in general, and especially governing elites, accepted a father's inclination to provide comfort and security to his children regardless of their status, but that the transfer of control over considerable fortunes to non-Christian, mixed-race, illegitimate children was an entirely different story. In part, this can be explained by pragmatic constraints: whereas the humble possessions of lower-ranking employees were usually physically with them in Africa, and could thus easily be handed over to local beneficiaries, high-ranking company servants frequently had most of their assets in Europe – assets that could not easily be transported to the West-African coast. This still begs the question, however, why men such as Walmbeek and De Kort, who ordered their natural sons to be raised in Europe, did not institute those same sons as their heirs, nominating other relatives or even non-relatives instead.

The answer may lie, at least in part, in the status of illegitimate children, and elites' attitudes towards them. Dutch inheritance law did not unequivocally preclude the transfer of estates to children born out of wedlock, but it does reflect a certain degree of discrimination based on birth. *Overwonnen* children, i.e. those born from adultery or incest, were most stigmatized out of all non-legitimate offspring, and were barred from inheriting anything more than that which would be necessary for their livelihood.[35] For 'natural' children born to unmarried, unrelated parents (*speelkinderen*), legal restrictions were not as unequivocal: according to Van Leeuwen, they could inherit from their parents as freely as any non-relative named in a will could, although there might be local restrictions if the deceased also had legitimate children: in Friesland, for example, natural children were only allowed to inherit a maximum of one-twelfth of the estate in such a case; in Leiden they could not get more than a quarter of a child's legal portion.[36] Most of the children discussed thus far were natural children not born from adultery or incest, but their status differed somewhat from European-born *speelkinderen* in that they were usually born to a non-Christian African or Eurafrican mother. This meant that, unless their mother was baptized, they could not be legitimated retroactively through marriage.

Moreover, there are some indications that the racial or cultural component of their birth impacted their perceived status, giving rise to conflicts over inheritances by such children. There are examples of such battles in which the interpretation of inheritance law came to be wrapped up in questions of race, religion, and cultural belonging all over the globe: Hoyer, for the VOC world, has shown instances of family members in Europe contesting the succession of Europeans in Asia by their Eurasian children and their non-Christian mothers.[37] In chapter four, we saw how in Suriname a conflict broke out over the inheritance of Hendrik Diederiks who had nominated his natural son Hendrik Jr. as his universal heir, with his long-time domestic partner, the enslaved woman L'Esperance, second in line. One of the arguments made by the executors' council and the colonies prosecutors against L'Esperance inheriting the estate when it became

[34] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 336, Testament #15, 6 October 1795, scan 77.
[35] Groot, *Inleydinge tot de Hollandtsche regts-geleertheyt*, 116.
[36] Simon van Leeuwen, *Het Rooms-Hollands-Regt, Waar in de Roomse Wetten Met Het Huydendaagse Neerlands Regt … over Een Gebragt Werden …*, 9th ed. (Amsterdam, 1720), Vol III, 223.
[37] Hoyer, "Relations of Absence: Germans in the East Indies and Their Families c. 1750-1820," 67–68.

clear Hendrik Jr. had died – in addition to her status as a black, formerly enslaved concubine – was that Hendrik Jr. could never have been made a legal heir to begin with. Citing Grotius and the German jurist Andreas Gaill, *fiscaal* Texier (who would later become Governor) argued that "bastards" could not inherit "anything more than that pertaining to their livelihood, unless they have been legitimated before the death of the father, which would allow them to be nominated as heir". Because this had not been the case for Diederiks, "the Mulatto Hendrik" had never been a valid heir, nor could his mother therefore take his place.[38] Texier, here, notably, based his claims on restrictions for '*overwonnen'* children born of adultery or incest, although there is no indication that Diederiks had been married and his son anything other than a *speelkind*. Apparently, the other circumstances of his birth (to an enslaved, black woman) relegated Hendrik Junior to the more stigmatized category of illegitimate offspring in the *fiscaal*'s eyes, even if he technically did not fit that definition.

Han Jordaan has demonstrated that similar conflicts took place on Curaçao. When the islander Jan Gloudij died in 1739, leaving everything to his natural son Dirk, whom he had conceived with the free mixed-race woman Catherina Marrit, a group of self-professed relatives protested. They argued that Marrit had tricked Gloudij into believing the child was his and, incorrectly citing Van Leeuwen's *Rooms Hollands Recht,* they claimed that neither natural children nor *overwonnen* children could be legal heirs.[39] Similarly to the Surinamese case in which L'Esperance and black unmarried partners like her were described as "cunning whores", the plaintiffs in Curaçao painted the conflict as part of a larger societal threat posed by transfers of wealth from the 'white' community to nonwhites through inter-racial concubinage:

> "These cases, if they were to continue on this Island, could have very evil consequences as Mulatto whore riffraff [*Hoere moulatte gespuijs*] will insert themselves into the sentiments of men to such an extent as to pull them from their families and become full owners [of their property]."[40]

Despite such opposition, bequests to illegitimate mixed-race children, born free or enslaved, were not uncommon in the Dutch empire, although there seems to have been considerable variation between colonial settlements with regards to how accepted it was. The VOC-world seems to have been relatively the most accepting on the matter: dozens of wills can be found among the VOC records that were issued by company servants leaving considerable bequests to, or even naming as their sole heirs, so-called "natural children", usually conceived with manumitted women. These fathers varied from low-level soldiers and sailors to mid-level

[38] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 328, Memo from Bernard Texier in the case between Fiscaal Jan Nepveu and the executors of the Diederiks estate, 28 February 1766, folio 176-182. The passages by Grotius that the case refers to are from his *Inleydinge tot de Hollandtsche Regt-Geleertheijt* book 2, chapter 18, paragraphs 7-9 (which stipulated that only legitimate or legitimated children were legally entitled to inherit from their fathers, while natural children also automatically inherited from their mothers) and chapter 16, paragraph 3-7 (which set restrictions for testamentary bequests, stipulating that *overwonnen* children could not receive anything other than basic provisions for their livelihood.

[39] H. R. Jordaan, 'Slavernij en vrijheid op Curaçao : de dynamiek van een achttiende-eeuws Atlantisch handelsknooppunt' (Leiden University, 2012), 179. This argument rested on a misrepresentation of Van Leeuwen's argument, which did not preclude inheritance for children not born from adultery or incest. Leeuwen, *Het Rooms-Hollands-Regt*, 223.

[40] NL-HaNA, Curaçao, Bonaire en Aruba tot 1828, 1.05.12.01 inv.no. 4, Request 16 December 1739, quoted in Jordaan, 'Slavernij en Vrijheid', 179.

bookkeepers – even very high-ranking company servants did not shy away from naming illegitimate children in their will, although outright naming them as full heirs was not as common for this elite. Marten Meurs, merchant and second resident of Semarang, for example, left 4000 rixdollars and a female enslaved servant to his illegitimate daughter Cornelia Johanna Hendrietta, another 3000 rixdollars and an enslaved servant to the illegitimate daughter who was to be named Martina upon baptism, and 3000 to his illegitimate son Willem Jacob. He did not name any of them as his heirs, however, opting for his four siblings (three in the Netherlands, one in Ceylon) instead.[41]

There are even some instances of Dutch men naming legatees whom they described as "natural children", even though the latter were technically born from adultery. Bookkeeper Jacobus Mooijaart separated from his wife in May 1772, but remained legally married. Four years later, in 1776, he drew up his will, bequeathing a sum of five hundred rixdollars to his "natural son, still unbaptized, two years old". It is possible that Mooijaart's married status, making the boy a child of adultery in the eyes of the church, hindered his ability to get the child baptized, but he clearly did not view it as an obstacle to naming him in his will. Interestingly, he also made provisions for two other children: "the children of his manumitted *slavinne* named Julia van Boeton, of whom the oldest is manumitted and the youngest freeborn, named Willem and Minerva van Batavia." He left both fifty rixdollars, an act which hints at paternal recognition, but notably did not explicitly name them as his natural children. It is possible that Mooijaart conceived these children prior to his separation from his wife and therefore considered openly acknowledging them as his too much of an affront to her, especially considering he named his wife as his heir and as guardian over the two-year-old.[42]

In Suriname, another place for which a substantial number of testaments remains, people also made bequests to children born out of wedlock, but fathers were much less likely to explicitly acknowledge these legatees as their natural children than they were in the East Indies or even West Africa. A possible exception is Johan Friedrich Ulrici, who named as his universal heir "my mulatto child [*mijn Mulatte jong*] Frederik", who was to be manumitted, but even here the phrasing is somewhat ambiguous, as "*mijn jong*" could conceivably be applied to any boy he held in slavery.[43] Notably, one of the rare testaments that explicitly mentions biological offspring as such is one that was not issued publicly at the notary, but written by the testator J.N Hoen himself and sealed in seven places, only to be unsealed upon his death. Thus it was only posthumously that Hoen acknowledged his "bodily mestizo son named Ferdinant," who was so be manumitted and inherit a young black slave.[44] Much more common was for testators to describe their heirs and legatees as "child of [mother]", a custom which might in part be explained by a greater taboo on fathering illegitimate, mixed-race children in Suriname, but may also be due in part by the general Surinamese emphasis on matrilineal kinship: the same mode of describing children of black and mixed-race women can be found in the wills of free non-white, non-Christian men, for whom such a taboo would have been less relevant. The free Tranquil, formerly of the plantation Des Tombesburg, for example, named as his heirs "the children of the

[41] NL-HaNA VOC 1.04.02 inv.no. 6987, Testament #10359, 30 July 1795, scan 857.
[42] NL-HaNA VOC 1.04.02 inv.no. 6847, Testament #236, 4 May 1776, scan 675.
[43] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 43, 19 June 1776, folio 138.
[44] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 43, 18 June 1780, scan 257.

free Truij van Stolting, mamed Willemina, Regina, Catharina, Dorothea, Louisa and Johanna, naming Truij as their guardian."[45] The free Joseph Nassij, of Eurafrican descent and a member of the Surinamese Jewish community, named two heirs whom he described as "the minor children of the free *mulattin* Pomba van Davilar, named David Jopseph Haim Nassij and Anna Jacoba IJssam" – Pomba would only take their place as heir if both children were to die before reaching adulthood.[46]

By the final decades of the eighteenth century, the Surinamese wills make clear, it was not unheard of to make financial arrangements for manumitted or free-born children conceived with free or enslaved black women in the Caribbean, although it would go too far to say it was the norm.[47] The many references to "mulattoes" among the documentation of enslaved workers and the relatively small number of free people with this designation suggests that many white men who fathered children with enslaved black women never freed their offspring – either because they were unwilling or because they found themselves unable. The latter scenario could happen if the mother was owned by someone other than the father. This was the case, famously, for Joanna, the mixed-race young woman about whom John Gabriel Stedman waxes lyrical in his *Narrative of a Five Years' Expedition*: although her father was reportedly in a long-term committed relationship with her mother, he was unable to free her or their children, including Joanna, because they were the property of another slaveowner who refused to sell or release them.[48] Somewhat similarly, the Paramaribo-based ship captain Pieter Jurgenson seems to have relied on the goodwill of his partner's master, Laurens Johannes Nepveu, stating in his will that he had requested Nepveu to transfer "the Mulatta Albertina with all her children to him or his estate, without demanding any payment" so that he could manumit them, but that he had not yet received an answer at the time of issuing his testament.[49]

When mixed-race children born out of wedlock *were* named in wills, they usually received modest sums, or simply the right to remain living in their fathers' home along with their mothers without becoming proprietors. A small subset of these children, however, inherited substantial enough property to veritably become part of the planter class. Johannes Feer, member of Berbice's Council of Policy and Criminal Justice, specified in his will that his two natural children, Johannis Daniel and Johanna Catharina, "conceived with Johanna Francina my manumitted slave, now deceased," would inherit half of his plantations De Goede hoop and Charlottenburg.[50] Through last wills such as Feer's it was possible for children born into slavery to become slaveowners themselves, and sometimes even hold their own family members in possession – a phenomenon which Aviva Ben-Ur has termed "close-kin ownership" and which she argued was in part the result of slave-owners' strategies to impose a certain order on their families even after

[45] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 63, 21 June 1790, folio 258.
[46] Pomba would only take their place as heir if both children were to die before reaching adulthood. NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 63, 25 February 1790, folio 98.
[47] See also: Fatah-Black, *Eigendomsstrijd*, 52; Neslo, "Een ongekende elite," 109–10.
[48] Stedman, *Narrative, of a Five Years' Expedition*, 88.
[49] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 63, 15 May 1790, folio 223.
[50] He did not appoint them as his immediate universal heirs, however: Feer's mother who lived in Switzerland was to inherit control of the estate, and only if both she and Feer's brother were to die before Johannes would Johannis Daniel and Johanna Catharina qualify as universal heirs. NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 37, 19 July 1758, scan 251-253.

their death.[51] The above-mentioned J.F. Ulrici, for example, who freed his mixed-race son Frederik by testamentary bequest, also specified in his will that Frederik would not only inherit his home in Paramaribo, but also his own family, consisting of five black women and girls, who would be obligated to help raise him and work for his benefit. His mother Philippa, pending good behavior, would be eligible for freedom after two or three years "after the other slaves are old enough to earn a living for both of them."[52] In these cases, mixed-race offspring found themselves, at least to a degree, in a similar position their father had been, with a range of options regarding how to give shape to their relationship to their family-cum-property. On one side of the scale, they had the right to exploit their mother, siblings, or other relatives for personal gain with the same legal discretion they had regarding other property; on the other side they could choose to recognize familial bonds through the institutions of manumission – sometimes giving rise to what Ellen Neslo has called a "chain reaction of freed people" – and testamentary bequest.[53]

The factors that went into these choices were not just emotional and economical (i.e. the potential profit to be extracted from enslaved kin's labor, the cost of manumission), but also concerned social status: it is conceivable that for some close-kin owners, choosing between retaining the status of master or, conversely, to give shape to familiar relations by manumitting family members, amounted to the choice between allying oneself with the predominantly white slave-owning class or with the free non-white population.[54] This was, uniquely, the dilemma of those of mixed descent, as they could potentially belong to either group: the status of those descending from both European and African or Amerindian ancestry was indeterminate and fluid, and whether they integrated into the white-dominated elite or were identified with the free black community depended not just on their skin color, education, and wealth, but also on whom they associated with, and particularly their family. This became all too clear in the case of a young military officer in Suriname, named Hendrik Otto Cremer, and his fiancée, the mixed-race daughter of the planter Adolf Essers. Governor Crommelin objected to this match as unworthy of an officer and demanded Cremer's dismissal. He based his judgment not so much on the bride's own status – she was Christian and had been legitimated after her mother converted to Christianity and married her father – but on her family: her grandmother had been a black woman "who had never married, and had several children of various types"; the girl's uncle was "a mulatto born to the late captain Hanecroth" but her aunt was black, "born to a negro, [and] still lives in the Heathen way." Crommelin concluded that "her entire family consists of Negroes and Mulattoes, and the girl herself is so black that one might doubt if Adolf Essers had really been

[51] Aviva Ben-Ur, 'Relative Property: Close-Kin Ownership in American Slave Societies', *New West Indian Guide / Nieuwe West-Indische Gids* 89, no. 1–2 (1 January 2015): 1–29.
[52] NL-HaNA, Notarissen Suriname tot 1828 [digitaal duplicaat], 1.05.11.14, inv.no. 43, 18 June 1780, scan 257.
[53] Fatah-Black, "The Use of Wills," 624; Neslo, "Een ongekende elite," 50.
[54] As recent research on close-kin ownership and manumission has shown, however, this choice was not necessarily a binary: many close-kin owners gave shape to familial bonds *within* ownership relations through obligations of care. De Koning, "Kinship as a Factor," 47–51; Fatah-Black, "The Use of Wills," 637; Ramona Negrón, "The Ambiguity of Freedom: Kinship and Motivations for Manumission in Eighteenth-Century Suriname," *Slavery & Abolition*, 2022, 1–21.

her father."[55] Thus the bride's skin color converged with the status of her family to exclude her from 'respectable' society, in the authorities' eyes. The color line was porous, but strictly policed.

The cases discussed here show that testaments were an extremely powerful, although not all-powerful, tool for shaping the lives of offspring born out of wedlock. Through wills, testators could determine where and how, including in what religion, children would be raised, and sometimes even create relations of ownership to other family members. Simultaneously, the transfer of considerable wealth, be it in the form of liquid assets, plantations, or enslaved people, could also have major implications for which group beneficiaries of mixed descent belonged to, moving them from a dispossessed or even enslaved status to an affiliation with the predominantly white colonial elite. This is where tensions could arise, because there were some things that could not be passed down or controlled through testamentary bequest: illegitimate children of mixed descent differed from their European fathers in the way they were perceived for their color and their birth, and as such were not always welcomed with open arms into the community their fathers belonged to.

An example of this is the case of Jan Elias van Onna, a manumitted man of mixed descent educated in the Netherlands. When van Onna applied to work as a solicitor (*procureur*) in Paramaribo in 1790, he was met with resistance from the sitting justices of both the criminal and the civil the court. In a letter to the Directors of the Society of Suriname (who had recommended Van Onna), the council members of the Court of Civil Justice wrote that they felt that Van Onna's appointment would threaten the dignity of both the court and the office of *procureur,* because of the "state, condition, and circumstance" of his person. They based this assessment on three grounds: his racial status – he was described as a *mulat* – , the fact that he was born into slavery, and his illegitimacy. Although there was some 'grace' legally extended to "natural children which are the product of human weakness", the councillors argued that this did not apply to Van Onna, who was conceived by a married man committing adultery with an enslaved black woman and thus "produced from an illicit and highly punishable mixing."[56] These three factors converged to brand Van Onna as being of inferior social status, which the Council considered to be every bit as important as qualification and skill. In response, Van Onna wrote to the Directors in Amsterdam to ask that they overrule the councillors, but to no avail.[57] He did, however, have Suriname's Governor on his side, and as a result was able to gradually build a career in the colony's bureaucratic apparatus.[58]

In addition to color and (il)legitimacy, affective and possibly religious ties children of unsanctioned inter-ethnic unions might have to the communities on their mother's side frequently rendered them an object of suspicion, or at least concern, among colonial authorities, and thus a target for intervention. Questions of belonging were not settled at birth, but rather deeply wrapped up in how a child was raised, by whom, and in what faith.

[55] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 54, Missive from Governor Crommelin to the Society of Suriname, read and approved 3 October 1764, folio 343-344.
[56] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 397, folio 383.
[57] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 81, June 1st 1791, folio 150.
[58] Jean Jacques Vrij, "Jan Elias van Onna en het 'politiek systhema' van de Surinaamse slaventijd, circa 1770-1820," *OSO. Tijdschrift voor Surinaamse taalkunde, letterkunde en geschiedenis* 17 (1998): 141.

Baptism and religious education

In the religiously and ethnically pluralist world of Dutch colonial settlements, in which European identity and Christianity were, if not quite synonymous, then at least closely wrapped up in each other, baptizing a child had more than just spiritual implications. Parents who baptized their children in a Dutch Reformed church initiated them into the Christian, and by extension Dutch-affiliated community, and this membership came with legal privileges as well as expectations of cultural and political allegiance. For legally married Christian parents, it was self-evident that the children would be baptized and join their parents' cultural, religious, and social community. For children born out of wedlock, however – and especially those whose parents had different religions – it was not. Here, the decision depended on both the parents' calculation and that of the political and ecclesiastical authorities, who through varying motivations and circumstances could either restrict or actively encourage the initiation of these children into the Christian community.

For parents, the decision to raise a child as a Christian was a weighty one. Beyond any concerns parents may or may not have had for a child's soul, baptism also determined in large part the circles the child would move in, what their career prospects would be, and who they could or could not marry. For VOC servants, the power and influence of the Company meant that the advantages of Christian status were quite clear in places like Batavia, Ceylon, or the Moluccas: a Christian education almost guaranteed employment for sons, whereas the option to marry off a baptized daughter to a company servant offered, to low-ranking VOC fathers, a way of assuring her a relatively stable livelihood, and to company elites a valuable networking opportunity.[59]

In other places, however, baptism was not necessarily the most obviously advantageous choice. On the West-African Gold Coast, pastors in WIC-employ regularly lamented that European fathers and their African partners outright refused to have their natural children, and especially their daughters, baptized. This trend was a testament to the limited power of the WIC and of Christianity at large on the Gold Coast, and conversely to the resilience of local institutions: because the matrilineal *abusua* system meant that Africans derived status, property, and kin connections from their mother and her family, the importance of (Christian) marriage as a means of safeguarding status and property was de-emphasized. Rather than a means of social advancement, Christian status could actually be a hindrance to Eurafrican women and girls' prospects, because it closed the door on *calicharen*, the dominant conjugal practice between Europeans and Africans in the region.[60]

Pastor Jacobus Capitein, who started a school with the aim of instructing Eurafrican and African children in the catechism, complained that it was particularly difficult to enrol girls due to parents' resistance: after attending his classes, several girls had refused to participate in the *calicharen* system, rejecting it as sinful concubinage – much to the dismay of their parents, who had hoped for an advantageous match with a European.[61] It seems to have been especially a Christian education that parents resisted, rather than baptism itself: Capitein also complained

[59] Bosma and Raben, *Being "Dutch" in the Indies*, 55–62; Taylor, *The Social World of Batavia*.
[60] At least, this was the explanation offered by WIC preachers such as Gerardus Verbeek and Jacobus Capitein. NL-HaNA, WIC, 1.05.01.02, inv.no. 492, 757.
[61] Kpobi, "Mission in Chains," 147.

that WIC servants had their children baptized but then failed to take an active role in raising them in a Christian manner, with the children growing up outside the castle among their African mother's family.[62]

Indeed, especially by the late eighteenth century there does appear to have been an uptick in WIC-servants – especially among the higher ranks – baptizing not just their sons but also their daughters, as evidenced in the increase in Christian names for Eurafrican children mentioned in wills during this period.[63] This trend is consistent with that identified by Pernille Ipsen for the case of the Danish presence on the Gold Coast. Like in the Danish case, this may point to a gradual increase in status derived from European, and by extension Christian, affiliation, but this did not necessarily mean an adoption of Christian cultural norms at the expense of African practices.[64] Rather, both Eurafrican women and their European partners drew on a combination of status-enhancing elements from Christian as well as Akan practice. The will of Gerardus de Kort, the commander of Crevecoeur castle who mandated a Christian education for his son but not his daughter is a prime example of this type of hybridity: he left his Eurafrican partner Elisabeth – whose name suggests she was baptized – a variety of goods and slaves, but also the equipment she would need to perform a traditional Akan funerary rite on him: rum, gunpowder, blue *bafta* cloth, and a cow.[65]

The Caribbean colonies can be seen as taking a middle position between these two extremes: because the WIC was far less economically dominant than the VOC, property ownership, along with race, was a far more important factor in socio-economic status than education and company affiliation. Elites, here, were not just comprised of company-appointed administrators, but also of independent traders (predominantly in Curaçao) and planters (on the Wild Coast). However, since these elites were overwhelmingly Christian (or also, in Curaçao and Suriname, Jewish), church membership here carried considerably more prestige than it did on the West-African coast. If parents of mixed-race children born out of wedlock wished for their children to join "respectable" society, therefore, baptism and a Christian (or, alternatively, Jewish) education were a requirement.

On the other side of the baptismal font, clerical and political authorities made their own calculations when it came to the baptism of children born across ethno-religious divides. Common features across the empire were a suspicion of the motives of non-Christians who presented themselves or their children for baptism and a general distrust of non-protestant mothers of mixed-race children. In Colombo, for example, Ceylonese mothers who had children with Dutch men could lose custody of their children to the Dutch Reformed diaconate if the father died, because the colonial administration did not trust these women to raise their Christian

[62] Kpobi, 139.
[63] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 335, Testament #43, 6 April 1770; , inv.no. 336, #3, 11 August 1791; #9, 5 February 1793; #16, 17 May 1796; #17, 29 June 1796.
[64] Ipsen, *Daughters of the Trade*, 115–17.
[65] NL-HaNA, Kust van Guinea, 1.05.14, inv.no. 335, Testament #43. Rum was traditionally poured down a deceased person's throat with the aim of delaying decomposition. The gunpowder was likely for the gunshots that were customarily fired while the bereaved wailed over the body, while the blue *bafta* was likely for the mourning attire (blue being one of the colors of grief, along with red and black) and the cow possibly intended for a sacrifice. Kwame Arhin, 'The Economic Implications of Transformations in Akan Funeral Rites', *Africa: Journal of the International African Institute* 64, no. 3 (1994): 307–22; Mensah Adinkrah, '"If You Die a Bad Death, We Give You a Bad Burial:" Mortuary Practices and "Bad Death" among the Akan in Ghana', *Death Studies* (15 May 2020): 1–13.

children in the appropriate doctrine and feared that "because of the well-known weakness and fragility of the faith in Christ regarding the mothers" the children would fall back into "heathendom" or "papal superstition".[66] These mothers, although mistrusted by the Dutch authorities, were baptized in the Reformed church and thus formally Christian; there was even more suspicion where unbaptised women had children with European men, and the question arose early in the VOC's tenure in Asia whether such children should be allowed to be baptized at all.

The Synod of Dordt (the most important Reformed convention in the Dutch Republic) ruled on the matter in 1618, after being consulted by the *classis* of Noord-Holland on behalf of pastors in the East Indies: children who did not have two Christian parents could not be baptized in infancy, the Synod decided, but had to be taught and examined in the Reformed doctrine first.[67] In the reality of the Indies, however, where inter-religious concubinage was, as we have seen, extremely common, as were Christian slave-owners wishing to baptise enslaved children in their home, this was challenging, and especially so in places where the Reformed Church faced stiff competition from Catholicism. The Cochin-based minister Canter Visscher expressed concern, for example, that some of his congregants would turn to a Catholic priest if he refused – as Reformed doctrine mandated – to baptize babies born to enslaved 'Heathen' women.[68]

In Batavia, which in the seventeenth and even eighteenth century was the site of considerable struggle over the question how exclusionary the church should be with regards to access to the two prime sacraments – baptism and holy communion – a solution was reached that drew on an adaptation of the pre-existing Southeast Asian practice of adoption: children born to non-Christian mothers could be baptized in infancy if there was a guarantee that the godparents – who had to be reputable Christians – would ensure the child had a Christian education.[69] In practice, this guarantee came to be offered primarily through the institution of adoption which, in this period, did not carry the legal weight as to give adopted children equal status to legitimate, biological children, but did arrange for obligations of care and education and, importantly, connoted a certain assurance of cultural affiliation.[70]

Baptism and adoption thus worked hand in hand to regulate the 'belonging' to the Christian community of children whose birth resisted easy categorization, by attempting to ensure that their behaviour and beliefs conformed to the community they were initiated into. The Reformed Church in the East Indies thus adapted its practice to local circumstance and, going against the decisions of the 1618 Synod, regularly baptized infants born out of wedlock, including those born to non-Christian mothers, keeping their records in a separate registry. This was not unique to Batavia: the church in Makassar, for example, kept a separate list of *onechte* [illegitimate] children baptized in the church. For the years 1752-1759, a total of 32 illegitimate children, mostly infants and toddlers, are recorded. For six of these, the mother was either 'unknown' or

[66] CP-I, January 2 1666, 127; Rose and Heijmans, "From Impropriety to Betrayal," 329; Negrón has found similar arguments being used against non-Christian black mothers in Suriname. Negrón, "The Ambiguity of Freedom," 12.
[67] Van Wamelen, *Family life*, 466–67; Schutte, *Het Indisch Sion*, 59–61.
[68] Van Wamelen, *Family life*, 470.
[69] L.J. Loosse, "Kerk en zendingsbevel," in *Het Indisch Sion: de Gereformeerde kerk onder de Verenigde Oost-Indische Compagnie*, ed. G. J. Schutte (Hilversum: Verloren, 2002), 39–40; Van Wamelen, *Family life*, 474.
[70] Van Wamelen, *Family life*, 463–71.

simply described as a "non-Christian" – these children were placed in the orphanage. Some mothers are explicitly described as Christian whereas others are mentioned without a surname or with a toponym denoting an enslaved background, making it likely they were not Christian.[71]

A legal battle from 1761 Batavia shows how property, religion, status and power could become entangled in the question of adopted heirs' education. It involved the underage Adriaan de Nijs, the adopted illegitimate son of a high-ranking VOC servant by the same name and his concubine, Elisabeth Breton. Elisabeth was the daughter of De Nijs Senior's colleague Hendrik Breton and Aurora van Bengalen, an enslaved woman owned by De Nijs. Adriaan de Nijs had thus been Elisabeth's legal master when he impregnated her, but he manumitted her in August 1758, a month before she gave birth, so that their son was born free. The boy was baptized and adopted by De Nijs, who also named him as his universal heir in his will. He appointed three executors of his estate, who would also be the child's legal guardians: the boy's maternal grandfather Hendrik Breton, who was a senior merchant based in Semarang, and two high-ranking company servants based in Batavia, T.F. Wannemaker and E van Pleuren.[72]

When Van Nijs died in 1761, Elisabeth Breton wished to take her three-year-old son with her from Batavia to her father in Semarang, but the other two guardians refused to allow this. A civil suit ensued, revealing two competing visions for how the young heir should be raised. The Bretons argued that Adriaan should be with his biological family, and that Semarang was a perfectly suitable place to raise him.[73] Wannemaker and Van Pleuren, on the other hand, did not believe 'Java' offered an environment for educating the boy that was "appropriate for his considerable means". They argued that Adriaan should remain in Batavia, where there were "decent married people who in the Fatherland already had the profession of raising the children of people of rank and giving them a good education," until he was old enough to be sent to Europe.[74] They also rejected fellow guardian Hendrik Breton's claims of familial relations, because he had (allegedly) fathered Elisabeth with another man's slave and thus had no legal paternal rights. And although Breton was reportedly planning on retroactively legitimating his daughter, they argued that this actually worked against him: if he stood to inherit from the wealthy young boy as a grandfather, this posed a potential conflict of interest in raising him.[75]

Wannemaker and Van Pleuren also made it clear what they thought of Elisabeth, hinting that they thought of her as not much different from "public whores"[76] and reminding the court that her status as a respectable Christian woman – she was addressed in documents with the honorific *mejuffrouw* – was a recent acquisition that she owed entirely to her former master De Nijs who had left her 5000 rixdollars in his will, but who had decidedly *not* named her as her son's legal guardian. They also linked her enslaved background to her lack of education in order to stress her unfitness for raising a boy of considerable fortune:

> [she] was transformed only three years ago from a slave to a manumitted slave and so far does not have the slightest knowledge of the faith or religion; it is true, she has been

[71] ANRI Burgerlijke Stand inv.no. 225, Baptismal Records Makassar.
[72] NL-HaNA VOC 1.04.02 inv.no. 6850, Testament #1082, 17 June 1761, scan 47-51.
[73] NL-HaNA VOC 1.04.02 inv.no. 9268, CivR, 16 March 1762, scan 325-326.
[74] NL-HaNA VOC 1.04.02 inv.no. 9268, CivR, 24 November 1761, scan 321-322.
[75] Ibid., scan 322-323.
[76] Ibid., 10 March 1762, scan 339

> baptized, and initiated into the Christian church, but alas! That is all. Reading or writing she has never learned, so what kind of education can this minor expect from her?[77]

While the position taken by the two Batavian guardians can be seen as a case of colonial elites policing the cultural and social conformity of a new member that entered their ranks through a hefty inheritance, their reasoning suggests not merely political and socio-economic calculation, but also a certain affective motivation. Wannemaker and Van Pleuren had been friends with De Nijs, and had reportedly promised him to look after the boy "as if he was their own child", which they understood as making sure that "he is not exposed to any dangers, and that he is not only given any and all physical necessities, but also raised in the fear of God and educated in virtues and sciences, in accordance with the means left to him by his late father."[78] Elisabeth and her father, meanwhile, built their case on no less affective reasoning, appealing to natural law and common sense in stressing a mother's right to raise her own child, and pointing out that Wannemaker and Van Pleuren were essentially strangers to young Adriaan.[79]

The court, however, sided with the Batavian guardians, and Adriaan would be raised in Batavia until 1764 when, aged six, he would be sent to the Netherlands. That year, Elisabeth drew up a testament which indicates that she had married a military officer and was living in Surabaya in Eastern Java. Although she and her husband named each other as their heirs, Elisabeth specified that "her prior son Adriaan de Nijs, six years old and about to depart to *patria*" would receive his "legitimate portion" upon her death, and that should husband and wife both die childless, Adriaan would inherit everything.[80] As was the case for many women in the Indies who had a child with a wealthy European or even a (former) master, the power imbalance between Elisabeth and her child's late father meant that she had little say in her son's life, but her will suggests that she continued to be aware of his whereabouts and found at least one way to institutionally express her role as mother, even if she had been denied the role of caretaker and educator.

In the WIC-world, adoption was not as strongly a part of the cultural and legal repertoire as it was in the East Indies, but church authorities here struggled with the same questions regarding children of mixed parentage. In 1708, the Elmina-based pastor Johannes van der Star wrote to the WIC, asking what to do about children born to non-Christian women offered up for baptism by their Christian fathers, and suggesting that perhaps they should be sent to Europe to assure they would actually be raised in the Christian faith rather than predominantly by their 'heathen' mothers.[81] The Gentlemen X rejected this latter proposal, arguing that "one wouldn't know what to do with them here, and they would only be a burden."[82] The directors had no objection to such children being baptised in Africa, however, and urged the preacher to heed Christian fathers' requests.[83] Their successors gave a similar blessing to Capitein some four decades later, when

[77] Ibid., 24 November 1761, scan 320.
[78] Ibid., scan 318.
[79] Ibid., 10 March 1762, scan 325-331.
[80] NL-HaNA VOC 1.04.02 inv.no. 6892, Testament #9495, Elisabeth Breton and Johan Jochum Paulus van Rensburg, 1 September 1764, scan 645.
[81] NL-HaNA, WIC, 1.05.01.02, inv.no. 918, Letter from Johannes van der Star to the WIC directors, 23 April 1708, scan 422-423. .
[82] NL-HaNA, WIC, 1.05.01.02, inv.no. 56, Letter from the Gentlemen X to Johannes van der Ster, 28 Nomvember 1708, folio 86-87.
[83] Ibid.

the latter brought up the dilemma again, with the distinction that Capitein was now granted permission to start a school for the baptized children's religious education (a solution which, as we have seen, backfired somewhat).[84]

In Curaçao as well as the Guyanas, Dutch reformed Pastors regularly complained to their superiors of being asked to baptise babies born to "Heathen" women, which they saw as signs of the wide-spread moral depravity of the places they had been assigned to. The church council of Curaçao, in 1772, wrote that church discipline was so lacking that "people who are not members of the church, nor desire to be, and who cannot for the life of them prove to be Christians, try to force us to baptise their children."[85] We might compare the constraints the Reformed Church in Willemstad was under to the situation sketched by pastor Visscher in Cochin: like in Cochin, the church in Curaçao occupied a minority position among a highly diverse population and faced stiff competition from the Catholic Church whose conditions for membership were considerably less exclusive. As a result, Curaçao-based preachers at times had to answer to church authorities in the Dutch Republic as to why they were not baptising as many people as the Catholic priests on the island.[86] The 'spiritual shopping' that this situation enabled apparently also extended, in some respects, to Judaism: in the same 1772 letter, the Reformed elders complained that some Christians turned to the Jewish community of Willemstad with a request to pray for their sick relatives in exchange for money, "even though such [requests] are not refused in our church."[87] The church authorities of Curaçao thus found themselves in a considerably more precarious position than their colleagues in the Republic or even in Batavia, on the one hand trying to maintain a certain degree of exclusivity and control in baptism and other services, but on the other hand finding they had very little leverage in doing so, because islanders had alternative options to turn to.

The Guyanas were considerably less religiously diverse than Curaçao, but here too questions around baptism and children's ethnic and religious affiliation emerged. The Essequibo-based pastor Zacharius Hofman wrote an outraged letter in 1720 to his employer, the WIC, reporting on being asked to baptise children born to Catholics, Amerindians, and Africans, and asking to be relieved of his post. The directors responded by refusing his resignation and dismissing the baptism question as a churchly matter outside their "department", suggesting he take his concerns to the *classis* of Walcheren in Zeeland or to fellow pastors in similar situations.[88] Someone who did just that was Johan Christian Frauendorff, the pastor of the Reformed Church in Berbice. In a 1736 letter to the church classis in Amsterdam, in which he complained about the poor moral standards in the colony, Frauendorff expressed outrage at the expectation that he baptize children "which are bred by so-called Christians, because this is what all whites are called, with Indian or Black women who are Heathens."[89] In Frauendorff's view, this posed a dilemma that was particularly challenging for the Dutch Reformed faith, because unlike more

[84] NL-HaNA, WIC, 1.05.01.02, inv.no. 842, Resolutions 27 April 1746, folio 10-11.
[85] NL-HaNA, WIC, 1.05.01.02, inv.no. 608, folio 297-298 .
[86] Gemeente Archief Amsterdam - Archief van de Nederlandse Hervormde Kerk; Classis Amsterdam, 379, inv.no. 224, #36-37, 4 July 1741 and January 1742.
[87] NL-HaNA, WIC, 1.05.01.02, inv.no. 608, folio 297-298 .
[88] NL-HaNA, WIC, 1.05.01.02, inv.no. 813, Letter to Zachaeus Hofman, 27 August 1720, scan 80.
[89] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 66, letter from *Predikant* Johan Christian Frauendorff, 14 October 1736.

exclusive Protestant sects such as the Anabaptists who exclusively baptized adults, Calvinism allowed for the baptism of infants. And unlike Catholicism, which, as he scathingly remarked, had such lax standards for Christianity that its missionaries "simply baptize all un-Christians down to their own slaves, as soon as the latter can cross themselves and say *Ave Maria*," Calvinism relied heavily on the prospect of a Christian education so that a proper faith could be instilled in the child.[90] And this was unlikely, he feared, if the father was a proven sinner and the mother a heathen. Unsure what to do, Frauendorff asked for advice from both his superiors in Amsterdam and his colleagues in Suriname. The Amsterdam Classis responded in October 1736, advising the following:

> That illegitimate children, even those produced with heathen women, who are presented for baptism by their fathers, who are not church members but nonetheless of our religion or at least Lutheran [...] may and must be baptized. Nevertheless, this should be under the condition that the fathers, following serious punishment, will be admonished to make a true confession of faith, and that the illicit children in question, once they achieve a certain age, and only then, will have been educated and examined in the first tenets of the faith in accordance with their age and aptitude.[91]

The phrasing of this advice, as Frauendorff would later remark, was somewhat ambiguous, because it left open to interpretation whether the condition of education and examination only applied to school-aged children (meaning infants could freely be baptized) or if the Classis was following the Synod of Dordt in not allowing baptism in infancy at all for children of 'Heathen' mothers.[92] The church council of Suriname, whom Frauendorff consulted subsequently, explicitly took this latter position, explaining that they only allowed such children to be baptised once they were old enough to pass the examination.[93] It is likely that Frauendorff wanted a decisive and unambiguous answer from his superiors in the Netherlands because, as he would explain in a letter from May 1741, he faced quite a bit of pressure to baptize illegitimate children from several colonists, including those of considerable wealth and influence.[94] The matter went back and forth between Berbice and Amsterdam for several years until finally, in 1741, the church council, led by Frauendorff, decided to take matters into its own hands and submitted a lengthy treatise to the Governor and his Governing Council, in which it argued its position on the matter: neither 'Heathens' not their children should be allowed to be baptized in infancy, as this would encourage the sin of concubinage and risk creating a generation of people who were Christian in name only but reverted back to 'Heathen' ways. They also hinted that the Governor and Council should take political action, issuing new legislation to curb concubinage and thus limit the number of illegitimate children born in the colony.[95] Indeed, just a few weeks later, the

[90] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 80, Pastoral treatise on illegitimate children, 5 April 1741.
[91] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 68, Missive from the Classis of Amsterdam to Frauendorff, 1 October 1736, scan 100.
[92] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 80, Pastoral treatise on illegitimate children, 5 April 1741, folio 12, scan 184.
[93] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 80, Copy of the Letter from the church council of Paramaribo, 15 July 1738, scan 191.
[94] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 80, Letter to the Directors from Christiaan Frauendorff, 10 May 174, scan 85.
[95] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 80, scan 187-188. The treatise made a reference to an old ordinance, dating from the Van Peere family's private control over the colony, which set increasingly

colonial authorities issued a new set of rules for plantation employees which included fines for "carnal conversation" with black and indigenous women, as well as the Berbice adaptation of the Surinamese punishments set for white women engaging in inter-racial sex.[96]

While church authorities were anxious to ascertain that those who formally joined the ranks of Christians conformed to Reformed religious dogma and behavioral norms, the political authorities of colonies such as Berbice and Suriname were no less interested in religious education. For them, however, it was not just a matter of congregational compliance, but also a marker of social and cultural allegiance of those inheriting property from Christians. In 1730 the Governing Council of Suriname ordered the colony's predikant to locate any and all mixed-race children whose fathers had provided for them in their will, in order to inquire after their education. Their findings reveal the ambiguous social status children of mixed parentage often experienced. The pastors found three brothers, the oldest of whom, age 20, was already an accomplished carpenter, but whom the church nonetheless ordered to be placed in school so he could learn to read and write, as well as the tenets of the Reformed faith. The middle brother had already had a religious education for a year, whereas the youngest was still living on a plantation without an education. Another mixed-race young man who emerged in the investigation, named Adam van Para, had actually been baptised in the Netherlands, which had left his guardian unsure of whether he was now free or still legally enslaved.[97] This uncertainty also existed for another child, the illegitimate daughter of a Joseph St Andre. This girl's father reported to the church that she knew how to pray and how to answer several questions from the catechism, both in German and in French. Despite her education and the fact that St. Andre recognized her as his daughter, however, his new family did not accept her as one of their own. Some time after the girl's birth, he had married a white woman and fathered legitimate children. His wife and children, as he put it, "oppress[ed] his mulatto girl every day and sometimes abuse[d] her horribly, leading to constant and great strife between him and his wife." He wished to send his first-born daughter to live with a decent Reformed family in the community, but the church council refused this request, reportedly because they did not believe the girl was legally free yet.[98]

The pastors also knew of several adults who were beneficiaries of a white father's will, but considered Christianization to be futile for them, especially since many already had children born out of wedlock of their own.[99] The secular authorities nonetheless ordered the pastors to

harsh punishment for concubinage on repeat offences, but argued that, even if it was still legally applicable (which they were not sure of) it was inadequate for the current situation because the punishments were based on lost wages, which would be difficult to put into practice considering most colonists were now employed by privately owned plantations, rather than by the colony as a whole. The ordinance they referred to was likely the one from May 20 1681 – the very first recorded ordinance for the colony: NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 219, folio 1-4

[96] NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 219, folio 72-73, 77-83 (no. 9); NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 82, folio 394-408, 412-413. In 1742, they notified the Classis and the Directors in Amsterdam that they had decided on the matter unilaterally, taking local circumstance and the example from Suriname into account. NL-HaNA, Sociëteit van Berbice, 1.05.05, inv.no. 83, Missive from the Berbice church council to the Directors in Amsterdam, 27 February 1742, folio 194-5.

[97] On the legal ambiguity regarding the question of "Dutch soil" and slavery, see Hondius, "Access to the Netherlands of Enslaved and Free Black Africans."

[98] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 132, Predicants' Letter to the governor, 28 April 1730, folio 375-377.

[99] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 132, folio 376

report the "mulattos living in sin" to the judicial authorities so they could be punished, but this does not seem to have happened.[100] The Governor and Council's eagerness to bring those of mixed parentage into the Christian fold should be seen, in the case of men at least, not just in light of property-ownership, but also military allegiance. In the face of the perceived threat of the numerically overwhelming enslaved black population, and particularly in light of the conflicts that arose with Maroons in Suriname in the second half of the eighteenth century, the colonial authorities were eager to recruit able-bodied, mixed race men for military service. Indeed, the free black and colored militia was heavily relied upon for expeditions against plantation escapees. In 1727, the Surinamese government had actually resolved to manumit all enslaved sons of white fathers for this explicit purpose. This resolution was never implemented and was revoked two years later, but the Council continued to take into account, in case of manumission requests, "the good use and great service" they could be put to, "in case of expeditions and other matters".[101] Since Christianity, in Suriname too, functioned as an important marker of political and cultural allegiance, it is not surprising that the Council was interested in the religious education of this key group.

Capitalizing on ambiguity

A particularly vocal proponent of bringing illegitimate children of mixed parentage – male *and* female – into the colonial fold was Jan Gerhard Wichers, who was Governor of Suriname from 1784 to 1790. At the start of his tenure, Wichers wrote a letter to the secretary of the *Sociëteit,* Jan Andries Munter, laying out his vision for the colony and its population. An enthusiast of Enlightenment philosophy, Wichers entertained notions of racial taxonomy, and particularly ascribed to Charles Bonnet's conceptualization of the Great Chain of Being, which, in Wichers' interpretation, gradually and hierarchically ordered all creatures from angels through various types of humans to animals and other creatures. This notion dated back to the Middle Ages, but in the eighteenth century, starting with Linnaeus, had become imbued with natural philosophy's attempts at systematic classification, and sometimes extended to differences between human races.[102] Wichers, like many of his contemporaries, considered both Africans and Amerindians to be closer to animals than Europeans were, but deviated from the likes of Linnaeus in ranking the indigenous peoples of South America below people of African descent:

> Of the Nations I know I believe that the Indians of the southernmost parts of the world occupy the very lowest step, and one step higher [are] the inhabitants of Africa's coast; both are unamenable to abstract or rational ideas, and are only ruled by sensuous objects, [but] the latter surpass the former in that they can be brought to greater perfection through education and civilization, even if only in mechanics and machinery.[103]

This contemptuous assessment, which he extended, to some degree, to those of combined African and European descent, did not stop Wichers from being in favor of religious education

[100] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 133, Resolutions 29 April 1733, scan 106.
[101] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 132, Resolution 22 July 1727, scan 132; Resolution 19 January 1729, scan 446-447.
[102] Bethencourt, *Racisms*, 252–54; Roxann Wheeler, *The Complexion of Race: Categories of Difference in Eighteenth-Century British Culture* (Philadelphia, PA: University of Pennsylvania Press, 2000), 218, 311.
[103] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 511, Missive from Governor J.C. Wichers to J.A. Munter, Secretary of the *Sociëteit*, 14 December 1784, folio 20.

for non-white inhabitants of Suriname: while he considered Africans' and Afrodescendants' approach to and grasp of religion to be superficial, he did see Christianity as "a means to make them into more useful inhabitants".[104] This was especially the case for "Mulattos, mestizos, and castizos," who, in his view,

> are all too necessary in a land that does not have a common or lower class, and who deserve particular encouragement. Attached to the land, and not burdened by the desire to make a show in Europe, they are the best inhabitants, but have thus far been neglected. They have always been marked as a lesser kind, tainted as it were with a *levis notae macula*. It is true that in recent years they have started to be used more and more as special house scribes and at the secretary offices, but they continue to struggle with the infamy of natural children.[105]

In light of the recent exodus of Europeans, in the wake of the financial crisis of the 1770s, Wichers thus saw in mixed-race natural children an answer to the colony's problems. They could be educated in agriculture, learn a craft, or serve a military function, and "make good plantation staff of which there is a shortage."[106] To achieve this, he was in favor of manumitting children born to white fathers, making funds available for their education, and encouraging marriage within this group, for example by making it an avenue towards achieving legitimate status, regardless of birth.

Wichers was never quite able to implement his grand vision, but his letter is emblematic of a more widely observable attitude among Dutch colonial authorities, viewing children from inter-racial relationships as not just a problem in terms of classification, but also a potential asset to be capitalized upon. The VOC had embraced mestizos as a demographic backbone of its Asian settlements ever since the plan to import Dutch brides to the Indies had been abandoned in the mid-seventeenth century. As early as 1632, Governor-General Brouwers had made an assessment reminiscent of Wichers' comparison between those with local roots and those "burdened by the desire to make a show in Europe":

> [Dutch women] come here poor and, having prospered, never stop complaining until they can return home and appear before old acquaintances in their new riches [...] there are good households here where the men are married to Indian women, their children are healthier, the women have fewer demands, and our soldiers are much better off married to them.[107]

Over time, as we have seen in chapter four, it was effectively normalized for lower-ranking company servants to father such children in a long-term or even short-term concubinage rather than a legal marriage. These children, if they were boys, rarely climbed to the highest echelons of VOC-service, but they did form an essential component of the rank and file of the company in Asia, while the girls formed the social glue for colonial society.[108] A role particularly suited for the sons of European fathers and Asian mothers was that of translator or interpreter, as they were frequently bi- or multilingual and had cultural competencies for both the local context and

[104] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 551, folio 28.
[105] Ibid., folio 34.
[106] Ibid., folio 33.
[107] Hendrik Brouwer, 1632, cited in Taylor, *The Social World of Batavia*, 14.
[108] Bosma and Raben, *Being "Dutch" in the Indies*; Taylor, *The Social World of Batavia*.

the VOC-sphere. These go-between functions were essential to cross-cultural encounters across the globe, especially in the context of trade. This is particularly well documented for the West-African coast, where the WIC and other European traders relied heavily on intermediaries, or brokers, to not only translate but also take an active part in bartering and make conversions between different mathematical systems.[109] This was quite an influential role, however, and not necessarily accessible to every child of a European with an African woman, nor the exclusive prerogative of Eurafricans. Sons of European fathers and African mothers who were not involved in trade – usually those of lower status, born to enslaved or otherwise subaltern mothers – frequently served the Company in a military capacity, just as young, locally born men of mixed descent did in the Guyanas and the VOC world. [110]

In the Guyanas, colonial authorities also relied quite heavily on the mixed offspring of Europeans and Amerindians to mediate and communicate with nearby indigenous groups, both for commercial and military purposes. An example is the Broer family in Berbice, whose mestizo members frequently performed services for the colony: they were sent as envoys and served on the colony's outposts as *posthouder,* charged with maintaining good diplomatic and trade relations with Amerindians and overseeing the catching of enslaved runaways.[111] The family's skills, knowledge, and even physical appearance were particularly capitalized upon during the great revolt of 1763, when the Dutch authorities sent members of the Broer family out on expeditions leading Carib forces from the Mazaruni river when the latter refused to be led by a black guide, and sent a Jan Broer Jr. on an undercover mission, in indigenous garb, to company plantations in order to dissuade their enslaved workers from joining the rebels.[112]

Categorizing creolized identities

Those of mixed descent who climbed the ranks through service in the colonial apparatus can be difficult to identify in the archives, because one of the privileges of high status was to no longer be designated with a racial marker. This is very clear in the VOC records, where the civilian, non-company-affiliated population was generally described as either *burgers, mesties burger, inlands* [i.e. Asian] *burgers,* Chinese, Moor, or the marker "free" followed by an ethnic or religious descriptor. For company servants, only the lower ranks were sometimes marked by an ethnic descriptor (e.g. "the *inlands* soldier") whereas those in administrative positions were generally just described by their job title, even if they were of Eurasian descent. Similarly, in the Caribbean, enslaved individuals were meticulously labelled according to racial category, and manumitted people frequently appear in the records as "the free..." followed by a racial descriptor, and sometimes a reference to their former owner or plantation ("Van …") by way of a surname.[113]

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[109] Natalie Everts, 'Social Outcomes Of Trade Relations: Encounters Between Africans And Europeans In The Hubs Of The Slave Trade On The Guinea Coast', in *Migration, Trade, and Slavery in an Expanding World: Essays in Honor of Piet Emmer*, ed. Wim Klooster (Leiden: BRILL, 2009), 146. See also the volume Toby Green, ed., *Brokers of Change: Atlantic Commerce and Cultures in Precolonial Western Africa* (Oxford: Oxford University Press, 2012).
[110] Mark Meuwese, *Brothers in Arms, Partners in Trade: Dutch-Indigenous Alliances in the Atlantic World, 1595-1674* (Leiden: Brill, 2011), 69; Everts, "A Motley Company," 61–63.
[111] For an description of a *posthouder*'s duties, see the instructions from Essequibo and Demerara: PG, "Instructie voor de posthouder aan de Cuyuni", 29 November 1757, and "Instructie voor de posthouder van Boven-Essequibo," 14 August 1764.
[112] Kars, *Blood on the River*, 134, 225.
[113] See also Fatah-Black, 'The Use of Wills', 627-630.

Only those who were considered white, or who were wealthy enough to obtain a social status approximating whiteness, would appear in the official records without a racial designation. These distinctions could be subtle, but in some contexts, such as the militia, they were explicitly formulated.

In the militia regulations of Suriname we see how color and descent converged with legitimacy in determining racial status. The regulations issued in 1781 laid out the criteria for the segregation of the corps, distinguishing three 'classes'. The first was for black men of fully African descent. The second was for 'mulatto's' and so-called 'carboekers' (from Spanish *cambujo*), denoting people of mixed African and Amerindian ancestry. The third was for 'mestizos', meaning those born from one white and one 'mulatto' or Amerindian parent. Anyone with more European ancestry than this third group would be classified as white, as would be any 'mestizos' born out of a legal marriage.[114] The power of legitimacy to functionally move someone towards 'whiteness', however, did have its limits. In 1795, the governing council intervened when individuals born out of two married parents who were both mixed-race joined the white militia, and stated that "as much as they may be born from a legal marriage, they remain in the same degree of mixedness as their parents and thus belong in the Mulatto Company."[115]

Although rarely discussed so explicitly and deliberately, similar modes of racial classification can be found in Dutch sources from various colonial settlements in both the Eastern and Western hemispheres. The *vrijbrieven* (manumission papers) issued in Curaçao, for example, indirectly show how different racial labels were defined, because they often document the family relations of those manumitted. Those with one black and one white parent were described as 'mulatto' like in Suriname, and those with one white and one 'mulatto' parent were similarly called mestizo. The Curaçao records also show some additional categories, such as '*sambo'* (one black and one 'mulatto' parent), *casties* (one white and one mestizo parent), and *poesties* (one white and one *casties* parent).[116] In addition, people would sometimes be described as being either creole (i.e. born in the New World) or from a specific African nation.[117]

On the Gold Coast, the most commonly used term for those of mixed descent was *tapoeyer*, generally referring to someone with one European and one African parent. According to J.A. de Marrée, who in the early nineteenth century wrote a travel account of the Gold Coast, *mulat*, *casties*, and *caboeger* were also used – the first for the child of a white and a *tapoeyer*, the second for the offspring of a *mulat* and a white person, and the third for the child of a black person and either a *tapoeyer* or *mulat*. Children of a *casties* and a European were considered white.[118] In the East Indies, the most commonly used term for people of mixed descent was *mesties* or *mixties* (mestizo) or, specifically for people of partly Portuguese ancestry, *toepas*. Less common, but occasionally used in the records was *casties,* used similarly to in the Atlantic world. The Dutch minister François Valentijn, in his famous work on the VOC world, *Oud en Nieuw Oost-Indien*, also

[114] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 173, Resolution 28 February 1781.
[115] NL-HaNA, Sociëteit van Suriname, 1.05.03 inv.no. 185, Resolution 12 June 1795.
[116] The Surinamese manumission papers used similar racial labels, except using *karboeger* instead of *sambo*. Brana-Shute, "The Manumission of Slaves in Suriname, 1760-1828," 227.
[117] T. van der Lee, *Curaçaose vrijbrieven 1722-1863 met indices op namen van vrijgelatenen en hun voormalige eigenaren* (Den Haag: Algemeen Rijksarchief, 1998). Notably, these labels disappear from the manumission papers after 1830.
[118] J. A. de Marrée, *Reizen op en beschrijving van de goudkust van Guinea: voorzien met de noodige ophelderingen, journalen, kaart, platen en bewijzen…* (The Hague/Amsterdam: Van Cleef, 1817), 135.

mentioned *poesties* (from Portuguese *postiço,* meaning adopted or false) which he described as a step between *mesties* and *casties.*[119] Like elsewhere in the Dutch world, there was a point where those of mixed ancestry functionally became indistinguishable from whites: in Valentijn's account, this applied to any children born to a *casties* and a European, who would be "counted among the Dutch".[120]

The fact that the same or similar terms for racially classifying people of partially European descent emerge in colonial archives and travel accounts from across the Dutch empire should not be seen as the result of a universal racial vision emanating out from the Dutch Republic. Rather, as the Spanish and Portuguese origins of the words suggests, they were part of the sixteenth- and seventeenth-century Iberian legacy upon which many Dutch settlements were built, from Curaçao to Elmina to Cochin, Ceylon, and the Moluccas. The fact that they continued to be used until well into the nineteenth century, however, and especially for population groups expected to be under strict control by authorities, such as military regiments and (former) slaves, suggests their continued relevance for Dutch administrators as tools for creating order in the ambiguity of status presented by people of mixed descent. As growing groups of imperial subjects of 'in-between' status were recruited by the empire with the goal of safeguarding its social order and profits, their racial status was not ignored, but rather further regulated, standardized, and transcribed into institutional records. The gradual acceptance of the existence of natural children born across colonial divides and their co-optation in pursuit of colonial hierarchies thus seems to have fostered, rather than diminished, a conception of race as a meaningful category.

Conclusion

The cases in this chapter show how there was no such thing as a singular status of being 'mixed' in the early modern Dutch empire. The identity and social position of children born across the boundaries set by colonial authorities were highly fluid and indeterminate. Factors in this fluidity of status included not just the attitudes authorities held to 'mixed' children – which as we have seen, were ambivalent in and of themselves, with authorities seeing such individuals as both a problem and a potential asset – but also the social positions and desires of the parents, as well as local circumstances and individuals' life courses. Through the lives of those born across social divides, colonial societies negotiated the terms and limits of belonging within an ongoing process of creolization, and confronted questions about the relation between birth, wealth, religion, and political allegiance.

Children born to European fathers and non-European mothers were just one group – albeit a particularly illustrative one – of people who made up the rich and complex reality of colonial societies. This reality was marked by a constant tension between colonial and communal authorities' desire to categorize and compartmentalize people and maintain hierarchies between them, and on-the-ground sociability that both defied *and* reaffirmed these efforts: men and women from all walks of life engaged in relationships – legal and illicit, born both of violence and genuine affection – that constantly resulted in new connections and identities for themselves

[119] Valentijn, *Oud en Nieuw Oost-Indiën*, 2:256; Van Wamelen, *Family life*, 421.
[120] Ibid.

and their children. They rarely did so naïvely, with no regard for the realities of differences in status, class, cultural affiliation, and power. Particularly when children came into the picture, men and women alike must have been acutely aware of the ways in which material, institutional, and social resources could shape a child's life, and that the question which parent got to determine this was strongly influenced by their respective positions and local power dynamics. It is not surprising, for example, that on the Gold Coast, where, out of all the places discussed so far, the Dutch had the least established institutional and territorial power or even socio-cultural influence, European fathers also seem to have had the least straightforward control over their sons and especially daughters' futures.

Even in Elmina, however, where matrilineal legal practices and local circumstances strongly empowered well-connected women, mothers are easy to miss when relying on Dutch institutional sources. The records of notaries, courts, and churches across the Dutch empire, so frequently the only written traces remaining of the societies they were produced in, privilege wealthy European fathers just as the institutions themselves did. Similarly, 'mixed' children born between different, non-Christian communities (such as those who would form the extensive and diverse Peranakan-Chinese community in South East Asia) are easy to miss in the VOC and WIC's records, not because they did not exist or because their respective communities did not concern themselves with them, but because the record-producers (the companies and their affiliates) did not consider them as relevant to their political calculations as children born to Europeans. The testaments, court cases, administrators' reports, and baptismal records in this chapter should therefore not be seen as a representative *reflection* of the daily reality for mothers, fathers, and children in the Dutch empire, but as *performances* that themselves shaped that reality in limited but nonetheless extremely impactful ways. Through institutions, the unequal ways in which people were able to engage with them, and the new or renewed ways in which they were categorized by them, a re-negotiated order and hierarchy took shape within the ever-changing, creolizing world of the empire.

Conclusion – Intimacy, norms, and the forming of an empire

This study makes the case for a look at empire that is simultaneously intimate and global. The men and women who have made their appearance, trying to get married or divorced, engaging in unsanctioned sex, coercing sexual relations or trying to escape, live with, or avenge unwanted intimacies, and trying to navigate what it meant to be born from unauthorized sexual unions, do more than simply put a human face on history. Through their struggles, agreements, wins, and sometimes devastating losses – both in- and outside the courtroom – they took part, willingly or unwillingly, in the production of a social order that was dynamic and everchanging, but also marked by profoundly impactful inequalities. It is in this process that the construction of empire is to be found: while the settings in which our many intimate conflicts took place were widely divergent, the common factor to all was the presence of colonists and colonial officials who consistently approached these encounters with the more-or-less explicit aim of promoting the interests, prestige, or outright dominance of Europeans. I use 'Europeans' here because, while national origin was certainly a meaningful category and while the Dutch were politically dominant within the Dutch empire, many non-Dutch (German, French, Scandinavian, Sephardic and Ashkenazi Jewish) Europeans participated in it, and the racialized world that emerged out of it favored those of European background and descent more broadly. This is evidenced by the relative ease with which, after the Dutch East and West India Companies finally collapsed at the end of the eighteenth century, their role was taken over by both the Dutch and the British (in the case of Ceylon, Malabar, and Berbice along with Demerara and Essequibo) state-based empires: while names, faces, and institutions changed, European control persisted and even expanded.

Morality formed a central feature of this political project. The seductive view of the early modern Dutch world as characterized by a business-oriented, tolerant proto-liberalism and the eighteenth century as a time in which Christian moralism and its strict demands on sexual virtue faded to the background needs to be adjusted. Although eighteenth-century colonial administrators may have taken a less puritan approach to matters such as pre-marital sex, inter-racial concubinage, and natural children than the likes of Jan Pieterszoon Coen a century prior, it is certainly not the case that Dutch authorities, even in the more 'permissive' eighteenth century, ceased to care about moral-religious questions regarding sexuality. Key tenets of Christian sexual morality – an emphasis on female chastity as a marker of virtue, condemnations of non-marital sex, and horror at forms of sexuality that defied hetero-patriarchal arrangements – continued to shape the worldview of the empire's administrators. But these questions were always informed and mediated by political calculations, so that outrage was levied selectively, where it supported authorities' interests, and reinforced the hierarchies making up colonies' socio-economic structure.

A closer look at the specific Dutch-colonial societies in South(east) Asia, West-Africa, and the Caribbean reveals that this politically informed approach to morality in pursuit of colonial power and control, on the part of European colonists, is not the whole story. Each of the places that have been discussed in this study was inhabited by a multiplicity of people who had no interest in forwarding an imperial agenda in engaging with colonial institutions, and who had their own ideas on how to give shape to their marital, familial, and communal lives. Their ability to do so

was influenced by distinctions and inequalities that went beyond colonizer-colonized divides. The ways people navigated this landscape, moreover – leveraging institutions to advance their own or their children's social mobility, diverging from codified law through creative use of the notary, forming illicit affairs, or responding violently to perceived threats or slights – frequently challenged any notion of a neat colonial hierarchy that authorities might have.

Combining a micro-historical and global perspective, by looking at deeply personal conflicts with an eye on larger constellations of power, thus reveals the formation of colonial order, and, on a larger scale, empire-building, as a non-linear and continuously contested process. By de-centering the metropole, while moving beyond the framing of any singular colonial settlement, we can look at empire not as a centralized design that is rolled out over the world, but as the product of thousands of conflicts over status, property, propriety, and belonging – sometimes seemingly petty, sometimes explosive – inside living, dynamic societies.

Adopting the perspective of normative pluralism (as a more open and fluid expansion of the concept of legal pluralism) is instructive in observing how this actually happened on the ground. Legal pluralism, while a useful tool for understanding the layers and complexities of 'law' in the early modern world, is limited by its privileging of distinct legal regimes as ordering mechanisms for discrete communities, over *disorder* within and at the blurry boundaries between groups. Unsanctioned behavior, from concubinage to violence to desertion, is not just the object of institutional intervention, but itself an active part in the formation of norms. We thus need to move beyond a straightforward conception of clearly delineated moral and legal communities with their own self-evident rules: individuals' communal membership (whether it was religious, ethnic, corporate, or otherwise defined) was rarely a given, nor were people's ideas of which norms ought to apply.

The type of 'normative pluralism' framework this study advocates for, therefore, looks not just as clashes between normative systems, but also at struggles over what is or ought to be the norm, between more and less powerful actors. We have seen this in conflicts between spouses-to-be and colonial institutions, between separating spouses, between Chinese, Christian, Muslim, and Jewish communal authorities and their respective communities, and especially in the various types of disorder emerging in the second half of the study, where illicit and coercive sex comes into the picture. We saw powerful figures such as Willem van Duijvenvoorde and their norms about sexual desire and control clash with those of subaltern dependents such as Samma, October, and Cupido, as well as with larger institutions such as the VOC's legal system. Enslaved women experiencing sexual exploitation, meanwhile, frequently had to navigate multiple normative systems at once, none of which prioritized their well-being, individual agency, or safety: firstly, colonial authorities' norms of sexual morality and order, which criminalized 'prostitution' and 'concubinage', secondly, masters' deployment of legal rights to enslaved women's bodies and the latter's fruits, and finally free or enslaved partners' patriarchal expectations of sexual exclusivity, which not infrequently resulted in violence. By exploring the plurality of norms around sex and family life and their contestation across colonial settings, we thus gain detailed insights into the workings of colonial power, not as a singular force, but as an interlocking web of hierarchies.

An intersectional perspective, taking into account the interactions between categories such as class, religion, gender, enslavement, and race, is therefore essential. Taking a bird's-eye view,

it is clear that foundational to colonial hierarchies in the Dutch empire, from Berbice to Elmina to Ceylon, were property and enslavement. Consistently, enslaved people were kept at the bottom of the social hierarchy in a way that had considerable implications for their intimate lives: they were, by and large, excluded from formal marriage and the legal rights and privileges that this granted, had no legal rights to custody over their children (with fathers especially not being recognized as such), and were among the least likely to successfully use the court system to settle domestic disputes or find justice for sexual misconduct, while enslaved men were consistently punished most rigorously where they formed sexual relationships with higher-status women.

Beyond this bottom tier, social stratification was more context-dependent and involved a range of intersecting factors, although wealth, unsurprisingly, formed a major vertical differentiator. Property, both monetary and in the form of mastery over enslaved people, was a key factor in the outcome of legal battles over marriage and sexuality, affecting the legal procedures litigants could afford, witnesses that could be produced and whether their testimony was accepted or not, and extra-judicial means available to get one's way. It also meant that select groups of people who might otherwise be marginalized as outsiders – Chinese merchants, Jewish slave-holders, wealthy women of color – managed to effectively navigate, even harness, colonial institutions to carve out a prominent position within colonial society.

At the same time, company authorities used legislation – including, crucially, that concerning marriage and sexuality – to exclude these groups and individuals from the (political) elite, which remained dominated by Christian, European men, mostly in Company employment, and to promote the social pre-eminence of the company's 'own' privileged demographic core. Who or what exactly constituted this privileged group, however, was not fixed, not the same everywhere, and rarely unambiguously defined. 'Christian', 'European' and 'White' were all used, but did not mean exactly the same thing. In the Caribbean, 'Christian' was initially used to differentiate the free, un-enslaveable, slave-owning settler population from (enslaved) Africans and Amerindians, but as colonial society became more complex, with Jewish settlers forming an important faction of the slave-owning community and (formerly) enslaved people occasionally converting to Christianity, white (in Dutch: *blank*) came to be used increasingly as a marker of distinction, in opposition to black or 'negro' (Dutch: *neeger*) which gained considerable conceptual overlap with 'slave' (*slaaf*) as neighboring indigenous groups were recognized as un-enslaveable and enslaved populations increasingly came to be made up of Africans and Afro-descendants. In Berbice, where Jews were excluded from settlement and where the free, Christian non-white population was extremely small, 'Christian' continued to be used as a designator of whiteness and mastery alongside 'white' well into the eighteenth century, unlike in its larger, more religiously diverse neighbor Suriname, where *blank* was a standard feature in the colonial vocabulary of difference by the early 1700s and unlike Curaçao, where 'Reformed' remained somewhat (if not fully) synonymous with white, but 'Christian' certainly did not.

In the East Indies, 'European' and 'Christian' were both used throughout the VOC's tenure, but did not mean exactly the same thing. Their use, moreover, was strongly gendered: 'European' was almost always used for men, while women would be designated through their legal status and religious affiliation ("free Christian woman") or their relation to a husband or father. Whiteness was a meaningful factor of social life in VOC Asia, but was less explicitly inscribed in

official discourse: in seventeenth-century company correspondence, *blank* is occasionally used as a synonym for European, while in the eighteenth century it also came to be used to designate light-skinned individuals of mixed descent and, quite frequently in places with significant Luso-Asian populations such as coastal South Asia and the Moluccas, to distinguish between '*blank*' (i.e. categorized as European) and '*swart*' (black, i.e. Asian) Portuguese people. Witness testimonies in court records reflecting everyday parlance, moreover, indicate that *blank* and *swart* were used informally quite frequently in the VOC-world, suggesting there was certainly a meaningful color line, however flexibly demarcated it may have been. This is also reflected in the VOC's marriage records, which show white (as in European-born) women essentially never marrying men designated as *inlands,* Christian or not.

Gender, it is clear, was an operative factor in the formation and transformation of colonial hierarchies: on the one hand, women were strongly restricted in their access to independent wealth and largely excluded from company employment (midwives being a notable exception). On the other hand, poor and enslaved women, while being particularly exposed to violence and exploitation, also arguably had more opportunities for social mobility, through sexual and conjugal relationships, than their male counterparts. Similarly, while elite women (married or born to company servants, planters, and prominent *burghers*) were more protected from (sexual) violence, economic hardship, and the social ramifications of not being seen as honorable than subaltern women, they were also more restricted and anxiously policed in their sexuality and marriage choices. For many married women among the propertied classes, both in Asia and in the Caribbean, slave ownership was one of the few avenues of wealth acquisition and, especially, of wielding power, which may explain, in part, the relative frequency of reports depicting female slave owners as particularly despotic.[1] Gender, furthermore, functioned as a key qualifier in the processes of creolization and mesticisation, due to the greater mobility of European men compared to women: already by the early eighteenth century, port cities such as Batavia, Cochin, and Willemstad (and later in the eighteenth century more 'settled' colonies such as Suriname, too) were marked by a considerable degree of what me might call 'gender-segregated creolization', with a key demographic of locally-born-and-raised women marrying or forming non-marital relationships with a constant influx of male newcomers whose sons, more than daughters, were likely to leave again and go through a European enculturation.[2] This dynamic was particularly prevalent in the East Indies, but in West-Africa and the Caribbean, too, there are examples of mixed-race sons moving to Europe for their education or joining the highly mobile workforce of the WIC and thus being less locally embedded than their female counterparts.

While the specific dynamics of the meaning and formation of diversity in the early modern Dutch empire were thus highly context-dependent, broad and consistent patterns can be identified in the regulation of family life and sexuality and how practices and conflicts around it shaped colonial society – patterns which transcend divisions between East and West and, arguably, between empires, for many of the conflicts and conundrums around inter-racial sex

[1] For Suriname, see: Neus, *Susanna du Plessis*; For Batavia, see: Jones, *Wives, Slaves, and Concubines*.
[2] Notably, a similar pattern can be observed among the Chinese diaspora in Southeast Asia, as Chinese women were generally not permitted to leave the mainland, and evidence exists of Chinese Batavians (and no doubt those living elsewhere) sending particularly their sons to China for their education.

and marriage, slavery, and religious diversity were not unique to Dutch colonies. Where there were variations in the ways religion, color, class, ethnicity and status featured in the regulation of sex and marriage, they are differences of degree, more than nature, and primarily caused by variances in local configurations of power, not differences in philosophy of rule. Although meaningful differences between empires exist, such as between 'Catholic' and 'Protestant' approaches to religious diversity and imperial subjecthood, the histories of European overseas empires overlap to such a degree that future research into conflicts around sex and family in relation to colonial power and racialization, which looks across the confines of specific empires, is warranted. Alternatively, putting intimate conflicts being fought out in colonial courts in conjunction with those in non-European-controlled settings, or those centering primarily non-European parties, is bound to reveal yet a different perspective on the workings of power in socially diverse settings, and in this sense this study is only scratching the surface of what intimate conflicts viewed in connective ways can reveal.

Far from accessories to world history, the intimate relationships of everyday people are primary sites in which social fault lines and constellations of power are contested, and thus are formed and re-formed. Within the context of the early modern Dutch empire, this study has shown, this contestation involved a protracted and far from straightforward process of empire-building. Chartered companies and the colonial governments affiliated with them did whatever they could to expand their influence and assert their dominance in areas where they held only limited control, and this meant adjusting to local circumstance, accommodating deviations from norms where politically expedient, and working with and alongside diverse groups of people who in turn made strategic use of new institutions, intermarried to form new, creolized communities, and held and enforced their own norms around family and sexuality. One could argue that in this flexibility, the limits of early modern imperial power is revealed, but simultaneously so is its resilience, as early modern colonial institutions, in all their inconsistencies, laid the foundations for more extensive and expansive modes of empire to come.

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1.11.06.08	National Archives of Sri Lanka, Archives of the Dutch Central Government of Coastal Ceylon, 1640-1796	Sri Lanka National Archives (SLNA), Colombo
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Shortened	Full name
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Hoge Regering	Archief van de gouverneur-generaal en raden van Indië (Hoge Regering) van de Verenigde Oostindische Compagnie en taakopvolgers, 1612-1812
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Notarissen	Notarieel archief van Batavia, 1621-1817
Raad van Justitie	Archief van de Raad van Justitie, 1620-1809

Schepenbank	Archief van de Schepenbank van Batavia

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Samenvatting

Dit proefschrift onderzoekt hoe normen rondom intieme relaties (huwelijk, seksualiteit, en familiebanden) zich vormden in vroegmoderne Nederlandse koloniën, waarbij de nadruk ligt op de achttiende eeuw. Het onderzoek richt zich op vestigingen in zowel het Atlantisch gebied (Suriname, Curaçao, Berbice, en Elmina) als de Indische Oceaan (Batavia, Cochin, Ceylon) die respectievelijk binnen het octrooigebied van de West-Indische Compagnie (WIC) en de Verenigde Oost-Indische Compagnie (VOC) vielen. Aan de hand van juridische bronnen (wetgeving in de vorm van 'plakkaten' en rechtszaken) aangevuld met ander materiaal zoals testamenten, contracten, en kerkelijke administratie wordt duidelijk dat normen en conflicten rondom intieme relaties cruciaal waren in het vormen van sociale stratificatie in koloniale samenlevingen. Hoewel een Christelijke seksuele moraal ten grondslag lag aan het perspectief van koloniale autoriteiten en de door hen uitgevaardigde regelgeving rondom huwelijk, seksualiteit en gezin, ontstond er geen eenduidig, algemeen gedeeld normatief systeem met consistente regels omtrent deze intieme relaties. Dit 'normatief pluralisme' is te verklaren aan de hand van de grote diversiteit en sterke ongelijkheid die achttiende-eeuwse koloniale samenlevingen tekenden: ten eerste vormden (Europese) Christenen vrijwel overal een minderheid en hadden andere etnisch-religieuze groepen (zoals verscheidene groepen Moslims, Chinezen, Portugese Joden) hun eigen normen, gebruiken, en reguleringsmiddelen rondom huwelijk, gezin, en seksualiteit. Ten tweede waren koloniale samenleving sterk hiërarchisch, met slavernij als de meest extreme vorm van ongelijkheid, en vormde regelgeving rondom huwelijk en seksualiteit een belangrijk middel om deze sociale verschillen in stand te houden: niet iedereen mocht met iedereen trouwen, en de ernst waarmee een seksuele transgressie werd opgevat was sterk afhankelijk van de sociale status van de betrokkenen.

Het vormen van deze hiërarchie was echter geen eenzijdig proces waarbij bestuurlijke en religieuze autoriteiten aan een passieve bevolking regels oplegden. In de praktijk speelden de verwachtingen en het handelen (zowel legaal als illegaal) van verschillende groepen en individuen een belangrijke rol in het vormen van heersende normen. Om dit aan te tonen maakt deze studie gebruik van structuratietheorie, een sociologische benadering die het vormen van sociale structuren bekijkt als doorlopend proces, gevormd door het continue gebruik van regels en beschikbare middelen door mensen. Dit perspectief wordt gecombineerd met een methodologische nadruk op conflicten – zowel in de rechtbank als daarbuiten – om zo te bestuderen hoe "normatief pluralisme" (een aanpassing op het concept rechtspluralisme) in de praktijk functioneerde in Nederlandse koloniale samenlevingen in de achttiende eeuw.

De eerste drie hoofdstukken richten zich op wettige relaties en hoe hier in de (rechts)praktijk vorm aan werd gegeven door verschillende groepen. Hoofdstuk één laat zien dat het Christelijk huwelijk voor koloniale autoriteiten een sluitsteen vormde voor zowel de voortplanting als de exclusiviteit van een geprivilegieerde Christelijke bevolkingsgroep, maar ook dat overheidscontrole op gezins- en gemeenschapsvorming in de praktijk zijn beperkingen had. In hoofdstuk twee, dat zich richt op echtscheidingen en wettige separaties, wordt duidelijk dat binnen de Christelijke gemeenschappen in de VOC- en WIC-octrooigebieden tot op zekere hoogte een gedeelde norm heerste over wat een goed huwelijk inhield, maar dat mannen en vrouwen in verscheidene Nederlandse koloniën een breed scala aan oplossingen toepasten bij huiselijke conflicten en gestrande huwelijken, waarbij de socio-economische posities van beide

partijen een belangrijke rol speelde. Hoofdstuk drie laat zien dat verscheidene groepen Moslims, Joden, Hindoes en Chinezen ook actief gebruik maakten van Nederlandse koloniale instituties in het sluiten en ontbinden van huwelijken, en dat op deze manier een diverse en dynamische rechtspraktijk ontstond waarover zowel koloniale overheden als lokale (religieuze) autoriteiten slechts beperkte controle hadden.

In de laatste drie hoofdstukken staan onwettige (seksuele) relaties en hun gevolgen centraal. Hoofdstuk vier laat zien dat de Christelijke en wettelijke norm dat de enige acceptabele vorm van seks binnen het huwelijk plaatsvond op grote schaal overtreden werd, maar dat de ernst waarmee voor- en buitenechtelijke seksualiteit werd opgevat sterk afhankelijk was van de positie van de betrokkenen binnen de complexe hiërarchie van koloniale samenlevingen. Hoofdstuk vijf toont dit ook aan voor seksueel geweld: de mate waarin iemand erkend kon worden als legitiem "slachtoffer" was afhankelijk van een combinatie van factoren zoals sekse, leeftijd, sociale klasse en status (vrij of in slavernij), en raciale of etnisch-religieuze categorisering. Bovendien konden lokale opvattingen binnen gemeenschappen over wat seksueel geweld of verkrachting inhoudt en wat er aan gedaan zou moeten worden sterk van elkaar verschillen. Het zesde en laatste hoofdstuk kijkt naar wat er gebeurde met de kinderen die uit verboden relaties geboren werden: wat voor positie konden zij innemen in de koloniale maatschappij, en waar werd dit door bepaald? Deze vraag wordt vanuit twee perspectieven bekeken: aan de ene kant de keuzes die ouders en kinderen zelf maakten omtrent doop, opvoeding, erfenis, relaties, beroep, en het al dan niet vrijmaken van familieleden in slavernij, en aan de andere kant de visie die kerkelijke en wereldlijke autoriteiten hadden op kinderen van wie de sociaaleconomische status door hun geboorte niet vaststond.

Uit deze verscheidenheid van conflicten en regulering blijkt dat normen rondom huwelijk, seksualiteit, en gezin nooit vastlagen. Evenmin stonden de diverse koloniale gemeenschappen die zich vormden door middel van huwelijken, migraties, en buitenechtelijke relaties stil. Continu dienden zich nieuwe mensen aan die relaties aangingen en verbraken, hun recht bepleitten, en op verscheidene andere manieren de hun belangen – en die van hun geliefden – behartigden, zowel binnen als buiten de perken van de wet. De betekenis en implicaties van deze acties hadden alles te maken met wie iemand was en wat hij of zij bezat: de vrouw van een rijke Chinese handelaar kon zich op andere normen beroepen dan een onvrije bediende, en wat voor een plantersdochter een grof schandaal vormde was voor een matroos of soldaat heel normaal. Juist door deze differentiatie waren conflicten rondom intieme relaties van cruciaal belang voor koloniale verhoudingen: via vele individuele zaken werden niet alleen normen uitgevochten, maar daarmee ook de sociale hiërarchie en de machtspositie van koloniale elites. Een intercontinentale analyse met aandacht voor intieme conflicten op lokale schaal laat dus zien dat koloniale samenlevingen in verschillende contexten een vergelijkbare dynamiek hadden: er was vrijwel nooit sprake van een sociale orde die eenduidig van bovenaf opgelegd werd; in plaats daarvan werd door terugkerende conflicten rondom huwelijk, seks, en familie de positie van verschillende sociale groepen en individuen bevochten. Koloniale autoriteiten speelden hierin een dominante rol en poogden de positie van Europeanen (en vooral die van de compagnieën en van de bezittende klasse) te bevorderen, maar moesten zich ook aanpassen aan de keuzes en middelen van andere groepen. Zo ontstond uit een complexe wereld van flexibele normen en sociaal diverse samenlevingen een langzaam en ongelijkmatig groeiende imperiale macht.

Currculum vitae

Sophie Rose was born in Schiedam, South Holland, in 1992. In 2011 she began her BA-studies in Liberal Arts and Sciences at Amsterdam University College, spending a semester at McGill University in Montreal in 2013 and graduating *summa cum laude* in 2014. She completed an MA in Cultural History at Utrecht University in 2015. That same year she received a fellowship from the *Prins Bernhard Cultuurfonds* which enabled her to move to the United States to pursue the Master of Arts Programme in the Social Sciences (MAPSS) at the University of Chicago, from which she graduated in 2016 with a specialization in history. Sophie's MA thesis, titled *Spectators of Suffering: Antislavery and The Politics of Morality in the Dutch Republic, 1763-1797,* won the Raymond D. Fogelson Prize for the Best MA Thesis in the Ethnological and Historical Sciences in the MAPSS Program. In 2017, she returned to the Netherlands to begin her PhD research as part of the NWO-funded project *Resilient Diversity: The governance of racial and religious plurality in the Dutch empire, 1600-1800*, under the supervision of prof. dr. Cátia Antunes and dr. Karwan Fatah-Black. As a doctoral candidate, she completed the PhD Training programme of the N.W. Posthumus Research School for Economic and Social History and taught undergraduate and graduate seminars at Leiden University. In September 2022, Sophie started a Postdoctoral fellowship at the University of Duisburg-Essen, working on the research project *Ambiguity and Disambiguation of Belonging - The Regulation of Alienness in the Caribbean during the Revolutionary Era (1780-1820s)*, supervised by prof. dr. Jan Jansen.