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

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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."<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

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."<sup>4</sup> 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.<sup>5</sup> 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

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<sup>1</sup> 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.

<sup>2</sup> 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".

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup>

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<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup>

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

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<sup>9</sup> The *Sociëteit 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.

<sup>10</sup> 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.

<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup>

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

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<sup>12</sup> 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).

<sup>13</sup> "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.<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup> 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

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<sup>14</sup> 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).

<sup>15</sup> 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.

<sup>16</sup> 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.<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup> 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’.<sup>20</sup> 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

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<sup>17</sup> 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.

<sup>18</sup> Tessa Murphy, *The Creole Archipelago: Race and Borders in the Colonial Caribbean* (Philadelphia, PA: University of Pennsylvania Press, 2021), 6.

<sup>19</sup> Herman Roodenburg and Pieter Spierenburg, *Social Control in Europe. Vol. 1: 1500-1800* (Columbus, OH: Ohio State University Press, 2004).

<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup> This discussion, which initially focused primarily on the Dutch Atlantic, has more recently also extended to Indian Ocean slavery.<sup>23</sup> Parallel to this, a rich body of specialized urban social

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<sup>21</sup> 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.

<sup>22</sup> Allison Blakely, *Blacks in the Dutch World: The Evolution of Racial Imagery in a Modern Society* (Bloomington: Indiana University Press, 1993); Angelie Sens, *"Mensaaap, 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).

<sup>23</sup> 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.<sup>24</sup> 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.<sup>25</sup> 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.<sup>26</sup> Again, research in this tradition has most heavily featured the Atlantic world, with the notable exception of Ann Laura Stoler.<sup>27</sup> 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.<sup>28</sup> 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.<sup>29</sup> 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.<sup>30</sup> 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

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*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 Genneep, 2015).

<sup>24</sup> 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).

<sup>25</sup> 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.

<sup>26</sup> 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).

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

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

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

<sup>30</sup> Stoler, *Carnal Knowledge and Imperial Power*.

of effacing historical and geographical specificity and complexity.<sup>31</sup> 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."<sup>32</sup>

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.<sup>33</sup> 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".<sup>34</sup> 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."<sup>35</sup> 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",<sup>36</sup> 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."<sup>37</sup> Although Ginzberg writes in the context of 19<sup>th</sup>-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

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<sup>31</sup> 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.

<sup>32</sup> 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.

<sup>33</sup> 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.

<sup>34</sup> 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.

<sup>35</sup> Stoler, "Matters of Intimacy as Matters of State," 895.

<sup>36</sup> 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).

<sup>37</sup> 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.<sup>38</sup> 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').<sup>39</sup> 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).<sup>40</sup> Signification and legitimation, 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 *structuration* 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'<sup>41</sup>) and relations (e.g. church

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<sup>38</sup> Anthony Giddens, *The Constitution of Society: Outline of the Theory of Structuration* (Los Angeles/Berkeley, CA: University of California press, 1984), 139.

<sup>39</sup> 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.

<sup>40</sup> 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.

<sup>41</sup> 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."<sup>42</sup> 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.<sup>43</sup> 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.<sup>44</sup> 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."<sup>45</sup> Like Giddens, Benton stresses the importance of local practice in this process, but unlike the former who, in his critique of historical

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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.

<sup>42</sup> Giddens, *The Constitution of Society*, 16.

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

<sup>44</sup> 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.

<sup>45</sup> 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,”<sup>46</sup> 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].”<sup>47</sup> 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.<sup>48</sup> 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 its 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.<sup>49</sup> 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

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<sup>46</sup> Giddens, *The Constitution of Society*, 257.

<sup>47</sup> 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.

<sup>48</sup> Lauren A. Benton and Richard Jeffrey Ross, eds., *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013), 6.

<sup>49</sup> 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.<sup>50</sup> 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

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<sup>50</sup> 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<sup>51</sup>) 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<sup>52</sup>) 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,<sup>53</sup> Suriname,<sup>54</sup> Berbice,<sup>55</sup> the Guinean coast.<sup>56</sup> Many of these records have been digitized and are publicly available online.<sup>57</sup> In addition, substantial smaller VOC archives exist across the globe: 15 meters of documents pertaining to Malacca are in the United

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<sup>51</sup> 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.

<sup>52</sup> For both companies, interestingly, the archives of the Chamber of Zeeland appears to be the most complete.

<sup>53</sup> 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].

<sup>54</sup> Nationaal Archief, Den Haag, Sociëteit van Suriname, access number 1.05.03 [hereafter NL-HaNA, Sociëteit van Suriname, 1.05.03].

<sup>55</sup> Nationaal Archief, Den Haag, Sociëteit van Berbice, access number 1.05.05.

<sup>56</sup> NL-HaNA, Kust van Guinea, 1.05.14.

<sup>57</sup> 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)<sup>58</sup> 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.<sup>59</sup> 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.<sup>60</sup> 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.<sup>61</sup> 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

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<sup>58</sup> 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.

<sup>59</sup> 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.

<sup>60</sup> 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.

<sup>61</sup> 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,<sup>62</sup> and those for Suriname and the Caribbean islands having both been published (in part) in print.<sup>63</sup> 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.<sup>64</sup> Ordonnances can also point to relevant court cases available in the judicial archives, because

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<sup>62</sup> "Plakaatboek Guyana 1670-1816" (Huygens Instituut voor Nederlandse Geschiedenis, 2015).

<sup>63</sup> Jacob Adriaan Schiltkamp and J. Th. de Smidt, eds., *West Indisch plakaatboek. Plakaten, ordonnantiën en andere wetten uitgevaardigd in Suriname, 1667-1816* 11 (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, Bonaire 1638 - 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).

<sup>64</sup> 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.<sup>65</sup>

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*'.<sup>66</sup> 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.<sup>67</sup> 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 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.<sup>68</sup> 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

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<sup>65</sup> 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.

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

<sup>67</sup> 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.

<sup>68</sup> 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.