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

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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.