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

Rose, A.S.

Chapter 5. Rape, violence, and power

Introduction

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

Conceptualizing rape

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

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

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

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

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

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

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

Rape and criminal prosecution

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

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

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

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

The complexity of 'victimhood'

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Power, space, and jurisdiction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Contested definitions, contested solutions

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

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

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

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

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

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

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

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

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

Rape and social hierarchies

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

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

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

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

Slavery and sexual violence

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Van Duijvenvoorde: prosecutor turned defendant

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

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

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

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

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

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

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

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

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

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

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

Sexual abuse and enslaved resistance in the Caribbean

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion

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

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

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

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

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